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National Transport Commission  
Public submission – RSNL C-RIS  
Level 3, 600 Bourke Street  
Melbourne VIC 3000

## **Submission to Consultation – Rail Safety National Law – Consultation Regulatory Impact Statement**

Thank you for the opportunity to provide feedback to the Rail Safety National Law Consultation Regulatory Impact Statement (C-RIS). I am the Regulator and Chief Executive of the Office of the National Rail Safety Regulator (ONRSR). ONRSR is an independent body corporate established under the *Rail Safety National Law (South Australia) Act 2012* (RSNL) to enforce safe railway operations and promote the improvement of rail safety nationally.

ONRSR's submission proposes a model for the regulation of interoperability which seeks to minimise any adverse impacts on the regulation of rail safety while still providing for interoperability outcomes as contemplated in the C-RIS. A relatively simple amendment to the RSNL will enable the prescription of mandatory and harmonised standards for which ONRSR will be responsible for ensuring industry compliance. Any more complex changes in this relatively early stage of pursuing increased interoperability for the Australian rail network via adoption of European Train Control System (ETCS) standards risks over-regulation, a lack of flexibility and standardising or harmonising the wrong elements of the rail network.

The proposed alternative approach will enable the development of mandatory standards, informed by a detailed cost benefit analysis and comprehensive consultation. The application and scope of the standards can be expanded in line with Government and industry objectives and priorities.

The submission also highlights the importance of data in defining and measuring any productivity improvements. If ONRSR's remit is to be expanded to include productivity, RSNL amendments would be needed to support additional reporting for rail transport operators (RTO) and the powers to publish information on productivity.

The funding model for ONRSR must be considered alongside proposed changes to the RSNL. A delay or failure to consider the means of resourcing the additional regulatory functions or activities

related to interoperability or productivity will have a detrimental impact on the regulation of rail safety. ONRSR has no capacity to take on additional activities from its existing resources.

Finally, ONRSR suggests that the recommendations related to transparency and accountability, other than the review of confidentiality provisions, do not need to be pursued through legislative amendment at this stage due to the improvements made by ONRSR since the release of the RSNL Review report in June 2024. In terms of the confidentiality provisions, ONRSR considers there may be benefit in progressing an amendment to clarify that it can share rail safety information even when it requires the identification of individual operators.

I look forward to our continued engagement with the NTC on progressing this important reform to the RSNL. If you have any questions relating to this submission, please contact Jessica Linsell, Director Policy, on [REDACTED] or via email at [REDACTED]

Yours sincerely

Dr Natalie E Pelham  
**Chief Executive and National Rail Safety Regulator**  
**Office of the National Rail Safety Regulator**

## Regulation of Interoperability - proposed alternative model

ONRSR proposes an alternative model to the one presented in the C-RIS for the regulation of interoperability under the Rail Safety National Law (RSNL). It includes the introduction of a separate interoperability scheme. This approach:

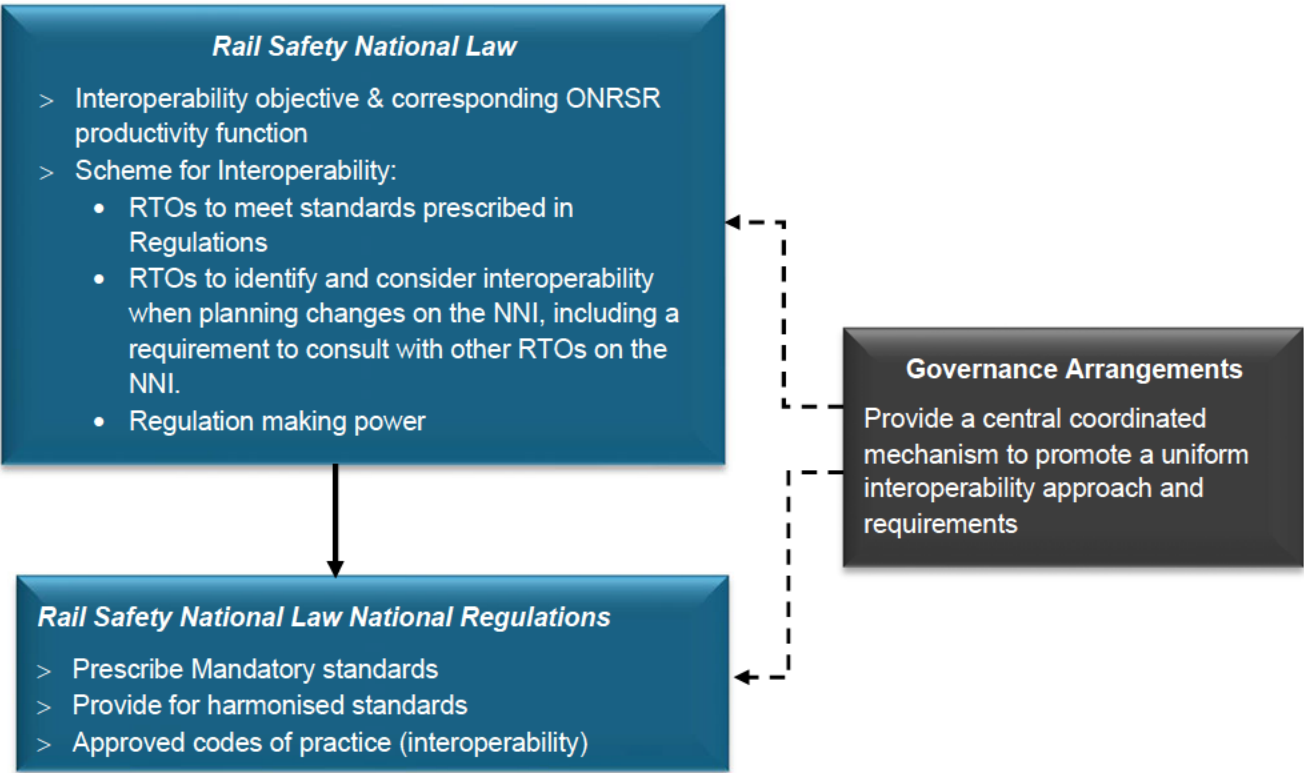
- preserves the existing rail safety framework that is effective and well-understood
- explicitly defines requirements for improving interoperability
- provides regulatory simplicity and clarity.

Our alternative proposal is summarised here, followed by detailed context.

Alternative model for the regulation of interoperability under the RSNL	
Legislative Amendment	Rationale
<b>Rail Safety National Law (RSNL)</b>	
Include a new interoperability objective	This will provide the link for a new scheme for interoperability to be established under the RSNL separate to the safety objective.
Introduce new productivity function for ONRSR	This will provide ONRSR with the obligation and powers to coordinate and facilitate productivity and safety benefits including through administering an interoperability scheme
Introduce a new scheme for Interoperability as a separate Part in the RSNL – “Regulation of Interoperability”	This will allow the existing rail safety framework to be retained in its current form and minimise the risk of any unforeseen consequences to safety.
Introduce provisions under the new interoperability scheme that: <ol style="list-style-type: none"> <li>1. Place a requirement on RTOs to meet standards prescribed in the Regulations</li> <li>2. Place a requirement on RTOs to identify and consider interoperability when planning changes on the National Network for Interoperability (NNI), including a requirement to consult with other RTOs on the NNI.</li> </ol>	Introduction of these new provisions will: <ul style="list-style-type: none"> <li>• Allow the requirements for improving interoperability to be explicitly defined rather than relying on the so far as is reasonably practicable (SFAIRP) test;</li> <li>• Separate the current Interoperability of railway operations requirements contained in regulation 20A of Schedule 1 of the National Regulations from the safety duties and place them more appropriately under the new interoperability scheme</li> <li>• provides regulatory simplicity and clarity</li> </ul>

<p>3. Provide a Regulation making power to prescribe interoperability standards in the National Regulations</p>	
<p><b>Rail Safety National Law National Regulations 2012 (National Regulations)</b></p>	
<p>Prescribe Mandatory standards Provide for harmonised standards Provide for approved codes of practice in relation to interoperability</p>	<p>The National Regulations would prescribe the standards approved by Infrastructure and Transport Ministers that are needed to achieve rail interoperability. This would allow for a flexible and future focused approach for interoperability so that if any future rail interoperability solutions are identified and deemed necessary, the National Regulations could be updated.</p>
<p><b>Governance Arrangements</b></p>	<p><b>Rationale</b></p>
<p>Establish new governance arrangements that provide a central coordinated mechanism to promote a uniform interoperability approach and requirements, including:</p> <ul style="list-style-type: none"> <li>• determination of prescribed interoperability standards</li> <li>• dispute resolution mechanism.</li> </ul>	<p>The new governance arrangements would support the new interoperability scheme by ensuring improvements to interoperability are nationally consistent and target the desired solutions.</p>

ONRSR's proposed alternative model presented diagrammatically:



## Detailed context - Alternative model for the regulation of interoperability

ONRSR supports improving the interoperability of Australia's national rail network. Interoperability has been a priority for infrastructure and transport ministers since 2019 following the approval and publication of the first iteration of the National Rail Action Plan (NRAP). Advancing interoperability is a significant means of lifting the productivity of the rail network. It is also a priority for industry, particularly those organisations that have committed to consider rail system interoperability ahead of future major rail investments<sup>1</sup>.

However, the current approach to improving interoperability relies exclusively on voluntary compliance and alignment of standards, which is estimated to take at least 10 years to implement with the benefits of a more interoperable network estimated to be realised after 25 years.<sup>2</sup>

New or amended regulatory requirements could more rapidly improve the interoperability of the rail network. As the Rail Safety National Law (RSNL) is an existing nationally consistent legislative framework, it is an appropriate vehicle to establish these requirements. However, the nature of the regulation for improving interoperability is likely to be significantly different to the current regulation for the safety of the rail network and so, deserves a separate scheme to be placed within the RSNL.

In 2012, the RSNL was established to provide a consistent national approach to rail safety regulation. It provides for the safety of railway operations and the effective management of risk. The objective of rail safety regulation is to seek to eliminate and if that is not possible, to minimise the harm to people and property resulting from railway operations.

The RSNL includes two regulatory schemes: a national accreditation scheme that applies to rail transport operators (RTO) to ensure that entrants into the rail industry have the competency and capacity to manage the safety of their railway operations; and a general safety duty scheme that applies to RTOs and other duty holders, including designers, suppliers and manufacturers, which supports choice for industry and the opportunity to innovate in meeting safety requirements. RTOs must ensure, so far as is reasonably practicable (SFAIRP), the safety of their railway operations. This regulatory approach recognises that individual RTOs are best placed to identify, assess and manage how risks to safety are controlled.

### *New regulatory requirements are needed to support greater interoperability*

The individual and flexible approach enabled by the RSNL is effective in managing risks to safety but will not promote interoperability between networks managed by different rail infrastructure managers (RIM). A lack of interoperability does not pose the same immediate threat to people or property that is posed by a lack of safety. However, the harm to the rail industry and the Australian community posed by a lack of interoperability comes in the form of reduced efficiency and lower productivity. Therefore, a different regulatory response is needed.

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<sup>1</sup> Memorandum of Cooperation, National Transport Commission [Memorandum of Cooperation for Interoperability 1.pdf](#)

<sup>2</sup> GHD Advisory, Harmonisation of Rail Standards, Research Report (2024), p89 - [FINAL 231024 Harmonisation of Standards Research Project Report 241023 Full.pdf](#)

An October 2024 report on the Harmonisation of Rail Standards identified barriers to harmonisation<sup>3</sup> and increased interoperability, summarised below:

1. Minimal or misaligned incentives for RIMs to voluntarily adopt nationally consistent standards.
2. Lack of collaboration and information sharing among industry to enable alignment between rail transport operators, often because the information is commercial-in-confidence.
3. Standards not fit to drive improved interoperability, in part because current standards are minimally prescriptive and enable flexibility for RTOs and others.
4. The cost of compliance is significant and presents the biggest barrier to standards harmonisation.

*Interoperability: A third scheme in the RSNL*

New regulatory requirements are appropriate to form part of the Government and industry response to improving interoperability on Australia's rail network and support the increased adoption of nationally consistent standards. ONRSR proposes that the introduction of a third scheme, in addition to the existing national accreditation and general safety duty schemes may be an effective way to introduce interoperability requirements while retaining and preserving the effectiveness of the existing rail safety framework. The purpose of a third scheme would be to require RTOs to comply with interoperability requirements.

Nationally consistent standards

As proposed by the National Transport Commission's (NTC) consultation regulatory impact statement (C-RIS), the RSNL could be amended to provide for a small number of standards to be mandated to achieve interoperability, in addition to safety. This could be achieved by introducing an object in the RSNL specifically for interoperability, but secondary to safety. ONRSR's functions would also need to be expanded to reflect this new interoperability remit.

A head of power would be established in the RSNL that allows for the prescription of standards for interoperability by the National Regulations. The RSNL could also provide that certain standards named in National Regulations are admissible in court, providing an incentive for RTOs and others to adopt the standard. Finally, an amendment could make it clear that approved codes of practice can be developed to support compliance with both the safety and interoperability requirements established in the RSNL.

Increased standardisation and harmonisation could be pursued in the areas identified as having the greatest impact on interoperability: train control and signalling technology, national operating rules, rolling stock registration and certification, and national competencies. Initially, these standards could be applied only to the National Network for Interoperability (NNI) and expanded as needed in line with government and industry's objectives and priorities.

This approach would allow Infrastructure and Transport Ministers to consider the cost and benefit of mandating or harmonising standards before they are prescribed in the National Regulations. It would

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<sup>3</sup> Page 48 - [FINAL 231024 Harmonisation of Standards Research Project Report 241023 Full.pdf](#)

also minimise the risks associated with pursuing greater standardisation and harmonisation: over-regulation and lack of flexibility and the risk that the wrong standards are harmonised<sup>4</sup>.

This proposed approach to staging the development and application of standards is similar to the approach adopted in the European Union over the last 20 years in relation to the Technical Standards for Interoperability (TSI):

- 2002 – the first six TSIs were applied to the trans-European high speed rail system<sup>5</sup>
- 2006 – TSIs were applied to conventional rail networks<sup>6</sup>
- 2008 – the high-speed rail and conventional rail TSIs were merged<sup>7</sup> and the scope expanded to include safety in railway tunnels and persons with reduced mobility.
- 2026 – Telematics TSI is adopted<sup>8</sup> to replace previous passenger and freight telematic rules to create a unified ontology for rail data sharing.

While ONRSR supports a staged approach to increasing the scope and application of standards, it would be most beneficial if a publicly available, nationally consistent plan for the adoption of standards was developed so that it could be incorporated into the investment strategy for RTOs.

This approach seems to be consistent with the recent findings of the French rail safety regulator EPSF. In November 2025, EPSF worked with industry representatives<sup>9</sup> to develop a strategic position on the regulation of interoperability. It found that the regular revision of standards made it difficult to implement them given that the life cycles of railway assets span several decades. The EPSF Report concludes that effective management of long-term projects requires mandatory standards to be stabilised and a thorough assessment of regulatory impacts.

A staged approach to the adoption of mandatory standards would also enable ONRSR to determine what resources and technical expertise it needs to ensure industry's compliance with the standards.

#### Consideration of interoperability more broadly

To support interoperability in aspects of rail networks and operations to which mandatory standards do not apply, or where a standard is in development, the interoperability scheme should include additional requirements for RTOs to consult and share information with other RTOs which may improve the voluntary collaboration and adoption of harmonised standards. This requirement would be in addition to the requirement to comply with any interoperability standards prescribed in the National Regulations.

A new requirement to consult could be added to the existing requirement for RTOs to have systems and procedures to identify and consider interoperability matters and to prepare an Interoperability

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<sup>4</sup> Page 55, [FINAL 231024 Harmonisation of Standards Research Project Report 241023 Full.pdf](#)

<sup>5</sup> Directive 96/48/EC [EUR-Lex - 31996L0048 - EN](#)

<sup>6</sup> Directive 2001/16/EC [untitled](#)

<sup>7</sup> Directive 2008/57/EC [Directive - 2008/57 - EN - EUR-Lex](#)

<sup>8</sup> Regulation (EU) 2020/1056 [Regulation - 2020/1056 - EN - EUR-Lex](#)

<sup>9</sup> The organisations and companies that contributed to the development of the strategic position report comprise a broadly representative panel of manufacturers, railway operators, infrastructure managers, professional associations in the French railway sector - [CEN 80264 STRANE Fiche-position Stabilité réglementaire 251107 v1.0](#)

Management Plan (IMP) when planning changes to their railway operations on the National Network for Interoperability (NNI). ONRSR considers that this requirement would be better placed under the proposed interoperability scheme, rather than as an element of an RTO's safety management system (SMS).

*Additional government action is required to increase interoperability*

Legislative and regulatory change alone is not likely to improve the interoperability of the Australian rail network. Institutional governance arrangements to support the development of fit for purpose standards and government incentives to support compliance will be needed to overcome the third and fourth barriers identified earlier (i.e. standards not fit to drive improved interoperability, and the significant cost of compliance).

Given that improved interoperability requires a whole network perspective as well as assessment of economic costs and benefits, ONRSR considers there is a need for further governance arrangements for the national coordination of interoperability. The governance arrangements should provide for the following functions:

> Determining interoperability standards

The determination of mandatory and harmonised, standards within the National Regulations will be subject to the approval of Infrastructure and Transport Ministers. ONRSR considers that a governing body, building on the current roles of the NTC and the Australian Rail Industry Standards Organisation, is needed with relevant technical and economic expertise to be responsible for identifying, assessing, consulting on, and recommending future interoperability standards to Ministers.

It is envisaged that anybody could put forward a proposal for new standards for interoperability to be prescribed in the National Regulations and the governing body would be responsible for considering these using a prescribed assessment process.

In this way, any future mandatory or harmonised standards would only be included in the National Regulations once they had been through a thorough impact analysis that is informed by consultation. This supports recent feedback from ONRSR's consultation on the *Interoperability of Railway Operations Guideline*<sup>10</sup> which called for a central coordination mechanism to promote a uniform interoperability approach and requirements.

Ideally a publicly available, nationally consistent plan for the adoption of standards would be developed and published for industry's information.

> Governance to support the requirement to consult

Additionally, stakeholder responses to the above consultation identified that there is a need for a governance body to facilitate dispute resolution in circumstances when RTOs form different views on the required level of interoperability associated with a change on the NNI, in systems or operations that are not subject to a mandatory standard.

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<sup>10</sup> [Interoperability of Railway Operations | ONRSR](#)

*ONRSR does not support establishing an interoperability duty*

The C-RIS proposes at recommendation 3 that an interoperability duty be added as a subpart to the RSNL general safety duty that applies to RTOs or that a separate explicit duty be introduced for RTOs to manage interoperability requirements.

Under the existing rail safety framework, the general safety duties require duty holders to either eliminate the risk to safety, or if that is not possible to manage it SFAIRP. This is a well-known concept in safety practice and is well defined and tested by the courts. Using the regulatory approaches provided in the C-RIS<sup>11</sup>, the existing safety framework is goal-based regulation (outcome focused).

In ONRSR's view, application of a goal-based regulatory approach to interoperability is unlikely to achieve the desired interoperability outcomes. Interoperability is achieved by defining the level of interoperability necessary for the operation between and across rail systems. The appropriate level should be established by Infrastructure and Transport Ministers and achieved through prescribed mandatory standards in legislation. This is a rules-based regulatory approach (prescriptive) and is therefore not the same as the goal-based safety regulatory approach.

In addition, ONRSR has concerns that a general duty approach to interoperability could have unforeseen consequences for safety. A dual duty would create tension and potential conflict between safety and interoperability outcomes for RTOs, potentially incentivising interoperability outcomes without a clear safety rationale.

ONRSR's proposed alternative model for the regulation of interoperability allows both forms of regulation to exist under the RSNL, preserving the existing goal-based regulation for safety and introducing a new rules-based regulation for interoperability.

*Safety and interoperability are not one and the same*

While related, interoperability is not necessarily part of the demonstration that an RTO has met its safety duty. Safety can be, and has been to date, achieved without a prescribed interoperability level. Since June 1995, trains have been able to travel between Brisbane and Perth, via Sydney, Melbourne and Adelaide on a standard gauge track<sup>12</sup>.

In the European Union, interoperability is defined with reference to the TSIs<sup>13</sup> and the rail system or network to which they apply. The essential requirements related to the interoperability of the European rail network are defined in regulation. The European rail regulatory bodies are not required to assess what is reasonably practicable to achieve interoperability but rather they monitor compliance with standards. Australia does not yet have a full suite of standards and governance arrangements to enable the adoption of the definition of interoperability and an interoperability duty as posed in the C-RIS.

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<sup>11</sup> C-RIS – page 24 – Table 3: Regulatory approaches summary

<sup>12</sup> [Hansard Daily: House of Assembly - Wednesday, March 14 2012](#)

<sup>13</sup> infrastructure, trackside control-command and signalling, on-board control-command and signalling, energy, rolling stock, operation and traffic management, maintenance and telematics applications for passenger and freight services

### *Consequential amendments*

As with any legislative amendments, ONRSR acknowledges that detailed consideration will need to be given to the existing provisions of the RSNL with the introduction of a third scheme for interoperability. This will include, for example, appropriate penalty provisions, consideration of the roles of rail safety officers for interoperability and whether the existing enforcement measures are fit for purpose for interoperability obligations.

## **Facilitating productivity – proposed alternative model**

The RSNL Review and C-RIS have identified that the RSNL should be amended to give ONRSR:

- a more active role in identifying and resolving barriers (where appropriate/agreed) to productivity at the national level, where these can be balanced against delivery of safety improvements
- an explicit role to coordinate and/or facilitate (and powers to do so if needed) delivery of such safety and productivity benefits.

ONRSR has undertaken a preliminary analysis aimed at better defining what productivity may mean for the rail industry, shaping what role ONRSR may be able to play, and identifying the data that would allow any productivity improvements to be measured and evaluated.

A productivity function for ONRSR will necessarily be different to the function the National Heavy Vehicle Regulator (NHVR) to achieve the safety and productivity objects set out in the Heavy Vehicle National Law (HVNL). The HVNL includes specific measures that allow the NHVR to promote industry productivity and efficiency through exemptions, authorisations and accreditation schemes that improve access to roads for heavy vehicles. The fundamental differences in the asset types, ownership, governance and legislative frameworks between the road and rail sector means that the access schemes in the HVNL have very limited application to a rail setting and would therefore not be a tool available to ONRSR if it was given a mandate to drive industry productivity.

At a high level, productivity can be defined simplistically as the ratio between the amount of goods and services produced (outputs) and the resources used (inputs). ONRSR suggests that for the rail industry, productivity could be considered at three levels:

1. Company level - This refers to productivity at the level of the individual firm. Rolling stock operators (RSOs) are the key actors but influences on other organisations such as RIMs and manufacturers are also relevant. Government regulation can have a large impact on activities at the firm level, particularly where regulatory changes may influence costs.
2. Rail freight industry level - This is productivity at the level of the entire rail industry. More efficient firms should compete more strongly, capturing greater market share and increasing productivity of the industry. This is also where industry-wide initiatives such as interoperability have an impact, as they ensure interactions between different parts of the network are efficient. Regulation can also have a big impact due to its influence on overall network operating conditions and requirements.
3. National freight system - This reflects productivity of the freight system across the entire country. An efficient system will be one in which freight owners receive the appropriate signals when making modal choice decisions. Therefore, rail should compete on its natural

advantages (high-volume, high-weight, long-distance, low node numbers) and not be made to compete sub-optimally due to productivity barriers at the firm or industry level.

The volume of national freight demand is largely fixed by macroeconomic influences such as national and international demand, consumer preferences and capital and labour markets, so productivity increases in the rail sector will not necessarily increase output as it does at the firm or industry level. Rather, they will allow rail to capture a greater share of the national freight task. This is expected to improve the productivity of the entire economy, as rail is a safer, more socially and environmentally efficient mode of transport.

ONRSR considers that it is most likely to have an impact on productivity at the company and rail industry levels and limited impact at the national system level. Potential roles for ONRSR in relation to productivity could be:

1. Trusted custodian of data - ONRSR would collect evidence to support development and enhancement of productivity-enhancing interventions, act as central repository of company-level productivity data that government and industry can use to inform policy making and investment proposals and use data insights to identify productivity barriers, define problems and the benefits to be realised from potential solutions.
2. Convenor – ONRSR would be responsible for publishing productivity-related information, which could be used in communications and policy documents. This would leverage ONRSR's positioning as a cross-jurisdictional focal point for the industry with the capacity to maintain relationships with other data holders.
3. Research and education – similar to the function in respect of safety, ONRSR would undertake research to strengthen links between safety and productivity improvements and ONRSR would provide guidance to support the adoption of harmonization, including case studies where interventions have led to measurable productivity benefits.

ONRSR's role in relation to interoperability, particularly monitoring industry compliance with mandatory standards, would also bring about productivity improvements.

ONRSR has mapped the data that is currently available that would allow the measurement of productivity and identified significant gaps. So, if ONRSR is to adopt any of the roles identified above it would need additional powers and functions established in the RSNL to support increased industry reporting on key metrics. ONRSR would need to be authorised to publish certain indicators. There may be a need to place some restrictions on what ONRSR is able to publish in relation to productivity to protect commercial interests. Further analysis would need to identify suitable restrictions.

If given the mandate and ability, ONRSR could develop a suite of national rail productivity indicators which has the potential to deliver significant benefit as a reliable and independent base of evidence to inform policy and investment decisions.

It is important to recognise that whatever is decided for the role of ONRSR in respect of productivity it would come at a cost, most likely to industry. The more functions and activities, the higher the cost of ONRSR's operations, although ultimately industry also stands to benefit through realisation of increased productivity benefits.

## ONRSR's future funding

ONRSR would like to provide further context in relation to section 4.5 of the C-RIS which focuses on ONRSR's revised role and required funding. Currently, ONRSR's cost of regulating rail safety across Australia is funded by a combination of industry and government contributions. Most industry funding is provided via annual accreditation, registration and major project fees, and the level of government contributions is decreasing each year. ONRSR is not supported by any government treasury.

Recently, ONRSR shared findings from an independent consultant's review into its efficiency and effectiveness as a national regulator. The review calculated the efficient cost of regulation to determine how much it should cost the Regulator to do business on an annual basis and concluded that ONRSR is operating efficiently and effectively to the degree it would be reasonable to expect of such an organisation<sup>14</sup>.

These findings confirm that ONRSR's current funding is fully utilised to carry out its existing rail safety functions and objectives under the RSNL. Any new, additional or expanded functions and objectives placed on ONRSR will require the provision of further ongoing funds. ONRSR cannot absorb such changes to functions within its existing funding without risking or restricting its ability to regulate the safety of the rail network.

In response to recommendation 13 of the RSNL Review Report, ONRSR has already expanded its education and safety promotion activities to the fullest extent possible given existing resources and funding capacity. Any further activities in this area will require additional resourcing, the possibility of which was recognised in the RSNL Review Report<sup>15</sup>.

Furthermore, the introduction of the new interoperability of railway operations requirements under the National Regulations has meant ONRSR has had to fund the costs associated with implementation, including development of guidance, engagement with industry, updates to systems and procedures and internal training. All activities have been resourced from ONRSR's existing funding.

The Review of the RSNL means it is necessary to reconsider ONRSR's funding model. For instance, one factor that should be considered is that ONRSR increasingly works with proponents of major projects to ensure that safety is considered as part of the concept development and design phase. Early engagement with ONRSR significantly improves the safety assurance and outcomes over the life of the project or asset. This conceptual and design work often takes place before the requirement to be accredited applies. While designers have rail safety duties under the RSNL, there is no requirement to be accredited, and therefore ONRSR cannot fully recover the cost of this engagement and advice provided to proponents of major projects. These proponents are often state and territory government departments.

ONRSR expects that a similar pattern of engagement will emerge with the imposition of mandatory requirements for interoperability. The stage of a project at which there is the greatest opportunity to positively impact the interoperability of the national rail network will be at the concept and design stage for major projects and investment. Regardless of the exact nature of ONRSR's role, to

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<sup>14</sup> [Case Study - Efficient and effective regulation](#)

<sup>15</sup> Page 8, [RSNL Review Report - June 2024](#)

empower ONRSR to be effective in promoting interoperability and productivity it must be resourced to engage with project proponents at this early stage.

ONRSR suggests that its funding model be considered in the context of the Australian Government's Cost Recovery Policy<sup>16</sup>, particularly whether the cost recovery mechanisms (fees and levies) identified for regulators would be appropriate for ONRSR. The funding model would need to be considered in the context of Ministers' expectations of ONRSR's additional or expanded functions and activities related to interoperability and productivity. The model would also need to consider that the benefits realised by industry from ONRSR administering an interoperability scheme and having a role to facilitate productivity, would differ greatly across the industry. While there is scope for all sectors to realise benefits, the largest benefits will likely be realised by operators that operate across multiple networks. In addition, while ONRSR suggests that legislative amendment is not needed to support improved transparency and accountability, it is likely that additional resources will be required to uplift ONRSR's education and engagement activities related to safety.

The timing of the change to the funding model for ONRSR is of critical importance. ONRSR does not have the capacity to maintain its current level of oversight of rail safety should any legislative changes initiated by the RSNL Review or NRAP commence before the funding model is adjusted. ONRSR therefore strongly advocates for involvement in the NTC and governments' further work in this area.

## **Transparency and accountability**

### **Consultation requirements when changing an SMS**

The NTC recommends that the consultation requirements in the RSNL be strengthened so that *employers* are required to undertake meaningful consultation. Placing an obligation to consult on employers, rather than RTOs, would significantly expand the existing requirement for RTOs to consult when establishing, reviewing or changing the SMS.

Section 99(3) of the RSNL requires that an RTO must consult with prescribed people and provide them with a reasonable opportunity to make a submission on the proposed SMS (or change to the SMS) and advise them in a timely manner of the outcome of the consultation process.

The RTO must consult with persons likely to be affected by the change, their union, and health and safety representatives. When applying for accreditation or a variation to accreditation, the National Regulations require applicants to provide ONRSR with details of the consultation undertaken in relation to their SMS, including who was consulted, when and how the consultation occurred and the results of the consultation.

Since the finalisation of the RSNL Review, ONRSR has prepared a draft guideline on the consultation requirements under the RSNL in collaboration with industry and union representatives. ONRSR consulted on this draft guideline in February 2026 and anticipates that it will be finalised in the coming months and will be promoted through various channels to ensure RTOs' awareness. The draft guideline sets expectations of RTOs in terms of providing reasonable opportunity for input and sharing the outcomes of consultation.

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<sup>16</sup> [Australian Government Cost Recovery Policy | Department of Finance](#)

Rather than pursue legislative amendment, ONRSR suggests that it monitor the impact of the guideline to determine whether there is any benefit in seeking Ministers' approval of a Code of Practice.

### *Union engagement*

The RSNL Review Report stated that workforce representatives often felt unheard, that avenues to raise concerns are not available and consultation by RTOs was not always genuine.

Since the RSNL Review was completed in June 2024, ONRSR has published an *Engagement and Education Strategy*<sup>17</sup> which identifies industry associations and unions as key stakeholders. The strategy details ONRSR's approach to engagement including annual stakeholder forums and the twice-yearly Chief Executive's Forum to which unions are invited. The Regulator also regularly meets individually with union representatives. The ONRSR Contact email enables any stakeholder to seek information from ONRSR or provide feedback.

### *Rail safety worker access to SMS*

ONRSR considers that the RSNL and National Regulations already impose obligations on RTOs that mean rail safety workers (RSW) have access to the parts of an RTO's SMS that impacts them or their work. As such, no further legislative amendment is required, particularly as the NTC suggests that RTOs are largely already meeting the requirement to allow RSW access to the SMS<sup>18</sup>.

The RSNL places a duty on all RTOs to ensure, SFAIRP, the safety of their operations. In addition to this general duty, RTOs also have a duty to provide such information and instruction to, and training and supervision of, rail safety workers as is necessary to enable those workers to perform rail safety work in a way that is safe.

In addition to these safety duties, the RSNL includes prescriptive requirements relating to RSWs' engagement in the development and review of an RTO's SMS. Section 99 of the RSNL requires each accredited RTO to have a SMS for the railway operations for which it is accredited. Before establishing the SMS, and each time it is reviewed or varied, the RTO must consult with the parties prescribed at section 99 (3)(a), including the persons likely to be affected and their health & safety and union representatives. The RTO's SMS must also include systems and procedures related to internal communication. Specifically, this includes systems and procedures:

- a) for the dissemination of information about the content of the SMS to people who are to participate in the implementation of the system or who may be otherwise affected by the implementation
- b) for the communication of the RTO's safety policy and safety objectives to all people who are to participate in the implementation of the SMS
- c) for the internal reporting of accidents and incidents involving the RTO's railway operations, including accidents and incidents involving contractors and subcontractors
- d) to support communication and the dissemination of information throughout, and between all levels of, the RTO's railway operations.

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<sup>17</sup> [Engagement and Education Strategy | ONRSR](#)

<sup>18</sup> C-RIS – page 51 - Case study: transparency and accountability

An RTO's SMS must detail the methods to promote and maintain a positive safety culture, SFAIRP, with consideration given to the need to involve RSW at all levels and encourage open communication. Each RTO's SMS must include systems and procedures for the training of RSW who are to participate in the implementation of the SMS or who may otherwise be affected by the implementation; and to encourage the awareness, understanding and participation of RSW in the SMS.

ONRSR publishes an SMS Guideline which includes information on its expectations of RTOs regarding the mandatory inclusions in the SMS. If an RTO does not implement its SMS, or does not comply with its SMS, it may face a maximum penalty of \$1.5 million.

### **Competency of Rail Safety Workers**

The NTC recommended that the RSNL include an obligation on RTOs to demonstrate that all RSWs are competent in the carrying out of rail safety work and that the RTO's SMS applies to that work.

ONRSR recognises that competency of rail safety workers is an enduring safety priority. The competency of RSW has been identified as a contributing factor to significant rail safety incidents in Australia and across the world<sup>19</sup>.

The RSNL currently obliges RTOs to demonstrate that RSW are competent. In addition to the general duty to ensure the safety of their operations, all RTO's have a duty to ensure SFAIRP that each RSW who is to perform rail safety work in relation to the operator's railway operations is competent to undertake that work. Failure to comply with a safety duty may result in significant penalties, or in the most severe cases (reckless conduct – category 1) imprisonment for 5 years.

A more prescriptive requirement regarding competency is established in section 177 of the RSNL. It requires that an RTO must ensure that each RSW is competent to carry out rail safety work and a maximum penalty of \$500,000 may apply if the RTO does not fulfil this requirement. ONRSR publishes resources online to assist RTOs to understand and comply with these requirements.<sup>20</sup>

Achieving a sustained improvement in RSW competency and to reduce a lack of or insufficient competency as causal factor, will require a systematic approach. More work is needed to sufficiently define the problem, including identifying the lessons to be learned from Australian and international experience. Care will be needed to not duplicate the regulatory remit of Australian Skills Quality Authority (ASQA).

### **Confidentiality and sharing of information to improve safety**

The RSNL Review identified that there are “pockets of the rail industry” that feel that despite expending significant resources to cooperate with an investigation, findings are not made available, limiting learning and safety improvement opportunities. The NTC recommended that the

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<sup>19</sup> Derailment of Train 7MP7 – Coonana, WA (2018), Derailment of Passenger Train ST23 – Wallan, VIC (2020), Multiple SPAD at Hurlstone Park – NSW (2013), Signal Overrun at Clontarf – Ireland (2024), Class Investigation: Safety of Track Workers – UK (2017), Derailment of a TGV Test Train – Eckwersheim (2015)

<sup>20</sup> [Assessment of rail safety worker competence, Application of the Australian Qualifications Framework to Rail Safety Worker Competence Assessment](#)

confidentiality provisions of the RSNL be reviewed so that the Regulator can share rail safety information with the industry in a timely manner.

In relation to investigations and prosecutions specifically, ONRSR is currently considering what information it can share for the benefit of public interest, noting it cannot comment on all compliance and regulatory investigations into alleged unlawful conduct. This is because of the potential detrimental effect that public commentary can have on the integrity of an investigation, the preservation of evidence and the reputation of the parties under investigation. This is an approach common to Australian regulators<sup>21</sup>.

However, ONRSR does share important rail safety information through multiple channels as detailed in the *Education and Engagement Strategy*. ONRSR convenes a series of state-based forums for commercial operators, and the tourist and heritage sector. It also convenes a twice-yearly Chief Executive's Forum. In 2025, 100 per cent of attendees agreed that the forums had improved their understanding of the safety issues covered, 52 per cent of attendees at tourist and heritage forums strongly agreed with that their understanding had improved.

ONRSR has a monthly industry e-newsletter ONRSR *Engauge* which is distributed to over 4,000 subscribers, and regularly publishes safety alerts, safety messages and safety case studies on its website<sup>22</sup>. ONRSR started publishing case studies in 2024 and has published 10 in total. This responds to industry feedback indicating there is a strong demand for educational resources and engagement activities focused on lessons learned and demonstrations of good practice.

The most popular pages of the ONRSR website are core regulatory and safety pages and ONRSR has recently sought feedback from industry to deliver enhancements to the site to further improve its usability and value to stakeholders, especially RTOs. Additional site content is being developed, including information (as appropriate) on current investigations and prosecutions.

ONRSR has received consistent feedback that its digital animations and recreations<sup>23</sup> are an effective means of engaging on key safety messages. These videos generally focus on unpacking rail safety incidents and highlighting lessons learned.

ONRSR also has a high-level of engagement and interaction with stakeholders on LinkedIn which extends the reach of its messaging and drives audiences back to the website to access the various educational resources available.

ONRSR's flagship product is the Annual Rail Safety Report<sup>24</sup> which provides a national perspective of rail safety performance through the last financial year. The most recent report, which has been enhanced to provide greater insights for industry, highlights where there are lessons to be learned but notes that safety performance continues to be strong.

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<sup>21</sup> [ACCC - Media Code of Conduct | ACCC](#), [ATO Media expectations | Australian Taxation Office](#), [EPA Releasing information during investigations and prosecutions | EPA](#)

<sup>22</sup> [Safety essentials | ONRSR](#)

<sup>23</sup> [Videos and animations | ONRSR](#)

<sup>24</sup> [Home | ONRSR 2024-25 Rail Safety Report](#)

In December 2025, ONRSR published its *Partnership Framework*<sup>25</sup> which describes how ONRSR will seek out strategic partnerships to leverage specific pathways to reach target stakeholders on a safety issue and to contribute unique insights, expertise and perspective to enhance partner activities.

Despite the significant increase in education and engagement initiatives and activities since the release of the RSNL Review Report, ONRSR considers there may be benefit in amending section 244 of the RSNL to clarify that ONRSR can share rail safety information even when it requires the identification of individual operators.

### **Interface agreements**

Since the RSNL Review Final Report was released in June 2024, ONRSR has developed a number of initiatives relating to interface agreements between RIMs and road managers. The most significant, was in December 2024 when ONRSR published the *Code of Practice: Train Visibility at Level Crossings*<sup>26</sup> which supports RTOs to address the risk that a road user will not see a train in time to stop at a level crossing.

The RSNL currently contains several provisions that, when taken as a whole, should provide a sufficient framework for the management of risks at level crossings. These include:

- a requirement for RIMS and road managers to identify and assess risks to safety at level crossings, determine the measures to manage those risks and seek to enter into an interface agreement for the purpose of managing those risks. Maximum penalties of \$500,000 may apply for failing to comply with these requirements.
- if the Regulator is satisfied that a RIM or road manager is unreasonably refusing or failing to enter into an interface agreement, or is unreasonably delaying the negotiation of an agreement, the Regulator may give written notice requiring them to enter into an agreement by a certain date. If this is not complied with, the Regulator may determine the arrangements that will apply and direct the parties involved to give effect to those arrangements. Failure to comply with such a direction could incur penalties.
- RIMs must provide the Regulator with a Safety Performance Report (SPR) on an annual (or otherwise agreed) basis detailing the operator's safety performance over the reporting period.

ONRSR's expectation (as provided in the SPR Guideline<sup>27</sup>) is that operators provide commentary on the currency and effectiveness of interface agreements with road managers, including efforts being undertaken to secure outstanding or overdue agreements.

On the basis of these existing provisions and ONRSR's ongoing level crossing focus, we consider no legislative reform is needed at this time. ONRSR plans to increase its education and engagement activities in this area, consider interface agreement data and insights, and continue compliance activities relating to interface agreement requirements. In this way, should the existing RSNL provisions prove ineffective at managing interface risks, future legislative amendments can be progressed with the supporting evidence.

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<sup>25</sup> [ONRSR Partnership Framework | ONRSR](#)

<sup>26</sup> [Code of Practice | ONRSR](#)

<sup>27</sup> [Safety Performance Reporting Guideline](#)