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22 July 2014

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Dear Nicole and Catherine

Approval of the Forty-sixth Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and Abellio Greater Anglia Limited

On 18 July 2014 the Office of Rail Regulation (ORR) approved the forty-sixth supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and Abellio Greater Anglia Limited (Greater Anglia) (jointly the parties), submitted to us formally earlier that day under section 22 of the Railways Act 1993 (the Act). This followed an earlier informal submission of a draft agreement for our consideration. The purpose of this letter is to set out the reasons for our decision.

Purpose of the agreement

The purpose of this agreement is to grant Greater Anglia the rights to operate eight services each way between Cambridge and Stansted Airport on Weekdays commencing 21 July 2014. As originally requested, the rights sought would have expired on the current Expiry Date of the contract, namely the Principal Change Date (PCD) 2016. However, for reasons set out below, we have only approved the rights until PCD 2015.

Consultation

Network Rail undertook the usual industry consultation. Concerns were raised by First Capital Connect Limited (FCC) and Freightliner.



FCC

FCC said that, whilst it acknowledged the passenger benefits that the proposed new services would provide, namely the improved connectivity to and from Stansted Airport, it had some concerns about the interaction of these services with its own in terms of platforming at Cambridge, potentially conflicting departures from Cambridge and performance on the line between Cambridge and Shepreth Branch Junction. It also asked if any performance modelling of the new services had been undertaken.

In respect of the latter, Greater Anglia advised that its performance modelling indicated that the only impact of note was likely to be on its own Stansted Express services at Stansted Airport. Greater Anglia also provided FCC with some information on platforming at and departures from Cambridge.

FCC then asked Network Rail to unequivocally clarify its commitment to the proposed platform arrangements and contingency planning in the event of late running, which Network Rail duly did, also providing FCC with the full Working Timetable covering the relevant services.

FCC subsequently confirmed that it was content.

Freightliner

Freightliner initially sought details of the paths and confirmation of when the services were due to commence, which Greater Anglia provided. Freightliner then advised that it was content for the rights to be approved until PCD 2015, but said that it would need to do some further assessment work on the capacity of the route as the new Greater Anglia services would appear to be timed into the white space which freight operators could use, and it needed to check whether this was an acceptable situation long-term.

Network Rail confirmed that its Operations Planning team had ensured that the paths for the new Greater Anglia services would not clash with strategic freight paths on the West Anglia route. It said that bids from all operators were reviewed on a case by case basis to see if there was a conflict-free path that could be offered and white space was available for all operators to bid to use provided that the proposed bid did not conflict with other services.

Network Rail further advised that its Anglia Route Operations Planning team was to undertake a capacity study on the West Anglia route based on the December 2014 Working Timetable bid submissions which were still going through the validation process. Once validation was completed the study could be started and the results would be supplied when available. The Steering Group was investigating the future possibility of gauge clearing the West Anglia route for use as a diversionary route - this work was at an early stage with no findings or decision as yet on funding, gauge clearance, confirmation of project feasibility and business case criteria as well as capacity. Dependent on the

progress of the Steering Group, the December 2014 Working Timetable capacity study could be used to assist its investigations.

Freightliner considered Network Rail's response and asked that an unresolved objection be noted when the application was submitted to ORR.

Our review

We reviewed the application at the industry consultation stage, pointing out errors in the application form and the draft agreement, which were addressed.

We also expressed some initial concerns as to whether the new services would be properly monitored. Network Rail advised that establishing Stansted Airport as a contractual monitoring point (CMP) in the 913 Service Group would require a redistribution of CMP weighting values for the service group which would require passenger flow information based on Department for Transport figures proposed as part of the discussions with Greater Anglia which led to this proposed service request. Currently there is no live passenger data to base this work on.

However, recalibration works are due to be undertaken later this year on the Anglia route for upcoming franchise changes which would require amendments to the Greater Anglia Appendix 1 to Schedule 8 - this was considered as being the ideal opportunity to review actual passenger flow data and amend the West Anglia Service Group weightings as part of a larger exercise. In the meantime a change of Train Service Code between 913 and 911 would allow the proposed services to have a CMP at both terminating stations and would ideally only be in place until December 2014.

In view of the expected short-term nature of the transitional arrangements, we are content.

We considered the objection raised by Freightliner. Whilst it appeared that there might well be sufficient capacity for the likely increase in freight trains, at the time we needed to reach a decision on this application we had not received confirmation from Network Rail that this assumption was correct. Given that Freightliner said that it was content for the rights to be approved until PCD 2015, we decided to approve the rights until that date, thus allowing Network Rail to undertake the capacity study which will be available to inform any future application by Greater Anglia to extend the rights beyond PCD 2015.

ORR's conclusions

In considering the agreement and in reaching our decision, we have had to weigh and strike the appropriate balance in discharging our statutory duties under section 4 of the Act. We have concluded that approval of this supplemental agreement is consistent with our section 4 duties, 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 contract

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.

Copies of this letter, the approval notice and the agreement will be sent to Keith Merritt at the Department for Transport. Copies of the approval notice and the agreement will be placed on ORR's public register and copies of this letter and the agreement will be placed on the ORR website. I am also copying this letter without enclosures to Chris Armitage at Network Rail and Jason Bird at Freightliner.

Yours sincerely

Brian Hopkinson