

Navigating virtual negotiations

5 August 2020

With businesses around the world working remotely, virtual negotiations are now commonplace. Conducting important negotiations virtually has its challenges, but pre-planning can put you in a strong position for success.

We are sharing our top tips and learning points for your next virtual negotiation based on our recent experiences.

Planning for the meeting: points to consider



Agenda and timings

Virtual negotiations (like any other negotiations) will run more smoothly if all attendees are clear in advance on the items to be discussed, in what order and how long they will be required to attend the call.

Top tips

- Circulate an agreed agenda in advance of the virtual negotiation
 - Consider separating legal discussions from commercial discussions
 - Consider whether some attendees can leave and/or re-join the call at different times – this ensures attendees do not waste time attending calls where they are not required
 - Select a time for the call that works for all time zones acknowledging that the call may overrun
 - Allocate sufficient time to each agenda item - experience shows that we often underestimate the time it takes for virtual negotiations. Note that time pressures can be used by parties as a technique to force compromise
-



Technology requirements

Technology failing can significantly disrupt virtual negotiations, so careful planning is important to avoid or minimise the impact of any issues.

Top tips

- Choose the platform for virtual negotiations
 - Consider security of the platform
 - Test all technology ahead of the meeting and ensure that all attendees can use it
 - Consider having a member of the technology team on stand-by to deal with any technical issues
 - Agree whether the camera should be on or off during call - experience shows (perhaps surprisingly) that the use of a camera for long calls may not be fruitful as we are more likely to betray emotions when using the camera
-



Team members - roles and methods of interacting with each other during the virtual negotiations

Spending time ahead of the virtual negotiations preparing your team for the call is essential. This will ensure that each team member understands their role on the call and what agenda items they will speak to. This helps manage the risk of team members speaking over each other. It also ensures that if technology fails and an individual is unable to join the virtual negotiation, another team member can talk to that matter.

Having the means to "speak" to your team during the virtual negotiations is also essential. So plan in advance how you will communicate with your team during the virtual negotiation.

Top tips

- Ensure all attendees are properly briefed on the agenda items
 - Agree which team members will speak to which agenda item
 - Agree the platform to be used for team communications during the virtual negotiations (such as WhatsApp) – we advise using a different platform to the one used for the negotiation call. Doing so, will avoid inadvertently communicating with the other side
-

During the meeting: points to consider



Introductions

Setting the tone and framing expectations at the start of any meeting is important but is particularly so for virtual negotiations. Research shows that if people haven't met each other in person this can lead to parties being more reserved. It can also lead to parties being more aggressive than in face-to-face negotiations. Setting the tone at the start will help manage this risk.

Top tips

- Make sure everyone introduces themselves; who they are and their role on the call
- Set expectations on timing – this ensures that everyone understands time constraints and allows the agenda to be flexed to accommodate individuals having to leave the call before the end
- Be conscious of tone and how you come across to others



Meeting process

As with any face-to-face meeting, it is important to take control and manage the meeting properly. This will ensure that the virtual negotiations are productive.

Top tips

- As you move onto a new point, label the point or element under discussion to avoid people getting lost
- Use summaries and flag progress as you go to ensure parties remain engaged and to ensure there is clarity on those points that have been agreed and those that remain outstanding
- Don't be afraid of silence - unlike in face-to-face negotiations, when one side asks a question in a virtual negotiation experience shows that the other side tends to feel the need to answer quickly to avoid the silence. Do not feel obliged to provide a quick answer following a question
- Don't be tempted to talk over others
- Schedule breaks for longer virtual negotiations - breaks provide opportunities for parties to gather thoughts, discuss matters further and move past sticking points
- Avoid doing other work during virtual negotiations - it is usually obvious if someone is distracted during a call even if not on camera, so it is important to put other work to one side and maintain focus during virtual negotiations

If you would like to find out more about our experiences with virtual negotiations, please get in touch with one of the contacts below.

Key contacts



Nicola Evans
 Partner, London
 T +44 20 7296 2861
nicola.evans@hoganlovells.com



Scott Prior
 Associate, London
 T +44 20 7296 2239
scott.prior@hoganlovells.com

www.hoganlovells.com

"Hogan Lovells" or the "firm" is an international legal practice that includes Hogan Lovells International LLP, Hogan Lovells US LLP and their affiliated businesses. The word "partner" is used to describe a partner or member of Hogan Lovells International LLP, Hogan Lovells US LLP or any of their affiliated entities or any employee or consultant with equivalent standing. Certain individuals, who are designated as partners, but who are not members of Hogan Lovells International LLP, do not hold qualifications equivalent to members. For more information about Hogan Lovells, the partners and their qualifications, see www.hoganlovells.com. Where case studies are included, results achieved do not guarantee similar outcomes for other clients. Attorney advertising. Images of people may feature current or former lawyers and employees at Hogan Lovells or models not connected with the firm.
 © Hogan Lovells 2020. All rights reserved.