

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

GB Railfreight Ltd
15 - 25 Artillery Lane
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22nd September 2014

Dear Mr Carey,

Re: Revising Railway Safety Regulations - Consultation

On behalf of GB Railfreight I thank you for the opportunity to comment on the ORR's proposal to update the regulations, in line with the Governments Red Tape Challenge. I wish to confirm that this work is supported by GB Railfreight Ltd.

Within the ROGS regulations there is a differentiation between mainline and non mainline operations, and we believe that it would be more appropriate to have separate regulations in a similar manner here. We understand that this is a view supported by other colleagues in the TOC / FOC community.

We believe that specific benefits arising from this would be regulations that were clearer, thereby being more easily interpreted with fewer exceptions and exemptions. It is noted that the consultation documentation does make some references to the possibility of separate individual regulations for mainline and non-mainline use but concludes that this could lead to confusion because operators could be subject to different statutory obligations.

We believe that this position would, and potentially does, occur if a single set of regulations are maintained.

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.

We agree that the regulations should be revoked.

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.

We believe that this is adequately addressed within the Technical Specifications for Interoperability and therefore we believe that there is no need to retain the requirement in respect of mainline railways.

It may be appropriate to retain this requirement in respect of Non Mainline operations.

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

Whilst it was appropriate to include requirements for a train protection system within the Railway safety Regulations 1999, in line with the recommendations from the Hidden Report, the fitment of TPWS, which falls within the scope of this requirement, was completed in 2003. The requirement for a train protection system is now a fundamental safety requirement, similar to other safety critical systems and addressed within Railway Group Standards. whilst the duties placed upon duty holders through the HSWA and Safety Directive sufficiently address this issue.

Therefore we do not feel that there is a requirement to mandate this through other legislation.

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?

We have a number of comments in the event that a regulation relating to train protection systems is retained.

- a. It is noted that Clause 4.11 refers to the system being “properly maintained.” We believe that this should instead 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.
- b. Of prime concern to ourselves and other Railway undertakings appears to be the fact that the ORR does not seem to recognise that achieving the aspiration of a properly functioning train protection system places equal 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 wholly absent (other than a brief reference under ‘Assumptions’ on page 50). The correct operation of any train protection system is clearly reliant on the correct operation of both train based and infrastructure based equipment. The latter, being the responsibility of the infrastructure manager, is something over which the operator has no effective control. The absence of any requirements for the infrastructure manager is considered an omission which needs to be addressed.
- c. Referring again to the train protection management system discussed in Clause 4.11, it is not clear as to exactly what this refers to and as such we believe that the ORR needs to provide clarity with respect to its intent.
- d. Overall, our view is that a train protection system is conceptually no different from other systems, eg: the train braking system. As part of our SMS, we have maintenance plans in place for the rolling stock we 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.

e. In summary, our view is that the requirements proposed to be placed upon us for the “train protection management system” be discarded since:

- i. what is meant by a “train protection management system” is far from apparent
- ii. they only address half of the interface requirements of such a system
- iii. We are already required to maintain the train protection system equipment as part of our maintenance plans which in turn form part of our SMS (that is certificated by the ORR) – the proposed requirements would duplicate this
- iv. it should be up to the industry to determine how “a properly functioning train protection system” is achieved and it is not the place of legislation to dictate this.

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

It is not clear to us (and the consultation document does not adequately explain) 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.

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?

We support this proposal

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?

We support this regulation being revoked

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

We support this

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 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.

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.

Yours sincerely



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(Interim Professional Head of Operations)
GB Railfreight