

The Art of Negotiating for Advantage

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Abstract

The negotiating process is absolutely fundamental to human communication and interaction. Negotiation typically involves a dialogue between two or more parties intended to reach a mutually acceptable solution, resolve points of difference to produce an agreement upon course of action and craft outcomes to satisfy various interests.

The aim of this paper is to discuss the importance of ascertaining positions in effective business negotiations from two points of view:

Firstly, an analysis of the basic steps of effective negotiation;

Secondly, the specific stages of the negotiating process which illustrate either the battle for power when styles collide or the amicable compromise when views are shared;

The results of the research show that we cannot blame anyone for trying to get the best deal and have a considerable advantage over their 'opponent' since the very essence of negotiation relies on the principle: 'If you don't ask, you don't get'.

Key words: basic steps, negotiating process, specific stages, win-lose, win-win

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1. Introduction

Building relationships requires that negotiators take time to understand the goals, values and beliefs of the negotiators on the other side since both sides "have a stake" in the outcome. People also share different cultures, attitudes, morals, behaviours and linguistic styles, all of which can greatly affect the outcome of the negotiation.

The word "negotiation" has a Latin origin, being derived from the expression *negotiatuus*, past participle of *negotiare* which means "to carry on business", which in turn comes from *negotium* whose literal meaning is "business" (*neg* = "not" and *otium* = "leisure").

Negotiating helps business people to develop both the skills and language required to negotiate confidently and effectively in both formal and informal situations.

Many assumptions have been made on the art of negotiation, especially on what makes a good negotiator. There are three types of negotiators:

1. *Good* negotiators who take a long-term approach and make an effort to come to an agreement which proves to be advantageous for both parties involved in the business;
2. *Successful* negotiators who are flexible, open-minded and have a wide range of objectives enabling them to make concessions;
3. *Skillful* negotiators who always suggest reasonable solutions for any problem which may occur. They are persuasive, both good speakers and good listeners.

According to Dilts and DeLozier, "The primary NLP approach to negotiation is that of 'pacing and leading'. *Pacing* involves *matching* another person's map of the world. It is a powerful way of establishing rapport, and reaching agreement. *Leading* is the process of *changing* another person's map of the world in order to move closer to some desired outcome" (2000, p. 837). Thus, from a linguistic point of view, pacing involves reflecting back key verbal cues from the other person, having the flexibility to pick up and incorporate other people's vocabulary (their words and phrases) into one's own vocabulary. Leading, on the other hand, involves shifting to a new

perspective and a new resourceful state, and in so doing subtly attempting to influence another person's orientation in the desired direction (Dilts and DeLozier, 2000, p. 837).

2. Theoretical background

When analysing the ways of achieving business communication as far as negotiation is concerned, Ellerton (2006, pp.184-186) considers three basic phases/steps of negotiation: *planning*, *carrying out* and *wrapping up and the next steps*. Furthermore, I thought about improving Ellerton's approach, for example, I considered the second specific step: having a clear idea of whom one is to negotiate, of what you know about that person, of their beliefs and values, strategies and needs.

● *Planning*

1. Generate options for achieving outcome. Prepare your arguments and strategies. Avoid a fixed position and choose the strategy that you are ready to accept or give.
2. Have a clear idea with whom you are negotiating. What do you know about them? What are their beliefs and values, strategies, needs and pressures?
3. Consider your BATNA (Best Alternative to a Negotiated Agreement). That means thinking carefully about what you will do if you don't reach agreement. Having an attractive BATNA will give you strength and confidence.

● *Carrying out the negotiation*

1. Find out the common ground you share with the other side.
2. Understand which points will be the hardest to negotiate and ensure the other person is serious about negotiating. If an issue keeps getting in the way, ask, "What would happen if I were able to resolve this concern?"
3. Reflect on and identify back-and-forth communication areas designed to reach an agreement.
4. Dovetail outcomes and work toward an agreement on a common outcome. If the negotiation strays off the path, using rapport, ask, "How is this relevant to the agreed purpose of the negotiation?". Chunk up to get agreement, and then chunk down to maintain agreement and finalize the details.

Practise a series of questioning (the language for questioning) and checking for confirmation. Get agreement on the best option and move to concluding the deal (make a useful record of all the points discussed).

● *Wrapping up and the next steps*

1. Assess the impact (ecology) of the agreement on yourself and others.
2. Confirm what has been agreed and outline future actions - who will do what, by when, etc.
3. Thank everyone for taking part, write down and have the agreement signed.

(An adapted and improved version of R. Ellerton –"Making a Difference in Business", Chapter 8 of the book *Live Your Dreams. NLP and Common Sense for Coaches, Managers and You*, 2006, pp. 185-186).

Ellerton's three major phases remain in accordance with Bradbury's (2006) "dovetailing of outcomes" which business people may potentially develop in the process of interaction to reach a "win-win" result.

As Bradbury further argues, "the *dovetailing of outcomes* is made possible when both parties reach agreement on a point of common interest as the basis for the negotiations. It may be necessary to chunk up and down from your opening positions in order to find this common point" (Bradbury, 2006, p. 132).

It is worth noting, however, that within this 'dovetailing of outcomes', the focus is on establishing good rapport and introducing the notion of working as a partnership rather than "staging a war of attrition".

The language used when negotiating depends on your view of the negotiation. In a "win-win" type, the language will be quite open and exploratory, whereas a "win-lose" type is characterized by a much more direct language

Some business theorists (Louise Pile and Susan Lowe, 2006) label the basic stages of the approach to effective negotiation as: *prepare*, *discuss*, *propose* and *bargain*. In addition, other theorists (Christine Johnson and Irene Barrall, 2006) use the term *step* for the specific phases. I

focused on Johnson and Barrall's view of the negotiating process, using the term "step". Moreover, I agree with them that *preparation* is the first step of the negotiation activity.

Step 1 Preparation

A date has been set for a negotiation between Medilabs directors and two employees. The employees have invented a new piece of equipment which has improved production and reduced the company's manufacturing costs by 10%. The employees want credit for their idea and a financial benefit from the sales. The directors state that the company has full rights to anything they create during their employment and are reluctant to grant ownership rights to the inventors, although the idea was theirs.

Step 2 Negotiation proper

When negotiating, the two parts (directors; employees) make the most of their position by:

- being clear of their own position and proposal;
- explaining the benefits of their proposal and putting forward strong arguments;
- establishing their partner's needs and interests, and finding common ground;
- being aware of areas they can and cannot concede;
- asking questions to acquire further information;
- responding to proposals appropriately;
- summarising;
- aiming for a win-win solution.

I. When negotiating styles collide:

A shining example of a battle for power in the world of business is offered by Johnson and Barrall (2006), where the directors and employees of a company fight to achieve a dominant position:

Table no.1 - When negotiating styles collide

| Employees want: | Directors want: |
|---|--|
| <ul style="list-style-type: none"> - credit as inventors of the equipment. - a financial interest in the sale (a share in the profit of at least 20% each) - to keep their jobs | <ul style="list-style-type: none"> - to have control over the development and marketing of the new equipment. - the company to receive profits from the equipment sale. - to keep the two employees in the company. |
| Negotiating strategy: | Negotiating strategy: |
| <ul style="list-style-type: none"> - Threaten to take legal action. It would be very expensive if you lost. Even if you won, you would still have to find the resources to manufacture and sell the equipment. | <ul style="list-style-type: none"> - Stick to your rights. The employment contract gives you full rights to the invention; you don't have to give anything to the employees. |

Source: (An adapted version of Johnson and Barrall's negotiating arguments and strategies, Intelligent Business. Skills Book, 2006, p. 98)

Employee 1: *You know what – we worked day and night on this invention; we sacrificed our weekends and families. We thought you would reward us for our good work. But now we see you want to take all the credit and profit. You have no right.*

Director 1: *But we do have the right. It's here in your employment contract which you signed, remember?*

Employee 2: *You could forget about our terms of employment and agree to the principle that it is our invention.*

Director 2: *It's easy to say, but look at it from our point of view. This could lead to other employees demanding the same rights if we give you the rights to this invention.*

Director 1: *I'm afraid you have no choice but to accept the company's position on this.*

Employee 2: *Oh, but we do have a choice. We can take you to court. If you don't agree to reward us financially and morally, we'll sue you.*

Director 1: *Very well, then. But if you do that, you'll suffer some very serious*

consequences. First, you risk a long and expensive trial. Second, you'll be putting your families' security at risk. Third, you have no business expertise and no capital to invest to develop the product yourselves.

Director 2: *So, even if you win, you'll be unable to bring it to market on your own.*

Employee 1: *It seems we can't find a way to agree on this so there's no point in continuing. You'll be hearing from our lawyers.*

II. A 'shared view'

Table no.2 – A shared view

| Employees want: | Directors want: |
|--|---|
| <ul style="list-style-type: none"> - credit as inventors for the equipment. - a financial interest in the sale (a share in the profit of at least 20% each) - to keep their jobs | <ul style="list-style-type: none"> - to have control over the development and marketing of the new equipment. - the company to receive profits from the equipment sale. - to keep the two talented employees in the company. |
| Negotiating strategy: | Negotiating strategy: |
| <ul style="list-style-type: none"> - Point out that the contract is unfair. The new equipment is your invention for which you should deserve credit. You have already poured money into the company and now the company will want to take full advantage of your invention. You persuade them to recognise your contribution and reward you for it. | <ul style="list-style-type: none"> - Negotiate to reach agreement. Agree to some of your employees' demands and suggest that you take charge of product development and sales drive, but, at the same time, concede a good financial benefit to your employees (give them a one-off payment of € 150,000 or a 5% share of the profit). |

Source: (An adapted version of Johnson and Barrall's negotiating arguments and strategies, *Intelligent Business. Skills Book*, 2006, p. 104)

Director 1: *I'm afraid you have no alternative but to agree to our terms. The company's position on this matter is very clear: license the product back to the company to develop and sell.*

Employee 1: *We believe there is another way to think it over.*

Director 1: *What other way?*

Employee 1: *Well, isn't the cream of our talent to achieve growth and ongoing success important to you?*

Director 2: *Yes, it is.*

Employee 2: *So, you would prefer us to stay with the company?*

Director 2: *Yes, sure we would.*

Employee 1: *If we make the company a success and put more ideas and innovations into the business, you'll be happy with the result. This is what we call contribution to profit. So, if you reward us, you'll continue to enjoy the benefit of our creativity.*

Director 1: *So, how can we find an acceptable solution to this? What exactly are you proposing?*

Employee 1: *All we want is credit for our invention and some share in the profit – a rate of return of, let's say, 7%. You'd still be in control of the development and have a major share in the financial returns. If we can find a way to agree on this, we'll both gain.*

Director 2: *I think they have a point. As a matter of principle, you should have right of ownership, and, in recognition of your achievement, we're prepared to give each of you a one-off payment of €150,000 or a 5% share of the profit.*

Employee 2: *O.K. We have an agreement.*

Negotiating with people in a strong negotiating position may seem daunting. Each version of the negotiation uses key language features and strategies for a good purpose.

In *version one*, i.e. "When negotiating styles collide", the directors are the ones in a powerful position, threatening and letting the other parties know they are in a weak position:

Version 1 → "Win – lose" type of negotiation – *When the two parties collide*

1. Subject: obtaining credit for innovation and a financial benefit from the sales
Outcome: no deal, no win-win solution. The employees will take legal action.
2. In the event of a lawsuit, both sides risk losing a lot of money; moreover, the employees' sparing no expense for winning the process would be posing a serious risk for their families' security.
3. The **strategies** used to try to break the deadlock are:
 - a) **coercive** (explaining the negative outcomes for the other side if they don't agree)

Specific coercive phrases for employees:

"We can take you to court", "If you don't reward us financially, we'll sue you", "You'll be hearing from our lawyers".

Specific coercive phrases for directors:

"I'm afraid you have no choice but to accept the company's position on this", "You'll suffer very serious consequences".

b) **argumentative** (putting forward strong reasons and arguments)

Specific argumentative phrases for employees:

"We worked day and night on this invention", "We sacrificed our weekends and families", "We thought you would reward us for our good work", "...it is our invention".

Specific argumentative phrases for directors:

"We do have the right. It's here in your employment contract...", "This could lead to other employees demanding the same rights if we give you the rights to this invention", "First, you risk a long and expensive trial. Second, you'll be putting your families' security at risk. Third, you have no business expertise, no capital to invest to develop the product yourselves".

It is not advisable to threaten, argue with others, take control of things by being tough, or win people over *only* to your way of thinking.

Version 2 → "Win-Win" type of negotiation – *When the two parties share the same view*

1. Subject: obtaining credit for innovation and financial benefit from the sales
Outcome: a win-win solution, reached agreement.
2. It is likely that both sides will gain from this compromise.
3. The **strategies** used to try to break the deadlock are:
 - a) **argumentative** (stress the benefits of finding a solution)

Specific argumentative phrases for employees:

"If we make the company a success and put more innovations into the business, you'll be happy with the result", "If you reward us, you'll continue to enjoy the benefit of our creativity", "If we can find a way to agree on this, we'll both gain".

Specific argumentative phrases for directors:

"The company's position on this matter is very clear...", "...in recognition of your achievement, we are prepared to give each of you €150,000, or a 5% share of the profit".

b) **finding common ground** (introducing ideas that the other side can agree with)

Specific "common ground" phrases for employees:

"you would prefer us to stay with the company?"

Specific "common ground" phrases for directors:

"So, how can we find an acceptable solution to you?"

The win-win approach is generally considered the best approach to negotiation as both parties involved are successful by achieving some or most of their aims.

3. Research methodology

In my research, I have used three major negotiation phases and their specific steps with the aim of focusing on certain business techniques for reaching goals, coming to an agreement, making and responding to proposals, negotiating a win-win solution. I insisted on the description and interpretation of the dovetailing of outcomes which are illustrative of the patterns that negotiators

normally use in the case of establishing good rapport /vs/ fighting for a dominant position. In this case, I have concentrated on the arguments and strategies which led me to consider that, in interpersonal dealings, taking multiple perspectives is a useful asset.

In the first stage, I identified the specific steps of the negotiating process. In the next stage, I approached two styles of negotiation and their key language features. From a linguistic point of view, my research method was based on highlighting the role of linguistic strategies businesspeople use when interacting. It cast a light on the psychological profile of different interactants as well as their strong and weak points. I focused on specific negotiating expressions, separating them into coercive/argumentative phrases and 'common ground'/argumentative phrases, by analyzing their contextual occurrences.

Basically, my research has shown that the aim in a negotiation relates first to our physical and psychological 'comfort', to our sense of well-being and second to the well-being of the other party. Moreover, in analyzing specific business exchanges, I have been aware that back-and-forth communication is specially designed to reach an agreement when the two sides have some interests that are shared and others that are opposed.

4. Findings

The findings indicate that an essential contribution to effective negotiation is the ability to consider multiple perspectives by taking different 'perceptual positions'. Finding a shared solution between two parties, for example, involves the ability to take 'second position' as well as expressing the situation from your *own* perspective, i.e. 'first position', by explicitly showing desires, doubts and concerns.

The plain truth is that we cannot blame anyone for trying to get the best deal and have a considerable advantage over their 'opponent' (typically by using conditional sentences, questioning techniques and other grammatical constructions for making suggestions, concessions, hypothetical proposals in bidding and bargaining) since the very essence of negotiation relies on the principle: 'If you don't ask, you don't get'. As James Borg (2007, p. 186) remarks, "Just because somebody asks for something, it doesn't mean it has to be given. If both parties are dissatisfied then the equation is not right. Remember – it's a game with two winners. [...] In any relationship, whether it be personal or workplace-related, if only one of the parties wins then the *relationship* loses. The aim is to satisfy the needs of both sides of the relationship to secure a win-win situation".

5. Conclusions

In the psychology of negotiation, the importance of ascertaining positions can lead to either *fluid* or *stalemate* situations.

The advantage of delving into the other party's interests through empathetic listening, specific argumentative and "common ground" phrases is that we can instantly hold attention, reap the benefits of all the hard work and make amicable compromise with the purpose of reaching a '*shared view*'.

The disadvantage of not being eager to make concessions, putting pressure and placing only demands on the other party, getting mired in a battle of wills can influence the process of negotiation in a negative way and make it deviate from its normal path. Furthermore, when *styles collide*, this feeds the ego struggle and the stubborn refusal to concede, eventually resulting in opposing interests and unresolved conflicts.

To recap, success in dealing with various types of people highly depends on the level of *rapport* and the spirit of cooperation we establish with the other side from the early stages of the negotiation process.

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