

8 April 2016

Staysafe (Joint Standing Committee on Road Safety)
Parliament House
Macquarie St
Sydney, NSW 2000

staysafe@parliament.nsw.gov.au

Dear Sir/Madam

Driverless Vehicles and Road Safety (Inquiry)

The Insurance Council of Australia (ICA) is the representative body of the general insurance industry in Australia. ICA members provide a range of insurance products in New South Wales including motor vehicle property insurance and compulsory third party (CTP) personal injury coverage.

The ICA is pleased to provide this brief submission to the Staysafe (Road Safety) Committee. Our submission focusses on the insurance and regulatory implications of driverless vehicles in NSW.

The ICA supports innovation and the development of motor vehicle technology. We recognise that these developments can present challenges but also great opportunities.

The trend towards automation of vehicles has the potential to increase safety for all road users. However, it will require an update of existing road safety policies and regulations. Regulatory frameworks will need to be enhanced to accommodate vehicles that can now be:

- Managed by a human driver but assisted with automation technology;
- Managed by a fully automated system without driver input but potentially be networked to other vehicles;
- Remotely managed or monitored by automated systems, human operators, or a combination of both; or
- Managed by a semi-automated system with driver input required in the event (or possible event) of an accident.

These varying degrees of automation, notwithstanding the potential safety benefits, create an array of complex liability issues that impact road users, car manufacturers and insurers.

One of the key issues for the insurance industry is how liability for damage or loss caused by a semi or fully automated vehicle is to be established. This is of particular significance for CTP insurance in NSW. The current NSW CTP scheme operates on a 'fault' basis. This means that an individual who is injured in a motor vehicle accident, who can establish that the injury was caused by another driver, can make a claim against the insurer of the at-fault party. We note that the NSW Government is currently consulting on options for reforming the NSW CTP scheme¹. Potential changes to scheme design may impact the current fault-based system.

The question of who has control of an autonomous or driverless vehicle at any point in time, presents significant challenges for determining liability for loss and damage. This in turn has implications for ensuring access to appropriate compensation for injured road users. Where fault must be determined, such as in the current NSW CTP scheme, a shift to product liability or manufacturer's liability may need to be considered. In circumstances where drivers can override automated systems, for example

¹ NSW Government, *On the road to a better CTP scheme: Options for reforming Green Slip insurance in NSW*, March 2016

to avoid an accident, determining the balance between the manufacturer's liability and the driver's responsibility, for the purpose of establishing fault, may be particularly challenging.

As road safety policies and regulations are developed to accommodate driverless vehicle technology, the ICA maintains that all road users must have clarity of the legal responsibilities associated with autonomous and driverless vehicles. Additionally, in the event of a motor vehicle accident, road users must have certainty on liability and remedies for any loss sustained. Increasing interaction between vehicles with automation technology and those without, will require changes in how cause of injury or damage is determined. Appropriately compensating individuals for injury or vehicle damage will be one of the primary insurance and regulatory issues to address.

NSW road users are required to comply with state regulatory requirements and national laws such as the Australian Road Rules (ARR). As we noted in our submission to the National Transport Commission's Issues Paper on regulatory barriers to more automated road and rail vehicles, updates to the ARR will be needed to ascertain what constitutes proper control of a vehicle in circumstances when a vehicle is operating autonomously².

In addition to amendments to the ARR, there are other regulations and frameworks concerning road and vehicle safety that will need to be reviewed and potentially updated. We submit that the NSW Government should work closely with other jurisdictions to ensure that, where possible, there remains consistency and harmonisation across the regulatory framework. This will enable insurance schemes, designed to protect road users from incurring substantial financial loss, to continue to operate effectively, as driverless vehicles become an increasing feature on NSW roads.

We would be pleased to discuss the matters raised in this submission further. If you have any questions, please contact Vicki Mullen, ICA's General Manager, Consumer Relations and Market Development at vmullen@insurancecouncil.com.au, or on (02) 9253 5120.

Yours sincerely



Robert Whelan
Executive Director and CEO

² Insurance Council of Australia, *ICA submission to the National Transport Commission Issues Paper- Regulatory barriers to more automated road and rail vehicles*, 14 March 2016