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24 May 2022

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

Approval of the first supplemental agreement to the track access contract (Trial Running and Trial Operations Services) between Rail for London (Infrastructure) Limited and MTR Corporation (Crossrail) Limited

We have today approved the above supplemental agreement submitted to us formally on 24 May 2022 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration. This letter explains the reasons for our decision.

Purpose

The purpose of this agreement is to grant MTR Corporation (Crossrail) Limited (“MTR”) contingent rights for trial services on Sundays (with the exception of the Sunday of the Jubilee Bank Holiday weekend) on the Crossrail Central Operating Section (CCOS). 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 will expire on the earlier of the date on which revenue-earning passenger services begin a regular Sunday service or the Principal Change Date in December 2022.

Industry consultation

RfL(I) undertook an industry consultation in February and March 2022 on a new contract for revenue earning passenger services between RfL(I) and MTR. 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

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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). To allow the possibility for some Empty Coaching Stock moves and Trial Services on certain Sundays in the initial period, this supplemental agreement has been proposed to amend the existing Trial Running Contract between the parties.

ORR review

Our review of the application raised no operational, performance or economic concerns. We identified some minor drafting issues and these were resolved when the agreement was formally submitted.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to 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)).

Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely

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

David Reed