

A P P E A R A N C E S

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Mr. Jerry Healy, SC

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I N D E X

WITNESS:	EXAMINATION:Q. NO:	
Billy Riordan	Mr. Healy	1 - 387
Mr. McGonigal	388 - 608	
Mr. Nesbitt	609 - 776	
Mr. Healy	777 - 879	

THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 11TH APRIL,
2003 AT 11AM.

CONTINUATION OF EXAMINATION OF BILLY RIORDAN

BY MR. HEALY:

MR. NESBITT: I am grateful to the Tribunal for the
time it gave me.

CHAIRMAN: Regarding a resumption date after Easter,
the Tribunal will be required over the course of the
Easter recess to perform additional work, not merely
on the present substantial phase but stock-taking work
on the other remaining portions of its remit to be
dealt with at public sittings. With this in mind, it
is my intention that we recommence at the earliest
possible vantage point immediately after the
commencement of the next term, by which I mean not
more than a week thereafter. Rather than nominate
that precise date today, I will see that both the
interested persons are personally told and that the
actual date is conveyed on the Tribunal website as
soon as remotely possible.

Thanks, Mr. Riordan.

Q. MR. HEALY: Mr. Riordan, do you have a copy of Book 56, the book we were at yesterday?

A. Which matter does it deal with, please? Sorry.

Q. It's Book 56. It contains the it's headed "Additional Documents re Donal Buggy and Billy Riordan", and it contains copies of the 18th October version of the final report.

A. I have it which tab, please?

Q. It's Tab 5. Page 51, and I think you should have Table 18 in front of you now.

A. Yes.

Q. And do you remember we were looking at that yesterday?

A. Yes.

Q. And do you remember that I drew your attention to the set of marks, it looks like percentages, written in manuscript?

A. At the bottom of the table.

Q. 72.4, 53.6, and so on?

A. Yes.

Q. And then I drew your attention to the set of grades, it looks like the grades into which they had been converted: B-minus, C-minus, B with an up arrow, B-minus, B with an up arrow and C with an up arrow?

A. Yes.

Q. And I was asking whether you had conducted those calculations, and you said you couldn't remember. You think somebody else did it; is that right?

A. I said I don't know; I can't remember whether it was me or somebody else. Sorry, that's my recollection.

Q. I see. It could have been you, it could have been somebody else?

A. Absolutely.

Q. And if it was you did it, then presumably you converted the numbers back into lettered scores; would that be right?

A. Again, if I did it, I don't know whether I did the calculations and then the letters were derived in a wider discussion. I don't know.

Q. It's possible there was a wider discussion, then, at this

A. It is indeed.

Q. If there was a wider discussion and if this was a result of a wider discussion, the wider discussion was to the effect that A3 and A5 would both get a "B up"?

A. If that was the case that's what the script says, yes.

Q. I think I was saying to you that looked like they got the same grade, and I think you agreed; but you did point out that you thought that 86.4 was, if you like, more of a "B up" than the 82%?

A. I think I said a bigger arrow, that's right, yes, I remember that. Thank you.

Q. Could I just ask you for a moment to go back to page 18 version of the report. Now, do you remember that

what you have here is Table 2; this is the table that generated the scores for the dimension market development?

A. Yes.

Q. What you have here is a list of ten indicators; do you see that?

A. Yes.

Q. And somebody has scored them; you couldn't recall whether it was you did it, or whether you were taking down what somebody else had done?

A. Yes.

Q. Isn't that right?

A. Yes.

Q. And every single one of the scores has had a number put next to it; do you see that?

A. Sorry, yes.

Q. And then there seems to be a tot at the bottom of the page; do you see that?

A. Yes.

Q. And the tot suggests that A1 got 29; A2, it looks like 28; A3, 38; A4, 29; A5 I have done the tot for A5, and it's 46, and you can just about see that there.

A. Thank you.

Q. And A6, 35. Do you see that?

A. Yes.

Q. Now, the scoring is a C for A1, a C for A2, a B for A3, a C for A4, an A for A5 and a C for A6; do you see

that?

A. I do indeed.

Q. Now, judging by what we heard from Mr. John McQuaid, when he was doing tots like this in the course of carrying out the technical evaluation, he took the tot at the end of the aggregation of the scores and reconverted it back into A, into a lettered grade?

A. Okay, yeah.

Q. And if you look at the tots here, you'll see that A6 gets a C; do you see that?

A. Yes, I see that.

Q. And A2 gets a C; do you see that?

A. Yes.

Q. And A2 has 28 marks, and A6 has 35 marks?

A. Yes.

Q. Now, the exercise that I am suggesting here is similar to the exercise that was carried out in the table we were looking at a moment the table on Page 51, Table 18; isn't that right?

A. Yes.

Q. And you'll see that

A. Sorry, although I think Table 1 is in percentages, and

Q. We can do that too. That's very easy. As an accountant, I am sure you will agree with me, if you have ten indicators and each indicator is marked out of five, as whoever filled out this table seems to

have done, then each score is out of 50; isn't that right? So you have for A2, you have 28 out of 50, and for A6 you have 35 out of 50; isn't that right?

A. Yes.

Q. So therefore, A6 gets 70% and A2 gets 56%; isn't that right?

A. I see what you are saying, yes.

Q. So in that sense, the exercise that we have carried out now is the same as the exercise carried out on Table 18; isn't that right?

A. Yes.

Q. And although A2 gets 56%, it gets a score of C, and A6, at 70%, also gets a score of C; do you see that?

A. Yes.

Q. So although there is a gap between them of 14 percentage point gap, they get the same grade; do you see that?

A. I see that, yes.

Q. And if you look at the exercise that was being carried out either by you or by a group jointly on Table 18, perhaps that explains why a gap of only 4.6% on a much, much larger amount of scoring up to 500 points, isn't that right, was treated as generating the same grade as a result; do you see that?

A. Yes, I see what you are putting, but I don't remember this, if you know what I mean.

Q. I know, but I am saying isn't that a possible

explanation?

A. Just could you say it say the last bit once more just to make sure I understand it, please.

Q. If you look at Table 1, a 14-point percentage gap between A2 and A6

A. Table 1 or Table 2?

Q. Table 2, I beg your pardon, a 14-point percentage gap between A2 and A6 was graded as a C, the same grade; do you see that?

A. Yes, I see that, yeah.

Q. And on Table 18, a 4.4% percentage gap between A3 and A5 has also been given the same grade, a B with an arrow up; isn't that right?

A. I see that, yes.

Q. And I am suggesting that the people who were doing the marking on Table 18 simply took the view that on this kind of soft qualitative scoring, a gap of 4.2% in 500 marks wouldn't warrant a different grade, no more than a gap of 14 percentage points in Table 2 warranted a different grade; do you see that?

A. I see what you are saying, yes.

Q. Is that a possible explanation for why the same grade was given?

A. It is if you I think it is if you move them the structure into a purely numeric exercise. That's the step that I am not sure is correct, if you know what I mean.

Q. Which step? And which table?

A. Not the step applying numbers at all to grades.

That's what I mean. I am not sure that as a starting point is the right approach. I am not sure whether at that Andersens said "Look, that's not the way to view this; this is more judgmental than simply numeric analysis".

That's the bit but I see what you are saying well, because from a numerical point of view I see what you are saying, but I just don't know about the, if you like, the very first step in the process, which is whether numbers should be applied.

Q. I understand. Either you or a lot of people at this meeting were applying numbers; isn't that right?

A. Yes, but it couldn't have been just me. Sorry, I can't be sure of that; it could have been just me, but it could have been others, yes.

Q. Did you express the views you have just expressed now at the meeting that maybe "Look, this isn't a good idea"?

A. I have no idea. Sorry.

Q. What is clear is that the report ultimately was produced with a translation of the results on the penultimate table into numbers; isn't that right?

A. In the final report? Is that it?

Q. Yes, in this report as well. On every version of the report.

A. It's in numbers, yeah I take your word for that.

Q. Well, isn't it clear? You are looking at it.

A. Excuse me, I am. Excuse me.

Q. And do you recall making that point, that this perhaps wasn't a reliable thing to do?

A. I don't.

Q. I suppose if you are going to do it, if you are going to translate letters into numbers, as was done on Table 18, would it be a sensible thing to do to translate all the letters throughout the report into numbers?

A. I don't know.

Q. Well, speaking as an accountant, and looking at it from a common-sense point of view, you know that Table 18 consists of information generated from other tables; isn't that right?

A. That's right, yes.

Q. And we looked at one of them: Table 2. All right?

A. Yes indeed.

Q. The information in Table 2 appears in numeric form in Table in Table 18, and it appears in lettered form in Table 17; isn't that right?

A. If you like, the output from Table 2, yes.

Q. And if you are going to convert the output from Table 2 into numbers, then it might be sensible to convert the whole of Table 2 into numbers, and somebody seems to have done that?

A. Yes, but that's the stage that I am not sure is appropriate in the way Andersens anticipated the evaluation would be done.

Q. Okay. Well, we are looking at two things. Firstly, you are making the point that you don't know if this is appropriate. And let's park that for a moment; we'll come back to it, and I think that's a very interesting point, and we should pursue it.

Could I just take the other point up with you first?

A. Sure.

Q. It seems to me, and I may simply be reflecting what somebody at this meeting was thinking or saying or doing, that if you are going to translate letters into numbers on Table 18, you should do the same on all of the tables from which the information on Table 18 was derived, for consistency's sake?

A. I don't necessarily follow that. Could you just say it once more. Sorry, I don't mean to be slow here, but I just want to be...

Q. If you take the information that is contained in Table 18, we know that that is derived from other tables, and we take a simple example of market development?

A. Yes.

Q. It's the first line on Table 18. We know that that information was generated from another table; isn't that right?

A. Sorry, yes, yes, from Table 2, yes.

Q. From Table 2. Now, that information came in the form of lettered grades?

A. Yes.

Q. On Table 18, it has been converted into numbers?

A. Yes.

Q. And those numbers have had a weighting applied to them, and they have been aggregated with other numbers which were derived in a similar way; isn't that right?

A. Yes.

Q. If and I agree that you are saying that this is an "if" if it is appropriate to convert or to

translate letters into numbers for the purposes of

Table 18, then for consistency's sake, shouldn't the

tables from which the results inputted into Table 18

were obtained also be translated into numbers?

A. It would be an approach all right, yes.

Q. Well, not just would it be an approach; wouldn't it be a consistent approach?

A. Well, sorry, it would be, an arithmetically consistent approach, yeah.

Q. Not only that, somebody seems to have made an attempt to translate the letters on Table 2 into numbers.

A. Right.

Q. So somebody was engaged in an exercise like this in the course of the evaluation meeting on the 23rd October 1995; isn't that right?

A. Yes.

Q. And do you recall any discussion at that point as to whether this was an appropriate exercise?

A. I don't.

The only observation I'd make, for what it's worth, and I don't know that it has any validity, but there are other tables in which no such exercise is done, if you know what I mean, later on in the report. So I am just not sure whether at one stage this was a discussion, and then somebody said, "Look, well, that's not the way it should be done" and that's why it's not done in other parts of the report, if you know what I mean.

Like, if you just go to the if you go to page sorry, go to page 24, which is tariffs, I think. There is no numerical annotations there.

Q. Correct.

A. So that's why I don't know whether this idea of, or whatever it is, this exercise of looking at it numerically was at one stage in the discussion said, look, Andersen said that's not the way that was gone about. Again I want to stress this very clearly: I don't know. I just don't know.

Q. Can you just go to page 28, then, for a moment?

A. Sure. Yes.

Q. In fact, if we just go back to page 24 for one moment.

I was wondering what Mr. Buggy was doing, and I can refer you to his page 24. It's in the same book. You

only have to go back to Leaf 1 and go to page 24.

Do you see that?

A. Yes, I see that, yes.

Q. And do you see where Mr. Buggy seems to have been doing a tot, or if he wasn't, he was recording somebody else doing a tot?

A. Yes, I see that.

Q. So the tot was in fact being done on Table 4 by somebody?

A. Perhaps, yeah.

Q. Well

A. Sorry, some tots are done; I don't know whether it's the same tot. I don't know whether it's exactly the same exercise.

Q. I think the point you were making a moment ago, you were drawing my attention to the fact that you were saying, "Look, somebody did this on Table 1"; maybe you did it, maybe somebody else did it. Maybe you were saying and you were only speculating, in fairness to you you were saying maybe Mr. Andersen or somebody said that's not appropriate, and you said that you felt entitled to speculate on that basis because, as you pointed out, it didn't appear to have been done on other tables; and you gave me the example of the table on page 24. Do you follow?

A. Yeah.

Q. Well, the only point I am making and asking you to

consider is that somebody seems to have done it in relation to that table on page 24, because Mr. Buggy has notes?

A. I haven't seen Mr. Buggy's copy of the report.

Q. Which suggests that he was doing it?

A. Can I just I just want to maybe it's worth looking to see whether have all the tables got some numeric annotations.

Q. You are quite right; not all of them.

A. Again I am only speculating, and I don't know whether it's worth anything; maybe I shouldn't be. But to come back to the original question, I don't recall either I don't recall anybody saying this is inappropriate or appropriate. I don't really remember any aspect of those jottings or numerical calculations.

Q. You don't recall anyone saying they were inappropriate; I see.

A. No, I don't recall anybody. So again I am speculating; I want to stress that.

Q. If I were to invite you to go through your own and Mr. Buggy's report, you'd find, on page 31, that somebody was attempting to do a tot. We have discussed that yesterday. Do you see that?

A. Yes, I do.

Q. And if you go to Page 29 of Mr. Buggy's book, Mr. Buggy's version of the

A. I see that.

Q. He was trying to do a tot there; or if he wasn't, somebody else was trying to do a tot.

If you go to page 31 of his book, you'll see again that he was attempting to do a tot, do you see that, or if he wasn't, he was recording somebody else attempting to do it?

A. Yes.

Q. And I think you will find other examples of this throughout the report, and certainly I couldn't find any note to be effect that this shouldn't be done.

And again, could I just take up the point that you made yourself: Maybe somebody suggested it shouldn't be done, but the fact is, it is being done right up until the last or almost the last page of the report; isn't that right?

A. I just see that within certain of the other, I get confused. Are they aspects sorry, dimensions, within certain other aspects, I see that in my own copy, there are some jottings in some places and not in others. And there are some jottings at the end, yes, I do see that.

Q. It seems to me that this exercise was being attempted throughout the report at various points, with more or less success, depending on the particular table; would that be a fair way of putting it? You could do it on some tables, it seems, and you couldn't do it on other

tables; does that not seem to be the case?

A. Whether you could or sorry, whether you could or whether you should, or I am not sure whether you could. Obviously you could apply numbers to any of the tables and add them up.

Q. But we know from what's contained in the report that you or Mr. Buggy or somebody else whose words or views you are recording was attempting to do this, and at points was suggesting it couldn't be done because you didn't have a weighting or because you couldn't do it if you applied a certain weighting. So it was being done, with more or less success at different points, in the course of the exercise of reviewing the report?

A. And I think yes, I agree that with you, but I think that's possibly because there was I think at that stage it may have been unclear. As I said yesterday, I am not that sure about at this stage, I don't recall how the weighting within dimensions should have been applied or whether it should have been applied at all.

Q. Yes.

To come to your other point about the appropriateness of converting from letters to numbers, if you look at Table 18 again, where we know letters were converted into numbers and then numbers appear to have been converted back into letters. Is it possible the reason that you get the same score for A3 and A5,

although they have slightly different percentages,
that when you are putting down a graded score, you
have to be somewhat judgmental, as I think you put it
yourself?

A. Sorry, is that I didn't quite catch the very end

Q. I am suggesting to you that the reason somebody has
put a "B arrow up" and a "B arrow up" for A3 and A5,
although A3 has 82% and A5 has 86.4%, is that when you
are applying a graded score, you have to be a little
judgmental.

A. Yes. Sorry, or else I don't know whether there were
thresholds, but I don't recall.

Q. What do you mean by "thresholds"?

A. I don't know whether it was decided that below a
certain number was a certain grade in that exercise.

You see, I just don't remember this exercise at all,
so that's why I am struggling.

Q. Now, I just want to draw one other matter to your
attention in relation to this table. Remember I
mentioned to you yesterday that either you, yourself,
inserted a figure of 7.5% for market development and a
figure of I beg your pardon, a weighting of 7.5 for
market development and a weighting of 15 for financial
key figures, and a weighting of 10 for experience of
the applicant. Remember, we discussed that?

A. Yes.

Q. And we discussed again you commenting, or you

recording somebody else commenting, that the weightings of 10, 10, 10 did not appear to be the agreed weightings; do you remember that?

A. Yes, I do.

Q. Now, if you look at those weightings of 7.5, 15, 10, and so on, right down to 3 for frequency efficiency, you see those weightings?

A. Yes.

Q. If you add them up, they come to 103?

A. The ones I have recorded?

Q. The ones, yes, that you have recorded in manuscript.

A. Okay.

Q. Right? Now, the scores along the bottom, the percentage scores and the grades along the bottom do you see those?

A. Yes.

Q. Appear to be based on the original marks calculated in accordance with the printed weighting of 10, 10, 10 and so on?

A. I see what you are saying, okay.

Q. So that the 82% and the 86.4% and those scores seem to be based on 410 for A3 and 432 for A5. It's simple to do that tot, anyway, isn't it?

A. Yes, but I can't check them now. But you are saying it's based on the weightings, if you like, are printed, as you say, in the column, 10, 10, 10.

Q. I think you could do the calculation; if A3 get 410

out of 500, and A6 get A5, rather, gets 432 out of 500, convert that into percentages; you just divide by

5. Isn't that right?

A. Sure.

Q. And if you divide by 5, you get 82% for A3 and 86.4% for A5; isn't that right?

A. Yes, but the numbers at the bottom, as you say, use the printed weightings.

Q. Yes.

A. Okay, thank you.

Q. If on the other hand you decided to apply the manuscript weightings and one of the parties was anxious that I should go through this exercise with you.

If you look at the manuscript weightings that you recorded and you apply those to each of the grades across the six applicants, you'd be getting a total score for each applicant out of a higher overall mark, wouldn't you?

A. I see what you are saying, yeah.

Q. Because in this case, you'd have a weighting of 103 in total?

A. Yes, I see what you are saying, yes.

Q. And if you multiply that by 5, you'd get 515; isn't that right?

A. Yes.

Q. So it could be renormalised by simply taking the total

score out of 515 and converting it into a percentage;

isn't that right?

A. Yes.

Q. Now, I'll just I have had that exercise carried out, in case it's of interest to anyone; and do you see it on the monitor?

A. I can just about see it.

Q. If you carry out that exercise, you get you see the score there of 82% a 74.1%, sorry, for A1, 82% for A3, and 85.8% for A5; do you see that?

A. Yes.

Q. If you go back for a moment now to page 44?

A. I have it, yes.

Q. And do you see the second paragraph of the report?

A. I have a very bad copy of it here. I see I see the paragraph.

Q. I think this is in fact the best available; these are the best available copies.

A. Okay.

Q. The left-hand side of all of the copies is very difficult to read, but there are better versions of the right-hand side.

If you go to the second paragraph, I think it reads as follows, and perhaps you will help me if I run into difficulty: "In general, the credibility of A5 has been assessed as extremely high, as A5 is the applicant with the highest degree of documentation

behind the business case and with much information evidenced. In addition, it can be stated that A5 does not have abnormal sensitivities in its business case. Taking all the sensitivities defined in tender specifications into account, A5 still earns a positive IRR. A5's maybe weakest point is not related to the application as such but to the applicant behind the application, or more specifically to one of the consortium members, namely Communicorp, which has a negative equity. Should the consortium meet with temporary or permanent opposition, this could in a worst-case situation turn out to be critical, in particular concerning matters related to solvency."

Do you see that?

A. Yes.

Q. Now, you have underlined the part of the report that reads "A5's maybe weakest point is not related to the application as such but to the applicant behind the application, or more specifically to one of the consortium members, namely Communicorp, which has a negative equity."

And in the margin, correct me if I'm wrong, I think you have written "How does this stack up against a B for financial strength?"

A. Yes, I see that.

Q. Do I understand you to be saying "How can you give somebody a B for financial strength if you are going

to say that they have this weakness?"

A. Well, or else it could be that the language is inconsistent with the grading, and the language might not necessarily gel with the grading; do you follow me?

Q. Yes.

A. At this point in the review of the report, as I recall, and there was a lot of discussion about the language that was being used, and I don't know whether I made that comment before going into the meeting or at the meeting.

Q. Do you think it was only in relation to the language?

A. I don't know.

Sorry, just to be clear, sorry, could I ask you what exactly you mean by the question, just so I know I am...

Q. Is it possible that you were saying either this sentence must come out or the mark should be different?

A. No, I think it was more a comment on the language.

Q. Because

A. Because I think the B-to-C issue would have been I think, as I recall, we had identified had been raised, if I remember rightly, at an earlier session.

Q. Had it?

A. On the 9th October, in those notes.

Q. Yes, but had you raised it?

A. Sorry, we discussed this yesterday, whether I had raised it or not. I believe I would have raised it, yes. I believe something like that I would have definitely raised. And it doesn't make its way onto the fax which follow that meeting, if you know what I mean.

Q. I don't understand.

A. Sorry, if you remember, myself and Mr. Buggy met in the morning; then we went to the met in the morning, at which I prepared those notes in advance of the meeting. I believe I would have raised that matter at the meeting, and then, following that meeting, there was a fax by myself and Donal Buggy to Andersen with some questions regarding, I think, whatever section of the report we had seen at that stage. That point while that point, while raised in the notes beforehand, I believe must have been resolved at the meeting, otherwise it would have ended up, I believe, in the fax if it was still an outstanding matter, it would have ended up in the fax that was sent that evening. All that happened on the 9th October.

Q. So you think that you'd have raised this point at that meeting, and you'd have presumably argued for your scoring proposal?

A. No, I think I'd have raised the question.

Q. Which question, now? I am not following you.

A. Whether B or C was appropriate for financial strength at the meeting of the 9th.

Q. Who would you have raised that with?

A. I think in the wider Project Team.

Q. And who would have

A. I must stress I am speculating here, but I believe I would have.

Q. And if you did, somebody would have rejected it because it wasn't changed?

A. It wasn't changed, so I presume somebody had explained it to me and I had been satisfied.

Q. Who had explained it to you?

A. I am assuming maybe I am mumbling a bit I am assuming.

Q. It's your only major contribution to the process, isn't that right? And you don't remember who rejected your proposal?

A. No, I would have thought the effort I put in on trying to help with the problems of the mandatory tables was a significant contribution also.

Q. Yes, it was a significant contribution, yes, you are right. This was a major contribution to the actual evaluation itself, because you were taking part in scoring part of the evaluation; isn't that right?

A. I was reviewing the scoring, yes.

Q. You initially took part in it?

A. Yes.

Q. And then you weren't involved in the conclusion of the scoring?

A. Yes.

Q. And you were given a set of the scores, and you took a different view, and you are speculating that you may have raised that view at a meeting and somebody persuaded you that it was the wrong view, or else it was rejected?

A. Or explained, yes, yes. I believe, if it had been simply flat-out rejected, I might have remembered that.

Q. Well, somebody persuaded you it was wrong?

A. That seems the most likely scenario, yes.

Q. Who would have had the, if you like, expertise or the relevant qualifications or experience to persuade you that was wrong at the meeting of the 9th?

A. I would probably say Andersens.

Q. Themselves?

A. Yeah. And if the civil servants were happy that this matter was satisfactorily resolved, then I would have said, "That's fine".

Q. But you haven't recorded any of that?

A. That's correct.

Q. And this was a view, I think, that you shared with Mr. Buggy; it wasn't just your own view?

A. If it's in those recorded points to be raised at the meeting, I believe that they are points that myself

and Donal Buggy said "These are the issues we need to discuss".

Q. So two accountants took that view, two Irish-based accountants took that view?

A. Perhaps, yes, I would see that, yes.

Q. With the experience you had and the fact that you were coming from a very, very well-respected firm, both of you, from PwC, and your view was rejected by others at the meeting?

A. Not necessarily rejected; I could have raised the view sorry, I can't recall, but I could have raised the view, and then it could have been explained by Andersens saying "This is the way we have done the evaluation"; and I could have said to myself I am speculating, I must stress I could have said "That seems fine. That's the way the evaluation methodology works; that's fine".

Q. What evaluation methodology?

A. Whatever they used to grade those gradings, if that particular

Q. What did they use?

A. I don't recall.

Q. Does anyone know?

A. Unless it's in the final report.

Q. I don't know. Does anyone know? To this day, does anyone know?

A. I don't know if anybody knows.

Q. Notwithstanding whatever you were told at the meeting, if you raised it at the meeting, or if Mr. Buggy or both of you raised it, when you came to the 18th, you underlined it, and you made a comment and said "How can this be right, if this particular consortium gets a B for financial strength?"

A. Yes, and at this stage there was a lot of working going on as I say, there was a lot of work going on in the language of the report, so that's what makes me think that it could be a reflection on the language rather than the grading.

Q. If you had raised this point before, were you not raising it again here? Isn't that more likely? You were saying "Look, isn't this the point I was making to you?"

A. No, not necessarily.

Q. That's possible, isn't it?

A. It is, but I don't think it's likely, because as I recall at this stage a lot of the discussion was about a lot of the points raised were about language and text.

Q. You have written underneath that there is a box I think has the word "Change"?

A. Yes.

Q. And you have "Bankability"?

A. Yes.

Q. Did you ever see a copy of the final report?

A. I don't recall, but I have seen since; does that
but I don't recall.

Q. We'll just have a look at it.

A. It's quite possible that I didn't.

Q. Well, I just want to look at what changes were made
here in the final report. It's in Book 46. You may
have the final report, perhaps in more accessible
form.

A. I do have it here. Yes, 25th October.

Q. Yes.

A. Can you hear me okay? I am just conscious

Q. I can, yes.

If you go to page 44, do you see the first paragraph
on that page under the heading "Sensitivities, Risks
and Credibility Factors" is exactly the same as in the
version of the 18th October; do you see that?

A. Sorry, I see that.

Q. Then the next paragraph begins "A critical factor in
any consideration..." Do you see that?

A. Yes.

Q. This is a completely new section. It reads: "A
critical factor in any consideration of the
credibility or risk analysis of the applications is
the capability of the principals to finance the
project, including ability to meet any shortfall in
the funding requirement due, for example, to
unforeseen capital expenditure. In general terms, the

applicants have provided comfort that appropriate funding arrangements are in place. The evaluators have concluded, having regard to the level of interest in Irish competition for the GSM licence and the high profitability of mobile communications generally throughout Europe, that the project is fundamentally robust, and after a licence has been awarded, an attractive opportunity for corporate debt financiers. The evaluators have therefore formed the view that subject to at least one of the principals having sufficient financial strength at this stage to ensure completion of the project, a potential financial weakness in one consortia member should not have a negative impact on the ranking of applications. It is important, nevertheless, to draw attention to the need to deal with this factor where relevant in the context of licence negotiations. These aspects are the subject of further elaboration in Appendices 9 and 10."

Do you see that passage?

A. Yes.

Q. Does that seem to be a bankability passage?

A. Yes.

Q. Do you recall being involved in discussions on that passage?

A. I don't. I don't, but I don't. I remember no, I don't. I remember there being I remember there

being some lengthy meetings where text was discussed;

I don't know whether that text was drafted at that

meeting or drafted after that meeting. I think it

was I am speculating again, but if it was drafted

after the meeting, I probably didn't have an

involvement in it. But I am very much speculating.

Q. Is it a passage that was new to you when you read it

for the first time?

A. When I first saw the report?

Q. Yes.

A. I don't know, because to be clear, I don't

think sorry, I don't remember whether I saw the

report in October 1995. But when I read it, whenever

I read it, which would have been, I guess, probably a

year ago I don't know, maybe six months, a year ago

I don't remember whether it was new to me then or

not.

Q. It's one of the major textual changes to the entire

report.

A. Okay.

Q. One of the few places where there is a very

substantial amount of text inserted into the report.

A. Right.

Q. You will see that it says that "The evaluators have

concluded, having regard to the level of interest in

Irish competition for the GSM licence and the high

profitability of mobile communications generally

throughout Europe, that the project is fundamentally robust, and after a licence has been awarded, an attractive opportunity for corporate debt financiers. The evaluators have therefore formed the view that, subject to at least one of the principals having sufficient financial strength at this stage to ensure completion of the project, a potential financial weakness of one consortia member should not have a negative impact on the ranking of applications."

Do you understand what it says?

A. Yes, I think so.

Q. Now, you were aware that the IRR of the leading consortium at this stage was, I think, 12%; isn't that right?

A. I don't recall, but

Q. We have seen it, haven't we?

A. If you want me to check to confirm.

Q. I think it is 12.%

A. Okay, I take

Q. It could be 13; I think it's 12%.

It's 12%. And I think, in documentation which we have seen somewhere, Telecom Eireann were suggesting that the appropriate IRR for a business of this kind was 20%.

A. I have no knowledge of that.

Q. In scoring IRR in this case, on the revised method of scoring IRR; do you remember that?

A. Yes, this kind of targetted IRR and the plus and minus around it, yes.

Q. It was people with a relatively low IRR who were getting the highest marks; isn't that right?

A. If I remember, it was the people sorry, the people getting the highest marks were the people with the IRR closest to 11.

Q. Percent, yeah. And if you had a high IRR, you were going to get low marks?

A. Yes.

Q. And I suppose, if you were assessing the robustness or the attractiveness of a particular business plan in terms of its IRR, you might have a question mark over a business plan that had an IRR of only 12%?

A. No.

Q. Why not?

A. Because an IRR sorry, in recent experience, I have been involved in evaluating investments that have IRRs of substantially less than 12%.

Q. No, but in the context of this business.

A. As I say, I am not and was not an expert in mobile phone businesses, so I don't know. I would have taken Andersen's view on that.

If I understand sorry, I thought the question you asked me was whether an IRR of 12% was a low IRR.

Q. As against

A. In terms of attractiveness to an investor.

Q. As against what Telecom Eireann, in their business plan which they submitted as part of a ghosted application came in from them; do you remember that?

A. I do; I don't remember having much involvement in it.

Q. And they suggested 20%. In any case, a person with your skills and your expertise, or Mr. Buggy's, is the kind of person who would have been involved in a discussion of a proposition such as is contained in this new paragraph; isn't that right?

A. Sorry, you are asking me

Q. You are the kind of person or a person with your skills and your experience is the kind of person one would have expected to be involved in a discussion about an issue like this, the insertion of this paragraph?

A. Not necessarily, in that I would have thought you wouldn't have to be an accountant to draw conclusions.

I would have thought that it was almost a process-related decision as to whether the evaluators were "had formed the view that subject to at least one of the principals having sufficient financial strength at this stage to ensure completion of the project a potential financial weakness of one of the consortia members should not have a negative impact on the ranking of applications."

I would have thought that was a policy decision. I wouldn't necessarily have expected to be consulted on

that.

Q. I see. So the whole Project Group should have been consulted on this?

A. I am not saying that either. I am just saying I wouldn't have been expected I wouldn't necessarily have been expected to be consulted on it.

If I remember rightly, I thought Martin Brennan and/or Fintan Towey were deputised or given scope to finalise the report after a Project Team of the 23rd October.

If this was discussed at the Project Team meeting and this reflected the language, then that was fine.

Q. But it was a discussion to which you didn't contribute?

A. I don't know.

Sorry, when I said just to be clear I haven't confused anybody. What I mean is, when I said earlier on I don't know whether I contributed, I don't know whether I contributed to the drafting of the wording, and I similarly don't know whether I contributed to the discussion.

Q. Just get out Book 42 for a minute for me, please. I want to refer you to Leaf 101.

A. I don't have the book to hand, unless it's in some other records here.

Q. I think it's being produced.

Leaf 111; I may have said 101.

A. I have it there, yeah.

Q. I think you may have already drawn my attention to part of this document. It's a memorandum to Martin Brennan and Fintan Towey from Michael Andersen, do you remember, following the somewhat abortive meeting you had in Copenhagen on the previous 19th and 20th?

A. Yes.

Q. If you go to the last page of that document, do you see where there is a paragraph that begins "If there is a clear understanding..."?

A. The last paragraph of the document?

Q. The last page well, I am sorry, it's not the last page, it's the second page; I beg your pardon.

A. Yes, I don't see where you are starting off.

Q. There is a number of indented paragraphs "with A2, A3, A4, A5, A6" alongside them. Then there is a sentence which is as follows: "Other risks might be identified and dealt with later in the process.

"If there is a clear understanding between the Department and AMI of the classification of the two best applications, it is suggested not to score 'other aspects'". Do you see that?

A. Yes.

Q. And then underneath that it says "If there is no immediate unanimity, it is suggested to score other aspects and the dimensions under this heading."

Do you see that?

A. I see that, yes.

Q. Were you involved in any discussion on the ranking of the top two applications in the context of what's contained in this memorandum?

A. I don't believe so, no, I don't think so, because this was a period this was in the period around the time when the scoring was brought together, as I understand it, isn't it?

Q. It may be.

A. I don't believe so; I don't believe I was involved in that discussion.

Q. And there was no such discussion, as far as we know from the minutes, on this issue at any meeting of the Project Group; isn't that right?

A. Sorry, on which specific issue?

Q. The issue set out in that paragraph that I just read out.

A. Whether to score other aspects?

Q. "If there is a clear understanding between the Department and AMI of the classification of the two best applications it is suggested not to score 'other aspects', the risk dimensions and other dimensions such as the effect on the Irish economy."

Do you see that?

A. Yeah.

Q. You weren't involved in any discussion on that?

A. I don't recall any being involved in any such discussion. This is on I see this as a decision

whether other aspects would be scored; isn't that right?

Q. Yes.

A. I don't recall any.

Q. On the basis of there being unanimity about the ranking of the top two applications or not; do you see that.

MR. FITZSIMONS: No, "clear understanding".

Q. MR. HEALY: Just listen to me now for a moment. What it says is "If there is a clear understanding between the Department and AMI of the classification of the two best applications, it is suggested not to score 'other aspects', the risk dimensions and other dimensions such as the effect on the Irish economy. In this case the risk factor will be addressed verbally in the report.

"If there is no immediate unanimity..." Do you see that?

A. Yes.

Q. Were you involved in any discussion of the contents of this document?

A. No, I am pretty sure I have no recollection.

Q. Well, which is it?

A. I don't remember any discussion in relation to this, so I believe I wasn't.

Q. Could you go to page 50 again, of Book 56, which contains your own version of the 18th October version

of the final report.

A. My own version of the final report?

Q. Of the 18th October version.

A. Which page, please?

Q. If you just for a moment go to page 50.

A. Yes.

Q. And do you see the Table 17?

A. Yes.

Q. We discussed yesterday. Now, if you go to the page before that, there is a bit of text dealing with that table.

A. Yes, I see that, yes.

Q. I might have a better copy of that here, and I can read it out to you.

Now, I am reading out a better copy than the copy I think that you have, and it goes as follows: The heading is "The results based on a regrouping of the criteria.

"In order to investigate whether the conclusions of the evaluators are consolidated on the basis of the paragraph 19 of the RFP document, the evaluators have carried out a separate conformance testing.

"The basis for the conformance test is the agreed interpretation prior to the closing date where the 7 indents of paragraph 19 were operationalised into 11 dimensions."

Do you see that?

A. Yes.

Q. "As the 11 dimensions are essentially the same as in Table 16, the only distorting effect of Table 17 could be the scoring of the aspects, which was also agreed prior to the closing date. It appears, however, that the scoring of the aspects has not had a distorting effect during the implementation of the evaluations, since the end results remain the same.

"From this, it can be concluded that the 3 best applications are the following:

A5

A3

A1

with the indicated ranking."

Do you see that paragraph?

A. Yes.

Q. Do you understand what is meant by the that section? Do you understand what is meant by the opening paragraph in that section?

A. My interpretation of it is that in order to see if the evaluation relates to or to make sure that the evaluation relates to paragraph 19, they carried out a test, and I think Andersens use this conformance testing to see whether things conformed with one another. Because I remember that if you remember, they carried out a financial conformance; that's what makes me think that's the context. They compared the

two sets

Q. I know what a finance conformance is. That's just confirming whether information is being provided in accordance with the requirements of the mandatory tables and so forth; isn't that right?

A. No, I don't mean to go back to that, but that was to make sure that there was a consistency, if you like.

Q. I see.

A. I am sorry, I would say "conformance" would mean "consistency". That's what I mean by the that's what I read by the first paragraph.

Q. But what does what sort of test do you know what kind of test was carried out?

A. Sorry, I would have taken that's what the test over the page would be.

Q. I beg your pardon, sorry?

A. I take it that's what the test over the page is.

Q. But what is it? It's just setting out the dimensions again, as we know them, in accordance with the paragraph 19 set of criteria, and setting out all the scores in terms of the grades arrived at by the evaluators; isn't that right?

A. I think they are aggregating them in a manner closely related to paragraph 19.

Q. But how was that done? How were they aggregated? And a weight applied to them?

A. Well, I think the original paragraph 19 had market

development as the most credibility of the business plan

Q. I have no problem with that. All you have here is a list of the dimensions that were originally agreed, and they are put down on this table in the order in which in an order which corresponds with the order of the criteria in paragraph 19; isn't that right?

A. Yes.

Q. There is no doubt about that.

A. Okay.

Q. Could I come on to another document that might maybe you find it difficult; I cannot understand that sentence.

A. Sorry, that's my interpretation of the sentence, that this is this is to relate

Q. I understand that, but how is it done? I can't see how any of this was done. I can't see what test was carried out or what kind of test you'd carry out.

A. Could you give me a second till I have a look, would you mind?

Q. No. Take your time.

A. Just, I think maybe this doesn't shed any light on it, and I am only giving my current interpretation of things, so it doesn't relate to any memory or recollection; I should stress that. But if I look at the weightings document which was in Tab 2 of the weightings folder you gave me

Q. Yes.

A. there is a box, a chart, which says it has three columns in it. It has evaluation criteria for paragraph 19 in the RFP document, and then it listed the criteria in the RFP document. Then it has dimensions linked to each of the evaluation criteria, and it seems to be that this table structures the grading in accordance with that. That's what I

Q. Yes, the layout of this table follows the layout of what's contained in the evaluation model, in that each dimension is put down in the descending order which corresponds with the descending order of the criteria?

A. Yes.

Q. But what conformance testing, apart from that, was carried out? Does this table simply lay out the same information in a different order? Is that all?

A. Sorry, I am telling you what I see now, because I don't know what happened at the time. But that's what I see it doing, yes.

Q. Did you have any role in putting this table together?

A. No, I don't believe so.

Q. Could you go on to Book 46 for a moment, and go to Leaf 50.

A. Yes, I have that, which is the final version?

Q. Yes. And go to page 48.

A. Yes.

Q. Now, the passage that I read out a moment ago and that

we were trying to understand is under a heading called, or entitled "The results based on a regrouping of the criteria". That heading was removed in the final report, and instead, this heading put in: "Final scoring according to evaluation criteria".

Do you see that?

A. Yes, I see that.

Q. Then you have a table underneath that, the same as the table we were looking at on the 18th October version; do you see that?

A. Yes, I see that.

Q. And it says "The award of marks regrouped"; do you see that, at the bottom of the table?

A. Yes, I see that.

Q. Underneath that, the text is: "The marks awarded under each dimension are outlined in Table 16. The result in the grand-total line has been achieved through a process of discussion to reach an agreed result, taking account of the weighting of the evaluation criteria determined prior to the closing date."

Do you see that?

A. Yes, I see that.

Q. If I could just take you through that slowly. "The result in the grand-total line has been achieved through a process of discussion to reach an agreed result, taking account of the weighting of the

evaluation criteria determined prior to the closing

date."

A. Yes, I see that.

Q. Now, were you involved in any discussion that could have led to that result?

A. I don't recall.

Q. If you had been involved in any such discussion, I think you could tell me now, couldn't you, how a set of grades, by having a set of weights applied to them, can produce the results contained in the grand-total line, couldn't you?

A. If I recalled it, I could.

Q. If you did it, you could, couldn't you?

A. Yes, and if I recall doing it, yes.

Q. You told me a moment ago that you never discussed that table; you were involved in no discussion.

A. Sorry, I don't recall.

I must say, everything I say, when I say I don't know, it's obviously my recollection. But I believe I didn't, yes.

Q. And if you look at the table, speaking as an accountant, can't you agree with me that it would be very difficult to multiply letters by weights and to arrive at a result unless you had a very, very, very long discussion?

A. Yeah, I can see what you are saying, yes.

Q. You see, what is being suggested is that a discussion

to that effect took place prior to the 3rd October of 1995.

A. Right.

Q. And just so you'll understand why I am saying that, this table was contained in the October 3rd, 1995, version of the final report.

A. Right.

Q. And if that is how the result was achieved, by a process of discussion, then it can only have been achieved by a process of discussion prior to that date; isn't that right?

A. Correct, if it's in the October 3rd report, yes.

Q. And you certainly, I think, from the evidence you have given us, you were not involved in any such discussion prior to that date?

A. I believe that's correct.

Q. And if there was such a discussion prior to the 3rd October of 1998 (sic), that discussion cannot have included the whole of the Evaluation Team, not counting you, but can't have included many of the others, either?

A. I agree, yeah.

Q. Because we know that at the meeting of the 9th, you and a number of other people were satisfied that either you or other people at the meeting were not in favour, were not unanimously in favour of the agreed result; isn't that right?

A. Sorry, I just want to be clear here; this is going back to the phrase of unanimity that I said I didn't concur with.

Q. Yes. Well, sorry, are you saying you didn't concur with it? Which are you saying? Sorry, I don't understand that.

A. What are the alternatives you are offering me?

Q. Let's just take it in two stages. You recorded definitely that there was no unanimity at that meeting; isn't that right?

A. I recorded that I didn't agree with the statement that there had been unanimity, yes.

Q. And you removed that statement from your copy of the report of the 18th?

A. Right, okay. Sorry, I must be clear, I don't know whether I removed certainly I think I remember I put a line through it, but I don't know whether I did on foot of discussion at the meeting or independently.

Q. Well, let's take it slowly again.

You certainly removed it from your version of the 18th October report?

A. Yes, indeed.

Q. And that was either recording your own view or recording the view of the meeting at that time?

A. Yes.

Q. So that meeting, therefore, started on the basis that somebody, or a number of people at the meeting, were

not happy that there had been unanimity about the result?

A. Can I just refresh my memory, what exactly it said on that 9th

Q. If you are at the same book, you'll find it at page 14.

A. I think I have the piece of paper you gave me yesterday.

Q. I think I am wrong about page 14; sorry.

A. I think I have it anyway.

Q. It's not page 14, in fact. It's page 6.

A. I think I have this piece of paper.

Q. That's a separate matter, for the moment.

A. Oh, sorry.

Q. It's not the same point.

If you just go to page 6 of the report for a moment.

A. Of the 18th?

Q. Yes.

I should say that not all of these reports have the same content on page 6. It's not that the content is changed, it's just that the reports were faxed through, as far as I can see, and your page 6 may not be the same as my page 6.

A. When you call a page number, I am using the page number of the report rather than the fax.

I see the line I put through, yes.

Q. I think you correctly drew my attention to the fact

that there were two points. Firstly, there is the fact that you drew a line through that statement in the report, "As unanimous support was given by the PTGSM to the results of the evaluation, Andersen Management International was requested to submit this final report."

You are saying either that was your view, or you are there recording a view of the meeting you were at; isn't that right?

A. Yes.

Q. We know that prior to this report being made available, on an extract from the report and at what would presumably be, on a private occasion, you recorded something similar; isn't that right?

A. Yes, this was this piece here, yes.

Q. So we know that you yourself recorded at some point following at some point prior to the meeting of the 9th, you recorded I beg your pardon, sometime following the meeting of the 9th, you recorded privately, you think in a discussion with Mr. McMeel, that there was no unanimity as regards the result at that meeting; isn't that right?

A. Yes.

Q. And we know that at the meeting you, or a number of other people, were not happy that the report contained a proper record and that the suggestion that there had been unanimous support at the meeting of the 9th was

not a correct one?

A. Correct.

Q. So on the 23rd October of 1995, there was not unanimity about the result. It may be that there was unanimity at the end of the 23rd, but there was no unanimity on the 23rd; isn't that right?

A. I don't I don't see how there could have been unanimity, because the Project Team wouldn't have met in the interim, as far as I am aware.

Q. Well, at that meeting

A. So at the start of the meeting on the 23rd.

Q. There was no unanimity?

A. Yes.

Q. And that document itself purports to suggest, in the table that I drew your attention to a moment ago, that there had been an agreement about the result prior to the 3rd October; isn't that right?

A. Which document?

Q. Isn't that the meaning of Table 17 and the text I drew your attention to?

A. That you said was also in the October 3rd document?

Q. Yes.

A. Which is I don't mean which part of Table 17 says that?

Q. Are you looking at Table 17 again?

A. Yes, I am.

Q. I drew your attention to a passage in the final report

which suggested that the grand-total line in that table was the result of a discussion. Do you remember that?

A. Oh, yes, at the bottom of page 48, the bit that says yeah, the results in the grand-total line has been achieved through a process of discussion, yes.

Q. You were not involved in any such process of discussion?

A. Unless that discussion took place on the 23rd.

Q. How could it have taken place on the 23rd when that table was in the report of the 3rd?

A. Because it could have been discussed on the 23rd. It could have been said, "This is the results as they are now". They could have been discussed on the 23rd, and it could have been agreed on the 23rd.

Q. But sure can't you look at what the text says, Mr. Riordan. It says "The marks awarded under each dimension are outlined in Table 16. The result in the grand total line has been achieved" past tense "through a process of discussion to reach an agreed result, taking account of the weighting of the evaluation criteria determined prior to the closing date."

A. But isn't this report dated the 25th?

Q. Yes.

A. So that discussion could have taken place on the 23rd or 24th.

Q. But the table was contained in the report of the 3rd.

Do you understand me?

A. Yes, so it could have been presented in the report on the 3rd maybe I am misunderstanding; let me just tell you what I think might have happened.

The report was presented on the 3rd containing this table. It was discussed, it may have been discussed then, but it may not have been unanimously, the result may not have been unanimously declared. Then it could have gone through further discussion on the 23rd. Then that sentence could have been inserted on the 24th or the 25th.

Q. I see. Were you present at any discussion about this on the 23rd?

A. I don't recall.

Q. You weren't; isn't it a matter of probability you weren't?

A. No, because there was a Project Team meeting on the 23rd, wasn't there? So I probably was.

Q. You are saying that this table was discussed on the 23rd?

A. I don't know. But I don't see how it's probable that I wasn't, if

Q. Let's take this very slowly and carefully now, Mr. Riordan.

A. Sure.

Q. The text is "The result in the grand total line has

been achieved through a process of discussion". Now,
that grand total line is in the report of the 3rd
October.

A. Right, yeah.

Q. If this is what the text says, and if that grand total
line was in the report of the 3rd October, does it not
suggest that there had been a discussion or there
must have been a discussion, if that's the case, prior
to the 3rd October, to produce the grand total line?

A. There could have been a discussion, but it could have
been subsequently discussed again.

Q. I see.

A. That's my point. Sorry, I don't mean to be difficult
here. If you follow what

Q. I think you are being unrealistic, Mr. Riordan.

A. Oh.

Q. I am suggesting to you that it's reasonable to suggest
to you that you are being unrealistic.

A. Sorry, I just don't understand that. I don't
understand how that table couldn't have been discussed
on the 23rd and that sentence drafted on the 24th.

Q. You think it could have been?

A. I think it was highly likely to be discussed on the
23rd, yeah.

Q. I see.

A. Because there was a Project Team meeting on the 23rd
for I don't know how long, but

Q. Could you tell me, could you give me any indication as to how the result on the bottom line was arrived at?

A. The B, C, A, B, B, B, C?

Q. Yeah.

A. Not at this point.

Q. Didn't you agree with me a moment ago that to apply a set of weightings to a set of lettered scores would involve an awful lot of discussion, a very, very, very long discussion, to produce a grand total result that a lot of people could agree on?

A. Yes, I did agree with that. Sorry, I said it could take a long discussion, yes.

Q. Because you can't multiply a letter by a number?

A. Agreed.

Q. Well, you can multiply X by 10, of course, but you can't multiply an X by 10 and a Y by 10 and say that $10X$ is greater than $10Y$, or whatever.

And if there was such a lengthy discussion, wouldn't you have recalled it?

A. Not necessarily.

Q. I have to suggest to you that if there was such a discussion in connection with a very important part of the report, you would have either remembered it or recalled it.

A. I remember many lengthy discussions, you know, I remember a period of lengthy discussions, but I can't remember what those discussions were about.

Q. And that if you had such a discussion, I'd suggest to you that you'd have made some note about it on your copy of the report.

A. Not necessarily.

Q. You drew a line through this whole table on your copy of the report; isn't that right?

A. On the 18th?

Q. Yes.

A. Yes.

Q. Do you know why you drew the line through it?

A. I don't. I see a drew a line through a number of pages there.

Q. Did you know that this process had been suspended in the middle meeting of the 23rd to enable a number of members of the Project Group to go to the Secretary to see could more time be obtained for the evaluation?

A. I see that from the files. I don't recall that. I don't recall the meeting being suspended.

Q. Were you present throughout the meeting?

A. I suspect I was, but I don't I am sorry, it's just my memory of that is not that strong, but I believe I was.

MR. NESBITT: The meeting wasn't suspended. I understood it kept going, was the evidence.

MR. HEALY: That's correct.

Q. The meeting kept going, but more time was obtained for the evaluation by a number of members of the Project

Group who went to meet the Secretary?

A. I have seen some papers on that; I don't recall that.

Q. Mr. McMeel seems to have been aware of that.

A. He may have been.

Q. Did you know that the process was due to end the following day?

A. I don't recall, similarly.

Q. I think you say that you weren't aware of the management of the time line, I think as you put it, at all?

A. I wasn't particularly clued in to that, no.

Q. Did you understand this meeting to have been the final meeting of the Project Group?

A. I don't know. I don't know. I am genuinely searching my mind whether I had an impression that somebody said this was going to be the end of the road. I do remember there being some discussion about bringing the thing to an end, but I don't know whether it was envisaged there would be a subsequent meeting.

Q. Who did you have that discussion with?

A. I think that was a general discussion in the Project Team, but I think it was sorry, I don't think I had many, if you like, one-on-one discussions around this time.

Q. Just to clarify, then, your evidence.

You had an input in this process, I think you told the Tribunal at the outset in your questionnaire, in

relation to the mandatory tables; isn't that right?

A. That was one of my inputs, yes. That was a significant element of my input, yes.

Q. Your other input was into the financial evaluation; isn't that right?

A. In the terms of attending the two project meetings that I went to, yes sorry, the two sub-group meetings, excuse me.

Q. In your questionnaire, at one point in your response to Question 30, at page 20 of your questionnaire

A. Do you want me to get it out?

Q. I'll read out the relevant part. You said: "I think it is worth making my role in the financial evaluation very clear." And you went through what you had done.

"My input was in the form of assisting Mr. Fintan Towey at meetings to discuss the evaluation. I was deputising for Mr. Donal Buggy, who was on leave; providing as requested by officials some input into what criteria Andersen Management International might use in carrying out their evaluation; reviewing, along with Mr. Donal Buggy, the financial evaluation methodology which was applied by Andersen Management; providing some views as to how the formatting difficulties with the mandatory tables might be addressed by Andersen Management International in their evaluation.

"I provided this input when asked to do so by

Department officials or Andersen Management

International. I want to be absolutely clear that I did not lead or even participate in the final evaluation."

Do you think that's still a fair account of your role?

A. I do, yes.

Q. So that you were involved, to some degree, in designing a part of the financial evaluation. You were part of the first sub-group that met to deal with it; isn't that right?

A. That's correct.

Q. You were part of a second, maybe slightly different, sub-group that met in Copenhagen on the 19th/20th; isn't that right?

A. Yes, sorry, a second sub-group meeting, yes.

Q. And you were not part of any other sub-group meetings in relation to it?

A. I did attend a performance guarantees sub-group meeting.

Q. But in relation to financial evaluation?

A. No.

Q. And you were not part of the group that concluded that evaluation?

A. If that evaluation was concluded in Copenhagen on the 27th or 28th September, I was not there.

Q. Well, were you present at any group that concluded it?

A. I don't believe so.

Q. So the group that started it out wasn't the group that concluded it?

A. Well, sorry, yes, in terms of my membership of it, that's correct.

Q. And your input into it was simply to review it and to suggest your own evaluation, along with Mr. Donal Buggy?

A. Review it and review it and give comment, yes.

Q. Give comment. And you don't have any note or recall who you gave that comment to?

A. I believe any such comments were raised at the Project Team meeting on the 9th October.

Q. Are you speculating, or do you recall it?

A. I am speculating. I don't recall, but I believe that to be the case.

Q. And your comments and Mr. Buggy's comments were clearly not accepted?

A. I would say that they were some of the comments were accepted and some of them were not rejected, but were explained.

Q. During that meeting of the 9th and the meeting of the 23rd, there were a number of changes suggested to the text of the report. You have recorded some of those, either suggestions made by you or recorded by you when they were made by other people; isn't that right?

A. This is largely on the draft of the 18th?

Q. Yes.

A. Yes.

Q. While your views, or the views that were being suggested by others concerning the language used in relation to the financial evaluation were accepted, no views about the scoring of the financial evaluation were accepted or rescoring or altering the scoring were accepted?

A. I believe there were no amendments to the scoring.

Q. Is there a sense in which, because you were not, and neither you nor Mr. Buggy were career civil servants, that you felt you couldn't press your views on changing the scoring at any of these meetings?

A. There was a sense in which that I expressed my view, and if my view was not carried, I didn't take exception to it; I didn't feel that that was a

Q. That it was your place to push it?

A. I didn't feel as if I was being rejected, if you know what I mean. I saw my role sorry, I am being very unclear there. I saw it my role to raise an issue to the civil servants, if I saw an issue, and let them but if it came down to a policy decision, I'd let them make that policy decision.

Q. If it wasn't a policy decision. If it was whether somebody should have a score of B or C for financial strength, was that a policy decision?

A. I would explain my position, and as far as I was concerned, they could consider that, my input to that,

and they would take my input to their deliberations.

Q. I understand. Did you regard yourself as an evaluator?

A. I regarded myself as I regarded myself as a resource to the evaluators.

Q. But not as an evaluator yourself?

A. I suppose not strictly speaking, no. Sorry, I wouldn't have regarded myself necessarily as a...

Q. So that the Irish does it look, then, that the Irish contribution or the Irish resource

A. Sorry, pardon me

Q. Go ahead.

A. I don't have a clear view on that, to be honest with you. I know that's not a very satisfactory answer, but I don't. Sorry; continue, please. Sorry.

Q. The last thing I want to come back to is the difference between the text dealing with Table 17, on page 50 of the 18th October report, and the same table on the final report.

A. It's page 48 of the final report, is it?

Q. It's page 49 of the 18th; of the final report, page 48.

A. So I am comparing page 48 of the final report

Q. Yes, page 48 of the final report, page 49 of the report of the 9th.

A. Okay.

Q. I beg your pardon, of the report of the 18th.

A. Sorry, I think I have the right ones in front of me.

I think so.

Q. Now, if you look at your version of the report of the 18th, you appear to have marks near every part of that report which was subsequently changed in the final report.

A. Okay, yeah.

Q. Do you understand me?

A. I do understand you, yeah.

Q. But if you look at your version of the 18th October, you don't appear to have any notes next to the section that begins "The results based on a grouping of the criteria" you don't have a note like "Gone", "Removed", "Omitted", or whatever?

A. Correct.

Q. And the only notes you have in relation to the table on the 17th are on Table 17 or page 50 are "Not agreed by Project Group, final weighting" crossed out, and "No reason why the 10 should be split in this way". Do you see that?

A. Yes.

Q. And then you have some scoring and some Xs; do you see that?

A. Yes, I see that.

Q. And you have a set of weights on the other side.

A. Yes.

Q. I just want to be clear about this. You say that the

text that was included in page 48 could be the result of a discussion that you took part in on the 23rd?

A. In the final report?

Q. Yes.

A. It could have been, yes. Yes, it could have been.

Q. And there would have been a very long discussion in which you and everybody else participated to arrive at that result?

A. Sorry, I don't recall any lengthy discussion. I don't know whether there was a lengthy discussion or not, but I accept what you are saying; it could have been the subject I'd imagine it would have been the subject of lengthy discussion. I just don't know.

Q. I am not saying that. I am suggesting there was no discussion. I am saying that if you had to arrive at the result, there must have been a long discussion. Not that you'd have remembered it?

A. But could that not have taken place at an earlier Project Team meeting?

Q. It could have, it could have, but there was no Project Team meeting that we are aware of.

A. But couldn't it have taken place at the Project Team meeting on the 9th October of that table?

Q. If it did, there seems to be no evidence of it.

A. Well, I believe, I thought my understanding is, my understanding is that the discussion on the 9th considered the output of the meetings previously in

Copenhagen that had been put together into the final report that was circulated dated 3rd. And so if it was in the report of the 3rd, then it could have been discussed on the 9th. And that could have been the period in which there could have been a lengthy discussion of this table.

Q. On the basis that it was really only a proposal?

A. Exactly, yeah.

Q. But if that was the case, wouldn't the question about the weighting have been cleared up?

A. Yes, I think so, yes.

Q. And you wouldn't have had those notes about the weighting, because you'd have had it sorted out on the previous on the 18th? Yes?

A. But those notes about the weighting might have been in relation to the text rather than the grading.

Q. Let's be reasonable, now, Mr. Riordan; they are substantive notes. "Not agreed by Project Group"; do you see that?

A. Sorry

Q. That's an assertion about the

A. Those notes at the top?

Q. Yes.

A. Sorry, I thought you were talking about something different. Sorry.

Q. If that table had been discussed on the 9th, wouldn't any issues about weighting have been dealt with at

this point?

A. On the 9th, yes.

Q. And therefore, one wouldn't have expected you to be making any notes querying aspects of the weighting or recording somebody else querying aspects of the weighting?

A. I see the question you are asking, but I could have been I could have been saying making a comment that I didn't understand; notwithstanding that it might have been explained on the 9th, I may not have properly understood at that point those issues about how those weightings were broken down.

Q. But that would mean that you hadn't been at the discussion on the 9th.

A. No, I mightn't have got a proper grip on it at that point.

Q. So what you are saying is that there might have been a discussion on the 9th, and that you mightn't have got a proper grip on the weighting, and that when it came up for discussion again on the 23rd, you'd have noted the fact that you hadn't got a proper grip on the weighting?

A. I think that's a possibility, yes.

Q. Is that based on the fact that these notes were definitely your notes conveying your own views, then?

A. If that's the case, then I imagine they are my own views, yes.

Q. Well, do you recall having those views?

A. I don't.

Q. And if you did have those views, then it means you were in considerable uncertainty about the weights right up until the day before the process was supposedly concluded?

A. Under that hypothesis, I didn't understand it correctly, yes.

Q. And was that a satisfactory situation to be in, concluding the report when you had that degree of misunderstanding about the weights?

A. Well, it could have been explained to me at the meeting on the 23rd.

Q. If it did, you didn't put in the explanation.

A. Correct.

Q. And you didn't put in the explanation for any of the other queries that you raised or that you recorded as having been raised.

A. Correct.

Q. And doesn't that suggest I am not saying that you were wrong in this; doesn't that suggest that you were in a considerable degree of uncertainty at that point concerning the nature of the process?

A. No, because just because I didn't record it doesn't mean that it wasn't resolved to my satisfaction.

Q. I understand.

A. And I don't recall being in a significant state of

uncertainty at that point.

Q. Now, that table is contained at page 45 of the report of the 9th.

A. The report

Q. The report of the 3rd, the one that was discussed at the meeting of the 9th.

A. Okay. I don't have that, unfortunately.

Q. Book 46, Leaf 34.

A. Sorry, which page do you want me to turn to?

Q. Page 45, please.

A. Right, I have that, yes.

Q. Now, I am looking at Ms. O'Keeffe's verbatim note of the meeting of the 9th October, which is contained at Book 42, Leaf 121. I am not going to ask you to turn to it yet.

There is no entry for page 45 in her verbatim note.

A. Okay.

Q. There is no entry for page 44, and I am taking account of the fact that there might have been some fax problems with the pages.

She has an entry for page 46, and in relation to page 46, she says "Figures to be put in". And then underneath that she says this is at page 7 of her note; I'll come back to this in a minute and let you see the document she says "Table 17 and 18 should mention selection criteria and subheading, as RFP document may not be to hand."

A. Right, yes.

Q. Now, there is no mention there of any discussion to arrive at the result contained in Table 17; do you see that?

A. Yes, I see that.

Q. Now, if you have that document open, that book open, and you go back to Leaf 120. This is the formal minute of that meeting.

A. I am looking for the minutes of the meeting of which date, please?

Q. Of the 9th October. It's Leaf 120.

A. Yes, I see that.

Q. Now, it says in the second section under 'Discussions of the Evaluation Report', it says: "The draft evaluation report put forward by AMI was examined in detail. A range of suggestions in relation to the manner of presentation of the results were put forward by the group, and AMI undertook to incorporate these in the second draft. The agreed amendments included

- " inclusion in the body of the main report of the proposed appendix in relation to the evaluation methodology
- " the expansion generally of the justification for the award of marks to the various indicators
- " revision of the financial conformance appendix to the more explanatory format
- " inclusion of an executive summary and an annex

explaining some of the terminology

" elaboration of the reasons as to why the quantitative analysis could not be presented as an output of the evaluation process."

Now, I don't think anywhere that says, either, that there was a discussion to arrive at the agreed result contained in Table 17.

A. Except that sorry, under the sentence "The draft evaluation report put forward by AMI was examined in detail", could that not be it?

Q. You are not suggesting that? You are not suggesting that that sentence in some way indicates that the group arrived at a discussion about the result, are you?

A. Yeah, I am, sorry, I am.

Q. Can you tell me how that suggests that?

A. Because I think that suggests that the entire report was examined in detail sorry, was reviewed in detail, which would have included the result.

Q. It says "A range of suggestions in relation to the manner of presentation of the results were put forward by group, and AMI undertook to incorporate these in the second draft."

A. Yeah.

Q. I referred you to Ms. O'Keeffe's handwritten verbatim note which seems to go through all of that discussion.

A. Yeah.

Q. And nowhere does it say in that discussion or in that note that there was a lengthy discussion about Table 17. Maybe I am overlooking it and page 44 is mentioned at page 2 sorry, page 1. Page 44 is mentioned at page 1.

Can you see that reference to page 44?

A. On I am looking at the verbatim notes, yes, is that right? Sorry

Q. Yes.

A. Which page of the verbatim notes?

Oh, I see it.

Q. Do you see that?

A. The bottom of page 1; is that right?

Q. Yes. Do you see that?

A. Yes, I do.

Q. Do you see that? Could that be a reference to it?

A. It says "Page 44, C, D, B, B, A, C, technical aspects." It could be, I guess, yeah.

Q. I defy you to demonstrate that for me now, Mr. Riordan.

A. Sorry, I take it that I am looking at page 44 of the report dated the 18th.

Q. No, page 44 of the report dated the 3rd.

A. Oh, sorry.

CHAIRMAN: Well, I think the two documents stand, Mr. Healy, and I'll have to do the best I can with them.

MR. HEALY: I am just anxious that the witness should

have every opportunity to show me where it was

discussed, if it was discussed.

MR. MCGONIGAL: It was also discussed on the second

page

MR. HEALY: If I could just go on for a minute.

Q. It's not discussed on page 1, unless you can show me

something on page 1 that refers to page 45. There's a

reference to page 44

A. I thought you said page 44.

Q. I am referring you to page 44 because I was prompted

by Mr. O'Donnell. If we just take this slowly

A. Yes, please. Sorry.

Q. If you look at page 44, that says nothing about Table

17; isn't that right?

A. Correct, because it has Table 16 on it, yes.

Q. If you look at Ms. O'Keeffe's handwritten note, she

suggests a change being made to page 44. And that

change has to do with technical aspects on Table 16.

A. Yes, I see that.

Q. That's nothing to do with Table 17; right?

A. Correct.

Q. Now, the next item, 'supplementary analysis', is

nothing to do with it. The next item do you see

that on Ms. O'Keeffe's note? 'Interconnection' has

nothing to do with it. The next item, 'quantitative

evaluation' has nothing to do with it. The next item

refers to an annex on methodology. The next item is a

general comment by Mr. McMahon. The next item refers to Mr. McQuaid, and page 44. "Correction okay, evaluation model appendix". That is referring to the correction that he wanted made to Table 16.

"Quantitative analysis, a report based on qualitative analysis concluding remarks. Then are tables 16, 17 and 18 of equal importance?"

Do you see that?

A. Yes, I see that.

Q. Does that suggest there was a discussion to arrive at the result in Table 17?

A. No, I agree, sorry.

Q. If you go on to the next page, "Table 17 different from agreed weighting". Do you see that?

A. Yes.

Q. That seems to be the same point that was cropping up again on the 23rd?

A. Yes, yeah.

Q. Underneath that, "Overall presentation"; it doesn't seem to deal with it.

A. I agree.

Q. Next item. "Michael Andersen. 16, 17, 18 tables reflect discussions in Copenhagen."

Do you see that?

A. Yes.

Q. You were not present at any discussion in Copenhagen about Table 17; is that right?

A. I believe that's correct, yes.

Q. And isn't that what I have suggested to you at the outset, that Table 17 must have been about some discussion that took place prior to this report having come into existence?

A. Table 17 must have

Q. Must have been the result of discussions if there were any discussions, it must have been the result of discussions that took place prior to this report coming into existence.

A. If there were such discussions, yeah.

Q. That was the point I was making to you at the outset.

I don't think it's mentioned in the next section, under "Michael Andersen". In the next section, under "Billy Riordan". In the next section, under "Fintan Towey". If you go on to the next page, I can't see any reference to any such discussion.

So I am suggesting to you, Mr. Riordan, that the most reasonable conclusion to be reached is that there was no discussion. You were not aware of any such discussion to arrive at that result prior to the grand total line being put in on the report of the 3rd October, and there seems to have been no such discussion subsequent to that.

A. I see no evidence of that, but is it not possible that the overall pulling together of these grades was discussed in the context of Table 16 rather than Table

17 in respect of the draft report dated 3rd October?

Q. Yes. The overall pulling together?

A. Yeah.

Q. I know about that, yeah, no problem about that. I am not talking about pulling together, but the actual grand total line, the aggregation of the scores, the application of the weights to arrive at the B down arrow, C down arrow, B, B down arrow, B up arrow, C up arrow, to arrive at that?

A. Correct.

Q. Do I correctly summarise your evidence that you do not recall being involved in any discussion to arrive at that result?

A. I do not recall that; that's right.

Q. Thanks. I am sorry for keeping you extra time.

A. I am sorry for getting confused.

CHAIRMAN: Well, it seems obviously we are going to have to go into the afternoon. I'll just check Mr. Fitzsimons, have you anything to raise at this stage?

MR. FITZSIMONS: No.

CHAIRMAN: Mr. McGonigal?

MR. MCGONIGAL: I have a few matters.

CHAIRMAN: Very good.

Well, we might as well I am anxious about the witness's four o'clock ceiling; we'll go till five past one. I don't remotely suggest you have to conclude at that stage.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. MCGONIGAL:

Q. MR. MCGONIGAL: Mr. Riordan, I want to start, and I'll try and be as brief as I can. I just want to try and clarify a few things with you.

First of all, could you go to page 44 of the October 18 draft version, which is in Book 56, at Tab 5. It's a matter that you have already discussed at some length with Mr. Healy.

A. I am looking for the sorry, the 18th draft?

Q. The one that has all your notes on it. Do you have that?

A. Yes, I do.

Q. And Mr. Healy drew your attention to your handwritten note on the right-hand side. "How is that reconcilable with the B," you say, and then "Change" and "bankability". And he brought you back to the table on page 41, I think?

A. Yes.

Q. And he directed your attention to the mark B, financial strength of consortia members, and asked you how was that arrived at.

A. Yes.

Q. And you said you didn't know.

Can I just direct your attention to the bottom of that page, and over the next page, you see the paragraph "The financial strength of the consortia members"?

A. Yes.

Q. If you turn over that page, do you see the bit there, four lines down, "A5 is backed by Telenor with an equity in excess of 1/2 billion, Communicorp with a negative equity which has been transformed to a B." Does that help us in understanding where the B came from?

A. Sorry, yes, but what I should have said is that I don't recall, in my earlier evidence, I don't recall how the scoring but I see that that paragraph indicates how the scoring took place.

MR. HEALY: I don't want Mr. McGonigal to be under a misapprehension. I think the problem was this witness suggested it should be a C. I think that's the difficulty.

MR. MCGONIGAL: That's not a difficulty at all.

Q. If we go back, then, Mr. Riordan, to the 3rd October, and the same portion of that report. I think that if I can get my pages right now

A. Which tab is this, please, sorry, in that book?

Q. It's the report of the 3rd October.

A. Which book is it, please?

MR. HEALY: Book 46, Tab 34.

Q. MR. MCGONIGAL: Sensitivities is on page 40, and the earlier part of the table is on page 38; do you see that?

A. Yes.

Q. And you see the financial strength of consortia

members, you have the B there again; and you see, if you go down to the verbal text, the financial strength of the consortia members, you have the same sentence, "A5 is backed by Telenor with an equity in excess of $\text{€}1$ billion and Communicorp with a negative equity which have been transformed to a B". Do you see that?

A. Yes.

Q. Now, could you go to the book that we were furnished with, which is apparently your documents and some of Mr. Buggy's documents.

A. Yes, I have that.

Q. And would you go to the tab which deals with the 27th September of 1995.

A. Yes.

Q. Do you remember that?

A. I see it, yes.

Q. And if you go to the second page of that, you see the financial strength of consortia members, and it has a B still?

A. Yes.

Q. And that's 1.2, and we go down and see that "A5 is backed by Telenor Group with an equity exceeding $\text{€}1$ billion and Communicorp with a negative equity", full stop. So it leaves out a small part of the sentence which was clearly addressed after that date and in the report of the 3rd October?

A. Right.

Q. Do you see that?

A. Yes.

Q. Now, would you go back further, then, to the 13th September, same document a similar-type document from Andersens; do you have that?

A. Yes.

Q. And that is the document which apparently was sent by Andersen Management to Dublin on the 23th September '95 and is a document which has your handwriting on it?

A. Right, yes.

Q. And on the second page is a table?

A. Yes.

Q. Which is the dimension finance?

A. Yes.

Q. And under the second one, 1.2, which I think is financial you have changed it to financial

A. Financing strength of consortium members

Q. And there are markings across there?

A. Yes.

Q. And if you go to A5, you see that it originally has an

A

A. Yes.

Q. with a circle around it, and a line through the A, and a C beside it?

A. Yes.

Q. Now, would that C have been made by you?

A. I believe so.

Q. So can I take it that at some stage, you looked at these documents; your view was that an A wasn't appropriate and a C might be appropriate?

A. Yes, can I read the just one second, please.

Yes, sorry, that's what that would suggest, yeah.

Q. And can I take it that between the 13th and the 27th, that at some stage there may have been a discussion when your markings were considered and a B was deemed to be the appropriate mark?

A. Could you repeat the question, please.

Q. Can I take it that sometime between the 13th September, that is this document, and the 27th document, which is the next document, where a B appears, that there may have been a discussion where your comment was discussed and it was decided that a B was appropriate for financial strength of consortia members?

A. There may have been such a discussion; I don't recall it.

Q. No, I understand you don't recall very much, Mr. Riordan; but leaving that aside, that would appear to be a possibility?

A. It would be, yes.

Q. And it's certainly a probability that you would not rule out; isn't that right?

A. Yes.

Q. Now, staying with the document of the 13th September, as I understand it, you were in Dublin on this day, in all probability?

A. Yes.

Q. And the document, as we can see from it, is faxed from Andersen Management on that date.

A. Yes.

Q. At approximately two minutes past, whatever it is, eight?

A. Yes.

Q. You seem to have done a significant amount of analysis on that document.

A. Right.

Q. Isn't that right?

A. I have comments on it. I don't know whether it's analysis or reflects a discussion; that, I don't know.

Q. But certainly the time that you probably received that was a time when most of the PTGSM people were in Dublin with you?

A. On the 13th?

Q. Yes.

A. Yes.

Q. Is it possible that there was a meeting amongst persons concerned with the financial dimension on the 13th, after eight o'clock, or possibly on the 14th, after the presentations?

A. It's possible, but I don't recall such a meeting.

Q. I understand.

Now, if we just pan down through the first page, first of all, I should draw your attention to the fact that what the document says is that

A. Sorry, can I just add one other thing. I just look at my diary of the 13th and the 14th, and it doesn't reflect such a meeting, if that's

Q. That's very helpful, Mr. Riordan.

In relation to the top of the document, it talks about an evaluation meeting at the 6th September.

A. At the beginning of the document, yes.

Q. This then says "Furthermore, a post evaluation took place in AMI's GSM room".

Now, curiously, it leaves out the word "meeting", and I am wondering if there is any significance in that.

In other words, whatever took place in Copenhagen on the 13th, if my recollection serves me correct, I think Michael Thrane may have been the only person in Copenhagen involved in finance at that time?

A. I don't think he was in Dublin, so...

Q. Yes, so he may have been in Copenhagen?

A. Yes, but I don't know whether he had other people working.

Q. Was Jon Bruel in Dublin?

A. Jon Bruel was in Dublin.

Q. But whatever was done in Copenhagen, this was faxed through to you at some stage, in all probability?

A. Well, I don't know whether it came to me or it came to somebody else.

Q. Well, it eventually came to you?

A. Yes, it eventually got to me.

Q. And you managed to put some scribbles on it. On the first page, the one that I want to draw your attention to is the efficiency.

A. Yes.

Q. That, I think, was something that you had raised yourself at the meeting of the 6th/7th?

A. Correct.

Q. And it's clear that arising from the discussion on the 6th, whatever you said at that meeting doesn't appear to have been either picked up or reflected in this document on the 13th.

A. Correct.

Q. So that here we have, again, you making the argument on paper that you feel efficiency should be one of the indicators, and some of the sub-indicators you have identified as 1, 2, and 3 under the word "Efficiency"?

A. Yes.

Q. Under the "Profitability", there is a 3.3, a sentence and a line, and it's stroked out.

A. Can I just say one thing: I am not sure whether say, for example, the one operating cost divided by turnover is my suggestion or somebody else's suggestion; I don't know whose suggestion it was.

Q. I understand. I'll stick with what you have written there, Mr. Riordan.

There is a sentence there which has a line through it,

3.3. Do you see that?

A. Yes.

Q. Could you tell me what that line says?

A. Something "of a bidder's exposure to the IRR was proposed by MA." Could be "Notion".

Q. Now, in the first instance, you are writing down something which was proposed, presumably, by Michael Andersen?

A. The thing that's struck out, yes.

Q. Well, in the first instance, you wrote what was proposed by Michael Andersen?

A. Yes.

Q. Now, presumably that would only have come about as a result of Michael Andersen saying something to you which you felt should be recorded?

A. Very possibly, yes.

Q. It also seems to be as a result of a consideration of the indicators under "Profitability" where he seemed to be making a suggestion that a third subindicator should be added?

A. Yes, I see that.

Q. And then you have put a line through it, which may suggest that after discussion, it was decided not to agree to it?

A. It was decided that it wouldn't be applied, yes.

Q. So can I take it from that, that that of itself would seem to indicate some class of a discussion between yourself and others after the 13th?

A. Yes.

Q. Thank you.

Now, the next paragraph is one on sensitivity, and on the left-hand side you have a line down to 4.2, and across on the right-hand side you have further writing which I don't quite understand. Do you know what that is?

A. I think it says "Evaluated on the basis of a deviation from the IRR."

Q. Thanks.

Turning over the page, then, you have the table with the dimension finance?

A. Just to point out, do you see the thing that's struck out, 3.3, that's an arrow that seems to point down to 4.2, where it says "The maximum exposure". I just point that out to you.

Q. So you think that may have been coming down to 6.2?

A. It may have been the suggestion that that's where it was going to be taken up, or it may have been how the two interrelate.

Q. Perfect.

Now, over the page, then, we have the chart with the dimension finance?

A. Yes.

Q. And clearly you seem to have gone through the letters fairly carefully in relation to considering whether they were appropriate or inappropriate?

A. Right.

Q. Isn't that right?

A. As I say, I don't know whether the jottings are my notions or as a result of a discussion, so

Q. But one way or the other, quite careful thought seems to have been given to a number of these letters.

A. Yes.

Q. And that is demonstrated by the fact that some of them have arrows, some of them have circles, and some of them have been changed altogether?

A. Yes.

Q. And we see that

A. Indeed, there is a row that's been completely deleted.

Q. And we see that particularly down to the line 3.2, profit/interest expenditure?

A. Yes, I see that.

Q. Curiously, 4.1, 4.2, 4.3 and the evaluation of finance, there are no changes markings of any kind.

A. Right.

Q. Carrying on then down through the page, there are comments and additions in relation to ad 1.1?

A. Yes.

Q. And in relation to ad 1.2, you have "Big pockets" with

a big circle?

A. Yes.

Q. And you have another sentence at the end of the paragraph of 1.2, "Need to" something or other

A. "Need to evaluate" "backers" or "bankers", something "in proportion to their commitments", possibly.

Q. Am I right in understanding, Mr. Riordan, that the purpose of these paragraphs, the written paragraphs is to try and give some understanding to the way in which the letters were arrived at in the table above?

A. The printed, or the handwritten?

Q. The printed, in the first case.

A. The printed in the first instance, yes.

Q. And the handwritten was merely your thoughts on what changes should be introduced to those various paragraphs?

A. Or explanations given to me by somebody.

Q. Indeed. Or explanations.

Now, if you would go back to the 27th for a second.

A. Yes.

Q. Do you have that?

A. Yes.

Q. And if you go to page 1.

Apparently, if I understand what you are saying correctly, you were in Copenhagen on the 19th September?

A. Correct.

Q. But your view of the meeting was that it was a non est?

A. Correct.

Q. Now, it's clear that a meeting and discussion amongst a number of you took place after the 13th.

A. Yes.

Q. One of the possibilities is that this table was in fact discussed at the non est meeting on the 19th. Is that a possibility?

A. It is a possibility, but I don't recall that. I don't remember that. And I do remember being left with the sensation that the meeting that the trip, from my own point of view, didn't move the issue on much.

Q. I understand that.

Now, if we look at that page, the first thing we see is that again, the evaluation meeting, as of the 6th September, a post evaluation took place on the 13th, then it refers to a second evaluation meeting on the 19th; do you see that?

A. Correct.

Q. Now, the next bit is you see "the concept of finance has been evaluated by means of the following:

Solvency

Finance

Profitability

Efficiency".

Do you see that?

A. Yes.

Q. So it does seem, Mr. Riordan, that in fact the argument which you presented on the 6th and doesn't appear to have been accepted, that you reiterated in the document of the 13th and at the subsequent meeting, was then recognised in this version of finance, and accepted, and the category of efficiency was included as a dimension or indicator?

A. Yes, I see that.

Q. And do you see then that under "Efficiency", towards the bottom of the page, there are three sub-indicators?

A. Yes.

Q. "Accumulated operating profits, accumulated operating costs and accumulated turnover"?

A. Yes.

Q. Now, the interesting thing, if we go back to the 13th, the first thing is that sensitivity seems to be abandoned.

A. I see that.

Q. Efficiency has taken its place.

A. Yes.

Q. Now, so far as your sub-indicators on the document of the 13th are concerned, can you help me in relation to those as they appear on the 27th?

A. You mean try and relate the two?

Q. Yes. Are they the same?

A. Okay, just you said they are my indicators; I don't know whether they are my indicators. I just want to be clear on that.

Q. I think we have all got that pretty clear by now, Riordan.

A. Okay.

The 4.1, accumulated operating costs, I would say they marry 1 marries to 4.1, 2 marries to 6.2, and 3 marries to 4.3.

Q. Okay. So that assuming whatever way, whoever was responsible for causing you to write "efficiency" in the sub-indicators on the 13th September, that was then translated and taken up by the Project Team as being the dimension or the indicator plus sub-indicators, or whatever it's called on the 27th and carried forward beyond that date?

A. Yes.

Q. Now, just while we are on that, could you turn then for me to page 27 sorry, to the last page of that document.

A. Yes.

Q. And you'll see there, 4.3?

A. Yes.

Q. Now, what it says there is "The efficiency of the investment is measured by 10 years of accumulated turnover in percentage of accumulated investments.

The key figures are" and this then gives a number of figures.

Can you just explain to me what that is? Is that a number-crunching exercise?

A. I would say that is I think that is data that would have been extracted from the mandatory tables, where I think Andersens would have taken I am sorry, I don't mean to be obvious here, but added the 10 years of turnover and divided it by the accumulated investment level up to that point.

Q. But in the first instance, is it a number-crunching exercise?

A. Yes, I think so.

Q. And is it something that was probably done by Andersens?

A. Yes.

Q. And is it something that you would have a discussion about, or is it something that once the number-crunching has been done, it stands out as an answer?

A. Oh sorry, it does stand out as an answer, yes, sorry.

Q. So that it's either right or wrong, the number-crunching?

A. Yes.

Q. And does that apply also to 4.2?

A. Yes, I would have thought so.

Q. And does it also apply to 4.1?

A. Yes, I would have thought yes.

Q. So is it fair to say that 4.1, 2 and 3 are in fact number-crunching exercises that do not require substantial discussion, merely a checking to see if the maths is right, if that's what it is?

A. Yes.

Q. Is that right?

A. Yes, I would agree.

Q. So that if I go back to the 13th and look at the table which is there

A. Yes.

Q. Is it fair comment to put it this way: that you had an opportunity and did, on some at some time, have a discussion about dimension finance, including 1.1, 1.2, 2.1, 2.2, 2.3, 3.1 and 3.2?

A. Yes.

Q. That 4.1, 4.2, 4.3 were abandoned and changed to efficiency?

A. They appear to have been dropped between the 13th and the 27th.

Q. And they become efficiency.

A. Yes.

Q. And that the efficiency, as measured on this table, were number-crunching exercises carried on in Copenhagen?

A. Yes.

Q. So that the reality of this subcommittee section would

appear to be that whenever you had this discussion, or made these jottings on the 13th, and that may have been the 19th, that would have effectively have been as near as possible arriving at the most important letters for that dimension; isn't that right?

A. When you say sorry, could you just repeat the statement again, please? Sorry.

Q. I know you have had a long morning. I'll do my best.

In relation to the table, the discussion which was required for that table was, in the first instance, necessary in relation to 1.1, 1.2, 2.1, 2.2, 2.3, 3.1 and 3.2?

A. You are asking me if

Q. I am asking you, aren't those the areas where a discussion was necessary?

A. Well no, liquidity and IRR would also have been calculatory.

Q. Yeah, well, they have been number-crunching as well, but they appear on this document to be the area where there was some concern, by you or whoever, in relation to some of the letters which were awarded?

A. There was some discussion there, yes.

Q. And in relation to 4.1, 4.2, 4.3, which originated as sensitivity, they became efficiency, and they were purely number-crunching exercises where the letters resulted from the numbers; isn't that right?

A. Yes.

Q. Now, just going to the if I can, for a second, just to finish this off and ask you if you can help me in relation to it. If you go to the final report on this again.

If you go to page 42 for me, or sorry, we'd better do this properly. If you go to page 41.

A. Yes.

Q. Now, do you see the table there?

A. Yes.

Q. And in particular, that table is the same table, by and large, as the table which we have just been discussing as of the 27th September.

A. Okay.

Q. Do you see that? Do you by any chance have the two side by side?

A. I do have them now, yes.

Q. Okay. I want you to go in particular to number 8, "Accumulated turnover."

A. Yes.

Q. And you see in the final report that that is A, E, C, A, B, E?

A. Yes.

Q. Which is different to D, A, D, B, D, E; do you see that?

A. Yes.

Q. Now, if you go to the next page, 42, where we have the verbal material do you see that?

A. Yes.

Q. The last paragraph on that page says "Also on the basis of accumulated figures, the turnover in percentages of the investments has been calculated across the 10 years. A1 838%, and A4 874%" and the rest; do you see that?

A. Yes.

Q. Now those seem to be totally different to the figures on the 27th September; do you notice that?

A. Yes.

Q. How would that have come about? Or can you help me with the explanation in relation to that?

A. I don't know.

Q. But it does seem that at some stage, someone did a check or did, either as a result of a discussion or whatever, recalculated something, and we see a different result on the final report and the one on which the marks were granted?

A. I see that.

Q. You can't you don't recollect when that happened?

A. No.

Q. Or how it happened?

A. No.

Q. Or by whom it happened?

A. No.

Q. But it is there?

A. Yes.

Q. Now, just before I leave this, can I just

CHAIRMAN: Mr. McGonigal, I suppose, in ease of the witness and the stenographers, it's preferable that we adjourn for lunch now. In view of the circumstances that have been mentioned, we should marginally truncate the lunch break and perhaps resume at twenty past.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

CONTINUATION OF EXAMINATION OF MR. RIORDAN

BY MR. MCGONIGAL:

Q. MR. MCGONIGAL: Mr. Riordan, just a couple of matters to finish off. I wanted you to go back to the book that we were with, my black book, your book do you know the one?

A. Yes.

Q. And at the beginning of that book, just for ease, it's the quickest way of getting to it. The beginning of that book, you have your handwritten notes of the meeting of the 6th September; and as I understand it, you then dictated and translated those in writing on the 7th.

Now, what I want to just draw your attention to is on the last page of that, of the first part of that handwritten document dealing with the sub-group examining financial matters. You see there you have a number of items on the left-hand side: solvency, bank

commitments, 10-year IRR and exposure IRR?

A. Yes.

Q. And then you have letters underneath each of the applicants?

A. Yes.

Q. Now, in the first instance, that presumably resulted and in fact we can see it on the fourth page of your handwritten notes; I presume that resulted from the discussion which took place on the 6th and the marks or grades which were awarded?

A. Yes.

Q. They then appear to have been brought forward to the document on the if we go to the document on the 13th

A. Yes.

Q. and we will see that in relation to solvency, the grades are carried forward?

A. Yes.

Q. In relation to bank commitments, that although the grades are carried forward, the line is in fact crossed out?

A. Yes, I see that.

Q. So clearly what appears to have happened, and correct me if I am wrong, Andersens would have produced the document of the 13th from their memos, or whatever, of the meeting of the 6th, and recorded the grades against the indicators on the table; isn't that right?

A. Yes.

Q. What I am not clear about the 10-year IRR and the exposure IRR, I couldn't just trace those on the 13th.

Can you help me on that? Presumably they are something to do with 3.1 IRR.

A. Just the question you are asking is why the IRR grades are different in the typed

Q. I am merely trying to find out what happened between the 7th and the 13th, that the 10-year IRR and the exposure IRR seem to have become the IRR on the 13th; do you see what I mean?

A. Yes. But the could you give me one second?

Q. Absolutely.

A. I think in fact that the 3.1 in the typed-page IRR is a 10-year IRR, because if you go over the following page, it says "In order to make a fair comparison under ad 3.1, it says "In order to make a fair comparison, the applicant's IRR is recalculated ultimo Year 10".

So I take that to be a 10-year IRR. The reason the grades changed was there is a re-marking exercise going on in the mandatory tables.

Q. In fact the 10-year IRR grades which appear in your typed document, the B, A, C, A, A, C, seem to be the grades which were put in initially?

A. Correct.

Q. And then they have been changed by your pen?

A. Yes.

Q. Now, the exposure IRR is presumably is that the years of negative exposure? No, it isn't; do you know where that went to?

A. I don't.

Q. You don't remember at this stage?

A. No.

Q. But clearly it's something which was done on the 6th, seems to have been in part translated in the document of the 13th, and that presumably was as a result of discussion or whatever between you and others on the team?

A. Yes.

Q. Now, while we are on that book, just lastly in relation to it, could you turn towards the end of the book, and it's what I think was described as your it's a handwritten note by you, and it has a semi-title of "Post Presentation Meetings". And I think it's about 17 pages from the end, if I remember Mr. Healy correctly. Do you remember that document?

A. Yes.

Q. The only question I want to ask you there is a clarification. Do you see "Post" whatever it is "meetings"?

A. Yes, "Post presentations meeting".

Q. There is a date beyond that; what does that refer to?

A. I don't know. It says "18 to 25", I think, or "8 to

25", but I don't I am not even sure it is a date.

The fact that it's "TH" written beside it might indicate it's a date.

Q. I actually thought it was the 23rd, but maybe I am wrong.

A. Sorry, I am looking at a I don't know.

Q. It does look like a date, though, doesn't it?

A. It could be a date, but I can't be definite. But the fact that it's got 25th, or well, as a matter of fact that's what made me think it's a 25, is that it has "TH" written beside it.

Q. It could be 25, all right. What would that mean? Could you tell me?

A. It could and I am surmising here it could refer to meetings that needed to take place following the presentations.

Q. So it might be something to do with the production of a report or something like that?

A. Yes, it could be yes.

Q. Of a final report?

A. Yes, it could be.

Q. Just in relation to finance generally, Mr. Riordan, it does appear from looking through the financial section and dimensions which were done, that considerable examination was done into all of the applicants, but particularly the one which I am concerned with.

A. Sorry, I would agree with you, all the applicants were

investigated, yes.

Q. In particular, a document was produced the other day in relation

A. Sorry, could I just clarify that. As far as I recall, and as far as I am aware, and as far as I see from the documents, that a considerable amount of work of investigation work was done.

Q. Is it correct to say that even at this stage, that you have no recollection at all of what you did other than through the written record?

A. I have very limited recollection apart from what's in the yes, exactly, that's true.

Q. And even when the written record is drawn to your attention, that doesn't have the effect of jogging your memory in any real way, real or substantial way?

A. It has done, because if you'd asked me before I'd ever looked at any of this documentation over the past 18 months or so, I would have had virtually no recollection, to be honest with you. So it has jogged my memory to a certain extent.

Q. So a certain extent, but the extent to which it has jogged your memory has been demonstrated by the way in which you have dealt with the questions?

A. Yes.

Q. Now, in just one particular way, I just want to ask you, do you remember the document it's a list of questions which came from your file which had a list

of questions in relation to Esat. Do you remember that, a three-page document?

A. A three-page document?

Q. Have you got it?

Do you remember that document?

A. I don't, sorry.

Q. Unfortunately I can't give you a copy of it because I haven't got one myself, but it's referred to in the transcript yesterday, 211, at page 40, Question 215.

Do you remember it, was the document "Esat", and it has a list of questions, who invests in Esat? Who is the Irish investor?

A. Yes. I thought you said a three-page document; I remember that one-page document.

Q. Sorry, is it one page? I have been misled.

I understand your recollection of that is nil.

A. That's correct.

Q. In that you don't remember where it came from?

A. That's correct.

Q. You don't remember who produced it?

A. That's correct.

Q. But it was on your file?

A. That's correct.

Q. So even in that limited way, can you say the fact that it was on your file probably meant that you gave it some consideration?

A. Correct.

Q. At some stage of the process?

A. Yes, but I have no recollection of it. It's a possibility, yes, I agree. But I have no recollection of giving it consideration.

Q. But certainly judging from that document, and indeed the final report, when one reads the financial assessment in Appendix 10, it would appear that a very thorough examination was carried out of the applicant that that my client was part of?

A. I would have said that Andersens did an extensive review or consideration of all of the applicants.

Q. And at any stage I mean, I know this is a very difficult question for you to answer because the fact that you don't remember much, but insofar as you can answer it at any stage in the process did you ever have the feeling that you were either being disregarded or being overborne by others?

A. No.

Q. If you had

A. I just want to be clear, I saw my role, for example, in the issue in relation to the ownership of the report, I identified issues and I didn't I think I referred to earlier, I didn't see myself as being a lead player in this whole process either, but I didn't feel overruled or overridden.

Q. Nobody every told you to shut up, or not to bring that to the attention of the PTGSM, or to bring something

up instead of not bringing it up?

A. No.

Q. And certainly the Minister never did that?

A. No.

Q. Or no one associated with the Minister?

A. No.

Q. And insofar as your role, whatever it was, was concerned, is it right to say that you dealt with it as best you could in an independent way, and doing the best you could with the ability available to you?

A. Yes.

Q. Just one other thing I want to touch on, Mr. Riordan, merely to find out whether I should explore it with you. In relation to weighting, is that something that you understand and have a knowledge of?

A. I do have some knowledge, following our discussions in recent days. If you were to ask me whether I had any knowledge of it before that, I had very little knowledge of it.

Q. Do you recollect the meetings when weightings were discussed?

A. I don't recollect the substance of them, no.

Q. Or as to why certain weightings were used at certain particular times, or not used, as the case may be?

A. No, I do not remember those discussions.

Q. Is your recollection a situation where you had a document in front of you, and you just relied on the

weights that were there?

A. The matter of weighting was, as far as I was concerned, a matter of policy rather than a matter of accounting, if you follow me. You know, whether the licence fee was 11% or 10%, I felt sorry, I was very clearly thought it was a matter that I didn't really have much to offer on, because the importance of these relative weightings of various items was something that were matters of public policy and therefore, really, for the consideration of the civil servants rather than me.

Q. Mr. Healy was asking you yesterday, on page 15, Question 81, about weightings, and you gave an answer:

"I think it was to as I understand it now, as I see it, I think the purpose of the document was to keep the relative proportions of the, as they are titled here, 'aspects', but the various criteria, in the ratio that was as set out in relationship to one another that was set out in document at Tab 2, which was agreed by the Project Team."

Now

A. Is that question in reference to the normalisation document? The one-page

Q. It may well have been. It may well have been, Mr. Riordan. I'll just check it for you now. But what I wanted to ask you was, what did you mean by that?

A. Could somebody show me could I see the transcript?

Is that a problem?

Q. No it isn't a problem. If I am the only one that has it, then I'll have to give you mine.

A. Question 81, I believe?

Q. It starts at 81. The bottom of page 14: "Correct me if I am wrong but was the purpose of this document to enable you to use, if you wanted to, this scoring system, while at the same time arriving at a total of 100?"

And you gave this answer: "I think it was to as I understand it now, as I see it, I think the purpose of the document was to keep the relative proportions of the, as they are titled here, 'aspects', but the various criteria, in the ratio that was as set out in relationship to one another that was set out in the document at Tab 2, which was agreed by the Project Team."

Do you remember that?

A. Yes, I think it is a document that refers to normalisation, yes. Because the I see the question before it. Yes, I see that, yes, that document, I believe.

Q. Can you help me as to what that meant, that answer?

A. That answer was intended to say that when the total of the weightings added up to 103, in terms of percentages, obviously you can't have percentage as a fraction of 103; so in order to re-state them as a

fraction of, as in terms of 100ths rather than 103rds, that's what that exercise was to do. And by doing that, you reduced each of the original weightings by an identical proportion, to keep the relative structure of the weightings the same as if they were under the 103 scale.

Q. So I would have been misinterpreting it if I had thought that the answer was to try and draw a relationship between the weightings on the indicators and the weightings on the criteria?

A. I think so, yes, if I understand what you are saying to me, because it only dealt with the weighting of the criteria, as I recall; it didn't deal with the weighting of the indicators. This was a one-page document with, if I remember, three or four columns in it, and down the left-hand side

Q. That's the normalisation thing?

A. That's what that question relates to.

Q. I just want to tease this out a wee bit for a moment.

You recollect that in May of 1995, at the meeting, there was an agreement in relation to weightings?

A. Yes, I see that from the record, yes.

Q. And they were the weightings which were to be kept secret?

A. Yes.

Q. And those weightings related to criteria?

A. Yes.

Q. On the evaluation model, as presented on the 8th June?

A. Yes.

Q. There were weightings under the indicators; do you remember that?

A. This would be Tab 2 of the weightings folder.

Q. Absolutely, and it's page 16.

A. Indicators, yes, sorry, now I see what you are saying, yes. It's on page 17 of 21.

Q. 17, yeah.

Now, those weightings are for indicators?

A. Right, yes.

Q. But the weightings which were dealt with and agreed on the 17th May were weightings for criteria?

A. Correct.

Q. Now, these weightings as indicators do not seem to correspond; if you bring them up to dimensions and then to criteria, they do not equate. Were you aware of that?

A. Am I aware of it now?

Q. You are aware of it now?

A. You are asking me, am I aware of it now? Just can I explore something with you for a second? If I look at that page 17 of 21 and I take number of cells and reserve capacity, they are 10 and 10. They add up to 20. Is that not the 20 that was allocated

Q. No, the 30 is the problem. It comes out at 32 and a half, normalised to 31.

A. Yes.

Q. You see, if you go to page 10 on Appendix 3 of the final report

A. Yes.

Q. Now, do you see the weightings there?

A. Yes.

Q. Now, those are not the weightings which are on the 17th page 17 of 21.

A. Right.

Q. Now, those weightings do equate to the criteria the weightings of the criteria which were agreed on the 17th May, 18th May.

A. Right.

Q. In the sense of 30, 20, 18, 11, etc., whatever it was.

A. Okay, yes.

Q. Were you aware of that?

A. Not until you pointed this out, no.

Q. I see. Did you have any regard to the are you aware of the quantitative analysis results at all?

A. Not I am aware

Q. Other than the documents. I think you are aware of the ones of the 30th August, I think it is.

A. Yes, I am aware of those documents, yeah.

Q. And the weights that they seem to have used were the weights of the on page 17/21?

A. Right, yes, okay.

Q. The weights in the document of September, 20th

September, they had slightly different weights.

A. Right.

Q. Were you aware of that? Had you noticed that?

A. Is this where the 103 is this part of the 103 exercise?

Q. It's partly where it was reduced. If you turn to page it's Tab 7 of Book 54.

A. Book 54 is the weightings document?

Q. If you go to page 7 of 7, you see the weights were 3.99, 3.99?

A. Sorry, which tab again, excuse me?

Q. I beg your pardon, Tab 7.

A. Yes, I see that.

Q. And the other one is on Tab 6. And if you just take the two pages, you will see on the one of August you have 3.75, and the one of September you have 3.99?

A. Yes.

Q. Do you see that?

A. Yes.

Q. You will also notice that in September there were ten indicators, but in August there were 11 indicators, and I think it's the international roaming which was taken out.

A. Right.

Q. But one was taken out.

A. Okay.

Q. Now, do you recollect seeing those documents before?

A. No.

Q. At the time of the process?

A. No, but I believe I probably did, but I don't recollect it.

Q. There was another evaluation, apparently, of October 2002 October 1995, which was referred to by Mr. Healy. Do you recollect seeing one at the meeting of the 6th October?

A. I don't think there was a meeting on the 6th October.

Q. Sorry, 9th October.

A. I don't recollect that, no.

Q. So, in reality, so far as you are concerned at the moment, Mr. Riordan, you can't assist me in relation to page 106, Appendix 3, as to how those weightings were put into the report?

A. No, I can't.

Q. Thanks, Mr. Riordan.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. NESBITT:

Q. MR. NESBITT: Mr. Riordan, I want to start with a couple of general questions first.

When you came to the evaluation process, you had been seconded from your accountancy world into assisting the Department of Finance; isn't that right?

A. Yes.

Q. And I think at that time you had a qualification in accountancy, and you would have had some expertise in dealing with various aspects that would be thrown up

in the day-to-day job of being an accountant with

Price Waterhouse; is that right?

A. Yes.

Q. I think you hadn't had any experience in the mobile phone business?

A. No.

Q. Okay. So as I understand your evidence, it's that you were to be a resource available to the Department, and you could effectively bring your accounting expertise to their assistance when asked to do various bits and pieces of work?

A. Yes.

Q. And from the evidence you have given before the Tribunal, as I understand it, you saw a distinction between somebody who would be a full-time civil servant, who would have an ongoing responsibility for issues of policy and matters like that in the Department they worked in, and somebody like you, who was brought in to give assistance on technical accounting matters when asked to; is that right?

A. Yes.

Q. Now, when you were attending any of the project meetings, did the fact that you saw yourself as slightly different to full-term civil servants dictate how you conducted yourself if one of the full-time civil servants from the Department wasn't available at the meeting as well?

A. It would mean that you mean if I attended a meeting unaccompanied?

Q. Well, with nobody from the Department of Finance. If you were the only person there dealing with some aspect that might require an interest from the Department of Finance and there was no full-time civil servant from the Department of Finance, would you have been more careful about what was happening at the meeting and more careful about what you might say or do in the absence of a civil servant?

A. Yes, I would, I suppose, because I would have traditionally, if I was accompanied, I would have given a lot of my input through the civil servant. So if the civil servant wasn't there, I'd have given my input maybe carefully.

Q. I want to bring you back in time, and I want to just ask to you look at the competition document which we'll see at the Divider 46 in Book 41.

A. This is the report dated the 18th?

Q. No. It's Book 41, Divider 46. You should be looking at "Competition for Licence to Provide Digital Mobile Cellular Communications".

CHAIRMAN: This is a very short document, Mr. Riordan, so you might find the monitor is helpful enough.

Q. MR. NESBITT: Now, the part I want you to look at, Mr. Riordan, it's only a few pages long, but it's basically the competition process set out in 24

numbered paragraphs. And the paragraph I want you to look at to start with, in fact, is paragraph 19.

Now, again, to save time, this paragraph represents the listing of the criteria which were to be used in marking or to be used for the purposes of analysing and considering the applications that were made to obtain the exclusive negotiating rights?

A. Yes, that's what I understand.

Q. Now, I assume that you would have looked at this before you went about doing your work in the Project Group?

A. I wouldn't necessarily have looked at it here, but paragraph 19 was recommended in so many places

Q. You would have seen it?

A. I would have been aware of these criteria, yes.

Q. I just want to bring you through it, just to make sure we have a common understanding of what you thought it meant, at any rate.

I think the first thing you learnt by reading paragraph 19 was that there was going to be a comparison of applications?

A. Yes, okay, yeah.

Q. And it was going to be a comparison on an equitable basis?

A. Yes.

Q. And subject to being satisfied as to certain things concerning financial and technical capability of the

applicant, that there was going to be information given which would be evaluated by looking at the evaluation criteria that was set out underneath?

A. Okay, yes.

Q. And I think the one thing you knew about the criteria, as it says it there, was that they were set out in descending order of priority?

A. Yes.

Q. So at the top was the most important one, and at the bottom the least important?

A. Yes.

Q. And am I right in thinking that that meant to you that there was a weighting being given to those criteria because the top one was going to be worth more than the bottom one?

A. That they would be weighted, yes.

Q. Did you understand that?

A. Yes.

Q. So from an early stage of being involved in the process, you understood that the criteria, when they fell to be used to work out how an applicant had performed in the competition process, were going to be a weighted criteria?

A. Yes.

Q. Now, I'll be coming back to that document later, but we can pass from it for now.

I wanted to move on now to the events of the 9th

October of 1995 that we heard so much about yesterday, and I think the best place to start looking at this material is in your book of documents that was handed in yesterday, the black folder.

A. This one, the smallish one?

Q. Yes, the smallish one.

And I have called that Billy Riordan's folder. And effectively it's an amalgamation of documents, and it's there is two dividers in it, which I'll be calling Divider 1 and Divider 2.

Now, if I could ask you to look at, near the end of Divider 1, probably about six pages from the end, we see the document that we dealt with yesterday called "Notes for meeting on the 10th October"?

A. Yes, 9th October, yes.

Q. Sorry, 9th October.

Now, I want to just get the chronology of the documents here. There are four pages that I want to ask you about, and it starts off with your manuscript notes, notes for meeting on the 9th October. And as I understand what you wish to say about that, it's that this was a note that you made, having or during the course of a meeting with Donal Buggy?

A. Yes.

Q. So it appears to have been prepared prior to the meeting of the 9th October for the purposes of bringing together thoughts you had, having been

looking having looked at something?

A. Yes.

Q. And I presume what you were looking at was the draft of the evaluation report of the 3rd October?

A. Or excerpts from it, yes.

Q. When we look at the table that you set out, and we see letters attributed to particular applicants against solvency and strength and liquidity and other matters like that, as I understand it, underneath you have written down certain issues that arose for you; and if I could ask you to deal with the issue of strength.

Now, on strength, in the table we see the letters across under A1, A2, A3, A4 and A5, etc., and we get to the C, with a B in brackets above it, for A5 that Mr. Healy asked you about yesterday.

A. Yes.

Q. Now, as I understand it, if I want to understand what you are talking about there, I come down and I look at your manuscript notes underneath; is that right?

A. Yes.

Q. So when I want to find out what was going through your mind in relation to C(B), the third paragraph of verbiage underneath with the word "Strength" is where I find the answer. And what I see there is "A5, Communicorp, has negative equity, as does A2" a word I can't read. "This should indicate a C for A5, surely."

So I presume that was a question you had in your mind having discussed the matter with Mr. Buggy; is that right?

A. Yes.

Q. I think what then happened is you went to the meeting of the 9th October?

A. Yes.

Q. And we have some records of what occurred there, but I'll come back to them in a moment.

The next document we see is a facsimile cover sheet dated 9th October, 1995, and it's to Michael Andersen, Andersen Consulting International. It's from Donal Buggy, and it's dated the 9th October, 1995.

A. Yes.

Q. And written underneath then is "Billy, a copy of the fax to AMI as requested.

Donal."

Now, am I right in thinking what we are looking at here is a facsimile sheet that shows a communication to Mr. Andersen of the 9th October? Is that right?

A. Yes.

Q. Although I think, if you look at the top, it says sorry, 9th October. And secondly, it's being used for a second purpose: It's being used to send to you. Because it's saying "Billy, a copy of the fax to AMI as requested"; is that right?

A. Yes.

Q. If we then turn over the page, we see a memorandum

A. Yeah.

Q. which is dated 9th October, '95. And as I

understand it, this is what was faxed to Mr. Andersen.

And it is a memorandum to him and Mr. Bruel from you

and Mr. Riordan

A. Mr. Buggy, yes.

Q. Sorry, Mr. Buggy. And it's dealing with the first

draft of the evaluation report, and it's dated 9th

October, and it sets out a series of matters that you

wanted to draw to his attention?

A. Yes.

Q. And as I understand it, this was created after you had

had the meeting of the 9th October with the Project

Group; is that right?

A. Yes.

Q. So when you went into the Project Group, you had the

issues that are listed in your manuscript documents in

your minds, and when you came out of the Project

Group, you still had matters you wished to go to Mr.

Andersen?

A. Yes.

Q. And to find out how the two relate, I assume we can

look at the manuscript notes and then look at the

typed fax, and where we see something missing, what

does that signify?

A. That it was resolved in the interim. That's what I

think happened the point about A5's strength.

Q. That's exactly what I want you to bring me through now. Because if we look at the note that links to the A5 issue of strength, the C(B), we see that there is a reference there to a change from a B to a C for A5, but we don't see any such reference in the memorandum, the typed memorandum that gets faxed.

A. Right.

Q. Perhaps you could just check through to see if that's right, because it's an important point, I think. It appears to me that it's page 38, so it's probably the third bullet point on the typed one would be the nearest you are going to get to it; maybe not.

A. I don't see that point reflected in the fax, which I think is what you are asking me, is it?

Q. Yes.

A. Yes.

Q. But what we do see is that if you look at the fourth bullet point, we see "Recheck liquidity on A6 with reference to the number of years the ratio falls below 100 (see page 38, paragraph 3). If this changes the grading, then please consider the consistency of the revised grade with those attributed to the other applicants."

A. Yes.

Q. So it seems to me that insofar as you are concerned with page 38, and a question of gradings, it's now

been reduced to a concern with an A6 grading?

A. Right, yeah, I see that, yeah.

Q. And is it safe to assume in those circumstances that between talking to Mr. Buggy, making the notes that we see in notes for meeting of the 9th October, attending at the meeting of the Project Group for the 9th October, and preparing the memorandum, such issues arose in relation to the C to the B had been dealt with in some way?

A. That's what I assume.

Q. And that's the evidence you wish to give to this Tribunal?

A. Yes.

Q. Now, I want to come on to something else now, which has been in part touched upon by Mr. McGonigal, so I won't need to labour it, but I just want to make sure I am fully understanding what's being said.

And in this respect, I am going to have to ask you to go to Book 56, which has the series of evaluations.

And it's Book 56, Divider 5, which is the evaluation of the 18th October.

A. Yes.

Q. That has manuscript amendments on it by you, or annotations on it by you, and I wanted you to go to page 14 of that.

A. Yes.

Q. And there is a table on page 14, and we have had a

number of questions about this table, and I just want to understand something from you; I think Mr. McGonigal dealt with it in part. I want to make it absolutely certain what you are in a position to say to the Tribunal about this. And before I ask you questions about it, I want to see if you will agree with another matter that I believe is the evidence you are in a position to give.

When I started, I dealt with the concept of the weighting of the criteria, and I think you have had the opportunity of looking at the evaluation reports again. You looked at them when you first saw them back in 1995, but you have had the opportunity of looking at them again recently. And I think you understand that when the question of scoring and marking the applications arose, the way in which the report approached it was to consider matters under criteria, consider matters under aspects which I am going to come back to consider matters under dimensions, and finally, consider matters under indicators, and indicators could have sub-indicators.

And as I understand it, you appreciate that the indicators were the matters that could be marked in some way to examine the value of a particular performance by an applicant under the appropriate criteria; is that right?

A. Yeah, they were the lowest level, if you like.

Q. That's where you could actually see the ability to break down an application and give it some marks in quantitative terms or some ranking in qualitative terms?

A. Yeah.

Q. Is that right?

A. Yes.

Q. Now, insofar as you were involved in a sub-group that was concerned with elements of attempting to mark the applications, I think you dealt with finance; isn't that right?

A. Yes, sorry, and performance guarantees.

Q. They were the two groups that you dealt with; you didn't deal with marketing aspects and other matters like that?

A. No, although I was around at those sub-groups, because when I think some of the time, when I was waiting for Andersens to finish their work on the tables.

Q. And you just attended for lack of anything better to do; is that correct?

A. Correct.

Q. In relation to how the Project Group was going to attend to marking indicators for the purposes of finding out what they look like when grouped under dimensions that eventually got grouped under criteria, as I understand your evidence, it was you can't recollect a discussion about the weighting of the

indicators, is that right?

A. Within a dimension.

Q. Within a dimension?

A. Yes.

Q. But am I also right in thinking that so far as you are concerned, it would be no surprise to have indicators weighted under a dimension, in appropriate circumstances?

A. If that's what Andersens had suggested, that would have been I wouldn't have had an issue with that.

No, it just didn't come up in the finance element.

Q. Precisely. So as far as you can recollect, in finance, all the indicators were views as of equal importance?

A. Yes, that's the way

Q. That's your recollection. But maybe there were weightings, but if there were, you hadn't noticed; is that right?

A. Yes, that's correct.

Q. So if in some other evaluation of indicators, for the purposes of looking at a dimension, there was the need to weight an indicator, you wouldn't find that intellectually inappropriate, given the nature of the competition?

A. No.

Q. Now, I want to bring you back to Table 1.

A. I would have been very much in Andersens' hands there

as to you know, what was appropriate and what was not appropriate.

Q. For example, if you were looking at quality of coverage, it may be one of the indicators was how many masts were erected somewhere and maybe that would be more important than what would be the range of the communication from the mast to a handset. I don't know if that's one, but that sort of thing; and it could be that people would have viewed the number of masts as something that required a larger set of marks than the ability or the distance that the mast might communicate to a handset?

A. Yes.

Q. I mean, it would be a technical issue, or an issue an expert would talk about, but you wouldn't find an intellectual difficulty in those distinctions existing?

A. No.

Q. Okay. Now, if we come back to this table, Table 1, I think one of the things we know about Table 1 is, it is a series of indicators brought together a series of pieces of information brought together that are not brought together under criteria; isn't that right?

A. That's

Q. You have got marketing aspects, which is a matter below criteria?

A. Yes.

Q. So insofar as the issue of weighting ever arose in relation to this table, it was not going to be a weighting that would be affected by the criteria weighting?

A. Okay, yes, I see

Q. Do you accept that?

A. I understand what you are saying, yeah.

Q. And do you accept it?

A. Yes, I do.

Q. So when we look at the annotations that appear to be in your writing, and we see tariffs, which we know to be a criteria name as well, and somebody putting 18% against tariffs, that appears to me and I want to know what you feel about this that that appears to be somebody making a form of calculation that appears to be applying a criteria weighting to tariffs at a stage that it is not appropriate to apply a criteria weighting.

A. On the basis of that these dimensions were further down the hierarchy, I see what you are

Q. Are you happy with that?

A. Yes.

Q. Is that the evidence you wish to give to this Tribunal?

A. As far as I reconstruct the situation, it's not from recollection, but yes, that makes sense.

Q. Good. So when we see whatever calculations have been

done to lead to 1.77 under A3 and 1.565 under A5, am I right in assuming that that appears to have been a set of marks that has been achieved, to some extent, by the application of the 18% tariff weighting to the calculation?

A. I haven't redone the calculation, but that's what I was told yesterday. I believe that to be the case.

Q. So if that's so, and we agree that the criteria weightings shouldn't have been used at that time, the figures we see of 1.77 and 1.565 are erroneous for the purposes of testing the credibility and veracity and usefulness of this particular table?

A. I accept that, okay, yes.

Q. If I could ask you to move on to Table 16 in this booklet. Table 16 appears at page 48.

A. Yes.

Q. Now, Table 16 represents a thing that's called it's hard to read here, but on your annotation, Table 16, "Summary of Marks Awarded"?

A. Yes.

Q. Now the first thing I think we know about Table 16 is, it's a grouping that takes place by hanging the dimensions in question under the aspects that we know are a rank below, or not a rank below, but not the same as criteria; do you understand that?

A. Just repeat that.

Q. You see, just look at Table 16.

A. Yeah.

Q. And it's not the clearest, but at the top of Table 16, the heading in bold is "Aspects and Dimensions"?

A. Yes.

Q. What we then see is market development, coverage, tariffs, international roaming plan, and then market they are the marketing aspects, because in fact the shaded bar going across the page under the first four white lines across, it's the aspect that the dimensions above relate to; do you understand that?

A. Yes, I see that.

Q. So what we are looking at here is an approach to marking or grading the application by taking the dimension marks and listing them under their aspects that Andersens had thought up?

A. Yes.

Q. And if we look at marketing aspects, we see B, C, B, C, A, B, C, and if I ask you to turn back to Table 1 on page 14, we see that that information has simply come from Table 1.

A. Okay.

Q. So if the figures of 1.77 and 1.565 and the various calculations you did in Table 1 or noted somebody else as having talked about at that meeting, if they are erroneous, as you say they were, can I assume that when we get to Table 16, you wouldn't have anything to say about the correctness or otherwise of the

information we see concerning the aspects and

dimensions that are marked there?

A. Yes, I see, following that logic this, again, I must stress, is not from memory, but following the logic, yes.

Q. I appreciate, Mr. Riordan, you are doing your best, but I am trying to bring you through it the way you would have seen it then. Are you happy to give this view to the Tribunal now as the most appropriate view of whatever your annotations meant?

A. Yes, if you accept that the weightings having on the understanding that the weightings shouldn't be applied, the criteria weightings shouldn't be applied, yes, I totally follow that, yes.

Q. Now, I want to bring you back to another matter, and that is the way in which the evaluation reports came into existence. I think you were aware that Andersens were going to be producing a first draft of the evaluation reports, and they were going to then be given to members of the Project Group; and as that event was taking place, meetings were being had with sub-groups, talking to Andersens, and the whole process was leading up to a first draft evaluation report; is that right?

A. Yes.

Q. And if I could ask you now to go to Book 46.

A. Should I keep these books open?

Q. Well, keep them close by; we'll be coming back to them.

A. Yes. Where do you want me to go in this book?

Q. If I can ask you to look at the it's the first the 3rd October, and this is Divider it's the very first divider in Book 46, Divider 34.

A. Yeah, I see it.

Q. Now, I just want you to look at the first the second page of this. It has the table of contents.

A. Yes.

Q. Now, insofar as this report is concerned, it effectively did the job of dividing up the information contained in the draft report by dividing it under five chapters, so to speak. You have an introduction; a key characteristic of applications; the comparative evaluation of the application; sensitivities, risks and credibility factors; and finally, a summary, concluding remarks and the recommendation.

A. Yes.

Q. And if we see on page 1, which is the next page, we see on that page the paragraph 19 of the competition, which we have referred to at the beginning of my questioning, is set out; and I assume you were happy with that, that that appeared to be the paragraph that directed how the Project Group would conduct itself?

A. Yes.

Q. And we see immediately under that, the following:

"These criteria have been structured as marketing aspects, technical aspects, management aspects, financial aspects and other aspects."

So the concept of aspects appears to be something in the mind of the man drafting the report, because they don't appear anywhere else in the criteria or paragraph 19 details.

A. Okay, yes, I accept that.

Q. So I just want to be certain that I understand this, and you wish to let the Tribunal know that it's the evidence you wish to give, that the reason we have aspects at all is because the people who decided how the report would be structured decided to draw together information by hanging it under various aspects, four essential aspects: Marketing aspects, technical aspects, management aspects and financial aspects.

Are you happy with that as an appropriate statement as the way the report was presented?

A. Yes.

Q. Now, the next matter I want to draw your attention to and see if we can reach some agreement on is the fact that when one looked at aspects and looked at the dimensions that were used to consider an aspect, there wasn't a similarity with the criteria; in other words, the dimensions that were grouped under aspects weren't always the same dimensions that would be grouped under

criteria. So the aspects were a different grouping of dimensions to the dimensions that would be grouped under criteria?

A. Yes, if I understand you correctly, that would make sense, given that there are 7 criteria and only 4 aspects, 5 aspects.

Q. So as you sit in the witness-box now, and as would have been apparent to you reading the reports in the draft form in 1995, if you were attempting to reach an answer as to who had won the competition by attempting to mark it by grouping dimensions under aspects, you were not being true to the competition document, paragraph 19?

A. Yes, I see that, I accept that.

Q. You walked away from the importance of the criteria?

A. Okay, yes.

Q. I am not sure if you remember, I am going to ask you if you do; do you recollect that the Project Group identified this issue as a problem with the report?

A. I don't.

Q. But I think if you look at the manifestations of the draft report from the 3rd to the 18th to the 25th, you see that in fact the way the report develops recognises this fact, and the reliance upon marking under aspects drops away, and the important information is then presented by marking under criteria.

I'll bring you through the reports if you want.

A. Because I don't have that

Q. All right, I'll bring you through the report. I think

if we just stick on the report of the 3rd for the

moment.

What I am looking for and can't find, in fact, Mr.

Riordan, is the statement that is in fact this this

single loose sheet which had an element of a reference

of the meeting of the 9th October. I think it's it

may be necessary to go on to the report of the 18th to

find it. If I could ask you to turn on to Book 46,

Divider 46, yes, page 6.

A. Divider 46.

Q. Page 6.

A. I have a copy of that piece of paper, actually.

Q. I have too.

I think if you look at the second report of the 18th,

and we go on to page 6, you see the words "A draft

report discussed on the 9th October has followed the

incorporation of comments from the PTGSM culminated in

this final report as unanimous support was given by

the PTGSM to the results of the evaluation. Andersen

Management has requested them to submit the final

report. It was decided to present the quantitative

and qualitative parts of the evaluation integrated

fashion in accordance with the agreed procedures. See

Appendices 2 and 3."

This document here that you were handed in was something that you got at some other point in time said "Finally the results were put in the structure of this report and presented to the PTGSM meeting of the 9th October 1995 as unanimous support was given by the PTGSM to the results of the evaluation."

Now, in the copy of the document of the 18th which has your annotations on it, much has been put on the fact that you made crossings-out of that particular statement in the draft you were given in relation to the report of the 18th.

Now, I want to bring you back to the meeting of the 9th October, because we have had some evidence about it, and to understand from you what was going through your head when or what was the reason for being unhappy with suggesting there was unanimous support given at the meeting of the 9th October in respect of the incorporation of final comments.

On the 9th October, as I understand it, you had come with you and Mr. Buggy's concerns about the draft.

You had had a debate which had dealt with some issues, and you went away and you sent a fax to Mr. Andersen dealing with matters that remained an issue for you; isn't that right?

A. Yes.

Q. Is that why you were saying you couldn't say there was unanimous support, because there was still work to be

done?

A. First of all, I don't recall there being unanimous support. Secondly, the notes the minutes don't reflect there being unanimous support. I may have been concerned for that reason, that there were still outstanding issues as having been raised on the fax.

So therefore, that on the fax of the 9th October, so that may have been a reason for it; but I also may have been uncomfortable because in looking at the minutes of this, Mr. McMeel was not at the meeting.

Q. That's what I wanted to talk to you

A. The fact that Mr. McMeel wasn't at the meeting, I may have said I don't want it to be interpreted that I made, or that I was involved in some sort of unanimous adapting of the report without, and representing the Department of Finance in that process of so that's why I would have been particularly I think I would have been fairly live to that.

Q. Could I ask you to go to Book 42, Divider 120, where we'll find the report of the meeting of the 9th October, the official report.

A. Tab what, please?

Q. Tab 120.

A. Yes.

Q. Now, the point you're making is they don't say there was unanimous support in that particular minute, and as far as you were concerned, matters remained to be

done, because you had sent your comments in to Mr.

Andersen after the meeting; and the other point you are making, as I understand it, is you were the only person representing the Department of Finance at that particular meeting.

A. I want to be clear, I was the only person available to the Department of Finance; I wasn't

Q. Available to; sorry.

A. Yes.

Q. And I think you said earlier that in those circumstances, you'd be careful about reaching agreement where there might be issues you felt were better dealt with by one of the civil servants?

A. I'd be very careful.

Q. Okay. So would it be an appropriate view to take that that is probably the reason why, when you read in the first draft of the report or this draft of the report that there had been unanimous support at that particular meeting, you felt that was not the appropriate thing to say?

A. Yes, yes. I am just trying to think where that entire document could you give me one second, please?

Q. Certainly.

A. I can't put my hands on it now. Do you remember, I had written at the top of those documents "Seen JMM", do you remember, "seen by Jimmy McMeel"?

Q. You mention that. I can't actually remember where

that is.

A. That may have come up in a discussion with Jimmy. Do you remember, I think there was both Jimmy McMeel's writing and my writing on them. That may also have been something I said: "Look, that's not something I agreed to". It may have happened when I was discussing with Jimmy McMeel. I don't know if that's of relevance, but...

Q. We'll see if we can find that for you. We'll come back to that, because I am conscious we want to get you out of here by four.

Now, if I could bring you back to the draft of the 18th October. When you were looking at the draft of the 18th October, did you have any reason to question the marking of indicators, whether considered under dimensions and aspects or when they were put together to be used as dimensions to be hung under the criteria that the competition was to be run by? Do you have any information to hand that made you believe that the marking that had taken place was otherwise than appropriately carried out?

A. I don't, no.

Q. And if we look at the draft of the 18th October, and we come forward to the final tables, which will be Tables 16, 17, and 18, I think if we look at Table 16, we still see this as a presentation of aspects and dimensions, and you'll recall earlier, I asked you

about that. Did you still hold the view that the aspect and dimension presentation was an inappropriate marking because of the reliance on paragraph 19 of the competition?

A. You have pointed out, yes, I agree, it's not in the structure that was as per paragraph 19, yes.

Q. But when we come over the page to Table 17 and Table 18, you see the dimensions grouped under the appropriate criteria?

A. Yes.

Q. I think if you just look at Table 17, you in fact get three dimensions marketing development, financial key figures, experience of the applicant which will be grouped under the first criteria. You then get radio network architecture and capacity of the network, which would be grouped under the second criteria. And then the matters thereafter tariffs, licence payment, coverage, roaming, performance guarantees, and frequency efficiency they are the other appropriate criteria. And you see the weightings down the column, being the weightings 30, 20, 18, 11, 7, 4, 5

A. The handwritten ones?

Q. Yes. And although you are not in a position to recall now the basis upon which the B with arrow down or the C with arrow down or the B with no arrow was worked out, did you have any reason to query or doubt or in

any way wish to challenge the correctness of those marks?

A. None that I recall.

Q. None that you recall. And I think if we turn on to Table 18, however the question of converting letters into marks had been arrived at, it was crystal clear as to the calculation that was taking place under paragraph 5.4, it was stated "Also a weighting mechanism was agreed prior to the closing date for quantitative purposes as evident from both Table 17 and 18. If marks A, B, C, D, and E are converted into arabic points of 5, 4, 3, 2, 1, it could be calculated which applicants come out with the highest score measured by points, although such a calculation distorts the idea of qualitative evaluation."

A. Yes.

Q. So nobody who had read that could be under any misapprehension as to the methodology being used by the Project Group?

A. I accept that, yes.

Q. So you didn't wish to have that changed. You could read it and understand it?

A. Yes.

Q. And you are happy to go ahead on that basis?

A. Yeah, yes.

Q. Now, I wanted to just ask you a little bit about the now, in relation to the final evaluation report

of the 25th, I am not going to bring you through all the contents documents; you can see, if anybody looks at the 3rd draft, the 18th draft, or this particular form, the 25th, we see the table of contents.

But in this particular point in time, looking at the table of contents, we see it has now turned into 7 chapters with particular matters underneath them. And we have introduction, outline of the conduct of the competition process, the key characteristics of the applications, the comparative evaluation of the applications, which is still grouped together under marketing aspects and other aspects. We have the sensitivities, risks and credibility factors, and we have the final evaluation.

I want you to turn to that now, which is Part 6, which you see at page 67.

A. Yeah.

Q. Now, I want to ask you a number of questions about the process. I assume that so far as you were concerned, the process was to determine the ranking of the applications in accordance with the priorities specified in paragraph 19 of the tender document?

A. Yes.

Q. And I assume you were clear that the evaluation was to be carried out on an equitable basis?

A. Yes.

Q. I assume you were concerned to see that the

information was going to be considered in accordance with the evaluation criteria set out in descending order of priority?

A. I would have expected to see that. However, I would have seen that to have been the primary concern of the civil servants, but I would have expected to see it.

Q. And at that point in time, would I be correct in thinking that you would have seen the result of this process as being achieved by extracting marks awarded to each application under the 11 dimensions?

A. Could you repeat that question, please?

Q. You would have seen the result of the process having been arrived at by extracting marks from the award of each in other words, looking at the applications, marking them

A. Against the criteria.

Q. Well, firstly against the indicators, held under the dimensions, and then applying the dimensions to the criteria?

A. Yes, okay, yeah.

Q. And on that basis, you would have seen the appropriate marks being put forward, and it possible to look at what that meant by grouping the dimensions under the appropriate criteria to arrive at a winner?

A. Just there is a lot of terms here; could you just say that once more, just to be clear.

Q. Having looked at the marks that came from looking at

the indicators, having listed them under the dimensions, and having grouped those dimensions under the evaluation criteria, you would be looking at the winner of the competition?

A. Yes.

Q. So if that's the way things had been done, you are happy with that; is that right?

A. Yes.

Q. Have you any reason to think that's the way things were not done?

A. No.

Q. And I think if we turn on to page 49 of that final report, to 48 first, I think we see the lettered markings under the criteria market development in Table 16, we see the lettered markings under technical viability criteria, and we see the lettered markings under tariffs, licence payment, coverage, international roaming plan, performance guarantees and frequency efficiency. And we then turn over the page, and we see the scoring methodology used to achieve the winner of the competition; isn't that right?

A. Yes.

Q. And is that the way you think things should have been done?

A. Looking at it now, yes.

Q. And is that the way that you recollect things having been done?

A. I don't have that detailed knowledge, to be honest, that detailed recollection.

Q. Have you any evidence

A. I don't have any recollection of having any concern about how that part of the process

Q. Very good. Have you any evidence you feel you are in a position to give to this Tribunal to suggest things were done in any other way?

A. No.

Q. Do you think you would have, if you had some problem about the way things were being done?

A. If certainly if I had seen something, I would have I believe I would have remembered it. If I had seen something that was that jarred with me or didn't gel, I would have remembered it, yes.

Q. Can we translate that into something slightly more concrete for this particular Tribunal. Is that the same as saying that it would be most improbable that even today, had you seen something like that, you'd have forgotten it?

A. I think it's improbable, yes.

Q. Now, we have had the opportunity of looking at a lot of other people's notes. Do you find them particularly helpful in attempting to give your own evidence?

A. Such as Margaret O'Keefe's notes, for example?

Q. Yes.

A. It's another recollection, but yes, I do, yes.

Q. And have you seen anything in any of those so far that wants you to stand back from what you have just said in relation to having seen nothing that shakes your view that you saw nothing in the course of the analysis or the marking or the arrival at the final evaluation and the identity of the winner that makes you think there was anything untoward taking place?

A. No.

Q. Now, I just want to come back to the events of the 9th October.

In relation to the discussions that were being had there concerning the report of the 3rd October, as I understand it, you felt you had come to the meeting of the 9th October, you had made your comments, and insofar as things required to be done after the meeting of the 9th October, the bits that you were interested in were communicated to Andersens in the fax that you and Mr. Buggy sent?

A. In relation to the finance section, yes, yes.

Q. And Mr. McGonigal has brought you through some of the additional documents that was to hand, and I think you now accept there must have been events taking place to which you were party which were addressing issues that you had raised in that documentation?

A. Could you just repeat that? I am starting to get a bit slow at this time; sorry.

Q. Mr. McGonigal brought you through a series of documents and exchanges concerning aspects of the financial evaluation that he suggested to you and as far as I understand, you agreed shows that after the 9th October, there must have been discussions at which things that were considered, and the 9th October were dealt with and eventually found their way into the final draft of the report; is that right?

A. As I recall, Mr. McGonigal took me through documentation that was around between the 27th September, 30th September, etc., which documentation

Q. Sorry, I'll ask you myself. In relation to the events that were made known to Mr. Andersen, would you have been paying attention to whether or not those issues were corrected or dealt with or looked at as you came to the draft report of the 3rd October and the draft report of the 18th October?

A. I think I would have checked the issues that I raised, yes.

Q. Do you have any recollection of any issue you raised not having been dealt with in some satisfactory way to you?

A. No.

Q. If somebody had tried to avoid dealing with an issue that you had raised in a way you felt it was inappropriate, would that be something that you would

have stood up against?

A. Yes.

Q. And do you have any recollection of having that set of circumstances happen to you?

A. No. For example, I'll just point out that if you remember, I asked Andersens if they were happy with the way the tables were reformatted, and I made sure that was on the record. So that's the way I would have approached anything that I found was that fundamentally jarred.

Q. Is it fair to say then that whatever happened on the 9th October and whatever occurred in relation to the issues that you and Mr. Buggy raised after the meeting of the 9th October, you feel that the evaluation presents the process in an appropriate way, in an appropriate way to describe as the final result of the process?

A. Yes.

Q. And do you think it's fair to say in those circumstances that when we see the final evaluation report, and we see how it was arrived at, what we are looking at is something that represents the consensus view of the people working on the evaluation?

A. Yes.

Q. So when we read in page 6 of the final evaluation report, at the second-last paragraph of page 6, "An initial draft report was discussed by the PTGSM on the

9th October. The incorporation of comments on the initial and subsequent draft by members of the team in relation to the presentation of the results of the evaluation process has culminated in this report.

This report reflects the consensus view of the PTGSM as to how the results of the evaluation should be presented in the final report", you are happy with that statement?

A. Yes.

Q. Thank you.

Now, I want to bring you back to one other matter.

Sorry, I'd just better finish this.

I want to bring you back to the make-up of the people who were applying, the applicants, and I'll need you to go back to Book 41, Divider 46.

Now, the first thing I want you to look at is the competition process again, and I am going to ask you to look at two additional clauses that we haven't considered, so far as I am concerned, with you. And they are Clause 3, to start with, and what it states is "The applicant must give full ownership details for proposed licensee and would be expected to deal with the matters referred to in the following paragraphs in their submission."

So the first thing we were looking at was a need to give full ownership details of the proposed licensee; isn't that right?

A. Yeah.

Q. And if we turn on to paragraph 9, it's not that easy to read, but it says at the beginning "The applicants must demonstrate their financial capacity and technical experience and capability to implement the system if successful and must include a business plan for at least the first five years and a complete technical proposal."

And there are certain other matters there, but that's the bit I want to draw your attention to.

Now, I assume, as part of the Project Group, you would have had the opportunity to consider the applications of each of the applicants; is that right?

A. As part of the Project Group, I would have had the opportunity to consider each application?

Q. The applications put in by people who wanted to win the competition, you would have had a look at those?

A. Only as directed, if you know what I mean.

Q. Okay. Perhaps, then, I could ask you to look at two documents now, and it's an extract from the Digifone application, and Mr. Shaw has extracted copies of these.

I am not sure where they are, Mr. Chairman.

And subject to correction, Mr. Riordan, I understand this information to be the essential information given by the Digifone application, in the course of its written application document, and I'll be asking you

to look at paragraph 2.1, where it states "Esat Digifone has two operator partners, Communicorp Group Limited of Ireland and Telenor Invest AS of Norway. Together they bring Esat Digifone complementary culture, skills and experiences covering all necessary areas for the company to succeed."

So I suggest to you that that would show that there were two partners to start with, or two operating partners; and would that explain your view that there was a 50:50 partnership?

A. It would, it would coincide with my view, yes.

Q. And I think if we come down to paragraph 2.2 at the bottom of that page, we then see the company's ownership structure: "Esat Digifone is an Irish incorporated company. Currently 50% of the shares are held by Communicorp and the other 50% by Telenor. On award of the licence, 20% of the equity in the company, 10% each from Communicorp and Telenor, will be made available to third-party investors. This allocation has been placed by Davy Stockbrokers (Ireland's largest stockbroking firm) with Allied Irish Banks Investment Bank of Ireland Standard Life Ireland Advent International.

"Confirmation letters of all equity partners are contained in the financial appendix.

"The shareholders plan to make a percentage of the company's shares publicly available on the Irish Stock Exchange some two or three years after the licence award".

I want you to look at a second bundle of documents, which is Appendix C, the confirmation letters. I think you have been involved in analysing and considering business plans and things like that for a number of years; is that right?

A. I have yes, yes.

Q. And I have to say I'd ask you to look at the letters now. I'd ask you to look at the first letter, from AIB, of the 8th June of 1995. It's the third page in at that bundle. "Dear Sirs" it's written to Esat GSM Holdings Limited "Dear sirs, we refer to the recent discussions in relation to the proposed tender by the consortium for the second cellular mobile telephone licence ("the licence").

"We have reviewed the information memorandum ("the memorandum") prepared by the consortium and we are now writing to confirm that we are prepared to invest $\text{€}1\frac{1}{2}\text{m}$ by way of equity and/or loan stock in the consortium subject to" and I am going to read out the conditions:

"A. The licence being prepared by the consortium in terms broadly in line with those set out in the memorandum or the tender documents, or where amended

on terms which we agree."

Now, I suggest to you that on any reading of that, even those with only a rudimentary view of approaching what banks are going to give you, would understand that that bank has now made the condition of giving any money subject to their agreement the terms of the licence and it is in exactly the same terms as the memorandum in the competition documentation; isn't that right?

A. Just the last clause you said, it's exactly the same terms of the competition document because the competition documentation requires that they must

Q. The competition document had a memorandum indicating broadly what the licence had to contain. But what they are saying here is if the memorandum is amended, it's got to be amended in terms which the bank agree with.

A. I am sorry, I don't mean to be slow, Mr. Nesbitt; when you say "the memorandum", you mean

Q. The licence being prepared by the consortium on terms broadly in line sorry, that's the information memorandum; it's mentioned in the paragraph above.

So what this is saying is that the bank, if there is any change to the terms set out in the memorandum, they have got to agree with them before they lend money.

A. Yes.

Q. And secondly

A. I take it that's an information memorandum that was submitted by Esat GSM Holdings Limited to the bank, yes.

Q. Well, I don't know. I can't answer that, probably, yeah. But let's get on to B, "The terms of our investment being approved by our investment committee or board."

That's a pretty fundamental condition. There is somebody yet to agree this investment; isn't that right?

A. Yes.

Q. So this isn't any binding commitment at all. It's the possibility of money being granted at the decision of the committee or board of AIB?

A. Yes, okay, yes.

Q. And if I ask you to turn over the page, I think we see IBI. I am not going to suggest they are guilty of breach of copyright, but a similar sort of letter, and the two conditions, A and B, are effectively the same.

A. Yes.

Q. So that's again really no commitment by anybody?

A. Yes, okay, yes.

CHAIRMAN: These are very much matters of construction and matters of law, Mr. Nesbitt, really?

MR. NESBITT: With respect, Mr. Chairman, this is a matter that this Tribunal's team has put to you as

being something that can be gleaned from the information that's here. We have Mr. Riordan in the witness-box as one of the financial advisers, and he is indicating that in his view, and he is the man who did some financial work, these are not materials that show that there was a clear understanding as to who was going to be the other 20% or that they were committed.

And I'll be making submissions, indeed, to you on that, but I think this witness's evidence is important. I won't labour the point because I think we can read the rest of them, and they are matters of the same but

Q. So in relation to the presentation of this information, coming back to what the information made known by the two pieces of extract from the application by Digifone, is concerned, you saw two known partners, with an anticipation of 20% coming in from other people?

A. This would result in the 40:40:20, yes.

Q. And when you checked through the full details made in relation to the financial appendix, it was clear, although names were given, those people had not committed themselves to delivering the money. It was still very conditional?

A. I don't recall having checked that.

Q. Okay. Now, finally, and I don't want to labour what

Mr. McGonigal dealt with, but did you at any time in the course of working on this particular project feel that you were being pressurised or in some way inappropriately directed to reach decisions that weren't your own or do things that were not what you considered the appropriate thing to do?

A. No.

Q. Did you see anybody else being put in that position?

A. No.

Q. In relation to the winner being the Digifone consortium, do you have any doubt as to that being the appropriate outcome of the process?

A. No.

Q. Thank you.

CHAIRMAN: Since Mr. Trueick has been here, I'll just give him a brief opportunity to confer with Mr. Riordan in case there is any aspect you might wish Mr. Nesbitt to bring out.

You are content?

Mr. Healy. There will have to be a ceiling on this.

MR. HEALY: I wonder, is there any point, Sir? I don't know I haven't heard this version of the report before, so I could try to deal with it in ten minutes or fifteen minutes.

THE WITNESS WAS EXAMINED FURTHER AS FOLLOWS BY

MR. HEALY:

Q. MR. HEALY: Are you saying now, Mr. Riordan, that

what is contained in the report was not what you

intended or what the group intended at all?

A. Sorry, could you repeat?

Q. Are you now saying what is contained in the report is

not what the group intended at all?

A. No.

Q. Do you remember, you referred to the opening passages

of the report. I won't ask you to turn it up for the

moment, firstly to see do you remember it, so we won't

have to turn it up.

I think you were referred to one of the opening pages

of the report.

A. Which draft, please?

Q. I think it's the final draft.

A. The final version?

Q. Yes, the final version.

You were asked you were referred to you needn't

open you may be able to deal with this without

opening it.

Do you remember being referred to this passage

firstly the criteria in paragraph 19 were mentioned.

Do you remember that?

A. Yes.

Q. Then this passage was read out to you: "These

criteria have been structured as marketing aspects,

technical aspects, management aspects and other

aspects. This sequence is logical because the

foundation of a business case often is a market idea, a vision or a strategy, an independent variable. The technical and management aspects are then viewed as mediators of the marketing aspects. Finally, the financial aspects dependent on all the other aspects could be viewed as the outcome of the business seen from the investor's point of view. Each aspect is divided into so-called dimensions, and each dimension has been subdivided into indicators", and so on.

A. Yes.

Q. And then what the report goes on to do is to examine each of these aspects: marketing aspects, technical aspects, management aspects, financial aspects. Isn't that right?

A. Yes.

Q. Are you saying that's not that wasn't what you intended at all?

A. No, what I understood I was saying was that they had there had been, if you like, a regathering or regrouping of certain of the criteria or yeah, under those aspects, but fundamentally those aspects were the aspects that traced through from the paragraph 19 through to the evaluation exercise.

That's what I understood I was saying.

Q. But you are not saying there was anything wrong with the way the report is drafted? The report is drafted on the basis that the evaluations would be viewed

under each of those aspects; isn't that right?

A. It says "The criteria being structured under those aspects", yes.

Q. The process was structured under those aspects. Isn't that right?

Well, do you know or not? A moment you answered a question about it a moment ago. I just want to know, do you know? We'll pass on from it.

A. I followed the line of reasoning that was being put to me, I did follow that, yes.

Q. But do you know, yourself?

A. Well, I understood it, yes.

Q. The report was to involve an evaluation of various features of the applications under marketing aspects, technical aspects, financial aspects, and so on; isn't that right?

A. Right.

Q. And isn't that the way the work was broken down? Or was it?

A. It's the structure the work was put into, yes, because the table of contents says that, yes, and the table of contents obviously reflects the report.

Q. And the report drew all the results together under those aspects at the end of the day?

A. Under that structure, yes.

Q. And then the final draft of the report involved a regrouping of some of these features of the

application; isn't that right?

A. To be in line with paragraph 19, yes.

Q. But the actual work that was carried out was carried out under the rubric or under the structure of the aspects; isn't that right?

A. Yes, it appears to be, yes.

Q. And wasn't that in fact the engine of the process, to judge from the report now?

A. It's certainly the structure of that large Section 4, yes.

Q. Now, I think you were asked about the document again, I don't think I'll ask you to turn it up in which you refer to unanimous support, remember that, not having been given?

A. This is the one I had written the handwritten notes in beside, yes.

Q. There were two issues here. Firstly there was the fact that, if you like, knocked something out of your draft or your copy of the 18th October version. That was one point; isn't that right?

A. Yes.

Q. And then was the point about the other document in which you appear to have had an extract from the report, and you wrote a note in that?

A. Yes.

Q. Saying that unanimous support was not given?

A. Yes.

Q. And saying that you now remember something about that you didn't remember before?

A. No, no.

Q. I see. Do you actually remember having a discussion with Mr. McMeel about that?

A. I don't.

Q. So you don't know whether what you have told Mr. Nesbitt a moment ago is something that's been put to you that you think might have happened or you don't know if you remembered it or whether it's something that might have happened?

A. I cannot say I remember it. I can only say, and I hope I said that, it was something I believe might have happened.

Q. Right, okay. And it's certainly, I suppose, something that could have happened. There is no doubt about that.

Now, I think you would know from what I drew to your attention yesterday that Mr. Buggy made a similar mark; isn't that right?

A. About the unanimity?

Q. Yes.

A. I don't recall that, but sorry, I have been through

Q. And of course he is not a civil servant; it may have been the same thing with him.

A. It may have been, although he wouldn't have had the

concern that I might have had about Jimmy McMeel not being there.

Q. Correct, because his civil servants, if you like, would have been present; isn't that right?

A. Precisely.

Q. And we know that Mr. O'Callaghan made a similar mark on his copy?

A. Right, okay.

Q. And isn't it therefore more probable that all of those marks were made because there was no agreement, no unanimity at that point?

A. Yes.

Q. And that this was a widespread feeling, not just yours?

A. If it's on several people's notes, it must have been, yes.

Q. Now, just to clarify one or two other matters.

Now, just in relation to the questions you were asked about the membership of the consortium. You are not suggesting that Mr. McMeel was wrong, are you, in his impression that the consortium consisted of Mr.

O'Brien's company, Communicorp, Telenor, and the banks?

A. Well, I can only tell you what I believe to have been the situation. If Mr. McMeel had a different interpretation, then there is a difference of opinion.

Q. Your note I think described the situation as involving

named and unnamed parties; is that right?

A. This is the handwritten note that I had done that had
40:40:20 on it?

Q. Yes.

A. Yes.

Q. The documents that were put to you a moment ago were
described by Mr. Nesbitt as involving known partners.

A. Right.

Q. I don't know if that was intended to suggest, maybe
not, that there were unknown partners; but we know
that everybody was known, and everybody was named in
the report I beg your pardon, named in the
application, but not everybody was named in the
publicity. Isn't that right?

A. Yes.

Q. Remember, I drew to your attention the fact that the
Minister didn't name the institutional investors; do
you remember that?

A. That's right, and I remember my note of them having
been named.

Q. And what the document that was put to you says is that
there were two operating partners; isn't that right?

A. Sorry yes, I have it there, two operating partners,
yes.

Q. Now, do I understand you to be suggesting that I am
wrong in thinking that what was represented in the
course of the application, from the beginning right to

the end, was that there were a number of people involved in this application and that the consortium was putting forward the proposition that the licence would be owned by Mr. O'Brien's company, Telenor, Allied Irish Banks, Investment Bank of Ireland, Standard Life and Advent International? Is there any doubt in your mind about that?

A. Sorry, I don't mean to be I know it's late, but could you just repeat the question again?

Q. I understand.

Do I understand you to be suggesting that I am wrong in thinking that what was represented in the course of the application, from the beginning right to the end, was that there were a number of people involved in the Esat application, and that the consortium that was putting forward and that the consortium was putting forward the proposition that the licence would be owned by Mr. O'Brien's company, Telenor, Allied Irish Banks, Investment Bank of Ireland, Standard Life Ireland and Advent International?

A. I am sorry, I am struggling with this, but I really do want to answer the question. Please, sorry, could you put it slightly differently

Q. I'll put it differently if you like.

A. Please.

Q. My impression is this, and I am going to ask you, do you agree with me.

A. Please.

Q. My impression is that what was being suggested by the

Esat Digifone application was that the consortium

consisted of a number of people, and that the licence

was going to be given to these people, and they were:

Mr. O'Brien's company, right, because that can go by a

number of names; Telenor, Allied Irish Banks,

Investment Bank of Ireland, Standard Life Ireland and

Advent International.

A. Right, yes.

Q. Do you agree with that? That is the makeup

A. I don't have I don't really have a clear

picture I can see that on the one hand, these were

named people. On the other hand, I see that Mr.

Nesbitt has said that those people had get-out

clauses, effectively, in their letters, having just

seen the letters. So whether that was definitively

going to be the final ownership structure, I don't

really have a view on.

Q. What did you have a view what was your view at the

time? Was it the same as the view in your document?

That's what matters, really.

A. My understanding was that the shareholding would

become 40:40:20, with the 20 held by institutional

investors. I really don't have a clear recollection

on whether I felt that those investors had to be those

named investors or whether they were institutional

investors and they were the investors that they were currently talking to.

Q. Well, you wrote down those names; isn't that right?

A. That's right.

Q. And you didn't put any question marks next to them; isn't that right?

A. Correct.

Q. Does that suggest that those were the names that you had in mind?

A. They were the names that were identified, but I am being straight, absolutely honest with you here I cannot recall whether that was a 20% to go to institutional investors to be named, and these were the guys that they were currently talking to, or whether it was specifically to be those people.

Q. Do you remember being at the presentation?

A. Yes.

Q. Do you remember Mr. O'Brien describing the companies that he had on board?

A. I don't, offhand.

Q. Do you remember that?

A. I don't remember

Q. Do you remember those companies being mentioned?

A. I don't, but if they were mentioned, I...

Q. Could I just quote to you from a passage from the transcript of the presentations, Book 51, Leaf A. I don't think there are page numbers, unfortunately.

I'll just read out what Mr. O'Brien was saying: "The critical success factors, as we have seen it, above all else is the right ownership structure and the right operating partnership. And the person that we have asked to deal with this is Arve Johansen, who is Chairman of Telenor International; he is going to deal with this part of the presentation. In terms of the right approach to developing the market, Barry Moloney, with all his experience, is going to talk about what Esat Digifone's plans are in this area.

The very important area because of what we have said in our bid in terms of ability to grant an early launch within the nine months of granting the licence is going to be covered by Jan Edvard Thygesen, our Chief Executive," etc., etc., etc.

Then it goes on, and Mr. Johansen begins "Ladies and gentlemen, Esat Digifone has the right partnership in place to succeed. I will explain to you this afternoon by highlighting five points. Esat Digifone is an Irish company. We have sufficient financial capacity to meet and even exceed the funding requirements. The partners have complementary skills and experiences, and we have a very high level of commitment, and we have the freedom to choose the best quality infrastructure. Esat Digifone is an Irish company. It's evidenced first of all by the Communicorp Group holding 40% as we get going, and we

have institutional investors holding 20%, and they are the Allied Irish Bank, the Investment Bank of Ireland, Standard Life and Advent International."

Now, does that suggest that

A. It does, yeah.

Q. Is there any doubt about it there?

A. No, he suggests

Q. I don't think Mr. Johansen had any doubt about the commitments he had.

A. Right.

Q. Would you have regarded those letters as not amounting to a commitment?

A. I would regard those letters as being a clear intention with a get-out clause.

Q. Was it regarded as a sufficient commitment for your purposes at the time?

A. I don't recall.

Q. Nobody certainly noted that "We don't regard these companies as worth paying any attention to"; isn't that right?

A. I don't recall that.

Q. Nobody regarded the commitment as something you could ignore; isn't that right?

A. I just don't recall discussion in this area, but by saying that, I don't recall anybody raising reservations about them.

Q. One last thing. You were asked about weightings, and

your attention two last things your attention was drawn, I think, to a passage in the report in which the use of weightings was mentioned. I think you were told that or it was suggested to you that you knew from the outset that the criteria were going to be weighted. Is that right?

A. I would interpret from those, from the way that document was laid out, was that because they were criteria in descending order of priority, that effectively meant that the first was more important than the last.

Q. And then you were referred to the calculation that was carried out on page 18 of Table 18, sorry; you know the one I mean. The one where the conversion to numbers

A. Yes.

Q. And that table consists of

A. I am in the final report; I don't have Table 18

Q. Page 51 of the report that you had, the only one that you had at the time of the evaluation.

A. Okay.

Q. And it says "As illuminated by Table 18, the quantitative scoring of the applications generates the same ranks as the applications"; isn't that right?

A. Yes.

Q. You were referred to that. That's the quantitative scoring; isn't that right?

A. Yes. That's what it says sorry, that's what it says.

Q. And what was applied there was, if you go to the paragraph that precedes the table, it says "Also a weighting mechanism was agreed prior to the closing date for quantitative purposes as evident from tables 17 and 18".

Do you see that?

A. Yes.

Q. And you do recall agreeing a weighting mechanism for the quantitative purposes, don't you?

A. Sorry, I have documentation of it being agreed, yes, in the Tab 1, Tab 2 of the smaller folder, yeah, the weightings folder.

Q. Do you ever recall and I think you told me you didn't, but you can have another opportunity of considering it agreeing a weighting for the qualitative evaluation?

A. Sorry, for the qualitative?

Q. Yes.

A. No, I don't.

Q. And isn't this the qualitative evaluation we are talking about here in this table?

A. It is indeed, yes.

Q. Now, do you see the way that passage that you were referred to goes on and suggests that there could be a distortion of the idea of a qualitative evaluation if

you convert letters to numbers? Do you see that?

A. Sorry, this is on Page 51 still?

Q. That passage, yes.

A. Is it at the bottom of Page 51, yeah?

Q. Page 50. Maybe it's not very clear in your copy.

A. Sorry, "Although such a calculation distorts the idea of a qualitative evaluation," yes.

Q. I think you shared some of these views; isn't that right?

A. That what, that a calculation distorts the idea of a qualitative evaluation?

Q. Yeah. Didn't you share some of those views?

A. I don't recall.

Q. Didn't you say to me yesterday that you saw or you heard Mr. Andersen maybe you didn't share his views, but you heard Mr. Andersen expressing some reservations about the conversion of letters to numbers?

A. I don't remember I am sorry, I don't I don't remember saying that. Could you just say it again.

Q. Did you have some reservations about the conversion of judgmental markings, such as A, B, C, Ds, into the hard marking of the numbers?

A. I don't remember such reservations.

Q. I see. We'll pass on from it.

You know that that passage was not included in the final version of the report?

A. Right, okay.

Q. I just want to clarify one other thing, because I think in answer to Mr. Nesbitt, you expressed complete satisfaction with the report.

Do you understand the am I right in thinking you do not understand the weighting mechanism to this day?

A. The quantitative or qualitative?

Q. Either.

A. Either? No, I don't I think I do understand it.

Q. You do?

A. I think I do, yeah.

Q. I see. And how is it applied? Where was it agreed, firstly?

A. There was a weighting methodology to be applied to the quantitative evaluation as agreed in the

Q. That's no problem; we are completely ad idem on that.

Where was that weighting mechanism agreed for the qualitative?

A. I don't think there was one agreed for the qualitative.

Q. Do you understand the basis on which it was applied to the qualitative?

A. I understand that if there was to be any weighting to be applied, it should be consistent, I presume, with the quantitative.

Q. Well, why would that be? Has somebody suggested that to you?

A. No.

Q. Is it your own idea?

A. I guess so, yes.

Q. Was there any meeting ever at which this was discussed?

A. No.

Q. Were you part

A. Not that I recall.

Q. Were you a party to any discussion at which this was mooted?

A. No.

Q. I don't think so.

A. That's what I say, it's my own idea.

Q. Do you have any understanding as to how the results are arrived at, even in the case of the financial evaluation

A. I just want to say something there, if I could, that you know, in the area that I was involved in, the whole weighting, etc., is something that I was really you know, leaving in the hands a lot of the civil servants and Andersen Management International. I want to be clear on that. So you know, if I appear a little bit uncertain about it, etc., it was a good distance from my immediate remit. I just want to be clear on that.

Q. Maybe you were uncertain about it at that time as well. A lot of other people appear to have been

uncertain, because you have recorded their comments and queries on weightings, haven't you?

A. I have recorded their comments, other people's comments.

Q. Yes, you think they are mainly probably other people's comments, not your own?

A. I don't know.

Q. If they are your own, it is because you were uncertain; and if it's not your own, it's because other people were uncertain?

A. Correct.

Q. In relation to the one area that you were involved in, the award of marks concerning the dimension financial key figures, do you know how the tot is arrived at at the bottom of Table 15, at page 41 of the report that you have?

A. Sorry, Table 15 being the I don't recall that, no, I don't recall that

Q. To this day, would you know how to do it?

A. I wouldn't be able to reconstruct that.

Q. That is the line that went into the final report; isn't that right?

A. Well, I can only

Q. Can you just clarify that for me first. That line is the line that went into the final report?

A. It is, but I just want to come back to the previous point.

Q. Of course, do.

A. This is it is a judgmental exercise, so it requires judgement.

Q. Were you involved in making that judgement?

A. As I say, I wasn't at the final meeting that pulled this together in the on the 27th.

Q. So am I right in thinking, then, that to this day, you do not know how and you did not participate in the sub-group that arrived at the total at the bottom of page at the bottom of Table 15 on page 41?

A. I think that's correct, yes.

Q. So you don't, therefore you cannot, therefore, explain the similar line which is contained in financial key figures, the second line at Table 18 on Page 51?

A. Fair enough, yes.

Q. That's okay. Thanks.

CHAIRMAN: Thanks, Mr. Riordan. I hope we have largely honoured your plans of departure.

Resumption as I indicated at the outset. Thanks.

THE TRIBUNAL THEN ADJOURNED UNTIL FURTHER NOTICE.