

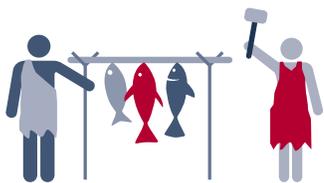
How tech has disrupted negotiation, and what to do about it

A recent study shows that a majority of today's negotiations are conducted online, not face-to-face. What are the impacts and consequences?



COVID-19 NEWS FLASH: This paper was started before Coronavirus became a pandemic. Among the virus's many challenges is the need for major renegotiation of existing contracts and negotiation with new sources of supply. With large scale travel bans and many employees working from home, how will negotiations be conducted? The answer, in this time of physical distancing, is that most will be virtual. Face-to-face is almost dead, which is the theme of this paper. **Read on...**

Is email an effective medium for negotiation? Not according to the 700 negotiators who responded to a recent study conducted by IACCM (International Association for Contract and Contract Management) and negotiations expert and university professor Keld Jensen. Yet an overwhelming proportion of those respondents admit that email has become the predominant medium for their negotiations. In fact, face-to-face contact, which is preferred by 96% of respondents, is fast becoming the exception and closest alternatives like video-conferencing are struggling to make headway.



Humans have been conducting negotiations for millennia.

Contracts are not new. Clay tablets from around 2,000BC show that the exchange of goods has been documented for millennia. Humans have been conducting negotiations for even longer and for most of this period change has been slow. However, today's networked technology means we have altered the way we negotiate and contract more in the last twenty years than in the previous four millennia!

A major factor behind this change appears to be the relentless drive to reduce costs. This has taken several forms:

Commoditization

The overwhelming procurement philosophy of the last 20 years has been to challenge supplier prices and to achieve 'negotiated savings'. Keeping suppliers at arm's-length has often accompanied this strategy.

Standardization

The focus on cost reduction has driven greater use of standardization, including standard contract templates, where negotiation is limited, or even eliminated. 'Compliance' has become a key goal.

Offshoring

Many long-term supply relationships were either sacrificed, or suppliers were forced to move to low-cost sources of supply. Their negotiating power was undermined by the threat of global competition.

A joint assignment between



Internal cost cutting

In such an environment, travel costs (including those for negotiation) have been put to the sword and viewed as an unnecessary expense.

While these factors explain the shift to online and email negotiations, what is the impact of the change and, given today's volatile business conditions, is this less formal and more impersonal approach sustainable?

However, before we become too excited by our findings, it is important to remember that the word 'negotiation' may mean significantly different things to different people. For example, if my intent is to hold a supplier or customer at arm's length precisely because I don't want to negotiate meaningfully or beyond my very limited agenda, is that actually a 'non-negotiation'?



Technology has made it easier for people to hide behind their computers.

The research data certainly indicates that there are many occasions when negotiators feel the counter-party is not sincere about negotiating – perhaps as frequently as 50% of the time. Technology has certainly made this behavior much easier; people can now hide behind their computer and refuse to engage at any personal level.

A key factor to examine when exploring the impact of technology is trust. We are not necessarily talking deep trust – that can only build over time – but in order for negotiating parties to generate the greatest value and the best possible deals, an element of trust is crucial. It is extremely difficult to establish genuine trust through an email thread, only a little better through a phone call, and still limited even in a video meeting. Physical presence plays an enormous part in building trust: direct observation and interchange; handshakes; eye contact; the nuances of body-language.

Written communication is more difficult, colder and less personal than verbal communication and will rarely enable the real-time conversation that is needed to ensure shared understanding or facilitate exploring new ideas or options. Think about how often you have received an email that was either confusing or made you annoyed or angry – even when causing such reactions was never the sender's purpose or intention.

Plan – what plan?

Less than 20% of negotiations are conducted within the structure of a formal strategic plan. For years, research has shown the benefit that organizations can achieve through implementing a structured approach to negotiation planning. But it is a discipline more notable by its absence, so even when there is a planning activity, our survey respondents admit it follows no consistent method.

This again may help to explain the apparent lack of discipline in the methods of interface and communication. Without formal structure, it is likely that both internal and external negotiations will operate in a rather haphazard fashion, driven more by what is convenient than by what would be expedient. In that environment, email wins every time – they have no dependence on availability, no reliance on meeting schedules, no dependence on time or place.

But email negotiations *can* succeed

In our study we were surprised to learn that email tops virtual meetings, video calls and even phone calls as a negotiating medium. Email seems to be the preferred, 'go to' negotiating method in today's world, despite 96% of the respondents asserting that face-to-face meetings generate the best results.

There is no denying, email is convenient. It doesn't rely on time zones or scheduling a meeting. For truly simple transactions, it offers potentially speedy resolution which is itself a benefit. Indeed, self-service contracting promises even greater streamlining of the more basic negotiations, by introducing 'optioneering' to the customer or supplier's office (just like e-commerce already offers many consumer transactions). So as a supplement to negotiation, email definitely makes sense; it should therefore be part of any negotiation plan.



41%
Email



38%
Phone



21%
Video

For non-face-to-face negotiations, use of email tops phone and video calls.

Email is tougher than face-to-face

What are the characteristics of negotiating by email that make it more difficult and less effective? Emails fail to adequately communicate emotions and feelings, except perhaps negative emotions such as anger or sarcasm.



Words are a tiny part of communication, up to 93% is body language and tone of voice.

They utterly omit the nuances of voice tone and the highly important element of body language.

You may be surprised to learn that as much as 93% of our communication is non-verbal – a combination of body language, tone of voice, all in addition to the words themselves.

It's also been observed that we tend to negatively interpret an email's content. That is, we naturally and unconsciously assume an email's message to be more negative than if the same words were exchanged in a phone call or face-to-face meeting.

And creativity, new ideas? Those inevitably suffer when using a medium like email. It lacks spontaneity, the to-and-fro of conversation, the ability to easily ask questions or explore background facts or motivations.

Finally, have you ever lost or mislaid an email, or perhaps someone forgot to put you on copy? In any complex situation, email is an incredibly unreliable and inefficient medium to ensure a complete record of the transaction.

Building successful relationships

Dr. Daniel Kahneman, winner of the Nobel Prize in Economics, has stated that all humans are irrational, and that we would rather do business with someone we like, even when their offer is less competitive than one from a person we don't like. But arguably that issue of 'liking' is also linked to trust – and so the deal may be less competitive, but the outcome may be better. That clearly depends in large part on whether a sustained relationship is actually necessary.

And again, many procurement organizations have been encouraged to believe that 'relationships' and liking the supplier are bad things, that they undermine the achievement of savings – so in this context, maintaining distance through impersonal communication is seen as a good thing.

The upsides of email negotiation

While conducting negotiation exclusively via email is not recommended, combining it with online video calls, face-to-face meetings and phone calls can further the relationship and shortcut the creation of trust.

One benefit of including email is obviously that you have the chance of evaluating your reply or checking it with colleagues – an option you may not have in a face-to-face or video meeting. Taking the time to properly reply to a suggestion can be worth millions.

Many negotiations contain a number of complicated components that can create information overload. This may be easier to deal with via email negotiation than in the face-to-face negotiation.

Email is also a fast and efficient way to exchange a record of points agreed or to share ancillary information or documents (though increasingly there are other tools and applications that serve this purpose more efficiently and create a more coherent and easily accessed record).

Lies, bluff and threats

Studies confirm that the further we're removed from a negotiating counterpart, the more likely we are to lie, bluff or attempt to cheat. So we're simply more likely to lie (and be lied to) in an email negotiation than one carried out face-to-face. Again, the email format blocks our ability to read body language and, knowing our counterpart can't read our non-verbal signals, increases our willingness to take the risk of trying to 'get away with something'.

Avoiding argumentation

As in any negotiation, when negotiating via email, you should avoid arguments. Argumentation is a loser's game, one that serves no other purpose than defending your position. And that, of course, is often the point. If you are not sincere in negotiating, but in fact want only to impose your own position, email is a great mechanism for avoidance. But then let's recognize, this in no way creates value for you or for your counterpart and, according to 65% of those responding, creates a degree of ill-will when it comes to their flexibility or performance.



Negotiating counterparts who are further removed are more likely to lie, bluff or cheat.



Email negotiation checklist



When is email right?

Plan your negotiation – ideally involving the counter-party – to establish when it should be via phone, via video call, face-to-face or via email. In any long-term relationship, make this part of a communications protocol.

If there is a sincere intent to negotiate, email is not the optimum sole vehicle. Seek to add face-to-face meetings or at least video calls.

Video goes a long way in personalizing dynamics. Don't underestimate importance of small talk in video to build rapport, alongside email.

Just because external negotiations are online, doesn't mean internal negotiations and planning meetings cannot happen in person.

Email negotiations are not all bad. Use them when appropriate, but be aware of their limitations.



Email Do's and Don'ts

Do remember, we tend to lie and bluff more in emails than in face-to-face encounters.

Do take care to be clear, and be alert for signs you haven't been understood correctly, because misunderstandings are easy in written communication, Remember, the responsibility for understanding lies with the email sender, not the recipient.

Do set reasonable response times, and don't assume the other party works on the same email clock.

Do ensure correct (and complete) stakeholders are copied. Realize the influence and impact when you copy junior and senior stakeholders in same email; consider the best timing for including certain stakeholders. When a new person is copied, explain who they are and why they are copied. Some corporate cultures copy large groups and changes in stakeholders can become a negotiation tactic.

Don't assume your negotiating partner has the same corporate protocol for copying emails.

Don't argue via email. Pick up the phone or arrange a meeting.

Don't mix digital medium, i.e. do not manage negotiations between texting, WhatsApp, and email;

Don't communicate between personal and professional email addresses.

Don't negotiate on social media, or other accounts outside the company domain and don't have 'informal' discussions, online.



Email housekeeping

Keep all email exchanges related to a negotiation on a shared drive for internal stakeholders to access; and not just your inbox.

You are engaged in confidential negotiations with external parties, so do not forget security issues around email; be careful about where you are accessing emails and saving attachments.

When sending attachments, make sure it is not possible to retrieve redlined versions or comments from attachments. Use PDFs not open Word or PPT documents.

Unlike face-to-face negotiations, there is a complete record in emails. If there is a dispute, all emails related to the negotiation on your server (even if they were deleted by you) can be retrieved and reviewed by your line manager and legal counsel. Take care in what you write.

Understand culture – when meeting face-to-face, you can appreciate cultural differences and accommodate accordingly to ensure a successful negotiation. Those differences also exist in writing style and structure (across departments, companies, regions, and countries).

Concluding thoughts

Market forces have changed the face of negotiation over the last twenty years. New technologies have created fresh ways of communicating as well as dramatically changing the nature of trading relationships. An unrelenting focus on price and input costs has translated to increasingly remote and impersonal dealings, with limited understanding or analysis of the impact this has on value.

Times are changing. There is growing appreciation that constant pressure on price and risk allocation is not sustainable. But more than this, social and political pressures are leading to increased emphasis on business purpose – environment, social value, standards of governance. Such values demand increased cooperation and greater transparency between trading partners.

Therefore, negotiation is becoming more nuanced and planning must become more sophisticated. IACCM's recent work has led to the realization that organizations need to undertake more effective analysis of their acquisitions and sales activities, to better determine the form of contract and depth of relationship that will be needed to achieve a mutually beneficial outcome.

In this environment, there will continue to be different approaches to the type and style of negotiation – including some that are conducted purely via email or, indeed, via self-service. For those conducted by email, their ability to achieve value will be dependent upon effective negotiation skills, online communication skills and effective segmentation of transactions and relationships. In a commercial context, these skills must be further supported by a fundamental commercial awareness, so that negotiations, and the messages conveyed in online communications reflect sound commercial judgment.

IACCM's Negotiation Masterclass provides a unique vantage point, enabling you to receive feedback on the effectiveness of your online negotiations.

Next steps

As you refine your negotiation skills in an online environment consider training for the same environment. Why engage in training for face-to-face negotiations when you are otherwise negotiating online? IACCM's Negotiation Masterclass provides that unique vantage point, enabling you to receive feedback on the effectiveness of your online negotiations.

In tandem, IACCM's online program Commercial Awareness for Better Business Outcomes provides the foundational commercial acumen required to exercise sound commercial judgment during the negotiation process. Collectively these programs will help you use the environment to identify and achieve more of the value that is available for the taking.

For further information about IACCM's Negotiation Masterclass and Commercial Awareness for Better Business Outcomes online program

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