

TTP2570 (May 2025 Timetable Offer)

XC Trains Ltd. Response to the Chair's Directions

Note: Abbreviations to be read in conjunction with XC Trains Ltd Sole Reference Document section 1.1. 'XC SRD' relates to CrossCountry's *Sole Reference Document*, whilst 'DS' refers to Network Rail's *Defence Statement*.

1. Foreword

1.1 This response to the Directions will set out brief responses as per the Chair's request. It will also identify areas within Network Rail's (NR) Defence Submission that are either factually incorrect or such that CrossCountry (XC) need to raise specifically (although not exhaustively).

1.2 XC does not believe that NR have acted in bad faith on any of the disputed items. However, there are reasonable grounds to believe that in all disputed items, NR have acted either arbitrarily and/or capriciously.

2. Specific Dispute Item Responses to Chair's Directions

2.1 Dispute Item 1 (1G71 SX *et al* at Birmingham New Street)

2.1.1 As stated in XC SRD 7.1.6:

- Platform 7 is 316.2m (despite other documentation stating longer)
- The 13-car attach move in this situation requires 314.1m (304.1m train + 10m signal standage)
- Therefore, this allows for 2.1m contingency, not the 10cm contingency NR have stated in their Defence Submission (DS) 4.2.1.

2.1.2 The attachment gap *is* momentarily. NR, state almost as fact in DS 4.2.1 that isn't the case. Additional evidence to prove this was recorded by XC on 26 February 2025 that will be played to the Panel to demonstrate this. A further piece of evidence is from XC's Operations Standards Manager, (3.1).

2.1.3 The 2m attachment gap does not exist. This is a 'worst-case scenario' as it has been clearly stated in XC SRD 7.1.6.

2.1.4 NR DS 4.2.1 makes many hypothetical arguments based on a various number of possibilities that are unlikely to happen. There is no reason to suspect the driver will stop in the incorrect position nor will they have any reason to question the route into platform 7. The various hypothetical situations NR construct could happen anywhere on the rail network, therefore XC do not see why this case should be treated uniquely.

2.1.5a In NR's DS, points 4.2.2 – 4.2.5 make a lot of reference to 'performance'. This is the first time in this dispute that NR have mentioned performance as a reason for their decision. As XC SRD evidence for this item shows, it has always been about NR's claim that the train would not fit in platform 7. This is made more evident in NR's DS 6.1.2. This is the first time XC have seen this Decision Criteria Table, which suggests it has been done retrospectively. The weighting and focus have shifted heavily onto 'performance'. Furthermore, is holding a train (or in this case, two trains) unnecessarily outside of a station and unnecessarily blocking network capacity deemed an improvement to performance?

2.1.5b Train movements are planned to the Train Planning Rules (TPRs) and without perturbation. If the movements are compliant, there are no grounds on which to modify the schedule except to improve them. If NR

are wishing to model the performance of these trains (as they have now included in their Decision Criteria in their DS), then it needs to do so with every other train on the network. Furthermore, if NR are saying that even if the train movements are TPR compliant but 'not good enough', then in a nuanced way, NR are suggesting that their own TPRs are not fit for purpose. This argument by NR is a worrying position and would (or does) set a dangerous precedent.

2.1.5c the position of performance is a wholly separate topic, one never raised before by NR. At this juncture, XC are in no position to critique NR's new and last-minute change of position. To reiterate, XC argue that there is no reason to address this new position, as this was never the cause of the dispute. It would not be unreasonable to see this as deflection tactics to draw attention away from the issue of the dispute – the train fitting in platform 7.

2.1.5d whilst NR in 4.2.3 state that all schedules are TAC and TPR compliant, that doesn't mean that the schedules should not be improved upon should the TPRs allow – and in this case, they do allow. NR's position here clearly contravenes the Decision Criteria regarding efficiency and journey times being as short as possible.

2.1.6 Other points in NR's Decision Criteria Table (DS 6.1.2), we refute:

d) *Journey times are as short as reasonably possible*: NR have flexed this train 5 minutes earlier from origin, and 4 minutes later at destination. For what was bid as a 96-minute journey, this is almost a 10% journey time increase. This cannot be considered reasonable and sets a worrying precedent if NR consider this reasonable. NR have not viewed this with the correct weighting, and there appears to be no cognisance of the impact of the flex at one end in relation to the flex at the other.

2.1.7 XC are unsure why there is any requirement for a Decision Criteria in this case, as there are no conflicting access proposals.

2.1.8 XC therefore suggest that any reference to performance submitted by NR is disregarded, and the focus returned to the root cause of the dispute item – that of physical train operation on platform 7.

2.1.9 Further regards NR's DS 6.1.2:

2.1.7a XC refute that the financial impact to XC 'is minimal'.

2.1.7b XC refute that connections will not be broken, as retiming 1G71 breaks connections into:

- 2H81 2045 to Rugeley Trent Valley
- 2U62 2046 to Four Oaks

2.1.10 NR DS states in 4.2.6 that they refute the suggestion that NR 'just don't like' [13-cars at Birmingham NS]. However, this was stated by NR representatives on the Teams call in XC SRD 7.1.2. Although no evidence suggests this, witnesses on that call (Michael G and Leon F from XC) can testify this was said. This isn't the first time such a phrase has been used, as, although no physical evidence exists, a similar situation and arose in the June 2024 timetable, with the same response from NR.

2.1.11 New evidence (3.2) from conversations with the Birmingham NS signal box suggest that there is confusion over the calculation of train lengths and platform lengths; with NR signallers stating, "only platforms 4 or 9 have authority for 13 vehicles". This is in contravention of the TPRs, the Sectional Appendix and XC's and NR's own platform length data; the latter two of which has the shortest value. XC question what NR claim by "authority"?

2.1.12 In relation to XC SRD 6.1.1, XC wish that the Chair, in accordance with D5.3.1a, instruct NR to:

- reassess the situation with 1G71 *et al* with the aim of reducing the journey time and thus, an earlier arrival time (with or without the use of the operational capability of platform 7), based on the TPS, the operational capability of the network, and the specific operational instructions of the Operator (coupling process)

2.2 Dispute Item 2 (1M69 at Bristol Temple Meads)

2.2.1 Having a generally clock-face or regular departure times from stations for Operators' services can lead to passenger familiarity with those departure times. XC services depart from Bristol on or very close to the xx.00 slot in that hour. It is reasonable to assume that a train departing 5 minutes earlier than other similar departures on the same day, and the exact same departure slot on a weekend, does not fall into this regularity.

2.2.2 NR state that 'turn up and go' traffic on XC's trains is limited. On what grounds do they make these assumptions? Evidence from XC's own revenue team show that over 60% of fares are walk-up fares. This excludes any additional tickets bought via the booking office that XC have no figures for (3.3).

2.2.3 NR claims in 4.2.8 that the inclusion of 1M69 as a new (reinstated) service reflects a better spread of services. It is common ground that running this train is an improvement on not running it, but that misses the point that 1M69 departing at 18.55 offers an inferior service compared to 1M69 departing at 19.00. The spread of services reflecting demand relates to the regularity and frequency of the service, not to the quantum of services. The spread of services is not fully achieved in 1M69's case by departing one train closer to the preceding one, and further away from the following one.

2.2.4a NR DS 4.2.9 and 4.2.10 claims that this was the optimal solution, or that no better options were identified. XC refute this, as by NR's own admission in XC SRD 7.2.7, the current proposal for 4L53 was "the only solution explored". Therefore, how can it be "optimal"?

2.2.4b XC question how NR DS 4.2.8 can state that 4L53 would have a journey time increase of "90+ minutes" [to accommodate 1M69 departing at 19.00] if NR never looked at alternatives?

2.2.4e Both paths (4L50 and 4L53) arrive Tilbury at 23:38, therefore what is the benefit to this reduced journey time?

2.2.4f 4L53 appears to clash with 6M51 at Maindee West Junction. There is ½ minute between the services. If this is proven to be the case, the schedule for 4L53 remains invalid, and thus, 1M69 has been departed earlier for an invalid schedule. The path is therefore not an "optimal solution".

2.2.5 Contrary to NR DS 4.2.10, it is not XC's or any other Operator's responsibility to propose alternative solutions for train slots; this is the responsibility of NR. However, where XC can and it is within our remit and/or capability to do so, we shall.

2.2.6 NR claiming in DS 4.2.12 that the Severn Tunnel issue is now outdated information. This is only outdated because NR, prompted by the XC SRD (and shown in XC SRD 7.2.6b), have updated 4L53. When the timetable was Offered, 4L53 was non-compliant regarding Severn Tunnel restrictions.

2.2.7 XC make the argument that by flexing a service by 5 minutes, (specifically at one location although not limited to one location), is deemed to be excessive. It is XC's view that NR have over-reached the definition of the flexing right, contrary to NR's position in DS 4.2.12. The point XC wish to raise is how much flexing right does NR have? What is the limit; for example, would applying 25 minutes of flexing right – provided the schedule was TSR compliant – still be considered reasonable, merely because NR have 'the right' to do so? XC acknowledge that there is no definition to NR's flexing right (or if there is, it is not made obvious) except that it is assumed that any flexing right applied should be reasonable and fair; this is XC's interpretation of the D4.6.3 in relation to acting fair and reasonable.

2.2.8a NR's Decision Criteria in DS 6.2.1 was never shared prior to this dispute being lodged, suggesting it has been done retrospectively and thus weighted to fit NR's position.

2.2.8b with reference to point NR DS 2.2.4, if NR only explored one path for 4L53, does this Decision Criteria – regardless of when it was constructed – hold any weight? It would be reasonable to argue that Decision Criteria is applied when all other options have been explored and exhausted and there remain a "conflicting result (D4.6.3)". NR have not explored any other option.

2.2.9 In relation to XC SRD 6.2.1, XC wish that the Chair, in accordance with D5.3.1a, instruct NR to:

- to seek alternative options for 4L53 (contrary to the single option NR have presented thus far) therefore:
- improve the departure time and shorten the journey time of 1M69.

2.3 Dispute Item 3 (1N69 at Stansted Airport)

2.3.1a in response to NR DS 4.2.15, XC are fully aware of the timetable production timescales. XC restate the issue to which part a of Item 5.3 was brought: that the Refresh PIF was made available to Operators on the morning of Friday 13 December, with 1N69 departing at 19.27 (XC SRD 7.3.2 & 7.3.3). Unlike Offer, there is no formal notification / process for this, which is what XC was referring to in NR DS 6.3.1. For context, Offer arrives late, on D-26, with a formal letter and notification of any changes made up to that point, but which are not contained within the Offer PIF. The D-26 Offer is a formal process that includes a formal collation of data. No such process exists for Refresh and therefore, XC maintain the position that once the PIF is made available, in lieu of any formal notification or correspondence, this acts as a 'Final Offer' or 'update' from NR based on Offer Response items. Contrary to NR DS 6.3.1, XC did follow up with an email on 14 February 2025 stating this exact issue (3.4). To summarise, this issue is brought due to a failure of NR's own internal administrative processes and a lack of any formal industry process; perhaps NR should not create a PIF before the end of the Refresh (D-22) date?

2.3.1b After the PIF was made available to Operators, NR then proceeded to change what they had included in the Refresh PIF (XC SRD 7.3.4).

2.3.2 XC refute the version of events in NR DS 4.2.16-19:

2.3.2a XC suggested that the 19.21 departure was "probably" the right answer as "initial assessment" (XC SRD 7.3.1b) (to note here, XC do not have access to TPS to experiment with changes to train schedules to assist NR finding solutions. Even so, it is not XC's responsibility to find a good and fair solution to timetabling issues such as this). This was based on the email from NR stating (paraphrasing) that 1N69 had accommodation issues when they opened the "collaborative" discussions based around a spreadsheet of issues. Prior to XC's response, there were no proposed solutions put forward by NR (XC SRD 7.3.1a). Instead, the process of

resolving the problem was passed to Operators to resolve. Thus, NR were absolving themselves of using their own judgment, expertise, flexing right and/or Decision Criteria to put forward their own proposals. XC did not respond further (after XC SRD 7.3.1b) because there was nothing to suggest from NR that any alternative other than departing at 19.21 would work. It would not be unreasonable to claim that NR did not take it upon themselves to try to find a solution, before merely issuing a conflict report to Operators to resolve (XC SRD 7.3.1a).

2.3.2b the email from NR (XC SRD 7.3.1d) states that “potential to path 19.21...to match 1N67 [departing at xx.27]...to make sure this is input as a starting point”. This was reiterated by NR (XC SRD 7.3.1e on 14 Nov) that 1N69 would use the path of 1N67 as a template. No further work was done by NR to explore this, despite them stating they would do so.

2.3.2c Are NR saying that once an Operator or NR have proposed one solution that they are not able to propose further, better solutions, if they become apparent? This is precisely what XC did on 12 November 2024 when a better solution was found (7.3.1e). As XC were responding to NR’s instruction of an access proposal that could not be accommodated, XC are entitled under D2.4.4 to submit revised proposals up to D-26, in response to D2.4.1c and D2.4.6a. XC’s proposal sent to NR on 12 November was before D-26. NR had until the formal Offer was made late on 14 November 2024 to incorporate this proposal. Instead, NR claim in 4.2.18 that “with the close proximity to the Offer date” yet under the Part D conditions above, XC are entitled to submit such proposals. NR refusing the adhere to the above clauses puts them in breach of their obligations under D2.4.4.

2.3.3 Evidence suggests that contrary to what NR state in 4.2.16 (that they did not adopt Greater Anglia’s (GA) proposals as their own) does not align with the evidence:

2.3.3a)

- GA responded (XC SRD 7.3.1c) that 1N69 should be placed in its “pre-curtailment path”
- NR (XC SRD 7.3.1d) stated almost verbatim the same and are quoted as saying “...timings provided by GA to retime 1N69 into its pre-curtailment path...”

2.3.3b)

- GA responded (XC 7.3.1e 12 Dec) that the flexes proposed by XC (on 12 November and during Offer Response) would (paraphrase) “adversely affect the performance of [GA] trains”
- NR state in DS 4.2.18 that the reason the proposal was not accommodated was due to performance risks.

Performance was never a reason given by NR for not accommodating our revised proposal. It was not until after GA’s response on 13 December that NR have adopted this position. Furthermore, as XC have already raised in 2.1 of this Direction Response document, train movements are to be planned to the TPRs. If the train movements are compliant with them, then there is no reason for them not to be accommodated. Using phrases such as “planning on minimum margins” (NR DS 4.2.18) is irrelevant if the TPRs allow movements to be planned this way.

2.3.4a XC have not before seen the Decision Criteria evidenced in NR DS 6.3.4 suggesting it has been done retrospectively to support NR’s position. Had this been made available sooner, XC would have been able to critique this as part of our SRD. Nevertheless, some outline responses to the Decision Criteria have already been referenced above, specifically around the issue of using performance concerns (criteria a). Further commentary:

- a) There was never an issue raised about performance concerns. These performance concerns have never been documented

- b) and j) cutting 1N69 back to start from Stansted was never discussed as an option at any point. This cannot be used as a consideration now and should therefore be disregarded.
- c) The XC path is not “as close as possible” to bid times, as XC have clearly demonstrated a TPR compliant option exists to offer this train as bid, without moving GA services by anywhere near the same extent. No evidence to support this “detrimental effect” is provided.
- d) i) This statement is incorrect. Some of the GA services have shortened journey times. NR’s evidence completely omits the journey time of 1N69 being extended by 6 minutes.
- d) ii) the journey time is very sensitive – journey planners will route passengers via London instead as a quicker journey, from Birmingham/Leicester/Leeds/York etc – 6 minutes makes this far more likely.
- g) Is this one of the reasons NR have not incorporated our improved proposal, because (paraphrasing) “the timetable is going to change anyway”. If so, this is completely unacceptable.

2.3.4b XC still do not know what NR are referring to when they claim, “current decision-making process” (7.3.1e 14 Nov). That is not applying the Decision Criteria.

2.3.5a XC reiterate that NR have not acted in bad faith but have acted arbitrarily (making statements such as those evidenced in XC SRD 7.3.1e Thu 14 Nov and 7.3.1f) and capriciously (by appearing to change their own position based on a single Operator’s feedback, whilst also changing train times compared to what was in the Refresh PIF).

2.3.5b It appears to XC that NR have acted unfairly between Operators, and appearing to favour the position of GA (specifically, adopting GA’s comments as their own about “performance concerns” NR DS 4.2.18).

2.3.6 In relation to XC SRD 6.2.1, XC wish that the Chair, in accordance with D5.3.1a, instruct NR to:

- Plan the movement of train schedules in accordance with the TPRs therefore:
- seek better options for 1N69 (including those already submitted by XC) that improve the path and reduce journey times, to depart this schedule closer to or at the time that were bid by XC at D-40/PDNS.

3. Appendix: Additional Evidence

3.1 Additional evidence is contained at the end of this document.

4. SIGNATURE

For and on behalf of **XC Trains Limited**



Michael Gatenby

Timetable Strategy Manager, CrossCountry Trains

Monday 03 March 2025

5. Appendix: Additional Evidence

3.1 Email from XC's Operations Standards Manager

From: Gary R
Sent: 27 February 2025 08:44
To: Michael G
Subject: Re: BHM P7

Morning Michael,

In regard to coupling, yes you are correct, that is how it works.

For 13 vehicle formations in platform 7, for trains coupling up, it is imperative that the first arrival is at the extreme end of the platform, if this is not achieved then obviously the train is going to be overlength. Also the southbound departing movement from platform 7 via platform 8 into the Derby tunnel would not be available in this case.

if trains arrive consisting of 13 vehicles, the uncoupling process only requires a 0.5 metre setting back movement simply to part the couplers, the driver will naturally go as far as possible, so it becomes a little easier for arriving trains.

Hope this is helpful - I am in HQ today and tomorrow if you are around, i will come and find you.

kind regards

Gary.

Sent from [Outlook for Android](#)

From: Michael G
Sent: Thursday, 27 February 2025 08:24:47
To: Gary R
Subject: RE: BHM P7

Hi Gary

Now I have a little more time to type an email, I'll go into a little bit of detail.

Coupling Process

I explained to NR that the coupling process, as per our coupling and uncoupling guide, is that the first unit is in the platform. The second unit then approaches and stops momentarily 2m away from the first unit. The driver then proceeds and stops momentarily 0.5m away from the first unit. The driver then proceeds at max. 2mph and couples to the first unit.

Is this correct?

Thanks

Michael G

3.2 Email regarding conversations with the Birmingham NS signal box

From: Gary R
Sent: 28 February 2025 10:37
To: Georgia E Steve Michael G
Cc: Neil W Tom S
Subject: Birmingham New St Platform 7

Morning all,

To support the ongoing debate about platform 7 at New Street. Below is a crude photo of the sectional appendix (taken from the local instructions applicable to Birmingham New Street). This clearly shows the platform length available.

The length of each voyager centre vehicle is 23m

Each driving cab vehicle is slightly longer owing to the coupler head and is 23.825m

5 car Voyager comes out at 116.650m

4 car Voyager equates to 93.650m

13 car Voyager would have 6 driving cabs so therefore would be 303.95m. Even allowing for the driver stopping 10m short of the starting signal, we still have some room to be 'in clear'.

| Platform Lengths: | |
|-------------------|------------------------|
| 1 | 350 metres (383 yards) |
| 2 | 322 metres (352 yards) |
| 3 | 322 metres (352 yards) |
| 4 | 359 metres (393 yards) |
| 4C | 98 metres (107 yards) |
| 5 | 265 metres (289 yards) |
| 6 | 315 metres (344 yards) |
| 7 | 318 metres (348 yards) |
| 8 | 339 metres (371 yards) |
| 9 | 321 metres (351 yards) |
| 10 | 321 metres (351 yards) |
| 11 | 333 metres (364 yards) |
| 12 | 236 metres (258 yards) |

Had a sit in the control this morning and we have spoken to the Box manager who operates New Street and he said they have been told that a 12 car train is 310m and therefore 13 vehicles will not fit and "only platforms 4 or 9 have authority for 13 vehicles" Not sure where this information is coming from as platform 1 will accommodate 14 vehicles? unless they are working on 26m vehicle lengths which would really only apply to class 80X units and perhaps the new class 730s on the X-City?

As I said earlier in this week, the route from Platform 7 going south towards the Derby Tunnel (crossover leading via platform 8) would not be available if the platform is used for anymore that 10 vehicles as detailed in the XC platform restriction guide. The critical thing if we are making up a 13 car formation to go to depot, is that the first arriving train must be correctly positioned to ensure sufficient room is then available for the second arriving portion. All the platforms were re-measured following the re-signalling in 2022 and the platform restriction guide was updated accordingly.

Hope this is helpful.
Kind regards
Gary.

Gary W. R
Operations Standards Manager, CrossCountry

3.3 Revenue data regarding walk-up fares at Bristol

| Average of TotRes | | | Timetable | | |
|--|--------|----------|-----------|-----------|-------------|
| TicketCategory | Depart | HeadCode | Dec 2024 | June 2024 | Grand Total |
| Advance Purchase with Res Total | | | | | |
| walk-Up with Reservation Total | | | | | |
| Grand Total | | | | | |

3.4 Follow-up email to NR regarding the D22 Refresh process

From: Michael G
Sent: 14 February 2025 08:50

To: Mark J Leon F
Cc: Steve L David F
Subject: RE: TTP2570 follow up

Mark

There is no formal document and that is the problem here.

I repeat what I said before, and for the final time. The Refresh PIF was made available to operators on the morning of Friday 13 December, for them to use, which is what we did.

Unlike Offer where it is known that NR make changes on the day of D26 after the Offer PIF is taken, and included in a formal Offer email, no such process or formality exists for Refresh. Therefore, as far as I am concerned, as soon as the Refresh PIF is taken, that's it.

Regards

Michael G

From: Mark J
Sent: 13 February 2025 15:36
To: Michael G Leon F Josh W
Cc: Steve L
Subject: RE: TTP2570 follow up

OFFICIAL

Hi Michael

Thanks for the response, could I ask again which document you are referencing here to support your belief on an electronic cut being the end of D22 so I can review?

The calendar of milestones for D22 states 13th December 2024 for the May2025 timetable of which the F3 was provided on and has now been confirmed by Leon as being received. It makes no reference to electronic cuts or manual data just when the end of the appeal period New working timetable is.

Im unaware of any reference to it in Part D either

Thanks
Mark