

**BRIEFING NOTE**

**Looking into the Post-Pandemic Future – Are Hybrid / Virtual Hearings Here to Stay?**

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**Introduction**

Although it has been over a year since the start of this pandemic, resumption of normality is still uncertain. In the world of international arbitration, practitioners and users have achieved varying successes with hybrid or virtual hearings. As we emerge from the pandemic, will such hearings continue to feature in international arbitration proceedings?

Below, we share our tips for carrying out hybrid or virtual hearings smoothly during this period, as well as our views on the viability of such hearings after the pandemic.

**Check Boxes for the Smooth-Running of Hybrid or Virtual Hearings**

There are five check boxes for the smooth-running of any hybrid or virtual hearing:

- Documents should be in both electronic and hard copies. Electronic copies allow participants to follow the documents ‘pulled up on the screen’ during the hearing. Hard copies, whilst seemingly superfluous, are still preferred by tribunals and witnesses. We recommend that hard copies of the core documents – those that will be heavily relied upon during the hearing – be prepared for tribunals and witnesses.
- Electronic documents should be managed by professional operators. We recommend the same professional company to ‘host’ and to ‘pull up’ the electronic documents. This enables the operator to familiarise itself with the documents prior to the hearing and react quickly to document references during the hearing.
- Back-up virtual platforms should be available. Whilst serious technical issues are rare, we recommend at least two virtual platforms (one as the main platform hosting the hybrid or virtual hearing and the other as the back-up should the main platform fail).
- Hybrid or virtual hearing should be managed by professional operators. This operator will provide a secured link for accessing the hearing room, check the sound and video quality of participants, ‘drag’ participants into and out of their respective breakout rooms, and troubleshoot potential technical issues. Whilst seemingly mundane, this is certainly a critical task that should be undertaken by an experienced professional.
- Live transcribers should be engaged. They are useful in two ways. During the hearing, live transcripts make up for our shorter on-screen attention spans and the time-lag for

audio transmission. Post hearing, transcripts enable parties to check that statements of witnesses with non-native English accents have been accurately captured.

### **The Future of Hybrid or Virtual Hearings**

When we finally return to a post-pandemic world (whenever that will be!), it remains to be seen whether hybrid or virtual hearings will still be as widely utilised.

Cost Issues. Engaging multiple professional operators to ensure a smooth hybrid or virtual hearing can be equivalent to the cost of transporting and accommodating participants for physical hearings. Unless professional operators become more competitive, the international arbitration community may revert to physical hearings.

Equipment Issues. Hybrid or virtual hearings require a variety of equipment. From lights (that may increase that level of fatigue of the participant) to microphones (that need to be sensitive enough for the speaker's voice yet insensitive enough to background noises). Whilst one may manage with these requirements during the pandemic, the convenience of equipment-free physical hearings remains attractive to the international arbitration community.

Witness Issues. Physical hearings bode better for proceedings relying on witnesses with non-native English accents. The ability to observe the body language of such witnesses makes it easier to understand their accents. The ease of understanding these witnesses prevents the repetition of questions (which may affect witnesses' answers) and wearing out of witnesses, thereby improving the efficacy of the cross-examination process.

### **How We May Assist**

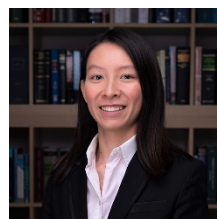
Our arbitration specialists often act as lead counsels in various domestic and international arbitration proceedings. We take pride in securing a cost-effective result that best advances our clients' commercial objectives. Should you require assistance, please reach out to any member of our team.

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