



Owner-Operator Independent Drivers Association

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January 17, 2023

The Honorable Robin Hutcheson
Deputy Administrator
Federal Motor Carrier Safety Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, D.C. 20590

Re: Docket # FMCSA-2022-0134, "Definitions of Broker and Bona Fide Agents"

Dear Administrator Hutcheson,

The Owner-Operator Independent Drivers Association (OOIDA) is the largest trade association representing the views of small-business truckers and professional truck drivers. OOIDA has over 150,000 members located in all fifty states that collectively own and operate more than 240,000 individual heavy-duty trucks. OOIDA's mission is to promote and protect the interests of its members on any issues that might impact their economic well-being, working conditions, and the safe operation of commercial motor vehicles (CMVs) on our nation's highways.

For years, small-business truckers have expressed frustration that regulations designed to establish fairness and transparency between motor carriers and brokers have been routinely evaded by brokers or simply not enforced by the Federal Motor Carrier Safety Administration (FMCSA). As the agency finalizes guidance on the definitions of broker and bona fide agents, we believe many of the underlying issues could be solved through better compliance and enforcement of current regulations as well as finally implementing legislative provisions enacted years ago to prohibit dishonest brokers from conducting business within the trucking industry.

Definition of Broker

We concur with the agency's assessment that the current definition of broker provides sufficient clarity to distinguish between brokers, bona fide agents, and dispatch services. It is not the definition of a broker that constitutes potential problems, but rather how the business itself operates. We also agree with the emphasis on the relevance of an entity's handling of funds in a transaction between shippers and motor carrier. If a business or entity is acting in a financial role between both the shipper and the carrier, then this should make them a broker.

Definition of Bona Fide Agent

Representing more than one carrier as a bona fide agent should not automatically constitute brokering without authority. We support the guidance's interpretation that representing more than one motor carrier does not necessarily mean one is a broker rather than a bona fide agent.

Role of Dispatch Services

As indicated in the public comments, dispatch services serve an important role in the trucking industry. Dispatch services can be especially helpful for small-businesses that need some guidance on administrative filings and other clerical responsibilities. This includes assistance in finding loads for carriers. Increasingly, dispatch services can help identify fraudulent brokers that lack proper authority or appropriate financial backing to fully pay carriers for loads or claims. We understand FMCSA determines whether a dispatcher is conducting broker operations on a case-by-case basis and agree that there is no Congressional intent to eliminate the services that dispatch services provide.

Now that FMCSA has issued guidance on the definition of brokers and bona fide agents, we urge the agency to swiftly pursue actions that would prevent deceptive brokers from perpetrating the industry. FMCSA must update broker transparency regulations and ensure motor carriers have access to transactional information as intended in 49 CFR 371.3. We also welcome the recently published "Broker and Freight Forwarder Financial Responsibility" Notice of Proposed Rulemaking. If implemented properly and strengthened in key areas, this proposal will help mitigate the need for interpleader proceedings and alleviate broker nonpayment of claims. OOIDA remains ready to work with FMCSA to determine the best solutions to improve routine broker compliance and ensure a fair, safe, and reliable transportation system for our country.

Thank you,



Todd Spencer
President & CEO
Owner-Operator Independent Drivers Association, Inc.