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**Application for directions: proposed 25th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited ('Network Rail') and West Coast Trains Limited ('Virgin Trains')**

Dear Ian,

The proposed 25<sup>th</sup> Supplemental Agreement (The Application) has been made under Section 22A as Network Rail was not approached prior to submission to agree the rights sought by Virgin Trains. Following analysis, in the time available and of the information supplied, Network Rail has concluded we cannot at this stage support The Application. Our reasons are set out below.

As part of the assessment of this application we met with Virgin Trains on 21<sup>st</sup> January 2019 who confirmed that, save for the information discussed in the meeting, it has no further detail to share at this stage. We also sought advice from the relevant subject matter experts within Network Rail.

## Passenger demand

Section 3.1 Executive Summary of the Form P states:

“These additional rights are being sought in order to operate an enhanced frequency service between London Euston and Liverpool Lime Street. Over the past 8 years, demand on this route has steadily increased (average year on year 4.5%) and this application seeks to cater for this growth, which is expected to increase further. There is also a potential opportunity to consider acceleration of some Anglo-Scottish services, because of the operation of these new services.”

Network Rail has not been presented with the evidence to demonstrate the increased demand, and whilst this is not fundamental in its decision to support an application, Network Rail would expect an operator to work with us to assess a proposal prior to the submission of a Section 22A.

During January’s meeting Virgin Trains indicated that the proposal has been put forward to address demand on a Thursday, Friday and Saturday to and from Liverpool. Network Rail understands that this application is not at DfT request, but Virgin Trains expect the services to be added to their Service Level Commitment, should it be granted rights.

Virgin Trains have not provided details of any proposals to accelerate Anglo-Scottish services.

## Rolling stock availability

Network Rail asked for further detail on this point. Virgin Trains have advised that, at present, the plan is to release two Pendolino sets by enhancing their current maintenance regime such that the sets will be released more quickly and by splitting a 10 car Voyager, making two five car sets. The five car sets are then intended to operate in a current 10 car and Pendolino diagram, releasing a third Pendolino to operate the new proposed service.

Network Rail asked for plans regarding how, with the arrangements described above, Virgin Trains expected to manage existing demand on the services that would consequently have reduced capacity. We have been advised that this would be through ticketing arrangements, but it would be more helpful if Virgin Trains were able to share further information as to the robustness of the enhanced maintenance regime and also the control of existing passenger demand in order to be satisfied that the re-diagramming of rolling stock will not lead to performance issues, e.g. by cancellation of services due to the failure of the enhanced maintenance regime or increased passenger overcrowding on existing services. This would enable Network Rail to consider the performance risks of such new services on a more holistic basis

## Commencement date

The proposed commencement date of services is Monday 10<sup>th</sup> June 2019. Network Rail cannot support this given the scale of the proposal, which we would expect to be included in an Operator’s Notice of Significant Change for the May 2019 timetable. Network Rail would wish to assess the proposals through the relevant forums, such as TCRAg.

Additionally, the Form P states:

“Whilst Network Rail has not yet identified how to make use of its flexing rights to resolve any timetable conflicts, it is a reasonable assumption to make (as we did with the recently introduced services to Blackpool), that there is sufficient capacity for these services as we operate in a standard pattern timetable.”

This is rather misleading, inasmuch as Network Rail did not have sight of the application prior to submission, so had not made any assessment of the ability to use our flexing ability under Part D in relation to The Application. Nevertheless, the May 2019 timetable has now been formally offered to Timetable Participants. Virgin Trains advised us at our January meeting that their paths will clash with other operators. We therefore cannot support a June 2019 introduction date as we cannot be certain we could accommodate these services in the WTT, as it would require consent from the affected operators, and without a detailed proposal it is impossible to discuss and determine whether a STP bid and offer for the additional paths would be feasible.

Network Rail will continue to work with Virgin Trains, as we would with any applicant, to see whether The Application can be accommodated into the December 2019 timetable, however note the proposal was not in Virgin Trains' Notice of Significant Change and it has not confirmed to us yet whether it will be bidding for paths in March 2019.

### Other access rights

Network Rail has not previously been approached by Virgin Trains to assess whether there is sufficient capacity to operate additional services between Euston and Liverpool Lime Street alongside other committed rights. Network Rail has concerns that there would be insufficient capacity to operate these services alongside the rights of other operators. In particular, some of the times referred to in the Form P are slots being developed for GNRW Euston to Blackpool services. We require further detail from Virgin Trains, as discussed in our January meeting, to make an assessment of whether there is generally capacity available in the timetable, as outlined in the next section.

### Timetable Capacity

Section 3.2 in the Form P States:

"Network Rail cannot 'currently' agree to the Section 22 because performance modelling has not been completed.

We shall work with Network Rail in order to reach a full agreement in respect to this application."

ORR Criteria and Procedures (para 2.16) states that:

*"We also expect prospective users to try in good faith to reach agreement with facility owners on terms of access wherever possible before submitting applications under sections 17 or 22A. In that respect, it is important that prospective users begin discussions with facility owners early enough to allow time to follow the section 17 or 22A processes and obtain directions from ORR should that become necessary"*

Virgin Trains did not approach Network Rail prior to submitting The Application, to understand whether it was possible to develop a Section 22 application in respect to these additional services. Therefore, Network Rail has not had the opportunity to work with Virgin Trains to understand the impact on the Network of their proposals.

Network Rail would always endeavour to negotiate an agreed Section 22 application as our preferred approach to working with customers. However, Virgin Trains did not allow for that approach to be adopted, as details of their aspirations for the increase in services to Liverpool were not forthcoming.

Section 4.2 of the Form P states:

"We have identified standard, conflict free, off-peak paths (as far as can be currently ascertained this far in advance of Planning Rules timescales specified within Part D of the Network Code, and in anticipation of other Operators' bids). We believe these paths do not conflict with current access rights."

Virgin Trains has not provided the details of the proposed train slots and, further, advised Network Rail on 21<sup>st</sup> January that no indicative paths exist to be shared other than the detail in the Form P. It also advised that the slots it has identified do clash with other operators, contradicting the Form P. Virgin Trains advised that it will be commissioning a consultant to specify proposed paths and to work with Network Rail on the identification of available capacity. Given this conflicting and sparse information, Network Rail is not at this stage able to state that the capacity exists to sell rights to support The Application. Network Rail notes that the proposed start date of the services is during the Subsidiary Timetable 2019, therefore the Planning Rules specified within Part D of the Network Code, and the other Operators' bids are known quantities. The challenges faced in selling additional capacity must take cognisance of freight and other passenger services where those interactions take place, noting the extremely complex mix of traffic on the WCML.

Section 4.2 states further:

"Whilst Network Rail has not yet identified how to make use of its flexing rights to resolve any timetable conflicts, it is a reasonable assumption to make (as we did with the recently introduced services to Blackpool), that there is sufficient capacity for these services as we operate in a standard pattern timetable."

Network Rail does not agree with Virgin Trains' assumption that there is sufficient capacity for these services to be introduced into the Subsidiary Timetable 2019, and beyond. The number of existing and new train slots that Network Rail is aware of, either as aspirations or for which rights have already been sold, coupled with the restrictions referred to in the next section mean that detailed work is required to ascertain whether suitable timetables can be developed to incorporate this proposal.

Section 4.2 states further:

"We will be modelling the performance implications of the additional services in terms of their impact upon our own operation, but we expect this to be negligible on the basis that we are only seeking an additional 1 path per hour in each direction, and we will be using proven, high performing, tilting rolling stock to operate the services."

Network Rail considers that the assertion that the impact on performance will be "negligible" is one that Virgin Trains is not able to evidence at this stage in terms of the interaction with other train services on the route as details of the proposed train slots have not been supplied. In order to be able to consider the impact on performance Network Rail would need further information regarding the proposal. In the case of any paths considered, Network Rail would need to be stratified that capacity existed at an acceptable level of performance.

### HS2 Works at Euston

During the course of the Subsidiary Timetable 2019, Euston station will see a reduction in the number of available platforms. Virgin Trains has not made reference to how the proposals in The Application might impact on the works taking place, the resulting timetable for which was developed through an Event Steering Group, such is the severity and scale of the restriction.

Network Rail would need to be satisfied that sufficient platform capacity exists to accommodate the proposed additional services. This has not been possible to ascertain with the information provided by Virgin Trains.

Network Rail is aware that Legge infrastructure will be submitting proposals for train slots in support of the HS2 works at Euston to operate six freight services in each direction on weekdays. These plans see the introduction of services as part of the timetable introduced on the Principal Change Date in December 2019. Whilst Network Rail is confident it is possible to accommodate the rights already committed to alongside these Materials by Rail services, it is not confident that proposals set out in The Application can also be accommodated as well.

### Power Supply

The services detailed in The Application were not known of, and therefore not included in any of the baseline timetables for assessments made as part of the North West Electrification Programme (NWEF). Network Rail requires detailed timetable proposals to understand the demand for OLE Power consumption of the overall train service to undertake a detailed end-to-end assessment of the impact of OLE infrastructure. Without this, we cannot be confident that the infrastructure is capable of supporting the introduction of these additional services.

We would expect, in line with standard processes, that Virgin Trains will bear any cost associated with infrastructure upgrades required to run these additional services.

### Train Performance

Form P Section 4.2 States

"We will be modelling the performance implications of the additional services in terms of their impact upon our own operation, but we expect this to be negligible on the basis that we are only seeking an additional 1 path per hour in each direction, and we will be using proven, high performing, tilting rolling stock to operate

the services.”

Network Rail has not been provided with sufficient details to undertake a performance assessment of The Application. We cannot support any application until we have the detail, and opportunity, to undertake appropriate analysis on this point. We anticipate being able to do this as more detail is forthcoming from Virgin Trains.

It is unclear from the information provided by Virgin Trains, and as noted above, if there is any potential impact on train performance as a consequence of the amended maintenance processes which is making the class 390 vehicles available for the additional services.

This overall picture is concerning given the recent industry work into System Integration and ‘Timetable, Resources, Infrastructure, Franchise’, which has sought to embed the practice that new services are only applied for once all elements of the system are available to ensure successful operation.

### Conclusion

Network Rail has not been approached by Virgin Trains to assess whether there is sufficient capacity to operate additional services between Euston and Liverpool Lime Street alongside other committed rights. Network Rail has concerns that there would be insufficient capacity to operate these services alongside the rights of other operators, and it has not had the opportunity to assess the impact to performance. The WCML will see intensive changes due to the works being undertaken in support of delivering HS2 at Euston and elsewhere. Therefore, sufficient assurances need to be in place to provide confidence that the introduction of additional services is operationally deliverable in terms of capacity, power supply and train performance.

At this stage Network Rail cannot support The Application, but we will continue to work with Virgin Trains, as we would with any applicant, to understand whether the proposal can be accommodated in any way from December 2019 onwards. We require significant further information from Virgin Trains to be able to do this.

Yours sincerely,



**Tamzin Cloke**  
**LNW Route Contracts Manager**