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Beyond Dollars & Cents: Negotiating Payment & Pricing in Enterprise SaaS Deals

Commercial and Contracts

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Think of a work task your computer does for you. These days it's likely provided over a cloud-based software-as-a-service (SaaS) tool. Email, videoconferencing, live collaboration, AI chatbots, you name it.

But for all the service variety, billing terms for business-to-business (B2B) SaaS tools are remarkably uniform. Apart from some ancillary expenses — say, set-up costs or professional services fees — the industry norm involves paying upfront to use the tool for a 12-month term. And once you commit, you can't cancel or get your money back.

For SaaS providers, an upfront payment means a predictable revenue stream. They progressively realize deferred revenue and, in the meantime, hold more cash. Plus, invoicing and collecting fees once a year beats doing it monthly or quarterly.

But little about cloud-based software makes these payment norms inevitable. And for customers, the norms' malleability presents a negotiating opportunity. Here are three key pricing points for in-house counsel to negotiate in your next SaaS deal.

Issue 1: When you're paying

All things equal, a dollar today is worth more than the same dollar tomorrow; that's the time value of money at work.

That axiom holds for the SaaS world too. And so, providers prefer their cash now instead of later. With it they can pay salaries, cut checks, buy lunch, and maintain liquidity.

For the same reasons customers want the opposite: to defer payment. Then, it's the customers who can use the cash for their own ends. And unless they're charged interest, the longer they defer payment the less they're effectively paying, in real if not nominal terms.

But in B2B SaaS deals, customers have one more reason to stretch out payments: It helps them ensure the SaaS's availability.

SaaS availability is a reasonable worry. Unlike with "on-prem" software, a customer buying SaaS doesn't get to possess anything. It can't download a copy of the software or keep it on a disc in their file cabinet. Instead, the customer gains access to the provider's cloud environment hosting the software.

When a customer prepays for a year of SaaS — the industry's default — it trusts that the provider keeps the gates to its cloud open. If the provider closes those gates, the customer is locked out.

Legitimate SaaS providers won't deny customers access willy-nilly. They'd lose business, face claims, and tank their reputation. But once they collect cash, some providers might deliver subpar services. They drag their feet on fixing bugs or deploying promised features; their software may suffer downtimes. And a SaaS tool can go dark for other reasons — for instance, a provider's bankruptcy, an injunction, a server crash.

Recourses exist in those cases, but they're imperfect. Filing a suit takes time, costs money, and carries risk; the damages at issue may not justify it. A provider's service-level agreement (SLA) might tender some crumbs. But a capped credit toward future services — the typical, (sometimes exclusive) remedy for not meeting service levels — means little if the customer has already soured on the software. Ideally, the customer could retrieve the software source's code from a third-party escrow agent. But outside mission-critical tools or big deals, software escrows aren't standard.

Without an escrow in place then, in-house counsel's next best option is deferring or staggering payments.

Outstanding payments motivate the provider to supply its cloud services diligently: If the provider fails to do so, the customer might withhold the money. And if SaaS access shuts off altogether, the customer can take solace in having retained some cash.

Monthly payments — the norm with many business-to-consumer (B2C) SaaS companies — offer the most security to customers. But SaaS providers that bill once a year may balk at increasing their invoicing twelve-fold. Quarterly or semi-annual payments represent a middle-ground. As does a fixed payment at the term's start — based on, say, user count — followed by a variable payment near the term's end — based on, say, those users' usage of the tool. The prospect of losing even a modest payment helps check provider gamesmanship.

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For the same reasons, the customer's lawyer should try to extend invoice payment terms. Then even if the customer ends up handing over one lump sum upfront, it pays later in the term and with a better sense of the provider's reliability.

Issue 2: What you're paying for

When to pay for SaaS is straightforward for an in-house lawyer to analyze and negotiate. More complicated is talking through SaaS pricing structure.

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Consider: Providing a customer with SaaS access comes at minimal marginal cost to the provider. Sure, a SaaS company with thousands of users forks out for more hosting, maintenance, and support than a small company does. And "power users" cost a provider more than casual customers. But while Apple can affix a dollar amount to each additional iPhone 16 it cranks out, SaaS companies can't easily calculate their incremental unit cost. Indeed, it's often hard to articulate their "unit."

When providers can't moor price to unit cost, they have to, well … make the pricing up. An overstatement, but only slightly. Look at the various pricing models offered by popular SaaS companies: Salesforce prices per user; Shopify takes a percentage of transactions; Amazon S3 charges based on storage. The products didn't dictate those models; these companies designed them. And they did so with the aim of capturing as much value as possible from each deal.

In negotiations customers should take a similar tack: Push for a pricing structure that lets them capture some value back.

That involves working with finance and business teams to compare the provider's proposed pricing structure to alternatives, to see which structure most benefits the customer. Assume, for example, that a SaaS provider typically charges by user. That may suit a customer whose users all use the service equally. But if some users rarely touch the tool, then the customer may feel cheated that it's paying the same price for those who occasionally log in as for those who live in the tool. It may lead the customer to simply deny seats to those low-usage users, even when granting them some access would be optimal. Or the customer may walk.

As an alternative, that customer might propose paying by usage — for example, paying per gigabyte of storage, API call, download, or other metric relevant to the software.

The following scenario illustrates: A customer will pay up to US$2,000 for a SaaS tool. The provider quotes a fee of US$100 per user. If the customer needs 22 users — meaning a total cost of US$2,200 — the parties won't do the deal. That result may particularly frustrate the customer if most of its users access the tool a few times a year. The provider may wring its hands about the lost sale as well.

But now assume that the same customer can quantify its usage in a different way. Perhaps it plans to make 20,000 API calls to the tool. If the provider accepts US$0.10 per API call, then the deal will happen. And both parties may rejoice at that result.

User-based Pricing		
User	Price per User	Total
22	US$100	US$2,200
API-based Pricing		
API call	Price per API call	Total
20,000	US$0.10	US$2,000

Usage-based pricing may also make sense for new and untested SaaS products. It spares the customer from paying for something that no one ends up using. On the other hand, if a customer needs price predictability, it may resist usage-based pricing, even if it comes at a premium.

Blended pricing models may also work. For instance, a fixed "floor" payment coupled with a usage-based payment — which, as mentioned above, lends itself to staggering payments. Other options abound.

In his book, *The Pricing Roadmap*, Ulrik Lehrskov-Schmidt guides SaaS providers in detail on the various options for pricing schemes. But customers should consider their options too. View the provider's pricing model as a negotiation starting point, not a law of nature.

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Issue 3: How much you're paying

However thoughtfully you arrange payment timing and pricing structure, a price negotiation eventually comes down to price.

So how to negotiate dollars and cents?

The good news is that some work is done. As the example above shows, a lawyer who negotiates a more favorable pricing structure may have effectively negotiated price.

Unfortunately though, determining the "right" for SaaS is hard, if not impossible. No SaaS tool exactly resembles another, and no simple index of SaaS prices exists.

But no SaaS company lacks competitors either. And assessing quotes for different providers' offerings lets customers compare relative prices and values. Plus, if a provider knows that the customer is soliciting other bids, the customer gains more leverage in the pricing and payment negotiation.

Customers can also press for discounts — though they should expect to offer something in return. For instance, many providers cut their prices for high-volume or multi-year deals. Others trim their fee if the customer agrees to feature in a case study or other provider marketing materials.

Options lead to opportunities

These negotiating points interact. Staggering payments may prompt the provider to raise price; demanding a different pricing structure may impact price and payment timing; and a pricing discount may force the customer to concede on other issues. The customer and its in-house lawyer make trade-offs.

But so does the provider. And that's the point. When the parties structure their payment negotiation around timing, pricing structure, and price, they avoid haggling over price alone — a challenging exercise in SaaS deals, where price doesn't neatly tie to unit cost and where it's hard to compare prices across competitors.

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