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Your Ref

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Dear Paul

Railway Safety Regulations: Review Consultation

UKTram and some of its key members have been reviewing the consultation document as requested in your email 08/07/14 and to date have the following comments.

Firstly the timing of the review and the consultation period has put undue pressure on the Industry to complete a thorough assessment of the document in a short time frame. The fact that the review was issued at the beginning of the industry's peak holiday period has compounded the issue.

With the proposed review end-date rapidly approaching, thus far the following issue are apparent in our initial review of the document:

At question 2 there is a statement:

"3.15 Current domestic legislation on means of communication covers mainline, non-mainline railways and tramways, and focuses on providing the ability for passengers to communicate with the person in charge of the vehicle."

This is not quite the case in that the current "Railway Safety (Miscellaneous Provisions) Regulations 1997" define "transport system" as follows:

"means a railway, tramway or prescribed system of guided transport, except that it does not include any part of such a system which—
..(d) runs along and at the same level as a street or in any other place to which the public has access (including a place to which the public has access only on making a payment);..

The current Regulation 4 requires that:

The operator of a vehicle which is being used for the carriage of fare paying passengers shall ensure that there is provided and maintained on such a vehicle suitable and sufficient means whereby passengers can communicate with a person who is in a position to take appropriate action in the event of an emergency.

However, currently "vehicle" only means a vehicle which is being used on a transport system not qualifying for the exclusion.

Clearly where a tramway is operating line of sight on a system (or part thereof) wholly accessible to the public, this current regulation appears not to apply.

In the draft of the new regulations however, the proposed regulation 5 draws on the meaning of vehicle used on a transport system but to the meaning of "transport system" in ROGS which includes all types of tramway operation.

This makes the new legislation more onerous and not in the spirit of the "red tape challenge" and may have serious implications for operation of heritage vehicles on systems like Blackpool.

While the implications for heritage tramways may be lessened by the exclusion from the proposed Regulations of any "system if the line speed on all parts of it is 40 km/h or less" (paragraph 1(e) of the Schedule), this would still catch Blackpool and the other light rail systems.

Also the definition of "tramway" in the Schedule is flawed. It refers to rails "laid wholly or partly along a road", but "road" is not defined, whereas the corresponding term "street" in relation to "railway" is fully prescribed. To accord with the existing Regulations, a definition of "road" needs to be inserted. It should adopt the definition contained in ROGS.

With these few key issues being raised in the initial review of the document, our concern is that there are likely to be more issues on further detailed review. We therefore determine that either the consultation period for this document is extended considerably to allow for a more detailed review, or that the review document is rewritten and put back out for consultation at a later date with a more realistic review period.

We are also very concerned indeed at the lack of knowledge within the Industry that this review was taking place. Therefore, we would request that a review of contacts & distribution lists for consultations be undertaken by ORR to ensure that such an important document and future consultations and reviews get the correct attention.

If you wish to discuss any of the topics in more detail then please do not hesitate to contact me.

Yours sincerely

James Hammett
General Manager

Cc: Colin Robey (Managing Director), David Keay, Ian Raxton