

Response to Consultation on Autonomous Vehicles

This is the response from the Scottish Association for Public Transport.

The Scottish Association for Public Transport (SAPT) was founded over 50 years ago to campaign for sustainable, integrated public transport in, and to, Scotland.

Our responses to the consultation questions are given below. We begin with general comments on the subject of autonomous vehicles.

Software: The software controlling autonomous vehicles and HARPS vehicles will be complex requiring regular updates including critical safety bug fixes. It is likely that sensors will also require modifications, after experience of the vicissitudes of the Scottish weather.

There needs to be a system for autonomous vehicles similar to the safety certification for aircraft. A central UK body carrying out safety appraisals in UK road conditions is needed.

The Boeing 737 max scandal shows the risk in depending on manufacturers without independent safety checks. While the scale of an aircraft crash is much higher than an individual road accident, a number of road accidents could be caused by faulty software unless robust safety procedures, including mechanisms for applying urgent corrective software updates, are enforced.

There may need to be powers for a central UK safety body to recall or temporarily order withdrawal of classes of vehicles where critical safety issues are identified.

Hacking and Stolen Vehicles: The legal responsibility in this situation needs to be examined in more detail than covered in the consultation.

Power: Given the Scottish First Minister's commitment to banning the sale of petrol and diesel cars by 2032, we suggest that, in practice, all autonomous vehicles registered in Scotland are likely to be electric, hydrogen or hybrid vehicles.

Trams: Driverless operation of trams is not covered in the consultation, although autonomous operation of trams running on tracks on public roads should in the future be more straightforward than other public transport vehicles.

Answers to Consultation Questions:

Q1 (Paragraph 3.82): Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing?

No. There should be separate national operator licensing systems for England, Scotland and Wales.

Q2 (Paragraph 3.86): Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

Yes. The national safety standards should apply equally to England, Scotland and Wales to ensure compatibility of vehicle types, and to pool safety standards expertise across the UK.

Q3 (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

Q4 (Paragraph 4.34): Is the concept of “carrying passengers for hire or reward” sufficiently clear?

Yes

Q5 (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.

We suggest there should be no exemptions initially until safety issues are better understood.

Q6 (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).

Yes. In Scotland this would be for the Cabinet Secretary for Transport.

Q7 (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?

Yes

Q8 (Paragraph 4.73): How should a transport manager demonstrate professional competence in running an automated service?

As HARPS systems will depend on a high level of computer technology, transport managers could be required to have a good understanding of the technology involved in automated road transport. Demonstrating competence in this field could therefore involve a written examination.

Q9 (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”?

Yes

Q10 (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

Q11 (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

Q12 (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

Q13 (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?

Yes

Q14 (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?

Experience of technology-based services, and indeed rail ticket pricing systems, indicate that users often don't understand properly how pricing works. However, regulation shouldn't inhibit innovation in pricing.

We agree, however, that giving price information should be a requirement for all operators.

Q15 (Paragraph 4.138) Who should administer the system of HARPS operator licensing?

In Scotland this should be administered on a national countrywide-wide basis but recognising the different characteristics of urban, rural, remote and island.

Q16 (Paragraph 4.140) We welcome observations on how far our provisional proposals may be relevant to transport of freight.

We have not considered the implications for freight.

Q17 (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?

This seems a reasonable proposal.

Q18 (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?

Yes

Q19 (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

Q20 (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.

(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?

We have no view on this.

Q21 (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?

Yes. Due to the complexity of autonomous vehicles and potential danger to other road users, particularly pedestrians and cyclists, it is essential that such vehicles are properly maintained and provided with software updates including critical safety updates.

Q22 (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.

We have no views on this.

Q23 (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.

Information on ongoing costs and other matters should be made available on a central website by the safety agency.

Q24 (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.

We are not sufficiently informed in this area to comment.

Q25 (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?

Yes

Q26 (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?

Clearly the economic benefit of HARPS would be undermined if onerous staffing requirements are imposed to cater for passengers with disabilities. Similar considerations may apply for children. This is a fundamental issue for unattended HARPS.

Q27 (Paragraph 6.109): We seek views on whether national minimum standards of accessibility for HARPS should be developed and what such standards should cover.

We do not have experience of the issues to be covered.

Q28 (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.

Data of this nature would normally be extracted from ticketing or payment information.

Q29 (Paragraph 7.23): We seek views on whether the law on traffic regulation orders needs specific changes to respond to the challenges of HARPS.

It is important that any changes in traffic regulations for HARPS do not adversely impact other road users, particularly pedestrians and cyclists who already are disadvantaged in most areas by priority given to motorised traffic. The fatal mistakes of “intelligent motorways” should not be repeated when reviewing regulations for autonomous vehicles under any circumstances.

Q30 (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?

We have no experience of parking charge issues. However, the move towards electric road vehicles will require a huge increase in charging points which, in densely populated urban areas of flats and tenements, are likely to be kerbside installations.

Q31 (Paragraph 7.86): We seek views on the appropriate balance between road pricing and parking charges to ensure the successful deployment of HARPS.

See Q32 answer.

Q32 (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.

There is a good case for road charging to be introduced on electric vehicles as a replacement for fuel tax on petrol and diesel vehicles. Road charging revenue could be justified to the public if used to fund road maintenance and construction, compensating for the loss of fuel duty. However, there is no reason to treat HARPS differently from other electrically powered buses. In other words, we suggest that road pricing should be linked directly with electric vehicles rather than with HARPS introduction.

Q33 (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?

It would be prudent to introduce HARPS in a controlled manner so we would agree that the number of vehicles within an operational domain should be limited for an initial trial period. One year would be a realistic period to assess the impact on traffic and safety.

Q34 (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?

No we don't agree. Bus deregulation has led in some cases to increased congestion in city centres due to “bus wars” between duplicated services. Unrestricted competition in provision of public transport is incompatible with the overriding need to reduce emissions and road congestion. Comparison of the declining usage of buses in the UK with the increased use of public transport in many continental countries shows that integrated public transport networks attract more use than deregulated services based on on-street competition. We strongly advise against replacing “bus wars” with unrestricted “HARPS wars”, particularly as there may initially be added safety concerns about HARPS in city streets.

Q35 (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?

This seems a reasonable approach.

Q36 (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.

Regulation would be based on the vehicle capacity rather than the actual number of passengers being transported (many rural bus services carry fewer than eight passengers).

Q37 (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?

It would be logical to treat HARPS on the same basis as local bus services if running to a regular timetable, or as Demand Responsive Transport if running on request.

Q38 (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 platform.

It is essential where an integrated public transport system is planned or has been established by a transport authority that any HARPS should be part of this system. Otherwise a transport authority's public transport network could be undermined by HARPS.

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