

## Professional Liability Insurance In ICT Related Products And Services

With ICT projects steadily growing in size, cost, duration and complexity the need for legally protecting the interests of all parties involved in large-scale long-term projects becomes inevitable. There are many types stakeholders involved in such projects each with its own specific requirements in terms of liability especially if and when something goes drastically wrong.

Starting from the designer or the consultant who is liable for the designs and specifications that are produced, to the software developer or systems integrator who is liable for the quality, performance and design compliance, to the supervisor who is liable for the acceptance or compliance certificates that are issued and lastly the client who should be held liable for unnecessarily delaying or sometimes simply refusing to make payments. The simple and cost effective way of consolidating all those conflicting requirements would be through the availability of Professional Liability Insurance or Professional Malpractice Insurance as it is called in some countries.

There are many lessons to be learned and parallels to be drawn from the medical, legal, auditing and accounting as well as the contracting professions both in Jordan and worldwide. Mistakes, if and when they do happen, usually come to light well after the legal and contractual relationships between the stakeholders has ended and in most cases, the client is left with little or no legal recourse and usually ends up footing the bill one way or another.

In simple terms, the cost of securing Professional Liability Insurance is inversely proportional to the professional background, qualifications, experience and track record of the service provider. That is to say, the cleaner ones record is, the lower ones insurance costs are. In some cases, Professional Liability Insurance can even be used as a classification and pre-qualification mechanism as well as quality assurance for certain services because the insurer would have the right to seek second opinions.

The impact of Professional Liability Insurance on the ICT sector in general and the services component in particular could be tremendous. The smooth, faulty free, seamless and uninterrupted 24x7 operation of a multitude of e-commerce, e-banking, e-insurance and e-government applications should not be taken for granted. The risks and their consequences are large enough not to

be ignored or taken lightly. The adoption of various international professional standards during the execution of an ICT project does not necessarily guarantee sound results. Under the cover of Professional Liability Insurance and in cases of possible malpractice claims and counter-claims, the insurer would immediately step in and take over the case and the service provider can easily continue providing services.

If and when properly implemented and enforced, the requirement for Professional Liability Insurance in ICT related products services could also have the positive side effect of gradually reducing the reliance of current business practices on the largely antiquated and costly notions of Bid Bonds, Performance Bonds and Warranty Bonds. Naturally, most business already factor in the costs of such bonds (even in cases of confiscation) when preparing financial proposals in response to public tenders. This results in higher initial costs and eventually leads to higher bid prices. Besides, what good is a Warranty Bond to the client when, for example, the cost of correcting mistakes far exceeds the value of the bond itself, or in case where the developer is simply no longer in business.

Needless to say, it could also do wonders to the ailing balance sheets of some of our local insurance companies too.