
TIMETABLING PANEL of the ACCESS DISPUTES COMMITTEE

Determination in respect of dispute reference TTP2687 (following a hearing held in London, on 22 August 2025)

The Panel:

Jacqueline Findlay Hearing Chair

Members appointed from the Timetabling Pool

Andy Roberts elected representative for Franchised Passenger Class, Band 1
Maria Lee appointed representative of Network Rail

The Dispute Parties:

Grand Central Railway Company Ltd. ("GC")

Chris Hanks Timetable Strategy Lead
Will Etherington Performance and Interim Planning Manager
David Craigie Incumbent Planning Manager

Network Rail Infrastructure Limited ("NR")

Matt Allen Head of Timetable Production
Lindsay Nalton Timetable Production Manager
Stephen Newman Operational Planning Manager

Involved Parties:

Phil Hutchinson Head of Strategic Planning (Govia Thameslink Railway Ltd.)
Kate Oldroyd Track Access Manager (Northern Trains Ltd.)
Leon Foster Senior Strategic Timetable Development Manager (XC Trains Ltd.)

Observers (professional development):

Iain Walker (SWR); Lauren Challis (SWR); Shaun Hirst (GTS Elizabeth Line); Jemima Poole (NR);
Sarah Harris (NR)

In attendance:

Tamzin Cloke Committee Secretary ("Secretary")

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A Background and Jurisdiction

1. Dispute TTP2687 was raised by GC by service of a Notice of Dispute on 11 July 2025 in respect of NR's decisions in relation to the New Working Timetable Publication for 2025. The dispute was brought on the basis that GC felt NR had not followed Part D of the Network Code when considering GC's bid for additional train services between Bradford and London, and York and London, in the December 2025 timetable.
2. I was appointed as Hearing Chair on 16 July 2025 and I satisfied myself that the matters in dispute included grounds of appeal which may be heard by a Timetabling Panel convened in accordance with Chapter H of the ADR Rules to hear an appeal under the terms of Network Code Condition D5.
3. In my consideration of the Parties' submissions and my hearing of the Disputes, I was mindful that, as provided for in ADR Rule A5, I should reach my "determination on the basis of the legal entitlements of the Dispute Parties and upon no other basis".
4. The abbreviations used in this determination are set out in the list of Parties above, in this paragraph 4 and as otherwise defined in this determination document:

ADR Rules mean the Access Dispute Resolution Rules and **Rule** is construed accordingly

ANTC means Advanced Notice of Timetable Change

Chapter H means Chapter H of the ADR Rules

Decision Criteria means Network Code Condition D4.6

ECML means the East Coast Mainline

EMR means Transport UK East Midlands Ltd.

ESG means Event Steering Group

ORR means the Office of Rail and Road

Part D means Part D of the Network Code

SRD means Sole Reference Document

SX means Mondays to Fridays only

TAC means Track Access Contract

TCRAG means Timetable Change Risk Assessment Group

TOC means Train Operating Company

TPRs mean Timetable Planning Rules

TTP means Timetabling Panel

WTT means Working Timetable

B History of this dispute process and documents submitted

5. At my request (and as permitted by ADR Rule H21), the Dispute Parties were required to provide SRDs. The proposed Panel hearing was notified generally by means of the website and by email to those identified as potential interested parties by the Dispute Parties.
6. On 07 August 2025, GC served its SRD, in accordance with the dispute timetable as issued by the Secretary.
7. On 14 August 2025, NR served its SRD in accordance with the dispute timetable as issued by the Secretary.
8. Govia Thameslink Railway Ltd., Northern Trains Ltd., and XC Trains Ltd. declared themselves to be Involved Parties. All were represented at the hearing.

9. On 21 August 2025 the Dispute Parties were advised – for the purposes of ADR Rule H18(c) – that the issues were ones of mixed fact and law, which constitute the substance of the dispute to be determined. Specifically: whether NR acted in accordance with Part D of the Network Code when rejecting GC's bids for additional paths between Bradford and London, and York and London, in each direction every day of the week; whether NR correctly interpreted Conditions 4.2.2, 4.6.1, 4.6.2, 4.6.3 and 4.6.4 of Part D of the Network Code; whether Condition D4.6.2(c) should be given greater weighting than other relevant factors when making a decision to reject additional paths, or whether NR should show whether any of the bids could be accommodated based solely on conformance with the TPRs or, if competition for a slot, priority of rights should be applied; finally, whether as a matter of principle, unless otherwise required by the TPRs, a valid path should not be rejected purely on the grounds of performance, however that is assessed.
10. The hearing took place on 22 August 2025. The Dispute Parties made opening statements, responded to questions from the Panel concerning various points and were given the opportunity to make closing statements.
11. The Franchised Passenger Class Panel Member declared the following interest: he had previously worked for NR and an Arriva Group TOC. None of the Dispute Parties raised an objection to the Franchised Passenger Class Panel Member's appointment. In any event, ADR Rules A8 and H5(b) governing impartiality of Panel Members, apply.
12. I confirm that the Panel had read all of the papers submitted by the Dispute Parties and I confirm that I have taken into account all of the submissions, arguments, evidence and information provided to the Panel over the course of the dispute process, both written and oral, notwithstanding that only certain parts of such materials are specifically referred to or summarised in the course of this determination.

C Outcomes sought by the Dispute Parties

13. In its SRD, GC asked me to determine that, in a number of areas, NR had failed to comply with Part D, particularly in terms of communication with GC, and what GC alleged was a failure by NR to conduct sufficiently thorough work to include the proposed services in the WTT. GC also sought, as a matter of principle, a determination that, unless otherwise required by the TPRs, a valid path should not be rejected purely on the grounds of performance, however that is assessed by NR. GC requested that I determine that NR should have accommodated "at least some" of the proposals in the WTT.
14. In terms of practical remedy, GC sought a determination that NR should: reserve the proposed Train Slots as strategic capacity in the May 2026 WTT; provide further, detailed, performance modelling on the impact of including the additional services; provide updated representations to the ORR on the related Access Rights application for the services, reflecting the outcome of the performance modelling; work collaboratively with GC on the development of the May 2026 WTT; include any TPR-compliant paths that GC was to bid in any performance modelling due to be carried out for the upcoming May 2026 WTT.
15. NR asked me to uphold the appealed decision, support NR's understanding that my powers were confined to the decisions it had made for the December 2025 WTT (and not any future timetables), and to agree with its updated understanding that, following the

ORR's decision not to approve the related Access Rights, GC no longer had an expectation of rights for the 14 rejected services within the New WTT Publication for 2025.

D Relevant provisions of the Network Code and other documents

16. The versions of the Network Code Part D and the ADR Rules dated 19 November 2024 were applicable to these dispute proceedings.
17. Network Code Part D Conditions 2.6, 4.2 and 4.6 were particularly relevant and are appended in Annex A.

E Submissions by the Dispute Parties

18. GC's written Opening Statement can be found at Annex B.
19. NR's written Opening Statement can be found at Annex C.
20. On the morning of the hearing GC asked to submit two further documents, in response to statements made in NR's SRD. These comprised firstly a draft slide from a meeting pack for the 'ECML Task Force' group dated 24 January 2024, in which NR had written "it is expected that NR will not be able to include [GC's new services]". On the same draft slide, additional EMR services crossing the ECML are described as, "expect to include as part of the Dec 25 timetable". GC said the rest of the draft slide pack was relevant to the December 2025 timetable, but not GC's dispute, specifically.
21. GC said the slide had been changed, after challenge from its director, and placed weight on the statement being drafted prior NR starting work on the Part D D-40 to D-26 decision making process for December 2025. The second document was an email from Matt Allen, NR, to Matt Taylor, GC's then-Timetable Planning Manager promising to undertake two actions: speaking with NR colleagues to understand what work had been undertaken looking at GC's access rights application in the context of advanced timetabling work; and, review GC's May 2025 Train Slots that were not in the December 2025 plan to see "what it would take" to include them. GC said the promised feedback had not arrived.
22. NR did not object to these documents being submitted for the Panel's consideration. NR asked to submit the full, final, slide pack from the Task Force meeting, which GC did not object to. In the final slide pack, both the EMR and GC services are described as "currently not clear" if they will be included. All three documents are appended as Annex D.

F Oral evidence at the hearing

23. Following GC's Opening Statement I reminded the Parties that Hearing Chairs are bound by ORR determinations, per ADR Rules A7(a) and (b). This meant I was bound by the ORR determination of TTP1174, which NR had raised in its SRD. GC advised it now accepted that the ORR's determination was binding, and NR had the ability to reject TPR-compliant Train Slots by relying on application of the Decision Criteria. Having reflected on TTP1174, GC said it felt whilst NR had that ability to reject, it came with an obligation to provide full reasons for each rejected Train Slot.
24. The following points were common ground between the Parties.

25. That after the formal ECML ESG Part D process (per Condition D7.2) concluded in January 2024, there were two main industry fora where discussions took place: a director-level ECML 'Task Force' with decision making powers, and a practitioner-level Heads of Train Planning call to work on implementing the Task Force decisions. To date, 44 Heads of Train Planning calls have taken place, including some post-dating the December 2025 timetable offer. It was agreed that Task Force representation was organised by operator 'class' or 'band' and GC's representative was a director from its commercial rival, First Group. GC's owning group (Arriva) had a representative present on the Task Force, from a different operator class, but GC was unaware of this at the time. GC was invited to all Heads of Train Planning calls and received all the meeting notes. GC received the Task Force notes via the First Group director, including the draft slide it had objected to in January 2024. The Parties were not sure if there were any direct conflicts between any of the GC or First Group services.
26. GC's additional services, subject of this dispute, were not included in the original ESG timetable as, at the time it was originally developed, GC did not have an aspiration to run the services. The aspiration arose in May 2024, after GC had bid (minus the services) for what was expected to be a December 2024 implementation of the ECML ESG timetable. When the implementation was delayed to December 2025 GC took the opportunity to include the services in its December 2025 D-55 ANTC in November 2024. It was agreed that NR corporately, and Capacity Planning specifically, was aware of the aspiration in, or around May 2024 due to NR consulting on the concurrent Access Rights application, which included internal NR consultation. The performance modelling for the ECML ESG timetable commenced in September 2024, without GC's additional services included.
27. It was agreed that the Prior WTT, against which all D-40 proposals would be validated, included the outputs from the ECML ESG and the additional EMR services.
28. During the D-40 to D-26 process it was agreed both Parties met all timescale requirements in Part D. On 31 March 2025 NR sent an 'intent to reject' letter under D2.4.6, followed by a formal rejection of the disputed services at D-26.
29. It was agreed that "similar" Train Slots had subsequently been bid for inclusion into the May 2026 WTT, which is now in development. GC was now undertaking its own performance modelling, to share with NR during the development process. It had not previously undertaken any performance modelling work.
30. It was agreed between the Parties that GC could, and perhaps should, have done more to engage with NR and to lobby for the inclusion of its services in both the September 2024 performance modelling and the Prior WTT, especially after it became aware in January 2024 that the services might not be included in the December 2025 timetable. GC identified January 2024, the inclusion of other operators' new non-ESG services in the Prior WTT (but not GC's), and the 'intent to reject' letter dated 31 March 2025 as key points where, in hindsight, it could, or should, have escalated matters.
31. GC later stated that, whilst it felt it could have lobbied more, it wanted to make clear it felt operators submitting compliant D-40 bids should be able to rely on NR undertaking the full D-40 to D-26 process and treating operators "equally" without additional lobbying, or above business-as-usual, activity.

32. There was some disagreement about the level of agency GC had through the Task Force. GC felt although it had “detailed involvement” in the regular Heads of Planning calls, it lacked “involvement in decision making” via the Task Force and “at the ESG level we did have a say, but ... didn't have any of that say after the ESG was closed”. It accepted that it could have approached either its designated Task Force representative, or its owning group representative, and had not done so. Both Parties agreed that the Task Force composition and regular planning call structure, whilst outside the formal Part D process, was within the bounds of normality for the industry, not least due to the number of operators involved; it was felt impractical to have a decision making body with a large number of representatives. The regular Heads of Train Planning calls have 36 invitees and 19-20 regular attendees. It was expected that attendees at both groups would cascade information as required.
33. NR felt that, had GC lobbied harder for the new services, particularly prior to the D-40 Priority Date, then NR “would've probably had to include” the services in the modelling work. This was “not to say the decision would be any different”, but it would have meant that NR would have included GC's additional 14 services in the “tricky trade-offs” made for December 2025, rather than straight-forwardly rejecting the bid.
34. NR was questioned about its operation of Condition D4.2, and an apparent conflict in its SRD between paragraphs 4.2.18 (where several conflicts between GC's proposed services and other operators are described) and 4.2.28 where NR stated, “NR has identified that the Train Slots requested by GC are not competing with requests from other Timetable Participants for the same path and as such, the Priority for Inclusion in D4.2.2 has no bearing on the matter”. NR apologised for the confusion but said: “we haven't used [D]4.2.2 as the decision maker for priority for inclusion because we've gone straight to using [the] Decision Criteria on the grounds of performance”. As NR had used D4.2.1, and the Decision Criteria, to reject the services it said that it had not used its Flexing Right in D4.2.2(c), but that if it had it might have been able to “solve them”.
35. NR advised that these issues had been identified during the drafting of its SRD for this dispute, when it had compared GC's proposed services against the offered December 2025 WTT and it was “just trying to just demonstrate that these 14 trains don't fit cleanly into the timetable”. It said it had taken a “courtesy look” at GC's PDNS and had checked the D-40 bid against “earlier work”, but with 16,000 timetable conflicts to resolve it had not had the chance to do more.
36. GC objected to NR's approach, arguing that NR should have assessed its proposals against the Prior WTT, and that any conflicts would have been able to be “resolved” if this work had been undertaken between D-40 and D-26, rather than during the disputes process. GC said it was “not at all surprising” that its proposals didn't fit cleanly into the offered December 2025 WTT, as they had been bid into what it said was identified space in the Prior WTT instead.
37. There was a substantial amount of disagreement over a work package for additional EMR services, called ‘Project Abraham’. This involved an increased frequency of services between Newark Castle and Lincolnshire by 1tph in each direction over the ECML at Newark Flat Crossing. It was agreed that EMR had undertaken its own performance modelling, separately to the September 2024 work, that NR had checked the work and that the services formed part of the offered December 2025 WTT, following “an awful lot of” collaborative work with EMR, including the flexing of EMR's services, a “bespoke look” at Newark Flat Crossing, and the creation of contingency plans with NR signalling staff.

38. The Parties disagreed on the appropriateness of NR's actions, which GC felt were "discriminatory". By contrast, NR said it was not "comparing apples and apples", as EMR's services were over a smaller geographical area and therefore easier to work on and isolate. NR said it had not undertaken any specific performance modelling work on GC services, but that this wasn't possible. It said the work it had undertaken was "the biggest bit of performance modelling we'd ever done" and "without the additional trains of Grand Central already showed a detriment to [ECML] long-distance passenger trains".
39. The Parties could not agree how much extra capacity, if any, the EMR services took up on the ECML, over and above the ECML ESG timetable output. GC stated that "the existing pair is paired across the crossing. New services are not, with a gap of approximately 20 to 24 minutes. So, they are two new paths, in essence, going over the crossing, in a timescale, roughly, of 09:00 to 18:00 SX for weekdays. So, it's two new slots, in essence, every hour, across the crossing." Further, "they take up a path each time they cross, and they take up a path in both directions, not just in one direction." NR stated there are "18 individual moves across the crossing between-, in the period of almost one day. That increased to 26 [in the bid], and we brought that back down to 18 moves. Some of those were pairs, some of them were a single train." Despite being asked several times, the Parties could not reach a common understanding.
40. In response to a question about operational readiness, should GC's appeal succeed, GC stated that it could not resource the full set of paths it sought, and could perhaps resource a "subset". When pressed on what this meant, it felt that - at most - it could resource one return journey (one Train Slot in each direction) Monday to Saturday during the lifetime of the December 2025 WTT. It could currently not resource any of the Sunday Train Slots. Later, GC confirmed that it had originally wanted to operate the additional services by 2028 but had brought the plans forward following a change in circumstances.
41. A number of other minor points were clarified, as follows.
42. The Timetable Risk processes outlined in Condition D7.3 had been followed, and no risks other than performance had been identified via TCRAG in connection with GC's proposed services.
43. The window of time assessed in NR's performance model was 14:00 to 20:00 hours on a weekday, within which three of GC's 14 proposed Train Slots would have operated.
44. During an exchange between GC and NR it was confirmed that NR's maximum permitted number of tph over Welwyn Viaduct is 18. GC stated that two of its proposed Train Slots are in hours where only 15tph are planned to operate.
45. NR stated there would be future TPR reviews on the south end of the ECML, which might decrease available capacity, and that at Peterborough the industry had had to make some significant compromises to include freight trains in the December 2025 WTT, including planning on minimum technical headways.
46. The Parties made brief closing statements.
47. NR requested that its decision be upheld, and said whilst it "recognised any guidance" the Panel could provide, it did not believe that a Hearing Chair's powers extended to directing

remedies for future timetables, specifically May 2026. NR relied heavily on the ORR appeal of TTP1174 in support of its actions between D-40 and D-26.

48. In light of the discussion over the day, GC had revised Section 6.1 of its SRD to request five items, which it believed fell within my determinative powers under Network Code D5.3.1(a):

- a. As a matter of principle, NR should have attempted to show whether any or all of the bid paths could be accommodated in the New WTT for December 2025, taking account of all obligations in the ORR determination of TTP1174;
- b. NR did not act fully in accordance with Part D, and should have accommodated at least some of GC's additional services in the December 2025 WTT;
- c. NR to include GC's rejected services as Strategic Capacity Slots in both the December 2025 and May 2026 WTTs;
- d. NR to review GC's performance analysis prior to D-26 for the May 2026 WTT, 'to determine whether any predicted performance decrement is substantial'; and,
- e. NR to include any TPR-compliant GC paths in any separate performance modelling NR undertakes for the May 2026 WTT.

G Analysis/Observations and Guidance

As a matter of principle, NR should have attempted to show whether any or all of the bid paths could be accommodated in the New Working Timetable for December 2025, taking account of all obligations in the ORR determination of TTP1174.

NR did not act fully in accordance with Part D and should have accommodated at least some of GC's additional services in the December 2025 WTT.

NR to include GC's rejected services as Strategic Capacity Slots in the December 2025 WTT.

49. NR's letter to GC dated 31 March 2025 giving notice of the non-accommodation of the 14 services, set out NR's decision regarding the weighting of the Considerations set out below with the evidence for the greater weighting of performance:

D4.6.2(b) – that the spread of services reflects demand.

D4.6.2(c) – maintaining an improving train service performance.

D4.6.2(j) – enabling operators of trains to utilise their assets efficiently.

50. In NR's letter to GC dated 31 March 2025 details were provided of the impact of the non-inclusion of the services in the ESG timetable specification, the advanced work and performance modelling completed to support the December 2025 timetable change, providing evidence of consideration of D4.6.2(g) – the content of any relevant Long Term Plan and any relevant Development Timetable produced by an ESG (GC's SRD Appendix M).

51. NR lodged on 14 August 2025 a tabular version of the Decision Criteria (NR's Appendix E). NR submitted that this tabular version best summarised the relevant Considerations. NR was asked to provide the date when Appendix E was created. NR failed to do so. It is reasonable to assume the document was created for these proceedings.

52. As part of the timetabling process, NR must adhere to Condition D4, in particular, D4.2 (Decisions arising in the preparation of a New Working Timetable) and D4.6 (the Decision Criteria).
53. At the hearing NR asserted that there was no requirement for consideration to go beyond Condition D4.2.1 and that GC's application was rejected by applying Condition D4.6, and particularly Condition D4.6(c) using the results of a performance model that had been compiled without including GC's trains. As the performance model indicated a decrease in performance as a whole, NR assumed that the addition of GC's trains would make the situation worse and this was sufficient to refuse the bids. In this regard NR admitted that GC's bid was not treated as favourably as another operator's bid, where NR had undertaken additional work with, and for, the operator. The Panel felt that NR ultimately had inadequate evidence to substantiate the decision made using Condition D4.6(c); an assessment of GC's specific Train Slots should have been made, particularly as NR had both been aware of GC's aspirations prior to the performance modelling commencing, and had undertaken a "bespoke" analysis for EMR.
54. NR admitted at the hearing that the provisions of Condition D4.2.2 were in effect ignored in the decision making and NR had failed to conduct itself as set out in Condition D4.2 as required when it stated: "we haven't used [D]4.2.2 as the decision maker for priority for inclusion because we've gone straight to using [the] Decision Criteria on the grounds of performance".
55. I agree with previous TTPs and ORR appeal outcomes (including the ORR appeal of TTP1174) that when compiling the New WTT and in accordance with the proper contractual interpretation of Part D, NR was under the duty expressed in the Condition D4.2.2 preamble to accept GC's Access Proposals wherever possible, and if this was not possible - for example due to performance or safety concerns - to demonstrate this by clearly stepping through all of the Condition D4.2 requirements. By focussing only on performance established by the performance modelling for the ECML, without GC's additional services included, NR did not act in accordance with the specific duty expressed in Condition D4.2.2.
56. It was of concern to hear in evidence that NR did not look in earnest at individual trains and flexes. It was stated that NR only took a "courtesy look over everything" due to the significance of the work involved.
57. Paragraph 4.2.18 of NR's SRD identified that there were three conflicts with GC's proposals with existing services with firm Access Rights, namely 4E02 Freightliner, 1V89 XC Trains and 1H02 Hull Trains.
58. NR admitted at the hearing that the conflicts identified may be able to be solved by flexing. It was stated that "we're just trying to demonstrate that these 14 trains don't fit cleanly into the timetable."
59. The evidence from NR at the hearing made clear that NR did not look seriously at flexing GC's services and in fact did not consider flexing at all.
60. GC was entitled to expect NR to use its best endeavours to achieve the Objective, applying the Decision Criteria to all Decisions made by NR before arriving at any decision to reject. This might require NR to flex other operators' services if doing so would mitigate the perceived performance impact of including GC's services. NR's consideration of the ways

in which it can achieve the Objective must extend to identifying where flexing, either by applying the defined Flexing Right or by using any other powers in Part D entitling NR to flex services, will enable it to achieve the Objective and to use all its available powers.

61. In TTP1610 NR in its SRD stated that “All of Network Rails Timetabling Planners have an awareness and understanding of the Objective and Considerations as set out in condition D4.6, and mindful of the requirements that this, places on Network Rail for making decisions during the development period. It is this general understanding of the Objective and Considerations that is relied upon for processing most changes.” The evidence given by NR at the hearing of TTP2687 demonstrates it did not follow its own policy in this instance.
62. NR stated during the hearing that going forward it had to learn to do better in the months and years ahead.
63. NR had the right to flex and that right is unfettered within the duty on NR to act reasonably in the context of the Decision Criteria and other Part D duties. NR chose not to consider flexing and in doing so did not act reasonably, taking into account that NR stated the conflicts may be able to be solved by flexing.
64. There have been numerous decisions dealing with the application of the Decision Criteria and the obligations on NR. I have had regard to these TTPs, which establish that NR does not have the power or the right to apply the Decision Criteria in the abstract or on its own initiative to any part of the process in compiling a timetable; where it applies the Decision Criteria it should seek out (within reason) information from operators, and compile its own evidence, to help it arrive at an informed decision.
65. NR did not act fully in accordance with Part D. GC has requested that a direction is made that NR should have accommodated at least some of GC’s additional services in the December 2025 WTT. I decline to give such a direction. However, NR should have acted in accordance with the obligations on it and conducted itself in accordance with Condition D4.2.
66. I have borne in mind that the TTP must have regard to the evidence and information that was before NR at the time the decision was made. It is not for the TTP to stand in the shoes of the decision maker and consider what decision it would have made and consider fresh or new evidence that was not before the decision maker. The evidence at the hearing from NR was in the form of clarification of evidence that was before the decision maker.
67. The only relief which I can grant is that set out in Part D Condition 5.3.1. Part D Condition 5.3.1 provides that:

“In determining any appeal pursuant to this Part D, any Timetabling Panel or the Office of Rail and Road (as the case may be) may exercise one or more of the following powers:

- (a) It may give general directions to Network Rail specifying the result to be achieved but not the means by which it shall be achieved;
- (b) It may direct that a challenged decision of Network Rail shall stand;
- (c) It may substitute an alternative decision in place of a challenged decision of Network Rail;
- (d) Provided that the power described in (c) above shall only be exercised in exceptional circumstances.”

68. The parties have not submitted that there are exceptional circumstances and I find there are no exceptional circumstances.

NR to include GC's rejected services as Strategic Capacity Slots in the May 2026 WTTs.

NR to review GC's performance analysis prior to D-26 for the May 2026 WTT, 'to determine whether any predicted performance decrement is substantial.'

NR to include any TPR-compliant GC paths in any separate performance modelling NR undertakes for the May 2026 WTT.

69. In accordance with D5.1.1 an appeal lies only against a decision that has been made by NR. Accordingly, I have no power to make a decision regarding the May 2026 WTT. Comments are made below to NR regarding the May 2026 WTT.

H Determination

70. Having carefully considered the submissions and evidence and based on my analysis of the legal and contractual issues, my determination is as follows.

71. When applying the Decision Criteria NR did not act fully in accordance with Part D and with its contractual obligation. GC has requested that a direction is made that NR should have accommodated at least some of GC's additional services in the December 2025 WTT.

72. Notwithstanding the above finding, I decline to direct NR to reconsider its decision as, on the basis of GC's evidence, it is unlikely that GC would have the resources to operate the services bid for. When asked whether GC had the rolling stock and train crew to operate the services during the period December 2025 to May 2026, GC stated it did not know, but thought perhaps one return journey, Monday to Saturday, could be implemented during the life of the December 2025 WTT.

73. I am further bound by ADR Rule H16(d), which states, "It is an overriding objective of these Rules that disputes referred to a Timetabling Panel shall be administered in a way which is proportionate to ... the need to ensure that the production processes for the railway operational timetable are not disrupted to the potential detriment of third parties." If the December WTT were to be rewritten, at this late stage in the production process, for services that could not operate, this would clearly be to the detriment of other operators on the ECML.

74. Accordingly, the challenged decision of NR for the December 2025 WTT stands.

75. The ORR in the decision dated 15 February 2018 (appeal against TTP1174) which is binding on the TTP, confirmed that the obligation on NR to apply the Decision Criteria must be considered in conjunction with Condition D4.2.2. NR asserts that it is aware of the obligations on it but its actions as stated at the hearing make clear that it has not used its best endeavours as required. NR is reminded that it will be in breach of its TAC if it fails to apply Condition D4.2 properly and correctly in the WTT for May 2026.

76. No application was made for costs and there is no consideration of compensation in view of my determination.

77. I confirm that so far as I am aware, this determination and the process by which it has been reached are compliant in form and content with the requirements of the Access Dispute Resolution Rules.

A handwritten signature in black ink, appearing to read 'J. Findlay', with a large, sweeping flourish underneath.

Jacqueline Findlay
Hearing Chair
05 September 2025

Annexes

Annex A: Relevant extracts from the Network Code

2.6 Timetable Preparation – D-40 to D-26

2.6.1 During the Timetable Preparation Period (D-40 to D-26) ("Timetable Preparation Period"), Network Rail shall compile the proposed New Working Timetable.

(a) all Timetable Participants shall have access to the evolving draft of the New Working Timetable either:

- (i) by way of "read-only" remote computer access or such other electronic means reasonably requested by a Timetable Participant ; or
- (ii) to the extent that a Timetable Participant does not have the required systems to facilitate remote computer access, by read-only computer access upon attendance at such of Network Rail's offices specified by Network Rail;

(b) Network Rail shall consult further with Timetable Participants in respect of their Access Proposals and the evolving draft of the New Working Timetable, and shall continue to answer enquiries and facilitate and co-ordinate dialogue as stated in Condition D2.3.4.

2.6.2 In compiling the New Working Timetable, Network Rail shall be required and entitled to act in accordance with the duties and powers set out in Condition D4.2.

4.2 Decisions arising in the preparation of a New Working Timetable

4.2.1 In compiling a New Working Timetable in accordance with Condition D2.6, Network Rail shall apply the Decision Criteria in accordance with Condition D4.6 and conduct itself as set out in this Condition D4.2.

4.2.2 Network Rail shall endeavour wherever possible to comply with all Access Proposals submitted to it in accordance with Conditions D2.4 and D2.5 and accommodate all Rolled Over Access Proposals, subject to the following principles:

(a) a New Working Timetable shall conform with the Rules and the applicable International Freight Capacity Notice applicable to the corresponding Timetable Period;

(b) each New Working Timetable shall be consistent with the Exercised Firm Rights of each Timetable Participant;

(c) in compiling a New Working Timetable, Network Rail is entitled to exercise its Flexing Right;

(d) where the principles in paragraphs (a), (b) and (c) above have been applied but Network Rail is unable to include all requested Train Slots in the New Working Timetable, the Train Slots shall be allocated in the following order of priority:

(i) first to:

(A) the Firm Rights of any Timetable Participant that will subsist during the whole of the Timetable Period and which have been Exercised; and

(B) any rights Network Rail has for Network Services included in the Rules;

(ii) second to Firm Rights of any Timetable Participant, that were in force at the Priority Date but will expire prior to or during the Timetable Period and which have

been Exercised, provided that Network Rail considers (acting reasonably) that new Firm Rights, substantially the same as the expiring rights, will be in force during the Timetable Period;

(iii) third to Contingent Rights or any expectation of rights of any Timetable Participant which have been Exercised, provided Network Rail considers (acting reasonably) they will be Firm or Contingent Rights in force during the Timetable Period;

(iv) fourth to any:

(A) rights or expectation of any rights of any Timetable Participant notified in an Access Proposal submitted after the Priority Date but before D-26 in accordance with D2.4 and D2.5. Where more than one set of rights or expectation of rights are so notified, capacity is to be allocated in the order in which Access Proposals containing details of the rights (or expectations thereof) are submitted to Network Rail; and

(B) Strategic Capacity contained in the Strategic Capacity Statement.

4.6 The Decision Criteria

4.6.1 Where Network Rail is required to decide any matter in this Part D its objective shall be to share capacity on the Network for the safe carriage of passengers and goods in the most efficient and economical manner in the overall interest of current and prospective users and providers of railway services ("the Objective").

4.6.2 In achieving the Objective, Network Rail shall apply any or all of the considerations in paragraphs (a)-(l) below ("the Considerations") in accordance with Condition D4.6.3 below:

- (a) maintaining, developing and improving the capability of the Network;
- (b) that the spread of services reflects demand;
- (c) maintaining and improving train service performance;
- (d) that journey times are as short as reasonably possible;
- (e) maintaining and improving an integrated system of transport for passengers and goods;
- (f) the commercial interests of Network Rail (apart from the terms of any maintenance contract entered into or proposed by Network Rail) or any Timetable Participant of which Network Rail is aware;
- (g) the content of any relevant Long Term Plan and any relevant Development Timetable produced by an Event Steering Group;
- (h) that, as far as possible, International Paths included in the New Working Timetable at D-48 are not subsequently changed;
- (i) mitigating the effect on the environment;
- (j) enabling operators of trains to utilise their assets efficiently;
- (k) avoiding changes, as far as possible, to a Strategic Train Slot other than changes which are consistent with the intended purpose of the Strategic Capacity to which the Strategic Train Slot relates; and
- (l) no International Freight Train Slot included in section A of an International Freight Capacity Notice shall be changed.

4.6.3 When applying the Considerations, Network Rail must consider which of them is or are relevant to the particular circumstances and apply those it has identified as relevant so as to reach a decision which is fair and is not unduly discriminatory as between any individual affected Timetable Participants or as between any individual affected Timetable Participants and Network Rail. Where, in light of the particular circumstances, Network Rail considers that application of two or more of the relevant Considerations will lead to a conflicting result then it

must decide which of them is or are the most important in the circumstances and when applying it or them, do so with appropriate weight.

4.6.4. The Objective and the Considerations together form the Decision Criteria.

Annex B: GC's Written Opening Statement

Grand Central would like to thank the Access Disputes Committee for allowing us to bring this Dispute before the Timetabling Panel today and the Chair and Panel Members for their time.

Grand Central, the Claimant, brings this Dispute before the Timetabling Panel in connection with Network Rail's preparation of the New Working Timetable for December 2025. GC bid compliantly at D-40, the Priority Date, for amendments to the Prior WTT. These amendments included, amongst other requests, 14 new Access Proposals. These comprised 10 paths London and Bradford Interchange and 4 between London and York. In total the proposals are for 3 trains in each direction Monday to Saturday plus one return journey on Sunday.

These are, of course, in addition to our existing quantum.

NR indicated in its letter of 31st March to GC that it intended to reject all these Train Slots. This was firstly on the grounds that they were not included in either the original Event Steering Group (ESG) train service specification or, as a consequence, the additional Advanced Work completed between April and September. GC maintains that the second of these is irrelevant to how NR should treat a bid at the Priority Date and the first is only relevant if the Decision Criteria are used. The Priority Date has that name for a reason: it ensures that all Access Proposals are prioritised according to their status rather than the date they were first discussed with NR.

In the letter, NR explained it had used the Decision Criteria to support their decision to reject, stating the Criteria they had considered, but not the exact weightings. No quantitative evidence regarding any of the Criteria was provided to support the decision. The analysis of performance amounted to a general statement about ECML performance and a commentary on each Access Proposal indicating where it sat in a flight of trains, never how much delay it would cause.

GC's response to this 'intention to reject' letter and NR's follow-up are documented in §5.2 of GC's Sole Reference. An explanation of why 'flighting' should be seen as positive for performance is provided in §5.5.

The Dispute was brought after NR confirmed the rejection of all of these Access Proposals in the December 2025 timetable offer.

GC maintains that, contrary to the requirements of Network Code Condition D4.2.2, NR did not make any endeavour to comply with these 14 Access Proposals by trying to accommodate them in the New WTT. No real evidence of conflicts with other paths had been supplied to GC until NR's Sole Response to this Dispute in 4.2.18 where 5 of the 14 paths have now apparently been validated. GC welcomes this belated work on its December bid and would like to respond during today's Hearing. If this level of analysis had been carried out on the proposals between the Priority Date and D-26 this Dispute might not have arisen.

GC further maintains that if all of the Access Proposals could have been accommodated in the New WTT, with NR's flexing rights used where necessary, there was no decision to make and therefore the Decision Criteria were not relevant. We note that NR refutes this interpretation of Condition D4.2.2 so will return to this point.

In Sole Reference §5.4 GC makes the case, with supporting evidence, that capacity exists for all of its proposed paths.

GC commenced operation of its London to Bradford services in May 2010. A fourth daily path in each direction was added in December 2013. The current spread of services through the day is not ideal and calls at Pontefract Monkhill are not balanced by direction. Although the December 2025 timetable provides a better spread than today, there remain significant gaps – up to 5 hours – between services and a day trip with GC from London to Bradford remains impossible. The spread does not match passenger demand.

GC has long had an aspiration to run at least 5 trains a day in each direction to provide a credible service that will generate new demand. Lumo's service is perhaps evidence of that point. GC's aspiration was expressed in the original ESG TSS version 1.1 dated May 2021, when GC expected an ESG-guided timetable to be implemented in 2023. Owing to Covid, and financial constraints on the business, GC was unable to justify its plans for expansion at that time. With deferral until December 2024 and new ownership in early 2024 growth is now back on GC's agenda. We therefore responded to ORR's call (in its letter dated 22nd April 2024) for potential access rights applications for new services up until December 2025.

This is the context for GC's application made on 20th May 2024 to the ORR, which was then issued for consultation by NR on behalf of GC. If not before then, NR was aware of our proposals at that date. Full details of relevant paths were supplied to NR on 28th June and GC bid at D-40 for the May 2025 timetable. NR seemed surprised in November 2024 when GC signalled its intention to rebid these paths in the December 2025 timetable through Advance Notification of Timetable Change: it should not have been.

Since NR had sufficient details of GC's proposed additional services in June it could have included the three relevant paths in RailSys performance modelling carried out from September. The above raises some issues that GC wishes the Panel to consider, including some that emerged from NR's Response.

NR's Sole Response – and some other documents – use the term 'ESG Timetable' to include any ECML timetable(s) developed after 1st February 2024. Such development timetables should not be attributed to the ECML ESG which held its final meeting in February. At that time, implementation of the ESG Timetable was still expected in December 2024. So it was appropriate to use as a Prior WTT for December 2024, but that term ceased to have any relevance after that date, certainly as far as Part D of the Network Code is concerned.

This is important because Condition D2.1.6 mandates NR to use, as the Prior WTT, the previous timetable as published at D-26 subject only to a) results of appeals, b) international freight slot changes or c) "where agreed with the relevant Timetable Participant(s) NR may reflect the content of a Development Timetable produced by an Event Steering Group".

GC accepted the ESG Timetable as the Prior WTT in February 2024 as it was comfortable with what had been developed. We bid only small changes at the Priority Date. GC did challenge NR's decision to use the timetable modified by the Advance Work mentioned in NR's Sole Response as the Prior WTT for December 2025 but that was ignored. With hindsight, GC should have escalated this as a Dispute.

GC is still not clear who was directing the Advance Work, or exactly which Timetable Participants' trains were included in that work. We do know from a draft slide (new evidence) circulated before the Task Force Meeting held in January 2025 that a decision had already been made to exclude GC's Access Proposals not only from the Prior WTT but also from the New WTT. After GC's challenge, the wording was amended to say that it was not clear if GC's paths would be included.

Following a meeting with GC's Planning Manager Matt Allen said in an email of 24th January, and this does refer to another piece of evidence provided today, that he would "look at what it would take to include these slots into the Dec 25 plan [and] feedback to GC the findings." GC never received that feedback.

GC notes that a surprise inclusion in the Prior WTT for December 2025 was a new hourly East Midlands Railway service between Matlock and Lincoln, crossing the ECML at Newark. The new service takes up two ECML paths each hour in each direction. EMR, as we understand it, had no better priority than GC as far as access rights were concerned. The decision to include EMR paths appears discriminatory.

GC is not clear who was directing the ECML timetable development between the disbanding of the ESG and the first Task Group meeting in June 2024. GC asks the Panel to note that Open Access, and by implication GC, was represented at the Task Group Meetings by Martijn Gilbert of First Group, a competitor of GC/Arriva.

GC acknowledges it has received relevant reports regarding performance modelling, including the report on RailSys modelling that was carried out in late 2024. However, we only received this on 13th March, too late for any impact on the D-40 bid. It still did not clarify which services had been added or altered from the modelling of the ESG Timetable.

In §4.2.33 of its Sole Response NR dismisses the relevance of Declaration of Congested Infrastructure to the Dispute. GC contests this. As set out in our Sole Reference §5.4, there must be a connection between performance and congested infrastructure. And then I quote the Access and Management Licencing Regulation 26(1), which requires NR to declare a section of route congested if it has been unable to accommodate requests for train slots. The logical conclusion of NR's conclusion is that another section of the ECML should be declared congested. We would prefer the spare capacity that we identified is made available for our proposals, rather than seeking that declaration as a remedy.

NR cites the Determination of the appeal to ORR of TTP1174 to assert its right to use the Decision Criteria for making any decision in preparing the New WTT. GC was only aware of the original Dispute initially raised by CrossCountry, hence not bringing that up before NR's SRD.

§91 of the ORR Determination, which is quoted by Network Rail, includes the wording "[Network Rail]should only allocate Train Slots in the prescribed order of priority in Condition D4.2.2(d) (and ultimately reject one or more requested Train Slots) to the extent that it is unable to vary requested Train Slots in a manner which will achieve the Objective".

Although NR dismisses the idea of the primacy of the Objective, which was referenced in our SRD, ORR's Determination appears to support the same principle that was found in TTP2591. We note in our Sole Reference that performance is not specifically mentioned in the Objective.

§91 obliges NR to use its Flexing Rights to propose changes to GC's Access Proposals before rejecting one or more of them. GC also refers to the third bullet point of §65, in that same determination which makes it clear that "Network Rail's responsibility for compiling the WTT means that, in practice, it must decide whether to include, vary or reject each Train Slot requested in an Access Proposal (doing so in accordance with Part D).

This reinforces the point that each and every Train Slot should be separately considered on its merits and the possibility of it being flexed to achieve the Objective set out in D4.6. NR has clearly not done this with the Access Proposals at issue in this dispute.

Since the presence of a train will have different impacts on performance at different times of the day or week, it is not enough for NR to dismiss all bid paths as being 'one too many' for the timetable. NR has still failed to provide one jot of quantitative evidence as to the likely performance impact of any of the rejected Access Proposals.

Since impacts on the spread of services and demand will also vary by time/day of the week, the weightings of other Criteria will also have to be varied for each decision. This potentially creates significant workload for NR but GC believes is reasonable when considering rejection of Access Proposals, which are otherwise compliant with the TPR, as that may have significant commercial impact on the Timetable Participant.

Despite NR's arguments in its Sole Response, GC is still seeking the remedies stated in §6.1 of its Sole Reference. Clarification of NR's obligations under Part D with regard to rejection of valid Access Proposals is crucial. Where appropriate, we expect the Chair to state whether her powers are sufficient to grant the more specific remedies.

Annex C: NR's Written Opening Statement

Good morning. I'm proposing to highlight a few key points from our SRD. Performance is a critical measure of success for the UK rail industry, underpinning customer satisfaction, operational resilience, and financial sustainability of our industry. In response to rising delays - particularly across the Eastern region and the East Coast Main Line (ECML) - the Office of Rail and Road in October 2024 emphasised the need for a whole-system approach. This includes close collaboration between Network Rail, train operators, and stakeholders to address performance challenges that have historically plagued the route.

Timetable performance on the ECML is especially complex due to the infrastructure mix of two-track and four-track sections, high traffic density, and diverse service types. These factors create significant challenges in maintaining a robust timetable, particularly as passenger demand grows and infrastructure capacity remains constrained—necessitating difficult trade-offs.

Since 2019, a cross-industry Event Steering Group has worked to recast the ECML timetable to deliver passenger benefits and optimise government investment. This effort culminated in the endorsement of the ESG timetable in January 2024 for implementation in December 2024. However, implementation was deferred due to delivery risks, prompting the formation of the ECML Task Force to provide executive oversight of the continued work on an ECML timetable and in particular steering that plan between April and October 2024.

Performance modelling has been integral throughout the ESG timetable's development, with key analysis conducted in January and October 2024, and three previous examples of performance analysis undertaken since 2019. The final report was issued in January 2025. These findings, which were shared with Grand Central, highlighted a decline in performance for Long-Distance High-Speed services on a good day, and provides strong evidence of the impact of incorporating additional services over and above the modelled volumes. Within the modelled timeframe of the performance analysis (1400hrs to 2000hrs on an SX day), GC's December 2025 PDNS included three additional services that were not in our modelling undertaken in January 2024.

The 14 non-accommodated services were not in the ESG specification, or the additional advanced timetable and modelling work undertaken between April and September 2024. Inclusion of these services was not raised during the 43 Heads of Planning calls to support the Additional Advanced Work GC submitted Advanced Notification of Timetable Change at D55, which was after we had started the performance analysis to understand what the latest outcomes were for the plan that we were developing.

TTP2687 concerns Network Rail's decision not to accommodate 14 GC paths in the December 2025 New Working Timetable. Network Rail maintains that this decision allows, citing performance grounds and the application of Decision Criteria under Condition D4.6, NR to make this decision.

In prioritising performance, Network Rail considered the ORR's requirement for a system-wide focus, on the outputs from ECML modelling, and detailed assessments of GC's proposed paths. The conclusion was that these services could not be robustly integrated without compromising the timetable's integrity and the performance of services with a higher priority for inclusion.

While GC was not provided with a tabular Decision Criteria summary prior to NR's SRD, performance has been a key discussion point since 2019 and the start of timetable development and Network Rail believes that our use of performance considerations under D4.6.2(c) and ESG outputs under D4.6.2(g) were appropriately weighted as we looked at whether these trains were to be included or not.

Additionally it is worth noting that the ORR has recently opined on GC's 20 May track access application and rejected those services from the rights in December 2025.

In making its decision, NR asks the Panel to:

Uphold NR's decisions regarding its acceptance and non-accommodation of the relevant Train Slots in the December 25 New Working Timetable.

Support NR's interpretation of the powers of the Timetabling Panel in relation to being able to provide guidance in relation to the preparation of any future New Working Timetable beyond December 25.

Following the recent determination from the ORR, support NR's view that there is no expectation of rights for these 14 GC services to be included in the December 2025 NWT.

Annex D: Documents submitted by the Parties during the hearing

Email from Matt Allen (NR) to Matthew Taylor and Chris Brandon (GC), dated 24 January 2025

Matt

Thanks for the below. Good to catch up earlier.

A couple of things I took away from the discussions:

- Speck with colleagues in ATT to see if any work has been undertaken on GC interacting access rights application, with a particular lens of understanding what has been played back to the ORR
- Additional GC paths offered as part of May 25, but are not in the Dec 25, after the 31st Jan 25 review these paths look at what it would take to include these slots into the Dec 25 plan, feedback to GC our findings

Regards

Matt

Matt Allen
Head of Timetable Production

Item **xx**: Difference's between ESG Advanced Work and ATNC's

Lead	Chris Rowley/ Matt Allen
Purpose	Differences between ESG Advance Work and ATNC's
Summary	<p>At D55 Operators submitted Advance Notification of Timetable Change (ANTCs), a review of these submissions identified differences between the scope of the advance timetabling work being undertaken between April and October 2024 and what Operators might formally bid in their D40 PDNS submissions at the start of the 14 week development period.</p> <p>The following work packages, which indirectly impact the ECML are expected in addition to the ESG specification, which we currently expect to include as part of the Dec 25 timetable, subject to usual validation activities:</p> <p><u>EMR</u> – Project Abraham – Recast of Crewe / Matlock – Newark Castle / Lincoln Central / Grimsby Town / Cleethorpes service group, generating one additional tph between Newark Castle and Lincolnshire in each direction.</p> <p><u>TPE</u> – Introduction of Doncaster - Gainsborough Central - Brigg - Cleethorpes trains to allow diversions when Keadby Canal is closed, and steps towards Scarborough – York becoming half hourly (County Council funded initiative)</p> <p>The following work packages, included in Operators ANTC submissions at D55 impacting the ECML are also expected to be bid at D40, these additional services directly impact the ECML and have not been included in performance analysis, it is expected that Network Rail will not be able to include them in the Dec 25 timetable:</p> <p><u>Hull Trains</u> – 1 x Hull – London Kings Cross on all day</p> <p><u>Grand Central</u> - 2 x Bradford Interchange – London Kings Cross, 2 x London Kings Cross – Bradford Interchange, 2 x York – London Kings Cross, 1 x London Kings Cross – York and 1 x London Kings Cross – Wakefield Kirkgate</p>
Board action	To note

Item 5: Difference's between ESG Advanced Work and ATNC's

Lead	Chris Rowley/ Matt Allen
Purpose	Differences between ESG Advance Work and ATNC's
Summary	<p>At D55 Operators submitted Advance Notification of Timetable Change (ANTCs), a review of these submissions identified differences between the scope of the advance timetabling work being undertaken between April and October 2024 and what Operators might formally bid in their D40 PDNS submissions at the start of the 14 week development period.</p> <p>The following work packages, included in Operators ANTC submissions at D55 impacting the ECML are also expected to be bid at D40, these additional services directly impact the ECML and have not been included in performance analysis, it is currently not clear if these services will be included in the Dec 25 timetable:</p> <p><u>Hull Trains</u> – 1 x Hull – London Kings Cross on all day</p> <p><u>Grand Central</u> - 2 x Bradford Interchange – London Kings Cross, 2 x London Kings Cross – Bradford Interchange, 2 x York – London Kings Cross, 1 x London Kings Cross – York and 1 x London Kings Cross – Wakefield Kirkgate</p> <p>The below work package, which indirectly impacts the ECML is expected in addition to the ESG specification:</p> <p><u>EMR</u> – Project Abraham – Recast of Crewe / Matlock – Newark Castle / Lincoln Central / Grimsby Town / Cleethorpes service group, generating one additional tph between Newark Castle and Lincolnshire in each direction.</p> <p>The work package has not be included in the latest round of performance modelling, and work continues with EMR to understand the impact on performance. A decision on whether to include Project Abraham must be made by D45.</p>
Board action	To note

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