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Dear Paul,

Re: Consultation for ORR's revising railway safety regulations.

Consultation Reference: Issue 1, Consultation Issue Date: July 2014.

This is the consultation response on behalf of Network Rail Infrastructure Limited ("Network Rail").

Network Rail owns and operates Great Britain's mainline railway network and has statutory and regulatory obligations in respect of it. Network Rail has a statutory obligation to protect the rail infrastructure and procure the availability of safe train paths. As such we are required to take an active interest in anything which could affect the safe operation of the railway. This includes work carried out by those sub-contracted to Network Rail's suppliers and others. .

The responses are set out in the attached appendix.

Yours sincerely



Ben Shirley
Health and Safety Management Systems Specialist, Network Rail

Encl: Appendix setting out Network Rail's informal responses

Q1: Do you agree that we should revoke Regulations 3, 5, 6 and 7 of MPR 97? If you do not support the revocation, please tell us why.

Withdrawal of MPR 97 Regulation 5 on measures for prevention of collision and derailment is linked to that in RSR1999 Regulation 3. It is a mixed message to withdraw one regulation and retain the other as this implies that train protection system provision and maintenance would be covered by regulation 19(1) of ROGS. It should be considered to retaining a general provision in regulation for prevention of collision and derailment; train protection systems would form a part and remove some of the detail in draft regulation 3.

In relation to Regulation 3, it should also be noted that section 68 of the Railway Clauses Consolidation Act 1845 provides that the railway company (of which in each case where such railway is part of Network Rail's network the successor is Network Rail) shall maintain gates and fences for separating the land taken for the use of the railway from adjoining lands and protecting such lands from trespass or the cattle of the owners or occupiers from straying out by reason of the railway. A similar provision is found in section 60 of the Railway Clauses Consolidation (Scotland) Act 1845. In each case, there is a penalty for the non-fastening of such gates (section 75 Railway Clauses Consolidation Act 1845 and section 68 Railway Clauses Consolidation (Scotland) Act 1845, as amended by section 49 of the Transport & Works Act 1992). By section 2 of the Accommodation Level Crossings Act 1995, the provisions in section 75 / 68 were extended to all railways owned by Railtrack plc (now Network Rail Infrastructure Limited).

For the sake of completeness, it may be worth mentioning in the consultation report that such provisions exist, and that there is no intention to repeal them.

Q2: Do you agree that Regulation 4 (Means of Communication) should be retained in its modified form? If you do not support the retention of this provision, please say why.

TSIs do not necessarily apply to upgraded vehicles and thus this clause needs to be retained.

Q3: Do you agree that we should retain a regulation to mandate the use of a train protection system? If not, why?

Agree, noting reply to Q1 and Q4

Q4: What are your views on the proposed changes to the drafting of the regulation on train protection systems? Are there any further changes you feel we should make?

We should be promoting the latest technology available for train protection systems. This is touched on in 4.9 “but ensure the migration to ERTMS is not implemented” but not in 4.10 “can be achieved by ATP systems (including ERTMS) or TPWS”.

TPWS provision is still retained as being an acceptable train protection system, and as has been stated in the consultation documentation, installed on the mainline network since 2003. During its deployment and since operational a number of exemptions were granted.

These exemptions have been enshrined in industry standard GE/RT8075 that covers TPWS provision and interface requirements. These are considered by industry to be what is reasonably practical from the system to reduce risk of collision and derailment. While it is noted that the new regulation proposed will transfer exemptions and permit new exemptions, updates do not appear to consider granted exemptions that may be included. Current exemptions that limit fitment of TPWS to certain locations, and without retaining expectations that have been archived being included or granting new exemptions against new regulation will require further fitments of TPWS to signals and speed restrictions that do not present significant risk to derailment or collision would be required.

Table with extracts of GE/RT8075, gives areas of concern that may require additional fitments - -

GE/RT8075 Clause	Text	Comments
3.1.3.5	On non-track circuit block lines with a semaphore equivalent aspect sequence, TPWS shall be provided at the first home signal at the end of a block section where conflicting movements could take place within station limits ahead.	Permits some semaphore stop signals not to be fitted that under the regulations would be required. The method of operation of signals would prevent conflict, but this is not catered for in regulation. An exemption or change to draft regulations definition of signal would be recommended.
3.1.3.8	TPWS shall be provided on the approach to speed restrictions where the permitted speed on the approach is 60 mph or more and the speed restriction reduces the speed by at least one-third, except for:	
3.1.3.8a	Temporary speed restrictions in place for three months or less. AND	See 3.1.3.8b
3.1.3.8b	Temporary speed restrictions in place for between three months and twelve months, subject to risk assessment, as set out in 3.1.4.2.	Exception in place that would need to be transferred to new regulation. Should consider changing definition of TSR to allow withdrawal of exemption. See below at 3.1.4.2e

GE/RT8075 Text Clause	Comments
3.1.4.1	The TPWS track sub-system is not required to be provided in the circumstances set out below:
3.1.4.1d	At a stop signal that protects a crossing or convergence with a passenger running line, where the track layout and interlocking controls would prevent a collision at the crossing or convergence in the event of a SPAD. It is our interpretation that signals of this type would not require fitment as interlocking controls would make only a rear end collision possible. Could consider clarification in the regulation.
3.1.4.1e	At a stop signal that protects only a convergence with a siding that is secured out of use in accordance with GE/RT8000. It is our interpretation that signals of this type would not require fitment as controls would make only a rear end collision possible. Could consider clarification in the regulation.
3.1.4.1f	Where a permissible speed indicator is provided to indicate a permissible speed that has been imposed solely to reduce the dynamic loading on track systems from rail traffic. Exception has been archived that would need to be transferred to new regulation. Should consider changing definition of 'relevant approach' to allow withdrawal of exemption. Risk of derailment is very low.
3.1.4.1g	Where the attainable speed on entry to the commencement of a speed restriction is less than 60mph, or less than the excessive speed defined for the section of track. Should consider changing definition of 'relevant approach' to permit non provision. Note that attainable speed is permitted in 'relevant approach' for signals. See also comment on general definitions of speeds.
3.1.4.1h	Where a permissible speed indicator is provided on the approach to a diverging junction where the risk from overspeeding on the diverging route is mitigated by approach control of the signalling. Exception has been archived that would need to be transferred to new regulation. Should consider changing definition of 'relevant approach' to allow withdrawal of exemption..

GE/RT8075 Text Clause		Comments
3.1.4.2	In the circumstances set out below, the TPWS track sub-system need be fitted only where the results of a risk assessment show that the fitment of TPWS is justified in order to reduce risk so far as reasonably practicable:	
3.1.4.2a	On the approach to a permissible speed indicator where, in order to prevent unwarranted emergency brake applications on freight trains passing over the TPWS OSS, the position of the OSS would have to be adjusted such that it would provide no protection to any trains.	Exception has been archived that would need to be transferred to new regulation. Should consider changing definition of 'relevant approach' to allow withdrawal of exemption. Risk of derailment is very low
3.1.4.2b	On the approach to a permissible speed indicator solely associated with a plain line curve where there is a potential risk from derailment or overturning.	Exception in place that would need to be transferred to new regulation. Should consider changing definition of TSR to allow withdrawal of exemption.
3.1.4.2c	Where a permissible speed indicator is provided to indicate a permissible speed that has been imposed solely to protect trains from the infrastructure or other passing trains due to limited clearance.	Exception has been archived that would need to be transferred to new regulation. Should consider changing definition of 'relevant approach' to allow withdrawal of exemption. Risk of derailment is very low.
3.1.4.2d	Where a permissible speed indicator is provided on the approach to a footpath or bridleway level crossing for the sole purpose of increasing the warning time for crossing users.	Exception in place that would need to be transferred to new regulation. Should consider changing definition of TSR to allow withdrawal of exemption.
3.1.4.2e	For temporary speed restrictions that are planned to be in place for between three and twelve months.	Exception in place that would need to be transferred to new regulation. Should consider changing definition of TSR to allow withdrawal of exemption. See above at 3.1.3.8b
3.1.4.3	The TPWS track sub-system is not required to be operational in the circumstances set out below:	

GE/RT8075 Clause	Text	Comments
3.1.4.3a	When the track sub-system is to be disconnected, removed, replaced or repositioned in accordance with engineering protection or possession arrangements, as set out in GE/RT8000. AND	Exception has been archived that would need to be transferred to new regulation. Should consider changing definition of 'relevant approach' to allow withdrawal of exemption. Risk of derailment is very low
3.1.4.3b	When the track sub-system is to be disconnected to facilitate other work, provided that permission to disconnect has been obtained in accordance with GE/RT8000.	See 3.1.4.3b

Train Protection system clarifications –

Making the definition of train protection system apply to ATP style and TPWS style operation equally without the requirement for demonstration that the ATP system is not reasonably practical reduces the emphasis on the push for an ATP(ERTMS) railway. It is accepted that this may be part of the requirements of the Train Protection Management System.

Train Protection Management System clarifications -

This system seems to apply mainly to the operators not the infrastructure management. This 'management system' will need to equally apply to all and so should be clarified.

Speed Definitions clarifications –

The various definitions of speed are confusing. It may be better to define the 'speed restriction' as 'permitted speed reductions'. This is because 'line speed' is defined at maximum speed on the railway concerned and so for Network Rail could be considered as always 125mph.

Stop Signal Definition clarification –

Definition of stop signals may cause some confusion for ATP systems when the position may not be a fixed point. An alternative term or reference to a limit of authority may be considered more appropriate.

London Underground and other operators -

Part of Railway used by London Underground Ltd it is implied that train protection system is not required. If a mainline operators use LU infrastructure no such exemption is provided, this may cause problems for some operators. Some parts of Merseyrail operations also make use of trains stops and should be considered being included in this section.

Q5: In the proposed new definition of “relevant approach”, should 60mph be converted to 95km/h or 100km/h?

On moving to metric speeds, this is more complicated than it appears, ERTMS works to kph, but there will be for some year's mph. It would be worth having both quoted and then at an industry agreed date agree when a switch to kph would be appropriate.

Q6: Do you agree that we should retain the regulation to prohibit the use of Mark 1 rolling stock, with the proposed changes to the exemption system? If you do not support the retention, please tell us why?

Agree.

Q7: Do you agree that regulation 5 (prohibition of hinged doors) should be revoked? If you do not support revocation, why do you think it should be retained?

Certain Heritage lines have an aspiration to run non- Mk1 hinged door vehicles on the Network and this regulation covers their use. Also the VSOE Pullman cars are not Mk1 coaches.

Q8: Do you agree with our approach to issuing exemptions under the new Regulations? If not, please tell us why?

Agree.

Q 9: Do you agree that the remaining provision in force can be revoked? If not, please tell us why?

Agree.

Q10: Do you agree with our assumptions in the impact assessments? If not, please tell us why or if there are there any other factors that you think we should take into account?

Agree.

Q11: Do you have any views that would help inform our development of an enforcement flexibility proposal?

Further information and discussion is required before a view can be taken and regulatory clarity is essential. In particular, further information is required to understand the proposed criteria for allocating investigations between the two agencies. It would be important that such criteria will be transparent and unambiguous in its operation. It would also be necessary to consider whether the investigation benefited from specialist railway knowledge; which of the two agencies only the ORR would possess.

Network Rail welcomes being included within further consultation on this area.