11.255
Negotiation and Dispute Resolution in the Public Sector

Spring 2021

Class #7

Question

- What are the two or three things you will try to do in your next negotiation to increase the chances of creating value?

Appendix A:

SOME POSSIBLE CRITERIA FOR SETTING A CONTRACT PRICE

Below are some possible standards by which one can establish a contract price for the BebsiCo-Bakra distribution arrangement. **Note**: The first and the last are not independent or objective standards, but are included merely to indicate the ZOPA of this case.

\$ 6.75 million	What BebsiCo is willing to pay to get Bakra to distribute
\$ 6.6 million	What BebsiCo paid Bakra five years ago for a distribution arrangement in Kumar x 2 (for inflation in distribution costs)
\$5 million	What BebsiCo is willing to pay Jayyid Juices
\$4.32 million	What BebsiCo paid a distributor in Yoman last year + 20% for inflation
\$4.5 million	What BebsiCo would have paid Kabir Cola for the Kumar distribution contract
\$4.488 million	What BebsiCo paid Bakra for distributing in the Melhand province two years ago x 2 (because fees for distributing in Melhand alone are generally half the normal fees) + 20% for inflation
\$3.74 million	What BebsiCo paid Bakra for distributing in the Melhand province two years ago x 2 (because fees for distributing in Melhand alone are generally half the normal fees)
\$3.6 million	What BebsiCo paid a distributor in Yoman last year
\$3.3 million	What BebsiCo paid Bakra five years ago for a distribution arrangement in Kumar
\$2.7 million	Bakra's highest fee for distributing local beverages in the last few years
\$1.87 million	What BebsiCo paid Bakra for distributing in the Melhand province two years ago
\$1.5 million	Bakra's lowest fee for distributing local beverages in the last few years
\$0	What Bakra said they'd be willing to do BebsiCo's distribution for

Appendix B:

Illustrative Components Of Agreements

Percentage of Soft Drink Sales Profits to go to Bakra (in addition to distribution fee):

X% of excess over 75% (average gross sales)

X% of excess over last year's sales in Yoman

X% of revenues after distribution campaign is initiated minus the average revenues in prior distribution

X% of revenues over BebsiCo's break-even point of 70%

After 75% of target market reached in a given year, X% of revenues if 75-85% of target market is reached, Y% of revenues if 85-90% of target market reached, and Z% of revenues if 95-100% of target market reached.

No/Low Cost Options for BebsiCo, High Value to Bakra

Allow Bakra to use the BebsiCo name in its advertising and client pitch meetings.

Bakra can use its contract with BebsiCo as collateral in arrangements with other companies.

BebsiCo agrees to invest in an advertising campaign extolling the virtues of the new Kumari economy.

BebsiCo has Bakra distribute its other, non-soft drink products (including food and merchandise).

Bakra can improve its credit rating by showing that it has a contract with BebsiCo, which will help them to purchase Jayyid Juices.

No/Low Cost Options for Bakra, High Value to BebsiCo

Bakra distributes BebsiCo's juice and specialty drink products through its newly acquired distribution company (Jayyid).

Bakra leverages the connections of its employees to increase BebsiCo's distribution in Kumar (e.g. BebsiCo products will be distributed in the chain restaurant connected to a Bakra board member).

Bakra will publicize how well BebsiCo treats employees of its subcontractors in the third world.

Others

BebsiCo lets Bakra use a suite in its Middle East headquarters to do business during its period of transition.

BebsiCo and Bakra purchase terrorism and political instability insurance, and share the costs of such insurance.

BebsiCo sponsors projects connected with the rebuilding of Kumar, improving its image in the Middle East. Bakra serves as an advisor to BebsiCo regarding how it should achieve its public relations goals in Kumar, and in the Middle East generally.

Strategy and BATNA

- What things might you do if you do not reach an agreement at the bargaining table?
- What strategies did participants use in each role?
- What is your BATNA?
- What is the price at which you walk away from the negotiation?
- Did you think your BATNA was stronger or weaker than the other side's?
- What can each side do to improve its BATNA?

Standards (or criteria), what is fair?

- Where did each number come from?
- Which standards seemed more persuasive? Why?

Getting into the "Trading Zone"

- "Research shows that the failure to reach integrative agreements is often linked to the failure to exchange enough information to allow the parties to identify integrative options" (Lewicki et al, 2009: 73)

Interests and creative options

- What non-monetary interests does each side have?
- What monetary interests do they have that go beyond this particular negotiation?
- How did you talk about each side's interests?
- What options, other than a flat fee contract, did you explore?

Proposing packages:

- Propose packages that are good for them and great for you
- Use contingent (“what if”) offers
- Keep multiple packages in play

The more value you create, the bigger the pie to be divided

- Prepare to create value
- Explore interests, needs and objectives
- Add issues
- Play the "what-if game"
- Bring new parties to the table
- Focus on creating value before you start trying to distribute it

Agency issues

- What was the nature of the commitment you gave your client?
- Final and binding?
- Subject to client approval?
- Was it discussed explicitly, or just “assumed?”

Tables and figures removed due to copyright restictions--please see Lewicki and Litterer, pp. 76, 81-82, 84, and 88.