

## Automated Vehicles

### Consultation Paper 3 – A regulatory framework for automated vehicles

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British Vehicle Rental and Leasing Association (BVRLA) members represent the demand-side of the automotive industry, buying around 50% of new vehicles, including over 80% of those manufactured and sold in the UK. In doing so, they support almost 500,000 jobs, add £7.6bn in tax revenues and contribute £49bn to the UK economy each year.

Consumer protection and the safety and security of vehicles is of paramount importance to BVRLA members. The BVRLA welcomes the engagement it has had to date with the Law Commission as it considers what is needed to ensure the safe introduction of Autonomous Vehicles and welcomes the opportunity to provide feedback to the latest, and final, consultation.

#### User in charge liabilities

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As registered keepers, fleet managers and providers of mobility services, already have some legal responsibilities they must uphold. In the main, responsibilities for the safe use of vehicles sit with the driver and/or with the fleet operator. It is reassuring that the Law Commission is not proposing to impose any new liabilities on BVRLA members as the registered keeper for vehicles where there is a User in Charge.

The BVRLA is also pleased to see that the latest proposals have been simplified where there is No User in Charge and that responsibilities for safety in use will sit with the Automated Driving System Entity (ADSE) and/or a licenced operator.

We seek further clarity on the statement regarding the User in Charge and that they *will be liable after a transition demand, whether or not they have taken control of the vehicle*. It is imperative that the User in Charge does not assume liability for elements they have no control over. Our members have flagged concerns about the transition demand and how obvious, loud and timely this is likely to be and the potential for the ADSE to rely on a soft nudge to transfer liability to the User in Charge.

Instances where the vehicle software overrides the User in Charge commands also need to be considered. A clear process of review needs to be undertaken and any liability in this scenario should be assigned to the ADSE/software provider.

Another concern in this area relates to the need for education and where the responsibility should sit. We would resist this being an onus on the rental or leasing company and would ask the Government to consider how this is best resolved and who is ultimately responsible. This is a particular concern with semi-autonomous features such as Automatic Lane Keeping Systems.

Some form of verifiable training will be a key part of assisting adoption of autonomous vehicles and reducing any risks. One suggestion is that there is a new category of driver licence that shows that people have been trained and understand their responsibilities when it comes to autonomous vehicles and their responsibility as the User in Charge. This could support BVRLA members to ensure there is a qualified User in Charge which otherwise will be exceptionally difficult to assess.

#### Remote operation: no user in charge vehicles

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While we welcome the proposal to have a licensed fleet operator scheme, we are concerned about the definition being used and possible confusion about roles and responsibilities. This is a term widely used now across our sector for those who manage and control their fleet. Under the new definition there are a number of further obligations. To avoid any confusion, we would recommend using a different definition. One suggestion is 'licensed AV operator'. We would welcome the opportunity to discuss this further.

#### British Vehicle Rental and Leasing Association

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## The distinction between the ADSE and the operator

We welcome the proposal to have separate bodies responsible for the manufacture/development (ADSE) and day to day operations of autonomous vehicles via the 'licensed fleet operator scheme'. This will help support healthy competition and allow innovation, which a single entity could prevent. However, questions remain about how such a scheme would operate and ensure fair competition and consumer protection.

Consideration would need to be given to how any disputes may be resolved in instances where neither the ADSE or licensed fleet operator feel they are liable.

Further clarity on the ADSEs responsibilities in relation to cyber-attacks and ensuring over the air updates are properly installed is needed.

Caution would also need to be taken to ensure responsibility/liability is not blindly assigned without a thorough understanding about the cause of offence/damage. For example:

- The fact that a fleet operator may control the destination or route of a vehicle should not then signify that the fleet operator should be liable for a fault in the navigation/operation /safety systems of the vehicles.
- Even if the fleet operator was allowed to control certain aspects of a vehicle (i.e. adding additional software or devices to improve the user experience) this should not mean that all safety protocols and or reliance on the safety of a vehicle should be displaced from the ADSE to the fleet operator.

## Operator Duties

In a scenario where a rental or leasing company is the licensed fleet operator then the Tier 1 duties are not dissimilar to their current roles/responsibilities. Question 41 makes reference to transferring these duties to the registered keeper/owner. Our initial view is that this doesn't seem to be the right approach, but we would be keen to understand why this is being proposed and under what circumstances you would see this as necessary.

In relation to Tier 2 duties and question 42 – if a BVRLA member was involved in providing this type of service as a HARPS operator then there would be a need to ensure there is no disability discrimination. However, as a private company providing a commercial service, the threshold should not be as high as it is for those providing a public service. This would need to be taken into consideration by the advisory panel.

Regarding views on who should administer the operator licensing scheme, it is imperative that this is an independent body with a good understanding of the roles and responsibilities required in various use cases/scenarios. We would be happy to give further thought as proposals are developed.

## Accessing Data

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The ability to access data remains an important issue for members of the BVRLA. We are concerned that, as vehicles become more connected and autonomous, this may start to hinder members' ability to access in-vehicle data and could mean that the owners of the data will have an unfair advantage as new mobility business models emerge. Limiting access to data will stifle innovation and affect customer choice in how and where they get their vehicles repaired/serviced etc.

While we welcome the Law Commission's focus in this area, we are concerned that the focus for the purposes of this review is too narrow. Access to vehicle data should not be restricted to insurance/police use cases but opened to incentivise development of new technology, services and to promote competition. We would appreciate the Law Commission highlighting this as an area for urgent further review in its recommendations to the Government.

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## Further engagement

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We are concerned about how changing regulation will apply to BVRLA members before fully autonomous vehicles come to market and as we start to see semi-autonomous features such as Automatic Lane Keeping Systems (ALKS) being introduced which are defined as autonomous.

There are still a number of unanswered questions around roles and responsibilities where we feel further clarity is needed.

The BVRLA would very much welcome the opportunity to run through various scenarios which would help members to understand possible implications from the changing regulatory landscape and how they should prepare for the future. This could help the Law Commission identify where further clarity, training or guidance is required.

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## About the BVRLA

The BVRLA represents over 970 companies engaged in vehicle rental, leasing and fleet management. Our membership is responsible for a combined fleet of four million cars, vans and trucks – one-in-ten of all vehicles on UK roads.

BVRLA members represent the demand-side of the automotive industry, buying around 50% of new vehicles, including over 80% of those manufactured and sold in the UK. In doing so, they support almost 500,000 jobs, add £7.6bn in tax revenues and contribute £49bn to the UK economy each year.

Together with our members, the association works with policymakers, public sector agencies, regulators, and other key stakeholders to ensure that road transport delivers environmental, social and economic benefits to everyone. BVRLA members are leading the charge to decarbonise road transport and are set to register 400,000 new battery electric cars and vans per year by 2025.

BVRLA membership provides customers with the reassurance that the company they are dealing with adheres to the highest standards of professionalism and fairness.

The association achieves this by reinforcing industry standards and regulatory compliance via its mandatory Codes of Conduct, inspection regime, government-approved Alternative Dispute Resolution service and an extensive range of learning and development programmes.

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