Negotiation

Decision-Making and Communication Strategies That Deliver Results

A Newsletter from
Harvard Business School Publishing
and the Program on Negotiation
at Harvard Law School

ARTICLE REPRINT NO. N0512B

Beware Your Counterpart's Biases

BY MAX H. BAZERMAN

For a complete list of Harvard Business School Publishing newsletters:
http://newsletters.harvardbusinessonline.org

For reprint and subscription information for *Negotiation*:
Call 800-988-0866 *or* 617-783-7500
http://negotiation.harvardbusinessonline.org

For customized and quantity orders of reprints:
Call 617-783-7626 *Fax* 617-783-7658

For permission to copy or republish:
Call 617-783-7587

Beware Your Counterpart's Biases

Your counterpart's judgment biases may be clouding his thinking—and compromising your outcomes. Learn to identify and neutralize biases across the table.

BY MAX H. BAZERMAN

AFTER A FAILED NEGOTIATION, it's tempting to construct a story about how the other side's irrationality led to impasse. Unfortunately, such stories will not resurrect the deal.

In past *Negotiation* columns, I've encouraged you to "debias" your own behavior by identifying the assumptions that may be clouding your judgment. I've introduced you to a number of *judgment biases*—common, systematic errors in thinking that are likely to affect your decisions and harm your outcomes in negotiation. These include the mythical fixed-pie, egocentrism, overconfidence, escalation of commitment, the winner's curse, the influence of vivid data, and so on.

When your counterpart is affected by judgment biases, he's likely to make mistakes that hurt not only his interests but yours.

But in negotiation, recognizing and overcoming your own judgment biases is only one side of the coin. After all, your negotiation counterparts are likely to be just as biased as you are—a fact that's easy to forget in the heat of the moment. When others appear to be acting irrationally, how should you respond?

You may think that you should use their mistakes to your advantage. In fact, your goal should be not only to identify the biases in the other side's behavior but to confront these judgment mistakes—and, most often, to try to defuse them. In this article, I offer some simple rules for improving your negotiation performance by anticipating, identifying, and, when possible, neutralizing the judgment biases of others.

1. Help others be less biased

Would you rather negotiate with someone who is rational or irrational? Too many negotiators falsely assume that bargaining with an irrational partner lends you a competitive advantage. But consider that irrational negotiators are overconfident and uncreative. They may hold out for deals that you'll never give them. They might assume that a supply of resources is fixed and, as a result, fail to explore tradeoffs among issues. When your counterpart is affected by judgment biases, he's likely to make a variety of other mistakes that hurt not only his interests but yours.

For these reasons, you'd be wise to help your counterpart think more clearly. Here are suggestions for moving things in the right direction:

Don't force the other party into a quick decision.

Negotiators are more biased under pressure than when given time to think through a recent proposal. When you've made an offer that you believe is better than your competitor's latest proposal, let the other party think it through rather than pushing for an immediate answer. When pressed for time, negotiators often say no when they should say yes.

If you're confident that you are offering more than the other party can get elsewhere, encourage her to explore alternatives and get back to you after comparing your offer to others. Just as it's in your interest to do your homework, you'll benefit by encouraging your counterpart to research the facts.

Make it clear that you value some issues more than others and are happy to jointly explore mutually beneficial trades.

Suppose you're attempting to make a sale, and the other side demands a further concession on price. Rather than simply saying no, show your flexibility by suggesting possible tradeoffs on issues such as delivery time or contract length.

2. Don't follow the crowd

In many negotiation realms, experienced professionals follow past practices, emulate the behavior of "experts," and do things the way they have always been done "in our industry." They cite their years of experience, yet are unable to back up their theories about contract negotiation with logic. Too many negotiators follow such intuition unquestioningly.

In his best-selling book *Moneyball: The Art of Winning an Unfair Game* (W.W. Norton, 2003), Michael Lewis describes how Billy Beane, after becoming the general manager of the Oakland Athletics in 1997, transformed the baseball team from losers into winners. By 2002, armed only with a modest budget and some new ideas, Beane helped the Athletics secure the second-best record in the American league. On average, the team's players earned less than one-third of the amount earned by the New York Yankees—yet won the same number of games the Yankees did in the 2002 regular season.

How did Beane achieve his success? By studying the behavior of other professionals in his industry—specifically, the mistakes these professionals made. For instance, Beane knew that most baseball executives formed their judgments by looking at players in "snippets," typically by watching them play one game, rather than by examining the players' overall performance data. As a result, executives were overly influenced by the vividness of the events they observed and were overconfident in their assessments.

"The market for baseball players was so inefficient, and the general grasp of sound baseball strategy so weak, that superior management could still run circles around taller piles of cash," wrote Lewis. Beane did just this—by learning from the mistakes of other baseball managers.

Most negotiators follow industry folklore rather than using theories that have been empirically found to produce more effective results. Experience is valuable. But experience accompanied by the wisdom of analysis is far more valuable.

Rather than calling the salesperson a liar or trying to disprove her claim, try proposing a contingent contract instead.

The lesson? Instead of following common wisdom, seek out data that disconfirms the experts and then systematically apply these findings to your decisions and negotiations.

3. Use irrationality to create contingent agreements

Sometimes the best way to manage another negotiator's judgment biases is not to cure them but to accept them. How? By making a bet that you expect to be favorable to you and costly to your counterpart.

In our January 2005 issue, Lawrence Susskind described the benefits of *contingent agreements*, in which negotiators reduce risk in the face of uncertainty by betting on a future outcome. (See "Don't Like Surprises? Hedge Your Bets with Contingent Agreements," Reprint # N0501C.) When built into a formal contract, contingent incentives or penalties can increase the odds of compliance with a deal. Contingent agreements also offer a novel opportunity for you to use the other side's biases to your advantage in negotiation.

Imagine that a salesperson claims that her product is measurably better than that of her competitor. You're fairly sure that her claim doesn't apply to your intended use of the product, but she insists that it does. You'd be willing to pay more for her product if it's as good as she claims, but you don't want to pay more and run the risk of being disappointed.

Rather than calling the salesperson a liar or trying to disprove her claim, try proposing a contingent agreement instead. Specifically, offer to pay her asking price if the product performs at the level she promises, but insist on a very large discount if it fails to meet the targeted performance level. If the salesperson was intentionally overselling, she will back away from your proposal. But if she actually is overconfident in her product, she'll say yes, and you'll get a very good deal. (Of course, if she turns out to be right, you will end up paying more for a better product—and find out that she is more rational than you believed.)

4. Adjust the estimates of others

Sometimes the biased party in a negotiation is not you or your opponent but someone who is supposed to be on your side, such as one of your subordinates or your agent.

Imagine that you're about to move to a new city. You begin your attempt to sell your current house by interviewing multiple real estate agents. You want your agent to be a good salesperson, and you also want him to provide an accurate estimate of your house's value, information that will affect your housing search in your new city.

Here's the problem: due to your eagerness to sell your house at a high price, you will be more likely to hire an agent who provides a high estimate (within limits). While some agents may deliberately provide high estimates, even well-intentioned agents are likely to unconsciously attempt to get the listing by making overoptimistic estimates that will not serve you well.

How can you smoke out excessively high estimates? Suppose that three agents offer their recommendations for the listing price of your house. Ask each of them to check their computers for the original listing prices of the last 10 houses that they sold, as well as the final sales price of those homes. If you're concerned about the accuracy of this data, ask the agents to crosscheck one another. Armed not only with the agents' recommendations but with data on historic differences between their listing prices and sales prices, you're now in an excellent position to estimate the true worth of your house—and to hire the best agent of the bunch.

Of course, in other types of negotiations, you'd choose different data. HR professionals know that job negotiations introduce bias into the hiring process and that letters of recommendation are notorious for their positive spin. To reduce the impact of bias, HR departments consider hard data in their decisions, such as college grades and the results of diagnostic tests. When it comes to recommendation letters, if the same writer weighs in on multiple candidates, HR personnel can assess her degree of bias by comparing her past assessments to employees' eventual performance. Hard numbers and reasoned analysis often can inform you about the biases of others—and make you a better negotiator.

5. Take an outsider's view

As in life, behavior in negotiation often is reciprocated. When one negotiator picks a fight, his counterpart is likely to respond with hostility. The result? A growing conflict that leads negotiators to escalate commitment to their chosen positions, a situation that often ends in impasse. Escalation of commitment is a type of *competitive irrationality*, shared between negotiators who respond stubbornly to each other's perceived lack of common sense.

Avoid inducing bold, tough statements from your adversary, lest he feel backed into a corner.

Here's one useful approach to preventing escalatory behavior in yourself and in others. Professor Daniel Kahneman of Princeton University and Dan Lovallo of the Australian Graduate School of Management have argued that all of us know, to some degree, that our judgments and decisions are biased.

Within each of us, they write, is an *insider*, a biased negotiator who is ready to respond to the other side's escalatory move with one of our own, and an *outsider*, the disinterested bystander who would recognize our own irrational intentions if not in the middle of a nasty conflict. The insider reacts intuitively, often in a biased manner, while the outsider views the situation from a rational perspective. Kahneman and Lovallo have provided convincing evidence that the outsider makes better decisions than the insider. The outsider incorporates more relevant data and is less affected by momentary bias than the insider.

How can you tell when the insider perspective is controlling your counterpart's negotiation strategy? One clear sign is when your interactions stir up strong emotions. At such times, it's wise to take a break or end negotiations for the day. Creating a natural break will allow your opponent to cool down and think more calmly about the situation, a change that is likely to trigger his outsider perspective. When talks continue, avoid inducing bold, tough statements from your adversary, lest he feel backed into a corner.

Many negotiators respond to an opponent's perceived irrationality with frustration and irritation. A better strategy is to regard your opponent's biases as inevitable facts of managerial life, ones that can be confronted with a number of empirically proven strategies. ✧

Max H. Bazerman is the Jesse Isador Strauss Professor of Business Administration at the Harvard Business School and the vice chair for research at the Program on Negotiation at Harvard. He is the author of *Judgment in Managerial Decision Making*, 6th ed. (Wiley, 2005), and the editor of the three-volume series *Negotiation, Decision Making, and Conflict Management* (Edward Elgar, 2005). He can be reached at negotiation@hbsp.harvard.edu.