WINTER 2016/2017

COVERNOTES

MATHEWS COMFORT
INSURANCE BROKERS

THE ENTERPRISE ACT: TACKLING LATE PAYMENTS

Cash flow is the lifeblood of a business. When a business cannot trade for any reason the cash flow effect is magnified to the extent it could close a business.

A major insurance claim not settled promptly could cause this result. Through no fault of its own a potentially healthy venture may be forced into administration, or worse liquidation, because of settlement delays within their current claims process. If such a time delay causes the client to suffer cash flow issues, by the time the claim is resolved it may be too late.

On 4th May 2016 the Enterprise Bill received Royal Assent and became the Enterprise Act 2016. The payment of insurance monies due, within a reasonable time, is a key element of Part 5 of the Act.

Until now, insurers under their contracts of indemnity were under no legal obligation to pay valid claims within a reasonable time. The government has said it is committed to combating unreasonably late payment of sums due to businesses in particular, and that the new law should incentivise insurers to pay as promptly as is reasonable, and give policyholders a legal right to enforce this.

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According to the Department for Business Innovation & Skills, the Enterprise Act 2016 will:

- Ensure that the law incentivises insurers to pay insurance claims within a reasonable time, and to promote payments within a reasonable time
- Give policyholders a contractual right to the payment of insurance claims within a reasonable time
- Provide for general damages to be payable by an insurer where a policyholder suffers additional loss because of the insurer's unreasonable delay in payment.

There is debate around what constitutes 'reasonable time' in which to pay a claim, as this will be an objective judgement in each individual case. It will also include time to investigate and assess the claim.

Relevant issues are likely to include:

- The type of insurance (for example business interruption losses may take longer to investigate than a simple property loss)
- The size and complexity of the claim (the more complex, the more time is likely to be allowed)
- Compliance with any relevant statutory or regulatory rules or guidance
- Factors outside of the insurers control for example, the need for a Health & Safety inspection if something such as asbestos is suspected, or there is difficulty in just accessing the site to assess the damage.

Insurers may contract out of this Act for businesses (non-consumer contracts), as long as this disadvantageous term is brought to the policyholder's attention before the contract is entered into, and the term is clear and unambiguous in its purpose. If these requirements are not met, or if an insurer 'deliberately or recklessly' fails to pay out in a reasonable time, the term will be void and the policyholder will be entitled to enforce payment and claim for damages.

The provisions will come into force on 4th May 2017 and will apply to all insurance contracts entered into on or after that date unless the insurer contracts out.

If you would like to discuss how the implications of the Enterprise Act could affect you please contact us.

Source:
INCE&Co, HM Treasury
http://www.legislation.gov.uk/ukpga/2016/12/part/5

THE VALUE OF USING AN INSURANCE BROKER

Using an insurance broker should be an obvious choice when it comes to getting the best cover for your business.

However, not all SME businesses are aware that brokers act as the independent voice of the customer, have access to a wide range of products they can select from to match a clients' needs, and can provide comprehensive claims support. For all businesses, but particularly for an SME, who has so many other things to think about in their business, the added value of building a relationship with your broker can bring large benefits.

They get to fully understand your needs and are then able to provide invaluable advice in terms of protecting your business.

A recent report 'Insurainsight 360 SME Insurance' has demonstrated that many SMEs see demonstrable value from their broker. Highlights include:

- 72% of SMEs surveyed believed that brokers get the best rates for their insurance
- 77% of SMEs noted that brokers offer vital advice
- 82% of SMEs would like a one-stop shop of all their insurance needs

Worryingly 56% of SMEs surveyed admitted to not fully understanding what insurance policies they should hold. 71% of SMEs felt that the insurance industry uses too much jargon. Without the help of a broker to identify and explain the risks they face, these SME businesses are vulnerable to being significantly underinsured.

Brokers are independent and knowledgeable; available to handle complex insurance needs and claims; provide a one-stop insurance shop; provide local and specialist service; and can add significant value to the insurance equation.

Please get in touch with us and we will give you a free review of all your insurance needs with a view to showing how we can add value to your business. We help by understanding how we can protect your business and telling you want you need, all in plain English.

Sources:
Insurainsight 360 SME Insurance report, Willis Towers Watson Networks
Zurich, Future of Broking: Articulating the value of a broker

A FOCUS ON THE SUPPLY CHAIN IN THE FOOD & DRINK SECTOR

Many insurance brokers, as well as being generalists in providing many standard forms of insurance already familiar to clients (e.g. motor and liability insurance) are now developing their expertise in specific industry fields, where their knowledge of that industry can really help their clients to both understand and protect against the risks faced in that industry.

Here we look at the food & drink sector, in particular the supply chain.

Modern supply chains are much more than a means of moving product from one destination to another. For supply chains to work at their best, it is important that everyone in the chain is fully informed and engaged, from the supply of primary ingredients through to delivery of the final product to the customer. The need for traceability has never been higher. With so many steps in the chain, it is important to have to correct insurance cover.

Trends in food and drink (and other sectors) can be quite volatile and to an extent are dictated by the fads of the end customer. This means clients must look both inwardly at their own supply chain and outwardly to their target market. For example, good sales leads can flounder on poor logistics, inadequate supply of primary products, or other factors which can affect the supply chains such as a storm or even a government coup; all eventualities should be risk-managed and considered. Imagine finding you have developed a best-selling recipe that had garnered lots of publicity, but find a key ingredient is stranded on the other side of the world – not only is this a lost sales opportunity, but there is a potential damage to reputation going forward because you cannot deliver.

Inefficient supply chains can also be a massive drain on cash and other resources and can have a serious effect on an SMEs bottom line.

However, the logistics are not the only challenge. There are many toxic risks when it comes to food & drink manufacture and distribution, so it is also important to look at your supply chain from a product liability perspective.

One poor ingredient from somewhere within the supply chain can lead to whole batches of product being contaminated.

Who could forget the scandal faced by supermarkets that had to withdraw their burger ranges over horse meat fears? Tests found equine DNA in some of their products, after it was discovered suppliers from the Netherlands and Spain had added the 'extra ingredient' to the meat sent to the Irish processing plant that was part of the supply chain for all the supermarkets concerned. This part of the supply chain was forced to close and the plant sold as a consequence of their actions.

It is not only food & drink manufacturers that have to be aware of their supply chains. Restaurants and retailers also need to make sure they know where the products they are using or selling are coming from. Ultimately restaurants and retailers are responsible for what they sell and where it comes from.

With this responsibility comes risk and the above incidents highlight the need for proper cover in, for example, Product Recall, Directors & Officers Liability, and Public Liability, not to mention reputational damage. We can help you review your own supply chain, to help you fully understand the risks involved and to advise how you can properly protect your business against them.

Sources:
http://www.postonline.co.uk/post/analysis/2449110/product-liability-food-leaving-a-nasty-taste
http://www.foodanddrink.scot/industry/market-driven-supply-chains-project.aspx

THE EFFECTS OF BREXIT

The next two years could be a worrying time for UK businesses following the vote to leave the European Union. Also throw in the changing of the guard in the White House and we are probably in for some interesting times ahead.

Many businesses of all kinds have reacted nervously following the vote. The Construction Intelligence Centre has significantly adjusted its forecasts for growth up to 2020 following the Brexit vote.

However, whilst the future might be uncertain, for the time being UK businesses will be able to continue to do business as they have for the past forty years, trading with European partners and selling goods and services into the region.

SME businesses should use this time to consider and plan for change, as with change comes opportunity. With new opportunity potentially come new risks and as your broker we can access many specialists within our insurer panel, that can advise on what you may expect to encounter if you seek an opportunity in a particular sector.

When you are ready, you know you have our support on your side.

Companies with exposure to the EU in terms of sales will potentially need to reconsider their investment strategies in terms of pace and scale until the UK’s future relationship with the EU is clear. This is especially true for companies that need to assess whether producing in the UK to sell into the EU makes economic sense should trade barriers be erected between the two.

There is also uncertainty surrounding changes to UK law and regulations following the exit from the EU. As much of EU legislation is embedded into UK law, not much change is likely. However, there are many grey areas where legislation has not been embedded, such as the UK’s opt-out on the working time regulations.

For the UK to maintain access to EU markets it will need to demonstrate that it continues to do business the way that the EU requires, therefore regulation is also unlikely to change wholesale. Whilst SMEs could look forward to some relief from EU employment legislation, they should not expect any kind of comprehensive roll-back of workers’ rights or industry regulations.

The free movement of labour across the EU has been in place for over forty years. Many UK businesses rely on large numbers of EU workers in their workforce, both skilled and unskilled. SMEs need to consider the possible impact a restriction of the labour market could have on their business.

There are also many more risks that SMEs could face as a result of changes following Brexit, including possible supply chain issues, changes to taxation, accounting and business incorporation requirements.

During such a time of uncertainty, it is important that SMEs make sure they are aware of all the risks they are facing and are covered for every eventuality.

We can advise you on how to identify a manageable set of risks and opportunities, and help you evolve a plan for your business. So please get in contact with us to find out more.

Sources: Willis GB Marketing

LONDON’S BURNING

The 2nd September saw the 350th anniversary of the Great Fire of London.

The fire consumed 13,200 houses, 87 churches, St Paul’s Cathedral and most of the city’s municipal buildings in 1666. It is estimated to have destroyed the homes of 70,000 of the city’s 80,000 inhabitants.

However, out of the ashes of the fire arose the first mutual fire insurer.

Thankfully fire prevention has improved greatly over the last 350 years as have the insurance products associated with such incidents. As your insurance broker, we are here to help ensure that it’s not just your fire risk which is covered, but all potential risks within your business.

Sources:
http://www.advisen.com/tools/fpnproc/fpns/articles_new_5/P/265750793.html?rid=26
http://www.bbc.co.uk/programmes/b00ft63q

BIG CHANGES ARE COMING IN DATA PROTECTION LEGISLATION: BE AWARE

On 14th April 2016 the European Parliament voted to adopt a new data protection law for Europe. Under the General Data Protection Regulation, data protection law will be significantly tightened and individuals' rights to bring claims will be strengthened.

The new Regulation is due to take effect in 2018 and will impact all business sectors, even if Britain has already left the European Union by this time. It seems very likely that any replacement data protection laws will follow similar lines.

Key potential challenges for SME businesses include:

- Fines will rise to as much as 4% of global turnover
- Increased enforcement powers could lead to a higher number of prosecutions
- Consent will be harder to obtain
- Stricter data breach notification rules
- Data processors also to be subject to enforcement actions
- A requirement to perform data protection impact assessments to identify and address privacy risks in all new products

The new Regulation serves to bring into focus the importance of data risk management. To help mitigate data risks, control of data should form an important part of any SMEs business continuity plan.

We are all using data in some way, from sales prospecting through to managing client relationships. If your business turnover is in excess of £1 million per year then a 4% fine (i.e. £40,000 or more) could have a major impact on cash flow and profit margins.

This major piece of legislation will affect all businesses and we recommend you should start considering now how it may affect you.

Sources:
Guide to The General Data Protection Regulation, British Insurance Brokers Association, 2016
Technical Insight: Proposed changes to EU data protection legislation, Willis Towers Watson Networks

HEALTH & SAFETY MINEFIELD

How confident are the directors of your company that your health & safety management would be able to withstand a prosecution? Do you have adequate insurance coverage in place?

In February this year we saw the most dramatic change in health & safety enforcement for almost 50 years with new sentencing guidelines coming into force.

Health & Safety fines are now based on turnover with the maximum fine for companies, being a staggering £10m. This rises to a maximum possible £20m for corporate manslaughter. Firms can also be fined up to £3m for the worst food safety and hygiene breaches. It is fair to say fines are increasing in their severity.

It is not just large companies that face a massive increase in possible fines for breaching health and safety duties. SME businesses also need to be worried.
A company with a turnover of less than £2m can now face a fine of up to £450,000, (25% of turnover lost in a potential fine). How many businesses could stand that and survive?

These fines are in addition to legal costs and any individuals found at fault may also be imprisoned or disqualified as a director. Should a breach be deemed to have occurred company directors could face up to two years in jail.

Looking at historical cases it is sobering to note the seriousness that health & safety breaches are being viewed by the courts. The trend for fines for health & safety offences is an increasing one.

Health & Safety is viewed very much as a personal liability issue. It is the directors of the company who can be prosecuted and potentially jailed for breaches in this area.

As your broker, no matter what industry you are in, it is important we ensure you are properly protected, so please contact us if you would like to discuss these issues further.

Source:
Zurich Insider, What do new health and safety fines mean?

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