

***Sole Reference by DB Cargo (UK) Limited to a
Timetabling Panel in accordance with the provisions of
Chapter H of the ADR Rules effective from 1 August 2010
(and as subsequently amended)***

1 DETAILS OF PARTIES

1.1 The names and addresses of the parties to the reference are as follows:-

DB Cargo (UK) Limited, whose Registered Office is at:

Lakeside Business Park, Carolina Way, Doncaster, DN4 5PN

("the Claimant");

(Correspondence to Stan Kitchin at the above postal address, e-mail [redacted])

and

Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street,
London NW1 2DN

("the Defendant").

(Correspondence to Matthew Allen at Network Rail, Capacity Planning, The Quadrant,
Elder Gate, Milton Keynes, MK9 1EN, e-mail [redacted])

2 THE CLAIMANT'S' RIGHT TO BRING THIS REFERENCE

2.1 This matter is referred to a Timetabling Panel ("the Panel") for determination in accordance with Condition D 2.2.8 of the Network Code.

3 CONTENTS OF REFERENCE

This Sole Reference includes:-

- (a) The subject matter of the dispute in Section 4;
- (b) A detailed explanation of the issues in dispute in Section 5;
- (c) In Section 6, the decisions sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (d) Appendices and other supporting material.

4 SUBJECT MATTER OF DISPUTE

- 4.1 This is a dispute regarding decisions made by the Defendant in respect of the Timetable Planning Rules applicable to the 2018 Principal Timetable (December 2017 Timetable Change Date)
- 4.2 This dispute arises as a consequence of decisions made by the Defendant under Condition D 2.2.5 and D 2.2.6 of the Network Code, and is therefore referred to ADRR for determination under Condition D 2.2.8.

The Claimant is dissatisfied with two principal aspects of these decisions:

- 1) The withdrawal by the Defendant from Version 2.0 of the 2018 Timetable Planning Rules of proposals for the revision of Sectional Running Times (“SRTs”) and associated margin values in the Stratford and Forest Gate Junction areas. In its decision not to continue with the proposed changes, the Claimant believes that the Defendant has not complied with the determination of the Timetabling Panel (TTP625/685/733/872).
- 2) The inclusion by the Defendant in Version 2.0 of the 2018 Timetable Planning Rules of revised Headway Values on Route Section GW103 between London Paddington and Didcot Parkway. These values were first proposed by the Defendant as part of Version 1.0 of the 2018 Timetable Planning Rules and were challenged by the Claimant as part of their response to that document.

4.3(a) Issue 1

The determination in respect of TTP625/685/733/872 stated the following:

“...with a view to establishing agreed values, Network Rail shall for the next version of the TPR consult revised SRTs for the Stratford area using FL’s values as the basis for that consultation” (paragraph 6.4.1)

and

“...the question of junction margins still had to be addressed. Network Rail suggested adopting the same procedure as in respect of SRTs. FL indicated willingness to accept a standard 3½ minutes as a compromise position. I now record this as being my expectation of Network Rail when consulting the next version of the TPRs.” (paragraph 6.4.3)

In Version 1.0 of the 2018 Timetable Planning Rules (‘Preliminary Proposal for Principal Change Timetable 2018’) the Defendant proposed revised SRTs and amendments to associated margins in the Stratford area. This was in accordance with the determination of TTP625/685/733/872. The proposals were tabled at the Anglia Timetable Planning Rules Forum held by the Defendant on 05/10/2016 and, no objections having been recorded, were included in Version 1.0 of the 2018 Timetable Planning Rules published on 21/10/2016.

At the Anglia Timetable Planning Rules Forum held by the Defendant on 06/01/2017 the proposals were challenged by Abellio Greater Anglia and MTR Crossrail. Network Rail stated that Observed Data Analytics (ODA) information was being sought in connection with the proposals.

Subsequently, the Defendant (e-mail dated 03/02/2017, Hazel Chalk – Network Rail Operational Planning Manager, Anglia Route refers) advised the relevant Train Operators that its decision to be published in Version 2.0 of the 2018 Timetable Planning Rules was:

“...to keep the rules for Stratford as they currently stand and not implement the Freightliner proposal.”

Version 2.0 of the 2018 Timetable Planning Rules ('Final Proposal for Principal Change Timetable') was published by the Defendant on the same day (03/02/2017). The proposals to amend SRTs and associated margin values in the Stratford area that were included by the Defendant in Version 1.0 were withdrawn, with all the relevant values reverting to those applicable in the 2017 Timetable Planning Rules.

The Claimant submitted on 17/02/2017 a Notice of Dispute in respect of Version 2.0 of the 2018 Timetable Planning Rules, subsequently registered as a Timetabling Dispute with reference TTP 1065.

4.3(b) Issue 2

In Version 1.0 of the 2018 Timetable Planning Rules ('Preliminary Proposal for Principal Change Timetable 2018'), published on 21/10/2016, the Defendant included proposals for the revision of Headway Values on Route Section GW103 between London Paddington and Didcot Parkway.

The Claimant, in response to Version 1.0 of the 2018 Timetable Planning Rules, expressed to the Defendant its dissatisfaction with those revised Headway Values.

On 03/02/2017, the Defendant (e-mail from Laura Freeman - Network Rail Long Term Planning Specialist, Western & Wales Route refers) advised relevant Train Operators that its decision for Version 2.0 of the 2018 Timetable Planning Rules was:

“...Western & Wales are taking forward all values proposed at Version 1 into Version 2”

Version 2.0 of the 2018 Timetable Planning Rules ('Final Proposal for Principal Change Timetable') was published by the Defendant on the same day (03/02/2017). The proposals included in Version 1.0 were left unchanged.

The Claimant submitted on 17/02/2017 a Notice of Dispute in respect of Version 2.0 of the 2018 Timetable Planning Rules, subsequently registered as a Timetabling Dispute with reference TTP 1065.

5 EXPLANATION OF EACH ISSUE IN DISPUTE AND THE CLAIMANT'S ARGUMENTS TO SUPPORT ITS CASE

5.1

Issue 1

In Version 1.0 of the 2018 Timetable Planning Rules, the Defendant proposed revised SRT and associated margin values for the Stratford area, in accordance with determination of TTP625/685/733/872. These proposals were acceptable to the Claimant.

However, these proposals were subsequently withdrawn in Version 2.0 of the 2018 Timetable Planning Rules. In its e-mail dated 03/02/2017 the Defendant stated *"Through ESGs established for Crossrail and GA re-franchising Network Rail will undertake a review of the Stratford Timetable Planning Rules with the aim of developing TPRs and SRTs that accurately reflect the capability of the infrastructure, without reference to past assumptions."* The claimant submits that this gives no certainty or indication of timescales for completion of such a review and does not comply with the relevant determination in TTP625/685/733/872.

The proposals having been withdrawn from the Timetable Planning Rules will, therefore, mean that at the earliest it will now only be possible for further changes to be made in respect of the 2018 Principal Timetable Change through the provisions of Condition D 2.2.7. Even if this proves to be possible, it will potentially result in increasing the workload of the Claimant (and other relevant Train Operators) during the Timetable Development Period.

The Claimant was relying on the Defendant implementing these proposals in the 2018 Timetable Planning Rules as it was directed to do in determination TTP625/685/733/872. Instead, the Defendant has introduced uncertainty as to whether or not such proposals will indeed be made as a result of another process of discussion which is yet to take place or indeed arranged. This is unacceptable to the Claimant who believes that the relevant proposals included in Version 1.0 of the 2018 Timetable Planning Rules should be reinstated.

In Version 1.0 of the 2018 Timetable Planning Rules, the Defendant proposed revised planning headway values for Route Section GW103 between London Paddington and Didcot Parkway.

Although some of these revised planning headway values had been reduced from those applicable during the 2017 Timetable Period, there were, however, also proposals to increase the planning headway for trains following freight services of Class 4, 6 and 7.

The Claimant accepts that revisions to the planning headway values on this route section may be necessary, but the supporting information provided by Network Rail (*'Paddington to Reading & Reading to Didcot Parkway Non-Stop Headways, September 2016'*) shows that the technical headways following freight services are only applicable at certain points on the route (indicated by 'spikes' on the relevant charts).

For example, the chart for *'Down Relief Line – Heathrow Airport Junction - Twyford'* shows that the technical headway for Class 4 freight services only exceeds the existing planning headway of 3 minutes, in the Maidenhead area, yet the Defendant has proposed that the headway following such services is proposed to be 3½ minutes over the whole route section. The Claimant considers that this proposal is unnecessary and will have an adverse impact on capacity over this route section

If increased separation of trains is necessary at certain points, the Claimant considers that it would be better dealt with by specific rules (e.g. *'trains to be x minutes apart at point x'*) rather than reducing scarce track capacity by increasing the headway over the entire route section.

The Claimant is particularly concerned that the application of the revised planning headway values on this route section will result in a reduction in track capacity such that the necessary capacity for the operation of freight trains will no longer exist, especially those denoted as Class 7 freight services which travel at 45mph.

Network Rail has carried out an impact study on the route using the December 2016 Timetable as a base. This has shown that it is not possible to accommodate all existing freight services if the proposed revised values are adopted.

At the 2018 Principal Timetable Change Date, the Claimant understands that the Train Operator, Great Western Railway, anticipates introducing a revised train service over this route section. Furthermore, at the 2019 Principal Timetable Change Date additional Crossrail services will also be introduced onto the Relief Lines between Paddington and Reading (i.e. those normally used by freight services). The Claimant therefore believes that the proposals to increase the planning headway across the entire route section will threaten the operation of all existing freight services, once additional passenger trains are introduced

6 DECISION SOUGHT FROM THE PANEL

6.1 (a) Issue 1

The Claimant seeks that the Defendant be directed to comply with determination TTP625/685/733/872 in respect of implementing for the 2018 Principal Timetable Change Date the values for revised SRTs and associated margins in the Stratford area (as originally proposed by the Defendant in the 2018 Timetable Planning Rules Version 1 published on 21/10 2016)

6.1 (b) Issue 2

The Claimant seeks that the Defendant be directed by the Panel to withdraw the changes to planning headway values for Route Section GW103 that were published 21/10/2016 in 2018 Timetable Planning Rules Version 1 and, if necessary, replace them with revisions on the specific parts of the route section where amendments to planning headway values can be justified.

7 APPENDICES

The Claimant has attached the following relevant documents as part of its submission:

- Appendix A Notice of Dispute version 2 Dec 2017 Timetable Planning Rules
- Appendix B Confirmed Registration of Dispute ref. TTP1065
- Appendix C Extracts from TTPR 2018 Version 2.0 DB Cargo Response
- Appendix D Text of e-mail from the Defendant 02/03/2017
V2 Stratford 2018 Timetable Planning Rules Decision
- Appendix E Text of e-mail from the Defendant 02/03/2017
Timetable Planning Rules for Timetable Year 2018 (Version 1.0)
- DB Cargo Response
- Appendix F Extract from Paddington to Reading to Didcot Parkway
headway recommendations 28.09

8 SIGNATURE

For and on behalf of DB Cargo (UK) Limited

Stan Kitchin

Signed

Print Name

Position

Timetable Strategy Manager
