

Norton Media Web Articles:

Positional and Mutual Gains negotiating (Part 2)

This article on commercial negotiation skills describes an approach to negotiation which might broadly be labeled “positional bargaining”. This is probably the most common form of commercial negotiation. The applicability of this approach reflects the author’s experience as a senior commercial negotiator, feedback from many of the executives that he has trained, as well as research.

Perhaps the best-known alternative to “positional bargaining” is “mutual gains negotiation”, described in the book “Getting to Yes” by Roger Fisher and William Ury of Harvard University. This approach is prevalent amongst many American corporations and increasingly in other countries as well. The merits and demerits of each approach will be the subject of subsequent articles on this site.

Introduction

My objective is to touch on the more important aspects of successful commercial negotiation. Inevitably I will be generalising, and most of us will be able to think of exceptions to some of the “rules”. Don’t get hung up on these exceptions – that might stop you giving due consideration to the important general principles! I will cover:

1. procedures e.g. a template for preparation
2. behavioural skills such as listening
3. attitude.

Of the three, attitude is the most important (despite having fewest words written about it).

Attitude

The attitude that you bring to your commercial negotiations will dictate outcomes to a very large extent. It is the foundation on which your negotiation outcomes are built. What successful negotiators need is an attitude of quiet but absolute determination to get the very best possible deal for their own side, every time. No compromise.

In case this is misunderstood, what I am not suggesting here is a lack of subtlety (quite the contrary); nor that we should employ overtly aggressive behaviour (rarely, if ever appropriate in commercial negotiation). What I am stating is that if you don’t have this attitude, my advice is to avoid important negotiations in case the other side does!

The negotiating task

Since the expression “win-win” has become popular (and widely misunderstood), what we are actually trying to achieve in commercial negotiation has become unclear to many. So, let me be clear:



a successful negotiator's sole objective is to gain all the money on the table by the use of all the power at his/her disposal.

Of course, in commercial negotiation, we often need to consider long-term relationships. And so the skill is in determining how much money is available to us without jeopardising our relationship with the other side, where this is relevant.

The MSP

How do we do this? Let me start my explanation by introducing the concept of maximum/minimum settlement points (MSP's). The definition of an MSP is

"the point at which an individual would rather not have a deal".

(Others might refer to "the walk-away point" or "reservation price".)

Estimating where the other side's MSP lies for each particular tradable is a matter of judgment.

(Note - In this article, money or price are most commonly the variables/tradables referred to, but the principles can be applied to any others e.g. delivery dates, payment terms, man hours.)

We make a judgment about the other side's MSP based on the evidence available to us in preparation, and then we test our assumptions during negotiation by asking questions and listening.

Our task in negotiation, then, is to come to agreement at the other side's MSP – by definition, the best deal we can get – as long as it is at a level that is acceptable to us.

We must also set our own MSP for each variable in advance of any negotiation. Why? Most importantly, by setting our own MSPs in the cold light of day – before the other side has had a chance to manipulate our minds – we ensure that we never do a disastrous deal. And the very process of thinking carefully about our MSPs means that we are more likely to take sensible decisions about where these MSPs should lie, rather than leaving it to superficial examination. Finally, agreeing MSPs with our line manager, where appropriate, gives them (or us, if that is our role) a high degree of control over outcomes. This can be good news not only for the organisation, but also for the negotiator, who knows that his boss is OK about what's being agreed.

Remember that an MSP is not a goal (this will be much higher or lower), it is a safety net. Our own MSP is not where we want to end up, but it is a point at which we would rather do the deal (just) than walk away.

Preparation

The amount and quality of preparation has a very significant impact on outcomes. Excellent preparation can give us a huge advantage particularly if the other side has not prepared well (and this is highly likely!)

The amount of time that we should dedicate to preparation will obviously depend on the value/importance of the negotiation. For more important negotiations, I suggest the following approach.

1. Understand the environment in which you are negotiating, perhaps by conducting a PEST (political/economic/social/technological trends) analysis. (The process of conducting such analysis is likely to lead to more profitable outcomes by flushing out issues that have not previously been considered. For example, you might anticipate changes in technology that will take place during the lifetime of the contract that need to be taken into account in the substance of that contract.

Furthermore, the analysis might sensibly affect the way that you negotiate.)

2. Make sure you understand higher strategies e.g. group, corporate, divisional, departmental, project strategies. Any deal that we do needs to be in line with these strategies.

3. Gather relevant information e.g. on their industry, their company, your competitors, their competitors, other suppliers/ customers, them as individuals, previous contracts, market data, sales data – the list of possible useful information is likely to be long.

4. Then commence detailed planning:

- List variables i.e. the things we are negotiating, prioritise them, set MSPs for them, and calculate the value of each (it's important to know where the "money" lies in a contract, though not always obvious).
- Then do the same for the other side. (Obviously we need to make assumptions to do this.) Try to spot variables that are high on your priority list but low on theirs – you shouldn't pay much for these; and variables that are high on their priority list but low on yours – make sure you get plenty in return for these!
- Set your goal for each variable.
- Conduct a strengths-and-weaknesses analysis of yourself and the other side. You'll then be in a position to exploit your strengths and their weaknesses.
- Consider what your attitude and behaviour should be during the negotiation.
- Anticipate their attitude and behaviour.
- Decide where you should meet and who should be involved on your team (and find out who's going to be on their team).

Of course, there is more that we can do to prepare well. In particular, there are many "what-if" scenarios that we should consider - preparation is about cutting out surprises. But this will do for now and we've probably covered the more important aspects.

Talking and listening

In negotiation, talk less, listen more. When you are talking, you are giving away information, and information is power. What we should be doing is asking good, succinct questions and then listening carefully to what the other side is saying to us.

This advice can be particularly difficult for salesmen to follow. Their skills include persuading others to buy their product through talking. There comes a point in every commercial interaction when the selling stops and the negotiation starts. Negotiation is a completely different activity to selling, requiring different behaviour.

Much to most people's surprise, persuasion hardly comes into it. Negotiation is more to do with threat and emotion. I should add straight away that threats are often implied rather than overt. The most common form of threat is that you will not come to an agreement with the other side. They know this and may not need reminding of it. Even when a threat is overt it is usually best delivered obliquely e.g. "I was talking to your main competitor X yesterday, and they can give us what we want at a lower price. However we would rather continue the relationship with you."

There are a number of other legitimate reasons for negotiators to talk – for example, making the other side well-disposed towards us. We want them to like us. Also, we need to provide enough information to allow others to give us what we want. But try to talk as little as possible in achieving these ends.

Successful negotiation is more to do with excellent listening skills. Recognise the difference between hearing (an aural impulse) and listening (an intellectual process.) To listen well:

do

- sit up straight and concentrate
- make (non-threatening) eye contact with the speaker
- expect to be interested
- listen for the words behind the words – what's he/she really saying

don't

- allow yourself to be distracted by other thoughts
- interrupt
- jump to conclusions before the speaker has finished
- dismiss what's being said as being irrelevant or uninteresting.

Bargaining

For many, bargaining is the essence of negotiation. Certainly, it's critical to get it right. Here are the main guiding principles.

- Somebody has to open but try to make sure it's not you! The first proposal gives huge clues about where the proposer will settle. It tends to make the negotiators focus on that person's MSP and the negotiation heads toward it. We want the MSP that we are heading towards to be the other side's, not our own. If you do have to open, open as boldly as you can whilst maintaining credibility.
- Once opening positions have been established, there then follows a period of demands and concessions. **Never** give anything away for free – always demand something in return. Giving things for free does not create goodwill, it simply makes the other side hungry for more free things. Always state the condition first: "If you give me X, then I will give you Y".
- Try to get the other side to make concessions before you have even made your initial proposal, or at least, moved from it. Then, move in small amounts, infrequently. It's not rocket science to understand the effect of this if the other side is moving in larger amounts, more frequently!

Concessions

In the bargaining phase, it's a common failing to ignore the other party's perceptions – to offer concessions without considering what their value is to the other party. This might well lead to us giving concessions too cheaply or paying too much for the things we want. Ask yourself three questions before trading a concession:

1. What is the concession worth to the other party?
2. What does it cost me?
3. What do I want in exchange?

Closing

When to close is one of the big problems facing a serious negotiator. After you've closed, you will never know if you could have got more. Deciding when to close comes down to judgment. Ensure that your closing has credibility, both in terms of when you do it, and in terms of how you do it. Don't try it on when you know there's no chance that other party will close at this point. It dents your credibility and causes resentment.

After closing, make sure someone summarises what's been agreed. Often each side has a different understanding about what's been "agreed"! It's better to address the issue at this point, rather than have to come back to the negotiating table at a later date.

The pen

Finally, when it comes to confirming the agreement in writing, it's an advantage to be the one "holding the pen". There's often a degree of interpretation involved in some parts of an agreement – make sure it's your interpretation that goes into the written contract!

Power

What on earth do you do when your assessment of the division of (real) power for a negotiation tells you that the other side has more power than you do? Do you just do the best you can, but accept your fate? As successful negotiators, of course we don't! We turn to the application of psychological power.

"Real" power comes from advantages that actually exist. There are many sources of real power and we assess it by conducting a strengths-and-weaknesses exercise for ourselves and the other party, as referred to above. Real power boils down to the questions:

- How much do I want/need this deal?
- How much does the other party want/need this deal?

The party that wants/needs it more has less power.

Let's now consider two examples of how psychological power might be applied.

1. Alternatives

The best way to go into a negotiation is with several alternative suppliers/customers up your sleeve. This gives you real power.

But what if there are no alternatives? Well, the next best thing is to make the other party **think** that you have alternatives. Obviously, this will have an impact on where the other person is prepared to settle.

2. Intransigence

Imagine that you have moved to a point that is your MSP on a particular issue – in other words, you cannot move further. At some stage, the other negotiator will understand this and, as long as it is within his/her range of acceptable outcomes, should settle at this point.

Alternatively, imagine a situation where you have reached a point at which, in reality, you have still got plenty of room to move on a particular issue. You have the option of making the other negotiator **think** that you cannot/will not move further. The effect is the same as in the former "real" situation.

Psychological Power

In both cases above, what we have done is to apply psychological power. By our behaviour, we have influenced what the other side thinks our real position to be - to our own benefit.