

**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**

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**APPENDIX NR2 TO NR'S RESPONSE TO  
THE 1<sup>st</sup> GBRf SRD**

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**Introduction**

1. This appendix gives the detail of NR's consultation with GBRf and other Network Participants over the issue GBRf introduces at paragraphs 5.9 to 5.23, NR's alleged failure to implement an agreement relating to Network Services Trains.
2. The material dates and actions of the chronology of this proposal are:

**Prior to Consultation Obligations in Part D**

3. 19 April 2016: Determination TTP625/685/733/872.

**D64 to D60 – 16/9/16 to 14/10/16 Consultation Period**

4. 30 September 2016: NR sent Version 0 2018 National Timetable Planning Rules consultation document to industry contacts, containing items which NR were intending to propose in Version 1 2018 National Rules. This contained 42 proposed amendments to the Network Measurement Trains table, which was additional 'Specific Recording Sections' and 'Required Platform Recording' information as part of complying with the agreement recorded in Section 4.4 of TTP625/685/733/872 Determination. The introduction to Version 0 noted:

*'There is an ongoing process to improve the quality, readability and presentation of the Rules which is continued in this version... A formal response to this document is not*

*required, but if you have any feedback in relation to the rules please do not hesitate to contact me [Katherine McManus] by 14th October 2016.'*

5. NR received 3 TOC responses on 3rd October 2016. Only one (XCTL) mentioned amendments to Network Services items and it noted that they were content with the changes if they reflect what is planned to actually operate.

#### **D59 – Publish 'Draft Rules' (Version 1) 21/10/2016**

6. 21 October 2016: NR published the National Timetable Planning Rules Version 1 containing the 42 amendments to Network Measurement Trains items, and with a note that *'the list only reflects what services operate today'* (at the bottom of item 3 page 1, and top of page 2). The purpose of the commentary letter was to provide a summary of the changes that NR had made since the last version of the TPRs.

#### **D59 to D54 - Operator Responses to Draft Rules (Version 1) 21/10/16 to 25 /11/16**

7. 20 November 2016: GBRf responded to NR's Version 1 Proposal. This response stated, *'We note that the list in version 1.0 shows no dates of operation (other than for Network Seasonal/Railhead Treatment Trains), has no deletions and only additions. Additionally the review process outlined above appears not to have taken place. We expect that a full review will be undertaken before version 2.0 is published, and that that version will include dates of operation and removal of those services that do not justify inclusion in the Working Timetable.'* [Annex / p.109-132]
8. On 25 November 2016 DBC responded to NR Version 1 Proposal. This contained almost identical wording to the above GBRf response item, but noted *'Version 2.0 2017 should include the mandated dates of operation, and services that do not justify inclusion in the Working Timetable should be removed.'* [(Annex / p.58-107]

#### **D54 to D44 – NR to review Operator Responses 25/11/16 to 03/02/17**

9. 18 January 2017: NR separately emailed GBRf and DBC to confirm NR were working to review and add more information to the services listed in Section 3 of the National TPRs and removing unnecessary train runs. NR did ask if there were any specific concerns that GBRf or DBC would like to be addressed [Annex / p.133 and Annex / p.271-279]. The Response received from GBRf on 18th January 2017 was *"Thanks – we look forward to Version 2.0."* [Annex / p.134].
10. No response was received from DBC.

#### **D44 – Publish Final Rules (Version 2) 03/02/17**

11. On 3 February 2017 NR published the National Timetable Planning Rules Version 2 and commentary letter.

12. In response to the responses received from GBRf and DBC, NR included the running frequency for the 93 services which did not display that information beforehand. It also included an amendment to the 'Specific Recording Sections' and 'Required Platform Recording' for one service which did not display it at Version 1. This is for all services listed from page 35 to page 110 in V2 2018 National TPRs. The specific amendment is for 1Z23DA listed on page 110.

#### **Post D44 End of Appeal Period and Version 2 response period**

13. 20 February 2017: DBC responded to Version 2, writing, *'Noted that details of running frequency for Network Measurement Trains have been included, and that a full review of all trains listed in Section 3 is 'ongoing' NR is asked to provide timescales indicating when this review will be completed, and when the other requirements of ADC TTP625/872 will be satisfied.'* [**Annex / p.137-182**].
14. 23 February 2017: GBRf responded to Version 2, writing, *'Noted that the frequency of operation has been added to the list of trains, but we are still outstanding an indication of the actual dates of running and the review process outlined above has still not taken place.'* [**Annex / p.184-205**]. GBRf also served its Notice of Dispute.
15. 21 March 2017: Katherine McManus at NR spoke with both GBRf and DBC to identify what additional information they would require to enable them to withdraw this element of their response/dispute. Both suggested that having the information about actual dates of operation by COP 22 March 2017 would be sufficient to enable this.
16. 22 March 2017: Katherine McManus at NR emailed DBC containing an amended list of network measurement trains which included start dates of the cyclical programmes the trains run to. This was enough to enable DBC not to include this item in their dispute paperwork [**Annex / p.206**]. Katherine McManus also emailed this list to Mr Bird of GBRf but subsequently discovered that this had been sent to an old email address as further explained below.
17. 22 March 2017: GBRf served the SRD in this dispute which included their complaints about Network Services.
18. 23 March 2017: Katherine McManus at NR emailed GBRf to query the inclusion of the Network Services item as she thought that her email of the previous evening would be sufficient to remove this concern. Ms McManus had accidentally sent the email to an old email address for Mr Bird, so GBRf did not receive it in time. Ms McManus re-sent the email on 23 March 2017 [**Annex / p.276**], but though GBRf conceded this is a *'huge step forwards'* they maintained that as the SRD had already been submitted, *"it will have to stand"* as GBRf felt a determination *"would be useful"* [**Annex / p.276**].