



## **Navigating the Chaos of the Marketplace**

**Law Department Management**



In November, 2015, I had the pleasure of returning to India on a business trip. I had several days of meetings scheduled with my colleagues in Mumbai and stayed at the Leela Hotel near our offices.

Although the office was only about 10 miles from the hotel, a car and a driver were hired to ferry me to and from work during my visit — not because the office was difficult to find — but, instead, because Indian traffic requires a special set of navigation skills that most foreigners lack, beyond knowing how to drive on the left side of the road.

This became evident the moment we departed from the hotel grounds onto the city streets. Without the benefit of a traffic light, and with hardly a glance to see if there were oncoming vehicles, the driver barreled out of the hotel driveway, plunging directly into the middle of a torrent of traffic. Horn blaring, the driver apparently expected that all five lanes of cars, motorbikes, three-wheeled taxis, buses, ox carts, cyclists, and pedestrians would yield as he fearlessly cut across the road to make a turn onto the other side of the road.

Astonishingly, despite a chorus of protesting horns, this crazy maneuver worked. We not only made it across safely, but we made a similar dive into the thick stream of traffic on the other side of the road. That was just the start of an eye-popping journey. Five to seven lanes of vehicles (it was hard to tell how many) shoe-horned themselves into a two lane road and vied for every square inch of pavement while thousands of pedestrians and animals blithely wandered in and among the vehicles. Bedlam, havoc, pandemonium, mayhem, commotion are all words that fall far short of capturing my observation of the unbridled chaos of the scene from the moment we left the hotel to when we pulled into the office driveway. The amazing thing though is — it somehow works.

While making this trip back and forth to the office for three days, I marveled at the unspoken

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cooperation between everyone using the road. There was a constant call and response between everyone — an unspoken language in which drivers and pedestrians were in constant communication with one another. When another vehicle wanted to get in front of our car, or merge from another lane, they would lurch ahead an inch from our car, after which my driver would either say “yes” by slowing or stopping or “no” by quickly accelerating and cutting them off. All the while, I never saw a fender-bender or any evidence of road rage. I also saw no one driving while drinking coffee, doing their hair in the rearview mirror, or looking at their mobile phone. Out of necessity, they were completely focused on the driving task.

After observing this marvelous spectacle for several days, I concluded that there was both a beauty and great wisdom in the local driving protocols. Despite the wildness and the seeming mortal danger, everyone was cooperating with one another to maximize the use of the road and promote traffic flow. It became clear to me that if, instead, these Indian drivers had been constrained by the traffic rules in the United States for example, with enforced lane discipline, stop signs, traffic lights, and general adherence to strict rules regarding the right of way, vehicle and pedestrian flow would be constipated to a crawl — if not halted altogether. They were maximizing the use of a limited resource via an ethos that was as aggressive as it was accommodating.

This experience caused me to reflect on what we seek to do as corporate counsel and compliance officers. We generally focus our efforts on building “lanes,” “stoplights,” “traffic signs,” and other similar guidelines to control the “traffic” in our firms with the object of directing it away from danger. At the same time, to thrive, our businesses are compelled to drive to their “destination” as fast as possible in the midst of the chaos of the marketplace.

Too often, with the best of intentions, we strive to put so many controls on our company’s business activities that we either constipate routine, lawful business activities, or halt them all together.

It seems to me that, in the interests of maximizing “traffic flow,” we might stop putting up signs on the “roadway” and take a different approach. Taking this approach might not only improve firm competitiveness, it may also be an acknowledgement of the reality that our employees’ behavior, and the business world in general, is likely much more akin to the traffic in Mumbai than we’d like to think. Much better to figure out a way to acknowledge the chaos and seek to enhance the “flow,” while at the same time pointing out “potholes” and other hazards.

Too often, with the best of intentions, we strive to put so many controls on our company’s business activities that we either constipate routine, lawful business activities, or halt them all together. I think we do this, not because we’ve forgotten where our paychecks come from, but because it’s safe and it’s easy. It’s safe because, if we are conservative in the advice we give, we can never be faulted for having given the “wrong” advice. It’s easy, because it requires very little thinking about the difficult risk/reward/cost calculations that are a natural and necessary part of conducting business in the real world. It is also a bad business practice because it often induces our colleagues to go around, or ignore the “road signs” we erect to get their jobs done. It also damages our credibility as sensible business partners.

So, instead of just trying to direct “traffic” with corporate policies and procedures, I think we can do a better job for our clients if we hop in the “passenger seat” with our business colleagues and, not only experience for ourselves the chaos of the marketplace, but also help them arrive safely to their destination.

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[Jim Nortz](#)



Founder & President

Axiom Compliance & Ethics Solutions, LLC