SUBJECT:	RSSB call for evidence – Railway Standards Code (Project 24-101) Considering changes to the rail standards framework – agreeing the problems and opportunities
TITLE:	Paper P3.4 – Who applies rail standards
	Endorsed as a suitable basis for wider industry consultation by the Industry Standards Coordination Committee (ISCC) on 23 April 2025

MAP:

Topic 1 Overview of existing frameworks	P1.1 Context for the rail standards framework
	P1.2 General assessment of the existing rail standards framework
Topic 2 Scope of rail standards	P2.1 Geographic scope
	P2.2 Rail systems – Networks and use
Topic 3 Application of rail standards	P3.1 How rail standards apply
	P3.2 What rail standards cover
	P3.3 When rail standards apply
	P3.4 Who applies rail standards
Topic 4 Flexibility of rail standards	P4.1 Applying alternative requirements
Topic 5 Requirements setting	P5.1 Arrangements for managing requirements
Topic 6 Assessment requirements	P6.1 Assessments requirements

1. Purpose of the paper

1.1 This paper (P3.4) is part of Topic 3 of this work regarding the circumstances for the application of rail standards. This paper sets out who needs to apply different types of rail standards. That is, who requirements apply to as part of considering the alignment between the compulsion to apply standards and where the requirements are contained.

1.2 The purpose of this paper is to identify challenges with the current arrangements, and opportunities to improve this.

1.3 Considerations for how, where and when rail standards apply, and what they contain are covered in other topics and papers. This paper should be read in conjunction with these other papers, particularly in Topics 2 and 3.

2. Context

2.1 Standards apply to different legal entities under different frameworks. Considerations regarding who applies rail standards relate to:

a Which entities need to apply rail standards through obligations under different regulatory frameworks.

b Who the legal entities typically are in practice (for example, manufacturers or railway undertakings) and who needs to be able to undertake the role.

c Whether the regulatory obligations to apply standards align with where the appropriate requirements are. That is, that requirements relevant to railway undertakings are in a place that facilitates their use by railway undertakings.

2.2 These considerations depend on the structure of the rail industry, and as such may need to be revisited with developments to rail reform and formation of GBR. For example, the establishment of GBR may reduce issues related to misaligned responsibilities or accountabilities.

3. Which entities need to apply rail standards?

3.1 Within the interoperability, safety and licensing frameworks, there are primarily two legal entities with explicit responsibilities for application of standards. These are the 'project entity' and the '[transport] operator.'

a The **project entity** under RIR is responsible for drawing up the declaration of verification of subsystems for structural subsystems. This is a declaration that relevant NTSNs or NTRs have been met. The project entity is a manufacturer or contracting entity. In practice, the project entity role may be undertaken by various entities, such as an infrastructure manager overseeing a change to the infrastructure[1].

b The **operator** under RIR (or transport operator under ROGS) is an infrastructure manager or railway undertaking.

i Under RIR, the operator needs to ensure the subsystem is operated and maintained in conformity with NTSNs and NTRs used for APIS[2] and in conformity with functional NTSNs.

ii Under ROGS, the operator needs to include procedures in its SMS to meet applicable NTSNs, NSRs and other relevant requirements.

iii Under the licence/Statement of National Regulatory Provisions (SNRP), the operator needs to meet applicable RGSs and RISs.

3.2 The approach in RIR reflects part of the function of the interoperability framework – a division between obligations related to products and operations. The approach in ROGS reflects that the transport operator is ultimately responsible for the safe operation of their part of the system. For safety aspect, this is consistent with the fundamental principle of health and safety law that those who create risks are best placed to control them.

3.3 The legal identifiers mean there is a clear responsibility for applying requirements.

[1] Note, for Interoperability Constituents, the term 'project entity' is not used. It is always the manufacturer.

[2] Or newer versions of these, or TSIs and NNTRs for subsystems authorised to these requirements.

a For RIR, there is a clear accountability for the project entity prior to APIS. There is also flexibility for defining who this is for any project. There is also clear accountability for the operator following APIS.

b For ROGS there is also clear accountability for the transport operator. But unlike RIR where a range of organisations can take the role of a project entity (including transport operators) the role of an operator under ROGS is limited to the infrastructure manager or railway undertaking. The operator may delegate elements of practical application of standards, but they are ultimately responsible for safety.

3.4 A consideration on relation to who applies standards is whether the division within the interoperability framework is helpful or necessary. For example, where the project entity and the operator are the same entity.

a For application of standards, there is no issue with this. Obligations and accountabilities are likely clearer and simpler – all applicable requirements are applied by this single entity, who needs to be familiar with all types of rail standards and all obligations under RIR, ROGS and the licence condition. Given this should not be an issue, keeping a legal separation remains helpful in that there are the clear responsibilities (as in point 3.3) and it allows for a separation of entities where this is useful.

b Where this division needs further consideration is in relation to processes. For example, assessment (which is covered in Topic 6 of this work) or elements of APIS which may be less necessary if the project entity and operator are the same.

4. What are the regulatory obligations?

4.1 Overview

4.1.1 A clear and suitable framework aligns the responsibilities and accountabilities for applying standards with the relevant content of a standard. It needs to consider practicality of arrangements and competence.

4.1.2 Figure 1 broadly shows the obligations for the different legal entities applying different types of standards.

Legal entity (according to RIR, ROGS or operating licence)

		Project entity	Transport operator
NTSNs	(Structural)	Y	N*
	(Functional)	N	Y
NTRs		Y	N*
NSRs		N	Y
RGSs		N	Y
RISs		N	Y
NOPs		N	Y

Notes

'N' means there is no explicit legal compulsion to apply that type of standard. It does not mean it cannot or does not need to be applied as part of risk management or for other obligations (safety, contractual, product liability).

** Other than continued compliance with the requirements used for APIS*

Figure 1 – application of standards by different legal entities

4.1.3 However, the arrangements are not as neat as shown in Figure 1. For example:

- Structural NTSNs contain requirements relating to operation that apply to operators.
- Functional NTSNs contain requirements related to products and systems that need to be applied by manufacturers rather than operators.
- RGSs contain NTRs, which therefore contain product-related requirements that need to be applied by project entities.
- RISs also contain product-related requirements that need to be applied by manufacturers rather than operators.

4.1.4 This mismatch occurs because:

a The interoperability framework has a clear division between products and operations, but the standards supporting this are not as precisely divided. This is because there cannot be a simple split, or because separate product and operating requirements are so linked that they are kept together.

b The legal basis for requiring project entities, such as manufacturers, to apply any type of rail requirements is only through the interoperability framework, which is limited to NTSNs and NTRs. The obligations for all other standards are placed on operators because they are recognised under the safety and licensing frameworks which do not recognise manufacturers in the same way. Despite these arrangements, operators often place reliance on manufacturers. This is perhaps a reflection of competence and resource but is contrary to the focus of ROGS placing responsibilities on the operator.

4.2 Division between products and operations

4.2.1 This relates to point 4.1.4a. The issue exists because in the concept of the legislation and related obligations as set out in Figure 1:

a Structural NTSNs and NTRs should contain requirements applicable to project entities. That is, product-related requirements.

b Functional NTSNs, NSRs, RGSs, RISs and NOPs should contain requirements applicable to transport operators, because across all frameworks that refer to these standards, the obligation is placed on the operator.

4.2.2 However, with the exception of NOPs and potentially NSRs, by the definition of what each type of standards contains (see Paper P3.2), this is not the case. For example, RISs may contain product and operations or maintenance related requirements. The regulatory division between products and operations is therefore not strictly reflected in the rail standards. This means there is not a simple translation from regulations to standards.

4.2.3 For example, a project entity needs to meet applicable NTSNs and NTRs, but in practice, they need also to meet product-related requirements in applicable RISs[3] for the operator to operate the subsystem. This adds complexity to the application of standards and means that both project entities and operators in practice need to be familiar with the full suite of rail standards to understand applicable requirements.

> **Problem/Opportunity 1** – The regulatory frameworks have a division of products and operations which is not strictly reflected within rail standards (other than NOPs).
>
> **Rationale** – There may be scope to align the types of standards more with regulations, which simplifies application for standards users. Currently, both project entities and operators need to be familiar with the full suite of rail standards to understand applicable requirements.

4.3 Legal basis for product-related requirements

4.3.1 This relates to point 4.1.4b. The lack of legal basis for requiring manufacturers to apply specific standards outside interoperability framework means there is no

[3] And RGSs, although given their role in containing NTRs, this should already be fulfilled.

regulatory mechanism to compel manufacturers to apply further product-based requirements.

4.3.2 This is done at present through:

a An assumption that relevant standards would be applied by manufacturers to meet safety, risk assessment or product liability obligations.

b An awareness of the operator's licence/SNRP condition reference to RGSs and RISs.

c Specification through contracts.

4.3.3 However, the licence condition is placed on transport operators. This means the regulatory requirement is on the operator even when requirements are directed to a manufacturer. Application therefore currently relies on contractual specification by the operator or entity procuring the vehicle, or commercial incentive of the manufacturer.

4.3.4 Both of these rely on each party being sufficiently informed about the obligations of the other. This may be onerous and unrealistic, particularly for operators making a one-off change.

4.3.5 This is not expected to be an issue for RGSs given these contain NTRs. However, it may be an issue for RISs. The current arrangements mean manufacturers may decline responsibility for applying RISs if they are not contractually specified by an operator, because they consider the direct obligation not to be placed on them.

4.3.6 There needs to be consideration of a way to improve this arrangement to prevent disagreements or difficulties for operators meeting their obligations under the operating licence or under safety. Partly this is about improving clarity about how the current arrangements should work and the current responsibilities and accountabilities. Where there needs to be a change to improve this, the challenge is whether there is a legal basis to strengthen this. For instance, the Code and Manual only directly apply to transport operators through a licence condition.

Problem/Opportunity 2 – RISs may contain product-based requirements for practical application by a manufacturer, but RIS obligations are placed on the operator.

Rationale – This is a mismatch which may cause challenges for operators.

Problem/Opportunity 3 – There is no legal basis for requiring manufacturers to apply specific rail standards outside interoperability framework.

Rationale – Further obligations for standards application can only be placed on transport operators, even though they may not be intended to be applied directly by operators.

5. Summary

5.1 Problems or opportunities

Problem/Opportunity 1 – The regulatory frameworks have a division of products and operations which is not strictly reflected within rail standards (other than NOPs).

Problem/Opportunity 2 – RISs may contain product-based requirements for practical application by a manufacturer, but RIS obligations are placed on the operator.

Problem/Opportunity 3 – There is no legal basis for requiring manufacturers to apply specific rail standards outside interoperability framework.

5.2 Conclusion

5.2.1 The regulatory obligations for specific entities to apply standards are not always aligned with the types of requirements applicable to those entities. There is a need to consider ways to improve these arrangements so that different types of standards more easily facilitate regulatory divisions and practical application. However, there are limited existing alternative mechanisms, so the focus may need to be on the content of types of standards rather than regulatory obligations.