

Information and Communication Technology Liability Insurance

Q. Why Information and Communication Technology Liability Insurance?

A. QBE recognises the Information and Communications Industries are now tightly interrelated. Categorising a company into either industry is virtually impossible and largely irrelevant.

This innovative new policy supersedes the Professional Indemnity and Product Liabilities policies, and removes the need for category specific insurance. It provides coverage for claims arising from failure of the insured products, services and/or advice. It also provides coverage for infringement of copyright, trademark, registered design, or any other plagiarism, libel, or slander. It also covers breach of confidentiality and privacy.

Q. Isn't a standard Professional Indemnity Policy adequate for Software Developers?

A. No. Aside from the argument of whether software is a product or not, a standard professional indemnity policy will only cover design errors. Hence a claim must be in relation to a design flaw. The history of litigation against developers shows that when claimants have a problem with functionality, the cause is in most cases complex, and rarely due to an identifiable design flaw. The usual large number of satisfied users of the software only strengthens the case against design error.

Q. Even if it isn't a design error, won't my Product Liability Policy still provide cover?

A. No. If the claim is due to functionality, it is likely the third party claim will be for pure economic loss. In the absence of Personal Injury or Property Damage, the standard Product Liability policy won't provide cover.

Q. Does the QBE Policy cover more than economic loss claims?

A. Yes. The policy is divided into two sections:

- a) Errors and Omissions, which covers economic losses; and
- b) Personal Injury and Property Damage, which covers the traditional liability requirements.

The Policy is split between a "Claims Made" and "Occurrence" wording, and allows for varying limits and Deductibles.

Q. Will the Defence Costs incurred in the Defence of a claim reduce the amount of protection available under the policy?

A. The majority of insurance policies designed for the Information and Communication Industries cover Defence Costs. However, this coverage is *inclusive* of the Limit of Indemnity. In other words, in the event of a claim both the third party settlement *and* the Defence Costs will be deducted from the sum you are insured for. Given the huge cost of legal representation, the cost alone of defending a claim can quickly reduce the amount available for settlement. QBE recognise this is a major shortcoming. Our Information and Communication Technology Liability Insurance covers Defence Costs *in addition* to the Limit of Indemnity (subject to coinsurance if the total limit is disposed in the settlement and defence of a claim).

Q. Can I protect myself for Contractual Liability?

A. Yes. QBE is prepared to consider insuring specific contractual liabilities in conjunction with the policy. In such cases, the policy will be project and contract specific, and will be underwritten on the merits of each contract. This coverage is only available to those who insure with QBE. QBE will not provide coverage to any party with whom it doesn't have an ongoing relationship.

Q. Is this policy suitable for Internet Service Providers who provide the full range of ISP services?

A. Yes. The policy was developed to provide a breadth of coverage to all companies involved in the Information and Communication Industries. In addition, we have recognised the unique regulatory regime controlling Internet Service Providers, and provide coverage for actions in respect of the Telecommunications Industry Ombudsman Alternative Dispute Resolution Scheme.