

**From:** Peter Silverman  
**Sent:** 28 September 2016 17:27  
**To:** 'highwaysmonitor@orrt.gov.uk'  
**Subject:** Responding to your consultation

Attn Sara Subtil, ORR

This is my response to your [Monitoring Highways England's network investment Consultation July 2016](#).

Do you understand and agree with the scope of our role with respect to monitoring Highways England's network investment, as set out in this consultation?

I do not agree with the ORR's interpretation of its statutory duty.

You say "The Office of Rail and Road (ORR) has responsibility for monitoring Highways England's delivery of the Road Investment Strategy". However:

Under S10 (1) of the Infrastructure Act the ORR must carry out activities to monitor how Highways England exercises its functions.

S10(2) says those activities may include investigating, publishing reports or giving advice to the Secretary of State on whether, how and at what cost HE has achieved its objectives under a [Road Investment Strategy](#).

Your priority is to monitor the functions of HE regardless of whether the DfT has set out an objective for their fulfillment in the RIS.

For example under the Schedule 1 Section 111 of the [Infrastructure Act](#) HE is a duty body for the purposes of [Environmental Protection Act S89](#) (*duty to keep land and highways clear of litter etc*). One of its functions therefore is to *ensure, so far as is practicable, that its network is kept clear of litter and refuse*. There is no objective set out in the RIS for the fulfillment of this function.

Monitoring compliance with EPA S89 is a must whereas monitoring the fulfillment of the RIS objective on, say, biodiversity should be given less priority.

Does our proposed approach for monitoring Highways England's network investment fulfil our role in a way which meets your requirements as a stakeholder?

No it does not.

You place too much emphasis on obtaining data from HE. In the case of monitoring compliance with HE's EPA S89 duty you should directly monitor the cleanliness or otherwise of the motorways and decide whether or not they are complaint.

The DfT appoints your Chairman and pays your salaries. By prioritizing the monitoring, the objectives set out in the RIS by the DfT you are not being seen to act independently of the DfT.

Are there aspects of our monitoring of Highways England's network investment that you think require more or less emphasis?

Yes, you should place more emphasis on monitoring HE's compliance with its duty under the Environmental Protection Act S89(1).

I am responding as an organization Clean Highways [www.cleanhighways.co.uk](http://www.cleanhighways.co.uk) We represent the road users concerned about the littered state of our nation's roads. Their feedback can be accessed at [www.cleanhighways.co.uk/highways-agency/complain-about-litter-on-highways-england-network](http://www.cleanhighways.co.uk/highways-agency/complain-about-litter-on-highways-england-network)

I am writing this in haste as I only came across the consultation document an hour ago by chance. I note that it closes tonight. I am wondering why it had not been drawn to my attention by the ORR with whom I met on 14<sup>th</sup> September. Could you please provide me with a list of those people and organisations that were informed of the consultation?

Peter Silverman

[www.cleanhighways.co.uk](http://www.cleanhighways.co.uk)

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Read our report - [Solving the litter problem](#)

View our 2 minute video [Duty to keep highways clear of litter](#)