

# Manufacturer's E&O in Canada: Getting the Right Coverage



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When people buy a new product, they usually do so with the assumption that, if used as intended, the product will harm neither them nor their property. So when discussions arise regarding insurance and manufacturing, the primary concerns typically mentioned are the exposures related to the types and severity of bodily injury and property damage that can occur when products fail to function as intended. However, what is less often discussed is what happens when bodily injury or property damage does not occur, and instead the product fails to meet customers' needs resulting in their financial loss. Since Commercial General Liability (CGL) coverage casts a wide net, such losses must be covered by CGL, right? Not necessarily.

Without an Errors & Omissions (E&O) policy, manufacturers may find themselves trying to navigate in the dark if a loss occurs they thought was covered by CGL. Simply put, there is no CGL coverage for their product or their work if it fails to perform its intended or warranted function when it does not cause any bodily injury and/or property damage. This is a very real risk for manufacturers of all shapes and sizes, and can have a significant impact on the stability and future success of their business if ignored.

### **The hinge that didn't fit**

A metal manufacturer produces door hinges for a customer who manufactures doors. It is subsequently learned that the hinges were not made to the correct specifications to work with the customer's doors, and as a result could potentially cause bodily injury by end users. As a consequence, the door manufacturer could not ship its product and missed delivery deadlines with its distributor. As potential injuries and property damage were avoided, the metal manufacturer's CGL would not respond in this case. However, the metal manufacturer's E&O cover might respond strictly to those financial losses incurred by the door manufacturer due to the incorrectly manufactured hinges.

### **Cereal shortage**

A manufacturer produces a monitoring device which regulates individual package volume for a customer that is a cereal distributor. However, if there is an increase in the cereal packaged due to the device not calibrating properly, not only would the cereal distributor's profits be affected, but the extra expense of correcting the problem would also arise. The cereal distributor would then pursue the device manufacturer for financial damages. In this example, the device manufacturer's E&O insurance might help cover the cereal distributor's financial losses up to the limitations of the device manufacturer's E&O policy.

### **E&O helps provide security**

In summary, a manufacturer's E&O policy can help provide cover for the legal obligation to pay financial damages arising out of a product or service that fails to perform its intended or warranted function. Although there is an additional cost associated with this kind of cover,

it would be much less expensive to purchase adequate insurance rather than paying out of pocket or facing potentially lengthy and costly legal battles (not to mention jeopardizing client relationships and industry reputation). As Canadian manufacturers are already in a highly competitive environment with significant risk exposures, the investment in E&O cover can help provide the security they need to protect themselves, as well as their current and future customers.

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## Learn More About This Important Coverage

Manufacturers E&O insurance will cover both the customer's financial loss and your defence costs. Most E&O policies are "claims-made policies," which means that in order for the claim to be covered, both the work in question must be performed and the claim must be made during the policy period.

Contact **Paul Christie** team leader of PowerGuard Advantage, industry specialists helping service the energy and power sector with risk management and business consultation.

Call **1.800.661.1518** or email [pchristie@lawriegroup.com](mailto:pchristie@lawriegroup.com).