



The Educator



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Looking at the MIB – Movement in Boardrooms

Last year, Uber Technologies Inc. pledged 2 million euros (EC\$5.7 million) to help chauffeurs facing difficulties in France, after drivers traded days of striking and blocking traffic for labour union negotiations.

With more than \$10 billion in capital raised to fund global expansion, Uber faces push-back from regulators and drivers, as workers organize and seek employee status.

The company recently agreed to settle a class-action lawsuit brought by drivers in Massachusetts and California, all the while arguing that drivers are independent contractors and therefore not entitled to benefits. Last month it agreed to start a guild for 35,000 drivers in New York.

While the technology solution to support connecting people, who need a ride with people wanting to make money from driving their cars is simple; the implication for liability and insurance is not. Insurers in the Caribbean need to be able to compete with market offerings to avoid losing business.

In a Press Release of 20th January 2017, the Association of Trinidad and Tobago Insurance Companies (ATTIC), noted that Uber officially launched its ride-sharing app service in Trinidad & Tobago on Monday 16th January 2017, and that "[T]his on demand car service which facilitates commuters to request transport to or from their chosen destination point(s) through the use of their mobile platform has generated considerable interest".

According to ATTIC, they have raised two major issues for consideration:

1. the use of the "Uber" vehicle – is it registered for "hire" or "private use"?

In this regard, ATTIC says:

"[T]his therefore means that a person who uses a privately registered motor vehicle for the purpose of hire or reward would be committing an offence.

In the case whereby a registered taxi is being used to provide the required service, The Motor Vehicle and Road Traffic Act also provides that:

"No person shall drive on any road a taxi registered as such unless he is the holder of a taxi driver's licence issued to him by the Licensing Authority under these Regulations."

The Educator

2. the insurance implications of the Uber service – under the Motor Vehicles Insurance (Third-Party Risks) Act provision is made for the protection of third parties against risks arising out of the use of motor vehicles.

"The Act places an obligation on owners of motor vehicles to hold insurance policies or other securities against third party risks and set out the requirements in respect of these policies" the Release said.

The ATTIC Press Release concludes by saying "In light of the Uber initiative, immediately addressing the motor vehicle legislation would certainly be a step in the right direction".

Students of the AIIIC's Motor Insurance courses will be aware of some other implications:

A. **Primary policy exclusion** - The associated risk is excluded under the primary personal motor policy under General Exclusions of the policy states:

"... there is no coverage under this policy if:

- *the automobile is used as a taxicab, bus, a sightseeing conveyance or to carry paying passengers." or*
- *"this policy does not cover use for hire or reward....."*

A. **Reinsurance exclusion** - The associated risk is also excluded in some Reinsurance Contract:

"Buses for hire and all other forms of vehicles for hire other than those in connection with funeral home operations."

Deal with it

Uber is here to stay. Insurers in the Caribbean may follow what is happening in other jurisdictions. For example, in some North American jurisdictions, Uber has partnered with insurers to provide commercial motor coverage for all Uber drivers and passengers. In short, Uber's commercial auto coverage goes into effect from the time a driver turns on Uber's app and becomes available to accept a ride request, to the time passengers exit the vehicle. Outside of these times, coverage will revert to the driver's regular motor insurance policy.

Gone but not forgotten

The AIIIC offers condolences to the family, friends and coworkers of Dianna Richards, and to members of the Insurance institute of Antigua and Barbuda, on the passing of one of the earliest holders of the AIIIC's CIFIC designation. Dianna passed on February 20th, 2017. Gone but not forgotten.



The Educator

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