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OFFICE OF RAIL AND ROAD

23 April 2018

Rachel Gilliland
Head of Commercial Freight
Network Rail Infrastructure Limited
Kings Place
90 York Way
London
N1 9AG

Russell Evans
Policy and Planning Director
First Rail
4th Floor Capital House
25 Chapel Street,
London
NW1 5DH

Dear Rachel and Russell

Consent to amendment of dates in Clause 3.5: East Coast Trains Limited

1. We have today issued a notice of consent under Clause 3.7 of the Track Access Contract between Network Rail Infrastructure Limited (Network Rail) and East Coast Trains Limited (ECTL) to amend the dates in Clause 3.5 of the contract. This is following a request made to us by ECTL on 4 April 2018. This letter explains the reasons for our decision.

ECTL's application

2. ECTL explained that, in its bilateral discussions with Network Rail, Network Rail had informed that it is due to conclude on options for East Coast Main Line enhancement schemes in June of this year. ECTL would like the opportunity to understand the conclusions that Network Rail reaches prior to committing to rolling stock leases and associated contracts.

3. ECTL therefore asked for the date in the contract by which it must enter into a rolling stock procurement contract to be extended by 3 months.

Consultation

4. There is no requirement for industry consultation under Clause 3.7 but, as required, we consulted Network Rail. Network Rail was content to extend the date by which ECTL must enter into a rolling stock procurement contract.

ORR review and conclusions

5. We have considered ECTL's request and Network Rail's representations.

6. We included a date in ECTL's contract by which it must procure rolling stock in order to avoid a situation where ECTL unduly delays implementation of its services, blocking capacity that could otherwise be used. We accept that ECTL have good reason to want to wait the short amount of time until Network Rail's work on enhancement schemes has been completed, and that this wait will not unduly delay the implementation of ECTL services or block capacity that could otherwise be used on the East Coast Main Line.

7. In considering the request and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that issuing such a notice is appropriate and consistent with our section 4 duties, in particular those relating to:

- protect the interests of users of rail services;
- promote the use of the railway network in Great Britain for the carriage of passengers and goods, and the development of the railway network, to the greatest extent that ORR considers economically practicable;
- contribute to the development of an integrated system of transport of passengers and goods; and
- enable persons providing railway service to plan the future of their businesses with a reasonable degree of assurance.

Yours sincerely

A handwritten signature in black ink, appearing to be 'David Reed', written in a cursive style.

David Reed