
Kluwer Mediation Blog

Pause and effect

Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University) · Tuesday, February 26th, 2019

In the weeks leading up to and following the International Chamber of Commerce's annual commercial mediation competition, these blog pages typically see wise counsel from experienced mediators for arriving student teams, and reflections from those professionals who have just spent the week mediating, judging and conversing with those student teams. See, for example, recent posts from [Martin Svatoš](#) and [Greg Bond](#). Comments have also appeared on other mediation-related blog sites such as that of the Brick Court mediators, who are also typically represented in the ranks of professionals at the competition. In practical terms, too, one of the benefits to emerge from this competition is a mentoring programme to assist young and aspiring mediators into the role, in a profession for which there isn't a standard career path.

In this blog, I want to do something a little different, which is to comment on observations made about timing and pauses in communication, rather than on more obviously process-oriented, substantive, strategic or career-path questions in mediation.

My view of the success of the competition is only slightly coloured by the fact that the team from Auckland University won and I enter a necessary disclaimer that I was not part of the team's preparation and could only observe the team once my own mediating and judging roles left me clear of conflicts of interest.

At the end of the parallel session for professionals, we were invited by the facilitator to step back from our chairs, to observe "ourselves", so to speak, and to remind ourselves of one take-away from that session. My take-away, and the basis for this blog, comes from not only that round table session but also from the privilege of observing teams from the position of mediator, judge and, latterly, observer. Bear in mind, too, that the teams observed came from 63 different universities, over 40 nations, and probably most spoke English - the language of the competition - as a second or third language.

In one of the mediation sessions, one judge's comment- to a member the Auckland team - was to the effect that the timing and the pacing of that competitor's contributions was a reminder of the musical value of the pauses between notes. What worked, for emphasis, coherence, comprehension, changes in tone (from conciliatory

to assertive and back again) were those pauses between fragments of spoken paragraphs.

By way of a quite different example, take a moment to watch and listen to the late, great Leonard Cohen giving his [speech](#) of thanks at the Prince of Asturias Award. Apart from the content of the tale he tells of appreciation for a young guitar teacher, observe the poetic timing of his pauses: this is, of course, a poet and singer in action. While few of us might aspire to or attain that level, what is clear, and what was valued by judges in the mediation sessions, was that kind of pacing. Equally, whatever your view of the politics and content, watch or listen to some of the speeches of former President [Obama](#) who used pauses to great rhetorical effect.

The value of those musical pauses might, of course, be overdone, as many disgruntled audience members thought on first hearing John Cage's piece ["4'33"] which consisted of nothing other than four minutes and 33 seconds of pauses.[<http://rosewhitemusic.com/piano/writings/silence-taught-john-cage/>]

In mediation, as in conversation, the value of the pauses can be at least a moment for one's conversational partner to catch up, especially if working in a second language. It's also a moment for you, the speaker, to gather your thoughts, reflect on the choice of words, to provide a verbal underlining of what's just been said. The risk, of course, where conversation is competitive or even combative, is that a pause is a chance to leap in with the counterfactual (or, worse, 'alternative' factual) intervention. In mediation, this ideally can be managed by the mediator; but even in conversation it may be managed by the courteous or assertive reminder that there's more to be said.

In standard process terms, one way the mediator or parties will introduce those pauses is through stepping back to summarise, check for understanding, chunk up or down to manage the 'size' of information being discussed. What I have in mind, however is more fluid than that: instead of the conscious breaks to check where we're up to, the pacing that attracted comment, and which I remind myself to keep working on, is the pacing of those actors who can hold your attention by the pauses as much as by the words. I'm reminded of seeing Sir Ian McKellen on stage in a Chekhov play, in a large theatre, without the benefit of microphones and sound systems, and without technical augmentation, he held us as much by those "rests" in his speech as by the content.

While we're on that theatrical note, this reminder of the value of timing and pause was reinforced when I caught up with a young friend who is an operatic soprano studying in London and whose training extends well beyond singing technique into movement, breathing, yoga, language training and drama, because singing demands the vehicle of performance. As the more successful of the student presentations demonstrated, pausing for effect is as essential to communication and collaboration as is a mastery of the content. And this can be achieved either by the speaker's own understanding of the power of timing or the mediator's adoption of the role of conductor, and helping to introduce those musical or rhetorical pauses.

In Anglo-Antipodean societies, and maybe others, we might, at times of tension or frustration, tell someone to "give it a rest", as a way of suggesting an end to the

argument. But maybe we can reframe that to suggest that “giving it a rest” might be exactly the musical pause we need . . . to take a breath, to allow for effect, and to value the silence between the words.

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