

# The three most common **negotiation styles**

**Nigel Dunlop** explains the impact of negotiation styles on negotiation outcomes

**P**eople tend to negotiate according to one of three styles: competitive; accommodating; or avoidant (see Mnookin, Peppett, and Tulumello, Beyond Winning: Negotiating to Create Value in Deals and Disputes, Harvard University Press, 2000).

None of us is immune from this tendency. Lawyer negotiators need to understand their own characteristic style of negotiation, as well as those of their clients, the opposing lawyers, and the opposing parties.

## The Competitor

Competitors are assertive, but lack empathy. They like winning and being in control. They are eager, enthusiastic, impatient, and partisan. They adopt a tough negotiating position and stick to it. They counter-attack if bullied or intimidated.

## The Accommodator

Accommodators are good empathisers, but poor asserters. They value relationships and are compassionate and understanding. They are good listeners and want to be liked. They want differences resolved quickly.

## The Avoider

Avoiders display little empathy or assertiveness. They are uncomfortable with any conflict, especially emotional conflict. Their *modus operandi* is to disengage, appearing detached, unenthusiastic, and uninterested. They deflect efforts to focus on solutions.

## Advantages and disadvantages

Each negotiation style has its advantages and disadvantages. See table below

## Interplay between the styles

### Competitor – Competitor

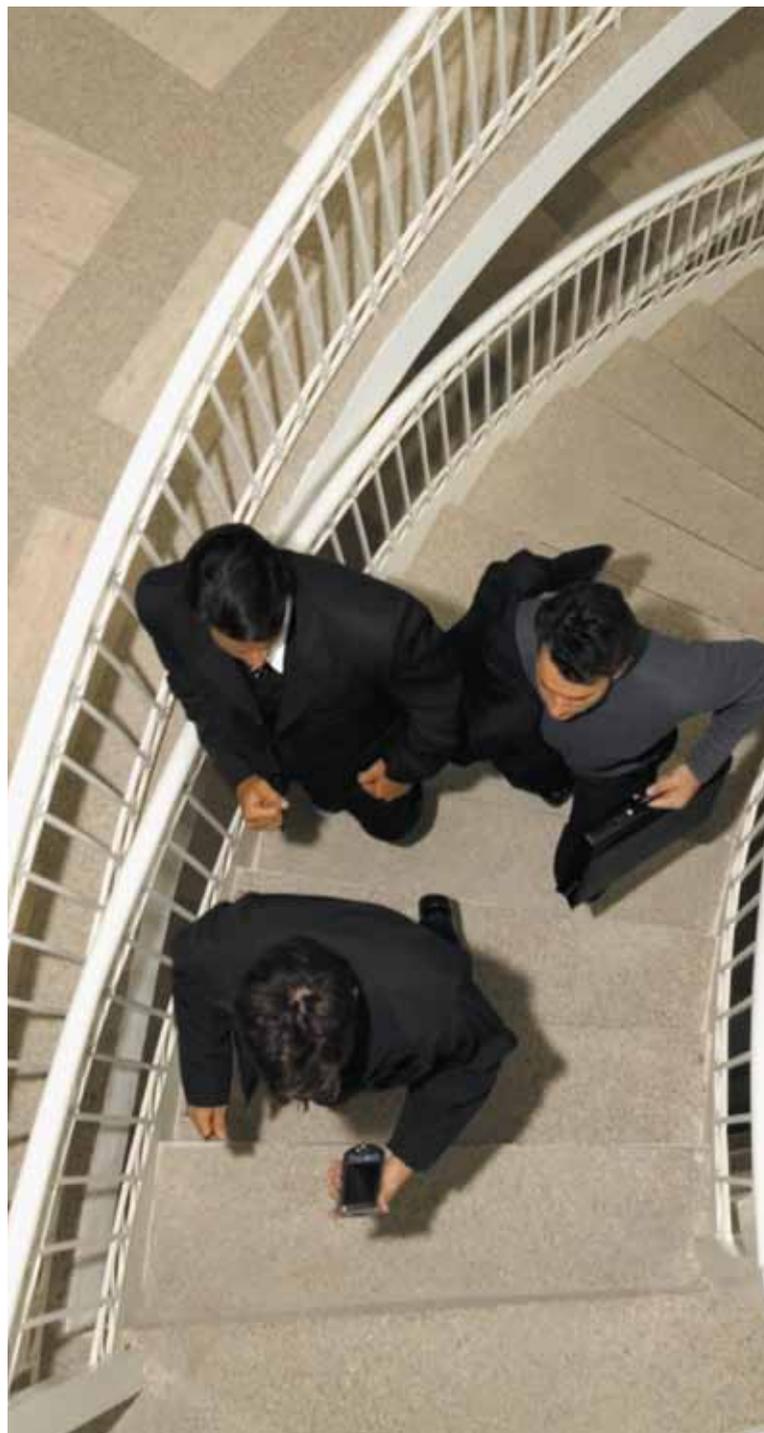
This combination leads to the most lively negotiations. Competitors enjoy the battle, but may well reach a stalemate. The challenge for competitors is to frame the compromises they are seeking in terms digestible by the other side.

### Competitor – Accommodator

The challenge for the accommodator faced with the competitor is to develop their assertiveness. The challenge for the competitor is not to prejudice settlement by appearing to exploit the goodwill of the accommodator and thereby seeming to act in bad faith.

### Competitor – Avoider

The avoider frustrates the competitor's need to control. The competitor may be too aggressive and cause the avoider to be even more avoidant. The challenge for the competitor is to tone down. The challenge for the avoider is to be less defensive and more engaged and assertive.



	Advantages	Disadvantages
<b>Competitors</b>	Good at gaining the biggest slice of the pie	Risk escalation or stalemate. May damage relationships. Lose self-control. Self-blame for poor outcome or failure.
<b>Accommodators</b>	Maintain good relationships. Seen as trustworthy. Adept at creating less stressful negotiation atmosphere.	Can be exploited by a competitive negotiator, especially where a relationship may be threatened. Too much emphasis on relationships and too little on problem solving. Prone to frustration.
<b>Avoiders</b>	Help avoid disputes that should be avoided. Force other side to do the work. Persuasive when they do speak up. Reserve makes it hard for the opposition to pick their intentions.	Miss opportunities to solve problems and resolve disputes. Viewed by others as apathetic, indifferent, or passive-aggressive. Can be misunderstood. Bottle up their emotions.

**Accommodator – Accommodator**

Accommodators may be exquisitely attuned to one another's relationship needs, but fail to assert their own interests adequately. They may avoid issues and overlook opportunities. The challenge for them is to accept conflict and not bring negotiations to a close too early by wanting to keep the peace.

**Accommodator – Avoider**

When an accommodator and avoider meet, the risk is that the negotiations will go nowhere. The avoider stays disengaged because the accommodator allows that. The challenge for the accommodator is not to accept the avoidance but entice the avoider into engagement. The challenge for the avoider is to realise that even with an accommodating opponent, they will need to engage more.

**Avoider – Avoider**

Having two avoidant negotiators together may be a somewhat unfortunate combination. A dispute may not even be negotiated because both parties at the outset avoid the possibility of conflict. The obvious challenge for the avoiders is to realise that by shutting their eyes to the possibility of conflict, the dispute will not go away.

**Using the knowledge of styles to advantage**

Lawyers need to consider what negotiation style is best suited to the case at hand.

As explained, there are both advantages and disadvantages to each negotiation style, and the interplay of styles can be problematic.

You and your client need to be flexible and adaptable with regard to the negotiation style you adopt. This means that lawyer negotiators should not invariably stick with one negotiation style. Regrettably, many do, to the detriment of their clients.

You should therefore adopt an overall negotiation style to suit the particular negotiation, but be prepared to change that style within the negotiation, repeatedly if necessary.

Remember, we are talking *style* here, not substantive outcome. Adopting a particular style does not compel a particular outcome. On the contrary, adopting the right style enhances the prospects of your client achieving an optimum outcome.

**Example one**

You are representing the employer in a personal grievance case. You and your client want the case settled, because your client has indeed erred, and the employee is badly upset. Your opposing lawyer is by nature competitive. So are you. It would not be helpful to start out the negotiation in a competitive style. The negotiation could well end prematurely and acrimoniously. Empathy is called for, at least in the initial stages of the negotiation, given the emotional upset of the opposing party. However, as the negotiations proceed towards finalisation, it may no longer be of advantage to adopt an accommodating approach; some competitive aggressiveness may serve to inject some realism in to the opposition, hitherto lacking.

**Example two**

You are representing a defendant in a civil/commercial claim. The plaintiff believes your client will readily agree to a settlement highly favourable to them. Furthermore, the plaintiff is keen to settle. An avoidant style might be just the right thing to frustrate your opposition. Playing hard to get may force the opposition to realise that they will need to compromise considerably, if they want to settle with the defendant. But be careful: if it so happens that both you and your opposing lawyer are avoidant by nature, you may need to inject some competitiveness in order to bring the negotiations to finality.

**Example three**

Everyone in this negotiation is naturally competitive, including you. A battle royale looms. The problem is that no one will want to back down. Negotiation could quickly end in heated argument. What better way to take the wind out of the opposition's sails than by adopting an accommodating style, at least initially. The opposition will be wrong-footed. Your approach might be: "We are not here to have a fight with you, we understand your position, we would like this settled, and are prepared to do so provided you are reasonable."

**Example four**

Your opposing lawyer is avoidant, which runs the risk that the case won't settle. But both sides really do want to settle. You are naturally competitive. Will it help your client for you to adopt a competitive style of negotiation? No, that will likely drive the opposing lawyer right out of the room. Better that you communicate across the

opposing lawyer directly to their client and explain the importance of a mutually acceptable settlement.

**Example five**

The opposing party is a mix of arrogant and naïve with consequent unrealistic settlement expectations. Whatever your natural negotiation style is, your client's interests may be best promoted by you adopting an ambiguously competitive negotiation style. A strong-arm approach may be the only way of dealing with the personality of the opposing party. Then just when the opposing party begins to see sense and wants to settle up with your client, you might confound them by becoming avoidant, but then right at the end, accommodating.

**Example six**

The problem in this case is that you are accommodating by nature and your client is competitive. On the other hand, your opposing lawyer is competitive, but his/her client is avoidant. How do you best deal with this mix of styles? The answer depends on who you are addressing and when you are doing so. In the early phases of the negotiation, it would be most helpful to adopt a competitive style against the opposing lawyer, both to counter his/her competitiveness and to maintain your competitive client's faith in you. But it would be unhelpful to be competitive towards the opposing client because of their naturally avoidant nature. However, later in the process, when both the competitive and avoidant edges have been blunted, an accommodating style may possibly produce the best outcome.

**Conclusion**

Too many lawyers believe that successful negotiation invariably demands a uniformly rigid and aggressive style. In my observation, however, a more nuanced approach achieves the best results. Lawyers need to take into account the natural and adopted negotiation styles of all participants in a negotiation and to subtly work them to advantage.

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