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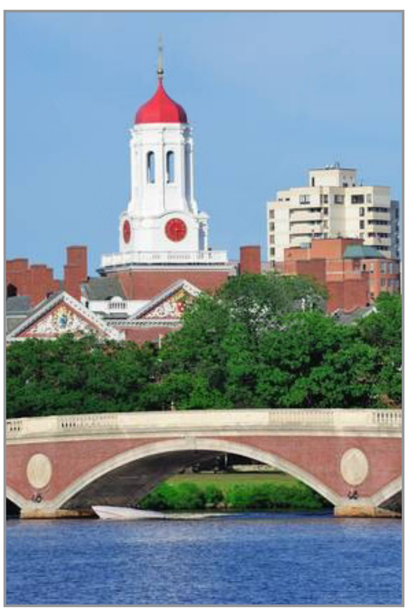
SPECIAL REPORT

Business Negotiation Skills

5 Common Business Negotiation Mistakes



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Mistake No. 1: Viewing negotiation as a fixed pie

In the business world, why is competition so often the norm, while cooperation seems like an impossible goal? Why do we so often settle for "better than nothing" compromises?

One of the most destructive assumptions we bring to negotiations is the assumption that the pie of resources is fixed. The *mythical-fixed-pie* mindset leads us to interpret most competitive situations as purely win-lose. Of course, a small percentage of negotiations are *distributive*—the parties are restricted to making claims on a fixed resource. For instance, if price is the only issue on the table, your gains come at the expense of the other party and vice versa. Haggling over a piece of jewelry in a bazaar is one type of distributive negotiation.

But in organizational negotiations, far more issues than price are typically involved, including delivery, service, financing, bonuses, timing, and relationships. For those who recognize opportunities to grow the pie of value through mutually beneficial tradeoffs among issues, the complexity of such negotiations is an asset. Tradeoffs allow you and your negotiating partner to achieve more than you would if you merely compromised on each issue. For instance, buyer and seller negotiating a purchase might both be satisfied by increasing the order size and slightly decreasing the price per unit.

Finding tradeoffs can be easy when negotiators know to look for them, yet our assumptions about the other party's interests often keep us from this search.

The problem is, we tend to apply the fixed-pie mentality too broadly, assuming that any gain for the other side comes at our expense.

Finding trades. Once negotiators have broken the assumption of a mythical fixed pie, the search for value can begin. To create value, you need to learn about the other party's interests and preferences. The three proven strategies that follow will increase your likelihood of uncovering value in the negotiation process.

1. Build trust and share information. The most direct way for parties to create value is to share information in an open, truthful manner. But even in negotiations within companies, parties fail to follow this strategy. The value created by sharing information with your most trusted customers will often outweigh the risk of having that information misused. If the two parties can put their tendency to claim value on hold, they may well be able to share valuable information about how much each side cares about each issue. "On-time delivery is critical to us," you might tell a representative of a technology consulting firm in a negotiation over new business. "Our old contractor did good work, but couldn't meet deadlines. Now tell me some of your key concerns."

2. Ask questions. Your goal is to understand the other party's interests as well as possible, yet both parties may be unwilling to fully disclose confidential information. What should you do next? Ask lots of questions! Many executives, especially those trained in sales persuasion tactics, view negotiating primarily as an opportunity to influence the other party. As a result, we do more talking than listening, and when the other side is talking, we tend to concentrate more on what we'll say next than on the information being conveyed. Listening and asking questions are the keys to collecting important new information. "What mechanisms does your firm have in place to make sure you meet our deadlines?" you might ask the consulting rep.

3. Make multiple offers simultaneously. Most negotiators tend to put one offer on the table at a time. If it's turned down, they learn very little that will help move the process forward. Instead, imagine making three offers that are very different but all equally profitable to your side. If the other party rejects all the offers but is particularly negative about the first and the last, you have learned what's most important to them and where potential trades are located. For example, after you learn what's most important to a consulting firm you're talking to, present three preemptive offers that demonstrate your flexibility and your commitment to sealing the deal.

Adapted from "The Mythical Fixed Pie," by Max H. Bazerman
***Negotiation*, November 2003**

Mistake No. 2: Overvaluing your assets

IMAGINE THAT YOU ARE MOVING from one city to another and putting your home on the market. How would you determine the true value of the residence? Now imagine that you are in the market for the same residence rather than selling it. How would you determine its value? Do you think you would reach the same estimate regardless of whether you were the buyer or the seller?

According to basic economic principles, we should place the same value on an item whether we're selling it, buying it, or merely window-shopping. Yet few of us behave with such level-headed rationality. Specifically, psychological research shows that sellers typically value their own possessions more highly than the possessions of others. In negotiation, that's a problem if you need to make a sale.

Priceless or "pseudosacred"? Some possessions truly are priceless—we wouldn't part with them for any amount of money. Others are *virtually* priceless, or "pseudosacred," according to Harvard Business School professor Max Bazerman. We might claim that these possessions aren't negotiable, but we would consider making a trade under certain conditions. Your mother's engagement ring might be permanently sacred, for instance, but your great-uncle's watch may be another matter when money is tight.

What happens when you decide you're ready to part with a pseudosacred possession? You'll be prone to resist beneficial tradeoffs and compromises and to respond to counteroffers with anger and rigidity—not a recipe for a successful deal.

Consider what often happens when a family's longtime home goes on the market. Sacred memories lead family members to set an irrationally high asking price for the house. After an initial flurry of interest, the house sits on the market for months, even years. Price cuts fail to attract much interest, and a once-beloved home becomes a source of stress and anxiety.

Your treasure, their trash. Interestingly, we also tend to overvalue ordinary possessions that have no sentimental value. In a 1990 *Journal of Political Economy* article, researchers Daniel Kahneman, Jack Knetsch, and Richard Thaler describe what happened when they gave ordinary objects such as coffee mugs, pens, and chocolate bars to the college students participating in their experiments. Sudden, arbitrary ownership provoked participants to value these trifling goods more than other participants did, a phenomenon the researchers dubbed the "endowment effect"—in this case, the *instant* endowment effect.

Contrary to rational economic theory, we seem to view almost anything as more valuable once it belongs to us. Why? Ownership, like any stroke of good fortune, is accompanied by the threat of loss relative to the status quo. This "loss aversion" can lead us to overvalue our assets and ask too much for them.

4 tough questions for sellers. To overcome loss aversion and put together a more rational and competitive package prior to your next sale, answer these questions as honestly and thoroughly as possible:

1. **"Would I want it if it weren't mine?"** Once you've made the difficult decision to part with a possession, imagine how you'd react if someone were pitching it to you. When you put yourself in a prospective buyer's shoes, the item might not look as appealing.
2. **"How much is it really worth?"** Improve your estimate of an item's value by consulting an expert in the field, such as a financial adviser or an art, jewelry, antique, or real-estate appraiser.
3. **"What if it doesn't sell?"** Imagine what will happen if you are unable to make a sale after a month or a year passes. If that wouldn't be a problem, go ahead and aim high. But if it would cause financial or other difficulties, rethink your goal.

4. **"What other value can I offer?"** In most negotiations, price should not be the only issue on the table. If you can provide delivery options, payment plans, matching rights, or an ongoing relationship to a potential buyer, you may be able to justify a higher-than-average price.

"Why Your Selling Price May Be Too High," by the Editors
(Reproduced in its entirety.) *Negotiation*, October 2007

Mistake No. 3: Going on a power trip

When someone seems to need you more than you need him, "Take it or leave it" can seem like the simplest negotiating gambit. If a seller is desperate to unload his business and you're the sole bidder, why not make a rock-bottom offer? And if you're hiring in a competitive job market, you might as well aim to keep labor costs as low as possible, right?

It's true that negotiators with abundant power tend to get better deals than their weaker counterparts. Yet whether their power springs from a title, resources, or (most typically) a strong outside alternative to agreement, powerful negotiators often make a number of predictable and costly mistakes. Most notably, the powerful are susceptible to underestimating their opponent, overlooking the other side's perspective and devaluing his concerns.

If someone leaves the bargaining table feeling that you've disrespected or mistreated her, you may end up the victim of a power backlash. The next time you think you hold all the cards, prepare to ward off the following three common reactions to perceived abuses of power.

Power Backlash No. 1: They dig in their heels. Powerful negotiators generally don't devote enough time to considering the other side's point of view, Northwestern University professor Adam D. Galinsky and New York University professor Joe C. Magee have written in *Negotiation*. As a consequence, the powerful may fail to anticipate "irrational" behavior from their counterparts. When confronted with your demands, someone may refuse to concede on principle despite a weak bargaining position.

Here's one example, as reported by Russell Working in the *Chicago Tribune*. During 2003 contract negotiations with its service employees' union, the Congress Plaza Hotel in Chicago insisted on a salary freeze and the right to subcontract certain jobs. Blaming a slump in the travel industry for its tough stance, the independently owned hotel took a gamble that Unite Here Local 1, a relatively low-clout union, would cave. Yet with their salaries already trailing industry averages, 113 Congress employees, primarily housekeepers and restaurant staff, chose to strike instead. The hotel brought in temporary workers to replace them.

Four years passed, neither side budged, and the strike became the longest-running in Chicago history. The constant picket line drove guests away, and the Congress slashed its rates. For business negotiators, the Congress offers a cautionary tale. The hotel owners underestimated their employees' tenacity and overlooked the union's outside interests. One striker told the *Tribune* that a five- or six-year strike would be a small sacrifice for those who had worked at the hotel for decades.

Power Backlash No. 2: They renege on the deal. The greater the power differential in a negotiation, the more parties tend to focus on maximizing individual gain, Notre Dame University professor Ann Tenbrunsel and Northwestern University professor David Messick found in their research. When you are the stronger party, that competitive attitude could lead you to coerce your opponent into accepting a deal she can't fulfill. Suppose a big-box retailer tells a sporting-goods supplier that it must submit a lower bid to retain a contract. Reluctantly, the supplier delivers a revised bid with a slim-to-none profit margin. It should surprise no one if the supplier misses delivery targets, sacrifices product quality, or defects to one of the retailer's competitors.

Even the biggest industry behemoth should be motivated to build trusting business relationships based on more than just a short-term price. To do so, spend time exploring the other party's vantage point before talks begin. What are their outside alternatives and strengths in the broader marketplace? They may be more powerful than you think. MIT professor Lawrence Susskind advises less-powerful negotiators to seek an "elegant solution" that will meet both sides' interests. For the sporting-goods company, that might mean proposing to sell new products to market segments that the retailer wants to bring into its stores. Let your fellow negotiators know that you are eager to listen to their ideas and brainstorm value-creating opportunities.

Power Backlash No. 3: They take you to court. People tend to hold the powerful to higher ethical and moral standards than they do the weak, Tenbrunsel and Messick found in their research. Our legal system does as well. In particular, says Harvard professor Guhan Subramanian, the courts may constrain the actions of the powerful by policing the terms of a deal, reading additional terms into a contract, or imposing procedural constraints on a negotiation.

In the famous 1978 Canadian case *Harry v. Kreutziger,* a boat owner sold his boat and accompanying fishing license to an individual who knew considerably more than the seller about the local boating situation. The seller settled for a nominal sum, thinking that his boat was not worth very much. He was right about the boat—but he found out after the sale that the fishing license was extremely valuable. He took the buyer to court and successfully reversed the sale. The judge found that the seller had been "dominated and overborne" by the buyer, who had failed in his obligation to be "fair and reasonable" in his dealings with the seller.

The lesson: Because power can inspire resentment, when you hold all the cards, you must make an extra effort to meet your own fairness standards and abide by the relevant legal rules.

"Why Your Next Negotiation Power Trip Could Backfire," by the Editors
(Reproduced in its entirety.) *Negotiation,* December 2007

Mistake No. 4: Not knowing what you really want

How happy do you think you'll be if your preferred U.S. presidential candidate wins the next election? How about if your favorite sports team wins its next national championship? Now imagine how upset you will be if your candidate narrowly loses the election or if your team just misses winning the championship.

If you're like most people (and if you care about sports, politics, or both), you just committed an error in judgment: you overestimated how happy a win would make you and how devastating a loss would feel.

Across the board, people predict that future events—whether a World Series win, a promotion, or even the death of a loved one—will have a strong, lasting impact on their happiness, psychologists Daniel Gilbert of Harvard University and Timothy Wilson of the University of Virginia have found. Yet when such events come to pass, they have a lesser long-term effect on happiness than people expect, a phenomenon that Gilbert and Wilson call the *impact bias*.

In negotiation, the impact bias can lead us to make mistakes when choosing what will bring us pleasure or spare us pain, a phenomenon Gilbert has labeled *miswanting*. Although miswanting has both pros and cons, overall you'll benefit from thinking more carefully about what might make you happy.

Emotions, weak and fleeting. People overestimate the intensity and duration of their emotional responses to a wide array of events, according to Gilbert, Wilson, and professors George Loewenstein of Carnegie Mellon University and Daniel Kahneman of Princeton University. In their research, groups of students, voters, newspaper readers, and job seekers all overestimated their unhappy reactions to failed romances, political defeats, upsetting news, and personal rejections, respectively. We accurately expect that we'll be cheered by good fortune and upset by bad news, but we err in assuming how strong and lasting that mood will be.

The ups and downs of miswanting. Because our brains are wired to adapt to changing circumstances, we tend to return to a set level of happiness after a boost or a setback, say scholars in the field of "positive psychology." As each new achievement becomes ordinary and less pleasurable, we seek out the next one that we think will bring us lasting happiness.

Does that mean negotiation is a pointless enterprise, one you're doomed to repeat in an elusive quest for greater happiness? On the contrary: The prospect of delight and the fear of disaster can be powerful motivators for positive change, whether that means winning a new contract, getting out of a destructive relationship, advocating for your children's safety, or finding a better job.

Yet a keener understanding of what will make you happy can help you make better choices in negotiation. In particular, keep in mind that vivid fears and desires as well as obvious differences between options are likely to capture your attention. Balance these concerns by factoring other issues that will affect your happiness into the equation. Research shows that money does not correlate strongly with lasting happiness, for instance, but that friendships and other social ties do.

For negotiators who agonize over hard choices, awareness of the impact bias can bring solace. Knowing that you're likely to bounce back from adversity may free you to take calculated risks, and overcoming unrealistic expectations may promote greater long-term contentment.

Adapted from "Are You Sure That's What You Want?" by the Editors
***Negotiation*, July 2008**

Mistake No. 5: Binding yourself too tightly to a deal

Consider these two real-life negotiating scenarios:

A. An elderly couple put their Boston home up for sale with the plan of moving into an assisted-living facility six months later. They receive an offer at their asking price immediately, after the buyers agree to delay the closing by six months. Six months pass, the subprime mortgage crisis descends, and the appraised value of the house drops below the agreed-upon price. Claiming they cannot secure financing, the buyers walk away from the deal, leaving the elderly couple stuck in a buyer's market with a lease on a new home.

B. A telecommuter hires a carpenter to build a workstation for her home office. The carpenter's contract requires payment of 50% upon signing, an additional 30% halfway through the job, and the final 20% upon completion. When the job is done, the woman is dismayed to find that the cabinets are misaligned. She calls the carpenter and tells him she won't pay him the final 20% until he redoes his work. He tells her she can keep her 20%.

You probably caught the common thread in these cases: one party is more committed (or risks being more committed) to a deal than the other. The Boston couple were legally bound to the purchase contract, but the potential buyers were able to walk away. The telecommuter is left with a shoddy office, and the carpenter moves on to his next victim.

Researchers have documented the tendency of negotiators to irrationally escalate commitment to a chosen course of action. A psychological process, escalation typically occurs in competitive situations such as auctions, strikes, custody battles, and mergers and acquisitions. When talks get difficult, it can be easy to conclude that you've invested too much to quit and feel trapped in a disappointing deal.

As these stories show, escalation of commitment is also a possible trap when negotiating tactics and contract terms would bind you to an agreement more than they would bind your counterpart. As these stories also suggest, accepting a lopsided deal can be a recipe for disaster.

Manage your escalation of commitment. How can you ensure that you and your counterpart are similarly committed to a deal? Harvard Business School and Harvard Law School professor Guhan Subramanian advises you to follow these three steps:

1. Play "What if . . . ?" Before negotiating, ask yourself how difficult it would be to walk away without a deal, both psychologically and economically. Reduce the potential for escalation by cultivating your *best alternative to a negotiated agreement* (BATNA). For the elderly couple, this might have meant waiting for any other bids and negotiating a better deal. The telecommuter might have negotiated with several carpenters and checked their references before hiring one.

2. Assess each side's commitment. During your negotiation (and before agreeing to a deal), assess each side's level of commitment. Ask yourself the following questions:

- How difficult will it be for me to back out of the deal if conditions change?
- How difficult will it be for my counterpart to back out?
- What will happen to me if the other side backs out?

3. Level the playing field. Suppose your answers to these questions suggest that you would be more committed to the potential deal than your counterpart would. What should you do?

First, don't assume the other party is trying to take advantage of you. It could be that your counterpart is simply trying to protect *herself* from escalating commitment. Most home buyers wouldn't sign a purchase contract without the possibility of walking away if they couldn't secure a mortgage. Similarly, a carpenter might insist on upfront payments after being burned by past clients.

It's up to you to negotiate a more balanced deal—and to be prepared to walk away if your counterpart won't cooperate. Begin by pointing out your risk exposure to the other side. "What if I'm unhappy with the completed work?" the telecommuter might have said to the carpenter. "How can we both be protected?" If the carpenter were confident in his workmanship, he might have been willing to negotiate inspection rights before payment of the 30% installment or even deferred payment of 80% until after inspection.

Along these lines, the elderly couple could have insisted on a tighter deal with respect to financing or structured a contingency to bind the seller if the appraised value of the home changed significantly before closing. A negotiator who wants to do a deal will listen to you and consider making adjustments. If someone won't cooperate, you may need to explore alternatives to the current deal.

Adapted from "Are You Overly Committed to the Deal?" by the Editors
***Negotiation*, April 2008**

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