CWA Issue Brief
Protections against Unrealistic Sales Quotas and Unfair Sales Commission Plans

Union Objectives

CWA, including The Newspaper Guild (TNG)/CWA, has negotiated contract provisions to protect employees against unrealistic sales quotas and sales commission plans. In this issue brief, we differentiate between sales quotas/goals that an employer establishes for performance management purposes and commission sales/leveraged compensation plans that an employer establishes for compensation purposes.

Unrealistic sales goals, sales quotas, and poorly designed commission/leveraged compensation plans create stressful working conditions for employees that result in high turnover, absenteeism, and stress-related illness. Moreover, poorly designed and unrealistic sales goals, quotas, and commission/leveraged compensation plans create perverse incentives that may discourage sales effort while encouraging unethical sales behavior.

We believe that properly designed sales goal systems and commission sales/leveraged compensation plans should achieve the following objectives:

- Enable all employees to succeed and share in a portion of the revenue they generate
- Encourage ethical sales practices
- Set quotas/targets/goals based on reasonable and measurable sales opportunities
- Protect employees from unfair discipline for failure to meet quotas, targets or goals
- Reward excellent customer service
- Be simple, understandable, and based on accurate sales tracking systems
- Include oversight and data review by a union-management committee with equal representation

1. Sales Objectives and Sales Quotas for Performance Management Purposes

Many CWA and TNG/CWA contracts contain protections against abusive sales goals and quotas established for performance management (not compensation) purposes. The Union has negotiated provisions to ensure that sales goals and sales quotas for performance management are set at reasonable levels, with protections to ensure that the goals and quotas are implemented fairly. Negotiated provisions include:

- Adjustment of sales goals for time spent off-line, on vacation, or on approved leave
- Provisions that allow transfer to non-sales positions, regardless of sales performance
- Protections against discipline for failure to meet sales goals and quotas
- Requirements to set sales goals at reasonable, measurable levels
- Limitations on how frequently employers can change sales goals
- Joint union-management committees with oversight responsibility of sales goals and leveraged compensation plans

2. Union-Negotiated Sales Commissions/Leveraged Compensation Plans

The union has negotiated sales commission/leveraged compensation plans with many employers. These plans typically pay a guaranteed base wage plus an "at risk" portion based on sales. Because these plans involve compensation, which is a mandatory subject of bargaining, they must be negotiated with the union. The Unions' objectives and principles discussed above for sales goals/quotas used as performance measures are equally relevant to the negotiation of sales commission/leveraged compensation plans.

Protections in CWA Contracts

Verizon Mid-Atlantic

Adjustment of Sales Objectives for Time Spent Off-Line: The company shall pro-rate sales goals to account for time off (including union business, training, down-desk, FMLA, vacations, disability, court appearances, jury duty, death in the family, military duty, election service, loan to other departments, joint conference time, etc.).
Transfer to Non-Sales Positions: Sales Consultants that are not meeting their sales goals may apply for a transfer to a non-sales position without their sales record taken into consideration.
Protections against discipline for failure to meet sales objectives: Verizon employees represented by CWA Local 13500 (Pennsylvania) members cannot be disciplined due to a failure to meet sales objectives based on a decision by the state Public Utilities Commission regarding ethical sales practices.

Verizon California

Adjustment of Sales Objectives for Time Spent Off-Line: Sales quotas are adjusted up-front for holidays, personal days, vacation, training, and other time away from the job. Adjustments to the objectives and dollars available are made for FMLA, sick leave, unpaid union business, part-time staff, new hires, and other unpaid leave.

AT&T West

Protection against Discipline for Failure to Meet Sales Goals: Employees cannot be disciplined for failure to meet sales goals. Though sales are a part of the service representative performance development process (PDP) standards, sales effectiveness cannot be the sole factor used to determine that an employee is not meeting acceptable work performance standards.
Requirements to set sales objectives at reasonable levels: Sales goals shall be based on sales opportunities.

AT&T East

There are no sales quotas for Service Representatives. Rather, performance management is based on call flow scores (e.g. communicating to the customer the key messages identified by the company).

AT&T Southeast

Transfer to Non-Sales Positions: Employees' sales results will not be used to adversely affect consideration for promotion or transfer to jobs where selling is not fundamentally involved.
Protection against Discipline for Failure to Meet Sales Goals: Non-sales titles will not have sales results affect their conditions of employment.

AT&T Southwest

Protection against Discipline for Failure to Meet Sales Goals: Employees will not be terminated or disciplined due to unsatisfactory sales performance. (This provision does not apply to service representatives in the leveraged title.)
Transfer to Non-Sales Positions: If an employee is deficient only in the numerical sales objectives, the employee can still be recommended for transfer.
Adjustment of Sales Objectives for Time Spent Off-Line: Sales objectives will be adjusted for time off the job on a pro-rated basis.

AT&T Mobility

Adjustment of Sales Objectives for Time Spent Off-Line: Monthly sales quotas for discipline are adjusted in eight-hour increments for vacation, EWP, Company-mandated training, and Union absence. Charge backs that are more than 91 days old will not count against quota attainment for discipline purposes.

AT&T

Beginning in 2009, CWA negotiated a leveraged compensation title with the various AT&T bargaining units. The plan is a 60/40 plan, with 60 percent of compensation in the guaranteed base wage (pegged to the rate for similar non-leveraged titles) and 40 percent available to be earned if one makes 100 percent of the sales target. Leveraged title sales consultants can earn more, capped at 300 percent of the sales target. Sales consultants are eligible for the "at risk" portion of their pay once they reach 50 percent of the sales target. Sales consultants in training receive 100 percent of the target incentive. Movement to the leveraged title is voluntary for employees on payroll at the time the leveraged compensation title was negotiated. (AT&T Midwest, AT&T Southeast, AT&T Southwest, AT&T West, AT&T East, Legacy AT&T)

At Legacy AT&T, the Company must provide quarterly reports to the Union of the payouts for the leveraged compensation plan and other recognition award programs. This is applicable to traditional employees and leveraged employees.

At AT&T West, CWA negotiated an agreement regarding incentive plans. These incentive plans cover employees who elect not to participate in the at-risk leveraged compensation plan. A union/management committee reviews and then the company and union must approve all changes to the incentive plan for service representatives servicing business customers. The union/management committee reviews incentive plans designed for service representatives servicing residential customers, and those plans are capped at $3,000.

CenturyLink (former Qwest)

CWA first negotiated a leveraged compensation plan at what was then USWest (then Qwest, now CenturyLink) in the mid 1990s. The current sales compensation plan for sales consultants in the consumer and business sales centers is an 80/20 plan, with 80 percent of the compensation in the guaranteed base wage and 20 percent available if one makes 100 percent of the sales target. Employees who sell more can earn more, and there is no cap on monthly incentives, subject to provisions of the plan. Participants are paid at their base wage during time off-desk.

CWA has also negotiated an incentive plan in retail sales. The current plan is a 70/30 plan, with 70 percent of the compensation in the guaranteed base wage and 30 percent available if one makes 100 percent of the sales target, set at an annual figure of $12,000 for retail sales associates and $15,000 for retail senior sales associates. The Company cannot change the incentive plan in a manner that would reduce the annual target sales incentive.

Verizon California

CWA first negotiated a Sales Incentive Compensation Plan with Verizon California in the mid-1990s. There are two plans on the consumer side: one is a 70/30 plan (70 percent in the base, 30 percent if the associate meets 100 percent of target) and the other is a 90/10 plan (90 percent in the base, 10 percent if the associate meets 100 percent of the target). All new hires are put on the 70/30 plan; the 90/10 plan is only available to grandfathered employees. On the business side, online sales associates are on a 90/10 plan.

AT&T Mobility

Monthly sales quotas for Retail Sales Consultants are adjusted in eight-hour increments for vacation, EWP, Company-mandated training, and Union absence. There is a joint union-management committee established to discuss compensations plans, commissions, bonuses, incentive programs and performance management programs associated with retail sales.

Hilo Herald-Tribune

Union involvement. The structure of the commission plan is negotiated between the Publisher and union. A Joint Commission Committee composed of two managers and two employees selected by the union shall review data and make recommendations to the Publisher.
Structure of plan. Employee receives a commission on each dollar sold. Commission percentages are detailed in the contract.
Method of goal setting. Individual monthly goals are set by Department Manager after goal setting conference between employee and supervisor. Decision of Department Manager can be appealed to Joint Committee. Department Manager decision shall be final unless failure to achieve the goal is used as a basis for discipline. The goal shall be reasonable and achievable. Goals are based on potential of the territory and prior year's revenue, adjusted for political advertising, catastrophic losses, and windfall gains.

Duluth News Tribune

Limitations on commission or commission-only sales positions. The number of commission-only account executives shall not exceed the number of salaried sales reps. No salaried sales representative shall be transferred involuntarily to a commission-only position.
Base wage and commission sales guarantees. The contract guarantees a weekly base wage and a minimum commission.
Notification of change. Employees shall receive 30 days' advance notice of any change in commission percentage.
Calculation of paid leave wage rate. A six-month average earnings will be used as the basis for computing pay for vacation, sick time and holidays. Pensions shall be calculated on the same basis as other employees.

St. Paul Pioneer Press

Base wage and commission sales guarantees. The contract guarantees a weekly base wage, with a higher base wage during the first "training" year. Sales representatives shall be guaranteed a minimum salary of 100 percent to goal for no less than two months after transfer to a new territory.

Notification of change. Modifications to the plan require 60-day written notice. Any changes that would result in a decrease in pay for the majority of the commission group must be mutually agreed upon by the union and the Publisher.
Calculation of paid leave wage rate. Employees with more than one year service shall receive pay at the rate of their average daily earnings for the previous calendar year for vacations, holidays, and paid sick time. Employees with less than one year service receive a pay based on their base wage rate.
Limitations on commission or commission-only sales positions. The number of commission-only salespersons shall not exceed 150 percent of salaried salespeople on print accounts, more than eight positions for online products, and the number of salaried salespeople shall not fall below current levels or those in other agreements. Contract language prohibits commission-only sales persons from soliciting business from the account list of a salaried salesperson or from a protected business list.
Union involvement. A joint committee of equal number union and management representatives shall meet to discuss any changes in the plan. No commission rate may be reduced without mutual agreement.

Sacramento Bee
Method of goal setting. The account manager shall meet with the supervisor to discuss revenue goals for the next quarter. The account manager can appeal the revenue goals to the team coach, division director, and division V.P. whose decision is final. Individual sales goals may not vary by more than 25 percentage points from any team percentage change.
Base wage and commission guarantees. Every account manager shall receive a base salary that is equal to or greater than the minimum base salary established for their advertising vertical and quota segment. These quota segments will not be reduced due to catastrophic loss.
Calculation of paid leave wage rate and pension rate. Commissions earned on the individual revenue goal and quarterly goals shall be included as pensionable wages and 401(k) contributions. Employees shall receive compensation based on their monthly base pay plus commissions for revenues generated in their territories for paid days off.
Limitations on commission or commission-only sales positions. No existing salesperson's compensation will be changed to commissions exclusively without their consent.

San Jose Mercury News
Limitations on commission or commission-only sales positions. The company may create up to 24 commission-only positions, provided the ratio of salaried outside sales to commission-only sales employees is at least 3 to 1. Commission sales employees shall be permitted to solicit only new advertising business and shall not solicit business from the protected business list. The commission sales memorandum shall not result in the lay-off of any salaried salespersons.

Philadelphia Inquirer
Limitations on commission or commission-only sales positions. Commission sales employees may not solicit orders from the protected business list or an advertiser that has advertised within the preceding six month period. Accounts above a specified amount will be transferred from a commission to a salaried salesperson. There are also limits on the number of accounts that the employer can transfer from a salaried to a commission salesperson.
Union involvement. The employer shall provide a monthly paid commission report to the union.
Base wage and commission sales guarantees. The contract specifies a minimum monthly guaranteed base earnings.

Portland Press Herald
Base wage and commission sales guarantees. The company guarantees that on an annual basis a commission salesperson will earn no less than a comparable salaried salesperson. If at the end of the year the commission salesperson has not earned a comparable amount, the employer will compensate the commission salesperson for the difference.
Calculation of paid leave wage rate. Commission earnings in addition to base pay will be paid for vacation.
Team Award. Salaried salespersons shall be eligible for payments from a commission pool based on a formula in the contract.

Toledo Blade
Base wage and commission sales guarantees. The contract specifies a base salary and the quarterly commission rates.
Team Award. A team award of 20 percent of base salary is awarded if 110 percent of department goals are met.
Calculation of paid leave wage rate. The wage rate shall be based on the base annual salary plus commissions on sales made during leave.
Union involvement. A Process Review Committee comprised of three union and three company representatives shall meet to identify and resolve all issues that impact the sales staff.

Factiva
Union involvement. A union-management committee shall handle issues related to the Incentive Plan. The committee shall consist of two or three employees who are union members and selected by the union and at least one manager. Union officials and Factiva management may also participate in committee meetings. The company must provide 45 days' notice to the union regarding any change in the incentive plan.