

The Department for Transport (DfT)

Consultation on the regulation of Automated Lane Keeping System (ALKS)

Response by Thompsons Solicitors LLP



The Department for Transport (DfT) carried out a consultation to gather evidence on the regulation of Automated Lane Keeping System (ALKS).

The government's view is that this automated technology could make driving safer, smoother and easier for motorists, but we are concerned that reported accidents in the United States suggests quite the opposite.

Questions posed in the consultation included whether respondents were satisfied that the proposed wording achieves the outcomes articulated for The Highway Code and whether there were any concerns about the impacts of the proposed changes to The Highway Code.

Our answers can be found below.

I. We ask whether respondents are satisfied that the proposed wording below achieves the outcomes articulated above for The Highway Code? And if not, why?

No, we are not satisfied with the proposed wording that "while an automated vehicle is driving itself, you are not responsible for how it drives, and you do not need to pay attention to the road" nor the proposed wording that "you should not be so distracted that you cannot take back control when prompted by the vehicle".

We would suggest that the two directions are contradictory, confusing and legally unhelpful in the event of an accident.

"You are not responsible for how it drives" suggests there is no consequence "you do not need to pay attention to the road" condones all kinds of actions that are potentially unsafe.

"You should not be so distracted" assumes that a certain undefined level of distraction is acceptable which again condones actions that are potentially unsafe.

We have seen no evidence that automated vehicle technology is infallible in fact accidents reported from the United States suggests quite the reverse.

There is no provision in the wording that allows for technological malfunctions and/or the technology failing to recognise new road layouts or sudden hazards, which would require human intervention.

We do not agree with the proposed wording that "for example, you should not move out of the driving seat". We would have thought that that should be self-evident and again suggests that a whole range of lesser ceding of control or attention is acceptable.

The proposed wording "you should not be so distracted that you cannot take control back when prompted by the vehicle" ought in our opinion to read "you MUST not move out of the driving seat" and "you MUST not be so distracted that you cannot take back control when prompted by the vehicle".

2. Do you have concerns about the impacts of the proposed changes to The Highway Code? Why?

from the operator in charge which would cause unsafe highway conditions.

We are further concerned that the proposed changes fail to take into account the recent fatal Tesla crash in Texas, where the automated vehicle had failed to recognise that the Autopilot system had been manipulated to operate without anyone in the driver's seat.

In our view any changes to The Highway Code must recognise that operators in charge may find ways to circumnavigate inbuilt safety features or abandon personal responsibility. As litigators for injured claimants, we believe that, in order to prevent this, operators of automated vehicles should be required to retain personal responsibility and ultimately liability should an accident occur.

Thompsons Solicitors LLP
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