

Automated Vehicles Bill

techUK response to the House of Commons Public Bill Committee Call for Evidence

March 2024

About techUK:

techUK is a membership organisation launched in 2013 to champion the technology sector and prepare and empower the UK for what comes next, delivering a better future for people, society, the economy and the planet. It is the UK's leading technology membership organisation, with more than 1,000 members spread across the UK. We are a network that enables our members to learn from each other and grow in a way which contributes to the country both socially and economically. By working collaboratively with government and others, we provide expert guidance and insight for our members and stakeholders about how to prepare for the future, anticipate change and realise the positive potential of technology in a fast-moving world.

Introduction

techUK strongly welcomes the Automated Vehicles Bill which requires no further amendment and will set the foundation for a regulatory and legal framework to safely deploy automated vehicles (AVs) in Great Britain.

This legislation follows a world-leading four-year long review by the Law Commission of England & Wales and the Scottish Law Commission, which looked at the legal reform needed to enable the safe and responsible introduction of AVs. The Government accepted the majority of the review's recommendations, and the Automated Vehicles Bill is the first step towards legislating on these grounds.

It is important to emphasise that the primary powers contained within this legislation are designed to create a framework for further legislation. This is a complex and fast-evolving sector and as such, we agree with the Government's approach of defining much of the detailed technical specification through secondary legislation to enable thorough consultation with industry, road user groups and the public. This is important for ensuring that overly prescriptive primary legislation doesn't become out-dated or curtail future governments' ability to regulate vehicles that may look very different to today.

Given this, our response to this Call for Evidence is only concerned with provisions within the Bill and not delegated powers, namely; creating a safety framework for self-driving vehicles, ensuring proper accountability, developing an effective enforcement regime, preventing misleading marketing, and delivering novel and accessible passenger services. We would, however, be happy to meet with the Public Bill Committee to discuss any matters which have delegated responsibility in further detail.

1. Creating a safety framework

We support the AV Bill's comprehensive approach to safety. We also welcome the amendments secured in the House of Lords to introduce this on to the face of the Bill. "Careful and competent", which is also used as a benchmark internationally, is higher than that of the average human driver, ensuring that the UK can capitalise on the huge safety potential of automated vehicles. In reality, industry expects that vehicles will surpass this level of safety.

Automated vehicles are tested and trained in real-world driving scenarios where they encounter a broad set of road user groups including pedestrians and cyclists. The technology on-board is fully capable of detecting and safely interacting with these users. This is because automated vehicles exist to improve road safety for all user groups, not just motorists, which will be reflected through regulation in the Statement of Safety Principles set out by the Secretary of State.

We believe that the Statement of Safety Principles must be informed by internationally agreed standards, setting a high safety bar for authorisation which will be used by the Vehicle Certification Agency. They will evolve over time to reflect the fact that this technology will rapidly advance as more use cases are brought to market, with the safety bar getting even higher as AV technology matures.

This approach is consistent with other jurisdictions. The EU¹, France² and Germany³ have all used secondary legislation and regulation to create detailed safety requirements such as processes for safety audits, emergency stop procedures and specifying which datapoints must be shared with authorities on what basis. The Bill's Policy Scoping Notes outline in detail how the UK intends to enshrine its own set of technical safety requirements in secondary legislation and regulation.⁴ Nonetheless, the UK stands out for its very clear division of responsibility, helping both users and industry alike understand what is expected of them. This is unpacked in further detail below.

2. Ensuring proper accountability

We welcome the approach set out by the Bill to create a new legal entity, the Authorised Self-Driving Entity (ASDE), which is responsible for the driving behaviour of the vehicle when the system is engaged. The new Authorised Self-Driving Entity clearly moves liability from a human driver to the company that stands behind the vehicle's performance. This creates a future-proof framework that ensures consumers are protected from prosecution for any infractions while either a User-in-Charge (UiC) or No-User-in-Charge (NUiC) self-driving system is engaged. **This is a world-leading approach helps resolve ambiguities in who is responsible, and we expect other countries to follow in our lead.**

User-in-Charge vehicles will require a driver to respond to a 'transition demand'. Standards for safe transition demands are being agreed at international level. It is very likely that the UK will draw on this to create national rules to support safe transition demands. Vehicles with a NUiC feature will be required to have a NUiC operator. The Bill creates a new licensing regime for NUiC operators which will be expected to ensure safety of the vehicle's operations, such as fleet maintenance and security.

Importantly, the Bill follows aviation and healthcare legislation in establishing new criminal offences for companies and their officers who supply dishonest information to the regulator. The Law Commissions emphasised the importance of strong penalties for dishonesty to incentivise truthful engagement with the regulator and improve learning for the whole industry. This 'duty of candour' will counter concerns from the public that companies are not being held properly accountable. **No other country has created this type of offence for the AV industry.**

Automated vehicles are capable of capturing large volumes of data meaning that an accurate record will be available in the event of a transition demand being issued or a collision. Chapter 2 of the Bill also sets out the investigation of incidents by statutory inspectors and the duty placed on both ASDE and NUiC operators to provide information to the inspector to assist in investigations. The level of data and information available when inspecting collisions and incidents involving automated vehicles will far exceed what is available in the investigation of collisions and incidents involving conventional vehicles.

They will also be subject to existing and future data protection laws that cover all data controllers and processors, including the Data Protection Act 2018 and the additional protections introduced in the Data Protection and Digital Information Bill currently being considered by the House of Lords. The authorisation requirements introduced in the AV Bill will include industry-leading standards on cybersecurity giving users confidence that AVs are designed to secure users' data from hostile actors.

3. Enforcement

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32022R1426>

² <https://www.legifrance.gouv.fr/jorf/id/JORFTEXT000043729532>

³ <https://www.gesetze-im-internet.de/afgbv/BJNR098610022.html>

⁴ <https://www.gov.uk/government/publications/automated-vehicles-bill-2023/automated-vehicles-bill-policy-scoping-notes#:~:text=These%20policy%20scoping%20notes%20set,making%20powers%20in%20the%20bill.>

Industry welcomes the comprehensive enforcement regime established by the Bill, detailed in Schedule 1. We know that the public trusts regulatory regimes that can take decisive action when things go wrong. The new enforcement powers complement the 'duty of candour' by giving government the necessary means to investigate ASDEs and NUIC operators following serious incidents.

Nonetheless, it is important that government engages industry to help us understand how the Department for Transport is upskilling itself to use these powers and how they will be exercised. We recognise the importance of collaborating closely with government to retain public trust, but industry must also be able to appropriately cost risk.

4. Preventing misleading marketing

Part 4 of the Bill is concerned with the restriction of certain terms to authorised automated vehicles and the creation of new criminal offences if these terms are misused.

We fully support this approach given the complex taxonomy associated with self-driving vehicles and the importance of ensuring that consumers have accurate information given important aspects such as the transfer of legal liability.

5. Automated Passenger Services

Industry has struggled to trial passenger-carrying AVs under the Code of Practice for Automated Vehicle Trialling⁵. Existing passenger legislation in the UK is not suited for the removal of the driver. Part 5 of the Bill, creating a new permitting regime for 'Automated Passenger Services' (APS) is therefore crucial for getting driverless passenger services to the public. The Government's own research suggests that public confidence in the technology is built through safe exposure to the vehicles themselves⁶. The public are more likely to experience automation through a public transport service than by purchasing a private car with this functionality.

The new APS regime provides a blank slate for creating innovative public services that will deliver key social and economic benefits to the public. It is important that this new permitting regime is ready at the same time as the authorisation and licensing of vehicles with a NUIC feature. We are keen to work with government and wider stakeholders to make this possible.

5.1. Designing accessible automated services

Accessibility requirements already exist for modes of passenger transport under existing UK law and the Law Commissions defined twelve accessibility outcomes based on best practice today. These outcomes were strongly supported by consultees and UK Government.

AVs should be an integral part of a transport network that works for everyone. An 'Automated Passenger Service' scheme (established in Part 5 of the Bill) emphasises the importance of learning, including the need to consider how a service will improve accessibility. Deploying services as soon as the permitting scheme is ready enables us to learn what works for carrying passengers and what doesn't. Only with this experience in operating services can we identify new requirements.

Industry stands ready to work with government and disability groups to develop a regulatory regime that delivers the major accessibility benefits this technology offers.

⁵ <https://www.gov.uk/government/publications/trialling-automated-vehicle-technologies-in-public/code-of-practice-automated-vehicle-trialling#:~:text=ensure%20that%20the%20driver%20is,parameters%20of%20the%20trial%20area>

⁶ <https://assets.publishing.service.gov.uk/media/649d83a8bb13dc0012b2e35d/great-self-driving-exploration-citizen-view-of-self-driving-technology.pdf>