

Lingo That Keeps the Peace

When agreements for payment terms are carefully constructed with very specific language, collection efforts become much easier. **BY ALEX ROSEN**

An important goal for all media providers should be to foster a long-term relationship with every advertiser, agency or buying service. To achieve that, it's imperative for you and all other sellers to define your payment expectations in an agreement.

This will reduce the number of disputes and bad debts, which, in turn, will result in your company not having to expend as many resources to recover monies owed. However, if the customer decides not to pay on time, you will maximize both the amount of monies received and the likelihood of recovery by including specific language in the credit application and/or contract to ensure there is a clear understanding of the terms to be provided.

As you create or revise contracts, utilize your industry experience and try to think as if you are the customer. That will help reduce as many typical disputes as possible.

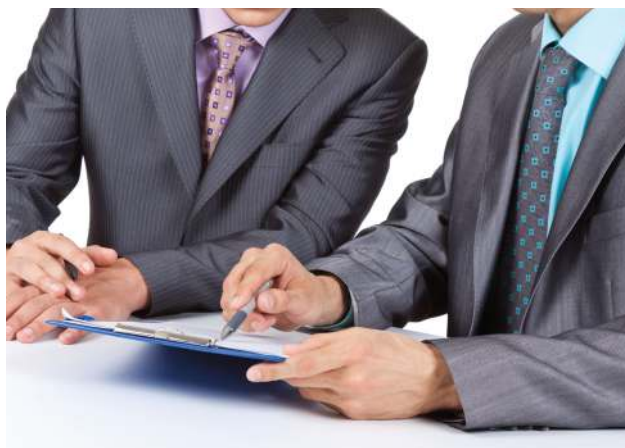
It is extremely helpful to remember that your company has significant leverage over the customer regarding the structure and terms of the contract, as the customer needs your company's services to help grow their business.

Although inaccurate, many customers believe that a contract can only be formed if it is signed and in writing. However, a contract is created when there is an acceptance of the terms of an offer in a manner invited or required by the offer. Specifically, a contract can be formed by written or verbal communication; through performance entailing no communication, or by any other reasonable manner described by the offer.

A typical situation arises when a media provider mandates that the customer enter into a contract or credit application defining the terms of the relationship and then accepts customer purchases at a later date. At a minimum, the initial contract should

state the required manner in which purchases can be made. It should also make clear that all purchases will incorporate the representations and warranties, covenants, terms and provisions of this contract.

To help eliminate customer disputes when the customer attempts to make a future advertisement purchase, a media



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provider should ensure that the customer acknowledges and agrees to the following four items in writing, even if these items are also disclosed in the initial customer contract:

- Their obligation is not dependent upon the results obtained;
- The contract or credit application defining the terms of the relationship control this purchased advertisement;
- He or she, as the representative of the customer entity, has the full and complete permission and authority of the customer – for which he or she is entering into this contract on behalf of – to bind the customer according to the provisions in the original agreement;
- They are entering into a binding, legally enforceable contract.

Many customers don't believe the fourth point is possible. Thus, it is imperative to obtain written confirmation from customers agreeing to it. Remember, the customer is the one who decides whether or not to pay their obligations.

Ultimately, despite what you do, some accounts will become problematic. When those disputes occur, the credit application and/or contract should be utilized to assist in the resolution process, especially if the customer is sent to a collection agency or attorney.

Beneficial customer information includes the entity name, structure and status; both the work and personal contact information of the authorized representative, and the customer's banking account information.

Further, the contract should disclose the ramifications of a payment default or if the matter escalates into legal proceedings. The contract should state the credit terms, finance charges and make clear that the customer is solely responsible for any and all collection costs, attorney

fees and court costs. The exact percentage of those expenses should be stated in the contract as it is much more likely that a judge will grant the media provider's request to have the fees and costs included in a judgment award if they were agreed to by both parties.

A media provider's goals to be profitable and grow its business are realized through customer satisfaction and building long-term relationships with them. Defining expectations and protecting your company from potentially problematic situations will accomplish these goals.

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