

***Dispute Party's Response to a Sole Reference 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)***

Timetabling Dispute TTP1122

CONFIDENTIAL

1 DETAILS OF PARTIES

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

- (a) *XC Trains Limited whose Registered Office is at 1 Admiral Way, Doxford International Business Park, Sunderland, SR3 3XP ("XCTL") ("the Claimant") ("the Claimant"); and*
- (b) *Network Rail Infrastructure Limited whose Registered Office is at 1 Eversholt Street, London, W1 2DN ("Network Rail") ("the Defendant").*
- (c) *Abellio ScotRail Abellio Scotrail Ltd, Registered in Scotland, whose Registered Office is at 5th Floor, Culzean Building, 36 Renfield Street, Glasgow, G2 1LU ("ASR") ("Dispute Party").*

2 CONTENTS OF THIS DOCUMENT

This Response to the Claimant's Sole Reference includes:-

- (a) Confirmation, or qualification, that the subject matter of the dispute is as set out by the Claimant in its Sole Reference, in the form of a summary schedule cross-referenced to the issues raised by the Claimant in the Sole Reference, identifying which the Defendant agrees with and which it disagrees with.
- (b) A detailed explanation of the Defendant's arguments in support of its position on those issues where it disagrees with the Claimant's Sole Reference, including references to documents or contractual provisions not dealt with in the Claimant's Sole Reference.
- (c) Any further related issues not raised by the Claimant but which the Defendant considers fall to be determined as part of the dispute;
- (d) The decisions of principle sought from the Panel in respect of
 - (i) legal entitlement, and
 - (ii) remedies;
- (e) Appendices and other supporting material.

3 SUBJECT MATTER OF DISPUTE

ASR wishes to raise the following points in relation to the description of the subject matter of the dispute given by the Claimant (which is otherwise accepted):-

(a) ASR does not agree with the Claimant's view that the changes were unnecessary or went beyond NR's role in the timetabling process. ASR considers that NR has validly exercised its Flexing Rights in a manner consistent with the Firm Rights of the parties and the Decision Criteria.

(b) ASR considers that the changes were an appropriate application of the Decision Criteria.

ASR refers to the Response of the Defendant (a draft copy of which has been provided to ASR for the purposes of preparing its Response). ASR generally adheres to the arguments made by the Defendant in paragraph 4 of its Response in support of the above points.

Further arguments and explanation in support of the above from ASR's perspective are set out below.

4 EXPLANATION FROM THE DISPUTE PARTY'S PERSPECTIVE OF EACH ISSUE IN DISPUTE

ASR wishes to set out the following considerations which it believes are relevant to the above issues

Content of Access Proposals and Flexing of services

4.1 ASR did not submit an amended Access Proposal to take account of the new SRT's as it was already in dispute with the Defendant over these values. ASR subsequently lost TTP1064 and the new TPR's and SRT's were established and Defendant used these values during validation. ASR agree that Defendant are allowed to amend an operators path providing the offer complies with its Track Access Agreement and is TPR compliant. The Defendant had to make a decision and look at repathing services as it had published changes to the SRT's and TPR's which had been established following the Panel finding in favour of NRIL in TTP1064, as the existing trains needed to be retimed as the previous SRT's no longer applied.

4.2 ASR was in dispute over the SRT values as it had concerns what these changes would do to the timetable, by extending journey times and worsen Service Level Commitment compliance, this is why a dispute was registered. From ASR's understanding of the limited

timetable impact study carried out by Network Rail it was likely there would be changes to other TOC's schedules. The Defendant had to make changes to the Timetable Structure as the new TPR values including SRT's had been established and the existing timetable no longer worked using the new TPR values. This is why ASR previously raised the dispute.

4.3 In NRIL document Scotland December 2017 Timetable Changes – Impact Assessment (version 2) issued on the 10th February 2017, it did state in 7b “Cross Country: extension of journey times between Glasgow Central and Edinburgh Waverley of no more than 1 minute absorbed by dwell time reductions at Edinburgh”. However the Impact Assessment only looked at arrivals and departures at Glasgow Central between 0800-0859, 1300-1500 and 1700-1759, the XCTL trains arrive at 1215, 1415 and 1615 so 2 services were outside the scope of the study. When ASR looked at the proposals to change SRT's and TPR it was only concerned with its own trains so did not look at the detail for other operators.

4.4 XCTL does not have any form of journey time protection in its TAA. This proposal by the Defendant does not break their minimum turnround time at Glasgow Central of 20 minutes.

Considerations relevant to application of Decision Criteria

4.5 Looking at the current passenger counts for the ScotRail services the following number of customers got off the services:

Monday to Friday

1121 from Lanark – 38

1323 from Lanark – 34

1521 from Lanark – 45

Saturday

1121 from Lanark – 134

1323 from Lanark – 202

1521 from Lanark – 65

1921 from Lanark – 141

As these are off peak services they load considerably better on Saturdays.

4.6 The planned meeting on the 28th and 29 of June was to look at the interactions of services from Carstairs to Glasgow Central using the signalling simulator at the West of Scotland Signalling Centre and not to discuss changing the timetable that had already been offered on the 9th June.

4.7 On the 18th July Andy Bray asked Ewan Tait if 2B93, 2B77 and 2B85 could be retimed to allow Cross Country service to precede the ASR Lanark to Glasgow Central. The ASR service was offered 4 minutes ahead of the Cross Country service at Uddingston Junction. Headway on this section is either 2½ or 3 minutes depending on the type of train you are following. The 2 trains are then on headway at Newton Jn as the ASR service calls at Uddingston. If the XCTL service ran ahead of the ASR service from Uddingston Junction, the ASR service would be 4

minutes later into Glasgow Central. This would break its turnround at Glasgow Central as it would now be only 4 minutes as the next working of the set is the xx20 back to Lanark.

4.8 Having considered the proposal and looked at other pathing options, on the 19th July Neil Sutton responded to Andy Bray saying that ASR were not able to accept the request for the retiming as it extended the journey time and reduced ASR turnround times at Glasgow Central.

4.9 ASR was aware that its funder Transport Scotland was extremely concerned regarding the impact on journey times of the SRT changes for December 17, in the context of a Franchise and HLOS which specified the Scottish Government's requirements for journey time improvements in Scotland for CP5 as a strategic priority. In this context, any further impact on journey times from retiming of ASR services would have been unacceptable to Transport Scotland and ASR would not have been permitted in terms of its Franchise Agreement to accept those proposals.

4.10 In one case a later retiming actually broke a traincrew diagram as ASR are no longer allowed to relief on arrival at a terminal location, this means the minimum turnround where a change of cabs and a crew change is required to take place is 7 minutes (2 minutes Immobilise, 5 minutes Mobilise). The minimum value for a turnround in the TPR is 5 minutes which is permissible when it's the same driver working in and out and there is no attach / detach activity. The minimum time for an attach as stated in the TPR is 8 minutes therefore allowing a service arriving at xx12 to have a sufficient amount of time for this activity as the return Lanark service normally departs at xx20 as happens in some hours.

4.11 ScotRail previously bid the Lanark services as class 1 to reflect their importance when this service group moved into Glasgow Central High Level rather than being part of the Argyle Line using Low Level as it had done previously. This request was declined by NRIL as it felt it would be confusing to signallers making regulation decisions.

4.12 If the panel found in favour of XCTL, ASR would have to extend the journey time of the 7 services (3 Mondays to Fridays, 4 Saturday) and require a derogation from the Service Level Commitment from Transport Scotland. 1 drivers diagram would be broken and this would require significant rework to resolve without requiring additional resources. Draft crew diagrams have been issued but formal consultation with the trade unions does not start 15th September (T-12). In view of the above, ASR considers that NR validly applied the Decision Criteria in respect of this matter.

5 DECISION SOUGHT FROM THE PANEL

ASR adheres to the decisions sought from the Panel by NR in its Response.

6 APPENDICES

The Defendant confirms that it has complied with Access Dispute Resolution Rule H21.

Extracts of Access Conditions/ the Network Code are included where the dispute relates to previous (i.e. no longer current) versions of these documents.

All appendices and annexes are bound into the submission and consecutively page numbered. To assist the Panel, quotations or references that are cited in the formal submission are highlighted (or side-lined) so that the context of the quotation or reference is apparent.

Any information only made available after the main submission has been submitted to the Panel will be consecutively numbered, so as to follow on at the conclusion of the previous submission.

7 SIGNATURE

For and on behalf of Abellio ScotRail Limited



Signed

DAVE SMITH 30/08/17

Print Name

Dave Smith

Position

Head of Service Planning

The Appendices

N/A

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