

NEW MEDIA: MANAGEMENT



PROTECTING *the Revenue Streams*

Newer cable offerings, like phone and Internet service, are sparking some different insurance needs.

By THOMAS R. WING JR.

As the plain old cable business has evolved into one that delivers a variety of sophisticated services, its need for liability and property insurance has undergone a transformation as well.

Gone are the days when operators' major liability concerns were related to bodily injury or property damage that can occur during the installation of traditional cable equipment, like set-top boxes.

Now, with the rollout of Voice over Internet Protocol (VoIP) phone service a few new bodily injury exposures should be considered.

Bodily Injury

First is provision of emergency 911 service. One of the unique features of VoIP is the ability of customers to take both their VoIP equipment and their phone number with them when they move to a new location. But due to technical limitations, a 911 dispatcher will not be able to automatically determine the new location. And during a life-threatening situation, the dispatcher

may inadvertently send emergency equipment and personnel out to the old address.

To avoid this, a service provider should keep an updated register of the actual location of each phone number, which can then be accessed by a dispatcher. This means that providers must obtain a customer's address when service is initiated and warn customers that if they ever move, they should notify the service provider so that the new address can be recorded in the register.

Another hazard can occur during a power outage. Usually, VoIP telephones are not connected to a powered telephone network, but are plugged into the electric power system within homes and offices. To avoid liability, service providers should offer phones with battery back-ups or advise customers their phones won't work during an outage.

Bodily injury exposure is also tied to certain phones. Service providers selling cordless or wireless phones should know of potential health hazards in microwave emissions from transceivers in these devices. Therefore, they must obtain vendors' indemnification from

phone manufacturers and check that the phones conform to federal guidelines on acceptable absorption rates of radiofrequency energy.

Cable operators can purchase liability insurance that covers property damage and bodily injury (i.e., physical injury to another person) as part of a commercial general liability policy. However, because of the nature of the cable business, insurers traditionally have excluded advertising injury (copyright and trademark infringement) and personal injury (offense against another organization or person) from commercial general liability policies for companies in this industry. These perils and others can be insured by media liability policies, which cover various kinds of broadcasting and publishing activities, including offenses of libel and slander, invasion of privacy as well as copyright and trademark infringement.

Internet Exclusions

Internet activity exclusions have been added to most general liability policies as well.

And the exclusions extend well beyond those in the cable business – also encompassing firms involved in advertising, broadcasting and publishing as well as companies focused specifically on Internet services, such as Web design, content, search and access.

The exclusions also extend to injuries arising from: electronic chat rooms or bulletin boards; most infringements of intellectual property rights; the unauthorized use of another's name or product in the insured's e-mail address, domain name or metatag; or any other similar tactics to mislead another's potential customers.

If your media liability policy has a coverage trigger that includes defined terms, it would be wise to check to see if the Internet services you are offering fall within those terms and are included in the coverage trigger of your policy.

For example, will your policy cover a claim for personal injury or breach of duty arising from the theft and subsequent posting on the Internet of a customer's confidential information? Will it respond to a claim of libel or slander arising out of publication of statements on your bulletin boards or chat rooms?

It's also wise to make sure your company has a notice and take-down protocol that automatically removes offensive material from your chat room or bulletin board.

Some Internet activities may put you at risk for a liability that differs from traditional media liability. For one thing, a commercial customer may claim financial injury (injury other than bodily injury, property damage, advertising injury or personal injury) if the Web site you host for that customer goes down because of

faulty maintenance or a mistake on your part. Or, you can face a claim for financial injury arising out of loss of, or damage to, a database you were storing for a commercial customer.

Liabilities can also arise if a customer's trade secret was stolen via unauthorized access to your system that was hosting the customer's storage server. Also, you could be sued by a customer if a rogue employee uses his authorized access to your system in an unauthorized way to manipulate customer data.

Security Breaches

Several of these liability examples arise out of some sort of security breach. In fact, a single security breach could lead to allegations of invasion of privacy and financial injury.

Security breaches can also compromise VoIP services and lead to liabilities. For example, a hacker enters the VoIP network of a cable customer and gains access to key business servers. He steals and changes important information in the business files.

The customer will then incur considerable expense in reconstituting the missing information and fixing the altered files.

Finally, digitalization of program material, broadcast libraries and operational records and documents has left both broadcast and cable organizations vulnerable to malicious viruses that infect servers storing or processing digital material.

It's interesting to note that more than 50% of attacks on digital information are carried out by insiders to whom the company has granted some form of computer-system access. These kinds of attacks often cause more damage than outsider attacks, because the hackers already know where the weakest links lie and where they

can find the best information.

Be aware that property insurance policies typically do not address this kind of malicious programming—at least not automatically. If you want insurance for the data-recovery costs, loss of business income and extra expense that can result from malicious programming, you will probably have to ask for it specifically and see if the carrier is willing to sell it to you.

As cable operators widen the scope of services they provide, their risks increase in tandem with the opportunities. But by carefully evaluating how their changing activities affect their risk and insurance management needs, cable companies can focus more on building their business and less on protecting it.

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of attacks on digital
information are
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to whom the company
has granted some
form of computer-
system access.**