

EPTTOLA position paper on Entities in Charge of Maintenance (ECM)

Introduction

This paper has been prepared by EPTTOLA to provide feedback to the European Commission on its proposed Regulation (EC) No xxx/2010 of xx xx 2010, *on the adoption of a system of certification of entities in charge of maintenance*.

Summary position

EPTTOLA supports certification of Entities in Charge of Maintenance in order to bring consistency throughout the EU. However, that support is conditional on any certification being accepted by all Member States (and their NSAs). Member States (and their NSAs and IMs) must not be able to impose maintenance requirements over and above those declared by the ECM.

EPTTOLA is however concerned that the cost of certification and ongoing audit of ECMs will fall disproportionately on smaller entities and may as a result become a significant barrier to competition.

EPTTOLA wishes to reserve its position at this stage on whether we support extension of certification to Locomotives and passenger vehicles. EPTTOLA believes that it would be helpful for the ERA to produce a Working Document, similar to DV29, to explain the process after Placing in Service to enable trains to run on a route.

Specific comments against the draft proposal for consideration

- a. P3 (9) If an ECM is certificated in one Member State, then this certification MUST be acceptable in all Member States. The method of certification must ensure this (see 2008/110/EC article 14a 6).
- b. P3 (10) There is an already an accepted scheme for the appointment of NoBos, therefore EPTTOLA sees no reason why such a scheme mentioned in (10), for ECM certification should not be along similar lines. The NoBo appointment scheme results in NOBO certificates being accepted by all NSAs, therefore preventing an inconsistent approach. ECM certificates must be accepted by all Member States (and their NSAs).
- c. P6 Art. 5(2) EPTTOLA would like clarification; (i) as to why Infrastructure Managers are included in (2)? (This also applies to other paragraphs where the term '*Infrastructure Manager*' is used). If the IM is acting as a RU, then they are covered by the term RU. (ii) If the IM is mentioned because they provide data on safe running of trains (e.g. hot axle box detectors) then this should be made clear.
- d. P7 Art. 5(9) The term '*registration holder*' must be defined. It does not appear to be defined in 2008/57/EC as suggested.

- e. P7 Art. 6(1) Certification Bodies – relates to comment against P3 (10), if the NoBo appointment scheme is already accepted across all Member States, then such a scheme should work for ECMs.
- f. P8 Art. 7(8) Why should certification bodies and national Safety Authorities need to conduct an ‘*active exchange of views in order to avoid a duplication of assessment*’?. EPTTOLA believes that this sentence is superfluous. If the RU or IM has a certificate then it is valid and should not be called into question by the NSA (Directive 2008/110/EC Article 14a 6 – certificates are valid throughout the Community).
- g. P10 Art.10(2) within what timescales do accreditation and recognition bodies need to notify the Agency of the certification bodies they have accredited or recognised?
- h. P10 Art.10(4) within what timescales shall the Agency make the records mentioned in Art.10(1-3) publicly available?

General comments against the draft proposal

- i. Overall it is not clear from a legal point of view what reliance RUs can place on a Certificated ECM. After all, the Directives put the onus firmly on RUs for the safe running of the train. Therefore can this responsibility be discharged in large part by relying on an ECM?
- j. Owners shall have the right to nominate new ECMs and report changes of ownership. No party shall be registered as an ECM for a vehicle without the owner’s written agreement. (P7 Art.5(9)).
- k. There should be only one single consistent definition for ECMs across Europe, with one set of mandatory criteria explaining who they are and what they can / shall do for all vehicle types. No individual treatment by NSAs shall be possible or allowed.
- l. EPTTOLA understands that any company can be registered as an ECM as long as it meets the requirements for its function.
