

# Errors and Omissions insurance. What it is, and why you need it.

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## WHAT IS IT?

Errors and Omissions insurance (generally referred to as “E&O”) offers protection against lawsuits that can arise in the course of the creation and dissemination of content, including claims of alleged defamation and copyright infringement. In essence, anything that can create a financial loss for a third party is something that can be covered by an E&O insurance policy. Think of it as the publishing world's equivalent of the malpractice insurance that doctors routinely take out — and don't think that you can skimp on it just because your publication doesn't trade in same kinds of stakes as they do. After all, while a doctor might have the resources to absorb a malpractice judgment here or there, a claim against the average independent magazine publisher could be a life or death situation.

## WHY DO I NEED IT?

Publishers looking to save a bucks may find it tempting to skip E&O insurance but the cost of being uninsured can be much more than the policies that range from a few hundred to a few thousand dollars a year, depending on the publication in question and the options they choose. Worse still, those costs can arise in spite of your best efforts as a conscientious and careful magazine professional. That's because, according to David Pecovnik, a media insurance specialist with HUB International, even a frivolous claim — say, someone who erroneously believes you've infringed on their copyright — still needs to be defended. “It doesn't matter about the merit of the claim at all. It could be a frivolous claim, but at the end of the day you don't need very much in order to be brought into the suit.” And once you're in the claim, he says, it can be expensive to get out. “That's really where the costs end up being racked up the most,” he says. “Not the indemnity itself, or what someone's suing you for, but all the defence costs that go into trying to clear your name.”

## HOW DO I GET IT?

E&O insurance is offered by a multitude of carriers in Canada, all of whom will offer different ways to tailor the policy to your needs (some, for example, offer “anonymous source” coverage, which might be useful for a news-oriented magazine but less so for one covering, say, goats). Annual premiums on your policy start at around \$1,000 and increase from there depending on the scale and scope of your operations, but you can bring that figure down by minimizing the potential liability that the insurer will be exposed to. “Someone who has a lawyer actually clear items and check things for them has more controls in place than somebody who doesn't have that in place — and the insurers will look at that sometimes,” Pecovnik says.

## DO I REALLY NEED IT? NOW, MORE THAN EVER.

Everyone needs E&O insurance — and yes, that includes you, boutique arts magazine, and you, niche trade publication. “All it takes is a non-meritorious, frivolous claim to be brought against you,” Pecovnik says, “and if you don't have an insurance policy to go to in order to pay your defence costs you will be out of pocket for that.” But it's not just because the costs of making a mistake can be ruinous — it's also because the odds of making a mistake are that much higher these days. The rise of social media and decline of safety nets like paid fact-checkers and free time for editors means that errors are both more likely to occur and more likely to get caught. “It's a lot more readily available when things are out on social media — things are going to be brought into scrutiny a little bit more,” Pecovnik says. “The information travels so quickly, and someone's able to say ‘Hey, that's my idea.’ I think that's much more prevalent today than ever before.”