ISSN 1041-9489

SAFETY BRIEF

November 1986

Triodyne Inc.
Consulting Engineers and Scientists
5950 West Touhy Avenue Niles, IL 60648-4610 (708) 677-4730
FAX: (708) 647-2047

V.4 N.3 Reprint

Mandatory Seat-Belt Usage Laws: Exemptions to the Rule

by Gary M. Hutter[1] and Cheryl A. Hansen[2]

Abstract

The legislators of twenty-seven states have passed mandatory seat-belt usage laws, all of which provide a variety of exemptions to mandatory seat-belt usage. The categories and distribution of these exemptions provide an interesting examination of the perceived need and utility of vehicular seat-belts.

I. Introduction

Due to the pressure of various state-enacted legislation, by 1964 most manufacturers of automobiles to be sold in the United States provided, as standard equipment, seat belts for front-seat outboard seating positions. The United States Congress provided enabling legislation in 1966 for the Federal Motor Vehicle Safety Standards 208 and 209, "Seat Belt Installation—Passenger Cars," and "Seat Belt Assemblies—Passenger Cars, Multipurpose Vehicles, Trucks and Buses," respectively. Approximately eighteen years later (July 12, 1984), the State of New York enacted the first state-wide mandatory seat-belt usage law. As of May, 1986, forty-two states have either passed or have pending similar mandatory seat-belt usage legislation.

"No rule is so general, which admits not some exception."
Robert Burton, 1600's

In the codification of the requirements for these mandatory seat-belt usage laws, each state has allowed for a number of exemptions. These exemptions include obvious parameters, such as vehicle model year and vehicle type, and more practical and philosophical parameters, such as occupant age, vehicle mode of operation, and vehicle utility. This paper reviews these exemptions to the mandatory seat-belt laws and explores their bases, consistency and distribution.

II. Approach

To identify the exemptions in state mandatory seat-belt usage laws, their bases, and existing trends among states, a national survey of this subject was performed. The survey consisted of collecting and reviewing the state legislation requiring mandatory seat-belt usage, contacting state police or highway patrol departments to determine their interpretation of these exemptions, and contacting a variety of union and business activities directly affected by this legislation (i.e., fleet operations, medical organizations). Table 1 contains a summary distribution of the exemptions to the mandatory seat-belt laws by state. A variety of interesting patterns exist which will be further examined.

III. Results

Overall pattern:

1. At present twenty-seven states have mandatory seat-belt usage laws affecting, at the very least, drivers of passenger vehicles, generally those built after 1966 and used on public highways.

2. Typically, these mandatory seat-belt usage laws became effective six months after the date the legislation was enacted, but one state (IN) had more than a twenty-six month delay between the enactment date and the legislative-effective date.

3. As of May, 1986, fifteen states have active pending mandatory seat-belt usage legislation.

[1]Senior Mechanical Engineer, Triodyne Inc., Niles, Illinois

[2]Engineering Reference Librarian, Triodyne Inc., Niles, Illinois

An edited version of this article published as "With State Belt-Use Laws — Exemptions *Are* the Rule," *Traffic Safety* v.87 #2 (March/April 1987).

Circulation: 30,311

No Charge

Table 1—Exemptions in Mandatory Seat Belt Legislation

State	Applicability: Mandatory Seat Belt Law — Yes	Applicability: Mandatory Seat Belt Law — No	Passenger Vehicles	Trucks	Front Seat Occupants	All Occupants A)	Model Year	Exemptions: Police Vehicles B)	Fire Vehicles	Emergency Vehicles	Taxi/Livery Vehicles	Delivery Vehicles	Maximum Vehicle Speed during Delivery Mode	Medical Basis	No Transfer of Liability to Physician	Miscellaneous Exemptions Specifically Mentioned in Statute C)
Alabama*		X														
Alaska*		X														
Arizona*		X														
Arkansas		X														
California	X		Yes	≤6000#		Yes	1962 Front, 1968 All					1,2		Yes		Taxi back seat passengers
Colorado*		X														
Connecticut	X		Yes	Yes	Yes	≤4 Yrs.	1966	Yes	Yes	Yes	Yes	1,2		Yes		Air bag equipped vehicles
Delaware*		X														
Florida	X		Yes	<5000#	Yes	≤5 Yrs.	1966							Yes		Agricultural vehicles
Georgia*		X														
Hawaii	X		Yes	Yes	Yes		1966			Yes	Yes			Yes		
Idaho	X		Yes	<8000#	Yes		1966	Yes	Yes	Yes				Yes		Implements of husbandry
Illinois	X		Yes	Yes	Yes		1965					1,2	15mph	Yes		While traveling rearward
Indiana	X		Yes		Yes		1966					1,2		Yes		While traveling rearward
Iowa	X		Yes	Yes	Yes		1966			Yes		1,2	25mph	Yes		Buses exempt. While traveling rearward
Kansas	X		Yes	<12000#	Yes		1966					1,2		Yes		
Kentucky*		X														
Louisiana	X		Yes	Yes	Yes		1968					1		Yes		While traveling rearward
Maine*		X														
Maryland	X		Yes	Yes	Yes		1966		Yes		Yes			Yes		
Massachusetts	X		Yes	Yes		Yes	1966	X1				1,2	15mph	Yes		Buses exempt
Michigan	X		Yes	Yes	Yes	≤4 Yrs.	1965					1,2		Yes		Buses exempt
Minnesota	X		Yes		Yes	≤11 Yrs.	1965					1,2,3	25mph	Yes		While traveling rearward
Mississippi*		X														
Missouri	X		Yes		Yes	≤4 Yrs.	1968		Yes			1,2		Yes		Trucks exempt
Montana		X														
Nebraska	X		Yes	Yes	Yes		1973					1		Yes		
Nevada	X		Yes	<6000#	Yes	≤5 Yrs.	1968				Yes	1,2	15mph			
New Hampshire*		X														
New Jersey	X		Yes		Yes	≤5 Yrs.	1966				Yes	1		Yes		
New Mexico	X		Yes		Yes		1966					1		Yes		Trucks exempt
New York	X		Yes	<18000#	Yes	≤10 Yrs.	1965	Yes	Yes	Yes	Yes			Yes		
North Carolina	X		Yes	Yes	Yes		1968					1,2	20mph	Yes		Agricultural vehicles While traveling rearward
North Dakota		X														
Ohio	X		Yes	Yes	Yes	≤4 Yrs.	1966 P. Cars 1971 Trucks					1,2		Yes		Air bag equipped vehicles
Oklahoma	X		Yes		Yes		1966					1		Yes	Yes	Pick-up trucks exempt
Oregon		X														
Pennsylvania	Proposed		Yes	Yes	Yes	≤4 Yrs.	1966					1		Yes		
Rhode Island*		X														
South Carolina*		X														
South Dakota*		X														
Tennessee	X		Yes	<8500#	Yes	≤16 Yrs.	1969				Yes	1,2		Yes		Vehicle test driver or meter reader exempt. While traveling rearward
Texas	X		Yes	≤1500#	Yes		1966					1		Yes		Trucks with less than 1500# rated capacity
Utah	X		Yes	Yes	Yes	≤5 Yrs.	1966					1,2		Yes		Agricultural vehicles exempt
Vermont*		X														
Virginia*		X														
Washington	X		Yes	Yes		Yes	1966					4		Yes	Yes	
West Virginia		X														
Wisconsin		X														
Wyoming		X														

*Bill pending

A) In addition to mandatory child restraint legislation

B) State and local police departments may have differing policy

C) Other exemptions may be implicit from related statutes

Results based on survey of States Police/Highway Patrols and Legislation

X1 = Driver exempt

1 = Postal vehicles

2 = Delivery and newspaper delivery vehicles

3 = Farmers in pick-up trucks

4 = Farm, construction or other vehicles that make frequent stops

Exemptions based on vehicle type:

1. All state mandatory seat-belt laws allow for an exemption based on the model year of the vehicle. Most state laws refer to the year that federal legislation first required seat belts (1966), but some states have enforcement based on later vehicle model years (i.e., Nebraska specifies 1973 model year vehicles). None of the states have retroactive requirements applicable to vehicles manufactured before mandated seat-belt installation.

2. Mandatory seat-belt usage laws apply only to passenger vehicles as defined by specific state codes. Passenger vehicles typically include automobiles, vans, recreational vehicles, and light trucks. They typically do not include motorcycles (or other two-wheel vehicles), buses, off-highway vehicular equipment, heavy-duty trucks and tractor-trailer vehicles. Eight states have specified a minimum weight limit for trucks, above which mandatory seat-belt usage is not required. Florida law, for instance, exempts trucks above a net vehicle weight of 5,000 pounds; New York exempts trucks weighing more than 18,000 pounds gross. (CA, FL, ID, KS, NV, NY, TN, TX)

3. Two states provide exemptions to vehicles equipped with automatic restraint systems (i.e., air bags). This is particularly interesting because a federal statute requires seat belts in air bag-equipped vehicles and vehicle manufacturers recommend that seat belts supplement the limited protection provided by air bags. (CT, OH)

Vehicle usage:

1. Four of the state police departments responding to this survey indicated that police officers in police vehicles were exempt from the mandatory seat-belt laws while on duty. Massachusetts applies this exemption only to the driver of a police vehicle. (CT, ID, MA, NY)

2. Five of the state police departments responding to this survey indicated that firemen operating fire equipment are exempt from the mandatory seat-belt usage law. Since many pieces of firefighting equipment exceed the weight requirement for classification as passenger vehicles, they are also exempt from these regulations on a weight basis. (CT, ID, MD, MO, NY)

3. Five of the state police departments responding to this survey indicated that operators of emergency vehicles are exempt from the mandatory seat-belt usage law. (CT, HI, ID, IA, NY)

4. The granting of exemptions for the preceding three usages (police, fire, emergency) appears to be consistent within a state: that is, if a state allows one of the above exemptions, it will commonly apply to all three classifications.

5. Eight states have specifically provided full or partial exemptions to operators or occupants of taxis and livery vehicles while in service. (CA, CT, HI, MD, NV, NJ, NY, TN)

6. Twenty-two states have provided specific exemptions to postal delivery employees while making deliveries. (CA, CT, IL, IN, IA, KS, LA, MA, MI, MN, MO, NE, NV, NJ, NM, NC, OH, OK, PA, TN, TX, UT)

7. Fifteen states have provided exemptions to operators of a general class of delivery vehicles. Specifically exempt are operators of newspaper delivery vehicles while in route. Some state laws apply this exemption generally to operators of delivery vehicles which make frequent stops, to drivers on routes requiring operators to frequently exit the vehicle, or to delivery vehicles operated under a specific speed during the delivery mode of operation. Iowa, for example, specifies a maximum delivery vehicle speed of 25 mph and Nevada has a maximum speed of 15 mph. (CA, CT, IL, IN, IA, KS, MA, MI, MN, MO, NV, NC, OH, TN, UT)

8. Five states provide specific exemptions to certain operators of farming and agricultural equipment which might normally be considered passenger vehicles and would thereby require seat-belt usage. (FL, ID, NC, UT, WA)

9. At least seven states specify that their mandatory seat-belt usage law only applies to vehicles traveling in the forward direction and does not apply while the vehicle is traveling in reverse. (IL, IN, IA, LA, MN, NC, TN)

Operator/passenger exemptions:

1. Most of the states requiring mandatory seat-belt usage address only the front-seat occupants. Only three states require mandatory seat-belt usage by all occupants (assuming a seat-belt is available) for both front- and rear-seat locations. (CA, MS, WA)

2. At least thirteen states require, within their mandatory seat-belt usage laws, that children under a certain age (typically four years old) be restrained, regardless of location. Other states have child-restraint legislation separate from their mandatory seat-belt usage requirements.

3. All twenty-seven states with mandatory seat-belt laws have provided exemptions from seat-belt usage based on medical or physiological reasons if confirmed in writing by a medical practitioner.

4. Only two of these states' mandatory seat-belt laws contain language to relieve the physician who provides such an exemption of liability in case of injury to the unrestrained vehicle occupant. (OK, WA)

5. Several states require passenger usage of seat belts based on the passenger's age. Tennessee and Oregon, for example, provide exemption to rear-seat occupants if over the age of sixteen. Minnesota applies this exemption to rear-seat passengers over the age of eleven.

IV. Summary and Closure

All existing state legislation mandating the use of automotive seat belts provides exemptions for certain vehicles by type, use, age, and mode of operation, in addition to occupant age, location within the vehicle, and existing medical conditions.

These exemptions represent the collective consensus of opinions of numerous legislative subcommittees and at least twenty-seven state congressional bodies. They are based on the input from the medical and health community, automotive safety research, the users of these vehicles, and the constituents of these legislative bodies. In many ways, the exemptions from, and the development and application of, these mandatory seat-belt laws represent the best any safety value system could hope to offer. Yet, paradoxically, they result in diversity of opinion and regional preferences and priorities.

Inclusive in the development and language of these laws is an acknowledgement of both positive and negative aspects of this restraint device; these laws reflect a necessary compromise in design between function, cost, and safety. While, seat belts can save lives and reduce injuries, there may be operational or economic reasons which override their use. Indeed, under certain medical or functional conditions, the use of seat belts may contribute to more serious injuries. Hence, only a safety value system responsive to those affected vehicle occupants should mandate their use.

Those states that are considering, but have not yet passed, mandatory seat-belt legislation might consider the provisions of existing legislation to provide concise language and meaningful exemptions to their proposed statutes.

Addendum:

Since the writing of this article, the voters in two states with seat-belt laws—Nebraska and Massachusetts—repealed their seat-belt requirements. In Nebraska, the law was rescinded by as few as 720 votes out of 500,000 cast; in Massachusetts, the vote was 53% to 47% against mandatory use of seat belts.

Geographical Distribution of Various Exemptions in Mandatory Seat Belt Legislation

What Is a Defect?

The definition of defective product in a state may be found in the case law of that state. In each issue we explore leading product liability case law from several states. Triodyne relies on the trial bar for the selection of the cases cited.

Illinois (Part 3)

Lister v. Bill Kelley Athletics Inc.

[485 N.E.2d 483 (Ill. App., 1985)]

Adrian Lister Tillman brought suit against Bill Kelley Athletics, a football helmet manufacturer, to recover damages for injuries (resulting in permanent quadriplegia) sustained during a high school football game when he fractured his cervical spine while tackling an opponent. Plaintiff's complaint sought recovery on the theories of strict liability, negligence and breach of warranty, alleging that the helmet was designed, manufactured, and sold with insufficient space and padding in the crown area, and without any warning that harm could result from the use of the helmet.

A jury verdict was rendered in favor of the manufacturer. On appeal, the plaintiff argued that the helmet was defective because the lack of warning created an "illusion of protection" for the user which should have been disspelled by a warning. The Illinois Appellate Court, Second District, affirmed the not-guilty jury verdict, relying primarily on the evidence that plaintiff was aware of the danger. Plaintiff had testified at trial that he knew he could be hurt playing football, and that his coaches had warned him repeatedly to keep his head up while making a tackle. He also stated that the first part of his body to come into contact with the ball carrier was his head.

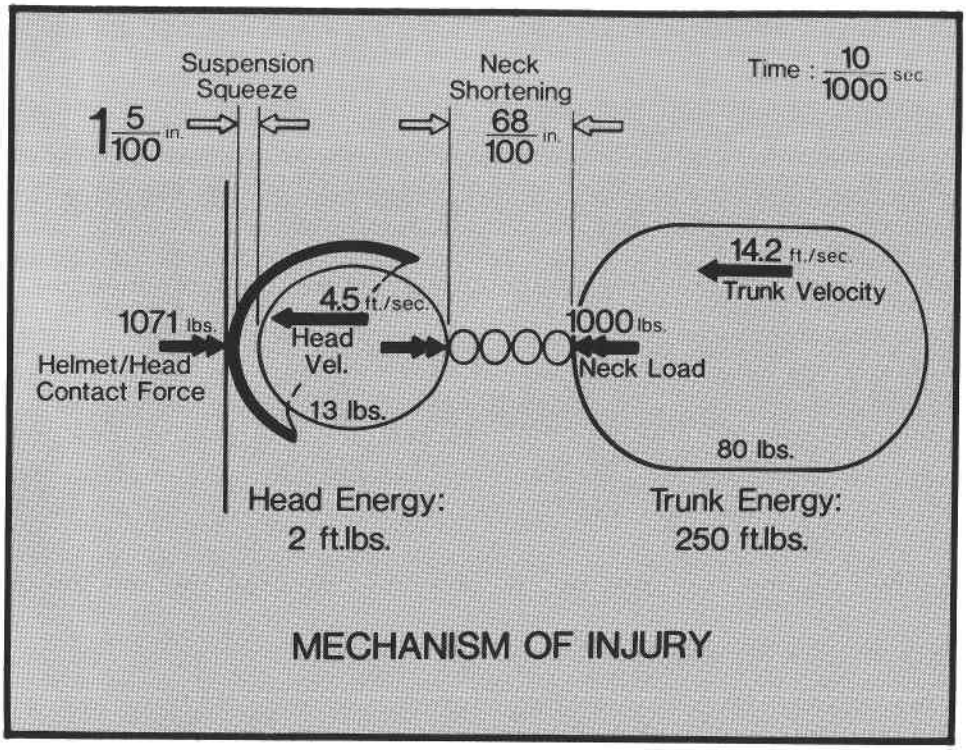
Jackson v. Reliable Paste and Chemical Co.

[483 N.E.2d 939 (Ill. App., 1985)]

On July 24, 1978, Jeffrey Jackson was seriously burned when a can of shellac exploded at the Midwest Glass Company. When bending or breaking glass, Midwest employees were instructed to pour shellac over the glass surface, and then ignite the solution to make the glass soft and easy to bend or break. When Jackson ignited the solution on a sheet of glass he had been working with, the glass remained stiff and not pliable enough to break. After the flames subsided, Jackson poured a second layer of shellac on the heated surface. The solvent immediately flamed up and caused the can which Jackson was holding to explode. He filed an action in negligence and strict liability against the manufacturer of the shellac solvent, alleging that their product was unreasonably dangerous and lacked adequate warnings.

The Reliable Paste and Chemical Company, manufacturer of the shellac solution, filed an action for indemnity against the makers of the combustible component in the shellac mixture, methanol. Reliable claimed that the supplier of the methanol was strictly liable to Jackson because they failed to warn Reliable of the explosive and flammable properties of methanol. The methanol supplier filed and prevailed on a motion for summary judgment against Reliable on the grounds that there was no duty to warn Reliable of the dangerous properties of methanol.

In affirming the lower court, the Appellate Court cited evidence which indicated that the president of Reliable, who had designed the warning label on the can of shellac solvent, was fully aware of methanol's combustible properties. In fact, the president admitted having a "working knowledge of chemistry." He also had read treatises concerning methanol and had familiarized himself with the Hazardous Products Labeling Act. The Appellate Court explained that manufacturers have "no duty to warn about a product when its dangerous properties are obvious and generally known."



Lister v. Bill Kelley Athletics Inc.

Triodyne's Graphic Communications Group prepared a series of seven posters for the defense's medical expert. The schematic exhibits depicted the increasing helmet/head contact force and neck load within the split-second that the injury occurred.

Heinrich v. Peabody International Corporation

[486 N.E.2d 1379 (Ill. App., 1985)]

On remand from the Illinois Supreme Court, the Appellate Court, First District, ruled that implied indemnity is no longer a viable theory of recovery in view of the Illinois Contribution Among Joint Tortfeasors Act.

On December 11, 1979, Frank Heinrich, an employee of Brookshore Lithographers, Inc., was working on a trash compactor when Ignacio Ayala accidentally activated the machine, decapitating Heinrich. The San-Dee Building Maintenance Company employed Ayala, who was performing maintenance work at Brookshore's facility. Heinrich's representative sued Ayala and Sun-Dee for negligence. Sun-Dee, in turn, filed a third-party action against Brookshore under principles of both contribution and indemnity.

Contribution and indemnity are distinct legal theories of liability in tort actions. Indemnity is premised on the idea that the law should place full liability upon the one whose fault is the primary cause of an injury. Based largely on qualitative distinctions between the culpability of the defen-

dants, indemnity shifts the entire burden of liability to one party.

Until the *Heinrich* decision, an implied duty to indemnify was said to exist if the co-defendants maintained a "pre-tort relationship." In contrast, contribution is premised on the belief that each party should contribute to the satisfaction of a judgment in proportion to his or her responsibility for causing the harm. It is available to all parties and does not permit a complete shift of liability unless one party can be shown to be entirely at fault. The theory of contribution was first adopted in Illinois by the Illinois Supreme Court in *Skinner v. Reed-Prentice Division Package Machinery Co.,* 70 Ill.2d 1 (1977), and was subsequently codified in the Contribution Among Joint Tortfeasers Act, Illinois Revised Statutes, chapter 70, paragraph 302, *et seq.*,1979.

In abolishing implied indemnity, the Appellate Court reasoned that it frustrated the incentive of litigants to settle their cases before trial. The Contribution Act provides that any potentially liable person who settles in good faith is discharged from further liability to any other parties. However, if defendants remain potentially liable to one another for implied indemnity, they are "unable to buy peace" and have "nothing to lose by refusing to settle."

The Illinois Supreme Court has subsequently decided the fate of implied indemnity among tortfeasors in the following case:

Allison v. Shell Oil Company

[495 N.E.2d 496 (Ill. Sup., 1986)]

In this case, the Illinois Supreme Court abolished the common-law doctrine of implied indemnity in which an "active" tortfeasor had to indemnify a "passive" tortfeasor for the amounts the passive tortfeasor was liable to the injured plaintiff.

Strange & Coleman, Inc., was hired by Shell Oil to rebuild a catcracker at their refinery, with Strange agreeing to furnish all labor, supervision, equipment and materials necessary and to be responsible for all its subcontractors. One such subcontractor, J.J. Wuellner, Inc., provided the scaffolding for Strange's employees to weld the multi-story "cyclone" portion to the catcracker. However, the scaffolding left one area inaccessible, causing Strange's employees to run a 2-foot x 12-foot board, not secured at either end, as a make-shift way of reaching the cyclone area.

While working on top of this board, Kenneth Allison, a boilermaker for Strange, slipped, fell and was injured. Allison brought suit against Shell and Wuellner, asserting negligence and liability, and impleaded Strange, who had supplied the plank, as a third-party defendant. A settlement was entered into prior to the trial and the third-party claims proceeded to trial to determine what the liability each defendant had for the settlement amount. The jury was instructed on implied indemnity and contribution, and found that Strange had to indemnify Shell and Wuellner. On appeal, this was reversed by the Appellate Court (113 Ill. App. 3d 607).

The Illinois Supreme Court's ruling stated that since the abolishment of the no-contribution rule and contributory negligence, there is no longer any reason to retain the concept of implied indemnity, since all parties to a lawsuit were now responsible for their own relative fault: "Active-passive indemnity is no longer a viable doctrine for shifting the entire cost of tortious conduct from one tortfeasor to another." However, the court expressly limited its holding to claims for implied indemnity based upon active-passive fault, leaving open the question of whether a tortfeasor who did nothing wrong but is liable solely by reason of a legal policy can seek indemnity from the party actually and solely at fault.

Mason v. Caterpillar Tractor Co.

[487 N.E.2d 1043 (Ill. App., 1985)]

Plaintiff, Wilma Mason, brought an action in strict products liability and negligence against defendants, Caterpillar Tractor Company and Patten Industries, Inc., seeking damages for fatal injuries to her deceased husband while he was making repairs on the defendant's "track shoe" of a Caterpillar Tractor. The trial court granted summary judgment on both counts and the Appellate Court of Illinois affirmed.

Plaintiff's decedent was repairing the "track shoe" with a large sledgehammer when a small piece of metal from the track shoe shot out, striking the plaintiff, resulting in fatal injuries. Plaintiff alleged that the tractor track was defective because the defendants failed to use reasonable methods of heat treatment, failed to use a sufficient amount of carbon in the steel, and failed to warn decedent of the "impending danger."

The Appellate Court ruled that in order to find a product unreasonably dangerous it must fail to perform in the manner reasonably expected in light of its nature and intended function. A legal inference of defectiveness may not be drawn merely from evidence that an injury occurred. Plaintiff must show evidence of product defect. Here plaintiff's decedent, instead of hitting the flat portion of the track shoe, hit the raised portion of the shoe. In addition, rather than using a smaller sledgehammer, he used a 20-lb. sledgehammer with which he took a full swing and hit the grouser at an angle to eject the piece of metal. There was no evidence presented that defendants were even aware that the track shoes were being repaired or reassembled with sledgehammers. Additionally, plaintiff's decedent wore safety glasses, indicating his awareness of the risk of injury.

Cases selected and summarized by James T.J. Keating of the Law Offices of James T.J. Keating, 150 North Michigan Avenue, Suite 2935, Chicago, Illinois 60601.

Editor: Roberta Morris
Illustrated and produced by Triodyne Graphic Communications Group.