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I N D E X

WITNESS: EXAMINATION:Q. NO:

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY,
27TH MARCH, 2003 AT 11AM.

CONTINUATION OF EXAMINATION OF JOHN McQUAID BY

MS. O'BRIEN:

MS. O'BRIEN: When we finished yesterday, Mr. McQuaid,

we were looking at the report of the GSM project
meeting on the 4th September, when the group was
presented with the results, the first results of the
quantitative evaluation; you recall that?

A. Yes.

Q. Now, I just want to refer you to those results
briefly, and rather than burdening you with another
book, I have a copy of them that I can hand up to you.

(Documents handed to witness.)

It's in Book 45, Divider 4, for everybody else. It's
dated 30th August of 1995, and these were the results
that you discussed at the meeting of the 4th
September?

A. Can I also have open the minutes of the meeting?

Q. Yes, you also have

A. That's the meeting number

Q. It was meeting number the ninth meeting, on the 4th
September, and it's in Book 42, Divider 95.

A. Yes, I have a copy of it here.

Q. Good. For the moment, we'll just concentrate on the
results of the quantitative evaluation, these first

results, and we have them on the screen now. If I could just take you through them one by one, if that's agreeable to you.

Now, the first dimension that was assessed was market development, and you recall that that was one of the dimensions of credibility of the business plan, which was the first evaluation criteria?

A. Yes.

Q. We see there that I think that was measured on two scores: market penetration score 1, and market penetration score 2, and we have the results there?

A. Yes.

Q. And I don't think that the report of the meeting of the 4th September records any particular difficulty in those results?

A. No.

Q. Now, the second dimension is one that you would have had an interest in because it was the dimension: Coverage, which was the dimension for the evaluation criteria relating to coverage?

A. That's right, yes.

Q. And you'll see there that the dimension was assessed was: speed and extent of demographic coverage, and it was measured on four bases: Coverage percent class IV (2w) year 1, year 2, year 3 and year 4. And again I think there is no record at all in the report of the 4th September of any difficulty in relation to that

aspect of the quantitative evaluation; isn't that

right?

A. That's right, yes.

Q. If we go over the page, we have the third dimension:

Tariffs, and that was assessed by reference to

competitiveness of an OECD-like GSM basket, and it was

measured for year 4, and it was measured for TACS 900.

I am not sure what TACS 900 refers to; I don't know if

you can shed any light on it.

A. TACS 900 was the old analogue system.

Q. I see. And again that was scored. I think there was

a difficulty noted in the minutes of the meeting of

the 4th September in relation to that dimension, and I

think what was recorded was that it was not calculated

to best advantage; isn't that correct?

A. Well, yes, whatever the minutes record.

Q. I think you can take it from me that that's what it

records.

A. Okay.

Q. The next dimension was the applicants' international

roaming, and that was the dimension for the 6th

evaluation criterion, and what was being looked at

there was the number of roaming agreements. And again

I think the minutes in relation to that dimension did

record that there was a difficulty, in that not enough

information had been provided to accurately score this

dimension?

A. Okay, yes.

Q. That's what's recorded in the report?

A. Yes.

Q. Now, the 5th dimension, again, is one that would have been of particular significance and interest to you, because it relates to the technical matters. And the dimension is radio network architecture; that was one of the dimensions of quality and viability of the technical approach, which was the second evaluation criteria. And what was being measured there was number of cells?

A. In year 4.

Q. In year 4, you are quite right. Number of cells in the applicant network ultimo year 4. And again there seems to have been no difficulty in scoring that; isn't that the position?

A. That is correct, yeah.

Q. Then, over the page, dimension 6 was reserve capacity of the network. Again, a matter of some interest to you, in that it related to one of the two dimensions of the criteria of quality and viability of the technical approach, and that measured reserve capacity in percentage, year 2, 3, 4, and 5. It arrived at a capacity score, and it pointed the results on that dimension. And again, the minutes record no difficulty in relation to the measuring of that indicator?

A. Mm-hmm.

Q. Then the next dimension was quality of service performance (blocking rate and drop-out rate), and that, I think, or I believe was the they were the indicators for the criteria performance guarantees.

Isn't that right? I think they were the indicators on the quantitative evaluation for performance guarantees?

A. No, I am not sure about that now. This is relating to quality of service. Performance guarantees related to guarantees on the performance of the applicants in attaining the establishment of the network.

Q. I think in fact, I am correct in that, Mr. McQuaid. I'll just take you back to the evaluation model, if you wish. That's at Divider 2 of Book 54, and if you go to page 321. We'll put it up on the board just to clarify the matter.

You'll see there that the second-last entry on that table, the performance guarantee proposed by the applicant, the dimension was quality of service performance, and the indicators were blocking rate and drop-out rate. Do you see that?

A. Yes, I just about see it from here, yes.

Q. There is a monitor, I think, just there on the right beside you; it might be more accessible to you.

Now, just returning to the report of the quantitative evaluation. Blocking rate and drop-out rate, there is

nothing recorded, I think, in the notes of the meeting of the 4th September in relation to any difficulty regarding those indicators, but I think ultimately a difficulty was identified?

A. I think there were difficulties in relation to the quality of the input data.

Q. That's right.

A. Provided by the respective applicants.

Q. Yes. Now, the 8th dimension, on page 4 of this seven-page document, was frequency efficiency, and again a matter of particular interest to you. I think you were ultimately involved in the sub-groups that evaluated this indicator on a qualitative basis. And the indicator that was measured was the frequency economy figures, and they were taken by reference to number of SIM cards for year 5, peak hour traffic year 5, and GSM channels demanded year 5. And they arrived at a total which was an FE 5 figure presumably that's "Frequency Economy Figure" for year 5; is that correct?

A. That is correct, yes.

Q. And just reading along, it was 85.7, 46.8, 55.6, 74.9, 53.6, 83.1, and they were pointed, then, having applied a renormalisation factor, they were pointed on the 5-point scale?

A. Yes.

Q. And there was no difficulty at all in relation to

those results?

A. No. When I say there was no difficulty, of course, that is at that point in time. Remember that this was the first cut that we had at the results. Information had been provided in the mandatory tables for each of the applicants. That information had been number-crunched, and using the formula, the prepared formula which Andersen had for each of these dimensions, these point scores were arrived at. We did not decide these point scores. They were done in a computerised fashion.

But at that point in time, given that we were we had not done the more extensive qualitative evaluation

Q. Of course, it was always intended

A. They didn't look wrong.

Q. No. It was always intended that there'd be two separate evaluations?

A. Indeed.

Q. Both a quantitative and a qualitative?

A. There would be a process of refinement subsequently.

Q. Well, you are saying there that they didn't look wrong, but there is nothing to suggest that they were wrong, the frequency economy figures, is there?

A. No.

Q. And there is certainly nothing recorded in the minutes of 4th September to indicate any difficulty with them

at that time?

A. That is correct.

Q. Now, dimension 9 was experience of the applicant, and

that was I think one of the dimensions related to the

first criterion, credibility of the business plan; and

it was measured by the indicator, number of mobile

network occurrences in OECD. And that appears to have

been measured by:

GSM 2 experience occurrences,

GSM 1 experience occurrences,

other cellular telephone networks;

GSM experience points:

GSM 1 experience points,

Other cellular experience points;

GSM ownership weight.

GSM 1 ownership weight,

other cellular experience,

ownership weight.

There was then a temporary score arrived at, a

renormalisation factor, and that was then pointed as

well.

A. Yes.

Q. Could you just tell me what the difference is between

GSM 2 experience points and GSM 2 experience

occurrences?

A. I can explain that to you. GSM 1 would refer to an

operator who received the first licence within a

country to operate a digital GSM network. GSM 2 would refer to the operator, an operator who received the second licence. So in the case of Ireland, Eircell would have been GSM 1, and Digifone, as it was then, would have been GSM 2; and of course Meteor would have been GSM 3.

Q. And just the difference there between experience occurrences and experience points, you see the first three, I think, probably subindicators, would refer to the first two referred to. GSM experience occurrences, GSM 1 experience occurrences. And then below that, there is GSM 2 experience points and GSM 1 experience points.

A. I can't recall

Q. There is obviously some technical difference.

A. I can't recall the detail now.

Q. And again, there doesn't appear to have been any problem or difficulty or inaccuracy in the measurement of that dimension; isn't that right?

A. Yes.

Q. Then dimension 10 was the licence payment, and given that that had been capped at $i_{\frac{1}{2}}15$ million, each of the applicants was scored at 5?

A. Yes.

Q. Then dimension 11 was financial key figures, which was one of the dimensions of credibility of the business plan, and the two indicators there for the

quantitative evaluation were solvency and IRR, being Internal Rate of Return. And we can see the figures there for solvency that were measured for year 2, 3, 4 and 5, then an average solvency over those years, and that was pointed. And then there is a measure of IRR for the 14-year planned period. And we know from the record of the meeting of the 4th September that while there was no apparent difficulty in relation to the measurement of solvency, there was some uncertainty regarding the measurement of internal rate of return, and that in some instances it wasn't calculated in accordance with the tender specifications. So that again, in that instance, a difficulty arose from a lack of information furnished by applicants?

A. Yes.

Q. Then on the next page, page 6 of 7, all of the final results are set out and consolidated for each of the dimensions from 1 to 11, just simply translating the information from the first five pages to the sixth?

A. Summary of the previous pages, yes, I understand.

Q. Then on the next page, the final page, we have the a list of the weightings to be applied to each of the indicators?

A. Yes.

Q. And I'll just come back to that in a moment; the next entry on that page is the total weighted score for each of the six applicants?

A. Yes.

Q. Then there is an entry for the highest weighted score and the highest-scoring applicant. And then below that is a table setting out the statistics for each of the indicators showing the average, the weighted variance, and the variance?

A. Yes.

Q. And the result of that exercise was that A3 was first ranked at 3.48; A6 was second ranked at 3.19; and A5 was third ranked at 3.13.

A. That is correct.

Q. If I could just refer you to the list of weightings, because there was some reference to this, I think, in the minutes of the meeting of the 4th September. I think there was a query as to whether the correct weights had been applied. And if you look there at the weighting for dimension 3, OECD basket, which was the dimension for tariffs, you'll see that the weighting applied was 15%?

A. Yes.

Q. And of course you had already agreed, as of the 27th July, that that should be weighted at 18%, by virtue of the 3 which had been deducted from licence fee which should be added to the 15 for tariff?

A. Yes.

Q. If I just bring you down to licence fee payment, as well, at 10, that appears to have been weighted at

14%. And again, that was the old weighting; it didn't appear to take account of the revision?

A. Yes.

Q. And if I could just then briefly refer you also to the weighting, some of the weightings for those indicators. And we discussed this yesterday in terms of the draft evaluation model and the evaluation model that was ultimately approved, and in particular, the weightings on the quantitative dimensions. You'll see there at 1A and 1B, which were the market penetration scores 1 and 2, that they were weighted at 3.75% each?

A. Yes.

Q. And that was, you can take it from me, was the weighting in the model approved by the Project Group on the 9th June.

A. Yes.

Q. And if I just take you down there to 5 and 6, in which you had a particular interest, number of cells and reserve capacity, each of those was weighted at 10%; and again, you'll recall that was the weighting that was approved in the by the Project Group on the 9th June?

A. Yes.

Q. Having been changed from 15 and 5; you will recall that we discussed that yesterday?

A. Yes, yes.

Q. And then finally, if I refer you to the last two

indicators there, 11A, solvency, 11 B, IRR, each weighted at 7.5%, amounting to 15% for that dimension; and again that reflected the weightings agreed and approved by the Project Group on the 9th June?

A. Yes.

CHAIRMAN: So in summary, Ms. O'Brien, you are saying that the agreed revisions by the group as to weightings were duly incorporated except for the licence fee in the OECD basket?

MS. O'BRIEN: Precisely, Sir.

Q. Now, I just want to draw your attention to the percentage differences between the top three ranked applicants on that evaluation.

You will see that A3 was 3.48, A6 was 3.19, and A5 was 3.13. And I think we have worked out the percentages.

And you can take it from me that they are correct, that A3 was 69.6%, A6 was 63.8%, and A5 was 62.6%; so that the percentage difference between A3 and A6 was 5.8%, and the percentage difference between A6 and A5 was 1.2%. And I think in the record of the Project Group meeting of the 4th September, that Mr. Andersen referred to those as being relatively close, and that no conclusions could yet be drawn.

If I just refer you to the second page

A. Yes, Mr. Andersen concluded that "the scoring at this stage was relatively close and that no conclusions could yet be drawn."

Q. And of course, at that meeting, you would have recorded that the quantitative analysis was not sufficient on its own, and that it would be returned to both after the presentations and the qualitative assessment, and that was, as we discussed yesterday, in accordance with the evaluation model that had been approved by the Project Group; isn't that right?

A. That is correct, yeah.

MS. O'BRIEN: Just to correct the transcript, Sir, when I was referring to the percentage difference between the first and the second ranked, I may have inadvertently said that the difference between A3 and A6 was 5.8 percent. That of course was a difference between A3 and A5.

CHAIRMAN: Well, we needn't be concerned about it, Ms. O'Brien; we have the actual percentage counts. I mean, it's...

Q. MS. O'BRIEN: Now, after the meeting of the 4th September, Mr. McQuaid, I think you have indicated in your memorandum that you travelled to Copenhagen, and you were in Copenhagen between the 7th and the 9th September, and you undertook a qualitative analysis during those days; is that right?

A. That is correct. I haven't a check on those dates, but I am sure they are correct.

Q. I am sure you are correct. I am sure you checked them at the time you prepared the memorandum.

You were accompanied, were you, by Mr. Ryan on that occasion?

A. I was accompanied by Mr. Ryan; correct.

Q. And the groups were comprised of you and Mr. Ryan.

Was Mr. Andersen a member?

A. No, as I recall the two AMI members were Marius Jacobsen and Ole Feddersen.

Q. And you went about

A. Now, Mr. Andersen my recollection is pretty poor at this stage, but he may have sat in on some of the sessions.

Q. But he wasn't a formal member of the sub-groups?

A. No, because Mr. Andersen was not a technical person. Both Mr. Ryan and myself are technical people, as were Mr. Feddersen and Mr. Jacobsen.

Q. And it was just the four of you who were the parties who deliberated during the course of those sub-groups?

A. Yes, the detailed technical deliberations.

Q. I think you told us in your memorandum that you were involved in the sub-groups for the three technical dimensions; possibly also performance guarantees, but you are unclear about that; and also for the sub-group which evaluated coverage?

A. Correct.

Q. Now, in relation to coverage, Mr. McQuaid, we have the benefit of the working papers in relation to that sub-group. We don't have the benefit of the working

papers in relation to the technical dimensions, so if I could just first refer you to the document that we have in relation to the group which evaluated coverage.

A. Okay.

Q. And again, rather than refer you to another book, although I can indicate that it can be found at Book 45, Flag 7, I am going to hand you up a copy of the document.

(Document handed to witness.)

And we have one on the overhead projector. I should say that this document records the evaluation process of this particular dimension as of the 31st August of 1995. And that was actually prior to the GSM meeting of the 4th September.

A. Yes.

Q. And it appears that this was one of the sub-groups that Andersens proceeded to evaluate, or one of the dimensions that Andersens proceeded to evaluate, at least in the initial stages, without involvement from departmental officials. But it does appear that this sub-group must have been it appears that this sub-group must have been reconvened when you were in Copenhagen, and I think that's also apparent from the fact that the grades as shown for the dimension coverage, on the first page, were ultimately changed when that table was printed in the final report?

A. Yes, the table here, just to get this correct, first of all: The table of scores, does that correspond with that which is in the

Q. It doesn't.

A. It doesn't?

Q. It doesn't. It doesn't. So presumably revised scores were arrived at when the group was reconvened, when you were a member of the group in Copenhagen between the 7th and the 9th September. That's what we are deducing from this document.

A. My recollection is that we did evaluate coverage during our sessions in Copenhagen the dates, again, from the 9th

Q. The 7th to the 9th September, you have said in your memorandum.

A. The 7th to the 9th September, yes.

Q. Can I just ask you first of all, before I open the document to you, to ask you some questions in relation to it. How long did these sub-groups last, the individual sub-groups for the dimensions?

A. Typically about half a day each, about four hours.

Q. So there'd be a morning session and an afternoon session?

A. Yes.

Q. And they would be separate sub-groups?

A. Separate evaluation sessions.

Q. Right

A. The same group of people, the same four people.

Q. And these were all conducted, presumably, in Andersen's office in Copenhagen, were they?

A. They were conducted in one of Andersen's meeting rooms in Copenhagen, yes.

Q. And I think you have already described in your memorandum that Mr. Andersen had a flip chart and that you recorded your views and your results on the flip chart?

A. Yes. Well, not necessarily Mr. Andersen, but a flip chart and whiteboards were made available, and we wrote up on the flip chart and whiteboard the a matrix of the applicants and the indicators or subindicators.

Q. The matrix would have been similar to this table; if we just raise that document slightly, so that we can see there which shows the applicants on the top axis, and it shows the dimensions on the left?

A. Yes it would be, yes.

Q. Okay, I'll just open this document to you, Mr. McQuaid. It says "Quality evaluation of the applications.

"Dimension: Coverage.

"Evaluation meeting at AMI (GSM room) 29 August.

"The concept of coverage has been evaluated by means of the 4 indicators:

1. Roll-out plan

2. Radio link budget assumptions
3. Site acquisition preparations
4. Special coverage provisions.

"In continuation of the evaluation possible risk factors within the suggested approaches to the described coverage has been recorded for later evaluation."

So clearly that was something that was being postponed for further evaluation.

"Each of the indicators has been considered as composed of a number of subindicators. The proper subindicators, decided during the evaluation meeting, are listed in the evaluation specification overleaf.

Indicators/subindicators not included here may have been transferred to the dimension "Radio network architecture" for evaluation there.

"The evaluation has been completed and marks have been assigned according to the rules specified in the document 'quantitative and qualitative evaluation of the GSM applications,' sections 5 and 6.

"The resulting marks are the following:"

And the table then shows the dimension coverage on the the first column on the left-hand side, it shows each of the dimensions: 1, roll-out plan; 2, radio link budget; 3, site acquisition; 4, special coverage, and then the bottom of that column, evaluation of coverage. And along the top of the

table is A1, A2, A3, A4, A5, A6, and there is a grade shown on those indicators for each of the applicants?

A. Correct.

Q. And then there is a total, evaluation of coverage, and there is a grade given for the total of the evaluation of those indicators?

A. Yes.

Q. And then, if we go onto the next page, it's headed "Qualitative evaluation of the applications".

"Specification concerning dimension: Coverage, agreed subindicators:"

Then it appears to list the subindicators that were agreed for each of those indicators listed in the table on the previous page.

So for roll-out plan, the three indicators were:

"1.1. Early launch commitment

1.2. Coverage at launch (geographical and population)

1.3. Time to cover 90% of population.

2. Radio link budget.

2.1 completeness of RLB document."

Could you just tell me, what was "RLB document"?

A. RLB Radio Link Budget.

Q. "2.2. Applied building penetration loss

2.3. Field

A. Strength.

Q. "Strength street level class IV.

2.4. Applied class IV outdoor isotropic pathloss

2.5. Applied BTS transmission power EIRP class IV

2.6. Confirmation field tests in Ireland."

Then the third indicator, 'site acquisition' was

subdivided into four subindicators.

"3.1. Adequacy of acquisition strategy.

3.2. Documented access to launch sites.

3.3. Site locations in database available.

Below that I think "site locations in database

potentially available"; is that correct?

A. I think so, yeah, that's what it looks like.

Q. And "3.4. Environmental concerns."

The fourth indicator 'special coverage' was divided

into 5 indicators.

4.1. Maritime coverage.

4.2. Railway lines.

4.3. Hot spots in downtown traffic.

4.4. In the coverage in the border area.

4.5. Others.

Then it goes on to state: "As a consequence of the evaluation, the following areas were considered to be potential risks:

"A1: Conclusion of site acquisition for scheduled launch.

"A4: Conclusion of site acquisition for scheduled launch.

"A6: Apparently no preparations for special coverage.

"The marks for each of the 4 indicators (c.f. above)

were decided by use of the following information extracted from the applications. The marks represent a relative ranking of the evaluated applications".

If we turn over the page, there is another table, and this appears to set out in tabular form the information which was extracted from each of the six applications in relation to each of the subindicators that we have just referred?

A. Yes, in a rather cryptic form.

Q. Yes. Can I just take you throughout the first one, roll-out plan, because I think perhaps some of the others are very technical and may not be of assistance.

The first subindicator there was "Early launch commitment", at 1.1. Do you have that?

A. Yes, I have that, yeah.

Q. And you'll see that there is a date inserted for each of A1 to A6?

A. Yes.

Q. For A1, the 1st July '96; for A2, 1st October '96; A3, 1 July 1996; A4, 1 July 1996; A5, 1 October 1996; and for A6, 1 December 1996?

A. Yes.

Q. Presumably that was simply a date extracted from the application?

A. Extracted from the application, yes.

Q. That was the date on which they intended to roll out

their network; is that right?

A. That was the date when they intended to launch their network, yes.

Q. Then 1.2 was coverage at launch. And for A1 it was going to be 56%. A2 it seems to be 56%/78%. Perhaps there was alternatives, depending on the extent of the network; I am not sure. A3 was 40%, A4 was 55%, A5 was 80%, and A6 was 75%. Is that right?

A. Yes.

Q. And then 1.3, that was the subindicator of the time to cover 90% of the population. So that was presumably the time by which there would be facilities available on the network to 90% of the population?

A. Time by which 90% of the population, as opposed to 90% geographic, would have coverage, would be within coverage range. In other words, there would be sufficient base stations in place to provide that level of coverage.

Q. And the results there, that's 1.3, in the case of A1 it was March to June of 1997; in the case of A2, it was December of 1997; in the case of A3, it was June of 1997; in the case of A4, it was June of 1998; and in the case of A5, it was June of 1997; and in the case of A6, it was December of 1997.

A. Yes.

Q. So that was all the information that was extracted from the applications, and it gave you information

regarding each of these subindicators for the indicator roll-out plan?

A. Yes. Of course, at the time, we would also have read the relevant sections of each application as well.

Q. Yes, of course.

A. And we would have had sort of further information than just those bare figures.

Q. But there you are listing the headline information?

A. Yes.

Q. Regarding the subindicators?

A. Yes.

Q. And as you say, you would have been familiar, in any event, with the applications insofar as they related to this material?

A. Yes.

Q. Now, from those three subindicators and for the moment, if you don't mind, we'll just concentrate on the roll-out plan. From those three subindicators, you ultimately arrived at a grading of A to E for that indicator roll-out plan?

A. Yes.

Q. Now, can I ask you this, Mr. McQuaid: We know that weightings were ultimately applied when you were aggregating the dimensions to arrive at the aspects, because we discussed that yesterday.

A. Yes.

Q. Can you tell me that when you were aggregating the

levels on the subindicators, did you also apply

weightings? Can you recall?

A. My recollection is that we did not go through a formal process of applying weightings to the subindicators.

We would have looked at the three subindicators, as you have indicated, in the case of roll-out plan:

early launch commitment, coverage at launch time to

cover, and we would have discussed them, for example,

A5 proposes 80% coverage in October '96, whereas A3 is

40% coverage, but that is in July, three months

earlier.

So there are trade-offs between one and the other, so

we would have made an assessment of that information

plus the other information that was presented in each,

in the relevant sections in each of the tender

applications, and we would have arrived at a consensus

at least, that's my recollection of it; we would

have arrived at a consensus score for that indicator,

roll-out plan, for each of the applications.

Q. But are you saying that you didn't formally apply any percentage weighting to the subindicators?

A. That is what I am saying, yes.

Q. But you discussed between you

A. Yes, it was in the dialogue, obviously in that

process, the relative importance of each of the

subindicators and the interaction between

subindicators. And the other information which we had

available to us was all taken into account and discussed at generally at some length until a consensus was arrived at.

MR. O'DONNELL: I should say, Chairman, it's appropriate to point out, while obviously this information is helpful, matter that's under discussion is an evaluation meeting which took place on the 29th August, whereas of course Mr. McQuaid's attendance at meetings is September, so that the document we are looking at obviously methodology is, I am sure, of assistance to the Tribunal in its inquiry, but he wasn't present for this meeting.

CHAIRMAN: Thanks.

Q. MS. O'BRIEN: If we had, in fact, the working documents in relation to the meeting that you attended in Copenhagen on the 7th and to the 9th, we would of course have used them; but given that there are only some minor changes in the levels of the grading as regards this dimension, it appears that when you reconvened, you were effectively agreeing with much of the work that had already been undertaken by Andersens.

And if I could just get back to our discussion there, you were talking about discussing the subindicators in the context of the further information that you had available for the applications, and arriving at a grading, and not applying formal mathematical

weightings to the subindicators?

A. Yes.

Q. And I think we see here again, if we just concentrate on the roll-out plan indicator that in the case of A3, you graded them at a B; and in the case of A5, you graded them at an A. In the case of A3, they were due to launch on the 1st July 1996, which was three months earlier than A5, but they were their launch objective was to launch at 40%.

A5 was to launch at 80%, but they were both to attain 90% coverage in June of 1997.

So presumably, within the group, it was your consensus that it was more beneficial that you roll out albeit at a later date, three months later that you had a wider coverage, of 80%?

A. Yes.

Q. Now, if I can just take you back to page 1 of that document again, and if we can look at the table at the bottom of page 1, dimension coverage; and I can tell you that the only changes that were made to that table in the final report are the changes primarily related to the grading for special coverage, and that the only alteration in the overall score was for A1

A. Can I just perhaps turn to the this is in the final Evaluation Report?

Q. This does appear in the final Evaluation Report, albeit in a different form. But I can refer you to

that, just to clarify what changes were made.

A. Yes.

Q. Now, the final Evaluation Report I think is in Book 46, behind Divider 50.

A. I do have a copy of it here.

Q. And you'll find it on page 21

A. That is correct, yes.

Q. of the report, and in fact we have it reconstituted, just so it's clearer.

A. There is a supplementary page, yes.

Q. We can put it up in that form. And I'll just draw your attention to the changes that appear to have been made and were presumably the product of your further discussions in Copenhagen between the 7th and the 9th September.

A. Well, I wouldn't call them "further discussions". We would have evaluated we would have fully evaluated that particular dimension during those evaluation sessions.

Q. Right. Well, it's clear that you made no changes, certainly, in the indicators that you were using; because if you look at this table, you'll see dimension: Coverage, roll-out plan, radio link budget, site acquisition, and special coverage. They are the same four indicators as shown in the table in the working papers, aren't they?

A. Yes, yes.

Q. And you have A1 to A6 at the top of the table, and then the coverage subtotal. Now, I'll just

A. A1 special coverage I see was originally in your paper awarded an A, and in the evaluation, it was given in Copenhagen, it was given a B.

Q. Yes, and you'll see as well that A2 in the table, in the working papers, had a C for special coverage. In the final table, as it appears in the Evaluation Report, it had a D.

A. Yes.

Q. A4, again for special coverage, was a C in the table on the working papers, and that's been reduced to a D in the final report.

A. Yes.

Q. And A6, again for special coverage was a D in the working papers and an E in the final report.

A. Yes.

Q. The only other change within the levels of the indicators was for A5 for radio link budget, and that appeared as a B in the working paper, and it became an A in the final report?

A. Yes.

Q. And then the only change, I think, in the totals for that dimension were for A1. A1 had attained a total in the working paper of A, and that became a B in the final

A. A B, yes.

Q. in the final report?

A. Yes.

Q. Now, if I can just refer you to the table again in the working paper. You see there is the four indicators that were applied in the qualitative evaluation, and those grades of those four grades for each of the applicants in each case was aggregated to give an overall grade?

A. That is correct.

Q. Now, can you tell me whether mathematical weightings were applied to those indicators in aggregating the grades for the indicators to achieve a total grade for that dimension?

A. My recollection is that weightings for each of the indicators were decided by consensus at the towards the end of the evaluation session. And then once there was a consensus of the relative weightings of each indicator which made up the dimension, Mr. Marius Jacobsen did a calculation on the flip chart or a whiteboard to arrive at the total in order to compute the total score; the aggregated score, as you call it.

Q. And can you recall what calculation he did or what that calculation entailed?

A. Again I am going on recollection: It entailed replacing the for each the scores for each applicant for each indicator replacing the score with a number. A being 5, B being 4, etc. Then deciding

on the weighting for each of the indicators.

So if the weighting say it was 25% for each one, as an example

Q. That would be neutral, wouldn't it, if it was 25%?

A. Indeed. Each score then would be multiplied by .25, so and then the scores were added. So if, for example, somebody got a 4 and this is just by way of example if they got a B for each indicator, that would correspond to a 4. And if the weighting for each of the four indicators was 25%, you multiply the 4 by .25, and you get 1. 4 multiplied by .25 is 1, so you would get a score, 1, 1, 1 and 1 for each indicator.

Now, when you add those up, you get 4, which corresponds to a B. So that would be a slightly academic exercise, because the result would you would expect the result to be the same as the individual scores. But that was, as I recall, that was the simple arithmetic methodology that was used.

Q. I'll come back and discuss that a bit more in relation to the technical aspects, because we do have your handwritten notes of the actual figures that you use. So it may be of more assistance to us to discuss it within the context of concrete figures that we can see.

A. These are my own handwritten notes, yes.

Q. Yes. Can I just ask you this: In determining what

the weightings should be as between the indicators for the dimension coverage, what discussion went into that?

A. Well, what would have been what would have been discussed would have been the relative importance of each of the indicators with respect to the total dimension.

Q. Can I just refer you back, because I don't want to be asking you this based on the wrong table, but can I refer you back to the table that appeared in the Evaluation Report for coverage. I'll just put it up there.

A. Yes, this is yes.

Q. Now, can I just take you to A6?

A. Yes.

Q. You'll see that A6 had a roll-out plan, C; a radio link budget, B; site acquisition, D; and special coverage, E.

A. Yes.

Q. And they ended up with a score of D.

A. Yes.

Q. Now, when these tables appeared in the final report, they didn't appear with any numerical weightings; isn't that right? The weightings weren't shown?

A. The weightings, they were scored with the letters A, B, C, D and E, yes.

Q. But there was nothing on the tables to indicate that

any weightings had been applied

A. For the indicators.

Q. for the indicators?

A. I believe that is so, yes.

Q. I think that was a matter that you raised at one of the meetings, and I'll refer to you it when we come to discuss it, but I think the view that you expressed was that without showing the weightings, you couldn't clearly see how the total had been arrived at?

A. I can't recall making that comment now, unless there was a record of it.

Q. There is a record of it.

A. I may have made that comment, yes.

Q. There is a record of it.

A. Yes, yes.

Q. Wasn't it a fair comment that you made at the time?

A. Yes, that would have been a fair comment, yes.

Q. I am just referring you back again to the first page of that document. You see there it says, above the table, "The evaluation has been completed and marks have been assigned according to the rules specified in the document 'Quantitative and qualitative evaluation of the GSM applications, Sections 5 and 6.'" And that's referring back to the evaluation model that the Project Group approved on the 8th June?

A. Yeah.

Q. I can tell that you Sections 5 and 6 relate to the

procedure for the qualitative evaluation process and the guide to the award of marks.

A. Yes.

Q. Now, can I just ask you this, Mr. McQuaid: When you went to Copenhagen on the 7th September to commence this exercise, can you explain to me exactly what exercise you thought you were doing, or that you understood you were doing?

A. Well, my understanding was that my colleague, Aidan Ryan, and myself were in Copenhagen to do a the qualitative, the detailed qualitative evaluation of what I would call the technical dimensions.

Q. And you understood that

A. And at that stage, we would have had sight of the initial results from the quantitative scoring; we would also have had sight of the mandatory tables. As far as I recall, Andersens had produced the mandatory table information in graphical form, and I think it was in A4 size, whereas in the document here, it's in very small size; it's hard to read. We would have had it in A4 size, so it's much clearer, and of course they would also have had a set of all of the tenders received from each applicant as well.

Q. And of course you had read those already, in any event?

A. Well, we would have read we may not have read all of them, but we would have read the relevant sections.

Q. I understand you wouldn't have read every word of every one of them.

A. Yes.

Q. So you had the results of the quantitative evaluation with you?

A. Sorry?

Q. You had the results of the quantitative evaluation

A. Yes.

Q. when you went to Copenhagen?

A. Yes.

Q. And you had the mandatory tables as well?

A. We had in particular the mandatory tables, yes.

Q. And of course it was the information from the mandatory tables that went into the results of the quantitative evaluation, wasn't it?

A. That's right, yes, yes.

Q. So I suppose the mandatory tables were the raw form of the data, and the quantitative evaluation was the processed form of the data?

A. Yes, yes.

Q. Now, can I ask you this, or can I just refer you back initially, Mr. McQuaid, to Section 5 of the evaluation model which was approved by the Project Group; that's in Book 54, Divider 1A. I don't know if you have a copy of it; I am sure Mr. O'Donnell will provide you with a copy. It's being procured at this moment.

It's 54, Divider 2; I am sorry. I keep making that

mistake.

A. Yes, I have the document now.

Q. If you could just go to page 18 of that document,

"Procedure for the Qualitative Evaluation Process".

A. Yes, I have page 18.

Q. We'll just go through it again point by point. It

says "1. The eligible applications are read and

analysed by the evaluators.

"2. The eligible applications are evaluated by way of

discussions and analyses.

"3. When deemed adequate and necessary, in-depth

supplementary analyses will be carried out.

"4. Initially, marks will be given dimension by

dimension. Afterwards, marks will be given aspect by

aspect, and finally to the entire application's grand

totalling."

They are, if you like

A. Just to interrupt you there, 4, "Initially marks will

be given dimension by dimension". I think it probably

would be more accurate to say that "Initially marks

would be given indicator by indicator".

Q. That's true, that's what you did, but that's what's in

the evaluation model. That's how you went about the

evaluation. But it's not referred to in the

evaluation model. But nobody is making any point on

it or taking any point on it.

So those first four points in the procedure are, if

you like, the headline procedural steps. You analyse it, you evaluate it by way of discussion; if necessary, there is supplementary analysis; and then you mark it dimension by dimension; and afterwards you mark it aspect by aspect. That's effectively a summary of the headline steps that are taken in the process?

A. Yes.

Q. And then we get to 5 and 6, which we discussed yesterday: "When the dimensions are being assessed, the evaluators should, as far as possible, use the same indicators as used during the quantitative evaluation. Supplementary indicators may be defined, however, if the existing indicators are not sufficiently representative for the dimensions to be evaluated.

"6. During the qualitative evaluation, the evaluators should take the results from the quantitative evaluation into account as a starting point, and make the operationalisation of the dimensions" that is what you were supposed to do on foot of paragraph 5 "in order to make fair comparisons between the applications."

Now, as we discussed yesterday, that seems to suggest that the quantitative evaluation would be the starting point for your qualitative deliberations; isn't that right? It goes on to say that "Supplementary

indicators may be defined if the existing indicators are not sufficiently representative for the dimensions to be evaluated."

A. Yes.

Q. So I'd be right in thinking, would I not, that that contemplated that there would be a consideration by the sub-group as to whether the existing indicators were not sufficiently representative for the dimensions to be evaluated?

A. Yes, yes, I think the first thing we would have again I am just my recollection is not the best at this stage, but we obviously would have had to initially discuss the indicators that we were going to use in order to score the particular dimension.

Q. Well, before you discussed the indicators you were going to use, wouldn't you have had to have some discussion as to whether the quantitative results were sufficient to fairly compare the applications qualitatively, and if so, whether it was necessary to introduce supplementary indicators? Isn't that what paragraph 5 says?

A. Yes, I suppose the starting point would have been the indicators that were used in the quantitative evaluation, yes.

Q. Do you recall, in the sub-groups that you attended, whether there was such a discussion? Because there certainly doesn't seem to be any record of any such

discussion in this working document which we have. As I said, we know you weren't present at this one, but I am just wondering, do you recall any such discussion at the sub-groups of which you were a member?

A. No, I can't recall I mean, it's not really possible for me to recall specific discussions like that, but I do know that we had all of the information available to us, which would have included the quantitative evaluation.

Q. Now, you were also a member of the sub-groups that evaluated the technical aspects, with the possible exception of performance guarantees. We know you have an uncertainty about that, and I think you possibly may not have been a member of that group, just from documents that the Tribunal has seen.

A. Yeah. Just to clarify that: Andersens had a category, an aspect category called "Technical Aspects".

Q. Yes, we looked at that yesterday.

A. And that included dimensions which were technical in nature, and it also included performance guarantees

Q. Performance bond?

A. Exactly, which was not necessary technical; it could have been more financial than technical. So there wasn't a sort of a perfect match there between the dimensions which were to be evaluated by the engineering people and those dimensions which were

categorized as "technical aspect" in the Andersens

initial model.

Q. Now, we don't have the working papers from the sub-groups that evaluated the technical aspects, but we do have a document which on which you appear to have made annotations, and I can refer you to where this document is. It gives the totals for each of the technical dimensions, and it gives the total for the technical aspects. And it's in Book 54, Divider 9, and it was actually an enclosure with a fax sent by Ms. Maev Nic Lochlainn to Mr. Michael Andersen on the 6th October. And I am sure Mr. O'Donnell will get you a copy of it.

A. Sorry, where is it?

Q. Sorry, it's in Book 54, at Tab 9.

A. Is this Book 54?

Q. Now, you'll see the first page of that document is a fax of Ms. Nic Lochlainn to Mr. Andersen on the 6th October?

A. Yes.

Q. But she attaches to that Annex A, an extract from what looks like well, it is the evaluation model on which you have made annotations?

A. Yes.

Q. She was in fact drawing and I'll bring you back to this later, but she was drawing Mr. Andersen's attention to the fact that there appeared to be a

typographical error in the table shown in the draft report that she had at that stage, which would have been the report of the 3rd October, and she was drawing his attention to it. And she enclosed this document, and she says that it didn't correspond with the technical aspect subtotal detail on page 44. She believed it was a typo, and she enclosed qualitative scoring for technical aspects as recorded by John McQuaid.

And if we can just put that annex up on the overhead projector. Now, that looks to me as if it was the page that you probably took out from your evaluation model, and which you made handwritten entries on?

A. Yes.

Q. And you'll see at the top, and it's a little bit faint, "Technical aspect as noted by J. McQ. at meeting with Marius Jacobsen". Do you recall when that meeting was that you had with Mr. Jacobsen?

A. I can't, really, it's so long ago. I don't know whether this was during the evaluation session or whether it was later.

Q. Apart from the 7th to the 9th September, do you recall visiting Copenhagen after that date?

A. No, no, I did not visit after that date.

Q. You did not visit after that date?

A. No.

Q. And it was before the 6th October, in any event?

A. Yes.

Q. Because that's the document that she encloses with the fax of the 6th October.

A. Yes.

Q. So is it likely that it may have been a meeting that took place between the 7th and the 9th? Because we know that none of Andersen's personnel were in Ireland after the 14th September, which was the end of the presentations, although perhaps it might have been at that stage that you had a meeting with Mr. Jacobsen?

A. Well, it could have been at the evaluation. I am only speculating now; it could have been at the evaluation session, or it could have been a phone call, but this is just a note which Maev Nic Lochlainn put on it, so scribbled on it.

Q. Presumably she put it on it on the basis of what you told her. She would hardly have known about the meeting otherwise than if you had told her about it?

A. I don't know. I don't know.

Q. Anyway, if we go down to the table itself, can I take it that those annotations are made in your handwriting?

A. Yes, that's my writing all right.

Q. We see here on the left-hand side the heading "Technical Aspects Subtotal," and below that we have the four technical aspect dimensions: radio network architecture, capacity of the network, performance

guarantees, and frequency efficiency.

A. Yes.

Q. Then beside that is beside "radio network architecture" are two pluses and 35; below that, beside capacity of the network are two pluses and 35; below that, performance guarantees, there is one plus and a 20; and below that, frequency efficiency, and that's a 10?

A. Yes.

Q. Can I take it that those were the numerical weightings you agreed should be applied to these dimensions?

A. They would appear to be weightings, all right, which add up to 100, yes, which we used.

Q. And then for A1, A2, A3, A4, A5 and A6, you have a grading for each of those four dimensions?

A. Yes.

Q. And then above that, you have technical aspects subtotal, and you have a total grading C, D, B, B, A, and C.

A. Yes.

Q. You'll see just below the grading, and they are a little difficult to make out, are numbers?

A. Yes, I can see the numbers, yeah.

Q. And perhaps you could just assist me. Am I correct in thinking that the first number is 3.00, below the C for A1?

A. Yes, that's what it appears to be, yeah.

Q. And below the D for A2?

A. 2.25.

Q. And below the B for A3?

A. 3.55.

Q. And then I think it's clear that below the B for A4 is 4.10?

A. 4.10, and 5.

Q. And below the A is 5?

A. 5.

Q. And just below that table, on the lower right-hand side, I think you have a key; is that correct?

A. Yes, yes, 5, 4, 3, 2, 1, A, B, C, D, and E, yeah.

Q. And does that record the is that your record of the arithmetic operation which you did whereby you converted each of those grades to 5, 4, 3, 2, 1, you applied the weighting, 35, 35, 20 and 10 to arrive at a total numerical subtotal, which you then reconverted to a grade?

A. Yes, that's what it looks like.

Q. And that illustrates the operation that you were talking about yesterday?

A. Yes. And this was to arrive at a total score for the technical aspects which was the Andersen categorisation.

Q. Yes. You are quite right, because it wasn't a categorisation that was in the RFP form in any way, was it?

A. Correct.

Q. It was part of the Andersen model on the qualitative side?

A. Yes.

Q. And that operation whereby you converted grades to scores, applied the numerical weighting, arrived at a numerical total and reversed the operation, that in fact reflected what you also did at indicator and dimension level, isn't that right, that you have just described to me in relation to coverage?

A. At indicator level, yes, yes.

Q. But not at subindicator level?

A. Yes, but not at subindicator level.

Q. So this operation, which arrived at a grade for a subtotal, involved two operations of converting from grades to scores, applying weighting, back to grades, and then aggregating those grades, applying further weightings, and reconverting to grades?

A. Yes, to arrive at the technical the score for the technical aspect, which comprised a number of dimensions which were made up of indicators, yes.

Q. Now, we don't, as I said, have the working papers in relation to your work on the technical aspects, so the only means we have of knowing what subindicators were used, or what indicators were used for each of the dimensions, is actually from the Evaluation Report itself.

A. Yes, what weightings what indicators or what weightings?

Q. What indicators were used for each of those dimensions, because we don't have the working papers.

A. Yes, but I would have checked, and Aidan Ryan, we would have checked the Evaluation Report, and I think I would be we can be fairly sure that the indicators listed against those dimensions in the Evaluation Report correspond to the indicators which we used to evaluate.

Q. Yes, in the course of the qualitative evaluation?

A. In the course of the quantitative

Q. In fact I can refer you to the report, if you wish me to; but you can take it from me, if you will, that as regards radio network architecture, you used six indicators on the qualitative side.

A. Yes.

Q. As regards capacity of the network, you used four indicators?

A. Yes.

Q. As regards performance guarantees, I think there was one indicator, because it was just the availability of the bond, the information on blocking and dropout

A. Yes.

Q. having been abandoned?

A. Yes.

Q. And then for frequency efficiency, you used four

indicators?

A. Yes.

Q. Can I ask you, can you recall what discussions you had either within the sub-group or with Mr. Jacobsen to arrive at the weightings of 35, 35, 20 and 10? Or how did you go about that exercise of arriving at and agreeing those weightings?

A. Well, I cannot recall the sort of the exact discussions that we had to arrive at those weightings. I can only speculate somewhat I see radio network architecture and capacity of the network have similar weightings, and I think that that is consistent with them being given similar weightings in the overall evaluation document.

Q. This was the weightings for the quantitative?

A. Quantitative, yes.

Q. Because both of those indicators on the quantitative model were 10 and 10?

A. That's right, 10 and 10. And frequency efficiency was quite small in the model; it was about 3%. Is that right?

Q. Yes.

A. So relatively speaking, compared to the 10, it was 3. So 10 would seem to be reasonable there. But again I am just sort of trying to, on a speculative basis, explain how we arrived at it. They do appear to be in line with the other weighting information which we

have in the Evaluation Report.

Q. They were in line with it, and I would accept what you say in that regard; but the ratios or the relative weightings of those four indicators didn't accurately reflect their relative weightings on the quantitative model. And I just wonder why you wouldn't have applied weightings on the qualitative side which were identical, in relative terms, to the weightings which had been agreed for those selfsame indicators on the quantitative evaluation.

A. Well, again, I can only you know, one can only speculate on that. The quantitative evaluation was not a complete evaluation.

Q. No, no, I accept that.

A. There were gaps in it. But the weightings still added up to 100%. Whereas the qualitative evaluation was a much more complete evaluation.

Q. That's when it was over. But what I am talking about now at the moment, Mr. McQuaid, is in the course of carrying out that evaluation, all of these indicators radio network architecture, capacity of the network, performance guarantees, frequency efficiency they had already been subject to agreed weightings, albeit for application to the quantitative evaluation.

Now, there is no doubt that the qualitative model contemplated additional weightings that would be arrived at by consensus in the course of the

sub-groups?

A. Yes.

Q. Now, in the sub-groups, what you were looking at was indicators

A. Yes.

Q. in arriving at a score or a level or a grade for each of the dimensions?

A. Yes.

Q. But when you came back to aggregating those dimensions to arrive at subtotals for the aspects, there doesn't appear to me to be any reason why you would have departed from the weightings that had been agreed for the selfsame dimensions on the quantitative side, and I am just wondering why there was a departure from it.

A. Well, again, I can't recall the details, but we had moved on, apart from to say we had moved on a stage at this point, we had done the qualitative evaluations. We were better informed at that stage.

Q. I accept you were better informed, but you were better informed in relation to what was in the applications regarding the individual dimensions, but you never at any stage revisited or varied the predefined quantitative weightings for the dimensions; and in fact, much was made in subsequent statements and in subsequent Dail statements that all of these weightings were agreed before the closing date and that they were applied strictly to arrive at the

result.

So what I am just trying to discuss with you, and to probe with you, is why and I accept in an imprecise way there was some connection between these weightings, 35, 35, 20, and 10, to the relative ratios of those dimensions on the quantitative weighting model. But I am just wondering why there would have been a departure from an application of the same weightings and whether you can recall discussion of it.

Because, if I can just give you this as an example, you quite correctly pointed out to me that radio network architecture and capacity of the network were equivalently weighted at 10 each on the quantitative evaluation, so you have scored those at 35 and 35.

That makes sense; you wanted to bring it to 100?

A. Yes.

Q. If you were going to respect the relative weightings of performance guarantees with radio network architecture and capacity of the network, as had been set out in the quantitative, you would have weighted performance guarantees at 17.5, and you would have weighted frequency efficiency at 10.5, rather than 10.

Now, I accept that you arrived at an approximation to those relative weights in computing this result, but I just wonder, would it not have been just as easy to call performance guarantee 17.5 and frequency

efficiency 10.5? It would have, wouldn't it?

A. Well, I can't recall the sort of discussions which underpinned deciding on those weightings, so I really can't I really don't know the answer to that.

And the other thing I would say, as well, is that those four weightings of 10, 20, 35 and 35 were not significant. They were significant in arriving at a total score for the technical aspect, but that was not that was used for presentation purposes within the Andersen Evaluation Report. It wasn't used to compute the final scored result that is technical aspect.

Q. Yes, it does appear, though, as Table 15 in the report, doesn't it?

A. It does, yes.

Q. It does appear as Table 15, and in fact in the initial drafts it was Table 16, and was part of the result, if you like?

A. Yes, but in the final report, I think Table is it 16 or 17, where the scores are these elements are broken down.

Q. Well, in fact

A. They are not aggregated.

Q. What they did we'll come back and look at it but in fact, in Table 16 and 17 of the final report, what you did was that you regrouped these dimensions, and you regrouped them back to the evaluation criteria;

isn't that right?

A. Yes.

Q. And we'll come and look at it.

A. Yes.

Q. And then to those dimensions, those results which were the results of an entirely qualitative exercise, you applied the quantitative weights; isn't that right?

A. Say that again.

Q. In Table 17, when you converted these results to scores based on a 1, 2, 3, 4, 5 conversion, to present them as numbers, they were the product of an entirely and exclusively qualitative exercise; wasn't that right?

A. That is correct, yes.

Q. And then you applied to those the weightings that had been prescribed in the evaluation model for the quantitative evaluation; isn't that right?

A. The weighting, the primary weightings used were in the paragraph 19 of the RFP.

Q. Sorry, I didn't catch that.

A. The primary weightings which were used were based on those in paragraph 19 of the RFP.

Q. But there were no weightings, Mr. McQuaid, in paragraph 19 of the RFP. In fact, it was a decision of the Project Group that the weightings would not be published. The evaluation criteria in paragraph 19 were weighted. The dimensions were then subweighted;

isn't that right?

A. Yes.

Q. And it was the weighting for the quantitative model that was applied to what was the product of an exclusively qualitative evaluation exercise; isn't that right?

A. I think in part, yes.

Q. Well, we'll look at it later on, and we can come back to it.

A. Yes.

Q. Can I just ask you finally, in relation to these evaluation meetings that you attended in Copenhagen, you attended those on the 7th to the 9th September, and as you have already indicated to me, you had the benefit of the results of the quantitative evaluation, you had the mandatory tables, and we already agreed that the quantitative results were the product of processing the raw data in the mandatory tables?

A. Yes.

Q. And you had also read the applications and familiarised yourself with the applications?

A. Yes.

Q. And the position of the overall evaluation at that stage was as per what was recorded at the meeting of the 4th September; isn't that right? You had a quantitative evaluation result, and you were proceeding to qualitative evaluation; isn't that

right?

A. Yes. What happened, as I recall, was that the Andersen Management after the completion of the evaluation sessions in Copenhagen, the information was left with Andersen Management, and they proceeded to write up the sections of the Evaluation Report under the various dimensions. So that, in effect, became, if you like, a report on the a summary report on the evaluations.

Q. But at that time you understood that what you were doing was participating in a qualitative evaluation process in accordance with the evaluation model that had been approved on the 9th June; isn't that right?

A. Yes, but things had moved on then, and I think there is a section in the Evaluation Report no doubt one may come to it later dealing with the evaluation process and explaining how the as the process progressed, how the qualitative evaluation became preeminent, as it were, became more significant.

Q. But of course no decision of that type had been made at the meeting of the 4th September, had it? It certainly isn't recorded.

A. It's not recorded, no, no.

Q. Well, now, Mr. McQuaid, Ms. Nic Lochlainn has already given her evidence, and she is a very experienced civil servant and a very able civil servant, and her evidence is that she recorded in her formal report

every decision that was made at the Project Group; and there is no record in the report of the 4th September of any decision that there should be an alteration in the approach to be adopted to the evaluation, and that instead of having a separate quantitative and qualitative evaluation, that you would move to a holistic evaluation, is there? There is no record of any such decision?

A. There is no record at the meetings, no.

Q. Now, after you returned from Copenhagen I think the next thing is that you would have attended the tenth meeting of the Project Group, which was on the 11th September of 1995, and you'll find a record and a report of that at Divider 99 in Book 42.

A. That's meeting number?

Q. Meeting number 10, Mr. McQuaid. It's at Flag 99 of Book 42.

A. Yes, I have the minutes of meeting number 10 here.

Q. That must have been on the Monday morning, because I think the presentations were all arranged then for the Monday afternoon, the Tuesday, Wednesday and the Thursday morning?

A. Yes.

Q. And it was a short meeting, in advance of the presentations, to decide on the strategy that you were going to adopt in the course of them; isn't that right?

A. Yes.

Q. And I think it records there that you had a set of technical questions that you wished to pose to each applicant, and of particular importance was the question of the applicant's backbone network?

A. That is correct.

Q. I think it also records in the final paragraph that "As a general rule, it was decided that applicants would be given a last opportunity to provide clarification orally at these meetings and that further contact would be avoided. If it became apparent that clarification was essential after the meetings, contact would be initiated in writing by the Department, and the applicants were to be informed in this regard."

A. Yes.

Q. And I think in fact, from listening to the tapes of the presentations that have become available to the Tribunal, it's clear that that was explained to each of the applicants at the end of the presentations and appears to have been accepted by them.

A. Yes.

Q. I am not going to dwell too much on the preparations, Mr. McQuaid. We know that certainly in the course of the Esat Digifone presentation, the Persona presentation, and the Irish Mobicall presentation, that you would have taken the lead in asking fairly

detailed questions regarding the technical matters?

A. That is correct, yes.

Q. I think there was also some discussion or significant discussion of financial matters and so forth, but you have already indicated in your evidence that you tended to leave those matters to your colleagues who were particularly specialised in that field.

A. Yes, yes. I would have left it to my colleagues, because they would have done detailed examination of the technical part of the proposal. I would have not done that, nor was I qualified to do that, so I didn't tend to leave it to them; I left it to them.

Q. I can understand that, in just the same which I was very relieved that you didn't have the subindicator for the technical dimensions and subindicators.

At the end of the presentations, there was a, if you like, a post presentation Project Group meeting, and you'll find a record of that at the Divider 104.

A. That's meeting number ... ?

Q. 11, Mr. McQuaid.

A. Yes.

Q. And I see that you and Mr. Ryan were present at that also?

A. Correct.

Q. And just opening that, it noted that:

"All the presentations had now been made. Mr. Brennan suggested that in view of the intensity of the week's

schedule, that no conclusions should yet be drawn by the group. Mr. Andersen spoke about the success of the presentations generally. He felt that because AMI were well prepared from the earlier quantitative assessment, they had attained the required information from all the applicants."

"The A4 presentation was good." That discusses the A4 presentation.

Can I refer you to the next subheading, "Review of the Current Position". And it records "The group agree that the presentations had served as a useful exercise."

It then listed five respects in which it was a useful exercise. Can I refer you just to the third bullet point; you'll see there, it says "The presentations had served to consolidate the initial views on the applications arising from the quantitative assessment."

Do you see that?

A. Yes.

Q. I think it's clear from that, and would you agree with me, that the quantitative assessment was still very much in play, therefore, as of the 14th September?

A. Well, it had been completed, yes.

Q. Yes, it was also being referred to?

A. Yes

Q. Isn't that right?

A. That's correct, yes.

Q. In fact, it went further: "The group agreed that the presentations had served to consolidate their initial views". So they clearly formed views on the basis of the quantitative evaluation results, and those views had been consolidated by what transpired at the presentation; and it records that that was the agreement of the group?

A. Yes, the initial views, yeah, not the final

Q. All I'm simply suggesting to you is that it's clear that the quantitative evaluation results were clearly very much in play as of the 14th September.

A. Yes, they were on the table.

Q. Now, it then records that "Mr. Brennan also stated, and the group agreed, that no further contact between the Evaluation Team and the applicants was possible," it goes on to record "Although access to the Minister could not be stopped."

Do you recall discussion of that matter in the course of this group?

A. At that meeting?

Q. Yes.

A. No, I don't I am not saying it wasn't discussed, but I certainly can't recall at this stage.

Q. I am sure it must have been discussed, because, as we know, Ms. Nic Lochlainn made very accurate records.

You don't recall any discussion of access that may

have been had by applicants, or people who were part of applicant consortia, with the Minister that might have prompted that discussion?

A. No, I don't recall what the details were.

Q. Right. And if I could just take you across the page, to the last page of the report, it says "The scoring of the marketing, financial and management dimensions would take place in Copenhagen next week."

That was, I think, the 19th and 20th September, is when it actually took place.

"DTEC was to appoint the appropriate personnel to attend. AMI would provide the first draft Evaluation Report on the 3rd October."

A. Yes.

Q. Do you see that?

A. I do indeed.

Q. It says that "This would be discussed by the group on Monday 9 October". Do you see that?

A. Yes.

Q. "The three DTEC divisions would supply any written comments prior to that meeting. Following that, AMI would produce a second draft report by 17 October."

So that appears to have contemplated that the procedure would be that the DTEC divisions would have available to them a draft of the report of the 3rd October prior to the meeting of the 9th October, and they'd have an opportunity to supply written comments;

isn't that right?

A. Yes, yes.

Q. And I suppose that that would have ensured that the meeting of the 9th October was a productive meeting?

A. Yes.

Q. Because you would have been fully informed, fully versed, and you have had an opportunity to make your comments in writing to be considered at that meeting?

That's what it appears to suggest.

A. Yes, prior to the meeting of the 9th, yes, yes, that's the way I read that, yes.

Q. So that was the post presentation meeting; and can I just clarify one matter with you, Mr. McQuaid. I take it that after the presentations, you didn't discuss what happened at the presentations, or the impression that any of the applicants made on you in the course of those presentations, with anybody outside the Project Group?

A. No, I didn't, absolutely not.

Q. Now, if I can just ask you to turn to the next leaf, because in addition to the formal report of the meeting of the 14th, we have a copy of Mr. McMahan's handwritten notes.

A. Sorry, I don't have that document.

Q. Sorry, it's Flag 105 of the same book, Mr. McQuaid. Book 42.

A. Flag?

Q. I think you might be looking at the wrong book, are you? It's Book 42, Flag 105. It's just the next document after the formal report of the meeting of the 14th. It's a handwritten document.

A. Yes, I have that now.

Q. Can I just refer you to one entry in Mr. McMahon's notes to see if you can assist the Tribunal at all as to what it related to.

It's just below the position at the moment you see the last line there on the overhead projector? You have the hard copy in front of you.

"All agreed process is still intact and not compromised." And I wonder, can you assist the Tribunal at all, or do you recall this discussion or what it might have related to?

A. Sorry, this document referred this is a document produced by Sean McMahon.

Q. This is Mr. McMahon's handwritten note of the meeting at the time. It's a contemporaneous note.

A. Of which meeting?

Q. Of the meeting of the 14th September. It's the meeting we have just looked at a minute ago. He made this entry on it: "All agreed process is still intact and not compromised". I just wondered if you recalled this aspect of the discussion, or if you can assist the Tribunal at all as to what might have prompted the entry in that document. And I accept it's not your

document, but I am just wondering if you have any recollection that would assist the Tribunal.

A. No, I am afraid I can't assist you on that one.

Q. Very good.

Now, Mr. McQuaid, we know that Mr. Brennan, Mr. Towey, Ms. Nic Lochlainn, and Mr. Billy Riordan went out to Copenhagen on the 19th and 20th September, which was the week following the week in which you conducted the presentations?

A. Yes.

Q. And they went out, and it was recorded in the report of the 14th September meeting they were going out to deal with the qualitative evaluation of the other aspects?

A. Yes.

Q. The management aspects, the marketing aspects, and the financial aspects?

A. Mmm.

Q. And they returned then to the Department, presumably, on the 21st September, sometime prior to the weekend, or perhaps the following Monday?

A. Yeah.

Q. And I think I may have asked you this already in the course of your memorandum, but I am wondering if you had any feedback at all from the meeting which occurred or the sub-groups that took place in Copenhagen during that week?

A. No, I wouldn't as I recall, I wouldn't have had feedback. I would have been in my offices in Cathal Brugha Street and would not have met the team until the next meeting, which would be, I think, October, the 9th October.

Q. Right.

Can I refer you to the document, then, at Divider 110 of the same book, Book 42. And that's the results of the quantitative evaluation, dated 20th September of 1995.

A. Yes, I have this document.

Q. Do you have that document?

A. Yes.

Q. And that's effectively the same document as the document we looked at earlier, which was dated 30th August, and which appears to have been which was tabled at the meeting of the 4th September, except that international roaming plan, one of the dimensions of the 11 dimensions that were initially evaluated, was excluded because of the difficulties based on the information that had been provided by applicants?

A. Yes.

Q. Now, can I ask you first of all, because we did find this document within the documents produced by the Department, do you ever recall seeing this document, or do you recall it being brought to your attention at all?

A. This is the second draft of the quantitative?

Q. Well it's headed "Quantitative Evaluation for Irish GSM 2", and the date above it is 20/09/95, Draft 2.

A. 2. Draft. But it's Draft 2. Well, at this stage, I can't recall. I certainly had seen the a copy of the quantitative evaluation all right, yes.

Q. Well, we know

A. I can't confirm that I have seen this draft.

Q. We know from the records of the meetings of the 9th October and the 23rd October that this draft doesn't appear to have been tabled or discussed at that meeting, or either of those meetings.

A. At the 9th October?

Q. Yes.

A. Yeah.

Q. There is no reference in the report of the meeting of the 9th October, and we have quite a detailed verbatim note prepared by Margaret O'Keeffe of exactly what happened at the meeting of the 9th October, and there doesn't appear to be any reference to any draft quantitative evaluation.

Do you recall at any stage that Mr. Brennan or Mr. Towey contacted you in Cathal Brugha Street, or otherwise discussed with you or drew to your attention in any way the results as shown on this draft of the quantitative evaluation?

A. No, I wouldn't be able to my memory is not good

enough to recall such an item of detail at this remove in time.

Q. So the only one that you ever remember seeing, or discussing, was the draft of the 30th August which was tabled at the meeting of the 4th September?

A. Well, I certainly would have seen that draft, yes.

Q. That's the only one you recall seeing; is that right?

A. Seeing, yes.

Q. Based on your recollection?

A. Yes, I can't confirm that I based on my recollection, that I saw this particular draft.

Q. Can I just briefly refer you to it. I am not going to go through it in anything like the detail that we did for the first draft.

As I said, it deals on this occasion with 10 dimensions, because the dimension of international roaming had been excluded.

A. Yes.

Q. And I can tell you, and I think you can accept what I say, is that the results on this draft for all of the dimensions are identical to the results for the first draft.

A. Yes.

Q. And if I can just bring you to the final page again, which is in the same format. And if we just start at the top, again we have the weights. We have the total weighted score, we have the highest weighted score,

and we have the highest-scoring applicant. Do you see that?

A. Yes.

Q. And this time I think there is slightly different weights applied?

A. Yeah.

Q. Maybe that was as a result of trying to compensate the plus 3 and minus 3, but you will see that the weights are slightly different.

If we just take the first, 1a and 1b, you will see:

Total annual traffic minutes, number of SIM cards; they were at 3.75; they are now at 3.99%?

A. Yes.

Q. The OECD basket, which is tariffs, is still at 15%, but it's 15.96%, rather than 18%, which is where it should have been?

A. Yes.

Q. Do you see that?

A. Yes, I do.

Q. And at 10a and 10a: Solvency and IRR are now 7.98% each, rather than 7.5% each. And your two technical indicators: Number of cells and reserve capacity, for some unknown reason, have increased from 10% each to 10.64% each; do you see that?

A. Yes.

Q. Now you'll see the total weighted score for A1 is 2.77, for A2 is 2.62, for A3 is 3.22, for A4 is 2.67,

for A5 is 2.85, and for A6 is 2.91?

A. Yeah.

Q. And the highest weighted score was recorded as 3.22.

Below that it says the highest-scoring applicant is

A3, and then it lists the statistics for each

indicator?

A. Yes.

Q. I think the order there again was A3, A6, A5?

A. Yes.

Q. So in fact, the ranking as between the first

evaluation result and the second evaluation result

hasn't changed?

A. Hasn't changed, yes.

Q. But you say you have no recollection of ever seeing

those results?

A. I can't confirm that I have seen that.

Q. I just want to bring to your attention what the

percentage difference was between the top two ranked

in that result. I think the percentage for A3 was

64.4%, the percentage for A6 was 58.2%, the percentage

for A5 was 57%, so that the difference between A3 and

A6 this time had grown from 5.8% to 6.2%, and the

difference between A6 and A3 had remained the same, at

1.2%?

A. Yes.

Q. Now, the following week there was one matter I just

want to refer you to before I get to that, Mr.

McQuaid. If you would just go to divider 111 of Book

42.

A. Yes, this is a

Q. That was a fax from Mr. Andersen to Mr. Brennan and

Mr. Towey. It probably arose following their

meetings

A. Can I stop you there, I may have the wrong book here.

I have a memo here from MMA to sorry, from Martin

Brennan to Michael Andersen.

Q. It's the other way around I think. It was to Martin

Brennan

A. To Martin Brennan, yes.

Q. And Fintan Towey from Michael Andersen. You see there

is a fax banner at the top of it. That's why I

referred to it as a fax. I may have misled you; I

apologise.

A. Okay.

Q. It's dated 21 September 1995, and its subject is the

work programme for the next approximate 10 days.

The first section deals with the remaining award of

marks to the 10 dimensions. The second section deals

with the scoring of the marketing aspect, financial

aspect, and other aspects.

A. Yes.

Q. Do I take it, therefore, given that there is no

reference to the technical aspect, that that exercise

that you did with Mr. Jacobsen of scoring the

technical aspects, the one that we referred to on the extract from the evaluation model, can we take it that in all probability that was completed, therefore, prior to the 21st September, given that there was no reference to it here at all?

A. That would have been subsequent to our trip to Copenhagen.

Q. It would have been. Given that there is no reference to it, I suppose you'd agree with me that it's reasonable to infer that that exercise had been completed by the 21st September?

A. It looks like it.

Q. You see section which refers to the scoring of the marketing aspect, financial aspect, and other aspects.

It says: "It is suggested that the award of marks to the remaining aspects is decided at a meeting Thursday the 28th. The meeting may either be with a conference call or a meeting in Copenhagen.

"The scoring of the financial aspect will be self-explanatory, whereas we need to consult each other concerning the scoring of the marketing aspect.

"Concerning the award of marks to the 'other aspects', we suggest to proceed as follows:

"1. We need to make some risk investigations, of which the following are proposed:

"A1: No major risks are identified yet except for the Detecon issue and the potential for conflicts in

decision-making among the three operators."

I'll just move to A3: "The equity of Sigma and ESB to be documented by Jon Bruel and Fintan Towey, and the potential abuse of dominant positions or lack of competition due to the relationships between, on the one hand Motorola and Sigma, and on the other hand Telecom Eireann, have been identified as risks.

"A5: Three years negative solvency combined with the comparatively weak financial strength of Communicorp Group is identified as a risk (JB, BR, MT). In addition, it might be a risk factor that A5 is to establish its own radio backbone network (OCF), but A5 seems to have a comparatively high degree of preparedness.

"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', the risk dimensions and the 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, it is suggested to score the 'other aspects' and the dimensions under this heading.

"A decision has to be taken at the meeting of the 28

September.

"C: The grand total is to be scored at the meeting of the 28 September."

It then goes on to deal with supplementary analysis, and it goes on to deal with the format of the first draft report. And then, finally, it lists the questions to the Department.

It says: "AMI has the following questions to the Department: Should the identified meeting be conducted by means of a conference call or a meeting?

Does the Department wish to score other aspects?

And just jumping down to the fourth: "How do we integrate the quantitative evaluation in the report?

(We prefer to leave this question unanswered until we have the final results)".

Now, can I just ask you, Mr. McQuaid, was that letter ever or fax ever brought to your attention, can you recall?

A. I can't recall.

Q. So you have no recollection of it being brought to your attention?

A. No.

Q. Do you have any recollection at all of your views being canvassed or sought in relation to these matters that were being raised by Mr. Andersen in the fax?

A. Well, most of the matters seem to or not most; certainly some of them seem to pertain to the marking

of the remaining dimensions. And they would seem not to include the dimensions which I was involved in, which would have been marked at that stage.

Q. And what about the issue of scoring the other aspects?

Do you ever remember your views being canvassed on that?

A. These are the issues

Q. The risks and sensitivities. When you look at the contents of this, these are very different to the risks and sensitivities that were referred to and recorded in the working papers on the sub-group on coverage, aren't they?

A. Yes, yes.

Q. Do you ever remember anybody consulting you in relation to this matter?

A. As I recall, the initial consideration of overall risk would have been drafted by AMI as part of the Evaluation Report.

Q. Draft Evaluation Report?

A. Yes. I think it was probably included in the 3rd October draft.

Q. That's the first recollection you have of an appreciation of the issue of other aspects, risks and sensitivities?

A. The appreciation of the risk, the credibility, etc., exposure to it, etc.

CHAIRMAN: It's just on one; we will resume at a

quarter past two. Thank you.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

CONTINUATION OF EXAMINATION OF JOHN MCQUAID BY

MS. O'BRIEN:

Q. MS. O'BRIEN: Now, Mr. McQuaid, we have already

discussed the fax of the 21st September. I think

after that, Mr. Brennan and Mr. Towey went over to

Copenhagen on the 28th September, which was the

Thursday of the following week?

A. Yes.

Q. And they carried out an exercise of finalising, I

think, the scoring on the various aspects which had

not already been finalised that is, all the aspects

other than the technical aspects and they appear to

have drawn together the totals for the aspects?

A. The dimensions.

Q. And the dimensions?

A. The dimensions, yeah.

Q. And I think also the aspects?

A. Yes.

Q. The aspects were the subtotals of the dimensions on

the qualitative side; I think that's what the fax

referred to

A. Oh, I see, right.

Q. was the finalising of the dimensions and the

finalising of the aspects?

A. Aspects, yeah.

Q. That was on the Thursday, and we know that Mr. Towey was back in the Department on the 29th, which was the Friday, and we think that Mr. Brennan wasn't back until the following Monday, the 2nd October. I think Mr. Brennan had to go to a meeting in Brussels on the Friday.

You then attended, on the 3rd October, an interdivisional meeting, and if I could refer to you Mr. McMahon's note of that meeting, it's in the book that we were working on, Book 42, and it's at Divider 116.

A. 116, yes. This is a scribbled note, yes.

Q. Yes, it is, it's a handwritten note.

Now, Mr. McMahon didn't keep a list of attendances, but it does appear that you were at that meeting, and you will see that there are certain notes that he made that are attributed to you. You see under the first heading, "Satellites", he has matters attributed to

A. Can I just confirm: This is not a Project Group meeting?

Q. No, this was an interdivisional meeting on the telecommunications and radio side.

A. Okay.

Q. You see it says "Meeting with T&RT, and T&RR and T&RD", and the date is on the top right-hand side, the 3rd October 1995. And you will see that there were a

number of matters that were under discussion. There was "satellites, want 95, spectrum pricing, GSM," it looks like "matrix" there, "competition directive"; and those topics presumably were of mutual interest to all divisions within the Telecommunications and Radio Department?

A. Yes.

Q. And just to refer you to the matters that seemed to be attributed to you. You see under the first subheading, "Satellites", there are comments attributed to FT, Fintan Towey; to, I think, "me", and then just below that you'll see there is a reference to you "JMcQ": "Let's do it by ref 2. Noted satellite licences, fixed satellite licences and portable satellite licences." Do you see that?

A. Yes.

Q. And I think I think there is another reference to you further on, although just below that, under subheading 2: "Want 95", you will see there is a reference to you on the left, "J. McQ"?

A. Yes.

Q. Do you recall attending that meeting? That would have been on the Tuesday of the week prior to the 9th October, when you had your first meeting since the 14th September; on the following night, you had the meeting at which you considered the draft Evaluation Report of the 3rd, and this meeting would have been

during the Tuesday of the previous week?

A. Yeah, this was not this was not a Project Group meeting?

Q. No.

A. And I attended many meetings in the Department in my time, so I can't say that this particular one stands out.

Q. Right. It is an interdivisional meeting. And it does appear from the record that you were in attendance.

A. Yes, indeed.

Q. If I could just ask you to refer to the second page of that note. And you'll see it's headed "GSM". And the first bullet point, "Minister wants to accelerate process.

" legalities more complicated.

" draft report now imminent.

" we need to discuss and digest."

And then below that: "Agreed copy agreed 1 copy.

We let it stay here there is a little arrow up to

44 presumably referring to Kildare Street?

A. 44 Kildare Street.

Q. And "Discuss it in confidence"?

A. Yes.

Q. Now, that note isn't attributed to anybody, but Mr. McMahan, both in his memorandum of intended evidence, or a supplemental memorandum, and in the evidence which he gave during the course of sittings the week

before last, indicated that as far as he was concerned, this would have been the most up-to-date news that came from the Martin Brennan side, they being the side that were running, if you like, the administration and secretarial part of the process ?

A. Yes, that would make sense.

Q. It would make sense?

A. Yes.

Q. Can I just ask you, firstly, can you recall what your state of knowledge was in relation to the outcome of the process, or the work that had been done by Mr. Brennan and Mr. Towey the previous week in Copenhagen, as of this date, the 3rd October?

A. No, I can't specifically recall that far back.

Q. You wouldn't have had a copy of the draft Evaluation Report, first draft, because that hadn't arrived in the Department until the Wednesday the 4th?

A. That was the draft dated the 3rd October.

Q. Yes. So you couldn't have had access to that at that stage?

A. No, so I would expect that I was waiting for the first draft at that point.

Q. And you don't recall whether Mr. Brennan well, I presume if he did tell you, you would have recalled it, what the outcome appeared to be?

A. No, I have no specific recollection of the outcome.

Q. Right. That records that Mr. Brennan or Mr. Towey

indicated that the Minister wanted to accelerate the process.

A. Yes.

Q. Now, I know that you had only joined the Department in November of 1994, but can you throw any light on why the Minister might have wanted to accelerate the process at that stage? Because you were well within your schedule.

A. No, I can't throw any light on it, no.

Q. You'll see there it says that the report was imminent; that you would need to discuss and digest it; that a copy would stay in Number 44; and that you would discuss it in confidence?

A. Yes.

Q. Now, you recall that we referred earlier to the report of the 14th September, where it was recorded that on receipt of the report, draft report of the 3rd October, that it will be discussed at a meeting of the 9th October and that the various divisions would, if they wish, make their written views available for that meeting of the 9th October?

A. Yes.

Q. So I suppose, in order to make your views known on the 9th October, whether orally or in writing, you would have needed access to the draft report prior to the 9th October?

A. Before the 9th October, yes.

Q. That obviously was what was contemplated here, when Mr. McMahon recorded that it would stay in 44 and that it would be discussed in confidence?

A. Yes.

Q. But you have no recollection at all of seeing the report of the 3rd October before the meeting of the 9th October?

A. No, I can't recall when I first saw it. I certainly had it by or I saw it by the meeting of the 9th; but how far before that, I can't recall that detail.

Q. Do you recall at all whether you ever had an opportunity of making observations in writing in relation to the report of the 3rd October prior to the meeting of the 9th?

A. No, I can't, but

Q. Well, there is certainly no reference to any

A. There is no record or reference of it. I would probably have given my views at the meeting on the 9th.

Q. Well, we know from Mr. O'Callaghan and from Mr. McMahon, and from their evidence, that they did not have access to the draft report until the meeting of the 9th October.

A. Yes.

Q. Now, I suppose there is no reason to think that you'd be any different from them?

A. Yes, that would be a fair assumption to make, yes.

Q. So if I could just take you, then, to Flag 120 in this book, and this is the formal report of the meeting 12th meeting of the GSM Project Group, on the 9th October.

A. Yes, I have that.

Q. You have that?

A. Yes.

Q. You'll see that both you and Mr. Ryan were present?

A. Correct.

Q. And that Mr. Andersen and Mr. Bruel were also present?

A. Yes.

Q. And in opening, "The Chairman opened the meeting by stressing the confidentiality of the Evaluation Report and the discussions re same. He also informed the group that the Minister had been informed of the progress of the evaluation procedure and of the ranking of the top two applicants. The Minister is disposed towards announcing the result of the competition quickly after the finalisation of the Evaluation Report."

And then it goes on to deal with "Discussions of the Evaluation Report". "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

" an expansion generally of the justification for the award of marks to the various indicators

" revision of the financial conformance appendix to a 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.

"AMI also indicated that the supplementary analysis in relation to the interconnection and tariffs which had yet to be provided did not suggest that it would be necessary to revise the award of marks.

"Future work programme.

"It was agreed that AMI would provide the first draft of parts of the report which had not been included in the first draft of the overall report for comments before submission of a complete second draft the following week."

You'll see there that in the formal report, the fifth point recorded in terms of discussion of the Evaluation Report was an "elaboration of the reasons as to why the quantitative analysis could not be presented as an output of the evaluation process."

A. Yes.

Q. I think you'd agree with me that there is no record of an actual agreement that the quantitative analysis could not be presented as an output of the evaluation process?

A. Previous to that?

Q. Previous to that.

A. Well

Q. We'll start off with previous to that?

A. Previous to that, no, there is no record in the minutes.

Q. But in fact there is no record there of an agreement either, is there, Mr. McQuaid?

A. There is no record of an agreement, no, no.

Q. Now, we also have available a verbatim note of the it's a verbatim note of the handwritten note of the meeting of that Project Group on the 9th October that was kept by Margaret O'Keeffe, and it was Margaret O'Keeffe who signed off on the formal report dated 17th October, and that's at the next divider, Divider 121. I'll just take you through that.

I won't open the entire of it, but I'll open the part that appears to record substantial discussions within the group regarding the material.

Now, under the heading "Confidentiality", it records:

"Minister knows.

Shape of evaluation and/or of top two.

Minister of State does not know.

Quick announcement."

Then under the heading "Agenda":

"Draft report

future work programme: A, producing draft number two.

"Good working draft produced on time.

Annex should be part of the main report.

Object if to get feedback on content style of report,

content accuracy.

"Report too brisk. Critically needs more elaboration

and reasoning more significantly. Few lay readers but

they will be critical terminology needs to be

explained.

"MA brought appendix on supply on tariffs and

interconnections.

Description of methodology still missing."

That was the methodology which was presumably referred

to in the formal report which had been missing?

A. That is the that relates to the appendix, does it?

And in the final report there was an annex on the

methodology; I think it may have been Annex 1 or Annex

2?

Q. I think it was Annex 2.

A. Annex 2 in the appendix, so it's in the appendix to

the final report, yes.

Q. And this seemed to record that as of the 3rd October,

that was still missing?

A. Well, it wasn't it had not been produced, yes, it wasn't missing as such.

Q. Well, it wasn't it wasn't there?

A. It wasn't there

Q. We can split hairs about

A. Yes, it wasn't produced.

Q. It wasn't there; isn't that it?

A. It wasn't produced.

Q. And that was an important part of the report, wasn't it, to explain what you actually did?

A. Yes.

Q. To enable anybody reading the report to follow what the report was about?

A. Yes.

Q. It goes on to say "Different groups examined dealing with commissions etc.

Relevance of annex dealing with conflict.

Full discussion needed on annex 10."

Annex 10, I think, dealt with concerns which the group had regarding the financial position of certain of the applicants; isn't that right?

A. Yes, I dealt with the financial solidity of the applicants.

Q. Financial frailty, I suppose, would be a better way of describing it?

A. Perhaps.

Q. "Minister does not want the report to undermine

itself, e.g. either a project is bankable.

Should be balanced arguments."

Then under "M. Andersen (changes)" he deals then with specific changes. Page 23, B should be an A.

Page 44, C, D, B, B, A, C, technical aspects"

that's probably the correction that was needed to the technical aspects?

A. Yes, that we discussed earlier.

Q. And under "Supplementary analysis":

"Tariff analysis almost prepared when the report was done.

A5 and A3 almost equal.

"Interconnection.

"No changes, A3 or A4.

Supply? Analysis will not change marks in the main report.

Under the heading "Quantitative Evaluation":

"View is QE should not be performed separately but are taken into the account in main report.

"Already agreed that international roaming should not be used."

That's the international roaming dimension in the quantitative evaluation?

A. Where we had difficulty

Q. Which was dropped by the time you got to the 20th September?

A. Yes.

Q. "Hard to score the block-out and drop-out rate."

A. Yes.

Q. "Tariffs well defined basket of tariffs.

Metering billing should be a score indication.

Data not reliable for comparison purposes.

To be left over for discussion.

If included, it will give false confidence in some

figures."

Would you agree with me that those comments which are

recorded there appear to relate to the dimension of

tariffs?

A. Yes.

Q. On the quantitative evaluation?

A. Well, it's not clear I wasn't involved in the

evaluation of tariffs, so sorry, it is, yes, on the

basis of the heading, yes, I agree.

Q. Then "Martin Brennan

"will proceed in the way Andersen suggests and will

strengthen the report. The annex on methodology

should cover this become main report."

Do you see that?

A. Yes.

Q. And presumably what Mr. Brennan is referring to there

is that the annex on methodology, which was not

provided on that date, would deal with the way

Andersen suggested to proceed?

A. It would deal with the methodology used, yes.

Q. Then "Sean McMahon

"would like to see more of a user-friendly

overview confidence should ooze out of the

report the document will be read by sec and

assistant sec the Minister's programme manager (no

technical) Department of Finance.

Then you, John McQuaid:

"Page 44 correction" would you agree would me

that should be "correction", "CORR"?

A. I agree, correction.

Q. "Evaluation model appendix. Quantitative analysis a

report based on qualitative analysis concluding

remarks (page 44). Are tables 16, 17 and 18 of equal

importance."

Now, can you assist me as to what you may have meant

by those observations which are attributed to you in

this note?

A. Yes, I think Tables 16, 17 and 18 are the final tables

in the Evaluation Report.

Q. That's correct.

A. Or at least, the October the 3rd October version,

and we have the report here somewhere, but there

were the result was presented in three forms. It

was presented under the heading of the aspects which

were the headings that Andersens used. There was

another table, which was Table 17, I presume, which

matched in with the primary evaluation criteria and

which had lettered scores, and then there was the Table 18, which had the scores, the final scores shown as numbers.

And I think my question was: You are presenting a result here, and instead of presenting one table of results, three tables of results are presented. Which one is the one which defines the determines the final result?

Q. And then just above that, there is an observation attributed to you: "Quantitative analysis, a report based on qualitative analysis concluding remarks."

I wonder what you meant by that?

A. I think that seems to be a fairly cryptic comment there.

Q. Can I suggest an interpretation to you?

A. Well, you can, yes.

Q. Could you have been saying that what you were being presented with was a report based on qualitative analysis, and that perhaps in the concluding remarks, there should be some reference to the quantitative analysis? Would that be a reasonable interpretation?

A. I don't know. I don't know.

Q. Would you agree with me that that might be a reasonable interpretation?

A. It may have been that the those final tables which were shown were based on the qualitative analysis, and perhaps that perhaps what I was saying, and I am

only speculating at this stage, perhaps what I was saying was that should be highlighted or explained.

Again, that's speculative reflection.

Q. Then under the heading "Weighting", it says "Table 17 different from agreed weighting." Do you see that?

A. Yes.

Q. It appears that weighting was certainly an issue, and this was picked up by somebody in the course of this meeting on the 9th October?

A. Yes.

Q. Then "Overall presentation":

"Details and summary results at end.

Should summary be at start?

Should do an executive summary.

"Michael Andersen.

"16, 17, 18 tables reflect discussions in Copenhagen.

If different weighting used, prove you get the same result with different approach.

"Paragraph 19 was regrouped to reflect that."

Presumably there he is referring to paragraph 19 of the RFP?

A. The RFP, the evaluation criteria, yes, I agree.

Q. "Have to apply a numerative approach."

A. Yes.

Q. Can you throw some light on what you might have meant by that? Because the entire of Table 15, 16 and 17 represented a result of a qualitative analysis, didn't

it?

A. Yes. I think he may have been referring and again

I am being speculative here he may have been referring to the need to have a final score result in numerical rather than in alphabetic terms.

Q. I wonder, was he suggesting that, Mr. McQuaid, was Mr. Andersen suggesting that?

A. I am not sure. I mean

Q. We'll look at it further

A. I am speculating here.

Q. "If three tables give a different answer, MB said further analysis will be required and seek to re-examine."

Then you have "Michael Andersen.

"It is different to make a report with detail and easy to read. He would prefer to leave report in present format with a long letter on front rather than an executive summary.

"Executive summary will pull the main report up to the front give an overview of technical data.

"Billy Riordan.

"Methodology stitched back closer and" do you see that?

A. Yes.

Q. Well, clearly Mr. Riordan is concerned about the methodology, would you agree with me, on the basis of that comment, is recorded?

A. Well, it could be that he was concerned about the location of the description of the methodology.

Q. I suppose we'll ask Mr. Riordan what his concerns were.

A. Yes.

Q. Then "Fintan Towey.

"Should we not include quantitative analysis up front."

I don't think there will be any doubt what Mr. Towey meant by that, will there?

A. Yes, I think that's fairly clear, yes.

Q. He wanted the quantitative analysis to be there in the report?

A. Well, he was I am not sure well, I can't say whether he wanted it, but he asked should

Q. Should it not be?

A. Should it not be, yes.

Q. Of course that's what was contemplated in the evaluation model, isn't it? That's what was in the evaluation model approved by the group on the 8th June, that there would be a separate quantitative report?

A. There is initially a quantitative analysis, yes, yes.

Q. "Quantitative analysis too simplistic to give results.

"1. The scoring.

"2. Would like to stick to the evaluation model."

That's clearly somebody saying that they wanted to

stick to the evaluation model that you all approved

A. Yes.

Q. isn't it?

"Should quantitative analysis be shown. Would have to open discussion again."

Doesn't that suggest that there had been some earlier discussion about whether the quantitative analysis should be shown in the report? I am not suggesting, Mr. McQuaid, that you might have been a party to the discussion, but doesn't the record suggest that there must have been some earlier discussion on this same issue?

A. It could mean that, yes, or it could mean that the evaluation would have to be revisited again.

Q. Yes, it may well mean that, yes, exactly. It could.

Then it goes on: "Quantitative evaluation unfair and impossible. Figure impossible to compare. Chain of events, evaluation model 80% deals with quantitative evaluation.

"Results of quantitative evaluation not reliable.

"Quantitative analysis became less and less.

Should be explained in methodology report, and wording is important."

You can see there, I think that records probably a fairly lengthy debate as to whether the quantitative results should be included up front in the report, doesn't it?

A. Yes.

Q. And it also seems to reflect, would you not agree, I suppose two schools of thought within the Project Group: one which had a desire to abide by the evaluation model and include the quantitative analysis up front, and secondly, a school of thought that it shouldn't be used and that that should be explained in the methodology annex? Would you agree?

A. Well, I can't recall the discussion, but it does appear that they were elements of the discussion, all right, yes.

Q. And perhaps also as to whether the evaluation should be reopened, as you suggested yourself?

A. Yes, that's a possible interpretation, yeah.

Q. Then "B Riordan:

"Are Andersen happy to go forward with the position as it is now they are sufficiently happy.

Aim is to conduct the evaluation in such a way that 10 more people would come up with the same results.

"Because of uncertainty, cannot trust quantitative."

Then under "Quantitative":

"Ranking is probably different now. (Annex D).

"50% of the weighting is lost due to scoring that cannot be used and quantitative analysis has been undermined.

"It is not necessary to publish. The original."

Can you assist me at all, Mr. McQuaid? Because we looked very closely at the reports of the 30th or the results of the 30th August and of the 20/9 as to where the 50% of the quantitative analysis had been lost 50% of the weighting, I should say.

I know they couldn't use the OECD basket; there was problems there on the basis of information that had a weighting of 18%. They couldn't use the blocking and drop-out rate I think that had a weighting of about 5%, that was performance guarantees; isn't that right?

A. Yes.

Q. The licence payment couldn't well, couldn't be used; that was completely neutral?

A. Yes.

Q. And international roaming couldn't be used?

A. I mean, I can't accurately count, but it is clear that the if you take the indicators in the quantitative evaluation model, less the and then take away the indicators which could not have been scored properly due to, as you said

Q. Insufficient information?

A. insufficient input information, and then try to map over the evaluation, the primary weightings associated with the paragraph 19 evaluation criteria onto those indicators, I think that you would find that you would not be able to account for all of the weightings of

Q. I know, not all of them, but I am just wondering where

the 50% loss could have come from. Because there were only three dimensions for which the data on the quantitative evaluation couldn't be used, and they didn't come to anything near 50%. So I am just wondering if you can assist at all as to how 50% weighting on the quantitative side might have vanished or got lost?

A. Well, I think that overall, there were about 50 indicators used

Q. That was on the qualitative side?

A. In the quantitative evaluation, and there were what, 11 or 12 indicators used in the quantitative evaluation. And there was a direct relationship between some of those indicators; in other words, they were similar indicators used in the quantitative and qualitative. So there was and I haven't worked out the detailed figures, but there was certainly a numerical discrepancy between the number of indicators used in the quantitative evaluation and the number used in the qualitative evaluation.

Q. I can understand that entirely, Mr. McQuaid, because they were intended to be completely separate evaluations.

A. Yes.

Q. So whether there was more or less indicators used on the quantitative or the qualitative side really had no material significance. What I am asking you is can

you assist maybe you can't

A. It could have had material significance.

Q. And how could of it? How could of it? If you had two completely separate results, how could it conceivably have had any significance?

A. Because the indicators used in the quantitative evaluation were restricted to indicators which could be expressed in numerical terms, using numerical data supplied by each applicant; so they were restrictive in that sense. They were both restrictive in terms of the number of indicators that were used, and they were restrictive in terms of the information relied on for each of those indicators.

In other words, you could only rely on information which could be expressed in simple numerical terms.

Q. Yes, I understand that. But how would that impact upon the loss of 50% of the weighting? That's what I don't understand. Because here they are talking solely about the quantitative evaluation, and they are saying 50% of the weighting is lost due to scoring that cannot be used, and quantitative analysis has been undermined.

And I was simply asking you maybe you can't assist me as to how anyone could have said that 50% of the weighting had been lost on the quantitative side arising from the fact that three of the quantitative dimensions couldn't be used because of inadequate or

incomplete information being provided by applicants.

A. What I have tried to do to assist is just to explain the asymmetry between the quantitative and qualitative evaluations, both in terms of the information relied on to support each indicator and the number of indicators.

Q. Yes, I understand that entirely. I just don't understand how that impacts on the loss of weighting on the quantitative side.

Maybe you can't assist me on that particular point.

CHAIRMAN: I think we should pass on.

Q. MS. O'BRIEN: Then "Billy Riordan, do we carry out any further assessment of the validity of the information presented?

"Martin Brennan.

"Some validation has been done.

"A3 and A5 have much evident information and are satisfied with what they have. Michael Andersen advises not to carry out extra analysis without risk to process.

"Elaborate reasoning more. Holistic, taken a subjective and interpreted skills. Number of dimensions, indicators should be given. Those who did Irish market research was not attributed enough to those who did."

Do you remember Mr. Andersen advising not to carry out extra analysis without risk to the process?

A. Well, at this stage, you know, I don't have clear recollection of these meetings, but it was something that I would expect him to say, yes.

Q. It's just that in assistance that he formerly provided to the Tribunal, he had indicated to and informed the Tribunal that he would be anxious to carry out extra analysis; but you don't recall this, in any event?

A. No.

Q. Then there are just specific changes to pages; it looks to me like possible polishing up the English and so forth.

If I take you on to page 6, do you see towards the bottom of the page, there is a heading "John McQuaid":

"Without visibility of weighting it looks unreasonable.

It should be explained.

Stress that main focus was on capacity of network and infrastructure.

More attention given to the point that weightings were used."

And this seems to be you expressing your view that without the weightings, presumably it's the tables or the results that look unreasonable?

A. Yes, I think what I was getting at there is that you for the evaluation of a dimension, which was evaluated under a set of indicators, that one of the indicators, for example, could have a predominant

weighting; in other words, it could have 90% of sorry, I'll go back; that might not be a good example.

If you had four indicators, and they had different weightings in other words, they were not 25% each and you scored each of those indicators, then it was not possible then you had to we had to calculate the bottom-line score for the dimension which under those four indicators. Then it might it would not you would not be able to relate necessarily the total score to the individual scores.

Q. A bit like we were talking about this morning on coverage, where you had 35, 35, 20 and 10. If that wasn't shown, it was difficult to verify the result at the bottom of the table?

A. Yes, yes.

Q. And I think, in fact, Mr. McMahon explained that he had problems with that as well?

A. Yes.

Q. Can you recall why decision wasn't why a decision was made not to include those weightings?

A. No.

Q. Or why an explanation wasn't included

A. No.

Q. as to the relative weighting of each of the indicators which gave rise to the total for the

dimension?

A. No, I can't recall.

Q. Because there doesn't seem to be any reason that you would leave that out, when it would have been a very helpful tool to anybody reading the report to understanding the result and to verify the result?

A. Yes, it would be helpful, yes.

Q. I suppose I could go further and say it wouldn't just be helpful; it really would be quite essential, wouldn't it, to enable anybody to verify what were the aggregate scores for each of the dimensions?

A. Yes, to relate the bottom-line scores for the for a dimension to the individual scores for the indicators where the weightings were not equal, you would need to know that information to verify it, yes.

Q. Otherwise it would be meaningless, wouldn't it?

A. Well, it wouldn't be meaningless, but it would be difficult to verify it. It might be possible to do it

Q. It would be virtually impossible to verify it, wouldn't it, unless you started trying to discern what the weightings might have been?

A. Yes, by trial and error, or something like that, yes.

Q. Then it goes on "Page 40.

"Should be present in a more balanced way. Financial risks. No doubt A5 will survive.

"A3 has agreement that if one shareholder does not

come up the others will pay.

"Put in requirements in licence conditions.

"If things don't go as planned a lot more expenditure may be required.

"Problem not unique to anyone.

"More balanced statement. The project will survive.

No one consortium is weak in itself. Each member of the consortium brings different elements."

And do you recall that aspect of the discussion? It clearly relates to the financial frailty of A5, doesn't it?

A. It does, yes, and that's something that I wouldn't have had a detailed interest in.

Q. No, you wouldn't have had a detailed interest, but presumably, as a member of the Project Group that was carrying out this evaluative process, would you nonetheless have had an interest in it?

A. Of course, yes.

Q. And there it seems to be suggested that perhaps a Shareholders' Agreement imposed on A5 might go part of the way towards meeting that financial frailty; would you agree? It refers to the agreement that A3 has; do you see that?

A. Sorry, A3 has agreement that "If one shareholder does not come up, the others will pay".

Q. Then it says "Put in requirements in licence conditions."

A. Yes.

Q. Doesn't that suggest that someone was proposing that A5's frailty might in part be met by the imposition of an agreement on A5 of the type that had already been entered into by the members of the A3 consortium?

A. It looks like that, yes, from the heading "No doubt that A5 will survive", yeah.

Q. Then it goes on to say: "More balanced statement. The project will survive."

And presumably that was a matter that reference was made to be incorporated into the report; would you agree? It says "More balanced statement. The project will survive."

A. Yes, this is calling for a more balanced statement on page 40, yeah.

Q. Then page 43, if we just jump down: "Prequalifier page 42,"

"Page 43:

Content will change. 5.6 should improve the format.

The difference between A5, A3 and A1 should be made clear."

Do you see that?

A. Yes.

Q. Do you recall that discussion at all during the course of this meeting, that it was important that the difference between A5 and A3 and A1 should be made clear?

A. I don't recall the specific discussion, no. It's too long ago now.

Q. But you see it recorded there?

A. I see it recorded there, yes.

Q. Doesn't it suggest from that record that there was concern within the Project Group that the difference between A5, A3 and A1 was not clear enough?

A. In the draft Evaluation Report, yes.

Q. That was the draft Evaluation Report that you were considering at that meeting?

A. The 3rd October, yes.

Q. The 3rd October. And that was Monday the 9th October, Mr. McQuaid, and the next report, draft report became available, I think, on the 19th October, which was the following Thursday week?

A. Yes.

Q. And that report, second draft report was then discussed at the meeting of the 23rd October?

A. The final meeting of the Project Group, yes.

Q. Do you recall when you received a copy of the second draft of the Evaluation Report?

A. No, I don't recall the precise time when I received it.

Q. Do you recall whether it was before the meeting of the 23rd October, of Monday, 23rd?

A. No, I can't recall at this stage. It's too long ago.

Q. The Tribunal has been provided with all of the files

from the Department, I think including in fact definitely including the Technical Division files, and what we haven't been able to find is any draft report that was shadow scripted for you or on which you made any notes or annotations.

A. Mmm.

Q. Is it your feeling that you might have only received your draft report before the meeting of the 23rd, or possibly on the morning?

A. I can't remember.

Q. Mr. O'Callaghan recalls that he received his on the Friday morning, which would have been Friday the 20th, and that gave him an opportunity to look at it closely and consider it and then to in fact brief Mr. McMahon of his own division and to discuss it then at the meeting on the Monday; but you don't recall when you received it?

A. No, I can't recall. I can't remember.

Q. Were you furnished with any information during that week in relation to the Minister's intentions to bring this matter to Government on the 24th October, do you recall? That's in the week prior to the Monday, the 23rd.

A. That would have been after the second-last project meeting, where it was indicated, I think by Martin Brennan, that the Minister is that right the Minister was anxious for a quick announcement.

Q. Do you recall receiving any more concrete information about the Minister's desires or intentions at any time prior to the meeting of the 23rd October?

A. No, I don't, and I probably, I think, wouldn't have, because I was in a different building, removed from 44 Kildare Street.

Q. Because Mr. O'Callaghan knows that Mr. Towey, and has given evidence, that Mr. Towey told him in the previous week that the Minister wanted to bring it to Government on Tuesday, 24th October. And Mr. O'Callaghan was also in another building from Mr. Towey, but I wonder, would you not have had some contact with Mr. Towey at that time, even to know what was happening, when was the report arriving, or anything of that nature?

A. Not necessarily, no.

Q. I see. You have no recollection of it, anyway?

A. No, I have no recollection. And I was more distant from 44 Kildare Street than Ely Place were, and they were more frequent visitors to 44 Kildare Street than I was.

Q. If I could just ask you to go to Book 43, Divider 132. And this is the formal report of the meeting of the 23rd.

A. I have a copy of it here. It's a one-page document yes, I have a copy here.

Q. Yes, it's a very short report of what appeared to be a

fairly lengthy meeting.

Can I just ask you first of all, do you recall whether Mr. Andersen was there for the entire meeting? I think there has been some suggestion that he might have had to leave.

A. Well, he is listed here as attending. And he seems to be the only AMI person yes, he is the only AMI person there. No, I am afraid I can't assist you there as regards how long he was at the meeting.

Q. Do you remember the meeting, Mr. McQuaid?

A. I don't have a great recollection of it, no, no.

Q. It was a very lengthy meeting, I think; isn't that right?

A. Quite long, I think, yes, yeah.

Q. And it was a very important meeting, wasn't it?

A. It was indeed, yeah.

Q. You have described it as the last meeting of the Project Group?

A. The last meeting, yes.

Q. And you do recall going to see Mr. Loughrey, but we'll come back to it in more detail.

A. That is correct, yes.

Q. Do you recall coming back to the meeting after you went to see Mr. Loughrey? Do you recall rejoining the meeting after you went to see Mr. Loughrey?

A. I have a sort of a poor recollection of it, yes.

Q. But you do recall it?

A. A poor recollection of it, yeah.

Q. Do you recall whether Mr. Andersen was still there when you came back from seeing Mr. Loughrey?

A. No, I don't know. I don't know.

Q. Can I just refer you to the report do you recall anything further being discussed after you returned from the meeting with Mr. Loughrey?

A. No. I have nothing to assist me, apart from the minutes here, to remember that meeting.

Q. Have you had the benefit I am sure you have, because the Department has it and furnished it to the Tribunal have you had the benefit of Mr. McMahon's note of the meeting, which is a much more detailed note?

A. I haven't read that, no.

Q. Well, I'll take you through that. Perhaps it will refresh your memory.

A. No, because I got very short notice of this appearance, so I did not have time to go through all of the information.

Q. Well, I'll take you firstly to the formal report, and then I'll take you to Mr. McMahon's report, and perhaps that will assist your recollection. The formal report is at Divider 132; I think you have it there.

Firstly it deals with a corrigendum.

"Mr. Billy Riordan noted for the record that Jon Brael

of AMI had stated at the previous meeting that he was sufficiently satisfied that the financial tables as evaluated were adequate and true. Reference to this statement had been omitted from the minutes of the previous meeting in error.

Discussion of draft report:

"The meeting then proceeded with a discussion of the draft AMI Evaluation Report. Views from regulatory, technology and D/Finance all indicated that, while there was general satisfaction with the detailed analysis and the final result, the presentation of the draft report of that analysis was not acceptable.

"Hence the discussion focused on the detail of the report. A re-ordering of certain sections of the report, together with some textual and typographical amendments, was agreed.

"Future work plan:

"Amendments to certain sections remained to be finally agreed: These were to be agreed within the Irish members of the group on the following day, and Mr. Brennan was then to be deputed to come to final agreement with AMI with respect to the final text of the report."

You see that that's signed by Maev Nic Lochlainn, but it doesn't appear to have been prepared or circulated to all of you until the 12th December of 1995, which was the best part of two months later.

A. Yes, I see that.

Q. I think you fairly indicate in your evidence yesterday that your answers to queries raised by the Tribunal, which were then incorporated into your memorandum with regard to decisions made at this meeting, were very much based on the contents of this record?

A. Yes.

Q. Now, if you just pass on to Divider 134, you will find Mr. McMahon's note of the meeting, and that's been reconstituted and typed up, and you should have a copy there for you.

A. This is a handwritten note; yes, I have it here.

Q. Behind the handwritten note, you'll see it's been reconstituted by the Tribunal; you may find the typed version easier to follow.

A. Yes.

Q. I'll take you through it. The heading is "GSM group 23/10/1995". Can I just ask you, before I open that, Mr. McQuaid, would you have kept a personal note of that meeting yourself, or would Mr. Ryan have done it?

A. No, I wouldn't have sort of made out my own notes like Mr. McMahon here. I would have contributed to the meeting. And I may have had some handwritten notes, all right.

Q. And would you have retained those notes?

A. No, no.

Q. And what about Mr. Ryan?

A. I can't talk for Mr. Ryan now.

Q. It starts off "Martin Brennan notes that I have

only just seen final draft report." That's Mr.

McMahon.

"That Minister wants a result today

that he hasn't been promised one.

"M. Andersen: admits that award of marks could be

different.

" discussion quite clear that people here are

still at odds about quantitative v. qualitative

evaluation weighting, ranking, grading points,

etc."

Do you see that?

A. Yes.

Q. Do you recall discussion of that at that meeting? Do

you recall that there was confusion between members?

A. I don't recall I mean, at this stage, it's eight

years ago I don't recall the details of the

meeting. I just haven't remembered it.

Q. You may not recall the details, but do you remember

that being one of the topics that was discussed?

A. These were some of the topics that were discussed,

yes.

Q. "Me we (T&RR) can't justify the conclusion by

reference to the draft that we have seen (i.e. last

one). It's too close and report is not clear enough."

And do you recall that that was the view that was being expressed by Mr. McMahon in the course of that meeting?

A. Yes, he had concerns all right.

Q. "4.1, more text needed to explain basis of Table 1 agreed. I made point that bottom line of tables doesn't explain the weightings, etc."

Now, doesn't that echo exactly the point that you have been making, or that you were making at the last meeting?

A. Yes.

Q. And do you recall that that was a topic that was under discussion at the time?

A. Yes.

Q. And you can't assist us at all as to why it wasn't agreed that those weightings be incorporated into the report or that it somehow be explained to readers of the report how you arrived at the totals?

A. No, I can't recall that detail.

Q. 3.2: "I raised the EU procurement point. Much discussion of Appendix 11. I am not happy that we are using this in a relevant way."

Then "Much discussion about my point as to how to explain the result in" question mark I am just trying to make out what that word is "in subtotals". "Result in subtotals."

That again echoes the point you were making?

A. Yes.

Q. You couldn't explain the result in the subtotals without the weighting?

A. You needed the weightings, yes.

Q. "Agreed the text will have to explain it."

But it didn't explain it, Mr. McQuaid, did it?

A. The text in the draft didn't explain it.

Q. The text in the final report, because this was under discussion now

A. I think there was additional text put in in Annex 2 of the final report.

Q. Oh, in Annex 2?

A. Yes.

Q. That's about the method that you use, the methodology that you use?

A. Yes.

Q. But it doesn't explain how you arrived at the results and the subtotals, does it?

A. I think it does, yes, I think it does. It says that weightings were used.

Q. I see. We'll have a look at that.

A. Yes.

Q. "Note that it was conceded by Martin Brennan and Michael Andersen that different types of weightings were used, sometimes none, sometimes 'feel' to arrive at bottom line."

That presumably was the weighting that was used in the

course of the qualitative evaluation, was it?

A. I believe so, yes.

Q. "Much discussion about bottom of summary.

"4 different methods" my point. We didn't use 4 different methods. Only one. The grading (i.e. AMI in Copenhagen) simply regrouped."

Wasn't he quite correct in stating that, Mr. McQuaid?

A. Mr. McQuaid

Q. Sorry; Mr. McMahon is stating that?

A. Yes.

Q. Wasn't he quite correct in stating that?

A. He was, yes.

Q. You did only use one method?

A. We only used one method in Copenhagen of evaluation, yes, but there were

Q. You didn't use four different methods?

A. No.

Q. And the grading was simply a regrouping of the one method that you used?

A. It was presentation of the results in three different formats.

Q. Yes.

A. The fourth method, I presume, was the quantitative that he is referring to.

Q. Yes. But the quantitative was never formed part of the final report, did it?

A. That's right, yes.

Q. Then it goes on: "Me, MB, SF, J. McQ. went to see sec
at 3.30.

"Agreed that report not clear enough to support
decision.

"QED"

And then over the page, you will see it's "Add 1
licences

2. Enforcement V telecoms

3. Enforcement of licences".

And in each case I think the word "Decisions" is
beside it. I think Mr. McMahan indicated that there
may have been discussion in the course of the meeting
with Mr. Loughrey regarding the enforcement of the law
in connection with the VAS licences?

A. Yes.

Q. And do you recall that?

A. I don't recall that, no.

Q. Then below that, it says: "On our return agreed:

Final decision should not be on Table 16 this
resulting from both our meeting with the sec and
independently by group in our absence."

Just to pause there, Table 16 which I will refer
you to in a moment, when we look at the final
report Table 16 is the result of the qualitative
evaluation in accordance with Mr. Andersen's
qualitative evaluation model?

A. Yes.

Q. Isn't that right?

A. Yes, I believe so.

Q. And it shows the subtotals for each of the aspects and then a final total for the aspects; isn't that right?

A. Yes, in terms of As, Bs, Cs, Ds, and Es, with arrows, yes.

Q. So that it was agreed that the result should not be on that table, it would appear from this note; I suppose there is no reason to doubt the accuracy of this note?

A. Yes, yes.

Q. Then it goes on: "Should be Table 17 and 18." Then he says "They can't agree on whether same weights went in. It seems Martin Brennan dreamt them up during qualitative evaluation."

And again I'll come and we'll discuss this looking at the tables, but if you look, or if you consider Table what's then in the draft Table 17 and 18 and what becomes Table 16 and 17 in the final version, it is the result of a whole series of applications of different weightings, isn't it, Mr. McQuaid?

A. That is correct, yes.

Q. We'll come and have a look at it.

Now, can I just ask you about the meeting that you went to with Mr. McMahon and Mr. Brennan to see Mr. Loughrey; because Mr. McMahon has given quite detailed evidence of this, and his recollection seems to be somewhat different from your own recollection in your

memorandum of intended evidence.

And you indicated that it was a short meeting, and that the purpose of the meeting was to update Mr.

Loughrey in relation to the progress of the evaluation. And you indicated that Mr. McMahon was not comfortable in moving on with the process until further time had become available.

A. Yes.

Q. Yes?

A. Yes.

Q. Now, Mr. McMahon described it as quite a lengthy meeting. He said that it was at least an hour and possibly two hours. And he said that when it became apparent that there was an impasse within the group, as between himself and Mr. Brennan, or Mr. Brennan's side and the regulatory side, that he felt they had no option but to take the matter to the Secretary, that he was neither happy with the result nor with the presentation of the report, and he was insistent that more time be obtained to continue with the evaluation and to improve the result.

And he described it as quite a heated meeting; that he had to argue his point of view in front of the Secretary, and that Mr. Brennan explained to the Secretary what his point of view was. And he also indicated in his evidence that it was his impression that you would have supported him in his request for

further time.

And I just wonder if you want to comment on that, or whether that in any way assists your recollection of what occurred at the meeting with Mr. Loughrey.

A. There was certainly a difference between Mr. Brennan and Mr. McMahon. The issue was in relation to the presentation of the primarily in relation to the presentation of the result in the draft Evaluation Report. And certainly I was of the view that the report needed to be improved.

So you can infer from that, then, that more time would have been needed. And I think that was the general consensus of the meeting, that particular project meeting as well, the last project meeting. The discussion focused on the details of the report sorry

Q. Are you reading from the formal record?

A. "While there was general satisfaction with the detailed analysis and the final result, the presentation in the draft report of that analysis was not acceptable."

So that would have been my view as well.

Q. Well, apart from what's in the report, which, as we have already indicated, was virtually two months after the fact and seems to be the shortest report of what was virtually the longest meeting.

I want to just ask you about your own recollection of

it. And I am wondering if Mr. McMahon's evidence of what occurred has assisted you in that. You say that you were not happy with the presentation of the report?

A. Yes.

Q. I think, as we have seen from the documents we have opened, we have recorded at least two instances of you indicating that it would be necessary to show the weightings that were used on the qualitative side to enable anybody to read it and to verify the result?

A. It certainly would be helpful.

Q. It would be more than helpful; it would be essential, wouldn't it, to know what the result was?

A. It would be helpful.

Q. Or to know how you arrived at it? Or indeed how anybody arrived at it?

A. Mmm.

Q. Do you recall that Mr. McMahon had greater concerns than the presentation of the material? Because that was his evidence to the Tribunal two weeks ago.

A. I cannot recall all of the details of that meeting now. I just cannot remember all of the details, but certainly he had concerns, and I have said that in my statement, and he wasn't happy with the report.

Q. It's just his evidence was, Mr. McQuaid, that there were two sources of his unhappiness. The first source was the result, that he wasn't happy that the result

had been clearly established. And secondly, even if the result was the correct result, he wasn't happy that the report justified the result. And what he hoped for was something he termed an "interocular report", but there were two grounds for his concern.

And do you recall that?

A. I don't recall that he was unhappy with the result, but I do recall that he was unhappy with the presentation of the result in the report.

Q. Is it the case, Mr. McQuaid, that you remember one matter of concern to him, because as you have said, you don't remember a lot of this meeting, and you just don't happen to remember the other matter that was concerning Mr. McMahan? Is that possible?

A. That's possible, yes.

CHAIRMAN: But are you in agreement, Mr. McQuaid, with Mr. McMahan, that in fact there was a measure of, if not conflict, fairly hard argument at this particular meeting with Mr. Loughrey; that in fact, Mr. Brennan and Mr. Towey did argue in favour of proceeding to finalise matters there and then, and that Mr. McMahan, as he says, with, he thought, your support and that of Mr. O'Callaghan, at least argued at the very least in favour of a deferral to examine matters further?

A. Yes, I think that would be an accurate reflection of the tone or the tenor of the meeting.

Q. MS. O'BRIEN: I think in your memorandum you said that

after the meeting of the 23rd October, that matters moved quickly, and the next matter of which you knew was that you were being contacted and asked to attend the public announcement of the result of the competition; is that right?

A. That was two days later.

Q. So you don't recall any meetings on the 24th October?

A. I don't recall any meetings, no. I haven't seen a record of any.

Q. You didn't attend a meeting, of which Mr. O'Callaghan has given evidence, on the evening of the 24th October?

A. I don't recall attending a meeting, no.

Q. Can I just take you to the final the final version of the report of the 25th October, and you'll find that in Book 46, I think, behind Divider 50.

A. I think I have a copy of it here, yes.

Q. Can I refer you firstly to Table 15, which is on page 43, which is the summary of the results.

A. Yes, I have page 43.

Q. Right, and you have that table there, Table 15, which had been Table 16 in the draft?

A. Yes.

Q. And the note we have just referred to records that the result couldn't be based, or wouldn't be based on this table?

A. Yes. As far as I see that this table has been moved

forward to Section 4, and the other two tables are in the final evaluation, Section 6. Whereas, if I recall correctly, this table, in a previous draft, was also incorporated in Section 6.

Q. It was; that's correct.

Now, isn't that the result of the qualitative analysis and qualitative evaluation to which you were a party and which was undertaken in September, in accordance with the evaluation model proposed by Mr. Andersen and agreed on the 9th June?

A. Yes. The layout, the presentation of the dimensions in that table is in line with the evaluation model, yes.

Q. And isn't that the evaluation that you actually carried out? Isn't that the result of the qualitative evaluation that you actually carried out?

A. No, we carried out evaluations of the individual dimensions and arrived at total scores for each dimension.

Q. And then you aggregated those scores for each dimension to give you a subtotal for the aspects; isn't that right?

A. That is correct, yes.

Q. And

A. But only for I was only involved in the technical aspect.

Q. Yes, for the technical aspects. But there is no

reason to think that anybody did it any differently,

is there, Mr. McQuaid?

A. No.

Q. So that was the presentation of the results of the evaluation that you actually carried out?

A. Presented in accordance with the evaluation model, yes.

Q. And just again to confirm to me, in the case of, as far as well, as far as you can say, as regards the technical aspect subtotal, you see it there, C, D, B, B, A, C?

A. Yes.

Q. That was arrived at as a result of aggregating the four dimensions which appear above it, the results for those four dimensions?

A. That is correct, yes.

Q. Having applied weights?

A. Weightings, I think it was 35%, 35%, 10 and sorry, I can't remember the other two.

Q. 20?

A. 20 and 10; thank you.

Q. And those were different weights to the weights that were agreed for the quantitative evaluation; isn't that right?

A. If you say so, yes, yes.

Q. Well, we discussed it this morning.

A. I think we established that, yes.

Q. Although I think you did say to me this morning that in arriving at 35, 35, 20, 10, you did try to approximate the relevant weightings on the quantitative side, although not entirely precisely?

A. Yes.

Q. And within each of those dimensions and let's just take radio network architecture: That grade of C was arrived by aggregating grades for a number of different indicators; isn't that right?

A. Correct.

Q. And in aggregating the grades for all of those indicators, you also applied weightings; wasn't that your evidence this morning?

A. That was my evidence; at the evaluation sessions which I participated in, we used weightings.

Q. So insofar as that grand total there of B, D, B, B, C, A/B, C, incorporates the subtotal for technical aspects; are you with me?

A. Yes.

Q. That subtotal has been arrived at by applying two different sets of weightings: One at indicator level and one at dimension level?

A. That is correct; that is correct.

Q. And you weren't happy that that table should represent the results of the evaluation that the group conducted?

A. That is so, yes.

Q. Why is that, Mr. McQuaid?

A. Because the I think we had to have regard to the original evaluation criteria which were listed in the RFP document, and also the primary weightings which we agreed at an earlier meeting, to be attached to each of those criteria.

Q. Because of course, that table and those results neither reflected the criteria, the evaluation criteria, nor did they reflect the weightings which had been agreed on the 8th June; isn't that right?

A. Yes, not explicitly, yes, yes, whereas Table 17 does.

Q. Well, as regards the weightings, it's not even implicit, is it? The weightings that were applied to arrive at these results were not the weightings that were agreed on the 9th June; isn't that right?

A. I think that's correct, yes, yeah. I haven't checked it, but I think that's correct, yeah.

Q. Now, can I just take you then to page 48, the final evaluation, Table 16.

A. Yes.

Q. And this is where you regroup the dimensions of the qualitative evaluation and gather them together under the headings of the evaluation criteria; isn't that right?

A. That is correct.

Q. So in the case of market development, you had credibility of the business plan, in fact, it

should have been, you had market development,

financial key figures, experience of the applicant.

Technical viability, radio network architecture,

network capacity, tariffs, licence payment, coverage,

international roaming plan, performance guarantees and

frequency efficiency.

So you put them back into the order of evaluation

criteria; isn't that right?

A. Yes, that is correct.

Q. And you showed the grades that had been achieved for

each of those dimensions in the qualitative

evaluation; isn't that right?

A. That is correct.

Q. And each of those grades for each of those dimensions

already represented the application of a qualitative

grading, isn't that right a qualitative weighting,

I should say?

A. Yes.

Q. To get you from indicator level to dimension level?

A. To dimension level.

Q. And then you applied the quantitative weightings to

that material; isn't that right?

A. Yes, this is to work out the distribution between

radio network architecture and network capacity.

Q. I am not just saying those two. I am saying for each

of the indicators each of the dimensions, haven't

you applied the quantitative weighting? 10, 10, 10,

10, 10, 18, 11, 7

A. No, the weightings, if we take from tariffs down

please bear with me I think those weightings

correspond to the weightings, primary weightings

associated with the evaluation criteria at paragraph

19, and

Q. That's because you only had one dimension of each of

those evaluation criteria; isn't that right?

A. Yes.

If we go up, then, I think the top criteria had a

weighting of 30%.

Q. That's right.

A. And that had to be apportioned between these three

dimensions: market development, financial key

figures, experience of the applicant. And I think

that equal split there reflects the relative weighting

they would have had in the evaluation model.

Q. Well, it actually doesn't, Mr. McQuaid, but we'll come

back to that later.

But for the moment, all I am trying to do is to ask

you whether they were the quantitative weightings that

were applied on that table; isn't that right? These

were the quantitative weightings, weren't they? So,

10, 10, 10, 10, 10, 18, 11, 7, 6, 5, 3?

A. They were the weightings that were agreed and

associated with the evaluation criteria and which Maeve

Nic Lochlainn made a note of, and where we had a 3%

change following the capping of the licence, yes.

Q. And they were for the quantitative evaluation, weren't they? We can go back to the evaluation model if you want me to, Mr. McQuaid, but I think you can take it we agreed yesterday afternoon.

A. They were used in the quantitative evaluation.

Q. They were not just used, they were intended solely for the quantitative evaluation, weren't they? On the evaluation model that we discussed yesterday afternoon?

A. I am a little bit confused here, I must say. There was a separate sheet of paper

Q. If you are confused I don't want to confuse you, and we'll go back very quickly and we'll look at it; it won't take a moment.

If we take you back to Book 54 if we go back to Book 54, to Divider 2. Do you have that?

A. I do, yes.

Q. Now, if you go to page 17 of that

A. Yes.

Q. you see that these were the weights for the indicators; do you see that?

A. Yes, I see the weightings for the

Q. Indicators?

A. For the quantitative indicators, yeah.

Q. You see "Number of cells and reserve capacity, 10 and 10."

A. Yes.

Q. Do you see that?

A. Yes.

Q. And you see "Competitiveness of an OECD-like GSM 2 basket" was 15; that became 18. Isn't that right?

Do you see? It's being pointed out there on the monitor.

A. 15, yes, competitiveness of an OECD basket, yes.

Q. You'll see the up-front licence fee payment from the applicant was 14, do you see that, and that had to be changed?

A. Yes.

Q. Do you see the portion of that report the model that it's in relates to the dimensions assessed in the quantitative evaluation. I'll just refer you back to page 3 of that same document.

"Dimensions assessed in the quantitative evaluation".

You see you have the evaluation criteria there. Do you see that?

A. Yes. This is on page 3?

Q. Page 3. Yeah.

You see you have the dimensions linked to each evaluation criteria?

A. Yes.

Q. Do you see that?

A. Yes.

Q. And they are the same dimensions that are listed,

then, in Table 16, that we were looking at; do you see

that?

A. Yes.

Q. And then you have the indicators for dimensions; do

you see that?

A. Yes.

Q. And the heading of that is "Dimensions Assessed in the

Quantitative Evaluation".

A. Yes.

Q. Do you see that?

A. Yes.

Q. If I just take you on again to page 16, which is the

page before the table we were looking at, the

following table is headed "Vote Casting and Weight

Matrix"?

A. Yes.

Q. I'll just get it up on the screen for you now. It's

headed "Vote Casting and Weight Matrix."

It says: "The following table shows how the votes

will be given for each of the indicators in the

quantitative evaluation." Do you see that?

A. Yes.

Q. And over the table is the over the page is the

table that we have been referring to; do you see that?

A. Yes.

Q. They were the weightings for the quantitative

evaluation?

A. These weightings here in the last column, that's right, yes.

Q. Isn't that right?

A. Yes.

Q. And if we go on again to the "Guide of marks for the qualitative evaluation", so that there can be no misunderstanding, let's go to page 20, skip on to page 20.

A. Yes, I have page 20.

Q. Right. It says "In order to guide the mark giving a matrix has been elaborated below, the dimensions and indicator are not weighted ex ante." Do you see that?

A. Yes.

Q. And the weighting and the agreement and consensus that you reached in the groups on the weighting was the weighting to be applied to the qualitative evaluation; isn't that right?

A. Yes.

Q. So if we could just go back now, Mr. McQuaid, to Table 16.

A. Table 16, yes.

Q. You agreed with me that the results and grades on that table represented the product of the qualitative analysis, and I was suggesting to you that what you then applied to that was the weighting for the quantitative evaluation; isn't that right?

A. No, I still have a difficulty here, I must say.

Q. Can you explain your difficulty to me? Perhaps I can assist you.

A. Yes. In my submission, if I turn to my submission

Q. Well, if you just tell me your difficulty, that might if you just tell me what your difficulty is.

A. In my submission, I sort of showed the relationship between the original evaluation criteria and the dimensions corresponding to it. And there was also weightings agreed, and we have them here somewhere; there was a short paper with weightings agreed which corresponded to the original evaluation criteria.

Q. Yes.

A. And those weightings correspond to, not one-to-one, but the first three are aggregated and the second two are aggregated.

Q. That's quite correct.

A. They correspond to those weightings that were agreed.

Q. That's quite correct. You are absolutely correct in that. But they were always weightings for the quantitative evaluation; that's what I am suggesting to you, Mr. McQuaid.

A. Those weightings were associated with the evaluation criteria the paragraph 19 evaluation criteria.

Q. That's not what the evaluation model says. And we can go back to it again if you like, Mr. McQuaid, but we have been through it. It says they are the weightings that were agreed for the quantitative evaluation.

MR. McGONIGAL: Mr. Chairman, if I could just intervene for a second. I wonder if the witness could be shown the document which has weightings on the 31st May of 1995, because I actually think that's maybe what he is referring to.

CHAIRMAN: All right, well, we'll have that, Mr. McGonigal.

MS. O'BRIEN: I think maybe Mr. McGonigal means the proposed weightings which were in the proposed evaluation model of the 17th May; is that the one?

MR. McGONIGAL: No. I mean the document of the 31st May of 1995, which says the weightings were agreed at the meeting of the 18th May. Quite simple. It's a document which was sent to us by letter of the 21st March.

A. What meeting is that? What number meeting?

MR. McGONIGAL: The agreement was at the 18th May, but the document is a document of Maev Nic Lochlainn's of the 31st May of 1995, when weightings were agreed, when it notes that weightings were agreed at the 18th May.

CHAIRMAN: Well, Mr. McGonigal, it's five to four. It may be understandable if there is a measure of weighting fatigue perhaps becoming a trifle prevalent. It's clear that we are not going to finish with Mr. McQuaid today, and it may perhaps assist everybody if we have an opportunity to reflect on any additional

documentation before concluding, as we undoubtedly will, tomorrow, Mr. McQuaid, your evidence at eleven o'clock.

I had contemplated, Mr. Nesbitt, Mr. O'Donnell, that the ordinary sequence would have been to move on to the conclusion of Mr. McMahon's evidence. I understand it may still be the position that he has an unhappy, very serious health situation. If that is the situation and that ties him up until next Tuesday, of course I must respect that. But in endeavouring to see if as far as we can conceivably can, if not conclude, come close to concluding the Project Group evidence by the Easter recess, I think we must sit certainly tomorrow to finalise this witness's evidence.

MR. NESBITT: I understand Mr. McMahon will be available on Tuesday, bar any unforeseen eventuality.

CHAIRMAN: That's the situation; very good.

Thank you very much. Eleven tomorrow.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY,
FRIDAY, 28TH MARCH, 2003.