

Drive me (in the) wild

Lucy McCormick examines the new code for the testing of driverless cars in public places



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During the summer of 2015, the government issued guidance for trials of automated vehicle technologies on public roads or in other public places in the UK. It provides details of recommendations for maintaining safety and minimising potential risks. A range of vehicles is covered, from small automated pods through to cars and HGVs.

Launching the new code, Transport Minister Andrew Jones said: “Driverless cars will bring great benefits to our society and economy and I want the UK to lead the way in developing this exciting technology. Our code of practice clearly shows that the UK is in the best position when it comes to testing driverless cars and embracing the motoring of the future. We now look forward to working with industry to make this a reality.”

The code is timely, given that three trials of autonomous vehicles are already underway in the UK:

- ▶ The GATEway project, which is already testing an autonomous golf-cart-like shuttle in the environs of the O₂ Arena in Greenwich.
- ▶ The UK Autodrive project, which anticipates its electric two-seater pod running journeys along the pavement around Milton Keynes railway station “before Christmas”.
- ▶ The VENTURER project, which will begin testing its “Wildcat”—which looks like a technology-encrusted jeep—on private and public roads around Bristol in early 2016.

The code is non-statutory but has been developed to promote responsible testing. Much like the Highway Code, failure to adhere to it may well be relevant to liability in any legal proceedings.

Cracking the code

Key points from the code include:

- ▶ Organisations wishing to test automated vehicles on public roads or in other public places will need to ensure that the vehicles have successfully completed in-house testing on closed roads or test tracks.
- ▶ Any vehicle on a public road will require a “driver” to be present, whether or not the car is in an automated mode. Testing in other places—such as pavements or pedestrian areas—will require as a minimum the oversight of a test operator who can apply an emergency stop control from outside the vehicle.
- ▶ The controls should give the test driver a clear indication of whether the vehicle is in manual or automated mode, and should allow the driver to quickly retake control of the vehicle when necessary.
- ▶ Vehicles will need to have appropriate levels of security built into them to manage the risk of “hacking”.
- ▶ Automated vehicles under test should be fitted with a “black box” data recording device for analysis in case of an incident.
- ▶ Prudently, it is recommended that: “Test drivers and operators should be conscious of their appearance to other road users, for example continuing to maintain gaze directions appropriate for normal driving.”

A legal head start

The government had already conducted a detailed review of existing legislation in its February 2015 “Pathway to Driverless Cars” document, concluding: “Real-world testing of automated technologies is possible in the UK today, providing a test driver is present and takes responsibility for the safe operation of

the vehicle; and that the vehicle can be used compatibly with road traffic law.”

This is actually fairly unusual, as in most countries primary legislation would be necessary to enable testing of driverless cars. In particular, many competitor countries are hobbled by the 1968 Vienna Convention on Road Traffic, which requires that “every moving vehicle or combination of vehicles shall have a driver” and that “every driver shall at all times, be able to control his vehicle”, and thus arguably precludes automated vehicles. Though the Convention is being re-drafted, and many countries are taking steps towards legislative reform, the UK still has a significant head start in becoming the test bed of an industry that is anticipated to be worth £900bn a year globally by 2025.

Update to domestic regulation by 2017

The government is seeking to build on its position by reviewing and amending domestic regulations by summer 2017 to accommodate driverless vehicle technology. Particular areas of focus include:

- ▶ Reviewing the allocation of criminal and civil liability between driver and manufacturer and amending the appropriate legislation as necessary.
- ▶ Determining whether a new section on automated vehicles should be included in *The Highway Code*, to help guide how road users should interact with these vehicles.
- ▶ Possible changes to the MOT.
- ▶ Considering whether it is appropriate to require a higher standard of driving from vehicles operating in an automated mode than would be expected of a conventional driver.

Fine tuning liability

It is widely anticipated that the first truly autonomous cars will hit the consumer sector in about 2025. Rather than a radical leap forward, it is likely that this will simply be a natural progression from existing “semi-autonomous” technologies. For example, “Traffic Jam Assist” is being introduced by Audi, BMW, Daimler and Volvo this year. This feature is a combination of adaptive cruise control and lane departure monitoring systems first introduced in 2012, and allows the car to take control of steering and speed in heavy traffic at up to 40mph. Our legal system will therefore have plenty of opportunities to fine tune its views of liability on such assistive technologies before truly autonomous vehicles come into routine use.

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