

Marketing and Network Contracts (Agreements)

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Abstract

The literature shows that bounded rationality makes it almost impossible to build complete contracts to manage transactions between companies. Furthermore, incomplete contracts generate opportunism problems from one of the involved parts and undesirable transaction costs that could be reduced if the process of building a contract/agreement were to include more details (exactness), even in unwritten (oral) agreements. In general, businessmen do not have the instruments to facilitate this process of building contracts, and students, who will deal with contracts at various moments in their professional lives, are not trained for this activity. This article provides a model that has been successfully used as a contract analysis tool in business networks focusing on marketing actions.

Key words: contracts, networks, governance, marketing, inter-organizational relationships

1. Introduction, objectives and method

The study of economic organization should be focused in the real world, otherwise, the theoretical development does not make sense...The academic work is logical many times, but it does not think, supporting itself by non-real premises and many analytical tools for the search of a problem, when the path should be exactly the opposite: the selection of the best analytical tool for a given real world problem - Ronald Coase, 1997, in Zylbersztajn, Lazzarini & Chaddad, 1998.

Changes in the economic environment have sped companies' process of focusing their activities on core competencies, outsourcing several others, and therefore reducing diversification levels in a horizontal and vertical integration. The major forms of governance that exist are spot markets in one side, vertical integration (hierarchy) on another, and lying in the middle, the so-called "hybrid forms". These economic changes increase room for inter-organizational relations (here called contracts) as an alternative coordination structure (relationship) to vertical integration and spot markets. So, "hybrid forms" gain "market share" in the universe of governance forms. Since hybrid forms are mostly created through contracts, which can be written and formal, relational or even "oral", the importance of the training process for building, analyzing and revising contracts (strategies) is very clear and also growing in business management.

Contracts are elaborated in a changing environment and in the presence of bounded rationality. Simon (1961) in Williamson (1985) defines bounded rationality as the non-capacity to foresee all future contingencies ex-ante, i.e. before the beginning of the transaction. Incomplete contracts enhance several opportunism problems and bring

undesirable transaction costs that could be reduced if the process of building a contract were more detailed.

The objectives of this article are to make a review of contract analysis and network analysis, in order to provide a framework (section 3) to help strategists analyze contracts (relationships), and to identify gaps for improvements in the relationships, focusing on the network approach. The methods used are a literature review and the development of a framework that was tested through four years of use and the study of more than 20 cases/contracts. In each case, a document was studied and suggestions for improvements were made. A framework for analysis was built based on the study of these documents and the literature review. Each use of the framework provided information (which are incorporated in the tables below) for further analysis.

2. Conceptual framework: contracts, asset specificities, risk, networks, supply chain and distribution channels

The contract analysis

Then, about 10 or 15 years ago, we began to realize that the phenomena... of price-quantity or piece-rate transactions were not as simple as we have postulated. Rather, they were bundles of clauses that were quite complex and often highly influenced by efforts to overcome lack of information. We even found that the firm seemed to be nothing more than a structure of particular contracts... Thus from having been a concept that economics used to regard as old fashioned and legalistic, contracts have quickly become one of the dominating objects of research in economics. (Werin & Wijkander, 1992, p.1).

The analysis of contracts using the “traditional theory” is common in the law literature written by attorneys and judiciary members. It instructs the decision-makers on how to rule corporations’ behavior in terms of contracts. It is also used in so-called “Law and Economics” research, which is more popular among academy (Schwartz, 1992).

According to Werin & Wijkander (1992) there are four current areas of contract economics:

- The schematized treatment of the characteristics of contracts and the ways in which they are formed (Walras-Arrow-Debreu Model).
- The property-right school.
- The studies of implications of asymmetric information for the structure of the contracts.
- The legal science or the boundary between law and economics (p.3).

The application areas are the analysis of companies and other organizations, with a focus on contracts in finances, macroeconomics, labor economics and others in the area of economics. It is also used in more recent literature on networks (Gemunden et al., 1997), and marketing (focusing on the theory of distribution channels).

McNeil (1978) is one of the more cited authors in the theory of contracts. He characterizes contracts as mechanisms that regulate transactions and that are used to reduce risks and uncertainties in the exchange processes (Lusch & Brown, 1996). According to Williamson (1985), incomplete contracts may allow an opportunistic action by one of the parties.

Five causes for incompleteness in contracts have been identified in the literature (Schwartz, 1992; Tirole, 1992):

- Contracts could be vague or could have ambiguous wording, which makes it difficult for courts to verify them.
- Some of the parties involved unintentionally fail in any aspect.
- The cost of drawing up the document exceeds the cost of solving future problems. This depends on the probability of future problems, since it is a trade off between contract costs and potential costs of solving problems.
- Presence of asymmetric information, whereby one of the parties holds more information than the other party.
- Preference of one of the companies to dump the relationship.

It could be added that the growing complexity of the products and attributes, such as service, quality and traceability, also relates to incompleteness of contracts.

However, this process of major peculiarities in the building of contracts, the third argument in Tirole’s list above, is not supported by some authors. Klein (1992) claims that the costs for this contractual specification are very high and the

vast majority of contracts are imperfect and intentionally structured to include some performance elements without much specification.

Also, Klein says that instead of determining ex-ante all events that might happen in the life of a contract and writing a previously specified answer to each of these events, traders prefer to leave contracts incomplete and wait for the emerging future conditions to make the necessary corrections (p. 153). This article tries to help minimize this problem of costs raised by Klein (1992) by providing a tool to speed up the process. The sequence can be used to build a formal contract, but also to evaluate a non-formal relationship between companies, since the flows considered here have to be established, either in a formal or informal relationship.

Contracts and asset specificities

Asset specificity refers to how specific the investment is for the activity, and the costs for reallocation for another use (Williamson, 1985), i.e. the loss of the asset value in the second option (Klein et al., 1990; Zylbersztajn, 1995). Or, according to Bello & Lohtia (1995), investments that are bound to an exchange relationship cannot be used for an alternative purpose outside the relationship. Azevedo (1996) defines how the assets are put to use with value loss. Once the assets are specific and hard to allocate for other relationships, the guarantee against agents’ opportunistic attitudes should be in the contract (John, 1984). But which assets are being discussed?

Within the physical flow of products, there are productive assets that originated with the product or products and which have its (or their) specificity. These can be assets used in the product physical flow that have their own specifications, assets that are receiving those products in their productive units, and the product itself with its own specificities. In other words, in a company network all agents, including those involved in the main axle of the network that performs business activities as well as those from facilitator companies and service providers, have assets that are involved in the process, and these assets have different specificities.

To facilitate the analysis, it is useful to classify the types of assets involved using a generic classification and also by giving examples. Among the main types, there are (adapted and enhanced from Williamson, 1985):

Dedicated or physical specificity: the assets involved in the production of the product for the client. For example, citric juice extractors, sugar cane mills, beer factory fermentation machines, and citric orchards are specific investments for the related activities; reallocation is practically impossible, in some cases resulting only in recycling/scrap costs.

Anderson and Gatignon (1986) cite the example of specific machines acquired for a specific purpose, such as printing, packaging, development of specific packages for the counterpart, factories, specific storage systems (cold), special storage structure, services and repair centers. Other examples are investments made by the producers in the distribution channels like special displays, refrigerators and coffee machines. Specific and specialized assets are considered together here.

Specificity connected to human resources: the specificity of human resources directly or indirectly involved in the transactions, such as a highly specialized employee trained in technology, knowledge of the market (group of customers), supply, distribution or sales regarding product specifications. These human “assets” can be drafted in the market or trained in the company; they represent a cost in that their reallocation for another activity, depending on the specificity, is nearly impossible without generating losses.

Technological specificity: To make a transaction the company invests in a technological process that can be sophisticated and specific, and that has high reallocation costs. These include processes of fermentation, food preservation (irradiation), new molecule production, new specific action principles to cultures and plagues. Information technology such as processes of exchange of electronic data, management according to product categories, sharing in the creation of new processes, sharing management of storage and logistic planning.

Brand specificity (marketing): This specificity is linked to the building of a name, brand or reputation in a certain market, the effort of public relations within the community, with the press, developing of packages, etc. It also includes the costly efforts of communication predicted in the contract in order to position a certain product in the market, create advertisements, conduct activities for sales promotion, etc.

Locality (locational) specificity: The assets involved in this transaction have local restrictions due to the characteristics of transportation of the product. The company has to be close in order to successfully perform the transaction. For example, a wheat mill in Brazil can use Canadian, Argentinean, Asian or Brazilian wheat, but a refinery cannot count on sugar cane produced in Thailand or in Cuba, because of transport costs. In the supermarket example, there is greater local specificity for transactions involving products like beer, milk, and mineral water than alkaline batteries or powder juice among others. Other possible local specificities involve the need for close proximity to a

natural resource (water), energy (gas pipes), raw material, warehouses and distribution centers and certain commercial sites (shops).

Time specificity: This specificity refers to the time that is available to conduct the transaction. The analysis is focused more on the product and takes into consideration two major factors: its perishable characteristics and storage policy. Horticultural products have a high time specificity. The supermarket has greater difficulties in supplying horticultural products from farmers in natura than in supplying canned products, for example. The bigger the time specificity, the subtler the transaction and also the smaller the universe of alternatives will be. Other examples include the need for fast and frequent delivery due to “just in time” policies, among others.

The general implications are that the presence of asset specificity in a transaction increases risks for the owner of the asset. These risks should be addressed in the contract (agreement), and some instruments for this analysis are provided in section 3.

The network analysis and marketing

Applying marketing concepts to network concepts is not new, but it offers insights into the performance of traditional marketing flows and on collective actions that could be undertaken by members of the network. To make it easier to combine these concepts the theoretical model of *company network* is defined here as the group of supplier companies and distributors of the company being analyzed (individual case). These suppliers and distributors create the flow of products, services, communications, information, orders and necessary payments (traditional marketing flows) to connect the focal company to raw material suppliers used in production and to connect the focal company to its customers and consumers.

There are two considerations here: first, an analysis of any network should start with a focal company (or cooperative, or other actor). Lazzarini, Chaddad & Cook (2001) cite Granoveter, among others, who said “the analyses of networks provides numbered tools to map the structure of inter-organizational relationships and liaisons based on the acknowledgement that the structure in networks limits and at the same time is modeled by the companies’ actions”. The second consideration is that a company always builds a network once it is involved in at least one relationship in which it influences actions and strategies of partners and obtains ideas and is influenced by them. It is important to note that the concept of networks varies according to the amplitude of its use. It is not recommended to use the word

“network” by itself, because it can be used in many ways depending on the analyzed sectors or theories. The term “network” is used in neural networks, franchising networks, industrial networks and even in retail chains.

The *company network* concept allows us to analyze a company and its pool of suppliers and distributors. The next steps are to analyze the existing relationships among them, the impact of the external environment and the position of competitors. When a company is seen as a complex network, it is possible to do a richer and deeper analysis. This is in essence the *relationships and interaction approach*. This concept has been widely used and spread by Wageningen University (Omta, Trienekens & Beers, 2001) in the International Marketing and Purchasing Approach, or IMP (Gemunden et al., 1997; Bridgewater & Egan, 2002; Ford, 1998; Hakansson and Snehota, 1998, Gadde & Hakansson, 2001), and by North American based researchers like Anderson, Heide, John, Jap, Weitz and Neves, Zuurbier and Campomar, 2001, among others. Also, it is worth mentioning the importance of the use in business network management, the relationship marketing reference, its distinctions and similarities (Mattson, 1997).

The company network concept permits the addition of *facilitator* companies (transportation companies, insurance agencies, certification companies, warehouses, logistics operators, banks, and others) that perform functions to make the flows happen. Also one can add the interfaces with other networks, whether in obtaining raw materials or sub-products, the reversion of the network (common in cases where there is product recycling or product restitution via “recall”, which demand distributors’ participation), and the impacts of uncontrolled variables (political-legal/institutional, economical, social-cultural and technological environments). Besides, the inclusion of the competitors in the company network also allows consideration of collective actions that companies may be taking in terms of marketing (e.g. participation in an association, as well as generating an exporting joint-venture among competitors).

To diagram the focal company network and define strategies, two supportive references, among others, determine important theoretical sources for its coordination: 1) marketing (distribution) channels, defined by Stern et al. (1996) as “a group of inter-dependent organizations involved in the process of making the company product or service available for use” (Stern et al, 1996, p.1) and 2) the supply chain management, i.e. the organizations involved in the obtainment of all the company’s supplies necessary for production. Even though the concept of supply chain management is defined by Ballou (2001) as the management of the whole chain from raw materials to final consumers, it is considered that this way there is an overlap with other

existing theories already defined in the 1960s, such as marketing (distribution) channels, and a problem with the word ‘supply’, which means backwards in a vertical chain. It is preferable to consider *company network management* as the management process carried out by the focal company (figure 1) of its entire network with the purpose of value creation. This management has two parts: management of the company’s distribution channels and management of its supply chain. Therefore, the proposed framework serves to analyze two types of contracts: the distribution contracts (e.g., franchise) and supply of a company. If there is a supply contract between the retailer and the supply company, the contract for this second company is a distribution contract of its products and services.

To illustrate, a diagram of a focal company network is shown in Figure 1.

3. Operationalization of the concepts: the framework for contract analysis in networks

If contracts give rise to problems...why have them? Contracts, whether implicit or explicit, involve some kind of continuing relationships between two or more parties. There are simple contracts as “I agree today to buy your house tomorrow”...The contracts I’m interested in are both more durable and more complex...Stiglitz (1992, p. 293).

These are the type of contracts that the framework proposed here focuses on. The framework is based on various authors’ work related to *distribution channels and networks* and also *transaction cost economics*. Contracts from a wide range of sectors were analyzed during a four-year period in which the framework was tested and improved. The contracts included a supermarket and a milk products supplier, a veterinarian company and the sales force, a clothing company and its retailers in shopping malls, a vehicle industry and its authorized dealers, orange growers and processing industries and several others.

The framework is described below in sections 3.1 to 3.4. The contract analysis is done by filling in tables and identifying points in which the contract is incomplete. Finally, conclusions are drawn and discussed. The whole contract analysis can be used in several ways: as an academic course exercise (where students in groups find and analyze a contract and then present a final analysis), or as an instrument for the private sector (internal workshops can be held to discuss contracts and suggest improvements). The framework is made up of four steps as described below.

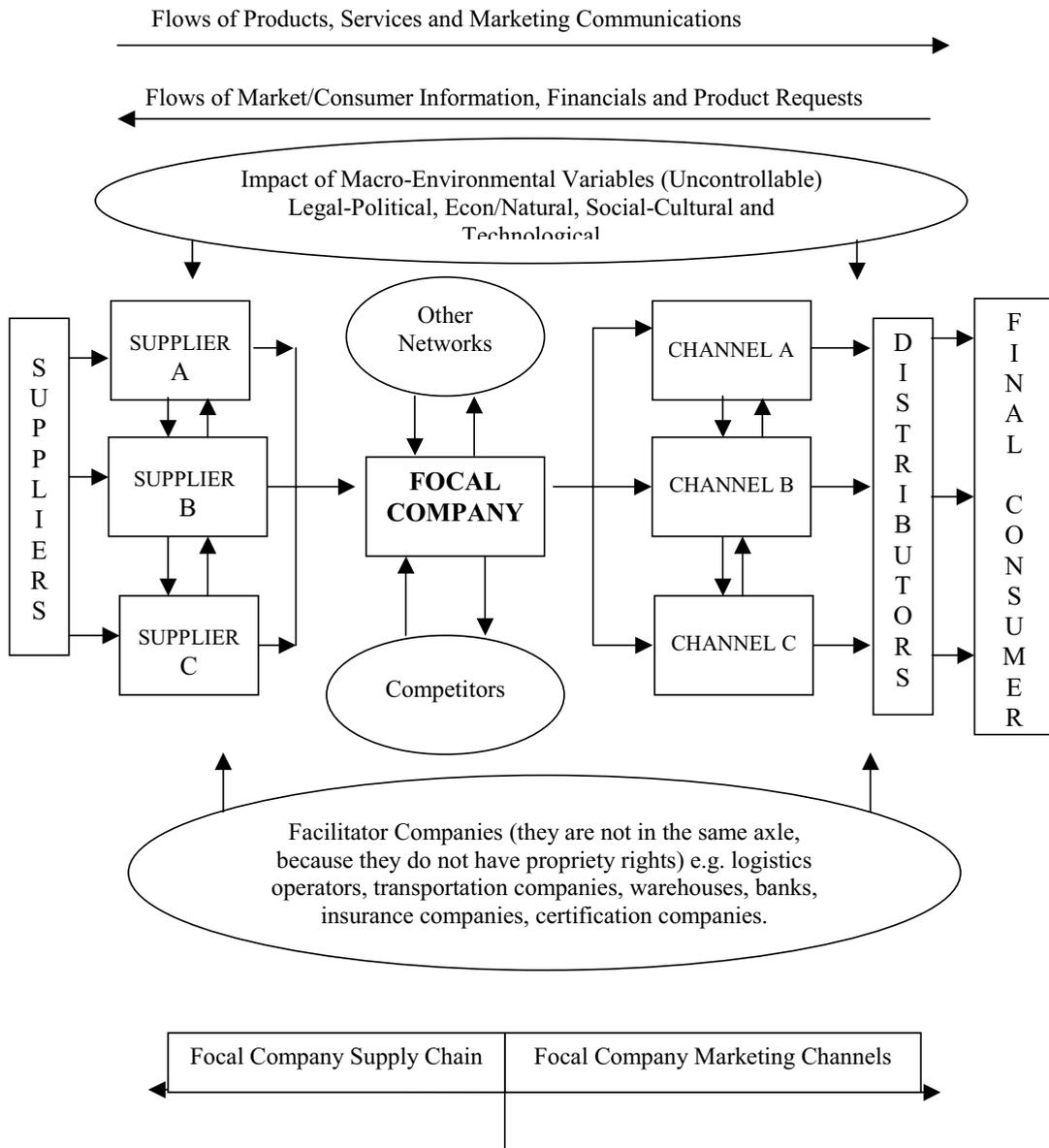


Figure 1. The focal company network.

Diagraming the company network and understanding the contract

In the first step, a diagram of the focal company's network is made (see Figure 1). Then, the contract is studied and an initial list is made of interesting topics related to the document, the company, and the transaction the contract is governing (controlling) in that particular company network. The context of the contract is also important here, such as the duration of the relationship, its evolution and the culture it is embedded in. This first step is done by means of in-depth interviews with the company employee

(or employees) responsible for the contract (in most cases the marketing or supply chain manager).

Contracted responsibilities related to marketing flows

The second step is to study the responsibilities delegated by the contracts that are related to the product flow, services, communication, financial and information necessary for the functioning of the transaction and for the product to reach the final consumers. A basic form can be used such as the one presented in table 1, which refers to traditional marketing channel flows. Specific points can be added or

Table 1. Functions, analysis of responsibilities and possible improvements regarding marketing flows in contracts.

| Function (who does what and how) | Analysis of the responsibility | Ideas for possible improvements of the contract |
|--|--------------------------------|---|
| <p>Product and services flow variables</p> <ul style="list-style-type: none"> Management and inventory levels Product transportation Product modification Product line and variety Evaluation of new products Predicted volume of sales (performance) Technical support of explanation/installation After- sales service Providing sales force Training: scope and costs Maintenance and product repair Packaging subjects/specifications Brand subjects Exclusivity details found in the contract Territorial rights found in the contract Predictable market coverage Duration (period to perform the flows) Adaptation to specific laws Others (fill in) <p>Communications flow variables</p> <ul style="list-style-type: none"> Advertisement (all forms) Sales promotion (all) Public relations actions (all) Direct marketing actions Providing information about products Sharing in communications budget Communication within direct sales Packaging information Others (fill in) <p>Information flow variables</p> <ul style="list-style-type: none"> Providing information about consumer’s market and buying processes/decisions Providing information about competitors Providing info. about changes in the environment Participation in the planning process Frequency and quality of information Providing complaints information Others (fill in) <p>Payment and order flows</p> <ul style="list-style-type: none"> Order frequency Pricing policies and payments Margins analysis Commissions (volume and frequency) Conducting credit to final consumers Billing customers Search for financing sources Pricing guarantees Others (fill in) | | |

Source: elaborated by the author using Corey et al. (1989); Rosembloon (1999), Wilson & Vlosky, 1997; Jackson & D’Amico (1989), Berman (1996), Dwyer & Oh (1988).

deleted according to the contract being analyzed. Both parties involved in the contract can propose possible improvements, which are then listed in the far-right column. These improvements should be new ideas or problem-solving resolutions.

After filling in table 1, several discussions can be conducted about how the company and the counterpart are developing the existent flows, which should lead to a series of contractual improvement suggestions. The right column of table 1 can

be enhanced to include a list of improvements focusing on the responsible people, goals and deadlines.

Asset specificity analysis and risk analysis

Usually, this part of the framework is the most difficult to complete because it involves a new form of analysis for most managers. Table 2 is a starting point for this analysis. Factors of specificity in the transaction (considering all

Table 2. Asset specificity analysis: physical, technological, human and brand.

| Type of assets investments | Asset owner | Degree of specificity (high/medium/low) and reallocation costs (impossible, high, medium, low) | Alternative uses |
|--|-------------|--|------------------|
| <p>Physical specificity</p> <ul style="list-style-type: none"> Factory Cold storage facilities Special storage structure Tailored production facilities Product demonstration facilities Repair and service centers Distribution channels investments Others <p>Technology Specificity</p> <ul style="list-style-type: none"> Equip. for electronic data exchange Joint process of logistic planning Joint quality programs Tracking/tracing programs Software investments for supply Others <p>Human specificity</p> <ul style="list-style-type: none"> General training of distributors Joint sales training Production process knowledge Market knowledge Product & brand knowledge Others <p>Brand specificity</p> <ul style="list-style-type: none"> Joint brand development Joint planning advertising Packaging development Sales promotion development Public relations development Others | | | |

Source: Author, based on Bello & Lohtia (1995); Klein et al. (1990); Kozak & Cohen (1997); Anderson & Weitz (1986); Christy & Grout (1994); Ellis (2001); Frazier & Summers (1984); Ganesan (1994); Heide & John (1990, 1992, 1994) and Bengtson (2001 et al.).

assets listed above) are identified and listed in the column labeled asset owner. In the middle column the degree of specificity is indicated (there is a bias here regarding the respondent's subjective judgments on specificity, but this does not make the analysis impossible); and finally, in the far-right column alternative uses, if any, are indicated. Time and location specificity analyses are considered separately, since they do not involve an owner. They refer to specific characteristics of products or asset locations and schedules involved in the transactions. Table 3 is a starting point for this analysis. The purpose of this table is to identify

and indicate (in the middle column) any factors of specificity found in the transaction. The risks involved are then listed in the right column.

How can this analysis be useful in improving or even building a contract? With the information provided in tables 2 and 3, a summary can be made of where specificity problems arise. Where actions could be taken to reduce them (new or alternative uses), specific points should be described in the contract, in order to reduce the risk of opportunistic behavior by companies.

Table 3. Specificity analysis: time and location.

| Type of specificity | Possible presence | Risks involved |
|--|-------------------|----------------|
| <p>Time Specificity</p> <ul style="list-style-type: none"> Expiring date (perishable) Frequent/rapid deliveries Seasonality of production (inventory needs) Season. of consumption (inventory needs) Other <p>Location Specificity</p> <ul style="list-style-type: none"> Proximity needs (transport costs) Energy supply Water supply Availability of materials Strategic position of storage Location of distribution centers Location of <i>outlets</i> (point specificity) Others | | |

Source: Author, based on Bello & Lohtia (1995); Klein et al. (1990); Kozak & Cohen (1997); Anderson & Weitz (1986); Christy & Grout (1994); Ellis (2001); Frazier & Summers (1984); Ganesan (1994).

Table 4. Specificity summary, possible risks and contractual guarantees.

| List of all assets of high specificity | Risk | Contractual guarantees |
|---|--|---|
| Investment in a specific production line for roast beef for a client. | Once the product is also specific (alternative uses practically do not exist), there are the following risks: <ul style="list-style-type: none"> •Client ends its operations in the country •Client switches to a different supplier | Try to insert: <ul style="list-style-type: none"> Exclusivity Duration time (length) Insert clause in case Arby's quits operations in Brazil, the investments (line production) will be moved to another country, or Sadia will have exports for Arby's outside Brazil. |
| Other specific assets (fill in) | Other risks | Other guarantees |

Source: Author.

Imagine, for example, a contract made between a supplier of meat products (e.g. Sadia) and a recently installed franchise in Brazil (Arby's roastbeef sandwiches). To be a supplier, the first company needed to make a specific investment in a production line for the roast beef. What are the risks involved and what types of contractual guarantees should be considered based on this specificity analysis? An example is provided in table 4, which is central for the framework and serves as a summary of tables 2 and 3.

Contract improvements (suggestions) and institutional considerations

At this point several improvements to the agreement (contract) or its next version can be proposed. They can be ordered by importance and should also be considered as possible wishes of the partners and future sources of conflict. This could make it possible for the companies to prepare themselves before the transaction process starts. Institutional aspects (the country's laws) are another extremely important matter that should not be forgotten. Proposals for contract improvements (e.g. commitment to advertise, binding sales agreement, commitment from the sales force to share information) should take into account the institutional environment; the parties must check whether it is possible in that particular environment to make such changes. In other words, they have to make sure the agreement does not interfere with the law. Specialists within the institutional environment (lawyers) could contribute to this analysis.

Thus, a summary table should be made (table 5) with the factors taken from the right columns of tables 1 and 4.

4. Some results from cases studied and improvements for companies

More than 20 contracts were studied from 1999 to 2003. The major points of attention were all related to tables 1-5, regarding for example, marketing flows, environmental changes, contract length and geographical area. Several

learning points came from these contracts, mainly related to the building process of these documents and the renewal of them during each new negotiation.

These results were sent to the majority of participating companies. In some cases, only the suggestions were sent and no further contact was made with the company. In other cases, modifications were made during the analysis period and some have even been made after contracts (for instance with a sales force) finished or were renewed. Some of the suggestions were impossible to implement due to the institutional environment. Others were not possible due to the power of the distributor that did not agree with the change.

Due to the confidentiality of the analyzed instruments (contracts), the following table lists only some of the main subjects identified for improvement, without detailing the magnitudes of those improvements (which was a condition for being granted access to the documents). Table 6 shows some contracts that were analyzed (around 5 to 6 per year) and the proposed improvements. It also refers to the conceptual framework of section 2 that was useful for the analysis.

5. How the framework works, limitations, managerial implications and future research

The conceptual framework has improved each time the process has been used (during the last 4 years), but it must be noted that there is always room for progress, since the lists are not exhaustive and some new steps could be added to the analysis after more cases are studied and more applications are done. A "step" analysis (environmental changes in the socio-cultural, technological, economic and political drivers) can also be added to the framework.

The evaluations of the contracts and group discussions are exciting and productive. The analysis is also a tool for students and the private sector to learn how to work with contracts and with lawyers, who do not understand marketing, but do understand the institutional environment.

Table 5. Summary of the proposed improvements - impacts for managers.

| Proposed improvements | Implementation probability (legal aspect) | Partner's expected reaction | Techniques for negotiation and stimulus |
|--|--|--|--|
| Insert the listed factors from right columns of tables 1 and 4 | Indicate whether there is a legal restriction for such improvement | Indicate whether this will be a factor with easy, moderate or difficult acceptance | Indicate what will be done to stimulate the partner to accept the change |

Source: Author

Table 6. Contracts already analyzed with the framework and impacts for managers.

| Supplier | Distributor | Proposed Improvements (only subjects) | Base of improvement (conceptual framework) |
|-------------------------------------|---|---|---|
| • Parmalat (Food Industry) | Gimenes (Supermarket Chain) | Contract duration, delivery systems, payments and discounts for final consumers. | Time specificities Product and services flow Financial flows |
| • Ouro Fino (Veterinarian Industry) | Sales Force Team | Product transportation, after-sales service, product changes, requirement formats and criteria for geographical division of clients. | Human specificities Time specificities Product and services flow |
| • 3M | Authorized Dealers | Products return policy, new products evaluation, and limit of credit and delivery time. | Financial flows and risks Information flows |
| • Coffee (Cappuccino) Supplier | Utam (roasted coffee for supermarkets) | Exclusivity, production monitoring, pricing changes and delivery time and validity of products | Physical specificity Time specificity Information flows |
| • GM - General Motors | Authorized Dealers | Information considering financial conditions, pricing policy, policy of new concessions and internet sales | Technology specificity Brand specificity Human specificity Financial flows |
| • Cori (Clothing industry) | Independent retailers | Evaluation of new products, after-sales service, tailor-made information systems, electronic ordering, sharing of market knowledge, credit and evaluation support and exclusivity | Product and services flow Information flows Brand specificity Communication flows Financial flows |
| • Red Meat Producer | Joint venture contract to build high quality red meat chain and brand | No remarks regarding to whom the brand owner should turn in case of contractual hold-up | Brand specificity Communications flows |
| • Asia Motors (Vehicles) | Authorized Dealers | Sales planning, more exclusivity, joint marketing planning. | Technology specificity Brand specificity Human specificity |
| • Esso (Oil Company) | Gasoline distribution stations | Change in the stock management function, better flow of communications and information, and quality maintenance during reselling. | Technology specificity Brand specificity Product flows |
| • Sanofi | Biosintetica (Agent in Brazil) | Product and service support | Product and service flows Brand specificity |
| • Sabori (Fine Food) | Pão de Açúcar | Contract length, reduction of power imbalances | Technology specificity Time and locational specificity |
| • Coca Cola | Fast Food Chain | Exclusivity, more flexibility on communications, more involvement of Coca Cola. | Product and services flow Communication flows |
| • Procter & Gamble | Authorized Distributor | Conditions for contractual hold-up, visits' frequency | Product and services flow Information flows Brand specificity Communication flows |
| • Ipiranga | Gasoline Distribution Stations | Outsource logistics, more pricing flexibility. Quotas | Product and service flows Financial flows |

Table 6. Continued.

| Supplier | Distributor | Proposed Improvements (only subjects) | Base of improvement (conceptual framework) |
|--|-------------------------|--|--|
| • Skill (English Language Franchise) | Franchisers | Professors skills, public relation activities, monthly reports. | Human specificity Services flow Information's flow |
| • Dabi Atlante (dentistry equipment) | Outside sales force | Sales forecast, minimum stocks, after sales service, brand usage, promotional budget | Human specificity Product and services flow Communications flow |
| • IGA (International Grocers Alliance) | Franchisers | Establish on-line systems, product transportations, new product evaluations, regional advertising, information change | Product and services flow Information flows Brand specificity Communication flows |
| • Bob Store (clothing industry) | Franchisers | Area definition, after sales service and marketing research, product returns, electronic data transmission | Product and services flow Information flows Brand specificity |
| • Texaco (Gasoline) | Gas Stations | Electronic quality measuring equipment, visits, price discussions mechanisms, forecast discussions (quotas) | Technology specificity Brand specificity Product flows |
| • Sugar Cane Mill | Sugar cane growers | Exclusivity, payments, deliveries, contract length. | Time specificity Locational specificity Payments flow |
| • Agua Doce Cachaçaria (food) | Franchisers | Franchisee participation in new product development and suppliers, electronic data interchange, incentives for sales increase. | Product and services flow Information flows Brand specificity |
| • Unilever | Kaiser Beverage Company | Stock management, fast deliveries, training programs, recalls. | Product and services flows Time specificity |

Source: Author

When a company builds a distribution contract, it is more interested in the communication and information flows than when it is building a supply contract, within which other preoccupations emerge regarding quality, delivery, services and specification. But the tables presented here can be used in both cases. A company often has to also make contracts or agreements with service providers, depending on the service (insurance, stocking, transportation, advertising, among others), and these tables can be simplified and adapted to these cases.

At the moment elaborations or improvements in a contract are proposed, a suggestion to improve monitoring and control could be a reward mechanism that motivates each party to honor contractual clauses. This way, incentive systems would entirely or partially replace the inspection and punishing mechanisms. Contractual hold-up is not desirable in most cases. According to North (1990) in Zylbersztajn (1995), there are factors that lead to an automatic enforcement of contractual clauses with less

hold-up risks, such as reputation, the company brand, the so-called "social network" and the loss it will have in the market if it does not meet the agreement.

The companies whose contracts were analyzed received as a consequence suggestions for the improvement of their instruments (contracts). The executives who participated had also a satisfactory impression of the discussions.

The conceptual framework is of major importance since the *company network approach*, *asset specificities* and *transaction costs* do not represent a common analysis approach in the private sector. Other managerial implications are that in the network economy, the process of building more complete contracts could be very useful. This article brought attempts to contribute to the process of building or reviewing contracts of a focal company. It serves the purpose of analyzing disarticulation and it is a mechanism for governance and improving performance.

In future research, the framework could be applied on a large scale and quantitative analysis could be done. An extra

stage could be to analyze the improvements implemented by the companies whose contracts were studied to determine how these suggestions improved performance, but this research takes time. Another focus of research could be how conflicts emerged and were managed.

Research comparing contract evolution and complexity in different institutional environments could be done, using, for instance, the framework to compare different contracts that international franchisers have in different countries. Finally, another suggestion is to study and compare the different institutional environments of some countries and the possibility of formalizing marketing strategies in contracts, and even the possibility of implementing them, since some strategies face impediments caused by the local laws. Large avenues for improvement have yet to be overcome, and there is thus room for several studies in marketing, networks and contracts.

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