Aviva Insurance Ltd – Written evidence (AUV0026)

Submission from: Mr Simon Warsop, Chief Underwriting Officer – Personal Lines Insurance, Aviva Insurance Ltd

Foreword by Simon Warsop
I am pleased to respond to this call for written submission on Autonomous Vehicles on behalf of Aviva. We have limited our answers to questions relevant to our specific insurer’s knowledge and expertise.

Aviva fully supports the House of Lords Science and Technology Select Committee in their inquiry to examine whether the actions taken by the Government are appropriate. Aviva responded in full to the Government’s recent consultation on the Pathway to Driverless cars.

It is worth repeating our message to the Government that we believe that the UK should be at the forefront of autonomous vehicle technology and that this technology can in many ways improve road safety, driving efficiency, and create new opportunities for UK businesses.

As an insurance company this is an important issue to Aviva and we currently participate in the Association of British Insurers Automated Driving Insurance Group with Government and vehicle manufacturers.

Summary
- In order to have an effective approach to data and cybersecurity the Government need to create a regulatory framework for advance vehicle technology.
- The critical point on the timeline for insurance is when technology crosses from level 3 to level 4 (full autonomy). We believe that prior to level 4 automation, the driver will remain in complete control of the vehicle so no changes to current legal insurance framework are needed until then; however there are other risks that Level 3 automation poses from a risk perspective.
- A rolling programme of regulation is essential with overarching principles established as soon as possible with the future liability framework set out for insurers and what this means for customers.
- It is our view that the Road Traffic Act should be extended to cover not only the negligent acts of the user of the vehicle but also the negligent acts of the vehicle when in autonomous mode. We think this is a simpler and more elegant solution which customers will better understand.
- Any solution however must be founded upon a balance between insurers and vehicle manufacturers which makes data fully available such that recovery of cost when the vehicle is ‘at fault’ and causes injury or damage.
- Regulation will be needed to govern failure to up date software and the potential hacking of vehicle technology.
- While we have suggested changes to the Road Traffic Act above to facilitate autonomy we make the case for a more radical change in the form of a first party model which Aviva has always supported and which we think has a number of advantages to the consumer.
About Aviva
Aviva provides peace of mind for more than 33 million people across the world, protecting their families and possessions by providing insurance, savings and investment products. More than 16 million customers rely on us in the UK. In 2015 Aviva dealt with approximately 815,000 claims paying out £2.2billion.

Q12. Does the Government have an effective approach on data and cybersecurity in this sector?

Data and cyber security is an increasingly important influence for many elements of daily life, though historically there has been little if no risk in terms of motor vehicles. With increased reliance of technology and especially connected technology that situation is quickly changing and the Government is right to identify that risk.

As with Financial Services generally, the protection of data (of all types) and cyber security needs a heightened profile in the vehicle manufacturing sector. This is because the risks are increasing, especially as we move towards semi and ultimately autonomous vehicles which are effectively “driven” by data.

Cyber and data security are global issues and there is no single solution. We would implore the Government to engage fully with other jurisdictions and investigate their thinking and opinions. There are a number of different moving parts which need to be coordinated if an effective “all round” solution is to be achieved.

In this, we see the role of the UK Government as essential. Their role should be to facilitate the various parties to produce an effective approach backed where appropriate with legislative changes. As a model we would point to the National Highway Traffic Safety Administration in the USA.

From an insurance perspective, access to data will become a critical component of pricing the insurance premium for vehicles as well as for understanding claims. The Government needs to be doing more to ensure that there is clear transparent access to vehicle data following a claim which would allow insurers and the market to understand the circumstances of an accident, for example if the vehicle or driver was in control. This is a critical issue that was raised in the response to Pathway to Driverless cars.

Q13. Are further revisions needed to insurance, regulation and legislation in the UK to create an enabling environment for autonomous vehicles?

It is our view that the best (and most straight forward) solution for Government is that the Road Traffic Act should be extended to cover not only the negligent acts of the user of the vehicle, normally the ‘driver’, but also any accidents caused by the vehicle itself when it is in effect the driver in fully autonomous mode.

The current law of tort and the Road Traffic Act will need to be adapted and altered to create clear laws and liabilities which have the legal effect of making the vehicle itself the ‘driver’ when in full autonomous mode.
When in full autonomous mode the owner or driver who was driving before the vehicle was placed in Autonomous Vehicle Technology mode will become a ‘passenger’ and therefore have the ability to pursue a claim against the vehicle insurer.

The legal problem currently is that the vehicle has no legal personality or status and cannot be negligent when judged against the actions of a reasonable road user. In effect we are suggesting the law will have to change so that there is either strict liability for all vehicles in Autonomous Vehicle Technology mode, or compulsory cover is extended to include the vehicle itself by creating some form of legal persona or standard for the vehicle to be judged against when it is in full autonomous mode.

It is our view that this is not an easy legal change to make and any legal action would in reality have to be pursued against the motor insurer. As a result the Government should recognise that the real benefit would be to create a first party insurance model with insurers then having to pay third party claims and potential first party claims with a clear right of subrogation for the insurer against the vehicle manufacturer.

We believe this solution, rather than trying to adapt existing Product Liability insurance is a simpler and more effective solution which consumers will understand better. It will also provide a ‘one stop shop’ solution for the general public.

However, this solution has to be accompanied by clear laws and regulations to give the insurer full access to all of the vehicle’s data so that where there is any element of fault with the vehicle itself or the software in the vehicle, the cost of any claims is passed on to the vehicle manufacturer.

By way of example Aviva considers that where a vehicle is in autonomous mode the Government should place a reverse burden of proof against the vehicle manufacturer and in effect create a strict liability upon the vehicle manufacturer for having sold the vehicle with the software and Autonomous Vehicle Technology capability in place. The result of this will be that insurers, who have had to pay a claim following an accident to all of the innocent victims, will not have to prove fault or carelessness against the vehicle manufacturer if the car can be shown to have been in autonomous mode when the accident and losses occurred.

Q18. What are the implications of exit from the European Union for research and development and the autonomous vehicle industry in the UK? Are specific actions from the Government needed to support or protect the autonomous vehicles sector in the short term or after the terms of Brexit have been negotiated?

We agree that the UK has the potential to become a world leader in this field however we cannot ignore the global reach of the motor market. If the UK creates its own specifications in isolation, the UK consumer risks being isolated in terms of choice of vehicle (as foreign manufacturers may choose not to follow this specification) and UK manufacturers face being disadvantaged on world markets having to produce different specifications.

Vehicle design and manufacture has become a truly global industry (the UK exports over 85% of cars manufactured here) and the Government need to ensure Brexit implications
enhance (and not damage) UK Research and Development or vehicle manufacturing capability.

With Europe likely to continue to be a large trading partner for vehicles (both import and export markets), continuing to work particularly with the EU and adopting or mirroring Regulations in respect of design safety, data access and vehicle / type approval will in our view continue to be desirable for the UK.

Equally from an insurance perspective, consistency with other countries will enable us to more effectively support the needs of customers. Vehicles and customers travelling to and from the UK must be confident that they can cross boarders with the relevant insurance and meeting each area’s legislation.

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