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Dear Akaash and Scott

Approval of the 37th supplemental agreement to the track access contract between Network Rail Infrastructure Limited (Network Rail) and West Midlands Trains Limited (WMT) dated 15 May 2019

We have today approved the above supplemental agreement submitted to us formally on 9 December 2024 under section 22 of the Railways Act 1993 (the Act). This follows an earlier informal submission of a draft agreement for our consideration.

ORR's approval of this application allows WMT to operate its December 2024 timetable on its services between Birmingham, Shrewsbury, Worcester, and Crewe.

ORR's Guidance, for submitting access applications, states that Passenger operators should aim to have rights approved by ORR before a timetable is published, to align with Network Code contractual timescales. This ensures services with access rights can be reflected in the timetable at least 12 weeks in advance (T12). This underpins passengers' confidence to buy advance purchase tickets. These timescales were not met. Failure to adhere to the prescribed timescales increases the risk of adverse outcomes for passengers and industry. Industry cannot collectively continue to prepare for timetable change at such late notice.



WMT section 22A applications

On 24 April 2024 ORR [wrote to industry](#) to set out a process for access applications for the December 2024, May 2025 and December 2025 timetable changes. In that letter we asked industry to comply with a deadline of 20 May 2024 for applications for additional rights (or amended rights that change capacity parameters) for these timetable changes that met specific criteria. WMT submitted five such applications on 20 May 2024, including the 28th SA, which was for the December 2024 timetable change.

That application remains “live” and we continue to try to progress it. However, ORR is not currently in a position to reach a decision in relation to that application. Additionally, Network Rail has not yet completed its analysis. We continue to press Network Rail to complete its analysis as quickly as possible

Purpose of 37th supplemental agreement

The purpose of the 37th supplemental agreement is to grant WMT the rights necessary to operate its December 2024 timetable. This entails the addition of six new contingent weekday and Saturday rights in the EJ04 (West Midlands Inter Urban) service group between Birmingham New Street and Shrewsbury, Birmingham New Street and Worcester Foregate Street, and Stafford and Crewe.

The rights in this application were either omitted in error from the WMT 28th supplemental agreement or were identified as required after the 20 May deadline for submission.

ORR notes that WMT has two other supplemental agreement (34th and 35th SAs) that are due to come into effect on the Principal Change Date (PCD) in December 2024, and which make changes to some of the same service groups. We have asked the parties to the contract to ensure that the effective dates and times are arranged so that no amendments are cancelled out by others.

The rights are to commence on PCD 2024 and will expire on the Subsidiary Change Date (SCD) in May 2025.

Network Rail noted that it could only agree to the requested additional access rights until SCD 2025 due to potentially competing applications from other train operators, and that there could be no presumption of the continuation of these additional rights beyond SCD 2025.



Industry consultation

Network Rail undertook the usual industry consultation. Great Western Railway and CrossCountry responded to state that they had no objections. No other responses or queries were received.

ORR review

Our review of the application raised no operational, performance or economic concerns.

We noted Network Rail's position on the continuation of additional rights SCD 2025 due to competing aspirations from other train operators. In light of this, our usual policy of a strong presumption of the continuation of existing rights will not apply for these access rights beyond SCD 2025.

Our duties under section 4 of the Act and our decision

We have concluded that approval of this supplemental agreement strikes the appropriate balance in discharging our statutory duties under section 4 of the Act; in particular, those relating to protecting the interests of users of railway services (section 4(1)(a)), promoting the use of the railway network for the carriage of passengers (section 4(1)(b)) and enabling persons providing railway services to plan their businesses with a reasonable degree of assurance (section 4(1)(g)).

Conformed copy of the track access agreement

Under clause 18.2.4 of the track access contract, Network Rail is required to produce a conformed copy, within 28 days of any amendment being made, and send copies to ORR and the Train Operator. Please send the conformed copy to me at ORR.

Public register and administration

Electronic copies of this letter, the approval notice and the agreement will be sent to the Department for Transport and Network Rail's Policy and Access Team. Copies of the approval notice and the agreement will be placed on ORR's public register (website) and copies of this letter and the agreement will be placed on the ORR website.

Yours sincerely



A handwritten signature in black ink, appearing to read 'Jonathan Rodgers', is positioned above the printed name.

Jonathan Rodgers