

**Annex 2 to HSC MISC paper 03/26**

**HSE summary of responses to consultation on Network Rail application for exemption and HSE’s proposed conditions**

**HSE consultation questions**

- 1. HSE is minded to grant Network Rail the exemption it is seeking from the requirement to fit TPWS at permanent speed restrictions at diverging junctions with approach controlled signalling. Do you agree? If not, why not?**
  
- 2. HSE is minded to attach conditions requiring development of an alternative programme of train protection measures offering greater safety benefit. Do you agree? If not, why not?**
  
- 3. Do you agree with the conditions attached to the exemption? If not, why not? Are there any other conditions you feel might be imposed?**
  
- 4. HSE may conclude that it should not grant the proposed exemption but instead grant an exemption which would defer the date for these to be made allowing Network Rail to bring forward fitments such as TPWS+ that provide greater safety benefit. Do you agree? If not, why not?**

<b>Government Organisations</b>		
<b>Respondent</b>	<b>Question 1 – The Exemption</b>	<b>Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit</b>
DfT (Alan Deighton, Rail Safety Branch)	<b>Agree</b> – content for HSE to issue exemption provided it is satisfied that the cost is high in relation to the safety benefits.	Q2 <b>Agree</b> - provided costs are proportionate to the safety benefits and that Network Rail has adequate resources for such a programme.
SRA (Rob Andrews, Safety Development Director on behalf of SRA Executive Board)	<b>Agree</b> -	Q2 <b>Agree</b> – SRA agree that the potential exists for greater safety benefits to be realised by a programme directed at TPWS+, TPWS at plain line signals and Level Crossings. Q3 <b>Agree</b> -SRA note that (a) The safety benefits of a TPWS+ programme increases the earlier that the programme is implemented. SRA supports a broad programme of fitments of TPWS+ that has been proposed by Network Rail. (b) SRA will require a business case from NR to justify any further investment in TPWS at plain line signals. SRA’s support for a further fitment programme will depend on the strength of this case. SRA accepts that no condition relating to reducing the risk at Level Crossings can be imposed by HSE.

Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
London Rail - Transport for London (TfL) as regional transport authority and potential train operator	<b>Agree</b> – Based on the information provided coupled with the fact that due to speed differentials TPWS would not provide comprehensive protection it would seem to be sensible to grant exemption. Such junctions should be closely monitored for any instances of SPAD's occurring that would have been prevented by TPWS.	Q2 – <b>Agree</b> Q3 – <b>Agree</b>
Office of the Rail Regulator (ORR)	<b>No formal response</b>	Discussed at regular meetings with HSE on train protection issues

<b>Train Operating Companies</b>		
<b>Respondent</b>	<b>Question 1 – The Exemption</b>	<b>Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit</b>
First Great Eastern	<b>Agree-</b>	Q2 – <b>Agree</b> Q3 – <b>Agree</b> Q4 – <b>Agree</b> but it could be difficult to quantify the impact of a further fitment programme
Eurostar	<b>Agree</b>	Q2 – <b>Disagree</b> - If additional train protection measures are thought necessary then these should be the subject of a separate discussion and consultation with industry stakeholders and that therefore conditions are not appropriate.
South West Trains	<b>Agree</b> - SWT agrees with HSE's proposals "minded to grant" Network Rail the exemption it is seeking	Q2 – <b>Agree</b> Q3 – <b>Agree</b> Q4 – <b>Disagree</b> - Network Rail's arguments are sufficiently sound in demonstrating that the fitment of TPWS at diverging junctions will provide little safety benefits and, as such, the requirement is not reasonably practicable.
South Central Trains	<b>Agree.</b>	-
First Great Western	<b>Agree</b> – The requirements of the Regs are patently disproportionate to the risks at these locations	Q2 – <b>Disagree</b> Q4 – <b>Agree</b> - would support a deferment of the requirements for fitment to these speed restrictions to ensure that the industry led TPWS fitment extension and the level crossing work described in the consultation document, both of which will deliver much greater safety benefit, can be carried out first.

Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
GNER	<b>Agree</b> – Support Network Rail’s arguments for exemption. In particular Network Rail’ view that the fitment of TPWS at these locations may erode further driver confidence in using TPWS. View that TPWS should not require drivers to radically change their driving styles to avoid being “tripped” by the system. GNER view the use of approach control signalling and typical TPWS fitment to the junction signal suitable mitigation at these locations.	Q2 – <b>Disagree</b> Q3 – <b>Disagree</b> Q4 – <b>Disagree</b>
ScotRail Railways Ltd	<b>Agree</b> - the risks are minimal.	Q2 – <b>Disagree</b> Q3 – <b>Disagree</b> Q4 – <b>Disagree</b> - Signalling systems control the speed of trains at junctions and mitigation is provided through interlocking etc, we see no added benefits by fitting TPWS
EWS (freight operator)	<b>Agree</b> –	-
Thames Trains	<b>Agree</b> -any permanent exemption must allow for future reviews for, say, changes to traffic mix, volume or other factors may subsequently alter the risk profile and therefore the case for fitment.	Q2 – <b>Agree</b> - if greater safety benefit can be gained quicker from the available resource, then this should be demonstrated quickly and addressed Q3 – <b>Agree</b> - the exemption should only be valid where the risk profile of potential TPWS(+) fitment locations does not identify fitment at PSRs at diverging junctions with ACS as being of greater benefit. Q4 – <b>Agree</b> - overall cost of fitment is likely to exceed any overall additional safety benefit. Logical to prioritise fitments of TPWS (+) providing the greatest safety benefit, on the provision that the demonstration of such prioritisation is made clear to TOCs and is subject to approval.
First North Western	<b>Agree</b>	Q2 – <b>Agree</b>
Chiltern Railways	<b>Agree</b>	Q2 – <b>Agree</b> Q3 – <b>Agree</b> Q4 - <b>Disagree</b>
London Underground (some of its trains use Network Rail infrastructure)	<b>Agree</b> -	-
Wales and Borders Trains	<b>Agree</b>	Q2 – <b>Disagree</b> Q3 – <b>agree</b> Q4 – <b>Agree</b>

<b>Trade Unions</b>		
Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
RMT (approved by Bob Crow)	<b>Disagree</b> -Taking all the arguments together, RMT does not believe that Network Rail has made a case for a complete exemption from the regulations	Q4 – <b>Agree</b> - there may be some merit in considering a conditional exemption that would allow the installation programme to be re-arranged in order to give priority to other types of TPWS fitment, such as TPWS+ which could provide greater safety benefits.
ASLEF (responded late and with prompting from HSE; approved by Mick Blackburn)	<b>Disagree</b> - ASLEF propose a more cautious approach. Suggest that this could be done by issuing of a temporary non-compliance as well as increased monitoring of the speed of trains over these junctions for a limited period. The issue should then be reassessed using reliable data. ASLEF view TPWS and TPWS+ as a stop gap until suitable ATP is developed.	
<b>Ladbroke Grove Bereaved Relatives</b>		
Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
Robin Kellow Safety on Trains Action Group (STAG)	<b>Disagree</b> - No exemption should be granted. This request for exemption is so that TPWS fitment can be achieved as to schedule. I therefore reject this as there is no real reason given not to fit.	Q3 – <b>Disagree</b> Q4 – <b>Disagree</b>
Denman Groves	<b>Disagree</b>	-
P. Macaulay	<b>Disagree</b> - No acceptable reason to allow exemption from TPWS anywhere that tracks cross and/or high speed is allowed.	-
Linda DiLieto	Neutral – regarded exemption as inevitable given HSE minded to view but not convinced	Supportive of TPWS+
Maureen Kavanagh (also a public member of Network Rail company)	<b>Disagree</b> View industry getting out of its commitment on safety; critical of ORR and funding cutbacks.	Q2 – <b>Disagree</b> Q3 – <b>Agree</b> Q4 – <b>Agree</b>

<b>Industry Bodies and Companies</b>		
<b>Respondent</b>	<b>Question 1 – The Exemption</b>	<b>Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit</b>
Rail Safety and Standards Board (RSSB)	<b>Agree</b> that it would not be reasonably practicable to fit TPWS at PSRs at diverging junctions with ACS. Therefore agree that Network Rail should be granted an exemption. Fitment of TPWS at these locations would also increase the complexity of the safety critical signalling system and pose additional risks to design, installation, testing and maintenance.	Q2 – <b>Disagree</b> –decisions should be based on risk criteria. Not supportive of HSWA Regulation of TPWS+ as a ‘quid pro quo’ condition for the PSRs exemption Q3 – <b>Disagree</b> - decisions should be based on risk criteria. Q4 – <b>Disagree</b> - decisions should be based on risk criteria.
Angel Trains Ltd (ROSCo – rolling stock leasing company)	<b>Agree</b>	Q2 – Agree the exemption should be granted with the alternative work s in relation to fitment of TPWS+ at certain locations with TPWS at certain plain line signals. Also support proposal to bring forward improvement work on level crossings. Q3 – Q4 -
Atkins Rail	<b>Agree</b>	Q2 – <b>Agree</b> Q3 – <b>Agree</b> Q4 – <b>Disagree</b> believes that for the foreseeable future there will be sufficient other work of greater safety benefit to occupy all available skilled resources within the industry.

<b>Others</b>		
Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
Network Rail	<b>Agree</b> – exemption applicant	<p>Q2 - <b>Agree</b> - the application identified that greater safety benefits would be provided by alternative work than would be the case if ACS PSRs were fitted with TPWS. Note that the extent of the implementation of TPWS+ and plain line TPWS fitment are to be determined by a Safety Case, implying that the ‘ALARP’ principles will be employed to determine the scope of the works. This arrangement is acceptable in principle to Network Rail.</p> <p>Q3 – <b>Disagree</b> Since submitting their application Network Rail has identified that considerably more work is required to develop a programme of fitment of TPWS to plain line signals. Network Rail said that further evidence has shown that their Signal Assessment Tool’s (SAT) assessment of plain line signals would focus attention on signals with a high traffic density and features such as short overrun distances. Examination of past accidents caused by SPADs at plain line signals show these have occurred in more remote locations and have often been associated with signals that did not comply with current standards.</p> <p>Network Rail are concerned that developing a plain line TPWS fitment programme within 6 months and basing this on SAT analysis as proposed in the draft exemption notice will not deliver the benefits expected by focusing on the wrong signals.</p> <p>Q4 – <b>Disagree</b> – Little safety benefit in fitment.</p>
Parliamentary Advisory Council for Transport Safety (PACTS) Rob Gifford	<b>Agree</b> - Support the conclusion of the HSE that the exemption should be granted. There seems little evidence that the fitment of TPWS will enhance safety at such junctions. In this context, money spent on TPWS could be better spent elsewhere.	Q2 – <b>Agree</b> - Such an approach is a more sensible use of resources as long as alternative programmes are subject to rigorous cost and safety analysis.
Lord Bradshaw Rail consultant and Lib Dem life peer	<b>Agree</b> -	No views expressed on conditions
Strathclyde Passenger Transport Executive	<b>Agree</b> –	<p>Q2 – <b>Agree</b> - requested Network Rail also consult them on TPWS+ programme</p> <p>Q3- <b>No Comment</b></p> <p>Q4 - <b>Agree</b></p>

Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
National ERTMS Programme Team (consultants funded by SRA, Network Rail and RSSB)	<b>Agree -</b> Overall, the risks associated with overspeed derailments as presented in Network Rail’s exemption request are clearly very small in comparison to the overall risk profile on the railway	<b>Q2 – Agree</b> <b>Q3 – Agree</b> - expect that any decisions on the implementation of TPWS+ or TPWS at additional locations would take into account the economic appraisal for such additional implementation. <b>Q4 – Disagree</b> - The costs of fitment to all ACS on diverging routes estimated by Network Rail so clearly outweigh the benefits, then see no reason to support a deferral in the date for these fitments
John Cartledge Rail Passengers Council (RPC)	<b>Agree</b>	<b>Q2 - Agree</b> -If, as the Executive argues, these conditions would deliver greater safety benefits at the same (or a lesser) cost than the TPWS applications covered by the proposed exemptions, it would be perverse to object to this course of action
Westinghouse Rail Systems	<b>Agree</b> – arguments are sound	<b>Q2 – Agree</b> <b>Q4 – Disagree</b> - the complexities of introducing TPWS over-speed supervision loops at diverging junctions with ACS may introduce further risk, and the perceived benefits may not be attained. TPWS is a "stop gap" measure and where possible other alternatives should be pursued.
AEA Technology	<b>Agree</b>	-
Professor Roger Kemp Lancaster University (formerly Alstom)	Reservations about application, which he considered flawed. HMRI considered these to be a misunderstanding of the application.	

Respondent	Question 1 – The Exemption	Questions 1, 2 and 3 – Conditions Question 4 – Exemption subject to time limit
Rod .Muttram Engineering and Safety Consultant (former Railtrack safety director and Railway Safety chief executive)	<b>Agree</b> – exemption should be granted. On the basis of any credible interpretation of data, despite the uncertainties, the resources expended would be grossly disproportionate to the risk reduction achieved.	Q2 – <b>Disagree</b> - There is no case for attaching conditions to making a decision which is clearly in the public interest. Q3 – <b>Disagree</b> – Views that HSE has ample powers to require TPWS+ development and implementation should Network Rail fail to implement the alternative works on its own initiative. Q4 – <b>Disagree</b> - Implementation of TPWS at these locations has been clearly shown not to be in the public interest and a waste of public resources.