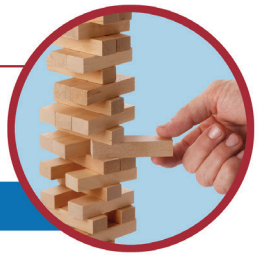
Utica National Insurance Group®

ERRORS & OMISSIONS

RISK MANAGEMENT ALERT



Email: Friend or Foe to Insurance Agencies?

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Email was first created in 1971, but it didn't start to play a big role in people's lives until the 90s. It has contributed to our level of communication becoming more written and less verbal. Many years ago, the sound of phones ringing and staff talking on the phone were extremely common in insurance agencies. Nowadays, agencies are quieter as email communication has become more the norm.

From an insurance agency perspective, has this been a good thing?

Generally, the answer to that question is probably, "Yes." Email has created the ability for agencies to communicate with their various customers (clients, insurance carriers, wholesalers, etc.) in a fairly efficient manner. Pre email, for an agency to bind coverage, to secure information, or to get updates on a client's exposures, agency staff had to either pick up the phone and hope they would get the party they desired or use regular mail, which had its advantages and drawbacks. Today, email has largely replaced both of these approaches.

A typical question from many agency's staff, especially on matters dealing with an errors and omissions (E&O) claim, deals with the issue of whether email is an acceptable and legal form of communication. The question is whether the email is clear, whether the recipient consented to receive email communications, and whether the email was received. With respect to the latter issue, emails can get deleted or caught in the recipient's spam filters. Approaches to address the acceptability of emails include written certification from a customer that you can communicate by email and to which address, and written acknowledgment that the recipient received the email. Some agencies use an approach that requests the recipient send back an email stating something to the effect of, "I got your email."

What about the issue of the client sending the agency an email requesting the binding of coverage? Can the client presume that by sending the agency an email that the coverage is, in fact, bound?

Let's look at an actual claim and give consideration to any lessons to be learned. This claim arose out of a hit-and-run involving a minor child. The client allegedly sent an email to the agency to add a vehicle to their auto policy. The email got caught in the agency's spam filter and thus the agency never saw the email. As a result, no coverage was bound for the additional vehicle. The customer never followed up with the agency until after the accident, several months later.

It is not clear why the client didn't contact the agency especially when a revised declaration page and premium should have been anticipated. It appears that they presumed that by contacting the agency (via email), coverage was technically bound. What could the agency have done better? While it is certainly much more common that agencies include on their voicemail greetings a statement such as, "Please note, coverage cannot be bound or amended without written verification by an agency representative," it would be advisable for agencies to include something similar on their emails. Including the voicemail statement as part of the signature line on their emails, would make it very clear to clients that they cannot simply send an email on some change in coverage and expect that the coverage has been bound. This is a form of client accountability.

It would be wise for the agency to advise clients (for all existing clients and then especially on all new business) the various "do's and don'ts" on communicating with the agency in the form of an engagement letter. When an E&O claim occurs, the defense of the agency could be potentially impacted by taking steps to ensure clients understand the rules of engagement, especially when it comes to matters involving email.

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