

**Worksheets - Negotiations (5): Clinching the deal**
**1. Quiz: Are you a hard-nosed negotiator or a soft touch?**
**1. What is your goal in a negotiation?**

- a. To reach an agreement, no matter what.
- b. To win, no matter what.
- c. Something else. (What?)

**2. Which of these adjectives best describes you during a negotiation? Choose up to three.**

- |              |                  |                |
|--------------|------------------|----------------|
| a. tenacious | e. stubborn      | i. patient     |
| b. flexible  | f. aggressive    | j. cautious    |
| c. generous  | g. helpful       | k. creative    |
| d. weak      | h. accommodating | l. spontaneous |

**3. Which of these nouns would you use to describe your opposite number in the negotiation?**

- |            |              |                |
|------------|--------------|----------------|
| a. enemy   | c. adversary | e. counterpart |
| b. partner | d. opponent  | f. friend      |

**4. You're in an important negotiation which you desperately want to work. At one point, your opposite number threatens to end the negotiation if you don't concede a big point. You've tried being flexible, but nothing seems to work. It's all or nothing. What do you do?**

- a. Make the concession.
- b. Call his bluff – walk away yourself.
- c. Something else. (What?)

**5. You've reached deadlock. You know your opponent needs to get a deal signed today, but she won't accept your final offer. What do you do?**

- a. Dig your heels in. Let her find a way out of this.
- b. Make a concession.
- c. Something else. (What?)

**6. In her opening statement, your potential client has said she can't pay more than \$100 per unit, which surprised you. You were planning to start your asking price at \$100 and would have settled for as little as £80. What do you do?**

- a. Accept the £100 immediately.
- b. Ask for £120, and be prepared to give the £20 away later in the negotiation.
- c. Something else. (What?)

**7. You've finally reached agreement on all the key points. But just as you're ready to sign the deal, your counterpart throws a spanner in the works: he wants to delay the start date by a month. It's not a disaster for you, but it's certainly not convenient. What do you do?**

- a. Accept the new terms – you don't want to throw away all you've agreed.
- b. Go back to the beginning and try to negotiate a solution.
- c. Something else. (What?)

**2. Reading: Brinksmanship and clinching the deal**

Read the article. Are these statements true or false? Why?

1. Walking away from the deal is usually disadvantageous for both parties.
2. It's usually better to hold the negotiation in your office.
3. Even if you've invested a lot of your own time and effort in the negotiation, you shouldn't let this influence your decision-making.
4. Brinksmanship is a very risky strategy.
5. If you call someone's bluff, you allow them to do what they were threatening to do.
6. Brinksmanship can be a useful way of building long-term relationships.
7. It's important to be honest, creative, firm, patient and positive.
8. Once you have agreed on one point (e.g. a 5% discount), you shouldn't go back to renegotiate that point later.
9. You must always tie up all the loose ends before you clinch the deal.
10. Throwing a spanner in the works at the last minute can sometimes be an effective strategy.

**Reading: Brinksmanship and clinching the deal**

In any negotiation, there may come a point where one or the other party threatens to walk away. This, of course, is bad for both parties: they're both here in order to find a solution. They've both invested plenty of time, effort and money in the negotiation so far: researching it, planning it, taking part in it. They may have no obvious BATNA<sup>1</sup>, or at least their BATNA is a lot worse than a successful agreement.

On the other hand, a bad deal is worse than no deal. If you are convinced that you would be better off by walking away, based on your previous research, then you have to be prepared to do that. That's one reason why it can be better to hold the negotiation in their office, or even in neutral territory like a hotel: you can't really walk away if it's your own office!

The same goes for the way you react to the other side's threats: if you'd be better off by letting them walk away, rather than accepting their unacceptable offer, then that's what you have to do. Try not to think in terms of the hours that you have personally invested in the deal, but rather in terms of the overall costs and benefits for your organisation. It's better to accept you've wasted a week's work (however difficult it's been for you personally) than to agree to a deal that will cost your organisation much more. Your investment in the negotiation could still be a factor in your decision-making, but it shouldn't normally be the most important factor.

Brinksmanship – negotiating through threats to walk away – can sometimes be simply a bluff. If they sense that you need the deal more than they do, they may try using threats to walk away in order to extract concessions from you. They may not actually want to walk away – their threats might be just a bluff. So if you call their bluff and say you'll let them walk away, they may well change their strategy to accommodate you. And even if you calculate that the deal on offer is still better than nothing,

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<sup>1</sup>Best Alternative to Negotiated Agreement: See Negotiations (2): Positions and interests

remember: you're trying to build a long-term relationship here. If the relationship starts with threats and bluffs, it could be a sign that it will be difficult in the future too.

The point to remember is that negotiations aren't a game. If you're honest about what you need, what you can and can't accept and why you're in the negotiation, there's no need for bluffing and brinksmanship. Tell them that you want to find a solution and do your best to explore creative solutions, but don't be afraid to tell them what you're not prepared to accept. Be firm but patient and positive.

Clinching the deal can be a long, slow process. The trick is to keep a record of what you've agreed, and make absolute sure you both understand exactly what has been agreed. That way you can focus the negotiation on the one or two key variables that remain 'on the table'. Of course, you can still return to those agreed points if necessary, to put them back on the table in order to resolve those final sticking points. The principle is that everything is on the table until the whole deal has been clinched. And in the end, either there's a deal to be clinched or there isn't.

Once you've both decided that there is a deal to be clinched, there may be all sorts of loose ends to tie up. As long as these really are just loose ends, tiny details which are irrelevant to the main deal, it's usually fine to leave these for later. (But make sure you do resolve them pretty quickly!) But the real problem comes when one party throws a major spanner in the works at the last moment, when you're about to sign the deal. This is a particularly unpleasant trick, as nobody wants to go back to square one, so tired negotiators often capitulate. But a trick it is, and the only sensible way to handle it is to call a time out and plan how to resolve the new complication calmly and logically.

### 3. Dialogues

Read four extracts from the later stages of a negotiation between a franchisor (a chain of small grocery shops) and a potential franchisee. What exactly do they agree?

(A = franchisee; B = franchisor)

#### Extract 1

- A: OK, so you said you could be flexible on the initial setting-up fee in exchange for slightly higher monthly fees. I think we could accept that. I'd say we could accept a 1% increase in the monthly fees for the first two years in exchange for a 5% cut in the set-up fee. How does that sound?
- B: Er ... I think that's fair enough.
- A: So that's agreed? A 1% increase in monthly fees for two years, a 5% cut in the set-up fees?
- B: Yes, that's fine. And then we can review the situation after those two years.
- A: OK, great.

#### Extract 2

- B: What about the non-compete clause? You said you were worried about committing yourself to five years.
- A: Well, yes, I mean obviously I want to make this franchise work, but if it doesn't, for whatever reason, I need to be able to make a living. And the non-compete clause says I can't open another shop for five years.
- B: Well, it says no other shop in the same market, so grocery stores, within a 20km radius of this shop. We have to include such a clause, you know, so we don't give you all our secrets and then watch you set up in competition with us over the road.
- A: OK, fair enough, but there's a big difference between over the road and 20km. This is a big city, and there's no way a little shop 5km away, or even 1km away, is in direct competition.
- B: So what are you proposing?
- A: Well, as I say, I think the exclusion zone could be cut to 1km, possibly slightly more. Or we could reduce the term of the non-compete clause, to, say, 2 years.
- B: Well, I'm afraid 1km is totally out of the question, as is a 2-year term. We might be able to show some flexibility in both of these, but I was thinking more in terms of 15km for a period of, say, four years. But that would depend on what you could offer us in return. Perhaps we could revisit the notice period.
- A: Er, well, I thought we'd agreed on that. You said you'd accept a three month notice period.
- B: Yes, that's right. But we'd need something in return for flexibility on the non-compete clause. Do you have a better suggestion?
- A: Not really. As I said earlier, the three-month notice period is as long as I'm prepared to accept, and I also can't accept the non-compete clause as it stands.
- B: OK, so ... are you saying you're not prepared to accept our offer? If that's the case, it would be a shame, but it's up to you.
- A: I don't know. Could we take a time out? I need to think about this before I make a decision. I also want to make this work, and it would be a shame to walk away after we've come so close to an agreement.

B: I agree. Shall we meet back here in half an hour?

**Extract 3**

- A: OK, so I've given it some thought. I was wondering whether we could do something like this with the non-compete clause: a large exclusion zone, say your 15km, for the first year, and then a smaller zone after that, say 2km for the next three years.
- B: Hmm ... that's interesting. We might be able to work out something like that, in exchange for a longer notice period ... How about this? 15km for the first two years, and 5km for the next two years. In exchange for a notice period of five months.
- A: Er ... let me think about this ... Tell you what. Let's make the notice period four months, and you've got yourself a deal.
- B: Sounds good. Let me just confirm what we've agreed, then ...

**Extract 4**

- A: Yes, that all sounds fine.
- B: Excellent. Well, it's been a pleasure doing business with you. You drive a hard bargain, but I think this will be a good deal for both of us. Here's to a successful long-term relationship!

**4. Analysis**

Discuss these questions in pairs.

**Extract 1**

1. At the beginning, the franchisee says 'I think we could accept that'. What exactly is she accepting?
2. Why does the franchisee repeat the figures?

**Extract 2**

3. What do the two parties reveal about their positions with regard to the non-compete clause?
4. How do the two parties show that their proposals are flexible?
5. How does the franchisor show that the franchisee's suggestion is unacceptable?
6. Why is the franchisee surprised that the franchisor mentioned the notice period?
7. Which party comes closest to brinkmanship here?
8. How do they avoid ending the negotiation?

**Extract 3**

9. How does the franchisee introduce her creative solution?
10. How does the franchisor express that there is a deal to be clinched without actually accepting the offer??
11. Why doesn't the franchisor agree straight away?

**Extract 4**

12. Why do you think the franchisor pointed out that the franchisee drives a hard bargain?

**5. Useful language**

1.	<ul style="list-style-type: none"> <li>• So you said you could be flexible ...</li> <li>• You said you were worried about ...</li> <li>• You said you'd accept ...</li> </ul>	a.	Agreeing tentatively
2.	<ul style="list-style-type: none"> <li>• I think we could accept that.</li> <li>• I think that's fair enough.</li> </ul>	b.	Asking for a concession
3.	<ul style="list-style-type: none"> <li>• How does that sound?</li> </ul>	c.	Asking for a suggestion
4.	<ul style="list-style-type: none"> <li>• So that's agreed?</li> </ul>	d.	Asking for agreement
5.	<ul style="list-style-type: none"> <li>• Yes, that's fine.</li> <li>• Yes, that all sounds fine.</li> </ul>	e.	Checking the details
6.	<ul style="list-style-type: none"> <li>• So what are you proposing?</li> <li>• Do you have a better suggestion?</li> </ul>	f.	Clinching the deal
7.	<ul style="list-style-type: none"> <li>• I think the exclusion zone could be cut ...</li> </ul>	g.	Discussing ending the negotiation
8.	<ul style="list-style-type: none"> <li>• possibly slightly more</li> <li>• ... say, 2 years.</li> <li>• We might be able to show some flexibility ...</li> </ul>	h.	Giving formal confirmation
9.	<ul style="list-style-type: none"> <li>• I'm afraid ... is totally out of the question</li> </ul>	i.	Making one concession dependent on another
10.	<ul style="list-style-type: none"> <li>• But that would depend on what you could offer us in return.</li> <li>• But we'd need something in return for ...</li> </ul>	j.	Organising a time-out
11.	<ul style="list-style-type: none"> <li>• Perhaps we could revisit the notice period.</li> </ul>	k.	Presenting a creative solution
12.	<ul style="list-style-type: none"> <li>• I thought we'd agreed on that.</li> </ul>	l.	Protesting
13.	<ul style="list-style-type: none"> <li>• ... is as long as I'm prepared to accept.</li> <li>• I also can't accept ... as it stands.</li> </ul>	m.	Putting a variable back on the table
14.	<ul style="list-style-type: none"> <li>• Are you saying you're not prepared to accept our offer? If that's the case, it would be a shame, but it's up to you.</li> </ul>	n.	Rejecting a proposal
15.	<ul style="list-style-type: none"> <li>• Could we take a time out? I need to think about this before I make a decision.</li> <li>• Shall we meet back here in half an hour?</li> </ul>	o.	Reporting what the other person said earlier.
16.	<ul style="list-style-type: none"> <li>• I also want to make this work, and it would be a shame to walk away after we've come so close to an agreement.</li> </ul>	p.	Responding positively without agreeing
17.	<ul style="list-style-type: none"> <li>• OK, so I've given it some thought. I was wondering whether we could do something like this.</li> <li>• How about this?</li> <li>• Tell you what. Let's ...</li> </ul>	q.	Showing a positive attitude
18.	<ul style="list-style-type: none"> <li>• Hmm ... that's interesting. We might be able to work out something like that.</li> </ul>	r.	Showing flexibility
19.	<ul style="list-style-type: none"> <li>• ... and you've got yourself a deal.</li> <li>• Well, it's been a pleasure doing business with you. You drive a hard bargain, but I think this will be a good deal for both of us. Here's to a successful long-term relationship!</li> </ul>	s.	Standing firm

## 6. Role-play

You are going to role-play the final stages of a negotiation between a franchisor (a coffee store chain) and a potential franchisor. Most of the terms have already been agreed, and both sides have already shown some flexibility in the four remaining variables. The chart shows their latest positions.

Both sides are very keen to make this negotiation work, and to build a good, strong relationship.

Then work in pairs to role-play the final stages of the negotiation. Try to clinch a deal that is good for both sides!

	<b>Franchisor</b>	<b>Franchisee</b>
<b>A. Set-up fees</b>	no less than £10,000	no more than £8,000
<b>B. Monthly fees</b>	no less than £500 + 25% of all profits	no more than £300 + 20% of all profits
<b>C. Non-compete clause</b>	"The franchisee may not own, manage or work in another coffee shop within 15km of this one for a period of 5 years from the end of this contract."	"The franchisee may not own or manage another coffee shop within 2km of this one for a period of 2 years from the end of this contract."
<b>D. Notice period</b>	No less than 6 months for both parties	No more than 3 months for both parties

You can be most flexible on variable A, and least flexible on variable B.

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You can be most flexible on variable A, and least flexible on variable D.

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You can be most flexible on variable B, and least flexible on variable C.

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You can be most flexible on variable B, and least flexible on variable D.

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You can be most flexible on variable C, and least flexible on variable A.

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You can be most flexible on variable C, and least flexible on variable B.

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You can be most flexible on variable D, and least flexible on variable A.

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You can be most flexible on variable D, and least flexible on variable C.