

Form R32: Application to appeal

For use with appeals to ORR under regulation 32 of The Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (the 2016 Regulations). You may also adapt this form for appeals under section 17 of the Railways Act 1993 for access to yards and freight terminals etc.

Using this form

This form sets out our standard information requirements for considering appeals under regulation 32 of the 2016 Regulations.

Please read our [guidance module](#) on the 2016 Regulations before making an application.

Please provide the following information:

1. Your contact details:

Company: Trenitalia France ("TF")	
Contact individual:	[REDACTED]
Job title: Chief Executive Officer	
Address:	[REDACTED]
Telephone:	[REDACTED]
E-mail:	[REDACTED]

2. Your appeal

2.1 Your status

In what capacity are you making this application (eg Railway Undertaking, Infrastructure Manager, Service Provider or other <i>Please specify</i>): Railway Undertaking

2.2 Grounds for applying to ORR

Which matter are you appealing about under regulation 32? (Please tick at least one box ☒) • 32(2)(a) a network statement in its provisional or final version ☒ • 32(2)(b) the information to be included in a network statement ☐ • 32(2)(c) the allocation process for infrastructure capacity and its result ☒ • 32(2)(d) the charging scheme, the charging system or the Channel Tunnel charging framework ☐ • 32(2)(e) the level or structure of railway infrastructure charges ☐ • 32(2)(f) the arrangements for access provided for under Part 2 and Schedule 2 of the 2016 Regulations ☐ • 32(2)(g) access to and charging for services provided under Part 2 and Schedule 2 of the 2016 Regulations ☐ • 32(2)(h) traffic management ☐ • 32(2)(i) renewal planning and scheduled or unscheduled maintenance ☐ • Compliance with the requirements, including those regarding conflicts of interest, set out in regulations 8A, 8B, 8C, 9A, 14(9) and 19(4) ☐

- unfair treatment, discrimination or aggrieved ☒

2.3 The matter or issue subject to appeal

Is the matter one in relation to which directions could be sought from ORR under sections 17 or 22A of the Railways Act 1993? (*Please tick Yes or No.*)

Yes ☐ Please stop and complete Form F or P instead, as appropriate.

No ☒ Please explain why:

High Speed 1 is the “rail link facility” contemplated by regulation 32(4)(b) of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016 (the “**2016 Regulations**”), and directions may not be sought from the ORR under section 17 of the Railways Act 1993.

2.4 Reasons for making this appeal

Set out here the reasons for making this appeal under the 2016 Regulations (e.g. are you appealing against a particular decision concerning any of the matters set out in regulation 32(2) or do you feel unfairly treated or discriminated against or in any other way aggrieved?) Please provide copies of correspondence between the parties relevant to your application.

TF is making this appeal under regulation 32 on the basis that it has been unfairly treated and discriminated against by London St. Pancras Highspeed (formerly HS1 Limited) (“**LSPH**”) as infrastructure manager of the HS1 rail network between St. Pancras International Station and the Channel Tunnel. In particular, this is in respect of the allocation process for infrastructure capacity which LSPH has adopted in considering applications for a new framework track access agreement (“**FTAA**”) by VTE Holdings Limited (“**Virgin**”) and TF’s application for infrastructure capacity on the HS1 rail network (and the result of that process). In connection with that process, LSPH has misrepresented or misused provisions of its Network Statement. In any event, TF is aggrieved at the unfair and discriminatory treatment which it has received from LSPH in contrast with LSPH’s treatment of Virgin.

TF is also making this appeal under regulation 32 on the basis that it is aggrieved by the actions and conduct of LSPH, including in respect of the allocation process for infrastructure capacity followed by LSPH and the resulting decision to enter into a FTAA with Virgin (and to subsequently submit it to the ORR for approval). Without prejudice to the generality of the foregoing:

- LSPH was acutely aware of competing requests for infrastructure capacity from TF and Eurostar International Limited (“**EIL**”) and failed to progress those competing requests (and in particular TF’s request for capacity and a FTAA) in a consistent, fair, transparent and non-discriminatory manner;
- LSPH either: (i) inappropriately used operational integrity as a stage gate to considering different requests for capacity by TF and Virgin, in contravention of the 2016 Regulations; or (ii) unfairly and discriminatorily applied the “operational integrity” test as between Virgin and TF to progress Virgin’s applica-

tion in preference to TF's application. This had the effect of deliberately blocking or delaying LSPH's consideration of TF's application for infrastructure capacity and a FTAA;

- LSPH is delaying meaningfully engaging with TF in relation to its request for infrastructure capacity and an FTAA.

Whilst TF accepts that LSPH is a lean organisation, that does not override LSPH's obligations as an infrastructure manager. It appears to TF that LSPH has expedited Virgin's FTAA in preference to TF's and has been more willing to address deficiencies in Virgin's proposals by way of conditions precedent, which it has not been willing to offer to TF.

As described in greater detail in section 2.4 below, the key reasons and basis on which TF is making this appeal are as follows:

1. Unfair, discriminatory, and non-equivalent treatment of TF by LSPH as compared to Virgin

LSPH has afforded preferential treatment to Virgin as compared to TF with respect to the process it has adopted in considering, progressing and assessing the respective applications of Virgin and TF for capacity and a FTAA for access to the HS1 rail network. The preferential treatment of Virgin and the unfair treatment of TF by LSPH is demonstrated by:

- a) the process followed by LSPH in considering and progressing TF's operational integrity assessment as a pre-condition to entering into a FTAA with TF. Without prejudice to the complaints made in paragraph 2. below about the consistency of LSPH's process with law and regulatory requirements, this aspect of TF's grievance includes, but is not limited to:
 - LSPH's willingness to include conditions precedent in the FTAA agreed between LSPH and Virgin to cover over significant deficiencies in Virgin's application and operational integrity assessment (particularly in respect of the financial viability of Virgin's proposition and rolling stock contracts yet to be entered into by Virgin, including lack of clarity in relation to the longstop dates by which Virgin will be required to provide LSPH with the final execution versions of the rolling stock contracts evidencing commitment to deliver the 12 new-build trains);
 - LSPH not being willing to include conditions precedent in a FTAA with TF in respect of LSPH's perceived (at that point in time – although TF disagrees with that assessment) issues in respect of TF's operational integrity (it being noted that LSPH has since accepted that TF passes the test);
 - LSPH failing to take into account, holistically, TF's and Virgin's respective preparedness to operate services, it being noted that TF is an existing railway undertaking already operating services in Europe, and TF believes it is much further progressed in discussions with other infrastructure managers to operate

services than Virgin appears to be (and therefore overall appears to be significantly more advanced on operational integrity than Virgin) on the basis that TF already:

- has a railway undertaking licence and safety certification to operate passenger rail services in France;
 - operates high-speed train services in France (including between Paris and Lyon) and between France and Italy (including between Paris and Milan); and
 - has an existing relationship with other infrastructure managers (such as GetLink and SNCF) due to the existing rail passenger services that it already operates in France;
- LSPH incorrectly communicating that its operational integrity assessment had concluded that there were shortcomings in TF's stabling solution when the panel LSPH has convened had passed this aspect of TF's proposal (which resulted in wasted effort and further delay);
 - LSPH required TF to provide a guarantee of supply and manufacturing slots from TF's proposed rolling stock manufacturer to become comfortable on rolling stock, whereas Virgin was offered conditions precedent and has not yet even announced a firm rolling stock order;
 - there being no evidence of LSPH cooperating with other infrastructure managers in considering Virgin's application for capacity;
 - LSPH placing disproportionate emphasis in its assessment of TF's proposed arrangements for maintaining its train fleet off the HS1 network in France, whereas seemingly failing to take into account any off-network issues presented by Virgin's application (as described above);
 - LSPH's unwillingness to include conditions precedent in a FTAA with TF being used to deliberately delay Virgin and TF's applications for an FTAA being considered concurrently, with the effect of Virgin being given unfair and discriminatory preference over TF in the allocation of infrastructure capacity by LSPH;

b) LSPH's refusal to consider Virgin and TF's respective applications in parallel and treating Virgin's draft FTAA as having first priority, despite such treatment being inconsistent with the ORR Criteria and Procedures for the approval of framework agreements ("**ORR C&Ps**") on the HS1 network and the draft FTAA still pending ORR approval. In this respect, TF notes:

- LSPH misrepresented the effect of its network statement, quoting the following (but not the text in bold) in seeking to justify its approach: "While applications for Framework Track Access

Agreements will be considered by the Infrastructure Manager in the order that they are received, **if the Infrastructure Manager is considering more than one application at the same time and is unable to accommodate all of the requests for capacity, the Infrastructure Manager will apply the priority criteria specified in the declaration of specialised infrastructure (see section 3.4.1) contained in Part D of the HS1 Network Code.**";

- LSPH has in any event not applied the approach set out in the full text of the Network Statement in dealing with TF's and Virgin's respective applications;
- LSPH has treated the issuing of Virgin's Form P as the reservation of capacity on its network, in contravention of contract law and the specific requirements in the 2016 Regulations (and we note the ORR's statements on this in its decision letter approving the Virgin FTAA being entered into); and
- in proposing to enter into the FTAA with Virgin, LSPH has failed to take into account the ORR C&Ps, which require other operators' aspirations for capacity to be taken into account (paragraphs 3.10 and 3.12) and therefore precluding the ORR from undertaking a full and detailed consideration of the factors described in paragraph 3.12 of the ORR C&Ps; and

c) re-engaging with TF and approving TF's operational integrity assessment on 13 August 2026, only after the ORR had approved Virgin's FTAA with LSPH on the same day. TF notes in particular:

- it cannot be a coincidence, or if it is, it might be a highly unfortunate coincidence, that LSPH only started to engage with TF once the ORR issued its decision. This gives the perception (real or otherwise) of bias towards Virgin in seeking to get that FTAA finalised first before then progressing TF's application (and therefore discriminating against TF in the capacity allocation process);
- LSPH has failed to engage meaningfully in developing a FTAA with TF, despite recent requests. TF notes in particular that LSPH has set strict, often short, deadlines for TF to respond to requests for further information. It took more than 200 days for LSPH to confirm TF's operational integrity, and (as at the date of submitting this application) it has been more than a month since TF requested a FTAA (following LSPH confirming TF's operational integrity).

2. Inconsistent and non-transparent process followed by LSPH in allocating infrastructure capacity in respect of the HS1 rail network

LSPH has not followed a process in allocating infrastructure capacity for the HS1 rail network that is consistent with the ORR C&Ps and the 2016 Regulations, nor has LSPH been transparent with TF with respect to the process that LSPH has adopted for assessing applications and making its determination. This includes, but is not limited to, LSPH's decision to enter

into a FTAA with Virgin and to determine that TF's application did not otherwise meet the relevant thresholds for entering into a FTAA. The inconsistent, non-transparent and discriminatory process followed by LSPH is demonstrated by:

- a) LSPH adopting a process that is inconsistent with the principles set out in Part 5 of the 2016 Regulations and the ORR C&Ps. This includes, but is not limited to:
 - LSPH must ensure that capacity is allocated on a fair and non-discriminatory basis and that agreements concluded are non-discriminatory and transparent (regulation 19(16) of the 2016 Regulations). For the reasons set out in this application, LSPH has clearly contravened this legal requirement;
 - whilst the ORR has indicated it is comfortable with the arrangements put in place by LSPH given LSPH and Virgin have one common shareholder, TF notes the requirement in regulation 19(4) of the 2016 Regulations for the essential function of capacity allocation to be undertaken by an "independent allocation body" if the infrastructure manager is not independent of a railway undertaking (which appears to be the case here);
 - in order for capacity to be allocated, Virgin "must conclude" the necessary arrangements under private law (i.e. contract law) with LSPH (regulations 19(14) and 19(15) of the 2016 Regulations), in stark contrast to the position articulated by LSPH; and
 - LSPH has failed to cooperate with other infrastructure managers (such as GetLink and SNCF) to enable the efficient creation and allocation of capacity, including under a FTAA (regulation 20(2)(a) of the 2016 Regulations) and must establish such procedures as are appropriate to enable the cooperation to take place, including coordination with representatives of other infrastructure managers (regulation 20(4) of the 2016 Regulations). Put simply, there is no evidence whatsoever that LSPH has complied with this legal requirement in progressing the Virgin FTAA; if it had, LSPH would have discovered that TF is far more progressed in discussions with other infrastructure managers than Virgin. This would have been a material factor to take into account in reaching a decision on the allocation of capacity on High Speed 1, and in not doing so, LSPH deliberately closed its mind to relevant information, leading to an erroneous decision; and
 - LSPH is required to meet, insofar as possible all requests for infrastructure capacity (regulation 23(1)) and by taking forward Virgin's application in preference to TF's, it has not considered what "all requests for capacity" are, and therefore potentially has rendered itself unable to comply with this requirement;
- b) LSPH setting strict deadline for TF to meet, but then failing to respond to TF in a timely, transparent and efficient manner, which includes (but is not limited to) failing to progress TF's operational integrity

assessment in a timely manner and failing to respond to TF's request to negotiate a FTAA for an extended period of time (meaning LSPH has itself created a situation whereby it claims it can give Virgin priority, even though TF disagrees with those claims); and

- c) LSPH's failure to adopt a fair parallel assessment of railway undertakings seeking access to the HS1 network, or to cooperate with other infrastructure managers such as GetLink/Eurotunnel who are undertaking a parallel assessment.

With respect to correspondence relevant to TF's application, please see the full list of material submitted with this form set out in section 3.1 below.

2.5 Summary

Please provide in the box below a summary of the proposed appeal.

As described in section 2.4 above, TF's proposed appeal concerns the conduct of LSPH in allocating capacity as infrastructure manager of the HS1 network, including: (i) the unfair, discriminatory and non-equivalent treatment of TF by LSPH as compared to Virgin; and (ii) the inconsistent and non-transparent process followed by LSPH in allocating capacity.

Unfair and non-equivalent treatment of TF:

- Since November 2025, TF has been engaging with LSPH in relation to the assessment of its operational integrity as a precondition to being granted access rights to the HS1 network under a FTAA with LSPH.
- Despite TF regularly engaging with LSPH and responding to all requests for further information (including in letters to LSPH dated 27 November 2025 and 7 January 2026), LSPH initially determined that TF did not demonstrate the criteria in section 3.11(b) of the ORR C&Ps, which requires that an applicant "intends and will be in a position to operate the services or have the services operated on its behalf." At that time, LSPH did not otherwise provide any clear justification as to why TF did not meet the operational integrity threshold, notwithstanding the additional information and assurances provided in TF's letter to LSPH dated 7 January 2026 in response to each of the further queries raised in LSPH's letter to TF dated 12 December 2025.
- The additional information and assurances requested by LSPH in assessing TF's operational integrity concerned TF's plans and proposals with request to securing and operating suitable rolling stock and its maintenance arrangements in the United Kingdom and in France, including in respect of the contractual arrangements with Hitachi Rail for the provision of 19 new high-speed trains and the maintenance depot secured by TF in Paris at Maisons-Alfort Pompadour. Conversely, the terms of the draft FTAA granted to Virgin by LSPH included several substantive conditions precedent, including in respect of Virgin's operational integrity and its need to still secure compatible rolling stock and a stabling plan for the depot arrangements where such rolling stock is not operating in service. Despite allowing for these conditions precedent in its draft FTAA with Virgin, at no point in time did LSPH ever offer to enter into a draft FTAA with TF with conditions precedent that would have addressed any outstanding actions LSPH would expect TF to take prior to commencing operations. This is notwithstanding that TF was clearly and demonstrably better progressed with its rolling stock and

maintenance arrangements than Virgin at the time that LSPH agreed to enter into the draft FTAA with Virgin, and refused to progress TF's application for a FTAA.

- It appears that LSPH placed disproportionate and, in TF's view, unreasonable emphasis on TF's rolling stock maintenance arrangements off the HS1 network in France. LSPH required much more concrete evidence of those arrangements (including tender documents and signed contracts) to confirm operational integrity, than it appears to have required for Virgin's application. For Virgin's application, LSPH has not required signed contracts for rolling stock and has instead dealt with that by conditions precedent and indeed so far as TF is aware, Virgin has not yet placed an order for rolling stock (in stark contrast to the TF position). The level of contractual commitment required by LSPH to demonstrate operational integrity is therefore demonstrably different and discriminatory. TF believes that, taken as a whole, it is materially more advanced in operational preparedness than Virgin, taking into account TF's progress in discussions with other infrastructure managers, and having placed an order for rolling stock with Hitachi, recognising the long lead times to introduce such rolling stock and the fact that Hitachi has committed to deliver the required rolling stock by 2029 to allow TF to commence services from mid-2029 (and with robust financial consequences for Hitachi if it fails to deliver the rolling stock by this time). Furthermore, given that it was unsuccessful in obtaining access to Temple Mills depot in connection with the operation of international services, TF has already implemented its secondary plans to ensure it has a facility to properly store and maintain the new rolling stock, having secured a new maintenance depot in Paris at Maisons-Alfort Pompadour (which is also scheduled to open in 2029). TF already holds the equivalent of a railway undertaking licence and safety authorisation in France as it already operates services in France. Whilst TF recognises it will need to obtain equivalents for Great Britain and the Channel Tunnel, this will be materially simpler to do with those existing arrangements in place: as far as TF is aware, Virgin has not yet commenced either of those processes. LSPH simply appears to have ignored that with the effect of unfairly preferring Virgin's application for infrastructure capacity.
- During the subsequent consultation conducted by LSPH in respect of Virgin's draft FTAA, TF raised a number of concerns in relation to its treatment by LSPH as compared to Virgin, including in respect of the points described above. In its response dated 19 June 2026, LSPH noted that it was satisfied that Virgin has a "reasonable prospect of securing the necessary rolling stock" and "had a viable approach to meeting accessibility requirements", but provided no further justification as to why Virgin's FTAA had been allowed to proceed on the basis of "reasonable prospects" whilst TF's own application had been rejected by LSPH despite TF also having been able to demonstrate equivalent "reasonable prospects".
- Despite multiple requests by TF for LSPH to consider TF's application in parallel with Virgin's application and draft FTAA, LSPH refused on the grounds of section 3.11(c) of the ORR C&Ps, on the basis that it needed comfort that the access rights sought by TF would not conflict with the exercise of rights held under another access contract. This is despite the fact that Virgin's draft FTAA remained in draft form subject to ORR approval and did not already provide Virgin with any rights under an approved access contract. By its own acknowledgment, LSPH were treating Virgin's rights as

having already been granted when Form P was issued, which is clearly wrong as a matter of law and regulation. This was also contrary to sections 3.12 to 3.18 of the ORR C&Ps, which provide that the ORR is required to consider alternative access rights being sought by other operators (including TF) when considering any applications put forward by LSPH or any other infrastructure manager for an access contract with one particular operator.

- Whilst noting that High Speed 1 is not subject to section 17 of the Railways Act 1993, TF notes processes that Network Rail and the ORR have undertaken to assess multiple competing demands for infrastructure capacity as well as the process the ORR undertook to assess multiple competing demands for access to Temple Mills depot in connection with the operation of international services. In all such cases, the infrastructure manager takes steps to understand all relevant requests for capacity first, before taking a decision on who should be granted that capacity. LSPH cannot have been under any illusion about TF's requirements for capacity on HS1, and to fail to take those into account is a significant breach of fair process, and discriminated in favour of Virgin.
- After the consultation process for Virgin's FTAA, there was limited further engagement, despite ongoing efforts by TF to enter into a FTAA with LSPH. A request for further information was issued by LSPH on 30 July 2026, which was responded to by TF on 06 August 2026. On 13 August 2026 (which, by no coincidence, was when the ORR opined on the Virgin FTAA), LSPH finally responded to the further submissions made by TF on 23 June, 3 July and 6 August confirming that it was now content that TF would be in a position to fulfil section 3.11(b) of the ORR C&Ps and would be willing to progress towards a FTAA with TF. As explained above, this letter was issued on the same day that the ORR approved Virgin's draft FTAA with LSPH, reflecting again the preferential treatment afforded to Virgin by LSPH during the preceding months whilst TF tried to progress its own application for access rights.
- **Directions sought:** TF requests:
 - 1 (if the Virgin FTAA has not already been entered into) the ORR directs LSPH and Virgin not to enter into that FTAA;
 - 2 (if the Virgin FTAA has been entered into) that the ORR directs LSPH and Virgin to rescind that FTAA between LSPH and Virgin on the basis of the unfair and discriminatory conduct against TF by LSPH;
 - 3 (if the ORR considers it is unable to direct a rescission referred to in paragraph 2) that the ORR directs LSPH and Virgin to modify the FTAA to remove all capacity so granted under the FTAA until such time as LSPH has undertaken a fair, transparent, non-discriminatory and concurrent process to determine how infrastructure capacity should be allocated, taking into account both TF's and Virgin's requirements for capacity;
 - 4 (if the ORR considers it is unable to direct a rescission referred to in paragraph 2) that the ORR requires amendments and conditions to be incorporated into the existing FTAA between LSPH and Virgin with respect to the relinquishment of capacity granted under that FTAA if the outcome of a fair, transparent, non-discriminatory and concurrent

process undertaken by LSPH to determine how infrastructure capacity should be allocated is that TF should be granted capacity;

- 5 (if the ORR considers it is unable to direct a rescission referred to in paragraph 2) given that the non-fulfilment of the conditions precedent under the FTAA between LSPH and Virgin effectively reserves capacity on the HS1 network that could be allocated to and used by other operators, that the ORR direct LSPH and Virgin to modify all of the FTAA so that all of the longstop dates associated with the conditions precedent are for the minimum period reasonably necessary for this capacity to be reserved for Virgin under the FTAA (rather than for the time periods otherwise already specified in the existing FTAA); and
- 6 the ORR directs LSPH to progress the FTAA with TF expeditiously and in a meaningful way under the supervision of the ORR.

Inconsistent and non-transparent process followed by LSPH in allocating infrastructure capacity in respect of the HS1 rail network

- The process followed by LSPH in considering TF and Virgin's respective applications for a FTAA and the allocation of capacity on the HS1 network has not been fair, consistent, transparent or non-discriminatory, nor has LSPH followed the criteria and requirements set out in Part 5 of the 2016 Regulations, the ORR C&Ps or the HS1 Network Statement. Both applications should have been considered concurrently by LSPH.
- Part 5 of the 2016 Regulations with respect to the allocation of capacity by LSPH as infrastructure manager of the HS1 network requires capacity to be allocated on a fair and non-discriminatory basis. For the reasons provided above, LSPH has not followed a fair and non-discriminatory process and has provided preferential treatment to Virgin's application for a FTAA.
- Part 5 of the 2016 Regulations also provides that infrastructure managers are required to put arrangements in place for the co-ordination of competing capacity requests and (where applicable) congested infrastructure. LSPH made no effort to put in place any arrangements for the co-ordination of competing capacity requests, and when queried on such arrangements by TF, LSPH referred to section 3.11(c) of the ORR C&Ps as justification for not considering TF's application in parallel to Virgin's application (notwithstanding that section 3.11(c) of the ORR C&Ps requires the ORR to be satisfied that the access rights sought would not conflict with the exercise of rights held under another access contract). Given that Virgin did not yet have an approved access contract in place at the time that LSPH consulted on Virgin's draft FTAA, this justification did not comply with the ORR C&Ps, nor did it give due consideration to sections 3.12 to 3.18 of the ORR C&Ps, which explicitly require consideration of alternative access rights being sought by other operators. Notably, there are no sections of the ORR C&Ps that allow an infrastructure manager to disregard competing requests and applications in circumstances where an application has been commenced by another operator.
- Further, LSPH also referred to section 2.3.3 of HS1's Network Statement as justification for not considering TF's application in parallel to Virgin's application. Whilst section 2.3.3 of HS1's Network Statement does provide that LSPH will consider applications for FTAA's in the order they are received,

it also provides that it will consider more than one application at a time and (in deciding whether to enter into a FTAA) it will take into account the extent to which the proposed arrangements will preclude use of HS1 by other applicants. Even though capacity constraints was one of the concerns raised by TF as to why its application should be considered in parallel to Virgin's application, LSPH did not put any arrangements in place to co-ordinate the competing applications and it failed to take into account the impact of Virgin's access rights on those being sought by TF at the same time.

- Please also see the other points made above about LSPH's failure to meet other requirements of the 2016 Regulations and the ORR C&Ps.
- Since November 2025, LSPH set strict deadlines for TF to meet, particularly with respect to the additional information it required in order to make the operational integrity assessment forming part of TF's application. Despite TF providing all information requested by LSPH within the required deadlines, LSPH was not transparent with respect to its consideration of TF's operational integrity assessment or the outstanding actions left to be fulfilled by TF to proceed to agreeing a FTAA with LSPH in the same way as Virgin. LSPH was well aware of TF's aspirations for access to the HS1 network, and despite the concerns raised in TF's response to the consultation in respect of Virgin's draft FTAA, LSPH did not provide any justification for not considering the rights sought by TF in parallel to the rights sought by Virgin (as required under paragraph 3.12 of the ORR C&Ps) nor did it put place arrangements to effectively co-ordinate the competing capacity requests (as required under Part 5 of the 2016 Regulations). As noted above, LSPH only began to re-engage with TF in relation to its operational integrity assessment and the progression of its FTAA application once the ORR had approved Virgin's application. It appears that LSPH deliberately framed its process to discriminate in favour of Virgin over TF.
- In allocating capacity on the HS1 network, LSPH also failed to take adequate steps to cooperate with other infrastructure managers (including Eurotunnel) to enable to efficient creation and allocation of infrastructure capacity in circumstances where a train path crosses between a network in the United Kingdom and a network in the European Union (as required under regulation 20 of the 2016 Regulations). Indeed, there is no evidence whatsoever from the material provided by LSPH of LSPH having had any discussions on cooperation with other infrastructure managers in connection with the subject matter of this application. Had LSPH done so, it would have discovered that TF was advanced in discussions with GetLink/Eurotunnel and SNCF (within the respective processes set out by those other infrastructure managers). This appears to be a material factor not taken into account by LSPH. As a consequence, LSPH has made the allocation of capacity by other infrastructure managers (including Eurotunnel) more difficult and increased the risk of misalignment in the allocation of infrastructure capacity whereby operators such as TF may be able to obtain certain access in the Channel Tunnel and France as compared to on the HS1 in the United Kingdom.
- **Directions sought:**
 - 1 the ORR directs LSPH to reconsider its decision to award Virgin the FTAA and the allocation of infrastructure capacity contemplated by that FTAA. In particular the ORR should: (i) direct LSPH to consider Virgin's application concurrently with TF's application and in a manner

which is consistent with the 2016 Regulations and the ORR C&Ps; (ii) where the outcome of such consideration is that capacity allocated to Virgin should change, to modify the Virgin FTAA accordingly; and (iii) to enter into a FTAA with TF which is consistent with the outcome of such concurrent reconsideration;

- 2 the ORR undertakes (directing LSPH where appropriate) to review the processes being followed by LSPH in allocating capacity to the HS1 network in future in order to ensure they are compliant with the requirements of the 2016 Regulations and the ORR C&Ps, particularly in circumstances where there are multiple competing applications for capacity;
- 3 the ORR directs LSPH to clearly set out how it will cooperate with other infrastructure managers, including GetLink and SNCF, in the co-ordination of capacity across multiple networks, and to provide assurances that LSPH will adhere to its cooperation obligation;
- 4 the ORR to direct that LSPH should be placed under increased supervision from the ORR to monitor the actions and conduct of LSPH in order to ensure that LSPH follows fair, consistent and transparent processes that protect operators against discrimination and unfair treatment and that otherwise comply with the regulatory obligations placed on infrastructure managers in the United Kingdom (including, but not limited to, under the 2016 Regulations and the ORR C&Ps).

2.6 Events leading up to the appeal

What were the events leading up to the appeal and what were you told by the infrastructure manager/service provider/ allocation body/charging body/railway undertaking? Were any codes of practices cited or used.

Please see section 2.5 above and the materials referred to in section 3.1 below for the chronology of events and the discussions between TF and LSPH leading up to the date of this appeal.

The codes of practice cited by LSPH are also referred to explicitly in section 2.5 above.

3. Supporting information

3.1 Other material

If there is any further justification or relevant information that will support your application, please provide it below. Please itemise and describe any other material being submitted with this form.

None, other than the justifications and information set out in sections 2.4 to 2.6 above.

The other material submitted with this form that sets out the points raised in sections 2.4 to 2.6 above is as follows:

[This material is information submitted by TF to LSPH in connection with TF's operational integrity assessment and proposals for a FTAA (and includes LSPH's consideration of that material and requests for and the provision of further information). See Section 5.1.]

On or about the date of this application, TF is submitting representations to the ORR in connection with the EIL Appeal by the deadline specified by the ORR (“**TF EIL Appeal Representations**”).

TF notes that at the conclusion of the regulation 32 process the 2016 Regulations permit the ORR to issue directions to the infrastructure manager “to remedy the situation from which the appeal arose” (regulation 32(5)(b)(iii)).

This regulation 32 application is being made in TF’s own right. Whilst there is considerable overlap with the issues raised by EIL in the EIL Appeal, and the appeal arises out of a similar situation and set of circumstances, TF is making this application so that the ORR can fully consider TF’s position, and TF’s specific situation, in connection with the issues EIL has raised (and the further issues raised specifically by TF in this application).

TF has some similar complaints to those raised by EIL, albeit TF’s situation is not exactly the same as EIL’s. By making this appeal, TF anticipates that, where appropriate, any directions issued by the ORR to LSPH will also address TF’s complaints, and the specific situation experienced by TF.

In addition, there are a number of further grievances which TF specifically has in relation to the conduct of LSPH in connection with its approach to agreeing framework agreements with operators, including Virgin. Whilst arising out of similar circumstances to those contemplated by the EIL Appeal, the situation, and complaint, are specific to TF and the way TF has been treated. These are set out more specifically in this application.

TF considers the information set out in this application, as well as the TF EIL Appeal Representations is “relevant information” for the purposes of regulation 32 of the 2016 Regulations and for the purposes of both the EIL Appeal and TF’s appeal made under this application. Accordingly, TF considers that both appeals should be considered by the ORR at the same time.

In any event, given:

- (i) the significant overlap between the circumstances, and the situation, which is the subject matter of this application and the EIL Appeal;
- (ii) the need to ensure LSPH and all railway undertakings have clarity in the approach which should be adopted by LSPH in relation to the subject matter of this appeal;
- (iii) any directions which may be issued by the ORR at the conclusion of the EIL Appeal may directly affect, or otherwise overlap with, any directions which may be issued by the ORR at the conclusion of TF’s appeal;
- (iv) the desirability of the ORR only considering issues once, and LSPH and other affected stakeholders only being required to make representations once; and
- (v) the need to ensure a consistent approach is adopted to considering and determining the EIL Appeal and this appeal,

TF considers it would be appropriate for the ORR to consider the EIL Appeal and this appeal concurrently.

4. Access appeals

Only complete section 4 for appeals relating to access under Part 2 and Schedule 2 of the 2016 Regulations. Otherwise go straight to [section 5](#).

4.1 Details of the facility to which access is requested

Name of facility: **Not applicable.**

Name of owner/provider:

Contact individual:

Job title:

Address:

Telephone:

E-mail:

4.2 Details of which services you want

Details of services you need:

(eg stabling, tyre turning, loading, unloading, shunting, refuelling,...)

Not applicable.

4.3 Suitability of preferred facility (if applicable)

- Explain the purpose for requiring the access/service and why you consider that this particular facility is competent to supply the access/service.

Not applicable.

4.4 Summary

- Please provide in the box below a summary of the type and level of rail access required (including number of train slots and timings if relevant) or services required from the infrastructure manager/service provider
- the commercial terms proposed; and
- your reasons for seeking the contract in the terms proposed.

This section should also include an explanation of the extent to which you have evaluated available capacity at the named facility to satisfy yourself that the level and type of services being sought can be provided. Please also include a draft agreement showing the contractual terms between the applicant and infrastructure manager/service provider.

Not applicable.

5 Confidentiality and market sensitivity

5.1 Confidentiality

Indicate clearly any elements in the application and the proposed agreement (if relevant) that you believe should be excluded from any wider consultation on the grounds of confidentiality. Please provide a summary that can be cited instead, if we agree to make redactions.

TF is comfortable with the contents of this application form being disclosed as part of the ORR’s wider consultation on the subject matter of this appeal (save for redactions to names and signatures).

TF considers that all the material described in section 3.1 of this form should be excluded from wider consultation on the grounds of confidentiality, except to the extent those documents already form part of the public record (which, to be clear, is only document 14 in section 3.1). The other material sets out specific details relating to TF’s proposed service, and how that has been considered by LSPH, as well as TF’s own proposed FTAA application for capacity on High Speed 1 (and therefore is commercially confidential and would be prejudicial were it to be provided to TF’s competitors).

A summary that can be cited instead is: “This material is information submitted by TF to LSPH in connection with TF’s operational integrity assessment and proposals for a FTAA (and includes LSPH’s consideration of that material and requests for and the provision of further information).”

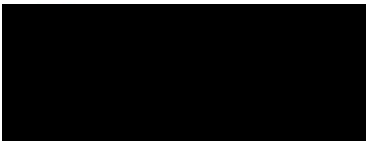
5.2 Market sensitivity

Indicate clearly whether you consider that a final decision in relation to the application would be market sensitive.

TF does not consider that a final decision in relation to this application would be market sensitive.

Note: Under regulation 42 of the Regulations if any person, in giving any information or making any application under or for the purposes of any provision of the Regulations, makes any statement which s/he knows to be false in a material particular, or recklessly makes any statement which is false in a material particular, s/he is guilty of an offence and liable to prosecution.

6. Signature

Signed: 

Date: 24/09/2026

Name (in caps): 

Job title: Chief Executive Officer

For (company): Trenitalia France SASU

7. Submission

Please check you are sending electronic copies of:

- this application form;
- the proposed draft agreement (where appropriate);
- any documents incorporated by reference (other than established standard industry codes or other instruments); and
- any other attachments, supporting documents or information.

Send by e-mail to: track.access@orr.gov.uk

Privacy Notice

We respect your right to privacy. Our Privacy Notice sets out details about the way ORR processes personal data that we collect from and about you and how we may use your information in accordance with the General Data Protection Regulation (GDPR) and Data Protection Act 2018. For details please see our website: <https://orr.gov.uk/about-orr/corporate-data/freedom-of-information/privacy-notice>