



Commercial General Liability

Modern version

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What you will learn today?

- **What is Commercial General Liability (CGL)?**
- Policy Coverage,
- Exclusions,
- Extensions,
- Limitations
- Who needs CGL?
- Examples of Claims
- What is Advertising Liability?
- Marketing CGL.



What is Tort?

- A **tort** is a civil wrong that **causes a claimant to suffer loss or harm**, resulting in legal liability for the person who commits the tortious act.
- Torts include "product-liability" cases,
- manufacturers of cars, household products, children's toys, and so on.
- They also cover dog bites, slander and libel, and many other personal cases of injury, both mental and physical.
- **If you're sued for a tort and lose,**
- **you have to pay "damages"- that is, a sum of money- to the person who you wronged.**

Case Study

- You have a big restaurant (5-star)
- Full house- wedding dinner
- Worker served hot boiling soup
- She tripped and the hot soup poured on the face of the bride
- She has to be rushed the hospital.
- ?????????
- **DISCUSS: the consequence?**



What is 'Commercial General Liability (CGL)'?

Commercial general liability insurance provides

coverage to a business for:

- bodily injury, personal injury, property damage
- caused by the business' operations (Operations Liability),
- products (Products Liability), or
- injury that occurs on the business' premises (Premises Liability).

Modern version:

+ **Personal and Advertising Injury:** libel, slander, invasion of privacy and copyright infringement.

Introduction

This session will cover **liability risks** which

all businesses face

- called **Commercial General Liability (CGL)**.
- “**Commercial**” refers to non-personal, or **business operations**.
- Commercial policies are **designed to protect business assets**.

Commercial Liability Risks:

- Automobile Liability, Directors and Officers Liability,
- Professional Liability, Pollution Liability,
- Errors and omissions Liability,
- Employers Liability, Workers compensation Liability,
- Aviation and aircraft Liability, Watercraft Liability,

- “Commercial General” Liability.
means
- “not classified nor covered specifically in other liability policies.”

Commercial General liability insurance covers the Insured's liability for:

- **Bodily Injury:** example, someone gets hurt on your premises or at another site where you're doing business.
- **Property damage:** example, while repairing a wall in a client's retail shop your employee accidentally breaks a pipe, causing damage to their customer's merchandise.
- **Personal and Advertising Injury:** libel, slander, invasion of privacy and copyright infringement.

Commercial General liability insurance covers the Insured's liability:

When there's a lawsuit brought against you for insured damages,

- your General Liability Policy will **pay the cost of defending you in court.**

When there is a judgment against you for such insured damages,

- the **Policy will make the indemnity payment.**

Liability

“Liability” can be defined as

- **“the cost of being blamed for,**
- **accused of, or**
- **responsible for losses suffered by others**
- **(not to the business itself or any of its employees).”**

Liability (injuries)

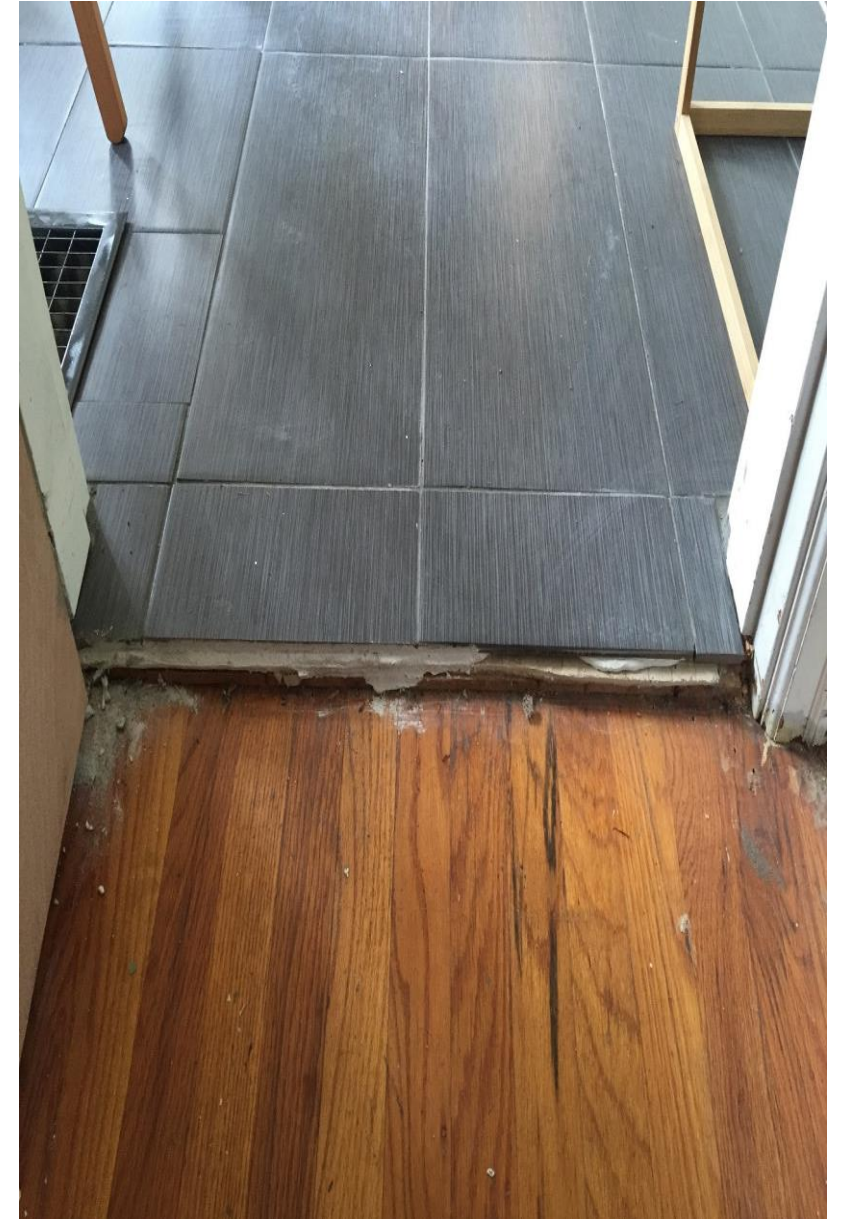
The injuries CGL policies cover **include**

- bodily injury,
- property damage,
- certain personal injuries, and
- “advertising injury”

Pure Financial risk of dealing with
certain demands for money,
made by others,
• to compensate them for injuries or
property damage

Example of Claim: Premises Liability

- A **shopper in a mall** was walking and **tripped** as she entered a clothing store.
- **She broke her hip and ankle.**
- She feels her fall was **the fault of the storeowner**, because **there was an uneven surface on the store's floor.**
- The injured woman **hired a lawyer** who has sent a letter to the storeowner **requesting payment for the woman's medical bills and other related expenses.**



Example of CGL Claim: **Premises Liability**

- A customer enters a place of business where the **floors have recently been cleaned and polished**, and as a result are **very slippery**.
- The **customer slips** on the floor and **breaks her leg**.



Example of Claim: Operations Liability

- The employee of an appliance retailer was at a person's house installing a washing machine.
- After levelling the washer and attaching the hoses, the employee turned on the water to “test run” the machine.
- Water shot out of the washer hose where it was connected to the faucet, damaging the carpet and wooden floor underneath.
- The homeowner wants the retailer to pay for the repairs.

faucet



Example of CGL Claim: **Operations Liability**

- One of the **employees of an electrical company** visits a home for an electrical wiring job
- **accidentally causes a fire in the customer's home.**



Example of Claim: Premises Liability

- A mail-order company rented a warehouse
- **Tenancy Agreement** stated: the **tenant will “indemnify and hold harmless” the landlord for any damage to property of others arising out of the warehouse.**
- A salesman visited the mail-order company was touring the warehouse when **a light fixture fell from the ceiling and landed on the salesman’s samples of fine porcelain.**
- The salesman wanted someone, to pay for his damaged samples.
- **Tenancy Agreement, tenant (mail-order company) will have to pay for this loss.**

TENANCY AGREEMENT (FIXED TERM)

AN AGREEMENT made the _____ day of _____ 200

BETWEEN

.....

Of:.....

(“the Tenant”) and

.....

Of:.....

(“the Landlord”).

WHEREBY IT IS AGREED as follows:

1. The Landlord agrees to let and the Tenant agrees to take the premises known as (hereinafter called “the Premises”) together, where applicable, with the furniture now in the premises and described in the inventory hereto (hereafter called “the Furniture”) **FOR THE TERM** of _____ months/years from the day of [] 200 **AT THE RENT** of _____ pounds (£) for every month of the term payable without deduction or set off in advance and the first such payment to be made on the [] day of 200 and thereafter on the _____ day of each month.

2. DEPOSIT

The Tenant will pay a deposit in the sum of £ []. The deposit shall be retained by the Landlord (or his agent) in an interest bearing account (such interest to accrue to the Tenant) as security for performance of the Tenants' obligations and shall be repayable to the Tenant only after deduction of any sums required to compensate the Landlord whether wholly or in part for any breach of obligation on the Tenants' part.

Example of Claim: Products Liability

- At a fast-food restaurant
- a **customer bit into a hamburger, broke his tooth.**
- He said there was **a rather large chunk of bone in the patty,**
- **wants the restaurant to pay his dentist's bill.**



Example of Claim: Completed Operations Liability

- A homeowner had some kitchen cabinets installed over her countertop by a contractor.
- After the contractor left, she began to load the cabinet with dishware.
- **When the cabinet was nearly full with dishes, it came right off the wall and crashed onto the countertop and the floor.**
- She called the contractor, **demanding that he pays for the necessary repairs.**



Commercial General Liability:

Liability insurance policies **protect a business in two ways:**

1. **paying the costs to defend the business against accusations made by others (non-employees) for certain alleged injuries,**
2. **paying legal judgments or voluntary settlements to the accusing party.**

The **insurance company** must clearly **describe what events are covered.**

- If there is a **disagreement** over the meaning of a particular clause or provision in the policy,
- **the interpretation most favorable to the policyholder will take precedence.**
- **You know why?**

Who can be sued?

- **Any business entity,**
- from the smallest sole proprietorship to the largest multinational corporation
- **can be sued** or
- be blamed for losses suffered by others.

How to protect you from being sued?

- **By purchasing Liability Policies,**
- every business can **transfer uncertain, unknown claim costs to an Insurance Company**
- for a certain, **known cost called (the premium).**

Hazards means:

- **Complaints,**
- **Suits,**
- **Accusations of responsibility**
- **Covered by CGL.**

Hazards under CGL

4 hazards in most standard CGL policies:

- **Premises Liability**: arising out of an organization's premises (whether owned, rented, or occupied);
- **Operations Liability**: arising out of an organization's operations or work (in a plant, at a jobsite, etc);
- **Products Liability**: arising out of products **made, sold, or distributed** by an organization (someone) to compensate the party who is alleging injury or damage;
- **Completed Operations Liability**: arising from work (other than products) that an organization has finished and/or has been accepted or put to its intended use by a customer.

**Modern version of the
CGL Policy include:**

Modern version:

- Two other hazards: embarrassment, humiliation, or misappropriation of certain advertising ideas.
 1. Personal Injury Liability: arising out of alleged offenses such as libel, slander, false arrest,
 2. Advertising Injury Liability: arising from an organization's advertising which **others allege caused them to sustain certain losses or suffering**.

Example of CGL Claim: Advertising Injury Liability

- An advertisement placed by the business results in an individual claiming libel or slander.
- A Commercial General Liability policy might
- **cover the cost of hiring lawyers to defend the Company or**
- **the cost of settling the claims.**

What is a Defamatory Statement?

- A defamatory statement is **factually incorrect**.
- A statement **becomes defamatory** when it's **distributed to another party**.
- Saying a coworker is tough to work with is not defamatory—it's your opinion.
- **Saying they are habitually late** (when **they are not**) would be **considered defamatory**.

What is Libel?

Libel is written, published, or broadcast defamation.

- Defamatory statements **in newspapers, magazines, and blogs are considered *libel*.**
- So are **defamatory things said on TV or radio shows.**
- A small blog is held as **accountable for libel as a major newspaper.**

What is Slander?

Slander is **defamatory statement** in the form of **spoken words**.

- Like standing **inside a restaurant** and **shouting false accusations** about **its sanitary conditions**.
- Most **courts only consider something slander if it causes actual, proven damage to the third party.**
- The restaurant scenario might **not be considered slander if** the diners keep eating and the **restaurant doesn't lose any money**.
- It's **easier to prove libel than slander**, as **the act of publication itself is considered injury to the other person**.

Slander is:

- accusing someone of a **crime they did not commit**,
- spreading a rumor about an **untrue affair**,
- claiming someone has **false credentials**.

Advertising Liability means:

(a) infringement of copyright

(b) unfair competition, piracy or idea misappropriation contrary to an implied contract;

(c) invasion of privacy,

- **committed** or alleged to have been committed during the period of insurance **in any advertisement, publicity article, broadcast or telecast arising out of any advertising activities**
- **conducted by or on behalf of you,**
- **in the course of advertising the products.**

Advertising Liability

means Liability For Damages Arising Out Of :

1. **defamation** (**except arising** out of defamatory statements or disparaging material made or produced **prior to the inception date of the Policy** **or**
 - made at the Insured's direction with the **Insured's knowledge of the falsity** of the statement or material);
2. **infringement of copyright, title or slogan;**
3. unfair competition, **misappropriation of advertising ideas or style of doing business;**
4. invasion of privacy committed and arising out of any **advertising activities** conducted by the Insured in the course of carrying out the Insured's Business.

Advertising Liability

The Company will **not indemnify** the Insured:

5. arising out of advertising activities **prior to commencement date of this Policy**;
 6. arising from the failure of performance of contract, (other than misappropriation of advertising contrary to an implied contract);
 7. for infringement or **passing off** a trade-mark, service mark or trade name on any products, goods or services sold, offered for sale or advertised. (This does not apply to infringement of titles or slogans);
- (Passing off: Claims that products are affiliated with a party who is not involved in their production is a form of passing off).**

Advertising Liability

The Company will **not indemnify** the Insured:

8. for incorrect description of any products and/or services;
9. for mistake in advertised price of products and/or services;
10. failure of the Insured's Products or services to conform with advertised performance, quality, fitness or durability;
11. for any **Insured whose Business is advertising, broadcasting, publishing or telecasting.**

Business means:

- All your **activities and operations** stated in the schedule
- **including the ownership and tenancy of premises,**
- **private work carried out (with your consent) by your employees for any director or senior executive officer** of you,
- the provision or management of **canteen, social or sports organisations** for your employees,
- **internal first aid, fire and ambulance services.**

Occurrence means:

- An event or series of events which
- results, **unexpectedly and unintentionally, in personal injury or property damage or advertising liability during the period of insurance.**
- All personal injury or property damage happening during the period of insurance **attributable to one source** or to a common cause or to the same general conditions shall be **deemed to be one occurrence.**
- **Advertising liability-** all damages involving the same injurious material or act, the number and kind of media used and the number of claimants shall be **deemed to arise out of one occurrence.**

Personal Injury means:

- (a) **bodily injury, death, sickness, disease, shock, fright, mental anguish, mental injury;**
 - (b) **false arrest, false detention, wrongful imprisonment, malicious prosecution, humiliation;**
 - (c) **wrongful entry or wrongful eviction, invasion of privacy;**
 - (d) **defamation, libel and slander;**
 - (e) **assault and/or battery (committed by an insured person) whilst engaged in your business activities**
- **for the purpose of preventing or eliminating danger to persons or property.**

Insuring Clause (Occurrence Basis)

Subject to the limit of liability, terms and conditions of this policy,

- **we will pay all sums** which the insured person shall **become legally liable to pay** for compensation in respect of:
 - **personal injury;**
 - **property damage; and/or**
 - **advertising liability;**
 - **in connection with your business or products** as a result of
- an **occurrence happening during the period of insurance** **within the territorial limits.**

Products

means anything

- **manufactured, grown, extracted, produced, processed,**
- **treated, altered, handled,**
- **sold, supplied, distributed, imported, exported, repaired, serviced, installed, assembled,**
- **erected or constructed by you (including packaging or containers) in the course of the business and**
- after it has ceased to be in your physical or legal control.

Property Damage means:

- (a) physical damage to, loss of or destruction of **tangible property** **including subsequent loss of use of that property**; and/or
- (b) **loss of use of tangible property** **which has not been physically damaged** or destroyed
 - **provided such loss of use is caused by physical damage to or destruction of other tangible property.**

Extensions of Cover

In addition to the limit of liability, we will pay as **additional payments**:

- (a) **reasonable legal costs and expenses incurred by the insured person** (with our written consent) in the defence of any claim;
 - (b) **expenses incurred by the insured person for first aid to others**;
 - (c) **reasonable expenses incurred by you for the temporary repair or shoring up or preservation of property which has been damaged**;
 - (d) **interest accruing after entry of judgment against the insured person until we have paid**, tendered or deposited in court such part of the judgment as does not exceed the limit of liability,
- **resulting from an occurrence which is covered by this policy.**

Extended Cover for Others

Policy is extended to cover:

- (a) any of **your directors, executive officers or employees** whilst acting within the scope of their duties in such capacity;
- (b) any **office bearer, voluntary unpaid worker or member of the canteen, social, or sports organisations for your employees and internal first aid, fire or ambulance services (formed with your consent)**, whilst acting within the scope of their activities in such capacity;
- (c) any of **your directors or senior executives in respect of private work undertaken by your employees for such directors or senior executives**;

Exclusions:

We will not pay in respect of:

1. Advertising liability

- (a) for statements made at the direction of an insured person **with the knowledge of the illegality or falsity** thereof;
- (b) for **breach of contract**, other than misappropriation of advertising ideas contrary to an implied contract;
- (c) for **infringement or passing off (explained next slide) of a trade mark, service mark or trade name on any products, goods or services sold, offered for sale or advertised.**
 - This **does not apply to infringement of titles or slogans;**

What is **passing off**?

- It is a form of **tort, or civil wrong**, where **a person misrepresents products and services** to make them appear to be **coming from someone else**.
- **Claims that products are affiliated with a party who is not involved** in their production are also **a form of passing off**.
- If people can **demonstrate that this caused damages, they can pursue the case in court and collect compensation**.
- This concept is **part of intellectual property law** and is designed to provide people with legal measures for addressing situations **involving misuse and abuse of branding, service marks, and other identifying features of a business**.

What is passing off?

- Someone could sell a product with another company's brand on it, or
- **claim that a celebrity had endorsed a service when this is not the case.**
- The person is **trading on the goodwill the company or celebrity has built up.** Established reputations take time to build.
- Investments of **time, money, and energy in creating a solid reputation** are one cost of doing business, and **passing off can allow people to profit from the expenditures of other parties.**

Exclusions:

- (d) arising from **export of the products** to, or business visits by executives or salespersons **to North America**,
- (e) **for any insured person whose business is advertising, broadcasting, publishing or telecasting;**
- (f) for **incorrect description of the price of products, goods or services;**
- (g) for **failure of products, goods or services to conform with advertised performance, quality, fitness or durability;** or
- (h) acts, errors or omissions **committed prior to the inception date of this policy.**

Exclusions:

2. Aggravated, **punitive or exemplary damages, fines or penalties,**
3. liability in connection with, caused by or contributed to by or
arising from asbestos or
 - **asbestos products or**
 - **asbestos contained in any products.**

Exclusions:

4. Assault and battery personal injury or property damage arising out of assault and battery
 - **committed by an insured person.**
 - This **Exclusion will not apply when such assault and battery is**
 - **committed for the purpose of preventing or**
 - **eliminating danger to persons or property.**

Exclusions:

5. **Building defects:** any liability in connection with any building or structure being **affected by:**
- (a) moisture or water;
 - (b) action **or effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa** or any similar or like forms;
 - (c) **failure of any building or structure to comply with the requirements of any building code or**
 - **to meet the level of performance, quality, fitness or durability of its intended purpose.**

Exclusions:

Costs or expenses arising out of

- **responding to or**
- **assessing the effects of mould, fungi, mildew, rot, decay, micro-organisms, bacteria, protozoa** or similar or like forms.
- **Exclusion shall not exclude** any indemnity for personal injury or property damage that is **caused by** or
- **directly arises out of leakage of internal water pipes or cisterns.**

Exclusions:

6. The **publication or utterance of a defamation, libel or slander,**
 - **prior to the inception date of this policy or**
 - **made at the direction of an insured person with knowledge of the falsity thereof.**

Exclusions:

7. Employer's liability:

- (a) personal injury to any person, arising in the course of employment of such person in the service of any insured person, or
 - **through the breach of any duty owed to that person**, where any insured person:
 - (i) **is entitled to be indemnified** under **workers' compensation** legislation.

Exclusions:

- (ii) would have been indemnified or entitled to be indemnified had any insured person arranged a policy of insurance as required by such legislation.
- (b) **mental anguish, shock or fright suffered by any person arising out of that person's employment by, or service to, any insured person.**

Exclusions:

- (c) **personal injury arising out of wrongful or unfair dismissal,**
- denial of natural justice, harassment, **libel, slander,**
 - **defamation**, misleading representation,
 - misleading advertising or humiliation of, or
 - discrimination against,
 - any person while in any insured person's service, prospective employment or
 - **while employed by any insured person.**

Exclusions

8. **Professional liability:** the rendering of or failure to render professional advice or service provided by an insured person or any error or omission connected therewith.
- **Exclusion shall not apply** in respect of:
 - (i) professional advice or service **about any products**, which is **not given for a fee**;
or
 - (ii) **first aid treatment rendered** by or on behalf of the insured person.

Exclusions:

9. Property in the physical or legal control:

- property damage to property **owned by or in the physical or legal control of an insured person, other than premises leased or rented to you** in connection with your business.

Exclusion does not apply to property damage to:

(a) **your employees' personal effects;**

(b) **property, other than a vehicle, an aircraft, watercraft or hovercraft,** not owned by, but **in your physical or legal control** subject to a maximum of RM250,000 for any one occurrence and in the aggregate during any one period of insurance; or

Exclusions:

- (c) **vehicles in a car park unless:**
 - (i) **the vehicles are used by or on behalf of the insured person; or**
 - (ii) **the car park is occupied or operated by the insured for reward.**

Change of Risk

Notify us in writing of **all changes** occurring during the period of insurance:

(a) relating to the nature of business;

(b) **materially affecting** the facts or circumstances existing at the commencement of this policy, or at any subsequent renewal date, **as soon as such change comes to your notice**, to be **likely to increase the risk of personal injury, property damage or advertising liability** for which indemnity is provided under this policy.

- Any **additional premium** as a result of the change must be paid by you.
- **the knowledge of any of director or officer shall be deemed to be the knowledge of the insured person.**

Commercial General Liability (CGL)

- Policy may include premises coverage, which protects the business from claims that occur at the business' physical location during regular business operations.
- It may also include coverage for bodily injury and property damage that is the result of finished products.
- Excess liability coverage can be purchased in order to cover claims that exceed the limit of the CGL policy.
- Policy may not cover the costs associated with a product recall.

Other Business Risks

- In addition to Commercial General Liability policies, businesses may also purchase policies that provide coverage for other business risks:
- Employment Practices Liability to protect from claims associated with sexual harassment, wrongful termination and discrimination.
- Errors and Omissions made in financial reporting statements, coverage for damages, resulting from the actions of its directors and officers.

'Additional Insured' on Commercial General Liability

- A company may need to name other companies or persons as "additional insured" under their Commercial Liability insurance policy.
- This is when businesses enter into a contract with another entity that requires the insuring business to name the additional entity as "additional insured" on the policy.
- If an automobile repair garage enters into a contract with ABC Co. to provide cleaning services for their facility,
- **ABC Co. may require the garage owners to add ABC Co. as additional insured on their Commercial General Liability coverage.**

Types of CGL Policies:

- **Claims-made policy** covers claims regardless of when the event took place
- **Occurrence policy** where the **event** must take place during a set period.

Claims-made policy or Occurrence policy

- A claims-made policy provides coverage over a specific time period, covers claims made during that time period, even if the claim event occurred at a different time.
- An occurrence policy covers claims provided that the claim event occurred during a specified time period
- does not cover events that occurred before the policy came into effect.

What Is A Retroactive Date?

- A retroactive date is the specific date a **policy's coverage begins**.
- This is generally the policy's effective date or a past date agreed on by the Insured.
- If an **incident occurs before the retroactive date, it won't be covered**.

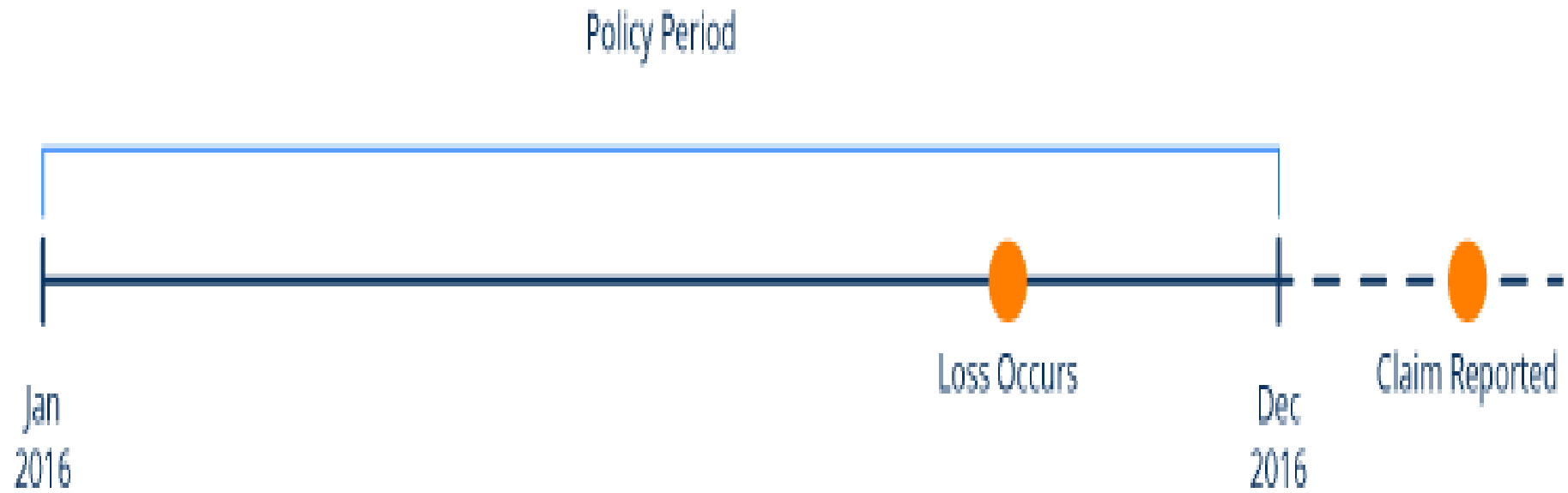
Retroactive Date example

- A business owner purchases a General Liability policy on a **claims-made basis**.
- **Policy is effective from January 1, 2016, through December 31, 2016**, has a **retroactive date of October 1, 2015**.
- A **claim is reported during the policy period** for a **loss that occurred on November 10, 2015**.
- As the incident was **reported during the policy period** , **occurred after the retroactive date, the claim is covered**.
- Claim **not payable if the loss occurred prior to October 1, 2015**.

Occurrence policy

- Covers losses that take place during a specific coverage period, **regardless of when an incident is reported.**
- If an electrician purchases a General Liability policy on occurrence basis.
- Policy **effective from January 1, 2016 through December 31, 2016.**
- A **claim is reported** against the electrician in **February 2017**, for **faulty work** completed during the policy period in October 2016.
- Claim is covered **since the** loss occurred during the policy period.

Occurrence example



Occurrence Basis

- Since the incident occurs within the policy period,
- it'll still be covered under an occurrence policy
- even it was reported after the policy's expiration date.
- An **occurrence** policy is typically more expensive than a claims-made policy
- because there isn't a limit on the time a claim must be reported.

General Liability Insurance cost factors:

- **Type of business:** The more risk your business faces, the higher your rate can be.
- **Location:** Less populated areas may mean your business faces less risk. This can reduce your rate.
- **Revenue:** The higher your business' annual revenue or sales, the more you have to pay.
- **Coverage limits:** If you choose a higher limit for your CGL insurance policy, your rate will increase.

Review Questions

Review Questions

1. A Commercial General Liability policy would generally **not cover** whom?
 - a. Individuals in their business capacity
 - b. Individuals for their personal risk.
 - c. Companies for the work they do
 - d. Companies for their business operations

2. Liability Risk refers to:

- a. The risk of a company's own building burning down
- b. The risk of a company losing market share
- c. The unknown cost of being blamed or being responsible for injuries to others.
- d. The known cost of liability insurance premiums

3. One of the following is NOT an example of pure risk:

- a. A person gambles in Las Vegas in hopes of hitting the jackpot.
- b. A business owns three factories that are exposed to many perils
- c. A business makes dynamite in an old wooden building
- d. A landlord leases out apartments to college students

4. If a provision in an insurance **policy is unclear, and there is disagreement over the provision's meaning:**

- a. The insured and the insurance company will have to fight over the provision's meaning
- b. The party with the best attorney will prevail
- c. The interpretation of the provision most favorable to the policyholder will govern.
- d. Both parties will rejoice at the chance to take each other to court

5. One of the following is **NOT** a hazard covered by modern CGL policies:

- a. Products liability
- b. Premises liability
- c. Personal injury liability
- d. Instructional liability.

Review Answers

1. b

2. c

3. a

4. c

5. d

RECAP

All businesses (big or small) face potential liabilities.

- They need **Commercial General Liability (CGL)** insurance.
- “**Commercial**” refers to **Non-personal**, or
- **Business Operations**.
- Happy Marketing.

Next Recommended Session: Co-insurance & Reinsurance

- What is Co-insurance?
- What is Reinsurance?
- Facultative Reinsurance
- Case Studies
- Proportional Treaty
- Quota Share Treaty
- Non-proportional Treaty
- Retrocession.

