Bloomberg Businessweek
Companies & Industries
Politics & Policy

The Unexpected Threat to Super Bowl XLIX

By Howard Kunreuther and Erwann Michel-Kerjan December 09, 2014

If you've already bought tickets for Super Bowl XLIX or are looking forward to watching it with your friends and family, you may be surprised to learn that there is a chance it might not be played. Congress first needs to make a decision on renewing a piece of legislation that you possibly never have heard of: TRIA—the Terrorism Risk Insurance Act.

TRIA was signed into law in 2002 in the aftermath of the 9/11 terrorist attacks, establishing a risk-sharing partnership between the federal government and the insurance industry that made terrorism insurance widely available to U.S. businesses—among them, organizers of sporting events. Without federal support, most insurers had been unwilling to offer coverage. TRIA was renewed in 2005 and in 2007. It is set to expire on Dec. 31 unless Congress renews it. With two weeks until the deadline, the clock is ticking.

You may think: No way that the Super Bowl can be canceled! Think again. A few years ago FIFA, organizer of the World Cup, could not find insurers to cover the final game of the 2006 tournament at a cost it judged reasonable. FIFA was eventually able to structure a special financial instrument so the game could go on, but this took several months.

There is considerable money at stake for the organizers of Super Bowl and for NBC (CMCSA), which will televise the game. No insurance, no game. It is thus not surprising that the NFL has joined with other professional sports leagues and 80 business groups nationwide to form the Coalition to Insure Against Terrorism (CIAT) to urge Congress to fund reauthorization of the TRIA legislation.

A bit of background on why insurers changed their view of terrorism coverage after 9/11 provides the relevant context. Before 9/11, insurers included terrorism coverage in all commercial policies without charging for it because the risk was below their threshold level of concern. But after paying $44 billion in claims for 9/11—at that time the most costly disaster in the history of insurance—most insurers excluded terrorism from commercial policies.

The absence of terrorism coverage halted large construction projects around the country because financial institutions were concerned about the viability of their loans. Their fears resembled the concern that organizations such as FIFA and the NFL have with respect to their own liability.

TRIA addresses the insurance supply problem. Under the program, the federal government provides a financial back-up for insurers by covering a portion of insured losses above $27.5 billion, up to $100 billion, giving the insurance industry some certainty as to its maximum exposure. In return, insurers are required to offer terrorism coverage to all business clients, which can decide to purchase coverage or not. About 60 percent of large businesses carry terrorism insurance, indicating strong demand for it.

Unless TRIA is reauthorized during the next two weeks, insurers will have the right to cancel terrorism insurance policies after Jan. 1. They are likely to do so for fear of insolvency should a massive terrorist attack take place with no government backup. By law, only insurance companies offering workers' compensation insurance must include terrorism peril in their policies, whether or not TRIA is renewed. The only way for those insurers to limit their exposure to terrorism—say, in large metropolitan areas where they are heavily concentrated—might be to cancel some commercial insurance policies altogether if TRIA is not in place. Some businesses would then be unprotected against a wide variety of risks, ranging from fire to industrial accidents.

Competing bills now in Congress would extend TRIA for an additional five to seven years. Over the summer, S. 2244 passed in the Senate and H.R.4871 was passed by the House Financial Services Committee. The November elections put everything on hold.

The two chambers may decide to buy time by authorizing a short-term extension. That would be better than doing nothing: In the event of a terrorist attack, we as a nation can avoid massive economic disruption by taking appropriate financial protection measures to facilitate a rapid recovery. The emergence of the Sunni fundamentalist self-proclaimed Islamist State in Iraq and Syria tells us that the threat of terrorism will be with us for many years.

In our recent Wharton Risk Center report, "TRIA After 2014," we detail the impact of both the House and Senate TRIA renewal bills with respect to who will pay after a terrorist attack. Our analyses show that both bills push more risk to the private sector and that under either bill, insurers would bear the entire insured losses if claims total less than $50 billion. We also highlight the relatively minor differences between the bills under a variety of terrorist attack scenarios in four large cities (Chicago, Houston, Los Angeles, and New York).

We urge the House and Senate to reconcile the differences in their bills before Christmas. Congress, you have the ball. Don't fumble it. We are looking forward to watching Super Bowl XLIX on Feb. 1.

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