
TIMETABLING COMMITTEE

Determination No. 85

(following a hearing at Kings Cross on 21st December 1999)

[Note: no determinations were issued in respect of references 83 and 84; previous published determination was determination no.82]

1. The Committee was asked by Great Western Trains (GWT) to rule that Railtrack, in proposing certain changes in the Rules of the Plan for Winter 2000 Timetable, in relation to the application of a 90% planning cap on paths, had introduced constraints into the timetabling process which would inhibit future service developments.
2. The Committee, in addressing the merits of the case as presented, were considerably handicapped by the very poor quality of the submission, which reflected a lack of discussion between the parties, and included, amongst other problems, conflicting statements of fact.
3. The Committee noted that the key issues in dispute were contained in section 5.2.2. General Capacity Constraints in the “Rules of the Plan: Summer 2000 & Winter 2000/01; Amended Proposal” dated October 1999. It was characteristic of the disarray surrounding the process, that in practice this document only relates to the Winter 2000/01 timetable, and not as titled.
4. Two items were of particular concern to Great Western Trains, which related to the definition and application of the principle that “it is intended to restrict planned usage to 90% of capacity”. These were:
 - 4.1 a change from an established definition that “Headways used are strict minimum headways” to “Headways used are those defined in Rules of the Plan”; and
 - 4.2 a significant extension of the route network over which the 90% cap would be applied.
5. The Committee noted that these changes had been introduced in a later draft in an iterative consultative process, and that the highlighting, nominally of changes, had in fact all been incorrectly applied. The Committee decided to assess the adequacy of the consultation process undertaken by Railtrack, by reference to criteria it had laid down in an extraordinary deliberation dated 1st July 1996. These criteria established tests of reasonableness by which to assess whether consultation had been adequately carried out. It was the view of the Committee that, in relation to the specific issues in question, the consultation carried out by Railtrack had been totally inadequate in every respect.

6. That said the Committee noted, and accepted, Railtrack's assurances on the following matters:
 - 6.1 Railtrack's intention in changing the criterion in relation to Headways was to ensure that any calculation of a 90% cap was by reference to known and documented details;
 - 6.2 Whilst there was a clear wish to ensure that train planning took account of performance considerations, there was no intention of achieving a performance buffer by dint of reducing the numbers of paths available as compared with established practice;
 - 6.3 there is no wish to go back on any formal assurances given in the past in relation to the granting of Access Rights for service enhancements; and
 - 6.4 any 90% cap figure is intended as a benchmark warning of potential capacity/performance problems, not as an absolute limit on paths.
7. The Committee gave its support to the view that the previous definition of Headways was inadequately clear - a view re-inforced by the confused and inconclusive propositions advanced by both parties. The Committee applauded the principle that the definition of Headways, in this context, should be stated unambiguously within the Rules of the Plan; this would provide a mechanism whereby, where an Access Party believed such a Headway to be inappropriately specified, it could be challenged in accordance with the processes set out in Access Condition D2.4 'Review of the Rules of Route/Rules of Plan'.
8. In relation to the undertaking given at 6.2 to 6.4 above, the Committee was of the view that these would not have been in doubt had Railtrack carried out consultation on this section of the Rules of the Plan adequately: to date the consultation did not provide the confirmation, which might reasonably have been expected, that the changes proposed did not have a potential impact on line capacity as compared with previous expectation.
9. The Committee considered that the evidence brought by GWT was equivalently inconclusive as to the contrary assertion.
10. The Committee therefore determined:
 - 10.1 it would not accept, on the basis of this reference, representations made by GWT;
 - 10.2 it would require Railtrack to carry out further and adequate consultation; this consultation should address all of the assurances given by Railtrack and set out in 6 above, and take place with all affected users of the Great Western Zone in respect of the proposed content of section 5.2.2. Furthermore Railtrack must ensure that such consultation as prescribed in Access Condition D2.4 should have been carried out, and consideration given to any responses from Train Operators (including any further references so the Timetabling Committee), by

the due date for the issue of the Bidding Information, namely 11th February 2000;

- 10.3 in undertaking such consultation Railtrack should take the initiative in reviewing the wording in relation to the 90% cap so that there could be no ambiguity but that the 90% figure is a benchmark, and not an absolute arbiter;
- 10.4 both parties should be warned that, notwithstanding the real significance of the issue in debate, the manner of the reference had caused the Committee considerable disquiet; future references of such poor quality could run the risk that they would not be heard.

Bryan Driver,
Chairman,
21st December 1999