



Monday, 9 July 2018

Automated Vehicle Team  
National Transport Commission  
Level 3/600 Bourke Street  
Melbourne VIC 3000

To Automated Vehicle Team

**Re National Transport Commission (NTC)  
Safety Assurance for Automated Driving Systems Consultation Regulation Impact Statement**

**1. Introduction**

1.1 The Motor Trades Association Queensland (MTA Queensland or the Association) responds to the National Transport Commission's *Safety Assurance for Automated Driving Systems* Consultation Regulation Impact Statement (RIS). The MTA Queensland's comments are submitted on behalf of its constituent divisions and are confined to issues which relate to the interests of Queensland's automotive value chain which, among others includes: franchised new car dealers, independent mechanical and motor body repairers, recyclers and other discrete automotive technology and service providers.

1.2 Since 2017, the Association as a stakeholder has engaged in the consultation processes on safety for automated vehicles and attended the NTC forum which considered the merits of available approaches and the implications and risks relating to the regulation of the automated driving system entity (ADSE).

1.3 The RIS consultation paper provides four options to address problems associated with automated vehicle safety providing an assessment of each option.

1.4 We note that both public and private sector stakeholders have indicated broad support for a safety assurance system based on mandatory self-certification by the originating entity that is intending to deploy automotive driving technology in Australia's transportation market as outlined in Option 4. This was based on the premise that Option 4 strikes a reasonable balance in addressing identified problems including the need to:

- ensure that automated vehicles entering Australia's vehicle fleet accord with safety criteria intended to avoid the potentially high economic and social cost of poor road safety outcomes
- provide users with reassurances that automated vehicles have acceptable levels of safety performance so that a lack of confidence does not create a barrier to the uptake of automated vehicles
- create a suitable regulatory environment that is flexible and responsive and does not impose unacceptable costs and does not constitute a barrier to ADSEs entering the Australian market.

**Motor Trades Association Queensland**

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1.5 The Association generally supports the framework proposed in Option 4:

*‘Legislative safety assurance system + primary safety – A safety assurance that includes all the elements of option 3, plus a primary safety duty on ADSEs.’*

The legislative safety assurance system, defined in Option 3 is:

*‘A safety assurance system based on mandatory self-certification. This would include new or amended legislation to allow for the inclusion of specific offences and compliance and enforcement options, and a regulatory agency with responsibility for administering automated vehicle safety.’*

1.6 The Association notes that the NTC has proposed 11 safety criteria that an applicant must self-certify against, to demonstrate the competence of their processes for managing safety risks. As these include innovative concepts, it maybe of value to restate these:

- |  |  |
|--|--|
| 1. Safe system design and validation processes               | 2. Operational Design Domain                   |
| 3. Human Machine Interface                                   | 4. Compliance with relevant traffic laws       |
| 5. Interaction with enforcement and other emergency services |  |
| 6. Minimal risk condition                                    | 7. On-road behavioural competency              |
| 8. Installation of system upgrades                           | 9. Testing for the Australian road environment |
| 10 Cybersecurity   | 11. Education and Training                     |

The NTC proposes three additional obligations on ADSEs to reinforce the management of liabilities arising from events such as road traffic law breaches and road traumas:

- |                                   |                                    |
|-----------------------------------|------------------------------------|
| 1. Data recording and sharing     | 2. Corporate presence of Australia |
| 3. Minimum financial requirements |                                    |

1.7 The safety criteria are intended to underpin trust in order to encourage the public’s acceptance and uptake of autonomous vehicles. Consumer responses to a Smith’s Lawyers survey posing the question ‘would you trust an autonomous car?’ elicited 58.2 per cent of people saying ‘no, I like control of my car at all times’; ‘7.1 per cent agreed’; and a further ‘14 per cent said they’d trust an autonomous car, but only after the technology has been extensively tried, tested and proven safe in the real world’ (Luehrs, A, Smith’s Lawyers, *Seven Problems Self-Driving Cars Face* Report, 28 June 2018).

## **2 Viewpoints**

2.1 The MTA Queensland generally supports Option 4 as the basis of a framework on which vehicles with automated driving systems (ADS) would be introduced and integrated into Australia’s private and commercial transport network systems.

2.2 This framework should have the competence to manage the introduction and risks of the ADS and should be harmonised across the Commonwealth to optimise benefits and manage risks.

2.3 The Association agrees such a framework should be administered by a national government authority which would include the Commonwealth, States and Territories, the NTC and other statutory stakeholders.

2.4 The MTA Queensland has a concern with managing the impact and incidence of technology risks along the value chain arising from the introduction of the ADS. The Association is of the view that this risk management is critical to the rate of uptake and the delivery of the benefits from these technologies to countries such as Australia where road transport has an important role in the nation's logistics.

2.5 It appears important that the statutory framework establishes criteria for:

- Self-certification by Original Equipment Manufacturers (OEM) who graduate as ADSEs of the competence of their ADS technologies;
- Obtaining pre-market approvals that the ADS meet prescribed technical thresholds; and
- Accreditation of ADSEs that allows for the impact and incidence of technology risks be clearly identified so that the responsible entities are aware of the risks they have to carry in respect of this technology and therefore are in a position to make decisions and how to manage such impacts;
- The public to be confident that sufficient statutory regulations and protections exist to address both social and economic concerns and reinforce trust.

2.6 The accreditation of ADSEs as a regulatory framework, must determine how and when responsibility for ADS is transferred to service and aftermarket entities and how these are to be accredited to service ADS.

2.7 It is the Association's view that any ADS legislation and regulation enunciates the legal responsibilities of the OEMs and the circumstances in which such responsibilities can be transferred to franchised dealers or independent repairers. In addition, the legislative framework should define the responsibilities of entities involved in manufacturing, servicing and where appropriate retrospectively fitting ADS so that the risks carried along the value chain are defined and transparent.

2.8 The introduction of the ADS appears to have the ability to impose vehicle accident fault liability on technology and therefore on the technology provider or technology service entity. In this situation the risk will be transferred from the driver to the ADS provider or service entity. In such circumstances, the ADS provider and service entity will have to take appropriate action to manage these risks. Currently these risks are managed by insurance policies in respect of the vehicle and Compulsory Third-Party Insurance which manages collateral risk. The statutory framework should have the competence to manage the risk transfer in a defined and transparent manner.

2.9 Additional legislative issues that could be addressed in the RIS, include the architecture of the motor vehicle insurances for ADS vehicles and whether the technology provider carries some exposure in this circumstance.

2.10 A further issue relates to Australian Consumer Law. The accreditation of ADSEs should not limit competition and not disadvantage consumers. The status of independent motor vehicle repairers and providers of aftermarket ADSs needs to be taken into consideration. Currently there is an on-going debate about independent repairer's access to vehicle repair technology manuals/data. This must be addressed so that competition is not mitigated and consumer rights not infringed.

2.11 We would be please to provide further comment on any matters in our submission that may require further clarification or amplification.

### **3 Background**

3.1 The MTA Queensland is the peak organisation in the State representing the specific interests of businesses in the retail, repair and service sector of Queensland's automotive industry located in the State. There are some 15,500 automotive value chain businesses employing approximately 88,500 persons

generating in excess of \$20 billion annually. It is an industrial association of employers incorporated pursuant to the *Fair Work Act* 2009. The Association represents and promotes issues of relevance to the automotive industries to all levels of Government and within Queensland's economic structure.

3.2 The Association is the leading automotive training provider in Queensland offering nationally recognised training, covering technical, retail and the aftermarket phases of the motor trades industry through the MTA Institute - a registered training organisation. It is the largest automotive apprentice trainer in Queensland employing trainers geographically dispersed from Cairns to the Gold Coast and Toowoomba and Emerald. The MTA Institute last financial year accredited courses to in excess of 1,600 apprentices and trainees.

Thank you for your deliberation.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Brett Dale', followed by a period.

**Dr Brett Dale DBA**

Group Chief Executive Officer  
MTA Queensland