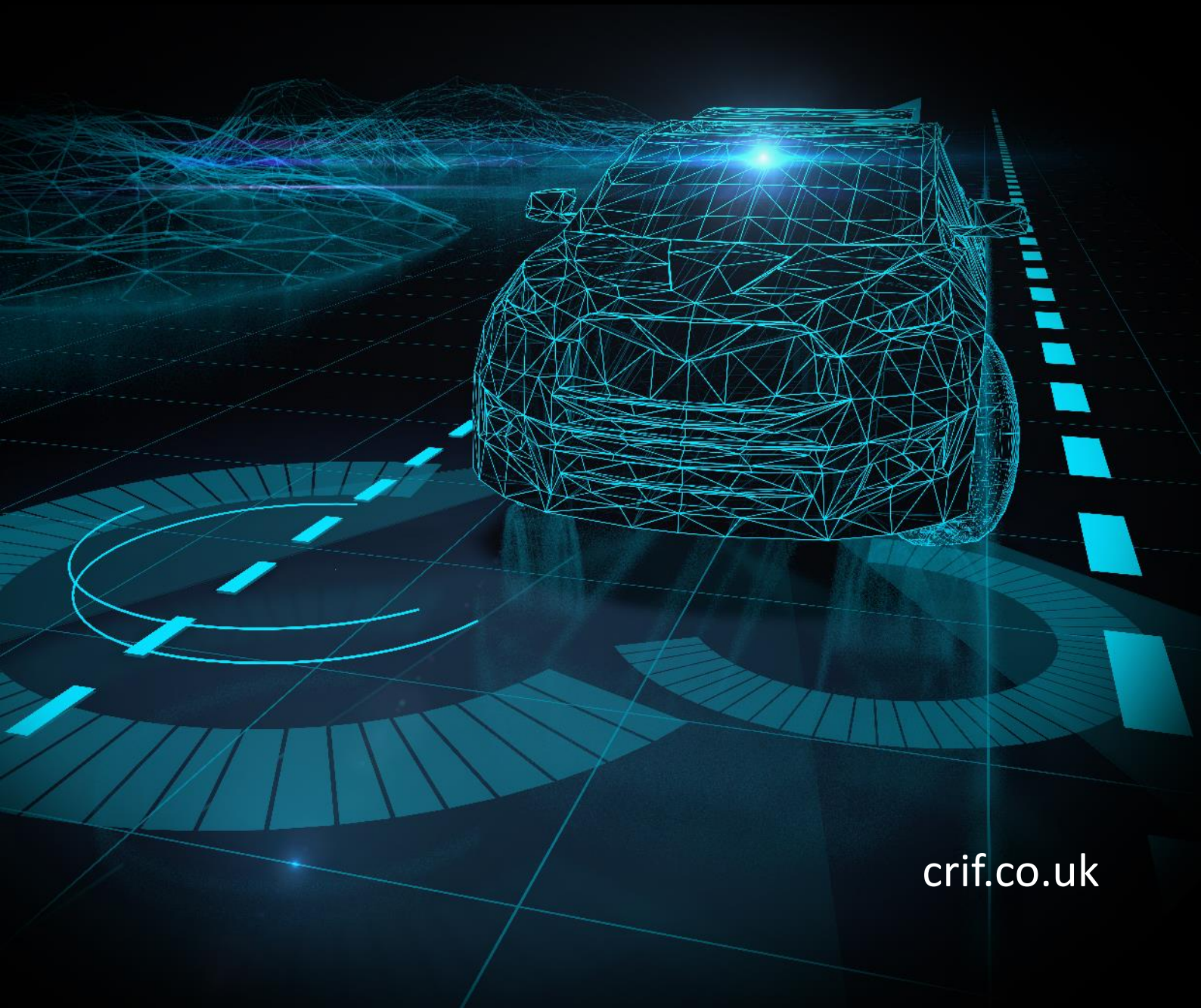




Driverless cars. How close are we?



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Driverless cars – how close are we?

UK roads could see self-driving vehicles rolled out by 2025 following the announcement on August 19, 2022 of new government plans – backed by £100 million – which will prioritise safety through new laws.

Some vehicles, including cars, coaches and lorries, with self-driving features could be operating on motorways in the next year, and the plans set out new legislation which will allow for the safe wider rollout of self-driving vehicles by 2025.

£34 million has been confirmed for research to support safety developments and inform more detailed legislation. This could include researching the performance of self-driving cars in poor weather conditions and how they interact with pedestrians, other vehicles, and cyclists.



The new laws for the safe rollout of self-driving vehicles by 2025 will be brought forward when parliamentary time allows. The legislation will build on existing laws, and state that manufacturers are responsible for the vehicle's actions when self-driving, meaning a human driver would not be liable for incidents related to driving while the vehicle is in control of driving.

It is acknowledged by multiple industries that the development and adoption of self-driving technology needs to be underpinned by a robust legal and regulatory framework, which prioritises the safety of all road users.

The Centre for Data Ethics and Innovation's (CDEI) Responsible Innovation in Self-Driving Vehicles report, also published August 19, 2022 sets out proposals for a trustworthy approach to the regulation and governance of self-driving vehicles. This report will inform the work of the Centre for Connected and Autonomous Vehicles as they develop primary and secondary legislation in this area.

Regulatory framework



In January 2022, the Law Commission for England and Wales and the Scottish Law Commission proposed the creation of an Automated Vehicles Act that shifts responsibilities away from drivers of self-driving cars.

Drivers of self-driving vehicles would have immunity from a wide range of offences such as speeding and dangerous driving but would retain responsibility in other areas such as holding insurance and the use of seat belts. Motoring offences would be the responsibility of the company or body that obtained authorisation for the self-driving vehicle. An owner could still be held accountable for a collision, however, even if a self-driving vehicle is in autonomous mode, if the incident occurs due to their failure to understand the technology and operate the car correctly, or, e.g. fail to install necessary software updates.

In a change to standard car insurance, users of autonomous cars who were not “physically driving” at the time of an accident can also file a claim against the insurance provider as a passenger, enabling them to receive compensation for the injuries they sustain. Typically, policyholders have not previously been allowed to make claim even if the accident was due to component failure or faulty servicing.



Authorisation Scheme and Safety Standard

For a vehicle to be allowed to drive itself on UK roads, the vehicle and its automated driving features will need to pass through an ‘authorisation’ scheme.

Under the scheme, a regulatory body will decide whether the vehicle can legally be considered ‘self-driving’.

The authorisation authority must determine whether the vehicle contains at least one automated driving feature which can control the vehicle so as to drive safely and legally, even if an individual is not monitoring the vehicle or the driving environment.

At the consultation stage, a number of possibilities interpreting ‘drive safely’ were considered: as safe as a competent and careful human driver; as safe as a human driver who does not cause a fault accident; or overall, safer than the average human driver. Consultees could not reach agreement on these standards.

The Commissions recommended that the Secretary of State for Transport produces “a safety standard against which the safety of automated driving can be measured.”

The Society of Motor Manufacturers and Traders (SMMT) believes that 3,900 road deaths can be prevented, with driverless car technology helping to prevent 47,000 serious collisions by 2030.



The SMMT states this could realise savings of more than £2 billion.

Multiple stakeholders are closely monitoring this recommendation as it will set the standard to which all developers and manufacturers must work and the safety level expected from automated vehicles.

Data

Under the proposals, as part of the authorisation process, the vehicle will need to be able to record and store necessary data, including location data for the activation/deactivation of the self-driving technology and detected collisions.



In theory, this will enable insurers and authorities to assess collisions and whether the system was engaged at that time. However, the collection of this type of data raises privacy concerns.

The recommendations also include a general duty on those controlling self-driving vehicle data to disclose that data to insurers, where it is necessary to decide claims fairly and accurately.

Highway Code

In April 2022, the UK government confirmed changes to the Highway Code to ensure the first self-driving vehicles are introduced safely on roads.

The Highway Code will explain that while travelling in self-driving mode, drivers must be ready to resume control in a timely way when prompted to.

The plans include a change to current regulation that will allow drivers to view content that is not related to driving on built-in infotainment systems, while the self-driving vehicle is in control. But it will be illegal to use mobile phones in self-driving mode, because they are a distraction and unlike the vehicle's infotainment system, cannot readily alert the driver to resume control.

Insurer reaction



Insurers have broadly welcomed the Law Commissions' report and the government's focus on ensuring that drivers understand their legal obligations behind the wheel of a vehicle described as having 'self-driving capability'.

There remain calls for an ongoing requirement to educate the motor consumer on the definition of a vehicle with self-driving capability as opposed to a vehicle which has assisted driving features, such as cruise control and lane-keeping assistance, where the driver is responsible for driving at all times.

Insurers are keen to see primary legislation related to autonomous vehicles included in the Government's legislative plans.

Industry bodies including the ABI and Thatcham together with leading motor insurers joined 17 other major UK businesses in writing to Prime Minister Boris Johnson calling for this to be announced in the Queen's Speech in May. They were to be disappointed.

Many motor insurers are keen to support, promote and enable the take-up of automated technology on UK roads. But, including the lack of a regulatory framework and a safety standard against which the safety of automated driving can be measured, the industry has a specific reservation which needs addressing: access to data. Automation will ultimately make roads safer but, accidents will still happen.

Data showing who was in control at the time of an incident must be accurately recorded and openly accessible to all relevant parties.

Insurers have warned that any duty to disclose data in an Automated Vehicles Act must be right from the outset to avoid lengthy litigation.



Some leading motor insurers are calling for a central depository to be built and act as the custodian of vehicle data that can be accessed by relevant stakeholders involved in a claim.

Insurance Cover

There is speculation that the insurance model could shift from issuing policies for individuals towards a business-to-business model, with manufacturers providing the coverage to companies as part of a wider package of services with the vehicle.

Policy cover will need to evolve to include new risk areas such as faulty software, corrupted downloads, security failures and satellite coverage disruption.

As well as standard motor policy terms, such as comprehensive and third party fire and theft, cover for infotainment systems and replacement of lost keys etc.

The early insurance plans for self-driving vehicles include:

- Loss or damage to the car caused by hacking or attempted hacking of its operating system or other software
- Updates and patches to the autonomous vehicle's operating system, firewall, and mapping and navigation systems that have not been successfully installed within 24 hours of being notified by the manufacturer
- Satellite failure or outages that affect the self-driving car's navigation systems
- Failure of the manufacturer's software or failure of any other authorised in-car software
- Loss or damage caused by failing when able to use manual override to avoid an accident in the event of a software or mechanical failure.



In May 2022, according to Elon Musk, CEO of Tesla, within the year the manufacturer will deliver autonomous vehicle artificial intelligence far in excess of the safety level of a human. In the same month the UK government launched a £40 million scheme to kick-start commercial autonomous vehicle services, such as delivery vehicles and passenger shuttles.

The Commercialising Connected and Automated Mobility competition will provide grants to help roll out commercial self-driving vehicles across the UK from 2025.

Momentum is building fast and the need for a regulatory framework and clarity on autonomous vehicle data collection and duty to disclose is increasingly pressing.



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