

Aviva response to 2nd Law Commission consultation on Autonomous vehicles

Aviva welcomes this 2nd consultation as insurers are key stakeholders in this debate. As the UK's largest insurer of both individual vehicles and fleets, Aviva needs to ensure our customers continue to be protected as technological advancements progress.

Aviva supports the development of autonomous vehicles for the UK as they could significantly reduce the number of road accidents caused by driver error and could also provide mobility benefits to those unable to drive. This mode of transport could contribute to improving public health as well as having significant environmental benefits.

Collaboration

Aviva is working with Government directly and through the ABI and Thatcham Research, to ensure the legislative and regulatory regimes for automated vehicles, domestically and at UNECE levels, will be fit for purpose. Aviva has contributed to the ABI response on behalf of the motor insurance industry.

Aviva also set up a 'Legal Future Mobility group' for discussion and debate on autonomous and electric vehicles plus future mobility issues. This group includes legal and public policy attendees from various interested external companies. Aviva is submitting a separate high-level commentary on behalf of members of the Aviva Future Mobility Group, in addition to this individual response.

Summary

- a. Ensuring a national standard for safety for HARPS is paramount as these vehicles will potentially be interacting with other road users which we will equally insure.
- b. Strict liability requirements and mandatory insurance is needed for all HARPS trials and that needs to be adequate to provide compensation for any loss or damage arising.
- c. Aviva welcomes any regulation and legislation for operating and managing HARPS to be based on our existing road framework to ensure all vehicles have similar parameters to work within.
- d. Accessibility to accident data and 'near misses' should be shared with insurers to help to build our knowledge of HARPS behaviour through knowing the cause of the crash.
- e. We would welcome the Law Commission considering a regulatory framework for autonomous freight transport as this could be a sector that would benefit from an early adoption of automation.
- f. We would be interested to understand what the Law Commission is proposing for a compensation scheme for HARPS.
- g. We seek the Law Commission's views on removing the need for insurers to issue certificates of motor insurance for HARPS as currently required under Section 147, Road Traffic Act (and other secondary legislation).
- h. We seek the Law Commission's views on considering establishing the Motor Insurance Database as the primary source of evidence for checking and validating that a vehicle has the necessary insurance policy in place to meet the requirements of the Road Traffic Act 1988.

Further contact

Aviva would be happy to discuss our response as we appreciate the pace at which 'autonomy' is progressing.

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CHAPTER 3: OPERATOR LICENSING – A SINGLE NATIONAL SYSTEM

A single national scheme

Consultation Question 1 (Paragraph 3.82):

Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing?

1. Yes, Aviva supports a National Standard to ensure consistency of safety and management of HARPS. We believe riders should expect the same degree of safety where ever they use HARPS and not be separated by an arbitrary division. However, administration could be managed locally as per existing PHV, but a National Standard would provide a greater consistency.
2. We experience 'forum shopping' under the existing PHV licensing system where there are different degrees of application of regulation. Local administration would need to be supported with ensuring those responsible are 'competent'.
3. Consideration is needed to advise where riders should go to raise concerns or complain about an operator/service.

Consultation Question 2 (Paragraph 3.86):

Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

4. Yes, riders using HARPS need to be confident that the quality and safety of these vehicles is consistent at any location where they require mobility.
5. This will also help to simplify insurance solutions for HARPS where the risks presented should be consistent.

CHAPTER 4: OPERATOR LICENSING – SCOPE AND CONTENT

Scope of the new scheme

Consultation Question 3 (Paragraph 4.33):

Do you agree that a HARPS operator licence should be required by any business which:

- (1) carries passengers for hire or reward;
- (2) using highly automated vehicles;
- (3) on a road;
- (4) without a human driver or user-in-charge in the vehicle (or in line of sight of the vehicle)?
6. Yes, Aviva would support any operator of a HARP carrying passengers for hire and reward being vetted, licensed and regulated. We would also support extension of HARPS licencing to circumstances beyond just 'on a road'. We would suggest this needs to be extended to 'on a road or other public place' or similar definition to align with current legal requirements and the requirements of the Automated and Electric Vehicles Act.
7. We believe that any schemes and amendments to A&EV Act will need to take into consideration the likely changes to the definition of "use of vehicle" that is intended to amend the Road Traffic Act within the next few years. This should take into consideration the use and intended purpose of vehicles off the back of EU cases *Vnuk* (Slovenian), *Torreiro* (Spanish) and *Rodrigues De Andrade* (Portuguese).

Consultation Question 4 (Paragraph 4.34):

Is the concept of "carrying passengers for hire or reward" sufficiently clear?

8. No, despite current communication and legal precedents, we believe operators still have a different view of what constitutes hire and reward. There is still too much 'interpretation'. The issue of who receives payment is also raised given it may not be the HARPS keeper, user, driver or owner but a 'service provider'. It must dovetail with current operator licence requirements and current regulation.

Exemptions

Consultation Question 5 (Paragraph 4.46):

We seek views on whether there should be exemptions for community or other services which would otherwise be within the scope of HARPS operator licensing.

9. We would support some derogation from full operator licensing for community or 'not for profit' organisations such as charities. This could be along the lines of current Section 19 and Section 22 which permits but maintaining safety requirements to protect riders of HARPS.

Consultation Question 6 (Paragraph 4.54):

We seek views on whether there should be statutory provisions to enable the Secretary of State to exempt specified trials from the need for a HARPS operator licence (or to modify licence provisions for such trials).

10. Yes, we would support the need for statutory provisions to enable exemption of HARPS in trial but equally believe there should be a safety framework which applies to permitted trials which allows safety to be maintained whilst development of such services and vehicles is explored. There should also be strict liability requirements and mandatory insurance which those conducting the trial must provide that is adequate to make compensation for loss or damage arising from the trial.

Operator requirements

Consultation Question 7 (Paragraph 4.72):

Do you agree that applicants for a HARPS operator licence should show that they:

- (1) are of good repute;
- (2) have appropriate financial standing;
- (3) have suitable premises, including a stable establishment in Great Britain; and
- (4) have a suitable transport manager to oversee operations?

11. Yes, a designated competent person of good repute which must be defined in the framework. Suitable premises and a transport manager may not be required depending upon the size and type of the business. Consideration should also be given to include suitable processes for complaints handling and resolution.

Consultation Question 8 (Paragraph 4.73):

How should a transport manager demonstrate professional competence in running an automated service?

12. We would support the requirement for competency, similar to that required of a Transport Manager under PSV regulations, which would include:
- Minimum training requirements
 - Good repute
 - Ongoing professional competence development and refresher training
 - Qualifications on specific issues raised by the operation of HARPS e.g. Health and Safety, Competent Persons
 - Overall this person would be accountable for all aspects of a HARPS operation and should develop as new technology evolves.

Adequate arrangements for maintenance

Consultation Question 9 (Paragraph 4.89):

Do you agree that HARPS operators should:

- (1) be under a legal obligation to ensure roadworthiness; and
- (2) demonstrate "adequate facilities or arrangements" for maintaining vehicles and operating systems "in a fit and serviceable condition"?

13. (1) Yes, if the vehicles are used on a road or other public place

14. (2) Yes, if the vehicles are used on a road or other public place

Consultation Question 10 (Paragraph 4.90):

Do you agree that legislation should be amended to clarify that HARPS operators are "users" for the purposes of insurance and roadworthiness offences?

15. Yes, in the absence of a 'User in Charge' in the vehicle, this should be the case.
16. We seek the Law Commissions views on considering removing the need for insurers to issue certificates of motor insurance as currently required under Section 147 of the Road Traffic Act, (and other secondary legislation). Also, to consider establishing the Motor Insurance Database as the primary source of evidence for checking and validating that a vehicle has the necessary insurance policy in place to meet the requirements of the Road Traffic Act 1988. As automated driving, autonomous driving and HARPS continue to develop and evolve, we would support such an effective alternative which avoids potential increased administration for all parties, including licencing authorities and law enforcement whilst maintaining confidence for motorists and users that they are insured. We believe that as people change the way they use vehicles, the way the database is managed may equally need to evolve.

Compliance with the law

Consultation Question 11 (Paragraph 4.124):

Do you agree that HARPS operators should have a legal duty to:

- (1) insure vehicles;
 - (2) supervise vehicles;
 - (3) report accidents; and
 - (4) take reasonable steps to safeguard passengers from assault, abuse or harassment?
17. (1) Yes. Some clarity around the definition of "insure" would be needed and we would expect to insure against liabilities arising from the use of HARPS vehicles
 18. (2) Yes
 19. (3) Yes. We believe this should include accidents 'or near misses' so that the data can be used to ascertain what caused the issue and take steps to prevent it happening again in future. There is also a question here as to the accessibility of such data, the extent of data accessible and who can obtain access to it which should include insurers.
 20. (4) Yes. It may be challenging to safeguard passengers as there would not be a driver present to intervene. Operators should take steps to ensure risks to passengers are minimised through vetting passengers. However common sense needs to prevail to avoid undue limitation of accessing HARPS.

Consultation Question 12 (Paragraph 4.125):

Do you agree that HARPS operators should be subject to additional duties to report untoward events, together with background information about miles travelled (to put these events in context)?

21. We are unclear as to what constitutes an 'untoward event' and require a clearer definition. This could be interpreted as a near miss (which should be reported), a bag left on a seat, or abuse of a rider or a near collision with other road user or property.

Consultation Question 13 (Paragraph 4.128)

Do you agree that the legislation should set out broad duties, with a power to issue statutory guidance to supplement these obligations?

22. Yes and we believe legislation should also make provisions for consequences of not adhering to the legislation.

Price information

Consultation Question 14 (Paragraph 4.133)

We invite views on whether the HARPS operator licensing agency should have powers to ensure that operators provide price information about their services.

In particular, should the agency have powers to:

- (1) issue guidance about how to provide clear and comparable price information, and/or
- (2) withdraw the licence of an operator who failed to give price information?

23. Not applicable to an insurer.

Who should administer the system?

Consultation Question 15 (Paragraph 4.138)

Who should administer the system of HARPS operator licensing?

24. We would suggest that the existing enforcement bodies remit are extended to include HARPS. However, the current barriers to sharing insight and information pertinent to the safety and the operational effectiveness of operators must be removed to increase public understanding and confidence in HARPS and to assist insurers deliver cost effective solutions.

Freight transport

Consultation Question 16 (Paragraph 4.140)

We welcome observations on how far our provisional proposals may be relevant to transport of freight.

25. Whilst it is early in the evolution of HARPS, we see many commonalities that apply to the carriage of freight, existing frameworks and legislation that applies to freight transportation. We would welcome the Law Commission considering a regulatory framework for autonomous freight transport as this could be a sector that would benefit from an early adoption of automation.

CHAPTER 5: PRIVATELY-OWNED PASSENGER-ONLY VEHICLES

Setting a boundary between HARPS and private leasing

Consultation Question 17 (Paragraph 5.12)

Do you agree that those making “passenger-only” vehicles available to the public should be licensed as HARPS operators unless the arrangement provides a vehicle for exclusive use for an initial period of at least six months?

26. Our view is to operate HARPS, the operator must be licenced in all circumstances. This would avoid manipulation, e.g. setting up and failing an operation every 6 months to avoid licensing. We believe the use of HARPS is the issue and not the period of the arrangement.

Allocating responsibility for a privately-owned passenger-only vehicle: placing responsibilities on keepers

Consultation Question 18 (Paragraph 5.40):

Do you agree that where a passenger-only vehicle is not operated as a HARPS, the person who keeps the vehicle should be responsible for:

- (1) insuring the vehicle;
 - (2) keeping the vehicle roadworthy;
 - (3) installing safety-critical updates;
 - (4) reporting accidents; and
 - (5) removing the vehicle if it causes an obstruction or is left in a prohibited place?
27. Firstly, Aviva believes there should be absolute clarity between the owner and the registered keeper etc. as the owner could be a lease/finance/assets management company etc. Clarity on who is responsible for what, and what can and cannot be assigned to another and in what circumstances is needed.
28. The current terminology could lead to confusion and a lack of consistency dependant on what legislation is being referred to e.g. insurance v registration v licensing v traffic offences v upkeep (MOT etc.). A temporary keeper i.e. a short-term hire, loan or borrowing also needs to be clarified given car sharing and other mobility emerging models.
29. We would suggest the purpose of use has a bearing on where responsibilities would sit – e.g. car sharing v ride sharing v ride hailing.

Consultation Question 19 (Paragraph 5.41):

Do you agree that there should be a statutory presumption that the registered keeper is the person who keeps the vehicle?

30. Yes, we agree there should be a clear understanding of responsibility, but this presumption may be superseded by any contract/assignment.

Consultation Question 20 (Paragraph 5.42):

We seek views on whether:

- (1) a lessor should be responsible for the obligations listed in Question 18 unless they inform the lessee that the duties have been transferred.
31. Yes. As the owner of the vehicle the lessor should retain this obligation unless there is a contract with the lessee that these obligations have transferred. This is what we general expect under assignment of rights under a contract.
- (2) a lessor who is registered as the keeper of a passenger-only vehicle should only be able to transfer the obligations to a lessee who is not a HARPS operator if the duties are clearly explained to the lessee and the lessee signs a statement accepting responsibility?
32. Yes. There needs to be an unambiguous agreement to this effect to avoid any uncertainty.

Will consumers require technical help?

Consultation Question 21 (Paragraph 5.47):

Do you agree that for passenger-only vehicles which are not operated as HARPS, the legislation should include a regulation-making power to require registered keepers to have in place a contract for supervision and maintenance services with a licensed provider?

33. Yes, we agree that the person responsible for the vehicle should have this obligation (see Q 18) and there needs to be fair competition to avoid unfair charging in this area. One solution could be to expand the existing vehicle safety standards e.g. MOT to embrace this.

Peer-to-peer lending

Consultation Question 22 (Paragraph 5.53):

We welcome views on whether peer-to-peer lending and group arrangements relating to passenger-only vehicles might create any loopholes in our proposed system of regulation.

34. We feel there may be loopholes given the different regulation affecting 'peer to peer' and group arrangements. We foresee difficulties in evidencing that a shared ownership arrangement is not in fact a peer to peer arrangement which would fall within the HARPS definition, e.g. potential 'syndicate ownership' arrangements.
35. Consideration is also required as to how models from other countries are expected to work within the UK legislation and regulatory frameworks given the use of HARPs is not likely to be restricted to the UK only, e.g. Northern Ireland/Republic of Ireland.

Protecting consumers from high ongoing costs

Consultation Question 23 (Paragraph 5.60):

We seek views on whether the safety assurance agency proposed in Consultation Paper 1 should be under a duty to ensure that consumers are given the information they need to take informed decisions about the ongoing costs of owning automated vehicles.

36. We believe it is essential that consumers have the right information and insights to help them make informed decisions about the cost of ownership including the frequency of these ongoing costs which could include maintenance and manufacturers data updates. Any manufacturer updates that relate to the safety of either passengers or other road users should be automatic without any charge.
37. We would envisage that this assurance would sit within the existing frameworks and regulation which surrounds vehicle sales, including 'duty to disclose information that is accurate and not misleading'.

CHAPTER 6: ACCESSIBILITY

What we want to achieve

Consultation Question 24 (Paragraph 6.11):

We seek views on how regulation can best promote the accessibility of Highly Automated Road Passenger Services (HARPS)? In particular, we seek views on the key benefits and concerns that regulation should address.

38. [Aviva would consider that this regulation has already been addressed in existing transport models and accessibility. As an insurer, we do not have a view on regulation promoting HARPS.](#)

Core obligations under equality legislation

Consultation Question 25 (Paragraph 6.31):

We provisionally propose that the protections against discrimination and duties to make reasonable adjustments that apply to land transport service providers under section 29 of the Equality Act 2010 should be extended to operators of HARPS. Do you agree?

39. [Yes, the vehicles need to be safe and accessible to avoid high risk of injury to passengers.](#)

Specific accessibility outcomes

Consultation Question 26 (Paragraph 6.106):

We seek views on how regulation could address the challenges posed by the absence of a driver, and the crucial role drivers play in order to deliver safe and accessible journeys. For example, should provision be made for:

- (1) Ensuring passengers can board and alight vehicles?
- (2) Requiring reassurance when there is disruption and accessible information?
- (3) Expansion of support at designated points of departure and arrival?

41. [Yes, these are important to maintain the safety of users but not a question that an insurer can answer.](#)

Developing national minimum accessibility standards for HARPS

Consultation Question 27 (Paragraph 6.109):

We seek views on whether national minimum standards of accessibility for HARPS should be developed and what such standards should cover.

42. [Minimum standards should be developed and should cover issues relating to the safety of passengers getting into and out of the vehicles and whilst travelling.](#)

Enforcement mechanisms and feedback loops

Consultation Question 28 (Paragraph 6.124):

We seek views on whether operators of HARPS should have data reporting requirements regarding usage by older and disabled people, and what type of data may be required.

43. [Yes, this information could be useful to insurers of vehicles to assess risk.](#)

CHAPTER 7: REGULATORY TOOLS TO CONTROL CONGESTION AND CRUISING

Traffic regulation orders

Consultation Question 29 (Paragraph 7.23):

We seek views on whether the law on traffic regulation orders needs specific changes to respond to the challenges of HARPS.

44. [Yes. We know that existing operators already flaunt the current regulations which includes kerb sitting and waiting which negatively impacts on road safety especially for VRUS. We are aware that increased congestion leads to impaired mobility for HARPS. The impact on other existing transport models must be considered e.g. bus and train services.](#)

Regulating use of the kerbside

Consultation Question 30 (Paragraph 7.59):

We welcome views on possible barriers to adapting existing parking provisions and charges to deal with the introduction of HARPS. 32 In particular, should section 122 of the Road Traffic Regulation Act 1984 be amended to expressly allow traffic authorities to take account of a wider range of considerations when setting parking charges for HARPS vehicles?

45. We do not have any views on this.

Road Pricing

Consultation Question 31 (Paragraph 7.86):

We seek views on the appropriate balance between road pricing and parking charges to ensure the successful deployment of HARPS.

46. We do not have any views on this.

Consultation Question 32 (Paragraph 7.87):

Should transport authorities have new statutory powers to establish road pricing schemes specifically for HARPS?

If so, we welcome views on:

- (1) the procedure for establishing such schemes;
- (2) the permitted purposes of such schemes; and
- (3) what limits should be placed on how the funds are used.

47. We do not have any views on this.

Quantity restrictions

Consultation Question 33 (Paragraph 7.97):

Do you agree that the agency that licenses HARPS operators should have flexible powers to limit the number of vehicles any given operator can use within a given operational design domain for an initial period?

If so, how long should the period be?

48. Yes – the number of vehicles should be limited to ensure operational design domains remain fit for purpose and not compromised by over population of HARPS and other road users, with road/VRU safety being maintained at the highest possible level. Operator competency and safety must be managed to protect riders. This limit should be ongoing with no set time period as it will depend upon the geographical area and the number of other HARPS vehicles in that vicinity.

Consultation Question 34 (Paragraph 7.120):

Do you agree that there should be no powers to impose quantity restrictions on the total number of HARPS operating in a given area?

49. We believe, at least in the early days that there may need to be quantity restrictions dependent upon the operational design domain, geographical area, usage and customer demand.

CHAPTER 8: INTEGRATING HARPS WITH PUBLIC TRANSPORT

The current system of bus regulation: HARPS as mass transit

Consultation Question 35 (Paragraph 8.92):

Do you agree that a HARPS vehicle should only be subject to bus regulation:

- (1) if it can transport more than eight passengers at a time and charges separate fares; and
- (2) does not fall within an exemption applying to group arrangements, school buses, rail replacement bus services, excursions or community groups?

50. No, we do not agree. PSV regulations, as modified by these proposals, should apply to HARPS with over 8 seats and PHV regulations should apply, as otherwise passenger safety is compromised by allowing 'amateur drivers operating in a professional capacity'.

Consultation Question 36 (Paragraph 8.94):

We welcome views on whether any particular issues would arise from applying bus regulation to any HARPS which transports more than eight passengers, charges separate fares and does not fall within a specific exemption.

51. Aviva would support this given the risks remain the same and safety is paramount.

Consultation Question 37 (Paragraph 8.95):

We welcome views on whether a HARPS should only be treated as a local bus service if it:

(1) runs a route with at least two fixed points; and/or

(2) runs with some degree of regularity?

52. We would support this provided the regulations and frameworks ensure absolute clarity about the parameters as to what constitutes and 'local bus service'.

Encouraging use of mass transit: Mobility as a Service

Consultation Question 38 (Paragraph 8.109):

We seek views on a new statutory scheme by which a transport authority that provides facilities for HARPS could place requirements on operators to participate in joint marketing, ticketing and information platforms.

53. We share the view that mobility solutions need to be connected and compatible and that there is a significant benefit to customers to be able to go to one place to source their mobility needs with simple, clear and relevant products.

END.