

## **1 DETAILS OF PARTIES**

1.1 The names and addresses of the parties to the reference are as follows:-

- (a) Freightliner Group Ltd whose Registered Office is at The Podium, 1 Eversholt Street, London, NW1 2FL, representing Freightliner Limited and Freightliner Heavy Haul Limited ("Freightliner") ("the Claimant"); and
- (b) Network Rail Infrastructure Limited whose Registered Office is at 2<sup>nd</sup> Floor, 1 Eversholt Street, London NW1 2DN ("Network Rail") ("the Defendant").

1.2 Third parties: all other Access Beneficiaries.

## **2 THE CLAIMANT'S' RIGHT TO BRING THIS REFERENCE**

2.1 This matter is referred to a Timetabling Panel ("the Panel") for determination in accordance with Condition D2.2.8(a) of the Network Code.

## **3 CONTENTS OF REFERENCE**

This Sole Reference includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A detailed explanation of the issues in dispute in Section 5;
- (c) In Section 6, the decisions sought from the Panel in respect of
  - (i) legal entitlement, and
  - (ii) remedies;
- (d) Appendices and other supporting material.

#### **4 SUBJECT MATTER OF DISPUTE**

- 4.1 This is a dispute regarding the entry in National Timetable Planning Rules relating to the list of services for Network Services, Measurement and Railhead Treatment trains.
- 4.2 This dispute arises over Network Rail's implementation of Timetable Planning Rules under Condition D2 of the Network Code.
- 4.3 Section 3 of the National Timetable Planning Rules (TPRs) provides for a list of services "that needs to be provided on the network to facilitate Network Rail's National Delivery Service operations for the distribution of materials for engineering work on the network, Network Measurement trains and the Seasonal / Railhead treatment trains." This is attached as Appendix A (2016 version 4 list).
- 4.4 The list provided is almost always out of date, containing a list of trains that either do not run, do not run regularly enough to merit inclusion in the Working Timetable (WTT) or have been significantly revised.
- 4.5 Network Rail afford itself a flex of +/- 30 minutes on all these trains, but is not prepared to offer such opportunities in terms of Firm Rights to other Access Beneficiaries.
- 4.6 Correspondence is attached as Appendix D.

#### **5 EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT'S ARGUMENTS TO SUPPORT ITS CASE**

- 5.1 Occasional updates are made to the list, though not always highlighted or mentioned in the accompanying commentary.
- 5.2 In the case of Network Services, a variety of amendments to the service pattern has been made and this is not reflected in the list (which is perpetuated unchanged in the 2017 TPRs version 2.0, attached as Appendix B).
- 5.3 By way of example, services to and from Aldwarke and Hoo Junction are listed in Appendix C, together with the trains that are actually in the Working Timetable. As can be seen, there are significant differences between the list and what actually is in the timetable.
- 5.4 Turning to the list of Network Measurement Trains, most of those are actually planned to run on an 8-weekly cycle. Given the parameters of section 1.18 of the National TPRs (page 16 of Appendix A), in that trains should be planned to run on at least 4

occasions during the currency of the WTT, a sizeable number (if not all) of these will fail to achieve this test during the 22-week Principal timetable period.

- 5.5 As a considerable number of the paths (mainly overnight) will also require re-planning to avoid engineering works, it is Freightliner's opinion that the Network Measurement Trains are best suited to be planned under the Short Term Planning Process.
- 5.6 By inclusion of Network Measurement Trains as permanent trains in the Working Timetable, a lot of capacity is being unnecessarily used which is then not available for other purposes.
- 5.7 Freightliner can understand that Network Rail may have concerns where capacity is scarce, but the concept of Strategic Capacity is available for this purpose.

## **6 DECISION SOUGHT FROM THE PANEL**

- 6.1 The Claimant should be requesting that the Panel determine:
- (a) That Network Rail shall review the Network Services etc list at each issue of the TPRs to ensure that it is up to date;
  - (b) That Network Rail shall remove from the list all those trains which no longer run, or do not run frequently enough to merit inclusion in the working timetable;
  - (c) That Network Rail shall not include in the list those trains whose service pattern is likely to change;
  - (d) That Network Rail should provide a level of flex on its own services that matches what it would consider offering to Access beneficiaries in terms of Access Rights.

## **7 APPENDICES**

The Claimant confirms that it has complied with Access Dispute Resolution Rule H21.

Appendix A: 2016 National Timetable Planning Rules version 4.0

Appendix B: 2017 National Timetable Planning Rules version 2.0

Appendix C: List of trains at Aldwarke and Hoo Junction

Appendix D: Freightliner 2016 Timetable Planning Rules version 4.0 response extract

## 8 SIGNATURE

For and on behalf of Freightliner Limited and Freightliner Heavy  
Haul Limited

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Signed

J. K. Bird-----  
Print Name

Track Access Manager  
Position