

Plugging a Potential Gap in Cover

A new extension is available under Freight Liability policies, for a small additional premium.

This extension provides cover for the freight operator's liability for loss of or damage to goods received by them in the mistaken belief that they have contracted to perform, for reward, an activity insured under the policy. Cover is provided subject to an aggregate limit of £50,000 any one policy period and excludes claims for consequential losses.

A recent court case, *Matrix Europe Ltd and others v Uniserve Holdings Ltd (UNL) and others*, highlighted that freight operators could find themselves with an unlimited uninsured liability if they inadvertently accept goods not intended for them.

Matrix contracted with a forwarding company to ship mobile telephone accessories to Hong Kong with the initial leg of the carriage subcontracted to a local haulier who, instead of going to Manchester airport, mistakenly delivered the consignment to UNL. The goods were subsequently stolen from the UNL warehouse and Matrix successfully sued them for their full value. As it was never intended that the goods be delivered to UNL, there was no contract between them and either Matrix or the forwarder. UNL nonetheless owed Matrix the common

law duty of a bailee to care for goods in their custody.

The Court found that UNL's standard of care fell below that required and they were held liable for the loss. The Court further found that as there was no contract, UNL was unable to rely on the limitation of liability for loss of or damage to goods that would have been available under their standard trading conditions.

These circumstances are likely to fall between the freight operator's Freight and Public Liability policies. The Freight Liability policy will typically provide cover for liability for goods for which the Insured are providing a service for reward whereas the Public Liability will ordinarily exclude liability for goods in their care, custody or control.

For more information call Ryan Insurance Group on 0844 573 9428 or e-mail salsa@ryan-group.co.uk