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Document Review – Comment Sheet

Document commented: Common Safety Methods on the assessment of Safety Level and Safety Performance of railway operators at national and Union level (CSM ASLP)

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<i>Deadline for submitting comments:</i>	17 March 2021

	<i>Reviewer 1</i>	<i>Reviewer 2</i>	<i>Reviewer 3</i>	<i>Reviewer 4</i>	<i>Reviewer 5</i>	<i>Reviewer 6</i>
<i>Date:</i>	11 March 2021	29 January 2021	12 March.2021	4 March 2021	22 February 2021	24 February 2021
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Document History

<i>Version</i>	<i>Date</i>	<i>Comments</i>
0.1	28.1.2021	First draft
0.2	1.3.2021	Extension according to the feedback from Swiss railway sector
0.3	10.03.2021	Incorporation of feedback from Swiss railway sector

2.	Art. 11, § 7	U, P	NSA-CH	<p>The transition to the full scope of the CSM ASLP shall not be triggered just by a date but by the fulfilment of the following conditions:</p> <p>1) the operators confirm that the incident reporting process provided for in the CSM is comprehensible and practicable.</p> <p>2) The Reporting of Occurrence Scenarios ROS and Risk Control Measures RCM are correctly understood by the operators and can be practised with an acceptable effort.</p> <p>3) The assumptions made in the impact assessment about the effort could be practically confirmed by the operators, or the consideration of the real effort does not have a decisive negative effect on the resulting positive cost-benefit ratio.</p> <p>4) the methods for assessing the safety level and the safety performance have been developed and their application shows a clear benefit for all stakeholders</p> <p>5) the Information Sharing System (ISS) has been fully developed and put into operation</p> <p>6) the national occurrence reporting systems have been successfully connected and therefore there is no need for operator’s double reporting</p> <p>The fulfilment of the listed conditions is to be checked during the implementation process in several suitably scheduled milestones. Scenarios should also be prepared for use if one or more of the conditions are not met. The review of the</p>	<p>U</p> <p>A</p> <p>U</p>	<p>Some of the conditions 1 to 6 are in fact calling implicitly into question the Mandate as those conditions depend on the operators and NSAs maturity and as the CSM ASLP is notably established to improve the RSD application, the collective learning and the maturity of the operators.</p> <p>However, the CSM establishes the necessary processes to support the desired collective learning.</p> <p>The Article 11 has been reworked in order to clearly indicate conditions between two consecutive phases.</p> <p>In between two phases, learning from experience is ensured by the possibility for any member of the GoA to raise a proposal giving rise to intermediate improvement of the CSM by an Agency technical opinion or recommendation and adoption by the Commission.</p> <p>Therefore learning can be processed between each phase and can have a positive impact either on the CSM itself, or on the accompanying guidance.</p> <p>The GoA is given the responsibility to establish its work programme taking into account the CSM objectives and the phasing established by Article 11.</p>
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				fulfilment of the conditions mentioned should be anchored in the work programme of the Group of Analysts (GoA). It must be ensured that the GoA has the appropriate assessment competence.		

3	(18) Art. 7	G	NSA-CH	<p>The mandate of the European Commission requires in its Annex:</p> <p><i>...This collection of information shall be carried out through the existing national occurrence reporting systems...</i></p> <p>The current proposal of the CSM ASLP mentions the existing National Occurrence Reporting systems (NOR) as a possible way to report incidents, but does not indicate any obligation for companies to use one if such exists.</p> <p>Leaving the decision to report directly or indirectly via a NOR to each operator could lead to discrepancies at national level and, for the NSAs, to inefficient ways of gathering the information of all operators.</p> <p>For this reason, it is necessary to require in the CSM ASLP that in the states with an existing NOR covering the same scope, the national system shall be used as the only way to report the data to the ISS. The current wording could lead to legal ambiguities and would not eliminate the undesirable double reporting.</p>	NWC	<p>The CSM offers two possibilities, direct or indirect channels, and it is the responsibility of the EU-MS to consider the establishment of a National rule which would oblige operators to use one given channel.</p> <p>The Agency considers that it is not justified and not efficient to impose one way, because precautions are taken with the ISS to ensure the mirroring of data and information between parties.</p> <p>Therefore, the two channels (direct or indirect) should be considered equivalent because the ISS will automatically mirror the data between systems and/or give access to National authorities (NSA/NIB/TDG CA/NOR....) registered to the ISS.</p> <p>When an operator will operate in several countries, it is considered as a complexification of the CSM implementation to establish National rules. Potentially it may lead to a same operator having to follow different national rules depending on the location an occurrence takes place. This is not efficient.</p> <p>No double reporting is expected as structurally the CSM establishes sharing rules for 'mirroring' the data and information between parties.</p> <p>Thanks to this mirroring operators will report only once.</p> <p>There is no legal ambiguity, the CSM legally ask the operators to report, indirect channels are used on behalf the operator,</p>
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				<p>Alternatively, the competency of each state to specify the mandatory reporting instrument at national level could be explicitly mentioned in the CSM ASLP</p> <p>If a NOR requests information that is outside the scope of CSM ASLP, it should also be legally ensured that this information can still be collected at the national level.</p>		<p>in such case the third party involved in the indirect channel acts as a contractor.</p> <p>The CSM ASLP does not regulate what is outside its scope. The possibility to collect data outside the scope of the CSM at national level will continue to exist. Which channels to use for this additional reporting is a technical issue.</p>

4.	Art. 7, §10	U	NSA-CH	<p>Since many aspects such as Reporting of Occurrence Scenarios (ROS) or Reporting of Risk Control Measures (RRCM) are not currently provided in reporting for any existing NOR system, the adaptation of them to ASLP will entail significant costs. The costs of adapting the NOR systems to ASLP must therefore be taken into account in the Impact Assessment.</p> <p>Although the Agency does not take responsibility for indirect communication via the pre-existing NOR systems, it should take into account the existence of these interfaces in any decision to adapt the ISS and include the costs of the third parties in any Impact Assessment of the change. An appropriate wording should be added to the referenced article.</p>	<p>NWC</p> <p>A</p> <p>NWC</p> <p>A</p>	<p>We agree that a shared ISS is the most efficient way to share data and information.</p> <p>The duplication of ISS developments at country level or at operator level seem not to be optimal when a shared system fulfilling the needs is made available, especially when not yet covered by national systems.</p> <p>It is not an obligation coming from the CSM ASLP to duplicate the ISS in every country and for every operators.</p> <p>According to be present proposal the development of the <u>Common</u> Digital Interface is developed in collaboration with the GoA and the ISS will be tested in accordance with Article 11.</p> <p>Art 7.7 is considering specific requests related to the pre-existing systems that would be <u>too specific</u> to be easily covered by the Common Digital Interface.</p> <p>We propose to clarify Art 7.7 in this way:</p> <p>“Where applicable, any entity registered in accordance with Article 7(3) may notify the Agency with a request to interface one or several pre-existing system(s) with the common digital interface of the Information Sharing System. Any costs due to specific feature or modifications of existing systems which cannot be directly covered by the Common Digital Interface shall be borne by the requesting entity, and in particular the costs to cover development, update, operation and maintenance.”</p> <p>According to be present proposal the development of the Common Digital Interface is developed in collaboration with</p>
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						the GoA and the ISS will be tested in accordance with Article 11.

5		G	NSA-CH	<p>The benefits of the CSM ASLP expected by the European Commission can only be achieved if the collected safety-relevant information has the necessary quality. The Mandate of the EC sais:</p> <p><i>4) The recommendation shall define the responsibility of the actors (including the national safety authorities and the Agency) in relation if necessary to defining occurrence taxonomy, training of operators' staff in reporting scheme, registry keeping, and other control mechanisms required to guarantee the exchange of harmonised and comparable data between the involved actors both on national and EU level.</i></p> <p>The current recommendation of the CSM ASLP does not provide sufficient processes to ensure the required quality of the information. The responsibility for the data quality is left exclusively to the reporting operators, whereby not even a consensus of all parties involved in an event is required. The National Safety Authorities (NSA) should only indirectly ensure quality in the context of periodic safety supervision of the operators.</p> <p>In our experience operating a NOR system for many years, the statistical analysis of reported occurrences can only lead to sound results if the quality and homogeneity of the data are checked and validated. NSAs should therefore be involved in the event reporting process and be enabled to check the quality of each individual report. NSAs know best the specific national conditions of</p>	NWC	<p>It is a general requirement of the Safety Directive for the NSA to ensure that the railway legislation is correctly implemented by supervised operators.</p> <p>Quality of data is already part of the supervision role.</p> <p>The CSM ASLP cannot redefine the role of the NSAs.</p> <p>Your comment confirms this role and the CSM ASLP indicates how this role is interfaced with the reporting of operators.</p> <ol style="list-style-type: none"> 1) <i>NSA can request a review of the data reported, including the allocation of occurrence when justified.</i> 2) <i>NSA are informed of any data reported by other source than the operator, in case an omission would be spotted, or a mistake</i> 3) <i>The ISS can implement quality checking rules for clerical mistakes, facilitating the NSA tasks</i> <p>And all the quality improvement will be discussed by the GoA, including NSAs, supported by a harmonisation of data reporting practices.</p> <p>From this perspective, we consider that the CSM provides all the necessary processes, at least in a first phase.</p>
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				railway operations. NSAs should also play the decisive (checking) role in the allocation of occurrences to involved railway operators. Particularly in the introductory phase of the CSM ASLP, this role is considered to be of special importance.		
6	Appendix A Part A	U	NSA-CH	<p>From the current proposal of the CSM ASLP, it is not understandable which company is responsible for the DR, ROS and RRCM. While the category A events table in Appendix A Part A provides for all companies involved to report, the category B table only specifies one company. Does the category B events table define also the responsibility for DR, ROS and RRCM? Who should report if a category A event does not clearly identify the category B event (cause)?</p> <p>If it is intended that all involved parties in an event should also report a DR, ROS and RRCM, then it should also be taken into account in the Impact Assessment on the part of the effort. In the current version of the Impact Assessment it is not evident that per event report an effort for the preparation of more than one DR, ROS and RRCM would be considered.</p>	NWC	<p>The Article 4 reads “operators involved’ it means that the reporting requirement applies to each operator involved.</p> <p>It does not prevent operators involved to coordinate before reporting, agree on the report beforehand, and report the same when the situation is clear.</p> <p>The coordination can also be facilitated by the NSA, as proposed in the previous comment, as the NSA will have all the SR reports concerning an occurrence at hand within 3 days.</p> <p>The issue of more than 1 report per event has been addressed in the updated (final) version through sensitivity testing either on average 1.5 report per event or 2 reports per event.</p>

7	Annex 1 - P General Part, 3.2.1	P	NSA-CH	<p>In the event category of Level Crossing Accidents and Accidents to persons involving rolling stock in motion, a Detailed Reporting (DR) is only provided in case of a request (currently first 50 and 100 reports respectively for the whole EU). As a result, only a Simple Reporting (SR) is required for the majority of events. As the information on human consequences can only be provided in the DR, it will not be possible to quantify the exact number of deaths, serious injuries and light injuries in these event categories.</p> <p>This is not acceptable from the perspective of a supervisory authority. This would strongly require running a parallel occurrence reporting system in which the operators would be obliged to input this information. This could in worst-case lead to a double reporting. The international exchange of information and learning on the personal injuries regarding these two event categories Level Crossing Accidents and Accidents to persons involving rolling stock in motion would be limited only on the aggregated numbers of fatalities and serious injuries in the dimension of the contemporary Common Safety Indicators (CSI).</p> <p>The contemporary CSI do not collect any information on light injuries and do not allow splitting the human consequences on the different types of Level Crossings.</p> <p>With regard to this fact, we recommend to extend the SR with an estimation of human consequences. In most cases, personal fatalities</p>	A	<p>After the discussion held at the WP9 and having heard again the arguments of participants, we accept to add the following elements in the Simple Reporting requirements:</p> <p>First estimation of fatalities: total number of persons</p> <p>First estimation of serious injuries: total number of persons</p> <p>First estimation of light injuries: total number of persons</p> <p>First estimation of extent of damages: total for the occurrence</p> <p>First estimation of extent of damages: total in euros for the reporting entity</p> <p>We suggest then to consider this as a baseline requirement to be potentially reviewed after experience is learned by the GoA, after the first implementation phase.</p>
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			<p>and injuries are known already within 72 hours after the event. If necessary, this period can also be extended to 5 days - see also SBB's comment number 20 below. Even if the human consequences would not be made more precise by the DR (within 2 months), an important data set would be available for the events notified by SR only.</p> <p>We propose to include the following question in the Data set applicable for the SR (Annex I – General part, 3.1.2):</p> <p>Did the occurrence resulted in human consequences? y/n</p> <p>If yes, indicate the following estimations of personal data known at the present time:</p> <p>Total number of killed passengers</p> <p>Total number of seriously injured passengers</p> <p>Total number of lightly injured passengers</p> <p>Total number of killed employees</p> <p>Total number of seriously injured employees</p> <p>Total number of lightly injured employees</p> <p>Total number of killed trespassers</p>		
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				<p>Total number of seriously injured trespassers</p> <p>Total number of lightly injured trespassers</p> <p>Total number of killed other persons</p> <p>Total number of seriously injured other persons</p> <p>Total number of lightly injured other persons</p> <p>The largest Swiss railway operator has confirmed that the proposed extension of the SR to include the reporting of provisional human consequences does not represent a significant increase in workload for the reporting staff.</p> <p>Further benefits of this extension of the SR</p> <ul style="list-style-type: none"> - The NSA and ERA would be informed during the first 72 h after accident about occurrences with significant human consequences (valid for all event types) instead of waiting for the DR in 2 months - the National accident investigation body NIB can use the extended SR of occurrences to check whether all events relevant to NIB have been reported to it - ERA can request particular detail reporting for events of interest, if the DR was not envisaged (e.g. in context of the "Smart Reporting" explained in the Impact Assessment). 		

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Swiss Federal Railways (SBB) – to consider also the management summary included at the end of the comment sheet						
1.	Art. 1	G	SBB	<p>We welcome the purpose of the draft CSM ASLP (see whereas 3) to provide assistance to the railway undertakings and infrastructure managers for improving their safety management and, in particular to ensure that they can achieve their business objectives in a continuously improved safe manner.</p> <p>We agree that the objective of the sharing of data and information should be the prevention of railway accidents and incidents (see whereas 23)</p>	NWC	Noted
2.	Art .1	P	SBB	<p>However, we judge the current approach to be too constringent for railway operators making it impossible for them to incorporate their own methods and experience achieved so far. We see no convincing arguments that the approach will ensure that railway operators can increase their safety level.</p> <p>We propose a more flexible approach by means of generic guidelines for safety level and safety performance giving the railway operators sufficient flexibility to further develop their own methods.</p>	R	The CSM ASLP is a harmonised regulation and cannot be established with guidelines. It does not correspond to the mandate request.

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3.	Art .1	G	SBB	We fear that the approach followed by CSM ASLP will increase costs for railway operators without having the required benefit on increasing the safety level.	NWC	<p>At the working party discussion no convincing arguments where provided that the CSM would not be supportive to safety level improvements. The Agency gave a lot of example on the potential added values for operators (see also Big picture document) and collective learning opportunities. These elements were also considered further in the impact assessment.</p> <p>IA is positive for the proposed CSM option, thanks to the control of requested data and information to the minimum necessary to enable the assessments and collective learning requested by the mandate.</p> <p>Please refer to this very detailed document.</p>
4.	Art. 1	G	SBB	<p>We are aware that an impact assessment was produced and that the sharing of data will be limited to a level where costs and benefit are in balance.</p> <p>We recommend adding a specific statement in the 'whereas' Section expressing the commitment to ensure the balance of cost and benefit.</p>	NWC	<p>The whereas 5 already indicate clearly "provide the necessary system-wide data and information for efficient continuous improvements, taking into account technical and scientific progress"</p> <p>It is also an obligation from the Agency regulation at any time an amendment of the CSM would be recommended.</p>
5.	Art. 3, I & j	P	SBB	<p>A financial loss is not meaningful to categorise an event because the price level in Europe varies strongly. Because of Switzerland's high price levels SBB may have more such events which will distort its safety level.</p> <p>We propose to use accident categories restricted to injuries and fatalities.</p>	R	<p>This is in contradiction with the use of RSD definition of seriousness / significance which includes also monetised damages.</p>

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6.	Art .3	P	SBB	<p>Cross reference to DIRECTIVE (EU) 2016/798 on railway safety missing for:</p> <ul style="list-style-type: none"> (i) serious consequence event (ii) significant consequence event <p>We propose to add the necessary cross references to DIRECTIVE (EU) 2016/798</p>	NWC	<p>The definitions used by the CSM are fully consistent with DIRECTIVE (EU) 2016/798 but they are simpler as they unbundle the type of event from the involved operation type and location.</p> <p>The whole CSM is a secondary legislation of this Directive it is not needed to refer to it in each specific article.</p> <p>The relationship with RSD definitions will be explain in a guide. At WP9 it was agreed that the best future direction should be to simplify the RSD definitions when revising the CSI/CST regime.</p>

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7.	Art. 4, § 1(a)	P	SBB	<p>We fear that the approach requesting a huge set of detailed data on occurrences will immensely increase the workload for railway operators without having the expected benefit to increase the safety level.</p> <p>We propose to start with using existing databases, mainly the UIC database currently in use by railway operators and to stepwise develop the procedure from there.</p>	NWC	<p>This perception is not correct, the level of extra requirement is low as operators are already obliged to investigate the causes of their occurrences. Thus the formatting and sharing of the elements is the main constraint brought by the CSM and taken into account in the Impact Assessment. As you ask for non-arbitrary and traceable sharing of information, it is clear that only ERA can play the role of managing the ISS and the legal implementation of the CSM ASLP cannot be covered by the UIC database. However it is not forbidden that operators use the UIC database as 'third party' connected system using the 'indirect channel' allowed by the CSM.</p> <p>An impact assessment was undertaken at a detailed level covering each element of the CSM ASLP. In particular, the analysis examined the resources linked to the reporting obligations included in the CSM ASLP. Overall, the IA concluded that the benefits outweighed the costs.</p>

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8.	Art. 4, § 1(b)	P	SBB	<p>We understand that the safety-performance is derived based on self-estimation by operators and has to follow Annex II and Appendix B. However, the results of the self-estimation will be dependent on the railway operators' understanding and interpretation of Annex II and Appendix B.</p> <p>It must be demonstrated that the process of self-estimation is sufficiently defined by Appendix B in order to produce results which are comparable with each other. Supportive measures to reach this goal should be envisaged.</p>	A	Supportive documents such as guidance and training materials will be made available.
9.	Art. 4, § 1c	U	SBB	It is not clear if occurrence scenarios and related risk control measures have to be reported in relation to occurrences that have taken place. Otherwise it is not clear under which prerequisites these elements have to be reported.	A	Re-drafted Article 4 will clarify this directly in the main part of the CSM.
10.	Art. 4, § 1c	P	SBB	<p>We judge the effort required to collect and report occurrence scenarios and related risk control measures to be huge. The benefit of having the information is unclear.</p> <p>Without convincing arguments we consider this obligation to report this data as not sufficiently justified.</p>	NWC	<p>See answer to Comment 7</p> <p>Please note also that IA is positive and this is not a new requirement for operators to investigate occurrence (CSM SMS)</p>

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11.	Art. 4, § 2	P	SBB	<p>It is unclear under which conditions safety authority, TDG competent authority and the Agency are entitled to request a review of reported data and information. There is a potential to request and use the information arbitrarily and to the disadvantage of railway operators.</p> <p>We recommend that only the respective NSA supervising the railway operator should have the right to request a review of reported data and information and that NSAs and the Agency collaborate on this subject.</p>	NWC	<p>TDG Competent Authorities are entitled to do so based on the TDG Directive (Annex RID section 1.8.5)</p> <p>The Agency will be managing the ISS and thus it is a functional need to allow the good management of data and information.</p> <p>This is in line with the Mandate.</p>

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12.	Art. 5, § 4	P	SBB	<p>We doubt that the collection of data exchanged at Union Level will be a viable basis to support railway operators in improving their safety level and safety performance.</p> <p>We miss a competent role of the NSA. At present there are established and proven procedures between NSAs and railway operators, such as the issuing of authorisations and audits by the NSA, to ensure a sufficient safety level.</p> <p>We would expect NSAs to play a key role in the interaction between railway operators and the Agency.</p>	NWC	<p>The key role you are asking for is established by the Group of Analysts where both Operators and the NSAs are represented.</p> <p>As a result the GoA will issue proposals to the Agency which can then have an impact on EU legislation and safety improvements in general.</p> <p>NSAs role is not changed by the CSM ASLP.</p> <p>This is already the case and will be also supported by the CSM ASLP processes.</p>
13.	Art. 5, § 4	U	SBB	<p>In our experience the operating conditions and prerequisites vary between railway operators. We doubt that although data is processed at a detailed level the resulting safety levels will allow meaningful comparisons of safety levels between operators.</p>	NWC D	<p>The harmonised process established by the CSM are practicable, have been experienced positively in some countries as presented in the WP meetings, and there is no reason and not elements of proof that the dis-harmonised current state of play in EU MS can deliver comparable results.</p> <p>Annex IV takes note of the need of parameters to facilitate comparisons.</p> <p>The analyses will be limited to aspects where meaningful comparisons can occur.</p> <p>This topic shall be discussed by Subgroup C.</p>

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14.	Art. 5, § 4	U	SBB	There is no statement on the consequences for operators whose safety level or safety performance is below average. It is not clear if they will have to face sanctions.	NWC	This is not the aim of the CSM ASLP, as this situation is already covered by Certificate and Authorisation assessments. CSM ASLP does not duplicate other legislation.
15.	Art. 6, § 1	P	SBB	The Group of Analysts GoA will play a powerful role in the application of the CSM ASLP. In our opinion it should be ensured that the GoA is widely accepted among the involved stakeholders. We propose to add a statement of intention to establish the GoA as a group being representative for the stakeholders, notably also the Sector Organisations, involved. Furthermore a procedure for escalation is needed for the contingency when one or several stakeholders disagree with the work (or parts of it) of the GoA.	NWC	The Group of Analysts is a Working Party of the Agency as defined in Article 5 of Regulation 2016/796. This article states: “The working parties shall be composed of: — representatives nominated by the competent national authorities to participate in the working parties, — professionals from the railway sector selected by the Agency from the list referred to in paragraph The Agency shall ensure adequate representation of those sectors of the industry and of those users which could be affected by measures the Commission may propose on the basis of the recommendations addressed to it by the Agency. The Agency shall strive, where possible, for a balanced geographical representation.”. The Working Arrangements will integrate the required elements, in addition to the ‘escalation’ to Agency Opinion and Recommendations already integrated in the CSM text.

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16.	Art. 7, § 4	P	SBB	<p>We understand that the common digital interface to be used as the Information Sharing System is not further specified in the Regulation.</p> <p>It must be ensured that the Information Sharing System will account for the tools being in use today. Notably, the role of the ERA Safety Alert Tool has to be clarified in this context.</p> <p>It must be avoided that railway operators are requested to report the same information several times due to the missing harmonization of IT tools.</p>	NWC	<p>The CSM establish the process to further specify the ISS, taking into account GoA proposal. See also comment 32</p> <p>There will be no double reporting btw SAIT and future ISS.</p> <p>Linked data approach adopted by ERA Management Board will apply.</p> <p>The connection with other Agency's systems is clearly indicated in the ANNEX VI part D process diagram.</p>
17.	Art. 7, § 14	G	SBB	We are satisfied to note that precautions have been set in Annex VI to ensure confidentiality in the sharing of data.	NWC	Noted
18.	Art. 11, § 3	G	SBB	Sensible transition periods have to be set that will allow railway operators sufficient preparation time to comply with the new requirements. We therefore fully agree that the Regulation will first apply with the exclusion of Article 4(1)(b) and Article 5.	NWC	Noted

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19.	Art. 11, § 3	U	SBB	We cannot find Article 11(10) as mentioned in the text. Please specify the date when Article 4(1)(b) and Article 5 will become active.	A	Article 11 was redrafted.
20.	Annex I, General Part, 3.1.2	P	SBB	In the event of the Simple Reporting SR a sharing deadline of 72 hrs after the occurrence of a category A event is requested in the draft regulation. We would like to stress that an operator concerned will need the first few days after the event for handling the exceptional situation. We propose to set the sharing deadline to 5 working days.	D	To our understanding every days of a week is a working day for the railway sector. We propose to discuss the potential extension from 3 to 5 days at the WP 9 or ultimately at RISC. However the WP meeting discussions have indicated that from experience, in most of the case 4 days are sufficient.
21.	Annex I, General Part, 5.2.2	P	SBB	A sharing deadline of 2 months is foreseen in the case of a detailed report. From our experience it is not possible in every case to complete the event analysis during this period. We propose to allow for longer deadlines if it can be justified by the operator.	NWC	It was clarified at the WP discussion that updates and corrections of reported data can be exercised at any time until the NIB delivers its investigation report or within a 1 year deadline. Earliest date applicable. This is supported in general by Article 7.11 of the CSM.
22.	Annex II, 1.4	U	SBB	It is unclear if the maturity levels used here are in agreement with the ERA Safety Culture Model or the SMS maturity Model	NWC	Yes, there exists a consistency with the MMM, the safety culture model as well as with already existing requirements from the regulatory framework
23.	Annex II, 2.3.	U	SBB	Section 5 cannot be found in the Annex.	A	'section 5' corrected with ' Appendix B'

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24.	Annex II, 3.4.	U	SBB	<p>The procedure of self-estimation is not sufficiently explained:</p> <ul style="list-style-type: none"> • What is 'area P', 'area C'...? • What is meant by 'Element #' 1 to 21? <p>Suitable reference to Appendix B would make this much clearer.</p>	A	<p>Annex II 2.3 will be amended (area P,...) to be consistent with table in article 5 of appendix B.</p> <p>Supportive documents will be provided</p>
25.	Annex V, 7.	P	SBB	<p>From our experience with comparisons of the safety level based on CSI the results are often not so clear and can easily be misinterpreted. We expect the same to happen with comparisons of the safety performance.</p> <p>We therefore recommend that the results should not be published in the ISS, but only be used between the Agency, the operator and the respective NSA.</p>	<p>NWC</p> <p>NWC</p>	<p>A root cause of the problem you mention for the CSI may come from the very complex definitions used by the Directive, as discussed during WP9.</p> <p>There is no objective reason or relationship with the CSI regime which allow for your expectation assumption.</p> <p>Your proposal is already the one included in the CSM ASLP, in accordance with the sharing rule detailed in Annex VI. Namely, a single operator result will not be shared publically but only with the national authorities and ERA.</p> <p>Only national and EU aggregations (not single operator figure) will be accessible publically, as is the current situation for the CSIs.</p>

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26.	Appendix A, Part A (Taxonomy)	G	SBB	<p>In the case of a serious consequence event, as defined in Article 3 where a detailed reporting DR is required, we are confident that the information on event categories listed in Appendix A, Part A, will result from the event analysis procedure. However we have to note that this will be limited to the level of detail retrieved from the event analysis. Especially concerning SMS factors we have to state that this information is not specifically investigated during event analysis and can only be roughly derived.</p> <p>Please note that it cannot be expected that the full level of detail as in Appendix A, Part A, will be retrieved in every case. This will depend on how successfully the event analysis is able to identify the causes and contributing factors.</p> <p>This statement will basically apply also to significant consequence events.</p>	NWC	<p>It is indeed true that a detailed reporting on all aspects that play a role in an occurrence scenario will heavily depend on the quality of the investigation that took place.</p> <p>Probably we will see that during initial stages of the CSM ASLP implementation, not all operators will be able to provide all elements that the taxonomy allows to document.</p> <p>However, more mature operators will have the possibility to do so and less mature operators might be encouraged to improve their investigation processes in order to be able to report in a more detailed way.</p> <p>From this perspective collective learning between less and more mature operators can take place also, through GoA or independently.</p>
Montreux Oberland Bernois (MOB) Railway Company						
1.	Annexe I to V	G	MOB	<p>We think that it is very complicated to have all data and information to share. It requires a lot of resources to analyse data following all events, to evaluate safety performance and safety level, to get occurrence scenarios and measures of risk control.</p> <p>We propose that information share would be simpler and more pragmatic.</p>	NWC	<p>The reporting will be facilitated by the use of an efficient ISS connected to NSA and operators systems.</p> <p>Most of the datasets to report are corresponding to what is already reportable to the NSA.</p> <p>The connection of the systems with the ISS will allow the operator to report only once and to forward (share) information between systems.</p>

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ÖBB Infrastruktur AG (ÖBB) - operating railway infrastructure also on the Swiss territory						
1.	General	G	ÖBB	<p>There is a big need for clarification in many points. A guide with some examples for all points in the document should explain the basics (how to do, how to fulfil the requirements) and the aim which should be reached by these points.</p> <p>Explain the how and why of all requirements and explain also the consequences of the concerned points (e.g. safety level and safety performance) – what will ERA do with the data, are there consequences for the companies (and if yes which consequences are planned) what is the added value for the railway companies and the railway in Europe ...</p>	A	Guidance will be provided however this comment itself does not imply a modification of the CSM proposed text
2.	General	G	ÖBB	There are some open points in the document – so the document is incomplete (should be completed before enter into force) – some missing points are precondition to understand (Annex I, point 4; Appendix C; Appendix D)	A	<p>All the points missing will be completed before the entry into force of the concerned phase.</p> <p>This is taken into account in the Article 11 as redrafted.</p>
3.	General	G	ÖBB	There is a need for a clear timetable for every point in the document.	A	<p>This is taken into account in the Article 11 as redrafted.</p> <p>In addition the timetable of GoA activities is to be recorded in its working plan consistently with the objectives of the next applicable phase</p>

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
4.	General	G, P	ÖBB	The information sharing system is an important precondition to start the CSM. The system have to be ready before this CSM enters into force.	NWC	We agree that the ISS is needed to start the phases where it is needed. The Article 11 is drafted to take into account thtis. The first phase with a very limited scope can be applied without the ISS but a temporary solution.
5.	Art 2	P	ÖBB	The regulation should apply to all parties mentioned in Annex VI – Part B except to every natural person – only for registered parties, but NOT for natural persons (otherwise we will have a “facebook or twitter for railways” without the needed know how and competence to evaluate a given situation)	NWC	We consider that the reporting from natural persons with the controlled processing integrated in the CSM has no adverse impact on the operators, is in line with a positive safety culture approach and is anyway already an obligation for the MS and the Agency. We proposed to leave this point for discussion during the process of adoption of the CSM. See also answer to comment 51
6.	Art 3	P	ÖBB	All definitions described in the given CSI should be the same in this CSM – do not mix definitions with the same name but small deviations (misunderstanding is the logical consequence)	A	It is the case and the Taxonomy has been modified to clearly show it.

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7.	Art 5	U	ÖBB	What is the outcome of the estimation of the achieved safety level and the achieved safety performance? What are the consequences? Will ERA require safety measures if the level/performance is not OK?	NWC	<p>The CSM ASLP does not change the roles and responsibilities established by the other EU legislation pieces.</p> <p>In first instance, we consider that the benefit (outcomes) for the companies themselves is to identify where they can actually continuously improve their SMS and also to identify, in general, the level of their performance in comparison with the average performance level of similar operators.</p> <p>The CSM ASLP does not provide extra role the Agency is already entitled to exercise, by the existing legislation.</p> <p>In the same spirit, the CSM ASLP does not change the role of the NSAs that is to supervise the operators and, when necessary require improvement of operator's weaknesses.</p> <p>It is thus considered that potential consequences of weak performance need to be considered first by the NSAs within the supervision regime. The harmonised assessments of SL and SP are one input supporting to the implementation of the supervision activities.</p> <p>Cooperation between NSAs and the Agency is also unchanged by the CSM.</p>
8.	Art 5	P	ÖBB	Point 5: ... ERA have to use the technical support reported in Appendix C ... to understand the method it is necessary to have the content in Appendix C	NWC	The Appendix shall comply with the text as set out in Annex IV and Annex V. It will be amended in accordance with Article 9(3)(c).

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
9.	Art 6	U	ÖBB	<p>Who are the members of this group of analysts? What is the outcome of this group? What are their targets?</p> <p>ERA will publish non-binding information. How can the system be improved by non-binding information?</p>	NWC	See reply to comment no. 15 above.
10.	Art 7	P	ÖBB	<p>In many Countries the companies reports their accidents and incidents to the NSA according to a given requirement by the NSA.</p> <p>NSA's should adapt their national requirements according to the requirements from this CSM and ERA will get the data directly from the MS – like the CSI now.</p> <p>It would be an easy way to collect data, to avoid double reporting and to keep all relevant parties (first of all the responsible NSA) informed</p>	<p>NWC</p> <p>D</p> <p>NWC</p>	<p>This is made possible with the ISS using the 'indirect' channel.</p> <p>While it would be a further harmonisation level, it is not the CSM ASLP aim to set or remove national rules. This is governed by the RSD. Possible discussions and future simplifications will be possible with progressive harmonisation of national element required in addition to the CSM requirements.</p> <p>This is made possible with the ISS using the 'indirect' channel. CSM ASLP does not imposed double reporting.</p>

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11.	Annex I Gen Part 3.2.2	P	ÖBB	Sharing deadline should be extended. For category A events – time of occurrence + 72 hours from Monday to Friday and for the category other events end of reporting period + 10 days (if there is an event at the last day of a period the time is too short) There should be also the possibility to extend the time for some events. Sometimes it is not possible to fix everything in 1 month	NWC	The final validation of reporting can be made with 'updates' until 3 months after the first simple reporting. From this perspective, there is no reason to give more time to the last occurrence of a reporting period. Eventually to be aligned with previous discussion.
12.	Annex I Gen Part 5.	P	ÖBB	Every event, all parameters, values, causes, contributing factors, ... should have a clear definition (that everybody will understand the same) and a unique ID-number (then every report is readable in all European languages – given by an automatic translation from codes to the language(s))	NWC	This will be provided by the ISS, including ID-number and language flexibility. GoA can support way forward concrete ISS proposals in accordance with the CSM.
13.	Annex III Gen Part	U	ÖBB	This part needs more explanation in a guide. With some examples it is easier to understand how to do it and what is the required outcome.	A	Guidance on the reporting of scenarios will be developed
14.	Annex III Part A	U	ÖBB	This part needs more explanation in a guide. With some examples it is easier to understand how to do it and what is the required outcome.	A	Guidance on the reporting of scenarios will be developed

<i>N°</i>	<i>Reference (e.g. Art, §)</i>	<i>Type</i>	<i>Reviewer</i>	<i>Reviewer's Comments, Questions, Proposals</i>	<i>Reply</i>	<i>Proposal for the correction or justification for the rejection</i>
15.	Appendix A Part A	P	ÖBB	The category C events are too specific, are too unclear and we cannot see any benefit to collect them. It is a big effort, an additional burden for the railway companies without recognizable added value. Delete category C events	NWC	An impact assessment was undertaken at a detailed level covering each element of the CSM ASLP. In particular, the analysis examined the resources linked to the reporting obligations included in the CSM ASLP. Overall, the IA concluded that the benefits outweighed the costs. The category C events are also well-designed based on past EU projects and useful for the activities of the GoA.
16.	Appendix A	M	ÖBB	In the part of definitions there is a link to Article 3.2.1 of this Appendix – but there is no point 3.2.1 in this Appendix – should be corrected	A	corrected
17.	Annex VI Part B 1.2	P	ÖBB	Delete in the section “other entities” the type “NPER” natural person It should be only possible for the other registered entities to report – see also comment 5.	R	It is not an obligation for those entities to report and their reporting will undergo a fully controlled process. Removing the possibility for ‘natural persons’ to report information is not supported by the Agency, as it seems not to be in contradiction with the applicable EU legislation to give this possibility, and it is considered as supporting positive safety culture and potentially the improvement of the quality of reported data (for example, less under reporting);

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18.	Appendix B	U	ÖBB	<p>What is the outcome of this self-estimation of the safety performance? Is there any consequence if the safety performance is on one of the 5 levels? Are there differences for the companies if they are in different levels? Are there specific requirements linked with these levels?</p> <p>It is very unclear what is the benefit for the companies and also for ERA an NSA to have such self-estimated levels.</p>	NWC	<p>The responsibilities of all actors are clearly stated in article 4 of Directive 2016/798. The self-estimation is not a standalone tool. The aim is to provide assistance to the railway undertakings and infrastructure managers for self-estimating their performance and defining ways to improve their safety management system.</p> <p>This does not prevent NSAs to carry out their supervision activities, but can act as a supporting tool.</p> <p>Overall, the aim of this part of the CSM is to provide a tool for the sector to improve the SMS of the operators, with a focus on the management of RCM:</p> <ul style="list-style-type: none"> • <i>For the operators: helping them to self-assess their level of safety performance and find areas for improvement;</i> • <i>For the authorities to improve the dialogue with railway operators</i>
19.	Appendix C	P	ÖBB	Description needed to understand. Deliver description before entry into force of CSM.	A	The CSM has been restructured and the this appendix is actually not void. It will be completed as needed when the implemetntaion phase requires it. The Group of analyst is tasked by the CSM itself to complement it in due time.
20.	Appendix D	P	ÖBB	Description needed to understand. Deliver description before entry into force of CSM.	A	The CSM has been restructured and the this appendix is actually not void. It will be completed as needed when the implemetntaion phase requires it. The Group of analyst is tasked by the CSM itself to complement it in due time.

N°	Reference (e.g. Art, §)	Type	Reviewer	Reviewer's Comments, Questions, Proposals	Reply	Proposal for the correction or justification for the rejection
21.	General	G	ÖBB	If this CSM is fully applied in Europe it will replace the CSI (Common Safety Indicators) and the CST (Common Safety Targets) – therefore they should be deleted at this time	D	This is an option identified for further simplification of the EU legislative framework. It would be an extra benefit of the CSM.
22	General	G	ÖBB	Information only in relation to safety-relevant events that are necessary for safe railway operation: <ul style="list-style-type: none"> - Broken rails, etc. yes - Track warping, broken rail fastenings, etc. no, as it is not necessarily safety-relevant 	NWC	This is allowed by the CSM Taxonomy
23	General	G	ÖBB	Terms are generally to be specified, e.g. "Switch and crossing failure" or "Earthworks / embankment failure"	A	This is to go into the Group of Analysts work flow but it does not prevent starting the application of the CSM proposed
24	General	G	ÖBB	Errors such as track position errors, rail surface errors, track gauge errors, safety technology errors are generally only to be reported in the event of an accident	D	It might be a topic for reflection of the Group of Analyst. Does it mean that unnoticed direct cause (Cat B events) can result in an accident (potentially a catastrophe) at any time without action on them? Is it what we call a safe system?

Note: This table could be changed according to the requestor's needs

Management Summary SBB

We agree that the draft CSM ASLP follows an important goal regarding the continuous improvement of railway safety in Europe. However, we judge the current approach to be too constraining for railway operators. We fear that the approach to assess the safety level and safety performance will increase costs without assurance that safety will effectively be improved.

We are worried that the large range of new obligations will overstrain railway operators. They will need time to prepare and adapt to the new obligations. We fully support the proposal by CER/EIM that the application of the CSM ASLP is evolving through 'gateways' (to be further defined), cf. CER/EIM position paper on the CSM ASLP implementation.

The final CSM ASLP covers many issues which will have an impact on the current practice of railway operators and on other stakeholders. We have identified the following critical aspects (please refer to the Review Comments' Section for details):

In general:

- We see no convincing arguments that the approach will help railway operators to increase their safety level. We miss evidence that the collection of data at Union level instead of the national level (with reportings towards the NSAs) will be more effective in reaching this objective.
- We miss a competent role of the NSAs. We request to make use of the established and proven procedures between NSAs and railway operators.
- The process for requesting a review of reported data and information is not sufficiently clear and arbitrary use of the process must be avoided.
- Further clarification is needed on how to establish the GoA as a group being representative for the stakeholders involved.
- More clarity is needed on how to align the Information Sharing System with the digital solutions already being in place today, thereby avoiding redundancy when reporting data and information.

Specific to the assessment of Safety Level:

- We fear that the approach requesting a huge set of detailed data on occurrences according to Annex I will cause a huge workload without having the benefit of increasing safety. We propose to start with using existing databases, mainly the UIC database currently in use by railway operators today.
- The benefit of collecting information on occurrence scenarios and related risk control measures is unclear and seems not to justify the huge effort to report the data.
- We are critical of the sharing deadlines for the Simple Reporting SR and Detailed Reporting DR.

Specific to the assessment of Safety Performance:

- The process of the assessment of the safety performance, especially the self-estimation part cannot guarantee well based comparisons between different operators. We did not find convincing arguments that the assessment of safety performance at Union level will be more effective than an assessment at national level.

We are critical of publishing results of the safety performance among all registered users of the ISS.

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