OPEN MEETING AGENDA ITEM
SEDONA SMART METER AWARENESS (SSM
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MEMO

TO: **Docket No. E-01345A-13-0069**

FROM: Nancy Baer and Monnie Ramsell, Co-founders
Sedona Smart Meter Awareness

SUBJECT: Risk Management/Liability Risks of Wireless Technology and EMF Real Estate Survey Results

Please submit this original and 13 copies to the docket number referenced above.

1. RISK MANAGEMENT/LIABILITY RISKS OF WIRELESS TECHNOLOGY:

A. Excerpts from Lloyd's Emerging Risks Team Report "Electro-Magnetic Fields from Mobile Phones: Recent Developments" and "Before Lloyds issued this warning, a woman who suffered health effects and from her job with a U.S. cell phone manufacturer received an award in 2007. Her attorney emphasized that her case paved the way for anyone else who suffers health effects from their exposure to RF at work to seek relief.

In October, 2012, the Italian Supreme Court awarded a businessman who developed a brain tumor from his call phone use.
http://microwavenews.com/news-center/italian-supreme-court-affirms-tumor-risk

In March, 2013 a man in Israel won an award after contracting Cancer from use of his cell phone. "Israeli cell phone company to compensate customer who contracted cancer."
http://www.brain-surgery.us/Orange_Israel.pdf

Recently, a nurse practitioner from New York Presbyterian Hospital received a $4 million suit against the hospital.
http://nypost.com/2014/11/23/nurse-with-rare-brain-disorder-wins-4m-suit-against-hospital/

13 lawsuits are currently moving through the U.S. Ninth District Court.
http://www.rfsafe.com/cell-phone-radiation-lawsuits-brain-cancer-breast-cancer/

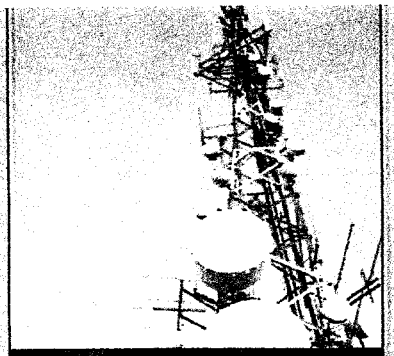
B. Excerpt from Swiss Re SONAR "Emerging Risk Insights."

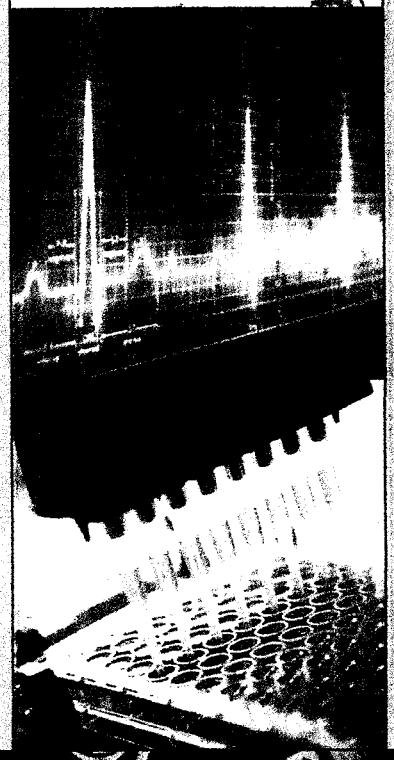
C. Two A.M. Best's Briefings; "Emerging Technologies Pose Significant Risks with Possible Long-tail Losses" and "FCC Inquiry on RF Radiation Standards Brings Safety Issue into Play."

2. EMF REAL ESTATE SURVEY RESULTS:

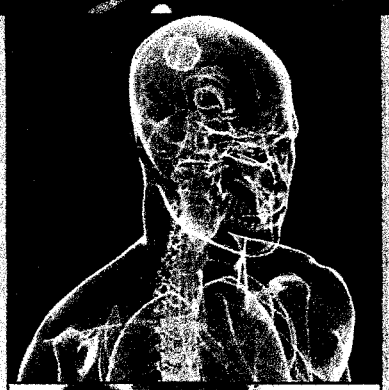
The National Institute for Science, Law and Public Policy's survey "Neighborhood Cell Towers & Antennas – Do They Impact a Property's Desirability?" was circulated through email and social networking sites, in both the U.S. and abroad resulting in 1,000 res ponses.
http://electromagnetichealth.org/electromagnetic-health-blog/survey-property-desirability/

LLOYD'S





ELECTRO-MAGNETIC FIELDS FROM MOBILE PHONES:
RECENT DEVELOPMENTS



4. INSURANCE IMPLICATIONS

When considering the potential impact EMF could have on the insurance industry it is of course important to look at what will happen if it is scientifically demonstrated that EMF causes adverse health effects. It is difficult to be certain of any future outcomes so this section looks at where insurance cover is likely to be triggered, the current legal situation with EMF cases and finally considers the issue of asbestos and whether any comparisons can be drawn. If EMF is proved to cause an increased risk of brain cancer it is likely the insurance industry will see claims under product liability policies for bodily injury.

It is informative to look at recent legal cases to assess the current situation and the two following cases will be discussed in more detail below. *Newman v Motorola* (2002) is a very interesting case because the judge rejected the plaintiffs' expert witness' evidence that EMF causes brain cancer on the grounds that it was generally not widely accepted by the scientific community, and that there were flaws with recall bias in the studies.

Murray v Motorola (2009) is another intriguing case because the judge ruled that plaintiffs are not able to claim for damage caused by mobile phones which conform to US legislation. However, the case is proceeding regarding allegations that Motorola et al fixed the results of their exposure tests and have suppressed conclusive information about the health risks EMF poses.

Finally this section will draw comparisons between EMF and asbestos. The issue of asbestos and its implications is widely known throughout the insurance industry, and many comparisons can be drawn with EMF – the initial impression that it was a 'wonder product' coupled with potential very long-term serious health issues not understood at the start of its use. Like asbestos any EMF litigation will probably be long and complex – similar issues could occur such as the definition of an actionable injury, policy triggers and apportioning liability. The last issue will be particularly difficult, since brain cancer occurs without exposure to EMF, whereas mesothelioma usually arises from exposure to asbestos.

4.1 Insurance Cover

Should EMF prove to cause brain cancer, or any other adverse health effects, it is likely the main effect on the insurance industry will concern product liability claims for bodily injury. It is therefore interesting to look at recent legal cases where claimants have taken mobile phone manufacturers to court for bodily injury claims and also to look at asbestos and see what comparisons can be drawn between the two issues.

4.2 Legal cases

Newman v Motorola 2002[31]

In this US case Dr Newman claimed that his use of a wireless handheld telephone manufactured by Motorola caused his brain cancer. He filed for $800m compensation in 2000. The court focused on the issues of general and specific causation – ie can the use of wireless handheld telephones cause brain cancer and did the use of the Motorola phone cause Dr Newman's brain cancer.

The plaintiff's expert witness claimed that EMF exposure causes brain cancer, a theory which relies on maximum exposure occurring at the location where the phone was held and the cancer occurred. Other witnesses gave evidence that in fact the cancer Dr Newman had was 'deeper' in the brain than normal, and that the highest exposure had in fact not been in the location of the tumour

Both sides filed motions to exclude the other's expert testimony. Because no sufficiently reliable and relevant scientific evidence in support of either general or specific causation had been offered by the plaintiffs, the defendants' motion was granted and the plaintiffs' motion

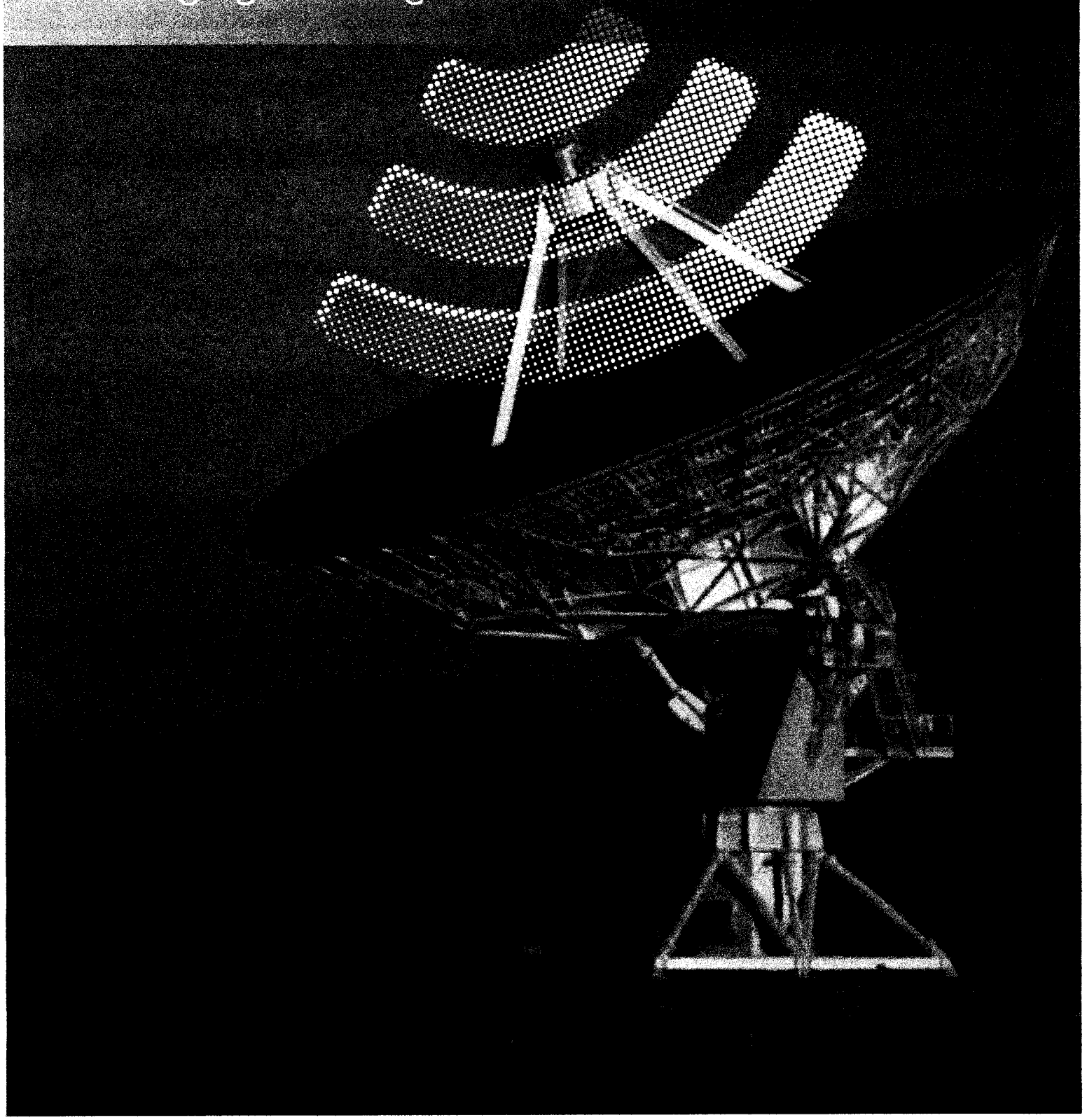
would lead to higher exposures. However, these were studies on the brains of dead animals and there are difficulties extrapolating this data from animals to children and from dead to living conditions. As shown in figure 3, the study by Gandhi et al (1996) was based on computer generated models.

In another study of a computer generated model of a five year old child it was shown that when the model is exposed to electromagnetic fields at the ICNIPR reference levels of public exposure, the standardised limits were exceeded by 40% (Conil et al. 2008). It is important to realise that this study refers to far-field exposure only, for which the actual exposure levels are orders of magnitude below existing guidelines. Far field exposure can be roughly defined as the recipient of the exposure being more than two wavelengths away from the source of the EMF. This would be from, for example, a transmitter rather than near field exposure which is the recipient being around one wavelength away from the source.

There are many difficulties extrapolating data from adult studies to children, and so it is important that further studies of the exposure of children to EMF should be carried out using a variety of models and exposure conditions. One positive conclusive result with regards to children and EMF exposure is that recent well conducted epidemiological studies provide evidence against an association between RF EMF exposure from broadcast transmitters and the risk of childhood leukaemia.

Swiss Re

Swiss Re SONAR
Emerging risk insights



Unforeseen consequences of electromagnetic fields

Overall impact	HIGH
Time frame	>10 years

The ubiquity of electromagnetic fields (EMF) raises concerns about potential implications for human health, in particular with regard to the use of mobile phones, power lines or antennas for broadcasting. Over the last decade, the spread of wireless devices has accelerated enormously. The convergence of mobile phones with computer technology has led to the proliferation of new and emerging technologies. This development has increased exposure to electromagnetic fields, the health impacts of which remain unknown.

Anxiety over the potential risks related to EMF has risen. Studies are difficult to conduct, since time trend studies are inconsistent due to the still rather recent proliferation of wireless technology. The WHO has classified extremely low-frequency magnetic fields and radiofrequency electromagnetic fields, such as radition emitted by cell phones, as potentially carcinogenic to humans (Class 2B carcinogen). Furthermore, a recent ruling by an Italian court suggested a link between mobile phone radiation and human health impairment. Overall, however, scientific studies are still inconclusive regarding possible adverse health effects of EMF.

Potential impact on the insurance industry

If a direct link between EMF and human health problems were established, it would open doors for new claims and could ultimately lead to large losses under product liability covers. Liability rates would likely rise.

Unforeseen consequences of nanotechnology

Overall impact	HIGH
Time frame	>10 years

Nanotechnology refers to the manipulation of matter on an atomic and molecular scale. Nano-sized particles exhibit unique properties relative to larger particles of the same substance. This enables new applications, but may also pose new risks.

Currently, little is known about the toxicity of nanomaterials or the potential for latent illness that could affect workers and consumers. Additional research in life cycle assessment of nanomaterials and products containing nanomaterials is necessary to better assess the potential exposures. However, there is some evidence that certain nanostructures may accumulate within tissues and organs and can be absorbed by individual cells. Adverse health effects have been observed in studies of material such as carbon nanotubes, nanoparticles of titanium dioxide, or silica nanoparticles.

Potential impact on the insurance industry

Due to the relatively unknown environmental, health and safety exposures arising from nanomaterials throughout their life cycle, nanotechnology presents the insurance industry with significant challenges. Of key concern are delayed impacts, i.e. the question whether nanomaterials hold some latent hazard. Similar to the asbestos case, there is potential for large losses under product liability, workers' compensation and environmental liability policies.

BEST'S BRIEFING
Our Insight, Your Advantage.
U.S. Property/Casualty & Life/Health

February 14, 2013

Emerging Technologies Pose Significant Risks with Possible Long-Tail Losses

It is critical for insurers to maintain vigilant oversight of these new risks.

The insurance industry faces a constantly escalating level of exposure from rapidly developing technologies with risks that are not well understood. In many situations, the science associated with understanding these new risks is in the early stages of development.

A.M. Best believes that it is critical for insurers to maintain vigilant oversight of emerging technologies as a critical component of their enterprise risk management system. Effective enterprise risk management encompasses identifying, evaluating and addressing risks that could threaten the earnings or viability of an insurer. This includes a prospective look at the underwriting exposures so that changes to policy language or underwriting criteria can properly manage losses from these new risks. An exposure which may present only insignificant insured losses at present, may bring future unprecedented losses.

None of the current emerging technologies appears to be the next asbestos, the longest running and most expensive tort in U.S. history, according to the Rand Institute. Asbestos in many ways presented the "perfect storm" of loss characteristics: extreme toxicity; a very lengthy latency period before emergence of illness; a contagion capability through airborne transmission and physical contact; and lengthy exposure to a very large number of workers, their family members and asbestos product users.

A.M. Best recently estimated the U.S. property/casualty industry's ultimate asbestos losses at $85 billion. While losses from emerging technologies may pale in comparison, they still could be extremely significant to the industry. Insurers need to monitor the manner in which emerging technologies are, or are likely to be, deployed; the risks associated with their use; their residual or unintended impacts; and the manner in which the insurance policies may be called upon to cover losses.

Emerging Technology-Based Risks

RF (Radio Frequency) Radiation Risk – Today there are more than 600,000 cell sites in the United States and that number is expected to grow with the demand for faster, more reliable wireless devices. The risks associated with long term use of cell phones, although much studied over the past 10 years, remains unclear. Dangers to the estimated 250,000 workers per year who come in close contact with cell phone antennas, however, are now more clearly established. Thermal effects of the cellular antennas, which act at close range essentially as open microwave ovens can include eye damage, sterility and cognitive impairments. While workers of cellular companies are well trained on the potential dangers, other workers exposed to the antennas are often unaware of the health risks. The continued exponential growth of cellular towers will significantly increase exposure to these workers and others coming into close contact with high-energy cell phone antenna radiation.

Cyber Risk – Significant data breaches have become common (e.g., Citigroup, the International Monetary Fund, JP Morgan Chase & Co., Sony Online Entertainment, Hilton Worldwide, Marriott International Inc., Verizon and Heartland Payment Systems). These can involve, for example, loss of sensitive financial information, personal data, and

Analytical Contact:
Anthony Diodato, Oldwick
+1 (908) 439-2200
Ext. 5704
Anthony.Diodato@ambest.com

Mariza Costa, Oldwick
+1 (908) 439-2200
Ext. 5308
Mariza.Costa@ambest.com

Editorial Management
Carole Ann King

are best situated to understand the risks of this technology, and to select lessors, cell phone tower locations and appropriate mitigating measures against exposure (physical barriers, etc.) that ultimately provide the greatest level of safety from high-energy cell-phone antenna radiation.

Beyond that, A.M. Best expects insurers to monitor the debate and the extent to which their insureds are exposed to this potential risk. While the risks are not yet fully understood, the nature of the legal landscape in relation to this emerging risk, as well as many others, has the potential to significantly impact the insurance industry.

A.M. Best will continue to review companies' understanding of their exposure to such risks, as well as their approaches to mitigating the risks within the framework of their enterprise risk management programs.

A.M. BEST COMPANY WORLD HEADQUARTERS	•	Oldwick, NJ	•	+1 (908) 439-2200
Washington Office	•	Washington, DC	•	+1 (202) 347-3090
Miami Office	•	Miami, FL	•	+1 (305) 347-5188
A.M. Best Asia-Pacific Ltd.	•	Hong Kong	•	+852 2827-3400
A.M. Best Europe Rating Services Ltd.	•	London, UK	•	+44 (0)20 7626-6264
A.M. Best Europe Information Services Ltd.	•	London, UK	•	+44 (0)20 7626-6264
A.M. Best – MENA, South & Central Asia	•	Dubai, UAE	•	+971 43 752 780

BEST'S BRIEFING
Our Insight, Your Advantage.
U.S. Property/Casualty & Life/Health

December 9, 2013

FCC Inquiry on RF Radiation Standards Brings Safety Issue into Play

Wireless industry pushes for safe harbor provisions, creating potential for a shift in exposure.

As noted in the Best's Briefing issued on Feb. 14, 2013, *Emerging Technologies Pose Significant Risks with Possible Long-Tail Losses*, the insurance industry faces a constant stream of new potential exposures from rapidly developing technologies. One such exposure is radio frequency (RF) radiation, which occurs as a result of cellphone transmissions.

Although at present RF radiation does not appear to pose a major risk to insurers, the increased demand for wireless networks has led to an explosion of cellular antennas across the country. There are more than 600,000 cell sites in the United States, and that number continues to grow rapidly. According to the CTIA-The Wireless Association, a wireless communications industry group, annual wireless revenue grew to $150 billion in 2010 from $45 billion in 2000. As smartphones and hand-held tablets become increasingly popular, rapid growth in wireless networks is expected to continue over the next several years. Smartphone users account for 11 times more wireless traffic than non-smartphone users, according to Informa Telecoms & Media. The CTIA projects the "app" economy alone to generate more than $46 billion in revenue by 2016.

The risks associated with long-term use of cellphones remain unclear, although the dangers to the estimated 250,000 workers per year who come in close proximity to certain cellphone antennas are more firmly established. With the potential for enormous growth in the number of cellphone antennas, the potential risks to workers and others coming into close contact with high-energy radiation emitted by these antennas could increase significantly.

On March 27, 2013, the Federal Communications Commission issued three documents related to RF radiation rulemaking and procedures, one of which requested comment on whether exposure limits and policies need to be reassessed.

In general, the wireless industry's responses argue that existing safety standards are adequate, if not overly strict, and that the FCC should balance the likely costs of any new regulation with its true benefits. Also, the industry recommended that safe-harbor provisions be enacted so that the wireless industry would not be subject to liability when complying with stated FCC requirements.

On the other side are views that the safety standards should be strengthened, given the potential dangers and uncertainties presented by RF radiation in this very rapidly growing industry. There is also a recognition that some lessors providing rooftop or other space for cell towers may not fully appreciate the physical risks involved and may have neither the technical understanding nor the financial wherewithal to appropriately police the FCC's safety standards, or to provide restitution to injured parties.

A.M. Best is not in a position to offer an opinion on this regulatory matter beyond expressing a concern about enactment of liability safe harbors that could result in less compliance and more injuries. Although wireless carriers are not in a position to ensure on-site compliance by lessors at all times, it is also clear that wireless carriers

Analytical Contact
Anthony Diodato, Oldwick
+1 (908) 439-2200 Ext. 5704
Anthony.Diodato@ambest.com

Mariza Costa, Oldwick
+1 (908) 439-2200 Ext. 5308
Mariza.Costa@ambest.com

Editorial Management
Al Slavin

proprietary secrets. Identity theft alone is estimated to cost consumers and companies roughly $5 billion and $50 billion, respectively, each year. A 2009 study found that lost data cost U.S. companies in excess of $200 per lost customer file. In a 2011 study conducted among large U.S. companies, more than 80% of information technology executives said that they had detected one or more recent attacks. Such exposures continue to evolve as companies are increasingly storing sensitive and confidential information with cloud vendors - a vendor that provides other companies with an infrastructure on which to store data or run applications - exposing data to new types of breaches.

Fracking Risk – Over the past 10 years horizontal hydraulic fracturing ("fracking") has become a big business and a highly contentious issue. The process involves pumping a pressurized fluid into a rock layer, which causes fracturing of the rock and release of petroleum, natural gas or other substances for extraction. The potential benefits are enormous; however, there are significant risks, including potential release of radioactive substances, radon (a known carcinogen) in the natural gas going into homes and potential chemical contamination of drinking water. The U.S. Environmental Protection Agency has determined that fracking was the likely source of ground water contamination in at least 36 cases. There are a variety of other concerns including the potential for exposed workers to develop silicosis and that the process may lead to earthquakes.

Nanotechnology Risk – A wide variety of consumer and industry products are increasingly constructed at the molecular level, using materials from 1 to 100 nanometers in length (a nanometer is one billionth of a meter). Nanotechnology is employed in an array of products, including medicines and medical devices, glass, coatings, construction products, fire protection materials, vehicles, foods, textiles, cosmetics, optics and sports equipment. Nano-sized particles, however, act differently than materials built at normal scale, and existing chemical risk assessments are not suited for exposures arising from nanoparticles. Considerable concern has arisen that some nanoparticles may be toxic. With the exception of airborne nanoparticles entering the lungs, understanding of the effects of nanoparticle on the human body, including accumulation, metabolism and organ-specific toxicity is extremely limited. Concerns involve both the potential of immediate harms as well as harmful effects appearing after long latency periods. Of the technology risks now emerging, nanotechnology product exposures may be the most similar to asbestos. While it remains unclear whether nanoparticles can lead to asbestos-like losses, insurers need to carefully monitor developments of this emerging technology.

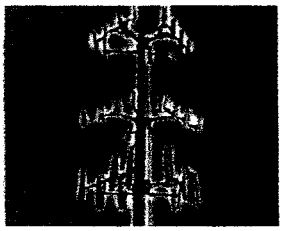
Conclusion

Insurers must evaluate constantly evolving technology exposures with the knowledge that existing scientific/technical understanding is often incomplete. A.M. Best will review companies' understanding of their exposure to emerging risk, and their approaches to mitigating the risks within the framework of their enterprise risk management programs.

A.M. BEST COMPANY WORLD HEADQUARTERS	•	Oldwick, NJ	•	+1 (908) 439-2200
Washington Office	•	Washington, DC	•	+1 (202) 347-3090
Miami Office	•	Miami, FL	•	+1 (305) 347-5188
A.M. Best Asia-Pacific Ltd.	•	Hong Kong	•	+852 2827-3400
A.M. Best Europe Rating Services Ltd.	•	London, UK	•	+44 (0)20 7626-6264
A.M. Best Europe Information Services Ltd.	•	London, UK	•	+44 (0)20 7626-6264
A.M. Best – MENA, South & Central Asia	•	Dubai, UAE	•	+971 43 752 780

EMF Real Estate Survey Results: "Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?"

The National Institute for Science, Law and Public Policy's survey **"Neighborhood Cell Towers & Antennas—Do They Impact a Property's Desirability?"** initiated June 2, 2014, has now been completed by 1,000 respondents as of June 28, 2014. The survey, which circulated online through email and social networking sites, in both the U.S. and abroad, sought to determine if nearby cell towers and antennas, or wireless antennas placed on top of or on the side of a building, would impact a home buyer's or renter's interest in a real estate property.



The overwhelming majority of respondents (94%) reported that cell towers and antennas in a neighborhood or on a building would impact interest in a property and the price they would be willing to pay for it. And 79% said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antenna.

- **94% said a nearby cell tower or group of antennas would negatively impact interest in a property or the price they would be willing to pay for it.**
- **94% said a cell tower or group of antennas on top of, or attached to, an apartment building would negatively impact interest in the apartment building or the price they would be willing to pay for it.**
- **95% said they would opt to buy or rent a property that had zero antennas on the building over a comparable property that had several antennas on the building.**
- **79% said under no circumstances would they ever purchase or rent a property within a few blocks of a cell tower or antennas.**
- **88% said that under no circumstances would they ever purchase or rent a property with a cell tower or group of antennas on top of, or attached to, the apartment building.**
- **89% said they were generally concerned about the increasing number of cell towers and antennas in their residential neighborhood.**

The National Institute for Science, Law and Public Policy (NISLAPP) was curious if respondents had previous experience with physical or cognitive effects of wireless radiation, or if their concern about neighborhood antennas was unrelated to personal experience with the radiation. **Of the 1,000 respondents, 57% had previously experienced cognitive effects from radiation emitted by a cell phone, wireless router, portable phone, utility smart meter, or neighborhood antenna or cell tower, and 43% had not experienced cognitive effects. 63% of respondents had previously experienced physical effects from these devices or neighborhood towers and antennas and 37% had not experienced physical effects.**

The majority of respondents provided contact information indicating they would like to receive the results of this survey or news related to the possible connection between neighborhood cell towers

and antennas and real estate decisions.

Comments from real estate brokers who completed the NISLAPP survey:

"I am a real estate broker in NYC. I sold a townhouse that had a cell tower attached. Many potential buyers chose to avoid purchasing the property because of it. There was a long lease."

"I own several properties in Santa Fe, NM and believe me, I have taken care not to buy near cell towers. Most of these are rental properties and I think I would have a harder time renting those units... were a cell tower or antenna nearby. Though I have not noticed any negative health effects myself, I know many people are affected. And in addition, these antennas and towers are often extremely ugly–despite the attempt in our town of hiding them as chimneys or fake trees."

"We are home owners and real estate investors in Marin County and have been for the last 25 years. We own homes and apartment building here in Marin. We would not think of investing in real estate that would harm our tenants. All our properties are free of smart meters. Thank you for all of your work."

"I'm a realtor. I've never had a single complaint about cell phone antennae. Electric poles, on the other hand, are a huge problem for buyers."

Concern was expressed in the comments section by respondents about potential property valuation declines near antennas and cell towers. While the NISLAPP survey did not evaluate property price declines, a study on this subject by Sandy Bond, PhD of the New Zealand Property Institute, and Past President of the Pacific Rim Real Estate Society (PRRES), The Impact of Cell Phone Towers on House Prices in Residential Neighborhoods (http://snurl.com/2922m58), was published in *The Appraisal Journal* of the Appraisal Institute in 2006. The Appraisal Institute is the largest global professional organization for appraisers with 91 chapters. The study indicated that **homebuyers would pay from 10%–19% less to over 20% less for a property if it were in close proximity to a cell phone base station.** The 'opinion' survey results were then confirmed by a market sales analysis. **The results of the sales analysis showed prices of properties were reduced by around 21% after a cell phone base station was built in the neighborhood."**

The Appraisal Journal study added,

"Even buyers who believe that there are no adverse health effects from cell phone base stations, knowing that other potential buyers might think the reverse, will probably seek a price discount for a property located near a cell phone base station."

James S. Turner, Esq., Chairman of the National Institute for Science, Law & Public Policy and Partner, Swankin & Turner in Washington, D.C., says,

"The recent NISLAPP survey suggests there is now a high level of awareness about potential risks from cell towers and antennas. In addition, the survey indicates respondents believe they have personally experienced cognitive (57%) or physical (63%) effects from radiofrequency radiation from towers, antennas or other radiating devices, such as cell phones, routers, smart meters and other consumer electronics. Almost 90% are concerned about the increasing number of cell towers and antennas generally. A study of real estate sales prices would be beneficial at this time in the Unites States to determine what discounts homebuyers are currently placing on properties near cell towers and antennas. Americans deserve to know."

Betsy Lehrfeld, Esq., an attorney and Executive Director of NISLAPP, says,

"The proliferation of this irradiating infrastructure throughout our country would never have occurred in the first place had Section 704 of the Telecommunications Act of 1996 not prohibited state and local governments from regulating the placement of wireless facilities on health or environmental grounds. The federal preemption leaves us in a situation today where Americans are clearly concerned about risks from antennas and towers, some face cognitive and physical health consequences, yet they and their families increasingly have no choice but to endure these exposures, while watching their real property valuations decline."

The National Institute for Science, Law, and Public Policy (NISLAPP) in Washington, D.C. was founded in 1978 to bridge the gap between scientific uncertainties and the need for laws protecting public health and safety. Its overriding objective is to bring practitioners of science and law together to develop intelligent policy that best serves all interested parties in a given controversy. Its focus is on the points at which these two disciplines converge.

NISLAPP contact:
James S. Turner, Esq.
(202) 462-8800 / jim@swankin-turner.com
Emily Roberson
er79000@yahoo.com

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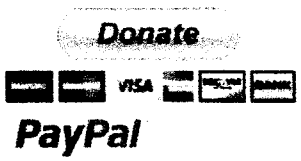

See Commentary by ElectromagneticHealth.org on NISLAPP EMF Real Estate Survey Results and Recommendations for Real Estate Agents and Homebuyers here:
http://electromagnetichealth.org/electromagnetic-health-blog/survey-commentary/