

“It’s Not Fair” But does it matter? What part does fairness play in negotiating?

When it comes to negotiating in long-term relationships we think fairness, or indeed perceived fairness, plays a big part in the value of the ongoing deal. Why should that be? Clearly if one side benefits substantially more than the other, but the other side also benefits, just less, the deal still works for both sides.

One general point to make first.

In one-off or transactional deals, you could argue that you should be as aggressive and self-centred as you possibly can, because who gives a fig about the other guy. Let them fend for themselves. I guess there is a truth inherent in that.

However, in my view, there are surprisingly few relationships that we have like this. Buying a house is one. Buying a car, often sited as a one-off, maybe doesn’t fit (who does the servicing, where do you get the next car from). Many other opportunities to negotiate often involve ongoing or potential future relationships.

The apocryphal story of the client who drove his supplier so hard he went bust, only to reappear as his boss, may or may not be an urban myth, but it makes you think.

"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."

So said John Paul Getty’s father and I think that is good advice. Certainly didn’t do the Billionaire JP Getty any harm.

What role does fairness play in negotiations beyond that though? Well, I think a study run by Joseph Henrich at ULCA and reported in the brilliant “Sway. The Irresistible Pull Of Irrational Behaviour” by Ori and Rom Brafman gives some interesting pointers.

Henrich created a game where two players were placed in two separate rooms unable to communicate except through an intermediary. They were given \$100 to divide between the two players, the catch being before being separated the two parties had to toss a coin to decide who would split the money.

The splitter could share the money however he or she thought fit. Their first answer would be taken and no chance to revise it would be made.

In order for the deal to be done, both parties had to agree to the split. If the receiving partner did not agree to the share, or rejected the offer, neither party got anything.

Now most of the results were remarkably consistent.

In the majority of cases the splitter offered to split the \$100, 50:50, and when this was the case, the deal was universally accepted. No splitter offered more to the other side than they would receive themselves.

The really interesting bit was what happened when the splitter tried to take more than their “fair share”.

As you can imagine the receiving party was not best pleased. They were indignant, aggrieved and let's not pull any punches here, angry that the other side were, in their eyes cheating.

So annoyed that they rejected the deal?

Well yes, in the majority of situations that was the case. Even though rationally this did not make sense. Remember if the receiver rejected the deal neither party got anything. Logic would dictate that even though they may be unhappy and feel cheated, something is surely better than nothing. This was not the case. Regardless of any logic, the overwhelming majority of partners who were presented with an unfair deal rejected it. They went home empty-handed but with a feeling that justice had been served.

Interestingly, the experiment was repeated but this time with a computer as the splitter. The receiver was told that the split would be randomly decided by a prewritten programme. When the computer made an unfair split, the receiver simply took it. They accepted deals with the computer that they would have rejected out of hand from another person.

What are the implications of this for negotiators?

If deals or proposals offered or being offered are seen as unfair, even if the other side would benefit, they may be rejected out of hand, or at least create an environment of unpleasantness that makes any deal struck hard to make live.

How can we avoid this?

Firstly, our advice as negotiation trainers is to make sure that any proposals you make are credible. Clearly any proposals you make you should be able to simply and clearly explain to the other side. We do not suggest that you make easy proposals. On the contrary they need to be challenging, but make sure that if you are put under pressure to demonstrate your thinking or reasons for it, you can. If you are unable to present a credible and reasoned working's out model that backs up your thinking, you are already on the back foot.

To help you make sure you have planned and considered a number of concessions that you may be able to add to the value of your proposal to build some value into the deal if the other party feels that you have perhaps overstated your case. A number of years ago, I was asked to speak at a client's conference. I was asked to submit a fee to cover my time and I suggested a number. The figure was clearly more than my client had thought reasonable, as demonstrated by the sharp intake of breath. By planning what I was going to do beforehand, I was able to agree with the client that the figure included my travel (I would pay for my flights out of the fee). I also had plans for dealing with the negotiation had the client said that the figure was well within budget.

Having a well-developed and creative list of things that could sweeten the deal for me would allow me to bring other variables such as additional fee to cover time travelling, or planning the presentation and put a turn on the deal.

Try to create an open and collaborative atmosphere under which the negotiation will take place. Working together with the other side with common goals (i.e. a deal that works) allows you to creatively develop ways of adding value to the end game. Ultimately this may allow enough value to be created for both parties to get a better deal.

Most importantly of all, if you have to negotiate, make sure that any movement you make is conditional upon the other side doing something for you. If the movement you need to make is reasonable and fair, then put a fair price on it. If not, block the move with an unreasonable price. It is a very effective tactic. If you have all the power in a relationship then you can ignore all of the above advice of course.

But watch out if your boss ever leaves.

Alan Smith – Managing Director, Scotwork UK