

Transport Committee
House of Commons
London
transcom@parliament.uk

22 August 2022

Inquiry: Self-driving Vehicles

About BIBA

1. The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance intermediary organisation, representing the interests of insurance brokers, intermediaries and their customers. BIBA membership includes around 1800 regulated firms, employing more than 100,000 people.

General insurance brokers contribute 1% of GDP to the UK economy; they arrange 72% of all general insurance with a premium totalling £74bn and 92% of all commercial insurance business. Insurance brokers put their customers' interests first, providing advice, access to suitable insurance protection and risk management.

BIBA receives hundreds of thousands of enquiries per year to its Find Insurance Services, online and via the telephone, which are directed to insurance broking firms.

BIBA is the voice of the sector advising members, Government, regulators, consumer bodies and other stakeholders on key insurance issues.

Insurance brokers help stimulate a competitive marketplace that benefits consumers in supplying affordable motor insurance. Increased road safety and reducing accidents is a key part of this.

Summary

2. Cyber risks remain a key concern. We believe that the manufacturer should be responsible for all safety-critical software updates as cyber incidents would often require very swift resolution to maintain the safety of a vehicle.
3. The Law Commissions recognise that the adequacy of collision detection systems requires further development.
4. There is no real consensus on which data should be provided, when and in which format for the purpose of processing insurance claims and establishing civil liability. Manufacturers and the insurance industry are working on a data sharing agreement and it's important that this agreement is robust and works efficiently to resolve claims for injury and damages quickly.
5. A joined-up strategy across manufacturers and government will be crucial to ensure that drivers understand the meaning of self-driving technology, what is/is not permitted by a user-in-charge when ADS is engaged and their responsibilities.

Detailed response

Likely uses

6. We believe that early use cases are likely to be mobility as a service e.g. taxi, public transport; sector-specific uses such as haulage, farming; and courier/delivery (remote-driving technology is already used for last mile delivery pods).
7. We expect that self-driving technology might be initially confined to a greater range of 'simple' circumstances where traffic flow is less complicated ie urban areas and in lower speed setting. Automated lane-keeping system (AKLS) will be the first technology deployed in the UK, which will be restricted to use on motorways and up to 37mph. It is only when this use becomes close to perfecting (or society becomes comfortable and accepts as the norm) that use in more complicated traffic flow systems will follow.

Progress of research/trials

8. Not within BIBA's area of expertise.

Implications for infrastructure (physical & digital)

9. The requirements for digital infrastructure needed by self-driving cars to operate is not within BIBA's area of expertise.

The regulatory framework, including legal status and approval and authorisation processes

Cyber

10. We believe that the manufacturer should be responsible for all safety-critical software updates.
11. Cyber resilience to prevent hacking and black outs is crucial as the consequences for vehicle occupants and other road users of a ransomware attack or a hacker taking control of the vehicle or corrupting the software could be severe.
12. The joint Law Commissions report on AV, published in January, recommends that a user in charge is responsible for roadworthiness, which includes software updates¹. The report reveals that maintenance of AVs including safety-critical software updates provoked considerable discussion with many arguing for technical solutions to achieve this. The authors expressed the hope that technical solutions can be found both to alert owners to roadworthiness issues in AVs and to ensure that safety-critical updates are installed.
13. However, pending these solutions, and to avoid a gap in the law on responsibility, the report concluded that, for now, the existing roadworthiness offences should continue to apply to a user-in-charge but with sufficient flexibility in legislation to allow for reallocation of some roadworthiness responsibilities to the Authorised Self-Driving Entity (ASDE) as appropriate as the technology develops.

¹ Recommendation 45. Roadworthiness includes safety critical software updates – see para 8.83 of LC report.

14. We are concerned that this places an unreasonable burden on a user-in-charge and we believe that consumers should not be responsible for maintaining a complicated technology that is safety critical. Software is continually developing and changes might be needed to respond to quickly-evolving circumstances.
15. The legal accountability for injury and damage when the ADS is engaged is with the ADSE and the ADSE should retain all responsibilities relating to that accountability including maintenance of cyber security standards through software updates.
16. It is also pertinent to aspects of the Automated and Electric Vehicles Act 2018. This permits an insurance policy to exclude or limit an insurer's liability for damage suffered by an insured person in an accident due to a failure to install safety-critical software updates that the insured person knows, or ought reasonably to know, are safety-critical. The Act also gives an insurer (who would be required to settle a claim from an injured third party) a right of recovery against an insured person for injury sustained by others in such circumstances. This provision must stay in lockstep with any new legislation to enact the Law Commission recommendations.

Data

17. The Law Commissions joint report highlights an aspect that is not addressed in its report and requires further work: the adequacy of collision detection systems². A detailed consultation response from the International Telecommunications Union Focus Group on AI for Autonomous and Assisted Driving (FG-AI4AD) points out that if an AV collided with a pedestrian in the absence of human witnesses, there would be no clear way of establishing what had happened. This uncertainty could impact an injured person's ability to claim compensation for injuries sustained.
18. Consultation Paper 3 provisionally proposed a new statutory duty requiring those controlling AV data to disclose it to insurers, where the data is necessary to decide claims fairly and accurately.
19. However, there is no real consensus on which data should be provided, when and in which format.³ The Law Commissions' view is that the new Act should set out a general duty that would require those controlling AV data to disclose it to insurers and manufacturers and the insurance industry are working on an agreement for disclosing DSSAB data for the purpose of processing insurance claims and establishing civil liability. It is important that this agreement is robust and works efficiently to resolve claims for injury and damages quickly.
20. Data sharing should include the status of safety-critical software updates and the status of any alterations to the software as liability under AEVA is affected by this.

Safety and perceptions of safety, including the relationship with other road users such as pedestrians, cyclists and conventionally driven vehicles

21. Public education and driver awareness of new technology will be of the utmost importance. A joined up strategy across manufacturers and government will be crucial to understand the meaning of self-driving technology, what is/is not permitted by a user-in-charge when ADS engaged and their responsibilities.

² Law Commissions' Joint Report on AV, para 2.106.

³ Law Commissions' Joint Report on AV, para 13.57

The role of Government and other responsible bodies, such as National Highways and local authorities; potential effects on patterns of car ownership, vehicle taxation and decarbonisation in the car market

22. Car ownership, decarbonisation and technology trends intersect: the higher price point of self-driving vehicles could accelerate leasing over purchase and increased use of car sharing. Self-driving vehicles may be predominantly EVs due to development costs and phasing out of ICE (Internal Combustion Engine) vehicles. Shift to EVs already seen due to climate concerns and now the cost of fuel. Car sharing/pooling trends are also increasing as attitudes change to obtain greater value in use of assets (the average car or van in England is driven just 4% of the time, a figure that has not changed in a quarter of a century⁴). This has implications for government in tax revenue and net zero targets.

**Graeme Trudgill FCII, Chartered Insurance Practitioner
Executive Director**

Tel: 020 7397 0218 Email: trudgillg@biba.org.uk

⁴ RAC Foundation press release 8 Jul 2021 [Cars parked 23 hours a day \(racfoundation.org\)](https://www.racfoundation.org/news/cars-parked-23-hours-a-day)