



Association of Train Operating Companies

Paul Carey
Office of Rail Regulation
1 Kemble Street
LONDON
WC2B 4AN

22 August 2014

Dear Mr Carey

RE: Consultation on review of railway safety regulations

Thank you for providing us with an opportunity to comment on the ORR's proposals to modernise the railway safety regulations. We note that these are being made with the intention of simplifying and updating the regulations in line with the Government's Red Tape Challenge. We support this but believe ORR can go further.

We believe that a compelling argument can be made that obviates the requirement for any new regulations with respect to the mainline railway; the existing regulations for the mainline railway could simply be withdrawn with residual requirements identified as necessary being added to Railway Group Standards.

However, recognising that the ORR might not ultimately share this view, we have, in responding to the individual questions in the consultation document, given separate answers according to whether there will be: no specific mainline regulation (ATOC's favoured outcome), a dual regulation approach *i.e.* separate discrete regulations for mainline and non-mainline railways, or a single set of regulations for both mainline and non-mainline railways (as is currently the case).

Response to individual questions

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.*

YES.

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.*

If no specific mainline regulation, or

If dual set of regulations introduced:

NO – As the consultation document notes, the Technical Specifications for Interoperability cover this requirement for rolling stock and therefore there is no need to retain the requirement in respect of mainline railways. There are many other passenger safety systems, *e.g.* door egress devices, public address, *etc.*, that are required to be maintained by operators on an ongoing basis which are not subject to separate specific regulations. We can identify no reason why means of communication should be an exception.

If single set of regulations retained:

YES - for the reasons stated in the consultation document, there would be an on-going need for the requirement in respect of non-mainline railways.

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

NO - It was legitimate to include requirements pertaining to train protection systems in the Railway Safety Regulations 1999. At the time such a system was not mandated and there was a requirement to introduce one in line with the recommendations contained within the Hidden Report.

However installation of TPWS, which the ORR accepts constitutes such a system, was completed in 2003. ATOC accepts that having an operational train protection system in place is a fundamental safety requirement, but in this respect it is no different than having in place a functioning braking system. We consider that the generic requirements contained in the Health and Safety at Work Act (HSWA) and the Safety Directive, which operators must demonstrate they meet through their Safety Management Systems (SMS) in order to be certificated by the ORR, along with the specific Railway Group Standards applicable to train protection systems, are sufficient to ensure the ongoing provision of a train protection system. Retaining a separate regulation is an unnecessary duplication and a missed opportunity to meet the Red Tape Challenge.

Separate to the above, we note that Clause 4.10 states that compliance with the (train protection system) legislation can be achieved by TPWS and Automatic Train Protection (ATP) systems, including ERTMS. We presume that tripcocks (as fitted to a number of units operated by First Capital Connect, London Overground and Merseyrail) qualify and believe this should be explicitly stated.

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

As mentioned in our response to Q3, we believe that there is a compelling case that there is no need for a regulation relating to mandating the use of a train protection system.

However, we have a number of comments if a regulation relating to train protection systems is retained.

- a. Our prime concern is that the ORR does not recognise that achieving the aspiration of a properly functioning train protection system places reliance on both the infrastructure manager and the operator. There are several specific references to the arrangements that the operators must put in place, both in the consultation document (in sections 4.11 and 4.12) and the revised regulations, but equivalent requirements for the infrastructure manager appear to be absent (other than a brief reference under 'Assumptions' on page 50).

The correct operation of any train protection system is reliant on the correct operation of both train based and infrastructure based equipment. The latter is something over which the operator has no control. The absence of any requirements for the infrastructure manager is an omission which needs to be addressed should this proposed regulation be adopted.

- b. The ORR seems to be suggesting that there are operators which do not have management systems in place in respect of train protection. Clause 4.12 states "In practice, many operators already have these arrangements in place..." with the implication that there are operators which do not have such systems in place. Related to this is the assertion in the impact assessment on page 46 that "*Train Protection systems that were already installed would be at risk of poor maintenance and falling into states of disrepair rendering them unsafe potentially*". What is the basis of the statement and assertion?
- c. It is noted that Clause 4.11 refers to the system being "properly maintained." We believe that this should refer to it being "properly functioning", *i.e.* the requirement should be defined in terms of what must be achieved, not how it should be achieved.
- d. Referring again to the train protection management system discussed in Clause 4.11, the ORR needs to provide clarity with respect to its intent. What is ORR trying to fix that is not covered by existing regulations and general duties on those operating the system?
- e. It is noted in Clause 4.11(ii) of the consultation document that the train protection management system will "provide for monitoring and regular assessment." This is not in accordance with the text of the draft Regulation 3. (2) (c) in relation to the train protection management system wording. *i.e.* "provides for continuous monitoring and regular assessment of the safety performance achieved by the train protection system" which is suggesting something significantly different. The ORR should provide clarity with respect to this new proposed requirement.
- f. Overall, our view is as stated in our answer to Q3, *i.e.* a train protection system is conceptually no different from the train braking system. As part of their SMS, operators have maintenance plans in place for the rolling stock they operate which are designed to ensure that all safety systems operate correctly. We see no justification for why the train

protection system should be subject to specific regulation when other vehicle based systems – including those on which the train protection system relies, *i.e.* the braking system, are not singled out in this manner.

- g. The requirements proposed to be placed on operators for the “train protection management system” should be discarded since:
- i. What is meant by a “train protection management system” isn’t clear and the ORR has thus far been unable to provide clarity, either in the consultation document or when asked at a recent meeting. In particular it isn’t clear what the ORR have in mind for the “continuous monitoring . . . of the safety performance of the train protection system.”
 - ii. The requirements as written only address one side of the interface of such a system.
 - iii. Monitoring failures of TPWS equipment is undertaken as part of routine TOC fleet reliability monitoring procedures. Any concerns with respect to the reliability or maintenance of the TPWS system would be identified and acted upon as part of these existing processes.
 - iv. Operators are already required to maintain the train protection system equipment as part of their maintenance plans which in turn form part of their SMS (that is certificated by ORR) – the proposed requirements would duplicate this
 - v. It should be for the industry to determine how “a properly functioning train protection system” is achieved.

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

It is not clear why the imperial units are being replaced with their metric equivalent since the railway network signage remains in the former. Beyond this, we note that RSSB Guidance Note GI/GN7608 - Guidance on the Conventional Rail and High Speed Infrastructure Technical Specifications for Interoperability includes a table of ‘speed conversions’ (Table G 1) which equates 100km/h to 60mph – we suggest that for consistency 100km/h should be used in the new definition - if replacement is to occur.

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?*

If no specific mainline regulation

Qualified NO – There are very few such Mark 1 vehicles in existence now and hence the risk is considered very low. However, since one of the aims of the initial regulations was to ensure the phasing out of Mark 1 vehicles, the residual need to prevent access to the network could be achieved by other means (e.g. removing grandfather rights for all vehicles not currently on the National Vehicle Register, and through changes to Railway Group Standards).

If single set of regulations retained: YES.

If dual set of regulations introduced:

Mainline railway regulations: YES.

Non-mainline railway regulations: Would not be applicable.

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?*

Qualified YES – One of the aims of the initial regulations was to ensure that hinged doors in operation on the network were fitted with secondary locking mechanisms. We believe that there is a continuing need to prohibit the operation of such vehicles on the mainline railway unless such vehicles are fitted with secondary door locking. However, Clauses 4.19 to 4.23 indicate a belief on the part of the ORR that hinged doors are synonymous with Mark 1 rolling stock. This is not the case. The HST fleet along with the majority of loco hauled Mark 3 coaches as well as the smaller number of Mark 2 coaches still in regular service on the mainline railway are all fitted with hinged doors. The residual need to prevent access to the network could be achieved through changes to Railway Group Standards.

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

If no specific mainline regulation: YES

If dual set of regulations introduced:

Mainline railway regulations: YES – for the reasons stated above.

Non-mainline railway regulations: Would not be applicable.

If single set of regulations retained: YES - although it potentially conflicts with the safety directive aims to avoid specific national rules (thereby exemptions)

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

YES.

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

Train protection management system requirements

In the absence of a clear description of what the ORR is expecting in respect of a train protection management system (see answer to Q4 above) it is not possible for us to assess the validity of the assumptions used in the impact assessment.

Exemptions for Mark 1 vehicles

This is of limited relevance to us as none of our members regularly operates Mark 1 rolling stock, hence no comment.

Additional point

We also note that the description included at the top of page 41 refers to ‘train operating systems’ – presumably this should say ‘train protection systems’

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

We have no such views or evidence but would support the intention described in Section 8 if the agencies believe there is merit.

Other comments on the draft regulations

Stop Signal Definition

Should a revised regulation be published there will be a need to update the definition included in the regulations for a “stop signal.” The reason for this is that the European Train Control System (ETCS) does not rely on physical stop signals – since it places reliance on granting movement authorities. Should the need arise the ETCS system intervenes to prevent a train from passing the extent of these movement authorities. Therefore the definition of “stop signal” needs to be updated to incorporate this “end of authority” – which is, in effect, the equivalent of a stop signal for ETCS.

Regulation 3. (3) (b)

As written this regulation would appear to exempt trains that operate e.g. between Richmond – Gunnersbury or Queens Park – Harrow and Wealdstone from being fitted with operational train

protection systems. Is this a correct interpretation of this regulation, or should the regulation state that these trains must be fitted with operational LUL train stop equipment in order to operate?

Regulation 4. (2)

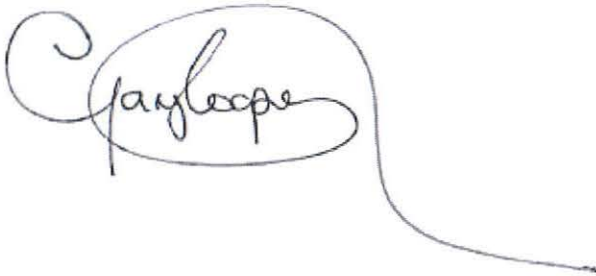
As written this regulation would appear to grant LUL the ability to operate any Mark 1 rolling stock on the mainline network - should they obtain the necessary Safety Certificate. For what reason has this exemption been specified in this way?

In Conclusion

ATOC believes there is scope to go beyond the proposals presented by ORR - since the railway has significantly evolved since the regulations came into force and the advent of Technical Standards for Interoperability have rendered the need for such regulations obsolete.

ATOC believes that Railway Group Standards are a more suitable "home" for any residual requirements and therefore there is no need for revised regulations and the existing regulations could be withdrawn.

Yours sincerely,

A handwritten signature in cursive script that reads "Gary Cooper". The signature is enclosed in a large, loopy oval shape that extends downwards and to the right, ending in a long, thin tail.

Gary Cooper
Director of Operations, Engineering and Major Projects