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6 November 2026

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Dear Michelle and Paul

48th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and XC Trains Limited (trading as CrossCountry) dated 8 August 2017

Today we have decided to direct Network Rail and CrossCountry (jointly the parties) to enter into the above supplemental agreement under section 22A of the Railways Act 1993 (the Act). This decision has required careful weighing of our duties, as some of the 91 rights relate to services in operation and there are potential interactions with other applications. Our decision is in line with Network Rail's position of not supporting the rights on a longer-term basis due its concerns over performance and train crew resourcing. This letter explains the reasons for our decision to grant some rights on a time limited basis and reject others and outlines the terms under which the direction is made.

ORR is not granting the 10 new rights requested in the application. The remaining 81 rights will be granted on a contingent basis only for one further timetable period until the Subsidiary Change Date (SCD) in May 2027. Our usual policy of a strong presumption of the continuation of existing rights will not apply for these 81 rights beyond SCD 2027.

Application

CrossCountry applied to ORR on 4 September 2026 for a total of 91 rights starting on the Principal Change Date 2026 (PCD) in December 2026 in the 48th supplemental agreement:

- 10 of these rights are for proposed new weekday and Saturday services from Birmingham New Street to York, Reading to Derby, and York to Reading. They would be effective from the Principal Change Date (PCD) in December 2026 on a firm, permanent basis;

- 47 rights were directed by ORR as part of the 38th supplemental agreement, a S22A application, and were effective from PCD 2025 for one year on a contingent basis. These rights are for services that run between Birmingham New Street, Bristol Temple Meads, Manchester Piccadilly, Newcastle and Reading, amongst others. In this 48th supplemental agreement, CrossCountry applied to make these rights firm and permanent from PCD 2026; and

- 34 rights were approved by ORR as part of the 45th supplemental agreement, which was a S22 supported application, and were effective from SCD 2026 for one timetable period on a contingent basis. The rights cover services in the same geographical locations as those in the 38th supplemental agreement. Again, CrossCountry applied to make these rights firm and permanent from PCD 2026 as part of this 48th supplemental agreement.

Industry consultation

Network Rail undertook the usual industry consultation for 1 month from 15 July 2026. Comments in support or raising no objection were received from Northern and West Yorkshire Combined Authority.

Chiltern asked whether performance modelling had been undertaken for the new services over the Snow Hill lines. CrossCountry advised that it had not, but that its performance teams continued to work jointly with Network Rail and the industry as well as monitoring services on its service groups between Birmingham New Street and Reading. Chiltern was satisfied with this response.

WM Trains asked for further information about the right time presentation related to the proposed new services, and for some performance and timetabling data which it believed would be relevant to interactions with its own services. CrossCountry provided this and WM Trains was content with its responses.

Grand Central (GC) strongly objected to the application on the basis that it would conflict with its own currently outstanding application to run services between Newcastle and Brighton. It also raised concerns that CrossCountry was not fully able to operate the services due to issues with staffing and rolling stock. Finally, GC queried Network Rail's management of the industry consultation and timetabling processes, stating that the services should not have been published in the working timetable prior to their being applied for and approved by ORR.

CrossCountry responded to GC's letter to acknowledge that the services in the 48th supplemental agreement would conflict with GC's applied-for services and that it recognised the outcome of both applications was for ORR to determine. It also stated that it currently expected to have the necessary resources in place to operate these services within the December 2026 timetable. In response to GC's comments about the industry consultation, CrossCountry stated that it was satisfied it had followed the Industry Code of Practice for track access consultations.

At the time of the application's submission and ORR's decision, GC's objections were still outstanding.

Statutory Consultation

As required under the Act, on 7 September, we sought Network Rail's representations on the application, and it replied on 9 October. We forwarded these representations to CrossCountry on the same date and asked for its comments, which it provided on 20 October.

Network Rail's representations

Network Rail's representations dealt with the applied-for rights in three groups – those previously granted by the 38th supplemental agreement, those previously granted by the 45th supplemental agreement, and the new rights. In essence, it supports the 81 rolled-over rights but only on a time-limited, contingent basis until SCD 2027, with no presumption of continuity beyond that period. It does not support the 10 new rights.

Network Rail's reasons for supporting the rolled-over rights on a contingent basis only for one further timetable period are primarily due to concerns over train crew resourcing and performance. For this reason, its support is conditional on requiring CrossCountry to meet a number of conditions related to the improvement of performance and reduction of traincrew-related cancellations. It set these out in a separate letter to CrossCountry on 23 October 2026.

Network Rail further stated that its inability to support the 10 new rights was due to material performance risk at key locations, including Birmingham New Street and the East Coast Main Line, and wider operational uncertainty, particularly train crew constraints.

The representations list the points at which Network Rail considers the rights to interact with those in two outstanding open access applications, the GC Newcastle to Brighton application for services from PCD 2026, and the First Rail Stirling (FRS) bid to run services between Cardiff and York from PCD 2028. These applications are still being assessed by ORR and decisions have not yet been issued on them. The fact that allocation of this capacity is still uncertain has been a factor in Network Rail's inability to take a longer-term position on the granting of the rights requested in the 48th supplemental agreement.

CrossCountry's comments

In its response to Network Rail's representations, CrossCountry reiterated its position of wanting the rolled-over rights to be made firm to the end of its contract and for the new rights to be granted. It pointed out that CrossCountry has long held these aspirations and that Network Rail's position was originally one of support. This meant that the rights had already been accommodated in the PCD 2026 timetable before the industry consultation was carried out.

Regarding the interaction with the GC services, CrossCountry notes that the rights originally granted in the 38th supplemental agreement were developed and applied for before the proposed GC service went to industry consultation. CrossCountry believes that there are very few instances where GC is competing for the same path, and that ORR's intention to determine GC's application after PCD 2026 should not prevent us from determining these rights.

While 'disappointed' that Network Rail was not able to support its longer-term aspirations, which affects its ability to provide continuity for passengers, CrossCountry asked that ORR direct the application in line with what Network Rail had outlined it was prepared to support in its representations.

ORR review

The representations from Network Rail and the industry consultation response from GC both listed services in this application which the parties believed would compete for the same network capacity as the proposed GC application. We subsequently asked Network Rail for more detailed information about which services were involved in these conflicts. We commissioned SYSTRA to provide a detailed capacity analysis of the two open access applications in relation to the CrossCountry rights. An important part of this analysis is assurance of Network Rail's findings. In order to take a long-term decision on the GC application and any future application from CrossCountry we need to be able to understand the interactions.

Our analysis has concluded that we agree with Network Rail and GC that the 10 new services were in direct competition with the open access applications. However, for the remaining 81 rights, not all the interactions identified by Network Rail are reflected in SYSTRA's analysis and some relate to the potential use of common capacity rather than direct timetable conflicts.

We have some reservations about Network Rail's performance evidence. For the services which were granted by the 38th supplemental agreement, Network Rail points particularly to the deterioration of performance at Birmingham New Street, while for the services from the 45th supplemental agreement its concerns are broader, including performance following the timetable changes and the need for further evidence as those changes bed in. Its analysis clearly shows deterioration in CrossCountry's performance but does little to

explain what is driving it or demonstrate that the services covered by these rights have caused or materially contributed to the decline. If CrossCountry were to reapply to extend the rights from SCD 2027, we would expect to see much more detailed and collaborative analysis of the underlying causes to support its case.

We also believe CrossCountry has made good progress on traincrew resourcing, while recognising that the Sunday position remains an area of high risk.

ORR's decision

With regard to the 10 new rights, the performance evidence and the fact of their direct conflict with the GC application leads us to reject the application for those services.

The position on the 81 existing rights is less definitive, but we believe that directing them to continue on a contingent basis for a further timetable period until SCD 2027 maintains service continuity while allowing more time for the underlying performance issues to be better understood and addressed collaboratively before long-term decisions are made.

We note that, because Network Rail has already included the 81 rights in the December 2026 timetable, if we were not to direct them, they would lapse and this would necessitate the removal of services for which passengers may already have bought tickets. This would reduce passenger connectivity, create significant late timetable replanning and disrupt rolling-stock and traincrew plans. The issue would mean a late alteration of the Working Timetable for December 2026, which would increase risk of misalignment with CrossCountry's Rolling Stock and Train Crew Resource Plans and an associated performance detriment.

However, CrossCountry did not submit this application until 4 September 2026, only two weeks before tickets should be on sale for passengers to buy. Given the requirement for a statutory consultation, the complexity of the application and the interactions with other operators' applications it would not have been possible for us to reach a long-term decision before the date tickets should be available for passengers. Network Rail's delay in establishing a position on the available capacity, so that it only provided ORR with its representations in October, and CrossCountry's late submission have restricted ORR's ability to reach a long-term decision. Given the late application we have weighed our duties to protect the interest of railway users and promote the use of the network for the carriage of passengers accordingly.

We are particularly mindful that some of the 81 rights interact with proposed services within the GC and FRS applications. Although granting CrossCountry an extension to SCD 2027 will tie up that capacity for a further timetable period the additional time will allow ORR to take long-term decisions on the basis of better-developed operational and economic evidence about the competing applications. Any further application for extension of the CrossCountry rights beyond SCD 2027 will be taken alongside our assessment of the GC and FRS applications. This includes the available capacity and the start dates of

any services. We will also take into account whether the measures for performance improvements have been appropriately implemented.

While we acknowledge that the outstanding open access applications for GC and FRS, have played a part in Network Rail's decision making, both of these applications were submitted many months ago. If the CrossCountry application had been submitted earlier ORR would have had more time to include that as part of a decision in the round. The handling of CrossCountry's application has been resource intensive and time constrained due to its late submission, again exposing the risks of making timetabling decisions ahead of the required access decisions.

We will now work with the parties on the details of the supplemental agreement that we will direct Network Rail to enter into. The parties will need to engage with us at pace to enable this to happen promptly.

Our duties under section 4 of the Act

We have considered this supplemental agreement and we have concluded that its direction is consistent with the discharge of our statutory duties under section 4 duties of the Act; in particular, those relating to promoting improvements in railway service performance (section 4(1)(b)), protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access contract

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and CrossCountry. ORR's copy should be sent for my attention.

Public register and administration

Electronic copies of this letter, the directions notice and the agreement will be sent to Network Rail's Policy and Access Team. I have also copied Grand Central. Copies of the directions notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely



Gareth Clancy