

Disciplines In Risk Management

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Today's Discussion

- Contractual Agreements
- Products Completed Liability
- Excess Liability Options
- Understanding the Cyber Exposure
- Data Liability Risk Management

Contractual Agreements

- What Are You Really Agreeing To?
- Who are you holding harmless?
- Warranty Info
- How long does this take place? – Life of product
- John Deere Contract
- 8 Mil Umbrella
- Have any negotiating?
- Contractual or purchase orders

Real Life Example

- Company Has Product Lines With Approx. 18M In Revenue
 - One Of Those Products Being Plastic Gas Caps For Lawnmowers
- Over Time The Gas Caps On Mowers Were Leaking
- Mowers and Individuals Were Being Caught On Fire
- No One Single Loss Has Exceeded \$750,000
- As It Stands Today They Have Incurred \$8 Million In Losses
- \$1M/\$2M General Liability Products Completed
- \$4M Umbrella

Products Liability – Insurance Overview

- How Is This Coverage Triggered?
 - Bodily Injury or Property Damage
 - Occurs Away From Premises
 - Caused By Insureds Products That Are No Longer in The Insureds Possession
- What Are The Typical Limits In My Insurance Program
 - \$1M Per Occurrence Limit With An Aggregate Limit Of \$2M
- What Is The Difference Between Occurrence And Aggregate
- What Should You Look For?
 - Type of Form
 - Exclusions
 - Defense Limits

Products Liability Example

- Gas Cap Manufacturer
- Would This Coverage Be Triggered? - Yes
 - Bodily Injury And Property Damaged Occurred
 - Is Their \$1M Per Occurrence \$2m Ag Limit Enough?
 - No, Several Small Claims Easily Exceeds Limits
- Leaving The Company With \$6 Million Left At This Stage
- Where Is The Rest Of The Claim Picked Up?

Umbrella Insurance – Insurance Overview

- Next Level Of Protection
 - Umbrella And Excess Insurance
 - Sits On Top Of All Scheduled Underlying Insurance Coverages
- How Is It Triggered?
 - Triggered When A Claim Exceeds/Exhausts Underlying Coverage
 - Steps In To Pick Up The Claim Where The Underlying Left Off
- What Is Typical Limit?
 - Starts At \$1m – What Do You Have On Your Personal Umbrella
 - Would Recommend Everyone At Least Looking Into \$4M Limit
 - Higher The Limit – Less Per Additional Million
 - What Are Contacts Requiring You To Truly Carry?
- Do You Have Enough Limit In The Case Of A Loss?

Umbrella Example

- Gas Cap Manufacturer
 - Already Has \$2M Paid From Products Completed Liability
 - \$6M Left On Open Claims
- Would This Coverage Be Triggered?
 - Yes, General Liability Triggered by BI/PD
 - Exhausted Underlying Limit of \$2 million
 - No Limit Left In Standard Package
- Umbrella Would Pay Up To Limit Of Claim Per Occurrence
- Umbrella Limit Of \$4M Would Take Total Cost Of Open Claims To \$2M
- Leaving \$2M Of Uncovered Claims
- Once All Limits Are Exhausted
 - The Insurance Company's Duty To Defend No Longer Applies

Product Recall

- What Is This Coverage
 - Various coverage options
 - Product Recall Expense Coverage
 - Stand Alone Product Recall Policy
- What Does This Coverage Do
 - Reimburses Insureds For Financial Losses They Sustain When It Is Likely That Their product may be recalled
 - In It's Broadest Form – Return, Destroy, 3rd Party Liability, Crisis Response Coverage
- How Is It Triggered
 - Knowledge that an accidentally or maliciously contaminated product could cause bodily injury or property damage were it consumed by the public.

Takeaways

- Are You Meeting Your Contractual Requirements?
- Does Your Program Have Adequate Limits?
- Are You Adequately Covered In The Case Of A Loss?

Understanding Cyber Risk

- Understanding the Exposure
- Data Liability Risk Management
 1. Identify your most Critical Assets
 2. Gather Intelligence on Cyber Threats
 3. Understand your Profile
 4. Build a Resilient System
 5. Plan for a Breach

What is Data/Cyber Liability?

**Responsibility to Protect the
Confidential Information of Others**

Current Events



SONY



This Could Never Happen to Me Because...

We are not a big target:

- 55% of small businesses have experienced a data breach.

Source: Ponemon Institute

- One in five small business falls victim to cybercrime each year.

Source: Cyber Security Alliance

This Could Never Happen to Me Because...

Our Industry is not a target:

- Unfair Competition “fueled by stolen software” led to manufacturing losses between 2002 and 2012 totaling nearly \$240 bil in revenue, and costing over 42,000 jobs

Source: National Association of Manufacturers

- Products manufacturers reported a 17% jump in the # of detected incidents in 2014.

Source: The Global State of Information Security Survey, PWC

How a Data Breach Occurs

Discovery

Actual or alleged theft, loss, or unauthorized collection/disclosure of confidential information that is in the care, custody, or control of the Insured, or a 3rd for whom the Insured is legally liable.

Discovery can come about in several ways:

- Self discovery — usually the best case.
- Customer inquiry or vendor discovery.
- Call from regulator or law enforcement.

First Response

Forensic Investigation and Legal Review

- Forensic tells you what happened.
- Legal sets out options/obligations.

External Issues

Public
Relations

Notification

Remedial
Service
Offering

Long-Term Consequences

Income Loss

Damage to
Brand or
Reputation

Regulatory
Fines,
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5 Takeaways to Building Cyber Resilience

1. Identify your most Critical Assets
2. Gather Intelligence on Cyber Threats
3. Understand your Profile
4. Build a Resilient System
5. Plan for a Breach

Identify your most Critical Assets

- Confidential client or customer information
 - Intellectual property
 - Customer lists
 - Business/acquisition plans
 - Employee records
- Personal identification information
 - Social Security and drivers license numbers
 - Financial Information: Customer/Vendor
 - HIPAA

Gather Intelligence on Cyber Threats

9 Attack Patterns

- Miscellaneous Errors 29.4%
- Crime ware 25.1%
- Insider Misuse 20.6%
- Physical Theft/Loss 15.3%
- Web App Attacks 4.1%
- DoS Attacks 3.9%
- Cyber Espionage .8%
- POS Intrusions .7%
- Card Skimmers .1%

Source: Verizon 2015 Data Breach Investigations Report

Understand Your Profile

People

- Enterprise Risk Issue
- Weak security awareness training

Technology

- Outdated hardware, or software
- Flaws in custom web application code, or failure to update

Process

- Lack of security processes / standards
- Weak password configurations allow for easier exploitation
- Record retention

Build Your System

- Establish a Strategy
- Establishing Accountability and Governance of this Strategy
- Understanding your systems, and setting multiple layers of security
- Third Party and Cloud Considerations
- Culture and Awareness

Plan For A Breach

- Do you have a crisis response plan for a data security breach?
 - Who will Lead the Plan?
 - Have you done a tabletop exercise of the plan?
 - Do you have outside providers you will depend on?
 - What is your relationship with government regulators?
 - Customer and Employee relations?

Resources on Data Security Breach

- Privacy Rights Clearinghouse – www.PrivacyRights.Org
- Ponemon Institute, LLC. – www.ponemon.org
- Verizon Business Risk Team 2015 Data Breach Investigations Report
- Data Breach Calculators
 - databreachcalculator.com
 - Privacyriskadvisors.com/data-breach-toolkit/data-breach-calculators

QUESTIONS?

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