
TIMETABLING COMMITTEE

Determination No. 40

(following a hearing at Kings Cross on 10th October 1997)

1. The Committee was asked by Regional Railways North East (RRNE) to rule on aspects of the National Rules of the Plan as consulted by Railtrack with Train Operators, insofar as they affected proposed procedures for handling short term train planning arrangements (section 3, Weekly Train Plan - Preparation of Bids).
2. The Committee noted that the reference arose following the approval of the new Access Condition D3.8 by the Regulator, and the carrying out, by Railtrack, of the supplementary consultation as required by Timetabling Committee Determination no. 38.
3. The Committee noted that the reference by RRNE related to the force of paragraph 3.2 of the National Rules of the Plan, and the contention by RRNE that this paragraph does not fully reflect the force of the revised Access Condition D, in particular in its references to compliance, and to the need for bids to be conflict free, both internally and with the operators.
4. The Committee noted that, in the course of further consultation, paragraph 3.2 of the National Rules of the Plan had been significantly amended. The Committee considered that the change of words from “must be compliant” to “should be compliant” meant that compliance was a goal, not an absolute requirement. This would imply that were, in future, Railtrack to reject a Revised Bid solely on the grounds of non-compliance with Rules of the Plan, the Train Operator would be entitled to refer that rejection to the Timetabling Committee, and the Timetabling Committee would inform its subsequent judgement with considerations of the reasonableness of the respective position of the Train Operator and Railtrack.
5. In forming this view the Committee noted that the effect of a Train Operator submitting Revised Bids that are not “internally conflict free” is that Railtrack does not have a clear working statement of the Train Operator’s priorities. Without such a statement the Train Planning process is significantly more difficult to administer.
6. On the other hand the Committee also took the view that, if Revised Bids did not identify or resolve every possible internal conflict, then it would be reasonable for Railtrack to act to resolve such minor conflicts to meet the local exigences of the timetable, on the assumption that the Train Operators had no explicit view.

7. In relation to the requirement that Revised Bids should not conflict with the Permanent Timetable paths of other Train Operators, the Committee noted that
 - 7.1 the National Rules of the Plan is worded to require the parties to act reasonably and to resolve matters by discussion, and that
 - 7.2 Condition D3.8.5(a) would oblige Railtrack to reject or modify any bid which did conflict with another Train Operator's Permanent Timetable path not notified for amendment under Condition D3.8.2.

8. The Committee therefore reminded the parties that Access Conditions must take precedence over instructions or specific Rules of the Plan. However the Committee determined that
 - 8.1. paragraph 3.2 of the National Rules of the Plan was not inconsistent with the Access Conditions;
 - 8.2. the avenue for resolving specific disputes by reference to the Timetabling Committee remains open;
 - 8.3. the Access Conditions and para 3.2 of the National Rules of the Plan give both the parties, and the Committee, good guidance as to what would be appropriate tests of reasonableness in the event of a dispute; and
 - 8.4 Regional Railways North East accept the August 5th 1997 wording of paragraph 3.2 of the National Rules of the Plan.

Bryan Driver
Chairman of the Committee
10th October 1997