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Jasper Beston
Williams Rail Review
Department for Transport
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By email to: jasper.beston@dft.gov.uk

Dear Jasper,

RE: NETWORK RAIL APPLICATION OF THE EU COMMON SAFETY METHOD

We recently made a submission to the Williams Rail Review on Track Worker Safety, expressing concerns about the number of near misses and line blockage irregularities. In this final paper, we want to draw attention to an issue related to Network Rail's application of the EU's Common Safety Method Risk Assessment (Commission Regulation (EU) 402/2013).

Yours sincerely

Rob Jenks
Policy Officer

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General Secretary **Manuel Cortes**



TSSA SUBMISSION TO WILLIAMS RAIL REVIEW: COMMON SAFETY METHOD RISK ASSESSMENT

Introduction: the status of the Common Safety Method

ORR Guidanceⁱ on the Common Safety Method describes how this EU legislation was intended "to harmonise processes for risk evaluation and assessment and the evidence and documentation produced during the application of these processes. By applying a common process, it will be easier for an assessment undertaken in one EU Member State to be accepted in another with the minimum of further work."

In practice, what this means is that the CSM RA "does not prescribe specific tools or techniques to be used. The processes are intended to complement requirements in other legislation...courts will read and interpret domestic legislation in a way that is compatible with European law." Where irreconcilable conflicts arise with a national law provisions, "European legislation will take precedence over domestic requirements and a court must set aside the conflicting national law provision."

Poor application of the hazard identification and risk management process

TSSA reps have generally found that Network Rail applies the requirements for identifying hazards and managing safety risk in a haphazard fashion. The Common Safety Method for Risk Evaluation and Assessment originally came into force on 1 July 2010 (EC 352/2009) but 9 years later, some areas of Network Rail still see it as a new requirement. Whilst there are areas of good practice and a willingness to share it, many directors lack commitment to its application: exemplified by a lack of expertise and resources and projects being allowed to pass milestones without full compliance or effective plans to achieve it. Examples include:

- Planning and Delivery of Safe Work (PDSW): Despite severe criticism of lack of compliance with CSM-RA made by TSSA (see our Track Worker Safety submission) in its detailed report of 2016 and undertakings made by the company, the project team developing track worker safety systems were still unable to provide any evidence of compliance with the CSM-RA to union representatives when they last met on 30 April 2019;
- Operation of the Rail Delivery Train: TSSA Observation of an investigation into a dangerous incident that occurred at Balham revealed that despite a number of previous incidents, many related to poor reliability and inconsistent instructions, no proper review had been undertaken.

TSSA requested that a review of the operation of the train be undertaken using the CSM-RA, due to the complex nature of the operation. Network Rail failed to acknowledge this and many of TSSA's concerns and recommendations in the body

of its report and have not confirmed any plans to correct the serious system failings. Attached to this submission is a copy of the report which includes TSSA's observations and recommendations as an appendix.

- Major Track and Infrastructure Projects: A number of major track and infrastructure project commissionings have either been cancelled hours before they were due to be implemented or at risk of this. These have been due to inadequate system safety management leading to unsupportive reports from the Safety Assessment Body.

Besides demonstrating Network Rail's poor project management of the system safety process it demonstrates limited awareness and control from the route operations assurance function (System Review Panel) during the development and preparatory stages of projects. In each of these situations, poor application of the CSM-RA would have been evident at the development stages but was not identified nor corrective action applied. System Review Panels (SRP) have provided a level of independence from the projects and have to weigh up the costs of cancelling an infrastructure commission (the cost of which can run into £millions) with the risks of allowing an unsafe project to go ahead.

- Network Rail Putting Passengers First (PPF) reorganisation: TSSA safety reps have been consulted on tranche 1 of the reorganisation and were provided with limited risk assessment documentation. The company recognises that the re-organisation is significant under the CSM-RA but seek to minimise the safety risk assessment required by claiming that the first tranche of the change is non-significant.

They have been unable to supply an effective plan of how they would comply with the requirements, a System Definition, evidence of hazard identification carried out or advise whether an Assessment Body had been appointed.

One feature of this phase of the programme is the merging of Network Rail Projects with the Route Operations and Management Function. As shown in the paragraph above, route SRP previously provided a (relatively) independent review of project readiness and it can be shown that this independence will be significantly reduced if the SRP and the project are under the same directorship. This obvious hazard is not listed in Network Rail's hazard record and strategic safety management issues such as this are barely referred to.

TSSA is reviewing Network Rail's standard for the validation of organisational change as it does not appear to support compliance with the CSM-RA and Network Rail's representatives charge with operating the process appear to have a limited understanding of their legal requirements.

Conclusion

As with our concerns about track worker safety, the reason for picking up on this issue is to ensure that these concerns are recognised in whatever comes out of the Williams Rail Review. Our concern isn't simply that a process should be followed for its sake alone to comply with a legal requirement; it is that those arrangements have consequences for the health, safety and welfare of railway workers, passengers, and suppliers - and for the industry in its reputation for all those people. Our point is that with an industry about to go through another change, issues that could be life changing - or ending - for some people may get overlooked. Finally, I would add that our concerns may equally apply to other companies currently within the GB rail industry but our focus has been on Network Rail.

ⁱ Common Safety Method for Risk Evaluation and Assessment: Guidance on the application of Commission Regulation (EU) 402/2013, September 2018 available at:

https://orr.gov.uk/_data/assets/pdf_file/0006/3867/common-safety-method-guidance.pdf