

How to steal clients from agencies

Chris Poole 2015 v2

Don't steal. It is unethical.

If you are working for someone that you met through an agency then you are providing a service to the agency, not to that client. The relationship that the agency has with the client - which consists of the client having the awareness, and interest, and desire and the means to contact the agency when they have a language issue - are all things that the agency has created and maintained at their cost, through their sales and marketing activities.

They own that relationship. It is a thing that they own and a thing that cost them maybe a lot of money and they have to make that money back. They will seek a return on that investment. When they send you to do the work they are obtaining a return on their investment and you are helping them. Helping to increase the rewards for their sales and marketing efforts, encouraging them to do more of it, which will ultimately be to your benefit, as they are able to guarantee continuing work for you, and perhaps they offer it to you in preference to less loyal people!

To initiate direct dealings with that client is to attempt to enjoy the benefits of the agency's marketing investment, without incurring any of the costs yourself. Piggy-backing risk-free on the efforts of a risk-taker, and undermining the economic viability of the source of work for you and many other translators and interpreters.

All well and good. But on a number of occasions I have ended up working directly for clients who I first met by working through agencies. How do I justify this? Because I do.

The argument above is perfectly valid, but conflicts with other perfectly valid arguments, in particular the value of the free market.

You all enjoy this freedom when you are standing in the aisle at the supermarket and can freely decide to buy one product, to the commercial detriment of all the others right next to it. Or indeed you can walk out of the supermarket and go to a farmers' market. Cut out the middle man altogether! La force!

If that freedom is good there, then it is good everywhere, because it leads to the most efficient use of – what we are constantly reminded are – finite resources. Quite often the interests of the clients of translation and interpreting services will be far better served by working with the practitioner directly rather than go through an agency (for a variety of practical reasons related to the quality of the service which I won't detail here), in that they will obtain the most benefit from minimum consumption of resources.

This brings us to an ethical conflict: on the one hand we may see that honouring the relationship we have with the agency and respecting their proprietary rights to the relationship with client as the right thing to do. But on the other hand, there might be a

stronger ethical argument to NOT actively frustrate the attempts of someone to obtain the best value for money, who after all, are free to choose who they give it to. The damage to their interests might be also be difficult to ignore.

Then there are your commercial interests which must be taken into account. Anyone with the powers of reflection and ethical sensibilities to have read this far must remain financially viable for the sake of all future T&I clients!

But what would be the commercial consequences for you? Would you be better off taking the work directly? Is there so much work on offer from this one client that it is worth sacrificing further work from the agency?

You need to think about that. In some ways my business is an agency and our policy is quite clear. If any casuals start working directly for someone they met through us then we may not offer them work again.

I have made exceptions on a number of occasions, especially when it was our fault. It was our fault that we failed to spend the money necessary to maintain the relationship with the client, which is a very difficult thing to do, as people change jobs more often and corporate memories crumble like sandcastles accordingly. So I can hardly blame people for scooping up work from people who we let forget we exist!

In other cases though we have determined never to work with certain people again after they took over one of our clients simply by offering a cheaper price. We set up the opportunity for them to know exactly how much to offer to who – the most valuable thing in business - and they stole that advantage from us.

But we wish them no ill will. Not at all! That would be hypocritical for such strong supporters of free trade and competition as Chris Poole Translation!

Just the reverse in fact. I was influenced by something Ismail Akinci – owner of All Graduates – said once over lunch, they he doesn't mind the thought of his people competing with him, because it forces him to be thinking all the time of how to improve his business to the point where clients will always come to him first. What could he do that individuals can't do? What can he offer that is most appealing to the market. And we do our best at CPT to emulate this.

This is the magic of competition. It drives improvement and development of products and services in the minds of people who are threatened. From where else would improvement come? And Ismail *has* improved his business. All Graduates have certainly been one of the most successful and innovative suppliers of T&I services in Australia.

So how to negotiate this ethical landscape? How to not be unethical, to look after the people who look after us, and yet to allow buyers the freedom to reward you when you are the better choice?

Here's how I do it.

If you met a client doing paid work for an agency you *never* approach them or tout your services as an independent provider of T&I services.

If they approach you about working directly you must find out why they are doing this. If it is purely and simply to reduce their costs then decline and say “No please call the agency. They look after me and so I look after them.” End of story.

If on the other hand you are aware of, or if they are able to present, grounds for preferring to deal directly with you then you must consider how persuasive these grounds are. You need to be judge of that, for after all, as a professional translator you should be in the best position to judge whether the client’s interests are best served by this or that commercial arrangement.

If you find that these grounds are persuasive, you then have a variety of options. If you wish to preserve your relationship with the agency, and yet still help the client, then you go back to the agency and disclose everything:

“The client wants to deal direct because of this or that, so let’s work together to see if we can satisfy this requirement but with the work still going through you”.

If the agency responds positively to this, and works with you to develop a better product then it is a win-win for everyone. You definitely want to keep working with that agency. In their position I would definitely want to reward both your loyalty and creativity in bringing client feedback to assist in the improvement of our services. These are called “market signals” and are such valuable things for business. Money can’t buy them.

Perhaps the agency is not that interested in changing anything in response to this event, but still you want to look after them. You can perhaps negotiate with the agency that you take the work from the client directly but that you pay the agency a percentage.

For this to work you do have to have quite well developed business systems, record-keeping etc. and make sure you insert a sunset clause and don’t let them expect to receive a percentage on work that comes from third parties!

If they are not interested in working with you constructively on either of these options, and all they do is hold the ethics over your head and maybe the threat of no more work, well you might have to ask yourself the hard question. As far as I’m concerned if you are persuaded that the client would be better off dealing direct, in other words if they are dissatisfied with the agency on grounds other than price, then to simply decline is a cost to you, and the client, greater than can be justified by any ethical considerations, especially if the agency is so stupid not to reward your initiative by cooperating.

You could still preserve the interests of the agency by taking care to charge your new client at least as much if not more than the agency, to test whether in fact the client was after an increase in quality rather than just cost cutting. (As I offer significant discounts for agencies this has been the actual outcome for us on every occasion that we have taken a client on directly. We have taken the client over but we have been more expensive.)

There may be other events that change the ethical considerations, and one of those happened to me and may have happened to you to. You may have done some work for the agency, and the client was very happy and asked for you by name the next time, and the agency may not have given you this work nor even told you that such a request had been made.

Now there are very good reasons why an agency might reserve the right to send a different interpreter or give a job to a different translator notwithstanding the client's preference. But if none of those reasons apply then this rather frees you up. After all, what sort of business fails to reward people who have enhanced their reputation? The agency should at least explain why they failed to reward you for good work. (Again, you need to hear their side of the story before judging, because there may be perfectly good reasons). But an "agent" by definition is representing you to the market, in order to advance your interests as well as their own. If they deliberately prevent you from enjoying the rewards of your own good work, then all bets are off!

One obvious problem with this though is that it is very hard to find out it happened without contradicting the very first thing above: *"...never approach them..."*.

Ultimately if you decide to accept work directly from the client then it might be advisable to explain that you will only do it on the condition that they send a signed letter stating that:

- You did not approach them but rather that they approached you.
- In the first instance you referred them back to the agency
- They are unhappy dealing with the agency and setting out the reasons

Getting them to write down why they were unhappy with the service would also be extremely valuable information for anyone serious about continuing professional development. And it would be a useful document to have in your pocket if ever anyone accuses you of having behaved unethically.

Ultimately though, the strongest grounds for protecting the interests of your agency and remaining loyal to them are that they are not simply middlemen, but that they add value in the form of risk management – they pay you even if the client doesn't pay them.

This was a sharp lesson taught to me about thirty years ago by Natalie Manier after she caught me working directly for someone I met through her. We were in her office and she indicated an entire shelf of lever arch files saying "See that? Unpaid invoices, but we still paid you."

That helped me shape up.

So if you are going to call yourself an agency you better have money in the bank. And if an agency ever says to you "We can't pay you because the client hasn't paid us" well, the obligation to look after them is starting to look pretty flimsy.