PREVENTING FIELD SALES NON-COMPLIANCE IN UTILITIES

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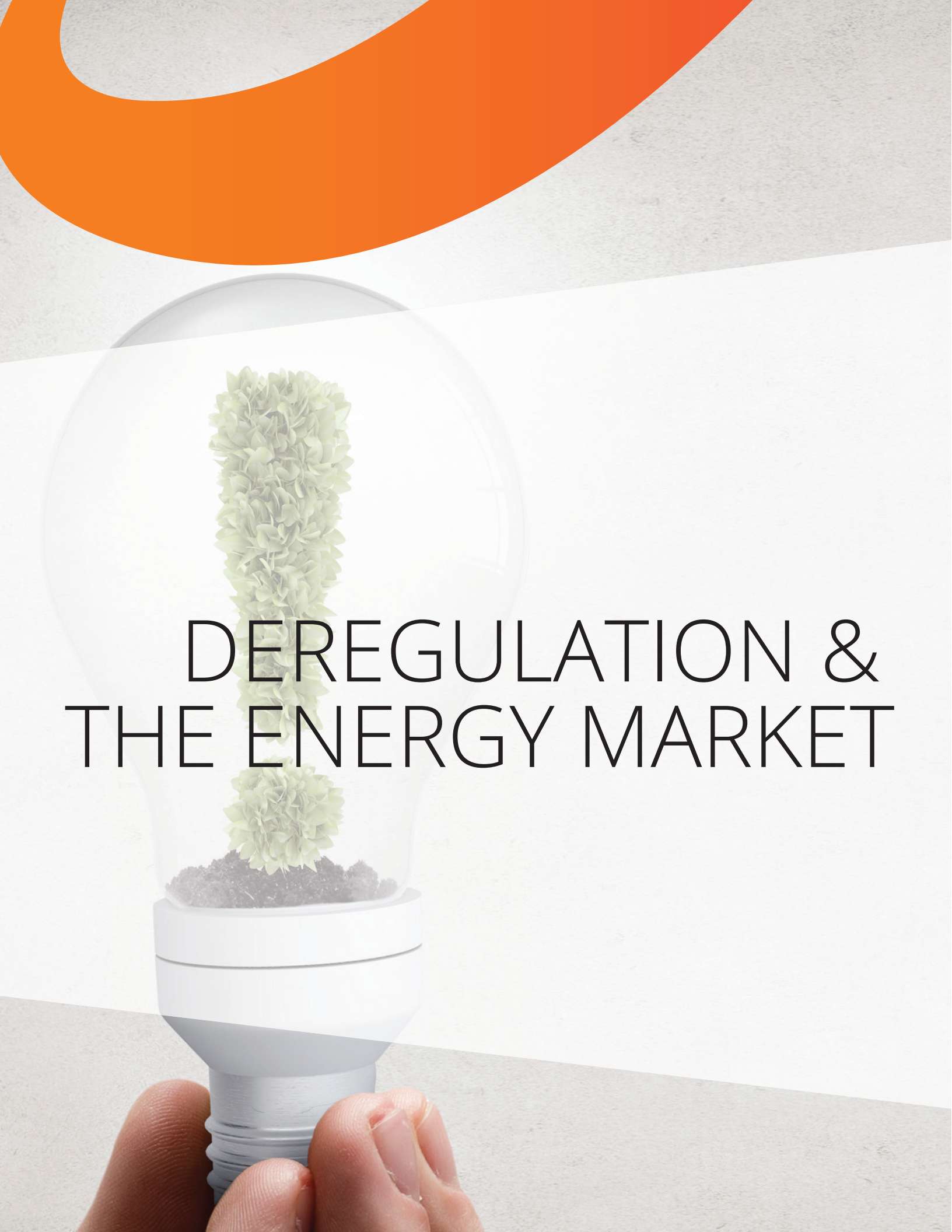

DEREGULATION & THE ENERGY MARKET

In recent decades, many countries have made the move to deregulate their energy markets. Deregulation allows for the establishment of energy providers who purchase electricity services from utility companies and sell that electricity to the end user.

How does this differ from traditional energy markets? In a traditional energy market, the entire infrastructure of the energy delivery process is owned by the utility company, from generation, to transmission and distribution. The traditional energy market was essentially a monopoly where customers had no choice of energy providers. Governments tried to regulate these monopolies in an effort to keep prices fair for consumers. However, regulation proved to be less than perfect.

Deregulation of energy changed things by decoupling energy generation from transmission and distribution. This allows third-party companies to purchase electricity wholesale from utility companies, and then distribute that electricity to their end users. By allowing multiple companies to sell electricity to end users, the consumer now has a choice about which companies to purchase this critical utility from, encouraging competition among suppliers, which helps to make sure that energy rates are fair.

Another effect of deregulation is that it creates incentives for these new companies to invest in the creation of new energy infrastructure to service their customers. In many cases, older, regulated energy markets overseen by the government might not be willing to invest as heavily in the establishment of stable, reliable infrastructure for delivering energy to new households.

The Problem with a Regulated Market that Lacks Competition for Energy Sources

For one example of the failure of a (partially) regulated energy market in its promise to provide stable electricity to consumers, one only has to examine the events surrounding the California energy crisis near the start of the millennium.

In this crisis, the entire U.S. state of California experienced prolonged rolling blackouts as local utility companies were unable to provide electricity to tens of thousands of consumers living in the state. There were many contributing factors to this crisis, including:

- **Consumer price capping.** One of the biggest problems in the California energy crisis was that the rates that utility companies could charge end users had a hard cap, while the prices that wholesalers could charge them was not. As the cost of acquiring energy rose for the small utilities, they could not offset this additional cost by increasing the rates that customers would have to pay.
- **Insufficient Infrastructure.** At the time of the energy crisis, there was a single “main line” that allowed electricity to travel between the north and the south parts of that state. This line, path 15, was old and could only manage roughly 3,900 megawatts of electricity at once. Without other main lines to supply electricity along, this bottleneck became a liability.
- **Market Manipulation.** Made possible by the bottleneck and the regulations requiring IOUs (investor owned utilities) to continue providing power to consumers at capped rates no matter the prices they had to pay out-of-state wholesalers to get that electricity, alleged market manipulation by companies such as Enron created artificial shortages and increased demand. There was deliberate overscheduling of power lines to force the payment of “congestion fees” which were designed to alleviate the problem of congestion and overloaded power lines.
- **The California Power Exchange (PX).** While California was ostensibly deregulated, that deregulation was partial. Existing utility companies were divested of their electricity generation, and all power providers had to compete on the PX, which was a day ahead-only market. Utility companies were thus prohibited from entering into long-term agreements with providers that could act as a way to mitigate the day-to-day price swings from temporary changes in supply and demand for energy.

The California energy market's problem arose largely from the regulations on the market which discouraged true competitiveness and encouraged reliance on near-monopolistic, out-of-state companies for power generation.

A few large companies were able to game the system in California, creating a crisis where there should not have been one, inflating the cost of energy artificially. The end results were the bankruptcies of local energy providers such as Pacific Gas & Electric, the laying off of 1,300 workers, and the adoption of a massive long-term debt by the state government California in order to cover the costs of providing power to its citizens.

Benefits of True Deregulation

Government agencies adopted deregulation in order to provide numerous benefits, such as:

Driving Additional Energy Generation and Infrastructure Development

When power providers have to compete with one another on the open market, they'll invest more heavily in the creation of robust, reliable energy infrastructure.

Why? Because, when customers have a choice of who they can acquire their energy from, they will go with the company that provides the best overall experience, which includes not just a low price, but stable electric utility service that can be relied upon.

Reduce Price for Consumers

Speaking of price, when providing energy to consumers in a deregulated market, there is no monopoly where one utility company is the only source of power. Customers have options and utility providers need to maintain competitive rates in order to prevent customers from jumping ship and getting their power from a new supplier.

Promote Green Energy

When looking for ways to reduce price, many companies turn to stable, reliable sources of power with low

fluctuations in energy costs over time. This discourages reliance on fossil fuel-based methods of generating power because fossil fuels are subject to large variances in price when events such as the 1970's OPEC embargo occur.

In deregulated energy markets that have a tight power pool where the cost of each resource in the pool is known and operations are based on those costs, the lowest-cost resources will be used the most, leading to investments in cheaper energy generation techniques as power generating companies try to become more competitive so that IOUs will buy from them.

Drive Economic Growth

When companies invest in infrastructure and the development of less costly green energy alternatives, this creates new jobs for the development, construction, and maintenance for said infrastructure/green energy. This helps to boost the employment rate, creating new jobs for qualified individuals (and perhaps even growing enrollment in higher education for people who want to qualify for such jobs).

This creates more earners who now have the money to pay for more goods and services (not to mention taxes), stimulating economic growth.

Overall, true deregulation of energy markets is a great thing, lowering prices for customers, creating competitive markets, and helping to further research into new ways to generate power for less. However, deregulation in the energy market requires energy companies to be transparent about their billing practices so that customer know that they weren't mis-sold to.

Mis-Selling and Utility Companies

In recent years, there have been numerous reports of mis-selling of vital utility services by companies in deregulated energy markets in the USA, UK, and Australia. Many of these reports of mis-selling have resulted in the levying of fines against utility companies. Some of these fines were relatively minor, while others have cost major utility suppliers millions.

What is mis-selling, and why should utility companies avoid it?

To put it plainly, mis-selling is a deliberate or negligent act where products and/or services are sold when the contract is misrepresented or the service is not suited to the customer's needs. Selling and billing a customer for natural gas service when their home is not equipped for natural gas (and your contract does not provide installation services for natural) would be one example of mis-selling.

Aside from the cost of the actual fines from mis-selling cases levied against a given utility company, there are several reasons to avoid mis-selling, including:

- **Regulatory Investigations and Policy Changes.** When customers complain of mis-selling by a utility company, a government regulatory body will eventually begin an investigation into the matter. These investigations, if they uncover evidence of malfeasance on any level of the company, can lead to penalties other than fines, such as a forced restructuring of the company, obligatory training sessions on avoiding mis-selling for all personnel, and mandates to enact specific, sometimes expensive, mis-sale prevention techniques, not to mention closer scrutiny of company operations in the future.
- **Changes in Corporate Culture.** The above penalties can lead to a drastic change in the corporate culture that negatively impacts relations between employees and management personnel, as well as the relationship between your company and its customers.
- **Ruined Corporate Reputation.** Even worse than short-term fines is the damage that a mis-selling allegation can do to a company's reputation. Once tarnished, a good reputation can be nearly impossible to restore. Without a good reputation, it is difficult to earn the trust of new customers, resulting in the loss of future sales opportunities, not to mention the defection of existing customers to your competitors.

In short, a company may find itself paying for a mis-selling charge long after any government-mandated fees are paid off.

Examples of Mis-Selling Penalties throughout the World

Past examples of companies that have been hit with mis-selling charges in the utility sector include:

SSE Plc

Formerly known as Scottish and Southern Energy plc, SSE was slapped with a fine totaling £10.5 million for the mis-sale of electricity and gas services in 2013. The fine, which would be a large financial burden for almost any company on its own, was accompanied by a decision to set aside another 5 million pounds to compensate customers who had been mis-sold tariffs.

According to reports by Ofgem, breaches by SSE included the promise of greater energy cost savings than were actually possible by switching services, misrepresenting the cost increases of other suppliers, failing to provide customers with information regarding cost of energy with SSE (including exit fees and standing charges).

Another point of the article that is worrisome for utility companies in general is that the events leading up to the mis-selling allegations against SSE, and the aftermath of that fine, have led some members of the British Parliament to enact legislation with the stated goal of giving "Ofgem powers to order suppliers to compensate customers," increasing the powers of regulatory agencies in the UK.

E.On

Up until the decision against E.On, the £10.5 million fine levied against SSE plc was the largest utility company fine on record in the UK. However, energy giant E.On was hit with a £12 million penalty not long after SSE's penalty was settled on.

This penalty was to be distributed amongst the 330,000 poorest customers of E.On, including those who receive the Warm Home Discount (low income families, the disabled, and pensioners).

Starion Energy

Over in the Americas, Starion Energy was recently fined $350,000 (roughly £224,021) for violations of U.S. consumer protection laws. According to a report by the State of Maryland Public Service Commission, the violations included "enrolling customers without their consent (slamming), failing to obtain proper licensing in certain jurisdictions and engaging in false and misleading marketing and sales practices."

Starion Energy was only able to avoid a revocation of its license to operate in the state of Maryland because it made consumer protection improvements, including "terminating certain representatives engaged in misconduct, creating a compliance department and hiring a general counsel to oversee compliance and hiring more personnel devoted to customer service."

The costs of these extra improvements, in addition to a loss of good faith from the public, will likely cost far more than the (comparative to SSE and E.On's fines) meager $350,000 fine itself. Starion was also ordered to send notices to all of the customers that they had mis-sold to inform them of their right to cancel their services with Starion and return to their utility company; possibly without having to pay termination fees if Starion was not licensed to provide them electricity service in their jurisdiction in the first place.

Energy Australia

According to an article featured on ABC.net, "the Australian Competition and Consumer Commission (ACCC) took Energy Australia to court" regarding misconduct by sales staff in Victoria, Queensland and New South Wales.

Allegations of misconduct by Energy Australia's staff included the misrepresentation of the tariffs charged by competitors, making false claims of government sponsorship of Energy Australia's tariffs (or other affiliations with the government designed to mislead buyers), and lying to customers about "government entitlements that would reduce their electricity bills if the customer changed from their current retail electricity supplier to Energy Australia."

As a result of the investigations by the ACCC, not only was Energy Australia forced to pay a fine of $1.2 million Australian, the marketing companies that were used by Energy Australia—Multiple Stories (Aegis Direct), Australian Sales and Promotions, and Sales Marketing and Real Technologies—were also ordered to pay fines equaling $290,000.

Can Mis-Selling be prevented?

In many cases of mis-selling, it can be hard to find a specific source for the practice of mis-selling. Is mis-selling caused by employees? Or, is it the result of corporate directives?

During any mis-selling investigation, sales and marketing team members will inevitably blame upper management, and vice versa.

However, except in some rare cases, mis-selling is usually not the result of a conscious effort to mislead consumers by any member of the organisation. Instead, mis-sales are a symptom of a different problem, such as sales team members feeling too pressured to make a sale, or organisation directives and practices being unclear.

Thankfully, it is quite possible to minimise the occurrence and severity of mis-selling incidents.

MIS-SALE PREVENTION TECHNIQUES

As mentioned in the previous section, it is very important for your utility company to avoid mis-selling to customers. Between the enormous fines that can be levied against your company and the potential loss of customers, a utility company with lots of competition in the market can ill afford to be subjected to a trial for mis-selling.

Thankfully, there are a number of ways to prevent the occurrence of mis-selling incidents, including:

1. **Training.**
2. **Performing Audits of Sales.**
3. **Improving Communications between Your Company and Customers.**
4. **Emphasizing Customer Retention over Acquisition in Sales Incentives.**
5. **Clearly Communicating Consequences of Mis-Selling to Staff.**
6. **Performing Employee Assessments.**

Each of the above techniques has its own strengths and weaknesses, which we will discuss below.

Prevention Technique #1: Training

One of the most basic steps taken by any organisation designed to prevent mistakes is to train their personnel. When it comes to preventing mis-selling later on, training is that ounce of prevention which can turn out to be worth a pound of cure.

What are the benefits of training personnel?

To begin, well-trained personnel are less likely to make mistakes than those who have not been given any form of training at all. Training provides new hires a measure of familiarity with your company's policies and practices.

Next, training can help you weed out bad hires early. If a prospective field sales team member cannot recall important information about your company's billing practices and demonstrate competence for selling in a controlled, low-pressure environment, then he or she is not likely to do so in the field. Through training, you can find out if a candidate understands the laws regarding field sales of utility services in your company's country of operation, as well as your company's own standards.

Finally, training can help your sales team members close more deals and improve customer retention rates.

Using seminars and role-play sessions can help your new hires be more comfortable with selling to strangers. Quizzes and refresher courses can help new hires demonstrate a working knowledge of your sales process.

Naturally, there are a couple of drawbacks to extensive sales training for new hires:

7. **Training can be costly.** Whether you hire experts to come in for one-off training sessions or establish a new department just for training, that's an extra expense on the company budget.
8. **Training is time consuming.** The time that staff spends in training, or in waiting for an instructor to be available is time that they aren't out there selling your utility company's services.

However, there is a way to provide training and test employee knowledge without having to create a whole new department or hiring expensive consultants.

Using a mobile application platform that your employees can access on their mobile phones, tablets, or other portable devices can let you train employees quickly without making them wait for weeks for a large class to be organised, or your company having to go through the expense of hiring multiple trainers for one-on-one sessions.

With a mobile application, you can create a custom training workflow to educate new hires about your business practices and test their competency using tests with established pass/fail conditions that must be met in order to begin work. Even better, you can create refresher courses to be automatically distributed to employees so that they don't forget their training in the weeks following the conclusion of training.

By placing these training modules on a mobile device, you take an activity that would traditionally require several days of an employee's time to be set aside for meetings and turn it into something that an employee can complete in hours from any location where they're most comfortable.

Prevention Technique #2: Performing Random Audits of Sales

Establish a practice where a higher-level exec will pull a list of recent sales and double-check the accounts sold by the team working under him or her. The executive should check to make sure that not only were all necessary signatures were made, but that the information provided by (and to) the customer is accurate.

Such audits should be performed at random intervals, and scrutinize random accounts to ensure that sales team members cannot learn to anticipate when they should be extra cautious about their sales practices and when they can feel safe that their activities won't be monitored as closely.

Knowing that any given transaction might be closely scrutinized by a superior can help to keep employees focused on selling services the right way, reducing the likelihood that they will willingly cut corners to get a sale.

Prevention Technique #3: Improving Communications between Your Company and Customers

One of the problems plaguing traditional field sales teams that can contribute to allegations of mis-selling is the delays in getting contracts signed. With traditional pen and paper contracts and record-keeping, it can take days or weeks for important paperwork to be processed.

Aside from the expected delay in shipping a contract from the office to the customer, the need for corrections to be made to important forms can exacerbate the problem of delays. For example, say John Smith of 5400 Ethelburg Drive signs an agreement for service, but his information was erroneously recorded as John Smyth of 4500 Ethelburg Drive. Assuming the errors are caught by the central office, a request for corrections will have to made, taking several days to be sent to the correct address, completed by the prospective client, and then mailed back to the office.

Improving the means of sending and receiving important customer information by utilising a mobile enterprise application platform can make it possible to spot errors more quickly, allowing field sales teams to make corrections on the spot, rather than making a customer wait for days to get an information correction request. With a mobile application, field sales teams can perform important data capture tasks and send the information to the central office in mere moments, a process which would have taken days with traditional pen and paper record-keeping.

On top of enabling faster transmission of data, a mobile application can be used to generate an automated email to customers, one which contains the terms of your contract so that the customer can review them via their email and even sign electronically. This speeds up the new customer signing process immensely.

Prevention Technique #4: Emphasize Customer Retention over Acquisition in Sales Incentives

In a high-pressure sales environment where employees have to hit certain minimum goals, there is an increased temptation among sales team members to cut corners to get contracts signed. In these situations, the employee often doesn't see the act of mis-selling as being an incorrect action. Instead the employee often merely sees their actions as the best way to keep their job or avoid a bad performance review.

However, while setting aggressive sales goals for employees can lead to temptation, that does not mean you shouldn't set a sales target. Setting goals for employees is important to keep them motivated and working at their best. With this in mind, how can you adjust goals to keep employees motivated, without making them tempted to cut corners?

One strategy that can work is to change the emphasis of your goals from the acquisition of new accounts to the retention of existing customers. For example, say that one sales team member (employee A) gets 200 new accounts over the course of a year, while another one (employee B) gets 150 accounts.

With a new sales acquisition focus, the first team member is the one you would generally reward and keep on staff. However, of the 200 customers signed by employee A, only 25% stay with your company past the first three months, leaving you with 50 long-term customers. Employee B, on the other hand, has an 80% retention rate, leaving your company with 120 long-term customers.

Employee B practiced more discernment in matching customers to service offerings, took more time to make sure that customers knew the company's billing process and reasoning, and was generally more careful. While this led to fewer closed deals overall, the company still stands to make more from employee B's efforts in the long run than from employee A's efforts. Better yet, the customers that employee B sold utility services to will be less likely to report a mis-sale, as these customers received a full explanation of services and were offered service packages that were most appropriate to their needs.

Overall, driving customer retention as a focus over new customer acquisition is a sound, long-term strategy for building sales.

Prevention Technique #5: Clearly Communicate the Consequences of Mis-Selling to Field Sales Staff

Sometimes, field sales staff members simply do not know just how much harm a few mis-sales can do to the company as a whole. They may not know the impact of a mis-selling accusation on the company.

To this end, it is important to communicate the consequences of mis-selling to field sales staff. Not just the consequences to their job, but to the company as a whole. For examples, look no further than the first chapter of this guide. E.On, SSE, Starion, and Energy Australia all paid hefty fines as a result of widespread allegations of mis-selling by field sales teams. Energy Australia, in addition to paying fines, dropped their field sales teams from the payroll entirely. In this instance, not only did the perpetrators of the mis-selling lose their jobs, all of the field sales team members lost their jobs.

Reminding employees of what has happened to other companies as a result of mis-selling can help them to appreciate the harm the practice can do to everyone in the company, not just them.

However, while it is important to let sales team members know that the act of mis-selling does more harm than good, these reminders should not be phrased as a threat against an employee's job. The fact that mis-selling will have consequences does need to be communicated, just not as a threat.

Prevention Technique #6: Employee Assessments

In tip #2, we discussed performing random audits of new customer accounts to check for instances of mis-selling in order to keep employees from giving into the temptation to cut corners during a sale. To take this one step further, you can perform employee assessments at periodic intervals.

During an employee assessment, you can collect information about a specific employee, such as their number of contracts signed in the last quarter, recent complaints (if any) levied against the employee, etc. Reviewing this information with the employee in question can help you by:

9. **Identifying Risk Factors in the Sales Team.** If an employee closes a lot of deals, but doesn't retain customers for long and has an abnormally high number of complaints, odds are that this particular sales team member is mis-selling services to customers, promising things that your company cannot provide. During an employee assessment, you can work with this employee to reinforce the importance of closing deals the right way, or let go of them if they refuse to adapt.

10. **Discovering Your Top Performers' Best Practices.** On the opposite end of the spectrum, an employee assessment can be your chance to sit down and talk with your best employees to find out what it is that they do differently from the rest of the sales team to not only close deals, but to drive customer retention over the long term. Once identified, you can share these best practices with the rest of your field sales team, which can help to improve their results as well.

By doing some digging into an individual employee's performance and sales tactics, you can make great improvements to your sales team, both by weeding out bad influences, and by promoting the best strategies of your top sellers.

With the above tips, you can reduce he occurrence of mis-selling by field sales teams. However, there is one more thing that can be done to limit mis-selling allegations.

KEEPING DOCUMENTATION SIMPLE

In the previous section, we mentioned how improving communications between your company and customers helps to reduce mis-selling. Here, we wanted to expand on that idea and talk about the importance of simplifying documentation.

While you look for ways to streamline communications between your company and customers, take some time to review your company's service contracts. Many times, customers may think they've been mis-sold simply because the service contract is unclear and confusing, making it difficult to understand what is and is not covered in the contract, the reasoning behind your tariffs, and what the customer's specific obligations are (such as monthly minimums). To avoid this, it is important to periodically review your contracts and see if the language can be made simpler and easier to understand, and to weed out sections that are no longer applicable or have been rendered unenforceable by the laws of the region where your company operates.

Customers generally appreciate feeling that they have all of the information that they need to make a good decision. In fact, for many, clarity of the billing practices plays a large role in their service purchase decision.

By reducing the complexity of your utility contracts, you can make it easier for customers to understand your company's practices and avoid allegations of mis-selling.

Using Mobile Application Software for Utility Sales

By using mobile applications for utility sales in the field, you can empower your field sales teams with the ability to close a deal with customers right away, instead of having to wait for days as the post ships physical paperwork from one address to the other. With an emailed agreement and clear terms, your field sales staff can get a response from customers on the spot immediately and put the new customer on your books right away, allowing you to switch them over to your utility service faster and start earning their money sooner rather than later.

As mentioned previously, using electronic data capture also allows for the immediate verification of important information. This empowers sales team members to get corrected information before they ever leave the prospective customer's sight, keeping the amount of time that bad information sits on your books down to mere minutes instead of days or weeks.

With a configurable mobile application platform such as PSI's own Fusion, in-field data capture and contract signing via digital means is easy.

The Benefits of Avoiding Mis-Selling

When your company avoids cases of mis-selling to customers, not only do you avoid the massive fines that can be levied when such accusations arise, you avoid the reputation-ruining trials, public mistrust, loss of customers/sales opportunities, and enforced, costly implementation of government-mandated mis-selling countermeasures that can change your company's corporate culture into something unrecognisable from what it once was.

Thankfully, with advancements in data capture and record-keeping technology, it is becoming easier and easier to keep up with important documentation and weed out risk factors for mis-selling than ever before.

To learn more about mis-selling and other topics for utility sales, check out PSI's blog for more information, or contact PSI directly to find out how mobile application platforms such as Fusion can be used to prevent mis-selling in the field.

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