

The New Wave

Understanding E&O risk in the digital age

By Larrye Murrell

Millennials have \$200 billion in annual buying power and represent about a quarter of the U.S. population, according to Forbes. These trendsetters leave no market untouched—not even the centuries-old insurance industry.

Research suggests millennials are twice as likely to purchase, service and modify their insurance online or through other electronic methods such as texting, instant messaging or social media. All great service tools, but these new technologies also impact your duty—and therefore exposure—as an insurance agent. How does the potential for an errors & omissions claim increase with this shift from traditional in-person agent relationships to a more virtual marketplace?



The simplest answer is best framed as a question: What is the millennial customer's reasonable expectation of coverage? When using less formal, millennial-friendly methods of policy initiation and service, two key elements are often missing: standard disclosure language and a clear record verifying the conversation.

“Coverage cannot be bound, modified or cancelled without speaking to a licensed representative”—that common industry refrain—is often absent from texts, social media and instant messages. And without any disclosure to the contrary, a millennial customer may assert reasonable expectation of coverage. Even in the absence of coverage confirmation via reply communication, it remains to be seen whether the courts will absolve the agent from liability in these cases.

In order to effectively protect yourself from a heightened duty and resulting E&O exposure in the face of this new wave of customers, consider adopting these steps as standard business practices:

Build a strong social media presence. Maintaining an online presence is essential nowadays—and it’s just as important to not overpromise. Anything you promise online may be interpreted as your legal duty and standard of care.

Use disclaimers. These are still relevant and important. Include standard disclosure language in all modes of communication and agency promotion.

Manage expectations. Be explicit. Make sure the customer has a clear understanding of what type of communication will convey the message that “coverage is now in place.” Equally important: How will you communicate that coverage is not available, or that you need more information?

Close the loop. When receiving communications from various media, it’s essential to synthesize. Consolidate the feedback and instructions, then reconfirm the impact to coverage and effective dates with the customer. Be particularly communicative if you cannot procure the coverage or process the changes as requested.

Document, document, document. Even if you receive what feels like informal communication, treat everything as on the record—Facebook comments, text messages, Skype chats, Instagram comments and Twitter interactions. It should all become part of your file. No exceptions.

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