


ISSUES WITH THE SAG-AFTRA TENTATIVE AGREEMENT (2023 MOA Draft)

The following is a list of issues in the Tentative Agreement, with citations and suggestions for renegotiation.

If you read this document and feel that NONE of the issues mentioned are important enough to vote NO, that is your right. If you read this document and find that these reasons are enough to vote NO, that is your right as well.

The goal of this document is to inform the membership of what this contract says, how it could be implemented (as it stands right now) and how it can be stronger if we were to renegotiate for better TODAY. Because, who knows if we'll have the same leverage to fight for better TOMORROW.

If you have additional issues that you think should be added to this document, or issues listed below that are misrepresentations of how you read the contract, you can email 

Category	Subcategory	Issues in the Tentative Agreement	Citation and Sources	Renegotiation Needed
Artificial Intelligence	Injunctive Relief	<p>If the producer is found guilty by a judge for using a performer's AI without their consent, they can continue to distribute and profit off that unconsented AI in perpetuity.</p> <p>Penalty is limited to ONLY monetary damages. In other words, compensation for the wages you would have been paid, had you originally consented.</p> <p>This loophole allows producer to break the contract (intentionally or otherwise) and:</p> <ol style="list-style-type: none">1) wait for you to notice,2) wait for you to file a claim with the union,3) wait for the union to arbitrate the claim, and then4) even after winning arbitration, the producer can continue to use the unconsented AI forever.	<p>Page 68, 70, 76 of the MOA uses the following language in the AI provision sections:</p> <p><i>“Remedies shall be limited to monetary damages.”</i></p> <p>The WGA got the AMPTP to agree to Article 10.E.5 in the 2020 MBA within their 2023 MOA:</p> <p><i>“Notwithstanding anything in this Basic Agreement to the contrary, the arbitrator shall have jurisdiction and power to award damages, to order the Company to withdraw, cancel, change, or re-do advertising materials already issued or prepared, to require the Company to re-do any film titles, and to order any other reasonable relief the arbitrator deems appropriate in the circumstances, whether relating to credit on the screen, advertising or otherwise...”</i></p>	<p>Add equal or better contract terms as the WGA received from the AMPTP regarding punitive damages on AI violations.</p> <p>Terms should include re-editing, removing or withdrawing violations from all publishing & distribution channels.</p>

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Artificial Intelligence	Condition of Employment (aka Forced Consent)	<p>If a performer chooses not to have their image and likeness scanned, the producer can use that as a reason to either not hire the performer for the job (if consent was requested during the audition process), or fire the performer from the job (if they've already begun working on the project. They will have to compensate the performer only for the time worked per the contract).</p> <p>Under these terms, “consent” is really forced consent, which isn’t consent at all—it’s coercion.</p> <p>This is also an issue for performers who have religious or personal beliefs that conflict with their image and likeness being used in ways that they wouldn’t otherwise agree to in person. Performers whose identities are already subjected to bias and prejudice are especially vulnerable to their likeness being fashioned into stereotypes.</p>	<p>Language to prevent AI consent as a condition of employment language is not in the SAG-AFTRA 2023 MOA.</p> <p>The WGA got the AMPTP to agree to Article 72.E in the 2023 MOA for AI:</p> <p><i>“A Company may not require, as a condition of employment, that a writer use a GAI program which generates written material that would otherwise be ‘literary material’ (as defined in Article 1.A.5.) if written by a writer (as defined in Article 1.B.1.a. and Article 1.C.1.a.) (e.g., a Company may not require a writer to use ChatGPT to write literary material).”</i></p>	<p>Add terms that are equal to or better than the WGA received from the AMPTP regarding conditions of employment protections with AI consent.</p>

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Artificial Intelligence	Scope of Work Protections	<p>The tentative agreement allows the producer to replace stunt performers, puppeteers and voice over performers (dubbing, translation, animation, looping), and others with AI Digital Replicas and synthetic performers.</p> <p>This would be detrimental to the future of our union, dwindling our membership over time due to members unable to work enough and stay active in the union.</p> <p>This would ultimately weaken our leverage to win negotiations in the future.</p>	<p>The current language in the 2023 MOA is insufficient.</p> <p>Example on page 69 (GAI, section A):</p> <p><i>“...the Producer agrees to give the Union notice and an opportunity to bargain in good faith over appropriate consideration, if any, if a Synthetic Performer is used in place of a performer who would have been engaged under this Agreement in a human role.”</i></p> <p>*This is blatant admission of using Synthetic Performers to replace SAG-AFTRA performers.</p> <p>**This does not protect puppeteers who mainly portray non-human roles.</p> <p>***”bargain in good faith” is too broad of terms and allows for nominal compensation for such a significant impact to the membership at large.</p> <p>****There is no mention of what “appropriate consideration” even means. And if it does mean compensation, there is no mention of who would receive that money and how it would be allocated to compensate the out-of-work performers.</p>	<p>Add language that prohibits the AMPTP from using AI to replace SAG-AFTRA members’ ‘scope of work.’</p>

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Artificial Intelligence	Strike Protections	<p>If SAG-AFTRA goes on strike in the future, the producer can continue to use performers' pre-consented AI Digital Replicas to finish productions and create promotional material. This minimizes the financial burden a typical work stoppage would impose.</p> <p>This takes away SAG-AFTRA's main leverage as a union: withholding their labor (image and likeness) from the producer.</p>	<p>Protections against using our likenesses during a strike are not in the 2023 MOA.</p> <p>The WGA's contract has strike language that prevents non-WGA members from making edits to writing material during a strike. Even material owned by the studios.</p>	<p>Add provisions that prohibit the AMPTP from using previously consented AI during a union strike like WGA.</p> <p>The equivalent for SAG-AFTRA would be to prevent AI from being used to edit/create SAG-AFTRA members' image and likeness during a strike.</p>
Artificial Intelligence	Loopholes Around Consent	<p>The tentative agreement states the performer's consent to use their AI is not required if that intended use remains "substantially as scripted" but that language leaves interpretation of that boundary up to the producer.</p> <p>If SAG-AFTRA members discover the final product did not remain "substantially as scripted," their only recourse is to file a claim with the union and potentially arbitration, but litigation should be a last resort, not the first.</p> <p>Having undefined limits opens SAG-AFTRA performers to prejudices and biases that could lead to bigoted or intrusive uses of the performer's image and likeness that were not originally consented to.</p>	<p>Page 63-75 of the MOA:</p> <p><i>"...no consent is required when the photography or sound track of the performer remains substantially as scripted, performed and/or recorded..."</i></p>	<p>Add a requirement for producers to include, at minimum, a baseline of parameters in their consent descriptions; such as scene/page numbers, themes/actions surrounding nudity, sex, violence, unlawful behavior, drug use, religious/cultic practices, etc.</p> <p>This would make producers have to request consent more often, and would provide more oversight on how the performers' AI replicas are used.</p>

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Artificial Intelligence	Consent Descriptions	<p>The tentative agreement states that the producer must provide a description of their intended use of the AI Digital Replica and that the description must be “reasonably specific.” But the contract leaves it up to the producer to define what “reasonably specific” means.</p> <p>If the performer and producer disagree on the description's specificity, the only recourse is for the performer to turn down the job.</p> <p>That's not recourse, that's coercion.</p> <p>The performer could file a claim, but litigation should be a last resort, not a standard practice for hiring procedures.</p> <p>Having undefined limitations only opens the SAG-AFTRA performer to prejudices and biases that could lead to bigoted or intrusive uses of their image and likeness that were not originally consented to.</p>	<p>Page 63-75 of the MOA:</p> <p><i>“...a reasonably specific description of the intended use...”</i></p>	<p>Add a requirement for producers to include, at minimum, a baseline of parameters that must be included in the consent description; such as scene/page numbers, themes/action surrounding nudity, sex, violence, unlawful behavior, drug use, religious/cultic practices, etc.</p> <p>This would make producers have to request consent more often, and would provide more oversight on how the performer's AI replicas are used.</p>

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Artificial Intelligence	No Minimum Payment for Independently Created Digital Replicas	<p>The tentative agreement doesn't provide minimum compensation requirements (scale) for Independently Created Digital Replicas. (AI Replicas that look and sound like you but are generated based on your likeness in other productions)</p> <p>Rather, the contract leaves this wage up to individual bargaining.</p> <p>This means producers could offer a performer as little as they want and it wouldn't even have to be minimum wage because the performer's natural body would not be doing additional labor.</p> <p>In effect, this is going down the same path as non-union commercials. There is no standard amount the producer has to offer. Performers are not then guaranteed to be compensated fairly for their likeness, and are incentivized to maintain a low rate, negotiating against other members (rather than the studios) for each job.</p>	<p>Page 65 of the 2023 MOA (provision A.3):</p> <p><i>"A Producer may use an Independently Created Digital Replica in connection with a motion picture for which the natural performer was not employed upon obtaining consent as required herein and bargaining for that use."</i></p>	Add a minimum rate for using a performer's Independently Created Digital Replica.

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Artificial Intelligence	Protections of Minors & Consent	<p>The tentative agreement allows the producer to hold minors' AI data in perpetuity. This is data that they themselves did not consent to, rather a guardian or court did so on their behalf.</p> <p>The minor won't be able to get their AI data back, nor deleted, nor prevent use of their AI replica in the future.</p> <p>This means if a child is scanned for a TV show or motion picture, their child image and likeness can be brought back into a future franchise project 20-30 years later and the performer, who is now an adult, has no further rights to that Digital Replica and cannot prohibit the AI from being used.</p>	Protections for minors surrounding consent are not in the AI provisions of the 2023 MOA.	Add language that automatically withdraws consent of a minor's AI Digital Replica at the time they turn 18 years of age. Stipulate that any future use and consent must be granted by the performer themselves, regardless of prior consent given by the performer's guardian or courts.
Artificial Intelligence	Protections of Minors & Scanning	<p>The tentative agreement doesn't detail guardrails around the type clothing or amount of clothing a minor must have on during a scan.</p> <p>This means a producer could ask for minors to be in their undergarments for scanning, and if the parent consents, those images will be in possession of the studios and third party companies.</p>	Protections for minors surrounding scanning are not in the AI provisions of the 2023 MOA.	Add language that strictly prohibits the scanning of minors in revealing clothing or attire.

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Artificial Intelligence	Multiple Uses After Initial Consent	<p>The tentative agreement allows the producer to use SAG-AFTRA members' AI Digital Replicas for multiple projects without having to get consent more than once.</p> <p>That means you could give your consent at the time of engagement (when you are auditioning for the project), then after completing the film, the studios do not need your consent again to continue to use your AI in subsequent pictures under that same franchise.</p> <p>For example, if you consented for your AI Digital Replica (DR) to be used in a Marvel movie, Disney could use that original consent to insert your DR in as many future Marvel movies as they wish (as long as the use doesn't go outside of the original consent description). Instead of paying you the typical expected rate increase of each subsequent movie, like they would if you were working on set, they only have to pay you the original rate (or scale) that they paid you when you initially consented.</p>	<p>Page 65 of the 2023 MOA (provision A.2.ii):</p> <p><i>"When a performer is employed on a project specifically identified to be part of a multi-project use (such as a trilogy of motion pictures), consent to use the performer's Employment-Based Digital Replica in another of the identified projects may be obtained at the time the performer is first employed, provided that a reasonably specific description of the intended use is provided for each identified project. Consent for use in other identified project(s) is valid only if the performer is also employed in the other identified project(s) or is deceased at the time the other identified project(s) commences production."</i></p> <p>Ray Rodriguez, Chief Contracts Officer of SAG-AFTRA, confirmed in a Q&A on Nov. 20, 2023 in the NYC Informational that</p> <p><i>"Marvel Cinematic Universe would probably qualify as a franchise."</i></p> <p>Source: SAG-AFTRA. (2023, November 20). New York TV/Theatrical Contracts Informational Meeting [Video]. YouTube. https://www.youtube.com/live/8OEeHHi01Yg?si=vUM9zEG5-MBHQVvt&t=18974</p>	Remove the multi-project provision and require consent for performers' AI Digital Replicas at every time of use (not at time of engagement).

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Artificial Intelligence	Death Clause	<p>The tentative agreement allows the producer to obtain consent from the union to use a deceased member's image and likeness with AI, if the performer's authorized representative "cannot be identified or located."</p> <p>If a performer did not give consent during their life, there shouldn't be a loophole that allows the union to give their consent after their life.</p>	<p>Page 66 the 2023 MOA (provision A.2.ii):</p> <p><i>"Any consent that the performer granted during the performer's lifetime shall continue to be valid after the performer's death unless explicitly limited otherwise. In the event the performer is deceased at the time the Producer seeks consent (and the Producer has not already obtained consent during the performer's lifetime or the performer's consent is no longer valid after death), the Producer shall obtain the consent of the authorized representative (or the Union, if the deceased performer's authorized representative cannot be identified or located) who represents the deceased performer's exclusive rights as determined by applicable law."</i></p>	<p>Remove all language allowing the union to have exclusive rights to a members image and likeness in death.</p> <p>The union is not allowed to give consent for members while they are alive, they should not be allowed to give consent when they are deceased.</p>
Artificial Intelligence	Synthetic Performers	<p>The tentative agreement essentially permits the producer to employ non-union performers.</p> <p>We do not negotiate for non-union performers anywhere in our contract and we should not start now.</p>	<p>Page 69-70 in the 2023 MOA (Generative Artificial Intelligence)</p>	<p>Remove all language permitting GAI/Synthetic Performer usage.</p> <p>Improve guardrails surrounding the use of members' work to train or build GAI systems and Synthetic Performers.</p> <p>Allowing studios to freely go 'non-union' opens a slippery slope that could damage the union.</p>

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Artificial Intelligence	Deterioration of Performance Opportunities	<p>This tentative agreement allows the use of Synthetic Performers (AI created performers that do not resemble a SAG-AFTRA member), and Independently Created Digital Replicas (IDCR - AI created performers that resemble a SAG-AFTRA member) which could significantly reduces the need for the performers to be on set and interact directly with the other performers in the project.</p> <p>How will members hone their craft, develop their community, and grow their career if they no longer need to be on set?</p> <p>This could also drastically reduce the need for stage crews altogether, and have a damaging impact on our sister union members.</p>	<p>Page 66-67 in the 2023 MOA (Entire section on Independently Created Digital Replica)</p> <p>Page 69-70 in the 2023 MOA (Entire section on Generative Artificial Intelligence)</p>	<p>Remove all language permitting the use of Independently Created Digital Replica and GAI/Synthetic Performer from the tentative agreement. So that only Employment-Based Digital Replica remains.</p> <p>*Note: Even though Synthetic Performer use in the contract allows the union to bargain for compensation, that compensation is unlikely to equate the amount of money a studio saves from renting stages, hiring a crew, providing meals to that crew, and all other production overhead costs.</p> <p>The savings alone incentives the studios to use IDCR and Synthetic Performers more than live performances.</p>

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Artificial Intelligence	Safeguards for Biometric Data	<p>The tentative agreement allows for third party entities to capture members' image and likeness with the highly available technology. These are thousands of high resolution images of our members being stored with unknown parties.</p> <p>There are no protections around how this data should be stored, who has final rights to them, and what would happen if the storage was breached and members data was stolen.</p> <p>We have concrete laws and provisions surrounding the protection of our written identity we provide in contracts (regarding our SSN, birth dates, addresses, etc) but there are none for our visual identity and to omit these protections in our contract at the foundational stage of AI is a gross oversight.</p>	Protections surrounding the storage and access to performer's AI data are not in the 2023 MOA.	Add provisions that outline the security measures the producer has to take with storing our AI data as well as the remedies if there are breaches to those safeguards.

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Artificial Intelligence	Scanning During the Audition Process	<p>The tentative agreement does not prevent producers from scanning performers during the audition process.</p> <p>The performers will be paid a day's scale rate but the producers would own that scan data forever whether they use the performer or data thereafter.</p> <p>Essentially, a producer can scan performers during an audition process for a project that they never technically intend to hire the performer to act in and can store that data for later use for training their GAI systems.</p> <p>If the actors taped audition is labeled something other than their name (like hair, eye color, skin color, etc), then the producer does not have to even notify the union when using it for their synthetic performer because they did not need to enter the performer's name directly.</p>	Protections surrounding scanning performers during the audition process are not in the 2023 MOA.	Add provisions that prevent scanning of performers during the auditioning process, where the level of coercion is greatest.

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Artificial Intelligence	Training the Studios' Generative AI	<p>The tentative agreement allows the producer to train their Generative AI using SAG-AFTRA performer's image and likeness as long as they don't use the name of the performer directly.</p> <p>If the studios want to use Bryan Cranston's image and likeness they cannot enter Bryan Cranston's name into their systems without notifying the union but they can enter Walter White. And if the Synthetic Performer does not resemble Bryan Cranston, the union does not need to be notified and there is no compensation owed.</p>	Restrictions surrounding producers using SAG-AFTRA performers' image and likeness to train Generative AI are not in the 2023 MOA.	<p>Add provisions that require consent and compensation to use SAG-AFTRA performers' image and likeness, not just in performer name but also including all character portrayals.</p> <p>Producers can't reuse performers' character portrayal in broadcast without compensation (both initial compensation and residual), and the producers should not be able to reuse performers' character portrayal to train their AI without paying the performer. And that AI use should require performer consent like the other AI provisions in the contract.</p> <p>SAG-AFTRA should implement the following into the contract:</p> <ol style="list-style-type: none"> 1) Performer has the right to hire a third-party firm of their choosing, to scan their likeness (as long as it fits the producer's standards), have it 'watermarked', and own the rights to that data after use. 2) Require consent and 'watermarking' before performer's likeness from past producer-owned footage is used in GAI system. 3) Prohibit Synthetic Performers for any characters in a human role that would otherwise be performed by a human.

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Self-Tapes	Compensation	The tentative agreement redefines Self Tapes so that they are distinct from Auditions (as defined in the CBA) and thus will be ineligible for compensation starting after ratification of the 2023 MOA. Essentially, it adds new language to establish Self Tapes as unpaid.	Page 14 of the 2023 MOA (Section 47.D.3): <i>“No compensation is due to a performer for a self-tape.”</i>	Remove the sentence from Section 47.D.3 of the MOA. Reinstate sunset clause from the Interim Agreement, which gave the union three years to educate members on this wage, so they could make an informed decision about it going into the next negotiation.
Self-Tapes	Conciliation Committee	<p>The tentative agreement creates a new group called the “Conciliation Committee” that consists of only TWO people, SAG-AFTRA’s National Executive Director (Duncan Crabtree-Ireland) and the President of the AMPTP (Carol Lombardini).</p> <p>Only those two individuals will have the sole power to decide which Audition Pay claims are valid enough to pursue arbitration and payment.</p> <p>There is no mention of an appellate process, so it has to be assumed that their decision is binding.</p> <p>This is a tactic by the AMPTP to delay claims from being processed and disincentivize members from seeking their owed wages.</p>	Page 18 of the 2023 MOA (Section 47.F)	<p>Remove the Conciliation Committee from the 2023 contract language entirely.</p> <p>This committee of TWO people will bottleneck the already slow and laborious claims process and will only delay member claims from being paid in a timely and orderly manner.</p>

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Self-Tapes	Sunset Clause	The tentative agreement requires casting to provide a virtual or in-person option in lieu of a self-tape, if a member requests one, and only on a first-come-first-serve basis. It is not clear what first-come-first-serve means and actors might fear retaliation for requesting one of these options.	Page 16 of the 2023 MOA (Section 47.D.11): <i>“(11) The Producer shall also provide an opportunity to interview for the role virtually (e.g., over Zoom) (or in person, at the Producer’s election) in lieu of a self-tape by making available a window of time (scheduled at the Producer’s discretion) for performers to interview on a first-come, first-serve basis...”</i> <i>“This subparagraph (11) shall expire on June 30, 2026 and shall be of no further force and effect thereafter.”</i>	Remove the sunset clause so the union does not have to renegotiate for members to have these same options next negotiating cycle. These options are especially important as self-tapes can be cost-prohibitive and require the unpaid labor of a reader.
Virtual Auditions	No Page Limits	The tentative agreement does not include page limits for virtual auditions or in-person auditions—only for self-tapes.	These protections are omitted from the 2023 MOA.	Add the same page limits to all applicable auditions and interview sections in the full contract.
Virtual Auditions	Memorization	The tentative agreement adds a new sentence which codifies what makes an audition valuable by stating that an audition is only worth compensation if the producer explicitly requires you to memorize your lines. This means all the development work and creative labor that a performer puts into preparing an audition can be reduced to memorization.	Page 17 of the 2023 MOA (Section 47.E.3): <i>“...A performer shall be compensated for a virtual audition pursuant to the applicable Schedule (subject to subparagraph (8) below) only if the Producer requires the performer to memorize lines in advance of the virtual audition.”</i>	Remove the sentence in Section 47.E.3 of the MOA that DRASTICALLY CHANGES the original contract regarding our eligibility for payment for auditions to only receiving compensation “...if the Producer requires the performer to memorize lines in advance of the virtual audition.”

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Streaming Bonus	Qualifying Threshold	<p>The tentative agreement establishes a Streaming Bonus that is unattainable to the majority of SAG-AFTRA performers.</p> <p>The bonus is only for High Budget SVOD (HBSVOD) platforms. High Budget AVOD platforms are not included.</p> <p>The bonus is only for original series of the HBSVOD platform (for example, the show “Suits,” on Netflix, would not be eligible because it was originally made for USA Network.</p> <p>The streamers could legally make sure none of their programs ever meet the 20% threshold. They could deplatform the show at 19.5%. They could move it around the app so that it's hard to locate or find. There are no limits to what the streamers could do to avoid paying this money out to the bonus fund.</p>	Pages 25-32 of the 2023 MOA (Success Bonus for High Budget SVOD Programs)	Remove this from the agreement and reinitiate the negotiations surrounding revenue share or significantly increase the residuals around SVOD and AVOD programming.
Residuals	High Budget AVOD	The tentative agreement allows producers of High Budget Ad-based Video On Demand (AVOD) to use the same residual formula as Pay TV. Which is based on what producers ‘think’ the series would be worth on the ‘free market’. The producer can manipulate the numbers to benefit their pockets rather than what the performer is owed.	Pages 38-39 of the 2023 MOA (High Budget AVOD Programs)	<p>Add in checks and balances that would require producer’s to use ‘free market value’ from an independent third party that is agreed upon by the AMPTP and SAG-AFTRA.</p> <p>This could lead to accurate analysis and substantial growth for residuals from this growing sector.</p>

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Motion Capture	Performer Coverage	<p>The tentative agreement does not cover motion capture nor the performers who work in this category of the industry.</p> <p>This means performers who are hired to do this work receive no minimum scale rates, no working conditions, no safety guardrails, no meal breaks, etc.</p>	<p>Page 57 of the 2023 MOA (Motion Capture, YY.B)</p> <p><i>“‘Motion Capture’ refers to the technological process used to track and capture an individual’s facial and/or body movements, whether directed or not, to create an altered or enhanced image of human or non-human forms, for reference or composite purposes or when data of a model is recorded. Individuals employed to render ‘Motion Capture’ services shall not be covered by this Agreement.”</i></p>	<p>Add in coverage for Motion Capture performers (at least to the level that Performance Capture performers are covered).</p> <p>By establishing Motion Capture is not covered work in the TV/Theatrical agreement it threatens our Interactive Media Agreement as well and hurts the chances of Motion Capture gaining wins in that negotiation.</p>