
NETWORK and VEHICLE CHANGE COMMITTEE

Determination no. NV50

Hearing held at Kings Cross on 12th November 2003

[Note: previous published determination was determination NV 37, 38, 40, 41, 43 and 46]

1. The Committee was asked to rule, by Silverlink Train Services (STS), that aspects of the proposals for undertaking works for the West Coast Route Modernisation project (as set out in Major Project Notice (May to Dec. 2004 Works), Final Proposal dated 4th July 2003), were unacceptable because of the impact that they had upon its business.
2. The Committee was pleased to note, and accept, the report of the parties that some referred issues had now been resolved to mutual satisfaction. The point of contention brought by the parties and remaining for the Committee to determine was therefore as follows, and in some respects a continuation of that addressed in NV40.
3. The premise of the Major Project notice is that most of the works south of Rugby, during the currency of the notice, will be dependent upon the use of a varying combination of blockades and midweek and weekend “2 Track Railway timetables”. In the light of STS’ experience in relation to the Easter and August 2003 blockades, STS is concerned that this approach will require several different Timetables to operate, and that Network Rail does not have in place sufficient Access Planning resources to permit the necessary re-working, and up-loading of timetables, on the timescales necessary for STS to be able to publish in accordance with its “Informed Traveller” obligations. STS therefore
 - 3.1. objected to the Strategy in the Major Project notice unless it is underpinned by the necessary Access Planning capability to enable STS to comply with its Informed Traveller obligations; and
 - 3.2. requested a direction from the Committee to Network Rail to procure and deploy such necessary resources, such direction to be reinforced by a ruling that, where the needs of “Informed Traveller” (in particular the so-called T-12 commitment) was not met, this should be a ground for requiring that the relevant blockade etc should not proceed.
4. Network Rail acknowledged the problems that had occurred during the 2003 Timetable, in particular in respect of the Easter and August blockades, where the required timetable information had only been produced to a T-4 or even worse standard. It described the arrangements that were in hand to add to the Access Planning resources, in order to ensure that it did not, during the 2004 Timetable, fall down on its obligations to support Informed Traveller.

5. The Committee, in reviewing this case, came to the following conclusions:
 - 5.1. in the submission, the parties had alluded to matters of compliance with Licence obligations. The Committee has no locus in respect of Licence compliance, which is a matter for the Regulator, and is only considering the matter from the perspective of whether the concerns cited by STS constitute valid reasons for directing Network Rail, in accordance with Track Access Condition G6.5.3, in any way to modify or curtail the scope of the works described in the Major Project notice;
 - 5.2. it was clearly totally unacceptable to the travelling public, and the rest of the industry, if the obligations of Informed Traveller cannot be met because Timetable data is not available on time; there is a clear duty on Network Rail to resource its operations in such a way that these obligations can be supported, and to use all best endeavours to ensure that T-12 is actually achieved;
 - 5.3. within the context of all the pressures to deliver a modernised West Coast Main Line, it would not, at this point, be proportionate were the Committee to direct that a minor failure to comply with supplying information on a T-12 basis in every case, should result in the cancellation of complete sections of work.
6. The Committee therefore determined that:
 - 6.1. STS' insistence that Network Rail should provide all necessary Access Planning Resources to comply with the T-12 standard for Informed Traveller, even in respect of Major Project notice works, is reasonable;
 - 6.2. the arrangements that Network Rail had stated that it proposed to take to strengthen the Access Planning capability, appeared appropriate, and should be implemented;
 - 6.3. the Committee requires Network Rail to monitor actual compliance with T-12 timescales in respect of all the works covered by this Major Project notice; and that
 - 6.4. provided that Network Rail can demonstrate that it has genuinely deployed best endeavours to achieve T-12 compliance, failure wholly to achieve T-12 shall not be a sufficient reason to require works or a blockade to be cancelled.

Sir Anthony Holland

Chairman