

**John Larkinson**  
**Chief Executive**  
Telephone 020 7282 2193  
E-mail john.larkinson@orr.gov.uk



Jacques Damas  
Chief Executive  
Eurostar  
By email

29 September 2022

Dear Mr Damas

### **Charges for use of the HS1 network**

I have been made aware of your letter of 26 September 2022 to Huw Merriman MP, chair of the Transport Select Committee. The letter contains factual inaccuracies about ORR and is, at best, misleading.

Since early 2022 we have been engaged with HS1 Ltd, the Department for Transport (DfT) and other stakeholders in considering proposals to provide relief to train operators in light of the challenging market conditions that have affected travel patterns since the pandemic. The one option considered in detail was whether the regulated track access charges that were set during the last periodic review (just before the pandemic) could be reduced to provide relief to operators.

Such a change would require, among other things, an amendment to HS1's concession agreement with the Secretary of State. At the time of writing, HS1 Ltd's position is that it will not be seeking to change its concession agreement for several reasons. These include:

- HS1 was unable to secure agreement from DfT for it to be held harmless should it breach its “general duty” as set out in the concession agreement;
- reasons relating to its own internal governance arrangements; and
- HS1 sought a letter of comfort from ORR that the resulting shortfall in funding arising from a reduction in charges would not have to be funded by HS1's shareholders in future. In effect, this was asking us to guarantee that the shortfall would be paid for wholly by train operators or taxpayers. It would have been unlawful for us to agree to this, fettering our discretion on future decisions (we sought external legal advice on this point).

Furthermore, HS1 has not received assurances from the train operators using its network that a reduction in charges would result in increased train traffic in the future.

As you have been copied into all of the correspondence between us and HS1 on this matter, you should be well aware of the above. So, to say in your letter that action by



ORR has caused this process to “run into the sand” is a gross misrepresentation of the facts and also of the time and effort put in by ORR in good faith over a number of months.

I have copied this letter to Huw Merriman MP, chair of the Transport Select Committee.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Larkinson', written over a thin horizontal line.

**John Larkinson**  
Chief Executive