CLIENT ALERTS & INSIGHTS

Six Rules for Marketing Transportation & Logistics Services - Time to Compete and Win (Not Take on Risk)

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Key Takeaways:

- The article provides six essential rules for marketing transportation and logistics services, emphasizing the importance of truthfulness, regulatory compliance, clear company identification, and proper workflow management to avoid legal and regulatory pitfalls.
- Transportation regulators have increased scrutiny on marketing materials and advertisements, which means companies face significant business risks-including fines, legal liability, and reputational harm-if they misrepresent their services or fail to comply with industry-specific requirements.
- Businesses must carefully craft all marketing content to ensure accuracy and compliance, or updating existing copy where necessary, to clearly identify the licensed entity providing each service and all required regulatory disclosures.

Don't let your marketing activities get you into trouble. Speed of change has rapidly increased for all modes of transportation and logistics service providers. Change facing shipper customers is even higher. At times like these the tendency is to throw as wide a net as possible while expanding service offerings. Right now, however, we are seeing an anecdotal uptick in scrutiny of web content and other advertisements from transportation regulators.

What you say in writing may cause more pain than the incremental sales are worth. Here are the six rules to keep in mind when preparing the next great hook in your marketing materials and paperwork:

Always Be Truthful - The golden rule in marketing and advertising is to always be truthful. This is famously found in federal law at Section 5 of the FTC Act, which prohibits unfair or deceptive practices. It is also found in various forms under state law. Anything you say must be truthful in the eyes of a reasonable customer. Playing games and sloppiness does not end well.

Sell Only What You Can Perform - Transportation and logistics are highly regulated industries. Licenses and registrations are *required* to sell or perform brokerage, surface forwarding, indirect air carriage, ocean forwarding and NVOCC service, customs brokerage, etc. Federal agencies are on guard for anyone selling services that don't align with their licensure.

Use "Family" References As Needed

- Time and again industry executives think “we offer that service” without clarity on who WE references. Just because you offer a licensed service within the enterprise doesn’t mean every affiliate is free to sell it. Many companies get tripped up by this myth. The fix is to simply and clearly reference the company actually performing the service. This isn’t hard to do, such as “Our affiliate, Company Inc., is an FMCSA licensed broker….”

Build Different Workflows - Large enterprises with many different operating companies sometimes manage handoffs poorly. This can lead to customer and regulator confusion over who exactly is providing a service. It can also lead to forms of “veil-piercing” or other legal arguments where liability bleeds from one company to another. Your teams may need separate email footers, even separate email addresses, and may need to answer phones differently. Think about the impression you are giving those outside your company.

Drop In Regulatory Footers - In some niches of the industry it has long been common to add “regulatory footers” at the bottom of copy or at the end of online content. These may be as simple as “Company Inc. is a FMCSA licensed broker under DOT No. 123456 and MC 123456.” Doing so gives you a source of truth to reference if there is ever a question from a regulatory agency, or a plaintiff, on your role in a transaction.

Watch for Special Requirements - Don’t forget that some subsectors have special marketing and advertising rules. For example, household goods movers must have specific language in their advertisements due to 49 CFR 375.207. As another example, OTIs (whether forwarders or NVOCCs) must use specific language on all forms of stationery due to 49 CFR 515.31. Holding license is a privilege with requirements for how you hold out to the public.

All interests align in the end. The public deserves to know what you can do and how you will do it. You deserve to run a business in a market where your competitors are not lying to your current and potential customers about what those competing companies can do and how they will do it. You also deserve a world where you can reasonably defend against lawsuits by plaintiffs who claim you had a role in activities when you did not.

Regulators share this perspective even when issuing civil penalties or other forms of government enforcement. The objective of marketing, advertising, sales and yes, even law, is to compete and win for new business. Go out and win!

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