



OFFICE OF RAIL AND ROAD

Catherine Williams

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5 November 2019

Freightliner Group Limited (Freightliner as Respondent)

Network Rail Infrastructure Limited (Network Rail as Appellant)

By email only

Dear Sirs,

Appeal under Part M of the Network Code by Network Rail Infrastructure Limited (Network Rail) in respect of Determination ADP TTP1520 of the Timetabling Panel

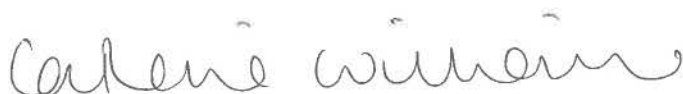
1. As you are aware, on 22 October 2019 Network Rail served a Notice of Appeal on the Office of Rail and Road (ORR) under Part M of the Network Code, in respect of Determination ADP TTP1520 of the Timetabling Panel of the Access Disputes Committee.
2. Under Condition M4.1.1 of the Network Code, ORR has 10 working days of receipt of service of a Notice of Appeal to decide whether it should hear the appeal.
3. I have been appointed by ORR to determine whether or not ORR should hear the appeal and if so to determine it.
4. On 23 October 2019 Freightliner wrote to us requesting that the appeal be heard under an expedited process under Condition M6.1.1 of the Network Code. Condition M6.1.1 prescribes that any request to expedite an appeal should be accompanied by a proposed timetable for the appeal. Freightliner did not submit a proposed timetable but said it considered it would be reasonable for the appeal to be considered by the end of November 2019 at the latest. It said this timescale would allow confirmation of the remedies prior to the start of the December timetable and enable Freightliner to plan its business with more confidence and certainty. Network Rail responded on 31 October 2019 confirming it would be happy to have the appeal dealt with on an expedited basis.
5. Freightliner then wrote to us on 25 October 2019 serving notice that it opposes appeal and highlighting what it said was the importance of Network Rail abiding by Part D of the Network Code and its Track Access Contracts.
6. We have reviewed the documents served on ORR. We are mindful of Freightliner's comments but within the terms of M4.1.1 we have decided to hear the appeal on the basis that it raises a matter of importance to the industry.



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7. ORR has considered the submissions in relation to expediting this appeal but we do not believe it to be in the interests of justice to do so. We consider that a full review of the issues is required and we do not think it would be appropriate or practical to expedite this appeal in the very short timescale requested. We realise this is disappointing but we will endeavour to progress as quickly as we can with the parties' representations in mind. We note that under Condition M10.1.1 of the Network Code, Network Rail should comply with the original decision pending the outcome of the appeal.
8. Caroline Webber will be the case officer for this appeal and will be the point of contact for you. Her email address is caroline.webber@orr.gov.uk. Please ensure that any further correspondence on this matter is sent to her.
9. We will now proceed to consider the documentation submitted to us and you will hear from us in due course.

Yours sincerely

A handwritten signature in cursive script that reads "Catherine Williams".

Catherine Williams