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Brian Hopkinson
Track Access Executive
Office of Rail Regulation
1 Kemble Street
London
WC2B 4AN

Dear Brian

**Freightliner Group Response to Consultation on NXEC's Track Access Application
(Section 17 Proposed New TAC *and* Proposed 23rd Supplemental Agreement to Existing
TAC)**

Thank you for the opportunity to comment on the above consultation. The following response outlines the comments of Freightliner Group, ["Freightliner"], representing Freightliner Limited ["FL"] and Freightliner Heavy Haul Limited ["FHH"] and is made in parallel with representations made by Freightliner on the 26th March 2008 to the ORR relating to future ECML capacity allocation. For the purposes of consistency, this document also complements previous and subsequent responses to other ECML-associated access applications made under Section 17 and 22 by other TOCs. Additionally, this document represents a joint response to the two above applications, given the identical nature of rights sought.

Before raising specific comments related to NXEC's application in later paragraphs, Freightliner wishes to outline generic ECML capacity requirements in relation to our businesses and freight in general. The Freight RUS, which has full industry support outlines the future capacity requirements of the ECML for rail freight holistically. Whilst these forecasts essentially focus towards 2015, work is in progress to develop longer-term projections by the Rail Freight Group, a forum in which Freightliner is a key contributor. The ORR will be aware that the Government has approved development and extension of port capacity within the South East, including at London Gateway, Felixstowe and Bathside Bay. In addition, the continued reliance on both indigenous and imported coal by the UK's electricity generators will also drive freight capacity demand on the ECML axis.

Freightliner notes the recent submission of both revised and new proposals to amend TACs from a number of operators. We note that this particular Supplemental Agreement is a consequence of the intermediate transition period prior to the establishment of the ECML RUS, in which neither Network Rail nor the ORR, justifiably, would consider such applications. It would be frivolous to revisit all the ECML RUS's conclusions in this response, but we do reiterate some key findings; notably the unconstrained forecast capacity requirement for an additional 15 or more freight paths per day between Peterborough, Doncaster and Leeds by 2014/15.

Freightliner notes that this application would seek to obtain access rights to the Principle Change Date in 2015. As alluded to in previous responses, we have concerns as to how forecast freight growth established within the FRUS can be accommodated with the multitude of requested rights. We request that timetable modelling is undertaken to ensure that this is the case.

In relation to the intermodal market, the period during which the access rights are sought encompasses the anticipated release of significant new port capacity at the aforementioned London Gateway (opening 2010), Felixstowe (additional capacity from 2010) and Bathside Bay (2014?). The release of additional port capacity would intuitively be expected to drive increased freight capacity requirements on the ECML, in line with the Freight RUS. Of special note on the ECML is the need for a forecast of 11 trains a day (by 2025) moving from the port at London Gateway to north-east terminals via the ECML (including the Hertford Loop) (with the possibility of additional traffic generated by the rail connected warehousing to be build adjacent to London Gateway Port). The only other possible route for these trains would be via Stansted and Cambridge (which is longer and therefore disadvantages rail when competing with road) however this route is already extremely busy due to the Stansted Express services. Freightliner requests that the ORR consider the need to leave capacity for these future requirements when considering the applications made.

Specific to the application, we note that rights are sought to serve both Bradford (using existing Leeds services) and Harrogate. We are aware of similar applications from other open-access operators to serve these locations. Freightliner naturally welcomes competition and the benefits bestowed. Notwithstanding this, we would contend that the benefits of maximising the efficiency of path use on the core ECML route, for TOCs and FOCs alike, have to be considered in parallel with the benefits of any inter-TOC competition on these routes. We note (and duly welcome the fact) that the application seeks to serve Bradford by 'extending' existing Leeds' services, thus not requiring an additional path on the 'core' route.

Freightliner welcomes the attempts to develop a much-vaunted standard hour timetable in line with RUS recommendations. In relation to this, we note that NXEC makes reference to capacity analysis undertaken as part of its franchise bid. Specifically, we note that this work has identified capacity *'for the level of service proposed in this contract, together with existing open access and 2 freight trains per hour (between Peterborough and Doncaster).'* Additionally, we believe it necessary to understand the capacity availability and subsequent performance issues at peripheral locations on the route, notably the impact on Immingham generated freight traffic both with the proposed NXEC service provision for Cleethorpes and Grimsby and the interaction with the ECML between Decoy South Junction or Joan Croft Junction and Hambleton South Junction, and the aforementioned need for paths from London to serve London Gateway Port. We would also like to understand whether the increased services to Bradford cause any effect to the capacity of freight services to and from the Settle and Carlisle route at Whitehall Junction.

Freightliner has not been granted access to this capacity analysis work thus far and requests that this work is made available to us. Have Network Rail undertaken verification that this analysis allows sufficient capacity for freight services? Moreover, we note the critical assumption that 'existing open access' [passenger] services can be accommodated. We assume that this statement does not take into account the applications from other operators for additional access rights, Bradford and Harrogate services being prime examples and suggest that further analysis may be needed to do so.

Finally, Freightliner seeks to understand what planning assumptions have been used in NXEC's and subsequent Network Rail analysis in relation to the mooted use of the Lincoln /

Spalding / Doncaster 'Joint' line, which we note is funded (in the ORR's draft conclusions) to be upgraded during CP4. From informal dialogue, it would appear that certain TOCs and other industry bodies with stakes in the ECML regard the use of the above line by all freight as a quick win solution to accommodate passenger growth. Whilst acknowledging that long-term capacity constraints on the ECML will require 'step-change' responses, we have a number of concerns in relation to the proposals, outlined below.

We are not aware that Network Rail has yet given any indication of when within CP4 the "Joint Line" upgrade could be completed, we understand that there are fundamental issues to be finalised (Lincoln High Street level crossing being a prime example) before any necessary capacity and capability upgrades can be initiated. We are also currently unsighted on the proposed line speed, infrastructure quality or quite fundamentally opening hours of the proposed upgraded route. Freightliner is also aware of the operational restrictions e.g. inability to utilise electric traction from London Gateway to Doncaster. Very significantly the "Joint Line" route is 20 miles further than the direct route which will add to fuel costs, track access costs, driver costs, wear and tear to locomotives and wagons, all of which deflect rail competition with road. Currently we do not know what the effect on journey time would be of use of this route and this could add further disadvantages versus road and result in worse utilisation of rolling stock. We would wish to discuss these concerns further with relevant parties before any scheme is finalised. Any approval of rights sought within these applications has to be on a non-prejudicial basis to the future perceived use of the 'Joint' line.

Should you require any further elaboration on the points raised above, then please do not hesitate to contact me.

Yours sincerely,

Andrew Wijeyewardena
Track Access Manager
Freightliner Group Limited