



26 August 2019

National Transport Commission  
Public Submission – In service safety for automated vehicles  
Level 3, 600 Bourke Street  
Melbourne VIC 3000

To the Public Submission – In-service safety for automated vehicles Team:

**Re: Consultation regulation impact statement  
In service safety for automated vehicles**

**1. Introduction**

1.1 The Motor Trades Association Queensland (MTA Queensland or the Association) responds to the National Transport Commission's (NTC) consultation *regulation impact statement* (RIS) – *In service safety for automated vehicles* (the paper) by submitting the following views and issues for consideration by the NTC In-service safety for automated vehicles Team.

1.2 The comments are submitted on behalf of divisions comprising the Queensland membership of: The Automotive Dealers Association; National Auto Collision Alliance; Automotive Remarketers; and Automotive Engineers and is confined to issues which relate to their interests within Queensland's automotive value chain.

**2 Preamble**

2.1 The MTA Queensland appreciates the opportunity to submit a contribution in respect of the regulation impact statement in relation to the proposed policy and regulatory framework to manage the 'in-service' safety for the operation of automated vehicles in Australia.

2.2 The Association confines its submission to issues relevant to the automotive value chain and matters that impact:

- (a) franchised motor vehicle dealers through their involvement in the 'first supply' of automated vehicles and subsequently as service agents providing maintenance and supplies during the 'in-service' operational aspects of automated vehicles;
- (b) independent vehicle repairers are likely to be impacted as potential 'in-service' providers of scheduled maintenance and incidental repair services to Automated Driving System (ADS) equipment;

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- (c) automotive collision repairers as 'in-service' providers of collision repair and replacement services who are likely to be moderately involved in managing safety risk because vehicle collisions are likely to involve the replacement or recalibration of ADS componentry; and
- (d) second hand motor vehicle dealers who would be involved as suppliers of pre-owned vehicles and are required to warrant the 'in-service' safety of the vehicles they transact.

### **3 Substantive Statement**

3.1 The Association is supportive of the development of a regulatory framework that is harmonised across the states and territories of the Commonwealth providing certainty and consistency for both 'first supply' and 'in-service' regulatory regimes that impact the automotive value chain.

3.2 The Association therefore supports either Option 3 or Option 4 as outlined in chapter 10 of the paper.

3.2.1 Option 3, which proposes the regulating of ADS vehicle 'in-service' safety duties by a single national regulator pursuant to Commonwealth legislation does provide for a harmonised national approach. Within this framework Australia's decentralisation and disparate economic geography may require greater flexibility than that provided by a centralised administrative arrangement in order to adequately respond to regional unintended consequences.

3.2.2 The operation of 'in-service' ADS general safety duties through harmonised state and territory regulatory frameworks could weaken consistency and equity because of local interpretations and administrative arrangements.

3.2.3 On balance the MTA Queensland sees benefit in a national regulator operating under a Commonwealth law regime provided there is regular and effective consultation mechanisms to deal with unintended consequences and regional issues.

3.2.4 It appears important that whichever regulatory option is adopted, that it has a competence to provide effective enforcement of ADS general safety duties, spatial equity and clearly identifies the responsibilities for each strata of 'in-service' safety provider.

### **4. The extent to which the RIS defines the risks**

4.1 The operation of ADS vehicles on Australia's public roads is likely to change the way that legal liability for road accidents is attributed. The uptake of vehicles with ADS, in particular the proliferation of more sophisticated automated systems envisaged in Society of Automotive Engineers (SAE) levels 3,4, and 5; is likely to result in the attribution of the cause of vehicle accidents, injury and road trauma to ADS. Therefore, litigation will inevitably involve the issue of 'equipment failure'. The proportion of a vehicle accident that can be attributed to 'first supply' agents and to 'in-service' maintenance providers is likely to become critical issues.

4.2 The MTA Queensland draws the attention of the NTC In-service safety for automated vehicles Team to the need to adequately address the problem of attribution and proportioning the product and service responsibility and risk in the event of road accidents involving ADS vehicles.

4.3 The MTA Queensland therefore urges the NTC's In-service safety for automated vehicles Team to the need to adequately address the issues of the duties, responsibilities and therefore risk liability attributable to the manufacturers and 'first suppliers' of ADS vehicle components and equipment and the duties and responsibilities that are the province of 'in-service' maintenance providers who subsequently service ADS vehicles.

4.4 The enunciation of the division of general safety duties and responsibilities is a critical consideration that needs addressing. The risks and liabilities that maybe attributable to small/medium enterprises (SME) independent ADS maintenance and service providers, automotive collision repairers and second hand vehicle dealers are important to both the motoring public intending to use ADS vehicles and the service entities. In addition, these issues will impact on third parties that have a duty of care because they inspect or report on the compliance of ADS vehicles with regulatory frameworks.

4.5 The SME's in the automotive value chain intending to provide 'in-service' maintenance facilities to the new generation of ADS vehicles will need to make a major business decision as to the risk they are willing to carry, identify their risk appetite and determine the cost of mitigating that risk.

4.6 The risks involved with the servicing of ADS vehicles will constitute a paradigm different scenario to existing vehicle repair liability. Automotive road trauma could be partially or wholly attributable to equipment failure and the liability for the non-performance or failure of ADS could be attributed to the service provider.

4.7 The Association is of the view that the accreditation and qualification of 'in-service' ADS maintenance providers (licensed/authorised technicians) should include a mandatory requirement that the intending provider holds sufficient insurance or indemnity cover to meet any possible liability claims arising from the non-performance of serviced ADS systems.

4.8 The Association has identified as number of 'in-service' provider risks that need to be recognised against the five SAE classifications of ADS automation. These are:

- (1) Franchised car dealers who provide pre-delivery vehicle servicing and subsequently scheduled vehicle servicing by ADS Entities (ADSE).
- (11) Independent automotive service providers who in the normal course of business provide after sales service and scheduled maintenance service programmes.
- (111) Automotive collision repairers who repair and replace damage to vehicles caused by collisions that would involve the repair, replacement or recalibration of ADS and operational equipment.
- (1V) Second hand dealers who buy and sell ADS equipped vehicles and have a statutory duty of care to ensure these vehicles are fit for purpose.

- (V) Providers of incidental services such as road worth certification, vehicle inspections, safety checks and other warranties for ADS equipped vehicles.

This means that there are likely to be at least twenty-five categories of risk that suppliers in the automotive value chain would need to consider if they intend participating in the 'in-service' maintenance of ADS vehicles. Therefore, it would seem important that the 'in-service' general safety duties of each category of service provider should be defined in any regulatory framework that is adopted.

## 5. ADS contingency and remote operation safety

5.1 The Association has formed a view that all vehicles with ADS, in particular SAE 3,4, and 5 and remotely operated vehicles should be equipped with an independent autonomously operated collision avoidance system. This system would be engaged should any ADS failure or system incapacity be detected limiting the risk of serious road trauma from equipment failure or non-performance due to circumstances beyond the capacity of the system to resolve.

## 6 The MTA Queensland background

6.1 The Motor Trades Association of Queensland is the peak body representing the interests of employers in the retail, repair and service sectors of Queensland's automotive / mobility industry. There are some 15,500 automotive value chain businesses employing in excess of 90,000 people, that generate more than \$20 billion annually. The Association represents and promotes issues of relevance to the automotive / mobility industry to all levels of Government and within Queensland's economic structure.

6.2 **MTAiQ**, Australia's first automotive innovation hub established by MTA Queensland, is an eco-system that supports innovation for mobility and the motor trades.

6.3 The Association is the leading automotive training provider in Queensland offering nationally recognised training, covering technical, retail and the aftermarket sectors of the automotive industry through the **MTA Institute** - a registered training organisation. It is the largest private automotive apprentice trainer in Queensland employing experienced trainers who are geographically dispersed from Cairns to the Gold Coast and Toowoomba to Emerald. In the last year, the MTA Institute delivered accredited courses to more than 2,000 students. The MTA Institute is the first trade RTO in Australia to be approved under the ITECA Industry Certification Program.

Thank you for your consideration.

Yours sincerely



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MTA Queensland