



PHC 2010

## Newest Developments in Cyber Liability

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## Newest Developments in Cyber Liability

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## Newest Developments in Cyber Liability

**Cheri Murray**

Senior Vice President  
Lockton Companies, LLC

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## Cyber Marketplace Gas and electric industries

- London markets
  - Hiscox
  - Brit
  - Kiln
  - Aspen
  - Barbican Syndicate

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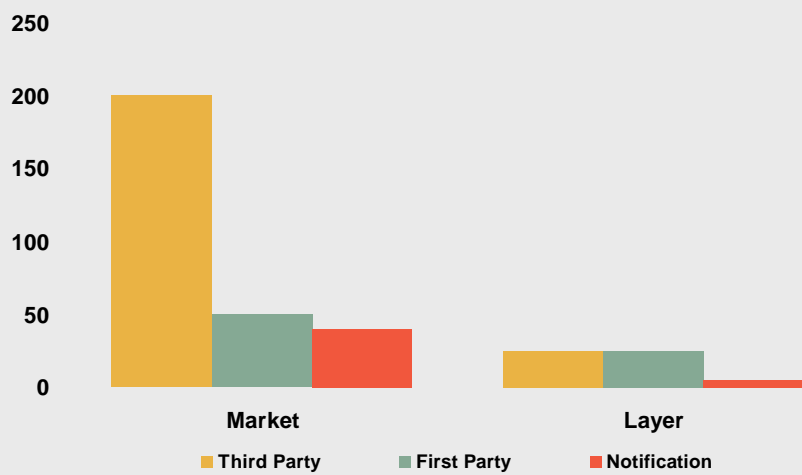
## Cyber Marketplace Gas and electric industries

- US domestic markets
  - Chartis
  - Ace
  - CNA
  - Hartford

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## Cyber Marketplace-Gas and Electric Industries Capacity in millions



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## Key Coverages

### First party coverages

- Business interruption
- Information asset
- Extortion
- Crisis management

### Elements

- Loss of Income due to system outage / extended downtime due to negligence
- Theft or damage to information assets from computer system
- Threats to commit intentional computer attack against you
- Various expense from a security / privacy breach

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## Key Coverages

### Third party coverages

- Network security liability
- Privacy liability
- Media / content liability
- Professional services coverage

### Elements

- Unauthorized access and breach in network
- Wrongful disclosure of confidential information
- Personal / advertising
- Errors, omissions or acts in course of providing services

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## Coverage Solutions

- Employee claimants (*insured v. insured*)
  - Obtain carveback for entity for claims by employees if breach involves employee information
- Regulatory claims (*minimal coverage of fines / penalties*)
  - Where allowed by state law
  - Consumer redress fund penalties
- Crisis management
  - Watch sublimits, retentions and coinsurance provisions

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## Underwriting Data Privacy

**Oliver Brew**

Technology and Privacy  
Senior Vice President  
Hiscox USA

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## Agenda

- How bad is it?
- What can be done?
- What do insurers look for?
- How easy is the process?
- What happens if I have a claim?

## How Serious Is the Problem?

- Cost per record over \$200 (Ponemon institute)
- Average total cost increased to \$6.75 million
- [www.privacyrights.org](http://www.privacyrights.org) – breach chronology recorded
- 45 state laws
  - No laws in SD, NM, AK
  - Bills pending in MS, AL, KY
- Prescriptive legislation: MA, NV, MN
- Specific regulation: HIPAA / HITECH, red flag rules, FTC, FERC

## How Serious Is the Problem?

### State law development

- State legislation
  - Massachusetts as bellwether state (201 CMR 17)
    - Encryption effectively mandated
    - Written information security plan
      - Technical protections
      - Physical protections
      - Administrative protections

## Regulatory Expansion

### HIPAA

- Any company health plan constitutes a covered entity if over 50 participants
- Subject to
  - HIPAA privacy rule
  - HIPAA security rule
  - Breach notification obligations
  - HITECH rules
  - Maximum \$1.5 million fine per violation (annually)

## Regulatory Expansion FTC

- Section 5 of FTC Act: unfair and deceptive practices
  - Breach of own privacy statement (e.g., Premier Capital Lending)
  - Dave & Buster's 3/10 – failure to monitor third party access (FTC's 27<sup>th</sup> privacy settlement)
- Red flag rules
  - Any company acting as a creditor must have an identity theft prevention program (November 2008)
  - Part of FACTA

## What Do We Look For?

- Data volumes
- Data types
- Access points to data
- Inherent industry exposure
- Risk management protections in place

## What Do We Look For?

- Administrative protections
  - Accountability / responsibility – CPO / CIO role
    - Everything flows from here
    - Culture of security
  - Policies and procedures
  - Data flows in and out of organization
    - Data classification
  - Employee access and termination
  - Vendor management
  - Incident response planning

## What Do We Look For?

- Technical protections
  - Access control
    - Rights management
  - Integrity and authentication
  - Transmission security – encryption
  - Perimeter security – firewalls

## What Do We Look For?

- Physical protections
  - Building access
  - Workstation security
    - Passwords
  - Asset / inventory management
  - Back up and storage considerations

## What Is the Process?

- Initial indication with limited information
- Application completion and / or conference call
- Negotiate final terms
- Sign application / bind terms

## What Happens If I Have a Claim?

- Notify your broker / insurer
- Is it a privacy data breach?
- Follow terms of your policy
  - Is prior written consent required?
  - Timeframe for notice?
- Use resources available – pre-negotiated rates with service providers
  - Computer forensics
  - Notification providers
  - Credit monitoring services

## What Is the Process?

- Talk to your broker
- What is your exposure?
  - Use of credit cards?
  - Online bill pay?
  - Employee data?
  - Use of outsourcers?

## Utility Cyber Risks

- Control systems now integrated
  - Remote locations centrally controlled / monitored
  - Instantaneous access to plant data
    - Pipeline flow, power generation
  - Remote employees, contractors and vendors
    - Wireless networks, cellular, modem and radio links
  - SCADA network and IT systems often bridged
  - Outage reports web-enable for customer Interfacing

## Utility Cyber Risks

- Possible threats
  - Eavesdropping attacks / intercepting wireless transmissions
  - Rogue devices providing false or misleading data to operator / controller
  - Unguarded ports, undocumented connections and improper security configuration for wireless networks
  - Collateral damage – large downloads, video streaming



Thank you:  
Questions?

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