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Planning Manager
XC Trains Limited
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14/08/2026

Grand Central Response to CrossCountry Trains Limited 48th Supplemental Application

Dear ██████████
(CC ██████████, Network Rail)

This letter sets out the formal response of Grand Central Railway Company Limited ("GC") to XC Trains Limited's ("XC") proposed 48th Supplemental Agreement.

For the reasons set out in this letter GC strongly objects to the 48th Supplemental Agreement in its current form and to ORR granting any rights under the proposed 48th Supplemental Agreement.

In summary GC objects based on:

- XC's 48th Supplemental Agreement would conflict with, pre-empt, or otherwise prejudice GC's live application to operate services between Newcastle and Brighton.
- As noted in our response to XC's 45th Supplemental Agreement, XC is not prepared, or able to, operate the services it is applying for due to staff, rolling stock and operational issues.
- Network Rail and CrossCountry behaviours and lack of respect for the access rights process.
- XC's management of the industry consultation process has been flawed and therefore calls into question the robustness of the industry consultation process in support of XC's impending application.

We will now set out the detail of each point in this letter.

Conflicts with GC's application – GC's application must be properly recognised

As XC is aware, GC currently has a live application before ORR to operate services between Newcastle and Brighton via Gatwick Airport.

GC's application completed industry consultation, with consultation concluding in May 2025, and since our application was made to the ORR on 19 December 2025 has been under consideration by ORR for a significant period. GC therefore objects to any attempt to characterise our proposal as merely an

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aspiration. It is a live statutory application which must be given proper consideration when assessing later applications seeking overlapping capacity.

Whilst XC has retracted and re-issued their Form P, a point which is addressed later in this letter, and changed their characterisation of GC's services from "interacting rights" to "competing capacity", the practical effect remains unchanged. There are several paths, which are clearly stated in GC's application as being part of our proposed services and for which we have sought rights, that are included in XC's 48 Supplemental Agreement. These paths directly interact with capacity required for GC's proposed services and would materially prejudice GC's application if XC's 48th Supplemental were to be granted.

Firm rights to replace contingent rights from the 38SA

In their 48th Supplemental Agreement application, XC state their intention to replace contingent rights from the 38th Supplemental Agreement that expire in December 2026 with firm rights. In their 38th Supplemental Agreement there is no reference for which services these rights relate to. We are therefore not able to comment specifically for each service; however, we would not support these rights if they were used for paths planned to be used in GC's Newcastle to Brighton operation.

Firm Rights Sought Following Expiry of 45th Supplemental Agreement Contingent Rights

XC seeks new firm rights which would come into effect following the expiry of contingent rights in December 2026 granted under the 45th Supplemental Agreement. These include the operation of three services (2x weekday and 1x Saturday) which use the same paths as proposed GC services. These services and how they relate to proposed GC services is shown in Table 1.

Table 1: Proposed XC Paths and interaction with proposed GC paths

Operating Day	Proposed GC service	Proposed XC service
Weekday	1O81 Birmingham NS to Brighton	1V81 Birmingham NS to Reading
Weekday	1O84 Newcastle to Brighton	1V84 Derby to Reading
Saturday	1O81 Birmingham NS to Brighton	1V81 Derby to Reading

Because all three conflicts are for Southbound services, operation of the proposed XC services would have a fundamental impact on GC's proposed operation: impacting our overall timetable offering, unit diagrams and stabling plans.

XC are also seeking additional rights to operate six new services (3x weekday and 3x Saturday). Each of these services uses a path proposed to be used by Grand Central's Newcastle to Brighton operation, as shown in **Error! Reference source not found..**

Table 2: Proposed XC Paths and interaction with proposed GC paths

Operating Day	Proposed GC service	Proposed XC service
Weekday	1E30 Brighton to Newcastle	1E30 Birmingham NS to York

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Weekday	1E60 Brighton to Newcastle	1E60 Reading to Derby
Weekday	1O88 Newcastle to Brighton	1V88 York to Reading
Saturday	1E30 Brighton to Newcastle	1E30 Birmingham NS to York
Saturday	1E60 Brighton to Newcastle	1E60 Reading to Derby
Saturday	1O88 Newcastle to Brighton	1V88 York to Reading

Each of the rights sought utilises a path proposed to be used by Grand Centrals Newcastle to Brighton application. This will have a fundamental impact on the proposed operation and combined with new firm rights sought for services currently operating under contingent rights granted by the 45th Supplemental Agreement equates to 5 weekday services and 4 Saturday services that would have a direct conflict.

Despite only seeking rights over part of the route, XC's operation would not allow any alternative but to remove the full-length GC service and result in a timetable that delivers fewer benefits and serves fewer passengers. This would remove 42% of the proposed GC services on a weekday, and 36% on a Saturday. Stabling and rolling stock balancing would be severely impacted, with long distance Empty Coaching Stock (ECS) moves required.

Given the long-standing application from GC and the known capacity interactions, it would have been reasonable to expect XC to demonstrate what consideration has been given to the impact on the proposed GC services and the mitigations available. No such assessment appears to have been provided.

XC Performance questions the ability to operate the proposed services

In our industry consultation response to XC's 45th Supplemental Agreement, GC raised significant and numerous concerns about XC's ability to operate the services which were being applied for. GC remains concerned on the same matters raised previously, particularly now that XC is seeking to secure long-term rights via their 48th Supplemental Agreement. Our concerns focus particularly on XC's train crew, rolling stock and operational plans to bring the services requested in their 48th Supplemental Agreement into service.

As a result of our concerns, which we believe are founded and are in the interest of industry for XC to acknowledge and respond to, and for the ORR decision making process, we have been tracking the performance of XC's 45th Supplemental Agreement services.

Our analysis shows that since the May 2026 timetable commenced, XC have not completed a full week of operation of services associated with their 45th Supplemental Agreement application.

In this time, services have been disrupted as follows:

Table 3: Reasons for cancellation or part-cancellation of XC 45th Supplemental Agreement services, percentages can be taken as a cumulative and are not overlapping

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Cancellations / Part Cancellations	Reasons
12.18%	Total cancellations / part cancellations attributed to CrossCountry causes.
6.48%	Lack / Shortage of train crew to operate the service.
5.70%	Lack / Shortage of rolling stock to operate the service.

This demonstrates XC do not have the resource position to continue operating at the required operational level to deliver the proposed services reliably and consistently for the benefit of the passenger. Given XC have been unable to deliver the contingent rights granted under the 45th Supplemental Agreement consistently, it is not clear how XC will be able to deliver a further step up in service levels as set out in the 48th Supplemental Agreement, which sees additional new firm rights requested in addition to the firm rights relating to services currently operating under the 45th Supplemental Agreement.

These concerns were raised by GC in response to the 45th Supplemental Agreement consultation, and additionally by ORR in their Decision Letter stating in paragraph 22 *“The submission to ORR was made one month before the timetable change. However, the Form P states “work continues to identify the required number of traincrew to deliver the May 26 timetable, and we have plans in place to deliver this ready for the timetable change”. The fact that CrossCountry had not resolved traincrew resourcing one month before services should start is concerning”*. This concern remains directly relevant to the present application because XC now seeks longer-term firm rights, and through tracking XC’s 45th Supplemental Agreement services, GC believes that there is no evidence XC has taken any successful action to address and alleviate these concerns.

It is also disappointing to note, once again, that no performance modelling has been undertaken for the services included within the 48th Supplemental Agreement. This was also highlighted by GC as part of XC’s 45th Supplemental Agreement and directly contradicts GC’s Newcastle-Brighton application which has been subject to independent performance modelling, presented to Network Rail and ORR.

In GC's view, ORR should carefully scrutinise actual performance, resource availability, rolling stock availability and service delivery during the period in which the contingent rights have been exercised before reaching any conclusion on the grant of permanent rights. Where an operator has not demonstrated that it can consistently and reliably deliver the services associated with contingent rights, GC considers that there should be compelling evidence before new firm rights are granted.

Behaviour of Network Rail and XC in disregard of ORR guidance

XC and GC both bid for paths in the December 2026 timetable process, GC with a formal application with the ORR awaiting decision, at the time of bidding, XC holding an aspiration, but with no application or even an industry consultation in process.

ORR stated in their decision letter for XC’s 45th Supplemental Agreement, paragraph 27 that *“In light of this and the issues raised around potentially competing applications, our usual policy of a strong presumption of the continuation of existing rights will not apply for the extension of the contingent*

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rights beyond PCD 2026". Despite this set of circumstances, Network Rail rejected Grand Central's bid for paths on a technicality ("*incomplete*" sectional running times, despite clearly comparable running times being used) and included XC's paths in the December 2026 timetable. Therefore, presuming continuation, in direct disregard of ORR's determination.

GC recognises that Network Code Condition D4.2.2 may permit Network Rail to include an Access Proposal based upon contingent rights or an expectation of rights, provided that the proposal has been exercised and Network Rail considers, acting reasonably, that the necessary rights will be in force during the relevant timetable period.

Condition D8.4.1 confirms that train movements must be undertaken pursuant to permission contained in an Access Agreement. It also contemplates removal of a train slot where Network Rail reasonably considers that the operator will not have the required access rights by the date of operation.

Network Rail has no basis upon which to assume that XC will have rights to operate in the December 2026 timetable, owing to XC's industry consultation only closing on 15 August 2026, and the performance issues with 45th Supplemental Agreement paths highlighted earlier in this letter. In the opinion of GC, this demonstrates concerning and troubling behaviours of Network Rail, who appear to be unreasonably favouring franchised operators over open access operators, which is against the licence conditions under which Network Rail is mandated to operate.

XC's conduct in the timetable development process appears to assume the continuation of these expiring contingent rights beyond PCD 2026, a view which appears to be accepted by Network Rail, as noted, which in the view of GC is a blatant disregard of ORR instruction.

The services subject to both rights granted in the 45th Supplemental Agreement and applied for through this 48th Supplemental Agreement have been incorporated into the December 2026 timetable and are now visible to customers through journey planning and retail systems. As a result, passengers can view journey opportunities and valid fares for services which, subject to the granting of new access rights, may not operate.

Once reservations open on the 12-week booking horizon, customers may also be able to purchase specific (advance-purchase) tickets for such services, without any access rights being awarded. Should these services not obtain access rights, as proposed by GC, this would create substantial confusion for passengers and undermine confidence in industry planning and retailing.

In this instance (where services have been offered without necessary rights), these services should have been "suppressed", ie not visible in industry journey planners and retailing systems. This has been the historic approach for any Open Access timetable bids made awaiting access rights and offered by NR. The fact that these services have not been suppressed demonstrates that XC have indeed assumed a continuation of rights, directly contradicting the ORR's decision that "*a strong presumption of the continuation of existing rights will not apply for the extension of the contingent rights beyond PCD 2026*".

The offer of services and inclusion in the timetable is all the more concerning, given the application for the new firm rights remains unsupported by NR, as set out in section 4.3 of the Form P. It would therefore be useful to understand how NR believes the services are able to be offered for the December 2026 timetable, yet at the same time withhold the support for the application.

Based on the rationale contained within the Form P, citing specifically GC's own application, the requirement for further evidence to demonstrate long-term performance of the rights contained within the 48th Supplemental Agreement and the fact that NR "*does not consider sufficient evidence has yet*

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been provided to demonstrate that traincrew resource plans are robust enough to support the full quantum of rights..." the position from NR would appear counter intuitive. Given the level of concern raised in the Form P in relation to NR's support for these rights, it suggests that without these concerns being addressed NR should not have offered the paths for December 2026.

The inclusion of these services within public timetable and retailing systems is therefore also inconsistent with ORR's clear determination that the contingent rights carry no presumption of continuity beyond December 2026. and that any continuation would require further regulatory scrutiny.

XC industry consultation is materially flawed owing to a lack of clarity in information

Following issue of the original 48th Supplemental Agreement for consultation, GC wrote to Network Rail citing incorrect and missing information within the Form P and requested that the application be withdrawn and re-issued once all information was available.

Network Rail acknowledged our comments and subsequently retracted the industry consultation stating that XC had been requested to provide a revised Form P and would issue for consultation once available, allowing the full 4 weeks mandated for industry consultation.

Following receipt of the revised Form P, GC again felt it still did not adequately provide the required information given the fact that the application clearly referred to, and is linked to, the 46th Supplemental Agreement (still unavailable for consultation as at the date of this letter) and the fact that some of the information within the Form P remains contradictory and presumptuous. Via email to me on 04 August 2026, you stated *"we acknowledge your comments and concern around being able to respond to our 48th SA within the context of the 46th SA. It was our intention that both of these SA's – the supported 46th SA and this unsupported 48th SA were both out for consultation simultaneously. Unfortunately, due to complexities at SOAR panel which delayed the 46th SA this was not possible. We are confident that the consultation for the 46th SA will follow imminently."* A position that we do not believe is acceptable.

GC wrote again to Network Rail requesting that the application be again retracted whilst the inconsistencies were corrected. Network Rail responded stating that as the application is a Section 22a it is up to the applicant (XC) as to how the application is managed and NR's role is to facilitate the progression of the application. Network Rail advised GC would receive further correspondence from XC in due course.

In the previously referred email from yourself dated 04 August 2026, you stated XC would reissue the Form P, but would not however, retract the application, on the basis that it believed it had acted within the Framework of the ORR's code of practice for track access application consultations (published March 2024). GC welcomes any improvement in transparency through updating of Form P, but the clarifications received so far do not resolve the substantive issue as it is not one merely of wording.

The 48th Supplemental Agreement seeks to convert a significant number of expiring contingent rights into firm rights whilst also seeking additional rights. XC's own Form P identifies an increase of 10 rights, together with the replacement of 48 contingent rights from the 38th Supplemental Agreement and 34 contingent rights from the 45th Supplemental Agreement, which expire at PCD2026, with firm rights.

Those rights cannot properly be treated as part of XC's continuing contractual baseline for the PCD2026 timetable period. They should be assessed as an increase in contractual entitlement for new firm rights sought through a disputed section 22A application, against the full factual and

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regulatory background, including GC's earlier live application and the specific capacity interactions identified below, as opposed to a continuation of existing rights.

The question before consultees is therefore not whether existing rights should continue automatically. The question is whether XC should now be granted substantial new firm rights from PCD 2026 notwithstanding the existence of other more advanced applications, unresolved capacity concerns and the concerns previously identified by ORR.

GC therefore maintains its objection unless and until XC provides a complete rights reconciliation and path-by-path impact assessment demonstrating precisely what is being sought, how it differs from XC's continuing firm rights baseline, and how the proposal interacts with GC's live Newcastle to Brighton application and any other live applications of other operators.

The rights sought are not continuing contractual rights

Clause 5.6 of XC's current Track Access Contract clarifies both firm and contingent rights held by the operator, XC currently holds the relevant contingent rights only until their stated expiry date, being 01:59 on the Principal Change Date 2026. Those rights do not subsist for the timetable period beginning at PCD 2026 and do not constitute continuing contractual access rights for the period covered by the proposed 48th Supplemental Agreement. XC's form P acknowledges that:

- 48 contingent rights associated with the 38th Supplemental Agreement expire at PCD 2026;
- 34 contingent rights associated with the 45th Supplemental Agreement expire at PCD 2026;
- XC now seeks firm rights in their place; and
- XC additionally seeks ten further rights.

The proposed 48th Supplemental Agreement therefore seeks:

1. A new grant of firm rights for the period from PCD 2026 in place of 82 expiring contingent rights;
2. Ten additional rights;
3. Associated changes to through-service combinations and calling patterns; and
4. The surrender of two rights identified in the application.

The fact that some associated train services may have operated previously does not create contractual continuity beyond the stated expiry of the underlying contingent rights.

XC's Form P repeatedly describes the contingent rights as being "*rolled forward*" and states that the baseline for the 48th Supplemental Agreement is based upon Tables 2.1 and 2.2 of the 45th Supplemental Agreement. This is contrary to ORR's express statement. GC does not object to the 45th Supplemental Agreement tables being used as an operational comparison showing services in the May 2026 timetable. It does object to those tables being presented as the contractual rights baseline for the period beginning at PCD 2026. If XC intends "*baseline*" to mean an operational or timetable comparison rather than XC's continuing contractual rights, the Form P must say so expressly.

The term "*rolled forward*" is also liable to cause confusion with the defined Network Code term "Rolled Over Access Proposal". A Rolled Over Access Proposal is a timetable-planning concept relating to an Access Proposal from a previous timetable revision that resulted in train slots in the prior Working Timetable which the participant does not seek to vary. It does not extend or renew an expiring Schedule 5 access right.

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ORR noted in their 45th Supplemental Agreement decision letter that:

- The rights had been sold on a six-month contingent basis because of interactions with other proposed services and performance considerations;
- XC had not undertaken standalone performance modelling for the additional services, as is often the case with open access operators to prove that there is no adverse impact of the introduction of new proposed services on the network;
- Contingent rights provided a mechanism for monitoring performance during the bedding-in period, as will be noted by GC later in this letter, XC's performance has been very poor during this initial period of operation, to the detriment of the travelling passenger.

The 48th Supplemental Agreement is the subsequent application for longer-term firm rights that ORR's decision anticipated would require further scrutiny. It should not therefore be characterised as an administrative rollover of an established contractual entitlement.

Owing to the scale of the change proposed by XC, which is severely understated in the Form P provided for consultation, to allow industry to appropriately respond GC requests a complete rights-reconciliation schedule showing, in tabular form, for every affected access right:

- service group and rights-table description;
- source Supplemental Agreement;
- present firm or contingent status;
- current expiry date;
- whether the right continues beyond PCD 2026;
- status sought under the 48th Supplemental Agreement;
- relevant train or headcode;
- whether the corresponding path appears in the December 2026 timetable; and
- identified interaction with Grand Central or another affected operator.

In summary, Grand Central strongly objects to XC's 48th Supplemental Agreement.

XC's decision to amend the wording of the Form P does not resolve the fundamental issue that the application seeks substantial new firm rights from PCD 2026 despite ORR having expressly determined that the underlying contingent rights carry no presumption of continuity beyond that date.

The rights sought directly interact with and would materially prejudice GC's live Newcastle to Brighton application. The application therefore requires detailed scrutiny by Network Rail and ORR and should not be treated as a routine continuation of existing rights.

In the decision letter for XC's 45th Supplemental Agreement, paragraph 28, ORR stated "*Our published guidance recommends applicants allow six weeks for our decision in straightforward cases, and twelve weeks for decision in complex cases such as this one. This application was submitted to ORR on 14 April 2026, just over four weeks before the timetable change date for which the rights were required.*" GC would argue that there is insufficient time to properly undertake this analysis ahead of the December 2026 timetable change, given there are only 15 weeks between industry consultation closing and the December 2026 timetable change. GC believe it is therefore inappropriate for XC to request access rights from as early as December 2026.

GC is also concerned by XC's approach to the consultation process. Important contextual information regarding the nature of the rights sought, the interaction with GC's live Newcastle to Brighton

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application and the relationship between the 48th Supplemental Agreement and the proposed 46th Supplemental Agreement has only emerged following consultation responses from affected operators. In GC's view, consultees should have been provided with sufficiently clear and complete information from the outset to enable a full assessment of the proposal and its implications.

In those circumstances, GC respectfully submits that ORR should subject the 48th Supplemental Agreement to particularly careful scrutiny and should not treat the application as a routine extension or continuation of existing rights. Rather, it should be assessed as a substantive application for new firm rights, taking full account of competing applications, capacity constraints, performance considerations and the absence of any presumption of continuity.

GC reserves all its rights in relation to the Form P, the 48th Supplemental Agreement and the 46th Supplemental Agreement.

Best regards,

[Redacted]

For and on behalf of Grand Central Railway Company Limited

Business Development Director – UK Trains

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