



40 Melton Street
London
NW1 2EE
Tel: +44 (0)207 557
8642
Fax: +44 (0)207 557
9108

Andrew Eyles
Track Access Executive
Office of Rail Regulation
1 Waterhouse Square
138-142 Holburn
London EC1N 2TQ

11 October 2005

Dear Andrew

Re: Appeal of ADP10

Thank you for providing us with the opportunity to make further representations on whether the ORR should hear Freightliner's appeal of the Access Dispute Panel's determination in respect of ADP10. We have no further comments to make on this point, but are concerned that the notice still does not provide a clear enough basis to ensure that the appeal can be handled efficiently and does not become an iterative process of clarification.

It is not entirely clear to us, for example, whether Freightliner still wishes the ORR to rule on whether its entitlement on Level 1 Rights ought not to be capable of being disrupted by RotR/P changes; or whether it accepts the ADP's position on this point and wishes ORR to rule only on whether compensation is due and, presumably, under what mechanism compensation should be calculated and paid. Should the ORR determine that it will hear this appeal, we would therefore consider it only fair that Freightliner be given an opportunity to give clarity on its grounds for appeal, and draw them together into one consolidated document, which will enable us to respond as clearly as possible.

If the ORR decides to take this approach, we would request that the timescales for Network Rail to submit its respondent's notice under Condition M5 be extended accordingly.

I am copying this letter to Lindsay Durham of Freightliner.

Yours sincerely

Ian Marlee
Head of Regulation and Contract Services