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TelecomLAW

Planning for technology changes

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A couple of weeks ago a close friend of mine called in a panic.

An office move was pending and there was some sort of crisis about telephone service and equipment.

"Could you please come in and help right away?" she pleaded.

I got my assistant dialed in to do the necessary number crunching, and we prepared to step up to manage the network and a possible equipment change in a very short period of time. I went into my friend's office to discuss the options and asked for the necessary documentation so that I could make the best possible recommendations, both for the short and long terms.

I met the telephone service provider and reviewed the existing equipment and agreements (to the extent that they existed). I made recommendations and thought all was well, until I found out that "because it was just easier," the firm decided to do most of things that I had recommended against. This wasn't because they didn't believe me, but because the path they chose was that of least resistance, at a time when there simply were too many other decisions to be made. There have been — and will be — costs, however.

With this in mind, I'm providing a checklist of things to consider when making a move or contemplating a telecommunications switch (or a switch in any other technology, for that matter).

- Plan ahead — way ahead.

If a long distance or wireless carrier change is even contemplated, look at the existing contract and know when it expires. Then back up the time you'll need to draft a document, usually an RFP, and have a qualified independent professional involved from the outset (not a vendor with a vested interest in the outcome). This person or entity should be integrally involved in the drafting of the RFP, as well as its review and compilation.

- Don't be afraid to consider new technologies or services.

There are many new sophisticated products that can help to make any business more efficient. They may be unfamiliar, but don't be afraid to consider the possibility that just because you haven't heard of the vendor or service doesn't mean it won't prove beneficial to your application.

- Don't be afraid to ask tough questions.

"What are the system's weaknesses?" is a good place to start. Any vendor or consultant who says "there are none," has just told you something important — find another vendor or consultant!!

Every system has its vulnerabilities, and it's critical to know what they are and how they'll be addressed before you choose to sign on the bottom line. A good example of this surfaces with IP phone systems, which offer a variety of sophisticated features at a very reasonable price. Two of the risks to be considered are critical — will the system work in the event of a power failure and how does the system allow for calls to 911? Both of these issues are essential to operations, but may be glossed over by the fact that the features proposed are so fabulous.

- Let the professionals do what they do best.

For the very same reason you wouldn't want a real estate attorney to handle a criminal matter, don't assume a telecommunications procurement or renewal agreement is simply like any other.

The subtleties of telecommunications equipment and service provisioning documents are monumental, and the pitfalls are gigantic. Hire an independent telecommunications consultant (try www.steconsul-tants.org) or attorney to help you through the subtle technical and legal issues. For a few thousand dollars up front, you'll save 10 times as much in time, aggravation and money when things that could have been controlled before the agreement was signed are cast in reinforced concrete.

- Know when your leverage is the greatest.

Vendors have latitude in dealing with customers. If your contract will renew in 30 days, as the end user you have little leverage with your vendor. However, if you plan ahead and inform your vendor that a procurement process will begin, with sufficient time for you to actively evaluate the marketplace, and you are absolutely willing to make a switch, given the amount of time involved, the vendor will be much more likely to deal with you instead of simply rubber stamping what only appears to be a good deal.

• When purchasing new equipment, know that vendors make more money selling maintenance than they do by selling hardware. With this in mind, pay particular attention to the terms and conditions of maintenance provided by large vendors. Such plans are usually terribly costly, and not always beneficial.

There are warranty issues that must be considered., however. A notoriously tight-fisted colleague of mine purchased a new telephone system several years ago. When he saw the terms of the proposed maintenance agreement, he declined (in a microsecond). Instead, he sought out someone who knew the equipment well, but was not a "vendor-certified" technician. This meant that if my client's technician worked on the system, the system warranty effectively and officially was void (not a huge risk, because the warranty expires usually after the initial 12 months, anyway).

In addition to the labor issue, when the system needs new cards or other components, he uses the system's manual to identify the part, which he

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then buys online for installation by the non-licensed but technically knowledgeable technician. My client understands the risks, and willingly has accepted them. In the process, he's saved thousands of dollars for his company. This isn't always the right approach, but it's one that's being considered with increasing frequency as the costs and terms of traditional maintenance agreements become increasingly onerous.

- Doing what's easy is not always what's either right or prudent. Sometimes it's important, for other reasons, to make telecommunications decisions that are not based on good technology, service or cost effi-

ciencies; however, simply because a decision is easy or expedient doesn't mean it's right. To the extent that it's possible, plan ahead and find a source of vendor-independent, technically sound advice.

Martha Buyer is an attorney concentrating in the practice of telecommunications law. Her clients range from Fortune 500 companies to small family-owned businesses where she has provided a range of telecommunications consulting and legal services, primarily geared to support corporate end-users working with carriers and equipment providers. Buyer can be contacted at martha@marthabuyer.com.