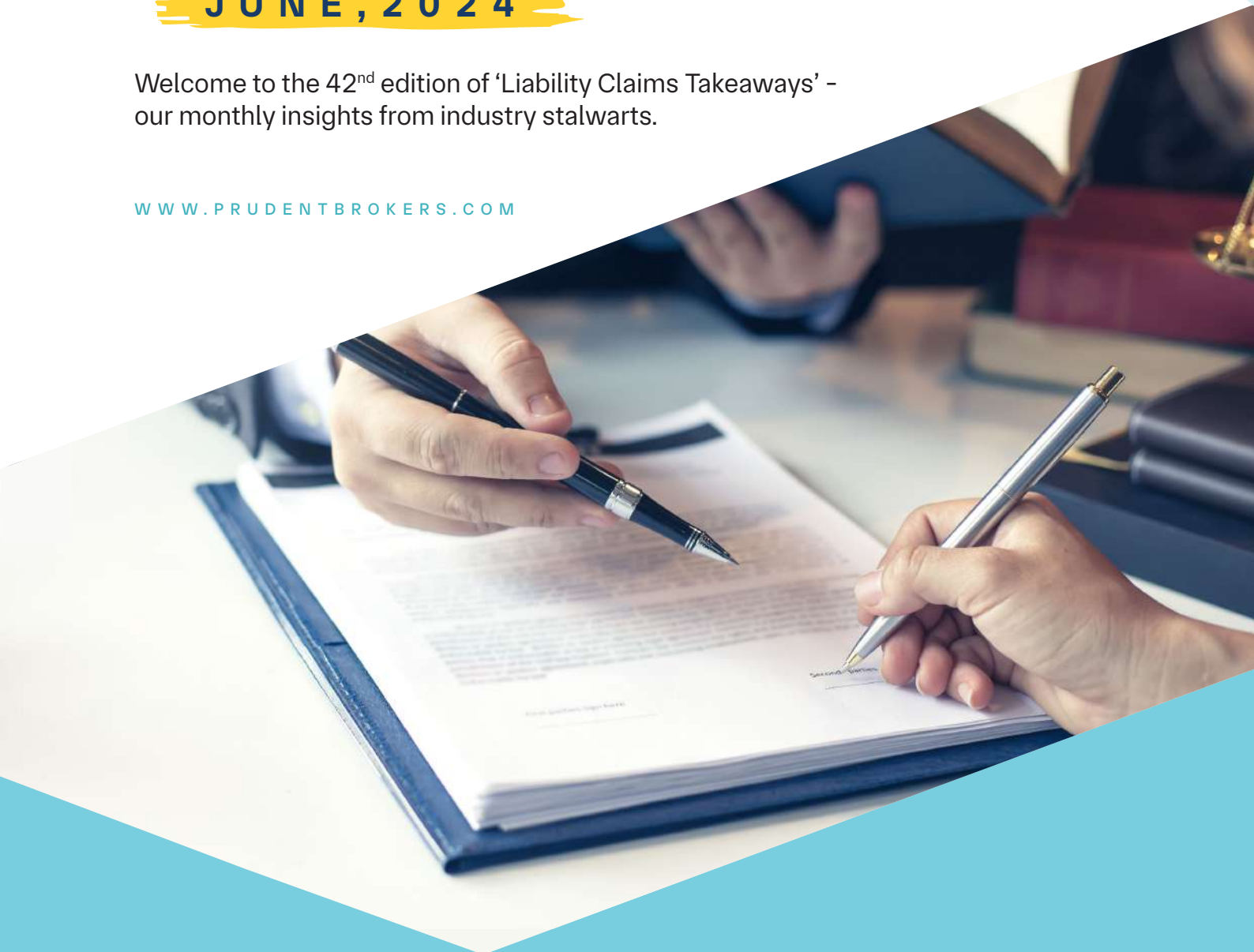


Liability Claims *Takeaways*

JUNE, 2024

Welcome to the 42nd edition of 'Liability Claims Takeaways' - our monthly insights from industry stalwarts.

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1 Commercial General Liability Policy

Event Chronology

The insured is one of the leading players in the industry, with multiple movie theatres across the country. In a strange turn of events, a patron who was watching a movie in one of the insured theatres fell while walking out. Apart from getting hurt, his ear pods were damaged. The patron was rushed to the hospital, where he received first aid and was recommended to undergo a few follow-up scans. The incident was notified under the insured's Commercial General Liability Policy (CGL Policy).

Key Intent of the Claims Case Study

What is CGL Policy?

A CGL policy generally reimburses an insured for bodily injury and property damage arising from an accident at the insured premises or due to the insured's business.

Scope of the Policy

Medical reimbursement – 'No-fault' Liability

This cover does not require establishing fault on the part of the insured. An accident resulting in bodily injury that needs medical attention, supported by documents, is usually sufficient for reimbursement under this cover. In this case, the patron's first aid and other medical costs were borne by the insured and reimbursed by the policy without any deductible.

This policy also includes a 'No-fault' liability payment for medical reimbursement, which covers first aid and other immediate medical needs in case of an accident.

Damages – Legal Liability

Another important coverage under the CGL Policy is the insured's legal liability for bodily injury or property damage arising from an accident on the insured's premises. Under this coverage, the insurer requires proof of the insured's legal liability for the accident and resulting damages. Therefore, when the patron demanded damages from the insured for his fall, injuries, and damaged ear pods, the need to establish the insured's legal liability arose. Following this, the insurance company agreed to reimburse the amount paid by the insured to the patron.

Engaging with the insurer from the start resulted in a smooth settlement

In this instance, the insurer was kept informed about the incident, the claim, and the internal decisions made by the insured regarding handling the patron. Before committing to reimburse the cost of the ear pods to the claimant, the insured's consent was expressly sought and obtained. This proactive approach ensured that the claim was handled smoothly without any unexpected hindrances.





Prudent: The Part Well Played

We advised the insured on the various covers under the policy and how each cover can be triggered. Furthermore, we created a clear pathway for information to be shared with the insurer in compliance with policy terms. With the mission to foster a risk resilience mindset, we made steady efforts to generate awareness amongst the insured's entity officials about the policy terms to ensure that no payments were made without first obtaining the insurer's consent.

2 Commercial Crime Policy

Event Chronology

The insured is engaged in the manufacturing and supply of pharmaceutical products within India and abroad. They received a request for supply from a foreign customer via email. Subsequently, a series of emails ensued, comprising enquiries and responses. In the second set of emails, the sender's email ID was slightly different, indicating it was created by a perpetrator. The banking details were also shared through this 'different' email address, along with verification documents, including bank confirmation. This 'impersonation' went unnoticed until after the supply was made. Once discovered, the insured took steps to stop further deliveries, achieving some success. However, in some instances, the supplied items were already in the perpetrator's possession, resulting in losses equivalent to the value of goods. The matter was notified under the Insured's Commercial Crime Policy (Crime Policy).

Key Intent of the Claims Case Study

What is Commercial Crime Policy?

This insurance policy protects an organisation by indemnifying them against the loss of inter alia property, money, and securities resulting from fraud, theft, or other identified criminal activities committed by an employee, vendor, customer, or a third party.

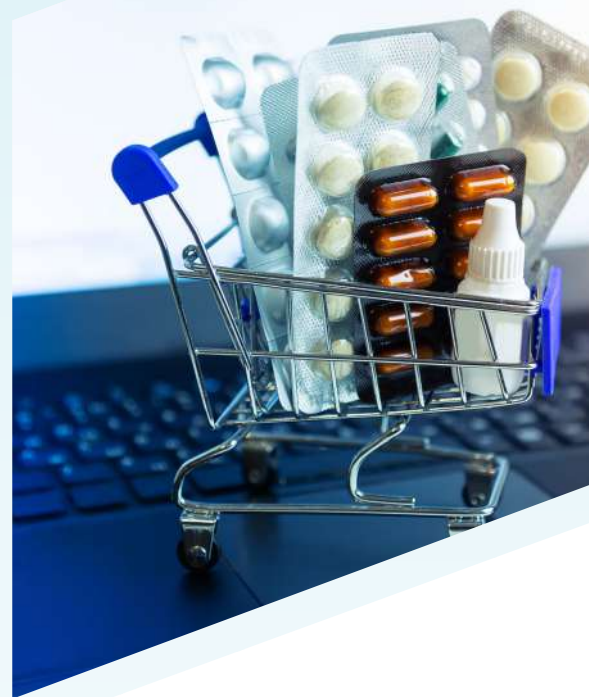
Social Engineering and What it Covers

Traditionally, social engineering, also known as the 'Man-in-the-middle attack,' covers instances such as vendor fraud, where the impersonation of a vendor leads to payment to the perpetrator, or CFO fraud, where the impersonation of a CFO results in payment to the perpetrator. However, over time, this type of fraud has evolved to include scenarios where customers are impersonated, and goods are supplied to perpetrators.

One key prerequisite for most policies is that the insured has processes in place to address such fraud attempts, even if these measures are not always successful. The lack of adequate processes is one of the most common reasons insurers lack confidence in the insured.

Attempt to Test - Not Same as Successful Testing

As per the policy prerequisite, the insured person should have taken steps to verify the source of the instruction in a manner, independent of the person who gave the instruction. This typically involves using a standalone email or making a call to authenticate the sender's identity.



Social engineering has evolved to include scenarios where customers are impersonated, and goods are supplied to perpetrators. Consequently, insurance policies have adapted to address these modern-day crimes.



Prudent: The Part Well Played

We advised the insured on how testing could be established in this case without a call or email and encouraged them to take measures to recover as much of their supplied goods as possible. Furthermore, we supported the insured in confirming how each aspect of the coverage under the policy was being met.

3 Cyber Insurance Policy

Event Chronology

The insured, a manufacturing company in India, faced a ransomware attack. The threat actors demanded that they be contacted by a pre-determined date, and if not done, they would make the insured's data public. The insured approached us as their insurance brokers, and the incident was notified under their Cyber Insurance Policy (Cyber Policy).

Key Intent of the Claims Case Study

What is Cyber Policy?

Cyber Insurance Policy covers inter alia:

- Breach notifications
- Defense cost
- Regulatory penalties
- Ransom
- Company's loss of net profit
- Data replacement/recovery costs

Multiple Trigger Points

In this instance, the threat actors accessed data from within the insured's system, presumably including personal data. Therefore, there were multiple coverages under the policy that needed to be addressed, including forensics costs, legal consulting, PR, privacy notifications, regulatory actions, and ransom payments, among others. Each coverage had its own requirements and pre-conditions, and we guided the insured through each matter to ensure adherence to every aspect of the policy's coverage.

Multi-jurisdictional Impact

It was speculated that the data involved could also belong to some non-resident persons. This required advice from across borders on how the insured should act to mitigate risks arising not only from within India but also outside of it. Lawyers from different jurisdictions were engaged to determine the risks and liabilities (of the insured) concerning the data breach and the overall incident.

Cyber insurance typically covers costs and expenses associated with cyber breaches.





Prudent: The Part Well Played

We helped the insured navigate the notification requirements with CERT-in, respond to their queries, and gain external advice on other legal obligations in India. We also jointly worked with the insured and the surveyor to provide breach counselling, helping the insured understand their rights and obligations under the policy in such a situation. Additionally, we assisted the insured by connecting them with vendors to address matters simultaneously.

We are sure you found the anecdotes interesting and got some key points to take away.

Stay tuned for the next edition!

About Prudent Insurance Brokers

We, at Prudent Insurance Brokers, provide industry-leading expertise in designing and managing insurance programs to address unique requirements of your organisation. We have a client-centric service infrastructure that delivers proactively & passionately in a highly systematic manner. Our Liability Team consists of members with underwriting experience and the largest number of lawyers who can assist you across different areas:

- Identifying and addressing gaps in your current insurance programs
- Arranging the most cost-effective cover from Indian and international markets
- Ensuring contract compliance for your insurable indemnities
- Offering 360° claims management by one of the largest claims teams across any broker in India
- Providing global solutions through the strongest international alliances



Our Claim-handling Expertise

Our team members come from varied areas of expertise, thereby enabling us to ensure that our clients are assisted thoroughly, through every step of the claims-handling process. We take pride in our professional competency and diligence, and our team is always willing to walk the extra mile in client service.

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