

**Katherine Goulding**

Track Access Executive

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10 August 2015

Dear Michael, Cheri

**TRACK ACCESS CONTRACT BETWEEN RIBBLE RAIL LIMITED AND COLAS RAIL LIMITED**

1. On 10 August 2015 the Office of Rail Regulation approved the terms of the track access contract submitted by Ribble Rail Limited (RRL) and Colas Rail Limited (CRL), which we have taken forward as a submission under section 18 of The Railways Act 1993 (the Act), relating to access to Ribble Rail's network. Please find enclosed a copy of our direction notice, directing both parties to enter into the contract.

**Application submission to ORR**

2. On 29 July 2015 Ribble Rail Limited and Colas Rail Limited submitted the proposed track access contract to us, which we have taken forward under section 18 of the Act as a submission, after informal pre-application discussions with ORR.
3. The application consisted of:
  - Proposed contract
  - Covering letter outlining the background to the application, explanation of changes and explanation for not undertaking a consultation.

**Consultation**

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<sup>1</sup> Use of the name, the Office of Rail and Road, reflects the new highways monitor functions conferred on ORR by the Infrastructure Act 2015. Until this name change is confirmed by legislation, the Office of Rail Regulation will continue to be used in all documents, decisions and matters having legal effects or consequences.

4. There was no industry consultation for this agreement, as the parties noted there is no other regular traffic from any other national TOCs, planned requests from them to use RRL's network or obvious sources adjacent for further freight traffic. As this is a 158 metre piece of single track and the only part of the RRL network that is under the Act, we agree this is reasonable for this agreement.

#### **Departures from the model contract**

5. The current freight track access model contract was not used for this agreement, instead being based on the previous contract between RRL and DB Schenker. We consider this appropriate for a contract covering a small piece of network off Network Rail's network.
6. The parties made several changes from the previous contract. This included a cap on the indemnity for both parties, and updating references to RRL's Safety Case to a Safety Management System, reflecting changes in legalisation since the previous contract was signed. The other changes were to update the beneficiary's details and including a clause to ensure both parties followed all relevant regulations and bye-laws.

#### **ORR decision**

7. This is an application under section 18 of the Act and therefore an agreed agreement between the parties who are prepared to enter into it as submitted.
8. We consider that in this case the previous contract is a suitable model to use, in relation to the size of the network in question and the scale of the operations. The changes made by the parties are practical.
9. In making this decision, we are satisfied that this decision reflects our duties under section 4 of the Act, in particular:
  - (i) to protect the interests of users of railway assets;
  - (ii) to promote the use of railway network in Great Britain for the carriage of passengers and goods and the development of that railway network, to the greatest extent ...economically practicable;
  - (iii) to promote efficiency and economy on the part of the persons providing railway services; and
  - (iv) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.
10. Once the agreement is signed, in accordance with section 72(5) of the Act, you must send a copy to ORR within 28 days and in accordance with section 72(2)(b)(iii), a copy will be placed on our public register and website.

11. In entering any provision on the register, ORR is required to have regard to the need to exclude, as far as is practicable, the matters specified in section 71(2)(a) and (b) of the Act. These sections refer to:

- a. any matter which relates to the affairs of an individual, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that individual; and
- b. any matter which relates to the affairs of a particular body of persons, whether corporate or incorporate, where publication of that matter would or might, in the opinion of the ORR, seriously and prejudicially affect the interests of that body.

12. When submitting the copy of the signed agreement would you therefore please identify any matters which you would like the ORR to consider redacting before publication. You will need to give reasons for each request explaining why you consider that publication would seriously and prejudicially affect your interests.

Yours sincerely

A handwritten signature in black ink that reads 'Katherine Goulding'.

**Katherine Goulding**

