



TTP2468: Third and Fourth Directions

Freightliner Response

Further to the queries raised by the Hearing Chair in his Third Directions letter, Freightliner would like to provide the following information which we believe may be useful to the Panel ahead of the Hearing. Freightliner would like to apologise for the time taken to provide this response:

1. In relation to Third Directions, Paragraph 6, Freightliner would like to note that the Train Slots subject to this dispute cannot be taken up by DRS at any time. The Condition D8.5 mechanism can only remove the Train Slots held by Freightliner, thereby relinquishing the capacity. DRS would be required to submit a TOVR for any new service they wish to operate, for which there is no guarantee of acceptance.
2. Freightliner do not believe the removal of these Train Slots is required to allow DRS to submit a TOVR – sufficient capacity exists for DRS to submit a compliant TOVR independently of the Freightliner held Train Slots.
3. Further, DRS would be unable to submit a TOVR into the 4M75 train slot as no Condition 8.5 Failure to Use Notification has been served on Freightliner for the 'Y' path which utilises the same capacity over the core section of this route. Freightliner note Network Rail have touched on this in paragraph 4.3.4 of it's SRD although it is not clear to Freightliner exactly what Network Rail are asserting.
4. In relation to Third Directions, Paragraphs 10 and 11, Freightliner believe that the situation subject to dispute has been created by a breach of Network Rail's License, given Network Rail has failed to maintain it's infrastructure to the published capability, thereby amounting to a breach of Freightliner's TAA with Network Rail.
5. Given the above, should the Panel conclude that this is the case, Freightliner would seek damages for the loss of income that has arisen from the inability to operate these Train Slots, alongside the costs involved in conducting further detailed survey work following the initial identification of the gauging issues.

Yours Sincerely

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A handwritten signature in black ink, appearing to read "Chris Matthews".

Chris Matthews
Timetable Strategy and Rail Industry Manager
Freightliner Group

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