



TRANSACTION NEGOTIATIONS – MUST DO'S

Ideally, the negotiations will bring about a satisfactory conclusion in an acquisition or disposal process but often this requires a great deal of creativity on the parts of the parties or their advisers.

My top tips on negotiating a transaction from the ACQUIRER'S point of view, are as follows:-

- To establish credibility as quickly as possible, unrealistic opening gambits, such as derisory offers, should always be avoided.
- Have a walk-away figure in mind. Deal fever is as abundant as deal fatigue and you may find yourself carried away with enthusiasm or sheer desperation to do the deal, making concessions you are likely to regret.
- Have “must-have” and “wish” lists of things you want to achieve.
- While you still want to do a deal and it remains within your means, keep talking. Walking out of discussions after the proverbial teddy has been thrown from the cot, will not help your credibility and never improves your chances of doing a deal. This is not the same as giving in. It's about logical and realistic discussion.
- Do not let a lawyer negotiate the value of your deal or the funding of it. By and large, their view will not be commercially the same as yours.
- Do not humiliate or talk down to the vendor, however inept you may think they are. They can't be that bad if you want to buy their business. Business is personal for most people, whatever management books say, particularly owner-managed business.
- Seek to win the major objectives and concede minor ones; this helps the vendor have a sense of some goals scored.
- Let professional advisers play the “nasty cop” to your “good cop”; this gives you room to manoeuvre in case you need it at a later stage.

- All deals are mercurial and not even binding until all relevant documents are signed. Re-negotiation on critical issues with the vendor for no good reason, sometimes called “brinkmanship”, may look clever and may win you a cheaper deal but people who play these games, particularly the professionals, get a poor reputation. One of the best ways of accelerating a fair deal is to put yourself in the shoes of the other party. One sure-fire way of upsetting, de-stabilising or collapsing a deal, is to embark on a point-scoring exercise. It’s not pleasant and generally it’s not necessary.
- That said, no great entrepreneur plays with all his cards on show. Hold back some concessions until you feel you need them and give in gracefully.
- Negotiate on neutral territory, since this gives both parties a degree of comfort and avoids unnecessary interruptions
- Keep re-confirming positive matters that are agreed, since this gives the vendors a sense of movement in the transaction and allows clarification of possible misunderstandings by both parties.