

## **Situation Overview**

This position paper is intended to address an emerging trend among meeting and exhibition facilities regarding policies that are specifically designed to deter meeting planners from using any audio visual vendor other than the facility's own officially designated company.

The motivation here is simple - the official supplier pays a commission to the facility on the business it services there - sometimes as much as 50% of a customer's AV invoice. Therefore, any business serviced by any other vendor represents a loss of potential commission revenue for the facility.

## **What is Appropriate?**

There are a number of policies, commonly applied in the interest of safety or law, which are fair, reasonable, and prudent. Likewise, there are commonly applied fees that can be substantiated by added value to the customer, or by an underlying cost to the facility.

There are, however, some policies and fees that are clearly formulated and applied as protective or coercive measures, without legitimate rationale or justification. These constitute an attempt to restrict customers' freedom of choice, and to restrict the trade of those companies hired by those customers.

Many of these policies and fees may not be clearly and fully disclosed to meeting planners at the time at which they are booking space in a facility, and may only surface after the contract has been signed, under the guise of Facility Operating Policies & Procedures.

There are also instances in which a facility may attempt to restrict the legitimate activities of an audio-visual vendor who has been hired by a client, or to collect fees directly from that vendor, without the knowledge of the client or the prior agreement of the vendor. This is clearly inappropriate.

## **Customers Benefit from a Free and Competitive Marketplace**

A free and open marketplace will always be best for customers and for business; such an environment naturally creates a range of products and pricing and will bring out the very best in salesmanship and customer service. On the other hand, restriction of trade can result in higher costs and poorer service.

It is in everyone's interests to ensure that freedom in the marketplace is not artificially limited, and that meeting planners and AV companies are able to conduct their business without undue interference from meeting facilities. All customers must be free to choose their AV vendor based on what is best for them.

AV vendors should win a meeting planner's business and confidence through performance, product choice, and competitive pricing, and not as a result of restrictive trade practices. Those companies that invest in their products, their personnel, and their sales programs are rewarded with long-term customer relationships that are based on the value that these assets deliver to those customers. Conversely, when customers are forced by the facility they are occupying, to work with a preferred vendor, they relinquish control over the quality and the cost of their AV services.

A meeting facility is certainly a necessary component of any meeting. However, the fact that a customer has contracted with a facility to rent space does not permit that facility to interfere with an established and independent contractual relationship between that customer and their AV vendor of choice. The contract for meeting space is legally unrelated to the customer's contracts' with other vendors. Therefore, neither customers, nor vendors, should tolerate any attempt by a facility to compromise or influence that contract; indeed, both should consider such attempts to be highly inappropriate.

Customers should also understand clearly that, in such cases, the facility is profiting at their expense, outside the scope of the contract with the customer, as the commissions paid to the facility by their official vendor ultimately become reflected, in whole or in part, in the prices charged by that vendor.

Following is an overview that describes some of the policies and fees relating to audio-visual services that are commonly applied by meeting facilities. Also included are opinions as to your rights as a customer, and some guidelines as to what is considered fair and reasonable.

## **A CUSTOMER'S GUIDE TO MEETING FACILITY POLICIES & FEES RELATING TO YOUR AUDIO-VISUAL SUPPORT SERVICES**

### **Your Rights as a Customer**

Your specific rights as a customer are spelled out in the contract that you sign with a meeting facility. Many of the terms in these standard contracts are negotiable, or may be tailored to more closely suit your specific needs. All contracts should be carefully reviewed to identify any clauses that may limit your opportunity to use any AV vendor of your choice, or which may penalize you for doing so.

In general terms, when you rent space from a meeting facility, the facility will spell out what activities you may or may not conduct in that space. Otherwise, subject to further restrictions expressed in the contract and subject to laws of general application, the space is yours to do with as you please. You will effectively have unrestricted access to that space for your staff, your vendors, and your equipment.

Under the law, any equipment hired by you for a meeting is, for the time of such hiring, your responsibility and under your control, subject to the limitations in the equipment rental agreement. Similarly, any audio visual vendor personnel hired by you are, during the time of such hiring, your responsibility and under your control when working on your behalf in a meeting facility, subject to the limitations specified in the agreement between you and the audio-visual vendor.

Unless otherwise specifically stipulated in your contract with the meeting facility, third party equipment and staff are subject to the same rules and restrictions as those that apply to your own equipment and staff.

### **Access to the Building**

When renting meeting space, unless otherwise stipulated in your contract with the meeting facility, you have the right to have access to those areas of the building that are reasonably required in order to move equipment and people, related to the stated purpose for which you have rented the facility, into or out of that facility. This right includes access for third party staff and equipment hired by you. Contracts should be carefully reviewed to ensure that this right of access is not inappropriately restricted or penalized.

The meeting facility does have the right to be informed who your third party hires are, and of their schedule of activities. The facility does not have the right to charge you, or your third party hires, any additional fees for such access, unless the conditions for such fees and the amount of the fees are clearly specified in the facility's contract with you.

### **Liability Insurance**

Provided the contract so stipulates, a meeting facility has the right to require you to carry liability insurance in a specified amount, said insurance to cover liability for your staff, your appointed agents or vendors, and your delegates. The contract may also entitle the facility to require the same liability coverage from your appointed agents or vendors.

### **Standards Compliance**

A meeting facility has the right to require that you, your appointed agents, and vendors comply with all laws, regulations, codes, and standards in force under current legislation in the jurisdiction where the meeting facility is located. These do not necessarily need to be spelled out in the contract, if they are municipal, provincial, or federal codes or laws.

### **Customer's Equipment and Staff**

A meeting facility does not have the right, unless clearly specified in your facility contract, to prohibit you from using your own equipment, or rented equipment, in a meeting space that has been rented by you, provided such use is consistent with the purpose for which the space has been rented. Contracts should be carefully reviewed to ensure that your right to use your own, and/or third party equipment, is not inappropriately restricted.

Unless stipulated in the facility contract, a meeting facility does not have the right to designate which of your staff, agents, vendors, or invitees has access to meeting space that has been rented by you, under any circumstances except those governed by law, provided their activities are consistent with the stated purpose for which the facility has been rented.

Unless stipulated in the facility contract, a meeting facility does not have the right to specify how your staff, appointed agents, vendors, or invitees are to be dressed.

Any rigging policies and related fees must be spelled out in your facility contract. Any such fees must be based on a published price list and should be the same for all customers, regardless of what AV vendor they are using. Policies and costs relating to rigging vary widely, so you must ensure that charges are clearly stipulated in your contract. A meeting facility can reasonably expect you to submit a rigging plot for examination and approval in advance of the event. A reasonable timeframe for submission of this information would be two weeks before the event.

A meeting facility may reasonably require you to obtain any equipment that attaches directly to the building from its rigging contractor. It is not reasonable for a facility to require the use of any other of the rigging contractor's equipment. Costs for any such mandated equipment must be according to a published price list and should be the same for all customers, regardless of what audio-visual vendor the customer is using.

A meeting facility may reasonably charge a fee for attachment to permanent rigging points in the building. These points cost money to install and should be inspected annually -it is reasonable for a facility to cover these costs. In return, the facility should be able to provide you with a written engineer's rating of the points, an engineer's inspection report for the current year, and a schedule of all weight ratings for all rigging points. Fees for the use of rigging points must be according to a published price list and should be the same for all customers, regardless of what audio-visual vendor the customer is using. These fees are typically no more than \$25-30 per point per event.

While there is generally no government certification or official qualification standard for riggers, there are a number of industry-recognized courses that provide a solid knowledge of rigging and aerial safety. A customer has the right to request the credentials of the rigging company and of the riggers that are being provided, prior to signing the facility contract.

### **Electrical Service**

Electricity available from the permanent outlets in a meeting room is universally considered to be included in the cost of your meeting room rental, unless otherwise stipulated in the facility contract. It is, however, reasonable for a facility to charge additional fees for any extra electricity required above and beyond this.

It is reasonable for the meeting facility to designate an electrical contractor in the building to provide any extra electricity required, as there are some legitimate safety and infrastructure concerns related specifically to electrical services. Any electrical policies must be spelled out in the facility contract. Costs for these services must be according to a published price list and should be the same for all clients, regardless of what AV vendor they are using. Costs for electrical services vary widely, so you should be careful to obtain costs before you sign your facility contract.

A meeting facility may reasonably require you to submit a schedule of electrical requirements in advance of the event. A reasonable timeframe for this would be two weeks before the event.

### **Patch Fees**

It is reasonable for a meeting facility to restrict the use of the sound systems built into their meeting rooms to their preferred supplier, unless otherwise stipulated in your facility contract.

If you wish to have your own audio-visual vendor "patch" into these systems, it is reasonable for a facility to charge you a "patch" fee, unless otherwise stipulated in the facility contract. These sound systems are expensive and it is reasonable for a facility to take measures to safeguard them. Patch fees offset the cost to manage and maintain these systems.

Any patch fee policies must be spelled out in the facility contract. Costs for these must be according to a published price list. Policies and costs relating to patch fees vary widely, so you must obtain these costs before you sign your facility contract. Typical costs range from \$30-\$50 per room per day; any amount higher than this is not reasonable. These fees are often negotiable, provided such negotiation is done before your contract is signed.

### **Lighting Controls and Adjustments**

You can expect that basic lighting controls are included in the cost of your meeting room rental, unless the facility contract stipulates otherwise. It is reasonable to charge an additional fee for a remote control for room lighting.

Generally, if built-in lighting controls cannot achieve the required lighting in a meeting room, lights are individually turned off or unscrewed by the facility at no cost. In a room such as an exhibit hall, which is not equipped as a meeting room, it is reasonable to charge an additional fee to turn off or disable individual lights, as there can often be a labor cost to do so. Such costs will vary widely, so customers using this type of meeting space must be careful to obtain costs before they sign their facility contract.

## **Storage**

A meeting facility has no obligation to provide storage space for a client's AV vendor. It is your responsibility to provide this space for your vendor, if it is needed. However, storage of equipment or cases within the meeting rooms booked by a customer, including backstage areas, may not be unreasonably restricted by a facility.

You should be aware of this when blocking and negotiating for your meeting space -you should include AV storage in your initial meeting space contract, as facilities will often charge extra for this space, if it is requested after the fact.

## **Security / Supervision Fees**

A meeting facility does not have the right to require you to pay for security or supervisory personnel, provided by the facility or it's agents to monitor the activities of your AV vendor, unless that requirement is clearly stipulated in your facility contract.

Unless otherwise provided for in the facility contract, you assume the same liability for the activities of your third party staff in a facility, as you do for your own staff.

## **Commissions, Access Fees, & Surcharges**

Unless clearly and specifically spelled out in your facility contract, a meeting facility does not have the right to charge any commission, access fee, or surcharge related to, or contingent upon, your choice of audio-visual vendor.

Some facility contracts do contain such provisions, so you must review your contracts carefully for these items before execution. Facilities will generally be willing to delete such provisions, if you call them into question. Any such provision should be justifiable by a directly related underlying cost.

A meeting facility does not have the right to charge or solicit any commission, access fee, or surcharge from your AV vendor, with or without your knowledge. Nor do they have the right to restrict access by your AV vendor to their premises, based on non-payment of such fees.

*Note that the above summary is necessarily generalized and may not apply to any specific circumstances. Moreover, the above does not constitute legal advice. Customers, meeting facilities, AV vendors, and others should consult their own legal and other advisors for advice in relation to their specific circumstances.*

## **SAMPLE LANGUAGE FOR INCLUSION IN RFP'S AND CONTRACTS TO SAFEGUARD AGAINST THE RESTRICTION OF CUSTOMERS' CHOICE OF SUPPLIERS**

The following clause, titled "Buyer's freedom to choose third party suppliers" is designed to be included in a client's initial RFP to a facility, and to be appended to the client's standard facility contract.

### **Buyer's Freedom to Choose Third Party Suppliers**

"Buyer" will not accept or agree to any proposal or contract that contains conditions, terms, or clauses which unreasonably restrict or seek to influence our choice of third party suppliers for our event at any meeting facility, whether such conditions are expressly stated in the proposal or contract, or whether they are contained in the general operating policies of the facility, be they published or unpublished.

Furthermore, we will not accept or agree to any fees, surcharges, or penalties of any type charged by a meeting facility that are in any way based on or tied to our choice of third party suppliers, whether such fees are expressly stated in the proposal or contract, or whether they are contained in the general operating policies of the facility, be they published or unpublished.

This "freedom to choose" clause shall be appended to all contracts with meeting facilities that are executed by "Buyer", and if it is determined that this clause is in conflict with any other clause, portion of any contract, or any general operating policy of the facility, then this "freedom to choose" clause shall be deemed to supersede the other clause, portion of the contract, or the general operating policy of the facility with which it is determined to be in conflict.

## **Exhibition Services & Contractors Association**

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