

David Reed
Senior Executive, Access & Licensing
Telephone: 0207 282 3754
E-mail: david.reed@orr.gov.uk



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Stephen Hatch
CCOS Regulation Manager
Rail for London (Infrastructure) Limited
5 Endeavour Square
London
E20 1JN

Jonathan James
Head of Contract Management
MTR Corporation (Crossrail) Limited
63 St Mary Axe
London
EC3A 8NH

Dear Stephen and Jonathan

Directions in respect of a track access contract between Rail for London (Infrastructure) Limited and MTR Corporation (Crossrail) Limited

We have today issued directions under section 18 of the Railways Act 1993 (the Act) to Rail for London (Infrastructure) Limited (RfL(I)) to enter into a track access contract (TAC) with MTR Corporation (Crossrail) Limited (MTR). This letter explains our decision.

The parties originally submitted a proposed new TAC on 12 March 2022. Following our comments a revised draft was submitted to us on 4 May 2022 and our directions refer to that version of the draft contract.

Purpose

The purpose of this contract is to provide MTR with the rights necessary to operate revenue earning passenger services on the Crossrail Central Operating Section (CCOS) between London Paddington and Abbey Wood on weekdays and Saturdays. The rights are to commence on 24 May 2022, or such later date as RfL(I) and MTR may agree in writing, provided that such later date is no later than 30 June 2022, and the rights will expire on the Principal Change Date in December 2023.

Industry consultation

RfL(I) undertook the usual industry consultation in February and March 2022. The only response received was from MTR, noting that the initial timetable commencement date and service specification was still to be finalised.

The industry consultation included proposals for daily passenger services. RfL(I) notified MTR and ORR that the opening strategy for passenger services on the CCOS was evolving and that it now expects the CCOS to not be available for revenue earning passenger services on Sundays (with the exception of the Sunday of the Jubilee Bank Holiday weekend) for the initial period from opening to early September 2022 (or such later date that RfL(I) notifies). This is to facilitate enhanced maintenance activity in the early stages to ensure ongoing reliability of the CCOS. As a result of this, Schedule 5 of the submitted contract has been amended to reflect that passenger services will not operate on Sundays with the exception of the Sunday of the Jubilee Bank Holiday weekend. Consequentially, to allow the possibility for some Empty Coaching Stock moves and Trial Services on certain Sundays in the initial period, the existing Trial Running Contract between the parties will be amended.

The parties have notified us that a Supplemental Agreement will be submitted for the introduction of revenue earning passenger services on Sundays when the CCOS becomes available for such services.

ORR review

We reviewed the proposed TAC and raised a number of queries with the parties. We asked that a number of drafting changes be made to the proposed TAC wording, prior to ORR issuing a Direction, including in relation to the commencement date and the listing of station calls in Table 4.1 of Schedule 5.

We note that the contract includes provisions for a periodic review of CCOS access charges. ORR does not conduct a price review over the CCOS in the same way we do for Network Rail and we are content to approve the contract with these provisions. We note however that we have yet to consider with RfL(I) how it will comply with Regulation 15 of the Railways (Access, Management and Licensing of Railway Undertakings) Regulations 2016.

Our review of the application raised no other operational, performance or economic concerns.

Our duties under Section 4 and our decision

We have concluded that approval of this agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to promoting improvements in railway service performance (section 4(1)(b)), protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing



railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Public register and administration

A copy of the Direction and the signed contract will be placed on our public register. Copies of this letter and the contract will also be placed on the ORR website. I am also copying this letter to the Department for Transport and Network Rail's Policy and Access Team.

Once the agreement is signed, in accordance with Section 72(5) of the Act, you must send a copy to ORR within 14 days.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'David Reed', is positioned below the closing text.

David Reed