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Dear stakeholders,

Our conclusions on track access issues arising from High Speed 2 (HS2)

1. Today we are setting out our conclusions on the approach we will take to track access issues arising from the introduction of HS2 services. Our approach is set out in the attached statement. We have made one minor change to the version we consulted on in September 2017 to reflect consultation feedback.
2. On 21 September 2017, we published our [consultation](#) in response to a letter from the Department for Transport (DfT). This set out DfT's plans for the introduction of both HS2 and related conventional services and asked us to set out the approach we will take to handling track access applications relevant to the start of HS2 operations.
3. [Our letter](#) explained our general approach to access regulation and discussed 4 areas where we saw HS2 track access issues might arise:
 - Access rights needed to provide high speed services on the HS2 network only;
 - The southern end of the West Coast Mainline (WCML) including what happens to any capacity "freed up" when current services transfer over to HS2;
 - The northern end of the WCML; and
 - Non-franchised operators.

Consultation responses

4. The consultation closed on 20 October 2017 and we received 18 responses from a range of stakeholders, including members of the public, train operators, regional transport bodies and Network Rail. We published the responses [here](#). This letter refers only to those responses which directly related to our proposed approach to HS2 track access issues.
5. We said we expected to treat applications for access involving HS2 in the same way as any others under the current regulatory framework. Respondents were reassured by this statement and were broadly supportive of the approach we set out. They were also generally positive about the benefits they thought HS2 would bring, particularly around



releasing capacity on the existing network. The stakeholder responses mainly covered 4 themes:

Relevant statutory duties

6. DB Cargo and the Rail Freight Group both commented on paragraph 14 of our letter, where we had set out which of our statutory duties we thought most likely to be relevant to our consideration of HS2 track access issues. They both noted that our list did not refer to the duty relating to “enabling persons providing railway services to plan the future of their businesses with a reasonable degree of assurance”. We understand that stakeholders will be seeking certainty about the future when ORR makes track access decisions in relation to a long term project such as HS2. We agree that this is an important, relevant duty and have added it to our statement.

Balancing the needs of non-HS2 and HS2 services

7. Several respondents had general concerns about the interrelationship between HS2 services and the rest of the network, specifically that ORR’s consideration of HS2 related track access issues might have a detrimental impact on either existing connectivity and service patterns or future services on the existing network (such as freight, local, regional, or Cross Country services or services supported by sub-national transport bodies).

8. Some respondents noted our expectation that the proposed West Coast Partnership would use all of the available capacity on the HS2 network for the foreseeable future but felt that, if capacity was available there might be scope for considering access for freight or other services.

9. Respondents also stressed the importance of future industry discussion and consultation, at an appropriate time, about the impact of HS2 services.

Capacity constraints and other issues on the northern WCML

10. Several respondents expressed concern about the capacity constraints on the Northern WCML, which we commented on in paragraph 33 of our letter. Again the concerns revolved around the desire to ensure that the needs of non-HS2 services were taken into account in future track access applications where capacity constraints made the allocation of access more complicated.

11. Arriva commented that HS2 rolling stock joining the existing network on the northern WCML will not be able to travel as fast as current rolling stock without infrastructure enhancements or using rolling stock that is capable of tilt.

The extension of existing access rights

12. Our consultation letter explained how our current approach includes a strong presumption in favour of the rollover of existing access rights. Some respondents expressed concern that this might limit flexibility when considering access for new services. However, others were very positive about the approach and how it gave some certainty when planning for the future. The presumption is not a guarantee that rights will always be extended and it does not apply where we have said otherwise (for example, where there is uncertainty about capacity or performance impacts).

Conclusions

13. We are grateful for the comments made responding to this consultation and have carefully considered all of them. We have updated the original consultation letter to be a regulatory statement and added the “reasonable degree of assurance” duty to the list of duties most likely to be relevant to our consideration of HS2 track access issues.

14. We do not consider we need to make any further changes to the statement, as it clearly sets out our approach and respondents were broadly supportive. Our approach remains based on treating HS2 related applications in the same way as any others under the current regulatory framework,

15. We note and understand the concerns raised by some respondents about taking into account the needs of both HS2 services and non-HS2 services and also about capacity constraints on parts of the network. We consider that when making decisions on HS2 track access issues, the existing access framework and our statutory duties will enable and support us to make decisions that balance these HS2 and non HS2 interests and make the best use of capacity in the overall public interest.

Yours faithfully

A handwritten signature in black ink, appearing to read 'John Larkinson', written in a cursive style.

John Larkinson