



BY STEPHEN MOORE

ADAS and the insurance industry

Advanced driver assistance systems stand to have a significant impact on premiums — and on litigation



MUCH HAS BEEN WRITTEN about autonomous vehicles and how they will change the automobile manufacturing, insurance and trucking businesses. But while autonomous vehicles are likely still a long way off, advanced driver assistance systems (ADAS) are finding their way into current mid-range and luxury vehicles. These systems, while not having the impact that autonomous vehicles will have, are still likely to change the insurance industry in significant ways, and the costs of litigation.

ADAS that are currently on the market include collision mitigation braking systems, adaptive cruise control, lane-keep assistance systems, blind spot detection systems, back-up cameras with cross-traffic warnings, pedestrian detection and eye tracking systems. These systems can reduce the risk of collision for both the attentive and inattentive driver. For example, a 2016 Insurance Institute for Highway Safety (IIHS) study indicated that a simple back-up camera could reduce accident rates for drivers over the age of 70 by 40 per cent. In most instances, the driver can engage or disengage these systems at will. As these systems become more sophisticated and their accident reduction efficacy increases, I believe manufacturers and governments are likely to reduce or eliminate the driver's ability to disable such systems. This is exactly what happened with anti-lock braking systems.

Of course ADAS will impact the frequency and severity of crashes. They also have the potential to change the legal responsibility for automobile accidents. Currently, the driver of an automobile is re-

sponsible for the operation of the vehicle. In most cases, the owner of the vehicle is vicariously responsible for the driver's negligence.

However, as ADAS become more common, drivers will surrender more and more of their driving to these systems. So, when accident claims arise they will more frequently involve vehicle manufacturers and the suppliers of the ADAS as defendants. Liability will shift from the driver to the manufacturer.

Currently, car insurance rates are dictated by the cost of the vehicle, the driving record of the insureds, the annual mileage put on the vehicle, and the location of the vehicle. As the sophistication of these systems evolve, these criteria will be superseded by the rat-

ings of the ADAS in insured vehicles. When these systems fail or an accident occurs in spite of them, the cost of litigation will increase. Courts will not be asked to evaluate the relatively simple question of the negligence of the driver, but rather will be obliged to determine whether such systems were negligently designed, manufactured or maintained. Such litigation is dramatically more expensive. If past history is any indication, manufacturers are much more likely to fight such claims through to trial.

According to Statistics Canada, in 1995 there were 3,313 fatalities, 20,188 serious injuries and 238,458 total injuries from motor vehicle collisions. By 2014 those numbers had dropped to 1,834, 9,647 and 149,900 respectively. In other words, over a period of nearly 20 years fatalities and serious injuries from motor vehicle accidents have been approximately halved. During this same time period, registered vehicles in Canada increased from 14,047,000 to 23,538,000.

There is no reason to believe that the trend toward fewer injuries and fatalities will end, and in fact statistics from the IIHS suggest that these rates will continue to decline. This should lead to a drop in premiums for third-party liability automobile coverage. It will also result in fewer lawyers being involved in prosecuting and defending automobile injury claims. Premiums will likely be based on a very different set of criteria than they have been in the past; however, the claims that will arise will be significantly more complex and expensive to litigate. ▀

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