XCTL Sole reference TTP 978

DETAILS OF PARTIES

- 1.1 The names and addresses of the parties to the reference are as follows:-
 - (a) XC Trains Ltd (XCTL), a company registered under number 04402048, and having its registered office at 5th Floor, Cannon House, 18 The Priory Queensway, Birmingham, B4 6BS "XCTL"; and
 - (b) Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street, London NW1 2DN ("Network Rail".
 - (c) Abellio Greater Anglia, 1st Floor, Suite D, The Octagon, Middleborough, Colchester, CO1 1TG, "AGA".
- 1.2 There are no other third parties of which XCTL is aware, aside from those already included in the circulation of dispute paperwork.

2 CONTENTS OF THIS DOCUMENT

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

- (a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with.
- (b) An explanation of the Defendant's arguments in support of its position on those issues where it disagrees with the Claimant's Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant's Sole Reference.
- (c) Any further related issues not raised by the Claimant but which the Defendant considers fall to be determined as part of the dispute;
- (d) The decisions of principle sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (e) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

- (a) XCTL is not disputing AGA's right to bring the dispute.
- (b) XCTL would quantify AGA's statement about the work at Cambridge with the following: the possessions at Cambridge at now at T-11; the train plan for these weeks was particularly complicated owing to additional possessions in the Leicester and Cardiff areas; the possessions at Cambridge will cut Cambridge depot (units) off from the rest of XCTL's network.
- (c) There are no other applicable sections of the Network Code than those already raised in this case,
- (d) XCTL would like to make it clear to the Panel that we believe the work at Shenfield is not for our business to comment on. Our sole concern is retention of the Cambridge access in the existing weeks it has been planned for, and that is why we have asked to be considered a dispute party. Reasons for XCTL taking this stance are outlined elsewhere in this paper. Our concerns stem from a number of informal conversations that Network Rail has with XCTL in the weeks leading to the Panel Hearing in which they suggested that the work at Cambridge could potentially move to timetable Weeks 34-36 in 2016.
- (e) Other documents relevant to this dispute are extracts from our Control Log detailing overcrowding and customer issues during the period of the Birmingham Christmas Markets. These can be found in Appendix A.

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

XCTL notes that this case rests on whether a correct application of the Network Code would lead to there always being a direct route available between Norwich and London. Our business cannot comment on this, however were a Panel to decide in favour of AGA we have the following concerns about removal of the Cambridge access in these weeks in particular:

(a) T-12 compliance is of vital importance to XCTL and the Industry as a whole. It allows customers to plan in advance and be clear about their travel options. In February 2016 XC train planning celebrated 100 weeks of T-12 compliance. If the Cambridge North access is removed at such short notice then not only will customers through Cambridge in these weeks have their

journeys changed at short notice, but wider T-12 compliance across our network will likely be compromised. Our team is currently dealing with post T-12 rework in connection with the Great Western Electrification Project and it has just been indicated to us that some of the Christmas possessions (currently within T-21 to T-18 planning timescales) are subject to change. If the Cambridge work is moved into Weeks 34-36 then, operational issues aside, the complicated nature of the plan may mean that we cannot meet our Network Code Part D obligations in relation to T-18, T-14 and T-12.

- (b) XCTL agreed to the access requests for the Cambridge North project in good faith. The combination of access on our network in these weeks is extremely disruptive and has resulted in a very complicated train plan. Due to the fact that our 170 Turbostar routes from Cardiff to Nottingham, Birmingham to Leicester and Birmingham to Stansted routes are each impacted by separate engineering possessions the unit balancing and depot requirements are above and beyond our the usual planning requirements. This is particularly important in ensuring a smooth start up on the Monday morning for start of service. It will be very difficult to unpick all the separate possessions and will additionally put serious pressure on Network Rail train planning teams to unpick the work and then turn around a reproposal, decision and rewrite of the train plan to put the Cambridge work back into the access plan in sufficient time for the project's commissioning date in 2017.
- (c) The alternative weeks that have been provisionally proposed for this access are Weeks 34, 35, and 36 in 2016. These weeks will be at the same time as the German Christmas Market which is held annually in Birmingham city centre. This event is a major attraction and results in large amounts of additional passengers using rail services into Birmingham New Street. In connection with this event XCTL plan, as always, to run a strengthened service and provide additional capacity to attempt to alleviate overcrowding. If this access is moved into these proposed weeks then we will have a number of units trapped in Cambridge. These units consist of three 3 car 170 units and two 2 car 170 units. This will mean we be unable to provide all of the strengthened services and additional capacity. This is likely to result in major overcrowding and a public order problem. Appendix A provides details of the Control Log items relating to overcrowding during the Christmas Market period in 2015.

5 DECISION SOUGHT FROM THE PANEL

XCTL would like the Panel to determine, regardless of the matter of principle over a route from Norwich to London, that the work at Cambridge North remain in the access plan for Weeks 25 to 28 in 2016 as it would be too disruptive to passengers and planners to move such a complex train plan at this late stage and due to the alternative proposed weeks being far too disruptive for passengers, clashing as they do with Birmingham Christmas Market.

5.2 We do not wish the Chair to consider other issues, such as costs.

6 APPENDICES

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

<u>Extracts</u> of Access Conditions/ the Network Code are included where the dispute relates to previous (i.e. no longer current) versions of these documents.

All appendices and annexes are bound into the submission and consecutively page numbered. To assist the Panel, quotations or references that are cited in the formal submission are highlighted (or side-lined) so that the context of the quotation or reference is apparent.

Any information only made available after the main submission has been submitted to the Panel will be consecutively numbered, so as to follow on at the conclusion of the previous submission.

7 SIGNATURE

For and on behalf of XC Trains Ltd.

Signed

Print Name

Andrew Danson

Position

Possession Strategy Manager

Andrew De

The Appendices

Appendix A

Title	Birmingham Germa					
incident Group	CUSTOMER SUPPO	_	Other Event			
Incident Date	14/11/2015 03:52	Seq	025	Created By		
Events						
Logged Date	User	Text				
14/11/2015 22:30		report that re	ed that the train h	as departed New St full	g 1K33 [2222 BHAMNEWST-L l and standing (train formed 3 c IUNEATON] had departed with	car vice 2 car) and
Description						
Basic Informatio	n					
Headcode					· · · · · · · · · · · · · · · · · · ·	
Extra Information	1					
			Mo Ex	tra fields		
Responsibility				Informed		
	XC STATIONS BIRM RAIL)	HM NEW	ST (NETWORK		Ho Informed Parties	
Actions						
Required Date	Owner C	omments			Co	mpleted Date
	·		No Act	ions exist		
Trust Data			=			
DA Incident	Description		Full C	anc Part Cane	Mins Delay Manager	In Dispute
			No Trus	l DA Data		
File Attachments	:					
Uploaded Date	User	Filenan	ne .	Comment		
		_	No File A	dtachments		
-						
Title	Birmingham German	Market				
Incident Group	CUSTOMER SUPPOR		Other Event		•	
Incident Date	15/11/2015 03:45	Seq	025	Created By		
Events			<u> </u>			
Logged Date	User	Text			_	-
15/11/2015 03:46			Conductor working	ng 1L56 2022 BHM - C	BG advised that the train had o	departed full and
		standir	ng with a number	of people left behind.C	ustomers forward on 1K31 205	
		2 tor P	eterborough, taxi:	s provided from Leicest	ler	
Description						<u> </u>
Basic Information)			a————-	·	
Headcode						
Extra Information						
			I lo Ext	ra fields		
Responsibility				Informed		
	XC STATIONS BIRMI	HM NEW	ST (NETWORK		No Informed Parties	
	RAIL)					
Actions						
Required Date	Owner Co	mments	No Act	ons exist		ompleted Date
Trust Data						
	Description		Full C	anc Part Canc	Mins Delay Manager	In Dispute
				DA Data		

Incident Group	CUSTOMER SUPPO	R Type	Other Ever	nt	
				Example in the second s	-nv
Incident Date	19/12/2015 19:13	Seq	040	Created By	
Events					
Logged Date	User	Text			
19/12/2015 19:13		NOTT: 1P10 [Vice 3	NGHM-BHA 1018 LEICE	s were strengthened due to the Birming MMEWST] 3 Vice 2. 1P08 [0918 LEIC STER-BHAMNEWST] 5 Vice 2. 1P14 8 LEICESTER-BHAMNEWST] 5 Vice 2 1e 3 .	ESTER-BHAMNEWST] 4 Vice 3. [1218 LEICESTER-BHAMNEWST] 6
19/12/2015 19:16		[1622 STANS	BHAMNEWS STDAP-BHA	NEWST-STANSTDAP] 6 Vice 3 betwe ST-STANSTDAP] 5 Vice 2 between Bir MNEWST] 4 Vice 2 between Leicester MNEWST] 5 Vice 3 between Leicester	mingham & Leicester. 1N61 [1527 · & Birmingham,1N65 [1727
Description	<u> </u>		20110	10 10 10 10 10 10 10 10 10 10 10 10 10 1	
Basic Information					
Headcode	VARIOUS				
Extra Information		VA. 3.5 (5.14)			
			N	o Extra fields	
Responsibility		200000000		Informed	
	No Responsibility Partie	s		No Info	ormed Parties
Actions					
					· · · · · · · · · · · · · · · · · · ·
Required Date	Owner C	omments			Completed Date

Title	Overcrowding					
Incident Group	CUSTOMER SUPPOR	Type	Overcrowding		i	
Incident Date	21/11/2015 02:00	Seq	001	Created By Datasys Application Owner		

Train Headcode	From	То	Short Formed	Reason (if known)
1010 [0827 MANCR PIC- BOURNEMTH]	STOKE	BHAM INTL	N	Skills Show at NEC
1008 [0727 MANCR PIC- BOURNEMTH]	BHAMNEWST	COVENTRY	Υ	
1N45 [0727 STANSTDAP- BHAMNEWST]	MELTONMOW		N	
1P10 [1018 LEICESTER- BHAMNEWST]	NARBORO	BHAMNEWST	N	German Market / Shoppers
1M73 [1545 CARDIFCEN- NOTTINGHM]	BHAMNEWST		N	German Market / Shoppers
1M46 [1147 BOURNEMTH- MANCR PIC]	BHAM INTL		N	
1M50 [1247 BOURNEMTH- MANCR PICI	BHAM INTL		Υ	
1024 [1527 MANCR PIC- BOURNEMTH]	BHAMNEWST		N	

Incident Group	CUSTOMER SUPPOR	Туре	Other Event	
Incident Date	21/11/2015 10:58	Seq	045 Created By	
Events		Naga Naga		
Logged Date	User	Text		
21/11/2015 09:15		1V06 ([0910 NOTTINGHM-CARDIFCEN] full & standing from NOT.	
21/11/2015 10:35			d working 1P10 [1018 LEICESTER-BHAMNEWST] advised that he has left people behind arborough.	
21/11/2015 10:50			kley station staff advised 1P10 has left 20 customers behind. 1N47 [0827 STANSTDAP- MNEWST] SSO Hinckley.	
21/11/2015 10:52		Guard	d advised route controller that he has left 30 customers behind at NUN.	
21/11/2015 11:01		Ticket acceptance agreed with London Midland for the NUN customers to travel to B'ham via Coventiry. LM would not give us ticket acceptance NUN to COV for the next hour so we said we would contact them if station staff at NUN advised us of any further customers being left behind. TM's on the RDG-BHM route advised of above.		
21/11/2015 22:58		+ 1Z82 + 1Z83 + 1M85 + 1K33 Train d unable	agement Update message Issued: 82 2152 BHM-NUN (5-car VOY): 150 passengers on board. 83 2203 BHM-DBY (5-car VOY): Full & standing with BTP serial on board. 85 2000 CDF-NOT (3-car 170): 150 passengers on board. 83 2222 BHM-LEI (4-car 170): Full & standing (350 passengers). Nobody left behind. delayed en route due to pass com activation caused by overcrowding (person stood le to hold on to anything feil onto the pass com in the disabled area). 87 2249 BHM-DBY (3-car 170): 230 passengers on board.	
Basic Information				
Headcode	1P10			

Title Overcrowding					
Incident Group CUSTOMER SUPPOR	Туре	Overcrowding			
Incident Date 28/11/2015 02:00	Seq	001	Created By Datasys Application Owner		

Train Headcode	From	To	Short Formed	Reason (if known)
1N43	LEI		N	
1M25	BHM		N	
1G12	DBY		N	
1M30	BANBURY		N	NEC/German Market
1837	WAKEFLD W		N	1st Class declassified from LDS
1V51	STA		N	Signalling probs earlier
1V46	BRI		N	
1V51	STA,WVH		N	Signalling probs earlier
1M30	MAC		N	1st class de-classified
1K17	ВНМ	LEI	N	NEC/German Market.
1V68	LDS		N	T/M advised of a group of drunken passengers annoing other customers.

Incident Group	CUSTOMER SUPPOR	Type	Other Ever	nt		
Incident Date	28/11/2015 07:33	Seq	032	Created By (1)		
Events		PART OF				
Logged Date	User	Text				
28/11/2015 07:34		1Z82 2	:1.52 Birmin	f services were diagrammed by the Train Planning Section: gham - Nuneaton gham - Derby		
28/11/2015 07:52						
	1G89 20.37 Nottingham ? Birmingham on arrival at 21.56 [XC210/XC211] to form 5G8 Birmingham ? Tyseley Depot [XC312]					
28/11/2015 09:47		1N45 0	1816 ELY-Bit Isult the add	M F & S from Hinckley. Left people behind at Coleshill and Water Orton HM F & S from Leicester. itional 1T10 1004 LEI-BHM called additionally at Narborough, Hinckley and		
28/11/2015 10:04				MPTON CTL-MANCR PIC] reported full and standing from Banbury due to and the German Market.		
28/11/2015 11:06		1N47 0	1916 ELY-BI	HM F & S from LEI left 3 bicycles behind at LEI.		
28/11/2015 11:44		1G22 1	1041 NOT-B	HM F & S from Tamworth.		
28/11/2015 11:53		1N49 1	016 ELY-BI	HM F & S from LEI (2 vice 3 car).		
28/11/2015 13:11		strengt	hen 1P14 12	dditional 1T10 1004 LEI-BHM the unit returned to Leicester ECS to 218 LEI-BHM (5 vice 2). This train was reported F & S from Hinckley.		
28/11/2015 15:18		Due to BHM-L Narbor	El ran with t	ant numbers travelling from Leicester this morning an additional 1T25 1740 the standby Voyager calling at Coleshill, Nuneaton, Hinckley and		
28/11/2015 17:25				LY departed reported by CSN (BHM) as F & S, She also uncovered 1K29 1952 BHM-LEI.		
28/11/2015 18:00		CSM mainly	sened cust	advised the additional 1T25 at 1740 and 1K25 at 1752 departed full and omers.		
28/11/2015 21:58		1Z83 2	203 Birming	ham - Nuneaton had approx 70 passengers on board. ham - Derby had approx 170 passengers on board. ham - Leicester had approx 270 passengers on board.		
28/11/2015 23:11			d by CSM 2249 BHM -	at BHM that BTP had not attended to 1K33 2222 BHM - LEI or DBY.		

Title Overcrowding					
Incident Group CUSTOMER SUPPOR		Overcrowding			
Incident Date 29/11/2015 02:00	Seq	001	Created By Datasys Application Owner		

Train Headcode	From To	Short Formed	Reason (if known)
1V03	BUT	N	German Market / NEC / Christmas Shoppers
1012	STA	N	German Market / NEC / Christmas Shoppers.
1014	SOT	N	German Market / NEC / Christmas Shoppers.
1016	STA		German Market / NEC / Christmas Shoppers
1V60	LDS	Υ	WCML blocked north of PRE.
1M98	ВНМ	N	German Market / NEC / Christmas Shoppers
1M00	EDIN8URGH	N	WCML blocked

Title	German Market/NEC	Exhibitio	ons - Birmingh	am
Incident Group	CUSTOMER SUPPO	R Type	Other Event	
Incident Date	29/11/2015 10:47	Seq	032	Created By
Events				
Logged Date	User	Text		
29/11/2015 10:55		1010 (XC408 strengt Manch Leamin 5022	i diagram to atta then 1010 0827 ester. On arriva ngton Spa. 1349 Longsight-	phening trains: er-Leamington Spa to 9 coaches vice 5 coaches ech to 5010 0754 Longsight-Manchester (XC502) position 1, and Manchester-Leamington Spa & 1M34 1112 Leamington Spa- I Manchester at 1340, leading set to detach t/w 1022 1427 Manchester- Manchester was cancelled. both units from Stafford.
29/11/2015 11:01		Contro 1012 (XC515 strengt Manch Manch	I Plan to strengt 1927 Mancheste diagram to atta hen 1012 0927 ester to Birming ester [XC508].	
29/11/2015 11:04		XC506 Birming Spa & 1V57 1	gham. No detac 1M30 1012 Lea 307 Mancheste	then trains: tich to XC501 at Central Rivers and work 5008 0805 Central Rivers- hment at New St, both sets to work 1008 0904 Birmingham-Leamington mington Spa-Manchester. On arrival Manchester at 1241, rear set t/w tr-Paignton [XC515] Manchester was cancelled.
29/11/2015 11:08		5E40 1 Birming Diagrai Birming Additio	gham-Newcastk m XC411 aitere gham-Manchest	rers-Birmingham formed with 1 unit vice two to work 1E40 1330 e (XC418). d to 5H22 0801 Central Rivers-Birmingham (VSTP) to work 1H22 0901 ter. ged to assist 'as required' at Leamington to assist shunting the double
29/11/2015 11:13		1P00 1 through 1O10 (022 Leicester-E h the train. This 1827 Mancheste	Dirmingham reported 'full' by the S/Con, but it was possible to walk had been strengthened 6 vice 3. et - Learnington Spa reported F & S from Stafford, 1014-1027 on Spa reported F & S from Stafford.
29/11/2015 12:09		5V01 0 Cardiff.	834 Tyseley-No	ottingham strengthened (5 vice 2) which formed 1V03 0954 Nottingham- F & S from Derby. The train was split in Birmingham with the rear unit
29/11/2015 12:34		1016 1	127 Mancheste	er-Bournemouth reported F & S from Stafford.
29/11/2015 12:45		evening Standb Leicest was de Additio	g peak between ly 170 attached ler-Birmingham ltached to return nal VSTP 5L50 gham-Ely (5 vice	S trains received during the morning the following plan arranged for the Birmingham and Leicester; to 1K21 1552 Birmingham-Leicester (4 vice 2). Returned as 1P24 1718 to form 1L52 1822 Birmingham-Ely. On arrival at Leicester the rear unit to Tyseley. 1850 Tyseley-Birmingham to attach to the rear of 1L50 1722 e 2). On arrival at Leicester the rear unit to Tyseley-Birmingham to attach to the rear of 1L50 1722 e 2).
29/11/2015 16:07		CSI at 1548 was su busy fo	Bim F & S. Also 1K spected that the bllowing the Leic	ningham) reported 1M67-1345 Cardiff-Nottingham departing Birmingham (21-1552 Birmingham-Leicester three quarters full (running 4 vice 2), It is return working 1P24-1719 Leicester-Birmingham would also be very sester Tigers rugby match this afternoon. In-Manchester departing Birmingham at 1601, again F & S.
29/11/2015 16:44		CSI	advi	sed 1V60 departed F& S to Bristol, 1L48 1622 to Leicester departed with 0 to Derby departed full with a few standing.

Title German Market/NEC Exhibitions - Birmingham					
Incident Group CUST	OMER SUPPOR Type	Other Event			
Incident Date 29/11/	2015 10:47 Seq	032	Created By (1)		

29/11/2015 17:33	
29/11/2015 19:40	

Further update from Ross: 1M53 1631 to Manchester departed Birmingham with space. 1M54 1701 to Manchester departed F & S. Noted good management by the station team in crowd control, moving customers down the platform, but left approximately 30 people behind.

Ross noted: 1V62 1057 GLC - PLY F&S (1712 ex BHM) 1S56 1704 BHI - EDB F&S (1730 ex BHM) 1M75 1645 CDF - NOT no issues (1849) 1M62 1812 LMS - MAN F&S (1901)

Description		ı

Title	Birmingham Christma	\$ * * ********************************	t		
Incident Group	CUSTOMER SUPPOR	Туре	Other Event		
Incident Date	05/12/2015 09:32	Seq	035	Created By (
Events		1/11/11			
Logged Date	User	Text			
05/12/2015 09:30				ng 1P08 [0918 LEICESTER-BHAMNEWST] formed 4 car vice 3 car s full from Leicester and rear set fulli from Hinckley.	
05/12/2015 10:54				ng 1P10 [1018 LEICESTER-BHAMNEWST] formed 4 car vice 2 car anding from Nuneaton.	
05/12/2015 11:43		train is	full from Nuneato	relief service 1T12 [1110 LEICESTER-BHAMNEWST] reported that the on (5 car with rear vehicle LOOU). 1P12 [1118 LEICESTER-Isrvice full and standing from Nuneaton (3 car).	
05/12/2015 12:52			Senior Conductor working 1P14 [1218 LEICESTER-BHAMNEWST] reported that the train is full and standing (approx 500 customers onboard). Train has been strengthened to 5 vice 3. Senior Conductor working 1M68 [1345 CARDIFCEN-NOTTINGHM] reported that approx 3035 customers had been left behind at New St. Train shortformed, formed 2 vice 4.		
05/12/2015 15:54					
05/12/2015 17:00				addtional 5T27 18+15 Central Rivers-Bhm New St to form 1T27 1900 hen 5T27 20+10 Leicester-Central Rivers	
05/12/2015 18:59				22 BHAMNEWST-STANSTDAP] advises that the train has departed stregthened to 4 vice 2.	
05/12/2015 19:00				52 BHAMNEWST-LEICESTER] advises that the train has departed full D Birmingham-Leicester departed fully loaded.	
05/12/2015 22:00				346 CARDIFCEN-NOTTINGHMJ advises that the train departed adding. Chief at New St contacted who advises that no one was left	
Description					

Title	Additional Movements	(VSTP)		
Incident Group	VSTP	Type	Additional Move	ments (VSTP)	
Incident Date		Seq	015		Datasys Application Owner

Headcode	Time	From Loc		Vehicles moved	Traincrew used	Reason for move
 5P14	1120	ВНМ	LEI	170637	Giles Robertson (LEI)	Xmas market additionals

Title	German Market				
Incident Group	CUSTOMER SUPPOR	Туре	Other Event		
Incident Date	12/12/2015 07:42	Seq	030	Created By	
Events		43,534	REMOVED TO		
Logged Date	User	Text			
12/12/2015 10:53		1N47 [0827 STANSTDAP-BHAMNEWST] F & S from LEI.			
12/12/2015 18:57			eicester-Birmin	es planned but unable to resource Train Managers so did not run; 1T12 gham, 1T23 1640 Birmingham-Leicester, and 1T27 1845 Birmingham-	
12/12/2015 19:13				WST-LEICESTER] full and standing departing Birmingham, formed of 2 passengers unable to join at Birmingham and were left behind.	
Description					

Incident Group	XC OPERATIONS	Type	Other Pro	obiem
Incident Date	13/12/2015 12:38	Seq	033	Created By
Events		HAÇEÇE		
Logged Date	User	Text		A A A A A A A A A A A A A A A A A A A
13/12/2015 12:39	AT LOS	Log item created to reflect any delays or incidents in connection with Birmingham German Market. Train strengthening plan in place.		
Description				
Basic Information			u (Nasau)	
Location	VARIOUS			Headcode