

QUESTIONNAIRE FOR AIDA WORLD CONGRESS, RIO, 2018

New Technologies

(Autonomous Vehicles and Robots- Cyber Risks- New Technologies and Insurance Process)

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I. DRIVERLESS/AUTONOMOUS VEHICLES AND VESSELS

1. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to liability in tort for injuries inflicted by the use of such vehicles or vessels? If so, please provide a short explanation.

There is not any specific law regarding liability in tort for injuries caused by the use of driverless/autonomous vehicles or vessels in Brazil yet, apart from Brazilian Civil Aviation Regulation RBAC-E nº 94 ruling the General Requests for Non Tripulated Aircraft or Unmanned Aerial Vehicle. There are also a project of law regarding the use of drones.

2. Are there any specific laws already adopted in your jurisdiction, or proposals for laws, relating to compulsory insurance coverage for injuries inflicted by the use of such vehicles or vessels?

No, there is no specific law or proposals for laws relating to compulsory insurance coverage for injuries inflicted by the use of such vehicles or vessels.

3. How do you envisage the future of personal lines in motor vehicle insurance in the next 5-10 years in your jurisdiction?

Insurance companies are preparing themselves to meet the demands of new risks brought by the most varied technological innovations based on the experience of the insurance market abroad and other studies. The policies may suffer amendments to face the risks of driverless vehicles. Cyber risks will have to be considered for this type of vehicle and in the future, this will be object of coverage for natural persons (nowadays cyber risks can only cover companies, although we find some policies of D&O covering individuals, on special clauses).

4. Driverless cars and autonomous vehicles apart, how do you assess the following technological developments that are expected to not only reshape the auto sector but also the insurance industry around it?

(a) connected cars (i.e., Internet enabled vehicles, (IEV));

It is probable that the (future) special law on the use of privacy data will regulate the subject.

(b) automated driver assistance systems (ADAS);

New policies are been elaborated to attend ADAS.

(c) car/ride sharing;

Car's insurance companies already offer insurance for car/ride sharing

(d) alternative fuel vehicles:

Actual car policies already cover alternative fuel vehicles. Alternative fuel vehicles have been produced and/or assembled in Brazil since the 1970, and since then the car insurers offer policies for coverage of such vehicles. There are also flex vehicles, which use alternatively alcohol, gas or gasoline, which find insurance coverage in the market since the production began.

II. CYBER RISKS

5. Identify the concerns that have emerged in your jurisdiction as a result of cyber risks. Is there any legislation in place or under consideration that might affect such risks?

We have a generic legislation for data protection and privacy, but there is already a proposal in the National Congress for specific regulation about it. We had a criminal offense added to our penal code some years ago because of a violation of the particular images of a famous actress. In addition, in 2016, the Law was regulated by the Decree 8771/16, which deals with the civil Internet framework.

In addition, the Central Bank Authority (responsible for the regulation of financial institutions) recently put in public consultation a draft of a new regulation applicable to cybersecurity of institutions authorized by the Central Bank. The public is being consulted about topics involving data sensitivity, definition of risk profiles and complexity of operations, as well as credential theft, hacktivism, extortion, data privacy and security issues and the availability of services.

6. How has the insurance industry responded to cyber risks? In particular:

(a) Do property policies cover losses from cyber risks, or is special insurance required?

When requested on special terms, many Property insurance policies cover damages arising from cyber attacks. To date, Cyber risk insurance policies available in the Brazilian market excludes property damage.

(b) Is insurance and reinsurance readily available?

Yes, the Brazilian market today has four specialized insurers on that subject, but this number might double in 2018. In addition, some reinsurers already give capacity to the local market.

(c) Is there any special restrictions imposed on cyber risks, e.g. event limits or deductibles

Deductibles are applicable to most of the coverage of specific products of cybernetic risks in Brazil. Particularly, a franchise of hours ranging from 10hs to 24hs is applicable to the coverage of Loss of profits. In addition, some policies can only be underwritten for certain types of risks.

III. NEW TECHNOLOGIES AND THE INSURANCE PROCESS

7. To what extent have the availability of new technologies affected the way in which insurance policies are placed? In particular:

(a) has there been any effect on the traditional use of agents and brokers?

Yes, the traditional insurance policies sold by agents and brokers have already been affected since it is

already possible to contract insurance by internet, with or without the interference of those.

(b) has the underwriting process been affected by the availability of information, particularly big data, from sources other than the applicant for insurance:

Yes, it is already possible to apply automated solutions based on historical data for the subscription process, with the use of software without the need for individual risk analysis by a subscriber.

(c) has the means of providing information to policyholders changed significantly, e.g. are written documents provided or are policyholders directed to websites?

Currently most insurance companies send the policies and other information electronically, and even accept to receive applications, proposals and documents forwarded by policyholders and proponents via cloud services.

8. To what extent is genetic testing regarded as important by life and accident insurers? Is there any legislation in place or in contemplation restricting requests for genetic information, and are there any relevant rules on privacy that preclude its disclosure?

There is no practice in the Brazilian insurance market to require genetic tests of the insured person. Nevertheless, the jurisprudence tends in the sense that the Brazilian legal framework does not allow such practice, due to constitutional law protection of individual privacy.

9. Has the assessment of claims been affected by the availability of data. In particular, are there any industry-wide arrangements in place whereby insurers can share information on fraud?

Yearly, The Brazilian Insurer's Confederation carries out a fraud report with the indicators flags resulting of the collected information of all branches provided by all the insurance companies, except for Health and Supplementary Pension Plans.

10. Are there any other ways in which the new technologies have affected the insurance process in your jurisdiction?

Answers provided above.

IV. OTHER NEW TECHNOLOGY RISKS

11. Are there any other particular risks from the new technologies that have been identified in your jurisdiction? If so, is there any legislation in place or under consideration to regulate them?

There are certainly other risks already affecting the life of consumers and companies in Brazil. Nevertheless, Brazilian law is not addressing the issue yet.
