

Manufacturer's Liability

**Does a Manufacturer need
Professional Indemnity cover?**

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Traditional View

- Public Liability - cover for those who “do”
eg: manufacturers
- Professional Indemnity – cover for those
who “say” eg: solicitors, accountants

What Cover do Manufacturers Need?

- Depends on risks faced by individual manufacturer
- Usual advice - Public Liability cover
- But: is this enough?
- Opportunity to add a value if understand risks

What Risks does a Manufacturer Face?

- Usually identified risks:
 - Physical damage to third party property
 - Claim arising from personal injury (although limited by ACC)
- Other risks:
 - Intellectual property/design claims
 - Negligent misstatement/misleading and deceptive conduct

Additional Cover to PL

- D & O Policy
- Statutory Liability
- Professional Indemnity

Looking at the cover – PL

- Cover for personal injury or property damage arising from the business of the insured (physical harm)
- No cover for pure economic loss
- No legal proceedings (actual or threatened) required for cover
- Usual exclusions – possible extensions

Looking at the cover – PI

- Cover for negligent act, error or omission or conduct in connection with the insured's business
- Pure economic loss covered
- Lumley PI policy includes automatic extensions including FTA and IP
- Usual exclusions – possible extensions

Example

- Manufacturer faces the following situations:
 - A claim by a transporter that containers improperly packed by the manufacturer caused physical damage to the transporter's vehicle; and
 - A claim by a competitor that the design of the manufacturer's good breaches intellectual property owned by the competitor

What Would Happen?

- Cover for the transporter's claim under a Public Liability policy because physical damage
- Cover for the claim by the competitor under the Public Indemnity policy (if extension obtained)

Cover for Manufacturers

- Assess the individual manufacturer's needs, risk profile, and appetite for self insurance
- Opportunity to add value by identifying a manufacturer's risks outside the ambit of PL cover
- Opportunity to “up sell” to include PI cover in the client's insurance portfolio