

Margret Child

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Dear Nick and Ian

GB Railfreight Limited: Proposed Second Supplemental Agreement

1. On 20 April 2017 the Office of Rail and Road (ORR) approved the 2nd Supplemental Agreement (SA) to the track access contract (TAC) between Network Rail Infrastructure Limited (Network Rail) and GB Railfreight Limited (GBRf) under section 22 of the Railways Act 1993 (the Act). The agreement was formally submitted to us on 11 April 2017. This letter sets out the reasons for our decision.

Background

2. The purpose of the SA is to make changes to Schedule 5 of the TAC. The changes are the surrender of 185 Firm Rights, the addition of 80 new Firm Rights and the amendment of 67 Firm Rights.

Consultation

3. In line with the industry code of practice for track access application consultations¹, Network Rail conducted a consultation of potentially affected operators and other interested parties. This ran from 26 January 2017 to 23 February 2017. Five queries were received and satisfactorily closed out. There were no objections to the consultation.

ORR Review

4. We received an informal submission from Network Rail on 14 March 2017. We recommended the following changes which were reflected in the formal submission received 11 April 2017:
 - Drafting changes to the SA including correcting the definition of “Effective Date”;
 - References to J7 transfers should be removed from the SA, as those are a separate matter; and

¹ http://orr.gov.uk/data/assets/pdf_file/0006/17592/code-of-practice-for-track-access-application-consultations.pdf

- In the Schedule 5 Rights Table the abbreviations used in the Special Terms column to describe the purpose of intermediate points should be explained and used consistently.

5. We are satisfied that the parties have followed the established industry processes to amend track access contracts.

ORR Decision

6. This application is under section 22 of the Act and therefore is agreed between the parties, who are prepared to enter into the agreement as submitted.

7. 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 improvements in railway service performance;
- (iii) 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;
- (iv) to promote efficiency and economy on the part of the persons providing railway services; and
- (v) to enable persons providing railway services to plan the future of their businesses with a reasonable degree of assurance.

8. Under clause 18.2.4 of the TAC, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and GBRf. I look forward to receiving the conformed copy.

9. In accordance with section 72 of the Act, we will place a copy of the 2nd SA on our public register.

Yours sincerely



Margret Child