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Huw Merriman MP
Chair of the Transport Select Committee
House of Commons
London
SW1A 0AA

By email to transcom@parliament.uk

17 June 2021

Dear Mr Merriman,

Inquiry on the rollout and safety of Smart Motorways

Thank you for your letter dated 28 May 2021, in which you asked about our health and safety functions in relation to the management of change on the railway and how we monitor Highways England's safety performance.

Please see the appendix for our responses to your questions. These are necessarily a short description of our legal duties and operational functions. However, if you would like us to explain these in more detail or if the committee has follow up questions, then please let me know.

Separately, as you know, we are producing a report to the Secretary of State for Transport on All Lane Running. While we are no longer required to attend the Transport Select Committee to discuss this on 29 June 2021, we would be very happy to discuss the report with you or the Transport Select Committee once it is published, should this be helpful for your Inquiry.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Larkinson', with a long, sweeping horizontal stroke at the end.

John Larkinson
Chief Executive

Appendix – response to Transport Select Committee questions

Health and safety functions – Management of change

Regulation of the management of change on Great Britain's railways is a key function of ORR and we have published our regulatory strategy for this¹. We cover all aspects of change.

Technical changes

Technical changes, for example the introduction of new technology to the mainline railway, are covered by the Interoperability Regulations². These regulations stem from EU law and were introduced primarily to help remove barriers to trade across the European Union, but they also cover safety.

They require that new or upgraded infrastructure and rolling stock must comply with a set of technical standards: a proposer has to get an Approved Body to verify and certify that the design and the end product complies with the standards. If the change is outside the scope of the regulations, then the Department for Transport's permission (following consultation with ORR) is required.

Before the new infrastructure or rolling stock is placed into service it needs ORR's approval. The proposer has to send us a file of information to assure ORR that it is compliant to the standards, has identified all risks and has taken or put in place appropriate processes and procedures to adequately manage risk and safety issues. ORR may seek specific assurances from the applicant that risks have been identified and are being managed appropriately.

Operational and Organisational change

Operational and Organisational change is managed via the Railways and Other Guided Transport Systems (Safety) Regulations 2006³ (ROGS).

Network Rail's "Putting Passengers First" programme⁴ provides a good example of how we have overseen significant changes which have a bearing on safety. On this, ORR engaged with Network Rail's internal change process and we formally assessed and approved the changes to its [safety authorisation](#).

¹ Strategy for regulation of health and safety risks - Chapter 3: Management of change, available [here](#).

² Further details on these regulations are available on our website [here](#).

³ Further details on ROGS are available on our website [here](#).

⁴ The Putting Passengers First programme involved, among other things, the restructuring of Network Rail into five regions and changes to its central functions (including safety), with further devolution of responsibilities from the centre to the regions.

As well as covering major changes, the ROGS regulations also require that companies have their own processes for the management of change. We inspect these and assure ourselves that the companies are following these. The Rail Safety & Standards Board's (RSSB's) Taking Safe Decisions document (available [here](#)) provides a good summary of how railway companies should manage change.

Monitoring the performance of Highways England and how this role applies to the safety of smart motorways

ORR's monitoring and enforcement work focuses on Highways England's delivery of the Road Investment Strategy (RIS) and its compliance with its licence.

In RIS2, DfT set Highways England a key performance indicator for safety to achieve a 50% reduction in the number of people killed or seriously injured on the Strategic Road Network (SRN) by the end of 2025 compared to the 2005-09 average baseline. Each year, we publicly report on Highways England's performance against this target and the company's wider set of untargeted performance indicators.

Highways England's target covers all roads on the SRN, including smart motorways. In 2019, there were 2,189 people killed or seriously injured on the SRN. Of these, 1,330 occurred on A-roads and 859 on motorways. Therefore, it is important that our monitoring considers the actions taken by the company to improve safety on all parts of the network.

The aim of our safety monitoring is to deliver value that is over-and-above a purely backward-looking monitoring and reporting approach. To achieve this, we have undertaken research projects that provide Highways England with recommendations for how it can deliver better safety outcomes for road users:

- In 2019, we commissioned the Road Safety Foundation to [review](#) how Highways England prioritises investments to improve safety outcomes. This considered all road types on the network and provided the company with recommendations for how it can deliver the maximum possible safety benefit for road users.
- We recognise the wider concerns around safety on smart motorways. As a result, in 2020, we commissioned a report to review the processes Highways England has in place for delivering key aspects of the Smart Motorway Action Plan and to provide us with monitoring recommendations. This report has not yet been completed but we will provide the committee with a copy once it is.

We also responded to two requests for additional monitoring of smart motorways in the past year:

- In 2020, DfT requested that we undertake targeted monitoring of Highways England's progress in delivering the Smart Motorway Action Plan. Therefore, since December 2020, we have provided monthly progress reports to DfT that detail the company's progress.

- In April 2021, the Secretary of State asked ORR to undertake an independent review of the analysis in the smart motorway stocktake. This work is currently in progress and a final report will be provided to the Secretary of State on 28 June 2021.