



DIRECTORS
ROUNDTABLE

WORLD RECOGNITION of DISTINGUISHED GENERAL COUNSEL

GUEST OF HONOR:

Louise Pentland

Chief Legal Officer, Nokia

THE SPEAKERS



Louise Pentland
Chief Legal Officer, Nokia



Nelson A. Boxer
Partner,
Alston & Bird LLP



Ingrid Silver
Partner,
Denton Wilde Sapte LLP



Peter D. Lyons
Partner,
Shearman & Sterling LLP

TO THE READER:

General Counsel are more important than ever in history. Boards of Directors look increasingly to them to enhance financial and business strategy, compliance, and integrity of corporate operations. In recognition of our distinguished Guest of Honor's personal accomplishments in her career and her leadership in the profession, we are honoring Louise Pentland, General Counsel of Nokia. Her address will focus on strategic issues facing global intellectual property, and mergers and acquisitions.

The Directors Roundtable is a civic group which organizes the preeminent worldwide programming for Directors and their advisors including General Counsel.

Jack Friedman
Directors Roundtable
Chairman & Moderator



Louise Pentland
*Senior Vice President and
Chief Legal Officer
Nokia*

NOKIA
Connecting People

Louise Pentland joined Nokia in May 1998 and was appointed Chief Legal Officer (CLO) and Senior Vice President for Legal and Intellectual Property (LIP) in July 2008, having been acting CLO from September 2007.

Under Louise's leadership, from July 2009, the previously separate Legal and Intellectual Property Rights organizations were integrated into one function, built on Organization 3.0 principles, enabling more innovative and effective ways of working for Legal and IP activities in Nokia.

As CLO, Louise has responsibility both for legal governance as well as the company's Intellectual Property activities. The role of Nokia LIP is paramount to achieving success for Nokia through its work on a wide range of current and future business needs, including proactive risk management, innovative legal and IP solutions and influencing the global legal and IP environment.

Louise has more than ten years' experience in a wide range of demanding and cutting-edge

business situations in Nokia. Her first six years in the company were in legal support for Nokia Networks. In 2001, she moved to the United States to support U.S. network operators' adoption of GSM and UMTS. Louise spent four years as VP and Head of Legal for Enterprise Solutions and prior to her current role was head of legal for North America and global head of IPR legal.

Prior to Nokia, Louise held company in-house positions following several years in corporate private practice. Louise is a member of many legal forums, including the Association of General Counsels, CLO Roundtable, and Global Leaders in Law and recently became Vice Chair at the IBA CCF. Louise is an active supporter of diversity in law, and shares a strong passion in the legal and IP arena for emerging and blossoming markets, as well as pro-bono initiatives.

Louise graduated with an LL.B (hons) in law and is a qualified and active Solicitor in England and Wales. Louise is also a U.S. Attorney, being a licensed and active member of the New York Bar.

JACK FRIEDMAN: I am Jack Friedman, Chairman of the Directors Roundtable. Before we get into the program, I would like to give an orientation to the series and the Roundtable.

We are a pro bono civic group which has done about 750 events globally. This is our twentieth year. Our mission is to organize the finest programming possible for the business community. We have frequent discussions with General Counsel, C-Suite Executives, and Directors. They have commented that corporations rarely get a positive word anywhere for their contribution to society; or the care with which they try to follow the laws and be good citizens. We have the belief that hosting the business leadership who actually have positions of authority on the business and legal sides is a very valuable contribution.

This event is special for several reasons. First of all, I'm very happy to have programming with a world-famous company headquartered in Finland. When you do programming in Europe, it's very often London-centered.

Another reason is that I'm from California, and there's a tendency to be very America-centered in technology, and even in California, Silicon Valley-centered. I think it's wonderful to have the example of companies that are technology leaders on a global basis which are not headquartered in the United States.

Our Guest of Honor today is Louise Pentland. We always feel that the guests really honor us, rather than we honoring them. She has had a distinguished career as a lawyer and General Counsel. The point of the traditional approach we take at the Roundtable is that we don't make a big fuss about the incredible achievements of the various different speakers and Honorees that we have. If we did, we'd spend the whole evening just talking about the achievements of the people who are here. So I won't go into detail, but I will be introducing the different people and they will be talking about their particular specialties and activities.

What makes this event truly unique, is not just that we have a fine dinner with important people, but that we're going to take the tran-



script of the event and we're going to have full-color photos and bios and logos. It is going to be sent out to about 75,000 In-House Counsel plus another 50,000 leaders. So, this event is important, as it builds on something which is unprecedented on a global scale, and I think it's wonderful to be able to share what's said this evening with people around the world.

I would like to introduce the Distinguished Speakers. There is Nelson Boxer from Alston & Bird, Peter Lyons from Shearman & Sterling, and Ingrid Silver from Denton Wilde Sapté. Her firm, which is headquartered in London, goes back to the late 1700s. It's a tie - we're not sure whether George Washington or the founder of her firm was the older gentleman. They are going to be combining with Sonnenschein Nath & Rosenthal here in the United States to create an even larger combined global law firm. We thank her for coming the farthest, along with Louise, as you have both come in from Europe.

Our Guest of Honor, Louise Pentland, will begin the commentary, and then after each of the Panelists has made brief opening remarks, we're going to have a discussion among them on all the topics together, and at the end, open it up to the audience. You will be invited to come up one-on-one after the event and say hello to the people who are up front.

Thank you very much for joining us, and thank you, Panelists. We will now get started.

LOUISE PENTLAND: Thank you, Jack. Thank you for inviting me here today. This is very humbling. Thank you all for attending. Hopefully we can keep it entertaining, as well.

This is a huge honor for me, and when Jack and the team approached me a year ago, they offered me something that was quite unique, which was, you can have this event anywhere in the world. I could think of no better place than here in New York. Certainly Nokia has offices here in White Plains, and I'll talk a little bit about our company in a moment, but it's certainly a place for which I have tremendous fondness, and clearly have been able to gather an esteemed panel as well as a very energized audience, I can tell.

Let me start by just telling you a little bit about me. I have been with Nokia since 1998. I'm a Brit, a little contaminated. My husband is in the audience here; he's American. I have spent the last ten years in the U.S. I'm a U.K. lawyer, as well as a U.S. attorney, so I'm certainly confused, if nothing else!

I first joined Nokia in the late '90s when telecommunication was just going crazy, and at the time, I'd been working for another corporation

in the cosmetics industry, and decided I'd get into telecoms because it was the hot topic at the time. I decided that I would become a telecoms lawyer. I don't think there's really a definition of that anymore, so it wasn't the greatest career move. But my plan was to stay there for two years, and twelve years later, here I am. I think it's a testament to just the truly phenomenal nature of the Finnish company that is Nokia that has allowed many people to grow and to excel in different ways, myself included.

I started off in our infrastructure business which, for the most part, people didn't know that we even had that business. It's the big base stations, the big switches that make the networks work, and very, very unsexy. I did not move into the sexy side of the business until 2004, but I have to say my time on the infrastructure path really made me the lawyer I became, because I think I will still say to this day, I handled some of the most challenging transactions I have ever done. It included a deal in Morocco, where I was reading the agreement in French. My French is not great, and this will go somewhat to some of the topics we are talking to later about how to manage a global company, and the legal issues that ensue. After I was shipped to Morocco, reading an agreement in French with my best tourist French, reading this and becoming absolutely certain that what I was reading was about an Iveco truck – and as much as I knew about our business, I did not believe we were in the truck business – so was it my bad French, or was it that something was going awry? It turns out it actually was Iveco trucks that we were sourcing, and it turned out that we were *actually* putting our base stations on the back of an Iveco truck to follow the king of Morocco wherever he went to ensure he had coverage! So, it was, from early on, destined to be the most interesting ride. It has really flourished from there.

In terms of the company and then my organization, Nokia has 60,000 employees of its own. We have a joint venture with Nokia Siemens Networks, where we are 50/50 owner with Siemens, and we also have a wholly-owned affiliate, Navteq, in the navigation business.

We have in the Legal function, a team of about 370 Legal and IP professionals. I actually describe it that way intentionally because we actually have more non-lawyers than we have lawyers, but I have to say, the IP professionals we work with are, by far, as competent as any lawyer that I've worked with. So the skill set and the quality of the skills in our organization is just staggering, and in some ways, makes my job significantly easier given the challenges that we do have as a company.

We operate in over 130 countries in the world and it's a constant challenge. Somebody told me very early on in my career at Nokia, "have passport, will travel," and that was no lie. You know, the world has shrunk dramatically and certainly even in the legal profession, where there were nice boundaries in terms of where you could practice and what you could do in the good old days – well, that's long gone, and we all go everywhere and a commercial contract is a commercial contract. In some ways that makes life very enriching and fruitful, but from a work/life balance, it can be a huge challenge.

Now, how did I get to this position, and how long have I been in this position? I've been General Counsel of Nokia for almost two and a half years. I was Acting General Counsel from 2007 and made permanent in the middle of 2008. I would say, for those of you who know the background there, it was an unexpected turn of events, but certainly something that we have really tried to turn into a positive experience. I won't belabor that tonight – that's not what I'm here to talk about – but it's been something that I guess you could say you're never prepared for. I was certainly not prepared for what lay in store.

In terms of some of the challenges that I had not anticipated that have come my way since taking on this assignment, I certainly would say that if I was ever planning to take a general counsel role, this may not have been the most opportune time. It started off really great. We'd just settled with Qualcomm a huge, multi-billion dollar lawsuit that we had going on, which was good. I didn't have to start with that one on the table. But then the economy fell out



of the world and we had a major downturn, which I know all of you are familiar with, but in the consumer industry especially, we were hit very badly, and as a result of *that*, one of my first tasks was to reduce the OpEx, and one of the further tasks was to do headcount reductions, which, for *our* function – the Legal and IP function – had never been done before. So: fun, that's one of my first tasks, and that was not the legacy I was hoping for.

But I along with everybody and with the attitude of a Finnish company – they have a word called *sisu*, which means "determination and spirit," and we turned the negativity of that situation into as best a possible situation as we could. At the time when I inherited the functions, Legal and Intellectual Property were very secretive in our company. Intellectual Property is run as a P&L; it actually generates very good money for the company, and we keep it running as a P&L, and obviously the Legal function is a support function.

So they are two quite different drivers. But we decided to combine the functions, or I decided to combine the functions, because there's a lot of synergy and there's a lot of overlap between what we do there. We did that quite consciously, and at the time, I was working

with a lot of change agents inside the company who were coming to me and saying, “Yeah, the Legal function, yeah, you’re not *really* who we’re looking for in terms of change agents. You’ve got a bit of a reputation of maybe not being so willing to try out new things.” Well, like myself, my colleagues around me were in defiant mode, and we reacted, “Well, we’ll show them.” And we did! We took a very innovative model and turned it on its head. We looked at what resources we had – which were less than what I started with – and our work load. The work was ever increasing so we came up with a model that would address that and also try to solve one of the other major challenges that general counsels have – development of your people, keeping them motivated and energized, and continuing to grow, because everybody’s hungry for knowledge, especially our senior staff.

So we looked at different ways of how to do that. One of the ways I’ll share with you, and there were many things that we did. If time permitted it, I would share a little bit more, but one of the things that I would consider one of our big successes in the change that we did was we actually flattened the organization – and you might think, “Well, that’s counter-intuitive; how are you going to create promotional opportunities?” But actually, when we looked at it, what we found was that some people really wanted to be specialists in their field and some people wanted to really develop their leadership skills. What a lot of companies do wrong is to think that the only way to progress is to actually be given leadership responsibility. Some people are not good at it and some people don’t want it! So you have to create these alternative career paths for your people.

So we looked at creating a much flatter organization where we created coaching in communities. If you had an interest in, for example, privacy or Internet law, you joined that community. Someone in that team coaches those people and you get the substance knowledge. On top of that, we allow people to take a percentage of their time as they direct. This is not the model that you’ve heard everywhere else, places like Google, etc. We allow people to say, “Hey, you know what? I really have an interest in M&A; I did it ten years ago; I will spend a

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– Louise Pentland

percentage of my time – I will commit to this project,” and we allow our resources to grow in multiple ways, depending on what you as an individual want to drive. It sounds so simple, but a lot of companies really overlook that. I would say I spent the first year of my tenure trying to work with these different dynamics with the OpEx in *constant* focus. I know I have a lot of my very trusted and strategic law firms in the room and have asked much of them. Part of why I’m here tonight is to thank *them* for their contribution to helping me achieve the goals that my company has set. We have to continue to be creative. This is not the end of the chapter I’m afraid, folks! We have to continue to get even more creative because those demands are not going away.

But having said all of that; that’s where it started. You might say, “Well, that’s very introspective, you know – what about all of the challenges in the world around you?” Well, of course, they never stopped. Again, when I reflect back on the time of what was happening in our company, we were going through probably one of the biggest transformations that we had done in over 20 years. The previous transformation was when we decided to focus on mobile phones and we divested a lot of the peripheral activities, which was a big risk at the time because it was less than 10% of our revenue. Well, it paid off, fortunately! But it was partly to do with the great vision of our leadership at the time, some of whom are still here.

So now we’re going through this next phase in the evolution of our business. With that comes some very new challenges, and certainly from a

Legal and IP perspective a lot of people don’t fully appreciate what some of those challenges are for a company like Nokia. People think, “Ah, you’re a mobile phone company. You’re hardware.” We’re actually a lot more complicated than that these days. As I mentioned earlier, we acquired a navigation company. Well, that’s a whole industry in its own right. We got into the music space – and actually Lori, one of my in-house team, is here tonight. That team in Nokia revolutionized what was happening in the music industry. This transition from the analog to the digital world pretty much caught the music industry by surprise, and along came Nokia and said, “We want to do something different again.” We introduced the first concept with Comes With Music, and most recently launched a DRM-free model in China. So real, adjacent or even completely different industries, which have their own specialties and have their own practices have had to evolve and develop. Another example is, of course, Internet. Internet law is something that we live and breathe every day. Other areas that were perhaps not so relevant to Nokia in the past, things like copyright law, are becoming more and more important. Then, of course, the big one – privacy – because we are much more interactive with our consumers because of the software, the applications, the OVI store, that we have more direct contact with the consumer, and how we manage and control data is a very key differentiator. But also, it is part of the trust and Nokia’s brand is synonymous with trust the world over.

So these are all very complex challenges. As I said earlier, we operate in 130 countries in

the world – well, wouldn't it be great if we had harmonized legal systems across all of those? Well, we don't. In fact, not only do we not have harmony there, we also often have very conflicting legal systems. Of course, the easy thing is to say, "Well, let's go with the lowest common denominator." Well, that would probably mean we'd be out of business. It requires a lot of creativity on behalf of the teams, and a lot of risk tolerance and a lot of good instinct in terms of what's the right thing to do, because there's no answer in the textbooks. There's nobody you can turn to. The governments are often years and years behind the technology advancements. So it's often a very white paper scenario, which makes it *very, very* exciting and *very, very* challenging. But, of course there's always a risk associated with that.



All of those factors combined present the cumulative challenge. People often say to me, "What keeps you awake at night?" Well, actually, nothing, because I'm a great sleeper, as my husband will attest to, including when the children get up. But what does, what probably is more accurate, is what consumes my every waking thought. It's these topics. It's the topics of how to continue to *use* the Legal and IP function as a *strategic benefit* to the company. I'm assisting and advising on lots of external programs at

the moment, because I'm so determined that we move away from this concept of just being support-reactive to, in this profession, to being something where we really can add value to both the top and the bottom line. Certainly in Nokia, the Legal and the IP function are *very* highly regarded. That's a testament to the people and the professionalism of the people. But also because they're so bleeding edge, they very much *need* the guidance of the team, and without it would often be somewhat limited in terms of how far advances would go.

One of the things that we've developed in our function is the Nokia Legal and IP strategy. One of the big areas of focus is how do we enable the business to take more risk? When I say that I almost catch myself saying it – did I really say that, as the general counsel, that our function should be driving that. But actually, we should, because a lot of the bottlenecks in big companies are often because people are resistant to risk or resistant to change. The lawyers and the IP folks can *really* drive some innovation and thinking there, and *truly* provide more value to both the bottom *and* the top line.

A lot of deals happen because of our relationships with other companies, because of our acceptance of, in the real world, is this going to really happen? This takes experience, and it goes back to what I said I spent my first 12 months on – it's creating an environment where the Legal and IP folks can develop and flourish and gain new experiences. For me, that's been one of my primary focus areas.

I will touch on, of course, the fact that change is constant. I wouldn't survive if there wasn't change. Nokia epitomizes that perhaps quite dramatically. I mean, we typically have an organizational change every couple of years. We certainly never stand still, and we're just getting caught up with the last change, and we're getting ready to change again.

But in some ways, in a high-tech space, you have no choice. If you don't, then you get left behind. A lot of companies – sorry, a lot of external analysts – have been quite keen to write Nokia off over the last couple of years. Going on simultaneously to this event, which

of course I didn't know at the time we scheduled this, is Nokia World, which is happening in London today and tomorrow. The world is changing. We *are* adapting to change. The company itself is enduring a lot of change. At the Nokia event that's happening in London, one of the things we are talking about is people, yes, we *know*, and it's one of the brilliant things about working for a Finnish company – they are very quick to admit their mistakes. Perhaps sometimes *too* quick at times! But we are very quick to admit our mistakes. We know we've lagged behind perhaps some of the competitors who have come out there. We're not trying to *be* like our competitors. We're not Apple. We're not RIM. We're not Samsung. We are who we are. We have a *great* portfolio coming out of not just products, but also services, and those people who perhaps have decided to write us off in the analyst world are acting very, very prematurely. Nokia's here to stay, *absolutely* here to stay. We're constantly doing renewal. I think you would have to be, perhaps, in a far, remote country if you hadn't heard the recent news that we've just announced a change at the CEO level. Again this is indicative of the fact that we're not afraid to make big decisions bringing in people from adjacent industries which five or ten years ago wouldn't perhaps have made sense but which makes *perfect* sense now. We're very excited about it, and that's one of the great things about the company is it never stays still. It gives people a chance often before they're potentially ready for it, and I can attest to that! That's one of the things that makes us grow and probably one of our core competitive advantages is our people.

Thank you very much for listening. Thank you, Jack, for bringing us. And I will hand over. Thank you.

JACK FRIEDMAN: I want to pose a question. I saw the statistic that you have over 120,000 employees.

LOUISE PENTLAND: Sixty thousand in Nokia, but when you combine Nokia Siemens Networks, we're already at 120,000.

JACK FRIEDMAN: You are a person who combines law with a people orientation. What

are some of the general counsel's point of view regarding the people side of the business?

LOUISE PENTLAND: One of the things that is really interesting about the way Nokia hires is that it's by far one of the most elaborate and the most interesting processes you will ever look forward to going through, and as I've said, there's some of the team in the room and they probably know what I'm talking about. I know for sure that when I was interviewed to join Nokia, I came out of the interview having no clue whether I'd done well or badly. But then I put that to one side, because the Finns interview in a very unique way. When I was actually asked to head the Legal function for our new Enterprise Solutions group in 2003, I was interviewed by the then-president of Nokia, Pekka Ala-Pietilä. I went to Finland all excited and got all my materials prepared. I had all the questions answered on enterprise. I'd done all my research. And the question that came at me was, "What does life mean to you?"

JACK FRIEDMAN: This is not the average American interview question.

LOUISE PENTLAND: No! It's not the average Brit, either. I remember thinking to myself, "I guess I'm going to have to tell the truth!" I did, and fortunately, it was the right answer! I remember talking to Pekka afterwards and saying "Why did you ask that question?" He said, "I always ask it in an interview, because I have a value base and I have a belief that if you don't have a good balance in your life and a good prioritization, you're no good to me." That was really inspiring, because that really is the heart of what we want from our people is we want you to work really hard, but we want you to be well-rounded, too. They spend a lot of time and a lot of energy finding people who are going to work. As a result, we have very, very low attrition.

JACK FRIEDMAN: Thank you. Nelson, please go ahead.

NELSON A. BOXER: Thank you, Jack. First, let me just say it's truly a privilege for me and my colleagues at Alston & Bird to attend and take part in this program honoring Louise.



We can't think of a more deserving honoree, and so, congratulations and thank you for including us.

My practice intersects with corporate compliance, and it does so from several different perspectives, from representing companies, their boards and board committees, their officers and directors, and sometimes representing individual employees, and also providing compliance advice to companies, including as an independent, outside consultant or advisor with respect to compliance. What I see from these different perspectives is that a robust corporate compliance program and a positive, widespread culture of compliance has never been more important in corporate America and in international corporations, to ensure and promote integrity in the company and to establish the company's good faith and law-abiding culture, in the event there's a malfeasance that needs to be dealt with by the company.

I know my remarks are supposed to be brief and we're going to have a discussion - which I'm very much looking forward to - but I just thought I would suggest to the group a few aspects of what I believe presently make for an effective, admirable and highly defensible compliance program in the event you unfortunately

find your company in a position where it needs to defend its compliance.

First and foremost, which seems obvious, is resources. A company needs both financial resources to have a robust compliance program, but perhaps even more important, it needs people resources. Highly qualified, experienced people who have real credibility within the organization are critical for a compliance program.

Second, the compliance department needs access to the Board. It needs to be regularly reporting to the Board, either through its chief compliance officer or some of its personnel, but it needs to be accountable to the Board and have visibility at the board level.

And third, the Board itself needs to be engaged with respect to compliance. It needs to understand the compliance programs; it needs to ask pertinent questions; it needs to be advised about what questions it should be asked; and it needs to be engaged in the overall process. I think regulators and prosecutors are more and more looking to see how seriously Boards are taking compliance.

Next, I think there needs to be some auditing of the compliance function of the company's compliance programs. It needs to be done at times without notice; it needs typically to be done by outsiders who are independent; and it needs to be done to test the adequacy of the programs and to suggest any improvements.

Finally, I think in the context of mergers and acquisitions - which I know one of my colleagues tonight is going to speak about - I think that's a particularly sensitive area where compliance has to be focused on. It needs to be part of due diligence in looking at acquisitions and understanding what it is you're, in essence, inheriting in an acquisition. There needs to be a commitment to integrating the culture of the two companies into one, and into being an effective compliance program and culture after the acquisitions or merger.

I look forward to our discussion led by Jack, and any questions that anybody might have. Thank you.

JACK FRIEDMAN: In general, when an attorney from a law firm is advising a company on compliance matters, who is usually the one with whom you interact – is it the General Counsel, or someone else within the legal department, or even the CEO if the firm has some emergency?

NELSON A. BOXER: It's typically the Head of Litigation. Sometimes there's a Head of Government Investigations within the Litigation function. Also it could be the Chief Compliance Officer. It's usually not the General Counsel in the first instance, and it would really need to be a pretty serious crisis for it to be the CEO in the first instance.

JACK FRIEDMAN: Thank you. Our next speaker is Ingrid Silver.

INGRID SILVER: Well, good evening, everyone! I'm delighted to be here this evening. Jack very kindly invited me along tonight, and he asked me, in my opening remarks, to try and bring an international perspective to this evening's proceedings.

So what I'd like to do in the next couple of minutes is just touch on a couple of very high-level themes which hopefully we can explore further in the wider discussion.

So, I guess I should start off by explaining to you what qualifies me to bring an international perspective to these discussions. Well, for a start, I'm operating on U.K. time right now, so it feels like about three a.m. and I'm horrifically jetlagged, which is international! But seriously, I've been practicing law now for some 13 years in London. But this funny accent you're hearing is, in fact, not English, as Louise noticed earlier on. It's Australian. I was born and raised in Australia to a French mother and an Australian father and raised in a bilingual home. I left Australia 17 years ago, and I've lived and worked in a number of countries, including the Netherlands, Belgium, Luxembourg, France, Switzerland, and eventually washed up in the U.K. In my professional activities in the U.K., I found myself working in a number of regions, including the Middle East,

Africa, Russia, Central and Eastern Europe, Singapore, and so on.

So, needless to say, I've filled up a fair few passports in my time, and certainly, as with many of you who've worked in an international environment or a global environment (as we now should be referring to it today), I could share with you a number of anecdotes and insights about cultural encounters in global environments, and so on. But if I'm honest, what's *really* shaped my thinking in all these years is language. Just a quick show of hands – how many people in the audience speak another language? Okay. Well, those of you who do are going to be able to relate to some of my thoughts.

As I said, I was raised in a bilingual home, and it was always a source of great fascination to me that people who pretty much share the same biology, the same lifestyle, the same socio-economic background, but spoke different languages, could have entirely different life experiences. So let me give you a few examples.

In French, there's an expression, *crise de foie*. Literally translated, it means "liver crisis." Now, the French have liver crises all the time! For us, it's equivalent to indigestion or feeling under the weather or feeling in a bad mood, or whatever, but the fact of the matter is, we don't have that word in English, and we don't have *crise de foie*!

Another example: there's an adjective in French which is *rancunier*. It's an adjective which literally means "grudge-bearing," and it's used to describe personalities. So, in French, a person can be a grudge-bearing person. We don't have the ability to think of people in that way in English. At most, we might say, "Oh, that person is currently bearing a grudge" or "has borne a grudge" or whatever.

Last example: in French, there's an expression, *arrière-pensée*, which literally translated means "the thought you're having behind the thought you're having." We don't do that in English! We're a lot more one-dimensional in what we do! We think one thing, which we express.

We say what we think. At most, we have an afterthought.

Now, the reason I'm sharing this with you is not to tell you that the French are grudge-bearing, duplicitous and walking around having *crise de foie* all the time – that's a whole other discussion – but rather, to try and convey the notion that as a result of having a different vocabulary, we can have a very different life experience. And, in fact, this is something that I was so interested in that 20 or so years ago, I took time out to study linguistics, and I came across a theory called "cognitive semantics." Very simply put, "cognitive semantics" means that if you don't have the word to have the thought, you can't have the thought. And the converse is that if something in your environment changes, unless you develop the word to describe that change, it is very difficult for you to engage with that change.



Now, of course, that's something we can all relate to just in the English language. So just as once upon a time brands like "Hoover" and "Kleenex" came to mean objects, and most of us in this room will remember a time in our careers where words like "fax" and "email" became standard usage, these days it's perfectly acceptable to use as a verb – words like "Google," "Skype," "IM," "text," "blog," "post" and so on – and if you walk around telling

people that you “tweet,” no one will think that you’re a twit! I’ve been dying to use that line!

But this is all very interesting for us as human beings, as we encounter different cultures and we come to understand how different people work, and it was interesting to hear Louise use that particular Finnish word. But I think it actually has an incredibly profound significance for us, as lawyers, because the fact of the matter is, we, as lawyers, actually have our own language. We have our own vocabulary which we use as tools to function in our professional world. So words like “rights,” “obligations,” “liability,” “indemnity” have special significance for us.

Now, I would suggest that, certainly in my professional world, which is similar to Louise’s in that it’s all about digital media and communications and historically separate and possibly adjacent industries all colliding, there are a large number of legal concepts which are part of our vocabulary that are being stretched and tested in very concrete and immediate ways, and Louise, you touched on a number of them. What does “privacy” mean? What do things like what you call here “safe harbor” – there’s a whole *Google-YouTube-Viacom* case that’s just happened. We call it “mere conduit” in Europe. What do “fair use” or “fair dealing” mean?

All those sorts of terms are being challenged at the moment, which brings me to the next theme I wanted to just briefly touch on, which is: what is driving this change, and what is driving, if you like, the challenges to our legal notions?

Now, the obvious answer is, of course, technology. Most of you in this room will be familiar with Moore’s law, which is the theory that over the past 50 years or so, our processing capacity, the number of pixels on screens and so on, are increasing exponentially by roughly doubling every two years, and are set to continue to do so. There’s also the *wonderful* statistic that gets bandied around, which is that there are now more mobile phones in the world than toothbrushes. Gross, if you stop and think about it too long, so we’ll move on!

Now, it’s a given, and it’s obvious, that technology is the driver, but the *real* question

“... a lot of the bottlenecks in big companies are often because people are resistant to risk or resistant to change. The lawyers and the IP folks can *really* drive some innovation and thinking there, and truly provide more value to both the bottom and the top line.”

— Louise Pentland

for us, as a business community, and as legal practitioners within that community, is to try and gain some insights into what shape the impact of technology will have in terms of entering our lives and influencing the market. Now, I would *love* to stand here before you and say, “Well, the ones who determine what direction the market takes are the corporates, the ones who introduce the new technology, the new services and so on, perhaps the innovators, or the R&D centers.” I think that’s part of the story.

It would also be fabulous to stand here and say before you, “Well, the regulators are the ones who decide what happens, because they’re the ones who decide what consumers can do, what can be presented to consumers, who it’s done by, and so on.” But again, I think that’s only part of the story.

In my mind, there’s a third contingent which it’s absolutely critical that we not lose sight of, because they’re the ones who ultimately determine what gets taken up in this market and what is successful. Now, to explain to you what I mean, I’m going to share with you a little story that happened to me, and that I think will stay in my mind forever more.

It was about five years ago, and it was a typical morning in the Silver household. My daughter was about five years old. My son was toddling around, and everyone was scrambling to get to work, and it was a madhouse, and we were going to be late for the school drop-off. and suddenly the phone rings. It’s my sister calling from Australia. Weird! She says to me, “Ingrid, I just wanted you to know that your daughter has just Skyped me to complain that no one has given her breakfast yet!”

Now, my immediate reaction was, of course, to beg her not to tell my mother that this had happened! But my second thought was, “Huh! My daughter’s only five. She’s just barely learnt to read, and she’s Skyping? This thing’s probably here to stay!”

There’s another wonderful anecdote that’s been doing the rounds of the media industry for a couple of years now. It’s a story about a father who goes into his son’s room, and the kid’s sitting there, and he’s got his homework out in front of him, he’s got the TV over in the corner going, his computer screen is up, he’s watching something on YouTube, he’s IM’ing someone, he’s got his mobile in his hand and he’s texting a friend, and the father says to him, “Hey, son, whatcha doing?” The kid looks up and he says, “Nothing!”

Now, if you’re in the media industry or the telecoms industry, that’s actually uncomfortable and hard to confront, because it’s unbelievably close to the truth. What it tells us is that really young people, in particular, are completely changing the way in which a wide variety of services are either taking hold or now being consumed. And the challenge for us, as business people, is to take a look at what’s happening out there in the world and say to ourselves, “Well, where does the value now lie, and how do we structure agreements and joint ventures and acquisitions so as to still find value and opportunity and manage risk in the context of this market?” It’s leading to all sorts of new players entering what we used to view as a value chain, quite frankly, because it was so segmented and predictable, but now we have to view as a very fast-changing ecosystem. So I would suggest that that is a massive challenge to us.

Now, I've probably overrun my time slightly, so I just want to leave you with a last couple of thoughts. First, the percentage of under-18-year-olds in markets such as India and the Middle East is now 40% of the overall population, roughly. In some markets, it's slightly higher. In the U.S., it's 20%. In India, there is the fastest-growing socio-economic group in the world of 200 million or so middle-class, very affluent, fast-growing generations – groupings of people. In July, 150% more cars were sold in India than in America. So what does this mean for us, as lawyers and as businesspeople? Well, I think if we want to remain relevant and continue to support the organizations with which we work in a meaningful manner we must ensure that what we do and the vocabulary and the tools which we use don't go the way of ancient Greek and Latin and Aramaic. It's absolutely critical that we engage very closely with what young demographics out there – who are growing fast, who are becoming affluent and who are setting the agenda – it's absolutely critical that we engage very closely with what is happening in the market, and rather than clinging to some of the notions which we currently use to structure the way in which we do our jobs, that we start to revisit and refresh some of those legal concepts as we go forward.

So, I think I'll leave it there, but thank you very much!

PETER D. LYONS: Good evening. I'm Peter Lyons. I'm an M&A lawyer at Shearman & Sterling, and we've been lucky enough to work with Louise and some of her colleagues on some of their major acquisitions over the years.

I've been doing this for quite a while, and to pick up on the theme of language and words that Ingrid has started with, I've been doing this so long, I actually know what a "telex" is! And I've actually *used* them. I remember way back when, right after we stopped using the stone tablets at Shearman & Sterling, so we've been doing this for a while.

Just a few remarks about the M&A market generally and a couple of trends that are relevant for international companies in cross-border transactions.

The first question you may ask is, "Well, *are* there actually any M&A deals going on?" There are these rumors from time to time, and there are some, and it's fair to say that there haven't been nearly as many as we would like. We could all argue about whether M&A transactions are good or bad for the economy – let's not debate that. I think they're wonderful! And I'm happy to debate that later. But clearly, the market has been down. It's been down principally because of, frankly, CEO nervousness. Companies typically do not do M&A transactions unless they feel good about their own prospects. They like to do it from strength, not from weakness. You don't want to sell yourself into a weak market. So, markets have been down historically.

Now we at Shearman & Sterling have seen some signs of recovery quite recently. Fragile, but some uptick, I am pleased to say. Now, with regard to the circumstances that give rise to that, it's not clear to me that all of them are sustainable. And let me point to a couple of factors.

First, you do get a sense that people are feeling a little bit better. I look at some of our companies – for example, in the chemical sector. If you look at the chemical sector, which actually does seem to be a leading indicator because they tend to have big backlogs – we are very active in that sector – those people are telling us good things. That's actually good for the economy generally.

Most of *our* CEOs are less nervous about a big double dip than they were. But the markets are quite fragile, and I look at May as the example. When a country the size of Greece has a problem – and frankly, it's a problem that *most* sophisticated financial people had a pretty good handle on for a long time – when that gets on the front page, and the markets drop like a stone; when yields on acquisition financing, the spreads widen by 200, 250 basis points, that tells you that the market is *very* sensitive to risk, and I think will continue to be very sensitive to risk as we go forward.

But financing is available. We are seeing banks lend not insane eight-times leverage, but we're working on deals now where the leverage ratios



are five-and-a-half to six times for the right types of credit. So credit is available.

A couple of other things that are happening that may make this short-term, okay: In the U.S., you're seeing a lot of people put assets on the market to try and get deals closed by the end of the year. One, there is a general nervousness that capital gains taxes will go up next year. Whatever happens, and the Congressmen are starting to spar on it, it's quite clear they're not going down. The other thing that is also driving the PE sellers is more subtle. They expect that carried interest will be taxed not at capital gains rate, but at ordinary income rates. They want to get deals done this year so it can go into their carry formula and they can get credit for that this year. That's an interesting blip in the market as the PE firms try to get some deals done this year, because I think they are highly confident that those rates are going up. The days of the PE firms paying 15% on their carry are *not* going to be sustained, and they're trying to push some stuff through the pipeline before that. That may lead to some blip in activity in Q4. We'll see. The real question is, can they get their deals done?

I think we'll continue to see some level of hostile activity. Whenever the stock market is not doing

great, you'll see some hostile activity. We believe that trend will continue because shareholder primacy seems to be the rage, not just in the U.S. and not just in the Commonwealth countries. For companies and boards of directors *not* to listen to their shareholders when an opportunity comes by, for them to take advantage of an acquisition premium, is becoming less sustainable, and that trend line will continue over the longer term. You'll have to see boards of directors responding to their shareholders. People don't like it. You'll see people, like people in Germany, talking to people like vultures and other pejorative terms. Like it or not, I believe that capitalism is here to stay. There are a couple of things that are going to push back on it, but that long-term trend is clearly there.

Two other things: One is sovereignty and nationalism. Any time you see an economic decline, when people are worried about jobs, nationalism in M&A transactions starts to get much, much more currency. A good example of that would be the deal up in Canada – the bid for Potash out in western Canada by an Australian company, with rumors of Chinese interlopers. Canada has always had a very open environment to M&A. While at the end of the day that will prevail, you're seeing people raise Canadian sovereignty and Canadian nationalism in what's been a very open environment in a way that we haven't seen in a long time. I think that is something that in this environment, you'll continue to see – not just there, but in other places. It's something for people to be conscious of.

To go back to the issues we raised before, the other point is compliance diligence. Certainly, I would say that Nokia is probably uniquely situated to understand the ideas of compliance diligence in the M&A context. Nokia probably knows it better than any other company on the face of the Earth, after our experiences with Nokia Siemens Networks.

That is something that is at the top of the list for many of our clients. I had a conversation with a general counsel the other day and he said, "You know, we've got to talk about this. Look at all our acquisition." We look at it. It's a conglomerate. He says, "You know, the areas

“... one of the great things about the company is it never stays still. It gives people a chance often before they're potentially ready for it, and I can attest to that! That's one of the things that makes us grow and probably one of our core competitive advantages is our people.”

– Louise Pentland

where we're weak, a lot of our businesses don't have the presence they need in China, India, Southeast Asia. I know what that means, and what I need to do is sit down and figure out how to manage *that* – those issues which we all know are there – those issues of compliance are not just U.S. issues any more, they're big issues in the U.K.” They clearly are issues throughout Europe. I've seen the issue of compliance rise in importance, on the radar screen of general counsels as they look at M&A, particularly as they *all* look at going into these areas. They *have* to go into geographies where – they know it, and everybody in this room knows it – those issues are rampant. In terms of the challenges in the M&A function, compliance was pretty far down the list, for companies like Nokia, for people like Louise. It's gotten up to the top of the list for many of the deals we look at. It varies, but it's there, and frankly, it wasn't there several years ago.

JACK FRIEDMAN: One of the issues in M&A is whether the driving force of international deals will be coming from the so-called developing countries that are starting to do these deals, like China or India, versus developed countries. I know this will sound like a long time ago, but in 1973 during the oil embargo, I wrote an article for the *Sunday New York Times*, entitled “Who's Afraid of Foreign Takeovers.” The *Times* had a large cartoon featuring a wolf with a *keffiyeh* looking from behind a tree at Little Red Riding Hood with her basket holding a steel mill, a bank vault, and an airline. The culture was different in those days; the cartoon would be unacceptable today. The issue is still relevant: how do Americans feel about investment coming in from around the world? In the future, what is likely to be the geography of the acquirer and the acquiree?

PETER D. LYONS: I'll say what we've seen since the beginning of '09. One geography which has become a huge acquirer that wasn't there before is the Middle East. We do a lot of work for Abu Dhabi and Qatar. The amount of activity we saw and our revenue numbers for '09, I'm guessing that 20+% of our M&A revenues had a significant Middle Eastern component. If you look at the amount of money that the Mubadalas, the QIAs, and those guys have, and they have to put it to work. They haven't been doing it this year, frankly because they're pausing because they really were so active in '09. If you tell me what oil prices are going to be, I'll tell you how much money they're going to have to put to work. But they will have a lot of it.

Activity out of India has been quite active and strong. We hadn't seen activity from India into the Americas until really '08, '09. It's moderated a bit in 2010 simply because the Indian stock market was raging then and people were able to take advantage of arbitrage in the sense that they buy earnings in the U.S. and then the Indian market would apply a higher multiple to it. It was really interesting.

That's moderated, but we continue to see demand out of India, Brazil, and China. The Chinese are looking and are really dipping their toe in the water. They're very nervous about the U.S. If you look at what happened to them on some of the transactions here – the concerns about Chinese technology are giving them pause. It's fair to say, *anything* that has a technological focus – and I'd be interested in Louise's view – the Chinese *want* to do it. It is the big companies that want to do it, and need to get some presence in the Americas. I think that's going to take a little while because we have got to get used to them, and they've got to get used

to dealing with our functions. A banker said to me, “Chinese companies are not quite mature enough to be on the buy side. They’re mature enough to be on the sell side.” What he meant by that, and I thought it was quite astute, is that on the sell side you control the process, because there’s only one seller. So you call the rules. On the buy side, there are multiple buyers and only one seller, which means that the buyer has to be responsive to the tune that’s called by the seller. The Chinese companies don’t quite have the nimbleness internally to deal with that or the internal infrastructure. They’ll get there, but they’re not there yet. You’ll continue to see that type of activity. It will continue to grow but it will be the big companies. Big companies do international acquisitions. That’s why, for example, Israeli companies which are mostly small technology companies, get bought. With the exception of Teva, in the generics industry – they don’t buy. Big companies buy. Small companies sell. Israel tends to have a lot of small companies. Therefore, they’re usually sellers, not buyers.

But the level of activity from the emerging markets into the Americas is positive and it will continue to be that way.

INGRID SILVER: It’s interesting to hear you say that, Peter, because we’ve had a similar experience, a deal flow from those sorts of emerging markets, particularly the Middle East and India. But our perception in Europe is that actually, the U.S. poses an enormous challenge for Middle Eastern investors for cultural reasons. I’d be really interested to hear what you think that’s attributable to, given that – in fact, you talk about the Chinese having less maturity or sophistication on the buy side, and perhaps, Louise, you have thoughts on that, as well.

PETER D. LYONS: It’s interesting. If you look at Abu Dhabi it has done things quite successfully, including in the semiconductor space where they have worked with a number of transactions there. Most of the deals that they tend to do tend to have some industrial development aspect in the home country; they have been active into that space. I think the Middle Eastern clients have been more successful in terms of acquiring in the U.S. than

the Chinese. That’s been our experience. One of the reasons is language, to go back to your point. If you’re dealing with the Middle East, then everyone at a senior level in a Middle Eastern country speaks English, and speaks it well.

INGRID SILVER: And they’re highly educated.



PETER D. LYONS: Yes, they’re very highly educated. If you go to India it’s the same thing. The Indians have that going for them. The Chinese, even in the most sophisticated Chinese company – and there are some very sophisticated companies – there will be very senior people, particularly the older people, who don’t have English skills. For the Chinese, their use of English is not as ubiquitous and I think that actually puts them at a disadvantage in terms of buying and then integrating companies here in the States.

LOUISE PENTLAND: Well, I would just comment, not specifically to the M&A side, but transactionally, if I think about where my focus is, at the moment I have a couple of examples. We’re going to places like India first, for new initiatives. For example, we launched a piloted Life Tools. We’re working with microfinancing with companies like Obopay, where that market is much more suitable for those types of mergers, much more established in some ways, and has the benefit that some of the Western

countries don’t have. So to a company working in an international environment, actually we’re not always looking to the Western countries to start those initiatives and to find fertile ground.

China’s always very interesting. I will say a few words about China. We’ve been working in China since the ’80s, and we’ve got fantastic

relations in China. It’s often misunderstood, and I would say, on top of Ingrid’s point on language, one of the things that you have to be very, very sensitive to is culture. That is along with language, they’re the two most important things.

One of the mistakes that a lot of Western companies make is going to China with Western values. You will fail. It’s guaranteed. One of the things we’ve learned as a company is how to work, how to apply our European business practices or Western business practices in China, in a harmonious way. It’s not always easy. There are times when, for example, we’ve wanted to run software from China, the only way we could have done it in certain encrypted software is to give source code; we had to move. We couldn’t do that. But there are other ways you can do it. Certainly I would say our anti-counterfeiting activities are probably creating some of our best success stories in China. Some of our best innovation in anti-counterfeiting practices comes from China. So to some extent,



China can be a little bit misunderstood, as well, by the Western world, because there is significant opportunity there. A lot of the Chinese people coming through the education system now are Western educated. Yes, there is a very strong cultural practice of speaking their language whenever I go to China. For example, I met the General Counsel of China Mobile earlier this year. She can speak English. But, of course, we operated through a translator. We have to respect those practices. That has to be understood, and China is an area where the potential is huge.

On the M&A side, I would *fully* agree with what Peter's saying. We've seen them come to the U.S., to Canada. They were in the bidding for some of the Nortel assets. We're seeing their presence and we're feeling their presence a lot more. I haven't seen as much the other way but the trend is changing, and the younger population is *very* much going to change the more traditional business practices that still exist in China.

JACK FRIEDMAN: I'd like to take up one other thing in the compliance area. When someone says, "This area should report directly to the CEO, or directly to the Board." You may nod and say, "Yes. It's perfectly worthy." As a matter of fact, every function is worthy of the

attention of the top people, but you must set priorities.

How do you select the reporting relationships to the top; the topics they take up; and so forth?

LOUISE PENTLAND: It's a fair comment. I actually benchmarked a couple of years ago this particular topic and included a lot of our peer companies. The answer is, everyone does it differently. I don't think one formula is better than the other. A lot of it has to do with the practices within a company. We're a very distributed company. We distribute a lot of management responsibility. When people say to me, "Who owns Compliance in Nokia?" I say, "Everybody, because everybody has a responsibility there." Now how is this true? We don't have a compliance officer. NSN, to whom Peter was referring, did have one and there were a lot of issues when we did that joint venture, and there are a lot of war stories there. A company should have a compliance officer for all the right reasons. Nokia doesn't, our compliance corporate structure is owned by the Audit Committee ultimately. Then within that committee are the representatives of Legal and Finance, and they collectively have that responsibility. Of course, the Audit Committee reports in to the Board. The CFO and I report in to the CEO. So we make our judgments on

how that information is shared. It's usually pretty transparent.

PETER D. LYONS: If you look at your directors, how much time do they spend during the course of a year basically discharging their obligations as directors of Nokia? That, to go back to your question, Jack, is how many things are worthy of their attention? Well, they all could be, but given the fact that these people typically have and *yours* do have day jobs, and in many cases, significant ones – realistically, how do you triage that, recognizing that this is not a full-time job?

LOUISE PENTLAND: Yes. What I've seen over the last couple of years, and since the economy did the U-turn it did, it's dramatically more interaction with the Board than we probably had seen prior to that time. Also, Peter, you were talking about compliance as being one of the key issues for companies – it's something we live and breathe now. The Board does get involved more, and to be honest, they have to. These issues are so significant for so many, in so many areas, that we do involve our Board and our Board wants to be involved in more. There's a judgment call on how much we involve the Board, and of course, there's no science to that. But the level of transparency is: within the Finnish culture, transparency and honesty are main ideas. Anybody who knows a Finn will know that's the case. That drives a lot of that.

NELSON A. BOXER: With our clients, we see it just the way Louise just described. It's typically a reporting function into the Audit Committee, typically quarterly. It could be biannual. Even 10 or 15 minutes on the agenda, quarterly, makes a huge difference. It makes it part of everybody's culture in the company. That build-up to 15 minutes in front of the Audit Committee leads to a lot of good behavior, a lot of self-reflection, some creative ideas, and frankly, it's the kind of thing the Justice Department and the SEC wants to know is going on. So, as I mentioned before, if there's a misstep, it may not be the company's problem. It may be that somebody is not listening. That's what shareholders really are looking for these days.

PETER D. LYONS: I'll take a somewhat different view. One of the mistakes which I see companies make is to give their boards too much stuff. If, when my guys say, "We're going to send this to the board" and it's this thick, my response is, "No, we're not!" Our job, and I think Management's job, is to take a large amount of information and distill it to the stuff that they need to know. Now, there's some risk to that. If you really think a Board can do its job in any remotely sensible way, there is an amount of distilled information they have to get that is cogent and matters. I see some companies frankly overload their directors with too much *stuff*.

LOUISE PENTLAND: It always impresses me how much – at least I can speak for the Nokia Board – how much they can consume, as well. So I also don't underestimate the capabilities of our Board, which is really extended.

JACK FRIEDMAN: I read in *The Times* of London when I was working there in the late '60s, a quote by the Chairman of Shell Oil. He served on the Board of British Leyland, a famous auto company, for years, and always asked management, "Why do we have so many models? Isn't there some efficiency in having longer runs of fewer things, rather than spreading out all our production over so many models?" He said, "I never got an answer to that." From that day forward I have said, "If the Chairman of Shell was on the Board of an auto company, of all companies, and couldn't get an answer to a basic strategy question like that, what hope is there for anybody else?"

INGRID SILVER: I think that point leads into another interesting area. Nelson said something very interesting, which is that a lot of this stuff is about making sure you're doing what people like the SEC want to know is happening. It means that actually, a lot of this compliance stuff is about perception, and external perception, rather than compliance. Now, in my world, compliance is not necessarily about the SEC, but compliance is about privacy regulation and rights clearance and things like that. Often we get asked to advise, as lawyers, about, "What's the regulation here?" We get trapped in this, "Well, these are the rules and we must

comply with them." Actually, things are changing very quickly, and regulation is far more fluid than we might think. So if a regulator can see that a company is genuinely trying to comply and understand the regime, there is likely to be far more flexibility in how that regime is enforced. Opportunity for dialogue and self-regulation, which is absolutely key in terms of navigating different jurisdictions and regulatory regimes will also be more likely.

PETER D. LYONS: If you look at privacy, there is a public perception of privacy that can be actually as important as the compliance.

INGRID SILVER: That is *so* true.

PETER D. LYONS: It is certainly true in Europe. If you look at the Deutsche Bahn experience, there were privacy issues which caused most of the senior management of Deutsche Bahn to be removed. It wasn't a question of whether they violated the law or not – maybe they did. This was something that, when it got out, the German public was just outraged.

INGRID SILVER: Exactly.

PETER D. LYONS: They were done!

INGRID SILVER: It's the point of perception. There's another wonderful example of a company called Phorm, P-H-O-R-M, which I'm sure Louise will be familiar with, which was a company that tracked people's behavior online, and according to the legal advice they got, they were *entirely* compliant. But there was a *perception* that they were somehow invading people's privacy, and within weeks, they were completely demolished. Actually, Louise, that's an interesting question for *you* because, legal compliance and regulatory compliance is one part of this story, but how do you juggle that against perception and engaging with other parts of the business and grabbing opportunities to innovate.

LOUISE PENTLAND: I would say it's a constant challenge. We have that challenge, and then we also have the responsibility we have in our brand, as well. It sets a standard for a company like Nokia; it's fast-moving. We will go down a path, for example, with privacy, and

then the business demands will change. It has to be flexible enough, and not too contradictory to the consumer. It's a checks-and-balances issue, there is no one formula here.

JACK FRIEDMAN: About three or four years ago, there was a news item regarding how one of the mega-Swiss banks had accidentally put on their website the personal financial statement of the actor, Roger Moore, who was James Bond for many years. It was just sitting there. It had all his assets and all his liabilities. Of course, it was taken off as soon as they found out about it. At another time a hacker is said to have gotten Bill Gates' Social Security number. The whole issue of electronic privacy is incredible.

Turning to phone equipment, if I go into a store and say, "I'd like to buy a cell phone." They say, "Well, what features would you like?" I say, "Just something that makes phone calls. That's all I want it to do. I don't want Internet or photographs."

LOUISE PENTLAND: I have a phone for you, right here!

JACK FRIEDMAN: Also, I want something cheap enough that if I lose it or leave it in a taxi in New York, I can replace it easily. My question is, "What is this equipment today and where is it going?" It seems that there is no such thing as a vanilla cell phone any more.

LOUISE PENTLAND: No, but you can get them. I truly do have one in my purse. It depends on the company; certain competitors of ours will only really make one type of product. We make a *range* of products that are demanded in every different part of the world. You have to take into account the needs of the consumer in every different part of the world. Now, more is accessible on the Internet, so even within countries, the customer segmentation is much more flexible than it was previously.

If I take, for example, India where our device is, and the basic SMS services are used, it's mostly for voice. It has basic SMS on it. But the service and the value we provide there are things like, you can learn the English language, or you can

find out the price, if you're a fisherman, the best price to sell your fish in the different areas. So I think it's the enhancement of what you want, of your life. The device can do whatever you need it to do. There are different devices for whatever your demands make. Ingrid touched on the point in her opening comments that the generation gap is probably shifting, probably even more than you politely referred to. What I could call the "millennium generation," the five-year-olds that are growing up now, their demands for technology and what they demand, when they come into the work place, and what they demand *from* the workforce, is going to be so drastically different because of the technology shift. We, from the older generation, are going to have to adapt to that. So while there are still companies like Nokia who certainly are servicing the world's different needs, in terms of what we provide – not just the hardware, but also the software – we're also going to have to play a bit of catch up.

JACK FRIEDMAN: What are some of the cutting-edge content issues? Everybody is downloading everything for free. If you're under 20, you don't know the words "pay for something!"

LOUISE PENTLAND: Actually, I read a survey recently that said that online piracy isn't as bad as people think it is.

JACK FRIEDMAN: I'm from L.A. What we get every day in the news is that no one in Los Angeles and no one in Hollywood is ever getting a penny for anything they create. What are the current content issues for cell phones? I use the word generically "cell phone." What is the more specific phrase?

LOUISE PENTLAND: Smart phones, mobile devices.

JACK FRIEDMAN: What are some of the content things that may be coming down the pike?

LOUISE PENTLAND: Well, how long do we have? Honestly, I'm not being flippant! What is happening now is these developer ecosystems. The phone will still always have very sophisticated software on it, but the developer

“What I could call the ‘millennium generation,’ the five-year-olds that are growing up now, their demands for technology and what they demand, when they come into the work place, and what they demand *from* the workforce, is going to be so drastically different because of the technology shift. We, from the older generation, are going to have to adapt to that.” — Louise Pentland

ecosystems, of which we operate one which is our OB platform, and we have a developer around Symbian, around Meego, some of the operating systems that we have – they're creating applications for whatever you need, and what you didn't even know you needed. So you can have an application that measures your golf swing now. Whatever you need! Anything that goes on in life, somebody's developing an application for it right now.

PETER LYONS: There's an application for golf you can download and it will be a GPS that will say where you are on the course and how many yards it is to the pits.

JACK FRIEDMAN: Microsoft has a new product – this is a Silicon Valley joke that for a 20% premium, you'll get the answer to any question. Even answers to "What is the meaning of life?" or "How should I plan my life?"

LOUISE PENTLAND: I could have used that!

PETER LYONS: I think that the Berkshire Hathaway Company provides that!

INGRID SILVER: Could I jump in? I think perhaps the question needs to be rephrased. Actually, it's not just about phone calls and communications and entertainment any more. There was a really interesting study that was launched at Mobile World Congress in February, which was a joint study by the GSMA, which is the GSM Association, and the Cherie Blair Foundation – Cherie Blair is Tony Blair's wife – and Nokia participated in that study if I'm not wrong. It was a study about the empowerment of women through

mobile communications. It was very interesting, because it talked about women participating in economies through being able to communicate. But what was *really* interesting about that was the emphasis on the business opportunity for participants in this environment, the providers of infrastructure communications and service. So it's not just about governments doing good. It's so important to remember that this is not just about entertainment any more. It's about education, telehealth, micropayments, finance, mobile banking and so on. You can't just limit it in that way. But there are incredibly compelling business opportunities for the industry. My world has just changed dramatically, from over a decade ago being a traditional media lawyer with a parallel specialization in telecoms, to working with banks, helping them put apps out there to work with consumers, and various other new participants in this ecosystem who are able to engage with consumers directly. You do need to take a very broad view of what this whole environment is about.

LOUISE PENTLAND: I think we have a phrase in Nokia that we use. We say, "It's the world in your pocket." Whatever that world means to you, it's in your pocket and with the convergence of the Internet and the mobile technology, that truly is what is happening now. It's truly unlimited now, what you can have. But also it *can* be limited. You can self-regulate, too.

So if you *just* want voice, and you just want SMS, then there's a device there for you.

JACK FRIEDMAN: It's good that you cover every need that I have.

LOUISE PENTLAND: I'll sort you out afterwards.

JACK FRIEDMAN: Let's move on to some of the legal issues. Again, I'm from Los Angeles. The issue there is getting paid for anything you create. It includes everything from piracy to kids downloading and sharing everything in the world. What are some of the legal challenges a company has to protect its intellectual capital?

LOUISE PENTLAND: Well, there are a lot of challenges, there's no question. It's this transition between analog and digital. There's a lot of resistance in some areas to that transition, and that's potentially slowing down some of the legal changes that may be needed. I'll give you one example that I have, and that's in the area of copyright levies. If you think about copyright levies and what they were designed for, it was back in the day when - I'm sure people in this room remember things like cassettes? People would record off the radio. The artists were obviously missing out on certain benefits, because they weren't buying their LP or their single. So they applied levies on these cassettes, the collecting societies, which are managed. We talked about nationalism earlier, it's a very nationalist model. They applied levies under the premise that these levies would then be paid to the rights holders.

That, of course, made some sense. They did the same thing when blank CDs became available and blank DVDs, etc. Then we moved into the digital world, where you have things like a media device which has an MP3 player on it. It's a storage device. I legitimately go to an online store and purchase a song and download it on my device. What the collecting societies want to do is apply a levy on that device on the basis that you can store on it. What they're trying to do is compensate for illegal downloading through what I would consider a very unfair system where the consumer pays twice. You have legitimately paid for that download. You've put it on the device, and now you're also paying a levy. Some of these systems which were more relevant to the analog world are not relevant at all to the digital world and need major reform to allow the progress of some of the protections that you were talking about.



Piracy does have to be addressed - don't get me wrong - it's still a problem. But things like that, the old mechanisms do not coexist in the digital world. So that would be one example. It's like saying you buy a car and you receive a bunch of speeding tickets before you've even driven it off the lot, because the car can speed. It doesn't mean to say you, as a law-abiding citizen, are going to speed. Those are some of the challenges where legal reform is really going to be needed.

Equally, in some areas we've potentially taken a step back and all of us *assumed* the area of, for example, the Internet. The ISPs, where you would have illegal content was put on there, take down notice would come along but then recent decisions have reversed that. What we even thought was established Internet law is being reopened and re-challenged again. We need to get some stability in some of these areas to allow the protections that will enable the advantages of the mobile world to continue to flourish.

JACK FRIEDMAN: I would like to give Ingrid Silver a chance to make some IP-related comments and then we will open it up to the audience.

INGRID SILVER: It was funny because as you asked Louise the question I thought, "Yes, rights clearance, that is the big problem!" There is this incredibly antiquated legacy of rights

clearance mechanisms that simply are not fit for purpose. Actually, it is one of the areas that is top of the agenda for EU at the moment. It calls for entire review of how these matters are handled, because these days we don't distribute content on a territorial basis. We are looking for the multi-territory, multi-platform, multi-device offerings. I have been working with a number of clients in securing rights across different platforms using those analogies where if I bought it once it is mine and therefore I should be able to use it. When we buy a book we are allowed to lend it to our friends, so how do you deal with that analogy? Reviewing the legal concepts and ensuring they are fit for purposes is one side of it. I don't know if you came across it, but last year the EU put forth this proposal that at the moment we have things like mechanical rights and reproduction rights and they are all carved up and fragmented. Why don't we just have a single right called, "making available?" That makes us uncomfortable as lawyers because that isn't complex enough.

JACK FRIEDMAN: Louise, let me ask you another quick question and then we will go to the audience. To what extent do you have a problem with people trying to rip off your technology, apart from content issues?

LOUISE PENTLAND: Oh, it is a big problem. People want to counterfeit our phones, counterfeit our accessories, and now it is getting even more complex as you get into - for exam-



ple, we acquired Symbian, which is our operating system, and we put it into a foundation that is going open source. That is even more challenging because before you could tell when the software was fake because it was proprietary and they could not copy it. The more we go into these much-needed areas of open source then the counterfeiting gets even more sophisticated. It's a huge challenge! As soon as we shut down one company in Taiwan or wherever, another one pops up. It is a constant battle.

JACK FRIEDMAN: We invite the audience to ask questions.

AUDIENCE MEMBER: In the digital world, we talk about a “lean forward experience” or “lean back experience” where “lean forward” involves interactive applications and “lean back” is people relaxing watching TV. What is Nokia doing to prepare for the day when television and computers come together?

LOUISE PENTLAND: That day has already arrived; it is here; people are using that technol-

ogy. There are still some challenges with that. Certainly, mobile TV exists and it exists in different forms. Sling boxes were one of the first areas where you could sling the TV on to your device. There are devices where you can stream TV from; it exists. There are challenges as a company with various issues such as sharing battery power because it drains the battery, the bandwidth, and the data plans with the operators. All of those issues still have to be tackled for mass globalization, but that as a service does exist already.

JACK FRIEDMAN: Anybody else?

AUDIENCE MEMBER: The FCC is about to free up bandwidth space for wi-fi. What are Nokia and other providers going to do to deal with this?

LOUISE PENTLAND: I would say that Nokia is looking at that from an infrastructure point of view, but it is more of a concern for our customers such as AT&T and Verizon, the operators of the world who are affected directly.

Of course, we monitor that and stay interested as an interested party so we can stay ahead of the technology advances.

JACK FRIEDMAN: Louise, in the five minutes a month that you have free time...

LOUISE PENTLAND: What five minutes?

JACK FRIEDMAN: It is like asking a mother about five minutes of free time and she says, “You mean to sleep?” Of the five minutes a month you have free, what do you like to do in your spare time?

LOUISE PENTLAND: What do I like to do for fun? I wouldn't say it is a monthly occurrence, but we are big scuba divers in our house, so that is one of things, and horse-back riding would be the other thing. Strangely enough, they are all very active things. Active behavior gives you an active mind.

JACK FRIEDMAN: Thank you very much!



Nelson Boxer

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Nelson Boxer is a partner in the Litigation & Trial Practice and Securities Litigation Groups at Alston & Bird LLP. His practice is focused on white-collar criminal defense, SEC-related representations and commercial litigation. He has represented corporations and individuals in a variety of these matters, including alleged health care fraud, securities fraud, accounting and tax malfeasance, violations of the Foreign Corrupt Practices Act, antitrust and banking malfeasance, in federal and state courts and before various federal, state and local prosecutors and regulatory agencies.

Nelson has tried numerous criminal and civil cases, as well as FINRA arbitrations, to verdict. He has represented companies, board committees and/or individuals in recent noteworthy investigations and litigation concerning off-label markings of a pharmaceutical, pay-to-play allegations concerning the New York State pension fund, international U.S. dollar transactions, auction rate securities, illiquidity of financial credit markets, subprime mortgages and CDOs, options back-dating, antitrust allegations concerning municipal derivatives and investment contracts, tax shelters, insurance and insurance brokerage, insider trading, and the United Nations oil-for-food investigation.

Nelson is a graduate of the University of Michigan (B.A.) and of New York University School of Law (J.D., 1987). He served as a law clerk for The Honorable Arthur D. Spatt of the United States District Court for the Eastern District of New York, from 1989-1991. From 1991 to 1998, he was an Assistant United States Attorney in the Southern District of New York, in Manhattan. In September 1997, he received the U.S. Department of Justice, Executive Office of U.S. Attorneys, Director's Award, and in October 1994 he received a Special Tribute in the U.S. Department of Justice Inspector General's Report to Congress.

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Ingrid Silver

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Ingrid is a partner in the Technology, Media and Telecoms (TMT) department at SNR Denton. She has been involved in the media and communications sector for over 12 years and is an expert in the provision of commercial, regulatory and corporate advice to the media sector, with a particular emphasis on new media services such as interactive and mobile content services, convergence, interactive television, IPTV and strategies involving triple play. She has acted for a wide variety of clients ranging from large corporates to cutting-edge new entrants in the new media sectors.

Born and raised in Australia, her practice is truly international as she practises law in London, is a native French speaker and fluent German speaker, and has lived, studied and worked in several countries across Europe.

Ingrid is involved in a number of organisations, including being European President of the Global Telecom Women's Network (GTWN), a member of the Stream Magazine's Editorial Advisory Board and a Global Board Director of the Mobile Entertainment Forum (MEF). She is listed as an expert in her field in the 2009 edition of Who's Who Legal - The International Who's Who of Regulatory Communications Lawyers and most recently in Legal 500 for broadcasting and digital carriage as a "top-notch European media law figure."

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Peter D. Lyons
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Mr. Lyons represents clients in acquisitions and sales of public and private companies, asset acquisition and disposition transactions and joint ventures. He joined the firm in 1980 and became a partner in 1989. Mr. Lyons is a member of the firm's Senior Management Team.

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