

Stephanie Toby
Director, Strategy, Policy & Reform



Anit Chandarana
Group Director, System Operator
Network Rail Infrastructure Limited

By email only

7 March 2025

Dear Anit,

Network Rail approach to access decisions

1. ORR, supported by Network Rail, wrote to industry in April 2024 to request formal submission of track access applications for the December 2024, May 2025 and December 2025 timetable changes. We did this as we expected, and had already started to receive, a higher-than-usual number of access applications from freight and passenger operators for additional or amended services for the three timetable changes. Where services in the applications interacted with each other across the railway network, or had the potential to, the complexity necessitated robust but timely consideration.

2. Providing current and prospective passenger and freight operators with certainty and stability can be fundamental to future economic growth. This was recently shown by the train-building deal between FirstGroup, Hitachi and Angel Trains that was stimulated by a successful open access application for a new service between London and Carmarthen.

3. On a broader level the Government's approval of a new East Coast Mainline (ECML) timetable is intended to secure significant growth through more trains, more seats and faster journey times. Network Rail has committed to implementing the recast ECML timetable to realise the benefits of the £4 billion investment in track and train. To support this process, in July 2024 I wrote to Network Rail setting our expectations of it regarding allocating capacity on its network for these and other timetable changes. I am writing now because:

- a. it has become clear that Network Rail does not plan to agree to allocate long-term firm access on its network even where it supports operators' applications for rights, and

- b. Network Rail expects ORR to direct it on the use of its network but has not yet provided sufficient evidence for ORR to take those decisions in a timely manner.

4. As infrastructure manager, Network Rail is required to manage the whole capacity allocation process, which includes access rights and timetable production. ORR's role is to assess whether it should approve access agreements reached between Network Rail and operators, or where an agreement has not been reached, to make the decision ourselves. Historically, this process has worked because it meant Network Rail taking 9 out of 10 access decisions to manage capacity (and ORR approving them). Network Rail is now asking ORR to take all decisions on capacity, including on rights that Network Rail thinks it can accommodate and could agree in a contract.

5. We are concerned that this unexpected change in approach will not lead to efficient and effective management of access and timetabling and will not deliver the investment or growth benefits described above. This is because:

- a. Network Rail has not been prepared to agree access contracts associated with that timetable which exposes its implementation to greater risk of change and dispute. This is despite Network Rail having already decided, following extensive consideration, to proceed with the East Coast Mainline timetable recast in December 2025. This recast is fundamental to operators, funders and passengers in realising the benefits of investments already made, which is underlined in the Government's current consultation document on rail reform.
- b. Network Rail is yet to produce or submit the required evidence to support itself or ORR taking robust long-term decisions in time for operators to plan services with confidence. This elevates the risk of decisions not being reached promptly enough for operators. This puts industry commitments to funders and passengers at risk. It is also possible that once all information is received that ORR arrives at a different position to the one recommended by Network Rail.
- c. The continued delay to the agreement of long-term firm access means that short-term contracts need to be in place for each timetable change for services to operate. This creates additional administrative burden, costs and uncertainty for operators, their customers, Network Rail and ORR.

6. To achieve positive progress that aligns with the shared objectives of all stakeholders and is consistent with Network Rail's network management licence condition, we see the available options as:

- a. Network Rail reconsiders its approach and, where it is content to support access rights, works with operators to submit agreed access contracts for ORR

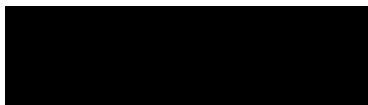
approval. We would expect this to cover a substantial number of applications, not least those that are consistent with the strategic decisions already taken on the December 2025 timetable. ORR will then direct decisions on the remaining (much smaller) number of applications; or

- b. Network Rail continues with its plan to make no decisions. In this scenario Network Rail needs to promptly provide representations and evidence to ORR in the coming month(s). It also needs to extend its contingency arrangements for access rights to endure beyond December 2025. This is to allow ORR sufficient time to resolve the matters Network Rail has been unable or unwilling to determine, and for ORR to put in place long term contracts to support future timetables. This option still requires Network Rail's timely provision of evidence, and representations to ORR to be of sufficient quality for us to reach a robust decision.

7. With the increasing need to ensure certainty and stability for industry stakeholders, funders, and passengers, it is important for Network Rail to formally clarify its approach. This will help set clear expectations and enable informed decision-making to proceed. Please provide your response by 20 March 2025.

8. We will publish the response on our website alongside this letter.

Yours sincerely

A solid black rectangular box used to redact the signature of Stephanie Tobyn.

Stephanie Tobyn