



John Sturrock Podcast

(transcript)

Better Conversations, Better Outcomes

Session 19: BATNAS and WATNAS

One of the most enduring legacies of the Getting to Yes teaching is the concept of a BATNA and a WATNA. Recently, we explored this in practice in our flagship Summer School, which we held online for the first time. Working it through in action is different from reading about it; each circumstance is different and the applicable facts vary so much.

Essentially, what we are trying to find is a benchmark against which to assess proposals which may emerge from a negotiation. The idea is not to say yes or no to a deal on the basis of hunch, bias, baggage or intuition. The important thing is to employ system 2 thinking (which we discussed in podcast 13) and to act rationally and objectively in deciding whether or not to agree to something.

Hopefully, your negotiations have been conducted in such a way that all of the options for resolution (even those which seem far out) have been explored fully and assessed against objective criteria. If so, you may have a range of possibilities for settlement with the other party or parties and hopefully also you have been able to narrow these to the most acceptable outcome to both or all.

But you (or a client) may still not like it. The danger then is that your system 1 instinct kicks in and you reject whatever *it* is because you don't like it. The proposed outcome is not what you wanted or expected. It does not seem to do justice or impose a penalty which you feel is due. It does not give you what you think you are entitled to or even need in order to achieve such and such... It may not recover your expended (or sunk) costs. But, even so, you may not be thinking objectively.

In such circumstances, we all need to exercise real discipline. What you want or may feel imposes justice may not be the way to look at it. The real question is: "What if....?" *What if you don't agree to those terms? What if this is the best they will do? What if you walk away? What if they walk away? What will happen then?*

"Well", you might say, "we'll see them in court". That is the classic alternative to resolution. Default to a judge or other adjudicator (perhaps an arbitrator instead) who will decide the matter. Your instinct is to fight and to vindicate your position. Your advisers may be encouraging you to do so. Often they too suffer from what is called optimism bias. But if both sides (or their advisers) are saying they will win, they can't all be right. History is full of examples of people who were on the wrong side of a court or arbitral decision and yet who thought their argument was watertight. Even those who were successful are often, in Abraham Lincoln's oft-quoted words, long-term losers. Pyrrhic victories and all that.

So, back to benchmarks and discipline. And to BATNAS and WATNAS. "What if....?"



What if you win going to court? How much time will it have taken? What could you otherwise have done with and in that time? What opportunities will have been lost? At what price? What effect will being stuck in litigation have on you, your family, your business, your health, your staff, your team, your future employers, your other clients or contracting partners? What will come out in court? How will the media present it? How important is reputation? What effect will publicity have?

I haven't yet mentioned cost. Cost is what we usually look at first but these other factors in the matrix matter a lot too. On cost, what will you spend? What will you get back, if you win? When will you get it back? What if they go bust? How will you fund this in the meantime, anyway? Who benefits?

All of this is your BATNA. Your Best Alternative to a Negotiated Agreement. It's what happens when you opt for the alternative to the possibility of an agreed outcome as proposed in today's negotiation and you "win" in court.

What if you opt for that alternative but you lose when you go to court? Apply all of the above and....what else? What else comes into play? What additional costs and losses, monetary and non-monetary, will kick in? How will you fund these? What would the board say then? Or your partner? Where will that leave you?

That is your WATNA. Your Worst Alternative to a Negotiated Agreement. It's what happens when you opt for the alternative to what is proposed in today's negotiation and "lose".

So, with these benchmarks, how does today's negotiated proposal look now?

Hopefully, you will also be encouraged to undertake what we might call a risk analysis. Even if your advisers are optimistic, what does that really mean? What are your true prospects? What will you need to establish in order to be successful? How will you do that? How rigorously has that been tested? If you are pursuing a claim or seeking a remedy of some sort, the onus is on you to establish all the elements. How does each look? How strong is your claim that there is a specific contractual term? What is the prospect of a third-party decision-maker agreeing that the term has been breached? Can you really show a link between that and your losses? And can you vouch all of those financial heads? It may only need one element of that construct to fall away. Think of pulling out a brick. And then what?

Your risk analysis can then be applied to your BATNAS and WATNAS. How realistic is a "win"? What is the objective likelihood of a "loss"? Maybe there is a sliding scale of possibilities. You may need to get the flip chart out and do the arithmetic. People also talk about RATNAS and PATNAS. I'll leave you to consider the terminological options.

This podcast has focussed on the classic and specific example of court as an alternative. But different situations will throw up different alternatives. For example, you may be able to negotiate another contract to replace this one if it is lost – and have your new contracting partner buy off the risk in this case. Or have a different job lined up if these employers don't meet your salary terms. Or have another house to purchase if the sellers don't agree to sell this one to you at your price. Or an alternative route for your motorway if the planners



don't agree to your proposals. Or international trade deals in the pending tray the terms of which, all things taken into account, are even better than those you have with your nearest trading partners at the moment.

Of course, being able to deploy these alternatives will make you more confident and stronger in the present negotiation and better able to argue for a better deal there. That is one of the main points of having your BATNAS and WATNAS to hand. You can use the Yes, No, Yes of the Power of a Positive No which I discussed in my last podcast (number 18).

The point is not to say that you should never choose an alternative to resolution but to be sure that, if you do so, you do so on a sound basis and with a considered willingness to accept the consequences.

If you do negotiate in this way, you will be a better negotiator.