

View Points

Q How do I insure myself for using social media as part of our marketing communications?

Many companies are turning to social media to interact with and market to a new generation of tech-savvy consumers. While social media has many advantages as a marketing strategy, it also creates new concerns about a company's responsibility to protect its customers' information. In an era where customers can upload personal photos onto a company's Facebook page or provide contact information to enter an online contest, franchisors need to be aware of the potential liabilities associated with social media and take the necessary steps to protect themselves in the event of a breach of customer privacy.

It has been said that we protect our physical assets by installing fire and monitored burglar alarms either by our own volition or on order by the insurance company that covers our home or business. Typically, we either receive a reduction in our insurance premiums, or we become successful in arranging property insurance because there is a sufficient security alarm in place. We then obtain insurance on the same alarmed property as the last layer of protection. However, we don't often think that

the same philosophy applies when thinking of protecting our customer information, their rights to privacy, or the contractual obligations that we must meet either to merchants, credit card companies, and commercial data. IT Professionals may inadvertently give business owners a false sense of security by telling the owners that they are fully protected.

In the last few years, a pharmaceutical company in the U.S. came under harsh criticism when it was discovered that their client's health information was left and found in the trash. If a first party breach has occurred in a business, notifying all of your customers of the breach can be very costly, particularly when you consider that most small to mid-sized businesses may have between 10,000 and 15,000 customers. Managing defamation, including claims of libel, can also be extremely costly, and there may be an exposure for a Cyber-Risk as a Personal Injury, or defamation claim.

Over the last 10 or 11 years, Cyber-Risk and Privacy Insurance has been available worldwide to commercial clients; however, we are now currently in the true evolution of the product, and it is speculated that this line of insurance will grow between three and four times in premium volume over the next 3 to 4 years. Increasing reports of cyber intrusions, data theft, and computer-system malfunctions have led a rapidly growing number of companies to purchase this line of coverage. The evolution of technology and our reliance on them continues to grow with each year.

Many people are surprised to learn that a standard CGL policy or a Professional Liability policy would not apply to a technology or cyber-privacy claim, and would therefore not be covered. This Cyber-Risk and Privacy insurance policy covers a broad spectrum of liability claims, however,

there is no one Cyber-Risk and Privacy Insurance language common amongst all carriers. It is therefore critical that you select an insurance broker extremely knowledgeable and sophisticated in commercial insurance. For example, a simple liability policy may include basic coverage for transmission of viruses, however, a more complex liability policy language would include for media-defamation and advertisement infringement.

This type of liability insurance is most certainly recommended as a line of insurance that should be explored, particularly with franchise systems who are involved in the healthcare industry, and for those franchise systems whose clients' privacy is of the utmost importance. A Franchisor could choose to have each franchisee obtain this Cyber-Risk and Privacy Liability policy, however, rather than suggesting that each and every franchisee obtain this policy, an insurance broker could work with the liability carrier, and arrange for a master liability type policy, and attempt to arrange the Franchisees be named as Additional Named Insureds. This master policy is most beneficial, as a Franchisor would likely always be named in a suit, and could ensure that each and every franchisee was covered under the policy.

It is important that you have an insurance professional that knows the differences. Obtaining a full review of your liability insurance requirements from a commercial insurance broker does not cost you, as insurance brokerages charge commission on sold and bound policies. This review is a worthwhile business activity.

As social media continues to grow and expose companies to new forms of liability, so does the number of insurance products designed to meet these additional exposures.



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