Proposed NTSN Change Management Process

1. Introduction
After the end of the Transition Period, a new framework of National Technical Specification Notices (NTSNs) will take the function of EU Technical Specifications for Interoperability (TSIs). This is necessary to have a clear technical standards framework since TSIs contain many elements that are inoperable for third countries (such as cross-references to EU law and Member State obligations). The DfT has worked with the Rail Safety and Standards Board (RSSB) to prepare a set of NTSNs that replicate the technical requirements in TSIs in force at the end of the Transition Period and correct any third country inoperabilities.

It is the DfT’s intention that collaboration with the RSSB on NTSNs should continue after the Transition Period given the RSSB’s role as the main rail industry standards setting body. The Impact Assessment for the Railways (Interoperability) (Amendment) (EU Exit) Regulations 2019 stated that decisions on whether to keep pace with or diverge from future TSIs will be made by the Secretary of State for Transport and “will be informed through consultation with industry about the suitability of new TSIs. It is expected that this process will involve the Rail Safety and Standards Board (RSSB) and other stakeholders with an interest in technical standards.”

In the March 2019 Parliamentary debate on the Interoperability EU Exit Regulations, the DfT’s House of Lords Spokesperson Baroness Sugg stated that “decisions on divergence will always be made on the basis of consultation with industry and stakeholders” and that “the Department for Transport will work closely with the RSSB...to inform NTSN decision-making.”

This paper summarises the DfT and RSSB’s current thinking on how this collaboration could work in a potential NTSN change management process. The DfT’s policies on changes to NTSNs after exit are still developing. In the meantime, the DfT welcomes industry feedback on the proposed change management process described in this paper.

2. NTSNs
NTSNs will be DfT-owned technical regulations published by the Secretary of State for Transport. Although these will be a new set of technical regulations, they will contain the same TSI technical requirements that applied at the end of the Transition Period, and the same structure, but will include minor amendments to reflect the UK’s withdrawal from the EU and its status as a third country. If a TSI cross refers to another standard, such as an EN, then the NTSN that replaces it will do the same.

NTSNs will indicate if they diverge from TSIs by reference to UK specific cases. However, there will be no divergence between NTSNs and TSIs at the end of the Transition Period. The same UK specific cases included in the TSIs at the end of the Transition Period will be incorporated into the NTSNs. This position reflects the remit for the transition from the EU regime, which was to first replicate the current technical regulations, the associated provisions and permissions/rights prior to the end of the Transition Period with the ability to diverge in the future. Additionally, where possible the approach is to use existing tried and tested mechanisms to avoid increasing the regulatory burden on the industry.

In total, thirteen NTSNs will be published at the end of the Transition Period to replace the eleven TSIs and set out the modules for conformity assessment and procedures for assessment and further assessment of interoperability constituents. See Annex A for a list of NTSNs.
3. Frequency of future updates

The NTSN framework will enable the UK to respond to the needs of our domestic network as well as to keep pace with changes to technical standards developed internationally. No formal decision has been taken on the frequency of future updates to NTSNs.

One option could be to mirror the new approach for TSI updates. This would mean NTSNs undergoing periodic reviews and being updated as a package in most cases, with updates grouped into one of the following two categories:

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<tr>
<th>Category of update</th>
<th>Nature of update</th>
<th>Frequency</th>
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<td>Ad hoc updates</td>
<td>A limited minor revision is urgently needed and cannot wait until the next periodic review. This may be triggered by an update to a standard referenced in the NTSN, an urgent need to correct a deficiency, close an open point or amend a National Technical Rule reference in a specific case.</td>
<td>Ad hoc but anticipated not to be more frequently than every 18 months.</td>
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<tr>
<td>Package updates</td>
<td>NTSNs will be collectively reviewed for a package update of the main body and specific case content. This is when cases for change from UK stakeholders would be considered as well as proposed new TSI content for decisions on alignment or divergence.</td>
<td>Nominally every 3 - 5 years</td>
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The next package update of TSIs is expected to be delivered in the EU in 2022. If the UK approach for NTSN updates were to mirror this cycle, then it is unlikely that substantial changes to the NTSNs produced for the end of the Transition Period would be made before 2022. The DfT welcomes stakeholder views on whether it would be preferable for the frequency of NTSN updates to mirror the new approach to TSI updates, or whether the UK should take a more flexible approach to changing NTSN content.

4. Role of the RSSB and industry

The DfT will work with the RSSB as the main UK industry body for the development of rail technical standards to inform NTSN decision-making. The RSSB’s role could be to manage the NTSN review process and propose updated NTSN text to the DfT for publication. This would build on the RSSB’s current role in informing updates to TSIs by gathering UK stakeholder views through TSI mirror groups (which are formal sub-groups of the RSSB-managed Standards Committees). It would also build on RSSB’s role in getting industry agreement on requirements (based on ORR and industry approved governance) in Railway Group Standards which codify National Technical Rules (NTR)

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1 The RGS Code and the Standards Manual - [https://catalogues.rssb.co.uk/rgs/casdocs/RGSC02%20Iss%203.pdf](https://catalogues.rssb.co.uk/rgs/casdocs/RGSC02%20Iss%203.pdf)
relevant to the GB Mainline Network. These NTRs are often referred to from the TSI (and the NTSNs will do so similarly) where there are Specific Cases.

It should be noted that the Standards Manual already has provisions for how the GB Mainline railway agrees and justifies ‘Specific Cases’ to TSIs. The Manual says, under Clause 5.1.1, that the Industry Standards Co-ordination Committee (ISCC), has a role in:

“d) Working with government and relevant industry groups to develop strategies for the direction of TSIs and other standards-related documents.

e) Endorsing proposed GB specific cases and the associated economic evaluations prior to them being proposed for inclusion in a TSI.”

Similarly, the Manual also sets out the additional role of the Standards Committees beyond just approving RSSB-managed standards. It says:

“6.1.1 In addition to the purpose of Standards Committees set out in 4.3.2 of the Code, the purpose of Standards Committees shall include:

a) Developing strategies for the direction of relevant TSIs, and seeking ISCC’s endorsement for those strategies.

b) Identifying the need for GB specific cases.

c) Directing the development of, and seeking ISCC’s endorsement for, proposed GB specific cases and the associated economic evaluations.”

Therefore, it is proposed that the change management of NTSNs will primarily entail two main high-level steps and a process for exemptions.

a) Developing a preliminary case for change on the need for divergence or alignment

When a reason for updating an NTSN is identified (e.g. a change request is made by industry or the corresponding TSI is changing), RSSB would prepare an initial summary proposal for the DfT highlighting the extent and rationale for the change. The DfT would review this against wider government policy and international commitments (e.g. COTIF) and then inform RSSB of any relevant policy and legal limitations. The relevant RSSB-managed Standards Committee would then develop recommendations for amending the NTSN and RSSB will prepare an impact assessment. This would be presented to the ISCC for a decision on the preferred course of action (which may be that no change is necessary). RSSB would then submit the preliminary case for change and impact assessment to the DfT for a decision on whether the recommended action should be taken.

b) Developing and recommending revised NTSN text with a full case for change

If DfT agrees that the NTSN should be updated, RSSB would draft NTSN text and the associated case for change and submit this to the relevant Standards Committee for a decision on whether the change is fit for industry purposes. Once agreement (based on the principle of ‘consensus’ in line with the provisions of the RGS Code and the Standards Manual) has been reached, RSSB would facilitate a wider industry consultation and make any necessary amendments to the proposed NTSN text further to the feedback received. The Standards Committee would review the revised NTSN text again and once agreement has been reached, RSSB would submit a file to the DfT containing the revised NTSN text, the case for change and a consultation log summarising the feedback from the industry consultation. Please note, this process is not dissimilar to the one used to propose and agree changes to RSSB-managed standards which the sector should be familiar with. It is expected that the sector would cooperate with RSSB and provide pertinent information that will aid the development of the case for change to aid decision making.
c) Exemptions from NTSNs
Although, RSSB would continue its role in facilitating deviations from RGSs, exemptions from NTSNs and dispensations from NTRs will continue to be a matter for the DfT. Applications to the DfT will be made in line with relevant provisions in the Railways (Interoperability) Regulations 2011 (as amended).

5. Government and Parliamentary scrutiny post RSSB recommendations
The DfT’s decision on whether to adopt any new text proposed by the RSSB on behalf of the industry, will be based on consideration of wider government policy objectives, international commitments, and a cost-benefit analysis of the change.

The revised NTSN text will undergo legal scrutiny within DfT and a formal government impact assessment (IA) – or de minimis assessment in some cases - will be produced (See Annex B for examples of the questions this may cover). The IA will be independently scrutinised by DfT economic analysts and the Department’s Better Regulation Unit. Depending on the scale of the change and associated impact, the IA may also require scrutiny by Whitehall’s Regulatory Policy Committee as well as other government departments.

If the NTSN change under consideration represents a divergence from the associated TSI, the DfT will notify Parliament through a Written Ministerial Statement before any final decisions are made. That Statement will refer to the report from the RSSB consultation process and outline the nature of the proposed divergence, the rationale for it and set out the potential costs and benefits.

Once these steps have been completed and any necessary changes made further to feedback, the DfT will present the final NTSN text to the Secretary of State for a decision to publish on the DfT website. The NTSN will have force of law once published. In total, the stages of Government and Parliamentary scrutiny from receipt of proposed text from RSSB to publication of an updated NTSN could take approximately 6-7 months.

6. Next steps
The process for updating NTSNs outlined in this paper is still under consideration and is not yet formal policy. In the meantime, the DfT welcomes any feedback on the proposed change management process.

If you have any comments, please get in touch with the DfT’s Interoperability team at interoperability@dft.gov.uk.
ANNEX A

LIST OF NTSNs

• Persons of Reduced Mobility
• LOC AND PAS (Passenger Vehicles and Locomotives)
• Control Command and Signalling
• Energy
• Infrastructure
• Safety in Railway Tunnels
• Noise
• Wagons
• Operations
• Telematics for Passenger
• Telematics for Freight

• Modules for conformity assessment
• Assessment and further assessment of interoperability constituents with a UK specific case

Draft texts of the NTSNs are available to download from the RSSB website. The final versions of the NTSNs in force at the end of the Transition Period will be published on the DfT’s GOV UK pages.
ANNEX B

GOVERNMENT ASSESSMENT OF NTSN CHANGES

Before publishing a new/updated NTSN, the DfT will produce either a de minimis assessment (if costs to businesses are expected to be less than £5 million) or a full impact assessment. The following are examples of the questions that a DfT impact assessment might cover. The nature and scale of future changes to NTSNs will vary, so not all the below questions would be appropriate in every case.

1. Problem statement
   - (If responding to a change to the corresponding TSI) What are the arguments for fully aligning with the TSI and what are the arguments for divergence?
   - Does a proposed divergence affect the scope of interoperability?
   - What stakeholders within the rail industry are affected (e.g. Railway Undertakings, Infrastructure Managers, manufacturers)?
   - Which networks are affected?
   - What other stakeholders are affected (e.g. passengers, rail freight customers, people living near railways)?
   - What stakeholders have been consulted and what are their views?

2. Essential requirements (As per Schedule 2 of the Railways (Interoperability) Regulations 2011 as amended for EU Exit)
   - What impact will the NTSN change have on safety? If there is a possible negative safety impact, what is the likelihood of it occurring and what measures will be taken to mitigate against it?
   - What impact will the NTSN change have on reliability and availability?
   - What impact will the NTSN change have on health (including environmental protection)?
   - What impact will the NTSN change have on technical compatibility?
   - What impact will the NTSN change have on accessibility?

3. Economic impact
   - What is the quantified economic impact assessed against a baseline of continuing with the existing NTSN unamended, and (if a new TSI is published) an option of full alignment with the new TSI and an option(s) of divergence?
   - Is the equivalent annual net direct cost to UK business (EANDC) greater than ±£5 million?
   - (If aligning with a TSI update) What EU-level assessment has been done on the corresponding TSI and to what extent do the findings apply in the UK?
   - What is the impact on small and micro businesses and are they disproportionately affected?
   - What are the familiarisation costs associated with businesses adapting to the new requirements?
   - What are the indirect costs/benefits of the NTSN (i.e. impact on areas indirectly related to rail)?
   - What impact will the new NTSN have on interoperability constituents and component parts, and how will this affect domestic and international rail supply chains?
   - What costs would project entities incur as a result of having a product reassessed against a divergence between the new NTSN and the corresponding TSI?
   - Will divergences increase costs for project entities during the mandatory additional authorisation process for vehicles first authorised in the EU?

4. Compliance with international norms and agreements
- What impact will the new NTSN have on the UK’s ability to meet its Convention concerning International Carriage by Rail (COTIF) obligations (e.g. adherence to UTPs, recognition of vehicles and ECM certificates from other COTIF signatory states)?
- What impact will the new NTSN have on the UK’s ability to comply with other international norms in rail technical and safety standards (e.g. ENs)?
- Would proposed divergences impact UK-EU trade?