

Passenger services and public transport

Consultation response from UK Bus Division of FirstGroup plc

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

Yes

Q2 Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

Yes

Q3 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 Is the concept of “carrying passengers for hire or reward” sufficiently clear?

Yes, it is a well-established and clearly defined concept.

Q5 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.

Whilst we recognise the rules should apply that control operator licensing and service operation for the bus and coach industry, and the permitted exemptions, safety is our paramount consideration and we would be concerned about the ability to meet appropriate standards for HARPS operation of a community transport operator or other operator exempt from O licensing, if they were unable to demonstrate the same standards of financial standing or professional competence as an operator within the licensing regime.

Q6 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).

A key purpose of an PCV Operator licence is to ensure the safe and proper use of the vehicle(s) and this is just as important for trials as for regular use. There should be no exemption for trials, but we accept that it might be appropriate to modify the licensing regime for such trials initially. We will commence trial operation of autonomous PCVs in service within the next 12 months) to learn the lessons we need to formulate any changes required for specific HARPS licenses. This will be at Level 4 autonomy and we recognise that as we move to Level 5 autonomy we can expect to have to go through a similar learning exercise.

Q7 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 How should a transport manager demonstrate professional competence in running an automated service?

The transport manager should have specific responsibility to ensure that the vehicle supplier's maintenance regime is in place and is being adhered to, and to ensure that any "safety driver" or "safety operator", whether on board or remote has the appropriate qualifications and vehicle specific training, is managed appropriately and undertakes dCPC ongoing training (or equivalent as this evolves). The transport manager should be responsible for establishing and maintaining the safety case for operation.

On a day-to-day basis, the transport manager should show they are able to ensure adherence to any legal standard established for the HARPS automated driving system. We would expect this to replicate as far as possible the requirements for PCV drivers and for transport managers responsible for "conventional" operation, as well as any vehicle specific requirements for HARPS.

Q9 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 Do you agree that legislation should be amended to clarify that HARPS operators are "users" for the purposes of insurance and roadworthiness offences?

We consider that the organisation responsible for the operation of the vehicle under its PCV Operator's license should be legally responsible for maintaining insurance and roadworthiness as far as this is possible, given the likely need for the latter to be subject to specialised safeguards and checks by its manufacturer at least in the early years of deployment, and for which the manufacturer will need to bear responsibility.

Q11 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 – subject to definition of 'reasonable' in point (4).

Q12 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)?

This seems sensible. We believe that this data should be easy enough to obtain and sharing it would be in line with Bus Open Data requirements being put in place by Government.

Q13 Do you agree that the legislation should set out broad duties, with a power to issue statutory guidance to supplement these obligations?

Yes

Q14 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 rules applying to open data should be the same irrespective of whether the vehicle(s) providing the service are driven or autonomous – so if it's in scope for bus operation, it should remain so for HARPS. We expect that operators of local bus services will be mandated to provide price information under Bus Open Data legislation from 1 January 2021.

Q15 Who should administer the system of HARPS operator licensing?

Traffic Commissioners

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

No comments

Q17 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?

No – any such operation should be a local bus operation the responsibility of the operator – the only form of derogation should apply to a vehicle used “on loan” as a trial for a period of not more than 2 weeks, as under PCV O licensing, provided that full responsibility is taken on a defined basis between the vehicle supplier and the holder of the O license.

Q18 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 Do you agree that there should be a statutory presumption that the registered keeper is the person who keeps the vehicle?

Yes

Q20 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?

Yes to both (1) and (2)

Q21 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, this is essential – these vehicles are highly complex specialised equipment that must be maintained according to manufacturers' specifications.

Q22 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.

It is possible that the growth of peer-to-peer lending and group arrangements could undermine the Government's desire to increase the number of passengers travelling by mass public transport (such as buses and their autonomous successors). Peer to peer lending of autonomous vehicles and small group travel will still contribute to congestion on the roads. It is important that such developments do not make it even harder to promote modal shift towards mass public transport.

Q23 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.

This seems appropriate.

Q24 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 consider that application of PSVAR, even if the capacity of the vehicle is <22, would be sensible to set a minimum standard that passengers can expect. Ramps are a difficult area as the vehicle needs to know when they are safe to deploy, but under level 4 autonomy we recommend a manual ramp in any event as these are less prone to failure. With level 5 autonomy vehicles will by necessity require an automatic ramp. Use of HARPS will require amendments to (or derogations from) PSVAR and/or the "conduct regulations" as a passenger in a wheelchair should be assisted by the "driver" which will not be possible under level 5 autonomy.

Q25 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 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?

(1) see comments at response to Q24; (2) yes – but this should be medium agnostic, so it might mean sending individual messages to registered users of the service, or in response to a push-button request, rather than broadcasting – depends on the type of service being offered; (3) this will need

to take account of costs and practical considerations, particularly with demand-responsive services not on fixed routes.

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

As with our response to Q24 we believe existing PSVAR should be the starting point.

Q28 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.

There is a more fundamental question here – are HARPS within scope of ENCTS or other national concessionary schemes? If they are in scope, then data reporting requirements should be the same as those for any other in scope PCV service.

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

No – vehicles should be programmed to follow traffic regulations (with appropriate override such as pulling over onto kerb where safe if an ambulance needs to get through etc) with digital mapping of TROs and other regulations as appropriate.

Q30 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?

An appropriate balance has to be established between private and public transport – it is not appropriate for private AVs to be seen as acceptable where cars are not, and therefore favoured with more relaxed parking regimes. AVs are still congestion and they still impede the efficient and timely operation of buses (and potentially HARPS). The same rules must apply irrespective of whether vehicles are driven or autonomous. The principle should be in favour of modal shift towards public transport in each case.

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

There should be a presumption in favour of public transport whether vehicles are driven or autonomous, as per response to Q30.

Q32 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.

Again, the same rules should apply whether the vehicles are driven or autonomous. Where there is a need to tackle congestion, funds raised should be ring fenced for public transport spending.

It is essential that road pricing and parking provisions for HARPS do not encourage the growth of vehicles for individual or small group use to the detriment of the Government's drive to increase use of public transport.

Q33 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?

This will be important to avoid the potential congestion problems identified above.

Q34 Do you agree that there should be no powers to impose quantity restrictions on the total number of HARPS operating in a given area?

Subject to the comments made in response to Q30-Q33 above, there current Traffic Regulation Condition powers are sufficient to control quantity of supply for public transport. Road charging and parking fees should be used to control private AV use.

Q35 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?

The same rules and regulations should apply irrespective of whether the vehicle is driven or autonomous, including those relating to flexible service licensing for demand responsive routes.

Q36 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.

Various observations made in response to earlier questions are relevant here particularly in respect of safety and operator licensing.

Q37 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?

Yes

Q38 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.

Yes, but only in as far as this applies to driven PCV services.