



CROSSRAIL INFORMATION PAPER

H3 – CROSSRAIL ACCESS OPTION

This paper explains how it is intended that access rights for running Crossrail services are obtained.

It will be of particular relevance to those interested in the operational aspects of Crossrail.

This is not intended to replace or alter the text of the paper itself and it is important that you read the paper in order to have a full understanding of the subject. If you have any queries about this paper, please contact either your regular Petition Negotiator at CLRL or the Crossrail helpdesk, who will be able to direct your query to the relevant person at CLRL. The helpdesk can be reached at:

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1. Introduction

- 1.1 This paper explains how it is intended that access rights for running Crossrail services are obtained.
- 1.2 The intention is to seek Access Options for the planned Crossrail services on the existing Network Rail network, in the central tunnel, and on the Heathrow network owned by BAA. This paper concentrates on the Network Rail network as this is a key interest of a number of petitioners.
- 1.3 The Access Option has been negotiated and agreed with Network Rail and was submitted in July 2007 to the Office of Rail Regulation (ORR) for its consideration. ORR undertook a public consultation and is holding a hearing on 1 February 2008 involving those who responded. The Access Option, application form and associated documents, as well as the consultation responses, are available on the ORR's website:

<http://www.rail-reg.gov.uk/server/show/ConWebDoc.5612>

The timing of the decision is a matter for the ORR, but the expectation is that this will be in time to inform the hearing of any railway petitioners by the Lords Select Committee.

- 1.4 The access rights being sought in the Access Option are for a specified Crossrail service¹ (numbers of trains, peak service, destinations, etc.), which can be accommodated on the Great Eastern and Great Western Main Lines, as enhanced as part of the Crossrail project, having taken careful account of the interests of other users. It is this specific service that is being validated by work undertaken by Network Rail and Cross London Rail Links (CLRL) and scrutinised by the Crossrail Timetabling Reference Group.

2. What is an Access Option?

- 2.1 Train operators need permission to access the Network Rail network for the purpose of running trains, and the term 'access rights' refers to the rights granted for such access.
- 2.2 Under the Railways Act 1993 (amended) regime, an Access Option is typically used to provide certainty over future access rights which are contingent on the completion of specified infrastructure enhancements. Approval by the ORR is required before an Access Option becomes effective. Once approved, an Access Option reserves

¹ For the context of this paper 'Crossrail' will be a train operating company with characteristics analogous to any other train operating company (TOC) operating franchised passenger services. No assumptions are made about the duration of a franchise or who would let it.

capacity so that it is not allocated to other applicants and also safeguards the service quality level.

- 2.3 The Access Option for Crossrail that is currently being considered by the ORR is a statement of the track access and associated rights relating to a future period over Network Rail's infrastructure for Crossrail. The Access Option has been drawn up in negotiation between the Promoter and Network Rail. Formal consultation on the Access Option is a matter for the ORR under its usual processes.
- 2.4 The Access Option is based on conventional use of Section 17/18 of the Railways Act 1993 (to which the ORR would apply its existing Section 4 duties) and in accordance with the provision on the duration of framework agreements contained in Article 17.5 of Directive 2001/14/EC (and as implemented in Great Britain by regulation 20 of The Railways Infrastructure (Access Management) Regulations 2005). Directive 2007/58/EC has also been borne in mind.
- 2.5 The Access Option is between Network Rail and the Secretary of State for Transport, though it may be devolved in line with the devolution provisions in the Bill. In due course the Access Option will form the basis of Access Agreements, which will convert the Access Option rights into the rights needed by the Crossrail Train Operating Company (CTOC) to start running the services. The Access Agreement will be at a greater level of detail for Crossrail services over the network.

3. Access Option versus use of Bill Powers

- 3.1 Whether by means of an Access Option or by use of Bill powers, it is essential that stakeholders committing to Crossrail can be sure that the service levels currently envisaged will be operable by CTOC from the start of full operation to all destinations (which will not be before 2017) for an extended period of time and that other rights have not been / will not be granted in the interim period that would compromise this. An investment of the scale of Crossrail cannot take place without such assurance.
- 3.2 Approval of an Access Option, providing this is in time for the remaining stages of the Bill in the House of Lords, would enable the Secretary of State for Transport to seek to reduce the railway related powers in the Crossrail Bill. For example, there would be no need to utilise the powers in the Bill to direct Network Rail to enter into access agreements, or to activate duties of the ORR in respect of such access agreements. Further information on this is available in the Supporting Information Paper to the application for the Access Option on the ORR's website:
<http://www.rail-reg.gov.uk/upload/pdf/s18-xrail-supinf.pdf>
- 3.3 The Promoter's intention is that, should the Access Option be approved, any additional access rights beyond those specified in the Access Option would be subject to approval by the ORR under the usual industry processes, and not under Bill powers.

4. Changes to the Access Option

- 4.1 The Access Option, if approved, would be relied upon to ensure that, through the normal regulatory process, any applications for access rights that conflict with the planned operational Crossrail service are not granted from that date. However, since there may be conflicting access rights already in existence at that date, including perhaps some sought / approved between now and then, it needs to be assumed for the present that reserve powers will need to be retained in the Bill to alter compulsorily (with compensation) those conflicting access rights.
- 4.2 The exact nature of the Crossrail infrastructure may be altered as a result of scheme development, changes brought about through the Bill process, or decisions by the Secretary of State. Therefore, at this stage of scheme development, the specified infrastructure should be regarded as illustrative and not binding on any party. However, the Access Option contains specific conditions precedent in relation to infrastructure provision. Given that not all design work will have been completed at the time the ORR makes a decision on the Access Option, these conditions provide flexibility for the Secretary of State to vary the infrastructure provision to something of equivalent performance overall.
- 4.3 The ORR has been developing a general policy to extend to access options a Use It Or Lose It (UIOLI) mechanism for the surrender of unused access rights. The Crossrail Access Option contains a UIOLI mechanism in anticipation of this. The ORR also intends introducing a compulsory buyback mechanism for long duration access options and agreements. Once more detail is available on compulsory buyback proposals, the necessary text will be drafted and added to the Access Option.

5. What the Access Option does not cover

- 5.1 The Access Option does not (and cannot) include the allocation of capacity rights to non-Crossrail services. All such allocation will be subject to the usual industry processes, which will need to include consultation with CLRL as proxy for CTOC. In response to such consultation, CLRL will provide an assessment so that Network Rail and the ORR are aware of the potential impact on rights for Crossrail contained in the Access Option (and, where appropriate, provide a wider picture of the impact on all affected access rights, including those of other operators).
- 5.2 Additionally, the Access Option does not address services running during the construction period of Crossrail, nor any interim arrangements for operating existing services prior to the phasing in of Crossrail services. Opening is likely to be phased, with operations on some sections of the Crossrail network commencing before others. To ensure a smooth transition it will be desirable for CTOC to take over some existing passenger services before they are replaced by the Crossrail service. These transitional arrangements will have consequences for access rights, which will be identified when more detail is available.

5.3 Any change to Crossrail service levels, or to individual services, sought after approval of the Access Option will be subject to normal industry processes regulated by the ORR.

6. Other work supporting the Access Option

6.1 The Timetable Reference Group assists CLRL and Network Rail in undertaking computer modelling and other work to check the feasibility of operating the proposed Crossrail service alongside existing levels regional passenger service and freight services, looking also at future growth. This material, considered by the Timetabling Reference Group, is assisting the ORR in evaluating the application for approval to the Access Option.

7. Rights of Access Option Holders

7.1 The ORR intends to amend the Network Code to provide suitable protection for access option holders. It will be important for Crossrail purposes that holders of access options have equivalent “blocking rights” to Train Operators with access agreements (as bestowed by parts F and G of the Network Code), in order to prevent any vehicle change or network change that would prevent the CTOC operating the Crossrail services in accordance with the access rights reserved under the Crossrail Access Option.