

**Response to Law Commissions' second consultation on Automated Vehicles
(Law Commission Consultation Paper 245; Scottish Law Commission Discussion Paper 169)**

Please note that this consultation response has been reproduced from information entered on the Citizen Space online portal.

Any personal email addresses and phone numbers have been excluded from this document.

Unanswered questions have been deleted from this document.

What is your name?

Nicholas Moylan

What is the name of your organisation?

XPI Simulation Ltd

Are you responding to this consultation in a personal capacity or on behalf of your organisation?

[Respondents chose from the following options: Personal response; Response on behalf of your organisation; Other.]

Responding on behalf of organisation

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?

[Respondents chose from the following options: yes; no; other.]

Yes

Existing regulation is highly localised, allowing different requirements for licensing to be applied or even multiple conflicting requirements to be applied to operators across boundaries. This will likely increase the burden upon all involved in conducting the necessary testing to achieve the operator licenses - particularly where the operator licensing is increasingly technology focussed. This would act as a barrier to all entrants, and unnecessarily increase the cost of deploying HARPS.

Consultation Question 2 (Paragraph 3.86): Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

[Respondents chose from the following options: yes; no; other.]

Yes

System safety must be assured, prior to deployment on the road, using thorough testing in synthetic environments. National minimum standards for safety minimises the range of requirements set on a local level, which would increase the complexity and cost and thereby reduce the overall safety of the system.

Local requirements, if any, may be layered on, provided they do not conflict with the national requirements, for example, making all HARPS conform to a particular city 'brand' provided it does not reduce the ODD.

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)?

[Respondents chose from the following options: yes; no; other.]

Yes

Consultation Question 4 (Paragraph 4.34): Is the concept of “carrying passengers for hire or reward” sufficiently clear?

Yes

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.

Any exemptions should not reduce the level of safety applied to the operation of the system, and suggest that the overall HARPS licensing system should be made accessible to these user groups.

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).

Yes, exemptions and modification to license provisions should be permitted, in order to permit testing of HARPS. Particularly where new ways of working are being trialled, which would place the operation outside the license provisions, but offer safety improvements through innovation. Or where the requirements to obtain a license are not sufficiently streamlined that they would act to limit innovation.

Minimum standards for safety in operation however, must always be assured, in a similar way to that already proposed through CAV PASS.

Operator requirements

Consultation Question 8 (Paragraph 4.73): How should a transport manager demonstrate professional competence in running an automated service?

This would depend upon the future role of the transport manager. However, the key roles appear to be:

1. Assuring the proper operation and maintenance of the fleet.
2. Responding to events requiring human intervention, such as removing the vehicles from inappropriate locations.

This would suggest that two requirements for proving the transport manager is SQEP is:

1. Certification from a regulatory authority in the requirements for operation and maintenance of HARPS (similar to in aerospace with CAA Operator Approved Organisation Scheme and Maintenance Approved Operator Scheme).
2. Scenario based assessments for responding to events (similar to simulator testing for pilots).

Role 2, appears to be a much more 'real time' role, requiring a transport manager to be on duty at all times the HARPS is in operation. For occasional HARPS operators, this may be a problem, given the current employment requirements. Consideration should be given to amending the requirements to allow this to be contracted out to a service.

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”?

[Respondents chose from the following options: yes; no; other.]

Yes

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?

[Respondents chose from the following options: yes; no; other.]

Yes

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?

[Respondents chose from the following options: yes; no; other.]

Yes

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)?

[Respondents chose from the following options: yes; no; other.]

Other

We believe that a wider requirement on all autonomous vehicles to log events, particularly relating to incidents, accidents or near misses should be required, in a similar way to current aircraft black boxes.

This information should be reported, in an open way, in order to provide the maximum opportunity to improve overall system safety, particularly where lessons may be learned by system designers, operators and regulators.

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?

[Respondents chose from the following options: yes; no; other.]

Yes

We believe that a wider requirement on all autonomous vehicles to log events, particularly relating to incidents, accidents or near misses should be required, in a similar way to current aircraft black boxes.

This information should be reported, in an open way, in order to provide the maximum opportunity to improve overall system safety, particularly where lessons may be learned by system designers, operators and regulators.

Who should administer the system?

Consultation Question 15 (Paragraph 4.138): Who should administer the system 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 transport of freight.

With the exception of some specific requirements relating to the carriage of passengers, and requirements relating to the carriage of goods/ freight. The proposals should be highly relevant.

A sub-set of requirements and regulation should therefore be identified as common to any commercial autonomous vehicle operation, with specific requirements for passenger and freight carrying applied after. This would minimise the requirement for system designers and operators to comply with licensing requirements.

CHAPTER 5: PRIVATELY-OWNED PASSENGER-ONLY VEHICLES

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?

[Respondents chose from the following options: yes; no; other.]

Other

It should be possible, whilst not removing the requirement for owner responsibility to use some of the services available to HARPS operators, such as use of a transport manager, to take on some of the responsibility for autonomous vehicle management, such as removing the vehicle if it causes an obstruction or is left in a prohibited place, should this be too onerous on the registered keeper. For example when considering access to the technology by disabled users, who may otherwise not be capable carry out this function.

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?

No

While we believe the ability to contract out these services to a licensed provider should be available, if required, placing a requirement to do so would provide a burden above and beyond that for HARPS operators who could perform the activities themselves. There should be no legislation requiring a contract for this, but instead regulation requiring that it takes place (allowing for either contracted out or suitably qualified keepers to conduct this themselves).

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.

This should be made as analogous to current requirements for providing outline cost of ownership.

CHAPTER 6: ACCESSIBILITY

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?

[Respondents chose from the following options: yes; no; other.]

Yes