NEGOTIATION UPDATE

# By Richard Searle r.searle@mbs.edu [www.searleburke.com](http://www.searleburke.com)

I have bought three different homes during my life and they were all sold at auction. With the first home I let a mate do the bidding because I didn’t trust myself. The third one I saw the house for the first time just before the auction and I put in the highest bid. I am not too proud of either of those efforts!

But my second auction was special. I used lots of tactics. After the first inspection of the house with my partner, she did all the follow up checks, but I attended the auction without her, observing the auctioneers anxiously scrutinising the crowd for her face. I was worried about my budget because it was modest and absolute. I knew that I could be easily blown away during the auction so I did everything to slow down the action – my counter bids were dragged out of me at the very last minute, I kept trying to reduce the size of the bids, I queried the auctioneer on technicalities, but I made sure it was not my bid that the auctioneers took in with them during the ritual of checking if the house was on the market. I was very annoying! As the bidding started to approach my maximum I switched tactics – my counter bids kept coming very swiftly now and very confidently, almost before my major competitor had completed his bid. Approaching my walk away point I had a stroke of great luck – the auctioneer allowed himself to be sucked in by my tactics and he turned to my only competitor and said “Well this chap obviously has plenty in the tank so what are you prepared to bid to get the house?” These comments sapped the morale of my competitor and he withdrew from the race after one more bid!

Auctions and Negotiations are very different. The use of Auctions (in their numerous forms such as Tenders, Internet, Sealed Bids etc) is becoming much more common in business. Negotiation methods don’t always apply in auctions. If you are a seller or a buyer it is worth understanding when it might be best to auction and when it might be best to negotiate. Even more intriguing is the fact that some situations offer the opportunity for a mix of both auctioning and negotiating. Some folks have even coined a word for it – “Negotiauctions” – and Guhan Subramanian from Harvard Business School recently has published an excellent book of the same name.

Subramanian argues that there are different rationales for Negotiating or Auctioning. For instance, if there are lots of bidders and the asset is a well defined commodity or the like, then some form of auction might be advantageous. If it is a large complex asset with many service components and there are only a few major players in the world who could supply (eg a new commercial aeroplane) then it might be better to go and have lots of talks and negotiations with the small number of potential providers. If there is a opportunity for value creation and mutual gains then negotiation will be the preferred method.

In fact Subramanian argues that if there are a large number of potential bidders/sellers, the asset is well specified, speed is important and/or transparency is important, then an auction may be the best method. Negotiation may be preferable if the bidders are well known, they have good BATNAs, there is a large value creation potential, relationship/service is important, there is a low tolerance for risk or if secrecy is important. Some factors even favour negotiation despite superficially appearing to support an auction. For instance, if there is a big valuation difference between the top two bidders, it is possible that the highest bidder can gain excessive value from the purchase and so will go higher than the auction will produce. On the other hand, the lowest price might have lots of hand grenades and the second lowest has made assumptions about risk/quality/service etc which are unnecessary, or actually very attractive.

As the last example is starting to suggest there may be many circumstances where the best method is a combination of negotiation and an auction. The negotiauction situation is one where negotiators are fighting on two fronts – across the table for sure, but also on the same side of the table with known, unknown or possible competitors. In these situations it pays firstly to be good at using a value creation and value maximization approach to negotiation such as the one we teach on our negotiation programs. But as illustrated by my introductory example of bidding for my second home, it may also benefit us to have a range of process moves. Subramanian argues that there are three types of Process Moves in Negotiauctions: Setup Moves, Rearranging Moves and; Shut Down Moves. Set up and Shut Down Moves either dampen or increase same side-of-the-table competition. Rearranging Moves enhance negotiation leverage in the across-the-the-table-competition.

An example of a Set Up move might be that you want to avoid a protracted bidding war or even bidding against yourself because unknown to you no other bidder exists, so you agree to put in another bid as long as this is the last round. Or you submit a sealed bid with the express condition that it can only be opened if the other bidders make concrete bids in precise dollar terms, thus preventing any competitors validly submitting a bid to match the top bid with a percentage margin on top. Shut Down moves must be accompanied by a credible threat that weakens the perceived BATNA of the other party. For instance, you might say: “Here is our final offer. We are happy to sit down with you now and work out the details but if anyone leaves the room the offer is off the table and we are going home.” A familiar Rearranging Move might be to encourage several independent bidders to join forces and make a combined bid.

As we teach on our negotiation programs we need to make sure that we do not shoot ourselves in the foot with all these moves and fail to realize the value creating and mutual gains opportunities that might be available from negotiation. The goal is to maximize total value based on our full set of interests – substantive, relational and procedural!