

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; 1071; 1073; 1075

BETWEEN:

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

Claimants

v

NETWORK RAIL INFRASTRUCTURE LIMITED ("NR")

Defendant

NR's RESPONSE TO HEADS A AND B ISSUES

APPENDIX 3:

**NR'S RESPONSE TO THE SUBSTANTIVE PARTS OF
ISSUE 2 OF DBC'S SRD**

Introduction

1. This document should be read in conjunction with NR's Response to Heads A and B Issues dated 12 April 2017 (the "*Response*").
2. Abbreviations as used in the DBC's SRD are adopted in this Response. References to Paragraphs are to Paragraphs in DBC's SRD.
3. DBC sets out two issues in its SRD. The first issue relates to matters around Stratford; the second issue relates to changes to the headways proposed in the Revision for GW103 (as defined at paragraph 4.3 (b) of DBC's SRD). In accordance with the direction letters dated 31 March 2017, 4 April 2017 and 5 April 2017, this response relates to "*Issue 2*" only.

Overview of NR's Response To DBC's SRD

4. NR denies that DBC is entitled to the relief it seeks in relation to Issue 2, or to any relief, for the reasons set out in this response to DBC's SRD and the Response.
5. For the avoidance of doubt, DBC does not raise any issue in relation to consultation or the application of the Decision Criteria in either Issue 1 or Issue 2. It is therefore wrong to say

that the dispute with DBC is one which relates to “*Common issues of principle*”, at least insofar as such issues relate to allegations of insufficient consultation. It is in fact (as far as Issue 2 is concerned) simply a matter of revision to the planned headways and is therefore entirely separate to any other issue.

6. In light of this, there is no need for NR to consider any issue which is beyond the scope of Issue 2 and the TTP has no jurisdiction to consider any matters beyond Issue 2 in determining this dispute with DBC. However, for the avoidance of doubt on the issue of consultation, NR did properly consult with DBC but DBC chose not to attend the relevant TRIP forums (despite being invited) and also failed to respond to a request made by NR specifically of DBC in relation to its alleged concerns: see the reference to NR’s email of 17 January 2017 as set out below.

Response To Section 4 Of DBC’s SRD

7. The nature of the dispute in Section 4.3 (b) of DBC’s SRD is noted. It is accepted that this is a timetable dispute, but for the reasons set out below and in the Response, it is denied that DBC is entitled to the relief sought or any relief.

Response To Section 5 Of DBC’s SRD (Issue 2)

8. As set out above, in accordance with the directions provided by the Timetable Panel, this is a response to section 5.2 only of DBC’s SRD.
9. To set the dispute into context, the headway values in issue were the subject of consultation and discussion at the TPR forums on 22 August 2016, 12 September 2016, 21 September 2016, 3 October 2016 and 23 January 2017. Despite being invited to each forum (other than the forum on 21 September 2016), DBC failed to attend any of these forums. On 21 October 2016 version 1 of the rules was produced and on 25 November 2016 DBC responded simply saying that it could not agree to the version. Despite DBC’s letter being 48 pages in length, the only part which related to Issue 2 stated as follows:

“Noted from the Commentary that changes have been proposed to the headway values throughout this route section. At the moment it is not possible for these values to be agreed by DB Cargo.”

The results of an impact assessment dealing with the current timetable are awaited, but it is also essential that any agreed revised headway values do not jeopardize the delivery of the 2019 Crossrail timetable. It is also believed that some of the proposed values require further granularity to reflect the actual operation of the railway at specific points of the network. It is of paramount importance that track capacity is optimised to ensure maximum usage of scarce capacity.”

10. Despite a request by NR in its email of 17 January 2017 (**Annex / Tab 3 / DB Cargo / 883-884**) as to the reasons behind DBC’s refusal, no reasons have been provided. It

should be noted that NR did not simply submit version 2 without any consideration of comments which were made on version 1; rather, NR implemented some changes between version 1 and version 2, in line with comments made by certain TOCs and FOCs.

11. Some ten operators use the particular section of line in question (GW103): DBC; First Greater Western Ltd; GB Railfreight Ltd; XC Trains Ltd; Freightliner Ltd; Chiltern Railway Company Ltd; MTRR Corporation (Crossrail) Ltd; Heathrow Express Operating Company Ltd; Colas Rail Ltd; and West Coast Railway Company Limited (Charter Services). The headways proposed in the Revision for GW103 by DBC impact upon all of the aforementioned users of the line. Aside from DBC, only four other users of the line have raised disputes in relation to the headway changes. The other operators have therefore accepted the proposals.
12. As to the analysis conducted by NR to arrive at the proposed headway values across GW103, the TRIP team used the VISION system of modelling. TRIP uses three different systems of modelling: ODA; TIP; and VISION. VISION was used to determine the revised headway values across GW103 by inputting data relating to signalling reset times and rolling stock usage of the line. VISION automatically produces headway data, which then allows NR to identify areas where recommendations can be made to better represent the running of the GW103 infrastructure.
13. VISION allowed NR to automatically produce Signalling Performance Assessment ("SPA") reports for the necessary sections of GW103. The information contained in each of the relevant SPA reports was then used by NR to develop Recommendation reports, which set out the corresponding proposed changes to the headway values. Each recommendation within a Recommendation reports cross-refers to the relevant page of the corresponding SPA report, and therefore sets out the data upon which each recommendation is based.
14. By way of example, one of the Recommendation reports relevant to this issue and GW103, is entitled "*Paddington to Reading & Reading to Didcot Parkway Non-Stop Headways*", dated September 2016 (**Annex / Tab 3 / DB Cargo / 887-938**). The recommendations contained within this document relate back to, and are supported by, the data contained in supporting SPA reports which are numbered 323, 419 and 456 (**Annex / Tab 3 / DB Cargo / 939-998, Annex / Tab 3 / DB Cargo / 999-1107 and Annex / Tab 3 / DB Cargo / 1108-1284** respectively). For instance, page 5 of the Recommendation report indicates that recommendations 1a – 1c are supported by the information on pages 15, 43, 47, 51, 55, 59, 63 and 67 of SPA report 323. These documents were discussed at the TTP forum on 3 October 2016.
15. Additionally, the following Recommendation reports, and supporting SPA reports, were used by NR with reference to the changes proposed in relation to GW103:

"Paddington Station proposals" (Recommendation report), dated 16 August 2016 plus *"TRIP Reading station recommendations"* (Recommendation report), dated 17 August 2016, using

SPA reports 448 and 449. Such recommendations were discussed at the TTP forum on 22 August 2016; and

"TRIP Didcot to Basingstoke SPA REPORT" (Recommendation report), dated 5 September 2016, plus *"TRIP SPA REPORT – Paddington to Reading Stopping Headways"* (Recommendation report), dated 5 September 2016, using SPA reports 450 & 456. Such recommendations were discussed at the TTP forum on 12 September 2016 and at a *"freight"* forum on 21 September 2016.

16. Each Recommendation report and supporting SPA report was forwarded to each TTP ahead of the forums in which the documents were to be discussed. The agenda for each forum meeting was formed from each recommendation in the relevant Recommendation report. Due to the size of these documents, they have not all been annexed to this Appendix, but can be supplied if required.
17. Each TTP was therefore consulted on the modelling behind each recommendation, through the referencing system used in each of the Recommendation reports. The proposed headway values are a reflection of the technical capabilities of the rail network, as set out through the VISION modelling tool.
18. It is noted that DBC rightly accepts that revisions to the planning headway values are necessary. DBC asserts that NR's Paddington to Reading & Reading to Didcot Parkway Non-Stop Headways show that technical headways are only applicable at certain points in the route, indicated by *"spikes"*; however, the technical headway values are calculated over the entire route, based on the capabilities of the network and the rolling stock. The output of that calculation is set out in the documentation referred to above. It is not the case that the *"spike"* represents, or necessarily dictates, the technical headway for the whole section.
19. In its SRD, DBC refers to a graph entitled *"Down Relief Line – Heathrow Airport Junction – Twyford"*, but instead exhibits to its SRD a graph entitled *"UP Relief Line – Twyford to Heathrow Junction"*. Seemingly with reference to the *"Up Relief"* document (**Annex / Tab 3 / DB Cargo / 1285**), DBC maintains that since Class 4 freight services exceed the existing planning headway of three minutes in the Maidenhead area but nowhere else (this being a *"spike"*), NR has proposed to increase the headways following such services to three and a half minutes over the whole route section. This is incorrect. With reference to the *"Up Relief"* graph, the *"spike"* in the Maidenhead area is isolated and does not exceed eight seconds above the three minute headway value. NR takes a practical view of such *"spikes"* in headway values, and considers that *"spikes"* such as this are capable of being absorbed throughout the rest of the track section, particularly given the rounding with SRTs. Therefore it is correct to maintain the three minute headway value across this section of track.
20. With regard to the *"Down Relief Line – Heathrow Airport Junction – Twyford"* graph (**Annex / Tab 3 / DB Cargo / 1286**), NR has proposed a three and a half minute headway value.

Due to the signalling capabilities on this section of track, the technical margins are different to that on the "Up Relief" Line service. The "Down Relief" graph shows increases in reset times across multiple signal sections, and it is the presence of such multiple increases (this not being the case with the "Up Relief" Line) which determined the decision to increase the overall headway value to three and a half minutes. Had the headway increases been isolated (at only one signal), NR would have been able to apply the same logic as with the "Up Relief", but it considers that the multiple increases cannot be absorbed across the track section.

21. DBC's suggestion that a better way to deal with the situation would be to specify particular separations on certain stretches of the line is not relevant if, as is the case, the headways proposed along the entire route are appropriate. Given however that the headways on the entire route are appropriate the question of specific separations at specific times falls away.
22. DBC's concern about the potential loss of capacity for Class 7 freight trains is simply supposition and is not supported by NR's modelling. Further, NR is confident that DBC's Class 7 services can be accommodated within the timetable in any event.
23. It is correct that NR carried out an impact assessment which was distributed to operators on 23 January 2017 which showed a reduction in the ability to accommodate all existing freight services. However, that assessment did not relate to the current timetable and since there has also been the introduction of new rolling stock and re-timed trains, this means that the assessment relied on by DBC is no longer accurate. Further, the overall aim is to obtain accurate SRTs and headways so that an effective and efficient timetable can be operated. That is what NR seeks to achieve with the Revision.
24. DBC makes one final point about the potential impact of changes to the timetable in 2019, relating to the addition of Crossrail services onto the Relief Lines between Paddington and Reading. First, this is simply supposition. Second, what may or may not happen in 2019 cannot be used to justify failing to make improvements in 2017. These are not valid reasons for not implementing the changes.
25. Although there is no express criticism of NR's application of the Decision Criteria, NR has properly considered and applied the relevant Considerations in order to achieve the Objective and apply the Decision Criteria set out in Part D paragraph 4.6. In particular Consideration (c)¹ was given a high weighting, Considerations (e)² and (f)³ were given a

¹ Maintaining and improving train performance

² Maintaining and improving an integrated system of transport for passengers and goods.

³ The commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable participant of which Network Rail is aware.

medium weighting, and Considerations (a)⁴, (d)⁵, (g)⁶ and (j)⁷ were given a low weighting. Those Considerations not mentioned were looked at, but were deemed to be not applicable in this case.

26. To the extent that comments on a proposed change to the TPRs are properly presented to NR, for example supported by reasons and evidence, NR carefully considers these. If a TOC provides evidence that what NR proposes is incorrect or is not in line with the Decision Criteria, NR will change it. However, when a TOC simply states that it does not agree, or it inconveniences the specific TOC, NR is less likely to be able to justify any change being made.
27. The new headways for GW103 have only been proposed after proper consultation and analysis. The majority of the operators which use the line are content with the headways proposed and the new headways are in accordance with the Decision Criteria and therefore should remain.

⁴ Maintaining, developing and improving the capability of the Network.

⁵ That journey times are as short as reasonably possible.

⁶ Seeking consistency with any relevant Route Utilisation Strategy.

⁷ Enabling operators of trains to utilise their assets efficiently.