

Zooming to Yes

By MICHAEL MASSENGALE

Interpersonal negotiations are an ever-present part of life. Experts have identified many reasons to prefer face-to-face meetings for negotiations over remote forms of communication, such as phone calls and email messages. But until recently, the middle ground of videoconferencing occupied a relatively unexplored frontier of negotiation opportunity, with both some of the advantages of meeting in person and some of the drawbacks of communicating remotely.

Forced by the coronavirus pandemic to experiment with online meetings, negotiators are now experiencing firsthand the issues anticipated by experts in the field. The classic text *Getting to Yes: Negotiating to Agreement Without Giving In* identified the lack of audio and visual cues as a disadvantage of typical remote discussions, making it more difficult to recognize emotional aspects of messages and reducing our ability to connect and empathize with a negotiating partner. The book specifically identified videoconferencing as an option to make up for that which cannot be adequately expressed through telephone calls or written messages.

The authors offered valuable suggestions, such as building rapport by schmoozing before tackling substance, and establishing procedures to deal with anticipated difficulties. Others who have specifically considered the challenges of videoconferencing, such as Creighton University Professor Noam Ebner (<https://ssrn.com/abstract=3029020>), have recommended using technology and taking advantage of features that can help overcome the shortcomings of remote discussions. The groundwork laid by these scholars, combined with the experiences of mediators who have adapted their practices during this pandemic, provides a road map for successful online negotiation.

Preparation is critical. The commonly used videoconferencing platforms such as Zoom, Cisco Webex, GoToMeeting and Skype are relatively intuitive, but they require some practice to achieve the comfort level necessary to facilitate a productive meeting. The day of the negotiation is not the time to be testing equipment. A hard-wired high-speed internet connection is best for handling a high-definition video



stream, rather than relying on a wireless signal. Scheduling a pre-session videoconference to test everyone's setup is a good way to ensure familiarity with the process while simultaneously building rapport. Communicate the dress code in advance so that nobody will feel over- or under-dressed for the occasion.

Pay attention to your surroundings. Be deliberate about staging your work area. Camera angles and lighting contribute to making a compelling impression. Try to arrange multiple light sources behind your camera, and avoid bright lights behind you, such as a window. Some have suggested that a busy visual background can distract the other participants. Negotiators

certainly do not want participants to be scrutinizing bookshelves rather than listening to the speaker's words. One way to avoid that situation is to use a virtual background. Another approach is to accept the videoconference as a humanizing window into the lives of the participants. A glimpse into a counterparty's office or kitchen may reveal shared interests and experiences that can lead to empathy and cooperation. Television hosts who are now appearing from their homes are curating their at-home work environments to build a sense of personal connection for their viewers, and video negotiators can do the same thing. Consider striking a balance between staging a professional setting and injecting enough personal flair to spark bond-building conversations.

Spend some time discussing the process. At the beginning of a negotiation, manage expectations by reviewing the capabilities and limitations of the chosen technology. One challenging aspect of videoconferencing is the absence of actual eye contact. Looking directly into the camera creates the illusion of eye contact, but doing so usually means the speaker cannot simultaneously perceive the facial expressions and reactions of other participants. Further, when a participant looks at the other participants or a separate monitor, writes notes, or fidgets with an object, this can give the impression (usually false) that he

or she is distracted or not paying attention. Addressing this beforehand—by demonstrating the differences between looking at the camera and at the screen, and inviting participants to use their cameras to show their physical workspaces—can eliminate confusion about the perceived meaning of eye movements and develop a sense of shared experience.

Understand and overcome limitations. Because each participant has only a limited view of each other person, make the best use of your own window. It is difficult for multiple people seated at a conference table to command attention in a videoconference where other participants all have their own cameras. On the other end of the spectrum, don't have your camera focused too closely on your face. Ensure that your head and shoulders are occupying an appropriate portion of the screen and that your hand gestures are visible to everyone. Make deliberate use of the screen-sharing functionality and other software features to promote collaboration.

Anticipate glitches. Almost everyone who has experienced videoconferencing has dealt with technical malfunctions, such as computer issues or lost connections. The frustration over an interruption can be mitigated by understanding that disruptions will happen and by having a plan for addressing them. Exchange phone numbers in advance so that you can communicate by

phone or text to get the session back on track. Have ready access to tech support if needed. If the fix will take some time, take a break.

As noted in *Getting to Yes*, research has shown that face-to-face negotiations have a greater chance of producing mutually beneficial agreements, and a lower chance of reaching impasse, in comparison to telephone or written negotiations. With the right strategy, negotiators can use videoconferencing to replicate the beneficial aspects of in-person meetings while avoiding the obstacles presented by remote discussions.

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