12 December 2018

Automated Vehicles Team
National Transport Commission
Level 3/600 Bourke Street
Melbourne Vic 3000

Email online to: www.ntc.gov.au

To the Automated Vehicles Team:

RE: Motor Accident Injury Insurance and Automated Vehicles Discussion Paper

1. Introduction

1.1 The Motor Trades Association Queensland (MTA Queensland or the Association) responds to the National Transport Commission's (NTC) invitation for submissions to its *Motor Accident Insurance and Automated Vehicles Discussion Paper* (the Paper). The MTA Queensland's comments are submitted on behalf of its constituent divisions and are confined to issues which relate to the interests of Queensland's automotive value chain which inter alia includes: franchised new car dealers, independent mechanical and motor body repairers, recyclers and other discrete automotive technology and service providers.

1.2 The purpose of the NTC's Paper is to:

- identify barriers to accessing compensation under current Motor Accident Injury Insurance (MAII) schemes for personal injuries caused by an Automated Driving Systems (ADS)
- seek views on whether existing MAII schemes should be amended to provide cover for injuries caused by an ADS
- seek views on other options that could provide cover for injuries caused by an ADS.

1.3 The Paper states that 'any decision on reform to ensure people injured in an ADS crash can obtain compensation should be guided by the overarching principle that:

- No person should be worse off, financially or procedurally, if they are injured by a vehicle whose ADS was engaged, then if they were injured by a vehicle controlled by a human driver.

1.3.1 To support this overarching principle, the following principles are proposed:

- Reasonable and timely access to compensation should continue regardless of the type of vehicle involved in the injury
- The arrangements should promote transparency and certainty in accessing compensation.
- The arrangements should ensure insurance for personal injuries caused by automated vehicles is fully funded, and affordability is considered, for example by minimising potential litigation between insurers and manufacturers/automated driving systems entities (ADSEs.)
- Existing state and territory benefit regimes should not be required to change
- The arrangements should include an efficient process to access a standard set of reliable and verifiable vehicle crash data

2. Preamble

2.1 The introduction of ADS technology to private road transportation vehicles represents a unique opportunity to reform and restructure Australia's vehicle trauma personal injury insurance (PII) framework. The MTA Queensland has been inter alia considering this issue at some length and reiterates its views in this submission to the NTC.

3. Context

3.1 The MTA Queensland urges the NTC, in considering the architecture of the PII infrastructure, to protect future road users, and to undertake the evaluation in the context of the technology revolution that the automotive sector is experiencing. The rapid adoption of 'collision avoidance' technology in motor vehicles is a significantly relevant issue that should be considered when determining the architecture of the PII frameworks which would have the effect of managing down risks and lowering insurance premium rates.

3.2 In previous submissions, the Association has consistently referred to 'collision avoidance' technology, e.g.:

February 6 2017 submission to the Standing Committee on Industry, Innovation, Science and Resources on the *Social issues relating to land-based driverless vehicles in Australia Inquiry*, the view was expressed:

> *The Association is of a view that the paradigm shift in motor vehicle collision risk caused by the emerging collision avoidance technologies in autonomous vehicles will have consequences for all motor vehicle insurers…*
> .

September 7 2017 submission to the Australian Competition and Consumer Commission Consultation Hub's *New Car Retailing Industry - a market study by the ACCC*, the view was expressed:

> *The advent of collision avoidance technology disruption will rationalise the collision repair industry and the independent repair sector for internal combustion engine vehicles; and is likely to be displaced by demand for electrical and electronic expertise.*

March 2, 2018 submission to the Transport and Infrastructure Council's *National Road Safety Strategy,* the view was expressed:

> *'The mandating of collision avoidance technology on all vehicles imported into Australia could have the effect of reducing road trauma. In addition, Australia with an aged motoring fleet by world standards (approximately 10 years) should consider a development program which adapts collision avoidance technology to be retrospectively installed in pre-existing vehicles. Over 80 percent of collisions are 'nose-to-tail'* (IAG Research). *A considerable improvement in road trauma incidents could be achieved by the mandatory adoption of this technology. Taxation and economic incentives should accompany the mandatory imposition of this technology.'*

3.3 The structure of insurance models needs to take account of the risk profiles that pertain to Australia's private road transport population cohort. 'Collision avoidance' technology (CAT) has the potential to significantly manage this risk profile. Some prognosis indicate that the number of road trauma incidences could be significantly reduced by the adoption of CAT e.g. between 20 and 40 per cent reduction in incidences of fatal collisions and between a 30 and 50 per cent reduction in injuries causing accidents could be achieved by this technology. (https://www.tmr.qld.gov.au/Safety/...and.../Forward-collision-avoidance-technology). This would be a very significant determinant of the future level of actuarial risk that the PII framework would need the capacity to carry.

3.4 The issues facing the NTC include:

- how the PII framework is configured to have the competence to provide an adequate level of indemnity during the technology transition period, and
- how a policy reflex is built into the system which gives the framework a response mechanism as the uptake of collateral technology such as CAT accelerates.

4. ISSUES

4.1 Harmonisation and Consolidation

4.1.1 The MTA Queensland submits that the NTC's present enquiry represents a unique opportunity for Australia to reform and restructure the whole of the insurance framework that currently pertain to the private road transportation sector across the nation. Consideration should be given to the following reforms:

(i) Comprehensive sector vehicle insurance should be harmonised across all national jurisdictions.
(ii) This insurance structure should be compulsory, universal and consist of a single policy per motor vehicle which would incorporate PII as well as an indemnity for asset damage.
(iii) It should be based on a no-fault principle and bring all jurisdictions into line.

4.2. Fundamental Principle

4.2.1 The MTA Queensland agrees with the NTC, that any future PII framework must have the competence to accommodate and compensate road trauma injuries without discrimination irrespective of technology, i.e. an injured party of an ADS controlled vehicle or an electric powered vehicle accident should not receive a lesser compensation than an equivalent injury sustained in a human controlled vehicle accident.

4.2.2 It appears important that the framework for future personal transport automobile insurance has the competence to manage and accommodate the technology risk that is likely to arise in the form of product liability litigation. The adoption of the 'no fault' principle in any future framework is like to address this to a great extent. The question for the NTC then relates to the fact that technology failure is likely to become an increasing generator of risk in PII and therefore the technology providers should be contributing to the cost of the compensation (insurance pool). This would include Original Equipment Manufacturers, Technology Servicing entities and technology repairers; the issue is then what should be the contribution that the various technology providers subscribe as it should reflect the proportional risk appetite for which they have a direct responsibility.

4.2.3 In previous submissions, the Association has referred to the management of technological risk in relation to motor vehicle accidents, e.g.:

July 9 2018 submission to the NTC's *Safety Assurance for Automated Driving Systems consultation Regulation Impact Statement*, the view was expressed:

> *The introduction of the ADS appears to have the ability to impose vehicle accident fault liability on technology and therefore on the technology provider or technology service entity. In this situation the risk will be transferred from the driver to the ADS provider or service entity. In such circumstances, the ADS provider and service entity will have to take appropriate action to manage these risks. Currently these risks are managed by insurance policies in respect of the vehicle and Compulsory Third-Party Insurance which manages collateral risk. The statutory framework should have the competence to manage the risk transfer in a defined and transparent manner.*

4.3 The Velocity of Technology

4.3.1 The Association is acutely aware of the acceleration in innovation in the automotive sector particularly in providing leadership to members through a series of fora and establishing Australia's first automotive innovation hub. The rate of 'take-up' of technology, particularly ADS is likely to increase significantly with time and that the framework for PII has to have the very challenging policy capability of managing a major technology disruption and a transition. The framework therefore has to be sufficiently robust to continue to provide an acceptable level of indemnity for conventional human controlled vehicle related injuries; and at the same time, indemnify an anticipated uptake of ADS vehicle passenger risks over a chronology that is difficult to determine.

4.3.2 The MTA Queensland therefore submits that any proposed framework should incorporate a review mechanism that enables further changes to the framework as and when these become apparent.

4.4. The Options

4.4.1 The MTA Queensland agrees that the development of a personal injury assurance policy framework for the advent of ADS personal road transport is a challenging task. The Association has closely considered the 'options' presented by the NTC and notes that option 3 does have a number of the competencies required of a framework to support an evolving PII architecture over-time. A system however confined to Option 3 would be limited in its ability to accommodate the scope of the technology disruption that is forecast for the automotive sector. There needs to be a mechanism that enables the framework to graduate to the architecture outlined in Option 6, overtime.

5 Recommendation

5.1 The MTA Queensland submits that the NTC should give consideration to adopting a dynamic framework with option 3 as the base with the capability built in to allow the framework to evolve to that represented by option 6. As the uptake of technology demands, a more comprehensive and sophisticated compensation subscribed by all participants and beneficiaries and one that is universal, uniform and has an equitable impact and incidence by being compulsory should be the ultimate policy objectives.

5.2 The implementation of legislation to enact a significantly upgraded PII framework would require supplementary and collateral legislative amendments or enhancements. If a harmonised compulsory framework is adopted, the regulations to set the basic standards for vehicle roadworthiness would need to be standardised. Contiguously, the enforcement powers of police regulatory and inspection agencies would need to be reviewed and where necessary supplemented to ensure that vehicle standards on which actuarial assessments are based and which protect the motoring and general public interests are rigorously maintained.

5.3 We would be please to provide further comment on any matters in our submission that may require further clarification or amplification.

6 Background

6.1 The MTA Queensland is the peak organisation in the State representing the specific interests of businesses in the retail, repair and service sector of Queensland's automotive industry located in the State. There are some 15,500 automotive value chain businesses employing approximately 90,000 persons generating in excess of $20 billion annually. It is an industrial association of employers incorporated pursuant to the *Fair Work Act* 2009. The Association represents and promotes issues of relevance to the automotive industries to all levels of Government and within Queensland's economic structure.

6.2 Australia's first automotive hub, the MTA*I*Q, is an eco-system that supports innovation for the automotive industry and is located at the Sir Jack Brabham Automotive Centre of Excellence.

6.3 The Association is the leading automotive training provider in Queensland offering nationally recognised training, covering technical, retail and the aftermarket phases of the motor trades industry through the MTA Institute - a registered training organisation. It is the largest automotive apprentice trainer in Queensland employing trainers geographically dispersed from Cairns to the Gold Coast and Toowoomba and Emerald. The MTA Institute last financial year accredited courses to in excess of 1,600 apprentices and trainees.

Thank you for your deliberation.

Yours sincerely

Dr Brett Dale DBA
Group Chief Executive
MTA Queensland