

## Gathering Dust?

*Your outdated website may be an E&O risk*

By Jim Hanley

Websites can be costly to maintain, especially in an era when Facebook, LinkedIn, Twitter and other social media outlets provide a cheaper way to reach customers.

But if your agency website is collecting dust, it could be exposing your business to errors & omissions claims—and even fines. To avoid the potential E&O fallout, ask the following questions about your agency website:



**Does it state only the facts?** Website language is showing up in courtrooms and mediations across the country in instances when insurance agents have overpromised their services, then underdelivered during the insurance transaction. In most states, a duty to advise requires a special relationship, which can be formed in many ways—including promising to provide the “best coverage at the best price.” You can change the duty you owe to your client by avoiding absolutes. For example, try tweaking the above statement to read: “Our agency will provide you with competitive coverage at an affordable price.”

**Does it include a disclaimer or privacy statement?** The purpose of a disclaimer is to reduce the website owner’s liability from visitors to the website. A privacy statement, meanwhile, informs visitors about your intentions regarding any personal information you collect through the website.

For examples of website disclaimers and privacy statements to add to your agency website, log in to the E&O Happens website ([iiaba.net/eohappens](http://iiaba.net/eohappens)) with your Big “I” credentials. Remember: It’s always best to have your attorney review these statements prior to posting, to ensure they match the content on your website.

**Does it comply with accessibility law?** The Americans with Disabilities Act (ADA) mandates that people with disabilities must have equal access to the same goods and services as those without disabilities.

According to [ada.gov](http://ada.gov), “The Department of Justice may file lawsuits in federal court to enforce the ADA, and courts may order compensatory damages and back pay to remedy discrimination if the Department prevails. Under Title III, the Department of Justice may also obtain civil penalties of up to \$55,000 for the first violation and \$110,000 for any subsequent violation.”

Most business professionals are familiar with many of the accommodations required by the ADA, such as wheel chair ramps, designated park-ing spaces and braille type on ATM machines. But in addition to your physical business location, a website is also available to the public—which means it, too, must be accessible without barriers to people with visual and hearing disabilities.

To learn more, visit [ada.gov](http://ada.gov) or contact your attorney and a website professional familiar with the ADA's website accessibility requirements as soon as possible. You can also head to the U.S. Department of Health & Human Services website ([hhs.gov](http://hhs.gov)) for a checklist you can use to con-firm your agency website meets all necessary requirements.

Next time you click, tap or swipe through the pages of your agency's website, look at it through the lens of a customer, potential customer and customer's attorney. Then, imagine it getting blown up and used during a trial an E&O claim.

*Jim Hanley is Big "I" director of agency professional liability risk management. To learn more about the Big "I" Professional Liability program, visit [independentagent.com](http://independentagent.com) and select Products, then Professional Liability.*

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