

***Network Rail Response to a Sole Reference to a  
Timetabling Panel in accordance with the provisions of  
Chapter H of the ADR Rules effective from 1 August 2010  
(and as subsequently amended)***

**1 DETAILS OF PARTIES**

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

- (a) Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street, London, W1 2DN ("Network Rail" ("the Defendant")).
- (b) XC Trains Limited whose Registered Office is at 1 Admiral Way, Doxford International Business Park, Sunderland, SR3 3XP ("XCTL") ("the Claimant"); and

1.2 Network Rail is satisfied that following advice from the Panel Secretariat it is not appropriate to bring third parties into the dispute as it would make the hearing unwieldy.

**2 CONTENTS OF THIS DOCUMENT**

This Response to the Claimant's Sole Reference includes:-

- (a) Network Rail confirmation that the subject matter of the dispute is as set out by the Claimant in its Sole Reference in Section 3.
- (b) Network Rail's explanation of the matters in dispute in response to the sole submission from XCTL in Section 4.
- (c) In Section 5, the decisions of principle sought from the Panel in respect of
  - (i) legal entitlement
  - (ii) remedies;
- (d) Appendices and other supporting material.

### **3 SUBJECT MATTER OF DISPUTE**

- 3.1 Network Rail is satisfied that the subject matter of the dispute is adequately outlined by XCTL in its Sole Reference Section 4.
- 3.2 This is a procedural dispute relating to two matters: a difference of interpretation of Network Code Condition D3.4.1 between Network Rail and XCTL; XCTL assertion that Network Rail have failed to adhere to Network Code timescales and processes, which coupled with the first issue is having an impact on the ability of XCTL to comply with the Network Code and satisfy other XCTL contractual obligations.
- 3.3 Specifically the dispute arises over the interpretation of Condition D3.4.10 of the Network Code, in addition to Network Rail's failure to abide by Conditions 3.4.8, 3.4.11 and 4.41 (c), with a specific example of the impact that this difference of interpretation can have in relation to the Network Rail Variation process for Week 6, TTY 2015. It is Network Rail's understanding that no specific outcome is requested in relation to the Network Rail Variations made in Week 6, TTY 2015
- 3.4 Network Rail accepts the principle points made by XCTL in support of its position, with the exception of those points raised in 4.3 of the XCTL sole submission.
- 3.5 It is the view of Network Rail that the points raised in 4.3 of the XCTL sole submission and its supporting appendices are overly prescriptive. Supporting information on Network Rail's view can be found in Section 4 of this submission with a summary of the guidance being sought from panel found in Section 5.
- 3.6 For ease of reference condition D3.4.10(b) states:-

**Network Rail shall specify the aspects of the Access Proposal which need to be revised and its reasons for this:**

- 3.7 Network Rail is seeking guidance from panel as to what extent in undertaking its duties under condition D3.4.8 and D3.4.10(b) it is obliged to supply information to the XCTL ( and all other timetable participants).

#### **4 EXPLANATION FROM THE DEFENDANT'S PERSPECTIVE OF EACH ISSUE IN DISPUTE**

- 4.1 As stated in Section 3, Network Rail has limited grounds on which to contest the principal facts of the XCTL dispute as detailed in their sole submission, having now resolved the specific example in question (Week 6, TTY 2015).
- 4.2 Against this context Network Rail makes the following observations.
- 4.3 The amount of work to be delivered in Control Period 5 in terms of volume of access required is 25% more than CP4.
- 4.4 XCTL note this increase in their sole submission and recognise the impact that it will have on all timetable participants' ability to run an uninterrupted service.
- 4.5 The 25% does not account for the level of additional Restrictions of Use required by Network Rail to recover work lost against plan (e.g. Watford Blockade weeks 47&48), or to provide greater surety of delivery (e.g. Tapton Weeks 19,20,21).
- 4.6 XCTL state in Section 5.2 of their sole submission that the uplift in work has forced into the spotlight inconsistencies in Network Rail's planning process.
- 4.7 Network Rail contest that our planning processes are inconsistent.
- 4.8 Network Rail and all timetable participants have a defined process for managing the production of timetables as described in Part D of the Network Code.

- 4.9 Network Rail suggests that what is in dispute in this matter is not the consistency of the process, but Network Rail's ability to accurately discharge our obligations as outlined throughout Part D of the Network Code to the satisfaction of all impacted timetable participants.
- 4.10 Appendix A demonstrates that over the past year XCTL have received consistent TW-12 uploads from Network Rail with no trains missing this crucial deadline in a 53 week period.
- 4.11 Network Rail does not believe TW-12 compliance would have been at such a high level if the production processes were not consistent or reliable.
- 4.12 Network Rail does agree with XCTL that our collective ability to repeat this level of consistency will be diminished against the context of 4.3, without improvement to Network Rail's ability to provide supporting information for Restrictions of Use as outlined in condition D3.4.10(b)
- 4.13 It is Network Rail's view that condition D3.4.10(b) seeks to place the onus on Network Rail to adequately describe the impact on any Timetable Participants' business if the Restriction of Use is taken. Network Rail contest the proposal made by XCTL (XCTL 4.3) as it is felt that this is overly prescriptive. It is the view of Network Rail that the following principal items need to be prescribed when any Restriction of Use is proposed to describe the impact on a timetable participants' business:-
- (a) What is the overall hourly / daily quantum of capacity available to each Timetable Participant by service group?
  - (b) What is the impact on journey times between key timetable participant locations?
  - (c) What is the impact on a Timetable Participant's ability to discharge its commercial and contractual obligations (e.g. Freight end user contracts / DfT service level commitments, and Network Code compliance.)

- 4.14 Network Rail believes that the detail proposed in 4.13 should all be developed with due consideration to the criteria outlined in the Network Code condition D4.6
- 4.15 To assist the panel in their review of this case XCTL have supplied some records from planning weeks where the lack of clarity about what Network Rail are required to do as part of condition D3.4.10, has put strain on the planning production process.
- 4.16 Section 4.6 of XCTL sole submission adequately demonstrates the real time impact on a timetable participants' business when D3.4.10 (b) is not discharged to an agreeable level, Additionally, it is a useful example of how the network will be disrupted over CP5 and the potential impact it will have on timetable participants. It highlights the importance of accurately assessing the impact on overall capacity of a restriction of use.
- 4.17 Network Rail recognises that the lack of a relevant capacity study contributed to the issues highlighted by XCTL in their sole submission.
- 4.18 Network Rail accepts that in some complex planning scenarios advance planning work is crucial in determining what impact Network Rail's access requirements will have on timetable participants.
- 4.19 With circa 2500 disruptive possessions each 4 week planning period, Network Rail should not be obliged to provide detail workings for every Restriction of Use as Network Rail believes that this would be a wholly unproductive use of industry resource and no evidence to date demonstrates that the benefit would outweigh the industry cost.
- 4.20 It is Network Rail's understanding that XCTL agree with 4.19.
- 4.21 Network Rail is of the view that to discharge D3.4.10 adequately Network Rail must place prescriptive text in the traffic remarks and Structure for the Amended Train Plan (where applicable) of all Restrictions of Use that inform Network Rail Variations and in doing so allows timetable participants to have an informed view as to the impact

on their business as per the points outlined in 4.1.14. The detail and timescales proposed are outlined in Appendix B.

- 4.22 In a small number of cases advanced timetable work will be required to inform the industry of the impact of the restriction of use.
- 4.23 The level to which this advanced work needs to be completed has until this point been subjective.
- 4.24 Both parties agree that the decision making capability of Network Rail must be based on a consistent framework in addition to the decision criteria D 4.6 and the framework in appendix B outlines the criteria which Network Rail, having agreed the detail with XCTL, are proposing to adopt for future relevant restrictions of use considerations.
- 4.25 Network Rail met with XCTL on the 5<sup>th</sup> March and agreed that it would be beneficial to both parties (and all other timetable participants) to ask the panel for guidance on what supplemental information could be appended to the Network Code in connection to condition D3.4.10 (b) so as to allow all parties to achieve clarity on what to reasonably expect from Network Rail when access is requested.
- 4.26 It is not the intention of Network Rail or XCTL to make the timetable planning process as outlined in Part D of the Network Code more onerous or prescriptive.

## **5 DECISION SOUGHT FROM THE PANEL**

- 5.1 Network Rail is asking the panel to determine under condition 5.3.1(a) that the outputs proposed by Network Rail in Section 4.13 are sufficient for Network Rail to adequately deliver condition 3.4.10.
- 5.2 The panel are asked to review the decision matrix supplied in Appendix B and endorse it as best practice to be followed by Network Rail when Restrictions of Use are requested and additional capacity work is required.

- 5.3 The panel are asked to provide guidance as to what timetable participant information should be made available to Network Rail on a periodic basis to support any proposed Restriction of Use.

## 6 SIGNATURE

For and on behalf of  
*[usually Network Rail Infrastructure Limited]*

Signed



Print Name

Matthew Rice

Position

Operational Planning Manager

## Appendices

### APPENDIX A.

**From:**

**Sent:** 09 March 2015 12:20

**To:** Rix Robert; Bray Andrew

**Cc:** PSS-Team; Rice Matthew; Moody Richard; Forte Amy; O'Toole John; EXTL: Pocock Matt

**Subject:** XC uploads

All,

For those of you who don't know XC have now completed 52 weeks of 100% of reservations opening on time at T-12.

This is some achievement especially in difficult circumstances including the Dawlish line blockage last year, current landslip at Harbury & various system issues

Thanks to you & your teams help in maintaining this high standard of service

[REDACTED]

Phone:

Address: 5th Floor, Cannon House, 18 The Priory Queensway, Birmingham, B4 6BS

Buy train tickets online at [crosscountrytrains.co.uk](http://crosscountrytrains.co.uk) | Get our Train Tickets app for free from your app store or via our website



# Access Impact Matrix

	Severity 1 Access that affects one or more operators		Severity 2 Access that affects multiple service groups or operators and/or where capacity is shared by operators
	Access that affects one or more operators		Access that affects multiple service groups or operators and/or where capacity is shared by operators
Capacity Study (EAP)	<ul style="list-style-type: none"> <li>Solated one off pieces of access that require minor reworking of less than 10 minutes</li> <li>Regular diversions for Section 5 possessions</li> <li>Regular diversions for a single piece of access</li> <li>TSRs that require additional fix with minor impact on train service journey time extension no greater than 10 minutes</li> <li>Services required to start/terminate short where the planning solution is known</li> </ul>		<ul style="list-style-type: none"> <li>2 track diversions outside of normal Section 4 times</li> <li>High Output possessions with TSRs and line blockages: pattern of services required to confirm the blockage times</li> <li>TSRs that require additional fix for more than one operator</li> <li>Diversions routes where capacity will be shared: an understanding of hourly patterns or ability to fit the WTT quantum of trains etc.</li> <li>Regular diversionary routes for multiple operators (e.g. via Northampton - Hertford Loop etc.) where capacity is underload</li> <li>Services required to start/terminate short where the method of working is not known</li> </ul>
Output requirements	<ul style="list-style-type: none"> <li>Understanding of the impact on train service group and required capacity</li> <li>Understanding the impact on standard possession opportunities</li> <li>Detailed Traffic Remarks by CPPP stage if post CPPP included as part of proposal</li> </ul>		<ul style="list-style-type: none"> <li>Detailed structure for the amended train plan stating additional time, diversionary routes, capacity restrictions by operator and allocated capacity</li> <li>Understanding the impact on standard possession opportunities</li> <li>Detailed Traffic Remarks by CPPP stage if post CPPP included as part of proposal</li> </ul>
	Severity 3 Access that effects one or more operators and that requires significant diversion or reworking of greater than 15 minutes		Severity 4 Double or Triple disruption to one or more operators Disruption that effects one or more operators on more than one route Severe disruption on a primary route of one or more operators
	Access that effects one or more operators and that requires significant diversion or reworking of greater than 15 minutes		Double or Triple disruption to one or more operators Disruption that effects one or more operators on more than one route Severe disruption on a primary route of one or more operators
Timetable Study (EAP & Train planning)	<ul style="list-style-type: none"> <li>Standard hourly pattern either undeliverable or requires significant amendment (e.g. 15 mins), where an understanding of the impact on service patterns and connections is required (services back to booked / missing key stations etc)</li> <li>Potential impact on train crew and / or resources (one or more operators) (turnarounds at key stations potentially impacted etc)</li> <li>Restrictive capacity and/or where booked connections are impacted at key stations (e.g. Birmingham New Street / Leeds / London Terminals etc)</li> <li>Access that requires the timing of services to provide capacity for diverted services or degraded working</li> <li>Access that requires multiple operators to start/terminate at a station that has a complex method of working for turn back moves</li> <li>Severe impact on ability to move Empty Coaching Stock (possessions affecting depot access or requiring significant reworking (greater than 15 minutes) or diversion)</li> </ul>		<ul style="list-style-type: none"> <li>Abnormal diversionary routes where capacity and/or the impact on main paths and connections is not easily or fully understood</li> <li>St. W. plans outside of Section 4 where capacity is constrained with significant journey time detriment (of greater than 15 minutes)</li> <li>Where one or more operators are impacted by more than one piece of access on one or more routes</li> <li>Where capacity via a diversionary route is severely restricted (single line / absolute block / congested routes / stations etc)</li> <li>Where an understanding of the impact on service patterns and connections is required (services back to booked / missing key stations etc)</li> <li>In blockage of one or more operators primary routes (WCM1 / ECM1, all line block e.g. Wiggar / Watford)</li> </ul>
Output requirements	<ul style="list-style-type: none"> <li>Standard hourly pattern established through detailed timings, as opposed to production of a full timetable for the specific period</li> <li>Platforming exercise to understand capacity around any restriction at multi operator stations</li> <li>Single train timing exercise to understand impact on journey time detriment and/or impact of crew and resources</li> <li>Train by train timing to demonstrate impact on ECS moves to ensure deliverability of train service</li> <li>Detailed structure for the amended train plan stating additional time, diversionary routes, capacity restrictions by operator and allocated capacity from output of Timetable Study</li> <li>Detailed Traffic Remarks for access proposed in 1/1, 3, 2, 1/4. For access requested post 1/2, 1/4 included by CPPP. If post CPPP included as part of proposal</li> </ul>		<ul style="list-style-type: none"> <li>Full Timetable study for every operator - effective for the duration of the disruption (with the exception of ECS moves where not applicable)</li> <li>Standard hourly pattern to understand capacity through detailed timings as opposed to production of a full timetable for the specific period</li> <li>End to end journeys to be assessed where applicable (e.g. services that cannot return to a booked path with no plan of access to be involved in isolation)</li> <li>Deviation Charts and populated to support capacity allocation</li> <li>Detailed structure for the amended train plan stating additional time, diversionary routes, capacity restrictions by operator drawn from output of Timetable Study</li> <li>Detailed Traffic Remarks for access proposed in 1/1, 1/2, 1/3, 1/4. For access requested post 1/2, 1/4 included by CPPP. If post CPPP included as part of proposal</li> </ul>

