Paul Hooper
Manager, Interoperability and Standards

OFFICE OF RAIL AND ROAD

9 January 2017

Dear Stakeholder,

Approach to authorisations under the Railways (Interoperability) Regulations 2011 (the Regulations)

Introduction

1. We are writing to you to highlight our work to review the current approach to authorisations under the Regulations and to seek your views on our proposal.

2. The Regulations have been in force since 16th January 2012. One of the core requirements of the Regulations is that no structural subsystem can be placed in service and put into use on or as part of the rail system in the UK unless the Office of Rail and Road (ORR) has given an interoperability authorisation.

3. Experience and feedback provided by stakeholders over the last three years on the current approach to authorisations under the Regulations, particularly in relation to large infrastructure programs to renew or upgrade infrastructure where the work is broken into smaller packages of work, has prompted ORR to review its approach and how we, and industry, currently apply the Regulations.

4. The attached draft policy statement sets out our proposed approach to determining the point at which an authorisation will be required under the Regulations.

5. We consider that this proposed approach will make a positive change to the authorisation process in relation to the upgrade/renewal of structural subsystems which form part of a major or large project or program of work where the work will be carried out in phases over a period of time. In particular, it will enable ORR to consider the question of authorisations for projects and programs of work on a consistent but case-by-case basis taking into account the specific facts and circumstance.

Background

6. ORR, as the Safety Authority for the UK, is responsible for issuing interoperability authorisations for new or major upgraded or renewed structural subsystems. An authorisation is required from ORR before a structural subsystem can be put into use on or as part of the rail system in the UK.

7. An interoperability authorisation provides confirmation that, to the extent required, new or upgraded or renewed structural subsystems meet the essential requirements[1] and comply with all relevant and applicable legal requirements, including Technical Specifications for Interoperability and Notified National Technical Rules.

Issues with the current approach

8. Difficulties with the authorisation regime have arisen when considering authorisations in relation to the upgrade or renewal of existing infrastructure which is being undertaken as part of a wider project or program of work as this work tends to be carried out in phases over a period of time[2] and is often undertaken by different contractors.

9. Industry and ORR have tended to approach the question of authorisation for these projects or programs of work by focusing on the individual packages of work rather than looking at the work in the context of the overall project or program of work of which it forms part in order to consider what constitutes the '*structural subsystem*' in a particular case.

10. Under the current approach, each package of work within a project or program or work is considered separately and distinctly from any other packages of work, even though they may be component pieces of one overall project or program of work to renew/upgrade a structural subsystem. The effect of this approach has meant that each package of work is considered to constitute a structural subsystem in its own right and therefore requires an interoperability authorisation.

11. This approach has the potential to result in numerous authorisations reflecting the number of phases a project or program of work has been divided into. Furthermore, as authorisation applications are being made in relation to an incomplete project or program of work (in real time), it can lead to inconsistencies and issues arising between each authorisation application as these are often made by different delivery agents. This introduces project/program risk and makes it unduly resource intensive for all parties.

[1] The essential requirements are conditions relating to safety; reliability & availability; health; environmental protection; technical compatibility and accessibility, and are set out in more detail in Annex II of the Interoperability Directive (2008/57/EC).

[2] Large projects or programs of work to upgrade/renew infrastructure is carried out in this manner because it is not feasible to close down an entire section of the network while the work is undertaken given the timeframe it often takes to complete this work.

Example

A project or program of work to upgrade/renew 100 miles of track may be divided into 5 separate phases of work of 20 miles each.

Under the current approach each 20 mile section of track is regarded as being a separate structural subsystem from the other related 20 mile sections of track. Therefore, once each section of track has been upgraded or renewed, an authorisation for that section is obtained, even though the upgrade/renewal of the remaining related sections of track have not yet been completed.

This means that a single project or program of work to upgrade/renew 100 miles of track results in 5 separate interoperability authorisations simply because the work has been undertaken in separate phases.

This approach also creates other difficulties: as each phase may be undertaken by different contractors, there is not necessarily consistency in approach for each phase. This can create risk in the delivery of infrastructure projects as it can cause uncertainty in achieving authorisation by the desired date to bring the project or program of work into use.

Proposed approach to authorisations

12. Having carefully considered the authorisation provisions of the Regulations, ORR is of the view that more weight should be placed on what constitutes a '*structural subsystem*' under the Regulations in the context of the particular project or program of work when looking at the question of authorisation. This approach would, in some cases, enable applicants to propose grouping together what would currently be separate authorisation applications into one overall application. In this scenario ORR will authorise the placing in service of a single structural subsystem once, even where the structural subsystem consists of a number of work packages. This means that for a large project or program of work which is undertaken in separate phases, the applicant can streamline its authorisation process and seek to reduce the need to obtain separate authorisations throughout the duration of the project or program of work.

13. Instead of narrowly focusing on individual packages of work without reference to the wider context, the proposed approach focuses on what constitutes the structural subsystem in each particular case by taking into account the wider context and considering the scope, scale and complexity of the works.

14. Where there is a large project or program of work to upgrade or renew a structural subsystem which is being carried out in stages, it may be that having taken into account the wider context, it is the entire project or program of work that constitutes the structural subsystem in that case. Where that is the case an authorisation will only be required at the point the entire project or program of work has been completed and the structural subsystem in its entirety is placed in service and put into use.

Example

In the case of a project or program of work to upgrade/renew 100 miles of track in 5 separate phases, an applicant may propose to ORR that each phase of work be grouped together into one application for authorisation, which would be made upon completion of all 100 miles of track.

ORR will consider the applicant's proposal and whether the scale, scope and complexity of the works requires each phase to be regarded as a structural subsystem in its own right or whether each phase should be regarded as a component part of the structural subsystem, with the structural subsystem being the 100 miles of track.

Where ORR considers each phase is a component part of the structural subsystem rather than being a structural subsystem in its own right, the applicant will likely only need to obtain one authorisation upon completion of all phases, i.e. at the point at which all 100 miles of track is placed in service and put into use.

This means that each 20 mile section of track can be put into use on the rail system without an authorisation until such time as the upgrade or renewal of the entire 100 miles of track has been completed and is put into use. Where this is the case applicants will be required to ensure they adhere to the processes and governance requirements established by ORR in order to provide sufficient assurance on risk and safety management.

15. We do not consider that this revised approach will affect how and when authorisations are obtained for smaller projects or programs of work to upgrade/renew a structural subsystem, to construct a new structural subsystem or for rolling stock. This is because we do not expect these projects or programs of work will be split into smaller packages of work. Rather it is more likely that this work will be undertaken in one stage and/or such subsystems will not be placed in service and put into use until completion of that project or program of work in its entirety.

16. Nor will this revised approach result in changes to the pre-authorisation process that applicants are required to follow. Applicants will continue to remain responsible for ensuring the safety of the structural subsystem and its interaction with the wider rail network and compliance with ORR's governance requirements. In particular, where work is being carried out in phases, applicants will still need to engage with the appropriate third party conformity assessment bodies during each phase of work and obtain the necessary interim statements of verification and safety assessment reports, even if each phase of work is not required to have its own interoperability authorisation. This will ensure that the applicant is continuing to manage and mitigate against any safety and project delivery risk.

17. The attached policy statement sets out in more detail the proposed approach to considering authorisations under the Regulations.

Consultation

18. We are inviting your views on all aspects of the policy statement, but would be grateful for your consideration of the following questions:

a. Are there any issues with ORR's proposed approach that have not been identified? b. Is it clear how the authorisation process will work under the proposed approach? c. Do you think you will benefit from the proposed approach to authorisations? d. Do you find the guidance useful in helping you understand the revised process for authorisation under the Regulations? e. Do you have any comments on the format/style of the policy document or how it can be improved?

19. Please respond by no later than Friday 3 March 2017 to authorisation.consultation@orr.gsi.gov.uk. Your response will be published on our consultation page of our website unless you request otherwise at the time you submit your response.

Next steps

20. We will publish the final policy statement on our website after we have taken the consultation responses into account.

Yours faithfully

Paul Hooper