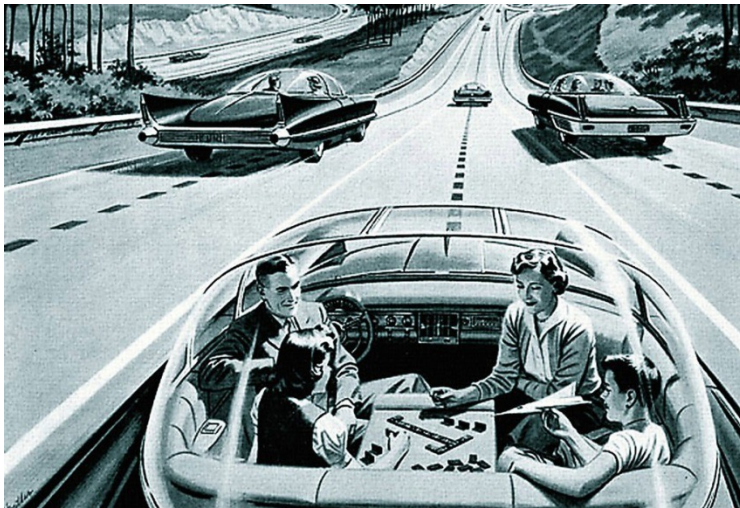


Autonomous vehicles – a shift from automobile liability to product liability?



<http://www.autosmotor.de/wp-content/uploads/2015/01/Traum-in-den-1950er-Autonomes-Fahren.jpg>



<http://next.mercedes-benz.com/wp-content/uploads/2015/01/F015-autonomes-fahren-Vision.jpg>



Automobile liability

- Principle of **fault-based liability for human behaviour**
- Basically **same scope of liability** for any damage that has been caused culpably, from slightest negligence to injurious intention
- German Road Traffic Act (StVG): liability of the **driver** (with presumption of fault), plus liability of the **registered owner/keeper** of the car (with the exclusion of *force majeure*)
- **Driver:** responsibility for **non-intervention** with autonomous driving mode in dangerous situations (cf. Vienna Convention on Road Traffic), and for foreseeable non-functioning of the system
- **Registered owner/keeper:** responsibility for human driving mistakes as well as for technical defects



Product liability

- Responsibility of **producer** of hardware/software for construction, manufacturing and instructional errors
- Injured party bears the **burden of proof** for the fact that the driving system did not reflect the state of science and technology when put on the market
- Producer may refer to **ISO Standard 26 262** on functional safety of road vehicles
- **Foreseeable misuse** is to be distinguished from an abuse of the system
- **Monitoring duty** of producer



Is there a shift?

- The existing rules on **road traffic liability** are applicable and will regularly lead to responsibility.
- From an accident victim's point of view the driver's and especially the **registered owner's/keeper's liability** offer a more solid basis for compensation than product liability does
- Claims based on motor liability **insurance** may be directly filed by victims throughout Europe
- Reduction of accidents but increase of the **average damage** per accident because of expensive digital equipment