

UK LAW COMMISSION - CONSULTATION QUESTIONS

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?

Yes, HARPS should be subject to a single national system of operator licencing. We believe that centralizing the common burden of operator pre-qualification will help regions and localities to roll out pre-selected autonomous mobility operators within their territories, while at the same time providing a large enough economic opportunity to ensure return on investment for market entrants.

Consultation Question 2 (Paragraph 3.86):

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

Yes, HARPS operators within the national territory should be subject to minimum safety standards, which should be strict enough to ensure the safe deployment of services. In that regard, national UK homologation norms (currently being discussed on a European level) will help ensure that not only the vehicle but the system is safe. An applying operator should be required to comply with these standards. Here again, setting standards at the national level makes sense -- basic vehicle and systemic safety considerations do not vary from one part of the country to another. It would be unproductively inefficient for each city, locality, and/or council to establish its own safety standards; conversely, it would be unnecessarily burdensome for HARPS operators to have to reckon with a patchwork quilt of differing standards. Safety is an obvious area for a national-level -- and rigorous -- scheme of standards.

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)?

Yes, we believe that an operator licence should be required for the operation of any service that transports passengers and cargo through autonomous vehicles. The four elements cited in this question are sensible, though we would include “packages” or “cargo” along with passengers in [1].

Consultation Question 4 (Paragraph 4.34):

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

Perhaps “transportation of passengers (or cargo) through paid services” would be clearer.

Exemptions

Consultation Question 5 (Paragraph 4.46):

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

Basic, national-level safety standards should be required of all HARPS operators and vehicles, including community, governmental, or other non-commercial services. However, some potential HARPS operating licensing conditions -- e.g., fares and fees, routes, common carriage requirements -- may be inappropriate for non-commercial HARPS services operated in the provision of community services or on private roadways.

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).

The Secretary of State should be authorized to exempt specific trials from the need for a HARPS operator licence, to help accelerate deployment. At this early stage of development of HARPS technologies, it is appropriate to vest the Secretary of State with statutory discretion to grant exemptions upon a well-established rationale.

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;
4. have a suitable transport manager to oversee operations?

Yes, we agree that these are appropriate license conditions. Indeed, we would urge even more specific requirements to apply for a license, such as a commitment to achieve defined areas of service coverage within the territory, service quality standards, and fleet and vehicular safety requirements.

Consultation Question 8 (Paragraph 4.73):

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

The best way to assess professional competence in the operation of a technologically new service with high visibility will require clear criteria measured via a mix of formal submissions detailing service and safety architectures, background checks on key staff and assessments of their past track records in the operation of non-automated or other mass transportation services, and in-person interviews. The successful applicant will have a convincing combination of demonstrated and successful prior relevant experience and a set of well-designed plans for the future HARPS operation.

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
3. operating systems “in a fit and serviceable condition”?

Yes. These are appropriate and minimal requirements for HARPS operators. HARPS operators should guarantee good maintenance of their fleets for the safe operation of the service, including regular check-ups of the vehicles and the operating systems. Given its centrality to the provision of a safe service, it is important to bring vehicular and system software explicitly into the definition of roadworthiness.

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?

Yes, HARPS operators must bear the responsibility for the safe operation of their services, and, as a consequence, they should be accountable for any potential vehicle malfunctioning that leads to an accident or to a roadworthiness or insurance offence.

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?

Yes, HARPS operators should have legal duties to maintain adequate vehicle insurance, to monitor and supervise vehicle behavior, to report accidents and any relevant accident-related data, and to take reasonable steps to safeguard passengers inside the vehicle. We would urge the licensing authority to develop clear guidance around in-vehicle passenger safety systems, to maximize rider protection and minimize any ambiguity around what is reasonably expected of HARPS operators.

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)?

Yes, HARPS operators should provide meaningful transparency about anomalous events, with reporting including contextualizing details such as miles traveled.

Consultation Question 13 (Paragraph 4.128)

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

Yes, this would be an appropriate model for HARPS 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?

The HARPS operator licensing agency should have the authority to require operators to provide price information about their services and to withdraw the licence of an operator in case of failure to comply. There is no compelling competitive or other rationale for mystery in HARPS pricing.

Who should administer the system?

Consultation Question 15 (Paragraph 4.138)

Who should administer the system of HARPS operator licensing?

An Independent Government Entity should be the administrator of HARPS operator licensing.

Freight transport

Consultation Question 16 (Paragraph 4.140)

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

Most of the topics presented above should apply to both the transportation of passengers and the transportation of goods, as both services will need to co-exist with passenger-driven vehicles on UK roadways. Freight transport through autonomous vehicles equally requires regulation to ensure the safe operation of the services on public infrastructure.

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?

Yes. Shorter-term, passenger-only leased vehicle arrangements are akin to on-demand HARPS services in the dependance of the passenger on the provider for compliance with essential safety standards,

including in both hardware and software systems. For exclusive leases over six months, it is more reasonable and appropriate to exempt the parties from the full scope of HARPS service requirements, instead placing on the lessor and lessee the responsibility to set the allocation of HARPS-equivalent legal duties between them.

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
5. removing the vehicle if it causes an obstruction or is left in a prohibited place

Yes. Outside HARPS systems, these duties must rest ultimately with the keeper of the vehicle, recognizing that a range of commercial service providers will emerge to assist the keeper, just as is the case for privately-owned vehicles now. What is new with HARPS is an explicit recognition that installing software updates and providing accident reports are explicit responsibilities.

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?

Yes, that is an appropriate presumption.

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.
When establishing a leasing contract, it should be clearly stated which duties are transferred to the lessor and which ones remain with the lessee.
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?
As presented above, when establishing a leasing contract, it should be clearly stated which responsibilities are transferred to the lessor and which ones remain with the lessee.

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?

From the perspective of a potential HARPS operator, we believe that registered keepers of passenger-only vehicles should be required to maintain contracted supervision and maintenance services for their vehicles. Providing regulatory authority to that end is necessary and appropriate.

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.

We believe that the safety assurance agency should be entirely dedicated to safety-related matters. Consumers should be aware of the ongoing cost of owning automated vehicles, as well as non-autonomous vehicle owners do.

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.

The regulation of HARPS should ensure equitable access for all citizens, independently of their age and physical disabilities, allowing them to travel safely, easily and without extra cost. In order to achieve so, HARPS operators must guarantee that all passengers have easy access to the vehicle, continuous communication of the vehicle with an external control center and enabled areas departure and arrival.

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?

We do agree that the protection against discrimination, harassment or victimisation should be extended to the operators of HARPS, ensuring equitable access to all citizens independently of their physical disability, religion or belief or sexual orientation.

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?

The regulation should establish minimum requirements for HARPS operators to guarantee: easy accessibility to the vehicle, continuous two-way communication between the vehicle and the control center, as well as departure and arrival zones enabled for elderly and disabled people. However, it should not be strictly necessary for the government to have the power to require employees at designated points of departure and arrival in order to help elderly and disabled people, that role is already covered by other passengers or citizens.

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.

There should be national standards of accessibility for HARPS that guarantee universal and equitable access for all. Such standards should establish, for example, the obligation for: handicapped ramps in all vehicles, handles for easy entry and exit to the vehicle or dedicated spaces for handicapped (incl. seatbelt) and elderly.

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.

HARPS operators should have data reporting requirements regarding the usage of the service by older and disabled people and they should report anonymized data with regards to usage patterns (e.g. where and when), as well as complaints on the accessibility to the vehicle and quality of the service.

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.

The current law on traffic regulation orders should be modified to ensure the safe integration of HARPS in the current traffic landscape (the hybrid scenario with non-autonomous vehicles), not only for the safe and efficient flow of the traffic but also to establish an optimized allocation of the required infrastructure for the operation of HARPS. For instance, HARPS could benefit from dedicated lanes and smart infrastructure that would encourage pooling in larger vehicles that in turn produce superior speed and throughput of non-autonomous vehicles.

Regulating the 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.

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?

HARPS, when deployed, will only be stopping for pick-up and drop-off of passengers and at their respective hubs at the end of service, as well as for maintenance or repair operations. We would oppose permitting traffic authorities to impose parking charges on momentary stops to pick-up and drop-off passengers.

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.

HARPS should not be charged any parking fees, as these vehicles will not park in the cities, neither should HARPS be charged higher rates than other vehicles; if anything, they should be charged less in recognition of the fact that they promote ride-sharing and -pooling, with benefits for traffic and the environment relative to passenger vehicles, eventually road pricing will capture all of the externalities of a HARPS. In this regard, by requiring HARPS to share data about vehicle flows, passengers trips, and traffic status, the city or local authority could be able to gather all relevant data into one single platform, and use it to manage road pricing in real time.

Consultation Question 32 (Paragraph 7.87):

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

Due to the amount of investment required in road infrastructure for HARPS to be deployed, the corresponding transport authorities should have statutory powers to establish road pricing schemes for HARPS operators, who, in most cases, will engage in high levels of usage of the public infrastructure. Looking ahead, in any case HARPS vehicles should be charged lower fees than regular vehicles, as they promote ride pooling and alleviate traffic problems such as pollution and congestion within cities.

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.

Road pricing schemes for HARPS should take into consideration different service KPIs when establishing rates, such average occupancy of the vehicle or utilization of the vehicles (time that the vehicle is carrying passengers). The objective of such schemes is rewarding operators that are actively helping reduce CO2 emission and decongesting the city.

Finally, the funds gathered through road pricing of HARPS should be allocated to the improvement and upgrade of the infrastructure used for the operations of these vehicles.

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?

The agency that licenses the HARPS operators should not have the sole power to limit the number of vehicles that any given operator can deploy. The number of vehicles should be established as an agreement between the agency, the local authorities and the approved licensees, in order to create a fair economic environment and ensure equitable coverage of the service area.

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?

It is important to limit the total number of HARPS operators to 3-4 national licences to ensure that operators are able to raise capital from investors in order to build large-scale fleets and deploy throughout the country. Exceptionally, special sub-regional licenses could be granted to serve the most remote areas.

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
2. does not fall within an exemption applying to group arrangements, school buses, rail replacement bus services, excursions or community groups?

HARPS should be recognized as a new service, technically and operationally distinct from buses, ride-sharing services, taxis, and passenger vehicles. Recognizing that distinctiveness in service, HARPS should be subject to a specific regulation for shared and autonomous mobility services.

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.

As presented above, the licence based regulation of HARPS should be subject to a specific regulation for shared and autonomous mobility services and should not be subject to any existing mobility regulations. Such regulation, unlike the current bus regulation, should establish the possibility of charging separate fares for each passenger.

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?

While HARPS licences should not apply to public transportation, in local deployment, cities would adopt one of these 2 models (or both):

- An "integration model" where the service of HARPS operators is indeed integrated into the available local public transportation, as a generic brand, in which case the city supports the investment. In this case, the organization of public transit would operate on a basis relatively similar to the existing one: the local authorities will turn to operators (e.g. RATP, Arriva or Transdev) who themselves will trade with HARPS operators as they do today with bus manufacturers.
- A "competitive model" leaving several operators in free competition on their territory in exchange for co-investing in infrastructure.

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.

Following the previous question, it may depend on the type of "integration model" adopted. On the one hand, if the public transportation authority is integrated as part of a HARPS operator, it should be able to place requirements on marketing, ticketing and the information platform. On the other hand, if the public transportation authority provides facilities to HARPS operators within a competitive landscape, it should be able to place requirements for ticketing and the information platform.