

# Communicating With “The Client” – Lessons from Lex

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(Part 3 of 5, LPM in Transactional Practices)



In the last several posts, we’ve been telling you about Lex, the head of a national firm’s transactional practice group, and his staunch support for the application of Legal Project Management (LPM) principles and practices to transactional work. Lex agreed enthusiastically when we stated that LPM is as much about having a detailed communication plan as it is about developing useful processes, methods, tools and metrics.

“Communication among lawyers is *never* simple,” Lex said. “And in our complex deals, it gets incredibly complicated. We often say ‘we’ll need to talk to the client about that’ as if that really explains who needs to talk to whom about what, and when. Well, that’s not how real life works.”

Lex, who is based in New York, then provided this example:

“I received a call from a partner (and valued referral source) with a London firm, let’s call him Basil, who wanted our firm to handle the US aspects of a complicated and time-sensitive multinational transaction for his prize client, the General Counsel -- let’s call him Gerhard -- of a huge German-based multinational. You should know that Basil is both very averse to conflict – he hates giving bad news – and is very protective of his relationship with Gerhard. He says Gerhard hates to be bothered with ‘a lot of incidental trivia’ and has a habit of not reading his emails. Basil says three partners and three associates in his firm will be working on the European aspects of the transaction.

“I’m to lead the US deal team, and Basil says he wants communication with him to come through me. As the deal progresses, Basil also wants all communication with the Germans to go through him. Our deal responsibilities will require me to enlist our firm’s subject-matter experts in tax, ERISA, securities law, labor and employment, and environmental law. These experts are partners, accustomed to direct client contact. We’ll also have several associates and paralegals working on due diligence, documentation, etc.

“When our team met to create a project plan and to diagram a practical ‘communication matrix,’ you can imagine some of the questions my team raised:

- Will there be a project plan that integrates the efforts of our firm, Basil’s firm and Gerhard’s legal staff? Who will create and manage that plan?

- Does Basil really mean that all communications with Gerhard must be funneled through him? Won't that be a huge bottleneck?
- Can/should our subject-matter experts talk directly with their counterparts in Basil's firm? How about with counsel on Gerhard's legal staff regarding technical questions, due diligence questions, documentation, etc.?
- What will be the protocol if our experts need to talk to executives and managers in Gerhard's corporation? Must these conversations be routed through you to Basil, and then to Basil's specialists, and then to the client? How do we assure that nothing is lost in this 'whisper down the lane' approach?
- What do we do if/when there is some "bad news" that needs to be delivered to the client since we know that Basil can't bear to tell Gerhard anything displeasing?
- What type of communication should everyone use? How will we track all the communication among the various stakeholders? How will we keep everybody in the loop?
- What is the relative decision-making authority of partners at our firm and those at Basil's?
- What should we do if problems come up or delays occur?

"In every part of this Tower of Babel, someone had better know who has the power to communicate – or, in our case, to negotiate -- who should talk with whom and who should never talk with whom, who drives the communication and who keeps track of all the communication. And you need to know more than the formal communication pathways – you also have to be aware of the styles and personalities of crucial players. Any lapses or any slip-ups can be really costly, either messing up a deal or impairing a client relationship" says Lex.

We, too, are astonished at how imprecisely lawyers at firms talk about 'the client.' The client can be a company, a CEO, a business group head, a general counsel, AGC or in-house staff attorney. As in Lex's transaction, the "client" may have surrogates in other firms.

The advantage of LPM is that it provides a framework for thinking about and planning communication before everyone dives in to the legal work. The very act of planning reminds everyone that communication pathways are important and must be carefully considered. We have helped map communication plans that include over 40 stakeholders at a firm, in its client's legal department and business/management ranks, its vendors, and its external constituents – courts, other counsel, vendors, experts, etc. And those plans turn out to be relationship-preservers in every deal.

Whenever there are lots of moving parts, it is folly to think that communication will happen by default or that stakeholders can operate on an ad hoc or need-to-know basis. The better those interactions are planned and agreed upon at the front-end of any engagement, the better. Yes, this takes time – maybe even unbillable time. But as Louis Pasteur reminds us, “fortune favors the prepared mind.”

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