AXIS / Technology

Practical Guidance

When AI Triggers a Loss: Will Your Insurance Respond?

In most cases, the answer today is uncertain. That uncertainty stems from a fundamental issue in the insurance market: silent coverage versus affirmative coverage.

Technology companies are moving faster than insurance policy wordings. Artificial intelligence (AI) has become central to both innovation and exploitation: developers are embedding AI into their products and cybercriminals are using AI to make fraud more convincing and harder to detect.

For executives and risk managers, this raises a critical question: will your insurance respond when AI is at the center of a loss?

In most cases, the answer today is uncertain. That uncertainty stems from a fundamental issue in the insurance market: silent coverage versus affirmative coverage.

Silent Coverage vs. Affirmative Coverage

Silent Coverage: A policy neither confirms nor excludes coverage for AI-driven losses. This potentially leaves the determination of the claim outcome in the hands of the insurance company, lawyers, and sometimes the court, long after the damage is done.

Affirmative Coverage: An affirmative policy explicitly states how losses arising from AI are covered. This certainty eliminates debate when an incident occurs, while also allowing insurers to define and control the intended scope of coverage.

The difference between the two is not academic. It is increasingly impacting whether a company can secure enterprise contracts, satisfy investors, or recover from a loss as risk teams heighten their scrutiny over how AI exposures are identified and managed.

Two Key Scenarios Where Silence Creates Risk

1. AI-Integrated Software and Errors & Omissions (E&O) Policies

Companies developing and selling AI-powered software face heightened scrutiny. What happens if:

- An algorithm produces a harmful or biased output?
- Training data is alleged to infringe on third-party IP rights?
- An AI feature malfunctions in a way that disrupts customer operations and causes financial loss?
- An AI agent is tricked into executing malicious tasks, exposing clients to unexpected liability?

Most technology E&O policies are silent on AI. For developers, this silence introduces friction in two areas:

1. **Enterprise sales and partnerships:** Customers increasingly ask whether AI exposures are covered. Silence can stall or even block deals.
2. **Investor due diligence:** Sophisticated investors flag coverage gaps tied to emerging risks like AI.

Affirmative AI coverage closes these gaps by confirming that AI-related claims are insured, strengthening both contractual credibility and investor confidence.

2. Cyber Policies and AI-Driven Fraud

The Cybercriminals are now deploying AI to commit fraud at scale. Deepfakes, voice clones, and AI-generated scams are tricking employees into transferring funds under false pretenses.

The challenge? Many cyber policies are silent on whether AI-enabled fraud is covered. That silence matters when regulators, boards, or shareholders ask why a six or seven figure loss isn't being reimbursed.

Case Example: One client recently suffered a $250,000 funds transfer fraud enabled by AI-driven social engineering. Under a typical silent policy, the insurer could have denied the claim forcing the policyholder to turn to the courts for resolution. Because they had affirmative coverage, the loss was promptly paid.

For companies of any size, affirmative cyber coverage ensures that protection keeps pace with the evolving threat landscape.

Why This Matters Now

1. **Market Pressure:** Enterprise customers and regulators are already pressing vendors on AI risk management.
2. **Contractual Exposure:** Indemnities in MSAs and licensing agreements are increasingly tied to AI-driven errors or misuse.
3. **Reputation and Trust:** Silence breeds doubt; affirmative wording builds confidence with clients, investors, and partners.

Forward-looking companies are no longer leaving AI risk to chance. They are proactively seeking policies that explicitly cover AI-driven exposures.

Conclusion

Insurance is meant to provide certainty in times of crisis. Yet when it comes to AI, too many policies remain silent. For technology companies, this silence is not just a coverage issue, it is a strategic risk that can affect contracts, fundraising, and resilience.

Whether developing AI-integrated software or simply defending against AI-driven fraud, the solution is the same: affirmative coverage that explicitly responds when AI is the cause, the vector, or the trigger of a loss.

Don't wait to find out after a claim.
Reach out today to ensure your policy keeps pace with AI-powered risks.

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