
NETWORK and VEHICLE CHANGE COMMITTEE

Determination No. NV 21

Hearing held at Kings Cross on 9th April 2001

[Note: previous published determination was determination no.NV18]

1. The Committee was asked by Freightliner, in relation to the introduction of the Wheelchex equipment for monitoring wheel impact loads, to rule that Railtrack was at fault for introducing the equipment without following consultation under the terms of Access Condition G. Furthermore, as a consequence of that decision, that Railtrack should be directed to withdraw the current associated severe speed restrictions to be used in the event of a Wheelchex alarm, and to develop new instructions, taking greater account of the operational circumstances and needs of Freightliner.
2. The Committee considered the process adopted by Railtrack to introduce this initiative and noted in particular that
 - 2.1. there had apparently been a decision in Railtrack that the Network Change procedure should not be used;
 - 2.2. despite Wheelchex being a national project, consultation had been conducted on a zone by zone basis, potentially involving a national company like Freightliner in many discrete sessions;
 - 2.3. the consultations had not addressed any commercial implications of the proposals;
 - 2.4. the sites at which the new equipment should be located had been decided by Railtrack, primarily on the basis of equipment efficiency considerations, and that Train Operators had not been given a chance to make suggestions as to possible alternative locations, bearing in mind the possible need to refuge and/or examine trains in the event of the equipment being activated;
 - 2.5. it had been adopted, at the first consultation held in the Railtrack North West Zone, and at which Freightliner was not represented, that any trial period with the equipment should be treated as live running, and that any alarm should lead to the imposition of speed restrictions etc. as soon as notified; and that
 - 2.6. the operational instructions were generally more restrictive than those that had applied when equipment had triggered the earlier WILD installations.
3. In relation to matters of principle raised by the parties the Committee noted that
 - 3.1. Wheelchex was being introduced to the Network to achieve the important objective of reducing the incidence of rail damage arising from excessive wheel impacts;
 - 3.2. Freightliner had believed that their existing wheelset maintenance procedures should be sufficient to ensure compliance with existing Group Standards;

- 3.3. Freightliner's contention was that the new operational procedures had been driven by the locations chosen for Wheelchex, and should have been the subject of more effective consultation with Train Operators;
 - 3.4. it was Railtrack's intention to introduce Wheelchex equipment on a permanent basis at a larger number of sites across the whole Network; and that
 - 3.5. Railtrack had made use of Access Condition G in order to introduce an expansion of the Panchex Scheme in 1997.
4. The Committee considered that the bringing of the dispute reflected that the consultation process had been fragmented and, in some respects, inconclusive. The Committee was at pains to register that, particularly for a project which ultimately will bring material benefit to the operation of trains on the Network, most of the gaps in the consultation procedure adopted could have been addressed by handling the project under the terms of Access Condition G, whether G1.1 or, if there were a need for pre-emptive safety action, under G1.9.
 5. The Committee therefore determined that:
 - 5.1. the Wheelchex trial implementation programme should, with advantage, have been handled in accordance with Access Condition G;
 - 5.2. all implementation of the Wheelchex programme at current and proposed sites should be handled in accordance with Access Condition G;
 - 5.3. the aspects of the previous consultation which had led to the drawing up of the operational instructions regarding speed restrictions etc. (which do in any case bear comparison with those that had applied for WILD) would almost certainly find their counterpart in any Access Condition G process; and therefore
 - 5.4. the current operational instructions relating to Wheelchex alarms should remain in force unless or until, in the light of experience or other representations made at formal consultation, it proved appropriate to amend them;
 - 5.5. in any consultation about further extension of the Wheelchex programme, including choice of location, due weight should be given to the operational impact upon Train Operators, as well as the technical requirements of the equipment; however
 - 5.6. given that the Wheelchex equipment is essentially aimed at providing a measure of the actual level of compliance with Group Standards, it would seem inappropriate that a Train Operator whose rolling stock was thereby found to be out of compliance, should be entitled to any form of compensation for the need, in the event of an alarm, to respect defined operational rules; this view was subject to the proviso that there had been reasonable account taken, in the Access Condition G consultation process, of the Train Operator's representation as to the most appropriate operational arrangements; however
 - 5.7. steps should be taken to ensure that triggering of the Wheelchex equipment (whether a true or false alarm) is appropriately translated into the payments due to or from Railtrack under the relevant Train Operators' performance regimes.

Bryan Driver
Chairman,
Network and Vehicle Change Committee