

The announcement of the Autonomous and Electric Vehicle Bill (A&EV Bill) in the Queen's Speech in June was a significant leap forward for the UK in establishing itself as a global leader in connected and autonomous vehicles (C&A vehicles).

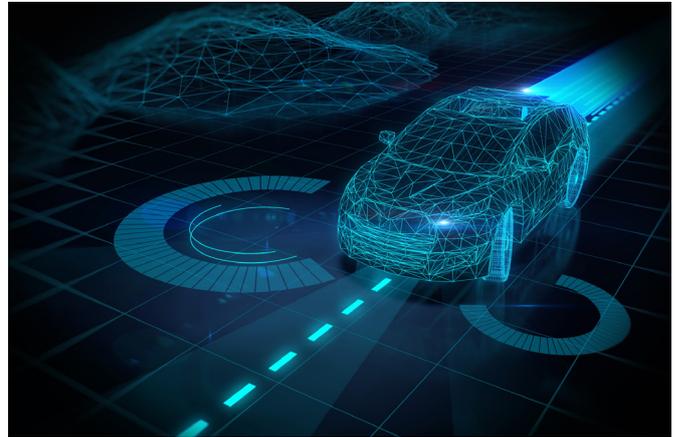
The A&EV Bill, as well as two previous iterations of similar bills, is aimed at ensuring that "the next wave of self-driving technology is invented, designed and operated safely in the UK."

The A&EV Bill's predecessor, the Vehicle Technology and Aviation Bill, was first proposed in last year's Queens Speech in May 2016, known then as the Modern Transportation Bill. After consultation, the revised bill entered Parliament in February 2017 under its new name. However, the decision by Theresa May to trigger an early general election looked to impede the progress made to the legislative framework thus far.

Now under its third name, the A&EV Bill again proposes to extend mandatory vehicle insurance to cover the use of C&A vehicles, "to ensure that compensation claims continue to be paid quickly, fairly and easily." With technology rapidly advancing, it is imperative that legislative framework can evolve to support such technological developments. If it continues to do so, it will allow the UK to take full advantage of the opportunities that C&A vehicles offer in different sectors.

There was a degree of uncertainty as to whether the government would continue to push forward in this area, following the dissolution of Parliament and in light of Brexit negotiations being at the forefront of political priorities. The UK has the advantage of having not ratified the Vienna Convention on Road Traffic 1968 (which precludes the use of driverless vehicles), such that testing can take place on public roads. Therefore, it is important that the government does not lose sight of this competitive advantage and allow other countries still grappling with the Vienna Convention to catch up and overtake progress in the UK. Nevertheless, despite having a new name, the announcement of the A&EV Bill is reassuring, as it demonstrates that the UK government is driving forward in ensuring there are no legislative barriers to the future progress of C&A vehicles.

In addition to the announcement of the A&EV Bill, and as another sign that the UK intends to push forward in this arena, the Department for Transport and Centre for the Protection of National Infrastructure released "key principles" in relation to the cybersecurity of smart and connected vehicles on 6 August 2017.



The principles, which include guidelines on vehicle supply chains, data protection and implementing security by design, among others, is aimed at cementing "the UK as a world-leading location for research and development for the next generation of vehicles." These guidelines are similar to those released by the US National Highway Traffic Safety Administration (NHTSA) released in October 2016.

The A&EV Bill proposes (much in the same way as it did under its previous name) a single insurance product for C&A vehicles, which will cover both motorists while they are driving, as well as the car when it is in an automated mode. This will mean victims involved in a collision with an automated vehicle will have quick and easy access to compensation with the hope that it avoids confusion over who is liable, i.e., the driver or manufacturer of the vehicle.

Without government intervention, the route to compensation in respect of accidents involving C&A vehicles is unclear, with complex questions surrounding liability. For example, the "driver" of a C&A vehicle may claim they are not responsible for the collision, as they had switched the vehicle into an automated state at the time of collision. Addressing such questions of liability can cause delays for innocent victims seeking compensation, which would be contrary to an EU Directive, which requires victims to be compensated quickly. The proposed "two in one" insurance will help address these questions of liability by ensuring innocent victims are able to claim against the insurer regardless of whether the vehicle is an autonomous mode or not.



Further, the current UK insurance system does not protect innocent third parties or “users” of a C&A vehicle in the case of a software malfunction. Such scenario is unlikely to occur with conventional vehicles, as evidence suggests that 90% of all collisions involve an element of human error. While the potential for a software default being behind a collision may well be minor, innocent third parties and users of a C&A vehicle need to be reassured that they would be protected in the event of a software malfunction and/or failure where the user is not at fault. Although, as mentioned in our previous alert, there may be an exclusion to this liability if the motorist fails to install software updates when required to do so.

As the release of the new cybersecurity guidelines show, it is not just insurance issues that the government needs to turn its attention to. A report from the Flourish Consortium had previously urged the government to clarify who can access the large amount of data emitted from C&A vehicles. Data (such as locational data) is generated by C&A vehicles and must be handled in accordance with UK Data Protection law. But these new guidelines, which cover access to data and data protection issues, aim to ensure that a consistent set of principles are in place to address data concerns and cybersecurity-related concerns throughout the industry.

Across the pond in the US, 14 separate autonomous vehicle bills are making their way through Congress. Of particular note, the LEAD’R Act (Let NHTSA Enforce Automated Vehicle Driving Regulations) would place sole responsibility for the regulation of highly autonomous vehicles in the hands of NHTSA.

While it would not prohibit individual states from their current role such as in relation to registrations, licensing and traffic laws, it would ensure that testing or development of autonomous vehicles sits with NHTSA alone. As of August 2017, 33 states had introduced legislation related to autonomous vehicles, with 20 states having passed legislation. This balancing act between state and federal regulation can be seen in NHTSA’s release of its updated guidance on highly autonomous vehicles back in September 2016, which makes mention of the need for regulatory coherence. Industry observers will be keeping a close eye on the movements of the bills as they make their way through committee stage and beyond.

Back in the UK, the A&EV Bill is a positive step forward, particularly given the competition among countries to court the booming autonomous vehicle industry. With the Code of Practice giving the green light to test driverless cars on UK public roads later this year, it is important that a workable regulatory and legal framework is implemented as quickly as possible to ensure the UK does not surrender its unique advantage as a technology test-bed. Addressing gaps in the UK’s current insurance model will help to reassure not just road users but also investors. Key investment will fuel the development and availability of C&A vehicles in the UK, allowing the UK to position itself as a key player in the growing C&A vehicle industry.

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