i notes
Newsletter from India's Leading Insurance Broking House
January 2012

Summary

- Risks in the Media & Entertainment Industry
- Interview - Corporate & Insurer
- Readers Speak
- Claims Case Study
- View Point

india insure
The risk managers

Message from the Editor

Dear Readers,

Wishing you a very happy and prosperous new year - Greetings to all our readers from the India Insure family!

With IRDA hiking the provisioning for the Third party motor business retrospectively, the General insurance industry is bound to see more capital being infused soon. Since there have been several talks doing its round on this, it has not caught the industry unawares. As in the past year, this will yet again contribute significantly to the drop in the bottom line. If there is any single industry that can be singled out to be facing the largest variety of risks and a continuous stream of emerging risks mushrooming, it undoubtedly has to be the Media industry. This coupled with the sudden spurt in the number of cases against the media, particularly with regard to defamation, copyrights etc has provoked us to spend time in understanding this industry and through our focus article, we have tried to put across the risks in the media industry.

In the interview section we have Mr. Anurag Reja, Chief Manager, Insurance and Risk Management, Times of India and Dilip Baba, Underwriter - Specialty Lines from Bajaj Allianz sharing their views on the media risks. Our sincere thanks to them for sharing their views with our readers. The latest figures indicate that this time too the general insurance industry is poised for a growth exceeding 20%, while there is a slight fall in growth in the life insurance industry.

Wishing all of you the very best for the year ahead.

V Ramakrishna
Editor – *i-notes* & Chairman – India Insure

Risks in the Media & Entertainment Industry

- *SC asks Times Now to deposit Rs 100 crore in defamation case*
  – Nov 11, Times of India
- *Shooting of films and TV serials hauled after Mumbai terrorist attack*
  – Nov 08, Midday
- *Shiv Sena steps up protests over 'My name is Khan'*
  – Feb 10, Indian Express
- *India's "Hari Puttar" caught in Harry Potter spell over IPR*
  – Aug 08, Reuters

India's vibrant media and entertainment (M&E) Industry with more than 600 television channels, 100 million pay-TV households, 70000 newspapers and 1000 films produced annually is growing rapidly. The Indian M&E industry was valued at US$ 16.3 billion in 2010 and is forecast to grow at a compound annual growth rate (CAGR) of 12% to reach a value of US$ 25.8 billion in the next four years. The M&E industry continues to be dominated by TV, print and film though companies in India are rapidly diversifying beyond their traditional domains to leverage synergies and build a presence across multiple segments. Sectors such as gaming, digital advertising and animation VFX also show tremendous potential in the coming years.

India's favorable regulatory environment and recent reforms are creating investment opportunities in a number of M&E sectors. Entry restrictions for foreign companies have been relaxed and foreign direct investment (FDI) caps have been recently increased in key sectors, including direct-to-home (DTH) and radio. Digitization of content and platforms, redefinition of prevalent business models, globalization, relatively easier access to capital and the emergence of multiple entertainment options have been some of the key trends that are shaping this industry in India.

Understanding the Risks – M&E Industry

The M&E sector is diverse and encompasses different segments, each performing and operating in environments that have a unique range of risks. In no other industry is the pace of change greater than in the media and entertainment sectors. Shifts in both the nature and scope of this sector means that businesses need to constantly evaluate new and emerging risks and assess their exposure. While there are many opportunities to tap, there are also unique risks leading to increasingly complex challenges for risk managers. This article is an attempt to shed some light on risks facing the key verticals of the M&E industry i.e. television, films, music, radio, advertising, print and publishing.

Production Risk

Production risks evolve from nature of the production process. The production process of a film/serial/music album/advertisement can be divided into three stages: pre-production, principal photography and post-production. Pre-production refer to everything that happens before shooting begins, for example, meeting with the client, research, storyboard, location planning. Production refers to the part of the process in which footage is recorded. Post-production consisting of choosing and arranging footage in the correct sequence.

Creating a video is not always as glamorous as it sounds. Films & television productions are a combination of diverse individual inputs that need to be coordinated and controlled. They require large outlays of money that cannot be recovered if the project fails at any stage. If a project is aborted, invested capital cannot be retrieved. Similarly, if the film does not find an audience, it cannot be adjusted once it is finished.

Productions risks can be further classified into

- **People Risks**

  If an actor is incapacitated because of sickness, injury or death and cannot complete his or her role, the production is in extreme jeopardy especially if it takes place towards the fag end of production. Or an accident could happen while performing a dangerous stunt. In really large, complex action pictures there's something hazardous going on almost all the time. Then, there are the risks inherent with shooting on a set with many people. So where hundreds of millions of rupees can potentially be riding on the cast & crew, protecting them is of utmost priority. In 1989, a major fire accident took place in the Premier Studios of Mysore where the serial "The Sword of Tipu Sultan" was being shot and 62 people lost their lives.

(Contd... 02)

- **Property Risks**

  Prior / during shooting, any kind of damage can happen to the props or sets or even the wardrobes which have been customized for a particular role. The basement studio could flood, ruining the new mixing desk or a cyclone could destroy all the sets on location. Within any studio, there is a wide variety of complex equipment, ranging from telecine devices, scanners, video recorders and storage devices to servers, computers and monitors. The equipments used also are quite expensive and any damage to them could bring the production to a complete halt. For eg- the camera could have had some problem that it exposes the shooting incorrectly or after shooting, the production media could have got damaged & all information lost. Damage may also be caused to the property of a third party or property which is in the care, custody or control of the production company.

Financial Risk

Probably the most frequently quoted piece of wisdom concerning the financial risks associated with the entertainment industry is the remark made by the screen writer William Goldman that “nobody knows anything”, elevated by the Harvard professor Richard Caves to the ‘nobody knows’ principle. Investment in the film industry is highly speculative and inherently risky. There can be no assurance of the economic success of any picture as it depends primarily upon its acceptance by the public, which cannot be predicted. High budgets cannot guarantee high profits, but rather drive an environment in which profitability is highly variable.

The commercial success of a picture also depends upon the quality and acceptance of other competing films released into the marketplace at or near the same time, general economic factors and other tangible and intangible factors, all of which can change.

Liability Risks

As media companies expand into new media, converge with other areas in the technology and telecommunications sectors and cater for an international audience, they face liabilities and cyber risks that pose a greater threat than in the past. The major liability risks are in the areas of IPR infringement, copyright infringement, libel & invasion of privacy, defamation, omissions and errors in printed materials, infliction of emotional distress etc.

Intellectual property (IP) continues to be a prime asset of many organizations and principally consists of copyrights, patents, trademarks and trade secrets. Protecting one’s own Intellectual Property isn’t the only concern, as protecting against accusations that your organization violated the IP of another party is equally important. Even if the defendant is “right,” it can be put out of business just by the cost of litigation. While the Internet has simplified the way in which business is conducted, it has created tension with existing intellectual property laws and has given rise to privacy and corporate communications lawsuits.

In addition to the above, violence incitement is a new item to the list of liabilities M&E companies today face. Now companies are slowly being held liable for bodily injury as a result of the content they publish due to claims of inciting violence. Anything from movies to books to video games have been fingered as inciting or encouraging an individual to commit a violent act. Any M&E company producing content with elements of violence is vulnerable. But the most vulnerable, as is evidenced by recent lawsuits overseas, seem to be motion picture companies and video game manufacturers that sell products that seemingly glorify violence.

IPR & Piracy Risks

The problem of piracy assumes a different proportion in a country such as India and it impacts all segments of the industry especially films, music and television. Piracy and counterfeiting have proved to be a menace of such proportions that the very existence of the M&E industry is at stake. A report by Ernst & Young estimates industry losses due to piracy to be US$4 billion per year in India and losses of approximately 8,00,000 jobs annually. Most of the credible efforts today to combat piracy have been initiated by industry bodies themselves. On the Government side, lack of empowered officers for enforcement of anti-piracy laws remains the key issue that is encouraging the menace of piracy. This, coupled with the lengthy legal and arbitration process, is being viewed as a deterrent to the crusade against piracy. IPR enforcement is also necessary to strengthen the investment climate and attract and retain innovative companies and creative artists, the engines of economic growth. It is expected that The Copyright Amendment Bill 2010 once passed would bring in a paradigm shift in the Indian media industry.

Regulatory & Pricing Risks

India’s favorable regulatory environment and recent reforms are creating investment opportunities in a number of M&E sectors. At present, the government has appointed an independent regulator – TRAI – for only television and radio. But here, the role of the regulator has been restricted to providing recommendations on segment issues to the government; as a result the government has still not acted upon several recommendations by the regulator.

The Media and Entertainment industry suffers from a plethora of Central and State levies including levies by local bodies and authorities. These multiple taxes, administered by different Government authorities add to the cost of business. Post introduction of the service category of ‘Copyright Service’ in the Budget 2010, service tax is applicable on the temporary transfer or permitting the use / enjoyment of Copyright. This dual taxation (i.e. Service tax and VAT) on transfer of Copyright is affecting the industry at large and lack of clarity on the applicability of Service tax and VAT on the same transaction from the Government is fuelling speculations.

Such developments in terms of amendments in existing tax laws, new laws like the Direct Taxes Code or the proposed Good and Services Tax (GST), landmark judgments, notifications, etc., will lead to an ever changing regulatory framework that will pose a grave risk to the sector.

Political Risks

Especially in case of an overseas production, once the location is settled, a whole new host of uncertainties can arise. What if the government collapsed? What if suddenly an open civil war broke out? What if there was a terrorist attack? The host country may ask the production house to leave out of fear that something may happen to them. We have all heard horror stories about productions that were caught in political unrest or encountered extortion that delayed the project and in some cases forced relocation of the film.

If the threat is so hazardous that production is unable to return, then the entire film could fall apart at the seams. After having filmed half the scenes in a particular location, it would be nearly impossible to move shooting to a different location leaving the producers with nothing but useless rolls of film.

Technological Risks

Today, nearly every aspect of communications is “going digital” and nowhere is that transition more evident than in the M&E industry. From the

(Contd... 04)

Interview – *Corporate & Insurer*

The media and entertainment industry is changing against a backdrop of digital, financial and global transformation. This industry is moving fast – extremely fast and to succeed here, companies need to understand the risks they are facing and how to handle them. In this issue, we speak to Mr. Anurag Reja from Times of India on the biggest risks exposures his company is exposed to and also to Mr. Dilip Baba from Bajaj Allianz on the kinds of insurance policies available in the market to protect M&E companies.

Mr. Anurag Reja, Chief Manager- Insurance and Risk Management, Times of India

What kind of risk is your biggest exposure? How are risks managed at Times of India so that the potential losses are minimized?

- Media Liability
- D&O Liability
- Captive pooling of investment for risk financing

Has Times of India opted for a media liability insurance policy? If yes, what made you opt for this policy?

We are in the process of procuring the Media Liability Policy

Do you believe that the existing policy available today is aligned to completely meet your requirement? If no, what are the areas of improvement you would look for?

No, we are exploring the D&O and Media Liability policy with wider coverages, as per UK, US & Canada liability coverage parameters.

What according to you are the emerging risks likely to hit the media and entertainment industry?

- Third Party Liability Case
- Defamation Suit Cases
- Other Unforeseen Events

Does Times of India use self-insurance alternatives while dealing with risk? How much percentage is self insured?

Yes we have captive risk financing team with techno commercial legal experts to deal with all types of litigation

Mr. Dilip Baba, Underwriter, Specialty Lines, Bajaj Allianz General Insurance

What kind of companies need media liability insurance and why do they need it?

Media liability Insurance protects against claims arising out of gathering and communication of information.

A company that distributes information to the Public vide any means of communication including Websites, podcasts, Television, Radio, motion pictures, cable and satellite broadcasts, Advertising, Publishers etc. including SMS updates face exposure to Media liability claims.

With these mediums constantly updating their methods of communication to ensure maximum global distribution, now face a great risk across various geographies. Coverage provides for claims arising out of intellectual property infringement, defamation, plagiarism, breach of confidentiality, invasion of privacy etc.

How has the response been so far for the Media liability policy in India? How large is the market in India today in terms of premium?

Media Liability premium figures are not published, hence it has not been possible to ascertain the market in India as on date. However it is known that the market is at a nascent stage and Media Liability has a long way to go.

Does this policy also go on to cover the 'Gaming industry'?

Yes the policy can be customized to cater to the gaming industry. There has been concerns regarding the violent nature of certain games and the aggression it could create in the player globally. The interactive nature of the games and the realistic violence could have a disturbing effect on the player. This and many other factors could pave way towards a media liability claim.

How has the claims scenario under this policy been?

Policies have been claim prone. Especially due to low volumes, companies have not been able to get a firm ground in India.

Many media houses in India are of the opinion that though they have been sued several times, they never really paid out a significant amount to warrant buying insurance. How do you respond to such objections and convince them on the need for a media liability policy?

Talking of the past, global exposure for many media houses had been limited due to which many claims did not arise and whatever came was settled out of court. This is not the case now with global exposures increasing especially considering the wide scope of social networks and websites. Even the traditional print media today have live websites.

With social media like Twitter, Face book ruling the roost today, does this policy extend to cover the social medium of communication also?

Yes, the policy can be extended to this medium of communication. However for each medium the proposal questionnaire would differ slightly based on the nature of the medium to understand the checks and balances in place vis-a-vis the policy coverages.

What ongoing market, legal and regulatory developments are you watching closely that will strengthen the case for this liability cover?

Raising FDI in Media. This would encourage a lot of foreign players who have been waiting and watching to invest in India bringing with them the experience and their knowledge of Media liability claims in various geographies.

While we come across several large defamation cases in the overseas market, why don't we hear about big defamation awards in India?

They are mostly settled out of court.

"Views expressed herein are purely personal and do not reflect the views of the Company"

News TitBits

IRDA tightens rules for websites vending insurance products

Source: Indian Express

The Insurance Regulatory and Development Authority (Irda) today issued stringent guidelines for websites vending information on insurance products of various companies and enabling comparison before buying. For every product that is sold through these websites, the "web aggregators" earn a commission from the insurance company they have tie-up with. Until now, there have been no guidelines on the amount of commission payable or the pre-requisites to enter into an insurance web aggregation business. The new guidelines will help standardise norms. As per Irda's draft guidelines, companies will now need to have a minimum net worth of Rs 10 lakh, and they will have to register themselves with Irda to become eligible for providing information related to the insurance sector on their websites. Starting February 2012, web aggregators would not be allowed any sponsored content on their website.

production process through post-production to distribution, every facet of the entertainment industry is eager to obtain the artistic, operational and economic benefits of digital technology. While digitization and technological improvements across the value chain have provided the required impetus for improving the quality of content and its ability to reach the masses yet it presents several challenges & risks.

New exposures have been created by the use of technology to gather, create, store and distribute content. Technological changes have resulted in a degradation of the standard release window for films as the industry is distributing content at a faster pace. Advances in technology have shifted content delivery to consumers. This touches everything from business strategy to structure and execution. It has also meant separating the production of experience from the consumption of experience. These changes in risks should be powerful incentives for M&E firms to broaden their view of how they manage risks.

Retention of Talent pool

People play a very important role in the M&E industry. It is the creativity of a story line and the acting capabilities of the actors that finally decide how successful a production turns out to be. The ability to complete the production within the timeline also depends on the good health of the cast & crew. Since the entertainment business is mainly driven by creativity hence the long-term profitability is dependent on a company's ability to attract and retain creative and technical talent. The risk of top talent leaving to start their own businesses is also significant, as many major entrepreneurs, actors and many musicians already run their own production companies. Many companies, particularly in the video and music industry, are trying to manage this risk by integrating backwards into the value chain. They are increasingly taking on the role of talent agents, and moving toward contracts that extend revenue sharing with artists to offset the decline in product sales.

Shift in consumer tastes

Consumer tastes and preferences are subjective and can change anytime thereby affecting the M & E business. It may not be possible to consistently predict changing audience tastes. People's tastes vary quite rapidly along with the trends and environment they live in. This makes it virtually impossible to predict whether a particular show or serial would do well or not. With the kind of investments made in ventures, repeated failures would have an adverse impact on the bottom line of M&E companies.

Competition from other players:

M&E companies operate in a highly competitive environment that is subject to innovations, changes and varying levels of resources available to each player in each segment of business. Competition will continue to increase with the entry of new players which will further fragment the market. Digital platforms are lowering industry barriers to entry, making room for new entertainment businesses. For example, around 2009 and 2010, Apple's iTunes, Google's Youtube and the Netflix streaming video service dramatically raised competition in an industry that didn't even exist five years earlier. What's more, the emergence of social networking and user-created content could shift the control of production away from entertainment companies and into the hands of consumers.

Insurance Solutions for the M&E Industry

When red carpets don't roll for temperamental talent in Bollywood or when dangerous stunts on faraway sets put stars at risk, M&E companies must find ways to protect their cast, their crew and their budget. And one of the ways is through insurance. Without adequate insurance coverage, media productions would be unable to secure the necessary financial backing in an industry that's used to incurring hundreds of thousands of rupees daily for simple accidents on big-budget shows.

The underwriting of media productions is one of the most sophisticated and specialized areas of insurance. The issues are exciting and unpredictable; simple factors of talent, weather, scheduling, crowd control, equipment and constantly evolving financial structures make risk management in this area extremely challenging.

Several different types of insurance policies cover many of the risks presented by a media house. Below is the risk matrix that identifies the risks exposed to and the availability of an insurance cover.

Risks Associated with	Insurance Availability
Production	Yes
People Health & Safety	Yes
Property & Equipment	Yes
Theft & Burglary	Yes
Box office success	No
Shifts in consumer demand	No
Adverse Weather events	Yes
Retention of Talent	No
Political Turmoil overseas	Yes
Competition	No
Regulation & Pricing	No
Piracy	No
IPR infringement	Yes
Libel & invasion of privacy	Yes
Defamation	Yes
Bad Credit	Yes
Bodily injury or property damage to third party	Yes
Delay in completion due to an insured peril	Yes
Errors & Omissions in printed or aired material	Yes
Distributors Loss of Profits due to delay in release	Yes
Terrorism	Yes

In spite of all the coverages available in the market today, media companies in India are yet to wake up to the true value of purchasing insurance. Many say they their experience shows that it doesn't make sense buying expensive insurance as they had several suits against them but never had to pay. But the growing use of Internet & the globalization of the Indian media is likely to bring about a change in this situation soon.

Conclusion

The Indian entertainment and media industry today has everything going for it - be it regulations that allow foreign investment, the impetus from the economy, spending habits of the consumers and the opportunities thrown open by the advancements in technology. But on the downside, the media and entertainment industry has never been larger and more complex, encompassing high degrees of risk, unpredictability and potential liability. Companies that carefully manage their existing risks and continue to keep their focus on the radar screen for any new emerging risks are the ones likely to succeed in the days to come.

Report Card - November 2011

Gross premium underwritten by non life industry for and up to the month of November 2011* **(Rs. In crores)**

INSURER	NOVEMBER		GROWTH OVER THE SAME PERIOD OF PREVIOUS YEAR	APRIL - NOVEMBER		GROWTH OVER THE SAME PERIOD OF PREVIOUS YEAR
	2011-12	2010-11		2011-12	2010-11	
New India	572	486	18%	5546	4675	19%
United India	643	508	27%	5160	4046	28%
National	582	476	22%	4836	3802	27%
Oriental	407	378	8%	3926	3446	14%
ICICI	440	271	63%	3395	2814	21%
Bajaj	246	214	15%	2122	1867	14%
AIC	156	112	40%	1721	1248	38%
ITGI	145	132	10%	1292	1185	9%
HDFC ERGO	145	96	51%	1188	836	42%
Reliance	129	125	4%	1146	1075	7%
TATA AIG	132	87	51%	1118	793	41%
RSA	114	98	16%	955	738	29%
Chola	120	83	45%	903	647	40%
Shriram	108	68	60%	742	453	64%
ECGC	87	73	21%	615	559	10%
FG	73	39	86%	601	388	55%
Bharti AXA	71	44	61%	530	340	56%
Sompo	44	21	110%	252	188	34%
Star Health	38	8	357%	807	789	2%
Apollo DKV	22	21	4%	212	124	71%
SBI	17	1		134	12	1031%
L&T	11	1		85	2	4839%
Max BUPA	7	2		60	12	381%
Raheja	2	1		14	5	160%
PRIVATE TOTAL	1865	1312	42.14%	15555	12271	26.77%
PUBLIC TOTAL	2448	2033	20.41%	21805	17776	22.66%
GRAND TOTAL	4313	3345	28.93%	37360	30047	24.34%

* Source : IRDA

Observations: Performance for April-November 2011 Period

- The industry (incl stand alone health insurers, ECGC and AIC) have collected premium of Rs. 37360 crores recording a growth rate of 24% in Apr-November 2011 compared to Rs. 30047 crores during the same period last year.

	Apr – Nov 11	Apr – Nov 10	Growth
	Premium (Rs. crs)		
PSU	21805	17776	22.66%
Private	15555	12271	26.77%
Total	37360	30047	24.34%

- The PSU's have registered a growth rate of 22.66% during this period compared to last year's 19.9%.
- The private players have registered a growth of 26.77% during this period compared to 25.3% during the same period last year.
- The accretion achieved by the PSU's during this period is Rs. 4029 crores and private players: Rs. 3284 crores towards the overall market accretion of Rs. 7313 crores.
- The major contributors for the performance in the period Apr-November 2011 have been United India with an accretion of 1114 crores, National with an accretion of 1034 crores, New India with an accretion of 872 crores, ICICI-Lombard with an accretion of 580 crores and Oriental with an accretion of 480 crores.
- At the end of this period, the private players have collectively increased their market share to 41.6% from 40.8%.

News TitBits

General insurance companies not to be paid ceding commission
Source: Business Line

Indian general insurance companies will no longer be paid a commission on the portion of business they are required by the law to reinsure with the state-owned reinsurer. The decision, on a directive from the finance ministry, risks increasing the already hefty underwriting losses of non-life insurance firms, which have to mandatorily reinsure 10% of their business with the General Insurance Corp. of India (GIC Re). In a letter to GIC Re last month, the ministry argued that general insurers didn't need to be paid a commission, given that reinsuring a portion of their business with the state-owned firm was mandatory, said three people familiar with the development.

2011 costliest year for insurers with over 820 loss relevant events
Source: Economic Times

With over 820 loss relevant events, 2011 became the costliest year for insurance industry in terms of natural catastrophe losses and in line with the average of the last ten years. According to a report by reinsurance giant Munich Re, 90% of the recorded natural catastrophes were weather-related however, nearly two-thirds of economic losses and about half the insured losses stemmed from geophysical events like earthquake

IRDA issues uniform norms to ensure solvency of insurance companies
Source: Economic Times

Insurance regulator IRDA today introduced uniform asset-liability management norms for market players to ensure their solvency and asked firms to undertake stress tests to ascertain their ability to meet financial obligations in the event of a crisis. The Asset-Liability Management (ALM) norms, IRDA said, are "critical for the sound management of the finances of the insurers that invest to meet their future cash flow needs and capital requirements."

General insurance industry faces Rs 10,000 cr hit in FY12
Source: Business Standard

Irda to raise provisioning norms to 163-213 per cent. The general insurance industry, which was rejoicing at the decision of the Insurance Regulatory Development Authority (Irda) to dismantle the commercial third-party motor pool, has now realized it will come at a cost. All the 24 general insurers in the country are staring at a loss of Rs 10,000 crore in the current financial year as Irda is set to increase the provisioning norms for the commercial third-party motor pool to 163-213 per cent from present 153 per cent.

Govt begins process to migrate general insurance firms into Solvency II regime.

Magma Fincorp hopeful of getting insurance licence in 2012

Readers Speak - *State of Insurance Product Innovation*

In the last issue of inotes, we had invited our Readers opinion on

"What is the state of product innovation in the Indian Insurance Industry?"

Response from **Mr. Manoj M Nair**, **HR Manager, Mindteck India Ltd.**

In the modern world of globalization and liberalization, where in the competition is high, the customer can always be selective on their requirements. Customer satisfaction should be main area of focus, to withstand the growing demands of the market. Talking more from an insurance coverage perspective, customers should be given more options and preference in selecting the insurance scheme. The process involved in claiming the bills should be easier. Survey to be conducted on reliable hospitals (cost Vs treatment) and the list has to be published rank wise in the website. Free membership and training to be given in health clubs, sport-shops, cricket clubs etc…

Response from **Mr**. **Sandeep Gandhi, AGM (F&A), Sravanthi Group**

Insurance business has become very complex and there is need to have the expertise to survive in this sector. Competition has become very vast and the requirement of the customers has become multifold. It's not simple now. Companies who are in the insurance business need to ensure that they are obtaining the customers, maintaining the customers and then retaining the customers. While making some insurance program they should ensure that they have taken care of all the possible aspects which can be insured, risk & return analysis and satisfaction of the customer i.e. an optimum product.

"Views expressed herein are purely personal and do not reflect the views of the Company"

Next Issue- ***"Your opinion on the draft guidelines issued by IRDA on licensing of bancassurance agents"?***

The IRDA has come out with draft guidelines on bancassurance, under which insurance companies will be allowed to partner with different banks and non-banking finance companies (NBFCs) in different states for selling their products. The guidelines say that banks cannot tie up with more than one life, one non-life and one standalone health insurance company in any of the States. In other words, banks can have tie-ups with multiple insurance companies in different states. Although the draft regulations allow partial open architecture, they include additional geographic restrictions on bancassurance partnerships.

While the industry was looking for a complete open architecture, this kind of geographical restriction has surprised many in the industry. Will this framework serve the purpose of increasing insurance penetration through the bancassurance channel or will it lead to confusion and severe administrative hassles? Will it lead to an unhealthy competition or will the competition ensure that all the bank branches are utilized? Will the transition be smooth? What do you think will be the future direction of bancassurance in India in light of the above framework?

Your opinion is solicited!

Please send your responses in 200 - 300 words to knowledge@indiainsure.com

Claims Case Study: *Data Breach*

BACKGROUND

ABC Company is engaged into the business of gaming and entertainment around the world. The company had taken a Commercial General Liability insurance policy from Beta Insurance Company for the period 1st Jan 2010 – 31st Dec 2010. The policy provided cover for bodily injury and property damage. During the period of the policy there was a liability arising **out of data breach** which resulted in account data of close to 2 lakh customers being compromised. But ABC Company's attempts to get its insurer to defend it against the claims have run into a roadblock. Hence the matter went to Court.

THE ISSUES

According to Beta Insurance Company, the commercial general liability insurance policy it has provided to ABC Company does not cover damages arising from cyber incidents. The policy only covers "bodily injury" and "property damage" caused by occurrences other than the kind of cyber attacks the claimant experienced. Personal and advertising injury liability coverage, as provided by typical General Liability policies, is specifically intended to cover resulting

News TitBits

Clinical trial volunteers to be insured

Source: Deccan Chronicle

Volunteers participating in clinical trials will now be covered by insurance and they will get compensation in case the investigation process goes wrong. Six years after formulating ethical guidelines for clinical trials on humans, the Indian Council of Medical Research has now proposed to make payment of compensation mandatory to volunteers if they suffer harm from the trials. The quantum of compensation is yet to be worked out.

Syndicate Bank shortlists 4 for life insurance venture

Source: Business Standard

Public sector lender Syndicate Bank has shortlisted four firms, three domestic insurance companies — Aviva Life, Reliance Life and Birla Sun Life - and a foreign insurer, Avantha Ergo, for its proposed venture in the life insurance space. The bank is seeking a 'brand premium' of Rs 300-350 crore and a minority stake in the life insurance company, according to three people familiar with the development. The deal is likely to be finalised in the next couple of months.

IRDA chief tells companies not to indulge in 'unhealthy competition'

Source: Business Line

Insurance companies should not indulge in "unhealthy competition" and fight for the topline at any costs, Mr J. Hari Narayan, Chairman, Insurance Regulatory and Development Authority of India, said. This unhealthy competition, according to him, might lead to financial trouble for the companies. "(Insurance) companies need to improve their practices when it comes to unhealthy competition and be more responsible in accepting policies," Mr Hari Narayan said on the sidelines of a summit organized by the Insurance Brokers' Association of India (IBAI).

bodily injury and property damage liability. It also covers allegations by a person or organization that certain legally protected rights have been violated which do not involve bodily harm or physical injury. As a general matter, however, both "advertising injury" and "personal injury" are defined to include a list of specifically enumerated offenses. Most definitions contain such offenses as the infringement of copyright or slogan and the oral or written publication of material that violates a person's right to privacy, slanders or libels a person, or disparages a person's goods. (*for more details, pls refer to our earlier article on Personal & Advertising Injury in the Nov 08 issue of inotes*)

Beta Insurance argued that the Claimant needed to have specifically purchased cyber liability coverage for its claims to be considered. Quite often, cyber incidents are specifically excluded by some policies to underscore the carrier's intention to not consider such allegations as being covered. There is also wide consensus that CGL policies do not adequately cover the range of expenses that companies face when they suffer privacy or network security breaches.

ABC Company disputed that the definition of covered "personal injury" in a CGL policy generally includes invasions of privacy which has in this case been caused by a cyber attack and hence needs to be covered.

The position that the Insurer has taken in its lawsuit has been substantiated by the court. The Court was of the opinion that a commercial general liability policy will provide coverage for liabilities arising from bodily injury, property damage or advertising injury. But those categories don't really apply to privacy breaches, hacking and network security intrusions, so businesses that buy nothing more than a commercial general liability policy for computer security risks put themselves at risk.

CONCLUSION

Companies, sometimes assume that the insurance coverage they have in place to compensate them in case of third party bodily injury or property damage also protects them in the event of a cyber breach. In reality, such insurance coverage does not extend to data losses from cyber incidents.

This case highlights the challenges that companies can sometimes face in getting insurance providers to cover expenses arising from cyber security incidents. Many of those corporates that believe they are covered for such an eventuality might be advised to take a closer look at their existing policies to avoid a similar situation arising in the aftermath of a cyber-attack.

News TitBits

Irda set to allow foreign branches for pvt insurers

Source: Business Standard

Private insurers that have been operating for more than 10 years would be allowed to open branches and set up insurance joint ventures, including subsidiaries, outside India. The norms would apply to all sets of insurance companies involved with life, non-life, health and reinsurance businesses.

LIC lays claim to no.1 spot in settlements

Source: Economic Times

Life Insurance Corporation remained well ahead of private rivals in living up to the purpose of insurance by settling 97.03% of claims in 2010-11, helping the state-run giant retain its market dominance even a decade after its monopoly ended. Settlement of claims at LIC rose from 96.54% in 2009-10, the Insurance Regulatory and Development Authority said in its annual report. For the private sector, where the premia on policies are lower than for LIC, the claims-to-settlement ratio was 86.04%, up from 84.87% in 2009-10.

Cybercrime on the rise, but not all cases getting reported

Source: Livemint.com

Cybercrime is a big threat to India's online population, which loses billions to Internet fraud every year, but when it comes to reporting such cases, very few seem to come forward, if government records are anything to go by. The police have recorded only 3,038 cases and made fewer arrests (2,700) between 2007 and 2010, under both the Information Technology (IT) Act as well as the Indian Penal Code (IPC).

Now, insurance brokers can help you settle claims

Source: Business Line

You can now approach insurance brokers not only for buying insurance but also to get advice on claim settlements. The Insurance Regulatory and Development Authority has now permitted insurance brokers to offer limited claim consultancy, of course, for a price. "It will be in the interest, particularly of the relatively smaller policyholders, to provide an avenue to such policyholders to obtain more competent advice, particularly in the matter of settlement of claims," Mr J. Hari Narayan, Chairman, IRDA, said in a circular issued.

Insurance Regulatory Development Authority biased against us: State insurers

Source: Economic Times

In a bid to preempt moves to disband the third party motor insurance pool, the state general insurance companies have complained to the finance ministry this was being done to benefit the private companies. Currently, the cost of loss-making third party motor insurance is shared among the industry through a pooling mechanism.

Age barrier for health policies may go

Source: Business Standard

The Insurance Regulatory and Development Authority (Irda) is looking to do away with the age limit for purchasing insurance policies. Even as the proposal is still at a nascent stage, the regulator is in the process of clearing products targeted at senior citizens.By allowing policyholders to renew policies at any age, Irda has already taken the first step to make health policies 'age free'. It had recently made it mandatory for policies to have a "life long" renewal clause. This means once a health insurance policy is issued, insurers would be obliged to continue renewing such policies during the policyholder's lifetime.

United India to manage TN`s health insurance

Source: Business Standard

The Tamil Nadu government has awarded the state government-sponsored health insurance contract to public sector general insurer United India Insurance Company. The new scheme, which replaced the DMK Government's Kalignar Health Insurance Scheme, extends medical cover up to Rs 4 lakh for four years, up from Rs 1 lakh in the earlier scheme. It is expected to generate a premium of around Rs 600 crore.

Future Group to exit Generali JV, plans to sell stake to IITL

Indian Govt approves 26% foreign investment in pension sector

View point

Brokers as Claims consultants

The move by IRDA permitting insurance brokers to offer consultancy services for insurance claims on policies not placed through them has come in like a breath of fresh air, finally giving the industry the much needed assurance that brokers are here to stay and add value to customers. Until now, brokers in India were permitted to handle and offer claims consultancy only on policies placed by the broker themselves. However now with this directive, IRDA is permitting brokers to offer their claims consultancy to customers who have not placed their business through them, and restricting this to only claims arising on policies not having been placed by a broker as well as limiting the loss amount to Rs. 1 crore. With this, IRDA has played a master stroke having dual benefits of getting the lesser privileged insureds to also have a fair chance for utilizing expert advise in case of an adversity striking them, combined with recognizing the broking fraternities contribution to the Indian insurance industry.

The move by IRDA in capping the claim is primarily to target the services of the broker to that segment of the industry – the retail and much smaller customers, as probably falling under the SME category who are still not enjoying the benefits and privileges that a large corporate draws from insurers. In the various surveys we have been conducting and reaching out to customers across various segments, this has always been our observation that there is a huge disparity in the services received depending upon the size of the customer. Well, then this is true for all lines of business and is not just specific to the insurance industry. While large corporates get away with the best of coverages as well as personalized service and the insurer bends backward in terms of policy pricing as well as claims, the lesser privileged and particularly the retail customers do get a raw deal. And, in the event of a claim, they face the brunt even more, which is the reason why the insurance industry has carved such a negative image for itself.

This decision is beneficial to the policy holder as well as the insurance broker. But how is the insurer reacting to this? Will this move ensure a sharper claims handling so that a broker does not make an entry into the account, for once a customer tastes the expertise of the broker, he may prefer to continue the relationship further? Or will the insurer further stiffen when a broker enters and go only by the rule book? Will customers approach a broker only when he realizes the claim is getting tough and likely to be unsettled or delayed, or will this move change the mindset of the customer and encourage him to contact a broker the moment he is faced with a claim?

A smart move by IRDA to spread the expertise, benefitting all stakeholders involved. How it catches on remains to be seen and only time would tell. But capping it at 1 crore may need to be reviewed soon as it would be a larger claim from a smaller customer that can make the difference to a small time venture. In today's date, to set up even a small manufacturing unit, the cost involved would be over Rs. 10 crores. Until now, we had brokers vying with each other to get a peek at the insurers premium register, and very soon we will have them jostling for the claims register too. We wait with fingers crossed and hope that the brokers expertise will now spread far and wide.

– *V G Dhanasekharan, National Head – ISG*

News TitBits

'Declined' pool set to raise Motor Insurance premiums

Source: Business Standard

The Insurance Regulatory and Development Authority (Irda) is set to replace the current commercial third-party motor pool with a 'declined pool', which would, in a way, free prices and enable insurers to implement a risk-based pricing model. Under the new arrangement, expected to start from April 2012, insurers would have the right to refuse or 'decline' a vehicle insurance and these vehicles would be insured from the pool shared by insurers. Under the existing system, all commercial third-party premiums are pooled and losses on account of the commercial third-party motor portfolio are shared among all general insurance players, according to their market shares.

Disclaimer

Contact us

India Insure Risk Management & Insurance Broking Services P Ltd.

Ahmedabad 105, Sears Towers,Opp. IIPM, Off C.G. Road, Gulbai Tekra, Ahmedabad- 380006. Gujarat, INDIA. Tel: +91 79 32422007, Fax:+91 79 26406044 (M) +91 98250 66044, +91 97255 04381 Mr. Pawan Kumar Mediratta email : pawan.mediratta@indiainsure.com

Bangalore H M Geneva House, Property No.14, 401, 4th Floor, Cunningham Road, Bangalore - 560001, Ph: 080-41128056-57. Fax: 080-41128597 Contact: Mr. Vippin Chandra, e-mail : vippin.chandra@indiainsure.com

Chennai Building No.824,Bhandari Towers, 1st Floor, Opposite to Kilpauk Medical College, E V R Periyar Road, Kilpauk, Chennai – 600 010 Ph: 044-42661540 Fax: 044-42023799, Contact: Mr. V.G. Dhanasekaran, e-mail : dhanasekaran.vg@indiainsure.com

Kolkatta 4th Floor, Larica , 7 Red cross Palace, Kolkatta-700001 Ph: 033-64602097 / 98 Contact: Mr. Dilip Burman e-mail : dilip.burman@indiainsure.com

Hyderabad # 405, Archana Arcade, St John's Road, Secunderabad - 500025 Ph: 040-27822989/90/91, Fax: 040-27822993 Contact: Mr. B N Prasad, email: bn.prasad@indiainsure.com

Mumbai **Branch & Corporate Office :** # 103, 1st Floor, Baba House, Opp. Cinemax Cinema, Chakala, Andheri - Kurla Road, Andheri (East), Mumbai – 400 093. Ph : 022-66791416, Fax: 022-66791421 Contact: Mr. R. Chandrasekaran, email: chandrasekaran.r@indiainsure.com

New Delhi # B-3/6, 2nd Floor, Asaf Ali Road,New Delhi - 110002 Phone No: 011 43538760/61 Contact: Mr. Manikant, email: mani.kant@indiainsure.com

Pune Office No.592/2, Deccan Gymkhana, Off J M Road, 2nd Floor, Next to Hotel Central Park, Pune - 411004. Ph: 020-66030713, 020-66016676. Fax: 020-66030713 Contact: Mr. Suresh Subramanium, email : suresh.subramanium@indiainsure.com