

The Sensor: Legal Insights into Autonomous Vehicles

JANUARY 2020

Driving Change: The Year Ahead in Autonomous Vehicles

In 2019, the Autonomous Vehicle (AV) industry experienced significant technological and regulatory advances that shifted the promise of the deployment of fully autonomous AVs. Against this backdrop of an increasingly growing industry, we expect 2020 to be a year where the discussions around AVs shift from the grandiose to the granular. We highlight below the top legal issues relating to AVs for 2020.

Industry Hotspot: Shifting Timelines

From the perspective of many leading automakers and tech companies in the mid-2010s, 2020 was expected to be the year of large-scale deployment of AV technology and the disruption of the automotive industry. Instead, in 2020 we expect to see industry and government tackling the technological, operational, industrial and regulatory complexity of getting AVs right and on the road.

In 2020, we expect to see a continued extension of timelines for the widespread deployment of AVs with higher levels of automation (Level 4 and Level 5). Simultaneously, we expect to see existing tech and automotive stakeholders pushing the commercialization and deployment of lower-level automation AV systems as a part of Advanced Driver Assistance Systems (ADAS).

Infrastructure Hotspot: 5G

As discussed in our October 2019 edition, the rollout of 5G is expected to have a significant impact on the technology and viability of the large-scale deployment of AV technology. The data speeds, private investment and multi-purpose nature of 5G technology has convinced many that it is the most pragmatic communication technology to support the continued development of AVs.

As 5G is introduced in the United States, the European Union, Japan, China and South Korea in 2020, it will make these markets increasingly attractive places to test, develop and deploy AVs. These jurisdictions are all leaders in AV technology and we expect to see government and industry looking to leverage the complementary development of 5G and AV industries and infrastructure.

Beyond 5G, AVs will have much broader and more demanding impact on infrastructure planning, as large parts of our road systems need to be rethought to account for this new technology.

In Canada, different levels of governments (primarily municipal and provincial) will need to begin incorporating the needs of AV into infrastructure choices and planning. We expect to see conversations developing about changes to roadway design and maintenance, mass transportation planning, the management of the curb with the attendant decrease of on-street parking, new forms of private-public regional mobility hubs and significant investments in centralized traffic management systems.

Regulatory & Policy Hotspots: C-V2X Communications and AV Regulations

In December 2019, the Federal Communications Commission (FCC) adopted a Notice of Proposed Rulemaking, which proposed to dedicate the upper 20Mhz portion of the 5.9 GHz spectrum reserved for intelligent transportation systems to C-V2X Communication.

This proposal, which we will be following closely in 2020, was welcomed by proponents of 5G and C-V2X in the United States. We expect to see increased momentum from C-V2X proponents in the United States and further regulatory discussions regarding data management and privacy concerns. Given the limited amount of 5.9 Mhz spectrum left after this move by the FCC, there is also a possibility that the technological competition between DSRC and C-V2X in intelligent vehicle communication will be forced to come to a head in 2020.

The regulation and testing of the AV industry in Canada has been concentrated in the four most populous and developed provinces (Ontario, Québec, British Columbia and Alberta). In 2020 we expect to see other provinces, very likely led by the larger cities in those provinces, engaging with the AV industry and taking steps to position themselves to reap the economic rewards of AV.

In 2020, we expect to see more cities and towns across Canada getting involved in the testing, limited deployment and development of the AV industry. Notably, AVs will share the road with regular drivers for tests in Toronto's Rouge Hill Automated Shuttle Trial led by the City of Toronto, the Toronto Transit Commission and Metrolinx and in Hamilton through the City's Connected and Autonomous Vehicles Test Bed led by the City of Hamilton, the Centre for Integrated Transportation and Mobility and AVIN.

We also expect more municipalities across Canada to engage in public discussion to develop regulations and governance frameworks relating to AVs. As an example, the City of London, Ont. began an AV public engagement process in January 2020, seeking to get public feedback as the city prepares for the transformative impact of AVs. Similarly, in 2019, the City of Toronto set the municipal standard for AV engagement and readiness for the province and the country with the introduction of its Automated Vehicles Tactical Plan in October 2019, with an ambitious goal of being "AV Ready" by 2022. We will be closely following the policies, protocols and public engagement strategies developed by the city, as they will likely influence, if not define, the approach adopted by other municipalities in Canada and around the world. If the city gets this right it could make Toronto a world leader of AVs, especially given Ontario's unique AV strengths.

There is much to be excited about in the AV sector as the regulatory and policy framework around AVs is shaped in Canada and abroad.

Authors:

Bob Love

Lucas Kilravey

Monthly articles provided in The Sensor: Legal Insights into Autonomous Vehicles explore how autonomous vehicles are impacting industry sectors across the board and are written with the objective of helping to ensure our clients are well-positioned to deal with the related legal and regulatory challenges.

Your feedback is appreciated. Please email us at AVs@blg.com with suggestions or comments.

About BLG

Borden Ladner Gervais LLP (BLG) is a leading, national, full-service Canadian law firm focusing on business law, commercial litigation and arbitration, and intellectual property solutions for our clients. BLG is one of the country's largest law firms with more than 700 lawyers, intellectual property agents and other professionals in five cities across Canada. We assist clients with their legal needs, from major litigation to financing to trademark and patent registration.

blg.com/av

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T +1.403.232.9500
F +1.403.266.1395

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T +1.514.954.2555
F +1.514.879.9015

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T +1.613.237.5160
F +1.613.230.8842

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2020 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.

Lawyers | Patent & Trademark Agents