

HELPING STUDENTS IDENTIFY AND RESPOND TO HARDBALL TACTICS IN NEGOTIATION

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ABSTRACT

While those teaching negotiations understandably focus on integrative (win-win) negotiations as the most effective mode of conflict resolution, it is important to discuss distributive (win-lose or competitive) modes. We must help prepare students to deal effectively with counterparts who use more competitive approaches. This paper presents an effective way to teach about various competitive (hardball) tactics and how students might deal with such tactics. Dealing with "hardball tactics" is a topic of strong interest to students. They typically negotiate with people with more power than they have, and dealing with people with more power and people who use hardball tactics is high on a list of concerns.

BACKGROUND

Most negotiation classes focus on distinguishing between distributive (competitive) and integrative (cooperative) negotiation approaches. Virtually all texts on negotiation agree that integrative approaches to negotiation have a far higher probability of leading to effective outcomes than other forms of negotiation. Yet, it would be irresponsible if a course on negotiation didn't also develop skills in competitive negotiation including how to respond effectively with counterparts who use "hardball" tactics.

When asked to talk about this subject, the problem of dealing with hardball tactics always is at or near the top of concerns. Guest speakers similarly are almost always asked about this issue.

A key skill in dealing with hardball tactics is to quickly identify and label the tactic. If students can quickly identify a tactic when used and have learned appropriate and effective responses ahead of time to particular tactics, they are better able to deal with these tactics in real time.

Teaching about Hardball Tactics

Teaching this topic involves the following steps and depends heavily on simulations and interactive exercises

1. Building skill in defining and identifying tactics
2. Developing (through practice) strategies to deal with these tactics

There are a wide variety of tactics whose aim is to get a counterpart to do things she might not otherwise do. These tactics are most effective with inexperienced negotiators. These tactics can often backfire insofar as they often lead both sides to pursue competitive strategies which can make it very difficult to find the hidden value that often exists in a negotia-

tion. Furthermore, hardball tactics often tend to harm the relationship or potential relationship. It is important to emphasize to students that almost all of their serious negotiations involve people with whom they have a long term relationship (family members, bosses, subordinates, co-workers, customers, clients, etc). Hardball tactics are almost always harmful to these relationships and to the trust between parties.

The following lists a number of the most popular hardball tactics as well as some effective responses.

- Some Hardball Tactics (your best defense to these tactics is to recognize them immediately and label them and keep your walkaway; this can be fun!) Recognize that each of these could work but more likely will backfire,
- Highball/lowball: try to intimidate by making extremely high or low offers
- **Consistency Trap:** get the other to say "yes" to a simple premise (e.g. "Do you care about your family?") and then to make the connection "If you said yes to "A", then being consistent and logical, you must say yes to "B")
- **Reciprocity:** "Let's Split the Difference." While this is typical occurrence, this can be a hardball tactic when the other person sets a very aggressive anchor
- **Deferred or limited authority** (I'll take this upstairs...or "it is against our policy")
- **Bogey:** pretend an issue or concession is very important when in reality it isn't.
- **Chicken:** playing brinkmanship and seeing who blinks first
- **snow job:** overwhelming the other side with information
- **Flinch:** your opponent reacts with shock and surprise; this will intimidate most people; these can be very effective
- **Threats:** these are made to show that the cost of not accepting their offer will be higher than acceptance; to be effective, they must be believable; if you use threats, affirmative threats work better; if confronted with threats (your offer would cause a third of our union members to lose their jobs...) think about whether the threat is really credible; you might want to call the person's bluff.
- **Anger:** people will use feigned anger to convince an opponent of their seriousness; your response can be anger in response (this can be risky) or a statement that you have been offended, or understanding their anger; try to make the other party feel guilty and embarrassed.
- **Aggressive behavior:** don't try to counter aggression with aggression; you won't be convincing; don't tolerate aggression; deal with it
- **Avoid confrontation:** what you say in the first few moments often sets the climate; get in the habit of agreeing initially and turning it around ("I understand exactly how you feel about that. Many other people have felt the same way. But you know if we look at this further...".)
- **Wise Technique:** when you say "you'll have to do better than that" an inexperienced negotiator will give away a lot;

an experienced negotiator will say “how much better do I have to do.”

- Get the other person to suggest “splitting the difference”(you shouldn’t do it); it makes a big difference if he suggests it; it makes him feel he won
- The nibble: the other side has agreed to go ahead; you feel great; he says “one last thing....” We tend to give away things we otherwise wouldn’t-watch out
- The Delay: say you are offered a salary review after six months and your boss keeps saying, “I’ll get back to you...” Perhaps your boss is delaying because he doesn’t know how to negotiate with you. You can say, “I have a feeling you have been delaying this because you need more information from me. You might feel more comfortable if I gave you more information...”
- “Take it or leave it” or “this is my best offer”: be careful; don’t reject it just because you don’t like the tactic but don’t go for it if you don’t like the offer.
- Silence and patience: this is very a very powerful tactic; most of us fear silence. Information gathering is best achieved through silence; if it is the other person’s turn to speak, give sufficient time to respond; don’t fill the void just because you can’t stand silence
- No: ask why; this helps you find out the circumstances under which he will say “yes.” A “no” is not the end but is the point where the other person trusts you enough to tell you he isn’t going to accept your offer. A “no” can be the point where true feelings are disclosed, bottom lines are revealed, and where it becomes clear what the objections are
- Auction: (we can get it for less...) when confronted with this, ask what the better deal is and make it clear what the advantages of your offer are
- Deadlines (I need it Friday): find out why; frequently deadlines are artificial;
- Good Cop/Bad Cop or “Mutt and Jeff”: Mutt says your offer is generous while his partner (Jeff) rejects it as insufficient and attacks you; often we make the mistake of directing our negotiating towards the unreasonable one to win approval when it is often better to seek the acquiescence of the reasonable adversary
- The “belly up” approach: the other person says you are too good a negotiator and he is so poor; he tells you he will accept “whatever you think is fair.” This can manipulate some of us to give more than we should
- Passive-aggressive: **instead of directly challenging our proposals, they use indirect approaches; they show up late, they forget to bring important documents. Recognize this hostility and be prepared**

BUILDING SKILLS IN IDENTIFYING HARDBALL TACTICS

Fortunately, many feature films include useful scenes of hardball negotiating tactics. An example I find particularly useful is a scene from **BOILER ROOM** (YouTube <https://www.youtube.com/watch?v=1C6ZeKpx7xY>), featuring a cold call between a young salesman (Seth) and Harry, a Purchasing Agent. The scene is only about three minutes long but includes a number of tactics listed above including:

- Fake relationship
- Puffery
- Deferred authority

- Consistency tactic
- Reciprocity
- Scarcity tactic

Using the film with frequent stops to ask students to identify tactics is a very effective way of building up skills in identifying tactics.

Since so many films have scenes involving hardball tactics, a popular assignment is to have students come up with a film clip and ask students to present it to the class including an analysis of the tactics used.

Another useful technique is to use a written case dialog which allows the opportunity to identify tactics used. I find a case, **Going for a Ride**, (Wertheim, 2016) to work quite well in providing the opportunity for students to identify tactics and formulate effective responses.

GOING FOR A RIDE

The Case (**Going for a Ride**-available from the author) focuses on a negotiation between a naïve first time car buyer and an experienced car salesman. There is a tactic in virtually every sentence that the salesman utters. Students are asked to identify and name the tactic and to analyze the underlying psychological intent of the tactic. Students are asked to also identify possible appropriate responses to the tactic.

An extensive Teaching Note and Grading Guide is available for the case.(Wertheim, 2016). Below is a list of the tactics that are used in the case.

- Anchoring , concessions combined with reciprocity,
- Normative leverage
- Scarcity tactic (these are going fast)
- Authority tactic (I need to speak with my sales manager)
- Consistency trap (“What if I told you I could sell you this car for....”)
- Good cop, bad cop (“I am so sorry, my manager said I couldn’t give you the
- Fake relationship (“because I like you”)
- Reciprocity (“I told you I would keep my word”)
- Social pressure (all the young professionals.....)
- Overwhelming
- Physical intimidation (Come into my office)
- Lying, bluffing
- Fake authority (“it’s printed on the form here”)

The exercise provides an opportunity to accomplish a number of objectives:

- Gain skill in identifying and analyze a wide range of tactics including an identification of the underlying psychological dynamics of each tactic
- Identify ways the buyer could have been better prepared
- Discuss the ethics and legality of various tactics
- Identify effective ways of responding to hardball tactics

TARGET AUDIENCES

The learning objectives and the specific exercises that are used work well at both the Undergraduate and the Graduate

level. Also variations of the exercises are possible. For example, the film segment on Boiler Room is available on line through You Tube and can be made a homework assignment. Similarly, the RIDE case can be handed out ahead of time or could be used as an exam.

CONCLUSION

“How to deal with Hardball Tactics,” is a question on the minds of all audiences in negotiation presentations. This is true for all audiences ranging from the youngest undergraduates to the most experienced working professionals. The exercises described above work for this entire range. While those of us who teach negotiations may emphasize integrative negotiations, we should be aware that while we are talking, those in the audience are typically thinking “this is all well and good, but what if my “opponent” hasn’t read or doesn’t agree with Roger Fisher’s Getting to Yes?” We need to address this need by focusing part of our courses and presentations on these hardball tactics and helping our students to develop skills in dealing with these tactics.

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