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Dear stakeholder,

Office of Rail and Road periodic review of HS1 Ltd 2019 (PR19)

ORR and DfT have received the enclosed letter from Eurostar International Ltd (“Eurostar”) regarding the periodic reviews of route and station funding for the period review 2020-25 (Control Period 3 or “CP3”).

In relation to route funding, in January 2018 we published *ORR’s approach to PR19*, the periodic review process document for the Periodic Review of HS1 2019 (“PR19”). We concurrently notified HS1 Ltd (“HS1”) of the initiation of the periodic review process set out in Schedule 10 of the Concession Agreement. The document we published set out the key milestones of the proposed timetable for the periodic review. These are reproduced in the annex to this letter.

Eurostar has requested a two month suspension of the process, delaying the Five Year Asset Management Strategy (5YAMS) consultation stage so that it starts at the beginning of May 2019, rather than the end of February 2019. Eurostar makes this request due to the current circumstances around the UK leaving the EU, as explained further in its letter. I am therefore writing to explain how the ORR is considering how to respond to this request and seek your views before finalising a course of action.

The Concession Agreement provides for the process to be varied. However, the Concession Agreement was amended in December 2017 to ensure a process that was fit for purpose for PR19. That process deliberately set out how many weeks before the control period particular stages should occur. The change was intended to ensure timescales for all parties to engage sufficiently.

At this very late stage it would not have been possible to delay the publication of the draft 5YAMS and the start of the formal public consultation. This would have required a change to the Concession Agreement process which would not have been possible in the timescales. Although not stated expressly in its letter, our understanding is that Eurostar is not seeking to delay the start of the next control period, as this could have significant ramifications on all parties and ultimately disrupt passengers and freight users. In this

context we have carefully considered whether there is scope to allow more time for Eurostar to engage in the process.

In thinking through Eurostar's request, the 5YAMS consultation period could be extended and the final submission to ORR by HS1 delayed by two months until 31 July 2019 to allow Eurostar more time. In isolation, this would then mean that ORR would have two months (August and September) to complete its analysis and take decisions on the annuity charge, which needs to be set out in the Draft Determination. Having reviewed existing workplans and considered what additional resource could be made available we do not consider that this is feasible without varying the latter stages of the process. Specifically, delaying the date of the Draft Determination which would then have a knock on effect on subsequent stages, i.e. public consultation, Final Determination, finalisation of the 5YAMS and ultimately HS1's preparations for starting CP3. For this to happen the process would need to be varied, requiring the agreement of DfT and HS1. This is an option but the three parties (ORR, HS1 and DfT) would need to agree the revised dates and agree what form of public consultation may be appropriate.

An alternative course of action could be to insert an additional step into the current process and allow Eurostar to make representations on the 5YAMS at a later stage than currently planned (to both ORR and HS1), for example in mid-June 2019. ORR would then allow HS1 a short period to comment on Eurostar's submission and it would consider these representations as it finalises the Draft Determination. We do not think this requires a formal variation to the existing process although it would disrupt existing workplans.

However, if ORR decides to continue as set out in its Approach Document leading up to the Draft Determination, to the extent that Eurostar considers that it is unable to properly engage in the draft 5YAMS, it has a further opportunity to provide views as part of the public consultation on the PR19 Draft Determination (commencing on 30 September 2019).

We are seeking stakeholder views before finalising how to proceed. Please inform us of your views as soon as you are able to, and by no later than Wednesday 13 March. Once a way forward has been determined the ORR will publish all correspondence on its website.

In the meantime, all stakeholders should continue to operate on the basis of the current PR19 timetable.

Yours sincerely



Graham Richards

Annex

Activity	Concession Agreement requirement	Date
Consultation and development stage		
ORR publishes its initial PR19 consultation	This must occur at least 30 months prior to the end of CP2.	28 September 2017
Consultation period on ORR's first consultation document closes.		10 November 2017
ORR issues its Periodic Review Process Document, thus notifying HS1 Ltd and stakeholders of the process it intends to adopt for the conduct of the next Periodic Review.	This must occur at least 26 months prior to the end of CP2.	30 January 2018
HS1 Ltd prepares its plans in conjunction with its customers and stakeholders		Throughout 2018
Five Year Asset Management Statement (5YAMS) Consideration Stage		
HS1 Ltd submits draft 5YAMS to ORR and commences formal public consultation.	This must occur at least 13 months prior to the end of CP2.	By 28 February 2019
HS1 Ltd shall produce and submit to ORR the Final 5YAMS.	This must occur at least 10 months prior to the end of CP2.	By 31 May 2019
ORR scrutinises the finalised plans		May – Sept 2019
ORR to issue Draft Determination and commence public consultation.	This must occur at least 6 months prior to the end of CP2.	By 30 September 2019
Final date for HS1 Ltd to revise the Final 5YAMS including making changes needed to address deficiencies identified by ORR, submit additional information or revise existing information.	This must occur at least 4 months prior to the end of CP2.	By 30 November 2019

ORR to issue Final Determination.	This must occur at least 60 business days prior to the end of CP2.	By 7 January 2020
Implementation Stage		
HS1 Ltd submits revised Final 5YAMS in line with ORR Final Determination.	This must occur within 20 business days of ORR's Final Determination.	Latest 4 February 2020
Implementation of PR19 determination and start of CP3.		1 April 2020