

LUISS



UNIVERSITÄT
MANNHEIM

Strategic Management Degree

Strategic Negotiation and Conflict Management Course

THE ROUTES AND PROGRESSES BEHIND NEGOTIATION AND ITS PROCESS.

DISNEY-PIXAR CASE STUDY

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INDEX

ABSTRACT

INTRODUCTION

I. An Emerging Science: Negotiation

- a. Its meaning and origins
- b. From a relational fight to the Marshall Plan, the boundaries of the process
- c. Nowadays: the Harvard Negotiation Project
- d. Artificial Intelligence's arrival. Did all this process have no purpose?

II. The Principled Negotiation

- a. Relationship, Process and Substance: pillars of a real negotiation
 - i. Process
 - ii. Substance
 - iii. Relationship
- b. A watershed for the theory: the *Core Concerns*
 - i. *Affiliation*
 - ii. *Appreciation*
 - iii. *Autonomy*
 - iv. *Role*
 - v. *Status*
- c. Active listening, the medicine for all our needs

d. The principles

- i. *Separate people from the problem*
- ii. *Focus on Interests*
- iii. *Find mutual optimal solutions*
- iv. *Insist on objective criteria*

III. A Real Case: Disney-Pixar Acquisition

- a. M&A process: possible reasons behind it and how it's structured
- b. General information about the parties
 - i. *Disney's history and culture*
 - ii. *Pixar's history and culture*
 - iii. *Previous relationship*
- c. Acquisition process
- d. Analysis of the agreement: a Positional or a Principled negotiation?

IV. Possible Future Negotiation For Disney: MUBI

- i. *MUBI's history and culture*
- ii. *How to make a principled negotiation*

COCLUSIONS

Bibliography

Websites

“Let us never negotiate out of fear. But let us never fear to negotiate.”

John Fitzgerald Kennedy

ABSTRACT

Human interaction and cooperation are increasingly central to both professional and personal spheres and the ability to negotiate has become a vital skill. Contrary to the widespread belief that negotiation is just an innate talent or an art that only a few naturally possess, this thesis argues that negotiation is in fact a structured and learnable discipline, more precisely a science that can be systematically studied, understood, and applied. In fact, the purpose of this elaborate is to demonstrate that negotiation is only partially an art and that the process conducted in order to reach any type of agreement can be studied with a scientific approach. In fact, we must still take into account that we're human being and that also a non-scientific approach, as we'll see, is necessary in order to manage any type of conflict, especially during the discussion of any deal. Anyway, this thesis wants to change the general approach to what comes before the actual meeting with the counterpart, usually approximative and not complete. During the last century, several studies have started to be conducted precisely to turn around this last sentence, and the path taken nowadays by negotiation's branch wants to delve these same studies. That's why this thesis wants to give value to the developments done in these last years, trying also to forecast which will be the future of negotiation.

In the following elaborate, divided into four chapters, we'll start from the roots of conflict management, where the first negotiations were held and who were the first negotiators in history. Then, we'll see how various the process can be and how vast the matter that we're analyzing is, considering both events of everyday life and important historical events that marked these lasts' centuries. Suddenly, we'll analyze how much the study and the theories of negotiation changed, arriving to our days, with the Harvard Negotiation Project (HNP) and we'll discuss about the possible future of this branch, especially considering the harms of Artificial Intelligence, that is affecting not only negotiators.

In the second chapter, we'll discuss the theory of Principled Negotiation, developed by HNP and that we can define as a watershed, that divides the previous definition of negotiation from the one of nowadays, which is unavoidably more complete. In fact, if before the good negotiation was defined as the simple achievement of a pareto efficient solution that could satisfy all the parties involved into it, now the topic is way larger: we

must also take care of the process that brings to the deal and of its credibility, to not harm the other part. This theory gives precious indications to negotiators, letting them be soft on the person and hard on the problem. But what does it mean? The most common mistake done by anyone who has a first approach to negotiation is to decide whether being focused only on its own needs, with the willingness of giving a strong image of him/herself, or, considering this method too risky, due to the necessity of reaching the deal, the only option is to let the counterpart almost decide anything, not only losing the face, but reaching an agreement that can also be harmful. The purpose of Principled Negotiation is precisely this one, teaching how to prioritize our needs without running the risk of harm the counterpart and making us take decisions based on the fear, but instead relying on three factors: the substance, the process and the relationship.

Subsequently, in the third chapter, we will apply the theory to a real case: the acquisition of Pixar by Disney in 2006, one of the most relevant M&A cases that animation sector has ever faced. Firstly, we'll start with the delivery of basic financial insights regarding the merger and acquisition process, a very complicated topic that, precisely for this reason, must be briefly clarified before, in order to having a safe land on which we can play with the theoretical part discussed during the previous chapter and having the possibility to apply it to reality with consciousness. After a brief financial parenthesis, we're going to talk about the histories and cultures of the two mentioned companies, Disney and Pixar, analyzing points of difference and points in common, in order to have a better understanding of their interests, which run the acquisition process, arrived at the end of an already existing relationship, that brought all over the world masterpieces that signed the childhood of everyone. Then, we're going to analyze the whole process, so that we can have all the needed elements to answer this simple question: the acquisition of Pixar by Disney was the result of a Principled negotiation or a Positional negotiation? Lastly, in the fourth chapter, we'll apply the principles exposed during the explanation of, indeed, Principled Negotiation theory to a hypothetical acquisition that Disney may decide to make in order to increase its presence in an emerging market, the streaming platforms' one, and reduce the distance with colossal such as Netflix and Prime Video, in this moment more equipped under this point of view. More precisely, we'll consider the acquisition of MUBI by Disney, in order to fix the defeats of Disney+ platform and

achieving the mentioned advantages but in a smart and principled way, in order to set a deal that can be considered profitable from all the parties involved.

INTRODUCTION

In a globalized world, where human interactions are always more frequent and different within them, negotiating competences are an important tool that increases our ability to manage conflicts. Anyway, the common belief behind this topic is that negotiation is an art, and so that the mentioned capabilities are congenital, putting a good negotiator on the same level as a good singer, or a good actor. In the truth, as all the common beliefs, this way of thinking is completely misleading, because negotiation is not an art, but a science, and, as all the sciences, it needs a precise preparation and appropriate basics on which the process can be built. Also the branch of management passed through a similar path; in this case too, the common belief, not so many years ago, was that no one could find on the books the way to make money, that an entrepreneur is born, the result of congenital gifts, and that the experience is the best school. Despite already in 1776 Adam Smith gave the first basics of the management's doctrine with its opera "*The Wealth of Nations*", it was only in the early 1900s, with the first organizational studies (mainly conducted by Taylor, Fayol, and Ford), that the management became an effective science and people started to understand that there are some principles that must be known to conduct an economic activity. For sure, there are people more inclined to be a manager or a negotiator, but there are some situations where is not possible to "make experience" and the only option is to make a deal or recover a loss, and this cannot be done without an appropriate preparation. We all agree on the fact that life is way more than what we can find in a university book, but the knowledge is our biggest treasure and the more we're prepared, the more the risk of unforeseen events is low. That's why is very dangerous to believe that some characteristics cannot be developed or improved because considered congenital.

The purpose of this thesis is indeed to provide proof of this last statement, considering how much work has been done, especially in these last years, precisely to show that the process to reach an agreement can be analyzed by a scientific point of view. The studies of these last years regarding the human mind and its way of working gave us not only crucial information to improve our relationships, and by result the level of the deals that we build, but also a path that nowadays cannot be ignored anymore, neither in our work

life nor in our private lives. In fact, the leaders of today have understood that everything I said until now is essential to fulfill their job; the first obstacle that they must overcome is the motivation of their workers, a never-ending negotiation, held with the result to fulfill the interests of all the parties involved, the company included, because, like many psychological studies reveal, the level of motivation can define the same worker as a precious element for the company where he works or not. So, for a leader it cannot be enough the effort spent in the selection of the best employee among the market, because the most difficult and crucial part comes from what happens later, from the relationship, the misunderstandings, the conflicts.

On the other hand, these same issues must be considered for our private life; how many agreements do we close during a day and how many of them can be considered positively? Way less than what we think. That's because we don't prepare ourselves for them, we can't see the difference between a good and a bad agreement, we don't understand the relevance of knowing how to handle people.

Precisely the mentioned factors made born in the second half of the last century a real doctrine of negotiation, that significantly increased its relevance in these lasts years to face the new challenges that raised from the nature of current relations, way more articulated and, by result, fragile than before, considering that the technological developments have significantly increased (at least from a theoretical point of view) the quantity and variety of the relations that we have, but not only this. In fact, these developments have also increased the fuel of a good negotiation: information. If we think about how easy it can be today to get the information that we need, it's incredible to observe how many difficulties and how much negligence are behind the deals we close. Victor Kiam, American entrepreneur, and owner of the football team New England Patriots, used to say: "The information is the most important arm for a negotiator", so, before than the technics and all the theories developed on this matter, the most important thing to understand is the importance of listening and learning from others, not only as negotiators, but as human being.

I. AN EMERGING SCIENCE: NEGOTIATION

I.a. *It's Meaning and Origins*

The term “negotiation” comes from the Latin word “*negotium*”, which is the combination of “nec” and “otium”, so it was referred to all those activities that were not connected to the ones conducted during the free time, rather to all those initiatives that required effort, like work and affairs¹. Nowadays the meaning has reduced its field of play and we use the word negotiation to define the process conducted with the purpose of closing a deal, in order to solve a conflict, that we intend as a contrast between two or more individuals, who are holding different, if not opposite, needs. This type of situation, as we’ll see, is unavoidable, considering that each of us has different priorities and objectives to be fulfilled. Anyway, this alone is not the origin of the conflict, because the real factor that makes arise disputes and undermines relationships is the fact that the world is not something objective, as we think, but we all see it through the guide of our principles, which are our lens, and this results into the fact that each action/world done/said by someone else is translated into our “code”, so this transforms in conflicts also those situations where there are not contradictory needs. In fact, there are various sources of conflicts, in line with the fact that we’re human being and that our nature is so fragmented that the possibility to be involved in a contrast with someone else is very high. That’s why, given the variety of conflicts that we must face, is not enough to say that negotiation is the process used to fix a contrast, because is not the only possible way to do it.

Let’s take an example: we are in a country town, and there are two neighbors who are interested in an apple tree that lands exactly on the boarder that divides the territory of the two houses and they must define who has its property. One of them would like to have the tree because he usually has a sleep in the garden after lunch and the shadow of the plant makes him relax better. Instead, the other neighbor would like to be the owner of the tree because every morning he drinks apple juice, and he considers the one made with the apples of that same tree juicier. In this case, the two neighbors have three options to solve the conflict. First of all, they can discuss about the respective issues, setting up a

¹ <https://www.linkedin.com/company/negotiatinglab/posts/>

negotiation and revealing the reasons why they are interested in the apple tree, and they would understand that they can easily share its use, according to the different purposes. Otherwise, if they understand that there are not the conditions to set a negotiation and reach an agreement, they can go in front of a judge, who will decide who's the "winner" within the two parties involved, following a predetermined procedure. Lastly, if the two neighbors can't find an agreement, and the relationship has worn out so much that they don't want neither to wait for a judicial sentence, the neighbors will try to solve the dispute by their own, cutting a part of the tree for instance, taking justice into their own hands by resorting to force.

Essentially, we've seen three different ways to solve a conflict: law, strength, and negotiation. These methods, even if they take to the same result, the resolution of a conflict, have huge differences within them, due to the process that distinguishes each of these, and that must be taken into account. The biggest difference between negotiation and law is that, in the latter, the decision is assigned to a third party, in a sort of metaverse, while in a negotiation the solution is mutually agreed within the parties involved. On the other hand, the difference between negotiation and strength is that in a negotiation it doesn't exist an enemy, as in a physical conflict, but an opponent, and this is a distinction that may seem poor but it's not at all; the difference, indeed, is seated in the fact that the enemy is someone that we must defeat to end a situation of damage, while an opponent is someone from whom we can learn, and we'll see that, in a good negotiation, is essential to hear what the counterpart says, not only to control the arising of negative emotions, but also because is a way to see the problem from a different perspective, arriving to solutions that by our own we would have never developed. This last factor is a huge benefit for everyone, considering that in a good negotiation there are no two or more problems held by two or more parties, but one common problem, where each one is more interested to a portion of it, strictly connected to his/her interests. So, we can define negotiation as a process set autonomously by two or more parties to solve a dispute and whose purpose is to find a mutually agreed solution that best fits the needs of all the parties involved.

The purpose is not to make the reader believe that, if everyone would study negotiation the courts and the jails would be empty, but, on the other hand, is to demonstrate how much can be reduced the amount, not necessarily of conflicts, but of bad actions, words and thoughts that we usually bring into almost any discussion that we face. Thus,

negotiation is a completely different method to solve a dispute because it's the real goal behind the simple resolution of a conflict that assumes a different perspective. In law the real objective is to determine who is right, in strength it's to define who is stronger, while in negotiation the goal is "only" to solve the conflict in the smartest possible way, taking into account both the relationship between the parties involved and the substance, fulfilling the interests and psychological needs of everyone. Anyway, all these factors are hardly applied in the real world, and that's because the majority of people doesn't think that negotiation is a science, that needs preparation and the respect of certain rules, because of the belief that they can only rely on a third person to decide who's right and who's wrong². In addition, even if we pretend that, starting from tomorrow, the only existing way to solve a conflict is negotiation, people outside the doctrine will discuss about any deal with the purpose to find a point on a straight line whose extremes are the requests of the two parties, but this is not the case of a good negotiation. Also Majed Al Ansari, the spokesman of Qatar's Prime Minister, on the occasion of the peace agreement between Palestine and Israel, said: "The negotiation teams of Qatar, Egypt and United States of America are working to find creative solutions, so that all the parties can immediately agree". This certifies that an agreement is not a compromise between two or more negotiators, but it lands in a field that must be enlarged by all the parties taking part to the negotiation.

Does all this mean that law and strength are useless tools to solve a dispute? Absolutely not. On the contrary, there are certain situations, as said, in which to set a negotiation is absolutely harmful and counterproductive. For instance, when we know that there's few time to reach an agreement; a negotiation is a very long process, done by several parties and steps, that must be done with no rush, to not make arise negative emotions and destroy the relationship. During the TNC (The Negotiation Challenge, a worldwide competition of negotiation between universities), for instance, the time given to set and complete a negotiation is about two days, and we're just talking about a competition between

² And, in the most extreme cases, that is necessary to hurt themselves and/or the others through the physical resolution of the conflict.

universities³. Of course, each agreement has its own characteristics, and this includes also the time spent to reach it, but knowing that you can't handle a situation for the time that it truly deserves, will also ruin the short time that you have at disposition and will drastically reduce the possibilities of a good end. Secondly, a negotiation must be avoided when the counterpart is in bad faith, as in the robbery case that we exposed before. If it's true that everyone has its own interests, is true in the same measure that some interests are illegitimate and harmful for the others and an effective negotiator is the one who understands that there are certain situations where he/she can't be an effective negotiator. Lastly, a negotiation must be avoided when we are not prepared for it; negotiation is not an art, but we said that is a science, albeit emerging. To reach an agreement is essential to collect as information as possible, in order to discover the interests of the counterpart. The majority of the insights will arise from the process held in the actual negotiation, but, thanks to the modern tools, we have the possibility to reach a lot of information before the effective start of the negotiation, and everything we get about the counterpart is essential also for the relationship, finding points in common and having a better overview of the others' background. But how can we get prepared for a negotiation? Of course, there's not only one way to prepare for it, but in this case, we'll take a theory developed precisely for this purpose by (within the others) Roger Fisher, the father of Harvard Negotiation Project: the "*Theory of Practitioners*", Fisher indeed was one of the firsts to understand that our way to intend negotiation was a lie, and one of the firsts to treat this topic as a science, and not as a congenital art. It's true that most of the information will be found once that the parties meet, but some elements can and must be decided before and these elements are:

- **Interests**, what we need;
- **Options**, the possible agreements;
- **Alternatives**, the other options in addition to the agreement that I'm negotiating;
- **Legitimacy**; fair treatment of all the parties involved;

³ For sure a great opportunity that I had the honor to fulfill, but nothing in compare with the examples of agreement reach through the history and that I'll expose in the second paragraph of this chapter.

- **Communication**, what is said between the parties;
- **Relationship**, human interaction;
- **Commitment**, promises done for the conclusion of the deal.

Through this theory, he delivers a way to find our personal systemic method to prepare for a negotiation. A first distinction is made between the types of negotiation that we'll face. As everything in life, not all the negotiations have the same level of difficulty, and our preparation must be coherent with the latter⁴. For those deals that we consider easier (for instance, because of the relationship with the counterpart), Fisher the **Sudden Prep**, a fast way to get an overview of the deal and the possible outcomes. It consists of a form that needs just few minutes to be filled, where there are all the elements that we explained before.

Another way, instead, is delivered for those negotiations more complicated, for example those with more parties involved, or with very little margin to negotiate, and this is the **Priority prep**, which consists in a sort of guide, where, for each of the seven elements above, there's a list of questions that we must ask to ourselves in order to understand which of this elements is more relevant for us and should be prepared with more attention. For example, if I'm having a bad economic period and I'm negotiating the increase of the salary, I will focus on interests, while if I want to buy a car, I'll focus on alternatives, to not be trapped in the case that my first option was not satisfactory, for the price or for other reasons. Many other similar theories were developed in the following years to fix the same issue, but in useless to say that some circumstances cannot be prepared. Anyway, this mustn't be seen as a something negative, but, on the contrary, as an opportunity.

⁴ Even though there are not simple negotiations, as well as simple exams, but there are situations where the risk of unforeseen events is way lower, but this doesn't necessarily mean that an "easy" negotiation is not the one where the object of the deal is a single item. On the opposite, these kinds of negotiations are the harder, because, as said many times, the negotiation is not a compromise between two or more parties, but is usually the balance of two or more issues treated together and whose relevance is different according to each part. If we cannot make this game, then our focus will be shift on other aspects, as the protection of the relationship and further effort will be needed for a pre-negotiation regarding which objective criteria can be used for the definition of the deal.

In fact, also without such theories, negotiations have always existed, despite they have been analyzed by a scientific point of view only since last century. One of the first populations that developed some negotiation competences were the Romans, for whom the handle of diplomatic relationships was a crucial point, that used to connect several classes of the society. For example, the *fetials*, a board of priests in the ancient Rome devoted to Jupiter, were englobed into many political affairs, as it happened with the delivery of Ostilio Mancino to Numantini in 136 b.C., which was conducted by the mentioned class of priests in person. In any case, one of the first and most important negotiators was for sure Pietro Patrizio, lawyer, jurist and one of the first in the history who understood the relevance of negotiation for politics. Indeed, the geopolitical context in which Pietro Patrizio operated was very delicate: the Western Roman Empire had just collapsed and the Eastern one was protecting the roman honor, thanks to Justinian's guide. Pietro Patrizio had been *magister officiorum*⁵ for 26 years, from 539 a.C. to 565 a.C., being one of the first in the history to have the exclusive task of dealing negotiations, and his crucial contribution was registered for several agreements, like the one regarding Sicily (534), when he was called by Ostrogoths and represented the will of Justinian I to take back those territories that were of Western Roman Empire⁶. Another important deal was closed in 562, when Pietro Patrizio had to negotiate with the Sasanian Empire the "50 years Peace", agreement that had the objective of interrupting the continuous wars between the two populations, target unfortunately never reached, considering that new conflicts emerged already in 572, so only 10 years after the conclusion of the agreement. That said, we must add that not only the Roman Empire had the insight of understanding the relevance of having good negotiating competences to face the stipulation of this kind of agreements. In fact, also in the Ancient Greece the first steps in this sense were taken, but, unfortunately, the documentation behind this culture is less profound than the one after Pietro Patrizio. I say this because we have objective information only regarding the

⁵ The magister supervised the palatine secretariat, which was divided into four offices, the *sacra officia*, each under a respective magister. (Source: https://it.wikipedia.org/wiki/Magister_officiorum)

⁶ This was the main purpose of Gothic Wars (535-554) and in that occasion Pietro Patrizio was also arrested.

substance of the closed agreements, but not on the *ars oratoria* of the diplomats of those times, because many of the speech have been manipulated, due to lack of memory from the authors or because of the will to give a more harmonic form to what was said during the assemblies, as also says Thucydides in “*Histories*”. In any case, we can still give some information analyzing the few documents available that we have. For example, the choice of the ambassadors was very precise and meticulous, being it completely detached by the exteriority, the physical aspect, as certified by the case of Leo of Byzantium, who in Athens, around the half of IV century b.C., to solve the civil disputes of those years, was welcomed by the laugh of the popular assembly, because of its weight and the ambassador replied with style, saying that if they found him too “big”, they should have seen his wife. This just to say that one of the most important qualities for the choice of the ambassadors was the prestige and not the physical aspect, which has certainly its part of relevance as emerges also by several studies, but the real priorities where others, like the firmness, the braveness, as the one of the Athenians *ἀξιολογώτατοι*⁷ who went to the cities held by Lacedaemons asking for freedom, or the seven Persian ambassadors who went to Amyntas I, king of Macedonia, asking for the submission of his country (510 b.C.), certifying that these criteria used for the selection of the ambassadors were not exclusive for the Greeks.

Another important characteristic for the choice of the ambassadors was the age. In fact, usually the citizens sent by the king to the other countries were, at least, 30 years old, and this was due to the fact that, for obvious reasons, it was way more convincing to send an older diplomatic, who could leak more experience and responsibility⁸. Also in Calcide, a small *polis* sited in Euboea, it was forbidden to assign public positions to any citizen before their 50 years.

In conclusion, we’ve seen the routes of negotiation, starting from the Ancient Greece, and passing through the numerous wars and conflicts of the Roman Empire. The focus regarding the discipline has not bloomed, but, on the contrary, has enlarged in these lasts’ years, especially because of huge improvements also in the tools used by the branch of

⁷ The worthiest.

⁸ Indeed, the ambassadors were called *πρέσβει*, which means “the oldest.”

psychology, which has become a huge reference in a second time. After the first studies around 1960s and 1970s, conducted mainly by Rubin and Brown, already in 1980s, many schools started to take courses of negotiation. We must say that the first direction taken by the doctrine was almost immediately left: in fact, Rubin and Brown in 1975 started to find a connection between individual differences (like demographic characteristics and personality variables) and negotiated outcomes, in parallel with the study of situational variables (variables that define the context of the negotiation, like power, deadlines and number of people on each side). These studies, as mentioned, were soon considered inappropriate, because the perspective behind them was that a negotiator is a completely rational entity, and the purpose was to define a sort of immense code where were collected all the possible conflicts that could arise with their respective solutions, but of course this is an assumption that cannot be represented in reality. So, if before the focus of negotiation studies was on the substance, the following researches, as mentioned before, were directed to the person and his/her emotions⁹. In fact, Bazerman and Neale (1992) developed a psychological perspective on negotiation, aiming to describe strategies that would have enabled negotiators to both expand the overall value of the agreement (the metaphorical "pie") and understand how to maximize their share of it, while balancing considerations of fairness and maintaining positive relationships. This shift was crucial in the development of the doctrine and made researchers understand the fact that is completely counterproductive to consider negotiators as potentially fully rational human beings. Now, the path has continued on this last point, focusing always more on how to handle the relationship with the counterpart, in order to improve the substance of the negotiation, the quality of the agreement and, by result, the satisfaction of all the parties involved into the process of negotiation.

I.b. From a relational fight to the Marshall Plan, the boundaries of the process

⁹ Path that was improved and enlarged by Harvard Negotiation Project, that's why it needs a better overview, that will be exposed in the paragraph I.c.

As said before, our fragmented nature gives several circumstances where a conflict can arise. In fact, the nature of the substance that must be negotiated is not always the same. For example, there are political negotiations, where two or more parties define the approval of a reform or the composition of the government for the beginning of a new legislature. This last is a very delicate phase, especially in what we call “technocratic government”¹⁰, the last one in Italy manned by Mario Draghi from 2021 to 2022 for the management of the Covid emergency and the PNRR, where almost all the Italian parties participated.

Alternatively, we have more frequent deals, concluded through business negotiations, where two or more economic entities discuss about the exchange of resources, like products, shares, money, human resources, but not only this. In fact, as in the case that we will analyze in the last chapter, there are many discussions also for the setting of merger and acquisitions between two or more companies, whose activities are englobed into one single economic entity.

Another case is the one of the personal negotiations, a very delicate case. In fact, these arises from the classic misunderstandings that come out from any kind of relationship. Whether they are marital, familiar or labor disputes, they are unavoidable and unchangeable through the years, despite everything around us changes so fast. In fact, even if human interaction has developed through history for sure, due to the changes in communication and the phenomenon of globalization, on the other hand, the nature of the human being has not changed at all, luckily and unluckily; for example, already Seneca, in 49 b.C. with “*De Brevitate Vitae*” used to say that youngers lost the values that were passed down among generations, because their priorities were related to their physical aspect, spending too much time in the hair salons. So, as said, the pretexts to argue are always the same, because it’s the human nature that never changes, but it simply finds different ways to express itself.

¹⁰ As “technical government” we intend a government without a precise political identity, typically instituted in emergency situations, where it is not possible to build a political majority. In fact, before the institution of Draghi’s government, the President of Republic Sergio Mattarella delivered to Roberto Fico, the former Speaker of the House of Representatives, the task of forming a political majority, without success.

Lastly, we have geopolitical negotiations, stipulated after any transnational conflict for the redistribution of the lands achieved by the winners and the punishment of defeated countries. This class of negotiations, like the personal one, is unluckily very easy to imagine also in our age, which is the result of this type of deals, including one of the most important post-war agreements, the *Marshall Plan* (1948¹¹), who takes the name of George Marshall, U.S. Secretary of State, and whose object was the distribution of 14 billions dollars in 4 years¹², to let the economic and industrial recovery/development of the continent and the punishment for the countries that lost, in particular Germany¹³.

So, we've seen a list (surely not exhaustive) of conflicts to demonstrate how much are vast the boundaries of the negotiation process and how much can be various the nature of the agreements that we close during our life, some of them without almost realizing it. Anyway, despite all this, the theories of negotiation delivered through these years can be applied for all these kind of situation, because, even if the pretext to argue changes, the reasons behind are always the same and this will be further analyzed with the theory of the Five Core Concerns in the next chapter.

Indeed, within these classes of conflicts that we've talked about, there are several points in common. First of all, as said, the most intuitive characteristic of all the conflicts is the presence of two or more people, with different interests, sometimes in contrast between

¹¹ The official name is European Recovery Program (Erp).

¹² The hope at that time was to prolong the period, but the Korea's War and the election of Republicans in USA didn't let the deal to live for more years.

¹³ The evaluation of Marshall Plan's results are very contradicting within them, because, if a part of the economists considered the European Recovery Program as the first step of Europe's rebirth, consolidated also by the stipulation of international organizations as the North Atlantic Treaty Organization (NATO, 1949), other economists linked the overall economic growth to the poor salaries that were distributed those years, not to mention the common belief that such a measure this would have exploited the USA's political and economic influence over most of the European Countries. In the last period, many times this agreement was associated, for its nature, to PNRR, National Recovery and Resilience Plan, part of EU's Recovery Fund program, which also had the purpose to set the basics for the rebirth of Europe, this time after Covid Pandemic.

them, and that must reach an agreement. The simple existence of two or more parties is not enough, because we face other people every day, and is impossible to think that I should reach an agreement with everyone and is even more impossible to think that I would like to have an agreement with everyone. So, for a negotiation to be set is not enough to have two or more people with different needs and in contrast between them but is necessary the belief that the situation of disappointment that has been created can be fixed or, at least, improved. To do so, it's important a third and last requisite: both parties must move from their initial position. As we said and will repeat, an agreement is not a middle point between the two options (at least not always) but is a solution that satisfies the interests of all the parties involved into the agreement. So, is what we call a **“pareto efficient”** choice, and, as all the pareto efficient solutions, is not simply the best choice for the single person but is the best choice for the single person and for the group.

After all this, we can conclude that the conflict is unavoidable and so is completely useless to treat it as a pathological phenomenon, but it would have way more sense to consider it a physiological one. But what does pathological mean? We usually listen or read this word when we talk about medical diseases, but isn't it true that, once a conflict starts, we feel emotions that have a negative impact on our body (stress, anxiety, anger...) precisely like an influence or any kind of disease? And this results into an instinctive reaction to escape, to make the conflict last as little as possible, because in the world there are only few effective negotiators, and so the exploitation of negative emotions, that undermines relationships, is very high. As seen, we've different categories of conflicts, interests and deals, and, unfortunately, a good number of these lasts has lived the kind of situations that I've just explained. Anyway, if we want to be an effective negotiator, we must understand that conflicts are a physiological phenomenon: as said previously, we all have our language, and this necessarily brings to misunderstanding. To get this, before being an effective negotiator, we must be effective citizen, parent and friend, accepting the fact that what the counterpart says/does matches perfectly with his/her world and it's not an attack to our ego, but the result of what they see through their lens.

It's important to make this clarification because we can think that the development of negotiating competences is a useful topic only for those people who have problems with the management of emotions, but this would be a lie. In the classification of the possible negotiations, all the categories above hide the risks that negative emotions may arise, and

this doesn't necessarily mean that these same emotions will be showed. This misunderstanding comes from the fact that we think that emotions exist only if they're represented by a clear reaction, but, as we'll see also later, emotions are always exploited, because they're our mechanism to defend ourselves from the inputs that come from the external world. Each of us has the animal need to protect itself from a potential damage, and this aspect in a negotiation is even more important than what we are negotiating. Also this factor must be included into our preparation for the setting of any kind of agreement, because any deal needs the meeting between people, each one with his/her experience and points of weaknesses that he/she tries to hide and, in case of necessity, defend with the most powerful arm in the world, emotions.

I.c. Nowadays: the Harvard Negotiation Project

With the new theories that implemented the doctrine and the increasing interest regarding the subject, as said before, many universities started to teach negotiation, with the purpose to make students understand the relevance of having good negotiation competences. Many institutes developed projects inherent to what said, and within them there's the case of Harvard Law School, that in 1979 founded the *Harvard Negotiating Project* (HNP), folded in 1983 into the *Program on Negotiation* (PON), "*a university consortium dedicated to developing the theory and practice of negotiation and dispute resolution*"¹⁴. This project was launched, as said, by Harvard University, but it also involves members from Massachusetts Institute of Technology (MIT) and Tufts University.

The objective of this project is not only to form students and develop their negotiating competences through seminars, research, and courses, but also much more. Considering the historical period in which the initiative was launched, also the PON lived the evolution mentioned in the previous paragraphs, shifting its focus from how to establish a perfect agreement considering only the substance, to the conflict management and psychological studies on emotions, how do they work and how to manage them, in order to save the relationship. Indeed, the members of the project come from several field of studies: from law to business, from psychology to anthropology and education. Each branch is essential

¹⁴ Source: <https://www.pon.harvard.edu/about/>

for the development of the theory, because many items must be considered to build a satisfactory agreement, especially if we think about the tools that we have nowadays and the variety of situations from which the conflict can arise and that we tried to list in the previous part of the elaborate. Precisely for the reasons explained until now, the purpose of Harvard's Program on Negotiation is also to reduce conflicts and violence in the relationships that we build today, especially in those that have a huge impact on other lives.

The Harvard Negotiation Project covers several aspects of conflict management, from the simple basics of a good negotiation, arriving to how to deal with international agreements, studying practical cases as the situation in Middle East or the conflict between Russia and Ukraine, but also previous conflicts, like the relationship between USA and Soviet Unit. The project was launched by Roger Fisher, William Ury and Bruce Patton. Everything started from a course delivered precisely by Fisher, "*Coping with International Conflicts*", where the professor, through the analysis of Vietnam War and the situation in Middle East, gave some analytical frameworks useful to deal with conflictual situations of the real world. After the suggestions of Ury and Patton, who really liked the course, and after the enthusiasm shown also by the rest of the class, the project was launched, with the support also of Derek Bok, the president of Harvard University at those times. Initially the program was financed by the incomes from summer seminars held by Fisher and Patton, and later the fundings grow thanks to grants from public foundations and individuals.

The *modus operandi* behind the project was unavoidably influenced by the change regarding the concept of negotiation and that we explained before¹⁵. That's why, the Harvard Negotiation Project hugely contributed to this shift, through the development of simple frameworks, rather than simplistic. In support of that, Fisher many times used to explain that a good lawyer is the one who manages to reduce a very complicated case to such a simple framework that just a couple of questions were needed to solve it. And the same applies for negotiation: Fisher didn't want to develop theories that represented the

¹⁵ The fact that before the negotiators were seen as fully rational people, who had to focus on how to perfectly balance the substance, and then the focus was shifted to emotions and how to manage relationships.

only way to persuade the counterpart, but his will was to develop more convincing framework than the ones that were developed by other schools or that the majority of the students had on their own. To do so, Fisher, Ury and Patton were convinced that the only way to develop a reliable theory was combining it with practice. The starting point was a real, practical case, as the ones said before (Vietnam War or Middle East), that was discussed with other colleagues¹⁶ and students, trying to develop reasonable advices. Once that everyone agreed on the best way to do, the next step was to find a principle or a theory behind it, with the purpose to apply those advices also to other situations that were analyzed in a second moment. Then, the developed theory was explained to another little group of students, so that, in this way, the contradictions and holes that emerged could improve the developed theory. Eventually, once that the process was finished and that all the points of weakness were covered, the theory was explained and delivered to a broader group of students. This way of doing made the Project very popular since its first day, also because the first courses were without grade, but this was not the main reason of such success. Still today, the classes delivered by Harvard Negotiation Project are rated very well and many of the students who attended them after university have become professional negotiators, certifying that Fisher, Ury and Patton were right.

In 2008 Fisher retired due to health reasons¹⁷ and was succeeded by James Sebenius, a great supporter and friend of Roger Fisher; once he started its academic journey in the field of negotiation around 1970, the biggest part of its work relied on the ideas of Fisher indeed, contesting them or working with him. Sebenius significantly contributed to enlarge the field of play of this project, increasing the opportunities to collaborate also with other universities, as said.

Patton and some other colleagues, in 2018, founded the Rebuild Congress Initiative (RCI), co-sponsored by HNP, precisely with the aim of enlarging even more the latter, but also to have a more direct connection with the institutions. For instance, in the same year, RCI contributed to the drafting of the letter *"Dear Colleagues"*, destined to the House of Representatives, in which was asked for the creation of a committee appointed to the proposal of broader reforms. The request was welcomed, and it brought the creation of

¹⁶ Like Howard Raiffa, Lawrence Susskind, Thomas Schelling, and Jeff Rubin, all senior academics.

¹⁷ Unfortunately, they didn't get better, and Roger Fisher passed away in 2012.

the *House Select Committee on the Modernization of Congress*. Since then, RCI made the initial idea behind Harvard Negotiation Project closer to the institutions, with the purpose of continuing what was done in the past regarding the development of negotiation competences, but directing it to an even larger public. In this way will be negotiated more relevant topics for the population, for example the way institutions work and the birth of new organizations, and this exponential growth in the number of “students” will make possible also the development of the theory, putting negotiation always more at the center of our lives and increasing its relevance for the tasks fulfilled by institutions.

In conclusion, it's important to remark the incredible effort that Fisher gave to Harvard Negotiation Project and to Program of Negotiation. The majority of the principles that Fisher developed through his lessons and books have been in-depth by the mentioned organisms and are, still today, the basics of negotiation, even though the doctrine has developed a lot, especially in these last years. I say this because Sebenius, in its *“What Roger Fisher Got Profoundly Right: Five Enduring Lessons for Negotiators”* talks about which were the main characteristics that, according to Roger Fisher, a good negotiator must have, and these characteristics are still found in the most recent theories, both released by Harvard Negotiation Project or not, and this certifies the incredible job and the brilliance of Roger Fisher.

I.d. Artificial Intelligence's arrival. Did all this process have no purpose?

The arrival of artificial intelligence (AI) into our lives has been as fast as disruptive, influencing and, in the most extreme cases, changing the way we study, work, live. This is not the first time that the technological improvements introduce new features, completely twisting the era we live in and enhancing the difference with the previous one. Waze instead of maps, Instagram instead of Yellow Pages, mails instead of faxes.

The tools that we can use strongly influence our competences and this is even more true if we talk about AI, which can be used for several purposes, within them negotiation. In fact, in these last years, AI-based systems have been used also for teaching and attending

negotiations, in this last case putting in “contrast” two counterparts, which represent two completely different worlds: humans and technology.

Regarding the teaching methods, the aid offered by technological tools has exponentially increased its relevance nowadays, especially for the post negotiation assessments: after the conclusion of the deal, indeed, it’s always more common that, a part from the teacher’s feedback, students can rely also on another type of judgment, which is the result of valuations made by the students who attended the questioned negotiation and who answered to some closed questions, and these same answers are collected and analyzed by AI. This is very useful, as said, both for the examined negotiators, who can rely on this additional feedback, but it’s also useful for the teachers, who have a sort of register, where all the progresses can be noted and controlled in an easier and more direct way. Precisely for this kind of evaluation, in the last years emerged also a new technology, **affective computing**, which introduced the possibility for algorithms and computers to analyze large sets of data less easy to track, because strictly connected with feelings. In fact, this branch analyzes different factors, like facial expressions, voice, body language, to analyze the emotional status of a person, in this case the one of negotiators.

As said, AI has been introduced in these last years also for practicing negotiation. In fact, there are several platforms where, given a topic, it’s possible to negotiate with an AI-based system, being it a virtual negotiator or only through chatting. The counterpart follows some inputs, introduced by a human being, which shape its capacities and characteristics. For instance, when I attended The Negotiation Challenge (TNC), we had to report our results on a platform, Discurso.ai. This system was giving also the possibility to effectively negotiate with artificial intelligence: the case was the conflict that inspired a famous cartoon, “Tom and Jerry”, where we had to close a deal regarding these three topics:

- *Splitting of food;*
- *Access to the pantry;*
- *Jokes’ frequency.*

The AI system was Tom, and it received the input of being very hostile, because the point was that this negotiation was needed to stop the famous fight that attracted several generations. We had the opportunity to close this deal chatting with Tom, who, in fact, used to be very selfish from the first discussions, with the willingness to limit Jerry’s

freedom. This was a very interesting tool, that always more teachers are starting to use, in order to practice the students whenever they want, without the necessity of a tutor's in person presence, and giving them the possibility to train on a more restricted pool of situations and outcomes. In fact, these virtual negotiations can be set according to the matter that must be trained: in the TNC's case, the purpose was to increase our capabilities in emotional management, but the inputs that can be given to these systems can be several, everything depends on what must be practiced.

Another important tool that has been developed in the last years is **automated negotiation**. This last term refers to protocols designed with the purpose of reaching the best possible deal within computer-based agents. Through this method, the object of the negotiation (the issues to be discussed), the protocol (the rules to be respected, like the number of participants) and the agents' decision-making process (how agents must set their reasoning, according to the protocol and the objectives of the negotiation) are set in advance. This way of doing, so, consists basically on enlarging the case explained before (regarding the dispute between Tom and Jerry), completely removing the human part and assigning the negotiation to autonomous computers, which impersonate the counterparts and find the best possible deal.

This branch, as emerged, has the purpose of transforming any kind of conflict into a sort of prisoner's dilemma, assuming a game-theory based approach that has the only scope of finding the pareto efficient solution. All the mentioned progresses, are reducing human interactions and, at this point, it's necessary to ask ourselves some questions: in the future will be worth to have good negotiations competences? Do figures as Pietro Patrizio will have the same relevance? Will the Harvard Negotiation Project still exist? Can future negotiations held to solve international disputes between countries (as the conflict between Russia and Ukraine or the one between Syria and Israel) being completely done through the use of algorithms? Can mergers between two or more companies be done exclusively using the analysis done by AI-based systems?

These questions are the result of a dilemma that was exposed a long time ago by Alan Turing, who wondered if computers could think and through the *Turing Test* wanted to assess if a machine could be as intelligent as a human being.

This dilemma, anyway, in this moment of the history cannot be solved still, that's why we can only consider as many factors as possible. Firstly, we must take into account the

shift done by the theory of negotiation, always more oriented to the study of our brain, due to the fact that the experts understood that, before negotiators, we are human being, with our beliefs and fears. The process that goes from the first meeting between two or more parties to the shake of hands after the closed deal doesn't rely only on quantitative factors, and this, for sure, is something on which the tech world is investing its effort, because, despite incredible steps forward, that enlarged always more the pool of situations where computers can be used and the pool of solutions that they can offer, the mentioned factors are infinite for human minds, especially if combined. In any case, it's impossible not only to determine which can be the real limit of this type of innovation, but also to exclude that AI-based system cannot reach in the future a level of intelligence so high to make them capable also to feel emotions.

As said, there are no enough bases to determine which will be the future of negotiation, but the only thing that can be said is that, at the moment, the theories developed by the branch still must be considered the most precious tool for the conflict management, because again, as things stands, AI is only an integrative tool to better apply the mentioned theories, but that cannot be an excuse to not develop negotiating skills. That's why, in the next chapter, we'll go deeper into the branch, analyzing one of the most important and used within the theories developed by the Harvard Negotiation Project: **The Principled Negotiation**.

II. THE PRINCIPLED NEGOTIATION

II.a. Relationship, Process and Substance: pillars of a real negotiation

As we said during the first chapter, a good and profitable negotiation is the one that doesn't focus only on the substance, but, on the contrary, considers it as the very last point, if it doesn't arise on its own during the process. This way to do was developed mainly by the Harvard Negotiation Project, which, through its theory of "The Principled Negotiation", goes against the common concept of negotiation, usually defined by a positional approach.

In fact, when we must conclude a deal with a counterpart, we are well anchored to our priorities, to our position indeed, and we hardly give concessions, even though it wouldn't significantly change for us, not overcoming our redline¹⁸, but we do it anyway because we don't want to lose the face and we don't want to give the impression that we are not a strong person. So, at most, we gradually shift from our initial position reaching a middle point between the offers of the parties involved. This way of doing not only destroys the relationship with the counterpart, transforming the negotiation into a battle, but it leads to the conclusion of deals that are not fully satisfactory for the parties. As a result, future negotiations between the same parties are hardly predictable. The previous concept is exponentially enlarged in the cases of multi-parties' negotiations. In fact, in this kind of

¹⁸ We intend as redline those limits regarding a specific item that cannot absolutely be disrespected. Let's take, for instance, that I'm having a walk in Trastevere, and I see a stand that sells some paintings that I really like, and I approach the seller to buy one of his products. The first offers that he makes me is of 20€, but I consider the price too high, so I ask for a little discount. The seller answers that he cannot go below 16€, because he bought that painting from the original author at that price, so selling it for a price below 16€ would result into a loss, because 16€ it's his redline.

situation, to apply a positional strategy is almost impossible; with whom should we make concessions? Is it possible to impose our need on every part?

Considering these last doubts, the most intuitive answer, so, would be to start a negotiation with a soft approach, being gentle, trusting the other party since the beginning, treating it as a friend, and so on. Anyway, neither this one is a reasonable path to choose, because, if the counterpart plays a hard positional bargaining, the deal that we'll close will be very unsatisfactory for us, both in the substance and in the relationship.

That's why, the Harvard Negotiation Project developed another way of doing, with the theory of **Principled Negotiation**, based, indeed, on principles that act as a useful tool to overcome the potential problems exposed until now, giving insights about how to reach a profitable agreement without harming the needs and the respect of the others. Before going deeper into these principles, we must repeat that the Principled Negotiation is a theory that starts from a broader perspective of the agreement, that doesn't consider only the substance, but also the process and the relationship. Let's better analyze these concepts, in order to have a deeper understanding of the mentioned theory.

II.a.i. Process

Before talking about the substance, the first thing to do is to set the process, in order to avoid losses of time and avoid possible misunderstanding. In fact, if we see the substance as the destination that we want to achieve, we must, on the other hand, consider the process as the car that will bring us to that place. As before any trip, there's a list of tasks that must be considered and checked: the fuel, the tires, the insurance...The same must be done with a negotiation: before finding an agreement on the substance, it's essential to find an agreement on the process, the rules of the game.

First of all, we must define who will take part to the negotiation, because not always the deals are the result of a bilateral interaction, but there are situations where the people who are bearing the interests of the two parties can be represented by other people, like the

ambassadors for international agreements or lower-level managers for business negotiations¹⁹.

Once we've understood who will take part in the negotiation, we must understand where this negotiation will take place. Will it be a physical or a virtual negotiation? In the case of a physical negotiation, where will it take place? Usually, a neutral setting is the best option, to not make arise any sense of non-comfort in the counterpart, and to not create a situation of misalignment, that would result from our decision to have the meeting, for example, in our office. A good solution would be to organize the meeting in a neutral and informal place, to make both the parties feel in a familiar spot.

Lastly, we must define what will be discussed and how. A very useful tool that helps in the definition of such matters is the **agenda**. In fact, when the parties meet, before starting the negotiation of the substance, as said is very useful to define the "rules of the game", with the negotiation of the process, in order to save time and avoid the exploitation of bad feelings. Through a shared document or piece of paper²⁰, one of the two parties proposes a list of possible steps in which the negotiation can be divided. Here's an example²¹:

Time available: 80 minutes

- 1) Presentation of the parties and, eventually, of their previous relationship **(10 minutes)**
- 2) Listing of the issues to be discussed **(3 minutes)**
 - a. Team 1 issues (1,5 minutes)
 - b. Team 2 issues (1,5 minutes)
- 3) Classify the issues by their level of priority **(5 minutes)**

¹⁹ This point is crucial also for the preparation of the substance because I must consider if the counterpart is the real owner of the interests exposed or if it's representing the willingness of other people.

²⁰ Or any other tool that will let all the parties involved to see clearly and freely the matters discussed.

²¹ We'll take the case of a biparty negotiation. Of course, each negotiation has its own characteristics, and the time spent on each of the following points depends on several factors.

- a. Team 1 issues listed (2,5 minutes)
- b. Team 2 issues listed (2,5 minutes)
- 4) Negotiate on the order in which the issues will be discussed (**2 minutes**)
- 5) Discussion of each issue in the detail (**10 minutes** per issue)
- 6) Possible break (**5 minutes**)
- 7) Proposal of hypothetical offers (**20 minutes**)
- 8) Closing of the deal (**20 minutes**)
- 9) Post settlement settlement (**5 minutes**)

This way of doing is very practical when the two parties have agreed²² on the time to negotiate, letting them to be focused on the substance but keeping always an eye on the time. Precisely for this last point, the two teams of negotiators can appoint a member as the responsible of saying when the time for each of the steps above has expired.

The first point regards the presentation of the two parties involved. This can be foreseen in those cases where there hasn't been a pre-negotiation, so each member gives a brief presentation of him/herself, in order to give an informal shape to the meeting and this can be also very useful for the management of the relationship, finding points in common. In case of lasting relationships, this point can be used also to give a brief recap of previous collaborations (so that everyone is aligned) and to expose its own perspective of the relationship, highlighting the positive feedback, in order to give, since the beginning, a friendly atmosphere to the process.

Then, all the parties share the list of issues that they want to define, so that everyone involved is on the same page also regarding the substance that must be negotiated, because it cannot be taken for granted that it's always the same for everyone. For instance, let's take the case of the acquisition of a small company by a multinational; on the latter's side, the only issue that must be negotiated is the price of selling and the payment methods, but the owner of the acquired company can have also solicitude to ensure the placement of the employees who already work in, because he/she doesn't want to take the responsibility of leaving them without a job.

²² In fact, also the time is a matter that must be defined before, maybe in the pre-negotiation, otherwise it must be added to the agenda.

Once the substance has been defined, it's better if each of the parties involved gives a clear ranking of the issues to be discussed, relying on the priorities that each one of them has. These are different, indeed, for each team and that's why it is also important, once this difference has emerged, to decide which team will start with the explanations behind the mentioned ranking. Each issue will be discussed in detail, giving the reasons why that precise issue has that precise relevance, both voluntarily and answering to the questions made by the counterpart.

Subsequently, and after the two parties have had a little break maybe, the two parties can make some hypothetical offers. In fact, after the discussion of each issue taken singularly, a first approach to the negotiation of the substance must be done, and this means to adopt a different approach, gradually more direct, not taking any more each issue alone, which would also exponentially increase the risk to be stuck on it, but talking about them in group, making hypothetical offers to understand the range of treatability for each issue and having an even more clear idea of the interests of the counterpart, collecting even more information. These offers, to avoid any risk of annoying the counterpart, can be anticipated with some standard sentences, like "hypothetically speaking, would it be ok for you if we give you this amount for the issue A and you give us that amount for the issue B?" or "nothing is agreed until everything is agreed". These little cautions may seem irrelevant, but, on the contrary, can be hugely significant, for the reasons mentioned above, and also because they will more easily take to the actual discussion of the substance and the effective conclusion of the deal.

Lastly, the two parties can foresee also a post settlement settlement, an opportunity to improve the level of the deal closed and the satisfaction of the parties involved. Having the agreement reached fixed, the parties can mention those issues where they think that the substance can be improved and negotiate it again with the counterpart. This phase must be mentioned in the setting of the agenda, with the purpose of not making the counterpart believe that we are not satisfied with the deal closed or that we want to exploit them.

It's important to remember that, to define "how" the negotiation will be conducted is also fundamental to set some rules that must be considered for the whole negotiation. For example, the two parties can agree on the fact that, if they are stuck on the same issue for more than 10 minutes, they must shift to another one. Or, if the tones used flare up, a little

break is necessary. This type of rule, if A happens so we do B, can save the relationship also in the more delicate phases, because the way of doing is something on which the two parties have agreed at the beginning.

II.a.ii. Substance

In the hypothetical agenda that we saw before, the discussion about numbers is done after 55 minutes. This is not a mistake, because, as said, negotiation is a broader concept, and this makes counterproductive any discussion of the deal before knowing the real interests of all the parties and/or before establishing a trustworthy relationship with the counterpart. In every negotiation there are more people and interests, in part common and in part not. Anyway, as we explained in the previous chapter, it's much easier to deal with contrasting interests rather than contrasting positions, because positions are almost always based on emotional impulses and non-objective basis, while interests are the reasons why we want something, and usually these reasons perfectly match the person who's holding them. That's why is very important to not immediately jump into the attempt of closing a deal, but rather developing a clear image of the situation, which will let us give concessions more easily.

These concessions, of course, must be always made considering our BATNA, which stands for "Best Alternative To a Negotiated Agreement". *Ça va sans dire*, every negotiation that we have, any agreement that we close must always be more convenient than any deal we could close with anyone else. It's only this factor that determines our negotiation power, which is our possibility to concede as little as possible. We must clarify this because, usually, power is connected to other characteristics, one above all money, but in a negotiation it's not always like this. Let's take back the previous case of acquisition between the multinational company and the little entrepreneur. We said that there could be a misalignment between what the multinational wants to negotiate and what, instead, are the issues that the entrepreneur wants to discuss. Imagine that, once the latter exposes his willingness to also ensure the occupation of the former employees, the multinational gets annoyed, because it's facing an unforeseen request and presumes that the counterpart is in bad faith. After some questions, it understands that there's no bad faith at all behind this request, but, instead, it's because the owner chose very accurately

the staff of his/her society and he/she got really attached. The multinational could say that, despite the respectful willingness of the entrepreneur, they can't satisfy the request because they had already chosen who will inherit the discussed roles. The multinational has surely more resources than the little entrepreneur, but it can be that the latter had already discussed about the selling with another big company, which ensured him/her the employment of his/her former staff, combined with a satisfactory amount for the selling of the activity. In this case, the little entrepreneur is in the position to say that, if the multinational doesn't concede this, the deal cannot be closed.

The BATNA of both parties and the reservation value (which is the lowest offer that we can accept or the highest offer that we can give, defining our flexibility) of all the parties involved represent the limits within which lands the ZOPA, *Zone Of Possible Agreements*²³.

II.a.iii. Relationship

Both the setting of the process and the discussion of the substance must be done always considering the relationship and what the counterpart feels. Regarding the positional negotiation, we explained that the exclusive focus on the substance, being it with a strong or a soft approach, not only creates unperfect deals, but also undermines the relationship and the possibility of future agreements. In fact, being focused on reaching the best possible deal for us will automatically bring unavoidably to the hurt of the counterpart's feelings, and he/she will be in the position of not conceding anything, neither regarding the less relevant items for him/her.

We said during the first chapter that, even though we talk about the world as something objective, it must be considered as something completely subjective, because each one of us has its own experience; the more we grow and change, the more the way we see the world changes, and this is something innate, that we don't think about. This is because our brain works way faster than what we think, and our irrational part arises way before

²³ All the elements that we've discussed until now (BATNA; ZOPA...) can be considered both individually, regarding the single issue, or collectively, in connection with the other items (if existing).

than the rational one. But how does it work in the specific? Let's try to have a better understanding.

Everything starts from our sensations, which are activated by any input perceived by one of our senses. Once this happens, a sort of signal arrives to our brain, more particularly to our amygdalas. We have two of them, one for each sphere of our brain, and they work as memory cards, where all our emotional experience is stored. So, everything we see, hear, taste, touch or smell is reconnected with that same thing that we saw, hear, tasted, touched or smelt in the past, and this is done thanks to the hidden job that the amygdalas fulfill. This connection is automatically made by our brain, with the purpose of defining our next move before our rational part can do it. The reason behind this is that the human body is the most performing machine ever existed and that will ever exist; all this is essential to save us from situations of danger and perfectly corresponds to the animal survival instinct, that finds his way of express itself in a more hidden way. I say this because the amygdalas' job can consist in a simple message, that after the input we receive, is sent to the neocortex, the rational part of our brain, which better processes what happened, but its job can also consist in the full control of our body, saving ourselves from situations of huge danger, or at least attempting to do it.

So, the amygdalas are called to action for a range of situations very large, from a car that is running very fast toward us, to a simple sentence said by someone else. The sensation arrives to the amygdala that, associating it with a previous experience, transforms it into a perception and then into an emotion, and only after all this process²⁴, our prefrontal lobes are involved in the decision making, and try to manage emotions.

It's important to make a deeper analysis of how our brain works because, knowing this, would prevent a lot of conflicts that can arise during a negotiation, both for bad feelings aroused on purpose and not. There are negotiations that last for neither one hour, but others that go on for several hours consecutively, and after any minute that passes the risk of saying or doing something that unintentionally hurts the counterpart rises also for the best negotiator in the world. Anyway, if we want to shift from an old and false idea of

²⁴ That takes a couple of minutes to be read but, in reality, happens in some fractions of a second,

negotiation to a new, efficient way to reach deals, we must have an idea of how we have been conceived and how our brain works.

II.b. A Watershed For The Theory: The Core Concerns

A very useful method developed precisely for the last sentence of the previous paragraph is the theory of *the Five Core Concerns*. In fact, there's a huge variety of emotions that we can feel, both positive and negative. This theory, developed by Roger Fisher and Daniel Shapiro, is a way of collecting all the emotions that can arise into five psychological needs, the Core Concerns.

The Five Core Concerns are:

1. Affiliation
2. Appreciation
3. Autonomy
4. Role
5. Status

In the following pages, we'll better analyze these needs, common for everyone, to have a clear view about what our mind processes whenever we feel any emotion.

II.b.i. Affiliation

Each one of us has the necessity to build relationships, bonds that connect ourselves with the external world. From one side, this same need walks us through every social event that we face during our life. Anyway, on the other hand, the fear of being rejected usually stops our real intentions.

This same need is relevant also for the negotiations. In fact, during the first chapter, we said that the biggest difference between negotiations and physical disputes is that, in the latter, the counterpart is an enemy, that we must defeat as soon as possible. On the contrary, in a negotiation the counterpart is an opponent, from which we can learn a lot, but under one condition: he must trust us. To do so, as we said, is very useful if all the members who are taking part to the negotiation talk about themselves, in order to find

some points in common, that can build a bond with the counterpart and, as a consequence, increase his/her trust toward us.

But which are the connections that we can build in a negotiation and in general? We can make a distinction between **structural ties** and **personal ties**.

Structural ties are those points in common based on objective criteria. If we did the same university, if we've worked in the same place, if we have done the same sport when we were kids and so on, these are all elements that create a bond with the counterpart and lets the exchange of even more personal information within the parties, because we have the common sensation of being in a more familiar situation. These ties can be both assessed before the actual negotiation (checking on internet/social media/LinkedIn, asking to a common friend and other similar ways) or it can emerge during the process, listening to the counterpart, asking the right questions and always making the other feel the possibility to expresses him/herself.

Personal ties, instead, are those connections based on emotional factors. These, on the contrary of structural ties, usually cannot be assessed in the preparation of the negotiation, because they depend on the way we play the negotiation game. In fact, these personal ties are gradually built during the actual negotiation, when we meet the counterpart and manage the relationship with him/her. To do so, we should have a certain type of behavior, guided by the principles of respect and education. We must let the counterpart speak, giving the chance to express his/her idea regarding the substance, because that's the starting point of talking about more personal items, that will let us find additional points in common, reinforcing the relationship, which will let them speak even more, creating this loop that will only give positive effects to the relationship, the process and the substance.

Lastly, it's important to say that can be very useful also to maintain the built connections also after the end of the negotiation, not only to appear more trusty and sincere, but also to not waste all the efforts spent and the results achieved through our good job, because the future can bring new negotiations with the same counterpart and we would run the risk of almost restarting the process, taking away precious time to those negotiations.

II.b.ii. Appreciation

The need to be noted and appreciated is fully routed in our mind from the very first moment we approach this world and life. When we are kids, we call our mom to show her what we did, so that she can tell us “very good”. When we grow up, we study with the priority of receiving a good grade after the test we did. When we are adults, we feel more motivated to work for someone who’s more inclined to appreciate our work rather than not.

So, appreciation is a fundamental part of our lives. This doesn’t mean that everything we done and everything we are must be set with the purpose of receiving appreciation by the external world, but is scientifically proved that, also a very little compliment, has the power to significantly improve our motivation and the quality of our life. Unfortunately, we often ignore this, mainly because of three obstacles:

- Understanding the other point of view;
- Giving value to the counterpart;
- Communicating appreciation.

To **understand the other point of view**, we must take care of everything the counterpart says and does. Indeed, it is not enough to hear what the other says, but we must also catch the intentions that guided what he/she said, and so we must pay attention also to the implicit signals, to the unsaid. Especially in negotiation, it is fundamental to keep this in mind, because also from the intonation that the counterpart uses, we can collect very important information for the detection of others’ interests and the adjustment of our offer. Moreover, we must pay attention to other components to better understand words. For example, let’s consider that we’ve just made an offer to the counterpart, he/she thanks us for the proposal that we made, but changed his/her posture, shifting from a relaxed pose to a more rigid one, with the arms crossed. In this case, there’s the huge probability that our offer is very distant from what our counterpart had in mind and that the latter is thanking us only to be polite.

Once we listened to others and paid attention also to the unsaid, we must also **give value to what we heard and saw**. In fact, as said also before, everyone has his/her vision of the world, guided by their own principles, experiences and, more than anything, interests. That’s why we must respect the point of view of the counterpart to increase the relationship and we must take into consideration to increase the substance. This doesn’t mean that we must indulge anything the counterpart says, but we will be more inclined to

not judge what he/she said and not taking it badly, rejecting the offer but never associate the dissatisfaction of the offer to the incompetence of the counterpart.

After that we've heard the other's version and we gave value to it, we must lastly and more importantly **communicate our appreciation toward the counterpart**. In fact, the step of giving value to other's point of view is a crucial point for the management of our relationship, and, if done correctly, the counterpart will surely notice it. In any case, our openness and good behavior will give many more results if we explicitly share the fact that not only we are listening to what they're saying, but we respect it.

II.b.iii. Autonomy

In a negotiating process, all the parties involved want their autonomy to be respected and the same happens in life. Before taking any decision that can affect the life of someone else, if we don't want the exploitation of negative emotions and the attrition of the relationship, we must always take into consideration the counterpart's space.

As we said during the explanation of the process, every step must be agreed within the parties involved, otherwise everything is compromised from the very first beginning. Autonomy represents our need to, not simply being considered, but rather that our contribution is fundamental for the closing of the deal, without being the object of others' orders.

Fisher and Shapiro, precisely to prevent this issue, developed a tool, the "**I-C-N Bucket System**". Essentially, they assessed that, in order to correctly protect the autonomy of our counterpart, we must divide into three buckets the issues that can arise from any type of relationship, according to the way these same issues must be solved. In the specific, these three buckets are:

- **Inform:** in this bucket we can find all those issues and decisions that are not consistently affecting the life of anyone. So, we can take the decision on our own and simply inform the others about it. Pay attention that is always important, also in these simple cases, to inform the counterpart during the decision making and, if not possible, immediately after the moment in which we took the decision, because relationships are dynamic and, what doesn't affect in this moment the counterpart, may do it in the future.

- **Consult:** in this second bucket we put all those issues regarding which we still maintain the authority to decide, but that are more relevant, so it's better if we listen to the opinion of someone else, before taking the next step. In this case, it's up to us who we'll consult; we can appeal to someone who is more competent than us regarding the subject of the issue, or directly to the person who runs a bigger risk of being affected by our decision.
- **Negotiate:** in this last bucket, we put all those decisions that we can't make on our own because it's necessary to close an agreement before with another counterpart or more counterparts in the case of multiparty negotiations.

In conclusion, we said that we must respect the autonomy of the counterpart, leaving enough space for the others' freedom to decide. Otherwise, regarding affiliation, we also said that we must establish as many connections as possible to shorten the distance within us. These two indications may seem contradictory, but they are not; Fisher, in fact, compares the distance between the parties during a negotiation to the one between two porcupines during winter, which get closer to face the coldness, but they also respect a minimum distance to not hurt each other with their spines.

II.b.iv. Role

As role we intend a group of tasks needed to be done in a certain context. Each of us has different roles precisely because we live in different contexts which request different capabilities and tasks. We are sons/daughters, and we may be also brothers/sisters. In our professional life, we can have more roles at the same time, because we can be employees and, at the same time, be the owner of our parallel activity. We are friends but, always at the same time, we have also a boy/girlfriend.

So, different people in our life face different parts of ourselves, all with the same relevance. That's why, when we face someone, beside building affiliation, respecting autonomy and showing appreciation, we must also keep in mind the fact that the person in front of us has several tasks, a part the ones that affect us, which are the results of several roles, a part the one that comprehend the relationship with us, and that must be respected. Anyway, there are some roles that are held for shorter periods of time, if compared to the roles that we mentioned before. For example, imagine that you are doing

a semestral university project, and you are part of a group whose leader is your best friend. He/she assigns you some tasks and gives you an expiration date within which you must present your job finished. The expiration date arrives, but you forgot it and the assigned tasks are still uncomplete, but you want to push on the fact that the leader of your group is your best friend, you have known each other since the childhood, so you're confident that it won't be a problem for him/her. How do you think he/she will react? Probably badly, especially because you are not even sorry for your missing and you still approach him/her as a friend and not as the leader of your group.

In conclusion, whenever we approach someone else, we must always consider that we're seeing only one side, and there are many more pieces of the puzzle that we don't see, and we don't know their existence either. So, in every request that we make, we must always be sure that this same request doesn't exceed the boundaries of the role, being it definitive or temporary, that that person has toward us.

II.b.v. Status

The experiences that we collect during our life not only, as said, forge our vision of the world, they also determine the weight that what we do and/or say have for other people. Indeed, when we listen to or when we watch someone else, our mind is more influenced by their status than what we think, and a concept that helps to understand this phenomenon is “**reactive devaluation**”: this is a process that our mind does automatically and brings us to devaluate what someone says or does only because we don't have a good consideration of him/her, without going in the substance of what we're evaluating.

So, the more experience a person has, the greater his/her status is, the more weight his/her actions have for external people. Precisely for this reason, especially when we interact with someone we don't know, we are propense to fight for our status, with the purpose of assessing who has the greater value and this way of doing destroys the relationship, zeroes both the chances of closing the deal and the possibilities to organize future negotiations. Also in this case, the best way to prevent this kind of situation is to reach as much information as possible about whom we are negotiating with. Preparation is incredibly important also for the assessment of our counterpart's general status, but even more to

understand which levers we have the power to move, maybe because our particular status is higher than the other's one.

When I talk about particular status, I refer to the competences regarding a single item. It's like a little figure of a broader painting, that changes its relevance according to the point of view that we assume. For example, imagine that you are a young university student, who's doing a curricular stage in a very important consulting company. You're followed by an affirmed manager, who graduated with the highest grades and has worked in the biggest consulting companies in the world. If you decided to fight for status with him/her, there would be no chances to win, considering the huge differences in the *curriculum vitae* of the parties involved. He/she assigns you a task that must be done using Excel, teaching you how to do it. Anyway, considering that you're very competent in the use of Office's packet, and that, in general, universities today deliver, on the contrary of the past, many more IT competences, you are sure that the task assigned to you could be done in a much shorter and easier way. What do you do in this case? The best option would be to point out, with education and respect, that, if you correctly understood the output, you could do it in a more efficient way, maybe providing also a live demonstration. Does this mean that a young university student values more than an affirmed manager? Of course not, the general competences of the latter are unavoidably broader and more complete. Anyway, this doesn't exclude the possibility that, regarding particular aspects and items, a less experienced person can be more competent.

In conclusion, during a negotiation, not only we don't have to compete for status, but we must also be open to the teachings that the counterpart may deliver to us, always with the final goal of reaching the best possible deal. This can be done only accepting the general and particular status of the person that we are facing.

II.c. Active Listening, The Medicine For All Our Needs

So, we've assessed during the previous paragraph that an effective negotiator must:

- Express appreciation;
- Build affiliation;
- Respect autonomy;
- Consider all the others' role;

- Be aware of status.

If we follow all these points, the probability of negative emotions will drastically decrease, but not disappear at all. The human mind, in fact, is the most subjective thing in the world, and the inputs that may be relevant for someone are not even considered by someone else. I'm not delivering a formula that must be followed in one specific, correct way, but rather some concepts that should be applied in every negotiation we have. Anyway, how to do so depends on the party that we face in each negotiation.

In general, a very important technic is **active listening**. We have widely explained the importance of information and how important it's to be as prepared as possible for a negotiation. At the same time, we've also seen that not every piece of information can be reached before and that, on the contrary, the most important part will be exposed, if we act correctly, precisely during the process. The reasoning behind active listening is influenced precisely by this last factor, and the process is composed by the following three phases:

1. **Listen to the counterpart:** the first thing to do is listen carefully to what the counterpart is saying, also thanks to the use of notes. It seems easy, but it almost never happens, due to our propensity to stop listening at the exact moment when we hear something that we don't agree with, because we're already elaborating our answer. We would, in many case, interrupt the counterpart and, as a result, undermine the relationship, because we're violating their autonomy of talking (being forced to interrupt their argumentation) and not respecting the status. The focus, in this phase, is just listening to and taking notes, in order to be fully sure about what the counterpart is telling us, reaching as much information as possible to find additional basis on which creating links and enhancing the affiliation of the relationship.
2. **Repeat what he/she said:** in this second phase, we repeat what we've heard until that moment for mainly two reasons: excluding any possible misunderstanding (due to our lack of attention or their lack of clarity) and certifying the fact that we truly heard what was said to us, increasing their sense of appreciation. Of course, it is not needed to repeat the exact words, but it is important to show that we understand what the counterpart is saying and our willingness to understand also the needs behind what has been said.

3. **Ask a question:** repeating what the counterpart told us, not only is useful for the reasons explained above, but is also a great advantage for us. Indeed, repeating the exposition of the counterpart will help us to re-elaborate it, better understand it and this will make unconsciously emerge the questions to ask. Only in this moment, so, we say what we think, using questions, to not make believe that we're judging anyone and always keeping well in mind the role of the counterpart, but with all the advantages of the case (no interruption, better understanding of what he/she said, asking more appropriate questions).

In conclusion, active listening is a very precious tool, but its use is certainly hard, because it's unconscious the willingness to defend ourselves in the moment that we hear something that we consider wrong. Anyway, through practice, active listening can be useful regarding the relationship and the substance, creating a win-win situation for everyone.

II.d. The principles

So, we have seen which are the basics behind a proper negotiation and we have discussed the low probabilities to see everything we have explained until now into the deals that we conclude every day, beside their nature. That's why, a theory as the "*Principled Negotiation*" and, in general, the effort spent by the Harvard Negotiation Project to change our perception of negotiation's field must be recognized.

In these last years, the shift toward this theory is always more evident, and the adoption of the principles at the basics of, indeed, the Principled Negotiation is always more common. But which are, specifically, the principles of this theory? Let's have a broader overview.

II.d.i. Separate The People From The Problem

Usually, when we are into any type of conflict, we are propense to confuse our opinion of what we've just heard/seen with the opinion that we have of the counterpart. In fact,

when someone does something that we consider incorrect, we automatically think that the that same person is equally incorrect.

As we saw previously, in fact, the irrational part of our brain is activated way before than the rational one, and our emotions have the only scope to defend us from any external potential damage, being this real or not. I say this because we said that the amygdala works impairing the situation that we're living with past experiences, and the littlest similarity is enough to activate our brain. This (almost) perfect mechanism could make us mislead the intentions of the counterpart.

What can we do so? Surely, we cannot avoid to trigger this mechanism, because it is an innate process that sometimes is wrongly activated, but in many other cases is essential for our survival. So, we cannot have the consciousness of this process, but we can be conscious about the fact that this same process exists. That should be enough to understand that the counterpart is not what it does, and the same counts for us. The human mind is something that, besides any possible attempt, will never be completely understood, but some processes must be known, because their acknowledgement could save the deal, the relationship and our way to approach life.

In fact, if we understand what stimulates our brain, not only we will be able to manage our emotions, but also the ones of the counterpart, because we know why those emotions are arising. As a result we can avoid a possible escalation, and, with some effort, we can also “reset” the relationship, bringing everything to its origins. To do so it is essential, first of all, to put ourselves in the counterpart's shoes and understand precisely which word or action triggered the willingness of the other party to defend itself, asking questions and, more importantly, listening to the answers. In the meantime, we must spend as much effort as possible in avoiding the arising of negative emotions, managing not much what we say but how we do it, the tone that we use, our body language and our facial expressions.

II.d.ii. Focus On Interests

We repeated many times that a good deal is not the mean point between the offers of the parties involved, but a point that lands in a broader field of play and that satisfies the interests of everyone.

Especially in economic discussions, the common belief is that the two sides of a negotiation have only opposite needs, because a seller wants to receive the highest possible price, and the buyer wants to pay the lowest possible price. Focusing only on the position, on the “what” that distinguishes any request, it cannot go in a different way, but, in reality, the reasons behind these opposite needs are way more and different within them. This said, assuming a principled approach means assuming a completely different attitude, because our focus won’t be on what the counterpart wants, but “why” it’s like this. In front of an offer that doesn’t correspond to our expectations, a positional approach will induce us to be as convincing as possible, in order to bring closer to our request the original one of the counterpart. A principled approach, instead, will make arise our willingness to understand why there’s this distance, why the counterpart wants something different from myself. How? Asking. The only possible way to understand is by asking questions. In this way, we can understand the reasons behind this distance and maybe we can also find a connection between those same reasons to the ones that we have. This is exactly the field where the optimal deal lands, and, to enlarge it, no tools are needed other than our questions.

II.d.iii. *Find mutual optimal solutions*

Highly connected with the previous principle is the need to find mutual optimal solutions if we want to have a principled negotiation. In fact, we said that to enlarge the field of play and find the best possible agreement, we must ask questions. Once we’ve collected all the information we considered essential, we can start to go deeper into the substance and define the deal.

As highlighted in research on negotiation strategies, integrative bargaining benefits from more, rather than less, communication. The likelihood of discovering solutions that meet one party’s needs at little cost to the other is enhanced when parties share their true needs and concerns—their underlying interests—and remain engaged with each other, exchanging information and exploring options.

To facilitate this, making hypothetical offers is a useful tool to perform a sort of "sensitivity test" for each issue to be discussed. This phase helps distinguish between **distributive** and **integrative** negotiations.

A **distributive negotiation** occurs when parties negotiate over a limited set of issues, often with opposing interests. In these cases, agreements are typically reached within the **Zone of Possible Agreements (ZOPA)** while respecting each party's **resistance point**. Researches indicate that personality traits like agreeableness can influence the effectiveness of distributive strategies, as individuals who are more cooperative may make more concessions, which can either facilitate agreements or undermine their position.

On the other hand, an **integrative negotiation** involves multiple issues, allowing parties to expand the value of the deal rather than simply divide it. In this approach, negotiators balance differences by considering the relative importance of each issue for each party. Those who hold firm on one issue due to a strict resistance point might be more flexible on others, allowing for trade-offs that enhance the overall outcome. Cognitive ability plays a crucial role in integrative negotiations, as those with higher analytical skills are better at identifying solutions that maximize joint value.

Thus, assuming both parties take a principled approach, one might "win" on a particular item due to a firmer stance while allowing the counterpart to gain a larger share in other areas of the agreement. This mutual adjustment process fosters a more sustainable and mutually beneficial negotiation outcome.

II.d.iv Insist On Objective Criteria

There are a lot of negotiations where the game that we said regarding the previous principle cannot be applied, because the substance of the deal is not articulated into more items, but there's only one issue to be discussed. What to do then?

In this case, we must create another issue, and it will be the criterion used to define the substance. This is an essential tool to be used in this kind of negotiations, to not redistribute the substance discussed relying on who was the more convincing. The *iter* to be followed is exactly the same: we hear the willingness of the counterpart, and we ask questions to better understand why there's difference between us and them.

Once these reasons emerged, instead of proposing several hypothetical offers, we start to discuss which one can be the criterion useful to define a satisfying deal that doesn't harm anyone. For example, imagine that two soccer teams are discussing the transfer of a

player, and they've already agreed that no exchanges neither percentage on future resales are admitted. The owner of the selling team is very attached to the player because he rose into their youth teams and proposes a very high price, objectively too high. Imagine that you are the owner of the buying team, and you're making a list of things to do; the first one is to stay calm, understanding that behind the counterpart's offer there are precise needs. Once we've understood the reasons for such an unreasonable offer, we can propose, for example, for the definition of the selling price it could be an option to rely on the transfer price of players with the same age. If the counterpart gives a positive answer, the possibilities to close the deal will exponentially increase, but imagine that he/she refuses the criterion that we proposed, because the player is very strong and not comparable with the ones of his/her age. What to do so? We can propose another criterion, which can be relying on transfer fees of players with same goals or appearances done, or we can ask to propose another criterion.

In this way, if we insist on an objective criterion to close the deal, no one will have the feeling of "losing the face" and the relationship will be saved, leaving a door open, as a result, for future transfers and partnerships.

III. A REAL CASE: DISNEY-PIXAR ACQUISITION

Once we've understood what negotiation is and once we've analyzed one of the most important and used theories in the branch, that's the right moment to apply what has been exposed until now through a real case: the acquisition of Pixar by Disney.

The choice of the case is not accidental, because, as you will see, the process was conducted applying all the principles that we saw with the theory of Principled Negotiation, and this brought to a deal that satisfied the interests of all the parties involved.

But which were the interests of Disney and Pixar? The purpose of this chapter is precisely to clarify this point. Anyway, it's necessary to do before a little recap about what we're talking about, the M&A process, and how does it work.

III. a. M&A Process: Possible Reasons Behind It And How It's Structured

We refer to mergers and acquisitions in those cases when a company acquires another one, through the exchange of cash or other existing assets, as the stocks (which is exactly the case of the acquisition of Pixar made by Disney). Before going on with the discussion of this topic, it must be premised that the given definition is very generic because the process itself covers many circumstances as we'll see. Precisely this last sentence gives to every merger and acquisition process a huge level of risk and difficulty, for both companies. This is certified by the fact that, according to a research conducted by McKinsey & Co., only less than the 25% of this kind of processes can be considered successful. The reason behind this datum can have both a financial nature (an incorrect due diligence process and/or the use of wrong valuation methodologies) and a human nature (the subjective perception hugely influences the final decision to take or not to take a process as the one that we're describing), that's why is very difficult to evaluate a

decision like this and that's why is very difficult to give a full and clear definition of and M&A process. Anyway, we can surely try to give few ways to distinguish this kind of operations.

As mentioned before, several reasons can bring the acquirer to start such a difficult process and that's because the reasons behind this same process can be several and very different within them. First of all, a company may decide to acquire a target that has been studied for several months, and this is what we call **deliberate acquisition**; an acquisition whose feasibility has been assessed after a very long process. On the other hand, instead, there may be also unexpected opportunities of growth, that the company decides to take despite an insufficient preparation because the financial synergies²⁵ are considered more valuable than the risks. These are the so-called **emerging acquisitions**.

That said, we must add that the study behind the initial proposal for the acquisitions is not the only criterion used to distinguish merger and acquisitions. In fact, another relevant factor lies on the sector of the target company (the company acquired or object of the merger process). This type of choice is the result of the approach that the acquiring company decides to assume and, more precisely, in this kind of situation there are two options:

- **Aggressive approach:** this type of approach is found in those cases when a company decides to acquire another one that operates in a different sector. In this way, the acquiring firm enters into a new industry, adopting a differentiation strategy and changing both its same modus operandi and the one of the competitors in the two (or more) different markets. A famous acquisition that may be englobed into this sub-category is the one of Miller Brewing Company by Philip Morris. This operation was completed in 1970, for a total amount of 130 millions of dollars. In this particular case, Philip Morris entered into a completely new sector (even though probably addressed to the same target), diversifying its business and, consequently, its enterprise risk.

²⁵ “The joining of two companies improves financial activities to a level greater than when the companies were operating as separate entities” (Source: https://corporatefinanceinstitute.com/resources/valuation/financial-synergy/#:~:text=Time%204%20minutes,What%20is%20Financial%20Synergy%3F,we re%20operating%20as%20separate%20entities.)).

- **Defensive approach:** on the other hand, instead, this way of doing is typical for those cases when a company decides to acquire one of its competitors in order to protect its market cap from the threat from the same target company acquired or from other agents of the market. A famous example that represents this kind of acquisition is the operation that brought to the takeover of Alfa Romeo by Fiat, registered in 1986 for a total amount of 1,050 billions of lira (more less 543 millions of Euros) that had to be paid between the 1992 and 1997. We consider this way of doing as defensive because, as mentioned before, a company that registers an operation like this want to protect itself from the competitors and the fastest way to do so is through the acquisition of already operative company and, by results, already valuable assets. In this particular case, Fiat wanted to protect itself by Ford, which had in turn made a proposal to acquire Alfa Romeo.

As mentioned before, the reasons behind a M&A process are several, so the list of distinctions made until now is not exhaustive. Anyway, before going on with the discussion of the Disney-Pixar case, we must first assess, before the type of approach used and the strategy adopted, if the mentioned operation was a merger or an acquisition. In fact, these processes are commonly mentioned together because the differences within them are very slight, but still exist, and, more precisely, lie on three aspects:

- **Financial Side:** in case of acquisitions, instead of paying with cash, there can be the issue of new shares, offered in exchange for the shares of the target company. This method, known as a share exchange, does dilute the ownership in the acquiring company, but that's usually not a major concern when it's the case of large company interested into a smaller one.
- **Accounting Side:** In a merger, the two companies combine into a single legal and accounting entity, resulting in a unified balance sheet. In an acquisition, instead, the acquired company can remain a separate legal entity, but if the buyer gains control, its financials are usually consolidated into the group's balance sheet. If only a minority stake is acquired, then it's recorded as an investment rather than fully consolidated. So, while the legal structure might

differ, both mergers and acquisitions typically result in integrated financial reporting when control is involved.

- **Strategy Side:** When the goal is to create synergies (like reducing costs, sharing resources, or expanding market presence) the transaction is typically structured as a merger, since the intention is to fully integrate the two companies. On the other hand, if the aim is not that level of integration, but just to gain ownership or strategic control, we can consider it as an acquisition, where the target company may continue to operate independently.

So, according to what we've said until now, was the operation between Disney and Pixar a merger or an acquisition? And, in case of acquisition, which strategy and approach have been used?

The operation that will be discussed was an **acquisition** because it was an exchange of shares (financial side), even though the balance sheets have been unified (accounting side), and because Pixar, as we'll see, remained a separate entity and maintain its culture. Anyway, despite all this, we must say that the operation brought significant synergies, more under the creative point of view rather than the financial one (strategy side). Regarding the strategy and the approach used, we can further define the acquisition as a **deliberate acquisition** (it was the result of a lasting relationship, a continuous occasion for Disney to collect information about Pixar), conducted with a **defensive approach** (the two companies were operating in the same sector, the animation one).

III. b. General Information About The Parties

Once we've had a general overview of all the technical concepts that we must acquire to understand the topic of this chapter, we can go on with the analysis of the history (and, consequently, the interests) of both parties involved, Disney and Pixar.

III. b. i. Disney's history and culture

"If you can dream it, you can do it."

Walt Disney

To talk about The Walt Disney Company, we must go back to almost one century ago, more precisely to its foundation date: 16 October 1923. This was a second attempt for Walt Disney, the most-winning Academy Awards in history, because in his twenties he had already founded an animation studio, Laugh-O-Gram Studios, which lasted barely one year.

Born as Disney Brothers Cartoon Studio, the company founded by Walt and Roy O. Disney had huge success from the beginning of its journey. In fact, one of the first releases, the animated series Mickey Mouse, already attracted a big audience. After the creation of the famous character, the company (that, in the meantime, had changed its name to Walt Disney Studio) had a very fast scale-up, with the release of the first feature films, the internationalization process and the entrance into public markets in 1940.

Anyway, the two brothers, who were living years too beautiful to be true, had to face an event that couldn't be handled by them: the Second World War. Indeed, the arrival of the conflict drastically changed the business model of the company, that, not only had to suspend all the international activities, but also had to temporarily leave its properties to the U.S. Army, which used the new site of Burbank as a military base. In the meantime, very different products were also released from the one offered before, delivering, for example, cartoons that had the purpose to share military and war-connected items. A huge part of the staff, Walt Disney included, was forced to move to South America, not stopping its activity, despite the unavoidably restructured budget.

Despite all this, after the war the overall financial results of the company got better, and the activity of Walt Disney Studios continued with more force and enthusiasm than before. In fact, the company enlarged its boundaries, diversifying its business, with the creation and establishment of the first theme parks, one of the most famous attractions all over the world. The first one was site in California and, simultaneously, absolute

masterpieces like Cinderella, Peter Pan and Mary Poppins were released. The Walt Disney Studios were living again a wonderful period, not only from the financial and economic point of view, but especially due to the certainty of bringing back happiness to families all over the world, after years of pain and suffering.

Anyway, these years arrived again to a sudden and drastic interruption: the death of Walt Disney. The American filmmaker had been ill for a long time, and, despite the employees knew about it, this event hugely impacted again the (work)lives of everyone. With not few doubts, Roy O. Disney decided to continue the activity, especially due to the fact that the company had registered significant results, from every point of view as said before. The activity was big to be interrupted, despite the pain of losing the real mind behind the project. In fact, the following years, on one hand the enterprise founded several controlled companies, but, from the artistic point of view, the results were very poor.

Things got even worse in 1971, when, just 5 years after Walt Disney's dead, also the second and last Disney's brothers, Roy O., died. He was succeeded by Card Walker, someone who knew very well the company, considering his long experience inside, starting as a simple messenger in 1938 and becoming now president. Despite the fact that Walker, for the mentioned reasons, was the only suitable option, the choice of giving the lead to him turned out to be very profitable for the company, not only because Disney continued its journey, opening a subsidiary and a theme park in Japan, but also because of his admirable passion and commitment, giving his footprint to the company, but always asking himself if any decision was coherent with the willingness of the tragically disappeared brothers. Unfortunately, if this reasoning turned out to be successful under the economic point of view, again we cannot say the same for the creative one: Roy O. and, even more, Walt Disney had a unreplaceable role, because they were able to combine the business affairs with the creative part of the company. With the death of such illuminating minds and the resignations of Roy O.'s son, Roy E. (one of the company's producers), the Disney's difficult creative period continued, and the results registered in box offices were not the same.

Especially because of this last point, the company shifted its focus on the entrepreneurial aspect, not only with the creation of new theme parks and the institution of subsidiaries all over the world, but also with the creation of the first tv channel owned by Disney, Disney Channel, introduced for the first time in USA in 1983.

Anyway, the difficulties continued, especially because of several attempts of acquisition. At the very beginning, Stanley Gold (inside the board of Disney) and Roy E. Disney (ex-employee) tried to do acquire Disney, but, when the son of the former owner understood the real economic amount of the whole operation, he decided to give up. The problem was that the two insider were serving of the investment house Drexel Burnham Lambert, which, after their renouncement, delivered very detailed and precious information to Saul Steinberg, who attempted an hostile takeover: he launched in 1984 an offer of 67,5\$ per share and Disney, to contrast this attempt, after a deal with Steinberg himself, bought 4,2 millions of shares of Steinberg's group, Reliance Holding. This was a huge operation for Disney from the financial point of view, which required also additional borrowings from several banks.

Considering this last event, the top-management decided to consult Michael Eisner, former president of Paramount Picture, who became the new CEO. Eisner brought new energy and very soon the company not only fixed a big part of its financial problems but also recovered its last upsetting result in box offices, releasing masterpieces with the film studio, as the Beauty and the Beast. In addition, Eisner signed a deal with ABC, a famous American broadcaster, which ensured the distribution of one Disney's movie every Sunday night. The company continued its diversification strategy and acquired Miramax Films for 80 millions of dollars.

This last event seemed to put an end to the alternance of very good periods with tragical events for Disney.

III. b. ii. Pixar's history and culture

"Innovation distinguishes between a leader and a follower."

Steve Jobs

To shift our focus to Pixar, we must adopt a completely different approach. In fact, the company in question was born in 1979 as a division of Lucasfilm, the film production company owned by George Lucas.

After the very first contributions with its computer graphics to film as *Star Trek II*, in 1986 it was bought by Steve Jobs, cofounder of Apple, for 10 millions of dollars, who made it independent and recalled it *Pixar Animation Studios*.

Since the beginning of its history, based on the production of short movies, the company showed an unparalleled creativity in its products, due to several reasons. First of all, the technic used: being the former Graphics Group of Lucasfilm, Pixar had huge technological competences, and, for the release of its short films, used very innovative tools and methods. In second instance, the staff hired was highly qualified and very experience, above all John Lasseter, two times Academy Award winner, former animator of Disney, who was not very comfortable with such innovative technics at the beginning, but surely had an incredible know-how that could only bring benefits to the companies. Thirdly, the company's culture was mainly focused on the creative point of view, as it was for Disney in the first period. In fact, the animators and all the other creative employees could benefit from great freedom, and they were all involved into all the steps needed for the development of the project. This last point represented a huge difference from all the other animation studios, where the work was mathematically divided within the directors' team, the writers' team and so on, each one appointee for its specific duties and excluded from the rest of the work. In Pixar, instead, the culture was completely the opposite, because the main priority was to have employees with specific competences of course, but that could give a contribute also to those parts of the work that were not strictly connected with their division of competence, and this was certified also by the delivery of several refreshers courses, that were an additional reason for increasing the opportunities to get everyone more connected to each other, building relationships that could overcome the work life.

There are several written productions released by Edwin Catmull, involved into Pixar's world since the beginning, where the mentioned aspects emerge very often, suggesting how much these were the core of Pixar's culture. He explains many times that the risk is something that has always dictated any choice; this doesn't mean that all the projects with the higher risk were chosen and carried on, but that the risk was the symptom that the discussed idea was something new, unmatched, and this means that was something that the audience, despite its success, would have appreciated more than a copy without personality of another movie. Anyway, he also stated that beside the idea, which is only

the initial step of a very long and hard path, the most important part is the team, and how each one of its components can express him/herself. And this perfectly represents Pixar's world.

As mentioned before, the composition of the teams was different, because they were not divided by their role, but in each team, there was a director, a writer, artists and storyboard people. Everyone was strictly connected to each other in the development of new ideas. The job of everyone was checked and shared every day, with the knowledge that it was a partial work and with the trust toward each other, and all this process could only foster creativity and innovations.

III. b.iii. Previous Relationship

Before the actual acquisition of Pixar by Disney, the two companies had had a long-lasting and profitable relationship, that, apart from the economic point of view, marked the childhood of several generations. *Toy Story*, *Chicken Little*, all these movies were the result of this relationship which turned into the acquisition of Pixar in 2006.

This cooperation had several natures. It started in 1986 with technical purposes, more precisely the development of Computer Animated Production System, a production system very important for Disney, used with the purpose to create two-dimensional animated movies, such as *The Lion King*.

After this first point of contact, and considering the good results of the previous stage, way broader the expectations of both parties, the collaborations acquired an artistic shape and the two companies, in 1991, reached an agreement to produce three animated movies. The first one, as said before, was the colossal *Toy Story*, whose costs and distribution rights were fully owned by Disney and to Pixar a participation fee was corresponded, which would have been established according to the results registered by the movie in the box-office. This last point resulted into an inconvenient deal for Pixar, considering that, from the over 300 million of revenues from the distribution, the company earned "only" approximately 50 million. Despite this aspect, the two companies continued anyway their collaboration, especially because of Steve Jobs's willingness.

The ambition to establish a lasting relationship was, in fact, fully represented by the fact that, in 1997, Disney acquired 5% of Pixar, for a total amount of 15 millions of dollars,

in addition to an insurance to buy other shares in future and to a deal of 10 years were the two parties agreed on the production of other five movies, splitting the participations in equal parts. We can consider Pixar as the mind of the feature films produced, and Disney as the exclusive distributor of those same films. There was also a clause that gave Disney the possibility to produce any remake of the films that composed the object of the deal and Pixar had the freedom to participate or not to those remakes. If, instead, Pixar wanted to also distribute its movies, they had to pay a fee to Disney, which was the ultimate responsible in the decision of the release date that anyway had to respect certain parameters; in fact, Disney had the possibility to define a release date with the purpose to give priority to its products, but Disney couldn't distribute its films into a certain range of weeks from the one produced by Pixar.²⁶ This agreement substituted the previous one and the additional two movies scheduled before were englobed into this last deal.

²⁶ I would like to highlight how these two agreements can already be read from the perspective of the Principled Negotiation Theory. In fact, as will be clearer in the next pages, all the deals exposed until now perfectly match the interests of the two parties, even if they may seem unproportional (especially the first one regarding the production and distribution of Toy Story).

This is because Pixar was a way smaller company than Disney, and its priority was only to collaborate with such a huge company, acquiring as much know-how as possible. The same CEO Steve Jobs, regarding this partnership, used to say “We’re going to Disney University”.

On the other hand, Disney was a company that had unmatched economic tools and that recognized the superiority (at least in that moment) of Pixar from the creative point of view. That’s why, the main priority of Disney was to ensure for itself the exclusive distribution of very good products with a huge potential (actually satisfied and overcome, considering that the movies mentioned until now broke any possible record registered in the animation industry).

It’s important to highlight this point because, as exposed in the previous chapter, especially with the principle “focus on interests”, the perfect deal is not a middle point between to requests, but point that satisfies the interests of everyone, even if from an external point of view may not seem like this.

Anyway, the situation changed, and, after the huge successes registered by this partnership, Pixar wasn't anymore a company simply interested in the collaboration with the top company in the sector, but had a financial position that let Steve Jobs ask for a renegotiation of the previous agreement, with the intent of bearing all the costs and property rights, corresponding to Disney just a lower distribution fee. Of course, Disney didn't agree to this initial offer and the discussions about the next sequels burnt that much that Jobs seriously considered to find another distributor. The relationship with Michael Eisner deteriorated and many voices about a reciprocal hate between the two managers were always more redundant.

All this was exploited by the fact that Jobs announced that there were several ongoing discussions with other distributors: Sony, Warner Bros and 20th Century Fox above all.

The relationship arrived at a (temporary) end in 2004 and this was a crucial moment, not only for the history of the two companies and their relationship, but also for the same Eisner, who was sacked mainly because of the failed renewal of the deal with Pixar.

III. c. Acquisition Process

After the Eisner's farewell, Robert A. Iger was nominated as new Disney's CEO, who arrived in the company in 1995, after the acquisition of ABC by Disney itself. This was the starting point for the setting of the acquisition process, but not only because, with Eisner still at Disney, Steve Jobs would have never agreed to sit at the same table. In fact, Iger was one of the first executives in history to understand the relevance of leadership and of its application. His way of working and administrating the company relied on a few crucial principles like optimism, courage, integrity, authenticity, fairness. All these factors, as we can perceive by Apple's history, were shared also by Steve Jobs, and this was the final boost to one of the fastest acquisitions ever registered, considering that the 24th of January 2006 the acquisition was announced and the 5th of May of the same year the operation was completed.

The fastness of the whole operation was especially due to the lasting previous relationship between the two parties which, despite the absence of a key figure as the former CEO Eisner, already had a lot of reciprocal information. Precisely for this reason, everything was much more fluent, despite the specific requests moved by Pixar, which were far

beyond the financial aspects. In fact, we cannot forget that, at the beginning of the relationship with Disney, Pixar was a very small company, however very innovative, but at the interruption of their agreement, the situation was very different, because, as said, Pixar was one of the best companies in the market and was very attractive for several distributors. This could have been a way for Steve Jobs to advance very disadvantageous requests for Disney, but this was not the case. In fact, very coherently with its history, Pixar just wanted to maintain its control over the creative part and its way of doing and, in response to this, Jobs became the major individual shareholder of Disney, acquiring the 7% of its shares, obtaining also a spot in its board of directors. In addition, to ensure the continuity of Pixar's *modus operandi* (a priority also for Disney), Lasseter became Chief Creative Officer of Disney and Catmull maintained its role as Pixar's president.

Regarding the financial point of view and the actual digit of the operation, we must say that the whole process involved several banks and financial institutions: Goldman, Sachs & Co. and Bear, Stearns & Co. for Disney's side and Credit Suisse for Pixar's side. The whole operation was worth 7.4 billions of dollars and was done through a complete exchange of stocks, with a proportion of 2,3:1²⁷.

There were not few doubts regarding the final agreement. First of all, the price: in fact, Pixar's market capitalization at that time was 5.9 billions of dollars, but their request swung between 6.5 and 7.4 billions of dollars. The counteroffer made by Disney was, as said, to pay 7.4 billions but with the exchange of shares, through the proportion mentioned before. This agreement was highly criticized by the institutions that were following the same Disney, because the valuation of Pixar made by Credit Suisse was from 1,093:1 to 2,365:1 regarding the proportion of shares between the two companies, even though also the Pixar's liquidity was included. An additional point of discussion, moreover, was the P/E ratio, so the relationship between the price of each stock and the earnings of Pixar: in fact, the P/E ratio of Pixar was 46, but the one of DreamWorks, another leader of the sector, was of 30, and its market value was worth 2.6 billions of dollars, registering 1 billions of revenues.

Anyway, we must say that Disney was buying a company that was very fast-growing, and the we'll see the reasons why Disney's board decided to ignore all the mentioned doubts.

²⁷ 2,3 shares of Disney in exchange for one share of Pixar.

III. d. Analysis Of The Agreement: A Positional Or A Principled Negotiation?

So, we've seen which are the main characteristics, rules and reasons behind any Merger & Acquisition process, we've analyzed the history and culture of both Disney and Pixar and we've discussed about their relationship through the years, how did it change and arriving to the acquisition process in 2006. At this point, we have the basics to analyze this event from a negotiating point of view, relying on the Principled Negotiation theory, discussed during the previous chapter. We'll see, step-by-step, the four principles provided by the mentioned theory and, once we've finished the analysis, we'll figure out if the acquisition process was the result of a principled negotiation or of a positional negotiation. Lastly, we'll also see the effects of the acquisition, to better understand if it brought to the expected goals.

SEPARATE PEOPLE FROM THE PROBLEM

As we previously said, Disney and Pixar stopped their collaboration in 2004 due to the unfixable relationship between Steve Jobs and Michael Eisner, who left Disney precisely for this reason.

In a situation like this, Steve Jobs was surely hurt, not because of an economic damage (considering the huge pool of distributors that prayed him for a collaboration in order to replace Disney's position), but for an emotional one, because of Eisner's stalling alternate with unsatisfying offers. We can hypothesize that, in this case, the core concerns affected were:

- Affiliation, due to the huge difficulties incurred to find the renewal of the agreement, despite a very long previous relationship;
- Status, for the offers made by Disney that were not very different from the ones proposed before, ignoring the huge growth that Pixar was having day-by-day and the increasing popularity that was facing in the meantime.

At this point, despite the fact that Eisner was not anymore part of Disney, the Pixar's majority shareholder could have refused to negotiate with Disney, or could have asked

for an unreasonable price, but this wasn't how things developed (and in the last principle, *Insist On Objective Criteria*, we'll better analyze why we can affirm this).

FOCUS ON INTERESTS

The two companies, despite the release of several masterpieces in collaboration, had two different financial status. If, as we said, Pixar's market capitalization was worth 5.9 billions of dollars at the beginning of the acquisition process, the Disney's one was around 50 billions of dollars, ten times the one of Pixar. Even though the last one received several offers of distribution, it couldn't match at all the economic possibilities of Disney. From a positional point of view, Disney could have undercut, trying to spend the lowest possible amount for the acquisition.

Again, we saw in the previous pages that it didn't go in this way, because both companies focused on their own interests and the ones of their counterpart. But, to be more specific, which were the interests of the two parties? Here's a recap:

- **Disney.** The Walt Disney Company had almost one century of history behind its back, with several obstacles that it managed to overcome, but that surely signed its activity, sometimes in a drastic way. The World War II, the death of Walt and Roy O., the attempts of hostile takeover. All these events forced the company to change its modus operandi several times, trying to fit in with its culture as much as possible. In any case, the Walt Disney's death surely made the company lose its creative side, and, also because of the growing focus on the entrepreneurial aspects, it didn't come back anymore as before, and this resulted into ups and downs concerning the box office.

With the starting of the collaboration with Pixar, Disney seemed to have acquired again the creativity that marked its early history, that's why it was so important the relationship with a company that was way smaller, but, at the same time, under this point of view had way more potential.

- **Pixar.** The background of this company was surely different: barely 20 years of history and, since its beginnings, a lot of tools and resources that could be used for the development of new technics. This last purpose was definitely pursued when Steve Jobs became its CEO and drastically changed also this market.

We're talking about a company whose only focus has always been the creation of new audiovisual products, as it's certified by its culture and by the initial agreements closed with Disney: clearly unbalanced, but that perfectly matched their need of knowledge and of acquiring as much experience as possible. The only interest of Pixar was to maintain its independence and creativity, regardless the amount of money that would have received in exchange. Steve Jobs and his employees only wanted to continue to express their creativity and culture, integrating it as much as possible, but never giving it up.

FIND MUTUAL OPTIMAL SOLUTIONS

Considering the interests that we have exposed before, let's see the clauses of the agreement that respond to them.

As we said before, it was agreed between the parties that Steve Jobs would have entered into Disney's BoD, that Lessester would have become the new Disney's CCO and that Catmull maintained his role of president in Pixar. These clauses surely satisfied Disney's need to revive its creative part (assigning the responsibility to Lessester, a former employee of Disney, which attempted several times to bring him back to the company) and Pixar's need to maintain its autonomy and culture alive (leaving Catmull in his role and with the entrance of Steve Jobs in Disney's BoD, giving great relevance to Pixar's opinion regarding the general activity conducted by Disney).

INSIST ON OBJECTIVE CRITERIA

As we said during the previous paragraph, Disney bought Pixar for an amount that was higher than its real market capitalization, going against the opinion of all the experts involved, which, not only considered the price too high, but, through the exchange of shares, they also thought that too many shares available in the market would have destroyed their value.

So, can we say that Disney was not objective? It's important to clarify this point. We've said many times that very few companies, not only in this sector, but in the world, could be compared to Disney from the entrepreneurial point of view. Both before and after the

acquisition of Pixar, Disney did several similar processes, and these operations, someone more and some other less, brought the company to have a total market capitalization of 175.77 billions of dollars.

Very few companies had and have the same know-how of Disney, and the amount spent was not casual, but based on several objective factors. Within them, for sure there was the fact that, at those times, the average total box office of Pixar was 537.8 millions of dollars²⁸, while the one of Disney was 270.7 millions. This confirmed the fact that the biggest part of Disney's revenues came from other sources, like the theme parks.

So, what could seem as an irrational choice, at the moment was surely risky, but this is a completely different thing. Especially because the first two movies released after the acquisition, *Cars* and *Ratatouille*, registered a box office result of, respectively, 461.9 and 623.7 millions of dollars²⁹, between two and three times the previous average of Disney. These are the reasons why we can say that the deal was done relying on objective criteria.

Considering the analysis of each principle of, indeed, Principled Negotiation Theory, we can affirm that the acquisition of Pixar by Disney was a **principled negotiation**.

²⁸ Alcacer, J., Collis, D.J. e Furey, M. (2009) 'The Walt Disney Company and Pixar Inc.: To Acquire or Not to Acquire?', *Harvard Business School Case*, 709-462

²⁹ <https://www.boxofficemojo.com/release/rl1195935233/>,
<http://boxofficemojo.com/release/rl846038529/>

IV. POSSIBLE FUTURE NEGOTIATION FOR DISNEY: MUBI

When we talked about Disney's history, we've seen how much its growth depended also on very intelligent acquisitions done by the company, beyond Pixar's case. In fact, except few natural mistakes, the company grew always more in these years, reaching the levels exposed during the debriefing of the company's background, which were not random, but the result of several strategic choices that helped Disney to enlarge itself always more.

Since the acquisition of Pixar, times have changed a lot, especially with the introduction of OTT platforms and streaming services, that have twisted the film sector. In fact, according to Statista, the revenues from SVOD platforms³⁰ will reach 119.09 billions of dollars by the end of 2025 and the majority of these will be spread through USA, China, United Kingdom, Germany and Japan. In addition, it's forecasted that by 2029 1.7 billions of users will access to this type of platforms.

A company such relevant as Disney could not ignore this change, and in 2015 introduced into the English market DisneyLife, which, after an experimental phase, in 2020 was eventually introduced into the global market with the name of Disney+. The platform, since its beginnings, has always had great success, especially due to its library that, beside the Disney's classics, had several other masterpieces like the Star Wars saga. After this initial step, Disney continued its path through this alternative distribution channel, and integrated its digital offer with Hulu and ESPN+.

Anyway, in this field of play there are companies more structured, above all Netflix, which counts 301.6 millions of subscribers³¹, and Prime Video, which counts 210

³⁰ *"Streaming video on demand (SVOD) services are comprised of digital media content creation and content distribution that provide a vast array of genre content playable on an assortment of different technology platforms"* (Palomba, A. (2021) 'How consumers' personalities, lifestyles and demographics predict SVOD genre and SVOD platform consumption', *Journal of Media Business Studies*, 18(2), pp. 123–140).

³¹ <https://www.demandsage.com/netflix-subscribers/>

millions³². Disney+, instead, has around 174 millions subscribers, Hulu included³³. To give an overview about how the market is distributed in terms of percentage, according to the European Audiovisual Observatory, in Europe the SVOD usage it's concentrated mainly within the platforms mentioned before (Netflix, Prime Video and Disney+): Netflix registers the 53% of total viewing time in hours by service providers, Prime video the 19% and Disney+ the 12%.

Moreover, it's been forwarded that in 2028 Netflix will collect 31.7 billions of revenues, more than two times the amount projected for Disney + (14.2)³⁴. This means that, under this point of view, Disney is behind its competitors which, not only are more active from the productive point of view (especially Netflix, with periodical original products), but they can also count on a very diversified offer, which is not the case of Disney+ that, as said before, has always been more focused on the distribution of blockbusters. So, it could be reasonable for Disney to think about a strategy that could improve the streaming distribution through them mentioned channels, also because the subscribers have decreased in the last period, and an additional diminishing is expected by the board in the next months.

Excluding the enormous platforms mentioned before, which are all part of huge and highly affirmed cinematographic groups (except for Netflix which raised through its own success), there is the "little" reality, with a clear economic and artistic mission, that in the last years emerged and, in these very last months, is facing a huge growth: MUBI. The platform, in fact, with the acquisition of "The Substance", and having ensured the distribution rights of the next Paolo Sorrentino's movie, "The Grace", has exponentially increased its relevance in the sector, confirming the very encouraging promises of the previous years.

On which bases were built the mentioned promises? Let's have a focus.

³² <https://www.businessofapps.com/data/amazon-prime-video-statistics/>

³³ <https://thewaltdisneycompany.com/app/uploads/2024/11/q4-fy24-earnings.pdf>

³⁴ <https://finance.yahoo.com/news/global-svod-forecasts-report-2023-100800787.html>

III.e.i. MUBI's History And Culture

"The choice of cinema"

MUBI's slogan

MUBI platform started its activity in 2007, founded by Efe Çakarel, a Turkish entrepreneur degreed in Massachusetts Institute of Technology and formed in Stanford University. The idea was born from his willingness to watch "In The Mood for Love", unavailable on any platform. So, Çakarel decided to found his own streaming service, whose original name was "The Auteurs".

Financed by Celluloid Dreams, a French film production-distribution company, MUBI started its journey. As a matter of fact, at the beginning it was an online platform whose purpose was to share information connected with cinema's world, and just after some years became an effective distribution service, with very clear and distinctive criteria behind the choice of the movies to choose. In fact, one of the most distinguishing factors that make emerge MUBI is its library, focused on auteur films³⁵ indeed, which renders the platform addressed to a clear audience. This change happened in 2008, through a partnership with Criterion Collection, an American distribution company, and already in 2010, after having changed its name to the current one, MUBI was already available on several devices as PlayStation 3, PS4, Smart TVs and mobile phones.

The secret of such a fast growth has always been the innovative business model of the platform, always preferring the quality over the quantity and, precisely for this last factor, being a sort of safe harbor for all those users scared by the algorithmic methods used by

³⁵ *"Is an expression used to describe the films of a film director or a screenwriter which reflect their artistic personality. This term seeks before all to link the work of a filmmaker to preferred themes and the coherence of an innovative and singular style. It is, however, a subjective notion of which there is no rigorous definition. Film d'auteur is frequently grouped with "Cinéma d'art et d'essai" or research cinema."* (source: https://en.wikipedia.org/wiki/Film_d%27auteur).

the big companies of the SVOD sector. In addition, MUBI's business model changed in order to distinguish even more itself from the rest of the market, translating its structure from a pay-per-view service that used also the support of advertising, to a platform completely free from advs, enhancing even more the importance of being dissociated from the competitors that, especially in these last years, surely developed their producing activity, but are always anchored to the blockbusters, in order to attract as users as possible.

Anyway, the final boom in terms of audience started in 2020, with COVID-19 pandemic, that, for obvious reasons, gave a lot of visibility to the platform, which acquired always more resources, especially because of its singular offer, and made MUBI capable to close the distribution deals that we exposed before. Since then, the platform exponentially increased its relevance, distributing films always more popular, attending to the most important festivals, and making always more relevant steps, but never in contradiction with MUBI's culture.

In conclusion, we must also add that another innovative factor that makes MUBI different from its competitors is the presence of other initiatives, despite the simple distribution of movies. In fact, the platform offers additional services, like *The Notebook* magazine, which keeps the subscribers updated on the release of movies coherent with their digital offer. This factor represents a connection with the past of the platform, which originally, as said before, was a magazine for cinephiles. Now the boundaries have enlarged and in these last years another department has been established in London, completely dedicated to the production activities, that MUBI started in 2019 with Port Authority, but that, as the rest of the business, will continue through small steps, as the participations to the production of every movie has always been below the 20% of the total costs. Anyway, the journey of the company, also under this aspect, is expected to continue, considering that Çakarel said that MUBI would like to produce the next movie of Alfonso Cuarón, Mexican filmmaker and 4 Academy Awards winner.

III.e.ii. How To Make A Principled Negotiation

As previously done, we've exposed MUBI's history in order to better understand which are the hypothetical interests that MUBI may have in an hypothetical acquisition by Disney.

So, we have the position of both sides and, taking into account which may be the reasons and benefits behind an operation like this, let's go deeper into the substance, analyzing which are the factors that both sides should focus on in order to build a profitable acquisition process, as the one conducted and exposed previously in the case of Disney and Pixar.

SEPARATE PEOPLE FROM THE PROBLEM

Unlike the acquisition of Pixar by Disney, in this case there are no previous connection points between the two companies. So, as we said during the second chapter, the crucial part regarding the relational aspect would be the hypothetical acquisition process itself. During this period, negative emotions could arise, and the most common mistake would be to confuse, indeed, the counterpart with the problem, mainly in two ways:

- From MUBI's side, the arise of any problem may be read as the willingness by Disney to exploit its power in order to acquire the platform at the lowest possible price;
- From Disney's side, any consideration that may be considered different from its own point of view may be seen as a lack of trust by MUBI or as the presumption by the latter of being more experienced than an ultra-centenarian company.

To build a profitable deal, it's essential for both companies to ward off all the biases, a problem that didn't arise in the acquisition of Pixar due to the previous relationship between the counterparts.

FOCUS ON INTERESTS

We've already tried to expose previously Disney's culture, and, by result, trying to figure it out which were the main interests in the acquisition of Pixar. Anyway, every business operation is different from the others, and the same accounts for the reasons behind.

In this case, the interests of both parties may be:

- **Disney.** As we said before, the SVOD market, after COVID-19 pandemic, has exponentially increased its relevance, forcing all the agents of the audiovisual sector to invest on this alternative distribution channel, that in the years has represented always more a harm for the traditional one, the cinemas. Under this point of view, Disney confirms its presence above the best of the sectors, but lays in a position that is not comparable with the top in the market, Netflix, and that risks the attack by smaller competitors or the escape in terms of audience of another platform more popular than Disney +, Prime Video.

Disney, for the reasons above, should try to acquire the unmatched segments of clients, surely more attached to the MUBI's library, that awards a kind of cinema that Disney + doesn't offer, but neither its competitors. So, this operation may give to Disney's platform that booster never experienced, considering that it has always relied on in-home products that every generation perfectly knows.

- **MUBI.** The Turkish platform has pushed a lot on the auteur cinema released during the last century, which may not seem relevant for modern days but, in reality, considering the arrival of new and completely different genera, has always been considered and has always represented the real innovation introduced into the market by MUBI. So, it's more than reasonable to think that the main interest of the platform would be to keep that authorial line, maintaining its essence and developing the factors that made and make the company grow.

In addition, another important interest may be the one of its owner, Efe Çakarel, who wouldn't be so favorable on leaving its creature precisely in the moment that may mean the definitive affirmation.

Anyway, on the other hand, considering the highly perceived passion toward cinema that emerges from the films' selection, the same Çakarel may be also interested in enlarging the audience of a type of cinema that has been lost in these last years. Disney's brand image and reputation would be the perfect chance to meet an amount of people that otherwise would have been met in several years, also without an insurance about the fact that it would have happened.

FIND MUTUAL OPTIMAL SOLUTIONS

Considering the interests' hold by both sides, the best solution for everyone would be to leave untouched the MUBI's selection criteria. As a consequence, a reasonable way of doing would be to keep the selection team of the Turkish platform, in order to continue MUBI's culture, also because not respecting this last point would probably result into a significant loss of subscribers, who found in MUBI a region where to exploit their love for cinema. Another way to do so would be also the entrance of Çakarel into Disney's board of directors, replicating what was done with Steve Jobs at the time, for similar reasons.

Secondly, it would be necessary for all the parties to give as visibility as possible to MUBI's library. A reasonable option would be to insert a section in Disney + 's home, with above MUBI's logo, that would give direct access to the movies available on the latter platform. In this way, it would be very direct and easy to watch movies missing on Disney's platform.

INSIST ON OBJECTIVE CRITERIA

On the contrary of Pixar's acquisition, in this case it's more difficult to rely on objective criteria because MUBI is not listed³⁶. So, there is less information available, due to the missing necessity to comply with transparency dispositions imposed by the financial markets.

As a result, it will be crucial for Disney to make the right questions, in order to collect as insights as possible, like the number of subscribers, the list of investors and the revenues from the lasts years. In this way, with the collection of past results and future projections, Disney and MUBI may be able to close a deal through the exchange of a reasonable amount of money, taking into account both objective criteria and the know-how that only such an experienced company as Disney and such a talented platform as MUBI can have.

³⁶ It's only possible to invest on some professional platforms as EquityZen in order to buy pre-IPO shares.

This is my proposal of principled negotiation in case of an hypothetical acquisition of MUBI by Disney.

CONCLUSIONS

With the present elaborate we have started from the first negotiators in the history, the ones that we can define as the real fathers of the branch. Then, we have gone through the same branch, starting from its actual birth and analyzing its development and its shift from a merely analytical point of view to a psychological approach, taking more into account the way our brain works and how our emotions are exploited. Once we have done this, we've talked about the school that gave to the branch the definitive exploit, the Harvard Negotiation Project (HNP), instituted mainly by Fisher, who enormously contributed to the development of negotiation's branch, through researches that, still today, are considered as the first attempts to transform negotiation into an actual science also from an external perspective. Lastly, we've tried to figure it out which future can live the branch, with the disruptive innovation of artificial intelligence (AI), always more present into our lives, in always more aspects, and that risks to make useless all the progresses made with the development of negotiation's science.

In the second chapter, we've analyzed one of the most important theories for the branch, the Principled Negotiation theory, developed by the same HNP and that introduced significant changes regarding the common concept on negotiation. We've seen, in fact, how is common, through each type of negotiation, to assume a positional approach, trying to reach an agreement as close as possible to our needs, in order to "win" the negotiation. The principled approach, instead, doesn't conceive the deal as an award, but rather as a Nash Equilibrium, that can be reached only following four principles: separate the people from the problem, focus on interests, find mutual optimal solutions and insist on objective criteria. These principles are the result of a broader concept of negotiation, which doesn't rely only on the substance but also on the process and the relationship. We define as process the path that we must follow to reach a satisfying agreement, and this regards who, where, how will be done the negotiation and on what the counterparts are going to negotiate. On the other hand, with regard to relationship, we've seen an additional theory (englobed into the Principled Negotiation's one), the Five Core Concerns theory, which tell us that almost any kind of emotion that we can feel is deeply connected to one of the

five psychological needs that each of us has: appreciation, affiliation, autonomy, status and role.

Then, in the third chapter, we've applied the Principled Theory to a real case, the acquisition of Pixar made by Disney in 2006. We've had an overview of the history and relative interests of both parties, we have described the past relationship within the two companies, and we've analyzed the acquisition process, understanding if the mentioned principles had been followed. Not only we stated that, actually, the two companies assumed a principled approach to the acquisition process, but we also saw that this type of approach brought to profitable results, for both parties, confirming the purpose of the thesis and what we said over all the elaborate, and so that a principled approach wins over the positional and traditional one.

Lastly, in the fourth chapter, we've tried to apply the HNP's theory also to a hypothetical future acquisition of MUBI by Disney, in order to empower the presence of the latter also in the SVOD market, acquiring a young but huge profitable and even more promising platform. Also in this case, we've analyzed step by step all the four principles and we've given suggestions regarding how those same principles could be satisfied and respect in order to keep a principled approach over the process.

As mentioned before, the purpose of this elaborate was to, in its own small way, disrupt the classical conception of negotiation and agreement, trying to make the reader understand the fact that, basically, negotiation is not an art, but a real science. Precisely this latter sentence is the reason why, in my opinion, the overall level of agreements that we close everyday are not as satisfactory as we think. This is due to the fact that the real mistake is done at the very first beginning, when we look at the negotiation as a battle where we must show our value and we must demonstrate that we're the strongest. Unfortunately, every day we've the proof of this, above all with the tariffs enforced by Donald Trump, who's basically threatening Europe in order to close the most favorable deal in the future commercial negotiations that will be held. Also in this last case, we can see how the positional approach is harmful for everyone, because also the same USA is deeply damaged by this foreign policy, with the huge drop of American stock market.

Anyway, is not necessary to resort to such enormous settings, because also in the ordinary and daily life the biggest majority of us does this same mistake, of course not causing damaging effects of the same magnitude, but surely running the overall quality of the

deals we close, and this is not an insignificant problem, considering the vastness of negotiations that we have each day and that we've analyzed in the first chapter. Every agreement is approached not considering the process and the counterpart, but only the substance, moreover in a misleading way because it's not analyzed with an analytical point of view (dividing it into categories when necessary and, for each of them, identifying the BATNA and the resistance point according to our interests) but only with the idea that "the more the better".

The pillars of the Principled Negotiation theory and those factors as the five core concerns or active listening are not the source of problems, but the real most difficult part is deposited into their application, because they are not even conceived in any human interaction that we have. Is there the room for future changes? Difficult to say, as we stated also in the previous chapter, talking about the arrival of artificial intelligence, in certain cases a very useful tool, while in others a potential harm. Two sides of the same coin which can be easily mislead.

During the introduction we said that also the management's branch lived this same situation at its very beginning, considered as an art rather than a science that could be studied. Now, instead, we can all see how much the consideration toward this same branch and these same topics has changed, due to the fact that nowadays all the best universities in the world deliver courses about management and all its sub-categories and topics are very popular within students. In these last years, also negotiation's branch is getting more popular, and there are always more top managers who understand the relevance of negotiating tools. Regarding this last point, according to a research conducted by McKinsey & Company, the 96% CEOs and CFOs who works for companies which registered more than one billion of revenues in the last year would like to introduce a new figure, the Chief Negotiation Officer, because they think that this professional would increase the company's EBITDA by the 3% at least, especially for the additional support that would be given to procurement practices, usually left to subjective considerations and way of doing.

From these results emerges at least the attempt to change the common consideration toward negotiation in a corporate setting. Regarding our personal lives, I think that no one would be able to develop an untouchable projection about how will be held future negotiations, considering the high speed on which we are travelling, but a good starting

point would be to spread negotiating theories as much as possible, giving always more relevance to the several initiatives that are carried on regarding the topic through university courses, competitions and maybe, in a, we hope, immediate future, with new positions dedicated to negotiation and to the development of the branch.

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