

Look—no hands! First hands-free car on sale for use on UK motorways

TMT analysis: In April 2023, Britain approved hands-free driving technology, ahead of any such grant by its European neighbours. Drivers of enabled Ford Mustang Mach-E electric vehicles will be permitted to take their hands off the wheel on 2,300 miles of motorway network. What does this mean in practice—and is it as radical as it sounds? Lucy McCormick, a commercial barrister at Henderson Chambers, considers.

This analysis was first published on Lexis®PSL on 17/04/2023 and can be found [here](#) (subscription required).

What is the new technology?

The BlueCruise system allows vehicles to operate on 2,300 miles of motorways in England, Scotland and Wales (95% of the network). The driver can take their hands off the wheel and move their feet away from the pedals. Operating up to a maximum speed of 80 mph, BlueCruise uses a combination of radars and cameras to detect and track the position and speed of other vehicles on the road, while a forward-facing camera detects lane markings and speed signs.

Crucially, the system is a matter of 'driver assistance', rather than 'driverless' technology. It still requires motorists to pay attention to the road at all times. This is enforced by an internal infrared driver-facing camera which monitors the driver's eye gaze and head and ensures their attention remains focused on the road. If the system detects driver inattention, warning messages are first displayed in the instrument cluster, followed by audible alerts, brake activations, and finally slowing of the vehicle while maintaining steering control. Similar actions are performed if the driver fails to place their hands back on the steering wheel, when prompted, when leaving an approved area of motorway.

In the US and Canada, BlueCruise technology has been commercially available since 2021. It is said that in the last couple of years, more than 190,000 Ford and Lincoln vehicles have covered more than 60 million miles using the technology without any accidents reported. In the UK, the Ford Mustang Mach-E costs from £50,830 but the use of the BlueCruise feature requires an additional monthly subscription of £17.99.

What makes this different from what has been permitted to date in the UK?

In a sense, it is a relatively small incremental step.

Being able to remove one's hands from the wheel while driving is not new. Automated parallel parking systems—which allow the driver to remove their hands and watch the steering wheel spin itself as the car slots itself into place—have been commercially available in the UK for at least a decade. Those who have not consulted a copy of the Highway Code for some time may be surprised to find that the requirement that drivers should 'drive with both hands on the wheel where possible' was in June 2018 supplemented with new wording to make clear that drivers 'may use driver assistance systems while you are driving. Make sure you use any system according to the manufacturer's instructions'.

Similarly, vehicles taking the strain of motorway driving has been a growing trend for several years. The 'adaptive cruise control' of the 2010s (which altered the vehicle's speed to keep pace with traffic) has now in many cars been supplanted by 'intelligent cruise control' which not only controls speed but also keeps the vehicle centred in lane and following the road. The difference between that type of 'intelligent cruise control' and the new BlueCruise system is, conceptually, different only in that the driver no longer needs to keep their hands on the wheel.

That said, it is genuinely new in this country for both hands-free driving and driving at speed to be offered at the same time. It is understood that Ford's engineers undertook 100,000 miles of testing specifically on European roads to make the safety case, and that it required over a year of negotiation

for BlueCruise to be approved (though it does not seem that any statutory or regulatory changes were necessary to do so).

What next?

The real crossing of the Rubicon will come with the approval of systems which permit drivers not only to take their hands off the wheel but also to concentrate on something else entirely. This may be a matter of months rather than years.

The UNECE Automated Lane Keeping System (ALKS) Regulation was approved in June 2020, starting the process for allowing vehicles fitted with this technology to come to market. In December 2021, the German regulator KBA granted type approval to Mercedes-Benz's ALKS system, known as Drive Pilot. It was the first ALKS in the world to meet the requirements of UN Regulation 157 for an SAE Level 3 system. The UK government announced in April 2021 that it expects vehicles compliant with the ALKS Regulation to meet the criteria for listing as automated under our own Automated and Electric Vehicles Act 2021. In readiness for this, in summer 2022, a new section was added to the Highway Code dealing with 'self-driving vehicles'. There is no real question that vehicles with self-driving capabilities are coming to the UK—it is just a matter of which manufacturer will be first.

A further area where there is significant government activity relates to remote driving. Technology that enables an individual to drive from outside a vehicle already exists, and is already commonly used in controlled environments such as warehouses, farms and mines. In 2022 the Law Commission was asked to clarify the current legal status of remote driving and consider possible reforms. It published advice to government regarding reform options for remote driving in February 2023, and government is presently deciding whether to accept those conclusions.

How worried should I be?

This type of technology—where a driver can take their hands off the wheel, but is still required to monitor the vehicle at all times—is in some senses a fairly awkward staging post on the way to autonomous vehicles. A known issue is that occupants of vehicles who do not have any active involvement in the driving task find it hard to keep focus and maintain situational awareness. Once distracted, it has been shown that drivers can take up to 25 seconds to retake control. This type of driver assistance system is predicated on the idea that the drivers remain responsible for the vehicle at all times, with the technology only 'assisting'. But can manufacturers be confident that that will hold up in Court given that there is a question about how reasonable it is to expect any human to be able to monitor reliably in those circumstances? No doubt this is why Ford, and other manufacturers, have invested heavily in technology to try to 'enforce' drivers to continue to watch the road.

[Alexander Eriksson, Neville A. Stanton 'Takeover Time in Highly Automated Vehicles' \(2017\) HUMAN FACTORS Vol. 59, No. 4. 689–705](#)

Nonetheless, from a safety perspective there is a lot to be said for rolling out the next stage of the technology in the UK, where the technology is properly 'self-driving', humans are not required to monitor while it is switched on, and where the starting point is that the manufacturer bears liability for any accidents.

Another known concern in this area is public confusion between true 'self-driving' technology (which does not require monitoring) and 'driver assistance' technology (which the driver must maintain control of at all times). To attempt to mitigate this, a new section has been added to the Highway Code in July 2022 explaining that 'Self-driving vehicles differ from vehicles that are fitted only with assisted driving features (like cruise control and lane-keeping assistance). Assisted driving features can do some of the driving, but the driver still needs to be responsible for driving at all times'. In their 2022 report, the Law Commission proposed cracking down on sloppy or misleading claims by manufacturers as well, by making it a specific offence under the Consumer Protection from Unfair Trading Regulations 2008, [SI 2008/1277](#) to misuse terms such as 'self-driving', 'driverless' and 'automated vehicle', or otherwise to create a likelihood of confusion over whether the technology needs to be monitored. Nonetheless, given the importance of consumer expectations and 'failure to warn' under the [Consumer Protection Act 1987](#), we can still expect this issue to be the focus of product liability litigation in due course.

*Lucy McCormick is a commercial barrister at [Henderson Chambers](#). Lucy recently contributed to *The Law and Artificial Intelligence* (Sweet & Maxwell, 2020), having previously co-authored *The Law and Autonomous Vehicles* (Routledge, 2019).*

Interviewed by Alison Rees-Blanchard

Lucy McCormick, Barrister at Henderson Chambers, specialises in commercial dispute resolution, with expertise across a range of industry sectors. Lucy is particularly known for her niche work across Connected and Autonomous Vehicles (CAVs). Lucy's Meet the Experts profile can be accessed [here](#).

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