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11 April 2025

Network Rail Final Representations for the proposed 26th Supplemental Agreement to the Track Access Contract between Network Rail Infrastructure Limited and Freightliner Limited dated 11 December 2016.

This letter provides final representations from Network Rail (NR) for the 26th Supplemental Agreement submitted under Section 22A of the Railways Act 1993 for the Track Access Application between Network Rail and Freightliner Limited (Freightliner) dated 11 December 2016.

This representation builds upon the representations submitted by Network Rail for this application on the 28 June 2024, and the 14 March 2025 General Representation on Complex and/or Competing Applications interacting on Location ECML Kings Cross - Edinburgh and Leeds.

The latter of these letters provided important information to support ORR when it comes to making decisions on applications in this geography including context on the work in developing the ECML Policy, ECML Industry Task Force, key performance information, as well as updates on power supply assessment. The annexes to that letter include relevant information including Timetable Performance Analysis and ECML Power Supply Modelling and where there is specific relevance to this application, reference will be made in this representation.

The purpose of this final representation is to provide ORR with Network Rail's final position on this application (and the specific access rights within it) and will do so by providing facts, data and evidence to support our position. Network Rail can confirm that based on the facts, data and evidence outlined in this representation and the ECML General Representation letter dated 14 March 2025, it is **not supportive of this application.**

Where there are a number of applications seeking capacity at the locations referred to in this letter, and as detailed in Annex A, the basis of our support of applications either in total, or in part (as can be determined by reading the relevant representations), may have a connection to our position on all other applications at that location. You may wish to wait for final representations on related applications and the information provided therein prior to making your decision.

There are paragraphs and / or Annexes in this letter which are commercially sensitive and would need to be redacted. Each such paragraph will have the words “**Commercially Sensitive – to be redacted**”, at the start of each relevant paragraph.

Background of the Application and Network Rail Representations

In line with ORR’s letter of 24 April 2024 to the industry on ‘Competing and/or complex track access applications for December 2024, May 2025 and December 2025 timetable changes’, Freightliner Limited (Freightliner) submitted this application to the ORR on 19 May 2024 as a S22A application in line with ORR’s deadline.

As requested by ORR, Network Rail submitted a High-Level Plan in June 2024, and a further detailed plan was published on Network Rail’s website in August 2024 (and updated in January 2025). Network Rail made its initial representations on this application on 28 June 2024 where an initial view of the application was provided.

In its initial representation on 28 June 2024, Network Rail highlighted some items in the “Network Rail’s Initial Position on the Access Rights Sought prior to necessary assessments being completed in line with the plan” section of the letter. Where we have not had a response to the points highlighted, we have noted this below for the Operator and/or ORR to address or take into consideration.

The points we would like to highlight from the original representation and the course of action we require, are as follows:

Potential Future Traffic

Freightliner was expected to submit access proposals for both the May 25 and December 25 Working Timetables through the WTT process outlined in Part D of the Network Code.

Freightliner did not do this but has provided information to enable Network Rail to undertake a timetable capacity assessment to understand the feasibility of being able to accommodate these access rights.

As an access proposal has not been submitted for these paths it means the application no longer relates to the purpose of the competing and/or complex applications workstream – to make decisions for the three timetables stipulated in ORR letter of 24 April 2024.

As a general point of principle, Network Rail would normally only support access rights for future traffic where there is clear evidence of an operator’s prospects of winning business and requiring use of the capacity. Network Rail does not support access rights unless there is a clear intention and ability to use the capacity in question, in order to ensure capacity is not reserved for services with limited prospect of being operated. This aligns with ORR published guidance on the Use of Capacity.¹

We do not expect ORR to make a direction in support of these paths for the reasons we have outlined above, however should it be minded to do so, we want to be clear that further discussion would be needed on network and terminal restrictions.

¹ ORR, 2022, Guidance on the Use of Capacity, available at: <https://www.orr.gov.uk/sites/default/files/2022-07/guidance-on-the-use-of-capacity.pdf>, accessed 07/04/25.

Network Capability

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If Freightliner want to discuss potential future traffic beyond the Dec 25 TT we would be open to discuss these in a future separate application., as part of established industry workstreams and processes that serve to identify capacity for future potential flows. However, the representations provided in this letter should be considered as part of any conversations.

East Coast Mainline (ECML) General Representation Letter dated 14 March 2025

Network Rail can confirm that this application is seeking the proposed access rights at the interacting location ECML: Kings Cross – Edinburgh and Leeds and therefore the General Representation to ORR on the ECML dated 14 March 2025 is relevant to this application.

Whilst the entire letter is relevant to this application, we would like to highlight key points of that letter which are more pertinent to this application namely “Unused LNER Firm Directed Rights” and “Congested Infrastructure”.

Congested Infrastructure

As stated in the ECML General Representation letter dated 14 March (paragraph 6) Network Rail has declared Congested Infrastructure for the December 2025 New Working Timetable for three lines of route on the ECML.

There is one line of route that this application is proposing access rights for:

- Between Northallerton Longlands Jn and Newcastle King Edward Bridge South via ECML

ECML Proposed December 2025 Timetable

As referred to in the ECML General Representation letter dated 14 March 2025, in February 2024 the ESG closed following an ECML Programme Board endorsement on 17 January 2024 to deploy the new ECML Timetable in December 2024, subject to the outputs of the completed performance modelling.

At the point in time of ORR’s letter to the Industry on 24 April 2024, the Department for Transport (DfT) had accepted a recommendation from the Industry Timetable Assurance Project Management Office (PMO) to funders that the ECML ESG Timetable should be deferred from the December 2024 timetable change.

An ECML Industry Task Force (herein referred to as “the Task Force”) commenced in June 2024 as an independently led executive-level cross-industry meeting that provides strategic direction for the work programme. The Task Force develops solutions to the problems of the new ECML Timetable, drives consensus on the outcome(s), and delivers recommendations for industry funders and specifiers.

On 17 October 2024 the Independent Chair of the Task Force wrote to the DfT to advise that the Task Force met on 10 October 2024, reviewed the considerations, issues, and risks, and recommended proceeding with implementation of the new timetable for ECML in December 2025. This was on the basis that the timetable is deliverable and meets the Task Force objectives that were set. Concerns were noted from GB Railfreight (representing themselves and other Freight Operating

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Companies), ScotRail and Transport Scotland. The Task Force recommendation was accepted by the DfT and subsequently endorsed by the Secretary of State in December 2024.

The Task Force had worked collaboratively up to 31 January 2025 to further de-risk the transition of the ECML ESG timetable from development to timetable production.

Advanced work completed by Network Rail Capacity Planning, to inform the December 2025 timetable risk, involved aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable (WTT) and associated Rolling Spot Bids (RSB). This process has highlighted that, despite previous timetable development work, the national freight and passenger timetable has evolved, and this work has been necessary to reduce the risk that capacity decisions may need to be made during the timetable production period between D-40 to D-26.

Therefore, where in this letter and in the ECML General Representation letter we have referred to the proposed ECML December 2025 Timetable, we are referring to timetable work above namely, either full or in part, the:

- Timetable which was developed by the ECML ESG and later deferred in April 2024;
- Timetable where solutions were developed to the problems of the ECML Timetable as part of the Task Force;
- Advanced Timetable Work (undertaken between April and October 2024) to de-risk the transition of the ECML ESG timetable from development to timetable production; and
- Advanced work to inform timetable risk including aligning cross boundary paths in the ECML ESG developed timetable with the latest developments in the wider National Working Timetable and associated Rolling Spot Bids.

So where Network Rail highlight in this representation and the ECML General Representation letter (in the relevant annexes to that letter) whether the access rights sought on ECML in each application are as Network Rail expects in the proposed ECML December 2025 Timetable, we are referring to whether the access rights align to the above Timetable work which makes up the proposed ECML December 2025 Timetable.

Summary of Rights Sought

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In their application and as a high-level summary Freightliner is seeking:-

- 30 Firm Access Rights with 1 hour windows to commence on approval until PCD 2026.



Assurance / Assessments / Updates

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The following section will address specific areas of consideration, opportunity and risk relevant to the application, or where applicable, to specific access rights in the application. Where the outputs relate to specific access rights instead of the application as a whole, this will be highlighted in the relevant section.

The majority of the Rights sought pass at least one of the locations listed by ORR in its 24 April 2024 letter to industry. These are as follows: -

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1. East Coast Main Line (ECML) – [REDACTED]
2. West Coast Main Line (WCML) South – [REDACTED]
3. Derby to Sheffield – [REDACTED]
4. Sheffield area – [REDACTED]
5. Oxford – [REDACTED]

[REDACTED]

Industry Consultation for this application commenced on 24 May 2024, and concluded on 24 June 2024. Due to the redaction of the Schedule 5 Rights Table and Form F for commercial sensitivity, a number of consultees concluded there was insufficient information to properly evaluate the supplemental. Network Rail are therefore unable to provide further comment or assessment regarding Industry Consultation responses until Freightliner have had the opportunity to progress their responses to Industry comments.

East Coast Main Line

Please refer to text earlier in this letter.

West Coast Mainline (WCML) South

Please refer to the Network Rail letter to ORR “Network Rail representations for applications affecting the West Coast Main Line (South)” dated 7 February 2025.

Oxford

We are currently unable to support additional traffic traversing Sandy Lane, Yarnton Lane and Tackley Level Crossings (LX’s) where any increase in risk is not tolerable without mitigation measures in place. Sufficient mitigations need to be developed to address the risk and discussion with third parties is ongoing to assist with these mitigations. Until a mitigation plan is developed and implemented, we are not in a position to support any additional traffic which creates an increase in risk. We expect to be able to review the position in late 2025.

However, in order for us to approve additional access rights across the Oxford LX’s, we would expect to see an equal reduction in access rights held, where those are not used,. For full purposes of clarity, although capacity exists within the WTT given not all access rights are being exercised on a regular basis, should all access rights suddenly be exercised alongside additional rights being granted, this would result in a greater number of services operating across Oxford LX’s than is acceptable.

Capacity

Network Rail has contacted Freightliner to understand whether these aspirations are still required. No response has been received. Annex B lists all the services that Network Rail is not supportive of at this time, which equates to all of the access rights Freightliner is seeking within this application. In addition to this, all 30 services initially provided by Freightliner for assessment were missing mandatory allowances for adjustment and engineering time throughout their journeys. A review of these found that when adding them in, before seeking to resolve conflicts, it would not be possible for the following 4 of the 30 services to meet the operating windows submitted by Freightliner.

[REDACTED]

Performance

As these trains are not yet in the timetable, there is no performance data to assess. Detailed performance assessment has not yet been undertaken due to the large number of non-compliances with the paths meaning they cannot be accommodated in the timetable. However:

- These services would be above the proposed ECML December 2025 timetable, unless ORR decided to direct against the proposed TT, and therefore would increase the risk to performance and likely result in further detriment.
- The services would change the assumption on which the proposed ECML December 2025 Timetable was developed, modelled, and recommended to progression into the development period. They would likely have an impact on the forecast operation and performance of the timetable.
- Due to the cross-route nature of these rights, this would also increase the chances of transporting delay across the network.
- These services are not compliant within multiple timetable bases, and therefore would have a high risk of importing delay into the timetable.

Conclusion

In this representation letter we have confirmed that we do not support the access rights sought in this application. Given that these trains have not been bid into the May 2025 nor December 2025 Working Timetables over any infrastructure, and considering the number of conflicts identified, Network Rail is not supportive of this application at the current time, as we do not believe it is an appropriate use of capacity.

Network Rail considers that this final representation letter contains sufficient information on this application to enable the ORR to make a direction. We do not expect ORR to make a direction in support of these paths for the reasons we have outlined, but should it do so, we want to be clear that further discussion and representation would be needed on network and terminal restrictions.

If operators want to discuss future aspirations beyond December 2025 Timetable, we would be open to discuss these in a future separate application.

Yours sincerely

Robert Neep
Customer Relationships Executive

Annex A - Interacting Locations matrix

Operator/Application/Type	Status of Application	WCM L south	Birmingham	BHM - Derby	Derby- Sheffield	Sheffield	ECML&Leeds	Oxford	Gloucester	Cardiff
Alliance Rail Cardiff - Edinburgh 17	Withdrawn		x	x	x	x	x		x	x
Avanti 3rd SA 22a	Live	x	x							
Avanti 11th SA 22A	Withdrawn	x	x							
Avanti 14th SA 22A	Withdrawn	x	x							
Avanti 17th SA 22a	Live	x	x							
Avanti 18th SA 22a	Live	x								
Caledonian Sleeper 9th SA 17	Live	x	x				x			
Colas 10th SA 22a	Live			x	x	x	x			x
CrossCountry 38th SA 22a	Live		x	x	x	x	x	x	x	x
DBC 72nd SA 22a	Live				x	x	x			
DBC 73rd SA 22a	Live					x	x			
DBC 79th SA 22a	Live			x			x	x		x
DBC 81st SA 22a	Live		x	x	x	x	x	x	x	x
DBC 86th SA 22a	Live					x	x			
DBC 87th SA 22a	Live		x	x	x	x	x		x	x
DBC 88th SA 22a	Live				x	x	x			
DBC 83rd SA 22a	Live	x								
DBC 84th SA 22a	Live							x		
DBC 85th SA 22a	Live									
DBC 91st SA 22a	Withdrawn	x								
DBC 92nd SA 22a	Live									x
DCR 2nd SA 22a	Live	x	x	x	x		x	x		
DRS 17th SA 22A	Live	x	x	x	x	x	x		x	x
EMR 19th SA 22A	Live						x			
EMR 20th SA 22A	Live				x	x	x			
EMR 21st SA 22A	Live				x	x	x			
FLHH 24th SA 22A	Live	x						x		
FLHH 25th SA 22A	Live	x	x	x	x	x	x	x	x	
FLHH 26th SA 22A	Live				x	x	x			
FLHH 27th SA 22A	Live	x	x	x	x	x	x	x	x	x
FLHH 28th SA 22A	Live	x	x	x	x	x	x	x	x	x
FLIM 21st SA 22A	Live		x	x	x	x	x	x		
FLIM 22nd SA 22A	Live		x	x	x	x	x	x		
FLIM 23rd SA 22A	Live	x	x							
FLIM 24th SA 22A	Live	x	x	x	x	x	x	x		
FLIM 25th SA 22A	Live	x	x	x		x	x	x		x
FLIM 26th SA 22A	Live	x			x	x	x	x		x
GBRf 25th SA 22a	Live	x	x	x	x	x	x	x		

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GBRF 34th SA 22a	Live	x	x	x	x	x	x	x	x	x
GBRF 41st SA 22A	Live							x		
Govia Thames Railway 62nd SA 22A	Live							x		
Govia Thames Railway 63rd SA 22A	Live							x		
Grand Central 24th SA 22A	Directed by ORR							x		
Grand Central 28th SA 22A	Live							x		
GWR 201st SA 22a	Live								x	x
GWR 202nd SA 22a	Live									x
Hull Trains 27th SA 22A	Live					x	x			
Hull Trains 28th SA 22A	Directed by ORR							x		
Hull Trains 29th SA 22A	Live							x		
LIS 2nd SA 22a	Live							x		
LNER 34th SA 22A	Live							x		
LNER 35th SA 22A May '28	Live							x		
LNER 36th SA 22A	Live							x		
LNER 37th SA 22A	Rights were being sought until Dec 2025 so not included in analysis							x		
LNER 38th SA 22A	Live							x		
Lumo 11th SA 22A	Live							x		
Lumo 12th SA 22A	Live							x		
Lumo London-Rochdale New Contract S17	Live	x								
Northern 57th SA 22	Directed by ORR (some of the access rights in this application were withdrawn before direction and added to the Northern 60thSA)					x	x	x		
Northern 59th SA 22a	Live					x	x			
Northern 60th SA 22a	Live					x	x			
Scotrail 49th SA 22a	Withdrawn							x		
Scotrail 50th SA 22a	Live							x		
Scotrail 51st SA 22a	Live							x		
Super Tram 11th SA 22a	Live					x				
TfW 28th SA 22a	Live		x	x					x	x
TfW 31st SA 22a	Live								x	x
TfW 32nd SA 22a	Live									x
TPT 58th SA 22a	Live					x	x			
TPT 62nd SA 22a	Rights were being sought until Dec 2025 so not included in analysis							x		
TPT 63rd SA 22a	Live							x		
TPT 64th SA 22a	Live					x	x			
TPT 65th SA 22a	Live							x		
Varamis 2nd SA 22a	Live	x	x					x		
Virgin New Contract 17	Live	x	x							

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WMT 22nd SA 22A	Live		x	x						
WMT 28th SA 22A	Live		x	x						
WMT 30th SA 22A	Withdrawn		x	x						
WMT 31st SA 22A	Withdrawn		x							
WMT 32nd (29th) SA 22A	Live	x	x	x						
WSMR New Contract 17	Live	x	x	x						

Annex B – Commercially Sensitive – to be redacted



Annex C – Commercially Sensitive – to be redacted

