INSURANCE CONTINUING EDUCATION

ETHICS ESSENTIALS FOR MODERN BUSINESS

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CONCEPTS OF AGENCY

Introduction

Although the public sometimes views the insurance industry as an impersonal entity, dedicated insurance professionals will likely denounce that image as a major misconception and proclaim that the insurance business involves much more than working with claim forms and actuarial data. Veterans in their field have probably learned that much of an insurance producer's job pertains to the development of relationships with the public, and that countless professionals nurture such relationships every day by assisting individuals, families, and businesses in the procurement of coverage for personal, commercial and industrial needs. Most of those professionals should agree that without those solid relationships, consumers have little incentive to trust an insurer to protect them, their loved ones or their businesses from financial risks and that one of the most reliable ways for an insurance producer to earn trust is to behave in an ethical manner toward every customer.

Besides the personal satisfaction that can come from treating others ethically, this sort of behavior often translates to success at work. An employer wants to trust employees and is likely to favor workers who do their jobs without being swayed by self-interest. And the average person, particularly in regard to such an essential product as insurance, is more likely to do business with an outwardly ethical carrier than with a company that seems to disregard ethical conduct.

Insurance Agent vs. Broker

Perhaps the most visible members from the insurance world and the ones most capable of shaping the average person's perception of the insurance industry are insurance producers, who may act as agents or brokers. The terms “agent” and “broker” are common in various parts of the professional world. One can hear those titles in conversations related to real estate and investments, to name only two examples. It must be noted, however, that the definitions of these terms can vary from one field to the next and that, contrary to popular belief, agents and brokers do not have identical job duties. In fact, agents and brokers perform importantly distinct functions with differing ultimate goals.

In terms of insurance, both agents and brokers examine a consumer's requests and serve as intermediaries who set up prospective insureds with coverage from an insurance company. Companies purchasing insurance for themselves are more likely to do it with the assistance of a broker. Individuals who are purchasing insurance for personal use will usually do it with the assistance of an agent.

The important difference between agents and brokers involves the people who they ultimately represent in an insurance transaction. Whereas a broker is ultimately a representative of the insured, an agent's ultimate responsibility is generally to a specific insurer. Simply put, a broker is paid to act in the consumer's best interest, while the agent is paid to act in the insurer's best interest.

Despite those important differences, ethical insurance producers do not simply devote themselves to the people who pay them and ignore potential responsibilities to the other parties in an insurance transaction. The majority of brokers do not deceive insurers so that policyholders can reap benefits, and most agents do not take predatory stances toward consumers in the hopes of selling deficient or unnecessary policies.

It is perhaps best to view agents and brokers as one might view any responsible employee of a legitimate business. For example, a consumer cannot expect a decent appliance salesperson to encourage customers to visit a competitor's store for a better deal on a television, but the consumer should still expect to receive knowledgeable, honest and friendly service from that person.

Like other true professionals, insurance agents and brokers endorse good-hearted attributes such as honesty and integrity. They generally agree that ethical professionals serve people other than themselves, take great care when trusted with other people's money and avoid (or at least disclose) conflicts of interest. And yet, a deep examination of modern insurance issues and practices indicates that even though insurance producers have a common base for ethical standards, they have not necessarily had opportunities to apply ethics to many concrete aspects of their jobs. In a fast-paced, competitive environment, they might sometimes become distracted by the many other issues affecting their business and are therefore unable to act as ethically as we would otherwise expect. In some complicated cases, they may even avoid doing something that is proactively ethical in order to shield themselves from liability.

Conflicts Between Ethics and Legal Liability

Professional insurance producers know their business and are more than likely aware of the fact that more and more people are purchasing coverage to protect themselves from lawsuits concerning "fiduciary duties," which may be defined as activities related to upholding trust, including careful handling of funds. With consumers willing to fight in court against businesses that ignore such duties, many agents and brokers have worried about their own liability when customers or clients have sour insurance experiences. When insureds suffer losses that their policies do not cover, they sometimes cite their agents or brokers as the primary sources of fault.

An increasing prevalence of lawsuits against insurance producers has left many agents and brokers with legal and ethical problems. They certainly want to provide excellent service to consumers, but it sometimes seems as if purposely avoiding certain aspects of ethical service is a necessary way of fending off litigation.

Various court rulings have affected producers' pursuit of ultimate ethical goals, and not simply because judges have been too hard on the industry. The problem for insurance producers is that there is no indisputable, national precedent set by a court that clearly spells out what insurance producers must do in order to fulfill their seemingly competing obligations to policyholders and insurance companies.

Recht v. Graves

Although many courts have viewed producers as specialists with a wide range of responsibilities to customers and clients, the perceived legal duties of agents and brokers have not always been so extensive. Insurance agents (who technically serve the interests of insurers) probably frowned at the New York Supreme Court's ruling in the 1939 case *Recht v. Graves*, in which life insurance agents claimed that, as professionals, they did not need to adhere to certain state laws regarding business taxes. But the court's decision that agents were "engaged in the practice of a business or occupation and not in the practice of a profession" perhaps inadvertently gave agents great legal protection. As business practitioners, their obligations to their customers were no more complex than those expected from a general business. Like other businesspeople, insurance agents could not lie or steal from their clientele, but they did not need to do much more than give the people what they requested or ordered. Based on this business designation, agents presumably would not have been liable for selling a person an inferior or unnecessary form of insurance, as long as the person had requested it.

Nelson v. Davidson

In a duty-specific case before the Wisconsin Supreme Court in 1990, the plaintiffs in *Nelson v. Davidson* alleged that their State Farm agent had an obligation to inform them that they could have purchased underinsured motorists coverage. They based their case on the fact that courts in other states had held agents responsible for advising consumers of available insurance products.

In its ruling for the defense, the court wrote that the plaintiffs did not present any relevant examples of Wisconsin courts agreeing with those other decisions and stated that “the vast majority of other jurisdictions hold that the general duty of care which an insurance agent owes a client does not include the obligation to advise of available coverages.”

So, if an agent was insuring a building in a neighborhood with a history of arson, that agent might have chosen to disclose the area’s history to the property owner for ethical reasons or to entice the owner to buy more coverage, but it is unlikely that the mentioned court would have held the agent responsible for fire damages if he or she had kept quiet about the risk.

Chase’s Cigar Store v. Stam Agency

A 2001 appellate division case in New York, *Chase’s Cigar Store, Inc. v. Stam Agency, Inc.*, materialized when a cigar store employee stole money from the company and the loss was not covered by the owner’s insurance policy. Allegedly, the policyholder allowed the agent to craft the details of the policy himself and did not ask for protection against employment dishonesty. The business owner filed suit against the agent for not securing the coverage, but the matter was dismissed on the grounds that the agent followed the customer’s instructions, had no obligation to include employment dishonesty protection within the policy and allowed the business owner to review the policy terms, which clearly excluded employment theft and dishonesty.

Hardt v. Brink

Another real-life case, *Hardt v. Brink*, involves a somewhat similar situation but one in which the judicial system placed greater responsibilities upon insurance producers. In this example, a plaintiff had secured insurance through the defendant agent since 1947 and had purchased, among other products, a comprehensive liability policy from the agent. In 1956, the plaintiff told the agent that he had entered into a lease agreement for a building. A year later, the building suffered severe fire damage, but the losses were not covered by the liability policy because of an exemption for rented property. The plaintiff sued the agent for not alerting him to a major liability gap and won his case in a U.S. district court in the state of Washington in 1961.

Instances such as this one show that some courts believe an insurance producer must not only help clients obtain what they ask for, but also must take on the greater duties of understanding and pointing out a customer’s or client’s insurance needs.

Determining Liability Through Job Titles and Relationships

Unfortunately legal guidance regarding how insurance producers should serve the public is sometimes unclear. Even courts that have agreed that agents and brokers have advisory duties to customers and clients have based their judgments on significantly different factors.

Some courts have determined that the way insurance producers present themselves to the public dictates their professional obligations. For a simple example, let’s focus on job titles.

Some people believe that individuals who identify themselves as “insurance salespersons” or “agents” are merely that; company representatives who offer coverage and take applications, but who are under no legal obligation to advise anyone. Conversely, people who call themselves “investment advisers” or “risk managers” have, in many cases, been expected to perform many service-oriented tasks because those job titles are commonly associated with expertise.

Many courts, when determining an insurance producer’s duties, have based rulings on the existence of what is generally referred to as a “special relationship” between the agent or broker and the customer or client. If a special relationship exists, the insurance producer’s obligations (not to mention potential liability) increase. If no such relationship exists, the producer is generally exempt from having to advise people or pursue anything more than what a consumer requests. However, different courts have considered different factors when judging the presence of a special relationship.

In some situations, an insurance professional's job title and the qualifications implied by that title are enough to substantiate an insured's special relationship claim. At other times, courts have intricately examined details of a case in order to determine whether or not agents or brokers have committed themselves to special relationships.

Durham v. McFarland, Gay & Clay

In the 1988 case *Durham v. McFarland, Gay & Clay, Inc.*, the Court of Appeal of Louisiana, Fourth Circuit, ruled that an agent was liable for hurricane damages because he did not do enough to insure the plaintiff against residential flood risks. The court based parts of its decision on the fact that the plaintiff had been a customer of the defendant for roughly 15 years and the fact that the defendant (who was repeatedly instructed to transfer coverage to the residence) knew for an extended period of time that the property was not adequately covered for flood risks.

Expertise and Advisory Duties

Other courts seem to have ignored circumstantial special relationships and used broad brushes to paint all insurance agents and brokers as mandatory providers of advice and various fiduciary services. In *Saylab v. Don Juan Restaurant, Inc.*, a broker obtained a general liability policy for a dining establishment. When drunk drivers who had become intoxicated at the restaurant killed two people, families sued.

Once the general liability policyholders realized liquor liability was excluded from their coverage, they took legal action against the broker for not addressing their potential need for such insurance. In the opinion of the court, insurance brokers, regardless of any special relationship, were more than just average insurance representatives. They were professionals with expertise who should not be easily let off the hook for failing to advise clients of insurance needs or gaps in coverage.

Additional courts have had similar views on the obligations of insurance agents. In *Riddle-Duckworth, Inc. v. Sullivan*, the Supreme Court of South Carolina stated in 1969, "[T]he respective duties and obligations arising from the relationship of a principal and his agent in the procurement of insurance must be determined in the light of the fact that the agent was an expert dealing in a highly specialized business, with knowledge and means of knowledge not possessed by the average applicant for insurance."

In the 1995 case *Southwest Auto Painting and Body Repair, Inc. v. Binsfeld*, an agent did not bring up the subject of employee theft and dishonesty coverage. In its ruling against the agent, the Court of Appeals of Arizona referred to the testimony of an insurance expert, which appears below:

"The expert testified that the standard of care in the community for professional insurance agents requires agents to advise clients about the relevant types of coverage that are available and the cost of the coverage, either in a written confirmation of information given orally or in a written proposal handcrafted to the individual needs of the prospective insurer."

A Case for a Legal and Ethical Balance

Because insurance producers have important business obligations, it is fair, up to a point, to apply the concept of "caveat emptor" (a Latin phrase that means, "Let the buyer beware") to disputes between consumers and insurance producers. It is logical to expect intelligent prospective policyholders to take the time to educate themselves about their insurance needs and about the products that might best suit those needs.

It is also logical for intelligent prospective policyholders to view an insurance agent or broker as a good person to learn from. After all, the insurance agent or broker has specialized, professional experience and is probably the most accessible source of insurance information for the average person.

Obviously, this is an ethics course, and opinions concerning which acts are ethical and which acts are unethical can differ from generation to generation, from culture to culture and from person to person. Studies of ethics are generally not structured around set-in-stone rules that firmly and universally state what is right and what is wrong. The study of ethics endures through the centuries because it involves choices that can often be debated as being both right *and* wrong depending on a person's values and one's guiding philosophies.

A writer could fill the following pages with summaries of numerous ethical theories and examples of how each of those theories applies to the duties of insurance agents and brokers. But the insurance community might not yet have reached a time when that sort of text should be written or studied, at least not as long as insurance producers have to worry about how an inconsistent judiciary will view their actions. Rather than an abstract examination of philosophy, today's insurance producers deserve and need something practical that will instruct them on how to protect themselves from lawsuits without compromising customer service. Yet, due to the subjectivity of ethical beliefs and the differing opinions of various courts, we will struggle to interpret truly practical guidance unless we allow ourselves to make two assumptions in regard to this topic.

The first assumption we will make pertains to ethics. Let us assume, for the next few pages, that insurance producers collectively subscribe to the "golden rule," a theological concept that has gained tremendous acceptance in secular society and commands us to "do unto others as you would have them do unto you." For insurance producers, morally subscribing to the golden rule requires agents and brokers to put themselves into the policyholder's shoes and complete the following tasks:

- Go out of their way to understand a customer's needs
- Do their best to set the customer up with products that best address those needs
- Offer crucial advice (solicited or otherwise) that pertains to potential risks and overall customer satisfaction

The second assumption pertains to laws and how they may be interpreted by various courts. For our purposes, let us assume that any court is capable of interpreting an insurance producer's duties in the broadest manner possible. This would mean that agents and brokers, in every jurisdiction, could be obligated to do all of the following:

- Advise the public
- Alert consumers to their insurance gaps
- Do what they can to turn customers' ultimate insurance decisions into realities
- Handle other people's money in a responsible fashion
- Perform various other fiduciary functions

Let's also pay close attention to the fact that agents and brokers ultimately serve one master. In the agent's case, this master is the insurer. In the broker's case, the master is the insured.

With those assumptions and facts in mind, the information that follows is intended to help the insurance producer find a balance of ethical principles and safe, legal practices. It is for insurance agents and brokers who do not want their desire to stay out of court to overpower their desire to perform excellent, ethical services. It is also intended to be read by those professionals who do not want their service-oriented ambitions to overpower their attention to liability risks.

We have prepared this material in the hope that it can make the insurance producer firmly believe that legal concerns need not jeopardize one's devotion to ethics. There is a legal world and an ethical world, and it is indeed possible to do business in both places at once.

Insurance Premiums

Although courts and insurance professionals have had many differing opinions about what insurance producers must do in order to fulfill the requirements of their jobs, it is inarguable that an agent or broker must act with care when entrusted with insurance premiums. In many cases, a policyholder pays for coverage through the insurance producer, who must pass the funds along to an insurer and receives a specified commission.

Obviously, the producer’s role as a conveyer of funds requires trust from the insurer and the insured. Insurance companies want the money that they are entitled to receive in a timely fashion, and policyholders rely on the producer’s speedy delivery of those funds to ensure that payments are not marked as late or nonexistent.

Documentation can often shield agents and brokers from allegations of illegal and unethical acts involving premiums. If producers take their agreed-upon commissions from premium payments, they should be able to quickly prove their right to do so and should confirm in writing that the insurance companies and policyholders understand that right. Examples of documentation that might serve insurance producers in this regard include copies of contracts that set forth commission obligations, bank deposit records, and notes taken during meetings and telephone conversations.

In the interim period between receiving premiums from the insured and sending the money to the appropriate insurer, producers sometimes have the opportunity to deposit the funds in short-term accounts. These deposits, when properly executed, allow the insurance company to obtain interest on the payments, which is typically applied to a producer’s commission as well. (Some insurers allow producers to hold onto premiums for extended periods of time in order to accumulate more interest.)

Because the producer’s commission usually comes out of these deposited premiums, an agent or broker might face the temptation to put the money in ventures that have the potential for high rewards in exchange for high risks. Ethical insurance producers resist this desire and follow what has become known as the “prudent man rule” or “prudent investor rule.” Highly self-explanatory in name, this rule dictates that an insurance producer must invest premium payments in a smart, fiscally conservative fashion.

Producers should treat the premium dollars obtained from the insured and owed to the insurance company as carefully as they would treat their own life savings. Putting the money into the stock market is a serious ethical offense because of the risks involved. Bank accounts are a safe, responsible investment vehicle for premium dollars. Other modes of investment can be deemed ethical as well, under the condition that they are not likely to deprive the insurance company of the premiums it deserves. Specific rules regarding premium deposits might be set by the state or by the insurance company.

Ethical Duties to the Insured

Agents and brokers have different bottom-line responsibilities, but it can be argued that both types of professional insurance producers have ethical obligations to current and prospective policyholders.

Analyzing Needs and Choosing a Policy

At some point in every transaction with the public, insurance producers must at least try to pursue what clients and customers want. If someone decides that he or she must have a term life insurance policy that costs a particular amount, the broker should search for a provider who can accommodate the client, and agents should return to their company and do what they can to obtain the requested policy for the customer. The insurance producer should not allow personal feelings to override a consumer’s decisions.

That does not mean that insurance producers must never use their experience and personal instincts to influence a consumer's thought process. In fact, doing so is ethically encouraged, as long as the producer has the person's welfare in mind. The responsible insurance producer listens to the consumer and tries to decipher what the person needs, which may or may not be exactly the same as what the consumer requests.

What the insurance prospect needs will be different from one individual to the next. A heart surgeon is undoubtedly susceptible to risk factors that differ from those faced by a bakery owner. If a business is being insured, producers should use their own experiences, the experiences of colleagues and the statements of the insured to learn about the risks involved with that type of venture. They should study and ask about the kinds of people with whom the insured does business and determine if any agreements with third parties have exposed the owner to significant risk.

It is the producer's ethical (and, in some jurisdictions, legal) responsibility to make clients and customers understand their insurance needs. If the producer believes, based on a consumer's situation, that a whole life policy would serve the person better than a term life policy, the agent or broker should say so and explain why. If the insurance producer recognizes risks that would not be covered based on the consumer's stated requests, the agent or broker should disclose the insurance gap. Specifically for agents, this might even mean making the consumer aware of insurance gaps that cannot be filled by their own carrier.

Upon being made aware of important information about the policy they are seeking, consumers must ultimately be the ones to decide on the type of coverage for the agent or broker to procure. But the obligation to track down what the consumer requests should still not necessarily be viewed by the producer as an act of blind obedience that puts the broker, agent or insurer at a financial disadvantage.

Even if a consumer hopes to obtain the cheapest coverage available, the producer can make a strong ethical case for the purchase of a more expensive policy. A producer should present a consumer with the policy that is the "best value," which is not measured in *dollars* and cents alone. Instead, it is measured by the quality of the coverage relative to the price. A cheap policy with big insurance gaps is not the best value for the consumer compared to a slightly more expensive policy with fewer or no gaps.

Explaining Coverage and Answering Questions

When discussing individual policies, insurance producers should make no assumptions about the consumer's knowledge of what a policy will cover and what it excludes. Even though exclusions are documented within the policies themselves, agents and brokers should discuss these exclusions in a detailed manner with the public so that potential policyholders understand the following:

- What they are buying
- What risks they are managing through insurance
- What risks they are still financially exposed to

Many of the ethical duties mentioned above relate to the broader issue of knowledge and competence among insurance producers. Insurance agents should be well-schooled about the products they sell. Brokers should also make themselves as informed as possible of the various policies that they can provide from various companies.

Of course, no insurance producer knows the answer to every question. Competent, ethical insurance professionals admit when they do not have an answer for a consumer and then attempt to follow up on the query by diligently consulting a more knowledgeable source. However, it is not enough for the producer to merely repeat a reliable source's answer. Assuming the agent or broker finds the answer to the question, he or she must clearly understand it and anticipate any further questions. It is also worth noting that, as in many situations in life, it is sometimes best to admit that you do not know the answer to a question and to advise the person to ask a more specialized individual. It should go without saying that a consumer will appreciate honesty more than factually shaky and potentially harmful advice.

Rejections and Renewals

An ethical insurance producer also informs clients and customers of facts relating to their insurance status as soon as possible. If consumers apply for insurance and are denied by the provider, the agent or broker must quickly inform them of the rejected application so that alternative coverage can be secured in a timely manner. The producer should never allow anyone to assume they have been approved for coverage.

In a similar fashion, agents and brokers should keep a keen eye on policy expiration dates and renewal deadlines. Although a producer should not renew or apply for an alternate policy on a consumer's behalf without authorization, the agent or broker is ethically bound to inform people of upcoming periods of potential insurance gaps.

Providing Company Information

Insurance producers can do their jobs ethically and legally by giving prospective policyholders a brief description of specific insurers. Agents and brokers should mention an insurer's rating, which relates to its ability to absorb risks and pay claims. The person paying for a prospective policy might also want to know if the insurer is well-established in the industry or if it is a relatively new organization. It will be important for the person to know how closely the company scrutinizes claims and how quickly it pays legitimate ones. Because a company's financial health and claims procedures can vary during a policy's lifespan, agents and brokers should convey this information to consumers not just at the application stage, but also at renewal time.

Making potentially negative disclosures about specific carriers can be more challenging for insurance agents than for brokers. After all, agents represent the insurer in a transaction and are obviously expected to paint a positive image of their respective employers. To do otherwise could jeopardize sales, endanger employment and potentially violate the concept of agency. And yet, it is not impossible to make these ethical disclosures and still uphold one's responsibility to an employer.

For example, agents might mention that their company is a new kid on the block but also emphasize the lower costs and comprehensive benefits that are being offered. They might admit that their company takes its time when paying claims but emphasize that the company is a financially healthy institution that has professionally served the public for decades. Through such sales presentations, the road to agency commissions can still be paved with honesty.

Ethical Duties to the Insurer

Once the consumer has considered all relevant information and chosen a preferred policy, producers have a number of ethical duties. One of these duties is to provide insurance companies with applications that are as extensive and accurate as possible. Agents and brokers should not pursue commissions at the expense of company solvency and should not deceive a carrier into accepting undesirable risks.

As one can expect, the agent has many more ethical duties than the broker in regard to an insurance company. Sometimes the right and wrong actions for an agent are clearly spelled out in an agency contract, but that is not always true. Generally, though, there are several ethical practices that an agent should engage in regardless of the specifics of the contract.

As a representative of the insurance company, the agent becomes the face of the insurer to the customer. The impression that a person forms of an agent is likely to represent that person's impression of the entire company. As a result, the agent must practice acceptable etiquette when interacting with the public. Though speaking with a customer should not entail tremendous anxiety, agents might want to behave as they would when going out on a job interview. The producer's appearance, manner of speech and general attitude should all be relative to the appropriateness of the occasion.

Insurers expect their agents to be loyal to their company, keep the insurer apprised of customer-related situations and perform their jobs in an ethical and financially responsible way. On a more specific level, employed agents are generally not allowed to sell similar forms of insurance for competing companies. Some insurance producers, known as "independent agents," are not permanently employed by one insurer and are allowed to sell policies from various companies at the same time. Independent agents, however, must disclose any existing or potential conflicts of interest before representing any carrier.

Ethical agents should also become well-versed in the internal procedures of their companies. Agents should not overstep the boundaries of their job descriptions. Unless authorized by an insurance company, agents do not have the power to make deals with customers. They cannot negotiate premiums, redefine the terms of a policy or unilaterally approve a person for coverage. They must understand that they are part of an organization and that performing the duties of another person without company approval can, at worst, lead to legal trouble, or, at best, produce role confusion and procedural disorder in the workplace.

Conclusions

This text stresses the many ethical and legal responsibilities of insurance producers. And yet, even though these responsibilities can make the producer's job mentally, emotionally and physically challenging, those reading this material should understand that not all responsibilities are on their shoulders. Despite ethical duties owed to consumers, insurance producers need not handle every aspect of a transaction. As stated previously, the insurance producer is an adviser, not a decision maker. In the end, it is the insured, rather than the producer, who must complete the following tasks:

- Choose whether or not to purchase a particular policy
- Pay premiums
- Provide producers with any needed documents for coverage
- Read and acknowledge an understanding of a policy's terms

Of course, no professional is immune to accusations of illegality. But insurance producers can reasonably protect themselves from liability by disclosing, at an early stage of a transaction, what they will do for a consumer and what they will not do. Smart, ethical agents and brokers do not allow the public to guess as to whether or not they represent the insurer or the insured. They document this disclosure, as well as every other act and discussion they have with a consumer, be it about a person's wants or needs, policy exclusions, the financial stability of an insurer or any other matter.

In a perfect world, the producer would and could act in the best interests of everyone, including the consumer and the insurer. That, though, can be a difficult goal to achieve, particularly when a person is confronted with the daily grind of doing business. But even for those producers who struggle with this approach due to the pressures of making money and staying out of legal trouble, there are serious incentives to behaving ethically.

Adherence to ethics improves public relations, which will likely increase business. Such adherence should also lessen a producer’s legal concerns in a time when few agents and brokers are absolutely certain of their court-imposed duties. The more people feel as if they have been treated fairly, the less likely they are to take legal action against someone. And even in those situations in which litigation becomes unavoidable, demonstrations of documented ethical conduct can be an insurance producer’s best defense.

COMPENSATION ISSUES

The Need for Fair Agent Compensation

Nobody and everybody wants to talk about compensation at the workplace. All employees and independent business professionals inevitably evaluate their income at various points in their lives and wonder if the money they make equals the amount of hard work and skill they put into their jobs. At the same time, many people feel uncomfortable addressing their true feelings about the size of their salaries, wages or commissions and their desire to take home dollars that match what they deserve. Employees do not want to fall into a trap of revealing their displeasure about the numbers on their paychecks and risk being thought of as ungrateful, greedy or uncommitted to their work-related obligations.

Insurance producers, as well as anyone else with a sales position, can have an especially tough time actively addressing their compensation concerns because they need to worry about more than just how employers and peers will judge them. They must also deal directly with the public and face consumers who will question—sometimes out loud—if the seller cares more about earning a commission than treating them fairly.

The reader might assume that an ethics course like this will chastise agents and brokers for accepting large commissions, but that is not nearly the case here. Insurance agents and brokers work just as hard as people in other businesses and deserve proper compensation from their clients and employers. However, because the industry can sometimes overemphasize the need for agents to “make the sale,” and because commissions can serve practically as the only source of income for some insurance producers, even the ethical agent or broker can feel pressured to bring in new customers at any cost.

Ideally, insurance companies would probably like their agents to focus on long-term, profitable careers in sales and service, but it is understandably difficult to think about the future when competition, inexperience or other factors make sales elusive in the present. The nerve-wracking grind of meeting, greeting and trying to make deals with potential customers, coupled with minimal success, can push some agents into situations where a particular sale, or even any sale for that matter, can be the difference between them having a future in the insurance industry and dropping out of the profession altogether.

Many agents deal with their frustrations by doing the latter. Others who struggle decide to give themselves more time to learn more about the business, develop more relationships with customers and perhaps rely on a little luck without giving up on their insurance careers.

A third group, though, might reason that financial stability and eventual success should overrule an insurance producer’s obligation to treat consumers in an ethically upright manner. Despite the fact that such behavior gives the public an excellent reason to take its business elsewhere, these producers deceptively sell unnecessary policies with high premiums merely so they can pocket commissions. The agents and brokers who engage in this activity, though proportionately small in number, give the insurance industry a bad reputation when they coerce people into unnecessarily switching to a new policy so that the agent can claim a large first-year commission. They ignore honest customer service when they set people up with expensive or excessive coverage solely to collect a larger amount of paid premiums. They exhibit trickery when they falsely advertise their products and make a client believe that he or she has invested in retirement accounts when the money has really gone toward a life insurance policy or vice versa.

The Struggling Ethical Producer

There are many good agents and brokers in this world. These insurance producers are honest, productive people who insurance companies should want to work with. But, in some cases, these professionals are struggling regardless of their character and experience and are working more for less pay.

Over the years, insurers have discovered that cutting commissions is an easy way to temporarily save money when business is bad or when insured losses are larger than expected. This seemed to have occurred in Florida following Hurricane Andrew and the big hit insurers took from that disaster, the most costly American catastrophe until the September 11 terrorist attacks. According to one insurance producer quoted in the Wall Street Journal, some companies in the state reduced commissions to such a low level that if an agent had to travel a long distance to close a sale, the resulting compensation would not have been enough to cover gas. With the incentive for an agent to sell policies in parts of Florida so small, it became difficult for even the fairest insurance producer to offer coverage to local residents.

Florida eventually tackled the problem by enacting laws and establishing a special insurance system to accommodate coastal businesses and homeowners. But that temporary crisis provides us with an example of how unreasonable compensation can hurt agents, insurers and consumers and create the potential for questionable ethical practices. In cases such as Florida's, insurance producers have only a few choices: They can wait out the tough times and accept extremely low commissions in the hope that business will improve. They can look for jobs with insurers who will pay them higher commissions. Or, in a worst-case scenario, they can give into the temptations of the "make the sale at any cost" philosophy and manipulate the consumer into buying insurance products at prices that will at least help agents and brokers get the most out of those small financial rewards.

Typical Compensation for Insurance Producers

Particularly over the past 20 years or so, insurers have experimented with various forms of compensation in order to rightly reward agents for their work, protect parent companies' interests and play fairly with the buying public. The most traditional form of compensation for an insurance producer pays the agent or broker a large percentage of paid premiums during the first year of a policy and a very small percentage of paid premiums upon renewal. This classic rewards plan allows agents and brokers to receive payment in as uncomplicated a fashion as possible. First-year commission systems are particularly common at life insurance companies.

Many agents like the traditional first-year commission system because it is what they know and because it compensates them quickly for their labor. Most agents do the bulk of their work during the initial sale stage and can often spend weeks or months lining up a new account. So, logic suggests they should get paid near that time instead of over a period of several years. Relatively new agents often prefer the first-year commission system because it allows them to earn significant money with a few big sales as they try to build up their small and new client base.

On the downside, compensation via commission seems to always get the blame whenever unethical insurance salespeople take advantage of buyers. More than any other compensation method, the first-year system discourages long-term service to the customer and emphasizes making the sale.

Because the commissions arrive in the policy's first year, there is also a smaller window of opportunity for insureds to realize they have been victimized by an unethical person and to cancel the policy before the unethical agent receives significant compensation. In a disturbing study conducted in the United Kingdom (where insurance compensation issues have often preceded those in the United States), the Consumers' Association found that among a sample of financial planners (which included insurance agents and brokers), one in five gave detrimental advice to people. That detrimental advice would have almost always led to higher commissions for the planners than they would have received by giving more beneficial advice.

In a mild compromise between the traditional first-year commission system and consumer protection, some insurance companies now pay their agents a first-year commission based on an agent's total business in a given time frame instead of rewarding the employee for each individual sale. It has not yet been determined if this has made a difference in producers' dealings with consumers.

The Positives of Levelized Commissions

Due in part to unethical conduct by some insurance producers and the resulting bad publicity, many companies have at least considered changing their compensation systems to one involving "levelized commissions." Under this form of compensation, an agent who might have normally received a 50 percent first-year commission and little else afterward would instead possibly receive a 15 percent commission for the first five years of a policy and a smaller commission in later years. Alternatively, the producer might be able to receive a flat commission rate for every year that the policy is in force. This mode of compensation is particularly common at property and casualty insurance companies.

Because the levelized commission spreads itself out over several years, the producer-consumer relationship can differ greatly compared to the relationship in the first-year commission system. Whereas first-year commissions can tempt an agent to snag a client, make a sale and then concentrate on finding another fresh buyer, levelized commissions inevitably emphasize service to existing clients. The agent's continued commission is tied on a long-term basis to the client, and the agent does not want to lose the client to a competitor.

In some ways, the levelized commission system is like an annuity, giving the agent a dependable, small income each year. That dependability can serve an agent well during dry spells when industry-wide sales slump or when an experienced seller simply suffers through some bad professional luck.

The Negatives of Levelized Commissions

Still, it may seem silly or even unacceptable to some agents when they have devoted a large portion of their energy to a recent sale and are paid for that work in yearly installments, as if their employer were paying off a loan. New agents, in particular, might find themselves struggling with levelized commissions because they have not worked with enough clients to keep the money coming in.

Under these circumstances, one hopes that insurance companies find ways to take care of promising young agents who might consider leaving the industry if they believe they will have to wait too long before they start making good money. Some companies who favor levelized commissions have addressed this issue by increasing base salaries for new agents or by providing them with allowances to cover various expenses.

Company Perspectives on Levelized Commissions

With levelized commissions encouraging agents to devote more of their time to helping existing clients, one may wonder if this compensation method hurts insurers by sacrificing sales for service. Agents should keep in mind, however, that ethical customer service to existing clients can serve as a great sales tool. The customer who trusts the agent who sold him a homeowners policy and who knows he will receive excellent service from that agent is more likely to go to the same agent when he wants to purchase a life insurance policy or some other form of coverage.

Consumers who come to trust an agent or broker are also likely to recommend that agent or broker to friends and colleagues. Meanwhile, the added service element of levelized commissions ideally benefits the insurance company by minimizing cancellations and not forcing the organization to replace an old account with a new one. Insurance companies undoubtedly want to increase overall sales, but it is still cheaper for the company to process a renewed policy than to issue a new one.

The fear surrounding levelized commissions and new agents' aversion to them contrasts with the reality at Acacia Mutual Life Insurance Co., where, beginning in the mid-1990s, all agents were compensated through some form of a levelized commission. A year after implementing the new compensation system, the company suffered no significant, permanent loss of agents, as reported by the trade publication National Underwriter.

Promoting Levelized Commissions in the United States

Some insurers have packed additional incentives into their levelized commission plans in order to make them more attractive to hesitant agents. The Wall Street Journal reported that John Hancock Insurance and Financial Services was prepared in January 1997 to offer agents the option of receiving commissions of up to 12.5 percent during a policy's first five years, at least 4.5 percent in additional years, plus sales bonuses, renewal bonuses and allowances.

But the acceptance of levelized commissions among U.S. life insurers in this country has been lukewarm and slow overall, partially due to legal issues. A long-standing New York regulation defined agent compensation strictly enough to initially prevent insurers from trying levelized commissions in that state. In time, New York granted insurers more leeway in regard to compensation, but even after the occasional state-level challenge, levelized commissions are still not nearly as prevalent in the United States as they are in other countries, such as Canada.

The Positives of Fees

Many financial planners have a long history of charging fees for their services instead of commissions, but it has taken longer for fees to become popular in the insurance industry. Perhaps best-suited to the broker-consumer dynamic, fee compensation tends to involve a greater understanding between parties that the professional is receiving compensation in part for his or her specialized knowledge and experience.

A professional who charges a fee is also likely to focus on providing specific services to customers. This might mean that consumers are charged a certain amount if the insurance producer handles a claim for them and a separate amount if the producer handles a renewal. Or it might mean that the professional has itemized all the services he or she will perform for clients, totaled the prices for all of those individual services and arrived at a flat fee for consumers to pay.

From an ethical standpoint, fees lessen the potential for real or perceived conflicts of interest. Since the insurance producer does not receive a commission, consumers do not need to worry so much about being sold policies that they do not need or want. The compensatory fee is known to all parties from the beginning of service and will generally not change no matter how much the consumer ultimately spends on insurance policies.

Like agents who work for levelized commissions, insurance producers who make their livings through fees will struggle to survive without conducting business in an ethical, service-oriented style. They still must use sales skills, but instead of selling policies, they are ultimately selling themselves and trying to make the case that they are worthy of advising the public in insurance decisions.

Some consumers like the fee system because fees can be less mysterious than commissions. When someone's money goes toward a commission, that person is almost never aware of exactly what services are being paid for with those dollars. A consumer might wonder, for example, what the agent actually did or will do to earn an 80 percent commission during the first year of a life insurance policy. When a commission does not seem to add up to the amount of service provided by the agent, the policyholder might feel cheated. Fees, on the other hand, can allow consumers to see exactly what they are paying for: Service X at a set price and Service Y at another.

The Negatives of Fees

Detailed disclosure, perhaps the most beneficial aspect of the fee compensation system for the public, also represents a major reason why many insurance producers dislike charging fees.

Unless the fee is derived from some sort of hourly rate, the insurance producer must face the difficult task of assigning some sort of price to every service provided.

Among the many tough questions for these professionals are the following:

How much is advice really worth in terms of dollars and cents?

How much should a person charge for handling a claim or for making a phone call on a client's behalf?

An astute businessperson takes the time to figure out how much services really cost, but for the insurance professional with nothing but an agent's background at a huge company, making those price determinations can be very difficult. That difficulty only grows worse when the producer deals with consumers who wonder why they have to pay a set amount of dollars for a service that would have been included in a traditional commission-based transaction.

Even though producers display excellent ethical character whenever they disclose costs to consumers, they must always prepare themselves for disagreements about the price and value of those services.

Additional Compensation Methods

Insurance producers have utilized other compensation systems besides traditional first-year commissions, levelized commissions and fees.

Though a rarity in the insurance business, a few companies discourage most kinds of sales bonuses and instead pay their employees primarily on a salary basis. For the agent, under these circumstances, there is little opportunity to supplement one's income with sales commissions, but the ethical concerns of consumers are bound to be at a near low. Salaried employees have few reasons to manipulate or trick potential customers into buying insufficient, excessive, needless, deceptive, or outrageously priced policies.

Norwich Union, the largest insurer in the United Kingdom, said in 1994 that it would stop paying its sales staff solely through commissions.

"We've carried out market research that shows that customers have more confidence in sales consultants on salaries than in commission-only salespeople," a spokeswoman told National Underwriter at the time. "Rather than pursuing new business, we want to develop our existing, warm customer base and good, quality business, which stays with us."

A small minority of companies have even tried compensating independent insurance agents with stock every time they make a sale. However, an independent agent confronted with such compensation must consider the ethical questions involved with accepting that reward. In this case, is the agent obligated to tell consumers about any financial interest he or she has with an insurance company? Does the agent's "independent" title become meaningless? Will consumers assume the agent is intentionally steering them toward the insurer who is offering the stock regardless of what they need, want or can afford?

Choosing a Compensation Method

Some agents and brokers will have opportunities to choose their form of compensation. These professionals should consider all of these mentioned compensation systems and weigh their strengths and weaknesses on both personal and societal scales.

Other professionals will always have their payment method chosen for them by employers, but that is no reason to ignore the ethical issues involved with compensation. Whenever possible, professionals should gravitate toward an employer who clearly upholds ethical principles that are similar to their own. When that is not possible, a professional should at least call attention to compensation systems that might prevent him or her from earning the public's trust.

No one wants to feel ashamed of making money, and as long as insurance producers receive compensation that ethically befits their service, they can enjoy the fruits of their labor with a clear conscience.

Commission Disclosure

There is obviously more of a personal incentive for agents to sell a policy that would net them a large commission instead of a small one, and although most insurance producers do their jobs independent of personal motives, enough selfish agents and brokers have forced the public to sometimes grow suspicions of a producer's intentions.

Many people within the insurance industry believe sellers of policies should disclose the commissions they earn, either during the sales presentation or upon the buyer's request. It is felt that this would serve to protect consumers and put their minds at ease. Some people say this disclosure helps insurance customers evaluate the information and advice that an agent or broker gives them.

In most cases, a producer's commission does not expose overwhelming personal bias. It is likely that even an agent who made a 90% first-year commission on a high-priced life insurance policy treated the corresponding customer fairly. But commission disclosure helps insureds evaluate the potential for personal bias on their own and gives them at least one more tool to use in their attempt to make an informed decision.

The Case Against Commission Disclosure

Many insurance professionals have no qualms about disclosing their commissions, but just as many seem reluctant to do so, citing matters of practicality and principle.

Some agents and brokers believe commission disclosure can confuse the consumer and detract attention from more important issues. Once they know an agent's commission, consumers might focus too much of their attention on that figure and ignore other important elements of the agent's sales presentation, including a policy's depth of coverage and other features that could benefit buyers.

Also, if commissions become public knowledge, competitors might use compensation as part of their sales pitches. One agent might try to convince a customer that another agent's commission is too high and ethically questionable.

Some producers have even wondered if the push for disclosure is, in fact, part of an attempt by insurance companies to lower agent commissions. Allegedly, if consumers learn how much an agent makes from a sale and enough of them respond unfavorably, parent companies will have an excuse to pay agents less and increase corporate profits.

Particularly when regulatory bodies or trade associations debate mandatory commission disclosure, some insurance producers who oppose such measures point toward fairness. To them, forcing agents and brokers to disclose commissions seems unfair while professionals in the banking industry, who sometimes sell insurance products, do not need to follow the same rule.

Similar logic applies in a more general sense as well. If the law does not require carpet salespersons or telemarketers for publishing houses to reveal their commissions, why should insurance producers be treated differently?

Unethical market conduct in the United Kingdom and Australia resulted in disclosure requirements for many producers in those parts of the world, and some observers linked lower sales figures and decreases in the agent population to the changes. Perhaps those observers made a valid connection between disclosure and sagging sales, but the ethical insurance producer must consider more than the financial bottom line when forming opinions and making decisions.

The Case for Commission Disclosure

Our culture seems to teach us that it is rude to ask people how much money they make, but one can argue that an agent or broker is ethically obligated to reveal commissions to consumers. It is the consumers, after all, who fund commissions in the first place through their premiums. Though lower commissions do not necessarily mean cheaper policies for the buying public, a person who inquires about commissions is probably acting like a smart shopper.

Agents and brokers should consider their own buying histories and think about the times when they seriously wondered how the money they gave to a business, charity or other entity was actually being spent. Whether or not they ultimately choose to reveal their commission rates, professionals should realize the information indeed relates to the consumer in some way and is therefore not as personal as many producers might like to think.

Dealing With a Consumer's Response

For those agents who view disclosure as a matter of ethical responsibility, the practical challenge of dealing with a customer's reaction still exists. No agent wants to argue about commissions or lose business over the issue. No one wants a customer to conclude a meeting by saying something like, "With that kind of commission, I'm better off buying my insurance on the internet."

Even before questionable market conduct sparked the disclosure debate in this country, some agents did not have a problem with discussing their commissions with prospective customers, and many of those agents have said they can count the number of times they have been asked about compensation on either one hand or none.

On those occasions when a consumer does express displeasure after learning about a commission, the agent or broker might find it helpful to emphasize his or her special qualifications and expertise. Many consumers do not take the time to interview agents about their credentials, individual strengths or moral character, opting instead to initially go with whichever agent answers their phone call. If a commission seems like a barrier to a sale, the agent has an opportunity to fill in the positive information that the customer never bothered to investigate. If agents can accurately present themselves as ethical professionals, they may be able to turn their compensation into a moot point.

Rebating

Most consumers probably do not realize they can sometimes negotiate with insurance agents and get them to accept lower commissions. "Rebating" is perhaps the most controversial practice in the insurance world that involves decreased agent compensation.

Agents who rebate will usually return anywhere between 50 percent and 90 percent of their first-year commissions to customers in exchange for doing business with them. They might also agree to supply their clients with gifts of significant value. In most cases, agents reserve rebating for big groups who purchase disability or life insurance policies, which tend to have high commission rates attached to them.

All states outlawed rebating during early parts of the 20th century, mainly to prevent large insurance companies from killing off smaller insurers who could not afford to offer returns on commissions. The practice remained illegal throughout the country until the late 1980s, when California actively changed its related laws and when multiple courts ruled that Florida regulations that prohibited rebating were unconstitutional. The remaining 48 states have not followed suit, and, in some cases, have taken even stronger stances against rebating since the developments in the two coastal states.

When Florida and California balked at tradition, insurers elsewhere began worrying that their local customers might purchase insurance through agents in those states and wait for their rebate checks to arrive in the mail. In response, Illinois, for example, made it illegal not only for insurers to rebate in the state but also for residents to accept rebates from agents in other parts of the country.

Even in those few places where rebating is legal, most agents who offer the discounts keep quiet about them and will not offer to return a portion of their commission to a client unless they are either asked directly about a discount or are competing against another person for the business.

Problems With Rebating

Insurance companies get an obvious benefit from rebating when the clients they desire come their way because of an agent's agreement to accept a smaller commission. Consumers get benefits, too, when rebating saves them money and nurtures enough competition to prevent price fixing. So why do so many people, including executives at some of the world's biggest insurers, think rebating is such a bad thing?

The Competition Argument

One argument has remained the same since those initial anti-rebating regulations went into effect all those years ago. Depending upon one's perspective, rebating might prevent price fixing and enhance a free market, or it might do just the opposite.

To understand this point, consider, for a moment, the heated debate in this country about large discount retailers. A person on one side of the argument might say that Wal-Mart and similar stores help the market and consumers by offering products at a low price and challenging other businesses to lower their prices in the spirit of healthy competition. Another person with an opposing point of view might say those retailers actually endanger a free market and could ultimately hurt consumers by driving other stores out of business, limiting consumer choices and slowly but surely gaining the power to fix prices as each competitor fades away.

The Discrimination Argument

Another ethical factor brought up by people who oppose rebating is the practice's alleged potential to create discrimination. Unless an insurance company or an agent gives rebates to all customers, some people obviously end up paying more for coverage than others.

Carriers who offer rebates should consider a popular principle that guides many ethical insurers: Whether consumers are black, white, male, female, young, old, married, single, employed by a small company or part of a big corporation, the prices they pay for insurance should be determined by their risk potential and nothing else.

A Contrary Opinion on Rebating

Despite the alleged problems with rebating, some high-ranking members of the insurance and legal worlds have viewed the practice differently. In *Dade County Consumer Advocate's Office v. Department of Insurance and Bill Gunter* (the 1984 case that has served as the legal precedent for rebating in Florida), the Court of Appeals of Florida, 1st District, said rebates did not jeopardize insurers' solvency, that rebating is "fair" and that it "does not constitute undesirable discrimination in a free market economy."

Making Ethical Conclusions About Rebating

No matter how an insurer feels about rebating, the competing legal views on the subject–with Florida and California at one end of the issue, and the rest of the country at the other–present the insurance professional with many important ethical choices.

Some producers will conclude that even if they disagree with the rebating regulations in their state, the law must be followed without question or deviation. Some people living in places where rebating is permissible might still not engage in it, believing that ethical issues like potential discrimination, as well as the possibility of negative market disruption, should take priority over the benefits of selling more insurance.

Other producers in those states might conclude nearly the opposite, that an ethical obligation to serve consumers by getting them the best prices possible should guide their conduct and that the rules in Florida and California make the insurance world a safer place for the public.

Some people in Florida and California might feel ethically obligated to work toward changing their state's laws to be more like the rest of the country. Conversely, many professionals in the other states might feel ethically obligated to work toward changing their laws to be more like those in Florida and California.

It's not surprising that insurance professionals have uniformly passionate, yet ultimately wide-ranging views on this issue. Ethical insurance professionals are not pre-programmed robots. They question their own actions, as well as those of their employers and peers, while also thinking about consequences for themselves and their industry.

Insurance Brokers and Contingent Commissions

Contingent commissions. Kickbacks. Market service agreements. Placement service agreements. Double dipping. No matter what you call them or how you characterize them, commissions paid by insurance companies to brokers have created a tremendous stir over the past decade, raising questions about ethics and the law. Once considered prevalent mainly in commercial lines of insurance, these commissions have caught the attention of insurance regulators in several states and are now known to be common in various other lines as well.

This controversial compensation method, which we will refer to as the "contingent commission" method, tends to take on two forms. In the case of "volume override commissions," insurance companies give a broker a bonus if premiums received from the broker's collective group of clients exceed a set amount. In the other common contingent commission arrangement, insurers pay a broker "profitability-based commissions" if the broker's clients prove to be low-enough risks for the company to make a particular profit from their premiums. Volume override commissions tend to be most popular at big brokerage firms, while profitability-based commissions are generally more common among smaller brokerages.

When brokers' commissions became a major ethical issue, some longtime professionals had trouble making sense of all the fuss. Contingent commissions had been a part of life for insurers and brokers from as far back as they could remember. But based on subsequent surveys and even the stunned reactions of high-ranking government officials, it seems clear that people within the insurance industry had either explained the commissions to consumers poorly or had grossly misunderstood the public's pre-existing knowledge of them.

In an attempt to educate consumers, some brokers defend themselves by pointing out that commissions or other types of compensation (some known to the customer and some not) are common in many sales positions and professions, be it the video store clerk, the telemarketer or the insurance agent. But explaining and justifying contingent commissions solely in this way is probably not the best idea for brokers. This defense can potentially sound like an adult's take on the childlike justification, "But everyone else is doing it." This statement usually lacks enough substance to win many arguments.

More importantly, this way of thinking ignores the central ethical issue involved with contingent commissions for brokers. Based on the concept of agency, an insurance producer acting as broker for the insured is obligated to ultimately serve the insured's interests and not those of an insurance company. Whether or not a conflict of interest actually exists, there is absolutely the potential for one whenever brokers accept bonuses from insurers. Most consumers believe the broker they are working with should be representing only the consumer's interest, and they become concerned when they realize the broker is receiving additional compensation from the insurance company.

When brokers receive volume override commissions, many consumers are forced to wonder if the insurance they buy through an intermediary is, in fact, the best available coverage, or if brokers are steering them toward certain insurance companies' products in order to reap personal rewards.

Similar logic holds true for any broker who accepts profitability-based commissions. Would a broker confirm the fears of the Consumer Federation of America and discourage clients from filing claims, all in the name of protecting a low-risk portfolio with a particular insurer?

Brokers who have accepted contingent commissions from insurers might not be guilty of wrongdoing, but they must understand that their actions have, at the very least, given the public reason to become suspicious.

They should also realize that if they demand these commissions from insurance companies, they might perform an unnecessary disservice to the overall insurance market. Big insurance companies can probably afford to reward brokers for bringing business their way, but many small insurers presumably cannot offer quite as much.

Contingent Commissions and Adverse Selection

Some brokers turn down contingent commissions, but those who take them say they deserve the compensation because their work and reputation help insurers fend off "adverse selection." Adverse selection occurs whenever an insurance company lacks enough information about people's risk potential to properly price coverage for them. If a company's underwriting staff cannot paint a reasonably clear picture of a consumer's risk potential, that person ends up paying either too much for insurance or not enough.

According to a study conducted by the University of Pennsylvania and sponsored by the American Insurance Association, a producer who knows the customer can sometimes notice levels of risk that an underwriter cannot detect. Also, to the benefit of both insurers and consumers, insurance companies sometimes trust a broker's judgment enough to make more aggressive bids on policies for potential insureds who would otherwise pay more for coverage.

Disclosure of Contingent Commissions

Among those people who recognize the potential for conflicts of interest when brokers representing consumers accept contingent commissions, some do not consider the compensation to be totally unethical. Taking a moderate stance in the debate, they have no problem with brokers who take the commissions, as long as the brokers disclose them to clients.

Yet, even within that group of people, arguments persist over what constitutes proper disclosure. One faction believes brokers should only need to disclose contingent commissions when their clients ask about them. This position corresponds to the way brokers must operate in the United Kingdom, where agents and consumers have long debated disclosure issues.

Other consumer-conscious individuals have wondered how well a "don't ask, don't tell" policy on contingent commissions protects the general public. In 2006, the International Underwriting Association of London discovered that 80 percent of corporate insurance buyers (the section of the population which first raised the issue) did not know brokers could accept contingent commissions. In 1999, the Risk and Insurance Management Society said it favored commission disclosure upon the customer's request, but as state governments and regulators exposed more and more unethical market conduct that involved broker compensation, the association changed its position and now favors disclosure to all consumers.

Some producers say it is difficult to calculate the amount of contingent commission made from an individual transaction because many of the rewards involve cumulative sales over a long stretch of time, but some brokers have figured out how to do the math and how to explain it to their clients. Either through regulatory pressure or their own desire for disclosure, brokerages reveal contingent commissions on websites, in contracts and in other places.

Calculating contingent commissions for customers might require additional spending and more-detailed recordkeeping, but those might be small prices to pay in exchange for the public's increased confidence in the insurance industry.

Contingent Commissions and Bid Rigging

Though it is possible that contingent commissions were always fated to become an ethical concern for insurance producers no matter the personalities involved, New York's former Attorney General Eliot Spitzer was probably most responsible for making the issue a highly publicized matter in the early 21st century. Influenced in part by strong lobbying from the Washington Legal Foundation, Spitzer instigated investigations of contingent commissions in multiple insurance lines, and regulators and politicians in several other states followed suit.

Marsh and McLennan, one of the largest U.S. insurance brokerage firms at the time of Spitzer's probes, received $845 million in contingent commission fees in 2003, proving that allegedly small rewards can add up to an indisputably significant amount of money. According to the Los Angeles Times, employees at one Marsh office said their employers discouraged them from setting clients up with coverage from a particular insurer because Marsh was in danger of reaching an agreed-upon cap on contingency payments from that company.

Spitzer also accused Marsh of "bid rigging," a major ethical and legal violation in which a firm gives phony bids to consumers in order to mislead buyers into believing that the broker's favored insurer has made the best offer of coverage.

Sometimes insurers cooperate with brokers in the bid-rigging process because they believe that if they give an erroneous bid in the present, brokers will obligingly send business their way in the future. Sometimes the insurer-broker relationship is tenser, with firms allegedly threatening to boycott a broker if he or she does not agree to rig bids.

In connection to the Spitzer investigation, one Marsh broker pleaded guilty to asking for rigged bids, and multiple producers pleaded guilty to providing them. Probes into Marsh's U.K. division revealed no bid rigging, but, according to the Wall Street Journal, contingent commissions had some influence on the way producers there performed their duties.

In the United States, investigations caused Marsh's stock to plummet. Perhaps dreading the worst, the company stopped taking contingent commissions on new business, put expected commissions from old and existing business into a settlement fund and laid off approximately 3,000 employees. Marsh finally settled with Spitzer by agreeing to pay $850 million over a four-year period to customers who agreed not to sue the company.

In a separate matter related to bid rigging, Zurich Financial Services made an initial insurance bid and was told by an Aon broker that the bid could be increased and still represent the lowest bid for the consumer. Zurich eventually settled with three states for $153 million and for $172 million in a second suit filed by nine states. Aon settled with Spitzer for $190 million.

Other outcomes of the various probes into commissions and big rigging included an $80 million settlement with ACE, a $27 million settlement with Arthur J. Gallagher & Co. and guilty pleas from workers at AIG American General, who Spitzer charged with scheming to defraud.

The Effects of Settlements

In the aftermath of the Spitzer investigations, some brokers and agents endured suspensions, and some longtime employees lost their jobs. In the heat of the bad press and the lawsuits, some insurance companies and brokerages either put an end to contingent commissions at their places of business or agreed to phase them out.

Regulators and politicians in some states proposed greater disclosure of contingent commissions and stiffer penalties for lawbreakers in the insurance community. California, for example, proposed a $10,000 fine and loss of license for brokers and independent insurance agents who put their own interests ahead of a consumer's needs and do not actively pursue the "best available" coverage for clients. The state also has disclosure requirements for brokers who receive commissions from insurance companies.

The Future of Contingent Commissions

Even after all the media attention and the industry shakeups that Spitzer and other state regulators produced, there are no guarantees that contingent commissions will become things of the past.

Insurance consumers, assuming they know about the commissions in the first place, do not like these rewards to brokers, but some of them worry about the negative consequences that might materialize if the payments end. In the absence of commissions from insurance companies, brokers might raise their rates in order to keep making consistent profits. Insurance companies, too, might raise their prices because, if contingent commission arrangements end, the companies might lose business that would have normally been steered in their direction by favored brokers.

These are worthy concerns for the insurance producer, ones that can call for tough decisions about how professionals should conduct themselves. But that should not come as a surprise to the reader. After all, making a decision about ethics is rarely easy.

Sometimes the ethical thing to do is obvious, yet it asks us to sacrifice some of what we value, including greater financial success. At other times, the ethical choice is less obvious to us, and we struggle to decide on a course of action despite our good intentions. But with time, experience, continued study and constant thought, we can gradually become more confident that the hard decisions and sacrifices we make are professionally and personally the right ones.

All hardworking people deserve to make money, but true professionals understand that the quest for fair financial treatment for themselves must be balanced with their commitment to fair financial treatment of consumers.

INTERNET ETHICS

Introduction

People in other lines of work might assume that an industry as large as the insurance business has always embraced the internet and taken advantage of its marketing and back-office capabilities, but that assumption would be incorrect. Even though the World Wide Web has brought about way too much change in communication to ever be dismissed as a passing fad, insurance companies and agencies still lag far behind other businesses when it comes to providing ever-advancing services to consumers over computer networks.

The comforts of tradition nearly always factor into people’s resistance to change, but insurance professionals’ lukewarm opinions of e-commerce usually stem from much more than a simple preference for the safe business environment they know and a fear of a rapidly changing one packed with unpredictability. Sometimes the internet and its related technology pose serious ethical questions to insurers and consumers and make both groups wonder if insurance and the Web make a fine pair.

The Importance of Professional Assistance

Ever since the internet first became available to the general public, insurance producers have considered the consequences of living in a world where consumers can bypass salespeople and make policy transactions at their computers without a producer to assist them.

The internet is a wonderful research tool, capable of bringing countless bits of information to our computer screens with a single click of a mouse. Yet it cannot weed through every piece of information and separate the fact from the fiction. Neither can it break the information down so that the person at the keyboard understands all the facts. As anyone who has done internet research knows all too well, no single website can guide people to every fact related to a particular topic, and alleged facts found on many sites are either misleading or blatantly false.

Like a website, no single producer possesses all knowledge related to the insurance business, but producers are often capable of answering specific questions quickly and can do so with an immeasurable bonus of credibility. Unlike a computerized source, a trained professional can analyze unique situations and advise people in matters related to coverage, claim procedures and much more based on a customers’ specific insurance needs.

The Web certainly aids insurance customers in many ways, and some people admittedly do have enough expertise to buy insurance without assistance from an agent or broker. But lawsuits filed by consumers who accuse producers of not alerting them to insurance gaps seem to confirm that most people lack all the necessary specialized information they need to make every one of their insurance decisions without professional help.

Maintaining Positive Relationships With Consumers and Competitors

Some businesspeople view the Web as a replacement to person-to-person advice and service. For their own benefit, they might steer telephone callers away by referring them to a website, or they might make it challenging for Web surfers to find contact information. In order to continue to serve customers as fully as possible, it is best for professionals to view their websites not as a replacement for personal contact but rather as one more method of reaching out to the public.

Some agencies maintain a human connection with consumers by using their website merely as a starting point for an insurance transaction. They might have an extensive site that details their services, products and prices but does not allow consumers to purchase policies directly through the internet. Instead, their site might list local agents or brokers who can meet with prospective clients and bind coverage after a face-to-face meeting. Other professionals might feel comfortable with e-commerce as long as the online insurance customer is at least encouraged to consult with an agent or broker before buying coverage.

Whatever the specific functions of a website might be, an agency must find a way to balance the convenience, speed and efficiency offered by the internet along with adequate customer service. Without decent insurance coverage, the world is an incredibly dangerous place, and average citizens with the financial means to manage some risks should not be forced to find their own way to safety.

We should also mention that the important relationship between a company and its customers sometimes unintentionally overshadows the relationships competing businesses have with one another. As opposed to someone who merely does a job and collects a check, a true professional values and upholds certain standards among people with the same occupation. Professionals should understand that they and their competitors make up a business community that deserves respect from its inhabitants. Like good sportsmen, professionals want to win, but only by playing fair.

Because of its marketing potential, the internet has become a legitimate forum for business competition. Whereas companies with their own websites in the early 1990s could claim some degree of cutting-edge status, a business without a Web presence in the 21st century can seem behind the times. Yet as online capabilities and competition increase, so do the opportunities for perceivably unethical market conduct.

Whether your company has been online for years or is still considering a spot in cyberspace, professionals should develop an understanding of how they will treat consumers and each other on the internet. Even if you lack the time and the skills to build and maintain your company's website, you might need to explain your organization's online ethics policies to the employees and consultants who handle that side of the business. In these cases, you will want everyone to know that online activities ought to reflect your company's solid values.

Giving Online Quotes

Internet shoppers tend to value low prices and speed, and an insurance website that does not allow for direct purchases or does not even calculate quotes hardly lends itself to those attributes.

At least partially in an attempt to attract Web consumers, some insurers offer customers nearly every service online, including online purchasing and billing. Other companies have not gone that far but do allow consumers to electronically submit personal information and receive a quote online.

Those insurers who at least offer online quotes cater to the likes of the internet shopper, but their attention to price and convenience should go hand-in-hand with ethical considerations. For example, a quote from a company's website might not equal a quote from one of its human underwriters. If a real person recognizes risk potential that a computer did not detect, an insurance provider might need to rescind or adjust the quote. Meanwhile, the consumer might feel cheated and wonder about the insurer's sense of honesty.

With that in mind, it is possible that underwriting is too intricate and too subjective from customer to customer for the internet to ever eliminate personal customer service at insurance companies. Because people certainly need to exhibit greater care and knowledge when they buy insurance than when they purchase books or compact discs, it may be unreasonable for the industry to ever expect itself to operate on an impersonal, technological level in the manner of amazon.com or other successful sites for Web shoppers.

Insurers must never forget that the public greatly appreciates quick quoting and underwriting, particularly when it can be done without leaving the comforts of home. However, overly hasty underwriting presents problems for everyone in a transaction. The customer might end up paying more than necessary for coverage, or the insurer might end up absorbing undesired risks.

Choosing a Domain Name

Before they have even begun to construct their site, many businesses choose a Web address, which will ultimately allow a shopper to access their online content. Each address distinguishes its corresponding webpage from millions of others and basically tells computers where to go on the internet.

In order to ensure that computers navigate to the proper location, no two Web addresses can be the same, and anyone who wants a particular address for their site must register the address with one of several companies. You cannot use Web addresses that are currently registered to another party, and no one else can use Web addresses that you register for yourself.

Technically, an internet user can access a webpage by typing in a corresponding group of numbers known as the page's internet protocol (IP) address, but because memorizing numbers can be such a tedious task, nearly all Web surfers access sites by typing a typically letter-based title, known as a "domain name," into their Web browser's address bar.

Good domain names are simple, straightforward and linked closely to the person, business or topic showcased on the site. For example, if Bill's Tires had to pick a domain name, the obvious choice would be www.billstires.com. Because the domain name is so short yet so specific, people who visit the site will probably remember the address the next time they want to access the business's Web content. Perhaps even more importantly, someone who wants to view the site but does not know the exact address could probably make an educated guess and arrive at the right place on a first try.

When companies choose easily identifiable domain names, they open their doors to the world and signal to the online population that they are open for business. If a company opts for an indistinguishable domain name, the online public might not even realize the business exists.

Cybersquatting

The Web's popularity and the importance of an obvious domain name have sparked the money-making spirit within some Web users. Known as "cybersquatters," these people intentionally register domain names that other organizations or individuals might want for themselves.

The media usually portray cybersquatters as people who gobble up domain names and then try to sell them to major companies and celebrities at absurd asking prices. Before AOL-Time Warner could set up shop on the internet, cybersquatters registered www.aoltimewarner.com, www.aol-timewarner.com and similar addresses with their hearts set on making a deal with the conglomerate. Among the rich and famous, singer Madonna, actor Brad Pitt and even President George W. Bush have all been targeted by alleged cybersquatters.

Beyond the big businesses and the household names, cybersquatting involves slightly different motives that could materialize in any fight between companies for new customers. Let us pretend that the owner and namesake of Bill's Tires tried to register the domain www.billstires.com and learned that the New American Tire Store, one of Bill's competitors, already registered the address. This presents a few problems for Bill. His preferred domain name is already taken, and more importantly, unless they know his specific Web address, customers who might want to buy tires from Bill and want to research his products online will most likely wind up at a rival store's site.

From Bill's perspective, the New American Tire Store is stealing customers from him and deceiving the public. Meanwhile, the owner of New American sees no ethical (let alone legal) problem with his domain name. After all, he is also named Bill, and he does indeed sell tires.

Sometimes one business establishes a Web presence at an address and competitors respond by registering a slightly different domain name. Dr. Tom's Computers in Massachusetts, with the domain www.doctortom.com, contested the use of www.doctortoms.com by a competitor. The competitor, by the way, was not named Tom and was presumably not a doctor. (For the record, www.doctortoms.com is currently operated by an unrelated third party.)

The printing, jewelry and real estate businesses, among others, have seen their share of similar examples. Even the National Guild of Hypnotists experienced domain-related stress when the domain www.nationalguildofhypnotists.com was registered by the American Board of Clinical Hypnotherapy for its own use.

Applying Ethics to Domain Names

Although this course mainly addresses ethics as opposed to laws, cybersquatters tend to give legal defenses for their actions that fit well into an ethics-based discussion.

In a case related to the food service industry, a man defended his alleged cybersquatting by saying he only wanted to attract more visitors to his site and had no plans to sell the domain to a similarly named competitor at a steep price. That defense seems to imply that knowingly taking a domain name that is similar to a competitor's name is not unethical, as long as requests for money do not come into play. But why should a person's consideration of ethics begin only when domain names are put up for sale?

Imagine that two bookstores have registered domain names that are similar to the one used by Marge's Books. One competitor is just interested in getting a little money from Marge and offers to sell her his domain name for $2,000. The other competitor is like the person in the food service example. She needs all the online visitors she can get and has no plans to ever sell her address to Marge.

Some people might quickly characterize the first competitor as unethical but hesitate before judging the second competitor's actions. For this reason, let us go further with the example and say that the competitor who does not want to sell her domain name takes home $12,000 in online orders per year from customers who intend to shop at Marge's Books but unknowingly end up at the other woman's site. Given that information, which competitor is acting unethically? A few people might say neither. Some would say one and not the other. Most people would agree that both are acting unethically.

In another real dispute, reported by the Boston Globe, the Northeast sporting goods chain MVP Sports took action against the online sports apparel company MVP.com. The online store claimed it had a legal right to its domain name because the Web address reflected the company name and because the company registered the address on a first-come, first-serve basis.

In analyzing this particular case, it is important to note that ethical behavior is not necessarily synonymous with lawful behavior. The ethical demands we make of ourselves and others may be wider than the narrow confines of a particular statute. They entail not just what we can get away with but also what we can do and still rest assuredly every night, feeling content with our actions and their potential consequences.

The fact that MVP Sports had been around since the 1980s and was not an inconspicuous mom and pop store should have at least caused some MVP.com executives to pause and consider the ethics involved with their choice of names. In all fairness, the online store made some valid points and had an arguably solid legal defense, but if the company had evaluated the ethical issues involved with its name differently, it might not have needed to defend itself in the first place.

If you have concerns about using a particular domain name, key in your preferred Web address, as well as similar addresses, and see what pops up on your screen. If you notice a site with a similar domain name, you might want to consider a different address. This is particularly good advice if the people affiliated with the similar domain name compete with your business in any way.

Still, you do not need to make yourself paranoid when picking an internet address. Some words, like "insurance," are so general that most people have no misgivings about using them as part of a domain name, even if some of their competitors have already used them as part of their own Web addresses.

In a legal example, Hasbro, which manufactures the board game Clue, could not stop Clue Computing Co. from using the domain www.clue.com. Internet law is still relatively new and open to interpretation, so the Clue case might not apply in all situations. Your intentions and conscience should tell you whether or not you have an ethical right to use a certain domain name.

Confronting Competitors

At the same time, your ethics should factor into how you respond when you suspect people of cybersquatting by using a domain that is similar to your own. Even if you believe a law has been broken at your expense, it is always useful to analyze the situation and to consider treating the possible wrongdoer in the same manner that you would expect to be treated if someone thought you had done something wrong. People who avoid this important analysis are welcoming personal guilt, public relations nightmares and unnecessary legal costs. For example, Prema Toy Co., which owned rights to the children's characters Gumby and Pokey, probably made itself look a little silly when it took legal action against a 12 year-old boy, nicknamed "Pokey," who set up a personal website at http://pokey.org.

Ethical standards can vary significantly from one person to the next, and though messy conflicts are sometimes unavoidable, it is never a bad idea to examine how we reasonably expect ourselves and others to act in a given situation. We might find that our expectations are sometimes too high or too low. Perhaps we determine, rather reasonably, that our expectations are just right and that someone has absolutely wronged us. Coming to that conclusion tends to make conflict seem unavoidable, but we should not allow ourselves to automatically believe in the inevitability of a battle. It is possible, particularly within a truly professional environment, that the wrongdoers will acknowledge their unethical conduct or own up to an unintentional error. It probably seems obvious, but it is important to state that even though competitors might use computers in unethical ways, they are not computers themselves. Businesses are run by human beings, and no human being lives very long without making a mistake.

The Benefits of Ethical Linking

Successful websites tend to showcase many different kinds of content and act as a hallway with several doors, each one leading the Web user to a land filled with information or entertainment. There are so many interesting things on the internet that it is easy to forget about ethical responsibilities when you see something online that you want your site's visitors to experience for themselves. But despite the excitement and the popular belief that there are no rules when it comes to the Web, people with professional attitudes realize there are ways to respect and disrespect the content that most people are kind enough to make available online for free.

One way that websites address ethics is through their linking policies. Links, short for "hyperlinks," allow people to move from one webpage to another by clicking on text or icons, instead of having to type in a Web address. A link on your site can take the computer user to another part of your own site or to content on another person's site.

Usually, linked websites share something in common. An insurance agency's site, for example, might contain links to a parent company, a state regulator, a service that compares the rates and policies offered by various insurers and a map service that gives driving directions to the office.

Links to relevant external sites enhance your pages by giving visitors easy access to content they might want or might enjoy. Links can also please the people affiliated with the external sites because each click that sends someone from your website to theirs increases their Web traffic, which, for a business, could lead to new customers.

Once your site is up and running, you might want to visit other parts of the Web that attract your target market and ask the site administrators to add a link to you on their sites. Many site owners will add your link as long as they recognize your site as something their audience might appreciate and as long as you do not compete with each other for business. You should note, however, that if you ask people to add a link to your site and they agree, it is considered proper online etiquette to do the same for them.

Objectionable Linking

Most people do not mind if you include a link from your site to theirs as long as you expect nothing in return. After all, links are what make surfing the internet possible. Whether a person gets to a site by clicking on a link from a search engine or by clicking on a link from a business or individual's webpage, the same concept is involved. But sometimes website operators have personal and professional reasons for not wanting a link on another person's page, even if the link might increase their Web exposure.

Though the risk has decreased as people have become more familiar with how links work, there is still a chance that someone will associate one website with another merely because they are linked. If someone has created a link on their website to your company, people might falsely infer that you are affiliated with the other site or have endorsed its content.

Imagine that without your knowledge, someone has included a link to your company on a site that contains sexual, violent or political content that conflicts with your desired image for your business. You would not want potential customers who notice the link to get the wrong idea about you or your organization.

Your company's website probably does not contain anything that is obviously offensive, but it is important to remember that, just as you might have unique reasons for not wanting to be associated with a particular site, other people might have their own reasons for not wanting to be linked to you. Online professionals generally understand this and honor requests to remove objectionable links. At the very least, you should consider displaying links in a way that clearly differentiates your company's content from others' and does not allow anyone to assume that you and the linked sites are partners.

Deep Linking

Once you feel ethically comfortable with linking to another website, you must decide exactly where your links will take your online customers.

As an example, pretend your local newspaper has written a story that favorably details your company's charity work. If you want people who visit your site to have access to the story, you could include a link to the paper's home page and let computer users navigate their way through the other site to find the article, or you could link them directly to the place on the newspaper's site where the story exists. This second option is an example of "deep linking."

Deep linking allows the online public to bypass parts of a website that they would have encountered if they had typed in the linked site's domain name. On one hand, deep linking enhances your site's usability by making desired content available quickly, but it may become problematic from an ethical perspective when it prevents online consumers from seeing important information. To the consumer, important information might include privacy statements, which disclose what data the site may collect about computer users and how that data is used. For the linked site's owners, the important information might include advertising that generates the revenue needed to operate the site.

Framing

"Framing" occurs when linked content from an external source is made to look like it is part of your own site. Framing the newspaper story about your company might involve cropping out the newspaper's logo and any accompanying banner ads and imposing your site's background around the article.

Framing makes external content aesthetically pleasing to the viewer because surrounding images and colors remain consistent no matter where a person clicks on your site. But some people who own websites often become angry, sometimes to the point of filing a lawsuit, when someone distorts the presentation of their content.

Sometimes the anger materializes because the framed content no longer attributes credit to the proper source, but, as is the case with deep linking, it usually stems from advertising concerns. Some people deem it unethical to frame content in a manner that crops out another site's ads and even more unethical to impose your own ads over those from another site.

You will discover, however, that many websites operate with no regard for how linked content is presented to the public. While some of the people who operate these sites are merely unaware of the ethical issues related to linking, others actively engage in deep linking and framing with a clear conscience. To them, disputes over links jeopardize the power of the internet by discouraging people from providing access to external Web content. They argue that, instead of complaining about links, Web developers can manage their sites in ways that prevent people from linking to them in the first place.

One relatively simple and non-confrontational way to prevent unwanted linking is to make your site's content accessible only to registered users and only after those users have entered a proper username and password.

Search Engines

When trying to find a product or service on the internet, most people will begin by using a search engine. One study cited by Information World Review found that search engines produce 80 percent of Web traffic and that 75 percent of people click on the first five sites that search engines suggest to them. Those sorts of statistics help explain why it is so important for an online business to appear before its competitors in search engine results.

Many businesses have found honest ways to improve their rankings on search engines. But the desire to be found on the Web has gotten so strong that some individuals have made it a point to try and deceive search engine technology.

Although search engine companies such as Google and Yahoo understandably conceal the specifics regarding how they rank websites, it is generally known that a site's ranking depends upon the number of other sites that have linked to it, the text that makes up the site's content and the words used in its "meta tags."

The first two of those variables should be easy enough to understand. We discussed links extensively, and the role the site's text plays in search results can be summarized by saying that if you have used the word "insurance" several times on your site, you have a chance of being listed when someone types that word into a search engine. Meta tags, on the other hand, require a more extensive explanation.

Meta Tags

Good meta tags are essential to successful internet marketing. These Web elements consist of code-like text, known as markup, that Web developers usually make invisible to the computer user. Site administrators typically include keywords within the markup, which tell search engines how to index the Web pages. If your meta tags include your company's name, its line of business and its location, your site should appear in search results when people enter those variables into search engines.

No matter the exact words you use for your meta tags, it is best that they directly relate to the content on your website. Deliberately using tags that do not relate to you is deceitful because it will send people to your site who have no desire to go there. It is also counterproductive to business because it does not make you easily visible to online consumers who truly want to find you.

An obvious misuse of meta tags might involve a pornographic website that uses bogus keywords in order to attract unsuspecting consumers who are searching for everything from toys to furniture. Or a furniture store might include the word "sex" in its meta tags and hope that people who are looking for adult content suddenly realize they could use a new desk. Less obvious but still ethically questionable examples might involve the use of a competitor's name within your site's meta tags or the excessive use of a single word.

Meta tags have received less attention over the past few years, perhaps because some search engines have become smart enough to recognize instances when site developers try to fool them through markup. If your ethics are not enough to dissuade you from deliberately using deceptive meta tags, you should be aware that some search engines, including Google, will penalize companies that try to prevent the proper indexing of Web pages.

Writing a Privacy Policy

Because of threats both real and imagined, many consumers hesitate when asked to reveal personal information online. There are, of course, the usual worries about cyber thieves accessing financial data such as credit card numbers. But particularly in the case of insurance, when underwriters might require highly personal information in order to give an accurate quote, people's concerns broaden to incorporate many issues related to privacy.

A small portion of the population will forever have a fear of the security threats that the internet presents. Still, insurance professionals–who ought to be sensitive to privacy concerns whether they are online or not–can ease the fears of many among the general public by adhering to thorough "privacy policies." A privacy policy addresses what you will and will not do with people's personal information, whether or not you will share that information with other organizations and the steps you will take to protect the information from falling into the wrong hands.

For legal and ethical reasons, your privacy policy should not just tell security-conscious consumers what they want to hear. It should realistically spell out exactly why you need certain personal information in order to conduct business online. If your company plans to use some of the information for marketing purposes, you should disclose that intent within the policy.

Many companies sell personal information to market research organizations or pass the information along to affiliated companies. If this applies in your situation, proper ethics suggest that you should alert your clients to such arrangements. People might trust your company to properly handle and secure their personal information, but their trust will not necessarily extend to one of your affiliates.

As much as consumers would probably like to prevent companies from sharing personal information amongst themselves, it is not necessarily unethical for professionals to reveal some of the information they collect. When financial institutions share personal information with credit bureaus, for example, they help people with low credit risks obtain the loans they need at the rates they deserve. There are also very controversial examples of the government obtaining personal information from website operators in order to track the activities of alleged criminals.

Perhaps your organization would not share information in either of those circumstances because it places a higher value upon a person's right to privacy than it does upon society's alleged right to know certain things. If, however, your company feels differently for either ethical or legal reasons, you should inform online visitors of your practices.

Drawing Attention to a Privacy Policy

Many websites only make privacy disclosures available to computer users who click on a specific link on their home pages. But if you are truly interested in soothing people's fears about personal privacy online, you should force everyone who shares their personal information with you to first read your privacy policy and agree to its terms and conditions. Once visitors have read the privacy policy, many Web administrators will allow people to set conditions on how their personal information will be shared. For example, someone can choose or decline to share the information with affiliated businesses that might offer the person special deals on goods and services.

Before allowing your online visitors to go any further, you might want to tell customers how they can view the information you collect from them and how they can go about modifying any incorrect data.

Admittedly, many people will agree to your privacy policy without so much as glancing at its terms and conditions. You cannot force these people to actually read your privacy disclosures, but by at least putting your policy in front of their faces, you show them that privacy is something you handle with care.

Privacy and Computer Security at the Workplace

Too often, people assume computer crimes are the work of young technology fanatics who hack into the systems of unsuspecting businesses from their bedrooms or their parents' basements. Although outsiders with extensive computer skills present a threat to businesses, most security breaches are created by individuals who have a connection with the victims, and a person does not need much technical know-how to cause a great deal of damage.

Much could be written about recent technological advances that could aid your business in a war against computer criminals, but a security measure that is popular and practical today has a good chance of being outdated and inferior tomorrow. With that in mind, anyone who requires specific advice about how they can protect electronic files filled with their clients' personal information should speak with an information technology professional. Still, agents and brokers, nearly regardless of their computer knowledge, can follow various general guidelines to help maintain their clients' privacy.

Protecting Passwords

Insurance producers who are granted information related to a company's data system, including things as seemingly simple as a login name and a password for their desktop machines, should guard that information from other office workers who have not earned the proper level of clearance.

As time goes by, employees inevitably find it easier to treat passwords lightly, particularly when entering them seems just like part of a daily routine. At times like these, professionals should remember that when they are given access to password-protected files, an element of trust exists not only between them and their employers but also between them and the public.

When disgruntled workers use their passwords to tamper with personal information or when an honest employee mistakenly discloses a password to the wrong person, the company and its employees are not the only ones who suffer. At worst, a consumer's life could get turned upside down because of identity theft, credit card fraud or any one of several other serious offenses. At best, the consumer who shared personal information with an insurance producer now has a very good reason to never trust him or her again.

Working With Email

Email, too, presents risks that many people fail to acknowledge. Though sending information electronically has become the preferred method of communication for millions of Americans, email is accessible to computer criminals long after it has been deleted from someone's account and might not be the most private way to send confidential information. But should you determine that email is the best way to communicate with clients, you can protect their privacy from unsophisticated snoops by making your clients' Web addresses invisible when you send out mass emails.

Leading by Example

Professionals in management have the ability to turn their workplace into a privacy-conscious environment via their behavior and deeds. They can emphasize the seriousness involved with password privileges and other security measures on each employee's first day and reiterate that seriousness on a regular basis. To handle hackers, they can spare no expense when they update their security software and employ qualified computer security professionals to monitor their systems. They can limit outsourcing so that the number of people who could potentially mishandle personal information shrinks. When they do outsource information, they can constantly evaluate their business partners' security measures and privacy policies.

Despite technological advances, no computer security system will make your clients' information absolutely safe. Many companies discover that their best efforts were not enough to prevent a security breach, and they keep the breach under wraps to avoid bad publicity. This may seem like a natural, defensive position to take, but it conflicts with an ultimate goal of running a strong business with ethical customer relations.

So much of a professional's relationship with the public is based on trust, and because consumers entrust professionals with their personal information, agents and brokers must alert their clients to any situations in which their personal information was, is or could be at risk. No one wants to be the messenger under those circumstances, but one case of bad publicity does not mean the end for a strong company.

Any company that wants to survive a crisis should first try to envision that crisis before it occurs and develop a swiftly enforceable contingency plan that showcases the company's strength, concern and decisiveness. By quickly admitting to problems at your organization, you can more quickly shift the public's focus away from the bad publicity and toward your solutions to problems.

Businesses can be surprisingly resilient creatures, and as much as we tend to believe that the cutting-edge companies are the ones who will prosper, we should not discount the role ethics can play in a company's long-term survival. In difficult times, an adherence to ethical conduct online or at the office might be more responsible for a business's success than some of the best technology.