

Kluwer Mediation Blog

The Brexit Negotiation: More irritators

Charlie Irvine (University of Strathclyde) · Thursday, October 10th, 2019



*O wad some Power the giftie gie us
To see oursels as ithers see us!
It wad frae mony a blunder free us,
An' foolish notion.*
Robert Burns

Those of us at the 'Br' end of the Brexit negotiation find it increasingly hard to know how others see us. Our media shovel up stories of European exasperation and worldwide astonishment; or, if you prefer the other side of the argument, European intransigence and a worldwide welcome for future trade. 21 days from our second departure date we still don't know if the UK will be in or out, with a deal or without. It is a painful time. On this blog Charlie Woods called for [Rebuilding Empathy in the UK](#).

The Brexit negotiation is surely one of the most important our nation has ever conducted. Yet it

would be hard to argue, after three years and the latest round of mutual recriminations, that it has been well-handled. Of course I don't know the constraints our negotiators are under, so I offer this as food for thought. As far as I'm aware, no mediators have been invited to assist the negotiation (can you imagine?) so it's worth turning to ideas from the field of negotiation.

Irritator 1: the fair and reasonable offer

In a [previous blog](#) I discussed Neil Rackham's seminal research on highly effective negotiators. A key finding was that certain phrases have negligible value in convincing our opponents but do succeed in irritating them. The examples I gave were *'phrases like "generous offer" or use of words like "fair" or "reasonable" to describe one's own proposal.'*

Four days ago Boris Johnson hit the bullseye by declaring: *'What we're saying to our friends is (that) this is a very generous, fair and reasonable offer we've made'*. Unsurprisingly the EU doesn't appear to share that view. In negotiation the other party is judge of an offer's fairness, reasonableness, generosity and irritation.

So why do it? Mr Johnson is not the first to praise his own offer and I often hear the same sentiments in mediation. One plausible reason is that the counterpart is not the intended audience. I doubt if the UK Govt really believes it can sway European leaders through spin. Much more significant is one's base: even a Prime Minister needs to convince those nearer home that his behaviour is reasonable. Or at least reasonable enough that its rejection is evidence of the other side's intransigence.

A second reason is less instrumental: self-image. Almost everyone wants to see themselves as fair and reasonable. Even 'tough' negotiators (see below) mostly think they're good guys using robust tactics to advance worthy goals. My own research has found self-presentation to be significant in mediation parties' thinking. It would be a mistake to underestimate its force in our political leaders.

Irritator 2: those last-minute Europeans

In defining irritators, Rackham maintains *'Most negotiators avoid the gratuitous use of direct insults or unfavourable value judgments.'* Yet one of our most persistent irritators does just this. It is the canard that 'those Europeans' always do a deal at the last minute (see for example: *'The EU will cut a deal at the very last minute'*). Anyone listening to TV or radio news in the UK will have heard this countless times. David Davis, our first lead negotiator, said recently: *'it won't be the first three years that matter, it will be the last three weeks, three days, three hours, three minutes, three seconds'*.

Apart from being irritating to our counterparts, this particular assertion has also riled me. ALL negotiations settle at the last minute. It's like the old joke: I always find my key in the last place I look. How many mediators have seen matters settle in the final minutes of the allotted time, whether it be an hour, 8 hours or 18 hours? If they don't, one side or the other will believe they could have done better. We need to believe we have extracted painful concessions from our counterpart, and they from us. Attributing this to European-ness seems like more rhetoric aimed at the home support.

An irritating afterthought: the tough negotiator

This last irritator is implicit in a number of pronouncements about the Brexit negotiation. It goes like this: up until now the EU has believed it can arm-wrestle the UK into accepting its terms. Those who seek further delays are simply pandering to these bullying tactics. Finally in Boris Johnson we have a leader who's prepared to stand up to Europe, if only those pesky parliamentarians wouldn't hamstring him by limiting his ability to leave without a deal (I parody, but only slightly: see for example [‘They are not our friends’ IDS savages Brussels as UK fights back against EU bully tactics](#)).

Because this line of thinking portrays our negotiation counterparts as bullies, the rational response is to select a tough negotiator to fight back. It is worth reflecting on this approach. Clearly tough guys sometimes win. And intuitively one might think that a unique, ‘one-off’ negotiation is precisely the moment for such a character.

However, research tends to undermine this hunch. In one study, researchers found that even in a one-off negotiation, a reputation for distributive (hard) bargaining significantly limited the flow of information, leading to poor results (reported in Tinsley et al, 2008, [‘Reputations in Negotiation’](#)). Andrea Schneider's empirical study of lawyers found something similar over the longer term: *‘increasingly adversarial behavior was perceived as increasingly ineffective’* (Schneider A K (2002) Shattering negotiation myths: empirical evidence on the effectiveness of negotiation style. Harvard Negotiation Law Review 7, 143–234, 196).

This is sobering for the UK. Even if we do exit deal-less on October 31st, our leaders' negotiation reputation will stick. No deal doesn't mean no more negotiation: we are told we have dozens of trade deals to secure, not least with the EU. A cautious approach now might serve the country better in the long run.

Conclusion

I still have no idea how others see us, but I've tried to report a little of how we see ourselves. And anyone daring to comment on this particular negotiation needs a dose of humility. I can only offer one perspective at one point in time. Harold Wilson's famous line *‘a week is a long time in politics’* now looks like an overestimate. Here in the UK we don't know what the next 24 hours holds. Like any mediator I can only plead in my defence: the more you do the work, the less you think you know what's going to happen.

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