

6 What If They Are More Powerful?

(Develop Your BATNA—Best Alternative To a Negotiated Agreement)

Of what use is talking about interests, options, and standards if the other side has a stronger bargaining position? What do you do if the other side is richer or better connected, or if they have a larger staff or more powerful weapons?

No method can guarantee success if all the leverage lies on the other side. No book on gardening can teach you to grow lilies in a desert or cactus in a swamp. If you enter an antique store to buy a sterling silver George IV tea set worth thousands of dollars and all you have is one hundred-dollar bill, you should not expect skillful negotiation to overcome the difference. In any negotiation there exist realities that are hard to change. In response to power, the most any method of negotiation can do is to meet two objectives: *first*, to protect you against making an agreement you should reject and *second*, to help you make the most of the assets you do have so that any agreement you reach will satisfy your interests as well as possible. Let's take each objective in turn.

Protecting yourself

When you are trying to catch an airplane your goal may seem tremendously important; looking back on it, you see you could have caught the next plane. Negotiation will often present you with a similar situation. You will worry, for instance, about failing to reach agreement on an important business deal in which you have invested a great deal of yourself. Under these conditions, a major danger is that you will be too accommodating to the views

of the other side—too quick to go along. The siren song of “Let’s all agree and put an end to this” becomes persuasive. You may end up with a deal you should have rejected.

The costs of using a bottom line. Negotiators commonly try to protect themselves against such an outcome by establishing in advance the worst acceptable outcome—their “bottom line.” If you are buying, a bottom line is the highest price you would pay. If you are selling, a bottom line is the lowest amount you would accept. You and your spouse might, for example, ask \$200,000 for your house and agree between yourselves to accept no offer below \$160,000.

Having a bottom line makes it easier to resist pressure and temptations of the moment. In the house example, it might be impossible for a buyer to pay more than \$144,000; everyone involved may know that you bought the house last year for only \$135,000. In this situation, where you have the power to produce agreement and the buyer does not, the brokers and anyone else in the room may turn to you. Your predetermined bottom line may save you from making a decision you would later regret.

If there is more than one person on your side, jointly adopting a bottom line helps ensure that no one will indicate to the other side that you might settle for less. It limits the authority of a lawyer, broker, or other agent. “Get the best price you can, but you are not authorized to sell for less than \$160,000,” you might say. If your side is a loose coalition of newspaper unions negotiating with an association of publishers, agreement on a bottom line reduces the risk that one union will be split off by offers from the other side.

But the protection afforded by adopting a bottom line involves high costs. It limits your ability to benefit from what you learn during negotiation. By definition, a bottom line is a position that is not to be changed. To that extent you have shut your ears, deciding in advance that nothing the other party says could cause you to raise or lower that bottom line.

A bottom line also inhibits imagination. It reduces the incen-

tive to invent a tailor-made solution which would reconcile differing interests in a way more advantageous for both you and them. Almost every negotiation involves more than one variable. Rather than simply selling your place for \$160,000, you might serve your interests better by settling for \$135,000 with a first refusal on resale, a delayed closing, the right to use the barn for storage for two years, and an option to buy back two acres of the pasture. If you insist on a bottom line, you are not likely to explore an imaginative solution like this. A bottom line—by its very nature rigid—is almost certain to be *too* rigid.

Moreover, a bottom line is likely to be set too high. Suppose you are sitting around the breakfast table with your family trying to decide the lowest price you should accept for your house. One family member suggests \$100,000. Another replies, “We should get at least \$140,000.” A third chimes in, “\$140,000 for *our* house? That would be a steal. It’s worth at least \$200,000.” Who sitting at the table will object, knowing they will benefit from a higher price? Once decided upon, such a bottom line may be hard to change and may prevent your selling the house when you should. Under other circumstances a bottom line may be too low; rather than selling at such a figure, you would have been better off renting.

In short, while adopting a bottom line may protect you from accepting a very bad agreement, it may keep you both from inventing and from agreeing to a solution it would be wise to accept. An arbitrarily selected figure is no measure of what you should accept.

Is there an alternative to the bottom line? Is there a measure for agreements that will protect you against both accepting an agreement you should reject and rejecting an agreement you should accept? There is.

Know your BATNA. When a family is deciding on the minimum price for their house, the right question for them to ask is not what they “ought” to be able to get, but what they will do if by a certain time they have not sold the house. Will they keep it

on the market indefinitely? Will they rent it, tear it down, turn the land into a parking lot, let someone else live in it rent-free on condition they paint it, or what? Which of those alternatives is most attractive, all things considered? And how does that alternative compare with the best offer received for the house? It may be that one of those alternatives is more attractive than selling the house for \$160,000. On the other hand, selling the house for as little as \$124,000 may be better than holding on to it indefinitely. It is most unlikely that any arbitrarily selected bottom line truly reflects the family's interests.

The reason you negotiate is to produce something better than the results you can obtain without negotiating. What are those results? What is that alternative? What is your BATNA—your Best Alternative To a Negotiated Agreement? *That* is the standard against which any proposed agreement should be measured. That is the only standard which can protect you both from accepting terms that are too unfavorable and from rejecting terms it would be in your interest to accept.

Your BATNA not only is a better measure but also has the advantage of being flexible enough to permit the exploration of imaginative solutions. Instead of ruling out any solution which does not meet your bottom line, you can compare a proposal with your BATNA to see whether it better satisfies your interests.

The insecurity of an unknown BATNA. If you have not thought carefully about what you will do if you fail to reach an agreement, you are negotiating with your eyes closed. You may, for instance, be too optimistic and assume that you have many other choices: other houses for sale, other buyers for your secondhand car, other plumbers, other jobs available, other wholesalers, and so on. Even when your alternative is fixed, you may be taking too rosy a view of the consequences of not reaching agreement. You may not be appreciating the full agony of a lawsuit, a contested divorce, a strike, an arms race, or a war.

One frequent mistake is psychologically to see your alternatives in the aggregate. You may be telling yourself that if you do

not reach agreement on a salary for this job, you could always go to California, or go South, or go back to school, or write, or work on a farm, or live in Paris, or do something else. In your mind you are likely to find the sum of these alternatives more attractive than working for a specific salary in a particular job. The difficulty is that you cannot have the sum total of all those other alternatives; if you fail to reach agreement, you will have to choose just one.

In most circumstances, however, the greater danger is that you are *too* committed to reaching agreement. Not having developed any alternative to a negotiated solution, you are unduly pessimistic about what would happen if negotiations broke off.

As valuable as knowing your BATNA may be, you may hesitate to explore alternatives. You hope this buyer or the next will make you an attractive offer for the house. You may avoid facing the question of what you will do if no agreement is reached. You may think to yourself, "Let's negotiate first and see what happens. If things don't work out, then I'll figure out what to do." But having at least a tentative answer to the question is absolutely essential if you are to conduct your negotiations wisely. Whether you should or should not agree on something in a negotiation depends entirely upon the attractiveness to you of the best available alternative.

Formulate a trip wire. Although your BATNA is the true measure by which you should judge any proposed agreement, you may want another test as well. In order to give you early warning that the content of a possible agreement is beginning to run the risk of being too unattractive, it is useful to identify one far from perfect agreement that is better than your BATNA. Before accepting any agreement worse than this trip-wire package, you should take a break and reexamine the situation. Like a bottom line, a trip wire can limit the authority of an agent. "Don't sell for less than \$158,000, the price I paid plus interest, until you've talked to me."

A trip wire should provide you with some margin in reserve. If after reaching the standard reflected in your trip wire you decide

to call in a mediator, you have left him with something on your side to work with. You still have some room to move.

Making the most of your assets

Protecting yourself against a bad agreement is one thing. Making the most of the assets you have in order to produce a good agreement is another. How do you do this? Again the answer lies in your BATNA.

The better your BATNA, the greater your power. People think of negotiating power as being determined by resources like wealth, political connections, physical strength, friends, and military might. In fact, the relative negotiating power of two parties depends primarily upon how attractive to each is the option of not reaching agreement.

Consider a wealthy tourist who wants to buy a small brass pot for a modest price from a vendor at the Bombay railroad station. The vendor may be poor, but he is likely to know the market. If he does not sell the pot to this tourist, he can sell it to another. From his experience he can estimate when and for how much he could sell it to someone else. The tourist may be wealthy and "powerful," but in this negotiation he will be weak indeed unless he knows approximately how much it would cost and how difficult it would be to find a comparable pot elsewhere. He is almost certain either to miss his chance to buy such a pot or to pay too high a price. The tourist's wealth in no way strengthens his negotiating power. If apparent, it *weakens* his ability to buy the pot at a low price. In order to convert that wealth into negotiating power, the tourist would have to apply it to learn about the price at which he could buy an equally or more attractive brass pot somewhere else.

Think for a moment about how you would feel walking into a job interview with no other job offers—only some uncertain leads. Think how the talk about salary would go. Now contrast that with how you would feel walking in with two other job offers.

How would that salary negotiation proceed? The difference is power.

What is true for negotiations between individuals is equally true for negotiations between organizations. The relative negotiating power of a large industry and a small town trying to raise taxes on a factory is determined not by the relative size of their respective budgets, or their political clout, but by each side's best alternative. In one case, a small town negotiated a company with a factory just outside the town limits from a "goodwill" payment of \$300,000 a year to one of \$2,300,000 a year. How?

The town knew exactly what it would do if no agreement was reached: It would expand the town limits to include the factory and then tax the factory the full residential rate of some \$2,500,000 a year. The corporation had committed itself to keeping the factory; it had developed no alternative to reaching agreement. At first glance the corporation seemed to have a great deal of power. It provided most of the jobs in the town, which was suffering economically; a factory shutdown or relocation would devastate the town. And the taxes the corporation was already paying helped provide the salaries of the very town leaders who were demanding more. Yet all of these assets, because they were not converted into a good BATNA, proved of little use. Having an attractive BATNA, the small town had more ability to affect the outcome of the negotiation than did one of the world's largest corporations.

Develop your BATNA. Vigorous exploration of what you will do if you do not reach agreement can greatly strengthen your hand. Attractive alternatives are not just sitting there waiting for you; you usually have to develop them. Generating possible BATNAs requires three distinct operations: (1) inventing a list of actions you might conceivably take if no agreement is reached; (2) improving some of the more promising ideas and converting them into practical alternatives; and (3) selecting, tentatively, the one alternative that seems best.

The first operation is inventing. If, by the end of the month,

Company X does not make you a satisfactory job offer, what are some things you might do? Take a job with Company Y? Look in another city? Start a business on your own? What else? For a labor union, alternatives to a negotiated agreement would presumably include calling a strike, working without a contract, giving a sixty-day notice of a strike, asking for a mediator, and calling on union members to "work to rule."

The second stage is to improve the best of your ideas and turn the most promising into real alternatives. If you are thinking about working in Chicago, try to turn that idea into at least one job offer there. With a Chicago job offer in hand (or even having discovered that you are unable to produce one) you are much better prepared to assess the merits of a New York offer. While a labor union is still negotiating, it should convert the ideas of calling in a mediator and of striking into drafts of specific operational decisions ready for execution. The union might, for instance, take a vote of its membership to authorize a strike if a settlement is not achieved by the time the contract expires.

The final step in developing a BATNA is selecting the best among the alternatives. If you do not reach agreement in the negotiations, which of your realistic alternatives do you now plan to pursue?

Having gone through this effort, you now have a BATNA. Judge every offer against it. The better your BATNA, the greater your ability to improve the terms of any negotiated agreement. Knowing what you are going to do if the negotiation does not lead to agreement will give you additional confidence in the negotiating process. It is easier to break off negotiations if you know where you're going. The greater your willingness to break off negotiations, the more forcefully you can present your interests and the basis on which you believe an agreement should be reached.

The desirability of disclosing your BATNA to the other side depends upon your assessment of the other side's thinking. If your BATNA is extremely attractive—if you have another customer

waiting in the next room—it is in your interest to let the other side know. If they think you lack a good alternative when in fact you have one, then you should almost certainly let them know. However, if your best alternative to a negotiated agreement is worse for you than they think, disclosing it will weaken rather than strengthen your hand.

Consider the other side's BATNA. You should also think about the alternatives to a negotiated agreement available to the other side. They may be unduly optimistic about what they can do if no agreement is reached. Perhaps they have a vague notion that they have a great many alternatives and are under the influence of their cumulative total.

The more you can learn of their alternatives, the better prepared you are for negotiation. Knowing their alternatives, you can realistically estimate what you can expect from the negotiation. If they appear to overestimate their BATNA, you will want to lower their expectations.

Their BATNA may be better for them than any fair solution you can imagine. Suppose you are a community group concerned about the potential noxious gases to be emitted by a power plant now under construction. The power company's BATNA is either to ignore your protests altogether or to keep you talking while they finish building the plant. To get them to take your concerns seriously, you may have to file suit seeking to have their construction permit revoked. In other words, if their BATNA is so good they don't see any need to negotiate on the merits, consider what you can do to change it.

If both sides have attractive BATNAs, the best outcome of the negotiation—for both parties—may well be not to reach agreement. In such cases a successful negotiation is one in which you and they amicably and efficiently discover that the best way to advance your respective interests is for each of you to look elsewhere and not to try further to reach agreement.

When the other side is powerful

If the other side has big guns, you do not want to turn a negotiation into a gunfight. The stronger they appear in terms of physical or economic power, the more you benefit by negotiating on the merits. To the extent that they have muscle and you have principle, the larger a role you can establish for principle the better off you are.

Having a good BATNA can help you negotiate on the merits. You can convert such resources as you have into effective negotiating power by developing and improving your BATNA. Apply knowledge, time, money, people, connections, and wits into devising the best solution for you independent of the other side's assent. The more easily and happily you can walk away from a negotiation, the greater your capacity to affect its outcome.

Developing your BATNA thus not only enables you to determine what is a minimally acceptable agreement, it will probably raise that minimum. Developing your BATNA is perhaps the most effective course of action you can take in dealing with a seemingly more powerful negotiator.