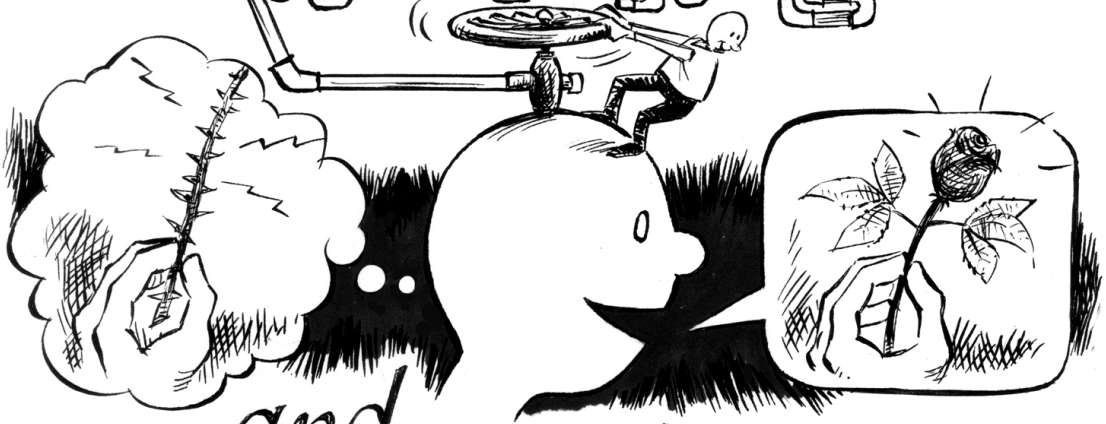
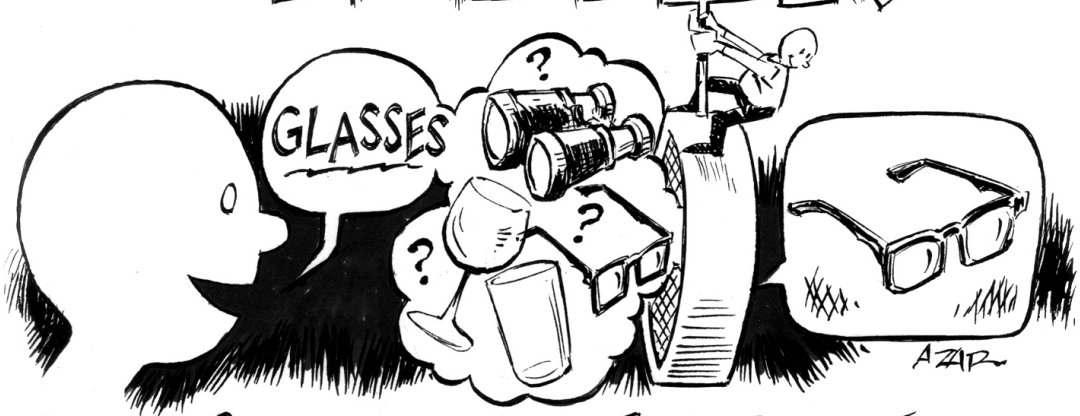
THE SENSITIVITY VALVE



and

THE AMBIGUITY FILTER



by JIM FREUND

The idea for this essay came to me at the height of this year's combative presidential campaign. Almost every day, it seemed, some utterance by a candidate or his surrogate came back to haunt him. We're living in a "Gotcha!" age, with politicos and the press on a 24/7 alert to pounce on anything they can turn to advantage (for the politicos) or morph into a juicy story (for the press).

So, for instance, just recall the flare-up when Mitt Romney mentioned that his wife owns "a couple of Cadillacs." He was in Detroit, describing why he loves his boyhood state of Michigan – especially because "most of the cars I see are Detroit-made automobiles." And he proceeded to name the cars that he and his wife own and used to own, coming from the three major auto companies – so that, between Ann and Mitt, they had "all three covered." I'm sure his Cadillac reference was well-intentioned. But in the hands of the Democratic "spinners", it was used to remind voters of Mitt's wealth, so as to reinforce the opposition's theme of the economic divide that existed between the Republican candidate and the general populace.

Meanwhile, President Obama got soundly criticized for his remark, "you didn't build that." The Republicans jumped on this, quoting small business owners who took umbrage at this – they *had* indeed worked hard to build their businesses. But, truth be told, this wasn't what Obama was saying. Here's the full quote: "Somebody invested in roads and bridges. If you've got a business – you didn't build that. Somebody else made that happen." But you didn't hear any Republicans or small business owners mention anything about paying for their own roads and bridges.

This kind of thing – and the many other examples I could cite – got me thinking about some of the stuff that comes out of the mouths of us non-politicians, often spontaneously, in the broader context of our social and business lives. Unfortunately, we're not always as careful as we might be; and these slip-ups may cause us to convey a message we'd rather not deliver, which can create confusion and (in the more serious instances) get us into real trouble.

At the risk of oversimplification, I've divided this faulty utterance problem into two parts:

- The first occurs when what you say is clear enough and you're readily understood, but it ends up hurting someone or being harmful to you or the business interests you serve.

- The second occurs when what you say is ambiguous or otherwise unclear, you're misunderstood, and listeners draw unintended inferences from it that you never meant to suggest – inferences that undermine your message and (especially in a business setting) can prove damaging to your interests.

Mitt Romney's "Cadillac" remark falls into that first category. He suffered a setback because he didn't realize it would be used to buttress the Democrats' charge that he was out of touch with the common man. Obama's "build" remark falls into the second category. The word "that," which he meant to apply to roads and bridges, was sufficiently ambiguous (when isolated from the context by his political opponents) to create the

harmful inference that he was denigrating the important constituency of small business owners.

I'm going to discuss each of these concerns in turn, provide an example or two of various sub-categories, and suggest some antidotes you might want to utilize to ward off these verbal snags. In particular, I'll be recommending the use of:

- A sensitivity valve (the "Valve"), and
- An ambiguity filter (the "Filter").

The focus here will be on situations where you're speaking spontaneously – that's when you need the Valve and the Filter. When we have lots of time to appraise our words or actions, most of us fare pretty well – although this gets into more basic questions of good judgment, a subject I dealt with in my November 2011 essay *Good Judgment* and won't reiterate here.

What I'll be discussing is equally applicable to email, to texting, to twitter, to Facebook – you definitely need a comparable vetting process for instant electronics communications. But I'll be directing my remarks at what I know best – the spoken word, in person or over the phone – and you can make the necessary conversion to those on-the-run print categories.

Also, in the ambiguity section, I'll be discussing two other categories of real time interactions that raise similar issues: actions (without words) that convey a thought, and the failure to speak up (when you really should).

THE SENSITIVITY VALVE

Here's the basic situation. You're in the company of others. It might be a family or social grouping, or it could take place in a business context.

A thought comes to you. It may have been triggered by, or in response to, what someone else has just said; or it may be an original comment or observation you wish to make, not induced by anybody else.

You express the thought. And then – either right away or later on – you wish you hadn't. It was inappropriate or insensitive or dumb or harmful to you or to others. It may have damaged an important personal relationship. In a business setting – say, in a negotiation – it might have inadvertently undercut the position you'd been taking. And so on.

Many of us have learned to cut down on these occurrences by employing what I like to call the Valve (or, more precisely for our purposes here, a sensitivity valve). Just before making the remark, you run a quick check through the Valve. If the remark passes muster, you express it. Comments that fail, you keep to yourself. It's akin to the several-second delay they sometimes use on live TV shows, so that if someone utters a taboo curse word or such, it can be bleeped out of what hits the airwaves.

Sure, the great bulk of what we say is inoffensive and really doesn't need the Valve. But if you exempt categories of material from the process, then when a real doozy bobs up that needs to be clamped down, the Valve won't be available.

In order to function effectively, the Valve requires your attention and your brainpower – it doesn't function on automatic pilot. And, by the way, the Valve works best when you have your senses about you. Let's face it, many of the truly stupid things we say pop out of our mouths when we've had one too many drinks. (The real irony here is that, under the influence of alcohol, we're often tempted to be more garrulous than usual, just when we ought to be shutting up.)

To approach the subject in more specific terms, I'm going to divide the Valve topic into a dozen common utterances:

1. Commenting about yourself.
2. Commenting about your listener.
3. Commenting about someone who's not there.
4. Answering a question posed directly to you.
5. Telling a lie (white or worse).
6. Reacting to a comment made by another.
7. Expressing an unsolicited opinion or view.
8. Remarking on a potentially sensitive subject.
9. Telling a joke.
10. Relating a true story.
11. Conversing with a bore.
12. Making statements in negotiations.

Commenting About Yourself

One place where the Valve should probably be operating more often than it does is our commentary about ourselves. At first blush, these remarks may appear innocent enough, so they don't trigger the potential danger signs of the other categories; but because others can take these observations to heart, the Valve ought to be in place.

Take, for instance, the remark that implicitly creates an instant comparison with the listener – one that's unfavorable to the latter. More often than not, the speaker may be unconscious of the comparison (as I believe was the case with Romney's "Cadillac" remark), or else he'd make more use of the Valve.

So, for example, with a listener who is in the throes of hard economic times, the speaker's animated description of the various courses he enjoyed last week in a three-star Parisian restaurant just rubs salt into a destitute wound. To a superannuated jock currently beset by crippling arthritis, the speaker's enthusiastic verbal tour of the black diamond mogul runs he recently skied at Aspen strikes the wrong note. The decision by a wispy slim woman to bemoan her recent weight gain (about three ounces, in all likelihood) to a hefty diet-busting matron isn't prudent.

Since these remarks are all of a voluntary nature, the speaker has plenty of time to survey his or her audience and judge whether anyone will be offended. But so often we just blab on, oblivious of the negative impact our seemingly innocent commentary might be having.

Commenting About Your Listener

The culprit here is a remark that, in some manner, is disparaging or accusatory of the listener. Now, to be sure, there are times when the speaker fully intends his comments to be disparaging or accusatory! If that's the case, and assuming you've considered and endorsed the likely effect, then go right ahead and sock it to him. The situation I'm thinking of, however, is where you don't want this to happen.

A good example occurs in conversations between relatives or close friends, when something unexpected has gone wrong in one (or both) of their lives. The speaker, musing on the misfortune, makes a remark that suggests a way the problem could have been avoided. The trouble is, though, that the avoidance action would have had to have been taken by the listener. As a result, the speaker's musing is transmuted by the listener into an accusation of blame.

I realize, of course, that the implication of an accusation may not always be so unwitting on the speaker's part. . . . But the way I see it, if you want to cast aspersions, you should do so directly; and if you don't want to (even though you may feel that's where the responsibility lies), then use the Valve and cancel the musing. Or, if the devil makes you do it, at least preface your remark with something like, "Of course, there's no way you could have known what was going to occur, but. . . ."

Commenting About Someone Who's Not There

This situation occurs when you say something disparaging about a third party who's not present – a comment that you wouldn't think of saying to the absentee's face. Before making the comment, it's worth employing the Valve to run a quick check on the relationship between your listener (or listeners) and the third party.

There are two overlapping matters of concern here. The first is that one of the listeners is a good friend of the third party. Even if he doesn't pass along your remark to the absentee (which he might well do), the comment may have undermined your relationship with the listener. It's sort of the obverse of the old saying, "The friend of my enemy is my enemy" – namely, "The enemy of my friend is my enemy" – but with the same negative result.

Here, however, you also have to be concerned about a listener who isn't a close friend of the disparaged third party but who has a big mouth and is likely to repeat the remark – either directly to the third party or to some mutual acquaintance who will pass it along to him. This is not what you intended when you spoke, so make sure your Valve is up and working.

Answering a Question Posed Directly to You

The distinction between this category and the first three is that up to now you're choosing and making your remarks voluntarily, so you have plenty of time before speaking to employ the Valve. Here, however, someone has posed a specific question to you, a circumstance that differs in two ways: first, the questioner has chosen the subject matter for you to deal with; and second, you're under the gun time-wise, making an effective Valve check more difficult to accomplish.

If you sense potential danger lurking in your intended response, try to gain a few extra moments to collect your thoughts and swing the Valve into place. One way to do this is to say, apologetically, "I didn't catch all of that – would you mind repeating it"; or, if you don't want to go that far, you can say (very slowly), "That's an excellent question. . . [the questioner always like to hear that]… and I want to make sure I give a considered response…." And all the time your mind is going through the process of deciding whether or not the Valve should stop the flow.

(By the way, there is one special aspect of this – when you're tempted to tell a lie in response to the question posed – that I'll cover under the next heading.)

My advice is to recognize this as a situation where you might get trapped into making a response you'll later wish hadn't been uttered. Don't let that happen. You needn't trot out a full-blown answer on the spot if you're unsure of your ground. No one's keeping score – you don't get penalized for a non-reply.

I don't mean by this that you have to offer up a timid "no comment" response – although if you're concerned and can't think of another way out, that will do. In a case where you're willing to take a shot at replying later on, after you've had time to consider your response, I'd suggest saying something like, "That's a good question on a subject I haven't previously considered. If you're really interested in what I think, I'd like to ponder it for a bit." This may even serve to impress the questioner with your thoughtfulness.

Telling a Lie (White or Worse)

Here, you're called upon in conversation to respond to a question of fact or intention, and you realize that a truthful response will in some way be harmful to you – or to someone you care for, or in terms of a situation you're involved in.

It's a category that covers a wide variety of matters. It may involve your wife asking you how you like her new dress (which, in fact, you don't). It can arise when you're asked for a reference regarding someone that worked for you (whom you liked but who wasn't that capable). It crops up frequently in business negotiations, as when a potential buyer asks the seller, "Do you have any other bidders?" – (there are none, but the seller fears the negative leverage effect on the purchase price of letting the potential buyer know he's the only game in town).

Lying in a business context is a subject I've written about quite a bit – for instance, the chapter "Lying in Negotiations" in my book *The Acquisition Mating Dance*, and the stories (with

commentaries) “Partnergate” and “Sex, Lies and Private Eyes” in my book *Smell Test*. “Partnergate” is especially in point here, as it contains a number of silent dialogues between the protagonist and his inner voice, before and after each true/untrue statement he makes.

I consider lying a real no-no. Any short-term advantage gained by a lie isn’t worth the resultant longer-term ill effects. Not only is it wrong ethically – especially for lawyers, where it runs counter to everything we should stand up tall for – but it’s also a loser on the practical level, where it so often comes back to bite or haunt you later on. So my consistent advice has been to shun lying like the plague.

On the other hand, negotiators quite properly want to protect harmful information that need not be divulged. Less than full disclosure isn’t the same thing as deliberate deception; even the fair-minded authors of *Getting to Yes* conclude that, “Good faith negotiation does not require total disclosure.”

And so, when that troublesome question is posed to you, don’t lie in response but develop some blocking techniques that guard what you don’t want to give away. Answer the specific question generally, answer a different question than the one asked, answer it with your own question (“Are *you* bidding on any other [houses]?”), rule the question out of bounds, etc.

When I was lawyering, my preference (when applicable) was to take a more aggressive tack. For instance: “I don’t have a firm offer at this time. But I do have a *potential* purchaser [*assuming there is one*] who, if he decides to buy, is clearly capable of paying [*a named sum in excess of what the listener*

has bid]. Are you willing to take the risk that I'll pass up your lowball bid for the greater expectancy?"

At worst, you may have shown a soft spot, from which the bidder can draw adverse inferences. But you haven't lied, and you haven't really given anything away.

At the other end of the spectrum is the so-called "white lie," which is defined in the dictionary as a "trivial, diplomatic, or well-intentioned untruth" that's often "told to spare someone's feelings." The lawyer protagonist in my story, "Sex, Lies and Private Eyes," characterizes the white lie he makes to a client (in a situation where the whole truth is an unappetizing alternative) as "a little professional lubricant to make things go down smoothly."

Now, I'm not going to pretend that I never used a little professional lubricant myself with a client, or didn't occasionally throw a white lie or two into the hopper. Albert Schweitzer, I'm not. But, as that story of mine illustrates, one who's prone to prevaricate may be setting out on a dangerous course when he concocts his first white lie – especially when you add to the mix all the sub-falsehoods and diversions he has to employ to buttress the basic untruth.

To be sure, that's unlikely to happen in terms of my wife's new dress (which, by the way, I found to be "stunning"), but it's still worth thinking about. Try to get behind all the rationalizing that's going on in your mind, and concern yourself with how even a well-intentioned falsehood can come back to cause you grief. And keep in mind that when you don't level with someone and they find out about it later, they're unlikely to ascribe charitable motives to what you did.

Reacting to a Comment Made by Another

Here, the statement made in a group setting isn't directed at you, so you're not being called upon to respond. The subject matter, though, has been chosen by the speaker, and it may not be something to which you've given much previous thought. My advice: right now, before you speak, give it a little thought. It's Valve time.

This is especially true if your response can be characterized as either agreeing or disagreeing with what the speaker has just said. The speaker, no doubt, will be happy if you agree with him, but you should make a quick check of others in the group – could a half-hearted concurrence on your part be taken as reinforcing the original speaker's unpopular sentiment, such that (as others chime in on the contrary side) you find yourself defending an out-of-favor proposition? If, on the other hand, your response amounts to disagreeing with the speaker, the question to pose to yourself is whether it's worth it. Will he take umbrage beyond what you intended? Might your response induce others in the group to defend the original speaker, so that you find yourself marginalized? If none of this concerns you, then sure, go ahead – tell 'em what you think.

You're on safer ground if your comment neither endorses nor is in direct conflict with the speaker, but touches on some other aspect of the issue. Confession time: I frequently take this tack. I like the idea of speaking up – it shows I'm interested in what's going on – but since my commentary isn't directly provocative, it presents less danger and requires less preparation.

Expressing an Unsolicited Opinion or View

Many people delight in setting forth their views on almost everything. Without any prior discussion of the subject, they'll trumpet their personal verdicts (usually either quite positive or very negative) on movies they've seen, restaurants they've frequented, football games they've watched.

I find that, by and large, someone who likes to do this isn't as interested in hearing what others have to say on the subject as in letting others know how he or she feels about it. In effect, the speaker is making a preemptive strike. So for them, there's less need to use the Valve – since even if it turned up a potential problem, they'd probably ignore it and proceed anyway.

For the rest of us, though, who would like to get a certain topic on the table that calls for evaluation, I think a preferable approach is to say something like, "I just saw [name of movie]. Have any of you seen it? I'd be interested in your reaction…." Or, if you have a strong feeling about the movie, one way or the other, you can add, "I liked [disliked] it very much, but I realize others may not have had the same response."

Remarking on a Potentially Sensitive Subject

I'm thinking here of comments on subjects such as race, nationality, religion, gender preference, and such. Here are some classic moments when you have to assess your audience and swing the Valve into place. If you're going to say something (and I hope you're not) that could be construed as homophobic,

not only should you make sure that no one listening is gay, but it's also worth making a quick mental check as to whether someone there has a lesbian daughter and is sensitive on the subject.

I try to avoid speaking up in group conversations involving touchy matters such as these, because you never really know who's going to take offense. Even if your remark is in favor of the category (a paean to Catholicism or homage to African-Americans), you may be stirring up some strong feelings in the other direction – and who wants to get into one of these tugs of war?

Telling a Joke

I like to tell jokes and to hear others tell them. But jokes have a real propensity to offend someone; and since it's always a purely voluntary exercise, you need to engage the Valve *before* kicking things off with, "Did you hear the one about. . . ."

Many jokes feed off cultural or ethnic stereotypes. There are Polish jokes with an illogical protagonist, Irish jokes which often take place in a bar, Jewish jokes featuring a modern-day Shylock, and so forth. If you want to tell one of these, you need to ascertain in advance whether it will offend anyone present.

Sometimes it depends on who's the storyteller. A joke with a too-shrewd Jewish protagonist might not be as offensive to Jews in the audience when told by another Jew, rather than by a Wasp. This is akin to how some African-Americans use the "n"

word among themselves without a second thought, but bristle when it emerges from a white mouth.

In jokeland, though, the Valve has to go beyond just checking for cultural stereotypes. I once found myself in a joke-swapping session with a group that included a few people I didn't know. For some unimaginable reason (would you believe, with a wife like Barbara?), I decided to tell one in which the humor revolved around a dog being shot. As I was about to begin, my gaze lit on one man I didn't know who was wearing sunglasses indoors. When I glanced downward, there at his feet was an undeniable seeing-eye dog. Whew! Light on my feet as always, I promptly switched to a story about a talking parrot – after having done a quick check of the room for any avid bird-watchers.

A special topic here is the propriety of offering up a dirty joke. I confess to an affinity for these, and I tell them pretty well. The jokes often include sexual or other questionable situations, plus the use of some hearty Anglo-Saxon phraseology. I do try, however, to decide in advance of telling the joke whether that aspect is likely to turn off someone in the group. If I sense trouble, I switch to a back-up story that's clean enough, albeit usually less amusing.

Relating a True Story

The setup here is that you've decided to tell your listener (or a group) a true story of something that happened to you or that you witnessed. Since this is a totally voluntary exercise, you have plenty of time to scrutinize the situation in advance for potential land mines, which you should do.

But here's my additional advice. As you proceed through the story, keep the Valve checking things along the way. You may discover – especially if it's a tale you're telling for the first time – that there's some minor aspect of an otherwise pristine story that could give offense. Once you identify the problem, you can easily eliminate it, since there's an infinite number of ways to tell any story – but you need to be alert to spot the clinker.

By the way, there's also a timing issue to consider here. Your story will carry more weight with listeners when it's appropriate to the discussion. If you just tell it at the beginning of the evening, even if it's a good story, it may seem inappropriate to members of your audience ("Why is he telling me this?"), Try to save it for a better time, when it can be made to appear as a wry comment on what someone else has said, and is likely to generate a warmer reception.

Conversing With a Bore

I realize, of course, that no one reading this piece is boring, but any of us can sometimes get stuck in a conversation with a person who is – so read on. (My observations on this subject were originally contained in a piece called "Bores," from my book *Advise and Invent*.)

Bores can be boring in two ways: first, in terms of the subject matter (talking in detail about one or more uninteresting topics, even when the remarks are well-handled); and second, in terms of delivery (having dull relentless things to say about even fascinating subjects). The worst bores, of course, are tiresome speakers on tedious topics. If you end up with one of those, reach for another drink.

Now, on the assumption that no one wants to be considered boring, you have to figure that many of life's bores fail to assess their listener's tolerance level, so as not to cross it. Others may go through the assessment but make a faulty evaluation. Perhaps their judgment is marred through excessive alcohol intake – some of the worst bores are tipplers, who aren't half as bad when sober.

But (and here's the reason I've included this section in the piece) there's also a third group of bores – well-meaning folk who bore, in part, because they've received faulty signals from their boree (namely, *you*). Politeness is the culprit here. The boree simulates interest in what the boror has to say; the boror accepts the boree's encouraging reaction at face value – who can blame him? – and thinks, "I better keep going, since [the boree] is getting so much out of this…."

So – except in cases of relatives, customers, your boss, or old forgivable friends – Jim's rule number one for borees is: *Avoid Encouraging the Boror*. Instead of grunting "quite true" and nodding your head in approval, try rolling your eyes around in sheer ennui or glancing theatrically at your watch.

How about remaining silent? Well, it may not be enough. It may cause the boror to think, "Boy, this Freund is a *real* bore, with absolutely zero to contribute. I better keep on talking or things will really get tedious." All of which suggests Jim's rule number two for borees: *Say just enough to let the boror know you're capable of human speech*.

As far as evaluating your own propensities here, keep this in mind: not all non-bores (like you and I) never bore. We can't be "on" all the time. Or we may just overstay our welcome – rattling on much too long. This leads to Jim's Partly Paranoid Postulate: *Just because some people find you interesting, don't assume you're not boring someone else*. . . .

Making Statements in Negotiations

What you say and how you say it goes right to the heart of successful negotiating. This is a subject I've written about at length, most thoroughly in the book *Smart Negotiating*. And I also recommend my story, "Negotiating 101" (and its commentary), in *Smell Test*. Here, I'm just going to give you three examples that point up certain aspects of the subject.

Often, toward the end of a negotiation, the point-by-point bargaining you've engaged in has left unresolved several issues

of significance. At this juncture, one of the parties proposes a so-called "package deal" for the whole shebang – perhaps ceding one point, holding on to another, and splitting the third. What the proposer wants is for this to become the solution for all three issues; she doesn't want the other side accepting her concession on the one point but arguing about the outcome of the other two. So she labels it a "package deal" – i.e. the basis for her concession on the one point is her proposed treatment of the other two points. She tells the other side they can't pick and choose issues; either they accept the global solution, or the parties go back to ground zero. It's a perfectly appropriate maneuver at this late stage of the bargaining.

But here's the point that's pertinent to our subject matter. The proposer should not – as she may be tempted to do – accompany her proposal with a "take it or leave it" declaration. That attitude creates unnecessary resistance in the recipient, who bristles at being pressured and might reject a good deal out of hand.

My advice is to give some thought to this Valve-wise, *before* you present the package. A better approach is to say something along these lines: "I've given this a lot of thought, and it's the best I can do. Any more and it's not worth it to me to do the deal." The message of firmness is still there, but it doesn't carry the same aura of truculent intransigence – so it may well generate a more constructive reaction.

This next example (adapted from my book *Lawyering*) illustrates the useful tactic of foiling your adversary right out of his own big mouth (or "hoist on his own petard," as Shakespeare would have it). This can be a beauty, but it often requires some planning ahead – making sure the Valve works, so that you don't

blow the whole stratagem by what prematurely passes from your lips.

Let's say you're negotiating to purchase a used truck. You and the seller have reached tentative agreement on a $10,000 price. Your inspection has revealed that some work is needed on the transmission. The seller has been down-playing this problem, but you suspect it may be fairly major.

Now, you could take the position right from the outset that the seller should get the transmission work done before the deal takes place. You'll undoubtedly be tempted to blurt out just that. My advice: don't.

Here's why. If you say that, the seller is likely to refuse to get the work done, and then there's no telling where things will end up. After all, the seller never warranted to you that he was delivering a truck in perfect condition, nor were there any previous discussions about taking steps to put the truck in tip-top shape.

The better tack to take is *not* to disabuse the seller of the idea that it's *you* who will have to contract for the necessary transmission work. The inference you want the seller to draw is that, assuming you can be satisfied as to the insignificance of the defect, this won't stand in the way of striking a deal at the seller's $10,000 price. So you lure the seller into the trap – getting him to flaunt his mechanical expertise to convince you it's not a major job at all. Finally, he puts a $250 estimate on what it should cost.

Now you swing into action. Your pitch is: "Okay, I want to buy a clean truck – not one I have to take into the garage for

repairs the first day. So, *you* get the transmission fixed, and *I'll* increase the purchase price to $10,250."

You've got him. The seller is in a tough position to dispute your compromise, since he made the $250 estimate himself. Note well – you *didn't* say you would increase the price by the *actual* cost of the repair (which you estimate could be a whole lot higher), but rather by the seller's *own* estimate. (Your remaining concern will be that the seller's garage ends up doing a half-hearted job – the old $249.99 special. . . .)

A third situation illustrates the point that facts and arguments in a dispute are often multi-faceted. Propositions that, upon first glance, seem to cut in your favor have an annoying propensity to turn against you. Double edges abound; the argument that's beneficial for one aspect may work to your detriment on another. If the benefit outweighs the detriment, you utilize the argument and seek to minimize the negative impact; but if the opposite is true, then you're better off not introducing the matter at all. And that's where the Valve comes in.

Here's an example. When I conduct negotiating seminars, the problem I often give litigators to resolve through bargaining involves a claim by an art collector against the security company that was watching his house – seeking damages for the theft of his art collection, due to the company's presumed negligence. The collector wants a cash settlement, but the security company has limited funds. The only way a deal can get done is if, in lieu of receiving a big slug of cash, the collector buys some advanced anti-theft equipment from the company at a deeply-discounted price, and is willing to continue to utilize their services to perform increased surveillance of his reconstituted art collection for a heavily discounted fee.

When the subject of cash first comes up in the negotiation, and the collector's attorney makes his unrealistic demand, I've found that many of the attorneys representing the security company plead poverty: "Hey, even if we thought you were due that much – which we don't – there's no way we can access anywhere near that much cash, so forget it."

Now, as an argument against having to pay cash, that makes a lot of sense – if you don't have the funds, you can't fork them over. But in stressing this, the company representatives often forget that pleading poverty seriously undercuts their alternate vehicle for attempting to resolve the dispute – namely, by getting the collector to sign up with them (as opposed to with a competitor) for continuing service. After all, the collector is already skeptical about continuing to employ the same security company that failed so badly the first time around. Now he also has to be concerned as to whether that company is so financially strapped that it will skimp on the security services to be performed in the years ahead.

It's a tricky line to walk, but a dilemma that cries out for using the Valve before speaking. In my post-mortem with the participants, I stress the need for the lawyers representing the security company to handle it with an initial statement along these lines: "Look, we want to assure you that we're a robust company, with a strong balance sheet and ample income – well able to carry out our operations in excellent fashion. It's just that we don't have a lot of excess unused cash sitting around to fund a settlement in a case like this. . . ." This gets the skimpy cash point across without making the collector worry unduly about whether he'd be better off shifting business to the competitor.

* * *

Let me conclude this section on the Valve with a memorable quote from Ben Franklin: “Remember not only to say the right thing in the right place, but far more difficult still, to leave unsaid the wrong thing at the tempting moment.”

THE AMBIGUITY FILTER

Up to this point, the meaning of the remarks spoken has been clear, and the question is whether or not you should be saying them. Now we'll deal with the other side of the coin: where it's perfectly appropriate to speak, but the words you utter aren't that clear – in fact, they may well be so ambiguous that the listener takes them in a way you didn't intend, often to your detriment.

As a lawyer, I was absorbed by this subject. I considered clarity the dominant attribute of effective legal writing. Accuracy and precision were the keynotes – ridding the language of ambiguity and half-truths. Each word, phrase and sentence had to be unmistakable in meaning and not reasonably susceptible to another interpretation.

We don't intend a thought, written or oral, to convey ambiguity, but language is sometimes imprecise to adequately convey the intended nuance. As a consequence, when I write anything of substance, after I get it all down in good form, I go over the finished product one more time with a view to its clarity – pretending for the exercise that I'm the relatively uninformed reader rather than the know-it-all draftsman.

By the way, in this quest for written clarity, the lowly comma and the inconsequential parenthesis can be significant allies. For instance, compare the meaning of the two following sentences: "The defendants say the plaintiffs breached the contract," and "The defendants, say the plaintiffs, breached the contract." Who's accusing whom very much depends on the punctuation.

But let's turn now to the spoken word, where ambiguity is much more prevalent and often leads to your being misunderstood. For instance, I recall once, after the wedding service of a male friend, going up to my friend's secretary (whom I knew) and saying, "He did well!" She was quick to agree: "Yes, Carol is a lovely woman." For a moment, her reply seemed odd to me. Then I realized that she had interpreted my remark (a pleasantry geared to my friend's dexterity in placing the ring on his bride's finger and not tripping on his way down the aisle) as an evaluation of his mate-selection process.

Inferences Created by Ambiguity

Let's face it, we're not always careful to use words (or perform actions conveying a message) that are capable of only a single meaning. Then, too, we often fail to take into account the listener's frame of reference which may differ from our own and can affect the listener's perception of what's being said or shape the inferences drawn.

Let's examine a snatch of dialogue between an insecure woman and her conceited boyfriend.

"You're terrific," says the woman.

The boyfriend replies, "The feeling is mutual."

Now, the normal reading of the boyfriend's response is that he's returning the compliment to the woman – that the feeling mutually shared is the feeling that the *other* is terrific.

(Assuming he meant this, he could easily have said, “I think you’re terrific, too,” and no question would arise.)

But the woman – feeling insecure, recognizing the boyfriend’s large ego – wonders whether all he was doing was agreeing with her – i.e., that the feeling mutually shared is that *he* is terrific. He may not have intended this reading, or even considered his offhand phrase capable of it; and she might not have interpreted it that way initially – only later on, in the privacy of her parlor, when she’s wondering why their romance isn’t progressing as smoothly as expected.

Actions that convey a thought can raise similar issues. A thumbs-down gesture indicates disapproval, just as strongly as any choice of words; drumming your fingers on the table may well indicate impatience; and so on.

The problem occurs when the actions aren’t clear but rather are ambiguous – capable of being misunderstood in a way you didn’t intend. This happened to me in that chat I had with my friend’s secretary at his wedding. I had to make a certain telephone call at precisely 4 p.m., so at one point in our conversation I glanced down at my watch to see how much time I had left. Looking up, I could see immediately that she had misinterpreted my action – that she read it as indicating my impatience with our dialogue. Before I could protest, she made a graceful little excuse, releasing me to move on to the other guests.

I was chagrined that my innocent but unexplained action had permitted an unintended inference to be drawn. It would have been simple enough to mention the upcoming call. And if I’d had my ambiguity Filter in place – programmed to evaluate

gestures as well as words, as it should be – that's just what I would have done.

Inferences are central to this problem. For purposes of analysis, let's take the possible inferences that can be drawn from a particular statement or act, and grade them from one to ten – with ten being an almost irresistible inference, while one is an extremely remote possibility. Now, let's imagine two couples seated at a funeral service for a departed friend.

As the minister eulogizes the deceased, the wife of the first couple begins to cry softly. There's a strong inference here – virtually a ten – that she's crying out of grief for her departed friend. In this kind of situation, not only is the observer *entitled* to draw the inference, but he could be subject to criticism for *not* drawing it. (So, for instance, if the husband of this couple were to lean over to his wife and ask blandly, "Why are you crying?", it would appear quite unfeeling on his part.)

At the same moment in the service, the wife of the second couple is smiling. Her husband looks over at her, considers her expression odd under the circumstances, and then remembers a rather funny joke he told her the night before.

Now, it's *possible* that this is why she's smiling, although there certainly could be other reasons (such as a warm memory of a good time spent with the deceased, or something entirely unrelated to either the present circumstances or the night before). For the husband to draw the low-level inference – about a two on the scale, I'd say – that his 12-hour stale joke has caused her present smile is unwise and can backfire.

Suppose he nudges her and says, "That was a good one I cracked last night, wasn't it?" His wife could be quite upset that

he's thinking about his own joke rather than mourning their departed friend. It may even be worse if the husband draws that inference but says nothing. Now he has a distorted mental picture of his wife as someone who refuses to get serious at funerals, whose mind is on trivial irrelevancies – which most likely isn't the case at all.

With inferences at the bottom part of the scale, where so many other alternatives are possible, jumping to that first conclusion is not recommended. But the fact is that people do this. The lesson to absorb, if you're the person who's uttering the words or making the movement, is the need to use the Filter to recognize the potential problem and nip it in the bud.

Speaking of inferences, here's an amusing vignette which appeared in the "Metropolitan Diary" column of *The New York Times* a while back. The narrator had observed a sportily-dressed man standing in one of those tiny squares of earth that house a single tree on New York City streets, swinging the head of a golf club into the brown dirt. He put the club back into his golf bag, and then proceeded to rub each club in his bag with dirt. Finally, he dragged the creamy white bag through the same dirt, slung it over his shoulder and disappeared around the corner.

The narrator figured that this unusual behavior was due to one of two possible causes: either to convince tomorrow's golfing companions that he was indeed an experienced golfer (not some novice with a new bag and clubs), or that he was about to golf with the person who had given him the bag and clubs as a gift, and didn't want the giver to know that he'd never tried them.

When the narrator told the story to two ladies in his office, however, they both drew a completely different inference – that the man, an out-of-towner, left home for the weekend, *ostensibly* to play golf, with a new set of clubs given to him by his wife. . . . See what we're up against?

Failing to Speak

A related point in this regard is that failing to speak up when you might have been expected to do so can raise similar issues of ambiguity and mistaken inferences. Here, however, the Filter is called upon to serve an *affirmative* purpose – eliciting from your mouth those words that are necessary under the circumstances to clear things up.

So, for instance, if someone in the group speaks ill of your absent friend, your failure to state a contrary view might be viewed as tacit assent on your part. If your teenage son says that he's giving eleven kids a lift in the family car to the senior prom, your silence. . . . Well, you get the picture.

This comes up often in negotiating. For instance, let's say a buyer is making a consciously lowball bid on some property you're selling. He's anticipating a vigorous negative reaction from you. If you don't react that way, however – and many people schooled in the so-called "cooperative bargaining" approach to negotiation are reluctant to take issue directly in such a case – he may infer that his chintzy price didn't strike you as so far out of line. This will adversely affect the way he bargains and how he reacts to your moves going forward.

I'm a strong believer in characterizing proposals you receive from the other side, in order to reduce their expectations and set the stage for your counterproposal. This is true even if, for example, that buyer's opening offer isn't preposterous. There's always something negative you can find to say about even the most forthcoming proposal!

Another place this comes up in negotiations is when you're the target of a commercial threat that carries real weight – one that the maker is capable of implementing and, for all you know, intends to carry out. Some people favor ignoring such a threat, but this strikes me as dangerous. Your lack of response could be misinterpreted by the maker as fear, suggesting that his threat has struck a nerve and achieved the intimidation he sought. On the other hand, I don't encourage the common response of a counterthreat, which escalates the confrontation in a dangerous way. The original maker is now tempted to up the ante, and who knows where it all will end?

When a threat is overt, I favor a two-part response. First, I always reply to the threat; I don't just let it hang there. Take the case where, in a commercial dispute, the other side says, in effect, "Either agree to our terms or we'll sue you." Now, you can't stop someone from suing; but since the implication of "we'll sue" is "we'll sue and win," the way to handle this threat is to assure the maker that he'll end up being clobbered in court (even if the outcome of the case isn't quite so clear). Don't let him infer from your silence that you're cowed by his litigation threat – a mistake that may blind him from seeing the need to compromise his position. Then, after countering the threat, I like to move things to a more practical plane by saying something like, "We could discuss the merits of a lawsuit all day. But

wouldn't it be more constructive to focus on whether there's some way to resolve our differences?"

Filtering Out Ambiguity

So, how should we go about solving the problem of being misunderstood? First, we need to work at maximizing the kind of word usage, emphasis, and communicative conduct so as to make our meaning absolutely clear. For example, try to use short, declarative sentences that avoid an ambiguous penumbra by making a single point, thus passing more readily through the Filter. I concede, however, that this may be easier said than done. The concepts we deal with, and the speed required to express the thought or act, don't always lend themselves to simplification. And it's especially difficult for those of us (like yours truly) who advocate distinguishing among various shades of gray.

To make sure that what you're saying is clearly understood, try to put yourself in the position of your listener. Avoid gibberish or dazzle that your listener is unlikely to comprehend. If a proposition is complex, try to state it in several different ways to maximize understanding. If you suspect he's still lost, then ask him about it. But make sure to utilize the Valve here. Avoid the putdown tone of, "Do you understand what I'm saying?" It is far better to use something like, "It's a difficult point – have I been clear in stating it?"

Much depends on your ability to tell when the listener doesn't understand you. A quizzical or vacant look on his face is

an obvious clue. Even if he's nodding in concurrence, don't assume he's on board. Be alert to anything odd in the listener's response; if it's not what you would have expected, re-examine what you've said for possible ambiguity (as I did at the wedding).

And, need I say, when you're on the other side of the conversation, don't jump to conclusions. Recognize that words can have varied meanings, that different inferences are possible. Don't assume that the reading you're giving the speaker's statement or conduct is the only correct one. If the matter is important, try to clarify your interpretation by further probing.

Some Final Thoughts on Ambiguity

Let me leave you with two examples and a quote, all illustrating the need for an ambiguity Filter.

Remember, every situation you're in is unique and has distinct features. You can't use a single approach for all possibilities – flexibility is key. Otherwise you may suffer the fate of Chevrolet when it launched its Nova model in the Mexican market in the early 1960s. Only after months of terrible sales did someone in Detroit remember that " no va" means "no go" in Spanish.

Precision in phrasing concepts can be critical; its absence can provoke unintended reactions from the other side. So, for example, toward the end of World War II, when the Allies demanded Japan's surrender, the Japanese government announced that it was withholding immediate comment on the

Allied ultimatum, pending deliberations by the Imperial government. Unfortunately, however, the official Japanese government news agency translated the Japanese expression for "withholding comment" into English as "deliberately ignore." Several scholars have suggested that, had the ultimatum not been so decisively rejected, President Truman might never have authorized the atom bomb attacks on Hiroshima and Nagasaki.

Finally, whenever I used to get a little cocky about my own communication skills, one glance at a small plaque that adorned a shelf in my office was enough to snap me back to reality. The plaque reads as follows:

I KNOW YOU BELIEVE YOU UNDERSTAND WHAT YOU THINK I SAID, BUT I AM NOT SURE YOU REALIZE THAT WHAT YOU HEARD IS NOT WHAT I MEANT.

* * *

I hope you've found these ruminations helpful and that your Valves and Filters are up and running. I'd be interested in receiving comments from you as to your experiences in this area.

(Just so you know, the Valve and the Filter were at work in that last sentence, which I originally drafted as: "If any of you jerks are misguided enough to think you have anything of value to add on the subject, jot your idiocies down on a kleenex and wait for a breeze to waft it up through my kitchen window. . . .")

November 2012 Jim Freund