

Marketing, advertising and communications liability insurance

Are you satisfied your insured's exposures are sufficiently covered?

Advertising agencies have to create, plan and handle innovative and dynamic global campaigns for their clients to outpace the competition. Regardless of the technology or medium used, from skywriting to pop-ups, our policy will respond. The Hiscox marketing, advertising and communications liability insurance policy gives comprehensive protection and peace of mind. Using the checklist below you can easily spot any gaps in your current media client's coverage which would be covered under the Hiscox marketing, advertising and communications liability insurance policy.

Comparative checklist – does your insured's media policy:

- ✓ Provide 'open perils'/'all risk' protection (not limited named torts) comprising of traditional libel, slander, invasion of privacy, breach of confidentiality, copyright, trademark perils and also defamation, injurious falsehood, trespass and publicity rights violations;
- ✓ Offer an occurrence form covering all media activities which occur during the policy period, regardless of when the claim is made;
- ✓ Cover claims brought anywhere in the world;
- ✓ Cover plagiarism, piracy or breach of an implied contract to use a third party's creative idea;
- ✓ Cover breaches of the scope of a license your client has acquired to use a third party's material;
- ✓ Cover misappropriation of content, formats, characters, trade names, character names, titles, plots, musical compositions, voices, slogans, graphic material or artwork;
- ✓ Cover negligence arising out of content;
- ✓ Cover breach of any comparative advertising statute;
- ✓ Cover the costs of prosecuting the insured's own declaratory relief actions in the face of an infringement claim;
- ✓ Cover advertising in any form whether it is on the internet, a podcast or mobile phone message;
- ✓ Have a broad definition of media activities ranging from gathering to exhibition of content;
- ✓ Have a broad definition of advertising incorporating marketing, publicity and promotion of goods and services;
- ✓ Cover the insured's website content, including blogs and also unauthorized access to this content resulting in a claim for defamation, IP infringement, breach of privacy, outrage, infliction of emotional distress or negligent publication;
- ✓ Cover your insured's negligent transmission of a computer virus or malicious code;
- ✓ Provide coverage for the insured's own advertising;
- ✓ Provide a carve back for fraudulent or dishonest conduct where it has not yet been established by a final adjudication;
- ✓ Provide affirmative cover for punitive and exemplary damages (where insurable by law);
- ✓ Provide duty to pay coverage with choice of defense counsel (with approval, not to be unreasonably withheld);
- ✓ Prevent the insurer from forcing the Insured to accept a settlement;
- ✓ Pay, in excess of the retention, rectification costs where your client has mitigated a claim;



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- ✓ Enable the insured to:
 - Settle within the retention;
 - Control decision to correct or retract content;
 - Protect anonymity of a newsgathering source;
 - Extend cover to third parties, including but not limited to freelancers, correspondents, stringers, photographers, volunteers and 'leased employees', commissioned or engaged to provide media content;
 - Extend cover for liability assumed under agreement where losses arise out of the insured's content;
 - Extend cover to past, present or future directors, officers, trustees, partners in, or employees;
 - Automatically cover new acquisitions with up to 10% of insured's revenues.
- ✓ Provide severability as to conditions of or obligations under the policy for persons or entities who are not board members, executive officers, in-house counsel, or risk managers of the insured;
- ✓ Have a flexible underwriting style with a fast turnaround from experienced specialized media underwriters;
- ✓ Offer an experienced dedicated specialized media claims handling team;
- ✓ Offer a free hotline to legal counsel.

Optional coverage enhancements:

- Technology activities
- Bodily injury/property damage arising out of errors and omissions in content
- Enhanced privacy liability
- Professional services
- Hacker damage (1st party loss)

This checklist serves solely as a summary of key Hiscox policy provisions. Please refer to the Hiscox marketing, advertising and communications liability insurance policy for exact terms, conditions and exclusions.