



# Electronic Leashes

**It has been said** that the things that free us can also enslave us. This is particularly true of hand-held communication devices that allow us to freely move about while remaining in touch with our office, clients, family and friends.

As **Ken Lloyd, AVP Quality, Compliance & Best Practices, Crawford & Company (Canada) Inc.** states, the proliferation of technology has grown rapidly from personal desktop computers to laptops, tablets, BlackBerrys, cellular phones, bluetooth, multi-purpose copiers/scanners/printers/fax

servers, digital dictation devices, digital cameras and a vast array of software applications. In many situations, adjusters are not just sending an e-mail; they are forwarding scanned attachments, digital pictures and WAV files.

By way of example, here's a likely scenario: A busy adjuster was abruptly reminded of the adage, "we are tied to technology" at a very inopportune time. While working through a challenging claim file, he found that the only way that he could communicate with the insured was by sending e-mails or text messages to the insured's BlackBerry. During one such e-mail exchange, the insured advised that he was giving authorization to proceed with the file under specific conditions and concluded with the advice that, as of that point, he would be away for an indefinite period and could not be reached. While reviewing the e-mail, the adjuster noticed that only one condition was indicated. Moreover, the e-mail did not conclude with a customary send-off such as "regards" or "sincerely." The e-mail looked like it had been cut off before the end of the transmission. Concerned that there may be missing information, the adjuster e-mailed a request for clarification. All he received was an out-of-office reply.

Knowing that a success-

ful resolution of the claim depended on the adjuster's prompt handling, he felt compelled to proceed with the file, following the limited information indicated on the client's incomplete e-mail message. Is this the ethical course of action? Should he suspend work on the file until such time as he could reach the client again?

**Fred Plant, CIIA immediate past-president, Plant Hope Adjusters Ltd., Moncton, NB,** asserts that the underlying issue in this case is communication. E-mail is a great way to move information, but it is usually a lousy way to communicate. The art of loss adjusting is not an individual practice but rather one that requires communication and collaboration between multiple parties. In the present case, the adjuster must not proceed without establishing that he and the insured are of the same mind.

Adjusters should not make authorizations or make commitments on behalf of insureds or direct repair of the property of others, explains Plant. The P&C industry has, over time, taken it upon itself to micro-manage claims in pursuit of perceived bulk-buying discounts. In the pure sense, responsibility to present the claim and proof thereof rests with the insured. However, many insurers have assumed an increased role by



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actually directing repairs and even guaranteeing the work of select service providers.

This trend and the advent of e-mail or text messaging have not eliminated or even diminished the requirement that all of the parties involved are of a common mind before an order is given, whether it be to authorize a rental car or construct a new home. Every action by the insurer is subject to scrutiny at the highest level and whenever there is doubt as to what is to be done and who is to do it, that doubt must be eliminated, says Plant.

The root of the insurance policy and the concepts of negligence and liability rely upon the definition of the “reasonable person,” explains **Troy Bourassa, Claims Manager for CAA Insurance Company (Ontario)**. In this scenario there are myriad complications and outcomes to the claim, but the adjuster is in control of only his/her own behaviour and should govern his/her actions according to what a “reasonable person” would do, or avoid doing, in a similar circumstance.

The adjuster has a history of e-mail and text message exchanges with the policyholder in this scenario and it is reasonable to expect that this is the insured’s preference. A reasonable person would also understand that the preferred form of communication can occasionally be compromised (by transmission problems, battery life issues, etc). In this scenario, the insured indicated that there were “conditions” (in the plural), prescribed only one condition and then the e-mail was cut off. It would be reasonable to consider that there may have been other conditions expressed in the truncated e-mail.

The adjuster would need to consider the circumstance and the possible conditions in order to determine a next move, says Bourassa. For example, it would not be reasonable if the issue was about emergency water extraction from an insured location and the adjuster delayed action until the policyholder returned. In a dif-

ferent example, where the adjuster is perhaps committing the insured to a liability settlement, partially within the policyholder’s own self-insured retention, it would be reasonable to wait for clarification from the policyholder.

Effectively, if the decision can be delayed without impacting the policyholder’s best interests, it should be delayed. However, if a delayed decision could exacerbate a loss or run contrary to the policyholder demands and expectations that have been communicated fulsomely earlier in the process, then the adjuster should consider moving forward, says Bourassa.

Bourassa suggests that in either



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case, the actions of the adjuster would seem reasonable if they have documented their responses to several general questions such as: is a decision time-sensitive? What is the impact of a delayed decision? What potential other conditions could have been requested and what are the implications if those considerations are not met? What course of action appears to be in the best interest of the policyholder?

As Plant states, that what is right in this case and at all times is ensuring singleness of purpose and agreement of this, before taking action.

Technological advances present new and challenging ethical issues and have created the need for new guidelines and best practices related to privacy, security, confidentiality and fraud protection, adds Lloyd. Poli-

cies related to the use of electronic communications resources and the protection of client and corporate data are becoming commonplace as we race to meet ever-increasing government regulations surrounding these issues and deal with consumer concerns about the security of their personal information.

While technology and e-mail have improved the efficiency of claims handling and have expedited the response to insureds’ questions and issues, Lloyd cautions that they have opened the door for criminals to acquire access to data that could lead to identity theft and other forms of fraud.

To combat the potential of these issues, the industry has responded with both best practices and software protection applications like encryption. This form of data protection has now become the new norm in the financial services and insurance industries. The creativity of fraudsters can’t be underestimated but if the industry continues to invest in these advanced applications, the risks are significantly minimized.

In this scenario, Lloyd explains that the obvious red flags are enough for the claims professional to use his/her professional ethics training and experience and find other means to confirm the insured’s intent in this situation. When faced with the decision of doing it fast or doing it right, the claims professional should always choose the latter. ☑

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