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## Autonomous Vehicle Manufacturer Liability Becomes Key Legal Issue

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Amidst the proliferation of autonomous vehicle (“AV”) technology, manufacturer liability is quickly becoming a prevalent legal issue.

American Association for Justice (“AAJ”)—the “world’s largest trial bar” for plaintiff attorneys—recently identified AV manufacturer liability as one of its key legal issues of the future. AAJ is not new to this issue. The organization has promoted AV manufacturer liability for years, advocating as early as 2017 for the notion that manufacturers should be held strictly liable for personal injury resulting from AV accidents.<sup>1</sup> In 2020, counsel for AAJ testified before the House Energy and Commerce Committee to argue against federal preemption of AV liability issues for the purpose of holding manufacturers accountable in state courts.<sup>2</sup>

AAJ is not alone in this emphasis on AV manufacturer liability and regulation. The World Economic Forum, an international lobbying organization, supports the advent of AV liability policies and the elimination of “outdated regulations” in the United States and abroad.<sup>3</sup> Earlier this year, 12 U.S. senators issued a letter to the U.S. Department of Transportation, urging the agency to implement federal AV policies relating to manufacturing, licensing, and liability.<sup>4</sup>

Other countries are setting the precedent for comprehensive AV regulation. In August 2022, the United Kingdom unveiled a new regulatory scheme to promote widespread use of fully autonomous vehicles by 2025. The proposed regulation will hold manufacturers, and not drivers, liable for accidents occurring while a vehicle is in

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<sup>1</sup> American Association for Justice, *Driven to Safety: Robot Cars and the Future of Liability*, p. 28 (2017).

<sup>2</sup> Autonomous Vehicles: Promises and Challenges of Evolving Automotive Technologies: Hearing Before House Comm. on Energy and Commerce 116 Cong. 4 (2020) (Testimony of Daniel Hinkle for the American Association for Justice).

<sup>3</sup> Spencer Feingold, *Shaping the Future of Mobility*, World Economic Forum (Aug. 25, 2022), <https://www.weforum.org/agenda/2022/08/who-is-to-blame-if-a-self-driving-car-crashes/>.

<sup>4</sup> Letter from U.S. Senate to U.S. Dept. of Transp. (April 27, 2022), [https://www.peters.senate.gov/imo/media/doc/Letter%20to%20DOT%20re%20AVs\\_FINAL.pdf](https://www.peters.senate.gov/imo/media/doc/Letter%20to%20DOT%20re%20AVs_FINAL.pdf).

## Client **Alert**

driverless mode.<sup>5</sup> France, Germany, and Japan have also recently adopted policies that shift liability to AV manufacturers.<sup>6</sup>

Although uniform AV regulatory schemes are expanding abroad, it remains to be seen whether and when the U.S. will embrace federal AV regulation. Moreover, if a comprehensive regulatory scheme is adopted, it is unclear how liability will be apportioned between manufacturers and drivers.

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<sup>5</sup> *Self-Driving Revolution to Boost Economy and Improve Road Safety*, GOV.UK (Aug. 19, 2022), <https://www.gov.uk/government/news/self-driving-revolution-to-boost-economy-and-improve-road-safety>.

<sup>6</sup> Automated Vehicles, French Ministry of Ecological Transition (Oct. 18, 2022), <https://www.ecologie.gouv.fr/en/automated-vehicles>; Martin Ebers, *Civil Liability for Autonomous Vehicles in Germany*, SSRN (March 25, 2022), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=4027594](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4027594); Takeyoshi Imai, *Legal Regulation of Autonomous Driving Technology: Current Conditions and Issues in Japan*, IATSS Research 43, 263–267 (2019).

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