

Managing Risk in Business Negotiations

“Often the difference between a successful person and a failure is not one has better abilities or ideas, but the courage that one has to bet on one's ideas, to take a calculated risk - and to act.”

~ Andre Malraux- French Historian, Novelist & Statesman

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There is almost always risk in business negotiations. The question is whether it is negative risk or positive risk. If there is no risk in a negotiation then we are all just buying and selling stuff at market rates or at rates with unknown mark-ups.

The breadth of risk tends to follow factors such as the cost, quality, complexity, scarcity and time sensitivity of a product/service. Depending on the product/service and where it is produced there are other risks to acknowledge and calculate.

Professional business negotiators do their best to mitigate and manage risk. Here are a few examples of how they do it.

Mitigating Negative Risk in Negotiation

- 1) Start homework early
 - 2) Understand everyone's economic situation
 - 3) Understand the needs of the other side
 - 4) Research competitive pricing
 - 5) Goal pricing and walk away
 - 6) Opening and closing negotiation positions
 - 7) Control content of deal
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- 1) **Start Homework Early-** Very simply...money is lost at the bargaining table when the homework for the negotiation is compressed into a short period of time. Professionals if they have an option will always take the time to know as much as they can to improve their odds of closing the best deal they can. It sounds cliché like but time in this case really does translate into money.
 - 2) **Understand Everyone's Economic Situation-** Can you imagine if you knew the party you were negotiating with was anticipating a labor problem? What about if they were faced with a scarcity of a key component of their product causing potential for a production quality problem? Would all of this economic information affect your management of risk in the negotiations? You betcha!

- 3) **Understand Needs of Other Side-** What if you knew prior to reaching the bargaining table that the other side needed to close a deal with you to hit their quarterly or year-end sales targets? How would this affect your approach to cost modeling with them? In a word, lots!
- 4) **Research Competitive Pricing-** This might sound academic but too often long relationship, negotiation partners just become comfortable while competitive market prices are edging lower. Conversely, scarcity owing to unforeseen natural catastrophe can drive prices up. Think drought and flooding in this case.
- 5) **Goal Pricing and Walk Away-** The gap between goal pricing and walking away from a deal is called “the bargaining continuum”. This gap exists for both negotiation parties and sets up a unique dance. Both bargaining parties will make their business case for what final pricing should be. The party who best understands their cost modeling will have a better chance of mitigating risk.
- 6) **Opening and Closing Negotiation Positions-** Recently, I asked a seasoned mergers and acquisitions (M&A) specialist his preference for opening with a price or waiting for the other side to start. He firmly stated that he liked to see what price the other side wanted and then his side would counter. He was also convinced that over a long period of many M&A deals that on average the party that started the negotiation got the worst of it.

By comparison, my experience in the negotiating many large media contracts is that the party with the best cost modeling and best reconnaissance who stated price first usually got the best of the deal thus reducing risk. We must conclude that knowing your industry and negotiation partner is essential to mitigating risk.

- 7) **Control Content of Deal-** When closing out on a negotiation make sure your side drafts the content of the contract. This allows you to a degree to control and interpret the language in the contract. It also allows your side to arrange the order of the items and special side bars of the deal. If the other side does not like your interpretation of the deal they will simply cross out what they don't like write in their changes and the deal closes. If not...the deal stands with your content.

Professional business negotiators always manage risk wherever they can!

“You'll always miss 100% of the shots you don't take”.

~Wayne Gretzky- The great one!

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