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435.6/G0613

22 December 2006

ORR'S SUSTAINABLE DEVELOPMENT & ENVIRONMENT DUTIES

I am responding on behalf of the Railway Industry Association (RIA), the trade association for the railway supply industry. Our 140 member companies include manufacturers, maintainers, contractors, consultants and service providers, but not train operators.

RIA welcomes the opportunity to take part in this consultation, but before responding to specific questions, we would like to make some more general observations.

1 We believe that the issue of sustainability is among the most significant of all issues in global terms. It is also of major significance to the work of our Members who will play a major part in successfully delivering a sustainable railway.

2 We are pleased to see the support from ORR for the significant cross-industry initiative being led by RSSB, because it encourages action from within the industry while leaving the Regulator to provide direction and influence at a more strategic level

3 We believe that, although the principles are relatively easy to enunciate, and that some actions are reasonably obvious, in other cases decisions on the optimal course of action involve some very careful comparison of benefits and disbenefits which are not normally expressed in the same terms. The effect is that sometimes questions asked in the consultation document appear simple, whereas the answers are either more complex, or point out wider considerations.

Responses to Specific Questions

1. As well as welcoming comments on any aspect of the issues raised in this document, ORR would welcome the views of consultees on the following specific questions:

(a) Consultees are invited to comment on our proposed objectives and to say whether we should adopt any additional objectives in developing our role (paragraph 2.12).

One of the complications alluded to in our pre-ambule is that it is not always easy to define good sustainable performance in terms of the relative importance of the three pillars (see next question) and we believe clarifying this should be an objective, especially where the possibility arises that the most sustainable decision is not necessarily that which is least cost.

(b) Consultees are also asked for their views on our prioritisation of the three pillars, and to provide their thoughts on the specific issues that they consider need to be addressed (paragraph 2.13).

Although we recognise that the Regulator has more ability to influence decisions in some areas than others, we are nevertheless concerned that there seems to be a suggestion that the three pillars of sustainability are being 'shared out' between Government Departments, whereas we believe that the relevant information ought to be brought together in one place. Given that the Regulator has a role 'to contribute to the achievement of sustainable development...', we believe that the Office of Rail Regulation might be the place where this could happen.

(c) Consultees are asked to comment on the proposals outlined in chapter 3, and also on whether there are any others that we could add in order that ORR as an organisation can contribute as fully as possible to the achievement of the key sustainable development principles (paragraph 3.12);

We support the encouragement to the cross-industry work being led by RSSB.

More detailed comments are made against the following questions

(d) Consultees are invited to comment on whether the publication of KPIs would be beneficial in both encouraging environmental improvements across the industry and promoting the benefits of rail travel to the general public. Are there any other specific KPIs additional to those listed in chapter 3 that should be considered? In populating these KPIs, do consultees consider that the information that might be required is already available (to be produced either on a quarterly or annual basis) (paragraph 3.24)?

We believe that publication of good KPIs should be beneficial. However, we also believe that defining meaningful KPIs is far from a simple task. For example, when comparing modes, like-for-like comparisons often do not exist eg for inter-city, commuter, or bulk freight traffic. We would encourage establishment of a small number of KPIs that could be updated annually to benchmark the railway against itself, against international mixed traffic railways, and against alternative transport modes.

We suspect that more specific suggestions here are of limited value, because we believe that the RSSB work currently under way to identify KPIs should be completed, and then seriously discussed.

(e) Consultees are asked to comment on the way on the proposed ways of ensuring that appropriate KPI information is gathered, and provide suggestions of any possible alternatives. Who do consultees believe should collate and publish this information (paragraph 3.25)?

Given that RSSB is currently leading the initiative on Sustainability, we believe that there is a strong case that they should have the role of gathering relevant information

(f) Do consultees agree that the scope of the current ORR environmental guidance document should be widened to encompass sustainable development? Are there any additional issues to those set out in paragraph 3.27 that the revised guidance should cover? Are there any areas of the current licensing regime that are proving to be an impediment to sustainable development, and in particular environmental issues, being taken forward (paragraph 3.29)?

As representatives of Suppliers, we have limited direct involvement with the licensing process. However, as a general observation, we would be wary of introducing specific KPIs into individual Duty Holder requirements. We recognise an argument that one bad environmental incident can do considerable harm to the reputation of the industry, but in general such incidents are likely to arise from failure to comply with legislation or standards which are covered elsewhere, and would appear in KPIs only when it was too late.

Furthermore, we suspect that the diversity of operations means that it would be difficult to establish KPIs which work meaningfully across the spectrum of operations, leading to perverse incentives.

(g) Do consultees agree with our proposals to ensure that Network Rail's Business Plan and the RUS process takes appropriate account of sustainable development issues (paragraph 3.35)?

Yes.

(h) Consultees are asked to comment on any specific issues that they consider should be included within the revised Part E of the Network Code (paragraph 3.40);

As suppliers, we have limited involvement in this area.

(i) Consultees' views are sought on whether there is a requirement for greater ORR involvement in sustainable development research and, if so, whether the industry would be willing to fund this through the safety levy and/or licence fee (paragraph 3.48);

We believe that the current RSSB-managed research programme provides an excellent mechanism for taking forward basic research in this area. However, there is a wider issue of support for demonstration projects, ie the next step on from basic research, where the present performance incentive regime can be significantly discouraging because the project carries the cost of track access, and the risk of any delay that might arise. This area needs careful further attention.

(j) Consultees are asked to comment on the effectiveness on the aspects of the current incentives framework and structure of access charges that encourage positive environmental decision-making and wider sustainable development goals. Consultees are also asked to identify any areas where the current incentives framework or structure of access charges prevent decisions being made that would encourage sustainable development (paragraph 4.13);

As suggested above, the current incentives regime can have a perverse effect on innovation, and this clearly needs to be properly understood and addressed. In particular, suppliers can find themselves at the end of a long chain where all the risks associated with the incentive regime can either discourage innovation altogether, or increase the cost so considerably that the development becomes unaffordable.

Otherwise, we believe that the areas already proposed are those where further work is needed to optimize the incentive regime.

(k) Consultees are asked:

(i) to suggest which KPIs e.g. those areas set out in paragraph 3.17 or otherwise, might usefully form the basis for a financial incentive; and

(ii) to comment on the design of such an incentive, and whether any additional considerations should be included (paragraph 4.19);

As stated previously, we believe that it is less than helpful to propose KPIs in this way, when the existing work has already shown how much hard thought is required into achieving meaningful indicators.

(l) Consultees are asked whether a further financial incentive is needed to encourage the use of lower mass vehicles (paragraph 4.20);

The supplier perspective has been, for a considerable time, that it was essential to understand the incentive in order to be able to optimize mass, since clearly there is some level of mass reduction (eg using aerospace technology) which might reduce mass, but at considerably increased cost, and thus not achieving the optimum for sustainability.

As suggested above, it is also essential to address the track access/delay costs associated with demonstration activity and with programmes of work to enhance reliability in the long run.

(m) Consultees are asked to comment on the idea of an environmental charge and in particular to identify variables that might be used as the basis for the charge, and to say whether they agree that environmental charges should not be implemented in CP4 (paragraph 4.24);

We are not sure how this would work, especially as it seems to be precluded by EU legislation.

(n) Consultees are asked whether they consider on-train metering as a practical option, and, if not, to explain what obstacles exist and how these might be overcome (paragraph 4.31);

We believe that a version of this option would be advantageous, but that detailed work needs to be carried out to establish the costs of retrofitting within a reasonable time scale. Clarity is also needed as to who should fund work which might be beneficial to the nation, but not necessarily to the industry.

(o) Consultees are also asked to identify any impediments to the further development of regenerative braking across the network (paragraph 4.32); and

We believe that this needs to be decided on a case-by-case study. An impediment that might then result is that the priority for investment for the industry as a whole may not be the same as that for Network Rail specifically, and we believe that such possibilities need to be covered by the detail of the environmental statements.

We can also see the possibility that regeneration might not be cost beneficial to the industry, although it helps the nation meet its emissions target, and in this case, as in our response to the previous question, we believe that the ORR should seek a mechanism for balancing the funding appropriately.

(p) Consultees are asked to identify other areas where our incentives framework and structure of access charges could promote positive environmental decision-making (paragraph 4.34).

As stated previously, the only additional area for consideration is the way in which we deal with new developments, where projects with long-term benefits may be discouraged because the short term financial risks are too high.

I hope this is helpful. Please contact me if you require clarification of any points.

RICHARD GOSTLING
Technical Director