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## ***TIMETABLING SUB-COMMITTEE***

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### ***INTERIM DETERMINATION No. 13***

***(Made at Euston House on 4 June 1996)***

The Committee was asked to consider a reference from Great Western Trains Ltd under Access Condition H11.9(a) alleging that the level 1 train regulation statement, as promulgated by Railtrack, does not "achieve the train regulation objective". The appellant asked the Committee to direct Railtrack to amend the level 1 train regulation statement.

The Committee noted that the reference was brought under Condition H11.9(a), which sub-paragraph related to the achievement of the train regulation objective, and that the subsequent right of appeal was to the Regulator.

The Committee considered that the grounds for bringing a reference under Condition H11.9(a) should be that the practical application of the regulation statement was having, or was likely to have, a demonstrable unfair impact upon the business of the appellant.

The Committee accepted the right of Great Western Trains Ltd to challenge the train regulation statement, but only in regard to those discrete parts of the Network over which it had Access Rights.

The Committee noted that the use of train regulation statements with levels 1, 2 and 3 was a convention that had been proposed by Railtrack in order to ensure that, pending the development of specific statements for discrete parts of the Network by the drafting of level 2 and level 3 statements, level 1 should act as a default guidance available to all signallers and all Train Operators. The Committee endorsed the general principle of level 1, level 2 and level 3 statements as a pragmatic mechanism by which Railtrack could discharge its responsibilities for creating a regulation statement for "each discrete part of the Network".

The Committee considered that Great Western Trains Ltd had as yet produced no grounds or evidence for obtaining a judgement under Condition H11.9(a), and therefore the Committee declined to make a judgement under the terms of that clause at this stage. The Committee determined that it would still be prepared to hear the submission at a later date, should the appellant be in a position to produce evidence to support his contention that the statement does not, or is not likely to, in practice meet the regulation objective.

The Hearing was therefore postponed in accordance with Dispute Rule A5.11.2(b) until such a date. The parties were enjoined to continue with their efforts to finalise level 2 or level 3 statements without delay.

The Committee deemed that the submission will have lapsed if no re-application has been received by the start of the consultation period for the next regulation statement as prescribed in Condition H11.4.1.

**Bryan Driver**  
**Chairman of the Committee**  
**4th June 1996**