



The FOAMLINE

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FISHING OUTFITTERS ASSOCIATION OF MONTANA
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MBO GROUP INITIATES AD POLICY REVIEW

Several Key Areas of Concern; No Simple Answers

Spurred by FOAM's initial discussions based on member feedback regarding outfitter and guide advertising, a four-person subcommittee of Board of Outfitter members presented their recommendations to the full board in December.

One proposal is to require in all outfitter ads only the outfitter's name and license number rather than personal name, business name, address, phone number and license number. MBO members and outfitter association and public representatives at the meeting agreed rules regarding ads should maintain public safety and recognized that required information in ads should clearly identify the outfitter representing services. All recognized the outfitter name and license number as the core ID characteristics required for any outfitter, while business name, business address, and other contact info are typically presented by the soliciting outfitter as part of their personal ad campaign and should be optional.

The board also discussed the difference between ads that solicit business clients and ads that act as branding reminders of the business. For example, asking the public to call or contact Pete at Best Fishing Guides to book a fishing trip is solicitation. Reminding the public that the BFG logo represents Best Fishing Guides is branding.

Tying the idea of basic info requirements with the distinction between solicitations and branding, the board did not make a final recommendation whether an outfitter name and license number should be in all ad formats or only those that solicit business.

After the meeting, a FOAM member suggested only requiring outfitter license number used in the state's licensee lookup system, such as OUT-OUT-1234. This format is the reference standard for Department staff, and should be used by anyone seeking verification of the license number or an outfitter's disciplinary history.

Including this short id format in all ad formats could avoid case-by-case consideration of the differences between solicitation and branding without burdening outfitters with lengthy strings of information.

Board chairman Robin Cunningham presented a brief history of advertising in rules developed by the board since it's inception in 1988. However, the cumulative intent of the variety of rules regarding "guide advertising" is still unclear. Board outfitter Tim Linehan suggested that "guide advertising" simply distinguishes the in-field services an outfitter may offer from the primary actions of advertising "outfitter services", soliciting, and booking clients. Alternately, it may well have been the intent of those prior board

members to allow guides to advertise, but no description of what a guide may advertise is available in records.

Weighing in, MBO counsel Tyler Moss reminded the board that the licensing requirements of an outfitter are more stringent than those of a guide. Further, by law, a guide may only serve clients referred directly to them by an outfitter and may only offer services for which the outfitter is licensed. Moss argued that the outfitter is responsible to the public for both their own actions and those of any guide they sponsor, and allowing guides to advertise directly to the public suggests that a guide is the qualified, responsible party on any trip, blurring the distinctly separate license capabilities and responsibilities in the public's eye. Such blurring misleads public expectation and acts against the purpose of licensing - public protection. Moss also suggested that the board may choose to develop a policy to ensure a qualified, responsible outfitter has control over contact with the public rather than a guide.

So, the board found no simple answer to what and how an guide may advertise, but will continue discussion at future meetings. One small takeaway is the notion that guides may have to make it clear that for them to serve any client, the client must contact an outfitter and ask for the guide.

As for "designating" a person to collect fees and "expressly consenting" that a guide may make "agreements with clients concerning monetary consideration or services offered", what many outfitters consider the "booking" elements of outfitting that may be assigned to others, the board took no action to change existing rule. This aspect is particularly thorny, because outfitters commonly use guides to collect client fees when the outfitter is working elsewhere, and many outfitters have guides or store employees, even spouses, make agreements with clients for fees and/or services.

"Outsourcing" these booking actions for the outfitter's convenience may well allow unscrupulous guides - or any person, for that matter - to claim they represent one or more outfitters, book trips, and keep fees without an outfitter's knowledge. It's a tough call deciding how to afford convenience without allowing or encouraging unlicensed practice.

Perhaps the board could include in an outfitter's op plan a simple form listing those persons and guides an outfitter designates and expressly permits to set and collect fees and make agreements regarding services. Such a paper trail would make clear in any investigation who was authorized for such booking actions. Yes, this is just one more form, but in most circumstances, the list would not change much from year to year and could be updated easily for free. Clear assignment of authority protects the outfitter and the clients he or she serves and discourages unlicensed practice.

NOTE: Another MBO rule proposal unrelated to ads would

eliminate fishing outfitter 'stat sheets', because FWP uses actual client records, not stat sheets, when allocating use on restricted rivers. We'd lose the accumulated use stats we've relied on in river management discussions, but making them voluntary would render any info inaccurate anyway. As required by rule, the MBO will take public comments on any rule changes once they are officially proposed.

FOAM DIRECTOR ELECTIONS END 12/28/13

Four Directors, New Guide-at-Large Director on Slate

Directors Russell Parks (Region 2, Missoula), Matt Greemore (Region 4, BH2), Dave McKee (Region 6, Bozeman), and Eric Adams (Region 7, Yellowstone) asked to be placed on eBallots for re-election in late 2013.

Pete Shanafelt, guide-at-large director, declined to run for re-election, so FOAM solicited guide members nominations for that directorship. In the past, we've asked sitting directors for guide candidates, but thought this time, an open nomination process might be valuable.

As a result, we received seven nomination requests: KynsLee Scott, Stan Anglen, Jason Brininstool, and Zach Scott (Missoula), Gary Behrent (Bozeman), Andy Bennett (Dillon) and Eric Mondragon (Cascade). FOAM sent out an eBallot to guide members in early December listing the background and "why I want to serve" statements of each of these candidates.

Director elections closed on Saturday, December 28th.

All four incumbent directors were re-elected, and Jason Brininstool was elected Guide-at-large director. Directors serve for 2-year terms, and must retire after three consecutive terms.

During our upcoming annual meeting, members should discuss simplifying the process for accepting nominations for open directorships.

FOAM ANNUAL MEETING BEING SCHEDULED

Missoula, Bozeman Possible Venues; Agenda Not Set

Our annual Membership Meeting will probably be set for a Saturday in early March, similar to prior years. The FOAM board is working on details at this newsletter's deadline date.

Directors think it's time to move from Bozeman to Missoula, since we haven't been west in many years. BZN is kept as a backup option if a suitable venue isn't found or available in MSLA.

Director Russell Parks is developing a progressive agenda of topics and speakers for this year's annual. If possible, he'll feature local Missoula or western Montana topics of interest and involve guide issues among the standard Board of Outfitters, FWP, and insurance presenters that round out our affair.

If you have any ideas for the FOAM board about some topics for the annual or where to solicit raffle items, contact your director or come to January's board meeting at the Comfort Inn in Bozeman on Friday, 1/3. We look forward to seeing you at our 36th Annual Membership meeting.

Guide-at-Large Director Peter Shanafelt 360-5430

Region 5 (Madison) Joe Moore 581-6059	Region 6 (Gallatin) Dave McKee 582-0980	Region 7 (Yellowstone) Eric Adams 223-2488	Region 8 (Big Horn, Ft. Peck) Steve Galletta 666-2473
Region 1 (Kootenai, Flathead) Jason Lanier 387-5340	Region 2 (Bitterroot, Clark Fork) Russell Parks 543-7078	Region 3 (Missouri) Mark Raiser 459-8739	Region 4 (Big Hole, Beaverhead) Matt Greemore 684-5639

BOARD OF DIRECTORS

For Sale: Montanatroutfishing.com domain name.
Contact Bob at 406.782.0567 for details.

CLASSIFIED ADS

- Advertising Rules Considered
- FOAM Director Elections
- FOAM Annual Meeting Discussion

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