

## Dealmakers Q&A: Crowell & Moring's Bryan Brewer

*Law360, New York (September 19, 2014, 11:04 AM ET) --*

Bryan Brewer is a partner in the Washington, D.C., office of Crowell & Moring LLP, where he co-chairs the firm's corporate group and heads the firm's trade associations initiative. His practice focuses on mergers and acquisitions, complex commercial transactions, public securities, and intellectual property licensing and counseling largely in the technology, media and telecommunications, government contracts, and life sciences and health care sectors. Brewer has acted as lead M&A lawyer/transactional commercial counsel in dozens of transactions for both public companies and privately held entities.

From the inception of his legal career, Brewer has routinely counseled emerging companies on a wide range of legal and business issues, from formation through financing and exits. He also has extensive experience working with trade associations on their transactional and corporate challenges and has counseled numerous nonprofit corporations on formation, licensing, and related contract and intellectual property issues in a variety of industries. He has authored numerous articles and frequently speaks on such topics as mergers and acquisitions, securities, venture capital, intellectual property, export controls and other emerging business issues.



Bryan Brewer

As a participant in Law360's Q&A series with dealmaking movers and shakers, Bryan Brewer shared his perspective on five questions:

### **Q: What's the most challenging deal you've worked on, and why?**

A: The challenges of deals can range from ordinary things like the lack of sleep, intense business and industry time pressure to close, missed vacations, hosting the best closing dinner, producing the best deal toy, and OK, maybe a few complex legal issues. Of course, the most challenging deals are the most memorable because you have to invest so much into getting it across the finish line.

One fairly recent deal for two industry-leading telecommunications and technology services companies surfaces as perhaps the most challenging and yet certainly one of the most gratifying. It was a large-scale and complex asset purchase, outsourcing, and large joint venture transaction between two Fortune 50 companies in the TMT space. The deal was several transactions in one. It had all the main players in it, industry, government, and media, coupled with diverse business agendas, challenging GTM

strategies (go-to-market), and enormous time pressure. The transactions had two high-profile CEOs brought in at certain key moments, two highly experienced GC's (and their legal departments), and outside counsel, of course.

The deal was challenging because of its multifaceted intricacies that had to be managed at many different levels, often simultaneously. The key attributes required from all of the parties to close this transaction was taking a creative approach to developing all of the legal strategies, drafting documents from scratch to support those innovative approaches, and then effectively navigating the corporate structures of the two companies who were used to driving their own agendas, according to their corporate culture and process.

**Q: What aspects of regulation affecting your practice are in need of reform, and why?**

A: The life sciences and health care arenas are two primary areas in need of reform. You might be scratching your head — isn't there too much regulation already in these sectors?

Certainly countries, including the United States, China, Brazil, Germany, France and the United Kingdom, have recently passed substantial legislation that is accelerating the transformation of global health care and life sciences. The transformation in large part is increasingly focused on a value-based marketplace. We have seen regulation in drug manufacturing and safety, privacy and cybersecurity, transactional, government policies and mandates, and others relating to enforcement on counterfeit products and intellectual property issues. These transformations are significantly impacting the life sciences and health care sectors. Even with the work being done now, however, we still have miles to go before the web of regulation is one that is fully functional, that facilitates, and doesn't stymie business and commerce.

Companies in these sectors know that changes emanating from life sciences and health care reform are important, but many are struggling with how best to respond and comply. Additional regulation is needed to help clarify and fill in the gaps with respect to the current regulations and their evolving application. The businesses that are able to understand and adapt to the reform's challenges and opportunities are likely to be on top in the coming years. Regulatory compliance is a critical issue, particularly in emerging markets such as Southeast Asia, India and Latin America, and noncompliance can be financially costly. Regulation is complex and constantly evolving. The challenge is keeping up and not falling behind.

**Q: What upcoming trends or under-the-radar areas of deal activity do you anticipate, and why?**

A: While the saying "cash is king" is certainly a time-tested maxim, this fact may be one of the keys to understanding the dominant trend in the next two years in deal activity. Corporate balance sheets appear to have more of this precious commodity of "cash" than in the past few years. So the indicators suggest that deal activity will be healthy and more active over the next 24 months. It is fair to forecast that corporate transactions will incorporate a focus on growing the customer base, with an emphasis on the existing geographic footprint of the business, taking advantage of synergies in the businesses involved with some emphasis on cost and scale, and expanding the overall international footprint.

Based on a competitive intelligence view of the market, we do not see divestitures or complete transformative transactions as ruling the deal landscape in the short term. For example, based on recent deal flow and other trend data, technology, pharmaceutical, medical, and biotech M&As have all demonstrated a strong opening in the first quarter of 2014, and we expect that to continue.

Additionally, we see two interesting factors playing increasing key roles in the next 24 months of deals. Big data and information technology are poised to play prominent roles in upcoming transactions. More and more data is driving the overall metrics in deals. We also see IT playing a salient role in the analysis and integration of these transactions. The companies and investors that seem to be placing a high value on these dynamics appear to have an influence on results in pricing and the overall success of the transaction after it closes.

Other market factors may also contribute to a more optimistic outlook for M&A activity in the coming months. Interest rates continue to be at historic lows, at least for now, with a stock market that seems to be performing well. There appears to be continued favorable credit markets, and a lending environment for those deals that includes leverage. All of these factors contribute to a positive outlook for M&A activity in the foreseeable future.

**Q: What advice would you give an aspiring dealmaker?**

A: You need to love what you do, and dealmakers must always drive the business agenda — sounds easy enough, right? An early mentor of mine, who I admired greatly, always stressed to me that you have to embrace those two principles in order to earn a seat at the table. It took me a while to fully appreciate that simple maxim and to apply it to my corporate practice.

The best dealmakers have a mastery of the overall dynamics of the transaction. They have listened to their clients or in-house colleagues at every turn to fully appreciate the big picture, as well as the nuanced points of the transaction. In order to be successful as a trusted adviser and practitioner, dealmakers must fully understand how the goals of their particular client are manifesting themselves in the transaction. In short, dealmakers become the client, at least in mind set.

When you have earned that seat at the table, it means you are that valued business adviser. The most successful dealmakers I have observed and respect are the ones that truly know the industry and psyche of the client, such that they can deftly navigate the deal from start to finish — stepping on the gas to move things forward in the fast lane or letting up off the pedal and easing into the right lane to keep the transaction progressing on track at the right pace for the given situation.

On another front, it goes without saying that dealmakers must be able to argue all of the legal points relevant to a transaction without missing a beat, but that does not mean they have to win every point at all costs. In fact, it likely means the exact opposite — that the final negotiated agreement is fair, and there has been significant give and take getting there, and the points that really matter the most for the dealmaker's side are nuanced to the advantage of their client.

One last thought that I think it is important to keep in mind is that to be a trusted business adviser you have to truly listen to your clients and pay attention to what is happening in their industry by reading voraciously. Find out what they read, and you read it as well. In this way, you develop a deep understanding of their business and can demonstrate that when you are engaging with them on a deal, in general conversation, or even at a speaking engagement or conference.

For the consummate dealmaker, all of the things I have touched on here demonstrates the love for what you do. You have to be all in — completely invested in the work and with the client for their success, your success and the success of transactions.

**Q: Outside your firm, name a dealmaker who has impressed you, and tell us why.**

A: Dealmakers can come in various forms from the outside counsel, or the in-house lawyer, to the head of business development. In any of those positions, transactional creativity and industry knowledge are two of the most salient traits for a great dealmaker. If you mix in grace under pressure then you have a true recipe for success. Someone whom I have found to hold these important qualities is Lauren Rowinski of MedStar Health. Having worked with Lauren over the last few years, she embodies the trait of bringing a creative, yet practical, approach to the practice of law. She brings these qualities to a wide range of transactions in the health care arena, always exhibiting sophisticated poise under pressure.

*The opinions expressed are those of the author and do not necessarily reflect the views of the firm, its clients, or Portfolio Media Inc., or any of its or their respective affiliates. This article is for general information purposes and is not intended to be and should not be taken as legal advice.*

---

All Content © 2003-2014, Portfolio Media, Inc.