

**From:** ✕ transportfocus.org.uk]

**Sent:** Monday, January 30, 2017 4:10 PM

**To:** ✕ orr.gsi.gov.uk>

**Subject:** FW: XC Trains Limited new track access contract from PCD 2017 to SCD 2020 2212a17

✕ ,

Thank you for sending Transport Focus further details relating to CrossCountry's May 2015 application for a new track access contract. Transport Focus replied to that application on 20/5/15, o/r 1505g16. They note that:

Network Rail is prepared to agree to these protections for one year:

journey time protection in each direction between:

Derby and Leeds,  
Derby and Newcastle,  
Leeds and Newcastle.

service interval protection at Birmingham New St for services in each direction between:

Cardiff and Nottingham,  
Birmingham New St and Leicester/Stansted airport,  
Birmingham New St and Nottingham.

The latest National Rail Passenger Survey (Autumn 2016) shows that passengers gave CrossCountry an overall satisfaction score of 84%. The current issues with the reliability of train services in Great Britain highlight exactly how important being able to rely on their train services is to passengers.

Transport Focus notes the contents of the joint letter from CrossCountry's Head of Track Access and Possession Strategy, and Network Rail's CrossCountry Performance and Relationship Manager, in particular:

### **1. aim**

"...developing a pragmatic contract that allows NR to make best use of capacity whilst providing XCTL with a proportionate level of protection on key flows".

### **2. journey time protection**

the greater elasticity of demand of their typical passenger,  
the fact that 40% of their passengers change trains en route,  
the journey time disadvantage that some XC routes suffer, for various reasons,  
compared with potentially competing rail alternatives,

“(NR) is content that this protection does not prejudice NR’s ability to optimise the timetable in the required manner.....This is consistent with NR’s Sale of Access Rights Policy.”

[XC’s Autumn 2016 NRPS score for the length of journey is 85% satisfied, down 1 point since Spring 2016.]

### **3. interval protection**

overcrowding issues “Providing interval protection minimises the risk of uneven timetables exacerbating crowding problems...”,  
the difficulty that the extreme length, both in distance and time, of many of XC’s routes causes in matching capacity to demand,  
the benefits, both to passengers and XC itself, of standard interval timetables.

[XC’s NRPS score for “room to sit” is only 63% satisfied, down 4 points from Spring 2016.]

### **4. conclusion**

“Any one of these reasons by itself would not necessarily demonstrate why XCTL is unique and has a demonstrable need for specific rights, but NR believes that the sum of all the evidence provided does demonstrate this and so has chosen to support specific rights in this instance.”

The NRPS results for CrossCountry’s “timetable” aspects show that there is clearly a need to improve some aspects, and to not do anything to reduce the satisfaction with other aspects.

<b>CrossCountry NRPS scores</b>		
<b>Autumn 2016</b>	<b>% satisfied</b>	<b>change from Spring 2016</b>
frequency	80	none
journey time	85	-1
connections	78	-2
punctuality	80	-5
handling delays	47	-6
room to sit/stand	63	-4

In its concluding remarks Transport Focus’s reply to the May 2015 consultation included this sentence: “Passengers will expect the railway industry to resolve the issues in a timely and satisfactory way.” They note in your letter of 22/12/16 that Cross Country had said that they “... would reluctantly agree to journey time expiring at PCD 2018 but wanted to retain service interval protection until SCD 2020”. Transport Focus’s aim is to support the passenger, who will definitely benefit from the continuation of CrossCountry train services.

Again, Transport Focus supports CrossCountry's application.

Regards,

✂

██████████  
Senior Executive, Access & Licensing  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

26 January 2017

Dear ██████████,

**XC Trains Limited Track Access Contract**

Thank you for your email dated 22/12/16 for the consultation on Cross Country Trains Limited (XC) application under Section 17 of the Railways Act 1993 for a new track access contract to take effect from the PCD 2017 until SCD 2020.

Virgin Trains East Coast (VTEC) is firmly of the view that so called “quantum only” rights are inappropriate for high value flows that return significant premium payments to the UK government in order to reduce the burden of rail on the UK tax payer.

The case put forward by XC for interval and journey time protection could be made by any long distance high speed (LDHS) operator. Most LDHS operators compete with air and road. VTEC would not expect these arguments to succeed for these relatively low value flows - for example the Leeds <> Newcastle flow is worth circa £7m per annum compared with the London <> Leeds flow which is worth over £90m per annum. However, should these arguments succeed, we would expect ORR to be consistent and grant similar protections to all LDHS operators for the same period.

VTEC is surprised that Network Rail’s Sale of Access Rights (SoAR) Panel has agreed to such protections based on the unconvincing arguments put forward by XC. VTEC is, however, delighted that Network Rail is so confident that it can successfully deliver a new East Coast Main Line (ECML) timetable and Midland Main Line timetable to accommodate the additional Thameslink and VTEC services with far less flexibility than Network Rail currently enjoys.

Yours sincerely,



██████████  
Regulation & Track Access Manager

**From:** <gwr.com]

**Sent:** Friday, January 27, 2017 11:30 AM

**To:** <orr.gsi.gov.uk>

**Subject:** RE: XC Trains Limited new track access contract from PCD 2017 to SCD 2020

Good morning <,<br>Thank you for this.

### Principle.

1. GWR supported Cross Country Trains' initial approach because at that time it was consistent with access rights policy and the then agreed approach of Network Rail and GWR regarding renewal of the Network Rail/GWR Track Access Contract.
2. Once Network Rail's Policy on Access Right emerged Network Rail withdrew support for quality rights in the new Network Rail/GWR contract.
3. GWR accepted this position as it was in line with emerging Rail Delivery Group and perceived Office of Rail and Road policy.
4. There is no material difference in markets, Network capacity or resourcing between Cross Country and GWR.
5. GWR does not believe that special circumstances apply to Cross Country Trains to drive an alteration from the base position that quality rights are not provided.

### The Proposal.

It is not clear whether Network Rail supports Cross Country Trains seeking interval right to Subsidiary Change Date 2020.

### New Traffic.

It is not clear whether anticipated new flows or enhanced services of other operators threaten to lengthen Cross Country Trains journey time from that currently in place.

### Investment.

In Cross Country Trains case there is no sign of investment needing to be protected. The Great Western Main Line is seeing the largest infrastructure investment for a generation and GWR will be transformed by significant investment in rolling stock, yet no quality rights apply.

### Not Unique.

GWR does not believe a special or unique case exists here and does not support specific quality rights for Cross Country.

### Journey Time Protection.

Cross Country Trains seeks Journey Time Protection. It seeks to justify this through the need to impact market forces on its specific commercial characteristics.

The cases made appear either unconvincing or ubiquitous. If rail is uncompetitive on any route fundamental investment and/or service pattern change is required.

Network Rail and Cross Country Trains advise:

*The availability of lower cost car parking for road users at non London railheads compared to London which other long distance rail operators serve:* Long distance operators centred on London also convey point to point flows between provincial locations;

*Cross Country Trains service mirror the motorway network so the road journey times are equally attractive to travellers:* this applies to all operators whose routes parallel the M1, M4, or M6 and overlooks rail's advantage over road for rail head to city centre journey times.

*Forty per cent of Cross Country Trains customers change trains during their journey resulting in heightened generalised journey times, making point to point car travel more attractive:* This is not unique to Cross Country Trains. In addition many journeys use Cross Country Trains for just one portion of the rail journey so through journey time cannot be guaranteed.

*Cross Country Trains is more exposed to competition from the airlines than other rail passenger operators:* There is substantial competition with air for London - Scotland and London - North of England flows and even London - West of England flows. The value of business at risk for Cross Country Trains may be relatively small. The access rights policy is designed to cater for such competition relying on Decision Criteria for protection.

*Other flows serving Newcastle in similar distance are disproportionately faster: the example of Peterborough - Newcastle is used in comparison with Newcastle - Derby: This is to do with line speed and calling pattern. Cross Country Trains does not wish to see its current position deteriorate before planned service and network improvements in 2018: It is our understanding that considerable enhancement work will be undertaken in 2018 including Derby remodelling and resignalling, which potentially means a seventy nine day full and partial blockade requiring substantial amendment to the timetable. Cross Country Trains might explain:*

- why it believes it may be at risk of a materially degraded Working Timetable for the December 2017 or May 2018 TT;
- the basis for concern for this single TT year; and
- why its particular commercial circumstances merit such protection given that it is likely to be reflective of those applying to other long distance rail operators.

### Service Interval Protection.

Network Rail and Cross Country Trains advise:

*Rolling stock resource scarcity:* This issue is not unique to Cross Country Trains, and is prevalent throughout passenger operation on the network. If resources are tight then the Decision Criteria gives the protection required.

*Impact on customer behaviour with an uneven service interval:* Where crowding exists services often need to be timed to meet demand and not be stuck in a rigid interval pattern. Interval is often used to aid timetable and resource efficiency and in the case of walk up and go services to encourage custom. The ability to flex away from existing, established service intervals at Birmingham New Street and other key nodes on the network is constrained. This is largely due to the impact at New St itself, but also due the impact elsewhere such as Derby, Leicester, Nottingham, Gloucester and Cardiff.

I should be very grateful if you would arrange for this to be considered please.

Many thanks.

✕| **Network Access Manager | Great Western Railway**

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First Greater Western Limited | Registered in England and Wales number 05113733

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Senior Executive, Access & Licensing  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

*(By email only)*

Ref: ORR\XCnewTAC JTP+IP

27 January 2017

Dear ∞,

**Re: XC Trains Limited track access contract**

Thanks for your email dated 22/12/16 for the consultation on Cross Country Trains Limited (XC) application under Section 17 of the Railways Act 1993 for a new track access contract to take effect from the PCD 2017 until SCD 2020.

Network Rail has always said that it needs flexibility which would enable its Train Planning unit to deliver better network utilisation and construct timetables that can robustly deliver performance targets. Subsequently, in 2015, Network Rail has enforced the approach of selling access rights on a quantum rights only basis. East Midlands Trains (EMT) accepts that this is the position but contends that this flexibility is achievable only if the set of rules provide a level playing field to all train operators and Network Rail applies the policy of selling access rights consistently. Also, Network Rail must be mindful of the need to treat operators in a similar position in a similar way.

As noted in ORR's consultation letter, this is the first time Network Rail has agreed to more specific rights above 'quantum only' since it published its new access rights policy on 23/09/15, and therefore Network Rail must clearly explain why it has agreed to XC's requests when it had refused similar requests from others. EMT is struggling to comprehend Network Rail's justification for agreeing to XC's requests for specific rights above quantum only rights because those business needs outlined in the letter are not unique to XC only.

## **1. Journey Time Protection**

1.1 Fast journey times are key to passenger retention on all long distance and intercity train operators' services, not just on XC's. As a matter of fact, based on the research using the Passenger Demand Forecasting Handbook (PDFH), passengers are in fact more sensitive to journey times on long distance services to/from London than those non-London services such



as XC's. EMT has a mixed customer profile consisting of business travellers (both regular and irregular) at peak and non-peak times and leisure travellers mostly weekend travels, so a similar elasticity shared by XC also applies to EMT's Regional service group Norwich-Liverpool, even more so on EMT's intercity services. Therefore, one struggles to comprehend the arguments which have been set out in the joint letter from XC and Network Rail dated 16/11/16.

- 1.2 Other modes of transport, particularly road, are a very viable alternative for passengers using the railway for long distance journeys. This does not only apply to XC's passengers. Equally, EMT and various long distance and intercity operators are also susceptible to modal shift to road transport competing against road journey times such as major road networks including M1, A1(M), M6, M42 amongst others. The case for giving XC special journey time protection against competitive road journey times is not at all compelling as other long distance train operators are also facing similar competition.
- 1.3 Even though road transport is a viable alternative to rail transport, passengers may choose travel to by train due to road traffic congestion. Some of the motorways, running parallel to all train operators' rail networks, are undergoing major road works which are causing longer journey times for drivers by road. These works are expected to go on until 2020 according to 'Highways England Delivery Plan 2015-2020', so actually this provides an opportunity for XC and other train operators to attract customers to rail. Hence, this is the time for Network Rail, since it enforced quantum only rights in train operators track access contracts, to use the flexibility it has always said is needed to optimise the timetables rather than demoting its flexibility by giving only one operator specific rights above quantum only.
- 1.4 It was contended that "*the average speed between competing rail options also puts XC at a disadvantage*", using the example where a XC service between Derby and Newcastle is significantly slower than a VTEC 'semi-fast' London to Newcastle services. However, EMT fails to understand how comparing two different routes with totally different characteristics demonstrate a need for the journey time protection, as there are various contributing factors to the differential in line speed limits between the East Coast Main Line and the Midland Main Line (to Derby/Sheffield) routes.

EMT competes directly with XC on the Sheffield-Derby corridor and shares the same concerns with XC on service journey times with regard to the existing infrastructure capability and the journey time implications of competing services. This was raised with Network Rail at the Access Rights sub-group meetings as all operators would require journey time protection in their track access contracts to ensure reasonable commercial certainty. However Network Rail believed that operators should be able to rely on the protections already built into the timetabling process and hence rejected operators' requests. Therefore, giving one train operator the journey time protection over other operators who also operate over these routes does not address the fundamental problems arising from the disparate infrastructure capability but instead creates an unfair playing field for all other operators.

- 1.5 The point about competing rail operators seems to be that XC needs journey time protection in order to compete more effectively with TOCs who do not have this protection. Is this the intended use of such protection?

## 2. Interval Protection

- 2.1 XC's reasoning in support of its requests for Interval Protection is not compelling and the arguments put forward could apply equally to all manner of other train operators' services and are not unique to XC.
- 2.2 EMT fails to understand XC's assertion regarding 'the impact on value of Generalised Journey Time from a more evenly spread service' between Birmingham/Cardiff - Nottingham and Birmingham - Leicester/Stansted Airport being exceptional to XC for service interval protection. Issues such as overcrowding and rolling stock availability are customary issues for all other train operators and therefore these matters should be considered as part of Network Rail's application of the Decision Criteria, and in any case are a matter for XC and the DfT in their day-to-day franchise management.

## 3. Thameslink Programme – May 2018 Timetable

- 3.1 With the Thameslink May 2018 timetable recast underway, EMT fully expects that this major timetable change on the Thameslink route will have a significant impact on EMT's intercity paths on the Midland Main Line through to Derby/Sheffield and Nottingham, for which EMT has no protection other than quantum only. EMT is concerned that the rights sought by XC could result in sub-optimal timetable solutions where XC services interact with any re-timings of EMT's London to Derby/Sheffield and Nottingham services, in particular at the key interfaces at Leicester and Derby as well as at Sheffield. Therefore, it is not appropriate for Network Rail to introduce a further constraint at the north end of the route at just the time Network Rail requires maximum flexibility to find the best industry solution for such a UK-wide scheme as Thameslink. Network Rail's whole argument in favour of agreeing quantum rights only was based on the supposed need to flex for such major timetable changes to ensure investment in infrastructure was maximised.
- 3.2 The Thameslink May 2018 Timetable will be the biggest timetable change the routes have seen in decades and involve 'extra' services – one would expect Network Rail to retain its flexibility to manage these services in an efficient manner and to maximise utilisation of capacity. However, the letter mentioned no Thameslink May 2018 Timetable proposals or how Network Rail proposes to balance the competing interests involved in that timetable. In fact, Network Rail appears to be voluntarily restricting its ability to regulate those competing interests by offering the protection to one train operator in particular. There is a clear risk as this will mean that Network Rail will have to use its flex in a way which prejudices other train operators more than it would otherwise needed to have done.
- 3.3 EMT accepts that Network Rail currently propose to grant journey time protection for XC for one year but even so there is clear scope for the negative impacts set out above. EMT cannot see how Network Rail's statement in the letter to the ORR (extract below) can be true given the major timetable change of Thameslink May 2018 and the uncertainty over the impact of Thameslink north of Bedford in May 2018:

*(#) "NR understands that having journey time protection for this duration reassures XCTL commercially and is content that this protection does not prejudice NR's ability to optimise the timetable in the*

*required manner, in accordance with ORR's Criteria and Procedures Section 8.101. This is consistent with NR's Sale of Access Rights Policy"*

Nor has Network Rail addressed this point in making that assertion. Additionally, operators have no assurance that the one year protection proposed will not become entrenched on the basis that the same factors raised by XC in justification for this protection will still apply, regardless of whether they apply equally to other operators.

- 3.4 EMT has referred to the SoAR Panel minutes on Network Rail's assessment of XC's application for the Journey Time and Service Interval Protection which suggest that, at the 31<sup>st</sup> May 2016 meeting, that the Customer Manager for XC was remitted to arrange a meeting with the subgroup of panel members to present a paper clarifying the position with regards to the concerns highlighted by LNE route. What were these concerns? Most importantly, have these concerns been adequately addressed, as EMT believes that the impact on the LNE and EM route in May 2018 has not been properly taken into account?

#### **4. XC proposed Schedule 5 – Journey time and Service Interval Protection**

- 4.1 EMT understands why XC insists on having journey time protection above quantum only rights in its track access contract. Indeed, EMT is certainly not opposed to journey time and interval protection in track access agreements. In fact, EMT believes that all operators should have reasonable journey time protection in the track access contracts that protect their businesses, enable long term business planning based on greater certainty of the service offer and to maintain the level playing field.

However, EMT has significant concerns that XC's proposed maximum journey times in its track access contract are hardwired to an extent that restricts Network Rail's ability to apply the minimum reasonable level of flex when considering other operators' aspirations and to plan the timetable efficiently.

- 4.2 XC's proposed MJT for Leeds to Derby is 87 minutes with 13 no more than 76 minutes. XC runs 18 services of which 7 are 76 minutes and more; 1 is 74 minutes and 5 are 73 minutes. The degree of flexibility on these services is virtually zero. Similarly, the proposed MJT under the same service groups in Table 6.1 for Newcastle to Derby is 147 minutes with 9 no more than 138 minutes, whereas XC runs 13 services of which 7 are 136 minutes, 1 is 135 minutes, 1 is 137 minutes, 1 is 139 minutes, 1 is 143 minutes, 1 is 145 minutes and 1 is 146 minutes. That means only one train has enough flex in it to be moved by 3 minutes. With such low degree of flexibility on XC's services, this will mean that Network Rail will have to use its flex on other operators who do not have the journey time protection in their track access contracts. Hence, this will seriously impede Network Rail's ability to allocate capacity fairly and in the most efficient manner when developing a timetable.

## Summary

For the reasons given above, EMT objects to the inclusion of additional specifications above 'quantum only' in XC's new track access contract with effect from PCD 2017.

This special protection is unacceptable as giving one train operator additional protection above quantum only rights would lead to other operators on the network being disadvantaged. EMT would expect Network Rail and ORR to recognise their duties to treat all train operators fairly and equally and to maintain a level playing field in a competitive rail transport environment.

Yours sincerely,

✕

Track Access & Network Change Manager

Email: ✕

**From:** ✂ gbrailfreight.com  
**Sent:** Thursday, January 26, 2017 5:32 PM  
**To** ✂ orr.gsi.gov.uk  
**Cc:** ✂ gbrailfreight.com  
**Subject:** RE: XC Trains Limited new track access contract from PCD 2017 to SCD 2020

✂,

We must oppose this application. While we can understand that journey time and service interval is desirable for Cross Country and its passengers, we think the effect will likely be disproportionate on other users of the railway. In simple terms, a combination of maximum journey times and service interval protection can only result in Cross Country's paths effectively becoming "hard-wired": this will place undue constraints on Network Rail in preparing future timetables as these trains will have to be "first on the graph" and therefore limit its ability to develop timetables that share capacity effectively and efficiently. Similarly, either maximum journey times alone, or service interval alone will restrict Network Rail. This is particularly so on routes where there is a mix of fast and stopping services, together with freight. Indeed, some of the maximum journey times (e.g. 138 minutes Newcastle to Derby) are only a couple of minutes above the minimum possible journey time.

There appears to be some inconsistency in the arguments used to support the proposal, in that the likely susceptibility to modal shift to motorway or air travel does not ring true with the routes requested (Derby/Leeds – Newcastle) as there are no competing air services here and a gap in the motorway network.

There are a couple of other points of detail that need to be considered: are the minimum journey times based on the Working Timetable times or the publically-advertised times? As for the Derby to Leeds service - there are two services today that do not currently meet the maximum journey time, whereas the proposal only excludes one service.

Regards

✂  
LTP Timetabling Manager  
GB Railfreight Ltd  
3rd Floor  
55 Old Broad Street,  
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**From:** ✂ [orr.gsi.gov.uk](mailto:orr.gsi.gov.uk)  
**Sent:** 22 December 2016 15:16  
**To:** ✂ [chilternrailways.co.uk](http://chilternrailways.co.uk); ✂ [chilternrailways.co.uk](http://chilternrailways.co.uk); ✂ [eastmidlandstrains.co.uk](http://eastmidlandstrains.co.uk);  
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Senior Executive, Access & Licensing  
Office of Rail and Road  
One Kemble Street  
London  
WC2B 4AN

25<sup>th</sup> January 2017

Dear [REDACTED],

### XC Trains Ltd - Track Access Contract

Many thanks for your letter of 22<sup>nd</sup> December 2016 and for inviting comments on the application by XC Trains Ltd (XCTL) to include journey time and service interval protection within Schedule 5 of its proposed new Track Access Contract with Network Rail.

The desire for XCTL to protect its journey times is probably understandable as the commercial value of faster journeys has been consistently pursued by XCTL since the start of its franchise. For XCTL, achieving faster journey times has primarily been realised by the progressive removal (through iterative timetable changes) of some of the additional pathing time that was added to the schedules to make the complex 2008 timetable recast 'work'. It should be noted though, that many of the journey time improvements secured by XCTL over recent years (for example on the Birmingham to Nottingham services) were achieved without XCTL having any journey time protection in place - as this protection has largely been absent from XCTL's TAC since the start of their franchise in 2007.

The justification for the level of interval protection requested by XCTL at Birmingham New St, and the suggested link to crowding, is more difficult to understand and therefore support. Whilst the example scenario provided by XCTL of a 2tph service being spaced at xx.00 and xx.50 departure intervals would inevitably cause an imbalance in loadings from the walk-up patronage, it seems incredibly unlikely that this scenario would ever appear in the timetable offer from Network Rail due to the sheer number of services operating out of New St on a daily basis. For reference, the current service pattern for departures from Birmingham New St is as follows (off-peak, SX):

Route	Departures from BNS (off-peak)
West Suburban (to Five Ways)	xx.03 (X-City), xx.13 (X-City), xx.20 (PLY – xx.12 in peak), xx.23 (X-City), xx.30 (CDF), xx.33 (X-City), xx.43 (X-City), xx.49 (HFD), xx.52 (X-City), plus note addnl xx.19 GMV in the peak.
Proof House Jn	xx.03 (EDB/GLC), xx.04 (BMH), xx.05 (X-City), xx.10 (EUS), xx.14 (EUS), xx.15 (X-City), xx.19 (NOT), xx.22 (SSD), xx.25 (X-City), xx.27 (WSL), xx.30 (NCL), xx.33 (SOU), xx.30 (EUS), xx.35 (X-City), xx.36 (BIA), xx.39 (BIA), xx.42 (BRI), xx.45 (X-City), xx.49 (NOT), xx.50 (EUS), xx.52 (LEI), xx.54 (EUS), xx.55 (X-City), xx.57 (WSL)
Monument Lane (to Wolverhampton)	xx.01 (LIV), xx.05 (SHR), xx.08 (WVH), xx.12 (RGL), xx.15 (EDB/GLC), xx.25 (ABW/HLY), xx.31 (MAN), xx.36 (LIV), xx.39 (WVH), xx.42 (WSL), xx.57 (MAN)

Table 1. Off-peak departures from Birmingham New St, January 2017

Considering the levels of congestion on all of the routes into and out of Birmingham New St (one of the busiest stations in the country), it is highly unlikely – and probably not even possible, that a retiming of a half-hourly departure slot by up to 20 minutes could ever occur. There simply aren't the slots available out of Birmingham New St to achieve this, and besides, given the geographical extent of XCTL's services such a

potentially significant recast in Birmingham would unpick the complex interworkings with other operator's services at places like Trent East Jn which XCTL and Network Rail have worked hard to resolve, and also at locations like Leicester and with the tight pathing of Cardiff – Birmingham services through the congested Cross-City line, where any attempted retiming would trigger a vast amount of work for Network Rail. So whilst it may be plausible that a minor re-riming (ie. of 2 or 3 minutes) of departure times from Birmingham New St may occur, if required, it is unlikely that this marginal level of retiming would have any impact on crowding – particularly given the volume of XCTL's passengers travelling on advance purchase tickets.

The significant number of services departing from Birmingham New St on a daily basis largely fixes the timetable in its current pattern, which is why departure slots from Birmingham New St have barely changed in years. London Midland would contend that the only time in recent years where the pattern of XCTL's departure slots has deviated to any extent was the retiming of the xx.12 Bristol departures to xx.20, which was actually at XC's request as it provided a faster end-to-end journey to Bristol. It is therefore difficult to understand the justification for the service interval protection proposed.

I trust you find this information useful for your consideration.

Yours sincerely



Network Access Manager  
London Midland



Senior Executive, Access & Licensing  
Office of Rail & Road  
One Kemble Street  
London  
WC2B 4AN

Date: 24<sup>th</sup> January 2017

Dear ✕,

**Cross Country Trains Limited track access contract – Consultation**

Thank you for informing Nexus of the consultation relating to journey time and service interval protections contained in the Cross Country track access contract.

Nexus who act on behalf of the North East Combined Authority on Heavy Rail matters has noted that the following protections have been agreed with Network Rail for one year from January 2017:

- Journey Time protection in each direction between:
  - Derby and Leeds;
  - Derby and Newcastle; and
  - Leeds and Newcastle;
  
- Service Intervals protection at Birmingham for services in each direction between:
  - Cardiff and Nottingham;
  - Birmingham New St and Leicester/Stansted airport; and
  - Birmingham New St and Nottingham

Should you require any further information, please do not hesitate to contact me.

A handwritten signature in black ink, appearing to be 'D. G. G.' with a stylized flourish at the end.

Yours Sincerely

✕ – **Head of Heavy Rail**

Nexus House St James' Boulevard Newcastle upon Tyne NE1 4AX  
T: 0191 203 3425 F: 0191 203 3180 nexus.org.uk



CrossCountry

Your Ref -

Our Ref -

Ask For [REDACTED]

Direct Line [REDACTED] / [REDACTED]

Email [REDACTED]

**SUBJECT: CROSSCOUNTRY TRAINS LIMITED TRACK ACCESS CONTRACT**

**DATE: 23 JANUARY 2017**

Thank you for providing South Yorkshire Passenger Transport Executive (SYPTe) the opportunity to comment on the one year additional protections across select Cross Country corridors.

The Cross Country (XC) network is of vital importance to the Sheffield City Region. It provides the fastest service between Sheffield and Leeds plus crucial links to Scotland and the West Midlands. The York – Doncaster – Sheffield services are also of great importance to the East of the region. As well as being a major carrier of the heavy commuting flows XC also provides a valuable link to leisure destinations. SYPTe therefore consider that the Sheffield City Region depends on XC for fundamental strategic interregional and intercity connectivity.

SYPTe have considered the evidence XC are presenting in support of their application to include journey time protection (as opposed to limited quantum-only rights) on the Derby – Leeds – Newcastle corridors as part of their December 2017 track access contract. We agree that XC have, with Network Rail's support, demonstrated a strong case for journey time protection, in particular because of the close mirroring of the M1 motorway route resulting in strong competition with car travel.

As such SYPTe fully welcomes XC's application and believes introducing journey time protections on these corridors may help to maintain a high standard of rail journey experience for passengers, both locally and further afield. These will help to improve customer confidence with rail and provide an attractive alternative to other modes.

We note that XC are not applying for journey time protection on other routes, nor are they applying for service interval protection on the Derby – Leeds – Newcastle corridor. SYPTe wish to make no additional comments on the service interval protection elements of the application which relate to routes not directly impacting South Yorkshire. We hope that the regular-interval timetables seen across XC's wider network will be retained; and that journey times will be maintained or improved wherever relevant and possible.

**SOUTH YORKSHIRE PASSENGER  
TRANSPORT EXECUTIVE**

11 Broad Street West  
SHEFFIELD S1 2BQ

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Executive Director:  
**Stephen Edwards**

Principal Solicitor and Secretary:  
**Steve Davenport**



**CUSTOMER  
SERVICE  
EXCELLENCE**



For the above reasons I confirm that SYPTTE is supportive of XC's application.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ian Fott', with a long horizontal stroke extending to the right.

[REDACTED]

**TRAM AND TRAIN CONTRACT OFFICER**

CC: [REDACTED] – Sheffield City Region



[REDACTED]

Senior Executive, Access & Licensing  
Office of Rail & Road  
One Kemble Street  
London  
WC2B 4AN

**ADDRESS**

Victoria Square House  
Ground Floor  
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**Send by e-mail**

**TELEPHONE**

[REDACTED]

18<sup>th</sup> January 2017

**Ref: XC Trains Limited Track Access Contract**

Dear [REDACTED],

I write in response to XC Trains Limited (XC's) track access contract application that takes effect from the Principal Change Date (PCD) 2017.

Virgin Trains is broadly supportive of Network Rail's move towards more flexible access rights which enables their train planning function to make best use of the increasingly scarce network capacity. However, this is only achievable by the means of a 'level playing field' amongst train operators and, Network Rail applying its Access Rights Policy consistently. Equally train operators will be more accepting of the principle 'Quantum Only Rights' if other train operators on the same route have a similar level of rights. Therefore, giving only one train operator a contractual advantage of more specific access rights over another will inevitably lead to those other train operators seeking similar access rights. It is therefore critical that Network Rail only agrees additional protective access rights in exceptional circumstances where there is a clear demonstrable need.

Consequently, Virgin Trains fails to understand how and on what merits XC's request to include Journey Time Protection (JTP) and Interval Protection (IP) within some service flows meets the strict requirements as set in the Network Rail's Access Rights Policy. Furthermore, Virgin Trains fails to see how the demonstrable business needs, or logic applied by XC in its application differentiates from that of other InterCity operators. Therefore, unless XC can provide a more compelling case that proves demonstrable need, Virgin Trains objects to the specific inclusion of JTP and IP on the following grounds.

## 1. Journey Time Protection

### 1.1 Susceptibility to Modal Shift

Equally, Virgin Trains has a mixed customer profile consisting of commuter travel predominantly travelling to/from the capital during the peaks and off peak and weekend travel being closer to the leisure market and irregular business users. Similarly, deploying Passenger Demand Forecasting Handbook analysis to Virgin Trains passenger profile, similar elasticity applies to those shared by XC. Virgin Trains has no objections to sharing this data on a confidential basis.

### 1.2 Personal Motor Vehicle verses Rail

XC is not unique in this arena. Virgin Trains is also susceptible to modal shift to the motor vehicle; however, unlike XC Virgin Trains has to operate in a significantly more fierce market with coach providers and a multitude of high and low cost air travel providing competitive alternates.

1.2.1 Virgin Trains is a long distance operator that serves various stations centric to the route feeding the capital, and smaller stations in less populated conurbations en-route to Scotland and Wales. It should be acknowledged that some of these stations XC also serves.

1.2.2 Unlike XC whereby they have touch points with key motorways, a significant stretch of Virgin Trains network follows large proportions of the motorway network, arguably the main motorway arteries – M1, M40 and M6. It should be noted that some of the motorways quoted by XC (M1 and M5) are undergoing significant road works which are seriously hindering motorists' journey times. These works are expected to continue for another 24 months, does this not provide an opportunity to attract patronage to rail?

1.2.3 The core flows XC are seeking protection are direct services with generally no breaks in a journey. Although as a national average it is estimated that circa 20% of InterCity passengers used regional services to connect. This is applicable nationally.

### 1.3 Competitive Market

Virgin Trains is also in competition with non-capital air flows with competitive low cost products, some of the same flows XC have pointed out in their letter (Edinburgh – Birmingham). There are several other low cost competitive air markets that are located along the Virgin Trains network; to specify a small number, Birmingham – London City, Wolverhampton – Glasgow and Liverpool – Milton Keynes.

### 1.4 Route Comparator

Virgin Trains is not entirely sure how comparing two different routes with differing characteristics demonstrates a need for additional protection. Virgin Trains believes that a number of XC service flows have excessive and unnecessary padding added to their timetable which should be challenged via the normal timetable processes.

## **2. Interval Protection**

Whilst Virgin Trains support the statement made by XC in that a clock face departure minimises overcrowding; Virgin Trains is unclear on how this makes XC's case for IP unique as the same logic could be applied to Virgin Trains departures to London Euston. It could be argued that applying IP to Virgin Trains London bound services is more critical due to the economic value comparison.

### **2.2 Rolling Stock Formations**

Virgin Trains also has a mixed fleet with changing demand profiles to manage. Virgin Trains fails to see the correlation between fleet consist and service intervals. The need to 'step up' during times of perturbation is more an issue for day-to-day operations and diagramming not contractual.

### **2.3 Capacity verses Demand**

Virgin Trains accepts that XC needs to tailor its services and capacity to match its demand profile; this is the case for many train operators. However, Virgin Trains cannot see how the case for IP relates to rolling stock formations and/or provisions. Virgin Trains believe this is more an operational issue.

### **2.4 Generalised Journey Time**

Since the introduction of the XC timetable following the franchise re-mapping in 2007 the service pattern has changed very little, this includes train service interval. Moreover, the structure in which the timetable has been built to serve/thread through Birmingham New Street makes, by default, it near impossible to change intervals at Birmingham New Street without a whole scale timetable recast. Furthermore, it should be noted that over time XC has decided to modify its own service patterns/interval in order to abstract greater revenue off other operators.

### **2.5 Managing Flows**

Virgin Trains agrees that an evenly spaced timetable spreads demand and increases patronage the principle of which Virgin Trains supports. However, XC notes that flows from other train operators are integral to keeping passengers steadily moving (by their own statistics XC suggest 40 per cent of their passengers connect into/out of other operators services); therefore, isn't there a compelling case for Virgin Trains (and others) service intervals to be protected by IP as they are vital to the flow of passengers boarding/alighting XC services?

## **3. Summary**

Virgin Trains does not support the position or logic that XC have applied in that their flows are any more susceptible or at risk from exogenous commercial forces than any other longer distance operator, thus needing additional protections (JTP). It is also unclear how the case that XC has presented is sufficiently different or unique to trigger the criteria as prescribed in Network Rail's Access Rights Policy.

Operationally, Virgin Trains fails to understand how the XC case for IP differs from any other train operator(s); indeed, some issues could be managed or even eradicated via Operational astuteness/challenges via the Network Code. Moreover, XC alludes that to keep passengers steady moving other train operators services are part of the wider equation; therefore, other train operators need to remain in a clock-face interval – should Virgin Trains apply for IP? Virgin Trains believes that the timetable operating and intervals set at this busy location (Birmingham New Street) are pretty much fixed by the nature of wider timetabling complexities (largely London Midland’s successful and complex timetable); moreover, these have differed very little over the past 6 years.

Virgin Trains is of the strong view that applying such IP protection at Birmingham New Street could have a deterrent on other train operator’s intervals. Furthermore, these may limit Network Rail’s ability to robustly construct the timetable.

Finally, Virgin Trains would also like to question the application of Network Rail’s processes and internal panels (SOAR) as it believes consistency between this application and previous similar ones has not been applied; this is a matter that Virgin Trains will seek to address with Network Rail and the ORR separately.

Yours sincerely



**Virgin Trains**

**Commercial Operations Manager**

**From:** <westyorks-ca.gov.uk]  
**Sent:** Wednesday, January 4, 2017 1:27 PM  
**To:** <orr.gsi.gov.uk>  
**Cc:** <westyorks-ca.gov.uk; <westyorks-ca.gov.uk; crosscountrytrains.co.uk  
**Subject:** RE: XC Trains Limited new track access contract from PCD 2017 to SCD 2020

Good afternoon, and thank you for giving the West Yorkshire Combined Authority the opportunity to respond to this consultation.

The Cross-Country (XC) network is of vital importance to the Leeds City Region. It provides at present the only genuinely fast services (currently one per hour) between Leeds and Sheffield, and contributes to the offer between Leeds and York. As well as being a major carrier of the heavy commuting flows on which the Leeds city centre economy depends, half of the direct connectivity between Leeds and Newcastle is provided by XC, and they are at present the only operator linking the region directly to Scotland (other than one daily VTEC train-pair). They also provide strategically critical connectivity to the West Midlands and beyond. The (North-East –) York – Doncaster – Sheffield (– West Midlands – South Coast) services are also of great importance to the York area of the region. It can therefore be seen that the Leeds City Region depends on XC for much of our strategic interregional and intercity connectivity.

We note that the principal issue on which ORR is consulting is XC's desire that its track access contract from December 2017 onwards should in some cases include protection of service intervals and of journey times, as opposed to being limited to quantum-only rights. We support this application.

We note that XC first applied for this at a time when Network Rail's policy on this area was under revision, and that NR appear (according to the joint letter) to be content with XC's proposed approach.

Back in 2015, when NR was consulting on the proposed changes to its access rights policy which gave rise to the current approach of only agreeing as to quantum and not providing journey-time or service-interval protection unless special circumstances applied, our view was that this was not the best approach. This view, which was fed into the consultation via the then PTEG (now Urban Transport Group) response, was that attractive journey times and regular service intervals are not optional "nice-to-haves" but are so fundamental to a successful passenger railway (including enabling clockface timetabling and providing connections that work) that it should be only in exceptional circumstances that JT and SI protection would *not* be appropriate. A "pure quantum" approach to network access, we consider, could lead to timetables that are inefficient, costly (possibly in some cases even unworkable) and above all unattractive to the passenger. Since then, we have made similar comments in response to applications by other operators for service-interval and/or journey-time protection.

Be that as it may, we have considered the evidence XC are adducing in support, to the extent that it relates to their application for JT protection in respect of the Derby – Leeds – Newcastle corridors. We agree that XC have, with NR's support, demonstrated a strong case for JT protection, in particular because of the competitive position of rail as against car (and, for longer journeys, air) on the critical NE – SW axis, both in terms of the nominal end-to-end journey times in an elastic market (far more elastic than London rail markets) and in terms of actual origin-to-destination journeys taking into account connections between services. This evidence is pertinent to the Leeds City Region and accords with our knowledge of the markets and services concerned.

We note that XC are not applying for JT protection elsewhere, nor are they applying for SI protection on the above routes. We would for completeness add that we would nonetheless hope and expect that XC's regular-interval clockface timetables will be retained wherever relevant and possible, and that journey times will be maintained or improved. This should apply across their network.

For the avoidance of doubt, we do not consider the application in respect of the Nottingham – Cardiff and Stansted – Birmingham axes to raise any issues of direct relevance to the Leeds City Region, and we therefore make no additional comments on the SI protection elements of the application that only relate to these routes.

For these reasons, I confirm that WYCA is supportive of XC's application, and I look forward to hearing of a successful outcome shortly.

I hope these comments are of assistance; do feel free to contact me if you have any queries.

Many thanks

✂

Rail Technical Advisor

West Yorkshire Combined Authority

Wellington House

40-50 Wellington Street

Leeds LS1 2DE



**From:** ✘ crosscountrytrains.co.uk  
**Sent:** Monday, February 6, 2017 9:14 PM  
**To:** ✘ orr.gsi.gov.uk  
**Cc:** ✘ crosscountrytrains.co.uk; ✘ crosscountrytrains.co.uk>  
**Subject:** RE: XC Trains Limited new track access contract from PCD 2017 to SCD 2020

✘,

Thanks for the opportunity to comment on these responses.

I would make the following observations on the responses received.

Of the ten responses received, nine offered an opinion on the content of the application. Nexus simply noted the application. Out of these nine responses, five (a majority) expressed the view that journey time protection does have merit particularly for higher value flows. West Yorkshire, South Yorkshire and Transport Focus were supportive of journey time protection in this particular case. VTEC were explicit in paragraph 2 that they feel quantum only rights are inappropriate for high value flows. EMT expressed support for the concept of journey time protection in paragraph 4.1 of their response. CrossCountry has applied for protections that are supported by the majority of respondents as a concept, in line with the ORR guidance on track access applications and with the support of Network Rail. Clearly however the merits of our case will be for you to decide.

GBRf expressed concern that journey time protection and interval protection in combination could hard wire paths into the timetable. We had not applied for both journey and interval protections to any flow in our timetable.

Thanks.

✘

**Production Director**

Address: 5<sup>th</sup> Floor, Cannon House, 18 The Priory Queensway, Birmingham, B4 6BS

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**From:** ✘ orr.gsi.gov.uk  
**Sent:** 31 January 2017 09:31  
**To:** ✘ [rosscountrytrains.co.uk](http://rosscountrytrains.co.uk); ✘ [networkrail.co.uk](http://networkrail.co.uk); ✘- Network Rail Infrastructure LTD ( External ) ✘ [networkrail.co.uk](http://networkrail.co.uk); ✘ [crosscountrytrains.co.uk](http://crosscountrytrains.co.uk)>  
**Cc:** ✘ [crosscountrytrains.co.uk](http://crosscountrytrains.co.uk) ; ✘ [orr.gsi.gov.uk](http://orr.gsi.gov.uk); ✘ [orr.gsi.gov.uk](http://orr.gsi.gov.uk)  
**Subject:** XC Trains Limited new track access contract from PCD 2017 to SCD 2020

Dear all

Further to my e-mail and letter of 22 December 2016, seeking comments from the industry regarding the journey time and service interval protection proposed in XC Trains Limited's application for a new track access contract, we have had a number of responses. I have been forwarding these to you as they arrived but for completeness and your convenience I attach a full set of responses to this e-mail.

Supportive consultation responses were received from Transport Focus, West Yorkshire Combined Authority and South Yorkshire PTE. Nexus noted the protections that had been agreed with Network Rail but did not provide any further comment.

Objections were received from Virgin Trains West Coast, Virgin Trains East Coast, Great Western Railway, GB Railfreight, East Midlands Trains and London Midland.

We also note that Network Rail now supports approval of a "quantum only" contract until the Subsidiary Change Date in 2020.

Is there anything in the responses to which you would like to respond? If so, taking into account the need for us to complete our review and issue directions in time for XC Trains to have firm rights in place before the Priority Date on 3 March 2017, we would be grateful if you could provide any comments by close of play on 7 February 2017. If you do not wish to make any further comments, would you please confirm this promptly.

Regards

✂

**| Senior Executive, Access & Licensing**

Office of Rail and Road, One Kemble Street, London, WC2B 4AN

Web [orr.gov.uk](http://orr.gov.uk) | Follow us [@railandroad](https://twitter.com/railandroad)