TTP1520 – Freightliner Limited reference documents

TTP1520 brought by Freightliner Ltd in respect of Network Rail's decisions regarding the New Working Timetable Publication for 2020.

Freightliner welcomes the opportunity to present its reference documents to support TTP1520.

1.0 Background

On 21st June 2019 Freightliner Limited ("Freightliner") gave Notice of Dispute with Network Rail Infrastructure Limited ("Network Rail") in relation to December 2019 (Principal 2020) Formal Timetable Offer.

This dispute was brought on the basis that:

1. Network Rail rejected the inclusion of train slots in the December 2019 Working Timetable with the characteristics for which Freightliner Limited has exercised its Firm Rights. Specifically, there some instances where Network Rail has rejected bids for trains at 1600 tons despite Freightliner Limited holding Firm Rights for such Equipment Characteristics. Instead Network Rail has offered paths at reduced timing loads, which do not fulfil Freightliner Limited's business requirements in the December 2019 Working Timetable.
2. Some Train Slots are missing from the Offer;
3. Some Train Slots have been flexed outside the timing windows of the Firm Rights held;
4. Where Network Rail has rejected Train Slots, Network Rail has not demonstrated how it has applied the Decision criteria.

The train slots that were missing from the December 2019 Offer have subsequently been offered by Network Rail and so element 2 of the dispute (above) can be considered withdrawn. Elements 3 and 4 (above) remain outstanding and these issues exist in connection with the principle matter dispute – that being element 1 (above).

2.0 Update on discussions

A meeting was arranged between Network Rail and Freightliner in an attempt to resolve the matters in dispute. This meeting took place in Milton Keynes on 24th July. Possible solutions were identified to provide a 1600 ton timing load for some of the trains in dispute. Those solutions all require varying degrees of flex to be applied to other services. Network Rail stated that it will not now flex any services following the December 2019 timetable offer. Regrettably there was no senior managerial representation from Network Rail at the meeting to influence this decision. Consequently, no additional train slots have been offered at 1600 tons.

As Freightliner has been unable to resolve the remaining dispute matters with Network Rail, the following trains remain in dispute.

List of trains in dispute

Ref	Headcode	Day	Origin	Destination	Timing load - access right
1	4M86EA	MSX	FELIXSTOWE NORTH FLT	LAWLEY STREET FLT	1600t
2	4M93FA	MO	FELIXSTOWE NORTH FLT	LAWLEY STREET FLT	1600t
3	4M93FA	MSX	FELIXSTOWE NORTH FLT	LAWLEY STREET FLT	1600t
4	4S88LB	MO	FELIXSTOWE NORTH FLT	COATBRIDGE FLT	1600t
5	4S88LB	TWThO	FELIXSTOWE NORTH FLT	COATBRIDGE FLT	1600t
6	4S88LB	FO	FELIXSTOWE NORTH FLT	COATBRIDGE FLT	1600t
7	4L90HB	TWThO	CREWE BASFORD HALL	FELIXSTOWE NORTH FLT	1600t
8	4L90HB	FO	CREWE BASFORD HALL	FELIXSTOWE NORTH FLT	1600t

3.0 Overview of Dispute

Freightliner has 8 trains in dispute with Network Rail. In all cases Freightliner has exercised its Firm Rights for a path timed at 1600 tons with a single Class 66 locomotive. In all cases Network Rail has offered a train path at less than 1600 tons.

Freightliner has held access rights at 1600 tons for the duration of the track access contract, with the intention that they would be exercised from the December 2019 Timetable, taking into account:

1. The arrival date of new wagons following significant investment by the business
2. The expected delivery of the Southampton Train Lengthening project, and
3. The expected recast of the Great Eastern Mainline timetable.

The recast of the Great Eastern Mainline timetable expected in December 2019 was delayed to May 2020 and now to May 2021, with no assurances that the date will not slip further. The delivery of the Southampton Train Lengthening project has also been delayed due to Network Rail delivery problems in CP5 and it is expected that the infrastructure will be delivered in CP6. Freightliner cannot wait any longer for these programmes to be delivered having made significant investments in assets to operate the services at 1600 tons.

There is a business requirement for Freightliner to operate the train slots above at 1600 ton trailing weight and with Firm Rights there is an expectation that the paths will be offered.

4.0 Request of the Hearing Chair

Freightliner requests the Hearing Chair to:

1. Instruct Network Rail to accommodate all the above paths at 1600 tons in the 2020 Principle Timetable (from December 2019), in line with Freightliner's Firm Access Rights.

5.0 Rationale for rejections and general application of Part D

Freightliner formally challenges each of the rejected slots in detail below, but wishes to make some broader points around the reasons provided for the rejections and application of Part D:

5.1 Rationale for rejections

- No reasons for rejection were provided with the formal December 2019 Timetable Offer, however in all instances Freightliner did receive a 'Notification of intent to reject train slot' ahead of the timetable offer. At the previously referenced meeting on 24th July, Network Rail confirmed that the Intent to Reject should be considered to be the formal rationale for the rejection. Consequently, and without any further formal notification being provided, these 'Notification of intent to reject train slot' letters will be used as the basis of this dispute. These are attached as Appendix A

5.2 Application of Part D

- Network Code Part D4.2.2(b) states "*each New Working Timetable shall be consistent with the Exercised Firm Rights of each Timetable Participant*". Network Code Part D4.2.2(c) instructs that "*in compiling a New Working Timetable, Network Rail is entitled to exercise its Flexing Right*". Where these principles have been "*applied but Network Rail is unable to include all requested Train Slots in the New Working Timetable*" then the priority criteria in D4.2.2 (d) apply. Network Rail to date has not confirmed that it cannot accommodate the train slot, but rather that in many instances the failure to include the path is due to a decision not to apply its flexing right. In most cases the required flex has been identified but it has not been done for a variety of reasons including "*the number of retimings' necessary, disruption to other timetable participants and the probability of additional clashes caused by retiming*". Freightliner does not feel this is sufficient reason to justify rejection of the train slots as bid.
- Network Rail's identification of the relative priority for inclusion of services (under D4.2.2 (d)) has some very significant errors in it. Many trains are identified as having "Firm Rights in force for the Timetable Period", which in reality were not supported by rights at an equal priority level. Therefore the foundation of Network Rail's analysis of clashes and flexing is flawed and based on incorrect assumptions as it assumes that "all schedules involved in the conflict have equal rights".
- In most cases part of Network Rail's reasoning is that the "*benefit of a 1600-ton path must be measured against the longstanding reduction in flexibility resulting from inclusion of a slower path*". This appears to be part of the rationale for not applying flex to other services to accommodate the path. Freightliner is concerned that this implies a decision by the Planner to over-rule an access right that has been sold to Freightliner. Given the significant investments being made by government to increase network capability to allow longer trains and investments by operators in assets to improve network efficiency, such a statement would appear to undermine those investments and is not aligned with broader industry policy.
- Notwithstanding the fact the relative priority of the schedules identified as clashing is wrong in many cases, the application of the Decision Criteria is also fundamentally flawed. The application of the decision criteria appears to be heavily weighted towards passenger services, with little to no reference to any of the benefits an increase in trailing load can bring to the freight service. Freightliner feels this shows a general lack of understanding of the priorities of the rail freight industry and the economics of rail freight from within Network Rail. It appears that this lack of awareness has influenced the outcome of each decision. Furthermore there is an inconsistency in the points selected when applying the Decision Criteria. Freightliner would expect that all the points would be considered

objectively and systematically and where it is not relevant noted as such. Instead a handful of points seem to have been cherrypicked, while disregarding seemingly more relevant points. The specific application of the Decision Criteria against each rejected services is discussed in Section 7.0.

6.0 Detailed analysis of rejections

Ref 1. 4M86EA MSX 03:00 FELIXSTOWE NORTH FLT 10:48 LAWLEY STREET FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

Application of Decision Criteria

Freightliner is concerned with the flaws in the application of the Decision Criteria.

- No mention is made to point (i) of the decision criteria – "miti*gating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[1]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.
- Point (c) in the Decision Criteria, "*maintaining and improving train services performance*" is viewed as weighing against uplifting 4M86 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Freightliner is unclear why (e) "*maintaining and improving an integrated system of transport for passengers and goods*" also weighs negatively to uplift the tonnage of 4M86. There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely it would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- It is unclear why point (a) – "*maintaining, developing and improving the capability of the Network*" is deemed to "apply strongly against including 4M86". The Strategic Freight Network fund has supported the delivery of enhancement schemes to increase the capacity and capability of the rail network for freight. This has included schemes to enable longer and heavier trains to operate as that is recognised as being an important driver of efficiency. Therefore while (a) in the Decision Criteria is consistently weighted negatively in the decision to reject the 1600 ton freight path, providing paths for trains at the weight enabled following investment in the Strategic Freight Network should be viewed as a positive in respect to network capability. This is particularly relevant given that at no point has Network Rail suggested another train slot would have to be removed.
- No mention of point (j) is made – "*enabling operators of trains to utilise their assets efficiently*". The ability to use assets efficiently is one of the key drivers for freight operators' aspirations to run longer and heavier trains. The ability to transport more freight with the same locomotive and driver helps improve the economics of moving freight by rail and enable operators to compete better with road alternatives. Furthermore, Freightliner is making significant investments in new wagons in standard formations and the

[1] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf

ability operate these at 1600 tons is important for our business case. The fact that (j) is not mentioned shows a lack of appreciation in the fundamental economics of rail freight and we dispute a negative weighting being applied. This should weigh strongly in favour of uplifting the freight path to 1600 tons.

- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions (see for example the Freight Network Study[2]) and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.
- There is a statement from Network Rail that "*It is not clear to me that the amended path would improve the capability of the network with sufficient benefit to outweigh the negatives*". As it appears that most of the positives of operating a heavier path have not been understood, it is not clear how this assessment has been made.
- The commentary from Network Rail states that the "*benefit of a 1600-ton path must be measured against the longstanding reduction in flexibility resulting from inclusion of a slower path*". This appears to be the rationale for not applying flex to other services to accommodate the path. Freightliner is concerned that this implies a decision by the Planner to over-rule an access right that has been sold to Freightliner. Given the significant investments being made by government to increase network capability to allow longer and heavier trains and investments by operators in assets to improve network efficiency, such a statement would appear to undermine those investments and is not aligned with broader industry policy.

Ref 2. 4M93FA MO 14:32 FELIXSTOWE NORTH FLT 21:45 LAWLEY STREET FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

Application of D4.2.2 (d) – Priority criteria

Four West Midlands Train Limited services have been identified as having "Firm Rights in force for the Timetable Period" and conflicting with 4M93. Note that the new West Midlands Trains Limited Track Access Agreement was approved on 9th May 2019[3] and at D-40 did not have rights in place for the December 2019 timetable. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "*all schedules involved in the conflict have equal rights*". This was not the case and Freightliner contends that the decision to reject 4M93 at 1600 tons would likely have been different had the correct base been used.

[2] https://www.networkrail.co.uk/wp-content/uploads/2017/04/Freight-Network-Study-April-2017.pdf
[3] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

- The most significant retiming hinted at in the commentary is 3 minutes. This does not seem to lead to parts (a), (b), (c) and (d) of the Decision Criteria 'weighing heavily' against 4M93.
- No mention is made to point (i) of the decision criteria – "miti*gating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[4]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.
- Point (c) in the Decision Criteria, "*maintaining and improving train services performance*" is viewed as weighing against uplifting 4M93 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Freightliner is unclear why (e) "maintaining and improving an integrated system of transport for passengers and goods" also "*weigh against*" 4M93. There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely it would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- It is unclear why point (a) – "*maintaining, developing and improving the capability of the Networ*k" is deemed to "weigh heavily against 4M93". The Strategic Freight Network fund has supported the delivery of enhancement schemes to increase the capacity and capability of the rail network for freight. This has included schemes to enable longer and heavier trains to operate as that is recognised as being an important driver of efficiency. Therefore while (a) in the Decision Criteria is consistently weighted negatively in the decision to reject the 1600 ton freight path, providing paths for trains at the weight enabled following investment in the Strategic Freight Network should be viewed as a positive in respect to network capability. This is particularly relevant given that at no point has Network Rail suggested another train slot would have to be removed.
- Freightliner strongly disagrees that point (j) (utilising assets efficiently) should weigh against the decision to increase the timing load of 4M93 – conversely it should strongly support doing so. The ability to use assets efficiently is one of the key drivers for freight operators' aspirations to run longer and heavier trains. The ability to transport more freight with the same locomotive and driver helps improve the economics of moving freight by rail and enable operators to compete better with road alternatives. Furthermore, Freightliner is making significant investments in new wagons in standard formations and the ability operate these at 1600 tons is important for our business case. The fact that (j) is seen to weigh against Freightliner shows a lack of appreciation in the fundamental

[4] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf

economics of rail freight and we dispute a negative weighting being applied. Conversely it is unclear why the seemingly minor retimings to passenger services should be deemed a negative for asset utilisation as there is no suggestion that the conflicting trains will not recover the additional time to be able to operate the next service at the planned time.

- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- There is a statement from Network Rail that they "*do not feel the benefit of increase tonnage outweighs the cost*". As it appears that most of the positives of operating a heavier path have been ignored, and no clear analysis of costs, it is not clear how this assessment has been made.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions (see for example the Freight Network Study[5]) and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.

Ref 3. 4M93FA MSX 13:13 FELIXSTOWE NORTH FLT 20:33 LAWLEY STREET FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

Application of D4.2.2 (d) – Priority criteria

Two of the four conflicting trains are services that did not have rights in place at D-40. West Midlands Train Limited services have been identified as having "Firm Rights in force for the Timetable Period" and conflicting with 4M93. Note that the new West Midlands Trains Limited Track Access Agreement was approved on 9th May 2019[6] and at D-40 did not have rights in place for the December 2019 timetable. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "all schedules involved in the conflict have equal rights". This was not the case and Freightliner contends that the decision to reject 4M93 at 1600 tons would likely have been different had the correct base been used.

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

[5] https://www.networkrail.co.uk/wp-content/uploads/2017/04/Freight-Network-Study-April-2017.pdf
[6] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions

- No mention is made to point (i) of the decision criteria – "mitig*ating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[7]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.
- Point (c) in the Decision Criteria, "maintaining and improving train services performance" is viewed as weighing against uplifting 4M93 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Parts (a) and (j) are deemed to support the inclusion of 4M93, however the commentary suggests that the "*benefit of a 1600-ton path must be measured against the longstanding reduction in flexibility resulting from inclusion of a slower path*". This appears to be the rationale for not applying flex to other services to accommodate the path. Freightliner is concerned that this implies a decision by the Planner to over-rule an access right that has been sold to Freightliner. Given the significant investments being made by government to increase network capability to allow longer trains and investments by operators in assets to improve network efficiency, such a statement would appear to undermine those investments and is not aligned with broader industry policy.
- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.

Ref 4 & 5. 4S88LB MO and TWThO 14:46 FELIXSTOWE NORTH FLT 06:40 COATBRIDGE FLT

Application of D4.2.2 (d) – Priority criteria

There is a conflict identified with a West Midlands Train Limited service that is described as having "Firm Rights in force for the Timetable Period". Note that the new West Midlands Trains Limited Track Access Agreement was approved on 9th May 2019[8] and at D-40 did not have rights in place for the December 2019 timetable. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "all schedules involved in the conflict have equal rights". This was not the case and Freightliner contends that

[7] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf
[8] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions

the decision to reject 4S88 at 1600 tons would likely have been different had the correct base been used.

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

- No mention is made to point (i) of the decision criteria – "miti*gating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[9]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.
- Freightliner strongly disagrees that point (j) (utilising assets efficiently) should weigh against the decision to increase the timing load of 4S88 – conversely it should strongly support doing so. The ability to use assets efficiently is one of the key drivers for freight operators' aspirations to run longer and heavier trains. The ability to transport more freight with the same locomotive and driver helps improve the economics of moving freight by rail and enable operators to compete better with road alternatives. Furthermore, Freightliner is making significant investments in new wagons in standard formations and the ability operate these at 1600 tons is important for our business case. The fact that (j) is seen to weigh against Freightliner shows a lack of appreciation in the fundamental economics of rail freight and we dispute a negative weighting being applied. Conversely it is unclear why the seemingly minor retimings to passenger services should be deemed a negative for asset utilisation as there is no suggestion that the conflicting trains will not recover the additional time to be able to operate the next service at the planned time.
- Freightliner is unclear why (e) "*maintaining and improving an integrated system of transport for passengers and goods*" also "*weight against 4S88*". There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely it would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- Point (c) in the Decision Criteria, "*maintaining and improving train services performance*" is viewed as weighing against uplifting 4S88 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions and therefore should be deemed to weigh positively against point (g)

[9] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf

of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.

- Freightliner notes Network Rail's comments that minor retimings to services will break connections, with particular reference to Stratford and that applies negatively in relation to 4S88. However, no detail has been provided to evidence this statement, and as such it is not clear which connections in particular are referred to. The quantum of services from Stratford to short-mid distance destinations is such that passengers are easily able to amend their travel plans to make connections work. In particular reference to services on the North London Line to/from Stratford, these run at a frequency of 8tph for the bulk of the day, increasing in peak periods, and is marketed as a 'turn up and go' service - we therefore believe that this particular point should carry a minimal weighting, and that the benefits brought by running a freight service at 1600 tons have not been properly taken into account when reaching this decision.

Ref 6. 4S88LB FO 14:33 FELIXSTOWE NORTH FLT 06:27 COATBRIDGE FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

Application of D4.2.2 (d) – Priority criteria

Four West Midlands Train Limited services have been identified as having "Firm Rights in force for the Timetable Period" and conflicting with 4S88. Note that the new West Midlands Trains Limited Track Access Agreement was approved on 9th May 2019[10] and at D-40 did not have rights in place for the December 2019 timetable. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "all schedules involved in the conflict have equal rights". This was not the case and Freightliner contends that the decision to reject 4S88 at 1600 tons would likely have been different had the correct base been used.

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

- No mention is made to point (i) of the decision criteria – "miti*gating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[11]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are

[10] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions
[11] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf

undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.

- Freightliner strongly disagrees that point (j) (utilising assets efficiently) should weigh against the decision to increase the timing load of 4S88 – conversely it should strongly support doing so. The ability to use assets efficiently is one of the key drivers for freight operators' aspirations to run longer and heavier trains. The ability to transport more freight with the same locomotive and driver helps improve the economics of moving freight by rail and enable operators to compete better with road alternatives. Furthermore, Freightliner is making significant investments in new wagons in standard formations and the ability operate these at 1600 tons is important for our business case. The fact that (j) is seen to weigh against Freightliner shows a lack of appreciation in the fundamental economics of rail freight and we dispute a negative weighting being applied. Conversely it is unclear why the seemingly minor retimings to passenger services should be deemed a negative for asset utilisation as there is no suggestion that the conflicting trains will not recover the additional time to be able to operate the next service at the planned time.
- Freightliner is unclear why (e) "*maintaining and improving an integrated system of transport for passengers and goods" also "weight against 4S88*". There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely it would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.
- The most significant retiming hinted at in the commentary is 4 minutes and there is no indication whether the train could make up this time later. It is unclear therefore why the required changes to other services would then result in the services not matching demand and therefore weighed negatively in the application of the Decision Criteria.
- Point (c) in the Decision Criteria, "maintaining and improving train services performance" is viewed as weighing against uplifting 4S88 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.

Ref 7. 4L90HB TWThO 12:32 CREWE BASFORD HALL 23:58 FELIXSTOWE NORTH FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

<u>Application of D4.2.2 (d) – Priority criteria</u>

Three West Midlands Train Limited services have been identified as having "Firm Rights in force for the Timetable Period" and conflicting with 4L90. Note that the new West Midlands Trains Limited

Track Access Agreement was approved on 9th May 2019[12] and at D-40 did not have rights in place for the December 2019 timetable. Furthermore there is a Freightliner Heavy Haul service (5A55) that is said to have "Firm Rights in force for the Timetable Period". This is not the case – this train has no access rights and there has been no discussion with Freightliner over what flex could be applied to it. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "all schedules involved in the conflict have equal rights". This was not the case and Freightliner contends that the decision to reject 4L90 at 1600 tons would likely have been different had the correct base been used.

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

- No mention is made to point (i) of the decision criteria – "miti*gating the effect on the environment*". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy[13]. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.
- Point (c) in the Decision Criteria, "maintaining and improving train services performance" is viewed as weighing against uplifting 4L90 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Parts (a) and (j) are deemed to support the inclusion of 4L90, however the commentary suggests that the "*benefit of a 1600-ton path must be measured against the longstanding reduction in flexibility resulting from inclusion of a slower path*". This appears to be the rationale for not applying flex to other services to accommodate the path. Freightliner is concerned that this implies a decision by the Planner to over-rule an access right that has been sold to Freightliner. Given the significant investments being made by government to increase network capability to allow longer trains and investments by operators in assets to improve network efficiency, such a statement would appear to undermine those investments and is not aligned with broader industry policy.
- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives

[12] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions
[13] https://www.raildeliverygroup.com/files/Publications/2018-06_rail_freight_working_for_britain.pdf

interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.

- Freightliner is unclear why (e) "maintaining and improving an integrated system of transport for passengers and goods" also "applies against" 4L90. There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely it would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- Freightliner notes Network Rail's comments that minor retimings to services will break connections, with particular reference to Stratford and that applies negatively in relation to 4L90. However, no detail has been provided to evidence this statement, and as such it is not clear which connections in particular are referred to. The quantum of services from Stratford to short-mid distance destinations is such that passengers are easily able to amend their travel plans to make connections work. In particular reference to services on the North London Line to/from Stratford, these run at a frequency of 8tph for the bulk of the day, increasing in peak periods, and is marketed as a 'turn up and go' service - we therefore believe that this particular point should carry a minimal weighting, and that the benefits brought by running a freight service at 1600 tons have not been properly taken into account when reaching this decision.

Ref 8. 4L90HB FO 12:32 CREWE BASFORD HALL 23:58 FELIXSTOWE NORTH FLT

Bid for timing load 75C66S16 rejected, Freightliner has Firm Rights for 1600 tons.

Application of D4.2.2 (d) – Priority criteria

Three West Midlands Train Limited services have been identified as having "Firm Rights in force for the Timetable Period" and conflicting with 4L90. Note that the new West Midlands Trains Limited Track Access Agreement was approved on 9th May 2019[14] and at D-40 did not have rights in place for the December 2019 timetable. Furthermore there is a Freightliner Heavy Haul service (5A55) that is said to have "Firm Rights in force for the Timetable Period". This is not the case – this train has no access rights and there has been no discussion with Freightliner over what flex could be applied to it. Therefore the foundation of Network Rail's analysis of clashes is based on incorrect assumptions as it incorrectly works from the baseline that "all schedules involved in the conflict have equal rights". This was not the case and Freightliner contends that the decision to reject 4L90 at 1600 tons would likely have been different had the correct base been used.

To reach the stage of applying D4.2.2 (d) Network Rail must have applied the principle of D4.2.2 (c) (entitlement to use flexing right). Rather than using the flexing right, the Intents to Reject seem to be an attempt to justify not using the flexing right available.

Application of Decision Criteria

Notwithstanding the errors made in the assessment of the relative priority of conflicting services, the application of the Decision Criteria seems fundamentally flawed.

- No mention is made to (i) of the decision criteria – "mitigating the effect on the environment". The positive environmental benefits of rail freight are well known. Each ton of freight moved by rail instead of roads reduces carbon emissions by 76% and reduces

[14] https://orr.gov.uk/rail/access-to-the-network/track-access/track-access-decisions

air pollution. These environmental benefits and the wider congestion benefits are worth more than £0.5bn per annum to the economy. Increasing the timing load of these trains to 1600 tons would allow an additional circa 15 containers to be transported, thereby removing around 15 HGVs from the road. The environmental benefits in doing this are undisputed, yet this does not appear to have been factored into the weighting applied to the Decision Criteria.

- Point (c) in the Decision Criteria, "maintaining and improving train services performance" is viewed as weighing against uplifting 4L90 to 1600 tons. Freightliner would expect all offered paths to be compliant with the Timetable Planning Rules and therefore there should be no detrimental impact on performance.
- Parts (a) and (j) are deemed to support the inclusion of 4L90, however the commentary suggests that the "*benefit of a 1600-ton path must be measured against the longstanding reduction in flexibility resulting from inclusion of a slower path*". This appears to be the rationale for not applying flex to other services to accommodate the path. Freightliner is concerned that this implies a decision by the Planner to over-rule an access right that has been sold to Freightliner. Given the significant investments being made by government to increase network capability to allow longer trains and investments by operators in assets to improve network efficiency, such a statement would appear to undermine those investments and is not aligned with broader industry policy.
- Point (f) has not been taken into account in the assessment – i.e. consideration of the "*commercial interests of Network Rail or any Timetable Participant of which Network Rail is aware*". There are efficiency gains and therefore commercial benefits to the freight operators of running heavier trains, which do not appear to have been taken into account by Network Rail in reaching its decision.
- Uplifting the timing load to 1600 tons is consistent with Network Rail's Long Term Planning Process assumptions and therefore should be deemed to weigh positively against point (g) of the Decision Criteria. The industry's strategic planning process has consistently highlighted the aspiration of the industry to operate heavier trains to increase payload. Running "longer and heavier trains" is one of the core principles that drives interventions in the Strategic Freight Network. Therefore uplifting the Freightliner path should be considered very much consistent with the overall industry direction of travel and with the outputs of the Network Rail strategic planning process. As such we are surprised that Decision Criteria (g) has not been mentioned. Considering this would have likely been a key positive in favour of uplifting the tonnage of the Freightliner path.
- Freightliner is unclear why (e) "*maintaining and improving an integrated system of transport for passengers and goods*" also "*applies against*" 4L90. There is no suggestion that any passenger train would have to be removed and no details provided of any current connections that would no longer be possible. Conversely uplifting the tonnage would support making the freight path more productive, thereby helping to reduce freight's overall footprint on the network, which should instead be deemed a positive of uplifting the tonnage.
- Freightliner notes Network Rail's comments that minor retimings to services will break connections, with particular reference to Stratford and that applies negatively in relation to 4L90. However, no detail has been provided to evidence this statement, and as such it is not clear which connections in particular are referred to. The quantum of services from Stratford to short-mid distance destinations is such that passengers are easily able to amend their travel plans to make connections work. In particular reference to services on the North London Line to/from Stratford, these run at a frequency of 8tph for the bulk of the day, increasing in peak periods, and is marketed as a 'turn up and go' service - we therefore believe that this particular point should carry a minimal weighting, and that the benefits brought by running a freight service at 1600 tons have not been properly taken into account when reaching this decision.