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Dear Ian

REVIEW OF THE DECISION CRITERIA IN PART D OF THE NETWORK CODE

I am writing to you in response to the ORR's consultation on the review of the decision criteria in Part D of the Network Code. This is the formal response of Freightliner Group Limited ('FL') - representing Freightliner Limited and Freightliner Heavy Haul Limited. I apologise for our late response and thank you for the extra time you have afforded us to provide a submission.

FL welcomes this consultation and the overall proposal to simplify the Decision Criteria within Part D of the Network Code. Any proposal that will make it more straightforward for all stakeholders (both new and existing) to work with Network Rail in the timetable and possession planning process should be supported.

The following comments relate to the proposed changes to the Decision Criteria set out in Annex B:

1. The Decision Criteria

- (i) 4.6.1 refers to the overarching 'Objective' of Network Rail in terms of Part D of the code. The text states that capacity should be shared in the interests of "Users". In our experience, Network Rail is still, on occasions, guilty of prioritising the needs of passenger operators over freight in terms of its timetable planning functions. One example of this is the ongoing delay in responding to the STP 'Spot Bids' made by freight operators. FL believes that the text should provide a clear reminder that equal priority should be given to all users of the network.

With this in mind FL would suggest that this section of text is rephrased to read, *"to share capacity of the Network in the most safe, efficient and economical manner in the overall interests of all passenger and freight users, providers and funders of railway services"*.

- (ii) FL object to the proposal in 4.6.2 to specify 'safety' as a separate consideration and would prefer to see it remain in the 'Objective' described in 4.6.1. Network Rail should ensure that its train planning activities should be carried out in a safe manner and as such it would be more appropriate to state this in the overall Objective.
- (iii) 4.6.2 (c) states that, *"The spread of services throughout the day reflects demand"*. This criterion needs to make it clear that capacity must be utilised most effectively throughout the whole day, including peak times. Consequently, FL request that the

following text is added so that the paragraph reads, *“That the spread of services throughout the day reflects demand, so that capacity is allocated at all times to both passenger and freight operators on the most efficient basis”*.

- (iv) 4.6.2 (e) states that, *“Journey times are as short as possible”*. It needs to be clearly stated that this priority must apply to all users of the network. FL (and other FOCs) believe that there remains an inaccurate perception within the timetabling process that freight is not as ‘time sensitive’ compared with passenger services. Whilst journey times for passenger services are important, FL would not wish to see relatively modest improvements (often less than 5-minutes) being achieved at the expense of incremental freight capacity. FL believes that the proposed wording, in its current guise, may disadvantage freight operators in this regard.
- (v) 4.6.2 (i) refers to the *“Effect on the environment”*. Can this be expanded upon as the current wording is ambiguous and could relate to any number of areas (for example, should priority be given to electrically hauled services over those operating with diesel traction). The above is merely a hypothetical example. It does, nonetheless, highlight the potential implications (which FL assumes would be unintentional) of such a degree of ambiguity.
- (vi) FL disagrees with your proposal to remove Part (j) of the criteria, which, *“Enables operators of trains to utilise their railway assets efficiently and avoiding having to increase the numbers of railway assets which the operators require to maintain their service patterns”*. FL operates in a competitive marketplace, with a multitude of rivals; including other FOCs, but more pertinently, other modes of freight transport. In the vast majority of freight markets, cost of transport provision is the key determinant in a customer’s choice of transport mode. An increase in a FOC’s asset base will drive up costs (given that locomotives and rolling stock are “fixed” assets and represent the largest proportion of a FOC’s cost). It is important that this point is made explicitly and the full impacts for any FOC of a decrease in efficiency of operation in this way are fully understood.

Please contact me if you would like to discuss any of the issues I have raised in this letter further.

Yours sincerely

Tim Jackson
 Rail Industry Manager
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