

Valitas Insights: Negotiating M&A Concessions

Price isn't everything in a deal negotiation. While maximizing or minimizing price (depending on which side of the table you sit on) can make or break a deal, a shared goal of both parties to an exclusive negotiation is getting the deal done. Both sides need to feel they are getting a good deal for a negotiation to work successfully, and that means concessions should be offered, appreciated, and reciprocated. The [Harvard Business Review](#) identifies four strategies to consider when making concessions:

1. Label your concessions

Don't assume that your actions will speak for themselves. Your counterparts will overlook, ignore, or downplay your concessions in order to avoid the social obligation to participate. Clarify that a concession was made and that it is costly to you.

2. Demand and define reciprocity

Labelling your concession triggers an obligation to reciprocate, but sometimes your counterparty will be slow to act on that obligation. Not only is it important to label your concessions, but also to begin to define the form that the return concession can take.

3. Make contingent concessions

Both parties to a negotiation may not be committed to making good-faith efforts towards achieving joint gains. In situations where trust is low, consider making contingent concessions as a lower risk approach to achieving some of your goals.

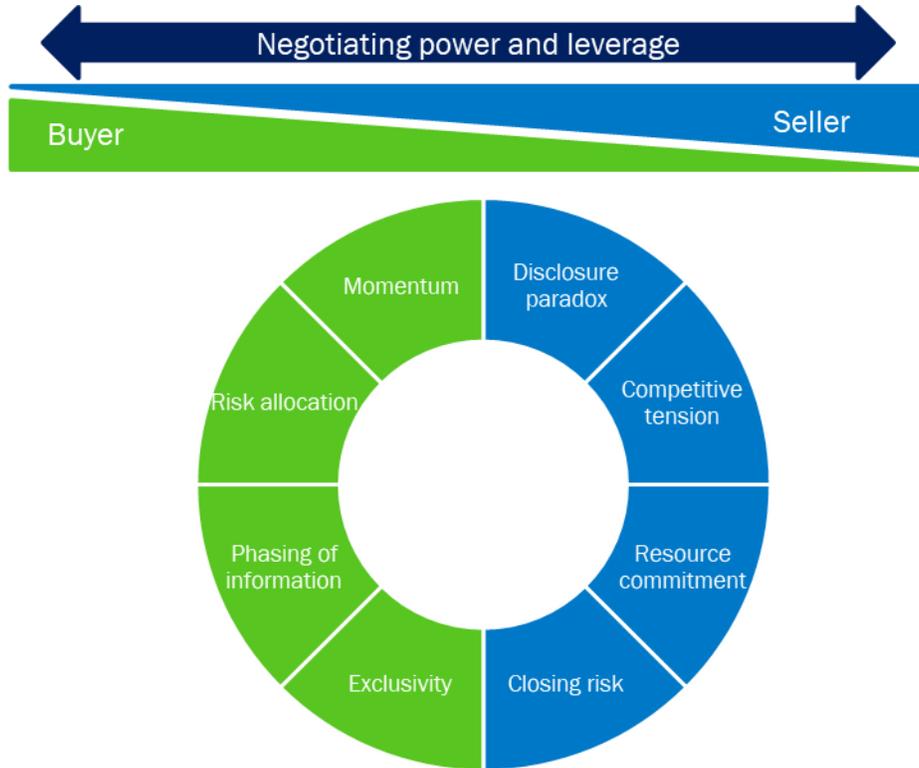
4. Make concessions in installments

Most negotiators expect to trade offers back and forth several times. If you give everything away in your first offer, the other party may think you're holding back even though you may have been as generous as you can be.

[Jillian Swartz](#), partner at law firm Allen McDonald Swartz, has successfully negotiated many transactions in her M&A practice. She spoke to us about how to optimize the use of concessions in a deal negotiation. "In any negotiation, it's critical to make a list of 'must haves' and 'nice to haves'", she told us. "This puts you in a better position to understand those areas where you can make concessions, and still have a deal that meets your overall objectives." Ms. Swartz emphasized that "it's important to build rapport early in the negotiation so that you can determine the other side's 'must haves'. This might enable you to provide concessions that are meaningful to them, but less important to you."

Tactics for negotiating concessions are important, but so is understanding what drives the strategy behind the process. Ultimately, one company's divestiture process is another company's acquisition process. Maximizing negotiating power is key to driving the process. By focusing on items on the left

of the following figure, buyers can increase negotiating power, whereas by focusing on items on the right, sellers can increase their leverage throughout the process.¹



As a final piece of advice, consider eating while negotiating (seriously!). A Harvard Business Review study found that the act of eating together while negotiating created significantly better outcomes for both parties, whether in a conference room or at a restaurant. In the simulated study, 132 MBA students negotiated a complex joint venture agreement between two companies, with a variety of terms considered in order to maximize profits. The groups negotiating over food achieved an average deal value \$6.5-6.7 million higher than those negotiating without.²

¹ Deloitte, "Sell-side strategies for private companies", 2014

² Lakshmi Balachandra, "Should You Eat While You Negotiate?", Harvard Business Review, January 2013



This positive effect may relate to Jillian Swartz's suggestion to "build rapport" to better understand which concessions will optimize your outcome; sharing a meal helps facilitates that. So, next time you're embarking on a negotiation, maybe consider ordering in sandwiches...