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ISSUE 2 | JUNE 12, 2017



INTERNATIONAL DEVELOPMENTS

Is Collectivism the Key to Autonomous & Connected Vehicle Success?

With autonomous and connected vehicle (ACV) technology storming ahead at a significant pace, EU Member States have been quick to realize that a collective approach is likely to give the EU a competitive edge in the driverless car race.

The [2016 Declaration of Amsterdam](#) gave impetus to a collective approach, with Member States agreeing to work in collaboration to ensure a coordinated approach to the introduction of driverless technology across the EU. The objectives set out in the Declaration were further developed following an EU meeting on ACV technology in the spring of 2017, with 26 EU countries agreeing to set up large-scale tests involving automated vehicles—in particular, automated minibuses and valet parking. The mutual recognition of exemptions for tests on public roads across the EU was also examined at the 2017 meeting and emphasis was focused on the need to ensure the seamless exchange of data between vehicles, regardless of brand. To this end, the European automotive industry has pledged to ensure that all new makes of vehicles will be able to communicate by 2019.

April 2017 also saw the European Commission host the first European Conference on Connected and Automated Driving. The conference focused on digital transformation, legal and regulatory frameworks, transport policy and technological changes. The EU's desire to lead the way in ACV technology was highlighted by the European Commissioner for Mobility and Transport, who stated, "Europe needs to lead and shape the future of connected and

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At the forefront of defending automotive companies, Shook understands our clients' products, their businesses and the industry as a whole, as well as the legal and regulatory landscape, including emerging technology and liability theories.

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automated driving and collaboration is the key word for the deployment of vehicles.”

The collective effort at an EU level should be applauded. However, for maximum benefit, this collaboration between EU countries needs to be elevated to an international forum.

In a firm nod towards global collectivism, China’s internet giant, Baidu, took a bold step in April 2017 by announcing that it intends to share its self-drive technology to assist with the development of automated vehicles around the world. Baidu finds China’s market to be “ripe for collaboration,” and Baidu, in turn, wants to “open our autonomous driving technology to the industry in order to encourage greater innovation and opportunities.” This decision to release blueprints to its hardware and software codes is in stark contrast to the secretive and often litigious approach to automated technology that we have seen elsewhere in the world, in particular the United States.

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LEGISLATION, REGULATIONS & STANDARDS

NLC’s Guidelines Provide Roadmap for Municipal Participation in the Autonomous Vehicle Dialogue

In April 2017, the National League of Cities (NLC) released a policy preparation guide to empower municipalities to plan for and participate in the autonomous area. Founded in 1924, NLC is “a resource and advocate for the nation’s cities and their leaders” that works in partnership with cities, villages and towns in 49 states. NLC’s mission is to “strengthen and promote cities as centers of opportunity, leadership and governance.” The NLC guide provides a roadmap for municipalities to utilize the vast potentials made possible by autonomous vehicle technology.

NLC’s guide describes the challenges and opportunities autonomous vehicles will inevitably create for cities and the importance for cities to be active and informed participants in policy and infrastructure developments.

The guide’s four overarching recommendations for municipalities are to (i) start planning now; (ii) place the right people at the table, including partnerships or coalitions with private enterprise; (iii) voice opinions during open comments and to state and federal officials; and (iv) plan for data, computing and infrastructure needs to position the municipality to take advantage of the autonomous technology.

Federal Government Officials Weigh in on Privacy Concerns in Connected Vehicles

The International Association of Privacy Professionals (IAPP) recently hosted the Global Privacy Summit 2017 to discuss various issues about data privacy and security. Federal government officials Claire Barret, chief privacy officer for the U.S. Department of Transportation (DOT), and Karen Jagielski, senior attorney in the Division of Privacy and Identity Protection for the Federal Trade Commission (FTC), weighed in on privacy concerns related to connected and automated vehicles.

The officials indicated that the federal government will look to the industry to address ongoing privacy concerns in the development of connected and automated vehicles, as it did in November 2014 when OEMs agreed to set [consumer privacy protection principles](#) for vehicle technologies and services. The federal government will provide certain guidelines. In September 2016, DOT issued the [Federal Automated Vehicles Policy](#) for the testing and deployment of automated vehicles, and in October 2016, the National Highway Traffic Safety Administration (NHTSA) issued a report regarding cybersecurity concerns, [Cybersecurity Best Practices for Modern Vehicles](#). Most recently, NHTSA proposed a new rule to [enable vehicle-to-vehicle communication technology](#) on all new light-duty vehicles, enabling new crash-avoidance applications.

DOT's focus on vehicle safety includes data privacy. As connected and automated technologies develop, the goal is to create a connected automated vehicle that will communicate with other vehicles and its environment (such as traffic lights), paving the way for the creation of smart cities. The development of this technology, however, fosters concerns over data privacy. For example, with whom will the vehicles be communicating? Is transmitted data considered to be personal and confidential? Does the driver provide informed consent for the vehicle to collect and share the data? No answers have emerged yet, but to advance this technology, consumers will have to learn to trust their vehicles and vehicles will have to trust each other. The states must develop their own set of laws involving the collection and disclosure of data. FTC, which governs deceptive and unfair practices, advises manufacturers to be truthful and accurate in marketing connected and automated technology in vehicles and collecting and disseminating consumers' data.

NHTSA and FTC will hold a workshop on [June 28](#) to discuss privacy and security issues relating to connected vehicles.

Additional reporting provided by Shook Associate [Mayela Montenegro](#).

LITIGATION

Are Suppliers in the Driver's Seat?

In recent years, there has been an increase in litigation between manufacturers (OEMs) and suppliers over supply chain disruption. Specialized knowledge has shifted from the OEMs to the suppliers; in fact, one source suggests suppliers now produce nearly 70 percent of a car's components.

With this high level of involvement and specialization comes leverage over the supply chain. Rather than negotiating settlements with OEMs, a growing number of suppliers now have close to sole-source leverage, empowering them to litigate pricing disputes with OEMs. Will this trend continue with the rise of autonomous vehicles?

The key technologies that make vehicles autonomous, such as sensors and code, are critical components of the autonomous vehicle supply chain, and these highly specialized components are only manufactured by a handful of companies. As evidenced by current litigation and disputes, much of this new technology is heavily patented and protected by the supplier. Given OEMs' reliance on the unique specialization of their suppliers, OEMs may be unable to procure the components they rely on elsewhere.

As autonomous vehicle technology continues to advance and suppliers create unique components that may be impossible to replicate, suppliers may hold sway over OEMs with their sole-source leverage in pricing disputes.

Additional reporting provided by Shook Associate [Siena Caruso](#).

FIRM NEWS

Shook Panel to Discuss Navigating the Autonomous Vehicle Legal Landscape at 2017 Update of the Law

Shook, Hardy & Bacon Partners [Doug Robinson](#) and [Cory Fisher](#), with Associates [Siena Caruso](#) and [Mayela Montenegro](#), will

present on the legal implications of autonomous technology in vehicles at Shook's annual Update of the Law on June 22, 2017. The panel will discuss torts, class actions, intellectual property and business-to-business litigation. For registration and other information on the program, please contact [Jill Moore](#).

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