

Negotiation Skills

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Sources and Resources

2

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Part One: Three Basic Concepts

4

Best Alternative to a Negotiated Agreement (BATNA), Reservation Point, and Bargaining Zone

Successful Negotiations Require Preparation

5

- Harvard Business School Professors Malhotra and Bazerman have concluded that most negotiation mistakes can be blamed on the negotiators' failure to plan
- They offer five planning steps:
 - 1. Assess your BATNA
 - 2. Calculate your reservation price
 - 3. Assess the other party's BATNA
 - 4. Calculate the other party's reservation price
 - 5. Evaluate the bargaining zone

Best Alternative to a Negotiated Agreement - BATNA

6

- Your BATNA is the course of action you will follow if you cannot negotiate an agreement - it is the reality you will face if you do not reach a deal in the current negotiation
- All parties to a negotiation will have a BATNA
- You should never negotiate without knowing your BATNA and without estimating the other party's BATNA

What Your BATNA Is and Is Not

7

- Do not confuse your BATNA with other negotiation elements
 - Your BATNA is *not* what you think is a fair result
 - Your BATNA is *not* your target
- Your BATNA *is* your best alternative if the negotiation fails

Why BATNA Matters

8

- You will use your BATNA to determine your *reservation price*, also known as your *indifference point* or “walk-away” point
- Your BATNA also will influence your bargaining power
- - Strong BATNA = strong bargaining power
 - Weak BATNA = weak bargaining power

Determining Your BATNA

9

- 1. Identify all of your reasonable alternatives to the negotiation you are considering
- 2. Estimate the value associated with each alternative
- 3. Select the best alternative - this is your BATNA

Reservation Price

10

- Your reservation price is your “walk away” point in a negotiation
- If the other side offers you value equal to your reservation price, you are indifferent between that value and your BATNA’s value
- If you accept an offer below your reservation price, you have made yourself worse off than you would have been by pursuing your BATNA

Determining Your Reservation Price

11

- You look to your BATNA to determine your reservation price
- Sometimes your BATNA and your reservation price are the same
 - For example, if you will negotiate with A to buy a car and B has an identical car for sale at the same time and place, your BATNA will be the price you expect to pay for B's car
- But usually your BATNA and your reservation price are different

Reservation Price Example - 2001 Volvo

12

Dealer's 2001 Volvo

- Sedan
- Automatic transmission
- 28,000 miles
- \$26,000
- 90-day warranty

Neighbor's 2001 Volvo

- Station wagon
- Standard transmission
- 53,000 miles
- \$18,000
- No warranty

Reservation Price Example - 2001 Volvo

13

Dealer's Volvo

- Price: \$26,000

Neighbor's Volvo

- Price: \$18,000
- Add \$4,000 for higher mileage
- Add \$1,000 for no warranty
- Subtract \$500 for standard transmission (which you prefer)
- Reservation Price is \$22,500

Reservation Price Example - Hockey Player

14

- Assume NHL player Shevchenko is a free agent who wants to negotiate with another NHL team
- A KHL team has offered him \$5 million for one season
- Thus, \$5 million is his BATNA in his NHL team negotiations
- Now, he must make adjustments (+ or -) to his BATNA to set his reservation price

Determining Shevchenko's Reservation Price

15

Interests

- Wants to play in the NHL
- Loves Winnipeg
- Family is in Ukraine
- Girlfriend is in Winnipeg
- KHL team has a weaker coach
- Worried about timely payment from the KHL team

KHL Offer (BATNA) Adjustments

- - \$1 million
- - \$200,000
- + \$500,000
- - \$500,000
- - \$200,000
- - \$200,000
- Reservation Price: \$5 million - (minus) \$1.6 million = \$3.4 million

Reservation Price Example - NHL Team

16

- Assume the NHL team that is negotiating with Shevchenko has decided that its BATNA is signing free agent Kozmenko
- Kozmenko's likely salary will be between \$5 and \$6 million
- Thus, the NHL team's BATNA will be \$5.5 million, the mid-point between \$5 and \$6 million
- Its reservation price will be \$5.5 million/ + or - adjustments

Determining the NHL Team's Reservation Price

17

Considerations

- Shevchenko likely to score 8 more goals than Kozmenko
- Shevchenko not as popular in city as Kozmenko
- Hiring Shevchenko would mean giving up four 1st round draft picks

Kozmenko (BATNA) Adjustments

- + \$1 million
- - \$100,000
- - \$2 million
- Reservation Price: \$5.5 million - \$900,00 = \$4.1 million

Shevchenko's and NHL Team's Bargaining Zone

18

- In a one-issue negotiation, such as a negotiation over price, the bargaining zone is the difference between the seller's reservation price and the buyer's reservation price
- In the negotiation between Shevchenko (seller) and the NHL team (buyer) the bargaining zone would be the space between Shevchenko's reservation price (\$3.4 million) and the NHL team's reservation price (\$4.1 million)

Shevchenko and NHL Team's Bargain Zone

19

- Shevchenko's RP
 - \$3.4 million

NHL's RP
\$4.1 million

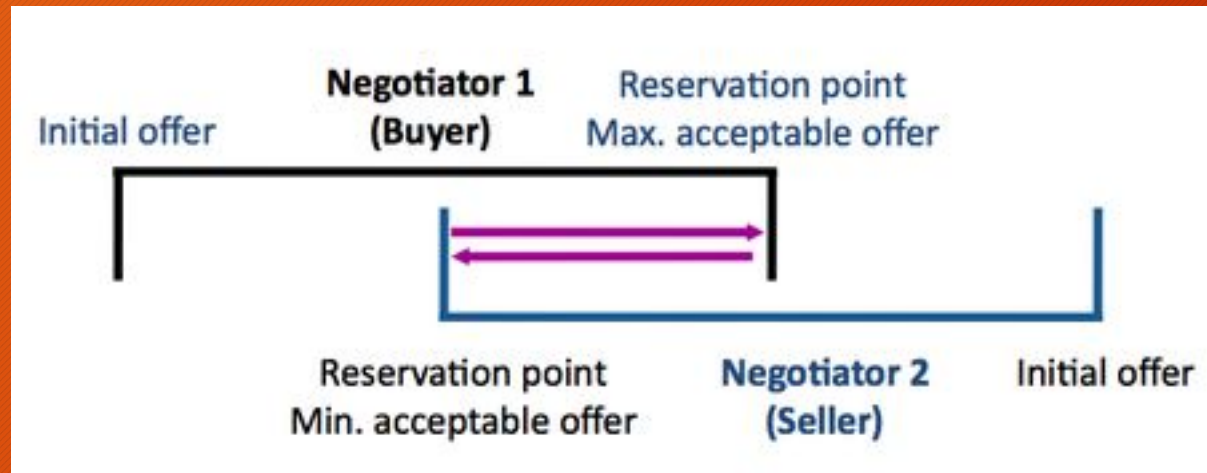


• Bargaining Zone

The diagram consists of a horizontal line. Above the left end of the line is the text 'Shevchenko's RP' with a sub-bullet '\$3.4 million'. Above the right end of the line is the text 'NHL's RP' with '\$4.1 million' below it. Two vertical double-headed arrows are positioned above the line, one near each end. Two diagonal arrows point from the text 'Bargaining Zone' to the line, one pointing to the left end and one pointing to the right end.

The Bargaining Zone or Zone of Possible Agreement

20



- Best Alternative to a Negotiated Agreement (BATNA)
 - Your BATNA is the best option you will have if your negotiation fails
- Reservation Price (RP)
 - Your RP is based on your BATNA's value, plus or minus adjustments based on your BATNA's value relative to the value of the object of your negotiation
 - Your RP is your indifference point, also known as your “walk-away” point
- Bargaining Zone or Zone of Possible Agreement (ZOPA)
 - The bargaining zone is the space between each party's RP

Basic Preparation - Your BATNA

22

- Determine your BATNA
- Nurture your BATNA
- Be imaginative; consider all of your possible alternatives before selecting your best alternative
- Your BATNA influences your bargaining power
- Strive to continuously improve your BATNA

Basic Preparation - Determine Your RP

23

- Rarely will your BATNA and reservation price be equal
- Most often, you will have to make adjustments to your BATNA by placing values on the differences between your BATNA and the object of your negotiation
- Be fair to yourself when you assign values to the differences between your BATNA and the object of your negotiation
- If you do not properly value your interests, your RP or “walk away” point will be inaccurate

Basic Preparation - Estimate the Other Side's BATNA

24

- If the other party is a skilled negotiator, he or she will have determined his or her BATNA
- Put yourself in the other party's shoes - Ask yourself, "What would be your BATNA if you were the other party?"
- Investigate the strengths and weaknesses of the other party's probable BATNA
- Determine ways to convince the other party that he or she has over-valued his or her BATNA

Basic Preparation - Estimate the Other Party's RP

25

- You know your reservation price
- You now must estimate the adjustments the other party probably made to his or her BATNA to determine his or her reservation price
- The other party's reservation price will determine how much you might have to pay if you are the buyer and how little you might receive if you are the seller

Basic Preparation - Evaluate the Bargaining Zone

26

- The bargaining zone contains all of the possible points of agreement between you and the other party
- Knowing the bargaining zone can help you decide what your first offer should be
- Knowing the bargaining zone, however, does not reveal where a deal will be struck, if a deal is reached
- Your task is to claim as much value within the bargaining zone as is possible

Part Two - Negotiating Styles

27

Kinds of Negotiation

28

Distributive

- In a distributive negotiation, the parties compete over a fixed sum of value
- A gain for one side is a loss for the other side; thus, distributive negotiation produces “win/lose” outcomes

Integrative

- In an integrative negotiation, the parties cooperate to gain the maximum benefit for both sides
- Integrative negotiation involves creating value and claiming it

Characteristics of Distributive Negotiation

29

- Pure distributive negotiation is called *positional* negotiation or “haggling”
- In positional negotiations, the parties successively take—then give up—a sequence of positions
- Positional negotiating tends to lock parties into their positions
- As more attention is paid to positions, less attention is devoted to meeting the parties underlying concerns
- As one party forces its will on the other party, anger and resentment can result

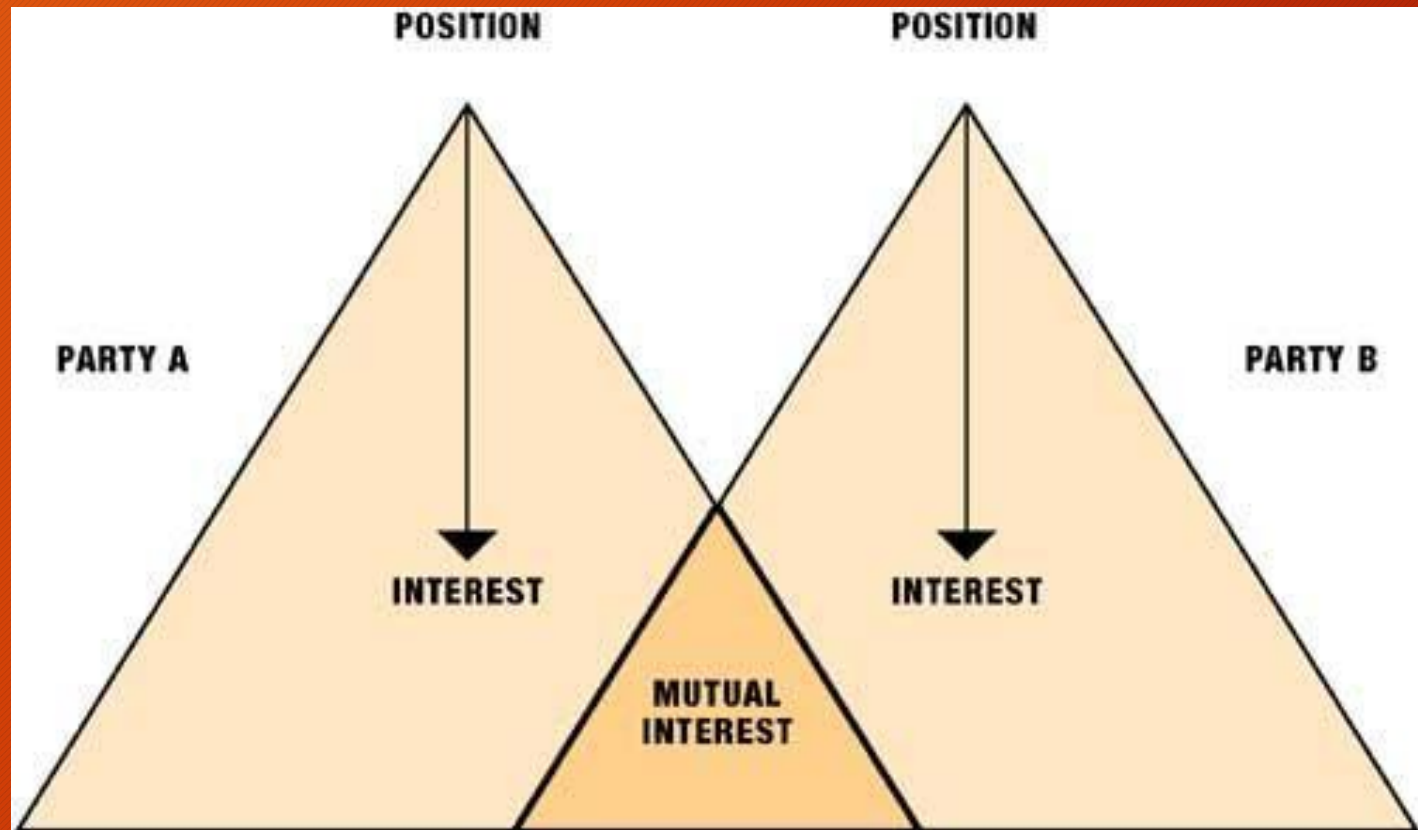
Positional Negotiating Focuses on the Iceberg's Tip

30



Integrative Negotiating Focuses on Interests

31



Part Two [A] - Claiming Value

32

A Quick Look at Distributive Negotiation

Should You Make the First Offer?

33

- It depends
- First offers are psychologically powerful because they set the negotiation's reference point
- But they require information –
 - If you set the first offer too high, the other party might walk away or respond with an excessive counter-offer
 - If you set the first offer too low, you have already lost part of the bargaining zone

Making First Offers

34

- Keep the entire bargaining zone in play
- Justify your offer
- In other words, make the most aggressive offer that you can justify
- But keep your relationship with the other party in mind

Responding To First Offers

35

- If the other party makes the first offer, you will be vulnerable to its “anchoring” effect
- Thus, ignore it, change the subject
- If you cannot ignore it or change the subject, offset it with an aggressive counteroffer and then suggest that you need to work together to bridge the gap

“Haggling” Strategies

36

- Focus on the other party's BATNA and RP - Keep in mind the value you are bringing to the other party
- Avoid unilateral concessions
- Be comfortable with silence
- Label your concessions
- Be specific about what you want in return
- Make contingent concessions
- If the other side makes an offer you love, don't accept it immediately - if you do, the other side is likely to be regretful

Part Two [B] - Integrative (Principled) Negotiation

37

Creating, then Claiming, Value

Getting To Yes - Principled Negotiation

38

- **People:** Separate the people from the problem.
- **Interests:** Focus on interests, not positions.
- **Options:** Generate a variety of possibilities before deciding what to do.
- **Criteria:** Insist that the result be based on some objective standard.

Principled Negotiation Focuses on Interests

39

- Principled negotiation seeks to reconcile interests, not positions
 - Identify each side's interests
 - Put yourself in the other side's shoes
 - Make your interests come alive—be specific
 - Acknowledge the other side's interests
 - State the problem before stating your answer
 - Look forward, not back
 - Be hard on the problem and soft on the people

Principled Negotiation Seeks Mutual Gain

40

- The assumption of the fixed pie is rarely true
 - Both sides can always be worse off, and the possibility of a joint gain almost always exists
- Identify shared interests
 - Shared interests are present, though not always obvious
 - Shared interests are opportunities, but you have to make something of them
 - Stressing shared interests can make the negotiation smoother and more amicable

Mutual Gains Can Be Found in Differences

41

- Differences can lead to a solution
- Differences make it possible for an item to be of high benefit to you, yet low in cost to the other side
- Differences can be about
 - Beliefs
 - Values placed on time
 - Forecasts
 - Aversion to risk
 - Preferences

Create Value Through Trades

42

- Negotiating parties can improve their positions by trading the values at their disposal
- This usually takes the form of each party getting something it wants in return for something it values much less
- By trading these values, the parties lose little but gain greatly

Creating Value Through Trades - Example

43

- For the supplier, the greater value might take the form of an extended delivery period
- For the customer, having deliveries spread out during the month might not have great consequence, but for a supplier with strained production facilities, it might be very important

Creating Value Through Trades

44

- For a customer, greater value at low cost might take the form of three months of free repair services if needed
- For a seller who has great confidence that its products will need no repairs during the period, free service is inconsequential
 - In providing the free repair service, the seller incurs little cost, even though the customer values the repair service highly

Putting Yourself in the Other Party's Position

45

- Seek to make the other side's decision easy
- Few things facilitate a decision as much as precedent; look for it
- Make the decision look like the right thing to do in terms of being fair, legal, honorable, and so forth
- Consider the consequences for the other side; suggest a defense to the criticism it is likely to receive

Principled Negotiation Focuses on Principles

46

- Commit yourself to reaching a solution based on principle, not pressure
- The more you bring standards of fairness, efficiency, or scientific merit to bear on your particular problem, the more likely you are to reach an agreement that is wise and fair
- It is far easier to deal with people when both of you are discussing objective standards for settling a problem instead of trying to force each other to back down

Principled Negotiation Favors Objective Criteria

47

- Objective criteria need to be independent of each side's will
- Objective criteria should apply, at least in theory, to both sides
- To produce an outcome independent of will, you can use either *fair standards* for the substantive questions or *fair procedures* for resolving the conflicting interests

Examples of Objective Procedures

48

- “One cuts, the other chooses”
- Taking turns
- Drawing lots
- Flipping a coin
- “Last-best-offer arbitration” - The arbitrator must choose between the last offer made by one side and the last offer made by the other

Part Three - Active Listening

49

Skilled Negotiators Listen - Tips for Listening

50

- Keep your eyes on the speaker
- Take notes as appropriate
- Don't allow yourself to think about anything but what the speaker is saying
- Resist the urge to formulate your response until after the speaker has finished

Skilled Negotiators Listen - Tips for Listening

51

- Pay attention to the speaker's body language
- Ask questions to get more information and to encourage the speaker to continue
- Repeat in your own words what you have heard to ensure you understand and to let the speaker know that you have processed his or her words

Part Four - Tactics for Integrative Negotiation

52

Integrative Negotiation Tactics - Getting Started

53

- Don't start with the numbers
- Instead, talk and listen
- Frame the task positively, as a joint enterprise from which both sides should expect to benefit
- Emphasize your openness to the other side's interests and concerns

Set the Process

54

- Start with the agenda, making sure there is a common understanding about it
- Then, explicitly discuss the process
- Listen; make process adjustments as are appropriate

Ask Questions - Probe - Investigate

55

- Don't make a proposal too quickly; a premature offer won't benefit from information gleaned during the negotiation process itself
- Ask open-ended questions about the other side's needs, interests, concerns, and goals
- Probe the other side's willingness to trade off one thing for another

Ask “Why” Questions - Listen - Use the Answers

56

- Inquire about the other side’s underlying interests by asking why certain conditions—for example, a particular delivery date—are important
- Listen closely to the other side’s responses without jumping in to cross-examine, correct, or object
- Be an active listener; the more the other side talks, the more information you are likely to get

Build Trust

57

- Express empathy for the other side's perspective, needs, and interests
- Adjust your assumptions based on what you have learned
- Be forthcoming about your own business needs, interests, and concerns
- Work to create a two-way exchange of information

Build the Relationship

58

- Continue your relationship-building efforts even after the negotiation has begun; show empathy, respect, and courtesy throughout the proceedings
- Refrain from personal attacks; don't accuse or blame
- When an issue seems to make another negotiator tense, acknowledge the thorniness of the issue
- Don't feel pressured to close a deal quickly

Take Your Time

59

- Don't be tempted to close the deal too quickly
- Search for mutually beneficial options
- Move from particular issues to the general description of the problem and then back to the particular
- Consider brainstorming with the other side
 - Be careful not to criticize or express disapproval of any suggestion

Plan to Continue To Evaluate and Plan

60

- Complex deals should caution negotiators to give less attention to pre-negotiation preparation and more attention to “planning to learn”
- Learning must be ongoing
- Take small steps, gathering better information as you proceed
- Continually learn, and use this learning to adjust and readjust your course as you move forward

Part Five - First Offers

61

First Offers Set the “Anchor”

62

- “Anchoring” is an attempt to establish a reference point around which negotiations will make adjustments
- The first offer can become a strong psychological anchor: It becomes the reference point of subsequent pulling and pushing by the participants

First Offer Risks

63

- First, if you are too aggressive, the other side might conclude it will be impossible to make a deal with you
- Second, if you have made an erroneous estimate of the other side's reservation price, your offer will be outside the bargaining zone
 - Have a line of reasoning available to shift in case either happens
 - Or, instead of putting a price or proposal on the table, define the issues, or impose your conceptual framework on the debate

“Counter-anchoring”

64

- If the other side makes the first offer, you should recognize and resist that offer’s potential power as a psychological anchor
- Steer the conversation away from numbers and proposals
- Focus instead on interests, concerns, and generalities
- Then, after some time has passed, put your number or proposal on the table, and support it with sound reasoning

“Bracketing”

65

- Assume you, as the plaintiff’s attorney, want to obtain \$500,000
- If the defense counsel makes an initial offer of \$250,000, you can “bracket” your goal of \$500,000 by counter-offering \$750,000
- This counter-offer puts your goal of \$500,000 at the mid-point of the defense counsel’s opening offer of \$250,000 and your counter-offer of \$750,000

Part Six - Concessions

66

Time Your Concessions Carefully and Deliberately

67

- The timing of concessions is important: don't rush
- 80 percent of position changes tend to occur during the last 20 percent of interactions
- Negotiators who attempt to expedite transactions in an artificial manner usually pay a high price for their impatience

Announce Your Concessions

68

- Concessions should be carefully formulated and tactically announced
- If properly used, a position change can signal a cooperative attitude
- Announce your concessions, explain them, and then shift the focus to the other party

Setting Concession Amounts and Timing

69

- The exact amount and precise timing of each position change is critical
- Each successive concession should be smaller than the preceding one
- Each concession should normally be made in response to an appropriate counteroffer from the other party

Use Silence To Encourage Reciprocation

70

- Following each change, the focus should be shifted to the other side
- Patient silence will let the other party know they must reciprocate to keep the process moving

Plan, Yet Remain Flexible

71

- You should plan your concession pattern in advance
- But you must always be prepared to change your plans as you learn new information
- Even if you have to adjust your goals, you should follow pre-decided objective criteria for your position changes

Remember Your BATNA

72

- As you approach your reservation (resistance) point, remember your external alternatives, including your BATNA
- As you reach your reservation (resistance) point, you should feel less pressure to settle, not more
- You should project strength because your opponent might be more willing to settle than to see you walk away

And Remember . . .

73

- A cooperative/problem-solving approach is more likely to produce beneficial results than a competitive/adversarial strategy
- A cooperative/problem-solving approach allows the participants to explore the opportunity for mutual gain in a relatively objective and detached manner
- The competitive/adversarial strategy is more likely to generate mistrust and an unwillingness to share sensitive information

Part Seven - Psychological Considerations

74

Unconscious Influences on Our Thinking and Behavior

75

- In negotiations as in many other aspects of life, how our minds perceive things can matter as much or more than reality
- Recent research has told us a lot about how our minds embrace, reject, or distort information that we receive—providing us with key insights for negotiation
- They may offer threats to resolving a dispute, or, properly used, they may provide keys for resolving a case

Bounded Awareness

76

- Negotiators, like all humans, have “blind spots”
- Social scientists use the term “bounded awareness” to describe our tendency to focus narrowly on the decisions we must make and thus ignore information that is relevant but outside our narrow focus

Gain/Loss Framing

77

- Persons who have to choose between a sure gain and the possibility of obtaining a greater gain or no gain tend to be risk averse
 - They want something for sure, and they opt for the **certain gain**
- Persons who must choose between a sure loss and the possibility of a greater loss or no loss tend to be risk takers
 - They select the option that gives them the opportunity to suffer **no loss**

Gain/Loss Behavior

78

- Negotiators are more likely to make concessions and to try to compromise when they are negotiating over gains
- But they are more likely to be inflexible when they are negotiating how to allocate losses
- We tend to want the “sure thing” when we have something to gain but want “all or nothing” (risk-taking) when we have something to lose

Commitment Effect, Confirmation Bias, and Entrapment

79

- The *commitment effect* can cause us to feel pressured to behave consistently with decisions we have made
- *Confirmation bias* can cause us to interpret information selectively so that it confirms our commitment
- As negotiators put more and more time into the bargaining process, they can become *entrapped*—they want a deal even if it is no longer in their best interest

The Advocacy Effect

80

- *The advocacy effect* (also known as “irrational optimism”): Research has shown that as lawyers, many of us have a tendency to be overly optimistic about our chances in court—to overvalue our case
- Negotiators also can be overconfident, causing a mismatch between their assessments and reality

Reactive Devaluation

81

- *Reactive devaluation*: If a proposal comes from an opposing party, it is automatically suspect, or devalued
- Reactive devaluation also can cause negotiators to devalue a concession simply because it was made by someone who is seen as an adversary

The Reciprocity Principle

82

- *Reciprocity*: Each of us has been taught to abide by the reciprocity rule
- If you receive something from someone else, you should give something back
- This can be useful in starting trade-offs in negotiation

The Value of Explanations

83

- *Value of explanations:* Humans tend to react positively to any kind of statement of reasons in support of a request
- Also, a number accompanied by a seemingly objective supporting rationale is inherently entitled to more respect

The Scarcity Principle

84

- *The scarcity principle*: Salespersons and marketers understand the strong impact of an advertisement for a “limited number” of goods (“only 12 models in stock”; “get them while they last”), or a limited time to take advantage of an offer
- In lawyer negotiations, the common examples are “exploding offers,” imminent deadlines, etc.

The 50/50 Principle

85

- *The 50/50 principle*: From an early age, the concept of “meeting halfway” is hammered into our heads
- The concept will come up regularly during negotiation, most often during the closing stages of the process, when a final gap between parties’ positions remains
- But meeting halfway may or may not be appropriate in light of your negotiating circumstances

The Endowment Effect

86

- Persons who have something another person seeks tend to overvalue it
- Persons who are thinking of purchasing something held by someone else tend to undervalue it
- The endowment effect is especially strong when the property someone is trying to acquire was developed by the seller

Regret Aversion

87

- When people have to make decisions, they often act in ways that will enable them to avoid the likelihood they will later discover that they made an incorrect decision
- If you subtly infer to the other party that she may suffer regrets when she ultimately realizes that the offer is the best she will get, she is likely to think more seriously about the offer

The Contrast Effect

88

- The *contrast effect* refers to our tendency to judge the magnitude of something not on its absolute or objective size, but instead on how it appears to a (perhaps arbitrary) point of reference
- When the number of items to be compared is large, we break them into groups and compare each item in a group with the other items in that group
- Then, instead of comparing the best items in each group, we often select the item that compared most favorably to the other items within a particular group

The Liking Principle

89

- Research has shown that negotiators who like each produce better outcomes than negotiators who do not like each other
- This is why building rapport, respect, and trust in negotiations is beneficial

Part Eight - Ethics in Negotiation

90

Lies Are Not Worth the Cost

91

- Negotiators should never lie
- Instead, they should develop their negotiating skills

Avoiding Temptation

92

- Take a long-term perspective - losing a reputation or relation is easier than rebuilding a reputation or relationship
- Prepare to answer difficult questions
- Try not to negotiate or respond to questions when under pressure
- Refuse to answer certain questions
- Offer an answer to a different question
- State the truth in a way that makes it more bearable

Discouraging the Other Party from Lying

93

- Be (and look) prepared
- Signal your ability to obtain information
- Ask less threatening, indirect questions
- Don't lie

“

You must never try to make all the money that's in a deal. Let the other fellow make some money too, because if you have a reputation for always making all the money, you won't have many deals.

”

J. Paul Getty

Final Thought

94