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PARTICULAR INSURANCE FEATURES OF MOBILE ELECTRONIC DEVICES

REVIEW ARTICLE

Abstract

Switching from analogue to digital information technology increased the electronic communication opportunities, especially after a gradual and ever-expanding use of the Internet since its introduction. On the other hand, the possession of mobile electronic devices² has become one of the elementary needs for all those who want comfort and benefit from using the new technologies in everyday life and work. The increasing number of owners of mobile electronic devices and the significant price and portability of such devices (which is why there is an increased risk of loss or damage) were the main reasons for the emerging demand for their insurance.

In this paper, the author pays attention to the subject matter and risks insured, insurance cover and excluded risks and some of the obligations of the insured persons which characterise this type of insurance. The topic was analysed by insight into domestic and foreign literature available to the author and by analysing a number of insurance terms and conditions of both Serbian and British insurers.

Key words: *mobile devices, Internet, insurance, assets, cover, risks*

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² In this paper, the author uses the term „portable electronic devices“ because he thinks that it covers all types of such devices and that it fully corresponds to the spirit of the Serbian language and the topics. This choice of the author certainly does not exclude the use of other terms for the purposes of development, marketing and sales of insurance products.

1. Introduction

Social communication has always been one of the most significant needs of human civilization, just as the existential needs for food and shelter. Several millennia have passed between the use of symbols and drawings in caves and the predecessors of a modern letter. For such a long period, the letter was shaped and developed under the influence of political and socio-economic systems of different nations and cultures, so that the modern communication earned new forms and dimension³. This was certainly affected by significant technological discoveries: production and transmission of electricity, radio waves, satellite navigation and computers. One of the most important devices of modern technology is a mobile telephone, wrongly regarded as the invention of the second half of the 20th century, because the first written track of the use of wireless telephony dates back to 1908, in the USA.⁴

By switching from analogue to digital information technology, electronic communication capabilities increased, especially after the gradual and ever-expanding use of the Internet since its introduction. A completely new field of information communication arose gradually with the Internet opportunities for long-distance control and instruction of home appliances and installations and/or other remote operations for different purposes⁵. According to a study conducted by McKinsey's Global Institute in New York, approximately 914 million individuals were connected through at least one social network (Facebook, Twitter, LinkedIn, and WeChat) at the beginning of 2016, while 360 million people participated in cross-border e-trade.⁶ Thus, the possession of mobile electronic devices has become one of the basic needs for all those who want comfort and benefit from new technologies in their everyday life and work.

The latest trend in business operation methods is the application of the so-called "Economy of sharing" in which, based on the principle of sharing, services and products are hired and exchanged in a way that all types of legal relations are concluded and carried out without the need for an intermediary⁷. This is a business

³ David Diringer, "History of the Alphabet" in: *World Heritage Encyclopedia, 1977*, http://worldheritage.org/articles/History_of_the_alphabet, accessed: October 3, 2018.

⁴ In one dispute in California, the defense witness, an experienced electrician, confirmed that in 1904 he attended a demonstration of a professor Alberta Jankea in Kansas City, on the occasion of his live-transmission of speech to a 7-mile (11-kilometer) distant location, through the use of wireless phone and that communication with more powerful instruments can be carried out at a larger distance ("Wireless phone cases dismissed", *San Francisco Call*, 104 (37), 7 July 1908, <https://cdnc.ucr.edu/cgi-bin/cdnc?a=d&d=SFC19080707.2.68&e=-----en--20-1-txt-txIN-----1>, accessed on 1st October 2018)

⁵ Thierer, *The Internet of Things and Wearable Technology: Addressing Privacy and Security Concerns without Derailing Innovation*, *Richmond Journal of Law & Technology*, No. 2/2015, <http://jolt.richmond.edu/v21i2/article6.pdf>, accessed on 3rd October. 2018

⁶ James Manyika, et al. *Digital globalization: The new era of global flows*. New York City, 2016, pp. 48.

⁷ Katica Tomić, "Blockchain technology, smart contracts and their implementation in the insurance industry", S. Jovanović i P. Marano (ur.) in: *Insurance law and Practice – Challenges. New Technologies and corporate governance* (133–145), Belgrade, 2018, pp. 134.

model between participants of a single computer network. Reputation, harmonized customer experience and product changes to meet the needs of evolving clients represent the factors of standing out in the insurance market, since the use of insurance services concentrated around the Internet, smart telephones and other devices with an Internet access will make technology generally present in the value chain of the “economy of sharing”⁸

According to the data of the Regulatory Agency for Electronic Communications and Postal Services of the Republic of Serbia, the total realized fixed telephony traffic is constantly declining, from 1.48 billion minutes in the first quarter of 2016 to 92 billion minutes in the second quarter of 2018⁹. When analysing the amount of data transmitted only through mobile telephony networks, a steady increase is visible by quarters in the period from 2016 to the second quarter of 2018. Thus, in the last quarter of 2016, 14 million GB of data were transmitted and in the second quarter of 2018, more than three times such amount and/or 47.19 million GB.

Ever increasing number of owners of mobile electronic devices, the significant price and portability of such devices, which result in increased peril of their loss or damage, were the main reasons for the emergence of demand for their insurance. In one of the previous papers, the author addressed the increasing value of the insured items and specific risks that the thing can be exposed to and, accordingly, how inadequate for the Insured is to take out coverage under insurance products not tailored to these items and their inherent risks¹⁰.

From the perspective of the users of insurance services, mobile technology can play a significant role for individuals and entities wishing to conclude insurance and/or when paying a premium or filing a claim, especially if they can do so quickly and easily through a mobile electronic device.¹¹

The insurance of mobile electronic devices belongs to the group of non-life insurance, namely the property insurance¹². The basic characteristics of the insured subject matter coincide with other types of property insurance, so it is regulated by the same principles of law of contracts and torts.

⁸ I. Campos, Insurance products for the sharing economy will require insurers to transform their business processes, operations and communication across the policy value chain, January 31, 2018, <https://www.capgemini.com/2018/01/how-the-sharing-economy-is-changing-the-insurance-industry/>, accessed on 3rd October. 2018

⁹ Overview of the electronic communications market in the Republic of Serbia for the fourth quarter of 2016 and 2017 and/or the second quarter of 2018.

¹⁰ Slobodan Jovanović, “Some Aspects of Insurance of Collections and Valuable Household Items”, *European Journal of Insurance Law*, No. 3/2018.

¹¹ S. Hochburger, Partnering with Insurtech to Transform Rather Than Disrupt Insurance, July 2, 2018, <https://www.insurancejournal.com/magazines/mag-features/2018/07/02/493786.htm>, accessed on 1st October 2018.

¹² Insurance Law, Official Gazette of RS, no. 139/2014, Art. 9, para. 1, item. 8 and 9.

Due to its specificity and high value, the insurance of mobile electronic devices sells separately on the British market or in combination with other types of coverage. Therefore, the insurance of mobile electronic devices can be transacted as a self-specialized cover for all such devices or only particular types, or within a complex insurance program.

When handling the topic of this paper, we also use special terms and conditions for insurance of mobile technology on the Serbian market, which in certain segments coincide with the British market insurance terms and conditions. Partial deviation of the special terms and conditions for insurance of mobile home technology reflects in the scope of the insurance (Serbian special terms and conditions provide cover for all mobile /listed/ devices, and not only for electronic mobile devices, which are the topics of this paper), risks covered and individual causes of damage that are not covered and are characteristic for the use of these devices (for example, damages caused to devices that are handed over into the registered baggage for the carriage, costs of unauthorized use of the devices, costs of destruction, alteration or other electronic devices data disruption etc.) According to a study carried out by the UK Financial Market Supervisory Agency in 2013 on the insurance of mobile telephones, when properly developed, sold and managed, this line of insurance can be beneficial for the insurance service consumers.¹³

The Serbian insurance market has applied special terms and conditions for insurance of mobile technology for many years, while the insurance of mobile phones and other mobile devices was developed only recently.¹⁴ Another example of the activities of Serbian insurers as regards this subject matter is a tendency to cover exclusively the screen of mobile phones¹⁵. The author devotes special attention to the subject matter of insurance and insured risks, insurance cover and excluded risks and special obligations of insured persons under this type of insurance. The selected topic is studied by analysing particular insurance terms and conditions of the Serbian and British Insurers.

2. Insured Subject Matter and Risks Covered

Although there is no standard definition, we can say that electronic mobile devices are a special type of machinery serving to perform or execute particular

¹³ Financial Conduct Authority, *Mobile phone insurance – ensuring a fair deal for consumers*, London, 2013, pp. 4.

¹⁴ Dunav Insurance Company, Special Terms and Conditions for Comprehensive Insurance of Mobile Telephones and Other Mobile Devices, D01-423-U09-81, 29. 8. 2018; DDOR Novi Sad, Special Terms and Conditions for the Insurance of Mobile Devices Purchased through Mobile Operator - “Vip mobile” d.o.o. Belgrade, DDOR-RS-OMU-46-0518, May 24, 2018.

¹⁵ Generali Insurance Serbia, Terms and Conditions for Insurance of Mobile Phone Screens, November 1, 2017; UNIQA Non-Life Insurance, Terms and Conditions for Group Insurance of Mobile Telephones against Risk of Screen Breakage, UGOMLE III / 2018, March 7, 2018.

business, educational, consumer, entertainment, recreational or other kind of function. The special terms and conditions of Serbian insurers for insurance of mobile technology are conceived as an insurance product intended for all types of mobile devices, instruments and appliances that are covered by insurance, of which the electronic mobile devices are only a type. Thus, "mobile technology" is considered to comprise:,... mobile instruments, devices and apparatuses used in the field, for performing geological and hydrogeological research, measurement, control, analysis, diagnostics and surveying (technical and medical) and the like, which does not form an integral part i.e. is not installed into a motor vehicle, vessel or aircraft, by which it is conveyed for usage."¹⁶

The insurance of mobile electronic devices should not be mixed with the insurance against IT risks. The insurance of mobile electronic devices has some touch points with insurance against IT risks, but also differs from it, as we will see in hereinafter, in some important elements.

Given the ever growing use of the Internet and the dependence on information technology and devices, as well as the ever-present peril of loss due to IT attacks and technology inherent risks, the need to insure against harmful effects of IT risks is on the rise. The author of this paper has already written on the subject matter of this insurance in our legal theory¹⁷. However, the insurance of mobile electronic devices covers primarily material damage caused by a loss of or damage to such devices caused otherwise but by disruption, blockage or other kind of inaccessibility or loss of computer programs and systems due to any person's threat to the security of IT equipment and devices. As opposed to the scope of insurance of mobile electronic devices, the insurance against IT risks covers, as a property line, the costs incurred from a particular number of insured occurrences¹⁸. The scope of insurance against IT risks also comprises the liability of the owners (Insured) of IT equipment towards third parties¹⁹, which, on the other hand, is not included under the scope of insurance of mobile electronic devices.

The special terms and conditions for insurance of mobile technology of Serbian insurers can, in many segments apply to the insurance of mobile electronic devices widely used by individuals (mobile telephones, laptops, tablets, fablets, iPods, iPads, reading devices for electronic book versions / Kindl / and all others that, with the development of technology, appear on the market), since the definition of the insured subject matter under these terms and conditions is sufficiently broad to

¹⁶ DDOR Novi Sad, Special Terms and Conditions for Insurance of Mobile Techniques (Devices, Instruments, Apparatuses), Art. 1, para. 1; Sava Insurance, Special Terms and Conditions for Insurance of Mobile Techniques, November 27, 2008, Del. no. 02-3944, Art. 1, para. 1.

¹⁷ Slobodan Jovanović, "Insurance against IT risks", Topics, no. 3/2017, July - September.

¹⁸ Slobodan Jovanovic, *Ibidem*, pp. 831

¹⁹ Slobodan Jovanovic, *Ibidem*, p. 833.

include such mobile electronic devices. On the other hand, Serbian insurance market, according to the definitions contained within the special terms and conditions for the insurance of mobile devices, has a tendency to limit the subject-matter insured, since none of the analysed definitions includes the wording “all mobile devices, excluding ...” The reason for this can be the type of products sold by the mobile operator (for example, the mobile operator only sells particular types of mobile devices)²⁰ or because of the intention to dedicate the insurance product to target types of mobile electronic devices, when the purchaser gets the device from the mobile operator or from the intermediary, sales representative.²¹

In the insurance of mobile electronic devices in the British market, the subject of insurance is more closely defined and limited by particular assumptions regarding the ownership and method of acquiring the device, its age, holding and condition. In the first case, all insurers stipulate that the insured shall have bought the device in the Great Britain or restored by a manufacturer or network service provider (in which case, a condition of coverage issued by British insurers is different maximum age of the device), received by way of replacement from an insurer or purchased on the basis of a gift voucher, provided that the insured can prove this.²²

With reference to splitting the objects according to particular generally accepted legally relevant characteristics, this is the insurance of mobile, non-consumable goods defined by the kind. Mobile electronic devices are characterised by easy and fast transfer from one place to another. Therefore, they justify the definition that mobile objects are considered “... the objects whose position in the space cannot be changed without altering their essential character”²³ When it comes to the nature of inconsumability of mobile electronic devices, the inconsumable mobile electronic devices are considered the objects that “... can be used repeatedly or unlimitedly, without significantly impairing their substance”. In this paper, the author observes this property from the customer’s point of view²⁴. Although defined under the insurance contract by a serial number or device mark, with its quantity not expressed in terms of a measuring unit, a mobile electronic device is in fact determined by kind because it is a “serially manufactured machine”²⁵ In addition to the devices themselves, in British insurance market, the subject matter insured shall also comprise the accessories such as chargers, protective masks, headphones. Nevertheless, the SIM cards are excluded from coverage.

²⁰ DDOR Novi Sad, Special Terms and Conditions for Insurance of Mobile Devices Purchased through Mobile Operator - “Vip mobile” d.o.o. Belgrade, DDOR-RS-OMU-46-0518, 24.05.2018, Art. 1, para. 1

²¹ Dunav Insurance Company, Special Terms and Conditions for Comprehensive Insurance of Mobile Telephones and Other Mobile Devices, D01-423-U09-81, 29. 8. 2018, Art. 2, para. 1 and Art. 4, para. 1.

²² Great Lakes Insurance SE, *CoverCloud Gadget Insurance Policy Wording*, CCG-BAS-PW-201801-1, 2018, pp. 2.

²³ Ilija Babić, *Introduction to Civil Law and Real Law*, Belgrade, 2016, pp. 242.

²⁴ Ilija Babić, *Ibidem*, pp. 246

²⁵ Ilija Babić, *Ibidem*, pp. 244

The insured subject matter shall comprise the objects individually listed and described in the insurance policy schedule, so there is no dilemma to which items or objects the insurer's liability refers. When concluding the insurance contract, the insurer expects the insured to deliver an evidence of purchase of the device or a statement of guarantee containing the following device data: (1) IMEI (International Mobile Equipment Identity²⁶) or serial number; (2) make and model; (3) purchase price and (4) a certificate or statement that the device is fully operable at the time of sale. In some cases, it is possible that the insurer provide a specific application form through which the insured will send information about the device and its photographs²⁷. Nowadays communication between insurers and insured is very fast and efficient, as there are various methods and technologies available for it. These may be applications for individual devices, insurer websites, email or sending a message via mobile telephones.

As already mentioned, the subject of insurance is a matter determined by kind. Things determined by kind are interchangeable, so if an insurer cannot replace a device with an identical device of the same age and condition, he will hand over a device with similar specifications or similar values, taking into account the age and condition of the damaged insured device. Nevertheless, the insurer shall exclude the liability to hand over the replacement device of identical colour.²⁸

The subject matter of insurance of mobile electronic devices may cover exclusively individual devices of different manufacturers. It is also possible that only mobile telephones be covered by special insurance terms and conditions or under an insurance program. Such an example was observed in the practice of the Bank of Scotland and its Halifax department in connection with complex insurance of current account owners under which, in addition to travel insurance, a sudden failure

²⁶ IMEI is a unique identification number for GSM, WCDMA and iDEN mobile phones, as well as some satellite phones. In most cases, the phone has one IMEI number, but two SIM cards have two IMEI numbers. This number uses the GSM network to identify the legal device and therefore can be used to block the stolen phone from accessing the network, <https://www.imei.info/faq-what-is-IMEI/>, accessed on 2 October 2018.

²⁷ Generali Insurance Serbia, Terms and Conditions for insurance of mobile phone screens, 1. 11. 2017, Art. 2, para. 1, item. 3 and 4.

²⁸ Great Lakes Insurance SE, op. cit., 2018, p. 5. A similar solution is also provided under the terms and conditions of a Serbian insurer, whereunder the mobile device shall be replaced by the one of a same type. However, if the replacement of a damaged mobile device by a device of the same type is not possible, since it is no longer offered by a mobile operator, the device is replaced with the one equal to the cash value and possibly of a different make of the manufacturer (DDOR Novi Sad, for the insurance of mobile devices Special Terms and Conditions for the Insurance of Mobile Devices Purchased through Mobile Operator - "Vip mobile" d.o.o. Belgrade, May 24, 2018, Article 2, paragraph 4). The liability of the insurer in the case when the new device of the same make and quality is no longer available on the market is more precisely defined under other insurance terms and conditions, obliging the insurer to deliver the insured, by way of compensation, a new device currently available on the market, which corresponds to the technical characteristics of the insured device (Dunav Insurance Company, Special Terms and Conditions for Comprehensive Insurance of Mobile Telephones and Other Mobile Devices, Article 11, paragraph 4).

S. Jovanović: Particular Insurance Features of Mobile Electronic Devices

of a motor vehicle or household, coverage is provided for the cost of repairing or replacing a mobile phone up to £ 2,000 due to a loss, theft, damage or breakage²⁹. In fact, when opening a customer's current account, the bank sells various types of insurance from different insurers integrated into one product, consisting of a banking product and particular insurance products.

Mobile electronic devices may suffer occurrences such as loss or damage to property-related assets, where the property value may be expressed in cash. In addition to the loss or theft of the device, insurance also covers damage caused by fire or by impact of liquids, provided that this is not done by the deliberate act of the Insured or a third party.³⁰ On the other hand, there are insurers in the UK market that provide coverage under the "all risks" system in terms of direct, material damage to the device substance.³¹

Risks that are excluded from the coverage of property insurance shall not be covered by the insurer's liability under this kind of insurance either. Thus, damages caused by war and nuclear risks are not covered. Please note that the definition of war risks in Serbian and British market also comprises a risk of terrorism.³² Covered are also damages caused by a shock wave caused by pressure waves from a spacecraft or another airborne device traveling at the speed of sound or supersonic speed. We have not observed this risk exclusion in the British insurance market under the insurance terms and conditions of domestic insurers.

A characteristic exclusion from the insurance of mobile electronic devices, which, inevitably, covers the processors and data storage media, refers to losses or damages to information, data or software contained in or stored on the device. This exclusion applies regardless of the fact that damage was caused by one of the risks covered³³

The obligation of the Insurer is also excluded for all indirect damages. One such damage concerns the purchase of items or the withdrawal of money from an insured account by using bank data or a credit card from a stolen device. In other words, the coverage is excluded for costs incurred by unauthorized use, unless otherwise stipulated under particular clause of such a cover.

²⁹ Halifax (Bank of Scotland). *Ultimate Reward Current Account*, 1/3360041-1 (10/18), 2018, pp. 5

³⁰ Great Lakes Insurance SE, *op. cit.*, 2018, pp. 2.

³¹ AmTrust Europe Limited, *op. cit.*, 2018, pp. 11

³² Dunav Insurance Company, Special Terms and Conditions for Comprehensive Insurance of Mobile Telephones and Other Mobile Devices, 2018, Art. 12, para. 1, item. 1. Terrorism shall mean any act, including but not limited to the use of force or violence together with threat by any person or group of persons acting independently or in the name for or in connection with an organization or government out of political, religious, ideological or similar motives in order to influence any government, arise fear in the public or any part thereof (Great Lakes Insurance SE, *op. cit.*, 2018, page 3, Zenith Insurance Plc, ZIP On-Line Gadget Policy, 2018, page 1).

³³ Dunav Insurance Company, Special Terms and Conditions for Comprehensive Insurance of Mobile Telephones and Other Mobile Devices, 2018, Art. 12, para. 1, item 13, al. 5 and item 14. Great Lakes Insurance SE, *op. cit.*, 2018, pp. 5.

3. Cover and Some Obligations of the Insured Featuring in Insurance of Mobile Electronic Devices

Serbian insurance market traditionally sells property insurance under a system of named perils. The insurance coverage is provided for two risk groups: standard and additional perils. However, the mobile electronic devices insurance in British market is transacted at "All Risk" principle, when covering material damages to devices. This cover applies to damage caused by perils not explicitly excluded under the insurance terms and conditions, and the Insurer is obliged to indemnify only if he fails to prove that the damage was caused by an uncovered risk. However, the British market insurance terms and conditions precisely define the meaning of particular words and consequentially remove the possibility of any doubts regarding the subject matter covered, the moment of activation and liability of the Insurer.

We shall hereinafter analyse the terms and conditions for the insurance of mobile electronic devices of the "Great Lakes Insurance SE" insurance company, which more or less coincide with the terms and conditions of other insurers.

The underlying coverage includes the following risks: theft, loss, accessories up to 150 pounds and the abuse of the electronic wallet. Under the extended coverage, the insurer covers: theft, abuse of electronic wallet, accidental damage, breakage, screen fracture, damage due to liquid spillage and unauthorized use. Under the widest scope of coverage, the risks from the previous two levels of coverage are insured.

The risk of theft, which is covered as an additional risk in Serbian insurance market, is covered under all the coverage levels in the analysed insurance conditions³⁴.

However, the Insurer stipulated particular terms and conditions under which they were not going to accept the liability to compensate for the damage from theft. The reasons for denial primarily relate to special obligations of the insured regarding the storage of the device. For example, the insurer will not indemnify for the damage if the device was stolen from a motor vehicle while the insured or a person acting on his behalf were not present in the vehicle, unless the device was hidden in the locked vehicle drawer, all windows closed, the doors locked and security systems activated. The insured due diligence is required in implementing protective measures in the house or flat of the device owner, in the sense that the object needs to be locked and secured. However, the insurer will compensate for the damage caused by the burglary if the house or a flat were broken into. Good care of the device storage reflects also in its concealment, disposal or removal when not in use, into a locked room, safe, locked closet or drawer, as well as in all other cases where available protection measures have not been taken.³⁵

³⁴ The contrary is provided under *AmTrust Europe Limited*, company insurance terms and conditions, where the theft and loss of the device are not covered under the standard coverage, but under the expanded (theft) and the highest level of coverage (theft and loss of devices) with the obligation to pay an additional premium .

³⁵ Great Lakes Insurance SE, *op. cit.*, 2018, str. 4; Zenith Insurance Plc, *op. cit.*, 2018, pp. 2.

Unauthorized use of a device after unintentional loss or theft of the device is a specific peril, which can be insured in this type of insurance but, by a rule, against payment of an additional insurance premium. In this case, the subject matter insured is the costs arising from unauthorized calls, messaging, downloading, creating and using data from the moment of occurrence of the specified risk. However, in this case, the obligation is limited in time (most often up to 24 hours after knowledge of loss or theft) and in cash to a certain amount.³⁶

The insured is obliged to take all reasonable measures aimed at preventing the possibility of damage. This obligation arises from another obligation that the insured should continue to act conscientiously and with due care towards the object insured, upon conclusion of the insurance contract, as if it was not covered by the insurance.³⁷ The aforementioned obligation, in non-marine insurance, which includes the insurance of mobile electronic devices, arises from Art. 926, para. 1 of the Law on Contracts and Torts, according to which the insured shall take all the stipulated, contractual and other measures required to prevent the occurrence of the event insured against. In case of failure to meet this obligation, the insured shall compensate for the damage to the insurer. On the other hand, if Insurer sustained no damage because the insured failed to fulfil his obligation or if the damage would be incurred to the same amount had the insured fulfil the obligation, no sanctions shall apply against the insured³⁸

The insurance shall not cover damages to a mobile electronic device if resulting from deliberate actions of insured, abandonment or neglect of the device in a public place, failure to comply with the manufacturer's instructions or use of the accessories not approved by the manufacturer in the manual³⁹; Moreover, some other insurers extended the specification of the insured's misconduct to leaving the device on the hood, roof or luggage compartment of the motor vehicle.⁴⁰ In addition, the insurance cover will not attach if the device is lost while being delivered as luggage for transport.⁴¹ As we see, the insured's due diligence shall imply his obligation to keep the device at all times with himself (in its own view, at hand, in a pocket, etc.) or on him, in the case of such equipment (handsets, smart clocks, etc.), so that he can count on insurance coverage. The insured will probably not be able to fulfil such obligation at all times, either because of his comfort or certain needs and circumstances (rest from use, cessation of use, etc.), which makes him carry the risk of damage occurring precisely at that time. Under the insurance terms and

³⁶ Great Lakes Insurance SE, *op. cit.*, 2018, str. 3; Zenith Insurance Plc, *op. cit.*, 2018, pp. 1.

³⁷ Slobodan Jovanović, "Some Aspects of Insurance of Collections and Valuable Objects in the Household", *European Journal of Insurance Law*, no. 3/2018, pp. 46.

³⁸ Slobodan Jovanović, *Ibidem*, pp. 47.

³⁹ Great Lakes Insurance SE, *op. cit.*, 2018, pp. 4.

⁴⁰ Zenith Insurance Plc, *op. cit.*, 2018, pp. 2.

⁴¹ AmTrust Europe Limited, *Mobile & Gadget Insurance*, SO/STD-SA/2018/07/R9, 2018, pp. 13.

conditions of a British insurer, this exclusion is formulated as follows: “When you consciously leave your device somewhere where you cannot see it, but others can, there is a risk of loss. For example, in a restaurant or pub when you go to the toilet or if you leave the bar with your device left on the instead of taking it with you.”⁴²

The cover is activated when significant physical damage to the device occurs; the insurance does not cover cosmetic damage (shape, scratching and cavity disturbance) that does not affect the functionality of the device or equipment. For example, the event insured against shall be deemed to have occurred at the moment when the screen of a mobile phone is damaged, provided that the fracture, crack or dent the screen of the mobile phone can be clearly unmistakably identified by the naked eye.⁴³

When the insured delivers the device for repair, he shall be obliged to remove all blockages such as PIN lock (personal identification number) or the operator’s security blocker. It is the obligation of the insured, that the insurer recommends to the insured, because otherwise the repair will be delayed or the damaged device will be returned unrepared.⁴⁴

The insurance terms and conditions for mobile electronic devices from the British market provide for the coverage only if the insured is, at the same time, the owner of the device, but members of the immediate family: insured’s mother, father, son, daughter, spouse or spouse living in the household together with the insured feature as the additional insured...⁴⁵ Some other insurers expand this list of additional insured to include siblings sharing household with the insured, which makes it difficult to conclude whether this criterion refers only to born siblings or all brothers and sisters regardless of degree of kinship provided they live in a joint household with an insured person.⁴⁶ All insurers apply the criterion of “close family”, which is why the above formulation provokes the said dilemma.

⁴² AmTrust Europe Limited, *Ibidem*. We state some examples where British insurers refused to fulfill its obligation due to leaving devices on a public space (Financial Conduct Authority, *op. cit.*, 2013, str. 8–9, 11):

Example 1: The Insured accidentally lost the telephone at the taxi seat, and an attempt to reclaim it through a taxi association was unsuccessful.

Example 2: The Insured had eaten in the restaurant, placing the mobile phone on the table and she thought, but was not sure, that she returned it to her purse

Example 3: The Insured was on vacation in Italy and when she returned to the UK, she realized that she had accidentally left the telephone in her hotel room. When she contacted the hotel, they told her they could not find the telephone.

Example 4: The Insured was returning, together with his colleagues, from the night work shift by bus and realized at one o’clock after midnight on Saturday that his telephone was missing. He checked with the carrier and his colleagues, but nobody had found the telephone.

⁴³ Generali Insurance, Serbia, *op. cit.*, 2017, Art.. 3, para.. 1.

⁴⁴ Great Lakes Insurance SE, *op. cit.*, 2018, pp. 4.

⁴⁵ Great Lakes Insurance SE, *op. cit.*, 2018, pp.. 3; Zenith Insurance Plc, *op. cit.*, 2018, pp. 1.

⁴⁶ AmTrust Europe Limited, *op. cit.*, 2018, pp. 9.

The general obligation of the insured is to prove the occurrence of the insured event, as well as the fact that the device was in use for the duration of the insurance period. In the case of a mobile phone, this can be testified by a mobile telephony service provider, and in case of other devices, it is considered that they were in daily use by the mere fact of sending the device to the insurer for assessment and repair.⁴⁷

It is interesting that, with one insurer, we found a detailed specification of the excluded risk of a computer virus. This liability of the insurer to indemnify shall not attach if the loss, damage, destruction, disturbance, deletion, corruption or alteration of electronic data due to the computer virus or similar mechanism, or due to the inaccessibility of the Internet for any reason or loss of use, reduced functionality, and costs incurred and expenses of any kind, regardless of any other cause or event that at the same time contributes to the occurrence of damage or otherwise causes damage.⁴⁸

4. Conclusion

The insurance of mobile electronic devices and equipment represents the evolution of insurance brought about by development of modern information and communication technology. The specially conceived insurance of mobile electronic devices, which considers the everyday and intensive use of these devices, contains insurance terms and conditions specially adapted for this type of items that show numerous advantages and benefits for the insured. Unlike the insurance of these devices under some other types of insurance, this line of business represents a new step forward in insurance law in the direction of higher degree of specialization and scope and limits of insurance coverage (some specific risks of mobile electronic devices may remain uncovered in some other types of property insurance which are not specially designed for mobile electronic devices or that they are covered in this type of insurance to a particular percentage or amount of the sum insured)

The specificity of this type of insurance is that it is implemented through the Internet and through the mobile operator. When this insurance is sold over the Internet, special rules for the conclusion of these long-distance insurance contracts, with a number of protective provisions, are applied under the consumer protection law established for the benefit of the insured.

In Serbian insurance market, the mobile electronic devices are defined in a restrictive manner, which is common in the case of an insurance product intended for a particular channel of sale or a target market.

The terms and conditions of Serbian and British insurers coincide, especially with regard to basic risks excluded, but they also differ in some of the types of risks that Serbian insurers have not explicitly covered under their insurance terms and conditions, as well

⁴⁷ Great Lakes Insurance SE, *op. cit.*, 2018, pp. 3.

⁴⁸ AmTrust Europe Limited, *op. cit.*, 2018, pp. 13.

as in the case of the institute of additional insured persons - members of the immediate family who, in everyday life, also use the mobile electronic devices that they do not own.

Literature

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