

A Network of Professionals: Good Ethical Practices in the Translation Industry

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Abstract

This paper focuses on various aspects of ethical and professional codes of conduct on the part of a translator, including a responsible attitude towards accepting or declining assignments, delivery of quality translations, punctuality, confidentiality, fair dealing with clients, fair competition and cooperation between colleagues and general helpfulness with regard to clients' enquiries and problems. The paper aims to show how good business practices are essential to the translation industry. It also examines the responsibilities of the various stakeholders in the industry, including those of colleagues, professional networks, translation agencies and clients.

Introduction

This paper is written from the perspective of a freelance translator and editor working mainly on the German market and, to a lesser extent, on the Czech market for customers ranging from corporate clients to universities and research institutes, publishers and private individuals. Although this is an area that is not given much emphasis in most translation courses – and indeed the majority of translators are from linguistic rather than business backgrounds – it is of the utmost importance for freelancers in particular to be aware of good practices in their industry.

In *Management and Organisational Behaviour*, Laurie J. Mullins lists three reasons for businesses behaving ethically: it is fashionable, profitable or makes for a quiet life. He goes on to say that a fourth possible reason is because it is “simply the right thing to do”, adding that:

Treating people with honesty, fairness and respect is then a matter of moral principle, not of expediency.

Of course, it does not follow that in order for business conduct to be ethical it has to be unprofitable or uncomfortable.¹

This last point applies in particular to any highly networked industry such as the translation profession. Since the translation world is very well linked, the profits of freelance translators depend very much on their reputation, including not only the quality of their work but also their professional conduct. While a good translator will be further recommended, any translator not using ethical business practices will eventually be exposed and lose both customers and colleagues. And as one member of the profession, Roger Chriss, writes in his article “Ethics and Professionalism in Translation”, “A translator will not last any longer without clients than a translation vendor will last without translators.”²

¹ Mullins L. J., 1999: *Management and Organisational Behaviour*, 148

² Chriss R., 2009: *Ethics and Professionalism in Translation*, 4

The translation industry is in fact very much based on networking and trust. The customer trusts the translator to do a good job and the translator trusts the customer to pay promptly and in full (often without a formal contract and on the basis of an email agreement). The bulk of translation and editing work comes through personal contacts, either directly, or more often, indirectly. Both parties run a high risk if working together with people to whom they only have tenuous links – or perhaps a client may contact a translator or editor solely on the basis of their website – so it is always wise to have some form of contract until a relationship of trust has been established.

In his article, Chriss refers to the Tit-for-Tat strategy from the Iterated Prisoner's Dilemma in Game Theory and applies it to what he terms 'efficient ethics' in freelance translation. As Chriss explains, this Tit-for-Tat Strategy involves cooperating when interacting with another member of a group for the first time and reciprocating their behaviour from then onwards. In the translation industry, this means a translator cooperating by accepting work from a new client (unless his or her research shows there is reason not to trust this client) and doing the work well. The client in turn cooperates by paying promptly and offering the translator more work. If, however, the client does not cooperate but instead cheats the translator, for example, by not paying for the translation, the latter can reciprocate by not accepting further work and reporting the client's behaviour to other members of the group.

Chriss concludes his section on 'efficient ethics' as follows:

To sum up, the translation industry is a small, tightly-integrated industry in which people tend to talk a lot. We can use this to our advantage by adopting

the Tit-for-Tat strategy in our business efforts and helping each other keep track of who has done what. Good behavior, whether it is a translator doing quality work and delivering it on time or a client offering respectable rates and paying promptly, should be recognized and rewarded. Bad behavior, for instance a translator consistently and without reason delivering work late or an agency regularly withholding or failing to pay translators, should be acknowledged and punished. If each of us does even a little of this, the industry itself will automatically improve rapidly and dramatically.³

This is all very true. It is the joint responsibility of all stakeholders in the industry to ensure that business is conducted properly. Professional networks and associations of translators also play a vital role here. These provide various forms of support to their members, ranging from, passing on work to answering terminology questions, assisting with large projects and also giving tips on matters such as taxation or dealing with demanding customers.

There are several large global organisations such as the Fédération Internationale des Traducteurs or International Federation of Translators (FIT), comprising translators, interpreters and terminologists from over 100 associations from various countries. Other major global organisations include the Association Internationale des Interprètes de Conférence or International Association of Conference Interpreters (AIIC) representing 2,500 professional conference interpreters based in over 80 countries worldwide, and the

³ Chriss, 4.

UK-based Chartered Institute of Linguists (IoL) serving the interests of professional linguists throughout the world. Founded in 1910, the Institute now has around 6,500 Fellows, Members and Associate Members.

Some of the international associations are also smaller, regional forums, such as Mediterranean Editors and Translators (MET), for language service providers who work mainly into or with English, based in Spain but with members also in other countries, especially around the Mediterranean.

There are also many national organisations, for example, the Bundesverband der Dolmetscher und Übersetzer e.V. or Federal Association of Interpreters and Translators (BDÜ), the largest German professional association of translators and interpreters with over 6,000 members. Other national associations include Polskie Towarzystwo Tłumaczy Przysięgłych i Specjalistycznych or Polish Society of Sworn and Specialised Translators (TEPIS), formerly Polskie Towarzystwo Tłumaczy Ekonomicznych, Prawniczych i Sądowych or the Polish Society of Economic, Legal and Court Translators, and Jednota tlumočníků a překladatelů or the Czech Union of Translators and Interpreters (JTP), consisting of around 600 professional translators, interpreters and teachers of translation and interpreting mainly based in the Czech Republic and Slovakia.. These Polish and Czech associations are both relatively new, founded in 1990. Like a number of other national organisations, such as the American Translators Association (ATA) or the Institute of Translation and Interpreting (ITI), the BDÜ, TEPIS and JTP are also members of FIT.

In addition to the larger national and international groups, there are numerous smaller, often informal, networks or innovation clusters that play a vital role for freelancers in particular.

Here I would like to mention three such groups.

Firstly, what I personally find to be of greatest benefit on an everyday basis is a small Berlin-based network of trusted colleagues with whom I work closely, 'inter alia'.⁴ We work for each others' customers, share larger assignments, help all members of the group with terminology and other questions, provide holiday cover for each other and generally provide the invaluable support that makes the difference between working in isolation and being part of a translator community.

The second, larger group of which I am also a member is the Berlin Translator Stammtisch⁵ comprising around 100 German-English translators and editors. This forum has interesting and useful e-mail discussions, also including subjects such as business ethics and pricing, and translators on this list are also very helpful as regards terminology questions and sharing work, among other things.

The third group, Czechlist,⁶ is a similar mailing list for Czech<>English translators, interpreters and other language professionals to discuss terminology, language problems, professional issues and anything else that concerns them. This group currently has 440 members, based in the Czech Republic and other countries.

⁴ www.interalia.de

⁵ <http://groups.yahoo.com/group/berlin-stammtisch/>

⁶ <http://groups.yahoo.com/group/Czechlist/>

Each of these three different groups have their benefits and in these times of virtual communication, it is possible to be a member of all three groups and interact with colleagues based in Germany, the Czech Republic, the States or the UK. It can sometimes be worthwhile to compare discussions on the various forums and/or pass on useful information from one list to another. All such groups can serve to help translators improve their business practices and the general quality of their service. In addition, a number of associations produce publications with useful articles on all subjects related to the profession, including information about conferences, etc., for example, ITI Bulletin, the journal of the Institute of Translation & Interpreting, which is also available on subscription to non-members.

Ethical Practices on the Part of the Translator

In an article on translation rules as ethical decisions, Anthony Pym writes about ethical questions concerning translation on two very different levels:

On the one hand, tired repetitions of *traduttore traditore* presuppose some kind of ideal loyalty to a source text, author or sender, often pitted against similar loyalty to a receiving language, culture or receiver. On the other, codes of ethics are written for the control of translation as a profession, regulating the translator's relations with other translators, with clients and with questions like official secrets.⁷

⁷ Pym A., 1992: Translation Rules Are Ethical Decisions, 159.

The first level refers to what is known in translation studies as the translator's invisibility⁸ and what Pym calls here an "ethics of anonymity". The second level refers to loyalty not towards the source or target text but to a professional presence and loyalty towards the various stakeholders within the profession. The article discusses an "ethics of commercial service", where the translator serves the client's purpose and may involve improvement or explicitation of the text in translation rather than adhering closely to the source text. Pym rightly asks in whose favour such an "ethics of explicitness" would work and correctly points out that it is not in the favour of the client, who will only have to pay more. He also discusses an "ethics based on symmetrical respect for hypothetical cultural equality" and an "ethics based on asymmetrical cultural specificity", deeming the former to be inadequate since translation is an asymmetrical exercise and the latter because it would be like the source and target texts pursuing completely separate criteria with no cultural connection between them. What Pym proposes is that from a translator's point of view, "*the ultimate aim of translation is to improve the intercultural relations with which they are concerned*".⁹

Pym concludes:

Only when translation rules are recognised as ethical decisions, when notions of split loyalty and potential treason are accepted as something more than idle metaphor, and when the technologies of means are accompanied by hard thought about why intercultural relations are important and how

8 Venuti L., 1995: *The Translator's Invisibility: a History of Translation* London. Routledge
9 Pym, 177. Italics in original.

they can be improved, only then might we develop properly translational regimes.

One ethical decision that may face a translator or, more often, an editor, is what to do if a text is plagiarised. Mediterranean Editors and Translators (MET) includes a section on ethical conduct under the characteristics of a professional English language consultant listed on its website:

Professional language consultants practise discretion: they respect the confidentiality of their clients and the material they are entrusted with. They are familiar with the ethical issues surrounding the production of communication materials. In particular, they know and seek to avoid unethical behavior such as plagiarism, ghost writing, biased and fraudulent reporting, and redundant publication. They also assist and educate their clients in avoiding these problems, by being familiar with the latest international standards. For example, they may help a client clarify a conflict of interest and they may notice the unauthorized copying of texts simply from lack of language expertise and thus save the client from being accused of plagiarism. And, to ensure greater transparency regarding authorship, they are also likely to request that their contributions to documents be acknowledged.¹⁰

This is not always easy to implement in practice. It may be difficult, for example, if an editor is working in-house and would potentially risk putting his or her job on the line by

¹⁰ <http://www.metmeetings.org/index.php?page=guidelines#char>.

accusing his or her boss or someone senior in, for example, a medical institute of plagiarism. It should, however, normally be possible to point out instances of plagiarism without negative repercussions for the editor.

Another potential ethical dilemma for a translator may be deciding which jobs to accept.

There is a case discussed in an article in *The New York Times* where a husband suspecting his foreign wife of being unfaithful commissions a translation of photocopied pages from her diary, which confirms his suspicions. The journalist Randy Cohen criticises the translator's ethics: "A translator cannot investigate the source of every document he encounters, but if he knows that he's perusing a purloined letter, he should demur."¹¹

Cohen also quotes from the American Translators Association (ATA) Code of Professional Conduct and Business Practices that a member is required "to refuse any assignment he believes to be intended for illegal or dishonest purposes, or against the public interest."

However, as rightly pointed out in an online response to this article, the husband did nothing wrong in the eyes of the law by commissioning the translation and the translator did nothing illegal translating the text. The translator commenting also makes a valid point that a professional should not confuse personal values with ethics, adding that there is also a professional responsibility to serve the client without breaking the law and asking the following legitimate question: "In the diary case, during the divorce proceedings the diary's

¹¹ Cohen R., 2007: The Way We Live Now: The Ethicist; Bad Translation, *The New York Times*, 11 February 2007.

contents would be subject to subpoena. Would it be unethical for the translator to refuse subpoenaed material?"¹²

A freelance translator is generally in a position to choose whether or not to accept a particular assignment or refuse it on principle if, for instance, he or she disagrees with the politics of the author or subject of the text or believes it would be unethical to do the translation for whatever reason. In some cases, it is just a matter of personal choice based on personal values. At present, this issue is not generally covered in translators' professional codes of conduct, although there has been discussion of changing this in the Institute of Translation and Interpreting's Code of Conduct. In an article in the ITI's *Bulletin* by Nick Rosenthal and quoted by Emma Wagner, it is pointed out that the present Code would prevent an ITI member from notifying the relevant authorities about any evident of criminal activity in a document for translation. This poses the following questions:

Should ITI perhaps consider modifying the Code of Conduct to give guidance on what a member should do if he/she encounters evidence of criminal activity? Accountants are now required to notify competent authorities if they suspect any of their clients are engaged in illegal money laundering activities. Should ITI perhaps start to think along those lines?¹³

Rosenthal's conclusion in 2004 was that it might be a good time to reconsider the confidentiality aspect of the Code, bearing in mind how other professionals work and on

¹² <http://maskedtranslator.blogspot.com/2007/02/ethics-and-translation.html>

¹³ Wagner E., 2005: Does the ITI's Code of Conduct Need a Makeover? *ITI Bulletin* May-June 2005, 23

the basis of legal advice. This change had not been incorporated into the Code at the time of writing the present article but there is indeed a potential need - or obligation, in some parts of the world - to report illegal activities to the authorities.

Setting standards through their codes of ethics is a major role of international, national or regional translation and interpreting associations. ‘Translation and Ethics – The ethical commitment of professional translators’ was considered to be significant enough to be the theme of International Translation Day (ITD) in 2001 (30 September). At that time, the International Federation of Translators (FIT) defined ethical behaviour as follows:

Ethical behaviour means adhering to the professional code of ethics. There is no transnational code of ethics for our profession; nevertheless, the following principles generally apply and they have to do with protecting the client as well as the Translator; these include: confidentiality, impartiality, punctuality, accuracy, respect for the client, fair dealing and disqualifying oneself from a task if this is seen as beyond one’s qualifications; last but not least, professional translators must commit themselves to continuously updating their knowledge and expertise.

Ethical behaviour also means a fair competition between colleagues, including mutual assistance whenever needed, and joint efforts towards the promotion of the profession and the defence of its professional practitioners.¹⁴

Although there is currently no transnational code of ethics for translators, the FIT Regional Centre Europe (FIT Europe) has established a Code of Professional Practice to ensure a high level of professionalism in its member associations. This covers general conduct, qualifications, relations with fellow translators/interpreters, performance of work and disputes. Further examples of the content of the various codes of conduct will be given below.

The Code of Professional Conduct¹⁵ of the Bundesverband der Dolmetscher und Übersetzer (BDÜ) lays out the standards of behaviour that members are expected to maintain in their professional dealings with clients and fellow-linguists. It specifically addresses the duties of observing confidentiality and refraining from unfair competitive practices. Like many other translators' codes, the BDÜ's Code of Professional Conduct also focuses on competence and reliability, including a section on languages worked with:

¹⁴ http://www.atins.org/index.php?option=com_content&view=article&id=83%3Ainternational-translation-day-the-ethical-commitment-of-professional-translators&catid=60%3Ain-the-news-2001&lang=en&Itemid=115

¹⁵ *Berufs- und Ehrenordnung*

Dolmetscher und Übersetzer dürfen sich nur in solchen Sprachen und auf solchen Sachgebieten betätigen, in denen sie über einwandfreie Kenntnisse verfügen, um die übertragenen Aufgaben auch gewissenhaft ausführen zu können.¹⁶

This varies from country to country or language to language. While Germans, Czechs or Poles often work in both directions, English native speakers normally only translate into their mother tongue and the Code Of Professional Conduct of the Chartered Institute of Linguists (IoL) states that interpreters or translators can only work into “their language of habitual use”¹⁷ unless a client prefers to employ a translator whose native language is that of the source text because he or she will have a better understanding of the text.¹⁸

As mentioned above in FIT’s definition of ethical behaviour on the part of a competent translator is regular involvement in Continuing Professional Development (CPD). The MET (Mediterranean Editors and Translators) website recommends people looking for language professionals to check whether their potential translator or editor engages with the profession by participating in career development activities such as conferences and other training events and being a member of professional associations. Most translation networks encourage their members to participate in continuing professional development. For example, the ITI has run a Professional Development Course including a module on business practice and a ‘Business Day’, a conference targeted at its corporate members and

¹⁶ §2. www.he.bdue.de/pdf/satzung.pdf. “Interpreters and translators may only work in such languages and in such subject areas in which they are perfectly proficient so as to also be able to perform the tasks assigned to them conscientiously.” My own translation.

¹⁷ IoL Code Of Professional Conduct, 5.2

¹⁸ IoL Code Of Professional Conduct, 5.3

addressing the business aspects of the translation industry, and it provides its members with a CPD Record, a booklet for keeping track of continuing professional development activities.

Although there is a general lack of business training incorporated into university translation programmes, there are some exceptions, for instance, the University of Westminster's Translation Profession Module intended for practising translators, graduands/graduates of postgraduate translation courses, and translation teaching staff in Higher Education with a view to adapting the module for use on other translator training courses. It is also available as a Trans CPD Online Learning Course, with Part 1 of this course currently running at monthly intervals and with Part 2 including the teaching of the importance of ethical conduct.

Translator associations also organise conferences with further training courses covering not only translation and editing skills but also business aspects such as negotiating prices, taxation and other matters related to the profession such as CAT tools and computer skills.

Not only should translators refuse work they are not competent to carry out (also mentioned in ITI Code of Ethics) but also if they do not have enough free capacity for a job. The BDÜ's Code of Professional Conduct also stipulates that interpreters and translators who are unable or decide not to accept an assignment must inform the client of this immediately. The importance of meeting deadlines – or refusing work if a deadline is unrealistic – cannot be overstressed. At times, it can be difficult to judge this accurately, however, since jobs may be delayed or moved forward, often several at once. Nevertheless, if a translator does

not deliver on time – or at least warn the customer and try to get a colleague to cover in cases of emergency – it can cause serious problems to the customer, especially if there is a deadline for a book to go to print or a meeting where the translation is required. It is ethical to keep to the agreement made and stick to it if humanly possible.

Here, it can be useful for translators, too, to follow Richard Templar’s fifth rule of work: “Under promise and over deliver”:

If you know you can do it by Wednesday always say Friday. If you know it will take your department a week, say two. [...]

This isn’t dishonest, merely prudent. If it gets spotted that this is what you do, then openly and honestly admit it and say you always build in a contingency percentage into your calculations. They can’t kill you for that.¹⁹

As Templar correctly notes, many people agree to early delivery dates in an attempt to look good but then fail to meet the deadline, initially coming across as ‘pushovers’ and then ultimately as incompetent. It is also wise for translators to leave some free capacity each week for regular customers who often send small and urgent jobs that cannot easily be refused without risk of losing the client. Translators should ensure they have enough time to do all work they accept to the best of their ability, researching all terminology and

¹⁹ Templar R., 2010: The Rules of Work, 12

background information properly, asking back, using the client's glossary if supplied, and meeting any other customer requirements.

Peter Linton also provides a very useful overview of ethical practices on the part of the translator with his 10 commandments for translators, based on comments by Gillian Hargreaves of Zebra translations from her experience of working for a translation company and commissioning freelance translation work.

Linton's commandments include reading the instructions, forewarning the client if deadlines may be missed, doing research, meeting promised standards, raising queries in good time and not accepting work only to subsequently turn it down. This is just as unethical as the behaviour of customers who move the goalposts after the terms of an assignment have been agreed.

One commandment worth noting in particular is "Thou shalt act on feedback." This is also part and parcel of a translator's work. While some customer complaints are justified, particularly when working into English in Germany a translator is frequently forced to defend his or her work to a client who criticises a translation 'wrongly' because of a lack of awareness of his or her own language competence, for instance. The translator's role here is to politely educate the customer.

In an ideal working relationship, it is not just the responsibility of the translator to respond to feedback from the client but also vice versa. In his excellent book *Konstruktives*

Übersetzen, Hans G. Hönig cites an example of a translator who transformed a slogan for an advertising text so that it made sense and carried the same message as the original to the target audience. However, the German customer complained and retorted that was not the translator's business and her job was just to translate the text. As Hönig rightly points out:

Diese mangelnde Kooperationsbereitschaft hat auch die fatale Folge, daß Leistungen von Übersetzern und Dolmetschern zurückgewiesen werden, die erheblich zur Verbesserung des Produkts beitragen können.²⁰

For effective cooperation, the client has to be able to trust the judgement and competence of the translator while translators for their part have to be able to respond professionally to criticism of their translations, whether this is justified and constructive or not, perhaps keeping a feedback file as a record.

It is always good business practice for translators to be available to provide after service, or again at least let the customer know if they are going away, when and how they can be reached or who is covering for them. It is unacceptable to just leave the customer in the lurch if there are any questions or problems. The same goes for holiday cover in general. A translator should make sure the customer is not left high and dry but can contact a reliable colleague if necessary when their regular translator is not available.

²⁰ Hönig, H. G., 1997: *Konstruktives Übersetzen*, 181. "This lack of willingness to cooperate also has the fatal consequence that contributions by translators and interpreters that can go a long way towards improving the product are rejected." My own translation.

It is fair to the customer to also help them as far as possible with small jobs or ones at inconvenient times and not just the easier or more lucrative jobs. A translator just creaming off the best jobs will not be viewed by the client as an asset in the long term. Finally, if a translator is paid in advance, the work should be completed as soon as possible when it eventually comes in.

Although pricing is not mentioned explicitly in the list quoted by FIT on International Translation Day, it is a major aspect of ethical behaviour in the translation and interpreting professions, as in any other industry, and could be considered under the heading of “fair dealing”. Some associations set recommended rates for their members to charge, for example, Jednota tlumočnicků a překladatelů or the Czech Union of Translators and Interpreters (JTP).

The BDÜ’s Code of Professional Conduct specifically states that its members must not engage in unfair competition by deliberately undercutting colleagues:

Bei der Bemessung des Entgelts für ihre berufliche Tätigkeit müssen sich Dolmetscher und Übersetzer grundsätzlich an die gesetzlichen Bestimmungen halten. Dolmetscher und Übersetzer enthalten sich jeder unlauteren Form des Wettbewerbs.

Als unlauterer Wettbewerb ist insbesondere anzusehen

- planmäßiges zielgerichtetes Unterbieten in der Absicht, Mitbewerber zu schädigen oder zu verdrängen [...] ²¹

Unfortunately, however, there are no statutory minimum prices so price dumping continues to present a problem for professional translators globally. It is not the fault of misinformed clients but that of translators who charge bargain basement rates. Price dumping may take the form of charging extremely low line rates or it may be more subtle, for instance, billing fewer hours for an editing job than the time actually taken, which again has the effect of making customers believe this is standard. Although this strategy of predatory pricing may be effective in the short term since some customers ask for three quotes and go for the cheapest, it must be very difficult to make a living as a translator by consistently undercharging. Moreover, this spoils the market for other translators; while some translators do not undercut colleagues intentionally but inadvertently due to ignorance about rates, not enough interest or business acumen to find out about them or simply a lack of confidence in the value of their own work, their pricing still has the same effect.

Sadly, this is not restricted to beginners seeking to obtain their first assignments, when it would at least be more understandable, although even then it would be wiser to charge the going rate and pay a more experienced colleague to edit the translations. It also happens that well-qualified translators undercharge, sometimes even undercutting the colleagues

²¹ § 14. “In calculating remuneration for their professional activity, interpreters and translators must always comply with the statutory provisions. Interpreters and translators shall abstain from any unfair form of competition.

Competition is considered to be unfair if it involves in particular - planned targeted undercutting with the intention of harming or edging out competitors [...]” My own translation.

who recommend them to their clients. This type of – deliberate or not – unethical behaviour obviously reduces a translator's chance of being recommended again in the future and so is certainly not a good long-term strategy.

It is often not emphasised enough on translation courses just how crucial it is to negotiate fair rates. Some teachers of translation are even unwilling to disclose their rates to their students. At other universities, however, it is given the attention it deserves. For instance, Dr. Hans G. Hönig, former head of the interpreting department of the School of Applied Linguistics and Cultural Studies in Germersheim, raised awareness of the importance of professional translators and interpreters being paid a fair price for their services. It is evident when working with Germersheim graduates that they have been trained not to undersell their services.

A fair price also means not overcharging, for example, charging an hourly rate for cutting and pasting of long passages of identical text and when timing hours of work obviously not billing the client for coffee breaks, time taken off to make phone calls, etc. Clients can see the timing anyway with Word's track changes function. And, perhaps less obviously, it means not overcharging one customer and undercharging another so that one customer effectively ends up footing the bill for another. It is common courtesy for a translator to send a reminder before taking legal action against a customer who has not settled his or her bill. This is a tricky business but if the translator wants to continue to work for the customer, it has to be handled diplomatically, perhaps in consultation with one of the company employees who can give advice on how to handle the boss who does not pay promptly.

Finally, a translator should inform the customer if he or she is overpaid or accidentally paid twice. This does occasionally happen, in which case the money should of course be paid back or deducted from the next invoice, as agreed with the client.

Another important aspect of ethical behaviour in the translation and interpreting industry is confidentiality. In some cases, texts are already public, often on a website, but a translator may have to translate confidential contracts, for instance, or an interpreter may have to interpret between a lawyer and his or her client. Even if a translator does not sign a non-disclosure agreement, all texts that are not public should be treated as confidential. Sometimes the client will ask a translator to delete all the files when a job is completed and shred any printed documents, which of course should be done.

Chriss accurately sums up the necessity of client confidentiality:

You may be wondering, so what? It won't matter if I tell my spouse, my friend, my fellow translator, that I am working on documents related to a major international lawsuit that won't become public for the next three months. Please trust me when I tell you it will. The translation industry is very small and tightly knit; it is composed of people who know how to communicate and are used to doing so via the Internet and the Web, and of people who generally like to talk about work if only because they tend to work alone. So anything you say could end up being mentioned in a Usenet group or chat room, at which point it would be public knowledge. And if

you can't figure out why leaking the preparation for a major, multi-billion dollar lawsuit regarding illegal trade practices six months before it becomes public would be a problem, then you probably shouldn't be a translator.²²

It is also very likely that the translator would end up being sued by the client for a breach of confidentiality in a situation like this. One of Linton's 10 commandments for translators also relates to this issue: "Thou shalt respect confidentiality. Publishing sensitive confidential documents on thy website to demonstrate thy translation skills is a no-no. Poaching clients from agencies is also not popular."²³

The same goes for poaching colleagues' customers. It is just as essential for translators to be able to trust and cooperate well with their colleagues as with their clients. If a translator does an assignment for a colleague's customer who then contacts him or her again, the client should be referred back to the regular translator.

It is part and parcel of a professional translator's job to support a colleague when working on a project together. For example, if splitting a text and proofreading each other's translations, both people should take as much care when proofreading their colleague's texts as when translating their own. Delivering substandard work to a colleague is just as bad a business practice as delivering substandard work to a client.

²² Chriss, 2-3.

²³ Linton P., 2006: It Can Work Both Ways, *ITI Bulletin* May-June 2006, 42

The subject of cooperation among colleagues is included in the codes of conduct of many translation and/or interpreting associations. For example, the Association Internationale des Interprètes de Conférence or International Association of Conference Interpreters (AIIC)²⁴ states in its Professional Standards that members have a duty to afford moral assistance and collegiality to their colleagues.

The code for certified translators who are members of Polskie Towarzystwo Tłumaczy Przysięgłych i Specjalistycznych or Polish Society of Sworn and Specialised Translators (TEPIS) includes sections on solidarity between colleagues in general and international solidarity:

§ 14. Solidarité entre collègues. Le traducteur assermenté doit aider ses collègues dans le besoin et dans la mesure du possible ne pas refuser une telle aide, en particulier quand il s'agit de remplacement pour la réalisation urgente d'une traduction en cas d'impossibilité de réalisation dans les délais ainsi que l'aide pour la réalisation d'une traduction particulièrement difficile.

§ 15. Solidarité internationale. Le traducteur assermenté apprécie l'expérience et les points de vue de ces collègues d'autres pays, il se solidarise avec eux et leur apporte de l'aide lors de leur séjour en Pologne.

(...)²⁵

²⁴ <http://www.aiic.net/ViewPage.cfm/article24.htm>

²⁵ Quoted in French on the FIT website, <http://www.fit-europe.org/vault/codeTEPIS.html>.

A professional translator with good work ethics should try to assist colleagues as far as possible even if it is not particularly convenient, for example, to proofread a short text immediately when under pressure with other work. This does not mean missing other deadlines to work for a colleague but a translator should always bear in mind that he or she may be the one calling colleagues for urgent help the next day. While there are always more potential customers available, good colleagues are hard to find and worth their weight in gold so they deserve to be assisted whenever humanly possible.

Section 8 of the Ethical Code of the Czech association JTP stipulates that interpreters and translators must always arrange interpreting and translations for other interpreters and translators without charge. This is unusual because in other countries it is standard practice to charge a fee for acting as an intermediary passing on work to another translator, perhaps not to close colleagues but in other cases, particularly if the translator who accepted the assignment forwards questions to the client, or edits or proofreads the translation for a colleague.

Almost every translator has had the unfortunate experience of subcontracting work when overloaded and subsequently having to spend an excessive amount of time editing a substandard translation. This normally happens when the original translator is already

“§ 14. **Solidarity among colleagues.** The certified translator shall help any colleague in need and, as far as possible, not refuse to give such assistance, particularly when it means stepping in to do an urgent translation which would otherwise be impossible to deliver by the deadline, or helping to carry out a particularly difficult translation.

§ 15. **International solidarity.** The certified translator appreciates the experience and points of view of colleagues in other countries, shows solidarity with them and assists them during their stay in Poland.”
Translated from Polish into French by Anna Michalska. My own translation into English.

under too much pressure and their usual trusted colleagues are unavailable, and it can prove to be very stressful and expensive. Under these circumstances, the least the translator who has produced work of unacceptable quality can do is to take a cut in their fee to cover the editing costs, although it is not just a question of money but, more importantly, one of joint responsibility to meet a deadline and do a professional job.

Translators should always inform colleagues if a customer is a bad payer – and then let them know if the customer does pay. Also, if they ask colleagues to help them with a job, they should be paid promptly, ideally even if this means paying before the customer pays – or even if the customer does not pay at all – unless there is a prior agreement that it is no problem to pay later.

In short, colleagues should always be treated with respect and supported as much as possible. It is also collegial for translators to take the time to pass on contacts of colleagues who might be interested in a job that fits their profile. Other people will most likely return the favour and think of them when jobs in their field or language combination come up.

Ethical Practices on the Part of the Agency

Translators should try to avoid putting colleagues under unreasonable pressure to keep the customer happy. The same applies to translation agencies: some are often much more concerned about keeping the customer happy than looking after their translators, which is not the best way to retain good translators in the long term. It can be difficult to negotiate conditions satisfactory to all parties, but this should be the objective.

Translation agencies range from high-end ones with a good reputation to disreputable ones normally at the lower end of the price scale. The more successful ones in the long run tend to be those who treat their translators well and provide their clients with a high-quality service. As one translator rightly pointed out during an online discussion on agencies using translation memories provided by a translator and then either employing the translator as their main service provider for that client or creating a template and never contacting the translator again: “The best-kept secret in economics is that more businesses get big through quality and honesty than by treachery.”²⁶

However, it is still standard practice for some agencies to delay payment for as long as possible, try to pay as little as possible or not at all. In an article about agencies in the UK, Josephine Bacon writes that the net profit a medium-sized agency (10-20 in-house employees) is required to make on a job is at least 100%.²⁷ This sometimes happens even if the agency does not revise or proofread the translations before sending them to the end customer.

More shocking and unethical than this, however, is a case at Leeds County Court recounted in Bacon’s article where a Frenchman regularly translating for a British agency found he had no legal recourse to secure payment when the agency went into liquidation to avoid paying its debts and then began to trade under a new name. This is particularly easy to do in the UK, with the consequence of British agencies acquiring a bad reputation. There is

²⁶ James Kirchner, e-mail of 11 December 2009.

²⁷ Bacon, J., 2004: Crisis in the Translation Industry, 2.

evidently a need for reform of the laws of England and Wales to close up these loopholes that can be exploited by disreputable agencies.

Moreover, Bacon also points out a further problem at international level, namely that there is no contractual obligation to pay translators when official tenders are issued by local authorities, government departments and even international organisations:

[...] several companies with an appalling reputation for payment have a clientele consisting almost exclusively of official bodies, including the European Union, through tenders they have won which are renewed indefinitely without any form of quality control, price is everything. It's easy to offer the lowest bid when you know you have no intention of paying the translators who worked on it!²⁸

Again, there is clearly a need for reform here to ensure security for the translators and a quality service for those commissioning the translations and to penalise unscrupulous companies who have so far managed to exploit the system successfully.

²⁸ Bacon, 2.

Ethical Practices on the Part of the Client

As with agencies, it is, of course, good and fair practice for direct clients to pay properly and on time. In Germany, for example, interest is due after 30 days according to the *neues Schuldrecht* (New Law of Obligations) introduced on 1 January 2002 to protect small businesses in particular from suffering the consequences of the bad payment practices of their clients. This has undoubtedly improved the situation: many customers do pay within that timeframe – sometimes even earlier if the invoice has a 14-day deadline – but by no means all. Some wait as a matter of course until they receive a reminder or have a policy of only paying their invoices one month after the due date. Others have a standard practice of criticising the quality of all translations – whether this is justified or not – with the sole purpose of retrospectively reducing their payment.

Accounts of bad payment practices by clients too often appear on the mailing lists of translation groups. Too often in that this happens all too frequently but on the positive side, the publicity means that other translators are warned of blacklisted companies, including those who may have been operating under various names in an attempt to still recruit translators. The following is one example of such a case, part of the reply by a translator who had received an enquiry from one such customer, a publisher allegedly with offices in London, New York and Paris but in fact operating in France only:

I had a look on the Web to see the kinds of books you publish and I must say that I also discovered numerous entries on translator forums warning

that “Company A” and “Company B” (and Company C)²⁹ had a reputation of not paying their translators. While that might be a situation that has since improved, I think it is in your own best interest to go out of your way to reassure translators and guarantee a payment modus that gives them some security. The translation community is well-linked and you might otherwise have some trouble finding a high-quality, experienced translator.³⁰

This was in fact an earlier mail forwarded in response to a repeat enquiry along with new information that there were also more recent reports of translators involved in court cases to receive payment for their work. Some Internet research shows that the publisher’s strategy was apparently to recruit translators from outside France since it is more difficult for them to take legal action from overseas, but a group of translators were discussing a class action lawsuit in an effort to combat the unethical business practices of the publisher in question.

There are also websites and organisations with blacklists of clients who have a bad track record of paying their invoices. For example, in Poland, the Krajowy Rejestr Długów Biuro Informacji Gospodarczej SA or National Debt Register Economic Information Bureau jsc (KRD) was established in 2003 to record this type of economic information about companies.

²⁹ The same company was trading under three different names.

³⁰ Allison Brown, e-mail of 25 November 2009.

The mission of KRD is to build a pan-European system of information exchange on reliable and unreliable business entities. Being the forerunner in the field of receiving, storing and making the economic information available, KRD intends to find its place in the economic operations of European countries.³¹

There are similar databases in other countries. For example, in the Czech Republic a translator can blacklist an agency or client on the website of the Centrální registr dlužníků České republiky or Central Register of Debtors of the Czech Republic (CERD)³² and an email is then posted to the debtor from their domain. Although there can of course be no guarantee that all companies or individuals will improve their payment practices as a result, these sites certainly go some way towards making it more difficult for disreputable ones to repeatedly cheat translators and other business partners with impunity.

An even more common strategy used by clients trying to avoid paying for translation services in full is to endeavour to reduce the price. In their excellent article “On the Matter of Discounts”, Brazilian Portuguese translators Danilo and Vera Nogueira argue very convincingly that there is normally no reason for clients to be given discounts on translations. This point is also illustrated perfectly in a video on how not to negotiate rates with translators³³ showing scenes in a restaurant, hairdresser’s and DVD shop where the

³¹ <http://www.krd.pl/Infoservice/international/eng-about.html>. The Polish version of the mission statement reads:

“**Nasza misja**

Misją Krajowego Rejestru Długów jest ochrona przedsiębiorców przed niesolidnymi kontrahentami oraz świadczenie usług w oparciu o światowe standardy.”

³² <http://www.cerd.cz/>

³³ <http://www.youtube.com/watch?v=LeF7ykpRRc4>

customer looks ridiculous attempting to obtain a discount for no reason. Nogueira and Nogueira conclude by saying that if a client asks for a discount and the translator agrees, this is one thing:

But certain clients have a way of agreeing to a certain rate and then delaying payment for weeks or months. Do you realize that if the client agrees to pay on January 30 and pays on March 15 he has in fact extracted a forced 45 day loan from you? Borrowed money that he can use at will, instead of going to his bank, for the sole reason banks charge interest? In fact, if you price interest rates and all other applicable banking charges as well as the cost of reciprocity, you will see that late payers, no matter how they handle the matter, are extracting a hefty discount from you without permission.

This is an unfair practice, and a practice that is very difficult to deal with.³⁴

The authors go on to explain how delaying tactics often continue over a long period of time, a scenario all too familiar to many translators, or indeed anyone running a business, and that for this reason, translators should never stop looking for better clients, ones who pay punctually for punctual work – in other words, those with ethical business practices – and stop working for the unethical ones. It is therefore in the interest of customers to ensure prompt and full payment if they wish to retain their translators.

³⁴ Nogueira, D. and V., 2007: On the Matter of Discounts, *Translation Journal and the Author*, Volume 11, No. 1.

It is interesting and commendable that the Code of Professional Conduct and Business Practices of the American Translators Association (ATA), founded in 1959, also includes a section for employees or contractors of translators and/or interpreters. For instance, this Code states that there will be a written contract between the two parties and that the translators or interpreters will be informed in advance of what is expected of them.

The ATA Code of Professional Conduct and Business Practices also commits the employer or contractor to

“adhere to agreed terms, payment schedules, and agreed changes, and [...] not capriciously change job descriptions after work has begun”.³⁵

This is significant because clients do sometimes try to change the terms of payment after they have been agreed. For example, one customer retrospectively refused to pay me for certain sections of a book I had translated for him, telling me after receiving the translation that the German editor should have informed me that these sections did not need to be translated. It is the client’s or agency’s responsibility to inform the translator of what is required.

The same section of the ATA Code for employers or contractors also goes on to oblige them to deal directly with the translator or interpreter about any dispute and seek arbitration if the dispute cannot be solved otherwise.³⁶

³⁵ II. B.

³⁶ II. C.

Another salient point is that the Code stipulates that translators or interpreters will not be required to do unpaid work for the prospect of a paid assignment.³⁷ Most experienced translators would not agree to do this – apart from perhaps a short test translation for a potential new client – but some disreputable customers or agencies take advantage of less experienced translators to have large sections of text translated free of charge. This is of course extremely unethical, particularly since it is possible for them to put together sections translated for free by different translators, although this inevitably means inconsistencies in the text as a whole, and then not commission a paid translation at all.

A less extreme but also more common practice of people contracting translations is to move the deadlines backwards or forwards, often without acknowledging that translators have other customers and are normally working on several projects simultaneously, which can be beneficial because it gives the translator time to give careful consideration to translation difficulties and/or consult with colleagues and find solutions. It is unfair for a customer to send a text a month or two later than agreed and then pressurise the translator to do the job immediately, yet again this is a relatively common practice. In fact, it is not unheard of for three customers of one translator to do this at the same time. Like buses, translations tend to arrive late and then three at once. And even worse, when it comes to paying the invoice, the sense of urgency often mysteriously evaporates.

Another legal and ethical responsibility of clients towards their translators is to give them due credit for their work. In a compelling piece in the ITI bulletin about a campaign to

³⁷ II. D.

ensure publishers give due credit to translators for their work, Alison Quayle also includes some tips on how to write to publishers about this matter, advising people to consider mentioning the international conventions and charters on the subject of translators' rights, quoting, for example, from The Translator's Charter of the International Federation of Translators (FIT), for instance, that a translation is legally protected by intellectual property rights and that the translator's name "shall be mentioned clearly and unambiguously whenever his/her translation is used publicly".³⁸

As Quayle also quite rightly points out, again recommending that publishers' attention be drawn to this fact, the translator's name should be mentioned because "without his or her work the book would be inaccessible to English readers".³⁹ This is a point to be borne in mind by anyone commissioning or using a translation.

Conclusion

The thesis of John C. Maxwell's *There's No Such Thing as "Business" Ethics* is that asking the question, "How would I like to be treated in this situation?" is an integrity guideline for *any* situation. As Maxwell points out, "[t]here are really only two important points when it comes to ethics. The first is a standard to follow. The second is the will to follow it."⁴⁰

This also applies to the translation industry. Here, a crucial role is played by professional networks and associations, and their codes of conduct, in setting a standard to follow and helping ensure that the service provided by translators, editors and interpreters is

³⁸14. and 17. (a), www.fit-ift.org/en/charter.php

³⁹Quayle, A., 2006: Acknowledging the Translator, *ITI Bulletin* May-June 2006, 44.

⁴⁰Maxwell J. C., 2003: There's No Such Thing as "Business" Ethics, 23.

competent, reliable and based on fair dealing and the right ethical decisions. It is of equal importance for all translators or translation vendors or end customers who wish to keep their clients and/or translators to follow the professional standards set. As in any industry, it is the responsibility of all the stakeholders, individual translators and their colleagues, agencies and clients, to ensure that good and ethical business practices are maintained at all times.

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