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Balancing sourcing relationships

B2B IT MEDIATION / ARBITRATION: FAST, DISCREET, EFFICIENT

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Resolving hardened fronts between customers and providers

Conflicts between companies and IT providers are expensive, block projects and often disrupt relationships for months and years. Many managers realise that a legal dispute rarely solves the problem, but usually only hardens the fronts. But what alternatives are there?

This is where our approach comes in. We resolve deadlocked conflicts in IT service relationships using alternative approaches - IT mediation and arbitration. Compared to court proceedings, IT mediation and arbitration are more cost-effective, faster and more discreet. The parties remain the masters of the proceedings and return to effective cooperation. Both customers, such as CIOs, and providers can take the initiative - the earlier the better and ideally already anchored as an option in the framework agreement.

Our experts know the business of IT user companies and IT providers from decades of experience and have the expertise to resolve conflicts effectively. We offer you

- Mediation as a neutral and impartial mediator and thus help you to find a solution that is better suited to your interests.
- We offer conciliation as a supplement to mediation and propose a suitable and fair solution.
- B2B review and coaching as regular monitoring of a service relationship in order to minimise friction losses and permanently improve effectiveness.

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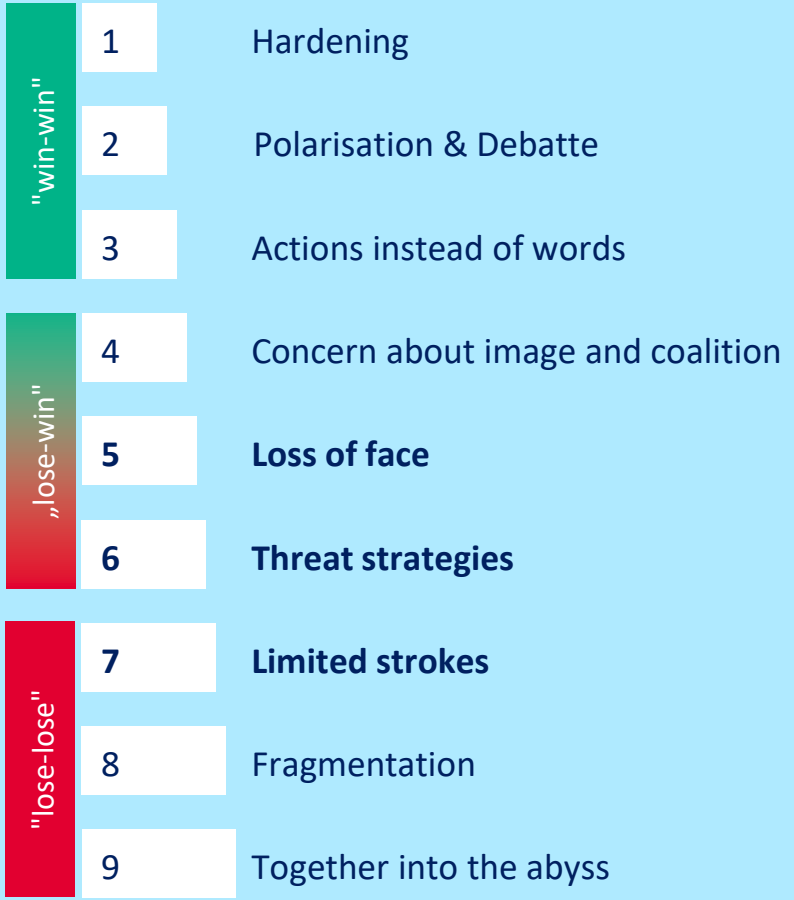
Conflicts between customers and providers - how do they arise?

Many of us are familiar with conflicts in customer/IT provider relationships, especially in outsourcing and large-scale projects. They do not come as a surprise, and the causes often emerge at the beginning of the relationship. Soon after the contract is signed, differing opinions about the content and scope of the "agreed" service as well as cost and deadline commitments come to light. Service descriptions in particular are often vaguely formulated under time pressure, the provider has promised too much and the customer has accepted too many additional services in order to reduce the price.

The hope that this will smooth out over the course of the collaboration is usually not realised. Instead, expectations remain unclear or unspoken and frustrations build up. The result is a spiral of escalation. The exit becomes more difficult with each round, as positions harden and the corridor for solutions becomes narrower and narrower. Day-to-day business suffers, necessary adjustments/change requests are "on hold" and the relationship between the companies is severely strained. The reflex "... we'll go to the lawyer and then we'll meet again in court" may give hope of getting "justice". However, it rarely leads to a practicable and effective solution. The parties find themselves at an impasse and have to settle their service or customer relationship at great expense.



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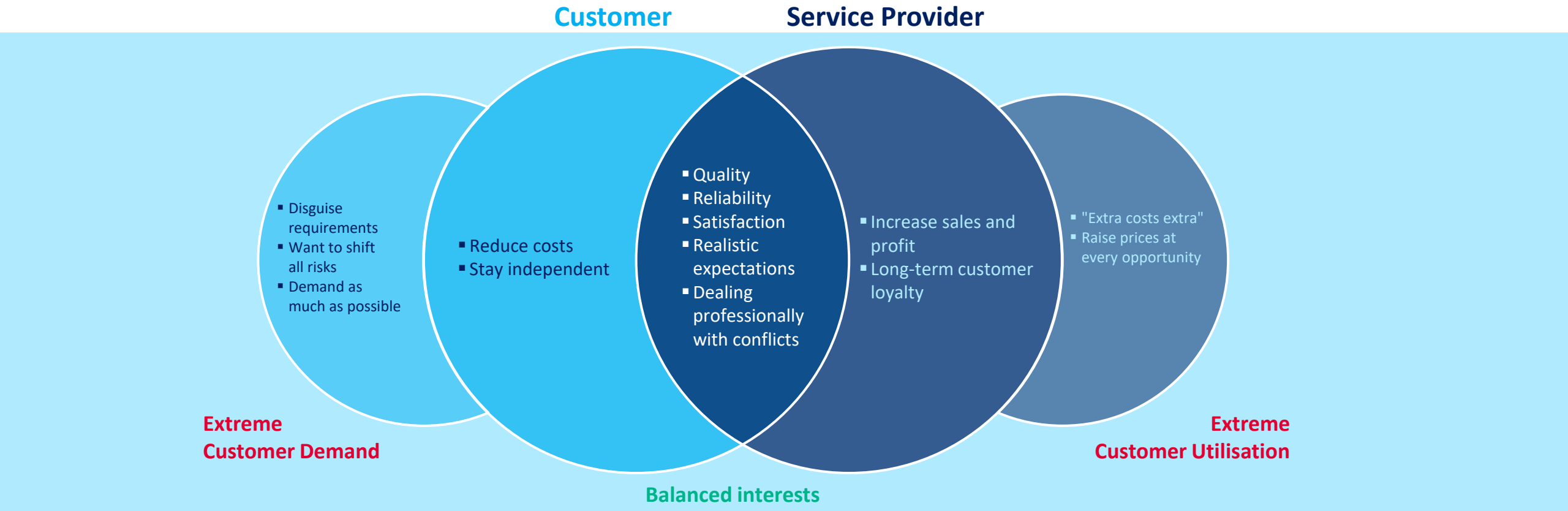
Extreme goals: How relationships become clouded

Companies and their sourcing partners have different interests. The overlap must be large enough to enable a sustainable business relationship - and the interests must not contradict each other. The objectives change over the course of contractual relationships.



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Comparison of approaches

Disputes are settled voluntarily out of court through arbitration and mediation. In the process, both parties work out a solution to the problem with the help of a neutral mediator that takes into account the interests of all sides. If the parties do not reach an agreement, legal or arbitration proceedings can still be initiated.

Advantages of mediation

- Quick start possible, quick agreement too
- Control over the process at all times (duration/costs)
- Greater scope for finding solutions
- Confidentiality of the process is guaranteed
- Significantly lower costs for higher amounts in dispute
- Fewer internal resources are tied up
- Looking to the future instead of coming to terms with the past
- Business relationships are not permanently burdened
- Our arbitrators have in-depth IT expertise
- Our arbitrators have mastered the management perspective
- Our mediators can work out sensible solutions

Disadvantages of court proceedings

- Costs: The plaintiff must advance the court costs, plus costs for lawyers and internal expenses. The costs are also based on the amount in dispute.
- Time: A civil case at the regional court drags on for over a year in the first instance, and the appeal takes even longer. During this time, there is uncertainty about the outcome and sourcing measures are blocked.
- Openness: Court hearings are public. Competitors, stakeholders such as other customers/suppliers, employees, journalists and shareholders can gain insights.
- Future: A lawsuit rarely leads to an effective and, above all, practicable solution. Instead, the parties manoeuvre themselves into a dead end and usually have to settle their relationship at great expense. The tablecloth is cut in two.

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Ablauf alternativer Konfliktlösung

Wann ist der beste Zeitpunkt gegenzusteuern?

- Problem: Die Parteien steuern zu spät oder nie gegen
- Ideal: Im Vertrag ist eine Mediations-/ Schlichtungsklausel vereinbart. Dies senkt die Hemmschwelle für die Aufnahme des Verfahrens
- Mit Beginn der Leistungsbeziehung als Bestandteil der Sourcing Governance
- Last Exit: Wenn Sie sich oder Ihre Mitarbeitenden sich fragen, ob Sie Teil des Problems sind.

Für wen ist Mediation/ Schlichtung geeignet?

- Kunde, z.B. CIO
- Provider, z.B. Leitung Account-Management
- Aber auch Kunde-/Provider-Beziehungen in
  - Konzernstrukturen
  - öffentlich-rechtlichem Umfeld (Public Sector)

Wie läuft eine alternative Konfliktlösung ab?

- Voraussetzung: Offenheit und Bereitschaft zur konstruktiven Lösungsfindung
- Gemeinsame Auswahl eines neutralen Mediators/Schlichters
- Diese analysieren mit den beiden Parteien gemeinsam die Ausgangssituation und Interessen und erarbeiten Lösungsoptionen sowie eine Vereinbarung
- Bei Schlichtung wird Verbindlichkeit vorab festgelegt, die Experten bringen Expertise in Lösungsfindung und -bewertung ein
- Jede Partei kann zu jeder Zeit
  - juristischen Rat einholen
  - das Verfahren beenden

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Procedure for alternative conflict resolution

When is the best time to take countermeasures?

- Problem: The parties take countermeasures too late or never
- Ideal: A mediation/arbitration clause is agreed in the contract. This lowers the inhibition threshold for initiating proceedings
- At the start of the service relationship as part of sourcing governance
- Last exit: If you or your employees are wondering whether you are part of the problem.

Who is mediation/arbitration suitable for?

- Customer, e.g. CIO
- Provider, e.g. Head of Account Management
- But also customer/provider relationships in
  - Group structures
  - Public sector environment

How does an alternative conflict resolution work?

- Prerequisite: Openness and willingness to find constructive solutions
- Joint selection of a neutral mediator/arbitrator
- Together with the two parties, they analyse the initial situation and interests and work out solution options and an agreement
- Binding nature of mediation is determined in advance, the experts contribute their expertise in finding and evaluating solutions
- Each party can at any time
  - Obtain legal advice
  - terminate the procedure

Our services

An amicable solution helps you to look to the future and realign your contractual relationship. In our professional support of IT sourcing relationships as a neutral authority, we combine decades of experience in IT management (technology, costs, SLAs, contracts) with a confidential framework to create sustainable agreements.

Disclaimer: Our services relate exclusively to the handling of disputes and, where appropriate, the provision of substantive and business advice. As mediators/arbitrators, we do not provide legal advice.

B2B-IT-Mediation

We mediate between the conflicting parties and help both sides to find a solution that is better suited to their interests than a court judgement.

Arbitration

In addition to or in contrast to mediation, we mediate between the interests of the parties and propose a suitable and fair solution to resolve the conflict. At the beginning of the process, both parties determine the binding nature of their acceptance of the mediation.

B2B-Review und Coaching

In addition to a one-off resolution of conflicts through the other two procedures, we regularly support and strengthen the parties over the duration of a service relationship, for example through quarterly reviews. The aim is to minimise any frictional losses and improve the effectiveness of the contractual relationship.

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Our experts for B2B IT mediation and arbitration

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Harvard trained Negotiator, Mediator, Dr. rer. pol., MBA, Dipl.-Ing. (FH)

IT management and the relationship between customer and service provider have characterised my professional life for over 25 years. In various roles, both on the customer side (BayernLB, Allianz Global Investors), but above all on the service provider side as CEO of Finanz Informatik Technologie Service (2004-2019), the negotiation of complex IT outsourcing contracts and their implementation were the focus of my work. My team and I succeeded in more than tripling turnover from € 120 million to over € 400 million in 10 years, while at the same time developing and maintaining relationships with new and existing customers in difficult situations.

Thomas Karg

Business mediator

My professional career spans more than 20 years as founder and managing director of the Metrics/Maturity Group. I am also a trained business mediator (MEDIATOR UNIV.) from the Sigmund Freud Private University in Berlin. I was Managing Director and Country Manager Germany for Gartner for seven years. My professional career began at Siemens Nixdorf Information Systems. My practical experience is complemented by an Executive Diploma in IT Business Management from the University of St. Gallen with a focus on digitalisation and transformation. My academic background includes a Diploma in Industrial Engineering from the Technical University of Munich (TUM) and the University of Applied Sciences Konstanz (HTWG) as well as training as an IT specialist.