

Norton Media Web Articles:

## “Positional bargaining” vs. “Mutual gains” (Part 3)

### Introduction

This is the third in a series of articles that seek to answer the question: which is the better approach to commercial negotiation - “positional bargaining” or “win-win/mutual gains”? In this article, I will compare the defining characteristics of each code and give you my view as to which is best.

### Skill required!

When you listen to most commentators on the issue, you would think that the two approaches have nothing whatsoever in common. Proponents of “mutual gains” are particularly derisory about negotiators who employ “positional” methods, often painting them as myopic, anachronistic and unintelligent. In fact, there is a great deal of overlap between the two codes - a great deal of similar methodology when the codes are practiced with *skill*. Here’s the rub. So often we see the results of negotiators acting incompetently being quoted as evidence that *the approach* is at fault.

To state the obvious, neither approach is going to work when applied without skill. I have heard many negotiators use “win-win” as a rationale for a poor outcome. In fact, it was incompetence and a lack of courage that led to the result rather than a considered decision to close at a point that would ensure both sides left happy! And I have lost count of the number of times that I have come up against negotiators for whom the only mode is overtly aggressive, offensive and a ridiculous opening position. (When these people come up against skilled negotiators, they tend to lose their shirts and never know it.)

Successful negotiation is a subtle art that requires intelligence, perception, patience, courage, a cool head and quiet determination...whichever approach is being adopted.

Let’s now examine the methodology overlap between the two codes and focus on the main differences. To do so, firstly I will refer to the headings and sub-headings used by the Consensus Building Institute to describe the “mutual gains” approach.

### Prepare

(As a general point, both codes emphasize the critical importance of preparation.)

- *Clarify your mandate and define your team.*

Both codes would recommend this.

- *Estimate your Best Alternative to a Negotiated Agreement (BATNA) and theirs.*
- *Improve your BATNA if possible*

BATNA is a term that was probably created by “mutual gains” proponents, and I think the focus on the concept is very helpful. However, the concept itself is one that all successful negotiators would be familiar with anyway. Going in to a negotiation with the best alternatives lined up gives us great power. And understanding theirs allows us to know what we have to compete with.

BATNA's also define our walk-away points/reserve prices. It is critical to know where our walk-away point lies and to estimate theirs (this is more of a “positional” emphasis) and so the BATNA concept is helpful in this respect also.

And of course, by “improving your BATNA”, we are discovering where the best deal lies – always to be recommended!

- *Know your interests*
- *Think about their interests*

“Mutual gains” emphasizes the need to look behind our own and other people’s positions to understand what our/their interests really are so that (1) we can then work to satisfy these interests (2) we can apply solutions that might not be obvious if we just consider positions. This emphasis is good negotiation methodology and the practice should be alive and well within any approach.

- *Prepare to suggest mutually beneficial options*

This brings us to an important difference relating to the definition of “negotiation” covered in the next section “Create Value”.

## Create Value

- *Generate options and packages that “make the pie larger”*
- *Explore interests on both sides*
- *Suspend criticism*
- *Invent without committing*
- *Use neutrals to improve communication*

As commercial managers and negotiators, we should understand that it is always our responsibility to look for ways to make “pies” larger. Larger “pies” can be beneficial in two ways. Firstly, obviously, our own organisation would benefit by taking all or some of the increase in the value of the “pie”. Secondly, if the supplier/customer receives some or all of the increase in value, then that supplier/customer feels well disposed towards us, often breeding loyalty and other positive reactions. It will give us a competitive advantage over those who do not make the “pie” larger.

The main issue for me is when and by whom the “creating value” work is done. Whilst we should always seek larger “pies” during negotiation, however narrowly defined, the behaviours involved in successful value-creating exercises are completely different to those required for successful negotiation. Value-creating exercises require us to “let go”, to be highly creative through flights of imagination. Negotiation requires us to be completely in control (of ourselves at least) and to be determined to get the very best possible deal for our own team. There are other states of mind and modes of behaviour that apply respectively to the two disciplines and they are mostly mutually exclusive. And so, to mix up creating-value exercises with negotiation can lead to a lack of success in one or both areas, sometimes with disastrous consequences.

In addition to the matter of the timing of the two activities, we need to consider carefully the issue of who from our organization should be involved in each activity. Are the brilliantly-creative and technically-excellent product and process development managers really the best people to negotiate the contract, and vice-versa?

## Giving information

This is probably the best point at which to bring up the difficult and important issue of provision of information to the other side. “Positionals” tend to give less information, and “mutual gainers” more. “Positionals” believe that information is power and so the less you say, the less you give away. “Mutual gainers” are inclined to provide as much information as possible, hopefully without damaging their cause too much, because it breeds trust, encourages speedier agreements and allows the other side to give them what they want.

I am afraid that for me the reasoning on both sides is sound. How much information we should provide is simply a matter of judgment. The question we have to ask ourselves is “Do the advantages of providing this bit of information outweigh the disadvantages?” And of course this question needs to be asked during creating-value exercises as well as during negotiation because there can be no effective communication barrier between the two.

## Distribute Value

- Behave in ways that build trust

Negotiators should always do this if a long-term relationship is involved or if the organisation’s reputation is at stake. There are many ways of building trust and most of them can be employed whichever style of negotiation is used. We can all build trust, for example, by actually sticking to the terms of an agreement once it is in place, or by working hard to provide maximum value to the other side within the terms of an agreement – perhaps by maximising mutual sales volume.

In this area though, the “mutual gains” lobby would say that “positional bargainers” destroy trust by their approach to bargaining i.e. opening high/low, appearing to be intransigent but shifting their position towards agreement. My experience suggests that, in most commercial situations, trust is not necessarily damaged by such behaviour. It all depends on *how* it is done – on the level of skill of the negotiator. Most people in negotiation expect some positional bargaining behaviour and will not necessarily lose trust in you if, for example, your answer to a question such as “What’s the best price you can give me?” turns out not to be entirely honest! (If it was, there would be no negotiation.)

- *Discuss standards or criteria for “dividing” the pie*
- *Use neutrals to suggest possible distributions*

So, what is being suggested here is that we do not use our skills to bargain for the deal that we think will be best for our own organisation, but instead that we employ objective criteria e.g. market rates, or that we ask a neutral third party to make such decisions for us. This is where I have my biggest disagreement with the “mutual gains” approach.

First of all, I should state that, occasionally, when I have found myself in a very weak position in a negotiation and heading for a deal that I think can be improved upon by so doing, I have proposed the above approach. To back up my case I have even appealed to the other side’s sense of fairness. This has often been a successful strategy from my point of view. But please note my reason for employing it!

However, unless you find yourself in this sort of weak position, I would suggest that by agreeing to divide the value of the contract in this way will lead you to agree many commercially sub-optimal deals. So often, “market rates” do not apply - there are factors involved which mean that this is not a “standard” transaction. Imagine agreeing to buy a house at the “market rate” without testing the vendor’s resolve on price. You subsequently find out that the vendor was moving to a job overseas within the month and that, as a result, she would have accepted £10,000 less for a quick sale. This might make you feel like a nicer person and you have every right to pay £10,000 more than you could have done...as long as it is your own money. However, as executives, we are usually paying with our employer’s money and in this situation we have a responsibility to get the best possible deal for our own organisation.

- *Design nearly self-enforcing agreements*

Very sensible, whichever code we are following.

## Follow through

- *Agree on monitoring arrangements*
- *Make it easy to live up to commitments*
- *Align organizational incentives and controls*
- *Keep working to improve relationships*
- *Agree to use neutrals to resolve disagreements*

All very sensible, whichever code we are following.

### “The very best possible deal for our own team”

On a number of occasions in this article I refer to “the very best possible deal for our own team”, or similar. I think it is worth clarifying what I mean by this because it will throw up an issue which is at the heart of the “positional” vs. “mutual gains” debate.

What the expression is **not** intended to mean is the outcome which squeezes every last drop out of “the opposition”, using every ploy we can think of, on this one deal, thereby maximizing short-term profit for ourselves but leaving a legacy of resentment that will come back to haunt us. (Although if it’s a one-off negotiation, this might be the appropriate strategy!) No, in commercial negotiation, it is likely that we have to consider the long-term profitability of our relationships. The negotiator’s task therefore is to understand how much value we can take from a particular deal, without jeopardising the future relationship.

The fundamental, and complex, issue that this highlights is “short-termism” versus “long-termism”, and, in my view, much of the debate between proponents of the two codes boils down to this. Which way one votes on this should depend on several aspects of the particular case under consideration i.e. there is no *one* answer.

## Conclusion

In conclusion, for me, most of the differences between the two approaches are simply matters of emphasis and “positionals” have a lot to learn from “mutual gainers” and vice-versa. The essential difference though relates to how we divide the “pie”. I believe that, in most instances, the positional approach wins, but it must be applied with skill and with an eye to the long-term relationship, where this is relevant. Here again, the development of “mutual gains” has been hugely beneficial by making us all think more carefully about the effect that negotiation can have on relationships.

## Implications for negotiators

There is absolutely no question in my mind that negotiators, particularly those negotiating higher-value contracts, need to be trained in both “positional” and “mutual gains” techniques. As previously stated, proponents of both codes have a lot to learn from each other i.e. we would all be more successful commercial negotiators by having a deep understanding of both approaches.

Furthermore, by being skilled practitioners of both codes, we are then in a position to choose the approach, or “mix”, that is **appropriate** for specific negotiations. Contrary to the views of many writers and trainers in the field of negotiation, when it comes to the appropriate style of negotiation, one size does not fit all.

Despite my clear view about bargaining expressed above, I do recognize that there are times when it is appropriate to employ the “mutual gains” approach to this phase. Incidentally, in some instances, this might be because of company policy or simply the boss’ orders. By all means try to change the policy if you disagree with it, but until then, you’ll need to have the appropriate skills...or you’ll need to get another job!

## **Post-script**

Discussion of “positional” vs. “mutual gains” often includes the issues of morality and business ethics, even political correctness - more in some countries than others! This is a complex area and, of course, there is no right or wrong, just opinions. Such debate can get quite academic and so I have not really alluded to it in this article that I hope concentrates on the practical. However, I know from many of my students that it is an area of relevance and sometimes of great concern. Therefore I will be coming back to it with a future article.