

Consultation response of the RHA to the Law Commission

Automated Vehicles: Consultation Paper 3

17th March 2021

Summary of the consultation

The Law Commission is consulting on proposed legislative changes to allow the use of automated vehicles on roads, with various scenarios and questions about liability in the event of a system failure or other untoward occurrence. The paper primarily deals with where legal liability lies with the Automated Driving System Entity, the User in Charge and a licensed fleet operator.

Background about the RHA

1. The RHA is the leading trade association representing road haulage and distribution companies who operate HGVs and van commercially. Our 7,200 members operate near to 250,000 HGVs out of 10,000 Operating Centres. Members range in size from single-truck firms to those with thousands of vehicles.
2. These road transport companies provide the people and businesses of the UK with the goods upon which we all depend. From food and clothing through to medicines, car parts and construction material.
3. Without lorries and vans delivering good to businesses and consumers the economic and social wellbeing of the country would be seriously impacted.
4. Recently the RHA has initiated a coach operator membership for those operating non-scheduled passenger services using vehicles with a capacity of more than 16 seats.
5. The RHA proactively encourages a spirit of entrepreneurialism, compliance, profitability, safety and social responsibility. We do so through a range of services, such as advice, representation, and training.

General Comments

6. The RHA response will be confined to areas where Heavy Goods Vehicles, Coaches and vans – used for hire and reward - are likely to be impacted.
7. We are responding using the General Comments section as many of the numbered questions have not considered existing legislation and the way in which Road Freight and Coach operations are managed. This is unlikely to change in the next ten to

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twenty years, unless there are significant changes in automation connected with Road Freight deliveries and collections and passenger transport.

8. Recent events involving the Boeing 737 Max crashes and how liability was resolved, are a key consideration in how to develop liability for the driver, Automated Driving System Entity, and operators of Autonomous Vehicles.
9. All deliveries and collections by Heavy Goods Vehicles, Coaches and vans rely on people to move goods from the vehicle to site, these vehicles only pay their way when laden.
10. Coaches - How passengers regard using Boeing 737 Max aircraft following their return to service would be a good indicator. Boeing will have to demonstrate that the pilot cannot be overridden by computers in decision making.
11. Current legislation mandates the responsibility of drivers holding vocational licenses. The driver is responsible for the vehicle condition, reporting defects and load safety. Loads may move as the result of braking, accelerating and cornering. Tyres fail, causing "blow outs", which rapidly alter a vehicle's handling characteristics. If there is a transition time before the driver resumes control it is likely that serious consequences will follow for other road users.
12. We consider that there must always be always a driver in control, to deal with unexpected emergencies that frequently occur. Using the Boeing example the day-to-day safe operation of a Boeing 737 Max plan sits with the pilot; the fact that that plane fell out of the sky due to a design flaw is a secondary issue, which requires further consideration.
13. Currently there are many safety devices on a vehicle, all which use the word assist, e.g brake assist, the purpose of these devices is to assist the driver. In the case of an incident, where blame needs to be apportioned, who would be liable in the event of system failure?
14. There are real concerns with the intentional, or otherwise interference of communication systems, computer reliability and software being compromised, or hacked. The failure of one, or all these systems is a real possibility, which needs careful consideration as to who is liable, for what and to what extent? What is built by man can be compromised in a similar way.
15. The safety and security of all road users is paramount and cannot be compromised by unintended consequences.

Final Comments

16. The RHA has previously met with the Law Commission about this subject.
17. We would welcome further meetings, as we consider many aspects relating to Heavy Goods Vehicles, Coaches and vans have not been considered in this consultation.
18. This is an extremely complex area, the current Platooning trial has been suspended for over a year, due to the pandemic. Similar issues around the computerisation and

secure communications systems exist with this trial, which remain untested outside off road test conditions.

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