

Accelerated Obsolescence – EPTTOLA position statement

Introduction

This paper has been prepared to outline the types of issue that threaten to reduce the economic life of assets or reduce their commercial value and propose areas for initiatives to redress these issues. Any restriction on asset life or value has a negative impact on the economics of train ownership and operation and in particular will hinder the development of an effective leasing market to support private operators.

Background

Investors in rail vehicle assets make such investments on the basis of an expected economic life. Beyond the initial lease term operating lessors generally carry all of the risks to the expected economic life including market conditions, obsolescence performance and regulatory change.

There is a general expectation that new regulations do not apply retrospectively unless there is a clear (usually safety related) deficiency that must be rectified. It is the exceptions to this principle that are of concern.

Such retrospective requirements can cause unnecessary costs for modifications which in the extreme can be uneconomic (or impossible) to implement.

The application of retrospective requirements can happen in a number of ways:

- a. Moving (approved and used) assets from one country to another
- b. New TSIs or other national or EU standards being made retrospectively mandatory by a NSA or introduced at a different time.
- c. For passenger trains a concession authority can add requirements in to public tenders that exceed current regulations or that exclude rolling stock build to previous standards.

Transfer of Assets between EU member states

There are workstreams underway led by the ERA to harmonise acceptance procedures and eliminate differences in technical requirements across the EU for new trains. Whilst this is essential to free the industry from unnecessary cost and restrictions it will not help the case where an asset previously approved in one jurisdiction is intended to be operated in another.

In the case where there is no technical compatibility issue (e.g. trains with the same gauge, power supply etc.) it is left to the discretion of the NSA as to whether the asset is required to meet the current standards and undergo a complete new approval process or whether it will be allowed to operate on the basis of existing EU approvals.

EPTTOLA members have experienced cases where NSA's propose to accept existing trains into their jurisdiction on the basis of existing approvals and cases where such assets are not accepted – even despite having been previously approved and registered in the target jurisdiction and being identical to other assets approved and running in the target jurisdiction.

This lack of certainty is a significant risk for asset owners and such risk will be reflected in the costs of train leasing – both as increased RV risk and in the restriction of asset availability (that cannot be made available to lease in all states where they are technically compatible).

A further area that is not currently addressed by ERA initiative is the standardisation of maintenance requirements. Some NSAs still mandate specific maintenance programme requirements. Even where an asset is already approved to run if its place of maintenance or registration is changed then new requirements are generated causing additional costs.

National maintenance requirements in an EU wide industry are inappropriate and such unnecessary restrictions do not limit other transport modes.

Retrospective application of new standards

There are limited examples of this issue to date but there is no general rule preventing this becoming a major problem. There are current examples where trains being built to existing regulations have been seriously delayed by arbitrary and/ or uncoordinated timescales for application of new standards.

In Germany the NSA has introduced new requirements during build of several passenger train fleets resulting in increased cost and delays leading to service cancellations. At the same time the Dutch implementation of new requirements to different timescales has caused further problems on small cross border tracks previously exempt from full national requirements.

Unnecessary technical requirements

Although not yet a significant problem, there are examples in Germany where public concession authorities specify technical requirements for trains that are already covered by TSI, for example requiring larger disabled access toilets than is necessary to meet the internationally agreed TSI. Whilst passenger service levels are rightly for such authorities to specify where these are already agreed as part of train design and approvals it increases costs and works against standardisation.

Desired outcomes

EPTTOLA proposes that the ERA looks at the issues highlighted above and considers appropriate initiatives.

The objective should be to achieve an international train leasing market where there are no unnecessary restrictions or additional costs on the deployment of existing rolling stock within the EU.

The key features would be:

- Ensure that assets approved and registered in a country retain the ability to operate there whether or not they are continuously operated there (without requiring any modification or approval that would not have been necessary if there had been no break in operation).
- Ensure assets can be used in any country where they are technically and operationally compatible (on the basis of full approval in another member state).
- Cross Acceptance of maintenance programmes and regimes between EU member states
- Ensure that all new requirements (TSIs etc) are introduced in the same timescale and conditions in all member states and ensuring that existing cross border arrangements where the technical boundary does not match the political boundary remain available.
- A mechanism to prevent public authorities altering or increasing technical requirements already specified by TSIs.