

# National Transport Commission

## In-service safety for automated vehicles Consultation Regulation Impact Statement

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National Transport Commission  
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## **About Australian Motorcycle Council Inc.**

The Australian Motorcycle Council (AMC) was formed in 1982 and is the peak body for motorcycle road riders in Australia.

The objectives of the Council are to:

- Promote and improve all aspects of road safety concerning motorcycling in Australia
- Promote, improve and protect the use of motorcycles in Australia, recognising their environmentally beneficial place in urban and land transport planning and systems
- Promote and improve at all levels the full knowledge, awareness, understanding and acceptance of motorcyclists' welfare and safety needs in Australia

The AMC wishes to thank the National Transport Commission for this opportunity to make a submission in response to the 'In-service safety for automated vehicles' consultation Regulation Impact Statement.

Should you require further information on the information contained within this submission, please feel free to contact the AMC committee@amc.asn.au or Brian Wood at 02 9804 6638.

Regards,

Brian Wood  
Chair of the AMC's sub-committee on Automated Vehicles

## Consultation questions

**Question 1.** To what extent has the consultation RIS fully and accurately described the problem to be addressed, including the in-service safety risks? Please provide detailed reasoning for your answer.

### Response

1/The consultation RIS does not consider possible bad behaviour by drivers who attempt to defeat safety interlocks. Currently drivers of Level 1 and Level 2 vehicles defeat interlocks that are designed to ensure drivers keep their hands on the steering wheel by placing an orange in the spokes of the steering wheel or taping a partially filled bottle of water to the steering wheel.

Videos describing these techniques can be readily found on social media.

Is minimising this bad behaviour the responsibility of the ADSE or the regulator?

Under the hierarchy of control, this behaviour would be best controlled by the ADSE by eliminating it with interlocks that are not easily defeated rather than using a lower order of control such as enforcement.

No doubt the techniques used to defeat interlocks will evolve over time and become more sophisticated. .

2/ The discussion does not adequately describe the need to transition from a general safety duties to prescriptive law as the introduction of AVs evolve.

**Question 2.** Have we correctly identified the parties with an influence on the in-service safety of automated vehicles and accurately described their role? If you identify additional parties, please explain what their role is.

### Response

The definition of a 'modifier' needs to include anyone who attempts to defeat a safety interlock, this would include a fallback-ready driver or a passenger.

The role of social media in disseminating information on how to defeat safety interlocks needs to be considered.

Companies are already selling commercially manufactured devices to defeat safety interlocks.

**Question 3.** Have we accurately assessed each party's influence on the in-service safety of automated vehicles? If not, please provide details.

### Response

No, the role of a 'modifier' needs to be considered as major due to the potentially large number of modifiers and their ability to access information and devices via social media.

**Question 4.** Have we accurately described the regulation that already applies to relevant parties that would help ensure the in-service safety of automated vehicles?

Response

No, under current regulations social media platforms are reluctant to remove material unless ordered to do so by way of a Court Order.

If the information on defeating safety interlocks originates overseas, then a local Court Order may be ineffective unless regulators in the country of origin are willing to act.

Regulation may be required to prevent the importation of commercially manufactured devices designed to defeat safety interlocks.

**Question 5.** Do you think there are any new risks posed by second-hand ADS components, after-market modifications or the transfer of ownership of automated vehicles, which may not be adequately addressed by existing regulation designed for conventional vehicles?

Response

There would be a new risk if after market modifications are designed to defeat safety interlocks.

**Question 6.** Do you think the parties with an influence on in-service safety are sufficiently covered by Australia's current legal frameworks?

Response

No, social media platforms are unwilling to remove material unless ordered to do so by a Court Order. This process may well be too slow to be effective.

**Question 7.** Do you think that a general safety duty to ensure the safe operation of the ADS 'so far as reasonably practicable' is appropriate to address the safety risks?

Response

No, as the introduction of AVs progresses, there needs to be a means to transition from purely general safety duty to prescriptive law.

**Question 8.** If a general safety duty were introduced, which parties should it apply to?

Response

Modifiers which would include fallback-ready users and passengers, social media platforms.

**Question 9.** If a general safety duty were introduced, should it apply on public and private land (such as residential driveways)?

Response

Yes

**Question 10.** Should people injured by breaches of the general safety duty have a cause of action, or should the ability to enforce a general safety duty be limited to a regulator?

Response

Yes, so action can be taken by injured parties to get redress in cases where the regulator is reluctant to act or deems the case too minor

**Question 11.** Do you think there should be specific driving rules for ADSs like the Australian Road Rules, or would it be sufficient to simply require them to 'drive safely'?

Response

No, there needs to be specific driving rules for ADSs in more technical language which can be written into software.

**Question 12.** What approach to regulating the dynamic driving task for ADSs most efficiently achieves safe outcomes? Please provide reasons.

Response

Approach 1 which allows specific driving rules for ADSs in more technical language which can be written into software. Part of the dynamic driving task is that an AV has to be able to come to a 'safe stop'. To do this it will need to be able to park in compliance with parking regulations as parking regulations are, in part, designed to prevent vehicles stopping in unsafe locations.

Stopping in the middle of traffic is far from 'safe'.

**Question 13.** What functions and powers does the regulator need to effectively manage in-service safety? Would these differ depending on whether the regulator is enforcing a general safety duty, or only prescriptive duties?

Response

This issue is adequately covered in Chapter 8 of the Consultation RIS

**Question 14.** Have we accurately described the scope of the regulatory task? Please provide data and evidence where possible to support your answer.

Response

The scope is adequately covered in Chapter 8 of the Consultation RIS

**Question 15.** Have we accurately captured the benefits of the regulator being:

- a. a government body or an independent body?
- b. a national body or state and territory level bodies?
- c. an existing body or a new body?

Response

Yes, this issue is adequately covered

**Question 16.** What are your initial views on how the regulator should be funded?

Response

It should be a mix of government funding and cost recovery from industry and consumers.

**Question 17.** Have we adequately and accurately captured the key legislative implementation models for in-service safety of automated vehicles?

Response

Yes, as far as we can determine.

**Question 18.** Do you think there are any transitional or constitutional issues that could arise when Australia establishes a national law for automated vehicles? If so, please explain what the issues are, and if they differ depending on the legislative implementation model used.

Response

Not that we can determine

**Question 19.** Have we accurately described how each option could work, as well as the advantages and disadvantages of each option?

Response

Yes, except in regards to the definition of a modifier and their role in influencing in-service safety,

**Question 20.** Which option most effectively addresses the problem statement? Please consider your answer in conjunction with the PwC cost–benefit analysis.

Response

Option 3.

**Question 21.** Is there another option, or combination of options, which could more effectively address the problem statement? In particular, please consider whether there is a preferable combination of the elements of each option (governance arrangements, duties, legislative implementation)

Response

A modified Option 3 with:-

- prescriptive law to cover repairers and modifiers,
- general safety duties transitioning to prescriptive law as the introduction of AVs evolves.

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