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## ***ACCESS DISPUTE RESOLUTION COMMITTEE***

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### **MINUTES of MEETING No. 72** held in London on 10 January 2005

#### **Present:**

Tony Holland, Chairman  
Bill Davidson (Network Rail)  
Tony Deighan (Eurostar (U.K.))  
Julia Glenn (Network Rail)  
Mike Price (ScotRail Railways)  
Nigel Oatway (English Welsh & Scottish Railway)  
Alan Wilson (Wessex Trains)

#### **In attendance:**

Chris Blackman (Secretary)  
Martin Shrubsole (Clerk)

#### **Apologies:**

Ian Osborne (Freightliner)  
Niel Wilson (North Western Trains)

#### **72/1 Minutes of meeting no.71**

The minutes of meeting no.71 held on 23 December 2004 were approved subject to a minor modification. The Chairman signed a copy of the minutes, as modified, as a true record of the proceedings.

#### **72/2 Matter arising from the minutes of a previous meeting**

*Min. 70/6: Changes to the Network Code*

Members noted that a large number of changes to the Network Code had come into effect that day. A substantial part of the changes reflect the effect of the former Rail Regulator's C8 notices issued in summer 2004. Members were concerned that there are a number of passages in Part D (pink pages) that are inconsistent with the procedures for the new ADR tribunals and Timetabling Committee. Julia Glenn explained that Network Rail was working with the Office of Rail Regulation in a major exercise to resolve a substantial list of consequential ambiguities.

The Secretariat expressed the view that the lack of vertical lines to highlight changes would make it less easy for users of the Network Code to detect the changes that had been made. However, Members were unmoved by this view.

### **72/3 Hearing of reference AD40 from Silverlink Train Services**

The Committee reviewed the papers submitted by the parties for reference AD40 pursuant to Part L of the Network Code. Members considered that, although the papers included a long list of outputs, there was a lack of information not only as to the process of developing these outputs and the reasoning that lay behind the values, but also as to the degree to which these outputs had been fully consulted with Train Operators. Without a proper understanding of the process and reasoning, the Committee is unable to establish whether there has been “any failure of an Access Party ... to comply with the procedural requirements of Part L in establishing the LOC and any unfairness to any person which may have resulted from any such failure” (ORR’s LOC Criteria (a)). Until Members have the information essential for any determination of whether or not the process that has resulted in the LOC is conducted in a reasonable manner, they are unable to detect whether there are grounds for the Train Operator disputing the LOC values themselves.

The parties need to describe their respective roles in the execution of the procedures set up in compliance with Network Code Condition L6. Accordingly the parties were given directions as to the papers that they had to produce within four weeks in order to enable the Committee to conduct a full and careful hearing commencing on 15 February 2005.

### **72/4 Update on References**

AD31 The parties, Great Eastern Railway, Anglia Railways and Network Rail, are still seeking guidance from the Delay Attribution Board.

AD35 The parties, Great Eastern Railway and Network Rail, have been remitted to take the issue to mediation; the matter is temporarily stayed pending the outcome of the mediation of reference AD36.

AD36 Mediation between Thames Trains and Network Rail is still in progress.

AD37 The parties, Thames Trains and Network Rail, will prepare a joint submission informed by the outcome of the mediation on reference AD36.

AD38 from Arriva Trains Wales and Network Rail re allocation of delays; this has been referred back to the Delay Attribution Board for further advice.

AD41 from Central Trains on the issue of Local Output Commitments; hearing to be arranged.

AD42 from Wessex Trains on the issue of Local Output Commitments; hearing to be arranged.

### **72/5 Date of next meeting**

Tuesday 15 February 2005.