Response from the Mid and West Berkshire Local Access Forum (M&WBLAF).
The M&WBLAF has only recently become aware of this consultation, and as this is only the preliminary stage, we would like to be consulted on any further consultations on this topic.
Our initial response to this is to ensure that legislation to protect byways users from harm resulting from an automated vehicle is equal to that currently in place to cover the actions of a vehicle driver. Indeed it must be extended to cover the owner, operator, calibrator and/or programmer of an automated vehicle where appropriate. Furthermore, since the PROW system is largely remote, obtaining evidence of an incident which occurs is vital, to ensure that justice is not only possible, but that the law deters unwonted behaviour, encourages compliance and uses civil law to allow the provision of compensation where it is needed.

1) A Law to ensure that there are active cameras sited with views all around the automated vehicle and this MUST be a requirement for valid insurance and tax. Privacy issues could be overcome if the footage is not viewed unless there are incidents which occur within a defined timeframe. Contact details of ownership of the vehicle should be displayed too.

2) Automated Vehicles (in this case we mean farm vehicles surely, as they will be mostly present on PROWs) must be clearly visually distinct from manned vehicles, and identifiable from a distance. This would have the benefit of providing protection for manned tractor drivers (non-automated) who may 'cause' a fatality/accident should 'goading' occur mistakenly.

3) With regard to the specific questions 28 and 17 in your Consultation; Restrictions on access by vehicles to most types of right of way should apply if the vehicle is autonomous in the same was as if it is driven by a person. If a vehicle using a right of way under the permission of a landowner for example, a tractor using a track that is only a public footpath, then it should be required to avoid accidents or causing disruption to people using the right of way. These issues are addressed in Consultation Questions 28 and 17 respectively.

Consultation Question 17 (Paragraphs 6.13 -6.59)

We seek views on whether there is a need for further guidance or clarification on Part 1 of Automated and Electric Vehicles Act 2018 in the following areas:
(1)Are sections 3(1) and 6(3) on contributory negligence sufficiently clear?
ANSWER to Q17:

The Local Access Forum believes that civil liability should apply in the same way when an accident occurs on a public right of way as it does on a road. Section 3(1) of the Automated and Electric Vehicles Act 2018 refers to Section 2, which states: “Where... an accident is caused by an automated vehicle when driving itself on a road or other public place in Great Britain... the insurer is liable for that damage”, but “public place” is not defined in the Act.

The LAF therefore seeks clarification that a Public Right Of Way, and also Common Land are considered to be a “public place” for the purposes of this Act.

Consultation Question 28 (Paragraphs 7.59 -7.61) We seek views on whether the offences of driving in a prohibited place should be extended to those who set the controls and thus require an automated vehicle to undertake the route.

ANSWER TO Q28:

The Local Access Forum believe that it is important that autonomous vehicles should have the same restrictions on driving on rights of way and common land as vehicles that are driven by people. However, we are sceptical that this can be achieved by ‘geofencing’ alone. Landowners can drive vehicles on rights of way that are restricted to the general public, as can owners of adjacent properties with rights of access. It may therefore be difficult for manufacturers of vehicles or their control systems to ‘geofence’ such rights of way, and any such restrictions would need to be capable of being easily over-ridden by vehicle owners with rights of access.

The LAF therefore believes that a criminal offence of setting a driving system to require it to drive in a prohibited place will be important in preventing abuse of Public Rights Of Way and Common Land by autonomous vehicles.

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4) Perhaps there should be some consideration of whether these vehicles are 'phased in' too in the countryside, as they will be very useful for farmers so are likely to be in demand perhaps prior to automated vehicles being permitted on the wider highways network.

Kind regards,

Jan Heard
Vice Chair
Mid & West Berkshire Local Access Forum