Following the money over the side

H.L. Mencken, the early 20th-century reporter and American sage, had some survival advice he freely shared: “When the water reaches the top deck — follow the rats.” No doubt a fair number of liner shipping executives are keeping Mencken’s advice in mind these days.

The challenge haunting the industry is maintaining the rate increases secured in the trans-Pacific eastbound trade with the contract period starting May 1. These “voluntary guidelines” were established by the Trans-Pacific Stabilization Agreement (TSA) prior to the implementation of the Ocean Shipping Reform Act (OSRA), which also took place on May 1.

Adherence to the guidelines is still undocumented. However, one leader of a major shippers’ group maintains that out of 8,000 service contracts signed by his members for the eastbound trans-Pacific trade, not a one deviated from the guidelines.

Conversely, a major importer claims he obtained concessions from his ocean carriers which obviated at least some of the increases recommended as part of the voluntary guidelines. No doubt the involved lines were distressed when the customer publicly named the ocean carriers with which he had signed service contracts.

At the heart of life in the post-OSRA environment lie two new truths: The biggest shippers no longer automatically get the best deals; and there is no reliable way to measure your success.

Even seasoned carriers, however, did not invest much in real negotiators. Some lines found they had more negotiating expertise in their operations group than in their commercial ones. For example, the local traffic group negotiating with truckers had been bargaining as a shipper and understood negotiating in a deregulated transportation market.

This year’s ocean-rate negotiations were frequently pursuing different objectives. While steamship lines focused on maintaining rate increases, shippers wished to optimize overall transportation and logistics performance.

Shippers recognized the inevitability — for now — of the rate increases, and they used the situation to gain additional favorable concessions. Service commitments, enforced by financial incentives and penalties, were the goal of many sophisticated shippers. Whether or not these objectives were obtained is still unclear.

It does appear, however, that many shippers made significant advances in the area of loss and damage liability.

Recognizing that a contract supersedes any bill-of-lading language and legal convention, shippers availed themselves of post-OSRA opportunity to obtain favorable language. And these terms, unlike rates, will be difficult to change.

Why did lines agree to this? I suspect for a combination of reasons.

Some lines simply failed to realize the gravity of the changes. Rate increase are a matter of the present. But most freight claims are not paid for several years. Lines didn’t want to risk jeopardizing rate increases by arguing over seemingly innocuous contractual terms that cost the line no immediate resources. (Most lines do not accrue freight-claim exposure and only recognize the expense when it is paid.)

Ironically, the rate increase may be short-lived. Rumors abound of dire threats from steamship-line senior management to front-line sales staffs mandating an adamant public hardline on achieving the May 1 increases. Threats of job loss for any person who deviated from voluntary guidelines panicked sales forces watching longstanding customer relationships evaporate overnight.

With the first weakness in volume, we can expect this same senior management will be on its knees with the same customers — and drastically cutting rates. Shippers may be so angry that they will demand extraordinary rate cuts as compensation for the shoddy treatment the customers received.

The situation is similar to the end of the conferences. No conference line wanted to be the last one remaining, since the real customer benefit was to bolt first. The same will be true of this latest increase.

Although the lines are allied, they really don’t trust each other. In an atmosphere of rumor and innuendo, maintaining solidarity will be an interesting feat. Customers are just waiting for the worm to turn.

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