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Office of the Rail Regulator  
1 Waterhouse Square  
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LONDON  
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Your ref :  
Our ref :

Dear

### **Changes to Access Rights and Moderation of Competition.**

Thank you for the opportunity to respond on this issue. GNER's response is as follows:

We are concerned that the Use It Or Lose It mechanism for rights that have been translated into train paths could be initiated by Network Rail in circumstances where Network Rail was the cause of the path not being used. In the aftermath of Hatfield GNER was unable to use all the paths in the timetable due to Railtrack's failure to maintain the Network. These paths were re-used over a period of time as Railtrack removed speed restrictions.

We support The Regulator's decision that only the SRA can initiate the Permanent mandatory removal of rights.

In terms of moderation of competition we support The Regulators continued policy of not expecting to approve applications for access rights which are primarily extractive.

Should you require any clarification on this issue, please do not hesitate to contact me on 01904 523405.

Adrian Caltieri  
Manager, Planning & Network Development