No Conflict: Transparency and Morals

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Consider this scenario: You have been sick for some time, more debilitated by the month, and doctors are scratching their heads. Finally, in pain and exhausted, you find a specialist who figures it out. Your ailment is very serious, but the good news is that it can be treated with a new drug. The doctor writes a prescription, but as he hands it to you, he says: “Just so you know, the company that makes this drug also funds a research project of mine.”

This is a classic conflict-of-interest, and most people would applaud this physician for voluntarily disclosing his personal interest here. Indeed, many ethicists and policy makers argue for mandatory disclosure of conflicts—in medicine, but also in law, finance, politics, journalism and on and on. But does such disclosure have the desired effect? Think about the conflict just described. If you are the patient, how do you react to this disclosure? Do you automatically assume that the doctor’s medical advice is biased, tainted by self-interest? Are you suspicious of the doctor and his prescription? Do you challenge his integrity? Walk away untreated?

Or do you head to the pharmacy?

Many would head to the pharmacy, despite knowing of their doctor’s conflict. It’s hard to walk away from professional advice, and we often lack the time or money or energy to do so. Plus we don’t know how—if at all—this particular physician is being influenced by this particular conflict. In fact, considerable evidence suggests that mandatory disclosure can backfire, harming rather than helping the consumer. Consumers don’t act on such information, and advisors—feeling morally licensed by their righteous act—actually become more biased in dispensing advice.

Does that mean that mandatory disclosure of conflicts is a bad idea? Not necessarily, say psychological scientists Sunita Sah of Georgetown University and George Loewenstein of Carnegie Mellon University. In order to understand the perverse dynamics of mandatory disclosure, they say, it is important to distinguish between avoidable and unavoidable conflict. Consider a second scenario:

You are involved in a complex legal case, and have already spent a lot of money on legal fees. Now there is a settlement offer on the table, but your lawyer thinks it’s an unfair offer. She believes you could win in court, but a trial would be lengthy and expensive for you—and of course very profitable for your lawyer. What do you do with this advice? You’re paying her to offer legal counsel. Is that counsel necessarily biased and self-serving just because it’s financially advantageous to her?

This is a case of unavoidable conflict, whereas the medical case above is a case of avoidable conflict. The doctor made a choice to take funding from the drug company, which he could have turned down. The lawyer’s advice and personal profit are more difficult to disentangle. Sah and Loewenstein believe this makes a big difference in the dynamics of mandatory disclosure. Specifically, they believe that when conflict is avoidable, mandatory disclosure can be beneficial—but not in the way one might expect.

Here are the details of a couple studies they ran:

Not all conflicts of interest involve money, but many do, so the scientists used a paradigm based on financial conflict. They recruited volunteers to be advisors and advisees. The advisors saw a 30 x 30 grid of dots, and were told that 409 of the 900 dots were filled. The advisees needed to estimate the number of filled dots in the grid, but they only saw a tiny section of the grid. They knew, however, that the advisor knew the complete and exact answer. The advisees would earn money by estimating accurately, but the advisors could earn even more money if the advisees were inaccurate in their estimates. In other words, this simulated a common real-world situation in which a client gets advice from a better informed, but conflicted, professional.

Some advisors in the study knew that the payment arrangement would be revealed to clients—mandatory disclosure—while others knew it would remain secret. They dispensed advice to the advisees, who used this advice to make an estimate.

Disclosure backfired. Advisors who were required to disclose their conflict were much more likely to give biased advice, compared to those who did not disclose. And they made more money under mandatory disclosure, while their clients suffered financially. What’s more, advisees in the disclosure situation believed their advisors were less honest—and trusted their counsel less.

This does not make sense, which is why the scientists call it a perverse psychological dynamic. Shouldn’t disclosure make clients more trusting and lead to more honest advice. Apparently this is not the case when the conflict is unavoidable—as it was here. It appears that telling clients about such conflict does not deter them.

But what if the conflict is avoidable? The scientists ran a second experiment, exactly like the first except that some of the advisors had a choice of whether to accept or reject the conflict. That is, they could choose to benefit financially only if the client benefited, too. Or they could stick with the status quo, benefiting at the expense of the client. Again, some were subject to mandatory disclosure and others not.

The results, reported in a forthcoming issue of the journal *Psychological Science*, were intriguing. When the financial arrangement was not disclosed, most of the advisors chose the more lucrative, conflicted situation. But with mandatory disclosure, far fewer chose to put themselves in a conflicted situation. In other words, while disclosure may perversely influence consumers, it does appear to motivate advisors to avoid conflicts entirely.

Sah and Loewenstein asked the advisors about their motives for picking one reward structure over another. Most said they avoided conflicts, when they could, for ethical reasons. They were concerned about their reputations, and did not want to be seen as corrupt. So instead of counting on consumers to respond rationally to revealed conflicts, disclosure may work best when it influences those who are caught in the ethical bind.

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