

Feras Alshaker
Head of Access and Licensing



11 October 2019

Copy list below – *by email only*

Dear colleague,

Access to the West Coast Main Line (WCML)

1. This letter is to tell you about how we intend to take forward several aspirations we are aware of to run additional services on the WCML. We would welcome any comments on this letter so that we can take your views into account.
2. The aspirations of which we are aware are:
 - The new franchisee, First Trenitalia West Coast Rail Limited (FTWC) has applied to us for rights, from December 2022, for additional London Euston-Liverpool Lime St services to increase its service from 1 to 2 per hour¹;
 - Prospective Open Access Operator, Virgin Trains, has notified us under the Economic Equilibrium Test (EE Test) process of its intention to run, from May 2021, an hourly return service between London Euston and Liverpool Lime St calling at Nuneaton, Tamworth, Lichfield Trent Valley and Liverpool South Parkway²; and
 - Prospective Open Access Operator, Grand Union Trains, has notified us under the EE Test process of its intention to run, from May 2021, around 5 return services per day between London Euston and Stirling, calling at Milton Keynes Central, Nuneaton, Crewe, Preston, Carlisle, Lockerbie, Motherwell, Whifflet, Greenfaulds and Larbert³.
3. We also have an outstanding application from the current train operator, Virgin Trains West Coast, to run an additional 5 return services per day between London-Liverpool (initially planned to start in mid-2019). The train operator has not progressed this application and FTWC has told us that it does not intend to pursue this application upon taking over the franchise in December. We will therefore consider this application as superseded by FTWC's proposals, unless informed otherwise.
4. It is currently unclear to what extent there will be capacity to accommodate all of these aspirations; what the performance implications might be; and, where there are trade-offs, what those choices would entail. In order to inform our assessment of these considerations, we will shortly be asking Network Rail to provide an appraisal of WCML capacity and the potential impact on performance that would result from additional services. We will also consider aspirations in line with the approach set out in our [regulatory statement](#) of 9 April 2018 in relation to HS2.

¹ This application is currently undergoing industry consultation which is available on [Network Rail's website](#)

² https://orr.gov.uk/_data/assets/pdf_file/0019/41248/virgin-trains-open-access-application-2019-06-10.pdf

³ https://orr.gov.uk/_data/assets/pdf_file/0009/41688/grand-union-trains-notification-form.pdf

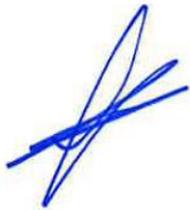
5. Our plan is to consider all the identified potential uses of capacity together in the round, rather than to assess them one by one. This is because a piecemeal approach would be more complex and it is not clear to us in what order the potential uses of capacity should be considered and against what baseline.
6. In making decisions about the best overall use of capacity, we must consider all of our statutory duties and balance them where they do not all point in the same direction. Our duties are varied and include (in no particular order) protecting the interests of users of railway services, promoting use of the network, competition, improvements in rail service performance and efficiency and having regard to the funds available to the Secretary of State and his, and the Scottish Minister's, guidance to us.
7. Any aspirants, including those listed in paragraph 2, who want to be included in this current assessment of applications should ensure they have submitted an access application to us by Friday 15 November 2019. Applications received after this date relating to access on the WCML will be considered following the conclusion of the process described in this letter. Proposals for new open access services which may be subject to the EE Test should also ensure that they have provided us with their notification 'Form OA' by this date.
8. Our policy is not to approve competing services that would be primarily abstractive of an incumbent's revenue. We determine whether a service is primarily abstractive using a five-stage test which we set out in our [track access guidance](#). The test considers whether the primary impact of a new service would be to abstract revenue from incumbent operators without compensating benefits – if so, we would reject the application. As part of this test we calculate the ratio of forecast revenue generated to forecast revenue abstracted: we would not expect to approve new services that do not generate at least 30p for every £1 they abstract from the incumbent services of other operators.
9. We will also undertake the EE Test on new open access services where the test is requested by a relevant party. The EE Test has been requested on both the Grand Union Trains and Virgin Trains applications. In line with our [guidance on the EE Test](#), where we are examining more than one application for access under the EE Test, we may take different decisions on the applications received, based on analysis of their respective impacts, competitive effects, net benefits to customers and network impacts, and of their cumulative effects on the economic equilibrium of the Public Service Contract.
10. We also expect to assess the wider costs and benefits of the possible capacity uses on the WCML.
11. We take access decisions within 6 weeks of receiving all relevant information; but note that with these competing aspirations, the information we will need in order to reach our decisions may be complex and involve more dialogue with aspirants and stakeholders than usual. In line with EE Test timescales, our decisions on the open access applications for May 2021 will need to be taken by August 2020 at the latest.
12. As part of its access application, FTWC has also applied to extend its existing rights beyond the expiry of the franchisee's current contract in December 2022. Other operators on the route may also want to extend the duration of their existing rights. As set out in our track access guidance, there is a strong presumption in our approach in favour of the extension of current access rights except where we have said otherwise. Reflecting this the process set out in this letter will only encompass applications for new services on the route aimed at utilising spare capacity, unless any applicant can demonstrate that the

benefits of their proposals clearly outweighed the disbenefits to passengers or freight users from the loss of, or impact on, the existing services.

13. We will update you on this process later this year once we are clearer on the scope of applications we are considering and the timescales of Network Rail's capacity study.

14. I hope this is helpful, but please do not hesitate to contact me, Ian Williams or David Reed if you would like to discuss further. We will publish this letter on our website.

Yours sincerely

A handwritten signature in blue ink, consisting of several overlapping, fluid strokes that form a stylized, abstract shape.

Feras Alshaker

Copyees

Ian Yeowart (Grand Union Trains)
Phil Whittingham (Virgin Trains)
Russell Evans (FTWC)
Jo Kaye (Network Rail)
Paul McMahon (Network Rail)
Tim Shoveller (Network Rail)
Peter Craig (Network Rail)
Chris Rowley (Network Rail)

Dan Moore (DfT)
Helen Robinson (DfT)
Martin Purcell (DfT)
Linda Bennett (Transport Scotland)
John Hillman (EWR)
Transport Focus
Current WCML operators