

30 January 2020

Caroline Drummond  
Commissioner  
Automated Vehicles Team  
Law Commission  
1st Floor, Tower,  
52 Queen Anne's Gate  
London  
SW1H 9AG

Dear Caroline

### **Automated vehicles consultation**

The STUC is Scotland's trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement, reflecting the aspirations of 540,000 working people and their families throughout Scotland.

The STUC has serious concerns about the direction of this consultation and the absence of proper engagement with trade unions. STUC affiliated unions organise a range of professional drivers whose jobs would be directly impacted or changed through the introduction of automation and it is essential that their perspective is taken into account.

Trade unions are also well respected for our experience in health and safety and have important insight into how legislation applies and is used in a real-world context.

In the paper attached, our concerns are set out in detail and relate to a number of areas, from the role of professional drivers, to the need to strengthen corporate homicide legislation, to the impact on carbon emissions and public services.

I would also strongly encourage the Scottish Law Commission and the Law Commission of England and

Wales to engage urgently with trade unions to consider the implications of automated vehicles, including any legislative changes.

To this end, the STUC would be willing to facilitate a roundtable with representatives of Scottish trade unions, particularly professional drivers and health and safety specialists, who have experience of using corporate homicide legislation in its current form.

I hope that you will take me up on this offer and if you wish to discuss the details of a roundtable please contact Polly Jones, Policy Officer on [REDACTED]

I look forward to hearing from you at your earliest opportunity.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Grahame Smith', with a stylized flourish at the end.

Grahame Smith  
General Secretary



## **Response to Scottish Law Commission consultation on automated vehicles**

**January 2020**

### [About the STUC](#)

The STUC is Scotland's trade union centre. Its purpose is to co-ordinate, develop and articulate the views and policies of the trade union movement in Scotland, reflecting the aspirations of trade unionists as workers and citizens.

The STUC represents over 540,000 working people and their families throughout Scotland. It speaks for trade union members in and out of work, in the community and in the workplace. Our affiliated organisations have interests in all sectors of the economy and our representative structures are constructed to take account of the specific views of women members, young members, Black members, LGBT+ members, and members with a disability, as well as retired and unemployed workers.

## **Response to the Scottish Law Commission consultation on automated vehicles**

### **1. Devaluing the role of professional drivers in ensuring safety**

STUC affiliated unions represent professional drivers, including trains, buses, taxis, emergency vehicles, delivery drivers and HGV drivers. We are concerned about any proposals for mass transit that would be called 'driverless' or devalue the role of professional drivers. Affiliated unions also represent workers in emergency services who play a safety critical role in society. It is worrying that the range of driving professionals have not been considered in any detail, nor actively consulted as part of this enquiry. Nor does this consultation demonstrate any genuine analysis of how autonomous and human driver systems may interact.

Passenger and worker safety is the foremost concern of all professional drivers and it is highly unlikely that autonomous vehicles programmed for efficiency would be able to uphold this standard. There is no available evidence to suggest that vehicle automation software is as responsive and skilled as human drivers (either on road or rail) and the safety record of such vehicles has simply not been established.

The use of 'driverless' transit outside of closed systems still raises serious practical and safety questions. Given this starting point, the STUC would caution against legislative change to facilitate widespread implementation.

### **2. Fulfilling existing transport commitments**

Part of the Zenic roadmap for the development of autonomous vehicles (referenced in the Law Commission's *Automated Vehicles: Consultation Paper 2 on Passenger Services and Public Transport*) includes adaptation of road infrastructure within the next decade. The STUC is concerned that a focus on investments in road infrastructure to support automation, undermines other long-standing commitments in relation to transport infrastructure. There is still no plan for completing electrification of the railways, or the full HS2 route and related infrastructure improvements. Equally unions representing road hauliers have raised consistently over many years the lack of safe stopping points or appropriate rest facilities (including access to toilets) for HGV drivers working in the north of Scotland. It is difficult to understand how

investment to support automated vehicles can come ahead of basic health and safety or much needed infrastructure development in other elements of transport.

### **3. Strengthening corporate homicide/manslaughter law**

Alongside the provision for responsibility to be allocated in the event of any incidents involving autonomous vehicles, there needs to be consideration given to strengthening corporate homicide law in Scotland and corporate manslaughter law across the rest of the UK. This is a particular challenge for the Scottish system as corporate homicide laws are arguably less effective than their UK equivalent. To date there have been no successful prosecutions under corporate homicide legislation in Scotland. Yet the effective use of this type of legislation will be critical to the question of legal liability in the case of autonomous vehicles.

Ultimately the legal framework will need to decide where liability is placed and to what extent members of the public, who will experience autonomous vehicles as passengers and owners, can be held responsible for any incidents which occur. It is likely not possible to hold owners responsible – beyond a requirement for regular testing, repairs and software updates – and therefore manufacturers and software developers would need to be held responsible for actions taken by the vehicle as a result of its programming.

This is a significant change from the current approach. At present professional drivers, through the licensing system, have a personal liability and responsibility to ensure safety. The driver is therefore empowered and responsible for ensuring that they only drive when conditions allow and are responsible for the consequences of their decision, even when driving as part of their job.

It is not clear that the current legal basis for corporate liability is fit for purpose nor does it provide a credible foundation from which to build.

### **4. Protecting passengers and owners**

Autonomous vehicles could be vulnerable to both hacking (from localised, one-off sources as well as hostile actors, such as foreign governments) and bricking, which occurs when the organisation updating the vehicle's software either ends compatibility with the

hardware or is wound up, leaving the vehicle hardware without updates (and, in the case of autonomous vehicles, without any entity to take responsibility for something going wrong). We would like to see specific legislation to protect vehicle owners and passengers in these situations.

Consideration also needs to be given around safety critical issues and the types of vehicles that can become autonomous and the types of materials that can and cannot be transported in autonomous vehicles. It must be recognised that the weaponization of vehicles (albeit with a human driver) has played a large role in recent terrorist attacks in the UK. With this issue in mind it might never be possible or appropriate to fully automate all vehicles on the road, which may impact the long-term approach and the legislative underpinning of autonomous vehicles.

The Zenic roadmap for the development of autonomous vehicles talks of the need to remove roadside infrastructure and the replacement of things like road signs in favour of digital infrastructure. In a mixed road system, where human and autonomous vehicles interact, such an ambition may not be appropriate.

## **5. Centralising traffic powers**

We are concerned about proposals to centralise licensing (to a new single national system) and move regulatory tools for automated vehicles (such as for parking, road pricing and for traffic regulation orders) away from local authorities to UK-wide bodies. The rationale for such an approach does not take into account the loss of democratic accountability that would be created. Public support for, and trust in, autonomous vehicles will be an essential foundation for any system created, and the STUC would urge caution in defaulting to large centralised systems that break the democratic link.

It is essential that full consultation with local authorities, unions and communities is sought and incorporated into any recommendations. We would also encourage consideration of the weaknesses of other large centralising projects, such as the creation of a single board for Police Scotland and for the Fire and Rescue Service in Scotland, to better understand the problems associated with such an approach.

With specific regard to rural areas, the consultation is explicit about automated vehicles being unlikely to be in enough demand in rural areas to make the services profitable and therefore operational. Given

Scotland's significant rural geography, this begs serious questions about a focus on developing an automated vehicle industry ahead of other transport priorities which meet the transport needs in large rural areas in Scotland.

## **6. Accessibility**

While the consideration for how automated vehicles may offer greater accessibility for disabled people and older people is welcome, it is clear that there has been limited consultation and analysis of either the current barriers to transport or the needs disabled people and older people would like to be met through automated transport. It is essential that thorough analysis and consultation is undertaken as a priority.

The STUC would also urge caution in assuming that the potential upsides of automation in equality terms are easily delivered. Evidence from other waves of automation, for example the expansion of online banking and the roll out of Universal Credit, suggests that older people and disabled people are often further disadvantaged by such changes.

## **7. Requirement not to disadvantage other road users**

The length and detail of the consultation document demonstrates the wide range of factors which would need to be considered in order to move towards safe trial or eventual operation of fully autonomous vehicles. It should be a requirement of any licencing system to prove that it will not unfairly disadvantage pedestrians, cyclists and other road users.

In addition, the STUC is deeply concerned that no consideration is given to the interaction between automated vehicles and emergency vehicles.

## **8. Safe interaction with level crossings**

A small but not irrelevant concern with programming of autonomous vehicles would be their potential interaction with level crossings on the railway. We would wish to see specific licensing conditions that cover how autonomous vehicles will keep level crossings safe and not lead to railway trespass or incidents.

## **9. Increasing carbon emissions and contribution to climate change**

The consultation document references the likelihood that passenger-only vehicles used in urban environments could potentially lead to increased traffic as they will be travelling around cities while they are unoccupied.

Currently vehicles only move when occupied. Furthermore, the consultation is explicit that automated vehicles are likely to be producing carbon emissions until 2050.

Given the levels of road congestion in UK cities, it is clear this is incompatible with commitments to tackling climate change, specifically the Scottish Government's commitment to reduce carbon emissions by 2045. The over-riding aim must be to reduce the use of any kind of sole- or small-occupancy vehicle in urban areas, in favour of rail, buses and other mass transit.

#### **10. Detrimental impact on public services**

One of the UK Government's nine principles for the future of urban mobility is that mass transit must remain fundamental to an efficient transport system. However, the consultation document does not make a coherent case about how automated vehicles support public transport (mass transit) services, stating, in fact, that there is a danger once people get into a single-occupancy HARPS [Highly Automated Road Passenger Services] they will take it to their final destination'.

The consultation asks if new statutory powers should be introduced to require local authorities and other transport authorities to meet the needs of automated vehicles. Given the lack of consultation that has taken place between local authorities and trade unions representing transport workers, it is premature to recommend legislation until a full and informed understanding of the impact of automated vehicles on public transport services has been undertaken.

#### **11. Unemployment**

The consultation refers to retraining possibilities for professional drivers. The STUC agrees with the consultation paper where it states that 'Retraining following automation in the road vehicle sector is likely to require particular attention'.

While the STUC would support initiatives to retrain and support workers who are impacted by change within any sector, this can only be done effectively if there is early and effective engagement with the workforce and trade unions.



The STUC is involved in significant work around retraining and upskilling, including the National Retraining Partnership. At the heart of this work is a commitment from employers to support workers and pursue Fair Work business models. However, it is also important to recognise that some workers impacted by the types of changes outlined within the consultation document (for example taxi drivers or delivery drivers) may be self-employed, or bogusly self-employed. These workers will be particularly at risk due to automation and the current system offers them little support.

The STUC is deeply concerned about any loss of employment or deskilling as a result of introducing automated vehicles and expects thorough and early consultation with trade unions workers and all levels of government, including local government, on any proposed changes to the employment structure in transit and transport systems.