



Network Rail Infrastructure Ltd  
Waterloo General Office  
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16 February 2024

Emyl Lewicki  
Track Access Manager  
Office of Rail and Road

*Via email*

Dear Emyl,

**SECTION 17 APPLICATION FOR DIRECTIONS: PROPOSED TRACK ACCESS AGREEMENT  
BETWEEN NETWORK RAIL INFRASTRUCTURE LIMITED AND XC TRAINS LIMITED**

This letter provides the representations of Network Rail regarding the Section 17 application for directions for a proposed track access contract between Network Rail Infrastructure Limited (we/NR) and CrossCountry Trains Limited (XCTL), up to PCD 2027.

As part of this contract, XCTL aspire to introduce a daily through service in each direction between Cardiff and Edinburgh from PCD 2024, and further uplift their service provision from SCD 2025; largely within the Reading-Newcastle service group. This Section 17 application also includes rights to operate existing services, which have recently been identified as not currently having the required level of access rights.

Network Rail welcomes the opportunity to enhance passenger experience and connectivity on the network. As such, we have collaborated closely with XCTL over the past year, to consider their train service aspirations contained within their National Rail Contract; awarded by the Department for Transport (DfT) in October 2023. As part of this, we have sought to review such aspirations through the internal Sale of Access Rights (SoAR) process.

As communicated to XCTL, we are not yet in a position to support the sale of access rights contained within this Section 17 application, and we endeavour to continue discussions to enable a position for a supported Section 22 application. Please note that this letter will refer frequently to the 30<sup>th</sup> SA, which is in reference to the proposed Section 22 application submitted by XCTL in October.

Internal consultation will re-open for a revised version of the 30<sup>th</sup> SA application in February. Re-consulting on this application is required due to -

- (a) the rights requested within Table 2.1 being amended and uplifted following an audit of access rights in January 2024,
- (b) new ATT and performance outputs being considered necessary to inform regional and key function decisions to approve,
- (c) further information regarding interacting aspirations, informing NRs position on its current approach to the sale of access rights, and
- (d) consideration to the caveated position of the ECML ESG delivery, which XCTLs future aspirations have been based on.

Once completed, providing no unresolved issues are identified and all key functions and regions have indicated support, NR's Customer Team intend to submit a revised application to SoAR panel on 13 March 2024.

Regardless of outputs and subject to SoAR approval however, if we are in a position to support following the ATT outputs, we will only be considering supporting the following –

- Track Access Contract Extension Dec 2024 – Dec 2027 – a rollover of existing rights in the January 2024 consolidated TAC.
- Additional rights required for Dec 2024 aspirations (including those recently identified as currently running without rights). Sold on a contingent basis and dated to May 2025 with no expectation of continuity (with date reflecting interacting aspirations).

However, as the ORR is aware, there are a number of known applications from other operators (i.e.S.17 from Alliance from PCD 2025 to PCD 2032 who are seeking rights to run between Cardiff and Edinburgh and a S.22A from Hull trains who are seeking rights to run between London Kings Cross and Sheffield from SCD 2025). In addition, there are a number of other interacting aspirations which have come to Network Rail for consideration. The two mentioned applications and other known operator aspirations, as well as this XCTL application, will interact at a number of locations and on the ECML. As a consequence, Network Rail will be undertaking capacity / performance assessments for all of these applications and noting their interactions on each other. The initial outputs, including the interactions at certain locations, is expected during May 2024.

When the outputs of the capacity and performance workstreams are completed and if Network Rail is in a position to support, dependent on the outputs, as a minimum, Network Rail will be able to sell further access rights on the basis of contingent rights (for those rights that can be accommodated), with no expectation and no continuation of rights, and dated to expire where other aspirations interact. The purpose of this position is to make sure that Network Rail:

- Does not oversell rights where there are interacting aspirations including taking into account different timetable change dates; and
- Considers that, whilst there is a positive indication the ECML ESG TT will commence at PCD 2024, there is always the possibility of the ECML ESG not being in a position to commence from PCD 2024. Therefore, because the capacity and performance assessments undertaken do not include the possibility of the ECML ESG timetable not starting at PCD 2024, if this was to happen and Network Rail sold the access rights firm for aspirations / applications where the ECML is included in the capacity and performance assessment, we could not guarantee that the access sold can be delivered.

The above position will be applied to those applications which we can support which seek new or additional rights, where they interact with other aspirations and/or the ECML Timetable (where the additional applications/aspirations have not been assessed against the current timetable if it was to roll forward).

NR would also note that we may be unable to give a comprehensive position on all rights requested for May 2025, until other operators Advanced Timetable work is completed for the aspirations which are potentially interacting. As such, the XCTLs May 2025 'Full Hydra' proposals will be considered for a proposed sale once Advanced Timetable outputs have been completed for identified interacting aspirations- initial outputs are expected in May 2024.

Whilst Network Rail notes XCTL's preference to have one application covering the Track Access Contract Extension, December 2024, and May 2025 Service Changes, we have to be

pragmatic in our approach. If we are in a position to support a level of XCTL aspirations for December 2024, it would be prudent to proceed with the sale of December 2024 rights (contingent with no expectation of continuity and dated to reflect interacting aspirations for May 2025 and December 2025). This would hence align to the required timescales that have been published on NR's Website in order to achieve approval by ORR by D-12.

The representations provided within this letter further detail the basis for this position.

## **Background**

In anticipation of the new XCTL National Rail Contract, NR worked closely with XCTL around their expected train service level commitments. Joint XCTL and NR Advanced Timetable (ATT) Performance and Simulation Team (P&ST) workshops have been held on a 4-weekly basis since August 2023, with performance modelling also being conducted internally within NR as an ongoing workstream. Regions and functions alike engaged in the NRC negotiations throughout the summer, and further to this, a joint NR and XC Strategic Lookahead event was delivered in Birmingham on 10 October 2023, providing opportunity for plans to be shared with both XC and NR regional/System Operator colleagues.

Following the positive news that XCTL were awarded a National Rail Contract with the DfT on 15 October 2023, and their subsequent submission of a proposed Section 22 application requesting additional access rights and TAC Extension to support this, NR have continued to work closely with XC. Weekly meetings have been scheduled between the XCTL Planning Team and the NR Customer Team to provide updates on the progress of the application, and highlight any queries raised by key functions and regions. Meetings have also been held between XC and the NR Regulatory Reform team and Customer Team, to discuss the maturity of the various components of the application in relation to assurance processes.

More recently, NR have provided XCTL with a timeline of necessary assurance work required to progress aspects of their proposed Section 22 application.

## **Form P Application**

The Form P provided for this application has been reviewed by NR, with comments highlighted below.

NR would highlight that the Form P submitted by XCTL as part of this application uses a historic template, rather than the new Form P template provided by ORR in October 2023. All references to the Form P made within this letter hence align to the template submitted by XCTL, however NR request that XCTL provide further information in the areas of the 'new' Form P template, that are not provided in their current form.

### Section 1.5

XCTL state that they have 'been unable to agree with Network Rail for an extension to its current TAC through the Section 22 process'. NR would note however that XCTL have not applied for a rollover of their current TAC through a Section 22 process. Instead, they have applied for a TAC Extension to include uplifted access rights from PCD 2024 and SCD 2025.

Network Rail would note that we have discussed with XCTL, the option of applying for a rollover of their current TAC and existing rights until PCD 2027. Whilst such an application would be subject to the normal internal assurance processes and would hence require a further access application to attain required rights from PCD 2024 and SCD 2025, it has been suggested as an option to ascertain a baseline level of access rights from PCD 2024.

This option has however not been supported by XCTL, with their preference to keep all components of the application together being highlighted.

### Section 3.1

#### *Paragraph 5*

NR have advised XCTL that a dated rights table would be required for access rights being utilised from SCD 2025, to ensure compliance with the industry policy on unused access rights. NR would like to highlight due to more interactions being submitted via S.17 and 22A applications that interact with XC's aspirations for SCD 2025, NR will have to wait for outputs from other Operators Advance Timetable Work to make an informed decision whether to support those additional rights which interact from a certain timetable change date (Dec 2024, May 2025, Dec 2025).

#### *Paragraph 6*

XCTL have noted that NR has not supported their Section 22 application, entitled the 30<sup>th</sup> Supplemental Agreement (SA), despite the associated SoAR paper receiving approval from each region and key function during internal consultation.

NR would note that approval from regions and key functions does not constitute final approval from NR, and that the point of SoAR panel is to allow for comprehensive discussion around the applications. This component of the SoAR process is of particular significance for applications which have cross-regional interactions, as all regions and key functions are represented at panel. A wider picture of the proposed sale can hence be assessed at this point.

NR would also highlight that due to the known interactions associated with this application, panel was largely considering the sale of additional rights up to PCD 2025, with no expectation of continuity, rather than the complete uplift until PCD 2027.

In addition to the subject of interacting aspirations, within SoAR panel, queries were raised in reference to the following areas (as XCTL note in Section 3.4 of their Form P) –

- Performance assessments – for Birmingham and further South aspirations.
- ATT Working Group outputs – these were not complete by SoAR panel in December and are not expected to be finalised until 15 February, following which results will be shared with routes and regions on 28 February 2024. Outputs will highlight any outstanding risks with potential conflicts in operator aspirations, or capacity concerns.
- ECML Decision – a go/no-go decision in relation to the ECML ESG Timetable was made on 17 January, although NR note the outstanding caveats surrounding this. Any level of decision was however unknown at the point of the December SoAR panel.
- Operational safety – in particular around the splitting and joining of services at Birmingham New Street as part of the Union Connectivity PDC 2024 aspirations.
- Birmingham New Street operator aspirations review.

As such, a decision was made to defer this application until all required assurance processes had been completed and shared with regions and key functions.

### Section 3.2

XCTL have stated that there are 'no perceived safety risks arising from this proposal'. Whilst TP-HAZID meetings for the December 2024 Timetable have been undertaken, discussions around the proposed service provision for May 2025 have not yet been discussed in detail. It

is worth noting that XCTL attendance at these forums is particularly critical in the context of their aspired service alterations, and regions expect operators to consistently engage with this process.

#### Section 3.4

XCTL refer to the practice of joining trains at Birmingham New Street as an every-day occurrence. Whilst other operators do indeed undertake this activity, XCTL currently do not at this location. As a national operator, with Birmingham New Street as their key service hub, the performance risk of undertaking this practice is subsequently heightened – the risk of importing delay widespread across the network is enhanced. Performance assessments, most recently presented on 15 February sighted multiple caveats including risks surrounding increasing services on minimum headway at Birmingham New Street, splitting and joining of services and the increase in pathing around Birmingham. Regional feedback is hence critical to understanding any further concerns or mitigations required for this proposal to be effective.

Further to this, Birmingham New Street has been identified by multiple Advanced Timetable Working groups as a key location of potential interaction with operators' aspirations. XCTL aspirations at the station are hence critical to consider in full as part of this workstream, so that informed decisions can be made on the feasibility of aspirations.

#### Section 3.5

NR have found there to be deviations from the Model Clause Contract for Passenger Services date April 2023 within this application.

We have outlined any deviations in the below section entitled 'Track Access Contract'.

#### Section 4.1

##### *Paragraph 2 – December 2024 Union Connectivity*

We agree that XCTL will largely be utilising existing train paths to deliver aspirations for Union Connectivity at PCD 2024. NR would however note that this is not the same as utilising existing access rights. Whilst XC currently have access rights required to deliver services between Cardiff – Birmingham New Street, and those from Birmingham New Street to Edinburgh, they do not have the access rights required to deliver a Through Service of this nature. This application is hence for new access rights for this daily service, and any interacting aspirations from other operators from Dec 2024, May 2025 and December 2025 will hence be considered as part of a proposed sale. This reiterates the criticality of the ongoing review of aspirations at Birmingham New Street.

##### *Paragraph 9 - Schedule 5 Rights Table*

XCTL have referenced a full audit of the Schedule 5 rights tables, stating that 'There are several changes to the rights table, a full revamp to make it easier to read and some adjustments to rights driven by historic inaccuracies, that bring it in line with what is currently operating and will operate in December 2024 and May 2025'.

Whilst these changes have been reflected in the commentary, NR would draw ORR's attention to the key differences with Table 2.1 to that (a) initially provided by XCTL as part of their proposed 30<sup>th</sup> SA application and (b) in comparison to the current XCTL TAC;

- the 'historic inaccuracies' reference some services which are currently running without the required access rights – a total of 14 access rights. Whilst we are working closely

with XCTL to rectify this situation, via a General Approval and subsequent proposed application to attain the required rights up to PCD 2024 on a contingent basis (with no expectation of continuity), the rights requested in Table 2.1 of this Section 17 application requests these rights are granted on a firm basis throughout the duration of the contract. These are hence additional to those internally consulted on within the 30<sup>th</sup> SA application and must hence be viewed as additional rights from December 2024.

- in addition to the 14 rights above, there have been some key additions to Table 2.1; dated from May 2025, which again, were not previously consulted upon as part of the initial 30<sup>th</sup> SA application. Some of these rights have the potential to have significant impact to routes and regions alike, and these have not yet been consulted on within NR.
- XCTL have indicated a full audit has been completed of their rights table to align with their aspirations for both PCD 2024 and SCD 2025, NR would flag that the rights requested as part of both this Section 17 and the Section 22 applications, do not completely match the service requirement as expressed to Capacity Planning teams as part of the ongoing ATT workstreams. The following service – 1E86 SO Southampton – Newcastle – has been indicated as an aspiration to NR Capacity Planning teams and contained within the ECML ESG database. XCTL have separately confirmed however that 1E86 is only required to run from Reading, mirroring the rights requested within this S.17 application. At the time of writing, XCTL were yet to inform Capacity Planning that 1E86 was not required from Southampton and have this removed from the ECML database. NR request this action is undertaken to confirm that the access right request matches the aspired service offering.

#### Section 4.2

NR agree that XCTL have been involved and included in all relevant ESGs, including the East Coast Mainline (ECML) and West Anglia.

#### Section 4.4

NR note that XCTL have removed High Speed Trains from the Specified Equipment as part of this application. Whilst this is expected, as the HSTs have already been removed from service, the deviation from the current TAC should be noted.

#### Section 4.5

XCTL have indicated that their planning team have commenced collaborative work with other impacted operators to further develop a robust timetable. NR would highlight that this work has not yet been completed, and outstanding conflicts with other operators remain.

#### Section 5.1

XCTL have not indicated awareness of any competing passenger services.

NR would instead flag the presence of multiple potentially interacting aspirations with this application. Further details of these can be found in the 'Interacting Applications' section of these representations and would advise the ORR to consider recent discussions with NR's Regulatory Reform team to support these representations.

NR consider it prudent at this point to reiterate the importance for other Operators Advance Timetable work to be concluded in order for Network Rail to determine if indeed there are any competing/conflicting aspirations.

## Section 6.1

XCTL have provided an overview of performance risks, largely associated with Full Hydra within their Form P. The associated appendix 'XC-NRC-Performance Assessment' has been produced by the Performance and Simulation Team within NR.

The latest version of this assessment was circulated more widely within NR w/c 12 February. NR would note that it was hence not available for regional and key function circulation in advance of SoAR panel in December 2023, and final conclusions were not able to be included within the XCTL Section 17 application.

Final conclusions indicate 'no major performance risks noted' as part of the assessments for SCD 2025 aspirations. However, an area of focus within SoAR panel was around the anticipated performance of the aspired Union Connectivity services, and in particular the impact of service joining at Birmingham New Street to form a 'through service' between Cardiff and Edinburgh. Whilst the performance assessment has been completed, the outputs have not yet been consulted with regions to consider their views. The potential cross-regional implication of performance risks from the joining of services at Birmingham is significant and will need to be consulted upon fully. A session to share these outputs within the NR regions has been scheduled for w/c 26 February 2024.

## *Section 6.2*

NR recognise the significant effort of XCTL to reduce ongoing issues with driver resilience. We would note that cancellation levels remain high around school holiday periods, and this had substantial impact over P10 in conjunction with the severe weather events and industrial action referenced. TOC-on-Self cancellation levels remain significant throughout P11.

## Section 8.1

XCTL again reference that the 30<sup>th</sup> SA is a simple extension of the current TAC from December 2024 – December 2027. As referenced previously within this letter, this is not an accurate representation of the associated 30<sup>th</sup> SA application.

## **Track Access Contract**

The draft Track Access Contract provided for this application by XCTL has been reviewed by the XC Customer Team in Network Rail. A tracked change version and marked up version of this review is attached to this letter, and Network Rail requests that the ORR consider this in its decision regarding this application.

Key findings from this review which the ORR and XCTL should take into consideration are as follows:

- The consolidated contract by which the S17 application has been drafted from, is not the latest version of the XCTL consolidated contract. It is noted that this is by no fault of the operator, as the latest version of the current XCTL TAC was consolidated after their submission of this application and was in response to the ORR's request to review errors prior to CP7. There are hence a few minor errors in the numbering, formatting of pricing equations and address at the front end of the contract.
- The Expiry date has been added to PCD 2027. As previously outlined in this letter, once NR are in a position to support components of the revised 30<sup>th</sup> SA application, only the following will be considered for support -

- Track Access Contract Extension Dec 2024 – Dec 2027 – a rollover of existing rights in the January 2024 consolidated TAC.
  - Additional rights required for Dec 2024 aspirations (including those recently identified as currently running without rights). Sold on a contingent basis and dated to May 2025 with no expectation of continuity (with date reflecting interacting aspirations)
- References to price lists and associated weightings in Schedules 4 and 8 have been redacted to account for the anticipated updates required for Control Period 7, and as per ORR guidance.
- Schedule 5
- The whole rights table 2.1 has been completely re-written and no marked-up copy has been provided within this Section 17 application. Whilst NR acknowledges and appreciates the commentary and associated headcode matching that has been provided to supplement the new rights table, we note the difficulty of tracking significant changes.
  - As referenced in the Form P section of this letter, NR also note that Table 2.1 is different to that initially provided by XCTL as part of their Section 22 application.
  - Table 2.2 has been reverted to unused, with all rights sighted as firm. This will involve the movement of 14 rights from contingent to firm. NR note that XC have assumed that these rights can be moved to Table 2.1, pre-empting decisions around the ECML policy and potentially interacting applications.
  - Table 2.3 has been reverted to unused. This table previously contained detailed firm rights to join certain individual rights together within Table 2.1 to create through services. NR would note that the rights contained in this table did not include rights to run through services between Cardiff and Edinburgh (to reflect XCTLs aspired position for Dec 2024), reiterating that these are a new set of access rights. We note that in the supporting documentation for this S.17 application, XC have stated they no longer require this table, however NR is aware that they will continue to run through services and run new through services as stated above. Whilst NR doesn't have an issue with the TAC not having a specific table, we would expect to see footnotes in table 2.1 to combine through services and in paragraph 2.3 use the model clause contract paragraph for through services.
  - Passenger Train Slots 2.11 – numbering is not consistent with the Model Clause Contract for Passenger Services dated April 2023, although the content of the paragraph is the same as paragraph 2.1
  - Passenger Train Slots 2.12 – numbering and wording not consistent with the Model Clause Contract for Passenger Services dated April 2023, for either paragraph 2.2 or 2.3. NR believe this should state Paragraph 2.2 and read as below. NR would also note that this is an addition to the contract, as paragraph 2.2 is currently unused within the XCTL TAC. If XCTL wish to keep this as unused, NR request that this is stated.

As per the Model Clause Contract for Passenger Services, Passenger Train Slots paragraph 2.2 and 2.3 should read as follows –

## 2.2

In order to provide for the Scheduling of part only of Passenger Train Slots specified in Table 2.1 the Train Operator has:

(a) Firm Rights for such a Passenger Train Slot to commence from and/or terminate at [mmm, nnn, III]; and

(b) Contingent Rights for such a Passenger Train Slot to commence from and/or terminate at [kkk, jjj, iii] [any other station listed in its Calling Pattern].

### 2.3

In order to provide through Services, the Train Operator has:

(a) Firm Rights to combine Passenger Train Slots at [nnn, mmm and III]; and

(b) Contingent Rights to combine Passenger Train Slots at [kkk, jjj and iii] [all other locations].

XCTL have added the following within their draft TAC –

2.12 In order to provide through Services, the train operator has Contingent Rights to combine Passenger Train Slots in one of the Train Operator's Service Groups with Passenger Train Slots in another Service Group and the Train Operator shall make its Access Proposals accordingly.

- Table 4.1 - NR note that no changes to calling patterns have been identified in either the Form P or draft Track Access Contract provided by XCTL as part of this application. NR would like confirmation that this is correct, and that the calling patterns are remaining the same despite the addition of new passenger train slots.
- Specified Equipment – removal of High-Speed Trains from 5.1(a) in line with removal of HSTs from XCTL service provision in 2023.
- Paragraphs 6,7 and 8 of Section 5 have been included within the TAC (noted as 'Not Used') however require removing to match the Model Clause Contract for Passenger Services.

### Interacting Applications

The access rights proposed by XCTL are from the PCD 2024, with further additional rights from SCD 2025, to the end of the requested contract at PCD 2027.

As the ORR is aware, there are a number of known applications from other operators (i.e.S.17 from Alliance from PCD 2025 to PCD 2032 who are seeking rights to run between Cardiff and Edinburgh and a S.22A from Hull trains who are seeking rights to run between London Kings Cross and Sheffield from SCD 2025). In addition, there are a number of other interacting aspirations which have come to Network Rail for consideration. The two mentioned applications and other known operator aspirations, as well as this XCTL application, will interact at a number of locations and on the ECML. As a consequence, Network Rail will be undertaking capacity/performance assessment for all of these applications and noting their interactions on each other.

When the outputs of the capacity and performance workstreams are completed and if Network Rail is in a position to support, dependent on the outputs, as a minimum, Network Rail will be able to sell further access rights on the basis of contingent rights (for those rights that can be

accommodated), with no expectation and no continuation of rights, and dated to expire where other aspirations interact. The purpose of this position is to make sure that Network Rail:

- Does not oversell rights where there are interacting aspirations including taking into account different timetable change dates; and
- Considers that, whilst there is a positive indication the ECML ESG TT will commence in December 2024, there is always the possibility of the ECML ESG not being in a position to commence from PCD 2024. Therefore, because the capacity and performance assessments undertaken do not include the possibility of the ECML ESG timetable not starting at PCD 2024, if this was to happen and Network Rail sold the access rights firm for aspirations / applications where the ECML is included in the capacity and performance assessment, we could not guarantee that the access sold can be delivered.

The above position will be applied to those applications which we can support which seek new or additional rights, where they interact with other aspirations and/or the ECML Timetable (where the additional applications/aspirations have not been assessed against the current timetable if it was to roll forward).

**Capacity**

Advanced Timetabling work associated with the development of paths for XCTL aspirations for PCD 2024 and SCD 2025 have been ongoing since summer 2023. Whilst outputs have been shared between XC and NR within 4- weekly workshops, work remains ongoing to finalise and share all planned work-banks. Outputs are expected by 15 February at which point results will be shared with NR routes and regions alike to inform the re-opening of internal consultation of the 30<sup>th</sup> SA.

It is important to note however that the alignment between the ATT Cross-boundary analysis and ECML ESG planning does highlight risk when trying to stitch the projects together, and ultimately means that at present there are some issues which have not been resolved.

At the time of writing, the following interactions remain unresolved as part of this work –

Birmingham and further South

	Timetable Change	Total services	Services with outstanding conflicts (Birmingham and further South)	Services with outstanding conflicts (when aligning to ECML ESG)
Union Connectivity	Dec-24	16	1	4
Hydra SX	May-25	17	1	7
Hydra SO	May-25	16	0	4
Hydra Su	May-25	14	0	0
Stansted SX	May-25	12	N/A	0
Stansted SO	May-25	12	N/A	0

ECML ESG\*

	Headcodes	Outstanding Conflicts
SX	17	87
SO	16	45
Sun	14	45

\*The full Hydra paths that are in the ECML ESG DTT database which is due to run in DEC24. Please note data within this table was collated on 22/01/24 just before the creation of the Prior Working Timetable (PWTT).

Some of these interactions involve clashes with operators who currently hold firm rights to

paths. Whilst ATT work is not yet complete at the time of writing, it should be noted that if clashes remain unresolved, then this may impact decisions regarding the sale of access rights for identified rights of concern.

Whilst other interactions have been identified as having potential solutions, some of these significantly impact other operators. Discussions between XCTL and such operators remain ongoing to reach resolution to these issues.

## **Performance**

Latest performance assessments against the ATT workbanks were presented to XC and NR on 15 February 2024. These concluded that whilst the performance team deem there are 'no major performance risks' identified as part of the assessments against SCD 2025 timetable aspirations, recommendations and potential risks should be flagged to routes and regions to consider as part of their consultation. These include risks around minimum headways at Birmingham New Street, and the increase in pathing around Birmingham and sections between Oxford and Reading. Additional risk was highlighted for PCD 2024 aspirations involving Union Connectivity and the splitting and joining movement at Birmingham New Street.

ESG ECML performance assessments have also now concluded, with outputs shared with both XCTL and NR w/c 5 February. The final report generally indicates a retention of current performance levels for XCTL across the ECML, with a slight detriment noted to T15.

A review of Birmingham New Street for PCD 2024 and SCD 2025 is also ongoing (at the time of writing) and includes the aspirations of a number of operators. This aims to highlight any areas of concern or risk, with outputs including a technical outline of platforming. The timetable assessments of this will be shared on 28 February with XC, NR routes and regions and will be included in the circulation of the revised 30<sup>th</sup> Supplemental application for regional and key function consideration.

## **Conclusion**

We acknowledge the challenges XCTL face in regard to their ongoing Section 22 proposal and are sympathetic to the implications of their position as a national operator; meaning that there is an enhanced likelihood of potentially interacting aspirations when making an application. Further to this, NR commends the operator for approaching us relatively early to apply for their access rights and continuing to work closely within the relevant ESGs and working groups,

As previously stated however, and for the reasons outlined above, we are unable to provide support for this application at this time. We will endeavour to continue close collaboration with XCTL on their proposed S22 application, and their future service level aspirations.

Network Rail would like the Review of the proposed Track Access Contract to be considered in any decision made on this application.

Please do not hesitate to contact me if there is any further information you may require.

Yours sincerely

Sophie Grieves  
Customer Manager Network Rail