

From: [REDACTED]

Sent: Thursday, June 12, 2025 8:00 AM

To: [REDACTED]
[REDACTED]

Cc: [REDACTED]
[REDACTED]

Subject: Freightliner Ltd. v. Network Rail Infrastructure Ltd. - alleged failure to comply with TTP2591

ACCESS DISPUTES COMMITTEE

I acknowledge receipt of a Notice of Dispute from Chris, sent yesterday on behalf of Freightliner Ltd. ("FL"), concerning a dispute between FL and Network Rail Infrastructure Ltd. ("NR"), in respect of Network Rail's alleged non-compliance with the determination of TTP2591.

There is no mandatory forum for resolving this type of dispute in the ADRR. I note that the determination procedure preferred by FL is Access Dispute Adjudication ("ADA").

I also note, however, that FL feels the Dispute may have arisen because of a difference of interpretation between the Parties as to the determination outcome and has asked if further guidance is available. I have spoken with the Hearing Chair for TTP2591. He has advised that, if it would avoid a further dispute (and save industry time and cost) he would be happy to provide further guidance under Network Code Condition D5.3.2, provided that both Parties agree to waive the time limits in D5.3.3.

Neither the Hearing Chair nor I can recollect this provision being used in any previous Dispute. It clearly confers a power on a Hearing Chair that continues beyond the hearing; he therefore assumes that the power to vary procedure under ADRR H20 also continues. He considers that this power would permit him to disapply the time limit set out in D5.3.3, but that the request must still be made by Network Rail, as to allow Freightliner to make the request would be going beyond his powers under H20.

The first step, therefore, must be for Network Rail to make a request for clarification under D5.3.2, and for the time limit in D5.3.3 to be disapplied. If Network Rail does not wish to make this request, then this Dispute must proceed to allocation and take its course to a hearing.

If Network Rail sees benefit in seeking to avoid a hearing by this means, if this is possible, the Hearing Chair has asked that both Parties please set out their interpretation of the determination, to ensure there is a genuine difference between them which is capable of resolution by clarification of the Determination in TTP2591.

Can Network Rail therefore please confirm by **12:00 today** if it wishes to request clarification under D5.3.2 and for the time limit in D5.3.3 to be disapplied. Will Freightliner please confirm by the same time if it agrees to the time limit being disapplied. The deadline needs to be short, owing to the 28 day deadline explained below. If Network Rail is not happy to take this course of action, then I will make suitable alternative arrangements for the allocation process to continue prior to going on leave at 12:30 today.

If both Parties are willing to proceed using D5.3.2 then I will respond by 12:30 today with a deadline for both Parties to email across their interpretation of the determination. This will likely be next week, and Nigel Oatway will administer the process - and will be able to contact the Hearing Chair -

in my absence.

Notwithstanding the above, and as prescribed by Chapter B of the ADRR, if the Parties cannot agree as to how to proceed with the dispute, then I need to arrange an allocation hearing as prescribed in Chapter B of the Access Dispute Resolution Rules, no later than 28 days from receipt of the Notice. Please note that any allocation hearing would need to take place via a video call on one of 8, 9 or 10 July, as those are the only dates the Allocation Chair is currently free prior to the 28 day deadline. If there is ultimately no need for an allocation hearing, we can cancel it closer to the time.

Both Parties remain strongly encouraged to continue discussions with the aim of resolving their differences.

If you have any questions please do not hesitate to contact me, however please note my annual leave below.

Kind regards,

[REDACTED]

[REDACTED]

[REDACTED]

Access Disputes Committee

Tel.: 020 8050 3657

Upcoming A/L - Thursday 12 (PM) to Monday 23 June, inclusive.

For more information about the Committee, please click [here](#).

For template Notices of Dispute relating to Network Rail infrastructure, please click [here](#).