

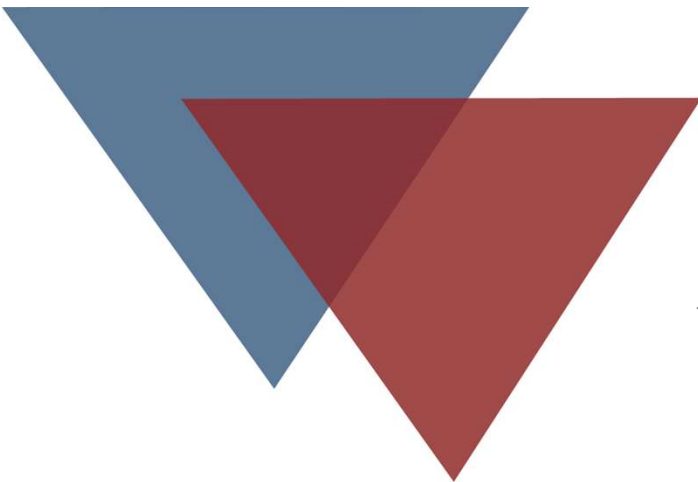


Remarketing Recharged – Insulating Against EV Shocks

*2021 National Remarketing Conference
Used Car Week*

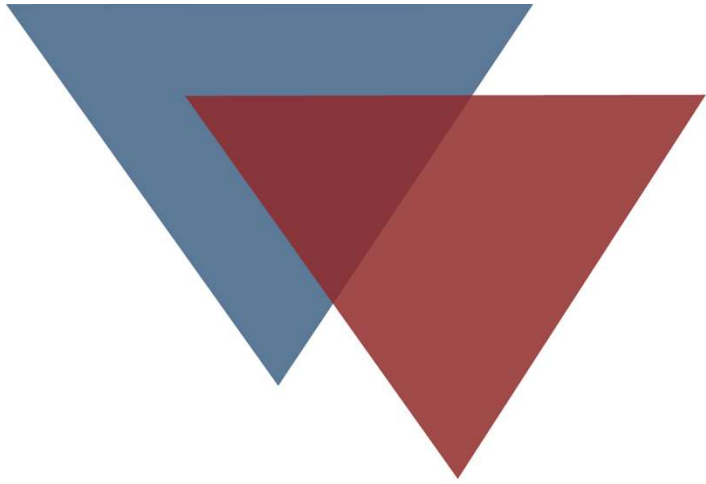
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Learning Objectives

- EVs can be a big opportunity for remarketers and are coming regardless.
- Their risk profile will be different than their internal combustion predecessors, around which the industry has evolved over many decades.
- Remarketers will have to store, maintain, recondition, transport, finance, and sell EV units, all with appropriate disclosures and allocation of responsibilities.
- Flag some of the special issues that are likely to arise...

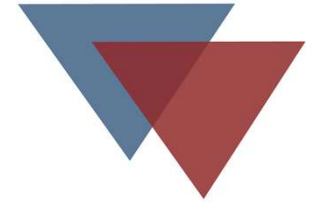


The Future...

It's Electric!

- Biden plan calls for \$100B in EV rebates and that's huge, *Roadshow*
 - To Save the Planet, Get More EVs Into Used Car Lots, *Wired*
 - 4 ways 2021 could be the year of the EV, *E&E News*
 - Study: All new US vehicles can be electric by 2035, saving households \$1,000 annually, *Green Car Reports*
 - Biden Wants the Government to Run on EVs, *Wired*
 - General Motors Sets All-Electric Target For Vehicles By 2035, *NPR*
- All great,
BUT not so fast...

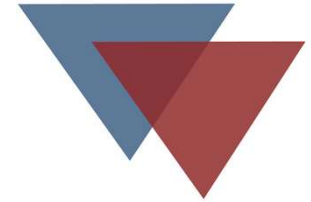
Know The **Risks**



- Safety and Reliability
- Fires
- Battery Issues
- Supply Chain Concerns
- Cyber Concerns
- Insurance + Complex Claims
- Charging Points



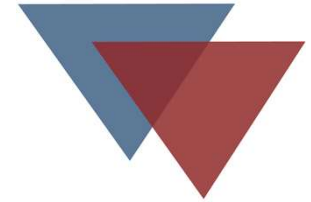
Safety and Reliability: Evaluate Costs



Fewer accidents and repairs
but they are **much more complicated and expensive**
when they do happen!

- For example, battery loss and replacement is very costly.
- With the low number of EVs on the road currently, the number of these vehicles involved in accidents is low.
- The question is: What will happen when every 1 in 5 people drives an EV?

Safety and Reliability: Recalls

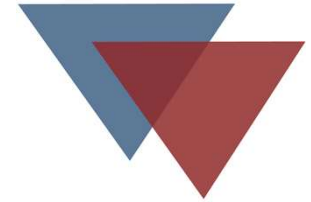


- A number of car manufacturers have already issued recalls on EVs for issues ranging from **battery problems** to **software issues** to **fire concerns**.

And then there's **Tesla**...



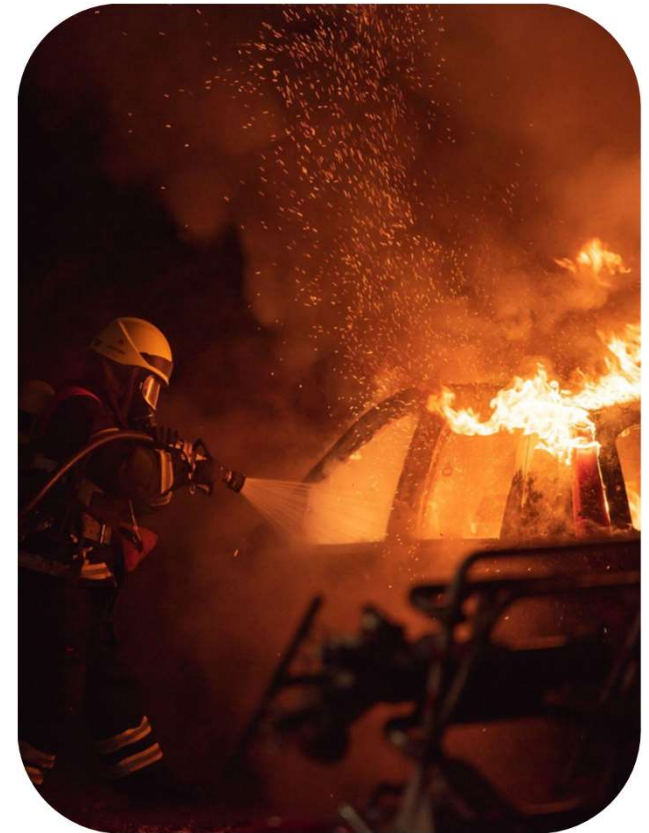
Fires



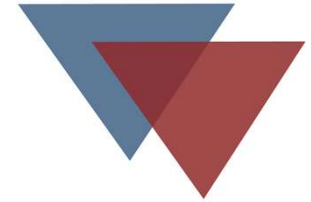
Batteries are generally safe and well-encapsulated **but...**

When they do catch fire, the temperatures can be **much more intense, thermal runaway** can occur, as well as **release of toxic gases**

First responders have **less experience** dealing with these types of fires



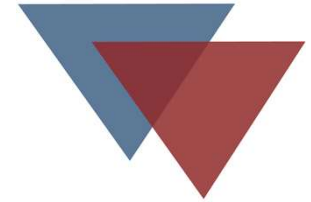
Battery Life



- 8- to 10-year lifespan
- High cost of replacement
- Environmental effects of disposal
- Best charging/maintenance strategies not yet known
- Chargers are \$\$\$
- Blackout risk



Environmental Impact



A net improvement over internal combustion engines, especially once EVs take the road, but...

- Production (so far) appears to create more emissions
- Mining and water impacts to procure lithium and cobalt for batteries
- No standardized process to recycle lithium-based batteries
- Long-term impacts of battery disposal unknown

Supply Chain Gaps



- Speed to market -> fast-paced development of new EV models and subparts and charging equipment will put quality pressure on OEMs and supply chains.
- Complexity of subcomponents and integration of software -> practical and legal responsibility for defects difficult to determine
- Environmental and social concerns -> traceability and transparency of component sourcing, particularly mined raw materials, will be a concern

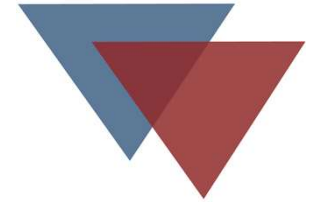


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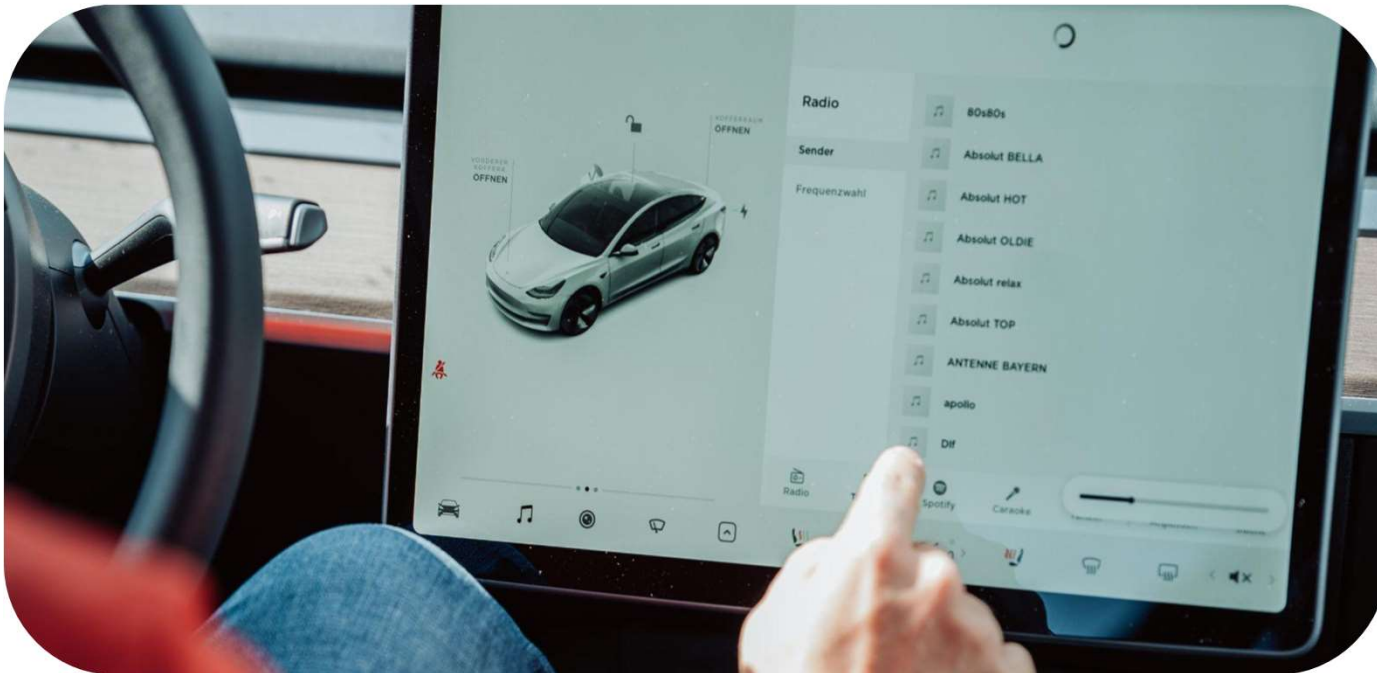
of the lithium battery supply chain is currently controlled by China.

Source: Politico

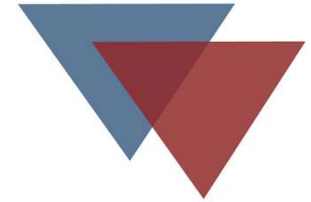
Cyber Threats



Increased connectivity and software will create openings for attacks, outages, bugs, and glitches.



Insurance Implications



Product liability

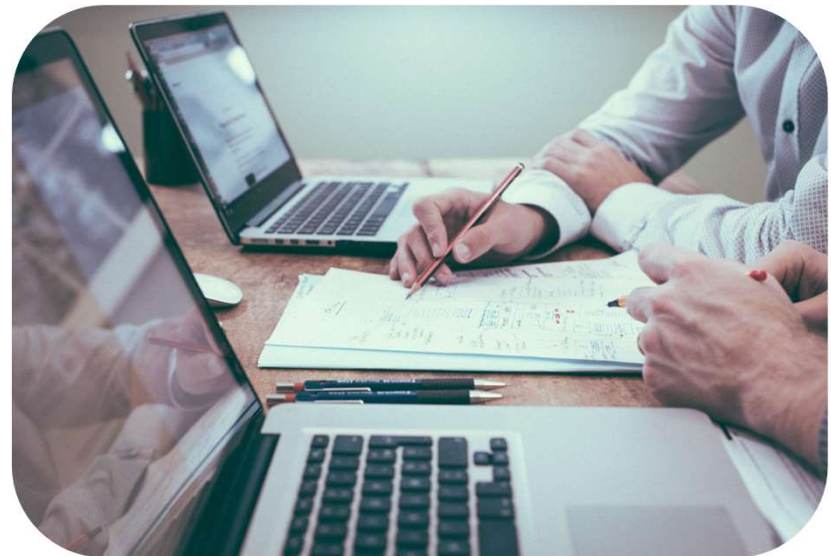
- Fewer but more integrated and connected parts
- Different life cycles
- Software creation and updating issues
- Product cycle allows less testing

Property coverage

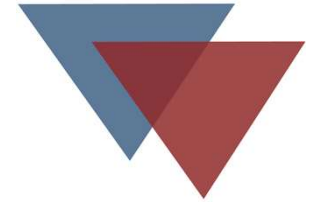
- Fire risks

Claims complexity

- Size
- Factual complexity
- Contractual complexity



Legal Bumps in the Road



Product Liability/Defective Design

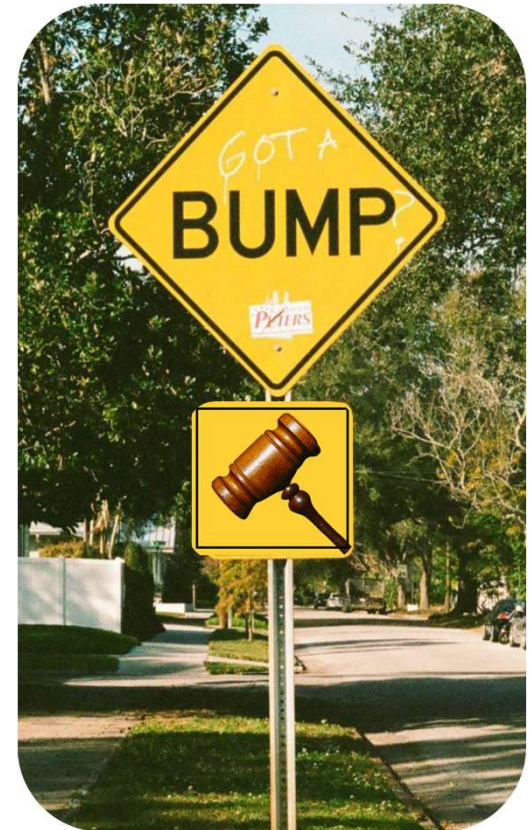
- BMW Prevails in Class Action over Electric Car Battery Life, *Barry Braverman, et al., Plaintiffs, v. BMW of North America, LLC, Defendant.*, No. SACV1600966TJHPJWX, 2021 WL 1020408, at *1 (C.D. Cal. Mar. 17, 2021).

Misrepresentation

- Shareholder Lawsuit Claims Electric Truck Startup Defrauded Investors, *Rico v. Lordstown Motors Corp. et al*, No. 4:2021cv00616 (N.D. Ohio) – Filed Mar. 18, 2021.

Tax

- *Various cases involving state and federal interpretation of EV-related tax credits and incentives*



What to Do



- ✓ Think through the life-cycle of relevant EV models and your company's role in it
- ✓ Align your company marketing to make sure capabilities/benefits and environmental bona fides are not overstated
- ✓ Work with your counsel to ensure duties and liabilities are carefully allocated in relevant contracts
- ✓ Work with your insurer(s) to make sure coverage is adequate for the remaining risks

Questions?

Ask Us



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