

## Editor's Note

Happy New Year to all our readers. *Plugged-In* had an excellent kick-off year in 2023 with all our editions being well received both internally and externally, and led to new collaboration with guest authors and industry specialists. Welcome to the first edition of 2024 season. In this first edition, we have yet another guest interview, John McElroy, who is considered an influential thought leader in the automotive industry. He created "Autoline Daily," the first industry webcast of industry news and analysis. He also hosts the Emmy Award-winning television program "Autoline This Week" and co-hosts "Autoline After Hours." The co-chair of our advisory board, Bob Weiss, asks him about the EV transition over the last five years and his take on the current landscape after the adoption of the Inflation Reduction Act and how OEM strategies are faring since then. This is the first of a series of interviews Mr. Weiss held with Mr. McElroy and we look forward to sharing more in our next editions. We are just as excited for where the EV sector heads in 2024 and what new technologies OEMs and suppliers bring to the market.

### Interview with John McElroy, President – Blue Sky Productions

Welcome to *Plugged-In*. It is a pleasure to speak with you and gain your insights regarding the status and timing of the industry transition to EVs. In particular, I would like to explore in greater detail the observations that you shared in an article in Wards Auto in November, 2023 entitled "[The Impending EV Fiasco, Five Years Later](#)," in which you cite to an article that you wrote, in 2018, entitled "[The Impending EV Fiasco](#)," in which you anticipate many of the obstacles being faced by the OEMs today.

---

## Question 1

*Bob:* Can you remind us of what was the conventional wisdom back in 2018 regarding the timing and obstacles of transition to EVs? Was your skepticism shared by many back then?

*John:* A lot of people were very skeptical about EVs back in 2018; I certainly wasn't the only one, although perhaps I spelled the obstacles in more detail than others did. There was plenty of skepticism. On the other hand, certainly in the United States, but also in China and Europe, governments were putting policies in place that were going to force the issue, that were going to force the auto industry to commit to EVs as the industry's future, despite questions that were swirling all around regarding the obstacles inherent in the rapid transition.

There wasn't and still isn't an EV mandate per se, but there were and are fuel economy and emission standards in the United States that are almost impossible to meet unless you've got a given amount of EV's in your fleet. In China, on the other hand, it was much more of a carrot kind of approach, both by the national government and by provincial and city governments. For example, in China, municipalities charge car owners a significant license plate fee. However, if you drive an EV, the license fee is waived. I just looked it up and in Shanghai, it is over \$14,000 to get a license plate today at the current exchange rate. But if you buy an EV, you don't have to pay for that. The waiver of the license fee is in addition to other discounts and incentives offered by the government. In Europe, kind of along the same lines of the US, the impetus in favor of EVs was more the result of aggressive emission standards and greenhouse gas standards.

## Question 2

*Bob:* In what ways has the perspective evolved over the last five years or so?

*John:* The pendulum began to swing in terms of positive sentiment in mid-2019. That initial skepticism gave way to what could be reasonably described as an almost euphoria largely based upon two factors: (1) the success of Tesla, and (2) extraordinary government support. Tesla demonstrated beginning in 2019 that there was a growing market for EVs and that they could be manufactured and sold at a profit. Tesla absolutely proved that there was demand for EVs out there, whether it was the whole market or not you couldn't say. In mid-2019, Tesla really turned the corner and that's when it started turning a net profit every quarter, a GAAP profit, and even when you stripped out the ZEV credits, it was still profitable. Last year (2022), Tesla was the most profitable car company in the world on a per unit basis, even beating out Mercedes and BMW. This year (2023), even with discounts and multiple price cuts, it's still very profitable. So people were looking at Tesla and going holy moly. Not only is there demand for these EVs; you can make a lot of money manufacturing and selling them.

---

The Inflation Reduction Act, which provided hundreds of billions of dollars in loans, grants and rebates, combined with the hundreds of billions of dollars in investment by OEMs and suppliers created a sense of inevitability of the transition thereby encouraging an “all in” strategy by the OEMs, with the notable exception of Toyota. In a sense, the hundreds of billions of dollars in combined public and private investment created a mindset that the transition in a sense was “too big to fail.” Once that view became ingrained, OEMs and others concluded that notwithstanding the obstacles and uncertainties, the transition was inevitable and the greatest danger was not investing enough in plants and technology, and as a result not being ready to meet demand, and being left behind when the floodgates of adoption opened.

GM's approach is illustrative. Mary Barra and her team decided that look, the end goal here is we are going to wind up with EVs whether it's in the early 2030's or whatever; it's clear the auto industry is going electric. So let's not pussyfoot around and waste our time here on hybrids and plug-in hybrids. Let's go full EV because the race is really a race to scale. And everybody looked at Tesla because Tesla did not start making a profit until it started building 80,000 cars a quarter and once it hit that level, it became a money machine. So there is a race to scale and if you put all your eggs in the EV basket, so the thinking went, you were more likely to hit scale before anybody else.

### **Question 3**

*Bob:* What is the perspective as we speak [December 2023]?

*John:* Within the last year, that euphoria has diminished, if not disappeared for a number of reasons, including the recognition of the billions of dollars in losses that the OEMs have incurred and will continue to incur for at least the next several years, better understanding of the challenges to widespread adoption in terms of having adequate charging infrastructure, supply chain resiliency and lower cost product. The recent slowdown in EV sales has forced all constituencies to take a more critical, fact-based look at the transition process and timeline.

### **Question 4**

*Bob:* In your original article, you cite cost, unavailability of adequate charging infrastructure and limited battery range as key impediments to rapid adoption of EVs. You state in your original article, "Once the public forms an opinion about a product it is almost impossible to change. And the reality is that in the next four years consumers will encounter BEVs that are expensive, slow to recharge and have limited driving range." Do you think the public has formed that negative opinion and that until the three criteria are satisfied, there will be relatively limited consumer

---

demand for EVs? Stated differently, given the above and other factors, how would you describe the current status of adoption and timing for that adoption to meaningfully increase?

*John:* I would breakdown the potential EV consumer, into four categories:

(1) Early Adopter - More often than not, affluent purchaser who either was attracted by commitment to environmental issues or intrigued by the technology and innovation. This segment has been largely exhausted in terms of new entries.

(2) Willing, but Hesitant to Adopt - Philosophically predisposed to go electric: but reluctant; since current offerings don't satisfy their driving needs or price points.

(3) On Hold - No philosophical predisposition one-way or the other, but waiting until EVs are everywhere, with ample charging infrastructure and low cost options.

(4) Anti-EV - Object to EVs on political/philosophical grounds - reject climate change and resent government mandates. Many within the Republican Party have adopted this position promoted by Donald Trump and other leaders of the Republican Party.

The driving public is divided into certain segments, there are a small set of early adopters who want an EV right now and they've largely come into the market and purchased them. You've got another contingent of people who are very interested in EVs but so far, there hasn't been a model that fits their driving needs and is at a price they can afford, and some people are very brand loyal and they are waiting for their brand to come out with an EV. And then, there is another contingent beyond that who is yeah, ok, I'll consider an EV, but I'll consider them when I see that there are EVs everywhere, there are charging stations everywhere and all these complaints about them have died down. A final category of consumers are those that reject EVs on a political/cultural basis. You have a large part who don't believe in climate change, think EVs are stupid and not environmentally good and they think the government is trying to be forceful.

It will take time and progress to win over categories two and three above. As costs decrease and infrastructure increases, these two constituencies will come around. In my view, even those comprising the fourth category will ultimately engage, given the catastrophic danger to the OEMs if the transition materially stalls resulting in prolonged incurrence of billions of dollars in losses a year. There are politically active constituencies that would be materially impacted by turmoil in the industry, who would apply their influence if a new administration were to materially diminish government support. For example, the automotive dealer association is active on a state, local and federal level and would likely bring their influence to bear.

---

Let's say Trump gets elected next year and carries through on his promise, or tries to carry through on his promise of just gutting all EV subsidies, including the Inflation Reduction Act. Automakers will scream bloody murder only because they've invested so much in it right now. You would financially cripple General Motors, Ford and Stellantis if you pulled the rug out from under them on their EV investment right now. Suppliers same thing. Even dealers. The NADA is an extraordinarily powerful lobby. I would argue even more powerful than the NRA. Dealers are in every single community in the United States. Every single one. They all contribute to their local politicians right down to the county and city level and up through the state and federal levels. So dealers, who largely are Republican and largely anti-EV, they are not going to want to see the automakers financially crippled because ultimately it threatens their own livelihood. So my guess is, even if Trump gets elected and the Republicans regain control of the Senate and the House, I don't think there will be a full gutting of the Inflation Reduction Act because it would leave the legacy car companies and suppliers in deep financial trouble.

### Question 5

*Bob:* Since publication, have you received much feedback and, if so, from what sources and what are they saying?

*John:* Oh yeah, a tremendous amount. A lot of the anti-EV people said told 'ya, you were absolutely right. The pro-EV people are little bit dismayed about it because they just want sunshine and rainbow and bunny rabbit stories about EVs and that has not been the case, with the exception of Tesla. The reaction is pretty much how you expected. The anti-EV crowd has seized on it and the pro-EV crowd is trying to ignore it as much as possible.

*Bob:* John, our conversation has been not only informative, but great fun. I look forward to discussing with you in our next segment where the industry goes from here, who you think will survive among the start-ups, the prospect of Chinese competition in the U.S., and your overall view regarding the future of the EV transition and timeline. Looking forward to our next conversation.

## In Case You Missed It

---

The focus of "In Case You Missed It" this month is EV sales. The first two articles below illustrate the varying opinions regarding the trajectory of EV sales in the US. Much has been written lately about the slowdown in EV sales. However, as they say, it is all a matter of perspective.

---

## [Historic: US EVs skyrocket past 1 million sales, up 50.7% YOY](#)

For example, a recent article appearing in *Electrek* has an extremely positive slant. It is titled “Historic: US EVs skyrocket past 1 million sales, up 50.7% YOY.” The article quotes BloombergNEF referencing its published report of US EV sales in 2023 exceeding 1 million EVs for the first time and concludes: “The report’s bottom line is that despite concerns about EV demand slowing, the data doesn’t support that.”

## [How Electric Vehicles Are Losing Momentum with US Buyers, In Charts](#)

On the other hand, an article in the *Wall Street Journal* titled “How Electric Vehicles Are Losing Momentum with US Buyers, In Charts” acknowledges EV sales growth, but states that this impressive growth has “hit a speed bump” at least in the short to medium term. The authors analyze sales and trends using multiple analytics.

Our next two articles address the rise of BYD as a dominant global player in the EV market.

## [Tesla Falls Behind China’s BYD in Quarterly Sales for First Time](#)

An article appearing in the January 2, 2024 edition of the WSJ explores the rivalry between Tesla and BYD and is titled “Tesla Falls Behind China’s BYD in Quarterly Sales for First Time.” The author notes that Tesla delivered 1.8 million vehicles in 2023 and BYD is nipping at its heels with 1.6 million annual deliveries. The article reports that in the fourth quarter of 2023, BYD’s sales exceeded that of Tesla by over 40,000 vehicles. As noted by John in our interview above, the Chinese OEMs are, and will increasingly be significant competitors in the EV space.

## [China’s Tesla-Beating EV Maker BYD has Carmakers Around the World "in a state of shock" Over Its Prices](#)

In an article in the January 6<sup>th</sup> edition of *Fortune*, the authors explore the meteoric rise of BYD as a global player with an apparently extraordinarily efficient, cost effective and stable supply chain, which combined with low labor costs, has given BYD tremendous competitive advantage. The authors point to a low cost EV that BYD launched in the China market last year branded the Seagull, with an \$11,000 price tag and suggest that even with the significant U.S. tariffs on Chinese imports, the price would be lower than any competitors’ current offerings. They note further that BYD might avoid the tariff by entering the US market through opening a manufacturing facility in Mexico.

Our final article deals with a trend away from startups adoption of Tesla’s direct to consumer sales process.

---

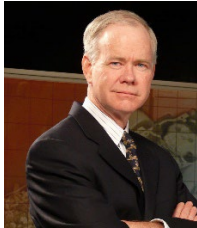
## [EV Startup Fisker Ditches Tesla Style Direct Sales Model](#)

In our final article, appearing in the January 4<sup>th</sup> edition of the WSJ titled, “EV Startup Fisker Ditches Tesla Style Direct Sales Model”, the author notes that Fisker and others are abandoning their initial direct to consumer sales model in favor of the traditional dealership sales to customers.

To learn more about our EV practice, visit our website at <https://www.dickinson-wright.com/practice-areas/electric-vehicles?tab=0>.

All views presented in this newsletter are that of the authors and do not reflect the views of Dickinson Wright.

### Issue Authors:



**John McElroy** | *President, Blue Sky Productions*

[jmcelroy@autoline.tv](mailto:jmcelroy@autoline.tv)

Tel.: 734-542-7000



**Robert Weiss** | *Of Counsel | Co-Chair, EV Initiative*

[RWeiss@dickinsonwright.com](mailto:RWeiss@dickinsonwright.com)

Tel.: 954-991-5455



*Editor:* **Rasika Kulkarni** | *Associate Attorney | Silicon Valley, CA*

[RKulkarni@dickinsonwright.com](mailto:RKulkarni@dickinsonwright.com)

Tel.: 408-701-6192