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Lesley Heath
Head of Safety and Environment

2nd September 2014

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

1st September 2014

Dear Mr. Carey,

RE: Revising Railway Safety Regulations

Thank you for providing East Coast Mainline Company Ltd 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 stated intention (Foreword bullet point 1) of simplifying and updating the regulations in line with the Government's Red Tape Challenge.

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.

East Coast Mainline Company response: 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.

East Coast Mainline Company response: YES

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

East Coast Mainline Company response: NO

It was legitimate to include requirements pertaining to train protection systems in the Railway Safety Regulations 1999 as 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 nationwide in 2003. East Coast Mainline Company fully accepts that having an operational train protection system in place is now 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 HSWA and 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 on-going provision of a train protection system and hence that retaining a separate regulation would be an unnecessary duplication.

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?

East Coast Mainline Company response:

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 East Coast Mainline Company is 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, we believe that the ORR needs to provide clarity with respect to its intent. What is it trying to fix that is not covered by existing regulations and general duties on those operating the system?
- d. 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.

- e. In summary, our view is that the requirements proposed to be placed on operators 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. 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
 - 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?

East Coast Mainline Company response: YES

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?

East Coast Mainline Company response: NO

Clauses 4.19 to 4.23 seem to reflect a belief on the part of the ORR that hinged doors are synonymous with Mark 1 rolling stock. This is not the case. Our HST fleet which is still in regular service on the mainline railway are all fitted with hinged doors, but fitted with Central Door Locking systems. East Coast Mainline Company believe that there is a continuing need to prohibit the operation of such vehicles on the mainline railway unless such vehicles are fitted with a suitable central door locking system as this not only reduces risk on board the train but also from persons on the lineside or on station platforms.

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

East Coast Mainline Company response: YES

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

East Coast Mainline Company response: YES

Q10: Do you agree with our assumptions in the impact assessment? If not please tell us why or if there are 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.

Exemptions for Mark 1 vehicles

This is not applicable to East Coast Mainline Company as we do not use Mark 1 vehicles.

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 relevant agencies believe there is merit.

Yours sincerely


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Lesley Heath