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## Delay Attribution Board

### Guidance No. DAB-21

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#### 1. Introduction

The Delay Attribution Board (the Board) received a request for guidance in relation to the Attribution of two incidents (TRUST references 789917 and 877651) which occurred on the 12<sup>th</sup> January 2009, and the 12<sup>th</sup> February 2009.

- 1.1. The Board received the joint request for guidance from DB Schenker Rail (UK) Ltd (DB Schenker) and Network Rail Infrastructure Ltd, London North West Route, (Network Rail) on the 10<sup>th</sup> September 2009. The incident 789917 is attributed “MC” Diesel Trac and the responsible manager code MWAS – DBS construction  
Incident 877651 is attributed to AH Breakdown and the responsible manager code is AWAS – DBS construction
- 1.2. Specifically, the Board was asked the following:

Network Rail asks that the DAB provide guidance on whether the attribution of these delays are reactionary to the lateness of the other trains involved, or if they are prime incidents (despite being separate yards) in accordance with DAG 4.2.2 (b).

DB Schenker asks that DAB confirm that these incidents should be attributed in accordance with DAG 4.2.2 (b). Furthermore, in the event that DAB does not accept DB Schenker’s view it asks that DAB concurs that Network Rail could and should have instigated measures to mitigate the reactionary delay and, therefore, an appropriate proportion should be allocated to a separate incident in accordance with DAG 4.1.7.

- 1.3. The Board considered this request for guidance at its meeting on the 6<sup>th</sup> October 2009.
- 1.4. This paper summarises the request for guidance received from DB Schenker and Network Rail (the parties) and the guidance provided by the Board.

## 2. Information Received

- 2.1. The parties have discussed the issues relevant to this matter, in accordance with the formal procedures for obtaining agreement in relation to a disputed attribution. However, they have been unable to reach a common position. The parties are, therefore, both agreed that the issues raised should be referred to the Board for guidance in accordance with Network Code Condition B2.4 and have prepared a joint submission accordingly, setting out their respective positions.
- 2.2. The parties provided the following factual background (condensed to relevant facts) in relation to TRUST incident 789917 and incident 877651.
- 2.3. Incident 789917 occurred on 12<sup>th</sup> January 2009 and involved the failure of 6H36 (0224hrs Tunstead to Bredbury) at Bredbury "Tilcon Plant". This prevented the departure of 6H37 (0705hrs from Bredbury "Tilcon Plant" to Peak Forest) at its original booked time. 6H37 actually departed Bredbury 20 minutes late under an amended (VSTP) schedule at 1150hrs. The failure of 6H37 to depart at its original booked time resulted in 0E06 (A Freightliner light locomotive booked to arrive Bredbury "GMC Waste Disposal Plant" at 0821hrs) having to be held at Guide Bridge for 203 minutes due to the fact that 6H37 was in possession of the single line from Woodley Junction to Bredbury. The late arrival of 0E06 then resulted in a 216 minute late start to Freightliner's 6E06, the 0932hrs service from Bredbury "GMC Waste Disposal Plant" to Scunthorpe. The total delay for incident 789917, including reactionary delay was 647 minutes.
- 2.4. Incident 877651 occurred on 12<sup>th</sup> February 2009 and involved the late start of 6H37, the 0705hrs departure from Bredbury "Tilcon Plant" to Peak Forest. 6H37 was delayed departing Bredbury by 125 minutes. This prevented 0E06 (the 0821hrs arrival at Bredbury "GMC Waste Disposal Plant") from accessing the single line from Woodley to Bredbury and resulted 0E06 being delayed 102 minutes into Bredbury. The outward working of 0E06 (6E06, the 0932hrs ex Bredbury) was then delayed by 58 minutes. The total delay for incident 877651, including reactionary delay, was 291 minutes.
- 2.5. There are currently 10 incidents and 2,466 disputed minutes of delay in dispute. The incidents are all as a result of the late departure/failure of trains from the Bredbury "Tilcon Plant" and the resultant delays of services waiting to get on to the Bredbury single line to access the Bredbury "GMC Waste Disposal Plant".
- 2.6. The movement of trains on the Bredbury single line is governed by section Module TS8 of the rule book and "one train working applies". The principle of one train working is to prevent more than one train being in the one train section at the same time.

### 3. DB Schenker (UK) Rail Position

- 3.1. DB Schenker is firmly of the view that these incidents are covered most appropriately by DAG 4.2.2(b) i.e. *“incident within yard/terminal, off Network Rail infrastructure causing trains to be delayed entering the yard.”*
- 3.2. In both cases the incidents causing the delayed departure of 6H37 occurred off of Network Rail’s infrastructure within a privately owned terminal. The fact that it is not the same terminal as the one the Freightliner train was heading for is immaterial as both share a common access via a Network Rail branch line which prevents more than one train passing on it at Woodley Junction until the previous train has come off of the branch line at Woodley Junction.
- 3.3. DB Schenker considers that the wording of DAG 4.2.2(b) does not explicitly state that the yard where the incident occurred has to be the same yard as the one the trains are being delayed going into. It merely states that it is to be used in cases where *an incident within yard or terminal off Network Rail infrastructure causes trains to be delayed entering the yard* which DB Schenker argues could be the same yard or any other yard which is affected by the incident concerned.
- 3.4. DB Schenker submits that this is entirely appropriate as there are many separate yards/terminals across the network which share a common access where incidents involving services using one terminal can cause delays to services entering the other, for example, at Trafford Park and Angerstein Wharf where DAG 4.2.2(b) could also apply. DB Schenker does not consider Bredbury as being any different.
- 3.5. DB Schenker’s view that DAG 4.2.2(b) should apply is further supported by the way in which incidents were attributed by Network Rail when all traffic on the branch was operated by DB Schenker. Back then, Network Rail did not treat the terminals as separate terminals for the purposes of attribution and attributed delay in accordance with DAG 4.2.2(b). DB Schenker considers that Network Rail should not now attempt to alter its attribution practice merely because the identity of the operator of the train has changed.
- 3.6. Furthermore, DB Schenker considers that the real cause of the problem is the restrictive nature of Network Rail’s signalling which prevents a train entering a terminal when the route to that terminal is not physically blocked in any way whatsoever. DB Schenker should not be attributed with reactionary delay arising from its services in such circumstances which were clear of Network Rail’s infrastructure on private property.
- 3.7. In addition, where such restrictive signalling applies, DB Schenker believes that Network Rail can mitigate against such delays occurring

by either introducing temporary emergency methods of working, upgrading the signalling or building in sufficient performance allowance in the plan to cater for a certain amount of late running.

3.8. In summary, DB Schenker considers that the circumstances of these incidents entirely fit the wording and intention of DAG 4.2.2(b). There was an incident within a yard/terminal off Network Rail infrastructure (i.e. Bredbury Tilcon) which caused delays to trains entering the yard (i.e. Bredbury Waste). In addition, DB Schenker considers that Network Rail did little to mitigate the reactionary delay by implementing an alternative method of working to allow the Freightliner train to run into Bredbury Waste.

#### **4. Network Rail Position**

4.1. Network Rail note the fact that DBS have cited on all of the incidents in dispute that their trains are “off network” and as such DAG 4.2.2 (b) should apply. However, Network Rail believes that as there are two separate “off network” yards (Freightliner services work into and out of the “GMC Waste Disposal Plant” and DBS services work into and out of the “Tilcon Plant”). Network Rail believes that 4.2.2 (b) is not applicable as it clearly states delayed entering “the” yard.

4.2. Network Rail would also state that the line into both yards is designed to be signalled under the “one train working regulations” as quoted in the rule book. Consequently, only one train is permitted to enter the single line at Woodley junction (from Woodley RJ34 signal) at any given time. A train that has entered the single line to either the Tilcon Plant or the GMC Waste Disposal Plant” effectively takes possession of the single line which is on Network Rail infrastructure and prevents any movement onto the single line branch at Woodley. A train that is occupying the single line at one yard is required to depart and clear Woodley RJ37 signal before another train can be accepted onto the single line to the other yard. Network Rail would therefore conclude that an incident in one yard resulting in a late start or a failure would affect Network Rail infrastructure (as the single line would be in the possession of the train in that yard) and the passage of a train to the other yard would be prevented.

4.3. DAG 4.13.2 states that Infrastructure defect or problem on Network Rail operated infrastructure outside the depot should be coded I\*/J\*/X\*. Network Rail believe that if this was the case at, say, Woodley 102A points, then any delays departing from either yard would be attributed to a Network Rail incident. Similarly, if a train fails on the single line leading to either of the yards, and another train is then delayed as a result of this failure, the delay would be attributed to the reason why the train had failed. Therefore, if a train fails, or is late departing from Bredbury Tilcon it directly affects entry to Bredbury GMC Waste yard (which is a separate location) in the same way as it would if it had failed on the single line. The fact of the matter is that the train that has failed, or is late, is in possession of the single line which is Network Rail infrastructure.

- 4.4. Network Rail would accept that if both trains were working in/out of the same yard then 4.2.2 (b) would apply. However, in these circumstances Network Rail would re-iterate that the locations are separate and one yard is affected by delays from the other as a direct result of the single line being occupied, This viewpoint is supported by Freightliner Heavy Haul in that Freightliner Heavy Haul have advised Network Rail that they would dispute any incident attributed as per DAG 4.2.2 (b) stating that DBS services were occupying the single line and both yards are not at the same location. Additionally, Freightliner have stated that as the delay is incurred as a result of the “one train only” working, which is on Network Rail infrastructure, the delay should be attributed to the reason for the late start/failure of the services.
- 4.5. Network Rail would conclude that there were no infrastructure failures and all equipment, including the signalling was operating normally. The delay incurred in the incidents in question was a direct result failure/late starts of the DBS services which prevented the movement of the Freightliner services on Network Rail infrastructure. Network Rail therefore believe that the subsequent delays incurred as a result of the failures/late starts have been attributed correctly i.e. to the reason for the failures/late starts.
- 4.6. Network Rail acknowledges that the initial attribution of these incidents may have been different in the past. However, at this time, only one operator (DBS) operated into both terminals. When incidents of delay occurred, they were accepted without dispute based on initial level one investigation. Since a second operator has taken over the operation of a service into one of the two terminals, the previous process where the incidents were accepted without dispute is no longer applicable. Additionally, now that more information on the circumstances of delay at Bredbury has come to light through the resolution process, Network Rail are seeking to re-address the attribution of these incidents and ensure that going forward the incidents are in accordance with the DAG.
- 4.7. Network Rail consider it to be totally outside the scope of this submission to consider any potential upgrading of signalling at this location as the guidance should be based on the type of signalling system currently in situation and agreed in the plan for the location. The signalling in question was operating as designed and there was no signalling failure. In these circumstances, the Board should consider what has actually caused the delay at the time the delay occurred rather than any potential upgrades to the network that currently have not been progressed through a development scheme, or have been funded.
- 4.8. With regard to the mitigation of the delays, Network Rail would state that the issue of mitigation should be separate to the contents of this submission. Additionally, at no stage in the dispute process has the issue of mitigation been raised. However, in response to the point raised by DBS with regard to introducing emergency methods, Network Rail would state emergency, or “temporary block working” would only be considered during circumstances considered to be an

emergency or where there is total failure. Network Rail would not implement temporary block working for late running trains. Furthermore, if the decision was taken to implement “temporary block working”, the procedures involved in introducing this would take considerable time to implement and would still cause delay. This delay would still need to be attributed to an incident which is the crux of this submission.

## **5. Locus of the Board**

- 5.1. The Board reviewed its locus in respect of providing guidance on this issue. The Board’s locus to provide guidance is set out in the Network Code Conditions B2.4.3 and B6.1.3.
- 5.2. The Board noted that while it could offer guidance to the parties as to how incidents of this nature should be attributed, this guidance was not binding on any party. If any of the Access Parties were dissatisfied with the guidance provided they could refer the matter to Access Disputes Committee (ADC).
- 5.3. If the issue were referred to ADC, then an ADC Panel would be formed to consider the dispute. In doing so, the ADC Panel would take account of the guidance provided by the Board but were not bound by it. The ADC Panel would then make a determination that was binding on the parties concerned. This document is therefore being prepared as the vehicle for providing the guidance and the reasons for how the Board arrived at its position both to the parties and, if necessary, to the relevant ADC Panel.
- 5.4. The Board agreed that it should seek to provide guidance that meets with the delay attribution vision:

“For all parties to work together to achieve the prime objective of delay attribution – to accurately identify the prime cause of delay to train services for improvement purposes”
- 5.5. The Board would need to consider if, in providing guidance, an amendment to the Delay Attribution Guide should be proposed, to improve clarity.

## **6. Consideration of the Issues**

- 6.1. The Board at its meeting on 6<sup>th</sup> October 2009, considered the request for guidance and took account of the following:
- 6.2. The facts provided by both Network Rail and DB Schenker on the incidents which were not disputed between the parties and their respective requests for guidance.
- 6.3. The guidance provided by the Delay Attribution Guide.
- 6.4. The Rule Book module TS8. – One-train working regulations.
- 6.5. In coming to its conclusion the Board regarded the following points as particularly relevant:

- 6.5.1. The rules surrounding working by pilotman.
- 6.5.1.1. That the incidents did not meet the criteria as stated in Rule Book module TS8 section 8.2. i.e. there was no
- failure or disconnection of the signal
  - failure of a track circuit
  - failure of the signalling equipment
- 6.5.2. That the signalling system was working as designed.
- 6.5.3. That the track circuit of the single track section leading to both terminals would have conveyed to the controlling signal box that the track section was occupied once a locomotive (with or without wagons) had passed over it to reach either terminal. The section would only be cleared once the locomotive had passed back over it to rejoin the rest of the network, even if a train had been locked into either terminal and was not in practice occupying the single track section.
- 6.5.4. The relevance of there being two separate terminals off Network Rail infrastructure which are served indirectly by the same single track section on Network Rail infrastructure.
- 6.5.5. The relevance of the following sections of the September 2007 & February 2009 DAG to the incidents
- 2.7.2 - Reactionary Delay
  - 4.17 – Late Start from Origin
  - 4.2 – Acceptance into Freight Terminals/Yards
  - 4.15 – Freight Terminal/Yard/other non-Network Rail Operated Infrastructure Delays
  - 4.23.2 – Regulation and Signalling of Trains
- 6.5.6. Whether the delays caused to Freightliner Trains were new Primary Delays or Reactionary Delays.
- 6.5.7. Whether there had been any opportunity to mitigate further delay.

## 7. Guidance of the Board

- 7.1. The Board came to a majority decision, there being one abstention. It concluded that the primary cause of delay in both cases was the late departure of the DB Schenker service from the Bredbury Tilcon plant. Until the locomotives hauling those services had cleared the single track section of route they had the effect of indicating to the signal box that the single track section which serves both terminals was in occupation, thus preventing entry on to that route section of any other service. For the purposes of delay attribution, delays to the trains awaiting entry onto the single line into Bredbury GMC Waste Disposal Plant should be treated as reactionary delays to the incidents occurring in the Tilcon yard and should receive the Delay Causation Code YE.
- 7.2. The Board was concerned to hear that ten such incidents and a substantial amount of resulting delay were in dispute. This appears to be a recurring problem. As such it should be anticipated and a plan to mitigate its impact developed. The Board did not have sufficient evidence before it to form a view as to the form the mitigation should take, but it did not appear that any of the parties involved had taken any steps to mitigate the impact of the two incidents considered by the Board.
- 7.3. Since it was suggested to the Board that there may be other instances where a single track section of route on Network Rail infrastructure serves more than one terminal off Network Rail infrastructure the Board agrees that the Delay Attribution Guide should be clarified.

Minutes were approved as being accurate by the Delay Attribution Board on 3 <sup>rd</sup> November	John Rhodes (Chairman)
Signature:	