



accidents don't have to happen

Automated vehicles: A regulatory framework for automated vehicles

RoSPA's response to the Law Commission and Scottish Law Commission's consultation

March 2021



Response to Law Commission and Scottish Law Commission's consultation: Automated vehicles: A regulatory framework for automated vehicles

Introduction

This is the response of The Royal Society for the Prevention of Accidents (RoSPA) to the Law Commission and Scottish Law Commission's Automated vehicles: A regulatory framework for automated vehicles consultation. It has been produced following consultation with RoSPA's National Road Safety Committee.

The consultation proposes a regulatory framework for Automated Vehicles (AVs) in preparation for their deployment on British roads. The Law Commission and Scottish Law Commission are aiming to build a flexible legal framework which will promote safety and technological advancement.



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About you

What is your name?

Rebecca Needham.

What is the name of your organisation?

The Royal Society for the Prevention of Accidents (RoSPA)

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

Response on behalf of organisation.

What is your email address?

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The definition of self-driving

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?

RoSPA response

RoSPA agrees. It is important to distinguish between vehicles that can and cannot safely drive themselves. This is because vehicles that can perform some of the dynamic driving task in limited scenarios (advanced driver assistance systems) could become available before vehicles that can truly be defined as self-driving.

Under section 8(1)(a) of the Automated and Electric Vehicles (AEV) Act 2018, a vehicle capable of "driving itself" is defined as "operating in a mode in which it is not being controlled, and does not need to be monitored, by an individual". This is very different to a vehicle that can perform the dynamic driving task in some scenarios, which will require monitoring by an individual. This distinction will be important in law, and to help users of these vehicles to understand the capabilities and limitations of each type of vehicle.

The distinction between these vehicles would also be important in the event of a collision for insurance purposes, as the insurer would compensate the victim, regardless of whether the collision was caused by the user-in-charge or the Automated Driving System Entity (ADSE). It would also mean that the user-in-charge could not be prosecuted for offences such as careless or dangerous driving or a range of other offences such as speeding or running a red light. If the automated driving system behaved in a way that would be criminal as a human driver, this would be dealt with as a regulatory matter and discussed with the ADSE.

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



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RoSPA response

RoSPA believes that self-driving features must be designed to ensure that they can be used by people with hearing loss. In the UK, those with hearing loss who have a car or motorcycle licence do not have to report this to the DVLA, although this is a reportable medical condition for those driving a bus, coach or lorry. There should not be any obstacles to those with hearing loss being able to operate automated vehicles.

Around 11 million people in the UK are affected by some level of hearing loss, with around 900,000 people severely or profoundly deaf¹. We believe that it would be detrimental to exclude those with hearing loss from being able to operate these vehicles. Although audible warnings could be used, other forms of alert to make the user in charge aware of the need to intervene, such as haptic feedback could be beneficial for users in charge with hearing loss.

In fact, multiple forms of alert to transition (visual, audible and haptic) are likely to be beneficial to all users-in-charge, to ensure that they are aware of the need to take over. For example, a visual alert would not be effective if the user-in-charge was not observing the dashboard at the time that the alert was received. Haptic alerts will be particularly important for those with hearing loss.

RoSPA has some concerns about situations in which a user-in-charge may have to take back control of the vehicle without a transition demand, for example, in response to an event which results in a loud noise. Those with hearing loss would not be able to respond to these events if they were engaged in another permitted activity while the automated driving system was enabled. Therefore, to be classified as self-driving, we agree that a vehicle must be sufficiently safe even if the human user does not respond to any event except a clear and timely transition demand.

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.

RoSPA response

RoSPA agrees 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. This decision should be taken at a national level, rather than simply referencing a UNECE regulation.

RoSPA seeks clarification on who the specialist regulator would be.

¹ Hearing Link (undated) 'Facts about deafness and hearing loss: hearing loss statistics in the UK'
<https://www.hearinglink.org/your-hearing/about-hearing/facts-about-deafness-hearing-loss/>
Date Accessed: 19/02/2021.



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

- **as safe as a competent and careful human driver**
- **as safe as a human driver who does not cause fault accident**
- **overall, safer than the average human driver**
- **none of the above**

RoSPA response

One of the key benefits of automated vehicle technology is that it has the potential to reduce collisions often caused by human error which could result in fewer casualties on our roads. Therefore, RoSPA believes that automated vehicles must be as safe as a human driver in all situations. These vehicles must abide by traffic rules, avoid collisions and treat other road users with consideration. We do not believe that these vehicles should be deployed on our roads before they meet these standards.

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

RoSPA response

Within the UK, the most commonly used safety standard across all industries is that a risk must be "as low as reasonably practicable", meaning that the level of risk must be weighed against the burden, time and money needed to control it, meaning that measures other than those which are described as 'grossly disproportionate' should be taken.

In this case, as a failure to implement measures could lead to serious injury or even death, a decision to class a safety measure as 'grossly disproportionate' cannot be taken lightly. As this technology is new, it will not be possible to refer back to existing best practice on the matter. There are many important decisions to be taken to ensure that this technology is as safe as reasonably practicable, as an unsafely used autonomous vehicle has the potential to injure not only the occupants but any other road users.

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

RoSPA response

RoSPA believes that autonomous vehicles must be accessible for all in society. Our comments above on how vehicles could be adapted for those with hearing loss provide an example of how vehicles can be designed to



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allow individuals to be a user-in-charge, regardless of whether they have hearing loss. Individuals with all types of disabilities must be considered, in terms of being able to access the vehicle as a passenger, but also to make adaptations to allow those with disabilities to be a user-in-charge where possible. Many adaptations can be made to vehicles on the road today for disabled drivers and passengers, including steering aids, hand controls, special cushions, swivel seats to help get in and out of the car, hoists to lift drivers and passengers and their wheelchair if they use one, and driving accessories. Adaptations and specialist equipment will play a role in making autonomous vehicles accessible for those with disabilities.

Alongside the need for vehicles to be physically accessible for all in society, it is important that these vehicles do not pose an unfair level of risk to particular groups. Unfortunately, there are already examples of where bias has crept into the design of autonomous vehicles, for example, current facial recognition software may exhibit a bias towards white, male faces. For non-white and non-male faces, the accuracy of facial recognition systems may decline significantly. Before these vehicles can be used on Britain's roads, there needs to be extensive testing to provide evidence that autonomous vehicles can identify individuals of all races and ethnicities in different daylight conditions, individuals wearing robes and skirts (if the system works by identifying leg movements) and individuals in different kinds of wheelchairs and mobility scooters. RoSPA would like reassurance that any facial recognition systems would be accurate and do not show a bias towards any individual.

It must be ensured that autonomous vehicles have been trained with a sufficient diversity of training data to be representative of the characteristics of the individuals it is likely to encounter when operating on the roads.



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Safety assurance before deployment

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?

RoSPA response

RoSPA agrees with these proposals. In terms of testing the system before deployment, there is no one 'perfect' method of testing meaning that a number of testing methods required. This is likely to include track testing, road tests and simulations.

Track testing investment is already underway in the UK, and this method is already used as part of other safety programmes, such as Euro NCAP. This method will be particularly suitable for scenarios that are high-risk or highly dynamic, which would not be safe to test on public roads. It also offers a high level of control and repeatability when compared to road testing. However, it can only offer insight into the scenarios tested. Therefore, road testing will also be required, as this method offers the opportunity to test an automated driving system under "real-world conditions". Testing and trialling automated vehicles on public roads in the UK is possible "if carried out in line with UK law" (there must be a user-in-charge, the vehicle must be roadworthy and appropriate insurance must be acquired). Data from public road trials is likely to play an important role in assuring the approval authorities that a system is ready for widespread deployment. Public road trials may also be used to validate track tests and simulation results. Simulation testing can be used to validate the safety of these systems in much less time than road testing or track testing, although the scenarios used must be varied to check that the system is capable of dealing with all the situations it might encounter.

RoSPA also agrees with the proposal for a safety case. A large part of the process of approving vehicles for use will involve regulators assessing documentation from the manufacturer or developer offering evidence that the system is safe. Manufacturers and operators must demonstrate that they have tried to understand the risks of their systems and the measures needed to reduce these risks. Appropriate processes must also be put in place to measure the effectiveness of any risk control measures. Given that safety cases are likely to play a significant role in assessing AVs, it is important that they are compiled honestly and accurately and do not suppress evidence.



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RoSPA also agrees that the regulator should provide guidelines for what is in the safety case, audit the safety case, prepare guidance for manufacturers and developers on preferred standards and carry out at least some independent tests.

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.

RoSPA response

Automated vehicles must be tested in their interactions with all possible road users, including a diverse range of pedestrians, cycles, prams, pushchairs, wheelchairs, pets and horses. This is challenging, as the range of road users changes constantly.

However, to ensure that scenarios are representative of all groups and reflect a wide range of situations that could be encountered on the roads, RoSPA believes that it is important to consult various road user groups.

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?

RoSPA response

RoSPA agrees that every ADS must obtain approval at a national or international level and therefore, unauthorised systems should be prohibited.

It seems logical to have an exemption procedure by which the Secretary of State may authorise unauthorised systems to be used in tests and trials, as an ADS must be tested before it can be approved.

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");**



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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?

RoSPA response

RoSPA agrees with the proposal that the Government should establish a domestic scheme to approve automated driving systems (ADSs) for use on roads in Great Britain and that manufacturers should have a free choice to apply for approval under either the UNECE system of international type approvals or through the national scheme. The difference is that national approval would allow the ADS to be used only in Great Britain, and not elsewhere.

We also agree with the final proposal that developers should be able to submit an ADS for national approval, even if they are not responsible for manufacturing the whole vehicle. This will mean that if approved, developers could install systems into existing vehicles (for example, to supply local passenger services).

We believe that this approach will introduce more flexibility to the existing models of approval. However, safety must be considered, and the national approval scheme should have the same or more rigorous safety requirements than the existing UNECE international system of type approvals.

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?

RoSPA response

RoSPA agrees that current regulation-making powers are sufficient to establish a national ADS approval scheme.



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We also agree that an ADS can be defined as a combination of software, hardware and sensors, which can be installed in a 'type' of vehicle. As this technology is still developing, it would be inappropriate to define the exact hardware and configuration that constitutes an ADS.

It also seems logical that when the national regulator approves an ADS, it will need to specify the vehicle type in which it can be installed, drawing on the discussion in the safety case and any additional tests and audits. Once an ADS has been approved, it should be accompanied by information on how the system must be installed within the vehicle. Any specific requirements for the correct functioning of the system should be communicated with the user. We also agree if an ADS is installed in pre-registered vehicles, an example vehicle with the ADS installed should be submitted to the regulator for national type approval. The regulator would check that it has been installed in an appropriate type of vehicle in the correct way.

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 it is suited to the proposed national ADS approval scheme.**

RoSPA response

RoSPA is not in a position to comment.

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**



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- 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?

RoSPA response

RoSPA agrees with these proposals. We believe that systems with international type approval and systems with national approval would both need to be submitted under the Great Britain safety scheme for a decision on categorisation as self-driving. This is because there will need to be a detailed consideration not only of whether the system is safe and robust but also whether it can comply with Britain's traffic laws to such an extent that it does not need human monitoring. How the users' responsibilities are communicated, how the software will be updated and how issues with data are to be addressed will also need to be considered.

The safety regulator should make a recommendation to the Secretary of State for how the vehicle should be classified. 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.

In terms of the role of the ADSE, we agree that the ADSE must put its name to the safety case. It will need to show that it has been sufficiently involved in assessing safety and writing the safety case to vouch for the information in it. It is also vital that the ADSE has sufficient funds accessible to the regulator. Where the ADS acts in a way which if done by a human driver would lead to criminal or civil liabilities, the ADSE would be subject to regulatory action under the safety assurance scheme. The aim would be to stop mistakes from happening again. There would therefore be graduated sanctions, including improvement notices, fines and (in the most serious cases) recalls.

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?

RoSPA response

RoSPA agrees with these proposals. Section 1 of the Automated and Electric Vehicles Act 2018 may be too simple to deal with the complexities of the decision that needs to be made. Therefore, a new legislative framework should provide regulation-making powers to specify who should assess whether a vehicle is capable of self-driving, the procedure for doing so, and the criteria to be followed.



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We seek views on whether the 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?

RoSPA response

RoSPA agrees that there should be right of appeal, but we are not in a position to comment on how this process should work.

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.

RoSPA response

RoSPA agrees with this proposal. As highlighted earlier in our response, on-road testing will be part of testing whether vehicles can be used for widespread deployment. Once safety had been demonstrated, the number of vehicles could be increased.

Testing and trialling automated vehicles on public roads in the UK is possible "if carried out in line with UK law". Data from public road trials is likely to play an important role in assuring the approval authorities that a system is ready for widespread deployment. Public road trials may also be used to validate track tests and simulation results. It seems logical to allow deployment in limited numbers to collect further data. A phased approach like this may also be preferable to maximise safety and manage risk.



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Assuring safety in use

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?

RoSPA response

The current law (regulation 36 of the General Product Safety Regulations 2005) is designed to deal with conventional vehicles. It puts considerable emphasis on the mechanical test to ensure that specific vehicle systems adhere to technical regulations. This form of testing is unlikely to detect problems in dynamic driving behaviours that are particularly relevant to AVs.

Therefore, RoSPA agrees that an enhanced scheme, with additional statutory responsibilities and powers should be developed to assure the safety of automated driving systems. Safety assurance will be required on an ongoing basis, because AVs develop as their software is updated. These vehicles are also likely to have a relatively long lifespan, and although they may comply with driving rules at the time of development, this is not a guarantee that the same can be said, for example, a decade later.

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 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?



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RoSPA response

RoSPA agrees with these proposals. These measures will be essential to allow automated vehicles to operate safely. The collection of data, to allow the regulator and manufacturer to act quickly if things go wrong, will be vital. This should include collecting data on lagging and leading measures. While lagging measures (such as counting casualties) provide the most accurate reflections of safety, they are rare events and, by definition, have resulted in harm. By contrast, leading measures (such as failures to follow road rules or "near-miss" events) can act as warnings.

The regulator should have the power to require the ADSE to update software where an update is needed to ensure safety and continued compliance with the law. The importance of installing software updates promptly after their release will also need to be communicated with the owner or operator of the vehicle, as these updates are likely to be crucial to safe operation of the vehicle. Although it may be relatively simple to implement a process for the update of vehicle software by an operator, the challenge will be communicating this need with users who privately own an automated vehicle.

Map updates will also be essential, as some see maps as the key to understanding the fixed parts of the road environment. As there is no agreed map industry standard, approval authorities will need to rely on manufacturers to explain their system in their safety cases. They will need to show why their method of map integration is robust and why the system will be safe even if the map fails. Maps will also need to be kept up to date on an ongoing basis, as the road environment is constantly changing. There will be challenges in identifying temporary road environment changes, such as roadworks.

Training and communication with users about the capabilities and limitations of each vehicle will also be crucial. Drivers should receive vehicle familiarisation training when they receive new vehicles, including the safe use of technology, particularly if their previous vehicle did not have it. In user-in-charge vehicles, or those with driver assistance, drivers need to be alert and ready to take control of their vehicle at any time. If used properly autonomous vehicles have enormous potential to reduce crashes and casualties, but if they are not used properly, they can also increase risk, especially if drivers over-rely on the technology. The way that systems are marketed will be important to manage user expectations.

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 should also deal with cybersecurity?**
- 3. Are other powers needed? (Note that data is discussed in Chapter 17.)**



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RoSPA response

RoSPA agrees with the first proposal. The ADSE should be under a continuing duty to ensure that an ADS acts safely and in compliance with the law. Taking the example from the consultation paper, where a manufacturer obtains type approval for an ADS system from the Luxembourg type approval authority, certifying among other things that the vehicle complies with UK traffic laws. An aspect of UK law then changes. In these circumstances, RoSPA believes that UK regulators should have powers to require an update. When the update is produced it may then be simpler and quicker for the manufacturer to deal with a local regulator (who understands the legal change) rather than return to Luxembourg for approval. This might enable some updates to be rolled out more quickly, especially where updates respond to changes in traffic laws which could be difficult for a non-UK type approval authority to assess.

We also believe that cybersecurity is an important consideration. There is no single threat that may target automated driving systems or even the traffic system, as threats are multiple, with varied motives and capabilities. Threats arise from hobbyists, organised criminals and state and quasi-state actors. Not all of these parties would seek to directly or indirectly cause a collision, but some would. If these vulnerabilities are left unaddressed, such attacks could be carried out resulting in negative safety outcomes. However, we are not in a position to comment on what cybersecurity requirements should be, or what body should assure or regulate this.

We are not aware of any other powers that would be required.

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?

RoSPA response

RoSPA is not in a position to comment.

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)?

RoSPA response

RoSPA is not in a position to comment.

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



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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?

RoSPA response

We agree that the safety assurance scheme should investigate breaches of traffic rules and apply a flexible range of regulatory sanctions, as we will need to move away from the criminal prosecution of human drivers as the human in the driving seat should no longer be liable for any driving offences committed when a vehicle is driving itself.

One advantage of AVs is that they should be considerably more law abiding. However, infractions may still occur. The legal framework will need to include a system for dealing with traffic rule infractions by an ADS.

We agree that both ADSEs and drivers should be subject to a series of graduated sanctions for traffic rule infractions. In both cases, the sanctions should include retraining/software updates; fines; a way of cumulating multiple small infractions (as with licensing "points"); and disqualification/withdrawal of authorisation. Breaches committed by the vehicle will act as an early warning sign, and steps will need to be taken to ensure that breaches do not occur again. More severe sanctions should be served to ADSEs who fail to rectify the issue.

These issues may be complex, as data and information about the vehicle will be required to understand whether the vehicle was driving itself at the time, and if so, whether the system committing a driving offence is due to the ADSE or the owner of the vehicle failing to update software and maps, for example.

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

Sanctions	Yes/No
Informal and formal warnings	Yes
Fines	Yes
Redress orders	Yes
Compliance orders	Yes
Suspension of authorisation	Yes
Withdrawal of authorisation	Yes
Recommendation of attendance at restorative conference	Yes



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Please explain the reasons for your selection above.

RoSPA response

RoSPA believes that formal and informal warnings could be used, but that these should be backed up with the threat of further sanctions if the issue is not addressed. We believe that warnings could be a cost effective way of improving compliance. These may be used more often in the early deployment of the technology. There may be many reasons why problems have occurred, from the user's failure to update; to overgrown signs; to difficulties in communicating traffic regulation orders.

We also agree that fines should be used, although these should be proportionate to the breach committed. We recognise that to address some breaches, software updates may be costly to implement and the operator should not be better off by failing to comply. Although insurance companies would compensate any individual victims of a breach by an automated vehicle, a redress order could be used, as highlighted in the consultation paper for infractions such as bus lane offences. This could be used to compensate passengers for longer journey times.

We also agree that compliance orders should be used, for example, to require an ADSE to provide software and map updates.

The suspension and withdrawal of authorisation may need to be used in the event of repeated or serious breaches.

Restorative conferences could also be part of the mix, as a cooperative approach, bringing those most directly affected together to discuss what needs to be done to repair the harm and prevent a reoccurrence.

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?

RoSPA response

RoSPA agrees that discretion should be exercised. A variable monetary penalty allows regulators to determine the appropriate level of fine on a case-by-case basis. This flexibility allows regulators to consider the circumstances of the breach and of the non-compliant business, including whether there have been instances of non-compliance in the past.



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We provisionally propose that a specialist incident 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?

RoSPA response

If automated cars malfunction, they are likely to do so in ways which are unfamiliar to coroners or police officers. Understanding the causes of such failure will involve new types of expertise.

RoSPA strongly agrees that a specialist incident investigation unit should be established to promote a culture of safety and to learn lessons about any incidents that do occur, and how they could have been prevented, to feed into future vehicle updates. It may also help monitor the safety standard of automated vehicles. A new body would have specialist expertise, be able to analyse trends and take a no-blame approach to investigations. We agree with the notion highlighted in the paper that there should be recommendations to improve safety without allocating blame to encourage sharing of information and openness from the ADSE.

A good approach, as highlighted in the paper, could be to collect and analyse data on accidents in a central database and reserve investigations for the most serious, complicated or high-profile collisions. The primary purpose of police investigation must remain in place, that is, to identify whether a user in charge or automated vehicle caused the collision. A new body to analyse more serious collisions would be welcomed, as automated vehicles are complex and a wide range of factors may apply to collisions involving these vehicles.

Although possibly outside the scope of this project, RoSPA calls for an incident investigation branch that analyses and investigates the most serious and high-profile collisions for all vehicle and road user types. The expertise of this unit should not only be used for incidents involving autonomous vehicles.

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?

RoSPA response

RoSPA agrees with this approach. This forum could allow developers to raise issues of concern and receive advice.



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We welcome views on:

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

RoSPA response

As highlighted in the consultation paper, some of the ways in which work could be undertaken are providing guidance on interpreting indeterminate terms in legislation and in the Highway Code and identifying possible additions to the Highway Code to resolve conflicts between two automated vehicles (and which are currently resolved through non-standard communication between human drivers).

We believe that the forum should include a range of developers and regulators. As is the case in Singapore, the form should be chaired by an independent expert. We would expect that processes for public engagement would include consultation on relevant issues.



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Responsibilities of the user-in-charge

We provisionally propose that that the user-in-charge:

1. **should be defined as an individual in position to operate the controls of a vehicle while an ADS is engaged and who is either in the vehicle or in direct sight of the vehicle; and**
2. **is not a driver while the ADS is engaged, and would not be liable for any criminal offence or civil penalty (such as a parking ticket) which arises out of dynamic driving.**

Do you agree?

RoSPA response

RoSPA agrees with the definition and the proposal that the user-in-charge is not a driver while the ADS is engaged, meaning they would not be liable for any criminal offence or civil penalty that arises out of the dynamic driving task. It would seem unfair, for example, for the user-in-charge to receive a fine because the vehicle had exceeded the speed limit while the ADS was engaged. However, we recognise that the user-in-charge would be liable for non-dynamic driving offences (such as using a vehicle without insurance or failing to maintain a vehicle).

We provisionally propose that following the end of the transition demand period:

1. **the user-in-charge should re-acquire the legal obligations of a driver, whether or not they have taken control of the vehicle; and**
2. **if, following a failure to respond to a transition demand, the vehicle stops in a manner which constitutes a criminal offence, the user-in-charge should be considered a driver and should therefore be liable for that offence.**

Do you agree?

RoSPA response

We recognise that as these vehicles begin to be deployed, the safety of the vehicle is likely to rely on transition demands to operate safely. RoSPA has some concerns about the safety of these vehicles, and believes that it may be incredibly difficult for a user-in-charge to develop situational awareness quickly when responding to a transition demand.

Should transition demands be communicated clearly with the user through visual, audible and haptic notifications, we agree that the user-in-charge should re-acquire the legal obligations of a driver, whether or not



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they have taken control of the vehicle. This should be clearly communicated with the user-in-charge, and as highlighted earlier in our response, familiarisation training will help the user-in-charge to understand the capabilities and limitations of the vehicle and their responsibilities.

Should the user fail to take control of the vehicle, it may be necessary for the vehicle to come to a stop. If the vehicle stops in a manner which constitutes a criminal offence, for example on a motorway in an active lane or on double red lines, we agree that the user-in-charge should be liable for that offence. We agree with proposals that there should be flexible approach to the legal consequences of failing to take over that depending on the harm done.

We seek views on whether a person with a provisional licence should be allowed to act as a user-in-charge, if accompanied by an approved driving instructor in a vehicle with dual controls.

RoSPA response

We agree that a person holding a provisional licence should be allowed to act as a user-in-charge, if accompanied by an approved driving instructor in a vehicle with dual controls. This is because it will be increasingly necessary as the deployment of these vehicles becomes more widespread for drivers to gain experience of using them.

However, we seek clarification on how this would fit into the learning to drive process. We would expect that the provisional licence holder would learn to drive in a conventional vehicle first, and when they have enough experience, they would have the option of learning to assume the role of a user-in-charge. This is because the handover of control is likely to be more difficult for a less experienced driver.

We provisionally propose that legislation should create new offences of:

- 1. using an automated vehicle as an unfit or unqualified user-in-charge; and**
- 2. causing or permitting the use of an automated vehicle by an unfit or unqualified user-in-charge.**

Do you agree?

RoSPA response

RoSPA agrees that these new offences should be created. Clearly, if a person assumes the role of a user-in-charge when they are unfit to drive, for example when over the drink-drive limit, they have committed an offence. A cause or permit offence could also be particularly important for employment purposes, for those who use these vehicles when driving for work and their employer.



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We provisionally propose that persons carried without a user-in-charge should be guilty of a criminal offence. Do you agree?

RoSPA response

RoSPA agrees that this offence should be created, but this offence should only apply if passengers knowingly allow themselves to be carried in a vehicle where there is no user-in-charge. Discretion will need to be applied for example, for a visually impaired passenger, who may not be aware that a user-in-charge is not present.

We seek views on whether the new proposed offence of being carried without a user-in-charge should only apply if the person:

- 1. knew that the vehicle did not have a user-in-charge; and**
- 2. knew or ought to have known that a user-in-charge was required.**

RoSPA response

RoSPA agrees with these proposals, as per our response to the previous question.

We provisionally propose that a user-in-charge who takes over control of the vehicle:

- 1. should be considered a driver; but**
- 2. should have a specific defence to a criminal offence if, given the actions of the ADS, a competent and careful driver could not have avoided the offence.**

Do you agree?

RoSPA response

RoSPA agrees with the Commission's preferred approach, which is to recognise that a user-in-charge becomes a driver as soon as they take over control. However, drivers should have a specific and limited defence if, given the actions of the ADS, a competent and careful driver could not have avoided the offence. This would avoid holding the ADS responsible for actions that it did not take; equally it would protect drivers against being found guilty of criminal offences they had no opportunity to avoid.

We provisionally propose that the user-in-charge should be liable for criminal offences which do not arise from the dynamic driving task, including those related to:

- 1. insurance;**
- 2. maintaining the vehicle in a roadworthy condition (including installing safety critical software updates);**



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3. parking;
4. duties following accidents to provide information and report accidents to the police; and
5. ensuring child passengers wear seatbelts.

Do you agree?

RoSPA response

Yes, the user-in-charge should be liable for all offences not arising from the dynamic driving task. However, it will be vital that the responsibilities the user-in-charge retains, such as those above, are clearly communicated.

We provisionally propose that the legislation should include a regulation-making power to clarify those roadworthiness failings which are (and those which are not) the responsibility of the user-in-charge.

Do you agree?

RoSPA response

RoSPA agrees. This is because at this stage, it is unclear which faults an automated vehicle will be able to detect and which the user-in-charge will be responsible for detecting. It will be vital that regulators ensure that users are provided with clear and comprehensive information about their maintenance obligations. This includes a list of the checks users would be expected to make before a journey.

Remote operation: no user-in-charge vehicles

We provisionally propose that:

1. where an individual is exercising latitudinal 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".

Do you agree?



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RoSPA response

RoSPA agrees. The first point describes remote driving, which does not fit the definition of a self-driving vehicle. Under section 8(1) of the Automated and Electric Vehicles Act 2018, 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. A person in a remote control centre would be considered a driver if they are controlling the vehicle by steering and braking.

However, we do recognise remote control is different to a user-in-charge being required to sit in a 'driving seat' or be in sight of the vehicle, although this role seems likely to involve monitoring the vehicle. To label an individual performing a monitoring role as a driver would mean they are legally responsible for what the vehicle does, which seems unfair.

We agree with the second proposal, as highlighted in the paper, in that where a vehicle is being watched but not controlled by humans within a remote operation centre, the Commission wish to include that vehicle within the definition of self-driving. It would then be subject to the proposed safety assurance scheme, designed to evaluate the overall system, as developed by a company and documented in a safety case. It would avoid the highly undesirable outcome, in which a low-level employee was designated as a "driver" and blamed for organisational faults.

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".

RoSPA response

RoSPA agrees. The suggestion in the paper to amend the definition of self-driving under the Automated and Electric Vehicles Act 2018, so that a vehicle would be seen as "self-driving" if it was operating in a mode in which:

- (1) It was not being controlled (by steering and braking) by an individual; and
- (2) Did not need to be monitored by an individual in the vehicle or in sight of the vehicle.

seems a sensible approach.

We provisionally propose that:

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



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- b. be covered by a contract with a licensed operator for supervision and maintenance services;**
- 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?

RoSPA response

RoSPA agrees with the first proposal. The ADSE should be the entity that is responsible for the automated driving system and must ensure that the design is safe. The operator is the entity which runs the vehicle and must ensure that the operation is safe. The ADSE and operator could be the same body or different bodies.

We also agree that all vehicles authorised for use on roads or other public places with no user-in-charge should either be operated by a licensed operator; or be covered by a contract with a licensed operator for supervision and maintenance services. Maintenance for these purposes would include installing software and maintaining cybersecurity.

Finally, we agree that 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. These services are likely to be safety critical for these vehicles.

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.

RoSPA response

RoSPA agrees that this seems to be a reasonable proposal, although we are not in a position to comment further.

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?



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RoSPA response

Yes, a licensed operator should be subject to all of the listed duties, as these duties are critical to the safe operation of these vehicles.

Supervision of the vehicle will be critical. As the paper states, at present, we do not know enough about how remote operation will work to set specific requirements. Initially, these issues should be addressed in the operator's safety case. However, as the industry develops, the licensing agency will need to develop best practice and provide guidance. Furthermore, the legislation should be sufficiently flexible to allow specific minimum standards to be set out in regulations.

We also agree that the operator should have maintenance duties. Licensed operators should be under a legal obligation to ensure roadworthiness. Therefore, when applying for a licence, they should demonstrate adequate arrangements for maintaining vehicles and operating systems in a fit and serviceable condition.

Insurance should initially be the responsibility of the operator, but we agree that it may eventually be possible to move this responsibility to the registered keeper or owner, so long as this is effectively communicated.

It will also be vital for the operator to install safety-critical updates and maintain cybersecurity.

Finally, as is the case with conventional vehicles, there should be a duty to report accidents in section 170 of the Road Traffic Act 1988. We also agree that to learn from near misses and prevent collisions occurring, operators should report untoward events, together with background information about miles travelled. What an 'untoward event' is, must be clearly defined. This will also be crucial in monitoring the safety of these vehicles.

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?

RoSPA response

Initially, the operator should be responsible for all maintenance but, this would be subject to a regulation-making power to delegate some responsibilities to the registered keeper, if safety permits. If responsibilities are to be delegated to the registered keeper or owner, the obligations of the registered keeper or owner going forwards should be clearly communicated.



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

RoSPA response

We recognise that older people and those with disabilities are likely to be two of the groups who will receive the most benefit of the introduction of these technologies, therefore, accessibility for these groups will be crucial. We agree that the requirement to make reasonable adjustments and avoid discrimination are important safeguards in the development of new self-driving technologies.

Some of the best practice already in place in the public transport system is likely to form a good basis for the requirements of an automated vehicle system. For example, it is very likely that human transport assistants will be required at transport hubs to help people board these vehicles safely. Staff at these hubs will need to receive training to help all groups access the vehicles.

Vehicles must be accessible to those using wheelchairs and other mobility aids, and passengers who are disabled must not be charged more than other customers to use these services.

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 need**

RoSPA response

RoSPA agrees that to take into consideration the needs of disabled and older people, an accessibility advisory panel should be formed, consisting of the parties listed above. We also agree that the Secretary of State should be obliged to consult with the accessibility advisory panel prior to setting any national minimum standards on HARPS. It seems sensible that the group are re-consulted to keep pace with changes.

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

RoSPA response

RoSPA is not in a position to comment.



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

RoSPA response

RoSPA is not in a position to comment.

Criminal offences by ADSEs and their senior managers

We provisionally propose that:

- 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?

RoSPA response

Although a system of regulatory sanctions designed to promote safety is appropriate in some circumstances, RoSPA agrees that criminal sanctions are appropriate if an ADSE is guilty of serious wrongdoing, such as lying about safety tests. The safety assurance scheme will rely crucially on the ADSE to submit a safety case. All those involved in the process need to be honest, open and accurate in putting the case together.

We hope that the proposed offences would deter ADSEs from compromising safety standards to gain a competitive advantage. For example, ADSEs might suppress poor test results; install a "defeat device" so that the software performed better in tests than in real life or disable safety-critical features.

These offences would apply to senior managers, where applicable. This would encourage the active involvement of senior management in ensuring the safety of ADSs. They should not apply to junior members of staff. This is because existing criminal offences already cover some cases where junior staff may be guilty of serious wrongdoing.



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If death or serious injury is caused, higher sentences should apply. If a human driver were to commit an offence that resulted in death or serious injury, a higher sentence would apply, therefore, this should apply too for the proposed offences.

We seek views on the following proposed offences.

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

- 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

When a regulator requests specific information from an ADSE (whether before or after deployment), it would be a criminal offence for the ADSE to

- 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—

- 1. to have been committed with the consent or connivance of an officer of the body corporate; or**
- 2. to be attributable to neglect on the part of an officer of the body corporate,**



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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:

- 1. related to an increased risk of a type of adverse incident; and**
- 2. an adverse incident of that type occurred; and**
- 3. 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.

RoSPA response

RoSPA agrees with the proposals for offence A and B. The safety assurance regulator will have much less knowledge of the vehicle than the ADSE. Therefore, the onus will be on the ADSE to share safety-critical information, including test results that show potential problems.

We agree that it should be a criminal offence to fail to provide information that is relevant to the regulator's evaluation of safety of the ADS or the vehicle as a whole. It should also be an offence to make representations which are "false or misleading in a material particular".

Offence C is also welcomed. Although the offence is likely to apply to the ADSE as a body, senior managers should also be liable if they fail to exercise due diligence to prevent the misrepresentation or non-disclosure from taking place. We hope that this would act as a deterrent, and encourage a safety-first culture.

We also agree with offence D, in that an offence should be aggravated if the misrepresentation or non-disclosure led to a death or serious injury occurring.



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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.

RoSPA response

We agree that information must be presented in a clear and accessible form, with safety-critical information indexed and signposted. This is to allow the safety assurance scheme to properly assess the safety case and to identify non-disclosures and misrepresentations.

We also agree with the notion that failures to structure, index or signpost information is less serious than non-disclosures or misrepresentations.



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New wrongful interference offences

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?

RoSPA response

RoSPA agrees that the offence should include any part of the vehicle's system.

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

RoSPA response

Automated vehicles are likely to rely heavily on infrastructure to operate safely. Therefore, we believe that the tampering offence should apply to external infrastructure required for the operation of the vehicle.

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?

RoSPA response

Yes, in England, Wales and Scotland for consistency between the two jurisdictions.

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?



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RoSPA response

RoSPA agrees. As the consultation paper states, the mental standard of our proposed offence should mirror that of section 22A: the act of interference which forms the basis of the offence must be intentional, but there need not be an intent to bring about the consequences of that act, nor a subjective appreciation of the risk of those consequences.

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.

RoSPA response

RoSPA is not in a position to comment.



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Civil liability

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?

RoSPA response

RoSPA is not in a position to comment.

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

Do you agree?

RoSPA response

RoSPA strongly agrees that it is vital to ensure that victims would be compensated for accidents involving uninsured vehicles which are self-driving, as would be the case in an incident involving a conventional vehicle, where the Motor Insurers' Bureau steps in as a last resort insurer. This process must be in place before any self-driving vehicle is deployed on our roads.

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?



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RoSPA response

As per the recommendation of The European Commission Group of Experts on Liability and New Technologies, we agree that product liability law should be reviewed to ensure that it is suitable for the emergence of new technologies. However, we are not in a position to comment on whether this is in the scope of the Law Commission and Scottish Law Commission's project on automated vehicles.



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Access to data

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?

RoSPA response

RoSPA agrees that the collection of data will be crucial, as there will be a need to collect data to compare AVs with conventional driving on both leading and lagging measures. As highlighted in the paper, third parties will also require access to this data for the purpose of establishing liability, for example, to understand whether the ADS was activated at the time of a traffic rule infringement or collision. It will also be required to learn from incidents and improve the safety of these vehicles.

In our view, location and time data will be required. As the paper states, without this, it will be difficult to establish criminal or civil liability, for example, if a collision is not detected by the ADS.

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?

RoSPA response

RoSPA agrees with this proposal.

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?



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RoSPA response

RoSPA agrees that it is a sensible approach to store data for three years, as generally, for personal injuries, a claimant must bring an action within three years from the date of the accident or from the date the injured person had knowledge of the possibility of a claim. Where the event has been reported to the police and appropriate bodies, the data should be retained pending court decisions. The time limit for property damage is also three years from the date of the accident. We agree with this proposal so long as this does not mean that the small number of claims which have not been identified in three years but are subject to a longer limitation period will be prevented from proceeding.

It seems logical to review this decision in light of practical experience.

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?

RoSPA agrees with these proposals.

RoSPA has no further comments to make on the consultation process, other than to thank the Law Commission and Scottish Law Commission for the opportunity to comment. We have no objection to our response being reproduced or attributed.

