

Government commissions far-reaching review of UK driving laws

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With the economic uncertainty of Brexit looming ever closer, it is perhaps not surprising that the government has reiterated its commitment to ensuring the UK's position as a hot bed for the development of automated vehicle technologies by commissioning a far-reaching review of the UK's driving laws by the Law Commission of England & Wales and the Scottish Law Commission.

Having promised an ongoing agenda of piecemeal regulatory reform designed to encourage rather than stifle innovation, the government now needs to put its foot firmly on the accelerator if it is to keep abreast of competition from the US and Germany and realise the Chancellor, Philip Hammond's desire to see fully automated vehicles on Britain's roads by 2021. Introducing the review, Roads Minister, Jesse Norman MP said: 'With driving technology advancing at an unprecedented rate, it is important that our laws and regulations keep pace so that the UK can remain one of the world leaders in this field.'

While the Automated & Electric Vehicles Bill currently passing through the House of Lords goes some way to put in place a new insurance regime to protect the public where a vehicle operating in automated mode causes a crash, there are still many more questions than there are answers when it comes to the interaction of automated vehicles with the long-established rules of the road. For example, existing driving laws assume a human driver with a steering wheel and manual controls. Who is ultimately accountable when there is no driver? This is just one of many questions that must be addressed before truly automated vehicles can be let loose on our roads.

The 3 year review will see the Law Commission take a deep dive into the UK's driving laws, with the view to producing an initial scoping paper by the end of the year. Whilst key issues such as data and cyber security are not in scope at this stage, it is anticipated that the review will look to address questions such as:

- How do you address criminal and civil liability where there is an element of shared control between driver and machine?
- How will the existing legal framework accommodate automation within the public transport network, and how will it cater for the likely change in private car usage models as consumer demand for mobility as a service (MaaS) such as car sharing and private ride-hailing (the Uber driverless taxi model) increases?
- Will there be a need for new criminal offences linked to certain types of interference with an automated vehicle, such as unauthorised modifications that may impede its safe operation having regard to the presence of sensors and cameras within the bodywork?
- How do you ensure the safety and protection of other road users?

Significantly, the terms of reference are limited to the consideration of legal and regulatory issues, and do not extend to ethical or policy issues such as how algorithms are programmed to cope with a situation where an automated vehicle is on a certain collision course. Likewise, the Law Commission will not consider the subjective criteria such as the public appetite for driverless cars.

Other practical considerations which must be addressed prior to the mass roll out of automated vehicles concern environmental and road infrastructure issues. On the subject of (connected) infrastructure there has been little debate regarding necessary upgrades to the UK network to ensure the safe operation of automated vehicles. This is particularly relevant in the context of large commercial vehicle platoons and to ensure the appropriate segregation of public service vehicles. It remains to be seen to what extent the Law Commission will address these issues as part of its review.

Leading the Law Commission's review in England & Wales, Nicholas Paines QC said that British roads, already among the safest in Europe will be made yet safer by the advent of automated vehicle technologies provided our laws are ready for them.

With so much ground still to cover whether the government's self-imposed deadline of 2021 remains realistic for the mass rollout of automated vehicles hangs in the balance. But its ongoing commitment to the automated vehicle revolution remains abundantly clear, making it a question of 'when' not 'if' and industry stakeholders should expect further consultation on the subject in the not too distant future.

DAC Beachcroft has a specialist multi-disciplinary interest group who are able to advise on all aspects of automated

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