

Jonathan Rodgers
Senior Executive, Access & Licensing
Office of Rail and Road
25 Cabot Square
London
E14 4QZ

23rd January 2020

Dear Jonathan,

Application for Directions: Proposed 4th Supplemental Agreement between Network Rail Infrastructure Limited ('Network Rail') and West Midlands Trains Limited ('WMT')

Many thanks for your e-mail of 17th December 2019 regarding the representations made by Network Rail (dated 13th December 2019) in response to WMT's proposed 4th Supplemental Agreement.

To reiterate the points I have previously made; WMT initially bid for these additional WCML services to operate from the SCD in May 2020, however Network Rail rejected this part of WMT's timetable bid on the basis that *'WMT had not provided enough detail and evidence of the performance benefits and impacts of this particular element of the May 2020 plan, and Network Rail did not have sufficient time to validate the proposed timetable and carry out a performance simulation of the proposed changes and ensure delivery of a high-quality performance robust timetable at D26'*.

Network Rail is of course entitled to reject a timetable bid prior to the timetable validation process having been completed (via the correct application of the Decision Criteria), if it has significant performance concerns about a proposal, however if it is likely that capacity exists for a TPR-compliant solution then the usual process is for the validated paths to be offered (the principle of D.4.2.2 applies), before the performance impact is used to inform a Sale of Access Rights ('SOAR') decision. For Network Rail to reject WMT's timetable bid prior to the validation process being complete is slightly unusual, but WMT accepted Network Rail's position in good faith on the mutual understanding that WMT would re-bid for these service in December 2020 once the performance analysis had been completed, and with the expectation that Network Rail will apply these same principles to its decisions with all other operators in a fair and consistent manner.

The first phase of the Treno performance modelling has now been made available and shared with Network Rail, and shows that the operation of WMT's additional services covered by the 4th Supplemental Agreement will have no material negative impact on network performance based on current underlying performance levels. A further performance modelling exercise is underway to assess the performance of the proposed timetable during periods of more significant disruption. This is expected to show that the improved segregation of fast and slow line services, and segregation of traincrew, will show

significant service recovery benefits due to the simplified diagram structure. Given that we believe we have now resolved the only challenge that prevented Network Rail from including these new paths in the timetable for May, we do not believe there is any reason why Network Rail should not now offer them for December 2020 instead.

Turning to the issue of access rights, in its representations to ORR I note Network Rail's statement that *'subsequent to the applicant's original aspiration for these services to be included in May '20 timetable, Network Rail has been made aware of a number of conflicting aspirations by other operators which it must also consider'*.

As WMT effectively 'Exercised' (as defined in Part D of the Network Code) an Access Proposal for May 2020 and subsequently for December 2020, then in accordance with Part D.4.2.2(d), WMT's proposed paths should be granted priority in the development of the timetable over these other competing aspirations, as none of the other operator aspirations (assuming that Network Rail's comment refers to the other outstanding WMCL track access applications made by franchised and open access operators) has either access rights or has been bid at D40. For this reason the reference to 'conflicting aspirations' cannot be valid because priority in the timetable should be given to WMT's services.

Finally I note Network Rail's concern about infrastructure capability and the need to assess the impact of running further services over and above the quantum currently in the timetable. It should be noted that WMT's proposed 4th Supplemental Agreement includes the operation of an additional xx.05 southbound service, which simply replicates the timetable pattern introduced by WMT in December 2019 in the evening peak (with southbound departures from Northampton at 16:05, 17:05, 18:05, 19:06 and 21:04). As the timetable can clearly be supported in these hours then this should not be an issue.

Yours sincerely,



James Carter
Network Access Manager