5 Coverage Considerations For Couture And Cosmetics Cos.

By **Jonathan Cohen and Lauren Sandground** (December 22, 2025)

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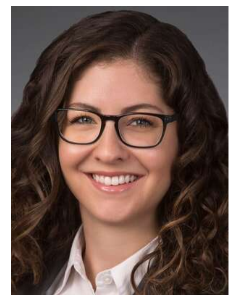

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In 2025, fashion, beauty and cosmetic companies weathered a variety of business and legal challenges from regulators, competitors and consumers alike.

These companies had to adapt to extreme stresses on their supply chains and operations. They faced ever-shifting U.S. and reciprocal tariffs.[1] They contended with uncertainty about the implementation of the Modernization of Cosmetics Regulation Act, or MoCRA,[2] and they had to adapt to the proliferation of new state laws concerning banned product and packaging ingredients and components.[3]

Many companies increased their efforts to fend off counterfeit and duped products[4] and to protect their intellectual property as the industry rapidly adopted generative artificial intelligence into various aspects of their businesses, including marketing.[5]

At the same time, fashion, beauty and cosmetic companies continued to face legal action stemming from allegedly misleading marketing statements[6] or the purported injurious use of products by consumers, claims that can be made against the companies directly and can be reported to U.S. regulators.[7]

Even as these companies plan next season's hottest trends and predict consumer demand, they will also soon attempt to read the tea leaves to plan for new and potential risks in 2026. In doing so, they should not overlook what, for many companies, is the cornerstone of their risk mitigation strategy: insurance.

Because insurance may be able to respond to at least some of the risks that may stretch into 2026, what are the insurance essentials that companies can focus on fine-tuning as we transition into the upcoming year? What sort of standard policies should companies have in their "capsule wardrobe," or complete their portfolio through "accessories," like specialty policies?

With respect to third-party insurance requirements and liability transfer provisions in supply-chain contracts, what touch-ups should companies think about making on a regular basis? Finally, like preparing for debuting next season's products and executing a successful runway, how can companies be prepared to preserve their insurance claims and make their best efforts in pursuing an insurance claim when an unfortunate event happens?

Fashion, beauty and cosmetic companies can take five steps now to prepare to pursue insurance coverage.

1. Capsule Wardrobe: Understanding the Company's Standard Commercial Policies

As with most industries, companies in the fashion, beauty and cosmetic industries typically rely on a suite of standard commercial insurance policies to help mitigate certain risks to their businesses. These policies include, among others, general liability, excess or umbrella, property, directors and officers, and automobile coverage.

Perhaps because they believe that these often form-written policies present limited opportunity for negotiation, many companies evaluate their insurance portfolios just once a year when they are renewing their expiring policies. However, it may be useful to more frequently review the company's insurance portfolio to understand the types of coverages available and the limits provided.

Companies may benefit from more frequent reviews particularly in light of operational changes, emerging risks or even changes in insurance law. These developments might necessitate reconsideration of the scope and structure of their insurance portfolios. For example, companies that may never have considered adding contamination or recall insurance coverage to their portfolios might do so now given the reporting requirements for adverse events under MoCRA and expanded oversight under the U.S. Food and Drug Administration.

Although familiarity with current policies is a priority, it is also important for a company to understand its older policies. Due to the possibility of long-tail liabilities or other historical risks, and depending on the policy language, older policies still may apply to a broad array of claims. Long-tail coverage is particularly important under general liability policies that often trigger based on when an alleged third-party injury occurred, even if the policy's period of insurance long since ended.

As a practical consideration, fashion, beauty and cosmetics companies should maintain records of the policies they acquired historically, and they should ensure that they have a repository of the insurance policies themselves to access them at a moment's notice. If the company maintains its policies through its broker or another third party, the company should ensure that it understands how the policies are kept and should ensure that it has access to the policies.

By regularly reviewing the company's insurance portfolio and maintaining a policy repository, companies can better identify and establish claims under all their available coverage when an issue arises that may implicate those policies.

2. Accessories: Looking Beyond the Company's Standard Commercial Policies

In addition to maintaining standard commercial policies, many fashion, beauty and cosmetic companies purchase other policies as a risk mitigation mechanism for specialized industry risks.

These coverage lines may be offered as stand-alone policies, or in some cases may be added as endorsements or riders to other standard commercial policies. One such example is recall, product withdrawal or contamination insurance coverage.

Many companies in these industries now purchase cyber insurance to cover certain first- and third-party damages due to data breaches and other cyber events. Some companies also opt to purchase media liability insurance, a specific type of errors and omissions policy, for claims relating to the company's traditional or social media advertising.

Companies may consider exploring these or other specialty insurances, such as pollution liability, representations and warranties, political risk or tax insurance, depending on the specific operations and risk mitigation goals that these companies aim to employ.

Insurers are often reactive to emerging issues. They may attempt to add new exclusions in standard commercial policies, while at the same time offering specialty policies around the very claims they attempt to exclude.

Sometimes insurers write new exclusions broadly in a manner that they might later argue limits coverage for claims that the company did not expect to be affected by the new exclusion. Examples might include broadly written microbial exclusions purportedly directed toward pandemics, or product-specific exclusions that include imprecise product descriptions.

In particular, fashion, beauty and cosmetic companies may want to look out for policy provisions that purport to exclude claims relating to specific chemicals, including those chemicals becoming more heavily regulated under newly adopted state laws.

Overbroad proposed provisions are not limited to exclusions. Insurers sometimes seek to add new policy endorsements with modest sublimits that might seem to expand coverage for emerging claims, but where the emerging claims may already have been covered under the policy without a sublimit.

Companies should closely watch out for these changes and evaluate proposed policy language or new insurance products with these issues in mind.

3. Touch-Ups: Revisiting Third-Party Insurance Obligations

Companies in the business of providing fashion, beauty and cosmetic products are often part of, or are highly dependent on, globalized supply chains.

There are many entry points for potential risk, spanning from the sourcing of raw materials, packaging and other product supplies, to manufacturing, transportation and distribution, warehousing, and selling the final products via physical or online retail to end consumers. Depending on the relationship between the supply chain parties and where the company sits in the chain relative to the final product, the company may also require its supply chain partners to carry specific types and amounts of insurance or itself be required to carry specified insurance.

If the company requires its supply chain partners to carry certain insurances, the company may wish to periodically revisit the types of policies required, the required policy terms, the limits of coverage required, and whether the supply chain partners must name the company as an additional insured, among other things.

Likewise, if the company is obligated to carry certain types and limits of insurance policies to comply with contractual requirements with its supply chain partners or customers, the company may consider regularly revisiting the reasonableness of the requirement and whether its insurance portfolio complies with all such requirements.

These same ideas apply widely to other contractual arrangements common in these industries. For example, this may include collaborations with influencers or contracts with other companies offering generative AI capabilities with respect to marketing the company and its products.

Besides insurance requirements, companies often employ indemnity or other liability-shifting provisions in their contracts with supply chain partners to distribute the potential liability among the parties. If the contracts contain both insurance requirements and indemnities or other liability-shifting mechanisms, companies should analyze how these provisions interact, including whether the presence of insurance requirements, with specific liability limits, is also intended to limit the amount of indemnity owed to the other party.

For many companies, utilizing both insurance requirements and liability shifting provisions can help those companies thoughtfully work with their supply chain partners to spread risk in intentional and cooperative ways. Insurance and indemnities may take on increased importance as the industry continues to navigate pressures from U.S. trade policies in the coming year.

4. Planning for the Runway: Developing Procedures for Insurance Claim Notification

When a company experiences a first-party loss or is implicated in a third-party claim, the company may be inclined to quickly jump into action to address immediate safety and financial concerns, investigate the root cause of the issue, and obtain input from internal and external stakeholders.

For companies in the midst of a crisis, insurance might sometimes be less front-of-mind than the immediate crisis at hand, but this can be a mistake. Most policies have specific timelines for required notice, as well as other time-limited requirements that can affect coverage if not properly handled.

As such, companies should give notice to all potentially implicated insurers broadly and early, which also means that companies should be prepared to identify every insurance policy that even potentially might apply under the circumstances. Particularly with respect to claims that involve allegations of bodily injury due to decades-long use of products, companies may want to provide notice under their older insurance policies, which may be triggered by such claims.

It is important that, in advance of any claim or crisis, companies develop procedures for addressing insurance claims. These procedures may include identifying notice provisions in their policies, appointing an individual within the company (such as in-house lawyers or risk managers) or an individual external to the company (such as an insurance brokers) as a point person for handling insurance claims, and creating a system for tracking the status of insurance claims.

Insurance should also be included in procedures addressing other potentially covered incidents, such as product recall plans. Having these procedures in place before a crisis hits may help the company better pursue its insurance claim later on.

5. Runway Execution: Addressing Coverage Issues Head On

Once the company makes a claim under an insurance policy, the relevant insurers generally will ask for voluminous information about the potentially covered incident. This information exchange process can be burdensome and challenging for a company experiencing a loss, liability or crisis. However, it is important that the company address the insurer's information requests so that the insurer moves quickly to provide a coverage position.

Often, in the first instance, the insurers will provide an initial reservation of rights based on policy language that the insurer contends may limit or even preclude coverage over the claim. Companies should assess these positions and respond appropriately. Companies should respond to information requests, position their claim for obtaining coverage and directly address any incorrect insurer positions without delay.

As the claim progresses, companies should be aware of any other time-related requirements in the policies, such as those that relate to the submission of an accounting of the company's loss, and to apprise the insurers of any updates that may affect the coverage assessment.

Conclusion

It remains unknown whether and to what extent 2025's challenges posed by targeted U.S. regulation and trade policies, the rapid adoption of generative AI, or continued consumer and competitor actions will persist into 2026. However, by assessing their insurance portfolio on a periodic basis, staying organized and instituting a plan of action before a claim arises, fashion, beauty and cosmetic companies can remain prepared for whatever unexpected challenges may come their way in the new year.

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[1] Madeline Schulz, "Where tariffs stand now," Vogue Business (Aug. 29, 2025), https://www.vogue.com/article/where-tariffs-stand-now.

[2] Evelyn Woo, Grace Schuette, and Atinuke Lardner, A New Era of Cosmetics Safety Regulation, Regul. Rev. (June 28, 2025), https://www.theregreview.org/2025/06/28/seminar-a-new-era-of-cosmetics-safety-regulation/.

[3] Lucy Pierce, "Packaging Policy Roundup," Sustainable Packaging Coalition (Oct. 21, 2025), https://sustainablepackaging.org/2025/10/21/packaging-policy-news/.

[4] Alexandra Pastore, "Report: Explosion of Counterfeits and Dupes Makes Earning Trust Harder Than Ever for Retailers," Women's Wear Daily (June 11, 2025), https://wwd.com/business-news/business-features/counterfeit-dupe-culture-retail-trust-challenges-1237911966/ (subscription required).

[5] McKinsey & Company, "The State of Fashion 2026: When the rules change," Nov. 17, 2025, https://www.mckinsey.com/industries/retail/our-insights/state-of-fashion.

[6] See, e.g., National Advertising Division, National Programs, "2025 Cosmetics, Anti-Aging and Personal Care Digest," https://bbbprograms.org/getmedia/bcd5d6ca-7f1d-4f6c-854e-07da60a0ea7c/NADDigest_2025_Cosmetics.pdf.

[7] U.S. Food & Drug Administration, "How to Report a Cosmetic Product Complaint," current as of September 12, 2025, https://www.fda.gov/cosmetics/cosmetics-compliance-enforcement/how-report-cosmetic-product-related-complaint#Report%20a%20Cosmetic%20Product%20Complaint-Consumers.