

CASE STUDY:

Buying and Selling Transportation in a Marketplace

“The Truck board could supplant the LoadBoard”

by David G Dwinell

The internet can provide a better and easier way to purchase transportation than current LoadBoard electronic bulletin boards. The integration of transportation market information on a LoadBoard is widespread, well understood, but stagnant in growth. LoadBoard users are limited to those with MC numbers - truckers and brokers. About 150,000 buyers and sellers use LoadBoards to find each other daily on line. LoadBoards and most on line trucking purchases are in fact a “wholesale” marketplace (shippers invoiced by person not carrying the load), which is in fact costlier to shippers. The traditional “retail” marketplace (where the shipper purchases transportation from the person actually hauling the load) is not well served by the internet, yet usage is growing.

A breakthrough has now been achieved by the creation of a private online trading truck board network. A “*truck board*” can create an open retail marketplace where buyers and sellers can trade on the internet in complete security and with complete privacy. A truck board is the exact opposite of a load board. It is not a publicly examined electronic bulletin board - a LoadBoard, it is an on line private trading network. Logically, a Load Board coordinates loads into the future so that trucks will come. A truck board is opposite logic, coordinate trucks into the future and loads will come – like an airline reservation system, which coordinates future capacity availability. On the other hand, 95% of all trucking company owners cannot tell shippers where their trucks are available this time next week, unlike airline reservation systems. A truck board can provide relief to shipper’s availability problems which are exacerbated by total capacity fragmentation and over supply. A retail on line trading marketplace can be achieved which can provide shippers total confidentiality and security in truck selection and booking.

Examine the load board wholesale marketplace

Currently electronic bulletin boards LoadBoards are used by transportation providers (those with MC numbers granted by the FMCSA, such as truckers and brokers) as a “market place” for buyers and sellers of cargos and trucks. The buyers are brokers, those seeking trucks, and sellers, those seeking loads. The software matches market needs showing cities where truckers are and when available for loading. Loads are offered about 3 days into the future. Shippers, traffic and purchasing managers specifically, are somewhat excluded for several obvious reasons. High monthly subscription expense and an actual over supply of trucks curtail LoadBoard usage by shippers which leads to shipper avoidance. Shippers are not actively solicited by LoadBoard companies because their customer base of brokers would leave them in a heart-beat if shippers were allowed to compete directly. Until recently, most LoadBoard providers would actually tell prospective customers, (broker and truckers) that shippers are not allowed on their sites. This poorly kept secret is coming to light as shippers have been using these sites for years to control and actually drive down freight rates amongst the carrier and broker users. There are thousands of shippers who hold broker Licenses and are somewhat successful in driving down their shipping costs through these licenses. The savings are somewhat illusory as brokering liabilities have greatly increased over the last several years. Cargos

tendered by shippers in such a way have been low cost commodities because brokering loose cargo can move subject to little, if any, controls. Logistic companies taking substituting traditional traffic departments offer shippers access to a wholesale environment, but most with disappointing results. In the case of one Fortune 100 company who hired a large motor carrier “logistics” division to supplant their own traffic purchasing personnel immediately lost control of transportation costs (some costs increased by 300%). The coincidental rise in fuel costs was accepted as the fault, not the hiring of the logistics placebo. Logistics company retention is a three edged sword for shippers attempting to cut costs. No one can prove that a shipper with an effective and intelligent traffic purchasing department can save money by putting another profit center between them and the actual hauling carrier.

The shippers’ issues with LoadBoard

The public nature of “LoadBoards” is the anathema. By posting a load shippers lose control of that load and, consequently, control over who shows up to get the load. Shippers’ competitors can actually see the “posted” loads and surmise shipper’s receiving customer. The most irksome reason shippers eschew LoadBoards is, that after posting, they get lots of unwanted phones calls, sometimes for several days after the load is covered. They lose control over legitimate freight payment as well as any form of loss claim recovery.

A truck board would give shippers an ability to go on line, get a report in complete security, peruse with confidentiality and privacy, and find, qualify, and book a backhauling truck in seconds, saving up to 60% off outbound market rates. No load posting occurs.

Communication directly to Truckers is readily available thanks to cell phone and PDA technology. Shippers can call or text to trucks or their dispatch, asking and getting instant rates (not a rate dept) for “Rates” and receive instant answers to rate questions, books the truck after verifying and downloading trucker’s required credentials, including insurance. All a truck board provides a shipper is a list of pre qualified Authorized and insured motor carriers out 8 days in the future, coordinated by load to truck matching logic software to shipper’s desired load lane, excluding all other available trucks in the process in that report.

Ready availability of cell and PDA technology in every truck creates feasibility for a truck board for the first time. In Loadshome.com, a “truck board,” the truckers do not need a computer to post their equipment availability. They simply dial a phone number, get computer audio voice recognition software, and when prompted enter 11 digits on the key pad, the eleven digits represent the zip code where they will empty, and the last 6 digits represent the Julian date when empty. Shippers and brokers (who are shippers by Law) simply go on line after qualifying for an account, and get instant report of truckers to call for rates and availability. It’s too simple but effective in solving truck future availability issues for shippers. When the market experiences an upswing and trucking capacity gets scarce a truck board has the ability to provide shippers what they will need to control transportation costs, without being victimized by a lack of availability.

The Biggest Problem created by LoadBoards: Double Brokering

LoadBoards create several unique problems to shippers who “post” their loads and those who broker by “posting” their loads. LoadBoards permit “double brokering”, you know the “Enron thing”. A broker posts a shippers load, a carrier with Authority replies, “taking” the load. Deal is complete?- not quite, the taking motor carrier decides to use capability to broker the load again to another carrier, taking a “commission” in the process. Granted motor carriers have always had the ability to “hire” another motor carrier to balance their dispatch even without a broker’s License. The problem is that the motor carrier is also a Licensed Broker allowing them to “arrange” transportation without liability for loss, like a travel agent. Posted loads create opportunity for motor carriers to misrepresent themselves this way to the original posting broker or shipper. Insecurity is caused by the “Public Nature” of an electronic bulletin board. This taking of multiple commissions from a paying load has deleterious effect on the actual hauling motor carrier, artificially driving down their hauling income and effectively depressing market pricing. The trucking industry suffers from declining revenue, while shippers’ costs increase due to this “permitted” double brokering process. Double brokering costs the shipping world an estimated \$1.7 Billion/year in lost revenue, revenue not received by those actually trucking the load. The lost revenue can also be defined as “fat” to be carved out of the estimated \$8.8 Billion shippers paid for trucking in 2008 (both private and public carriage).

Shipper’s liability issues

The most immediate liability occurs in the event of a cargo loss. In a “double brokering” case, shippers’ cargo is not properly insured and the actual hauling carrier’s insurance may not pay. The double brokering motor carrier’s insurance will not pay, as they were “acting” as a non liable broker. Shipper should require the carrier who actually shows up to load to have their insurance provider create an Insurance Acord® listing the “shipper” as an “Additionally Insured” for the cargo policy just to be protected from cargo loss. Remember, motor carriers are “common carriers” defined in Common Law (as opposed to a Common Laborer) and are held to a higher level of responsibility to the public safety. This higher level of liability is referred to as “STRICT LIABILITY” in Law and Regulation since first defined in 1601 by Lord Coke of Her Majesty Elizabeth 1 highest Court (Southcote v Bennet; and by Lord Holt in 1703 in Coggs v Bernard) motor carriers and brokers who “act” like a motor carrier are and always will be, unable to “barter away” or “contract away” their liability for loss, both cargo and public liability loss, as they will be found “strictly liable”. Very few (less than 3% of Broker Licenses) conduct their business as a non liable (travel agent) type broker, the only logical function of the License in the first place.

The second is a “hidden liability” requiring a shipper’s “due diligence” (see Puckrein v ATI Transport) a New Jersey unanimous remand of that State’s Supreme Court where the shippers was found to have a “non-delegable duty to public safety” and thus was deemed “liable” in a wrongful death of a car/truck accident involving shipper’s cargo.) Shipper loaded and failed to note that trucker had no base plate or insurance, driver no CDL, 40% of the vehicle brakes were disconnected, and only 16 of 18 tires were present. In a “double brokering”, shipper has no clue as to who is the carrier that actually shows up to get the load and little chance for “due diligence” before loading. Shipper’s who work with brokers should be requiring their broker to

do a minimum “due diligence” for them before loading occurs. Shippers should never load a trucker who has not submitted the appropriate Motor Carrier Authority, Insurance Acord®, W-9, and a “DOT Rating” to them or their broker before loading. Lawyers are especially interested in seeing the Puckrein “precedent” extended to other States and Federal cases. Shippers need to take more steps to insulate themselves against “negligent hire” issues. In a recent case in Will County, IL the broker, CH Robinson, was found liable to a jury awarded judgment of \$24 million plus, in a brokered load case where the actual hauling carriers’ driver’s CDL had been “suspended”. Should the issue of a “Negligent Hire” be coupled to the issues found in “Puckrein”, shipper and their cargo implicated in public liability, Lawyers and juries will have a field day. At the very least, shippers should be checking the door and plate of the actual carrier who shows for the load against the carrier they ordered service from thus insuring against that hidden liability.

Most “brokerings” are a motor carrier hiring another motor carrier and both are 100% liable (strictly liable) for loss – cargo and public liability. Very few brokers, by their conduct, are not liable for loss as a travel agent would be in the event of a crash. There are cases where the broker had no motor carrier Authority and was brokering while controlling the drivers actions and other conduct that created motor carrier liability where there should have been none. Most brokers deceive shippers into thinking that they are in fact a carrier and will insure a loss thus obtaining cargo tenders from the shipper. When a loss does occur they hide behind the Broker License. Carriers, who have no trucks but have “Authority” as a motor carrier, are just as liable as the picking and delivering motor carrier. Shippers should, at a minimum due diligence, ask motor carriers soliciting them for business for both a copy of their Motor Carrier Authority and Broker’s License before tendering freight. Then demand to know the disposition of any tendered load “carried” or “brokered”? In the latter case, shippers are deceived into thinking that their cargo was safely in the hands of a “competent” motor carrier. The Author has actually been “expert” in several cases where the “motor carrier” had “Authority” but had no trucks. How these carriers obtained the necessary Public Liability Policy to get “Authority” and the mandatory Surety MCS 90 from FMCSA is a mystery only a competent insurer can answer.

The nations’ largest brokers operate to “capture freight” from shippers by convincing them they are “carriers” by operating brokerages named after their carrier Authority. Then, when loss occurs duck for cover behind their brokering license. In one instance in the Authors’ experience, the carrier was successful in avoiding loss in a cargo theft in excess of \$2 million. The shipper thinking they were tendering their cargo to one of the biggest carrier/brokers in the nation actually signed a “Contract” with the carrier/broker, which was in fact a “Shipper’s Agent” contract, providing the power to bill the shipper for any expense it incurred over and above the actual transportation costs. Shippers can very quickly end this practice of transportation illusion by making sure the showing carrier is, in fact, owned by the company they tendered their load to. Such was the case in the instance of the \$2 million loss- load tendered to the big boy, actual hauling carrier was not owned by the big boy.

Shippers lose control over carrier payment in a double brokering

The third and most pernicious liability in double brokering is the issue of payment for freight services. Shipper's pay brokers or motor carriers in hopes that the broker will pay the actual carrier. When that does not occur, the shipper may have to pay twice, once to the person (motor carrier or broker) and once again to the actual motor carrier who delivered the load, should the circumstances and the Bill of Lading warrant. Shippers should verify the payment record of a broker before using them. In today's' environment of carrier bankruptcies, both types (Chapter 7 or 11), shippers should be especially vigilant in monitoring the health of the motor carrier they are loading. In a recent case, 1 day after Christmas in 2009, a prominent motor carrier in business 60+ years closed their doors with 6 hours notice, stranding thousands of shippers, owner operators and brokers, let alone the shipper's cargoes in progress. Shippers can best serve themselves by tendering freight to as many qualified carriers as they can find, not putting all of their eggs in one basket so to speak - diversify. Put as many ponies in the corral as possible, more baskets; however you describe diversity in your portfolio of transportation choices.

"Diversity" is catchword today. The motor carrier marketplace is TOTALLY fragmented into thousands of qualified but small trucking operations, many with impeccable service, safety, and equipment records. Shippers can't find the 300,000 or so small carriers because there is no on line marketplace to find and qualify them, until the development of the "truck board" (LoadsHome.com). Shippers/brokers and their loads can come to this truck board, but must qualify to use LoadsHome.com. Shippers view the "fragmentation" as deterioration in transportation and a trend toward the use of six large motor carriers (can you name them) who provide a one-phone call approach to booking freight. Those shippers pay as much as 2000% over market price for this convenience. In fact, the nation's largest parcel delivery company raised their freight rates 4+% in the 4th quarter of 2009 in the face of the largest supply of available capacity on record. One does not raise prices when there is an abundance of capacity availability at least that is what is taught in school. Deterioration may be prevalent, but shippers with a little on line search (6 key strokes on FMCSA.dot.gov) can credibly qualify a carrier and eliminate those with complaints against them. Added security occurs when the shipper/broker qualifies the motor carrier by examining (downloading) motor carrier credentials of Authority, Insurance Acord®, W-9, and DOT Safety record ON LINE. LoadsHome.com or any truck board provides those credentials on line before shipper even calls the listed backhauler to solicit their truck.

Hence Shippers do not use LoadBoards because they're expensive (up to \$500 monthly subscription) and ineffective in saving them money and time. Most LoadBoard providers, in their quest for revenue, have more advertising at their websites than useful information, because their business paradigm is to "sell information", regardless of how useless it is. Truck boards focus on matching a backhauling truck to the shippers desired transportation lane 8 days in the future. Examine a LoadBoard and see if your needs are readily ascertainable. Imagine 5 or 6 qualified truckers who are domiciled where load wants to end up, and are empty in the city where your load originates. Can it really be that simple? This truck board tool added to the least cost routing guides will pay for itself with the first truck find.

Shippers will solicit motor carriers who are backhaulers because the software of Loadshome.com illuminates only those carriers in the shippers loading city who want to go home – backhaulers. Backhauling trucks quote as much as 60% less to go home than that for leaving home. If a shipper/broker uses LoadsHome.com on every load tendered, theoretically they could save 60% off their transportation bill. All savings would be subject to the traffic or purchasing managers negotiating skills, however. Shippers could save additional costs by eliminating working with broker's altogether by working and qualifying motor carriers only.

Shippers, in turn, would have to qualify with the motor carrier for credit. They can accomplish this goal on line by signing the Loadshome.com Credit Application Agreement in order to obtain their Free Subscription until 12/31/2010 shippers must complete the Credit Application Agreement before receiving their account number and pass word. Of course the Credit Application Agreement would be private, viewed only by carriers selected from shipper's truck board report.

Properly structured marketplace

In a recently commissioned and completed Qualitative Market Analysis "LoadHome.com - Shipper's Decision Making Processes- 2009", 600 shippers were solicited and/or interviewed for their opinions regarding their company's transportation decision making processes. This study confirmed that "availability" is the number one issue confronting traffic and purchasing managers, and price is "tertiary". A majority interviewed indicated confusion and the exhaustion of supply of "qualified" carriers had led them to commit freight tenders to the very largest carrier/brokers in the marketplace to alleviate telephoning pressures to find and book carriage. Transportation capacity marketplace fragmentation is thus proven to be the availability culprit, with an ever increasing number of transportation choices to choose from and the decrease in availability due to the small size transportation provider solicited. This is the scene even in the face of a bloated over capacity marketplace. This situation is driving more shippers into the arms of the biggest transportation providers regardless of the increased costs associated with that relationship. LoadsHome.com would provide relief by simplifying the carrier qualification process as well as providing instant "availability" information 8 days into the future.

Of Shippers interviewed Ninety four percent (94%) indicated that they call motor carriers to "ask" for a freight rate: Shipper thus placed themselves in the "inferior market position" by not inducing motor carriers to "bid" for their freight.

Seventy three percent (73%) of respondents said that motor carrier qualification is the most important task they perform, with a whopping Ninety five percent (95%) indicating that checking the carrier "current" Insurance Acord® Form, was "the most important task". (A determinant of importance of the Policy Number for Cargo or Public or both, was not asked)

Ninety percent (90%) felt that they were "negotiating" a freight rate, indicating that that was an important task in their job description. Most respondents felt they could lower transportation costs with more negotiating and more motor carrier choices.

At the same time fifty percent (50%) of all respondents said they are comfortable with just calling the “big boys”, as they indicated that many times “they were too busy doing the rest of their job” to shop harder and achieve “better rates” from more choices.

Fifty four percent (54%) indicated they did not know what a “LoadBoard” was. 70% of that number did understand that the brokers they used did “post their load” and it is assumed they understood that their load tender was put up on the internet.

Ninety percent (90%) of interviewees indicated they used the internet to get freight rates and research freight pricing for upcoming shipments or to logistically plan for their company.

Ninety four percent (94%) said they believed they “managed their company load movements” from pick to delivery. It is assumed that extends to all transportation modes purchased.

Fully one half of all interviewed would seek to qualify and book trucks on the internet if the service could provide “security” and “confidentiality” in the transaction.

Fifty percent (50%) of all interviewed would purchase an internet service that provided the loadhome.com type services that displayed motor carrier credentials of listed carriers and an ability to call and negotiate with truckers whose availability matched their loading needs.

Seventy percent (70%) guessed a truck board service would cost more than \$100/ month.

The average respondent said they would purchase a truck board service if costs were \$30/month or less.

Seventy two percent (72%) of those interviewed responded favorably to any internet service that could provide advance qualified trucking capacity availability which would reduce the number of phone calls they had to make in order to purchase trucking services.

Forty five percent (45%) indicated that a backhauler’s freight charges would save them money, while 90% of those solicited indicated that they did not have ready backhauler solicitations for trucking services.

An up side

All in all, the Study predicts “acceptability” of a “truck board” as an on line transportation purchasing medium from a trucking (seller) and shipper (buyer) perspective. Since LoadBoards are generally not used by shippers, but are universally used by brokers to find truckers, it is assumed that Brokers will also purchase LoadsHome.com and add that to their truck-finding arsenal. Brokers may perceive a truck board such as LoadsHome a competition initially but will come to appreciate that they can get to truckers faster and farther in the future than their brokering competitors, especially the “big boys”. Brokers always understand that it IS the choice of the shipper to call the trucker directly or use a broker to move their loads. Brokers, by the definition of a “truck board”, will have to compete with shippers to get a truck. This is the

proper inferior market position for a broker, as it is with competing shippers for available capacity. LoadBoards cause competition between carriers for available loads, thus putting all carriers who use LoadBoards in the inferior position of having to “ask” for “miles and money” of a broker and his load. The one benefit for brokers using a “truck board” like Loadshome.com is that they can book the available backhauling trucker several days before LoadBoards would normally present that trucker’s availability. The broker who gets, and books, the trucker first beats the “big boys”. Truck boards such as LoadsHome.com put the motor carrier in the superior market position – in the driver’s seat so to speak, because shippers and brokers would ostensibly be competitors for upcoming available equipment.

Truck boards provide a function to a motor carrier of an on line 24/7 “sales” department helping them secure “retail” invoicing relationships from a “superior” marketing position. LoadBoards do not permit hauling carriers to “back solicit” those providing loads to them. Truck boards, then, are a truly open marketplace for carriers and shippers to find each other in a truly open marketplace

The Trucking down side of LoadBoard usage - The Trucking upside of a truck board

LoadBoards put all sellers in an inferior market position a majority of the time. In these times of depressed demand prices and a glut of capacity, LoadBoards perpetuate a form of indentured servitude for a majority of America’s trucking companies. Trucks are easy to find, brokers continue to command their commission structure and prosper while the average trucker struggles to make ends meet. All of the Nation’s fortune 500 motor carriers broker freight. LoadBoards are positioned in the near future to keep America’s truckers in their ineffective market positions due to flush capacity. Conversely, LoadBoards are completely ineffective when Demand is high, Broker’s commissions are squeezed, and truckers get what they want. This is the dichotomy of wholesale and retail markets caused by LoadBoards. LoadBoards are a limited marketplace for those who command freight and those who seek loads. Shippers are effectively excluded in this wholesale situation. In essence, there is a very primitive retail market place between actual buyers and sellers as “market fragmentation” is effectively limiting the way buyers and sellers find each other. The fragmentation drives shippers confronted with too many transportation choices out of the market place and into the hands of the transportation wholesalers (those with MC numbers). The average small trucker (90% have less than 10 power units) is controlled by the “big boys” and suffers the debilitation of a wholesale market place.

A truck board is the answer to small truckers and small shipper availability dilemmas. First, small shippers pay extraordinarily high costs versus large shippers (volume freight as an example). On average the small shipper pays 200% higher rate per pound than the largest shippers pay for the same service mode, and are forced into an ever decreasing supply of purchasing choices. This decrease occurs when confronted by a blizzard of small trucking company solicitations and, in general, the shipper responds by default to the easy way out and “just call the big boys”. Brokering is the most expensive and most risky choice they can make. A retail exchange between a willing buyer, the average shipper, and the average sellers, the trucking company with 10 power units, is very slow and ponderous involving paper qualification and exchanges.

The internet is capable of providing an open, yet secure, method for shippers to first qualify a carrier and then make a purchase from that carrier. The reciprocal paper exchanges can occur on line as a download: carrier approving shipper's credit and carrier obtaining and verifying suitability for hauling, in seconds rather than hours. A truck board coordinating capacity for purchase 8 days in the future can have a direct effect on expanding retail market choices while simplifying and speeding the necessary due diligence credentialing processes.

The average trucker spends 70% of time and budget getting loads home. Generally that load is provided by a wholesaling broker. A truck board permits the trucker to bill the shipper direct (a retail rate) increasing their income by as much as 35%, while avoiding a "wholesale" freight rate. Shippers get the benefit of working with a backhauler (trucker headed home) whose rates are cheaper than a local carrier (average difference between an out haul and backhaul rate can be as high as 60%). This is a win-win in the best definition of the term.

Proper future coordination of transportation has the potential of saving 10% of America's deadhead miles (miles trucked without revenue). A 10% cut in America's deadhead equals about 5,760 gallons of diesel per year/ class-8 semi tractor-trailer. That equates to 38+ million barrels of oil per year. The airline reservation systems revolutionized the air industry, creating untold efficiencies. America's trucking marketplace awaits the same revolution. Now a truck board is a win-win-win situation. Can we have our retail market now?

Trucking market analysis for the creation of LoadsHome.com

Truckers (those with and without Authority) attending LoadTraining, LLC were surveyed over the period 2/07 thru 12/09 during their 5 day class stay for their comments and opinions regarding the "acceptability" of a "truck board". Universal acceptance was measured from respondents and their comments and opinions were used in the construction of the nation's first truck board: LoadsHome.com.

Ninety four percent (94%) surveyed were familiar with what a LoadBoard was and how they operate on line.

Seventy nine percent (79%) surveyed said that they had obtained a load from a broker after posting their truck on a LoadBoard.

Fifty percent (50%) reported they had used a LoadBoard personally (the balance relied on their dispatcher posting their equipment and searched for loads).

Eighty five percent (85%) provided a name of a LoadBoard company.

Eighty percent (80%) of those paying monthly LoadBoard costs estimated costs to exceed \$30/month.

Ninety percent (90%) surveyed said that "posting a truck" is required to get loads.

Ninety eight percent (98%) of those surveyed said that the concept of getting called by brokers and shippers after posting their truck availability was a good idea. (LoadBoards require truckers to use computers to search for available loads. LoadsHome.com does not require the usage of a computer, only a Cell or any telephone keypad).

Ninety eight percent (98%) thought a subscription price of \$70/year was “more than fair”. Every respondent guessed a “truck board” usage costs would exceed \$70/year.

Ninety eight percent (98%) said that if LoadsHome.com subscription was working at the time of the survey if a satisfactory on line pre review could be accomplished.

Ten percent (10%) said they would call and post their trucks on a truck board 6 times per week or more.

Seventy percent (70%) said they would call and post their truck 1 to 6 times per week.

Twenty percent (20%) said they would call and post their truck less than 3 times per week.

All in all, respondents felt that truck board usage was superior for their needs than LoadBoard usage because it was simpler, more convenient, and cheaper to use, and properly places the trucker in a marketplace environment. All interviewees reported they would continue to use both load and truck board services in their never ending search for freight.

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