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Dear Law Commission,

P3 Mobility welcomes the chance to respond on the subject of safety assurance for autonomous vehicles, and thanks the Law Commission of England & Wales and the Scottish Law Commission for their work on the production of Consultation Paper 3.

On the following pages you will find our responses to your questions from CP3, plus some additional comments and thoughts that we believe may be of interest.

If any clarifications or further explanation is required, please do not hesitate to come back to us.

Yours faithfully

Scott Broughton
Homologation Lead
P3 Mobility



UK Law Commission CP3 Question 1

4.114. We provisionally propose that:

- (1) a vehicle should not be classified as self-driving if, with the ADS engaged, the user-in-charge needs to monitor the driving environment, the vehicle or the way it drives;
- (2) it is nevertheless compatible with self-driving to require the user-in-charge to respond to a clear and timely transition demand which:
 - (a) cuts out any non-driving related screen use;
 - (b) provides clear visual, audio and haptic signals; and
 - (c) gives sufficient time to gain situational awareness;
- (3) to be classified as self-driving, the vehicle must be safe enough even if the human user does not intervene in response to any event except a clear and timely transition demand.

Do you agree?

P3 Mobility response

(1) Yes, we agree with this proposal;

(2) We agree with (a), (b) and (c);

(3) Even a full self-driving vehicle without manual driving controls may sometimes need assistance from a remote human operator, at least in the early stages of adoption, so to claim that to be a self-driving, the vehicle needs to be safe enough in "any event" could be a challenge even for the most advanced vehicle.

UK Law Commission CP3 Question 2

4.115. We welcome views on whether self-driving features should be designed to ensure that they can be used by people with hearing loss.

P3 Mobility response

New technology should be available to all, wherever possible. Enabling self-driving vehicles to be able to be used by people with hearing loss should not be a huge technological challenge, therefore should be ensured.

UK Law Commission CP3 Question 3

5.118. We provisionally propose that the decision whether a vehicle is sufficiently safe to "safely drive itself" should be made by the Secretary of State, as informed by advice from a specialist regulator.

Do you agree?

P3 Mobility response



We agree with this proposal.

UK Law Commission CP3 Question 4

5.119. We welcome observations on which of the following standards is most appropriate when assessing the safety of automated vehicles:

- (1) as safe as a competent and careful human driver;
- (2) as safe as a human driver who does not cause a fault accident;
- (3) overall, safer than the average human driver.

P3 Mobility response

There will always be a high level of scrutiny and public interest in an accident involving an autonomous vehicle. Due to this, and to fully exploit the safety opportunities offered by an autonomous vehicle, an automated vehicle should be safer than the average human driver. By their very nature, an autonomous vehicle should satisfy this standard as they will not be distracted or become tired, for example.

UK Law Commission CP3 Question 5

5.120. We welcome observations on how automated vehicles can be made as safe as reasonably practicable.

P3 Mobility response

Firstly, autonomous vehicles should meet all applicable passive safety requirements that are applied to conventional vehicles of the same vehicle category (i.e. M1, M2 etc.). Some of these requirements may not apply to certain autonomous vehicles, such as head impacts on a steering wheel for vehicles without manual driving controls, so an assessment of which requirements should be applied would be required.

With regards to the autonomous driving system, to be as safe as reasonably practicable, the system will need to be subjected to a combination of real-world trialling, simulation and track-based activity to ensure that the greatest number of scenarios are experienced. There will always be situations that are not covered by this work, but trying to cover all edge-cases will delay implementation of a technology that offers significant safety, security and accessibility benefits.

UK Law Commission CP3 Question 6

5.121. We welcome practical suggestions for how AV regulators can fulfil their public sector equality duty.

P3 Mobility response

We do not have an opinion on this subject.

UK Law Commission CP3 Question 7

7.99. We provisionally propose that:



- (1) safety assessment should use a variety of techniques;
- (2) manufacturers/developers should submit a safety case to regulators showing why they believe that the automated driving system is safe;
- (3) regulators should:
 - (a) provide guidelines for what is in the safety case;
 - (b) audit the safety case;
 - (c) prepare guidance for manufacturers and developers on preferred standards; and
 - (d) carry out at least some independent tests.

Do you agree?

P3 Mobility response

This follows the same approach as other requirements in European Whole Vehicle Type Approval that have demanded manufacturers to prepare a document ahead of vehicle approval, such as complex electronic system for braking. However, regulators do not normally provide "guidance" for manufacturers on preferred standards. Either the standards are mandated within legislation, or the manufacturers are required to choose a suitable standard based on the requirements.

UK Law Commission CP3 Question 8

7.100. We seek views on whether an approval authority that intends to use a scenario database as part of the testing procedure should consult road user groups on the range of scenarios to be included.

P3 Mobility response

Consultation with interested stakeholders, such as road user groups, would be a useful exercise as long as the scenario database does not become an overbearing part of the process. The approval authority will need to have a process to determine which scenarios should be included in the database and which could be covered by other, perhaps more severe, scenarios that already exist in the database.

UK Law Commission CP3 Question 9

8.17 We provisionally propose that:

- (1) unauthorised automated driving systems should be prohibited; and
- (2) this should be subject to an exemption procedure by which the Secretary of State may authorise unauthorised systems to be used in tests and trials.

Do you agree?

P3 Mobility response

Agreed. For commercial rollout, unauthorised automated driving systems should be prohibited with an exemption procedure for the use of unauthorised systems for tests and trials.



UK Law Commission CP3 Question 10

8.25 We provisionally propose that:

- (1) the Government should establish a domestic scheme to approve automated driving systems (ADSs) for use on roads in Great Britain (a “national ADS approval scheme”);
- (2) manufacturers should have a free choice to apply for approval under either the UNECE system of international type approvals or through the national scheme;
- (3) developers should be able to submit an ADS for national approval, even if they are not responsible for manufacturing the whole vehicle.

Do you agree?

P3 Mobility response

- (1) We very strongly support the establishment of a national ADS approval scheme for Great Britain. The wait for a UN ECE system may be long meaning that safety benefits offered by autonomous vehicles will not be realised as early as they could be. Having a national scheme in place will be a benefit to the country as well as to companies who are working towards commercial rollout in the next few years.
- (2) We agree that the manufacturer should have a free choice. Having the choice of following the national scheme or the UN ECE system will offer flexibility to those manufacturers that are only interested in the domestic market and those with wider ambitions.
- (3) We are supportive of this approach. It should be followed by an approval of the installation into a vehicle before the ADS-equipped vehicle is commercially released.

UK Law Commission CP3 Question 11

8.43. We provisionally propose that:

- (1) an ADS approval scheme should be established through regulation under the Road Traffic Act 1988, without further legislative reform;
- (2) an ADS should be defined as a combination of software, hardware and sensors, which can be installed in a “type” of vehicle;
- (3) when an ADS is approved, the approval should be accompanied by specifications for:
 - (a) the type of vehicle in which it can be installed; and
 - (b) how the ADS is installed within the vehicle;

(4) where an ADS is installed in a pre-registered vehicle, an example vehicle should be submitted to the regulator for approval of the installation.

Do you agree?

P3 Mobility response

(1) We agree with this proposal. No further legislative reform is required to allow the establishment of an ADS approval scheme;

(2) Vehicle "type" needs careful definition, either through reference to an existing definition in current legislation (i.e. the European framework directive), or through some other means;

(3)

(a) Care needs to be taken here regarding the use of the word "type". When an ADS is approved as a component, the ADS developer is unlikely to know all of the customers for their system and would therefore not be able to list all of the vehicle types (in the type approval sense) that the system will be installed in. What the developer should define is which category of vehicle the system can be used in such as M1 (passenger car), N3 (large commercial vehicle) etc.;

(b) There should be an open exchange of information between the ADS developer and the vehicle manufacturer with regards to installation requirements for the ADS. Certain elements of that information should be included in the approval documentation submitted to the authority for the approval of the ADS.

The following are examples of the information that is required to be supplied by the ADS supplier to the vehicle manufacturer in order to allow successful integration of the ADS into the vehicle:

- Sensor information regarding the following:
 - Package size and required location around the vehicle;
 - Required field of view;
 - Cleaning requirements;
 - Power requirements;
 - Mounting requirements (for vibration and stiffness);
 - Water or dust protection;
- Computer size and required location (if any);
- Electrical interface requirements;
- Servicing / maintenance requirements;
- Functional safety goals for the ADS.

UK Law Commission CP3 Question 12

8.44. We invite observations on the appeal process in regulation 19 of the Road Vehicles (Approval) Regulations 2020, including:



- (1) how it works in practice; and
- (2) how well is it suited to the proposed national ADS approval scheme.

P3 Mobility response

We have no experience of the appeals process, therefore are not able to offer any comment on this topic.

UK Law Commission CP3 Question 13

8.71 We provisionally propose that:

- (1) once an ADS has received type approval at either international or domestic level, an Automated Driving System Entity (ADSE) would need to submit the vehicle to the UK safety regulator for categorisation as able to safely drive itself;
- (2) the safety regulator should make a recommendation to the Secretary of State for how the vehicle should be classified;
- (3) it should be open to the safety regulator to recommend that an ADS-enabled vehicle is classified in one of three ways: as not self-driving but driver assistance; as self-driving only with a user-in-charge; or as self-driving without a user-in-charge;
- (4) the safety regulator should only recommend classification as self-driving (either with or without a user-in-charge) if it is satisfied that:
 - (a) an ADSE is registered as taking responsibility for the system;
 - (b) the ADSE was closely involved in assessing safety and creating the safety case; and
 - (c) the ADSE has sufficient funds accessible to the regulator to respond to improvement notices, to pay fines and to organise a recall.

Do you agree?

P3 Mobility response

(1) Agreed. We expect that the ADSE will either be the vehicle manufacturer who has also developed their own ADS, or a partnership between the developer and the manufacturer. The third category that you proposed of 'software developer' is less likely as the safety case will need to involve vehicle-related details as well as those for the ADS. Also, it is more likely that the vehicle manufacturer will be responsible for the approval and categorisation application.

(2) To reduce application periods, it would be beneficial for the safety regulator to have delegated authority from the Secretary of State, much like the current situation for vehicle type approval with the VCA;

(3) Agreed. We consider the proposed categories as being sufficient and it should be the safety regulator who makes the category recommendation;

(4)

(a) Agreed.

(b) Agreed in principle, but it may be difficult to demonstrate that an entity has been "sufficiently" or "closely" involved with the creation of the safety case. We believe that if the ADSE puts its name to the safety case, as you have proposed, this should be sufficient without having to prove their involvement in the creation of the document. All entities should appreciate the legal responsibility it is taking on when putting their name to the case, so the additional demonstration of involvement should not be necessary.

(c) If the meaning of this proposal is to have funds that are visible or demonstrable to the regulator rather than the regulator having access to these funds, we agree.

UK Law Commission CP3 Question 14

8.77 We provisionally propose that a new legislative framework should provide regulation-making powers to specify:

- (a) who should assess whether a vehicle is capable of self-driving;
- (b) the procedure for doing so; and
- (c) criteria for doing so.

Do you agree?

P3 Mobility response

Agreed.

UK Law Commission CP3 Question 15

8.78 We seek views on whether new legislation should include provisions for appeals against a categorisation decision. If so, should these be similar to those in regulation 19 of the Road Vehicles (Approval) Regulations 2020?

P3 Mobility response

We have no experience of submitting an application according to regulation 19 of the Road Vehicles (Approval) Regulations 2020, but having read the regulation, it seems to represent a logical approach. As this is a pre-existing process, it seems unnecessary to draft anything significantly different, unless others have negative experiences of following the process.

UK Law Commission CP3 Question 16



8.83 We seek views on whether the regulator that classifies vehicles as self-driving should have power to allow their deployment in limited numbers, so as to gather further data on their safety in real world conditions.

P3 Mobility response

We welcome the proposal to offer the regulator the power to allow deployments in limited numbers. This could be a good opportunity to demonstrate safety prior to widespread roll-out that could offer a real safety benefit when a more widespread deployment is authorised. It also allows the public to become accustomed to autonomous vehicles being present on the roads.

UK Law Commission CP3 Question 17

10.82 We provisionally propose that legislation should establish a scheme to assure the safety of automated driving systems following deployment, giving scheme regulators enhanced responsibilities and powers.

Do you agree?

P3 Mobility response

Agreed. Automated driving systems need post-deployment monitoring to a greater extent than conventional vehicles primarily because of the significance of updates that can be made and their effect on the safety of the vehicle.

UK Law Commission CP3 Question 18

10.83 We provisionally propose that the enhanced scheme should give regulators the following responsibilities and powers:

(1) scheme regulators should be responsible for comparing the safety of automated and conventional vehicles using a range of measures;

(2) to do this the regulator should have power to collect information on:

(a) leading measures (instances of bad driving which could have led to harm) and

(b) lagging measures (outcomes which led to actual harm);

(3) regulators should have the power to require an ADSE:

(a) to update software where an update is needed to ensure safety and continued compliance with the law;

(b) to keep maps up-to-date, where an AV relies on maps to ensure safety and compliance with the law;

(c) to communicate information about an ADS to users in a clear and effective way, including where necessary through training.

Do you agree?



P3 Mobility response

We agree that all of these proposals represent a good approach.

UK Law Commission CP3 Question 19

10.84 We welcome views on the following issues:

- (1) Should scheme regulators be empowered to approve software updates that apply only within the UK, without requiring the manufacturer to return to the original type approval authority?
- (2) Should the scheme also deal with cybersecurity?
- (3) Are other powers needed? (Note that data is discussed in Chapter 17.)

P3 Mobility response

- (1) We believe that there are scenarios where software will differ from one country to another, therefore there is likely to be updates required on certain country-specific code. When this occurs, it may not be possible for the issuing type approval authority to approve the update as they may not have knowledge of the local laws that the update is covering. In this situation it is better for national scheme regulators to have power to approve software updates that only apply in the UK.
- (2) One way or another, the scheme should deal with cybersecurity. This could be with a reference to the UN ECE regulation on cybersecurity and the need for the vehicle type being approved to meet the UN ECE requirements, or, in the absence of a manufacturer being able to comply with those requirements due to cost and complexity reasons, the scheme should set its own requirements.
- (3) We have nothing to add.

UK Law Commission CP3 Question 20

10.100 Should the authority administering the scheme to assure safety while automated vehicles are in use be kept separate from type approval authorities (as is already the case)? Alternatively, should both functions be combined in a single body?

P3 Mobility response

Whilst we can appreciate the benefit of a single body that builds a high level of expertise and knowledge in a single place, we believe that it is better to proceed with two separate bodies in line with the requirements of Regulation 2018/858. This will ensure that GB remains equivalent in organisational structure to EU member states. Also, as mentioned in CP3, this will mirror the arrangement that currently exists with VCA and DVSA.

UK Law Commission CP3 Question 21

10.101 What formal mechanisms could be used to ensure that the regulator administering the scheme is open to external views (such as duties to consult or an advisory committee)?

P3 Mobility response

We believe that regular consultation meetings should take place between the administering regulator, subject-matter experts, vehicle and ADS manufacturers, and any other interested parties. These could be administered by SMMT in the same manner as existing industry meetings, or directly by the administering regulator.



UK Law Commission CP3 Question 22

11.24 We provisionally propose that a statutory scheme to assure AVs in-use should:

- (1) investigate safety-related traffic infractions (such as exceeding the speed limit; running red lights; or careless or dangerous driving);
- (2) investigate other traffic infractions, including those subject to penalty charge notices;
- (3) if fault lies with the ADSE, apply a flexible range of regulatory sanctions.

Do you agree?

P3 Mobility response

We believe that an investigation of all traffic infractions would be a beneficial way of improving the overall safety of the ADS, as well as potentially improving infrastructure through the highlighting of poor signage or inconsistent rules, as described in CP3 (11.23). It would be negligent not to make use of the large amount of data available through the use of autonomous vehicles if improvements in safety could be the result.

UK Law Commission CP3 Question 23

11.53 We provisionally propose that the regulator which assures the safety of AVs in-use should have powers to impose the following sanctions on ADSEs:

- (1) informal and formal warnings;
- (2) fines;
- (3) redress orders;
- (4) compliance orders;
- (5) suspension of authorisation;
- (6) withdrawal of authorisation; and
- (7) recommendation of attendance at a restorative conference.

Do you agree?

P3 Mobility response

We agree with this proposal and would request that clear guidance is provided as to when each of these sanctions would be imposed.

UK Law Commission CP3 Question 24

11.54 We provisionally propose that the legislation should provide the regulator with discretion over:

- (1) the amount of any monetary penalty; and
- (2) the steps which should be taken to prevent re-occurrence of a breach.

Do you agree?

P3 Mobility response



Agreed. Having the ability to set fines appropriate to the infringement will provide an incentive to the ADSE to take the right approach to safety rather than being able to perform a cost of penalty vs. cost of robustness calculation.

UK Law Commission CP3 Question 25

11.69 We provisionally propose that a specialist collision investigation unit should be established:

- (1) to analyse data on collisions involving automated vehicles;
- (2) to investigate the most serious, complex or high-profile collisions; and
- (3) to make recommendations to improve safety without allocating blame.

Do you agree?

P3 Mobility response

We agree with the proposal.

UK Law Commission CP3 Question 26

11.82 We provisionally propose that the UK Government should establish a forum for collaboration on the application of road rules to self-driving vehicles.

Do you agree?

P3 Mobility response

This is an area that will require attention, so we agree with the proposal.

UK Law Commission CP3 Question 27

11.83 We welcome views on:

- (1) the issues the forum should consider;
- (2) the composition of the forum; and
- (3) its processes for public engagement.

P3 Mobility response

- (1) The forum should provide guidance and interpretation on the Highway Code.
- (2) The forum should consist of regulators, industry-experts, vehicle manufacturers and ADSEs.
- (3) Formal reports should be issued after each meeting and made available through a publicly-accessible website. The UN ECE WP.29 website is a good example where all papers are available, along with working documents from informal working group meetings.

Questions from CHAPTER 12: THE USER-IN-CHARGE have not been considered by P3 Mobility as it is not a focus of our business.

UK Law Commission CP3 Question 37(a)

13.67 We provisionally propose that:

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| (1) where an individual is exercising lateral and longitudinal control (steering and braking) over a vehicle remotely, that should not be regarded as a form of "self-driving"; and
(2) where lateral and longitudinal control are exercised by an ADS, all other forms of remote operation should be regulated as "self-driving". |
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Do you agree?

P3 Mobility response

We agree with both of these points. If a remote operator can take full control of the vehicle, this should not be considered as "self-driving". However, if the remote operator provides commands to the ADS on how to proceed should it encounter an obstacle, this should be considered as "self-driving" if the vehicle is then left to complete the manoeuvre (with monitoring from the remote operator) and continue on its journey. In this situation, the ADS remains the driver. The ADS would need to judge whether the instructions received from the remote operator represent a safe path ahead and also whether the manoeuvre is legal.
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UK Law Commission CP3 Question 37(b)

13.68 We welcome views on whether the current definition of when a vehicle "drives itself" under the Automated and Electric Vehicles Act 2018 should be amended to deal with some forms of remote operation which may involve a degree of "monitoring".

P3 Mobility response

The definition in the Automated and Electric Vehicles Act 2018 is as follows:

<i>"a vehicle is "driving itself" if it is operating in a mode in which it is not being controlled, and does not need to be monitored, by an individual;"</i>

We believe it is only the second part of this definition that needs amending to cover the situation where the vehicle is being monitored remotely by an individual who is not within, or in sight of, the vehicle.
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UK Law Commission CP3 Question 38

13.86 We provisionally propose that:

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| (1) the regulation of self-driving vehicles should distinguish between an Automated Driving System Entity (which vouches for the design of the system) and an operator (responsible for the operation of individual vehicles);
(2) all vehicles authorised for use on roads or other public places with no user-in-charge should either:
(a) be operated by a licensed operator; or
(b) be covered by a contract with a licensed operator for supervision and maintenance services; |
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(3) it should be a criminal offence to use a NUIC vehicle on a road or other public place unless it is operated by a licensed operator or is covered by a contract with a licensed operator for supervision and maintenance services.

Do you agree?

P3 Mobility response

- (1) We agree that the regulation should distinguish between and ADSE and an operator, even though the ADSE may also fulfil the role of the operator.
- (2) We agree with the proposal.
- (3) We agree with the proposal.

UK Law Commission CP3 Question 39

13.92 We welcome views on whether NUIC operators should be required to demonstrate professional competence through a safety management system, as set out in a safety case.

P3 Mobility response

We believe that demonstrating professional competence through a safety management system is the best approach, rather than requiring qualified individuals to be employed. As this is a new area, it may be difficult to find a candidate with relevant experience for the required roles, but there may well be very suitable candidates who have the right attitude and approach but cannot demonstrate their ability through qualifications or experience. Providing a safety case is a good way for a NUIC operator to demonstrate their credentials.

UK Law Commission CP3 Question 40

13.108 We provisionally propose that, irrespective of the nature of the vehicle, a licensed operator should be under a duty to:

- (1) supervise the vehicle;
- (2) maintain the vehicle;
- (3) insure the vehicle;
- (4) install safety-critical updates and maintain cybersecurity; and
- (5) report accidents and untoward events (as defined by the regulator).

Do you agree?

P3 Mobility response

(1) We agree with the proposal.

(2) Caution is required with maintenance to not go against what the European Commission has introduced with their repair and maintenance information (RMI) requirements. It is unfair on customers and independent repairers if a vehicle can only be maintained by outfits recognised by the vehicle manufacturer. There is a risk of prices being unfairly high if this happens. We agree that certain repairs should not be carried out by inexperienced outfits or individuals, but this is already covered by the EU RMI legislation where relevant training has to be offered.



Initial rollout is likely to be as MaaS rather than sales to individuals, so the operators or manufacturers will likely maintain ownership of the vehicles, but once we are beyond this stage, careful thought should be given to how this repair information should be managed and cascaded by the manufacturers or ADS suppliers.

(3) As you highlight, it is probably best for the operator to deal with insurance in the early stages, but the responsibility should be able to be transferred to individuals when private ownership of a NUIC vehicle becomes more commonplace.

(4) Installation of safety-critical updates should be performed by the operator as part of the close relationship with the ADSE and/or the ADS supplier if they are not the same.

(5) As the operator will be monitoring all vehicles under their responsibility, they are best placed to report accidents and untoward events.

UK Law Commission CP3 Question 41

13.109 We provisionally propose that legislation should include a regulation-making power by which some or all of these duties could be transferred to the registered keeper or owner, if it was shown that it was appropriate to do so.

Do you agree?

P3 Mobility response

As mentioned in our response to Q40, we agree with the transfer of responsibility to the registered keeper.

UK Law Commission CP3 Question 42

13.116 We welcome views on how accessibility standards for Highly Automated Road Passenger Services (HARPS) might be developed.

13.117 We provisionally propose that:

(1) an accessibility advisory panel should be formed to include:

(a) the Equalities and Human Rights Commission; and

(b) representative groups for disabled and older persons;

(2) the Secretary of State should be obliged to consult with the accessibility advisory panel prior to setting any national minimum standards on HARPS;

(3) there should be a duty to periodically re-consult the accessibility advisory panel at set intervals to ensure requirements keep pace with developing evidence of technical feasibility and changing needs.

Do you agree?

13.118 We welcome views on what the set interval for periodically re-consulting the accessibility advisory panel should be.

P3 Mobility response

When developing standards for HARPS, the focus should remain on the service being offered as a whole rather than focussing on individual vehicles. There may be some items that would apply to all vehicles as part of achieving good accessibility to all, such as clear instructions to the passengers through signage or other means, but others should be applied to the service, such as the availability of wheelchair-accessible vehicles.

We need to be careful that 'stifling innovation' is not used as an excuse to provide an accessible HARPS that is sub-optimal. However, the needs of the less able-bodied present greater challenges than grab handles and wheelchair tie-downs when considering autonomous vehicles that can give rise to major vehicle architectural changes that offer no real benefit for 90% of the rides.

As has been mentioned in previous Law Commission documents, the presence of a human driver is of greater benefit to certain passengers than just a driver of the vehicle. Those that need assistance entering or leaving the vehicle, correctly tethering a wheelchair, or just need some reassurance during the ride, would struggle with a fully autonomous vehicle without any human assistant. An operator of HARPS would not want to provide an assistant with all vehicles, as this would heavily compromise the design of the vehicle, therefore not every vehicle should be required to be fully accessible to all members of society. The calculation of the required ratio of fully accessible vehicles within the fleet would need to be calculated and may differ from one region to another. What we as P3 Mobility are sure of is that the availability of the correct vehicle should be ensured, irrespective of their needs.

We agree with your proposal regarding the formation of an accessibility advisory panel. The opportunities presented by HARPS are so great, we want to make sure that, as far as possible, the benefits are realised.

Once the initial standards are defined, we believe that an annual meeting of the accessibility advisory panel should be sufficient, unless some event demanded an additional consultation, in which case an extraordinary meeting could be held.

UK Law Commission CP3 Question 43

13.133 We welcome views on who should administer the operator licensing scheme.

P3 Mobility response

We believe that the Traffic Commissioners would be best placed to administer the operator licensing scheme. In order to cover the demand for wheelchair-accessible vehicles, it is most likely that in the early stages of rollout conventional vehicles will be mixed with autonomous vehicles. It would be more convenient if this meant that a single licence was required from a single body.

UK Law Commission CP3 Question 44

14.107 We provisionally propose that:

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| (1) it should be a criminal offence for an ADSE to omit safety-relevant information or include misleading information when putting a vehicle forward for classification as self-driving or responding to information requests from the regulator; |
| (2) the offence should apply to senior managers (where it was attributable to the manager's consent, connivance or neglect); |
| (3) the offence should not apply to more junior employees; |
| (4) the offence should carry a higher sentence if it is associated with a death or serious injury; |
| (5) the offence should be prosecuted in England and Wales by either the regulator or the Crown Prosecution Service and in Scotland by the Procurator Fiscal. |

Do you agree?

P3 Mobility response

We agree with all items in this proposal.

UK Law Commission CP3 Question 45

14.108 We seek views on the following proposed offences.
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Offence A: non-disclosure and misleading information in the safety case

When putting forward a vehicle for classification as self-driving, it would be a criminal offence for the ADSE to

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| (1) fail to provide information to the regulator; or |
| (2) provide information to the regulator that is false or misleading in a material particular where that information is relevant to the evaluation of the safety of the ADS or the vehicle. |

The ADSE would have a defence if it could show that it took reasonable precautions and exercised all due diligence to prevent the wrongdoing.

The penalty would be an unlimited fine.

Offence B: non-disclosure and misleading information in responding to requests
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When a regulator requests specific information from an ADSE (whether before or after deployment), it would be a criminal offence for the ADSE to
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| (1) fail to provide information to the regulator; or |
| (2) provide information to the regulator that is false or misleading in a material particular where that information is relevant to the evaluation of the safety of the ADS or the vehicle. |

The ADSE would have a defence if it could show that it took reasonable precautions and exercised all due diligence to prevent the wrongdoing.

The penalty would be an unlimited fine.



Offence C: offences by senior management

Where offence A and/or offence B committed by a body corporate is proved—

(3) to have been committed with the consent or connivance of an officer of the body corporate; or
(4) to be attributable to neglect on the part of an officer of the body corporate, then that officer is guilty of the offence.

An officer includes any director, manager, secretary or other similar officer or any person who was purporting to act in any such capacity.

We see this as equivalent to offences under the Human Medicines Regulations 2012 and General Product Safety Regulations 2005, which carry a penalty of a fine and/or a maximum two years' imprisonment.

Offence D: aggravated offences in the event of death or serious injury following non-disclosure or provision of misleading information to the AV safety regulator

Where a corporation or person commits Offences A to C, that offence is aggravated where the misrepresentation or non-disclosure:

(5) related to an increased risk of a type of adverse incident; and
(6) an adverse incident of that type occurred; and
(7) the adverse incident caused a death or serious injury.

We see this as equivalent to the offence of causing death by dangerous driving, which carries a penalty of an unlimited fine and/or a maximum of 14 years' imprisonment.

P3 Mobility response

The requirements regarding supply of information to the regulator need to be clearly defined, as well as the timeframe in which the information shall be provided. If the ADSE is deliberately withholding information, this should be punished, but we do not want a situation where fines are levied for poor information if the requirements are not clear.

We agree with the proposed penalties.

UK Law Commission CP3 Question 46

14.109 We welcome views on whether an ADSE should be under a duty to present information in a clear and accessible form, in which safety-critical information is indexed and signposted.

P3 Mobility response

As the documentation involved with an ADS is likely to be complex and extensive, we agree that there would be a benefit to highlight safety-critical information.



UK Law Commission CP3 Question 47

15.10 We provisionally propose that legislative amendment should clarify that the tampering offence in section 25 of the Road Traffic Act 1988 applies to anything that is physically part of a vehicle and any software installed within it.

Do you agree?

P3 Mobility response

We agree that these parts of the vehicle need to be covered by an anti-tampering law. We do not have an opinion on the best way to achieve this.

UK Law Commission CP3 Question 48

15.11 We welcome views on whether the tampering offence should apply to external infrastructure required for the operation of the AV.

P3 Mobility response

We agree that tampering with the infrastructure required for the operation of an AV should be an offence. The law surrounding railway infrastructure mentioned within Consultation Paper 3 (15.9) serves as an important precedent.

UK Law Commission CP3 Question 49

15.53 We provisionally propose that there should be an aggravated offence of wrongfully interfering with an AV, the road, or traffic equipment contrary to section 22A of the Road Traffic Act 1988, where the interference results in an AV causing death or serious injury, in:

- (1) England and Wales; and
- (2) Scotland.

Do you agree?

P3 Mobility response

We agree with this proposal. We also think that consideration should be given to interference that does not result in causing death or serious injury, including deliberately impeding progress or 'intimidating' the ADS. This may be something that is already covered elsewhere in road traffic law, but it is something that could prove a serious issue when there is no human driver in the vehicle.

UK Law Commission CP3 Question 50

15.55 We provisionally propose that the appropriate mental element for the aggravated offence is intent to interfere with a vehicle, the road or traffic equipment.

Do you agree?



P3 Mobility response

We do not have an opinion on this.

UK Law Commission CP3 Question 51

15.62 We seek views on whether an approved work defence for repair or maintenance operations authorised by a vehicle manufacturer or Automated Driving System Entity is desirable.

P3 Mobility response

We do not have an opinion on this.

UK Law Commission CP3 Question 52

16.24 We provisionally propose that the way the Automated and Electric Vehicles Act 2018 deals with contributory negligence and causation is:

- (1) adequate at this stage; and
- (2) should be reviewed by the UK Government in the light of practical experience.

Do you agree?

P3 Mobility response

We do not have a view regarding point (1).

Regarding (2), we believe that any new technology should be reviewed once practical experience exists, so we welcome the proposal.

UK Law Commission CP3 Question 53

16.32 We provisionally propose that measures should be put in place to compensate the victims of accidents caused by uninsured AVs.

Do you agree?

P3 Mobility response

We agree with this proposal.

UK Law Commission CP3 Question 54

16.47 We provisionally propose that:

- (1) product liability law should be reviewed to take account of the challenges of emerging technologies;
- (2) any review should cover product liability as a whole, rather than be confined to automated vehicles: It should not, therefore, form part of this project on automated vehicles.

Do you agree?

P3 Mobility response

We agree that any review should be more general and not just focussed on AVs. We also strongly agree with your statement in 16.45 that "a clear law of product liability is not essential for the safe

introduction of AVs". Having to wait for a general product liability law to be drafted covering all new technologies and software updates could significantly delay the launch of AVs.

UK Law Commission CP3 Question 55

17.65 We provisionally propose that:

- (1) for a vehicle to be classified as self-driving, it needs to record the location as well as the time at which the ADS is activated and deactivated;
- (2) the Government should work within the UNECE to ensure data storage systems for automated driving record these data; and
- (3) any national system to approve an ADS should require these data to be collected, subject to safeguards.

Do you agree?

P3 Mobility response

- (1) Based on your justifications within CP3, we agree that location data and time of activation of the ADS is required for a vehicle to be classified as self-driving.
- (2) Given that data storage systems are already being discussed by UN ECE working groups, it is best for the UK Government to work within these groups to ensure a harmonised approach.
- (3) We agree with this proposal.

UK Law Commission CP3 Question 56

17.71 We provisionally propose that legislation should impose a duty on those controlling AV data to disclose data to insurers, where the data is necessary to decide claims fairly and accurately.

Do you agree?

P3 Mobility response

We agree with this proposal.

UK Law Commission CP3 Question 57

17.81 We provisionally propose that:

- (1) initially, DSSAD data from self-driving vehicles should be stored for three years; and
- (2) the issue should be reviewed in the light of experience.

Do you agree?

P3 Mobility response

Three years is considered by us as a suitable starting point for data storage, based on the time that a personal injury claim must be made within. As with all topics in this subject, we agree that the issue should be reviewed as experience is gained.

UK Law Commission CP3 Question 58



17.95 We provisionally propose that:

- (1) when an ADSE applies for categorisation of its vehicle types as self-driving, it should present the regulator with details on how data will be recorded, stored, accessed and protected;
- (2) the regulator should only categorise a system as self-driving if it is satisfied that that the ADSE has systems to abide by its obligations under the GDPR.

Do you agree?

P3 Mobility response

We agree with this proposal.