Impact assessment: Approach to authorisations under the Railways (Interoperability) Regulations 2011

Impact Assessment – Approach to authorisations under the Railways (Interoperability) Regulations 2011	
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Section 1: The issue

1. Directive 2008/57/EC on the interoperability of the rail system within the Community (the **Interoperability Directive**) sets out the conditions to be met to achieve interoperability. The Interoperability Directive has been transposed into domestic legislation by the Railways (Interoperability) Regulations 2011 (the **Regulations**). Under the Regulations an interoperability authorisation must be obtained for the placing in service of a structural subsystem (which includes infrastructure and rolling stock) before that subsystem is put into use on or as part of the rail system in the UK.

2. New and major upgraded or renewed structural subsystems (which includes infrastructure and rolling stock) must have an interoperability authorisation to place into service from the Office of Rail and Road[1] (ORR) before it can be put into use on or as part of the rail system in the UK.

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

4. We believe that the potential for large numbers of individual authorisations for one overall project or program of work is inefficient, unnecessarily costly, adds risk and increases the regulatory burden on those seeking interoperability authorisations.

Section 2: The objectives

5. In undertaking a review into the current approach to interoperability authorisations we aim to achieve a number of benefits for all those involved in obtaining such authorisations. These benefits include but are not limited to:

   - Ensuring that the process is more efficient and ultimately more effective for all those involved.

   - Reducing the risk that large projects or programs of work are not put into use on the expected date due to the pressures on the applicant and timing of the authorisation submissions with a drive towards well planned projects with clear authorisation dates established.

   - Reducing the overall industry costs of applying the interoperability process. There are also potential resource efficiencies for ORR.

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[1] Office of Rail and Road website: http://orr.gov.uk/

6. A change in approach to authorisations will not import safety or programme risks because the accredited third party assessment bodies will still carry out their assessment and evidential roles.

Section 3: Option generation and appraisal

7. In considering the appropriate approach to reviewing the authorisation process, we have assessed two options:

> **Option 1: Do nothing – continue with the same approach to authorisation;** and;
> **Option 2: Revise ORR's policy to allow for staged authorisations for appropriate infrastructure programs/projects.**

8. As part of this work we have considered the impact of this work for our key stakeholders:

Stakeholder	Impact
Infrastructure Managers, - predominantly Network Rail	As project manager for infrastructure projects, a change in process would have a significant impact on NR. Feedback from applying the process suggests that a change would reduce time and resource costs for compiling paperwork for individual authorisations and enable better planning and more coherent applications. Some of the governance arrangements around infrastructure projects would need to be amended to reflect any change.
Department for Transport	Interoperability policy is the responsibility of the competent authority, which is DfT. We anticipate that our proposal would have minimal impact on the work of DfT.
Conformity Assessment Bodies (CABs)	The level of assessment would continue to be carried out by the third party assessment bodies.
ORR	A change in process could lead to a decrease in the volume of authorisations made to the safety authority and enable ORR to provide applicants with targeted guidance and involvement in the authorisation process.

9. Below we have considered these options and the associated impact and benefits.

Option 1: "Do nothing"

Current approach to authorisations

10. The Safety Authority for each Member State (ORR for the UK) must give an interoperability authorisation confirming that, to the extent required, the new, upgraded or renewed subsystem meets the essential requirements and complies with all relevant and applicable legal requirements before that subsystem can be put into use.

11. The approach to authorisation works fine for rolling stock as the scope of the authorisation and system boundaries is definable. The impact rolling stock has on the infrastructure and towards other vehicles, a combination of interface compatibility, technical compliance and safe integration, is relatively straightforward to define in terms of hazards and risks.

12. In contrast, however, experience in authorising infrastructure projects over the last two years shows the authorisation process works less well in relation to the renewal or upgrade of infrastructure and is potentially inefficient when it comes to the commissioning and evidence compilation for authorisation submission and putting into use existing upgraded or

renewed infrastructure. Issues can arise as the upgrade or renewal of existing infrastructure is often undertaken as part of a wider project or program of work which is carried out in phases over a period of time[2] and often undertaken by different contractors.

13. Currently, 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. This 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.

14. Below is a high level summary of the advantages/disadvantages of option 1.

Option 1: Do nothing	
Benefits of this approach	The process has been in place for a number of years. While the process is understood by the rolling stock industry it is less well understood for infrastructure projects.
Disadvantages associated with this approach	Large infrastructure projects can require numerous authorisations due to the way the projects are undertaken, which can be resource intensive for all concerned. This has cost and resource implications which are not necessarily proportionate to the project and can add delay in the delivery of the project – something which is not appropriate and unnecessary.
	Experience in authorising infrastructure projects over the last two years shows the authorisation process works less well and is potentially inefficient for the commissioning, compiling of evidence for authorisation submission and putting into use existing upgraded or renewed infrastructure.
	The current process involves some duplication of work through overlapping assessments – most notably by the NoBos and DeBos and the subsequent review of this work by ORR.
	Large numbers of authorisations place unnecessary regulatory burdens on the process. As part of our better regulation agenda it is important to consider the impact that this places on business. We consider that the current process is inefficient given the potential for high volumes of authorisations that currently have to be made.

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[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.

Option 2: Revise our approach to authorisations

Proposed policy approach

15. Having carefully considered the authorisation provisions of the Regulations, ORR is of the view that it is possible to reduce the number of authorisations that are being sought in relation to large infrastructure projects or programs of work.

16. We consider that under the Regulations, it is possible for completed parts of a structural subsystem, which form part of a larger upgrade/renewal programme relating to that subsystem, to be used on or as part of the railway without the need to obtain an interoperability authorisation until the entire upgrade/renewal programme or significant parts (stages) of it have been completed. The proposed approach focuses 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 rather than just focusing on individual packages of work.

17. The proposed approach will, in some cases, enable applicants to propose grouping together what would currently be separate authorisation applications into one overall application where ORR determines that each individual package of work is simply a component part of the overall structural subsystem. In this scenario ORR will authorise the placing in service of a single structural subsystem <u>once</u>, 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.

18. 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 on the basis that the structural subsystem in this case is the 100 miles of track.

19. ORR will consider the applicant's proposal and the scale, scope and complexity of the work for the purpose of determining what constitutes the structural subsystem in each case – whether it is the 100 miles or each phase of 20 miles. Where ORR considers that each phase is a component part of the structural subsystem, the applicant will likely need to obtain only one authorisation upon completion of all 5 phases, i.e. at the point at which all 100 miles of track has been completed.

20. This means that each section of track can be put into use on the rail system without an authorisation until such time as the entire 100 miles of track has been upgraded/renewed and is put into use. Where this is the case applicants will

21. Third party bodies will continue to be involved throughout the process and 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.

22. Our policy statement http://orr.gov.uk/consultations/open-consultations/approach-to-authorisations-under-the-railways-interoperability-regulations-2011 sets out the approach in greater detail and we welcome comments from interested parties as part of the consultation exercise.

23. We believe that there will be a number of efficiency savings and a reduction in regulatory burden placed on the industry.

24. Below is a high level summary of the advantages of option 2:

Option 2: Introduce a revised approach to authorisations	
Benefits of this approach	As highlighted above, the scope of the authorisation process in relation to infrastructure is not considered to be clear or reflective of how the upgrading/renewal of infrastructure operate in reality. Undertaking a review of our policy on the authorisation process would allow ORR to provide clarity through the development of a policy statement with the intent that it will lead to simplification of the authorisation process
	We anticipate that the suggested approach will reduce the overall industry costs of applying the interoperability process (each authorisation requires dedicated resources from the project, third party CABs and ORR).
	The infrastructure industry has struggled with applying the requirements of interoperability and we consider the revised approach will bring greater clarity and enable infrastructure applications to be more streamlined and reflective of how the industry operates.
	A revised approach would lead to fewer individual submissions being made by the project entity to ORR, relieving the burden on applicants to produce numerous applications through the programme of works. This would also relieve the burden placed on ORR in reviewing and authorising a high number of applications and will enable ORR's small interoperability team to focus on core issues and provide more targeted and effective guidance to applicants.
	To ensure an applicant appropriately manages risk and safety issues, the revised approach to authorisation will require applicants to follow certain governance arrangements as appropriate.

25. Based on the consideration of the points raised above, our preferred approach is option 2: a revised approach to authorisations under the Regulations. We have explored in more detail, some of the benefits of this option.

Costs associated to the process

26. One of the key benefits to option 2 is the potential to make the authorisation process more efficient and effective for all types of structural subsystems. We would expect that reducing the need to make multiple applications, all with overlapping interface assessments, should save the applicant costs associated to each submission and the associated staff costs for compiling multiple technical files.

27. As an example, we understand that a simple station authorisation assessment cost could be as much as £400k on a project total worth of £4m. Our approach could reduce this figure by 25% to 30% although we would need to assess the actual economic benefits once the process is in place.

28. Reducing the number of applications and streamlining the process would also provide resource benefits for ORR. Again, we would need to assess the actual benefits once this process is introduced.

Reducing regulatory burden

29. We also consider that option 2 would reduce the regulatory burden placed on applicants. As highlighted above, a reduction in time and costs associated with fewer technical files being submitted to the regulator would be significant and beneficial for those managing infrastructure change projects.

Section 4: Evaluation

30. As part of the review process, we will consult with a number of key stakeholders to gather their views.

31. Following this consultation period we will publish a statement of policy for our approach to authorisations under the Regulations.

32. Once the process is established we will monitor its effectiveness and make an assessment as to whether it could be improved.