

Advertising Review Basics



**McHugh
Consulting
Resources, Inc.**

Advertising Review Basics

What we will cover today:

- What is Advertising?
- Regulators – Who are They?
- Creating Ads – Best Practices
- Common Topics in Advertising



What is Advertising?

NAIC Definition of Advertising

Model 570 s 2

“...material designed to create public interest in

- *life insurance or annuities or in an insurer, or in an insurance producer; or*
- *to induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy”*

Model 570 s 2 also includes agent materials too

- *“....material used for the recruitment, training and education of an insurer’s producers that is designed to induce the public to purchase, increase, modify, borrow on, surrender, replace, or retain a policy*

What is Advertising?

To determine if a communication requires review, ask yourself...

Does the content or any part of the content:

- Mention financial products and services?
- Include material as part of the solicitation process for a fixed annuity product?
- Create public interest in, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a product or service?
- Promote the services or product offerings of the FMO.

If the answer is “yes” to any of the above, the communication requires review.

What is Advertising?

Some examples of advertisements include:

- Agent product training
- Brochures
- Emails
- Flyers
- Lead generation materials
- Magazine or newspaper trade ads
- Mailers
- Newsletters
- Postcards
- Radio presentations
- Seminars and presentations
- Social Media platforms and postings
- Software and illustrations
- Telephone sales script
- Television commercials
- Videos
- Websites

Regulators - Who Are They?

- NAIC- National Association of Insurance Commissioners – Model Laws:
 - Advertisements of Life Insurance and Annuities Model Regulation (Model 570)
 - Unfair Trade Practices Act (Model 880)
- The Department of Insurance (DOI) regulates the business of insurance in each state
 - States are citing a growing problem with advertising practices by third party marketing entities- this includes you (FMOs)
 - Agent and producer along with the insurer are held responsible if the insurer “knows or reasonably should know” of a prohibited practice

Creating Ads - Best Practices

- Disclose the type of insurance being advertised.
- Be truthful and not misleading.
- Do not make unfair or incomplete comparisons.
- Be sure that disclosures are not minimized, obscured or ambiguous.
- Cite all statistics.
- Avoid emotional appeals and scare tactics.
- Do not use or promote a state's insurance guaranty association.

Creating Ads - Best Practices

- Use testimonials that are genuine, current and applicable – state relationship and if compensation was paid.
- Do not disparage competitors.
- Support any claims such as “industry leader”, “ranked as” or “voted best”.
- Use graphics and visuals that are realistic. They should not be exaggerated or promissory in nature.
- Don’t directly or indirectly imply that an offer/rate is “special” or “introductory” if available at a later date.
- Ensure you have copyright owner consent when using any portion of copyrighted material.

Common Topics of Advertisements

Charts, Graphs and Illustrations

- Clearly labeled.
- Complete and include the basis for information
- Should include a disclosure for hypotheticals if there are any hypothetical examples.
- Size to scale.
- Should not compare unlike products.
- Should identify the source of the material.

Common Topics of Advertisements

Disclosures

Here are some guidelines for help in determining the order of required disclosures. In material requiring multiple disclosures, the disclosures should generally not be combined or lumped together.

- Disclosures that clarify how a product works or how it's features are realized should be listed first and closest to the body copy and in at least the same font size as the body copy.
- Next would be disclosures that are required information for the reader, but not necessarily how a product works. The font size on these disclosure can be reduced somewhat to save space, but still needs to be reasonable.
- Last would be the intended audience disclosure and form number assigned to the material.

Common Topics of Advertisements

Email Blasts

- Clear and Concise
- Subject Line
- Unsubscribe
- Taglines
- CAN-SPAM Act



Common Topics of Advertisements

Fixed Index Annuity

A Fixed Index Annuity (FIA) may not be marketed as security*

- Language to avoid when marketing FIAs
 - Participation in the market
 - Market gains with no downside risk
 - Investment terms such as growth, yield, return, performance, earnings
 - Unlimited earnings potential
 - CD replacement product, CD Annuity
 - Equity Index Annuity
- Include a balanced discussion
 - FIAs are designed to meet long-term needs for retirement income.
 - Focus on all features of the product, including surrender charges

*SEC Rule 151 (“safe harbor” under the Securities Act of 1933)
Advertising Review Basics Presented by
McHugh Consulting Resources, Inc.



Common Topics of Advertisements

Images

As with words, images also have the potential to be misleading or promissory.

It may not be clear in all instances if an image could be sending the wrong message--you will want to consider the context in which the image is being used.

Material is reviewed in its entirety to ensure that the words and images that make up the “big picture” are presented in a way that is fair and balanced, and is not misleading in its message.

Common Topics of Advertisements

Lead Generation

- Regulatory “hot button”
- Direct mail materials are often misleading
- Producers can be held liable for any misconduct by the lead generation company for leads they have purchased
- Perform due diligence

Common Topics of Advertisements

Producer Registration

An insurance agent may not appear, directly or indirectly, as a financial planner, investment advisor, consultant, financial counselor, or any other specialist engaged in the business of providing financial advisory services relating to investments, real estate, college funding, tax matters or trust and estate matters when such person is in fact engaged only in the sale of policies.

Common Topics of Advertisements

Recruiting and Incentive Marketing

As stated previously, the NAIC Model 570 includes agent marketing materials in the definition of advertising

- Do not include exaggerated or promissory statements or claims.
- Self-conferred rankings are not permitted - all rankings must be confirmed by an outside source.
- Website recruiting and agent materials should be password protected if they include details about commissions, incentives, productions levels, or specific selling systems.



Common Topics of Advertisements

Seminars (often referred to as “Free Lunch” Events)

- Should not be advertised as “educational”.
- Do not state “no products will be offered”.
- Identify the event as an “insurance sales presentation” in all seminar invites.
- Should disclose that the producer is an insurance agent.
- Identify the products being discussed upfront.
- Welcome others – do not attempt to isolate clients.

Common Topics of Advertisements

Senior Marketing

- Senior citizens are frequently targeted in the insurance industry, due to their age and tendency to have more disposable income.
- State and federal regulators are highly scrutinizing sales practices that affect the senior market.
- Use terms such as “retirees” or “pre-retirees” as opposed to “seniors” in marketing materials to reduce risk and regulatory exposure.



Common Topics of Advertisements

Social Media

- Static social media advertisements or solicitations must comply with marketing and advertising regulations.
- Static content is content that is unchanging, fixed, or unalterable.
- Third Party Disclosure



Common Topics of Advertisements

Videos

- Script
- Graphics/Images
- Submit all material



Common Topics of Advertisements

Websites

- View website material as an advertisement in a traditional format
- Obtain approval before adding to website
- Agent only material password protected
- Terms & Conditions and Privacy & Security Policies



Summary

- What is Advertising?
- Regulators – Who are They?
- Creating Ads – Best Practices
- Common Topics in Advertising



Contact Information

Ad Review Department

(215) 230-7960

adreview@mchughconsulting.com

Ginny McHugh, *President & Owner*

gmchugh@mchughconsulting.com

Betty Dabrowski, *Vice President*

bdabrowski@mchughconsulting.com

Karen Lam, *Compliance Manager*

klam@mchughconsulting.com



Questions?



Disclaimer

This presentation contains interpretations of laws and regulations regarding the referenced subject that are the opinion of the author. Every effort has been made to assure accuracy; however, no liability is created for McHugh Consulting Resources, Inc., by the information contained herein. Please consult your own legal counsel for guidance on specific issues you encounter to which this information may apply.

