



Chartered Institution of Highways & Transportation response to the English Law Commission and Scottish Law Commission's joint consultation paper Automated Vehicles: Consultation Paper 2 on Passenger Services and Public Transport (February 2020)

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CIHT is a charity, learned society and membership body with over 14,000 members spread across 12 UK regions and four international groups. We represent and qualify professionals who plan, design, build, manage and operate transport and infrastructure networks. Our vision is for world-class transportation infrastructure and services. Our values are to be Professional, Inclusive, Collaborative and Progressive.

Introductory statement

CIHT as a Chartered professional body, and charity with a focus on developing the public benefit of all aspects of highways and transportation (H&T), the significant development of the sector offered by Connected and Automated Vehicles is a key area for us.

We are optimistic of the potential of Connected and Automated Vehicles to improve road safety, reduce congestion and enhance car users' and drivers' experiences and in general be a positive contribution to society. A key focus for CIHT is that automated vehicles are deployed in a way that ultimately delivers public benefit, and we believe that local transport authorities need the right regulatory measures to make sure that this happens. We would like to see automated fleet operators working in good faith with local authorities on delivering the best transport systems for the end-users.

CIHT would urge that the ongoing review considers the legal liabilities of highways authorities and the people that work on highways, as well as those of the users. Equally while the safety of road users is a major concern legislation must ensure that those who build and maintain our roads are sufficiently protected. While safety is imperative, CIHT urges that any legislation and subsequent deployment of automated vehicles consider the transport modes' wider impact on transport systems and society in general; including climate, health, economy and equality.

Connected and automated vehicles provide an opportunity to change the way vehicles interact with the highways network. The amount of data collected, and connectivity of these vehicles may greatly change the relationship between road users and providers specific legal duties which are embedded within the highways network. Developing that proper legal framework will be key to provide the best experience to all users of the UK's highways.

CIHT has responded to Question 1, 2, 12, 28, 29, 30, 31, 32, 33, 34 and 38.

Question 1 (Paragraph 3.82)

Do you agree that Highly Automated Road Passenger Services (HARPS) should be subject to a single national system of operator licensing?

CIHT agrees that a single national system of operator licensing should be adopted. This would ensure a consistent approach to those aspects of licensing that are safety related. This is also important to ensure that end-users can expect as consistent and high level of safety as possible.

Question 2 (Paragraph 3.86)

Do you agree that there should be a national scheme of basic safety standards for operating a HARPS?

CIHT agrees that there should be a national scheme for basic safety standards for operating HARPS. CIHT believes that it is essential, not just from a consistency point of view, but also to ensure that whatever basic safety knowledge is known about HARPS at that stage, is standardised and regulated to be made enforceable.

Question 12 (Paragraph 4.125)

Do you agree that HARPS operators should be subject to additional duties to report untoward events, together with background information about miles travelled (to put these events in context)?

CIHT agrees that HARPS operators should be subject to additional duties to report events and background information such as miles travelled. In any new systems learning about usage and operation are important to ensure improved development and only through a requirement to report can that knowledge be shared. This can particularly be true for events that might not reflect positively on the operator. Therefore, it should be considered what safety-related information needs to remain confidential to ensure that reporting takes place.

We need to ensure that the proper legal framework is available to promote and require the sharing of critical data between highways authorities, transport operators, vehicle providers and users to provide the best experience to all users of the network.

Question 28 (Paragraph 6.124)

We seek views on whether operators of HARPS should have data reporting requirements regarding usage by older and disabled people, and what type of data may be required.

CIHT supports the Law Commission's aim of making the accessibility of HARPS much better than existing forms of public transport. CIHT agrees that the lack of data about disabled people's use of existing transport modes is an issue in improving the accessibility of transport. CIHT believes that operators of HARPS should be required to collect data on usage by older and disabled people.

Beyond the remit of the Law Commission, CIHT of course believes that the Department for Transport should set high standards for accessibility of all transport and that HARPS operators should live up to these.

On data collection in general, CIHT believes that connected and automated vehicles provide a large-scale opportunity to change the way vehicles interact with the highways network and deliver services for people through the collection and sharing of data. We need to ensure that the proper legal framework is available to promote and require the sharing of data between highways authorities, transport operators, vehicle providers and users to provide the best experience to all users of the network.

Question 29 (Paragraph 7.23)

We seek views on whether the law on traffic regulation orders needs specific changes to respond to the challenges of HARPS.

CIHT supports an update to processing traffic regulation orders as they are in general costly; a single one can cost £15,000 and a CIHT survey in 2010 found that Highway Authorities in England alone are estimated to be spending £22.3million per annum on statutory advertising (Nottinghamshire County Council alone spent £156,00); time consuming (a simple TRO can take 14 weeks, but a complex one over 12 months) method of regulating pavement parking that delivers suboptimal outcomes.

CIHT believes that those best placed to make decisions about what their highways should be used for are local communities through their local councillors. National legislation should enable these authorities to be responsive to community concerns in a way that is affordable, quick and effective.

CIHT understands that the law commission does not consider it within their remit to update legislation on TRO's given other developments currently. But it will be important to consider who are responsible for making sure automated vehicles understand and interact correctly with roadworks notifications; layout and sign design and maintenance work. How will the vehicle know that an emergency roadworks permit is in operation and who is responsible for teaching the vehicle about any updates to signage etc. that it needs to understand to safely

operate? To this point, CIHT believes that automated vehicles should be designed to work with the roads we have and that greater responsibilities should not be enforced on a hard-pressed highways sector without sufficient resource added to this sector.

Question 30 (Paragraph 7.59)

We welcome views on possible barriers to adapting existing parking provisions and charges to deal with the introduction of HARPS. In particular, should section 122 of the Road Traffic Regulation Act 1984 be amended to expressly allow traffic authorities to take account of a wider range of considerations when setting parking charges for HARPS vehicles?

CIHT believes that traffic authorities should have the ability to specify parking charges specifically for HARPS vehicles as these will operate in a different way to other vehicles and in order for traffic authorities to manage their unique transport networks best this will be an important lever.

As mentioned in the consultation paper, different areas and roads might require different measures for effectively managing traffic. It is important to understand that different roads are used for different purposes, and local authorities are best placed to manage parking charges in their local contexts.

Question 31 (Paragraph 7.86)

We seek views on the appropriate balance between road pricing and parking charges to ensure the successful deployment of HARPS.

CIHT would support the development of road pricing schemes for HARPS. Vehicles with the ability to drive without a user-in-charge pose very different challenges to traffic authorities in managing their networks and hence the possibility to use different levers in managing different modes of traffic is important.

The correct balance between road pricing and parking charges will be different from place to place, from rural to urban environments and is likely to also be an iterative process that traffic authorities will have to engage in once HARPS will start to get deployed.

Question 32 (Paragraph 7.87)

Should transport authorities have new statutory powers to establish road pricing schemes specifically for HARPS? If so, we welcome views on: (1) the procedure for establishing such schemes; (2) the permitted purposes of such schemes; and (3) what limits should be placed on how the funds are used.

CIHT would support that transport authorities have the powers to establish road pricing schemes both for HARPS and other vehicles. This is an important lever in terms of managing demand, congestion, emissions, air pollution and safety.

We would like to see automated fleet operators working in good faith with local authorities on delivering the best transport systems for the end-users. This includes sharing data gathered by vehicles on road condition and journey reliability shared with the local highways authority to improve the level of service on offer, but also regulating pricing or costs of operating HARPS.

Question 33 (Paragraph 7.97)

Do you agree that the agency that licenses HARPS operators should have flexible powers to limit the number of vehicles any given operator can use within a given operational design domain for an initial period? If so, how long should the period be?

CIHT agrees that it is sensible to limit initial deployment to a limited quantity of vehicles to ensure that the vehicles operate safely. CIHT also believes that there are other imperatives than safety that needs to be gradually tested as automated vehicles are deployed. Transport modes and especially automotive vehicle transport can have many costs to society if not

managed correctly such as air pollution and health, safety, congestion and others. Safety is naturally one of the immediate risks to manage, however vehicles impact very significantly on a number of other issues such as those mentioned. HARPS and automated vehicles can potentially have a very positive impact on those issues, but they need to be managed to ensure that our overall transport network becomes more sustainable, healthy and generally delivers more positive outcomes for society.

Question 34 (Paragraph 7.120)

Do you agree that there should be no powers to impose quantity restrictions on the total number of HARPS operating in a given area?

CIHT recognise the issues of hampering competition and “after the event” caps on automated vehicle quantities but believe that other models than those proposed should be investigated.

Many cities have responded to e-scooters and hire-bike schemes with a permit system where only a select number of providers are allowed to operate, with a limited number of vehicles deployed and on a time-limited basis subject to renewal if those operators operate to a specified standard. This can be specified by local transport authorities to ensure that operators and their vehicles, whether e-scooters or automated vehicles, are a positive contribution, align with local strategies and deliver public benefit.

CIHT agrees with many of the potential benefits of HARPS outlined in the consultation paper but believe that strong regulatory measures must be available to transport authorities to manage the implementation of this new mode of transport. An “after the event” cap might not be desirable but a gradual increase of a cap, taking into account the performance of HARPS and/or automated vehicles and their impact on the traffic network in stages would be a possibility.

Without the possibility to regulate the quantity of automated vehicles beyond a period where their safe operation is ensured as proposed in Paragraph 7.94-7.96, you run the risk of vastly oversupplying the market once they are introduced, as automated vehicle providers will be competing for market dominance. Business models are often focussed on asserting market dominance first and achieving a profitable business second, as has also been the case of the electric scooter market. This might have very adverse effects on the transport network such as congestion, safety, pollution etc., and road pricing might not be enough to manage the successful implementation of automated vehicles.

CIHT recommends that further models of capping, permitting and gradual implementation are investigated.

Question 38 (Paragraph 8.109)

We seek views on a new statutory scheme by which a transport authority that provides facilities for HARPS could place requirements on operators to participate in joint marketing, ticketing and information platforms.

CIHT supports the proposal to have a statutory requirement for joint marketing, ticketing and information platform aspects as they would be an important part of a Mobility-as-a-Service (MaaS) approach. Without a duty to participate, then the commercial incentives may not be sufficient at the outset to make this provision occur.