

IN THE MATTER OF PART D OF THE NETWORK CODE

AND IN THE MATTER OF THE ACCESS DISPUTE RESOLUTION RULES

AND IN THE MATTER OF TIMETABLING DISPUTES: TTP: 1064; 1065; 1066; 1069; 1070; 1071; 1073

BETWEEN:

**(1) ABELLIO SCOTRAIL LIMITED ("ASR")
(2) DB CARGO (UK) LIMITED ("DBC")
(3) FIRST GREATER WESTERN LIMITED ("GWR")
(4) XC TRAINS LIMITED ("XCT")
(5) GB RAILFREIGHT LIMITED ("GBRf")
(6) EAST COAST MAIN LINE COMPANY LIMITED ("VTEC")**

Claimants

v

NETWORK RAIL INFRASTRUCTURE LIMITED ("NR")

Defendant

**APPENDIX NR6 TO NR'S RESPONSE TO
THE 3rd GBRf SRD**

Introduction

1. This appendix gives the detail of NR's consultation with GBRf and other Network Participants over the issue GBRf introduces at paragraphs 5.7, the proposal to the Route opening hours on line GW915.
2. The material dates and actions of the chronology of this proposal are:

Pre D64

3. On 16 January 2010: Local instruction recorded in the National Electronic Sectional Appendix that says that the crossing must only be used between 09.30 and 15.00 Monday to Friday during daylight hours.
4. On 15 October 2015 the ORR issued Determination TTP807/808 which rejected the link between TPR changes and Network Changes.
5. 26th August 2016: NR received an email from the Train Running Controller alerting Capacity Planning that the crossing can only be used between 09.30 and 15.00 during daylight hours.

D-64 (16/09/16) to D-60 (14/10/16): NR shall consult with timetable participants in respect of any proposed changes to the rules

D-59 (21/10/16) – NR shall provide to all timetable participants a draft of the revised rules

6. On 21 October 2016 NR published the Western Train Planning Rules Version 1 which contained proposed new amendment to GW915 Opening Hours (Item 4 Page 64).

D-59 to D-54 (25/11/16) NR shall consult with timetable participants; timetable participants may make representations in respect of any changes they propose or objections they may have to the draft rules

7. 20 November 2016: GBRf's response to Version 1.0. GBRf's objection was that the associated Network Change had not been established, despite this reasoning having been expressly rejected by the ORR in October 2015. GBRf did not address NR's technical reasons relating to safety and signalling, as NR had not consulted with this detail at this stage.

D-54 to D-44 (25/11/2016 to 03/02/2017) NR shall consider representations and objections

8. On 17 January and 3 February 2017: NR emailed GBRf informing them NR would be taking the values forward, as the proposed opening hours were already within the National Electronic Sectional Appendix – they were simply entering into the Rules to reflect this detail for safer referencing.

Post D-44 (after 3/02/2017) NR shall issue the final revised rules (v2)

9. On 3 February 2017 NR published Version 2.0 of the Western TPR, confirming the amendment to the GW 915 Opening Hours.
10. On 23 February 2017 GBRf responded to Version 2, with the same comment as the Version 1 response.
11. 28 March 2017: Ronnie Gallagher, Wales Route Senior Level Crossing Manager emailed NR planning, stating that the instruction is lifted directly from the ORR approved level crossing orders. These timings were specified by the ORR and were designed to reduce the likelihood of a conflict between trains and peak periods of level crossing use around school times.

The NESA operational instructions are lifted directly from the ORR approved level crossing orders. This is a legal document mandating the permitted hours of train operations on this line of route. These timings were specified by the ORR and were designed to reduce the likelihood of a conflict between trains and peak periods of level crossing use around school times.

In a nutshell, it is an offence to operate trains outside of the specified hours

12. On 3 April 2017 – NR received Level Crossing Orders from the Wales Route showing the instruction from the ORR that the level crossings

“shall normally only be used by trains between 0930 and 1500 hours Monday to Friday.”