

A P P E A R A N C E S

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I N D E X

WITNESS: EXAMINATION:Q. NO:

John McQuaid Ms. O'Brien 1 - 236

Mr. Fitzsimons 237 - 276

Mr. McGonigal 277 - 315

THE TRIBUNAL RESUMED AS FOLLOWS ON FRIDAY, 28TH MARCH,  
2003 AT 11AM:

CONTINUATION OF EXAMINATION OF JOHN MCQUAID BY

MS. O'BRIEN:

Q. MS. O'BRIEN: Mr. McQuaid, can I just refer you back to the final version of the Evaluation Report for a moment. That's in Book 46, I think, at Divider 50. I just want to look briefly at the table we were looking at yesterday, which is Table 15 on page 43.

A. Which tab is this?

Q. It's the very final tab in the book. It's the last document in the book.

A. Okay.

Q. It's page 43 of the main report. Do you have it now?

A. Yes, I have it now.

Q. Do you remember, we were discussing this yesterday, and this is the table that presented the results of the qualitative evaluation aspect by aspect?

A. Yes.

Q. And we discussed that yesterday?

A. Yes.

Q. And I think you confirmed to me that each of the dimensions had been, as far as you know, based on your experience in totalling the technical aspects, the dimensions had been weighted by you, 35, 35, 20, 10?

A. Yes.

Q. And there had been a second layer of weighting also at indicator level?

A. That is correct.

Q. Now, in the draft report, we know that that was actually Table 16 in the draft report?

A. Yes.

Q. Both versions of the draft report, of the 3rd and the 16th. And could I just refer you again very briefly to Mr. McMahon's note of the meeting of the 23rd October. That's at Book 43, Divider 134. I think we had a typed version of it on the screen yesterday. Do you have it there now?

A. Yes, I have this here now, yes.

Q. It's in the handwritten form, is it, that you have it?

A. No, it's typed.

Q. Well, if you go to the last page of that document, you see that the text in the middle of page reads: "On our return" that's on your return from meeting Mr. Loughrey "Agreed: Final decision should not be on Table 16 this resulting from both our meeting with Sec. and independently by group in our absence. It should be Tables 17 and 18."

Can you assist the Tribunal at all as to why it appears to have been the view of the group that the result shouldn't have been based on what was Table 16 in the draft versions and what became Table 15 in the available version?

A. Yes, I can. Perhaps going back to yesterday, and the difficulties that we had relating to the weightings.

I have considered this overnight, and this is crucial,

I think, in answering your question.

At the main meeting, the weightings corresponding to the evaluation criteria in the RFP document, paragraph 19, were agreed, and they were recorded in a document which I did not have at the meeting yesterday. Now, this is critical to understanding this. And it is

I don't have a number for it, but it is

Q. I think the document you are referring to is in Book 54, at Divider 1A; is that the document you are referring to?

A. Yeah, and it says stamped on it "Confidential. Note to the file. Agreed at the meeting of the 18th May 1995, 30, 20, 15, 14, 7, 4, 5 and 3, Maev Nic Lochlainn".

Now, my recollection is that that was the same meeting where we discussed the draft evaluation model presented by AMI. And at that meeting we during the course of that meeting, we the group decided on the weightings to be associated with each of the paragraph 19 evaluation criteria; and as I recall, Mr. Brennan was anxious about the confidentiality of this information, because this was key information critically this was key information, and if one of the applicants all the applicants knew what the

evaluation criteria were, and if one of the applicants got hold of this information, they would have a considerable advantage because they would know what the weightings of each of the evaluation criteria were.

So this these weightings were not included in the minutes, which of course were circulated. These weightings were in a side letter that were a side note to file, and they were recorded. Maev Nic Lochlainn was told to record them, and she was told to store them or file them safely, and they were not in general circulation.

And this note there is also a second page as well to it, and that and you can see on the second page that the changes were made

Q. I don't think we have a second page of the note to file of the 31st May.

A. Well, I have a second page here attached to it. And what just what this second page does

Q. Could we see the second page, please.

Oh, you mean an annex to Ms. Nic Lochlainn's fax of the 6th October; is that the one?

A. It's Annex B, I think

CHAIRMAN: Perhaps we could put one up on the screen.

Q. MS. O'BRIEN: Are you referring to the page that has "Annex B" on the top left, and it has "Credibility of business plan 30, 20, 18, 11. A weighting agreed by

group prior to the 4th August"; is that it? Annexed to Maev Nic Lochlainn's fax to the 6th October, which is at Flag 9, Book 54.

A. This page takes account of the 3% changes accounting from the capping of the licence fee, where it went from 14 down to 11, and the tariffs were increased from 15 to 18; and clearly on that page, there is a clear a very clear relationship between these weightings and the RFP evaluation criteria.

Q. That's correct.

A. So these weightings corresponding to the criteria were fixed at this meeting, and they broadly correspond to the but not exactly to the weightings which you referred to yesterday in the quantitative evaluation model; and I can go through that if needs be.

But to answer your other question: What we in relation to the presentation of the final result

Q. Yes, this is to the question I was asking you about Table 15. Maybe if we just put Table 15 back up.

A. Yes. Now, what we had when the qualitative evaluations were completed, we had for each we had a score, a total score for each of the dimensions.

Secondly, we had the paragraph 19 evaluation criteria which had to be respected. And thirdly, we had the weightings which were decided at the May meeting associated with these paragraph 19 evaluation criteria.

So what you have in Table the last table, and I will come to the previous table before that what you have in the last table, which is Table 17, is the dimensions categorized not according to not according to the Andersen's model but according to the evaluation criteria paragraph 19, and you also have the weightings which were agreed at the May meeting in the second column.

So, having regard to those criteria and the weightings for these criteria, the total score was calculated by the arithmetic application of the weightings to each of the dimensions.

Q. And did you consider this over the evening, did you, over last night and this morning? I think you said to me that you considered this

A. Where I got stuck yesterday was the this document which recorded the fixing of the decision on the weightings. That's where I was stuck yesterday, because I didn't have this document.

Q. In terms of assisting you with your recollection of this matter, and your understanding, did you receive any assistance from anybody else last evening or this morning?

A. No, no. I requested I said there is this I know that there is this note that was that Maev Nic Lochlainn was requested to record, and I have recollection of that because I

Q. The second page, of course, that we referred to just momentarily ago, wasn't part of that note, was it? It doesn't appear to have been.

A. Well, no, it couldn't have been part of the original note because it was later.

Q. We don't really know what the genesis of that note is at all, do we?

A. Of the second note?

Q. Yes, of the second note.

A. Well, the genesis of it is it derives from the first note, because it corrects it takes account of the 3% change, yeah.

Q. But we don't know when it was created, do we?

A. No. There is no date on it.

Q. Can I just refer you back to the evaluation model now, Mr. McQuaid, the one that was adopted by the group on the 9th June. That's at Divider 2 of the weightings documents book, which is Book 54. This is the document I think we discussed on Wednesday afternoon?

A. Yes, this is marked "Second draft for approval," yes.

Q. And it was approved, wasn't it, on the 9th June?

A. It was approved, but I have to I have to just sort of make one comment on that, because this was troubling me as well.

This evaluation model proposed by Andersens dealt mainly with and you can certainly dealt mainly with the quantitative evaluation, and there were a few



pages at the end most of the pages dealt with the quantitative evaluation.

Q. That's true, it did, didn't it?

A. It did. And there were a few pages at the end which dealt with the qualitative evaluation.

Q. Yes, that's right.

A. And even though the qualitative evaluation in the end became more extensive

Q. That is the position, isn't it? It did become

A. than the quantitative evaluation.

Now, at that meeting, in the minutes, again I have to draw your attention to this

Q. The minutes of the 9th June meeting?

A. No, the minutes of the 18th May meeting.

Q. You'll find those

A. I have them I have the relevant page here.

Q. Just for the assistance of everybody else, they are in Book 41, at Divider 64. And we'll just put them on the overhead projector.

A. It's on the second page, before the paragraph on logistics for evaluation of the tender documents, the paragraph before that, and it says much of the discussion, in fact all of the discussion before that is on details relating to the quantitative evaluation.

Q. That's correct, yes, it is.

A. Then there is very little on the qualitative. It says: "The qualitative evaluation was to provide a

common-sense check on the quantitative model."

Then it says, and this is the important sentence:

"This part of the model would need to be clarified further, before evaluation begins."

So I think there was the Project Team there sort of were of the view that this was not as fully developed

Q. It wasn't written in stone at that stage; isn't that what you are saying?

A. Well, it was in much more summary form than what was presented for the quantitative evaluation, so there was this was an important comment here, that it would have to be clarified further. And I think when you read in the following in the minutes of the following meeting, when the model was approved, I think you have to take account of this comment.

Q. Yes, can I just read on there, just draw your attention to it, it says: "If a later challenge were to reveal that if any two persons among the evaluators proceeded with a different understanding of the process, then the entire evaluation process could be put in question."

So of course it was absolutely essential that everybody knew precisely how you were to proceed with this evaluation, wasn't it?

A. Yes, indeed.

Q. Could I just draw your attention to one other aspect

of the report of this meeting, because I think you indicated to me that the reason that the record of the agreed weightings was dealt with by way of note to file was because of the confidentiality issue; isn't that right?

A. Yes.

Q. You said that this was highly sensitive material, and you had to make absolutely certain that nobody could have access to it?

A. Yes.

Q. Other than within the Project Group, of course?

A. Yes.

Q. Do you notice here if I just bring you to the first page, in fact each of the pages of this report of the meeting, that unlike all the other previous reports, you see the "Confidential" is stamped on the first page on the right; do you see that?

A. I do indeed, yes.

Q. I think "Confidential" is also stamped on the second page. I am just drawing your attention to this.

A. Yes, this is the meeting of

Q. The report of the meeting of the 19th 18th May?

A. 18th May, yes, yes.

Q. And then if we go on as well to the final page, you see "Confidential" is also stamped on that?

A. Yes.

Q. In the same way as the note to file created by Maev

Nic Lochlainn; in fact on the same date, the 31st May.

A. Yes.

Q. And you see the circulation of these minutes, of this report?

A. Yes.

Q. You'll see it's confined to the attendees of the group; do you see that? I think

A. Yes, I see that.

Q. The attendees. So the only people that received copies of this report were the people who attended at the meeting; isn't that right?

A. The minutes?

Q. Yes, the report.

A. Yes.

Q. So in fact the circulation of that report would be no different to the circulation of who was in attendance at the meeting; there was no wider circulation?

A. No.

Q. It wasn't, in fact, as some of the earlier reports had been, circulated to Mr. Fitzgerald; it wasn't circulated to him?

A. Yes.

Q. Now, if we can just go back to the evaluation model. It's at Divider 2.

A. The second draft?

Q. Yes, the second draft.

Was this the one that was approved by the group on the

9th June?

A. Yes.

Q. And just before I open it to you, you drew my attention, very helpfully, to what was in the minutes of the Project Group meeting of the 18th May, that the qualitative approach would have to be further elaborated upon.

A. Yes.

Q. Can you tell when that was done, or when there was any subsequent discussion of it by the Project Group other than on the 9th June?

A. Yes

Q. That is, before the closing date of the competition?

A. Yes. The what was the additional components, I suppose, to the quantitative evaluation model were the indicators.

Q. Well, we are talking about the qualitative one for the moment, Mr. McQuaid. I asked you about the qualitative evaluation model.

A. Sorry, yes, the qualitative model, were the indicators, and there were a considerable additional number of indicators used during the evaluation sessions.

Q. Yes, that was at the sub-groups; isn't that right?

A. That was at the sub-groups. And I believe that those indicators were the, if you like, the listing of those the listing of those indicators were,

certainly at the sub-groups that I was involved in, they were proposed by Andersens, not necessarily we may have added more during the evaluation sessions, but Andersens, as I understood it, came up with the additional indicators for each of the dimensions.

Q. Of course that was exactly what was provided for in the evaluation model, wasn't it?

A. That's correct, yes.

Q. In the qualitative evaluation model?

A. Yes.

Q. The question I am asking you and maybe you are misunderstanding me. I am wondering, was there any further discussion at Project Group level of the evaluation model on the qualitative side, apart from discussions at sub-group level, of what indicators should be applied in the course of actually implementing the evaluation? Because, certainly on looking at the reports that we have, there don't appear to have been any further discussions after the 9th June.

A. No, I can't certainly the minutes don't assist me there.

Q. And you have no recollection of it, have you?

A. No, I can't, no.

Q. All right, if I can take you now to the model itself that was approved by the Project Group on the 9th June, and that's again at Divider 2 of the weightings

book, Book 54.

Now, I have opened all of this very fully to you already, Mr. McQuaid. And what I just want to do on this occasion is to draw your attention to certain aspects of it.

A. Yes.

Q. Now, if we go to the introduction first. "It has been decided to apply both a quantitative and a qualitative evaluation model to the eligible applications." Do you see that?

A. Yes.

Q. Then it goes on to say: "This document contains information concerning the quantitative and qualitative evaluation models"; do you see that?

A. Yes.

Q. Then it says: "And intends to give a complete description of these."

A. Yes.

Q. Do you see that?

A. Yes.

Q. So that's what the document sets out that it's going to do; it's going to give a complete description?

A. Yes.

Q. And you accept that?

A. Yeah, I accept that as the yes, the intention, but I still think you have to have regard to the comment in the meeting.

Q. That was at the meeting, the previous meeting of May?

A. Yes.

Q. And it was discussed further, wasn't it, at the meeting of the 8th June?

A. Yes.

Q. When this was under discussion, this document?

A. Yes.

Q. And this document was approved?

A. It was approved, yes, but I think the primary focus there was on the quantitative evaluation.

Q. And Mr. McQuaid, I have asked you if you have any recollection of any further elaboration of the qualitative evaluation model after the 9th June, and you have told me that you have no recollection of any such discussion of the model?

A. The model, that's right.

Q. At Project Group level?

A. That's right, yes.

Q. So we can take it, therefore, that you agree with me that this document gives a complete description of the evaluation model, both quantitative and qualitative, which was adopted and approved by the Project Group. Can you agree with me on that?

A. Yes, yes.

Q. Right. It says "The document comprises two parts: The first part describes the quantitative evaluation procedure, including the selection of



dimensions/indicators and the scoring model."

Do you see that?

A. Yes.

Q. So it says that the first part describes the quantitative evaluation and the scoring model for the quantitative evaluation; isn't that what it says?

A. Yes.

Q. It says "The second part is a description of the qualitative evaluation model, including the evaluation process and a guide to the award of marks." Isn't that right?

A. Yes.

Q. So do you agree with me therefore that everything in the first part of the model relates to the quantitative evaluation, and everything in the second part of the model relates to the qualitative evaluation?

A. Yes.

Q. That's what the document says?

A. Yes.

Q. And we can jump ahead to the final paragraph. It then says in the final line: "The interplay between the quantitative and qualitative evaluation is described in Section 7."

A. Yes.

Q. So that's the only section of this document that relates to both the quantitative and qualitative

evaluation; isn't that what it says?

A. Yes.

Q. I am not taking you to it yet, I just want to you agree with me that that's what it says.

A. That's what it says, yes.

Q. If I take you on to the next page, "Procedure for the quantitative evaluation process".

A. Yes.

Q. It says: "1. A set of dimensions and indicators have been selected for the quantitative evaluation process. An assessment, including a point scoring method, will be defined for all indicators." Do you see that?

A. Yes.

Q. "The same set of dimensions, indicators and point scorings must be used for all eligible applications."

A. Yes.

Q. That's simple enough?

A. That's simple enough.

Q. You define your dimensions, you define your indicators, and you define, ex ante, your point scoring; isn't that right?

A. Yes.

Q. And that's for the quantitative evaluation process?

A. Yes.

Q. Paragraph 2, it says: "All the selected indicators will be assigned a weighting factor."

A. Yes.

Q. "If the quantitative evaluation turns out to document that the factual basis for any part of the scoring has been wrong, a recalculated scoring will then be conducted." Isn't that what that says?

A. Yes.

Q. And would you agree with me that it makes it clear that the assigned weighting factor for the selected indicators relates to the quantitative process?

A. Yes.

Q. Isn't that what it says?

A. Yes, yes.

Q. Then it goes on to say that the "The score for each indicator will be a value between 5 and 1 (both included), with 5 being the best score. All scores should be rounded to the nearest integer." Do you see that?

A. Yes.

Q. Can you just assist me on what you understood that to mean, that all scores were to be rounded to the nearest integer on a 1 to 5 point score?

A. This is for the quantitative

Q. Yes, we have agreed that already; there is no doubt this is for the quantitative, Mr. McQuaid.

A. It is, yes.

Q. It's probably not a hugely significant matter, but I am just wondering if you can assist the Tribunal.

Does it mean you had to round up and round down? It

must have meant something.

A. Scores would be rounded to the nearest whole number, yes.

Q. Whole number, isn't it, no decimal points?

A. Yeah.

Q. Now, if we turn over the next page. "3. Dimensions assessed in the quantitative evaluation." Do you see that?

A. Yes.

Q. That's the table we discussed last Wednesday?

A. Yes.

Q. It's three columns. On the left is the evaluation criteria.

A. Correct.

Q. And the second column shows the dimensions which Andersen had proposed should be linked to those evaluation criteria?

A. Yes.

Q. And the third column showed the indicators for those dimensions?

A. Yes.

Q. Okay. And this is on the quantitative evaluation?

A. Yes.

Q. Now, if you go to page 5, "Dimensions and indicators".

And that sets out the mathematical formula by which the first of those quantitative indicators, of the dimension market development, was going to be scored,

doesn't it?

A. Yes.

Q. And we are still talking about quantitative evaluation, aren't we?

A. Yes, yes.

Q. If you go on to the next page, 3.2, the dimension coverage, indicator, speed and extent of demographical coverage of class IV 2 WAP hand-held terminals, and again this sets out the mathematical formula by which this indicator was going to be assessed?

A. Yes.

Q. Again we are talking about quantitative evaluation, aren't we?

A. Yes.

Q. If you go on to the next page, page 7, 3.3, dimension tariffs, indicator, competitiveness of an OECD-like GSM 2 basket.

A. Yes.

Q. Exactly the same, and again we are talking about quantitative indicators and quantitative evaluation?

A. Yes.

Q. Next page, 3.4, the applicant's international roaming plan; and again there is a description of exactly how that's going to be measured in terms of the quantitative evaluation?

A. Yes.

Q. If you go on to the next page, 3.5, radio network

architecture, indicator, number of cells; and there is a formula there that I am sure you understand, but I certainly will admit to having some difficulty with it. But I take it you'd agree with me that that was the quantitative evaluation of that indicator?

A. Yes.

Q. The next page, 3.7, quality of service performance, indicator: Blocking rate and drop-out rate. And again there is some formulae set out on that page and the top of the next page, page 11. And again, we are talking about quantitative evaluation, aren't we?

A. Yes.

Q. 3.8, dimension: Frequency efficiency. Indicator: Frequency economy figures. And the same approach, a formula for determining and measuring how that should be assessed; isn't that right?

A. Yes.

Q. Again on the quantitative evaluation?

A. Yes.

Q. Next page, 3.9, Dimension: Experience of the applicant.

Indicator: Number of network occurrences in the mobile field.

And there are a series of formulae and tables set out on the next page, and in fact the top of the following page, page 14, in order to measure that indicator?

A. Yeah.

Q. Then, Dimension: Licence fee

Indicator: Up-front licence fee payment.

And that was relatively straightforward in terms of how that was going to be assessed on the quantitative evaluation; isn't that right?

A. Yes.

Q. Then below that, 3.11, Dimension: Financial key figures. That was made up of two indicators:

Solvency and IRR. And you see there are tables there to indicate how the various levels of solvency and internal rate of return should be scored on a scale of 5 to 1 on the quantitative evaluation; isn't that right?

A. Yes.

Q. Now, the bottom of that page, "4. 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." Isn't that right?

A. Yes.

Q. And this is giving you the weights for the indicators solely in the quantitative evaluation, isn't it?

A. Yes.

Q. This has nothing to do with the qualitative evaluation, does it?

A. No.

Q. So let's look at the table again. On the left-hand

side you have each of the indicators.

A. Yes.

Q. You have provision there for scoring for 5 applicants.

In fact there were 6 in the end?

A. Indeed.

Q. And then you have the weight attaching to it?

A. Yes.

Q. Now, let me take you directly to the two weights for

the second criterion, quality and viability of

technical approach. You see there, number of cells:

10; reserve capacity: 10?

A. Sorry, where are you now?

Q. I am on the fifth indicator down. "Number of cells.

Reserve capacity, 10 and 10"?

A. Yes.

Q. So each of those was to be assessed on a weighting of

10%?

A. Yes.

Q. And that made up, did it not, the weighting of 20,

which was assigned to the second evaluation criterion?

A. Correct.

Q. When you track it back?

A. When you track it back, yes.

Q. Now, the credibility of business plan and approach to marketing all became somewhat confused?

A. Yes.

Q. Because initially you will recall we discussed this



it is proposed that each of the indicators should have a separate weighting of 10; you will recall that?

A. Yes.

Q. Subsequently, it appears there must have been some discussion, and that was revised, and the market penetration score, two scores were reduced to 7.5 from 10; the speed and extent of demographic coverage was reduced to 7.5 from 10 that was the coverage indicator, in fact; that had nothing to do with credibility of the business plan?

A. Yes.

Q. And the number of network occurrences remained at 10, and solvency and IRR, instead of being 10, were increased to 15. Do you see that?

A. Yes.

Q. But the intention was when they be accumulated, that they would relate back and add up to the ultimate weighting

A. The 30%. But in fact they added up to 32.5%, yes.

Q. And at the end, I think they just dropped 2.5% off them, didn't they, to bring the weighting back to 100?

A. Yes. I think there was a third version which is in the final Evaluation Report, and I think that corrects the 103% and also the 3%, there were two 3 percents.

There was 103% this table this weighting here, if you add them up, that grand total is not 100. It's 103.

Q. Yes, it is.

A. And also subsequent to the 8th June, I think the there was a 3% change as a result of the capping

Q. A 3% up and a 3% down, so the tariffs went from 15 to 18 and the licence fee went down from 14 to 11; that was the only change?

A. Yes. So there were, as I look at it, the credibility of the business plan was 32.5% in that particular version, and in the one in the annex to the Evaluation Report, it was when you add them up it was 30%. And also the coverage I think was when you work it back there to the evaluation criteria, it was 7.5% as opposed to 7.

Q. That's right.

A. And that was regularised as well.

Q. So the 2.5 extra on the credibility of the business plan and the half extra on coverage were both simply knocked off, to bring it back to 100?

A. Yes.

Q. Which was, I suppose, a fairly crude way of doing it, wasn't it?

A. Fairly well

Q. Well, it just docked two of the yes, at the expense of the others?

A. Yes, but it was

Q. It was fairly crude, wasn't it? I am not criticising it; I am just asking you, do you think it was fairly

crude?

A. Crude? I wouldn't use the word "crude".

Q. Wouldn't you?

A. No, no.

Q. Anyway

A. "Correction".

Q. This was the quantitative evaluation model, wasn't it?

A. Yes.

Q. And these were the weightings on the indicators to be applied to the quantitative evaluation model?

A. Yes.

Q. Now, let's look at the procedure for the qualitative evaluation process. It's over the page at 5.

I'll draw your attention to some provisions of that.

"Despite the hard data of the quantitative evaluation, it is necessary to include the broader holistic view of the qualitative analysis. Other aspects, such as risk and the effect of the Irish economy, may also be included in the qualitative evaluation, which allow for a critical discussion of the realism behind the figures from the quantitative analysis.

"The following describes some of the major steps in the qualitative evaluation process:

"1. The eligible applications are read and analysed by the evaluators.

"2. The eligible applications are evaluated by way of discussion and analyses.

"3. When deemed adequate and necessary, in-depth supplementary analyses will be carried out.

"4. Initially, the marks will be given dimension by dimension."

Do you see that?

A. Yes.

Q. And that's exactly what you did, isn't it?

A. That is correct.

Q. You graded it dimension by dimension?

A. Each dimension corresponded to an evaluation sub-group, yes.

Q. "Afterwards, marks will be given aspect by aspect (subtotals)". Isn't that exactly what happened? You computed your subtotal, it appears in consultation with Mr. Jacobsen.

A. Yes.

Q. And finally to the entire application, "Grand total"?

A. Yes.

Q. And isn't that exactly what Table 16 shows, the one we referred to, Table 15 in the final version?

A. Yes, there were three tables; the first of the three tables is placed on this model, yes.

Q. Now, can you move on to page 20. And you agree with me, I take it, that "guide to the award of marks" is guide to the award of marks for the qualitative evaluation; isn't that right?

A. Yes.

Q. It says "In order to guide the mark-giving, a matrix has been elaborated below. The dimensions and indicators are not weighted ex ante." Do you see that?

A. Yes.

Q. There was no pre-fixed weighting on the qualitative side of the dimensions or indicators, was there?

A. Indicators, no. In this model, the dimensions, no, but of course yes, the model, no.

Q. Isn't that what the model says?

A. Yes, but of course, I believe it had to respect the weightings decided for the main evaluation criteria.

Q. Well, in a moment, Mr. McQuaid, I am going to ask you to show me in this evaluation model where that is recorded, or I am going to ask you to show me where in the records of the reports of the Project Group meeting, prior to the closing date, that that is recorded. I am going to ask you to show me that, if you don't mind, because we can't find that anywhere. Anyway, it says: "The dimensions and indicators are not weighted ex ante." That means "beforehand", isn't that right?

A. Yes.

Q. "The marks will be awarded according to a 'soft' 5-point scale (A, B, C, D, E) with A being the best mark." Isn't that exactly what you did?

A. Yes.

Q. "Averaging will be made after consensus among the evaluators."

A. Yes.

Q. And that's the end of the two sections dealing with the qualitative evaluation model?

A. Yes.

Q. Now, can you do you agree with me that there is no reference on these pages to applying the quantitative weightings to the product of the qualitative evaluation?

A. No, there is no reference on these pages, no.

Q. There is no reference at all on these pages.

If you go on to the next page, the final section, it says "The interplay between the quantitative and the qualitative evaluation."

It says: "Initially, the quantitative evaluation is conducted in order to score the applications. This initial score will be given during the first three weeks after 23 June."

We already discussed that; that would have been after the 4th August.

A. Yes.

Q. "This initial score together with number crunching performed on the basis of Excel spreadsheets will then form the basis for the presentation meetings and the qualitative evaluation"?

A. Yes.

Q. "When the bulk of the qualitative evaluation has been performed, however, this evaluation will conversely form the basis for a recalculation of scoring applied initially if mistakes, wrong information or similar incidentals can be documented." Isn't that right?

A. That's what it says, yes.

Q. Well, isn't that correct? Isn't that what's in the model, Mr. McQuaid?

A. That's what's in the model, yes.

Q. And of course that never happened, did it?

A. That did not happen because the and that is dealt with in the annex I think it's Annex 2.

Q. Yes, you are quite correct.

Then it says "The results of both the quantitative and the qualitative evaluation will be contained in the draft report with annexes to be prepared by the Andersen team."

Again, that never happened, for the reason that you have already stated?

A. Well, the results of the qualitative evaluation

Q. Of course

A. were included. The results of the qualitative evaluation were included in the report.

Q. Yes, but the quantitative wasn't, was it?

A. It was not, no.

Q. That's what I was asking you.

A. Yes.

Q. Can you point to anything in this section, which is the interplay between the quantitative and the qualitative evaluation, which suggests that the weighting for the quantitative indicators, whether it be at indicator level or by aggregation at dimension level, would be applied to the qualitative results?

A. Sorry, can you repeat that?

Q. I can. I said to you, can you point to anything in this section, which is the interplay between the quantitative and the qualitative evaluation, which suggests that the weighting for the quantitative indicators, whether it be at indicator level or by aggregation at dimension level, would be applied to the qualitative results?

A. No.

Q. No?

A. No.

Q. Now, can we go back briefly, Mr. McQuaid, to the final version of the Evaluation Report, and I think you have that there with you. And we were at page 43, looking at Table 15. We were discussing we really discussed that already yesterday.

A. Yes, page 43.

Q. Do you have that?

A. Yes.

Q. And as we said, both yesterday and earlier, this was the table which recorded the results of the



qualitative evaluation; isn't that right?

A. That is correct, yes.

Q. And that table accords fully with the portion of the evaluation model, the three pages dealing with the qualitative evaluation, doesn't it?

A. The groups are identical.

Q. Identical?

A. Identical, yes.

Q. Would you agree with me that that is the results of what you actually did in this evaluation on the qualitative side? This is the result of the evaluation, isn't it?

A. This is an aggregation, this is an aggregation of the total scores for dimensions grouped in accordance with the table in the evaluation model.

Q. And that's the only data that you had out of the entire evaluation process, isn't it, Mr. McQuaid?

A. Sorry, the data that we had out of the evaluation process were the totals for each of the dimensions arising from each of the evaluation

Q. Groups?

A. groups, yes.

Q. And isn't that exactly what that table records?

A. It does. It aggregates in accordance with that model, yes.

Q. And apart from those grades for market development, coverage, tariffs, international roaming plan, radio

network architecture, network capacity and so forth,  
there was no other result available, was there, of any  
other evaluation process?

A. Yes, there was. There was results in Table 16, and in  
particular, Table 17.

Q. I accept that, but let's look just at the moment at  
Table 15 let's not. Table 16 and Table 17.

Let's go to Table 16. Can you point me to any entry  
on that table which reflects a result which is not  
recorded in Table 15?

A. The dimensions are so we are talking about Table  
17?

Q. No, I am not, I am talking about Table 16, which was  
on grades, because I don't want to confuse you; it's  
grades.

A. Yes, the dimensions, the dimensions the grades for  
the dimensions would be identical.

Q. Yes.

A. Yes.

Q. There is no other product or no other result from any  
evaluation in Table 16 that isn't in Table 15; isn't  
that correct?

A. Except for the weightings.

Q. Except for the weightings, which I'll come to that.  
I am talking about the raw data. I am talking about  
the results.

A. That is correct, yes, yes. They are identical

Q. If we just come back to Table 15 again, do you agree with me, then, that that shows the result of the evaluation that you carried out at Project Group level?

A. Yes, it does, for the dimensions which I was involved in. Table 15, 16 and 17

Q. I am just asking you about Table 15 for the moment.

A. It does show the result, yes.

Q. In fact, that is the only table that the evaluation model contemplated would present the result of the qualitative evaluation; isn't that right?

A. Yes, at the time the evaluation model was approved, yes.

Q. And there was no change to that evaluation model, was there, between the 9th June and the 4th August, the closing date of this competition, was there?

A. No.

Q. Now, if I can refer you then to Table 16. Now, we started to discuss this table late yesterday afternoon, and see if you agree with the way in which I describe it.

I think what you did here was that you took the result for the separate dimensions, the grading for each of the separate dimensions in the qualitative evaluation; is that right?

A. Yes, this was yes, yes.

Q. And you regrouped those dimensions by reference to the

evaluation criteria to which they related; isn't that right?

A. The evaluation criteria at paragraph 19, yes.

Q. So in the case of market development, you had market development, financial key figures, experience of the applicant. Under the heading "Technical Availability", which was the criteria which you had particular interest in, you had radio network architecture, you had network capacity, and so forth?

A. Yes.

Q. Right. But the information that you had within that table, the grading that you had within that table for A1, A2, A3, A4, A5, and A6 resulted from the qualitative evaluation of each of those dimensions; isn't that right?

A. That is correct, yes.

Q. You then proceeded to apply a weighting; isn't that right?

A. These were the weightings which were decided at the May meeting and recorded in the document which I referred to.

Q. No, no, Mr. McQuaid, just bear with me for a moment. You applied a weighting; isn't that right?

A. That's right.

Q. That's all I asked you; I just asked you if you applied a weighting.

A. Yes.

Q. Right. Let's go to the weighting you applied for coverage, because that's again a dimension that you were personally involved in evaluating?

A. Yes.

Q. Now, the weighting you applied there was 7; isn't that right?

A. Yes.

Q. It was applied at 7 rather than 7.5 because you had this problem with the extra 3; isn't that right?

A. Yes.

Q. Now, isn't that weighting of 7 the weighting that was provided for the dimension of coverage in the quantitative evaluation model?

A. Yes, in the first draft it was 7. In the second draft, 7, and in the final draft, 7, in the case of coverage, yes.

Q. And that was for a quantitative dimension; isn't that right?

A. Yes.

Q. And you have already agreed with me that the grade as shown there for coverage, at B for A1, C for A2, A for A3, C for A4, A for A5, and D for A6, showed the grading on a qualitative evaluation; isn't that right?

A. Correct.

Q. So I take it you agree with me that you were applying a quantitative weighting to a qualitative evaluation result?

A. No. What I would say is that 70% corresponded to the quantitative weighting and also corresponded to the weighting agreed for the evaluation criteria, paragraph 19. It corresponded across the board.

Q. And are you saying to me therefore that the note to file made by Ms. Nic Lochlainn on the 31st May, which recorded weightings for the individual criteria, evaluation criteria, was some other addition to the evaluation model? Are you saying that? Is that what you are suggesting?

A. What I am saying is that the that my recollection is that at that meeting, with reference to the criteria, paragraph 19, that the weightings, weightings for those criteria were agreed and recorded.

Q. And tell me, where is it provided in the evaluation model how those weightings are to be applied to the qualitative evaluation? Where does it say in the model that you are to apply those weightings to the product of the qualitative evaluation? Because I asked you when we were going through the model to point it out to me

A. It doesn't say it.

Q. And you couldn't point it out to me.

A. No, it doesn't say it in the model.

MR. McGONIGAL: Mr. Chairman, is this the Tribunal's position? Is this Ms. O'Brien's particular position,

that she is saying that there were no weightings agreed for the qualitative criteria? I'd just be curious to know the answer to that question, Mr.

Chairman, since this is an inquiry.

CHAIRMAN: Well, I'll leave Ms. O'Brien to deal with that.

MS. O'BRIEN: The Tribunal has absolutely no position, Sir. The Tribunal is simply inquiring. In the course of its inquiring, it's suggesting matters to witnesses in order to elicit information from them and in order to expand the body of information which is available to the Tribunal, but the Tribunal has no position on this matter at all.

CHAIRMAN: Proceed.

MS. O'BRIEN: Now, could I take you to Table 17, Mr. McQuaid. And from the evidence we heard, I think Table 17, which presents Table 16 results in numerical form, was suggested this was an operation suggested by Mr. Martin Brennan when he was in Copenhagen. I think you probably know that.

A. Yes.

Q. I think in fact you have said in the course of your evidence, quite fairly and openly, and it's also recorded in much of the minutes, that you were very anxious that the result be based on Table 17; isn't that right?

A. Yes.

Q. Because as far as you were concerned, it showed the result clearly?

A. It showed the result clearly. You could clearly see the final score from the individual scores for the dimensions, and it respected both the evaluation criteria and the weightings agreed for those evaluation criteria.

Q. I suppose you'd agree with me that there was no provision for this in the evaluation model, was there?  
There is just nothing

A. No, no.

Q. It's not in the evaluation model, is it?

A. No, but I would come back to the comment in the minutes of the meeting, the sentence that "Further consideration was required".

Q. Now, just to go through that, so that we can understand what was done.

If we look at Table 16, if we just take the entry the first one, market development for A1 was a C. You graded that 3?

A. Yes.

Q. So really this mirrors, to an extent, the operation that you conducted when you aggregated the dimensions to arrive at the subtotal for aspects, when you were within your groups?

A. Technical aspects that we saw yesterday, yes.

Q. So an A became a 5, a B became a 4, a C became a 3, a



D became a 2 and E became a 1?

A. Correct.

Q. Then you applied mathematically the weightings, 10, 10, 10, 10, 18, 11, 7, 6, 5, 3?

A. Yes.

Q. And that gave you, having done that, a total score at

A. 362.

Q. Sorry, my copy is very poor. I think it's 288, 410, 353, 432, 347.

A. That's right, yes. The maximum score would have been 500, 5 by 100, yes.

Q. And that gave you your ranking?

A. Correct.

Q. As you explained to me yesterday when you were doing your exercise on the technical aspects that were graded A to E, and you had to weight these and then you had to aggregate them, you explained that you could only do that by converting to numbers, by applying the numerical weightings to give you a number, and then you converted that number back to the grade; isn't that right?

A. Yes, yes.

Q. And when you converted back to the grade, you rounded up and rounded down, didn't you? We can go back and look at it if you want me to.

A. I don't think

Q. I recall that one of them was 4.1, and you called that 4, or you called that a B?

A. A B, yes. We didn't yes, you

Q. You rounded up

A. No, we didn't round the score, but we associated a certain band, a score band with a letter, yes.

Q. Of course you did, yes. Now, if you converted these results back on the same basis as you did when you were carrying out your aggregation exercise on the dimensions, you'd have had 4.32 and 4.1; and can I suggest to you, and maybe you had 432 and 410, and can I suggest to you that if you had converted back, as you did, that both of those would have been a B?

A. Yes.

Q. Yes, they'd have both been a B?

A. B, yes.

Q. And there'd have been no difference at all between them, would there?

A. Well, you wouldn't if you were comparing B with B, you wouldn't see any difference.

Q. You wouldn't see any difference?

A. Even though they one of them, the A5, had better scores than A3.

Q. When you convert it back as you did when you had to aggregate the grades because remember, these are grades; these aren't scores when you converted them back as you did when you were aggregating the

financial aspects, you'd have ended up with two Bs;

isn't that right?

A. Yes.

Q. Can I draw your attention to one other thing in relation to this table, because the numbers, to an extent, can give one a false sense of confidence in what the score is.

The number 3 there is equivalent to a C; isn't that right?

A. Yes.

Q. The 4 to a B, the 5 the 4 to a B, the 5 to an A, and so forth?

A. Yes.

Q. Do you remember, when we were discussing the evaluation model, we were discussing the marking of the qualitative evaluation as distinct from the quantitative evaluation?

A. Yes.

Q. Do you remember, we were distinguishing between a hard score, based on quantitative data, and a soft score, based on grades of A to E?

A. Yes.

Q. And I think the way you characterised it is that one was precise and the other was imprecise; isn't that right?

A. Well, less precise.

Q. Less precise, yes.

A. Yes.

Q. So in fact these 1s, 2s, 3s, 4s, and 5s, while they may look very precise, they in fact represent grades of A to E on a qualitative evaluation, which, as you have just indicated now, were less precise?

A. Yes.

Q. Thank you, Mr. McQuaid

A. I think sufficiently precise at indicator level.

Q. Thank you, Mr. McQuaid.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. FITZSIMONS:

Q. MR. FITZSIMONS: Just a few questions.

You were asked about the meeting with Mr. Loughrey, if you recall, on the 24th?

A. Yes.

Q. In your written statements at Questions, 35, 37, 39, 43 and 45, you describe this meeting as a short meeting; that's your phrase.

A. Yes.

Q. Can you assist us by giving us an estimate of how short it was? Was it ten minutes, twenty minutes? I know it's difficult at this remove. I mean, some sort of a

A. My initial recollection was that it was a short meeting, but I think at either yesterday's during yesterday's evidence, it was pointed out to me, I think, that the meeting lasted two hours.

Q. No, no. What Ms. O'Brien did was to tell you what Mr.

McMahon had said. That is Mr. McMahon's recollection, which of course could be wrong also.

And what Mr. McMahon said, Day 200, in reply to Question 208, he said "It was at least an hour, possibly an hour and a half, maybe two." But he could be quite wrong in that. And he also said that he went out at 3.30.

Now, we don't I wasn't able to trace what Mr. Brennan had said; I am not sure if he was asked about how long that meeting was, so he may have a completely different recollection in terms of Mr. McMahon. So if you could just exclude what Mr. McMahon said from your mind, and try to go back to your own recollection, which was of a short meeting and remember, this was in the middle of another major meeting that was taking place, so obviously the rest of the team couldn't be kept out too long.

So if you can, Mr. McQuaid; if you can't, you can't.

But you have said four times in your statement that this was a short meeting.

A. Yes.

Q. Can you put a time on it? If you can't, you can't.

A. I can't, no.

Q. That's fair enough; you are doing your best.

Now, just in relation to the exercise that Ms. O'Brien was engaged in with you for the purpose of inquiring, Document 54(2), this is the evaluation model.

Firstly, just so that we'll be under no illusions as

to what this document is, it's not a legal document

A. Sorry

Q. 54(2), the evaluation model. This is not a legal

document, and certainly was not a term of the

application, those terms having been the terms of RFP,

the RFP document, which included paragraph 19 that you

have referred to?

A. Yeah.

Q. And that was the only document which created rights

for the applicants, and this document, in fact, is

simply a working document for the PTGSM group, and no

more than that?

A. Yes, it was a working document drawn up and agreed

fairly early on in the process.

Q. But it's a document that was a private document, a

document confidential to the group, and not a document

for applicants to rely upon?

A. No, it could not have been a document for applicants,

because it would compromise the competition if it was.

Q. Of course, of course.

Now, I want you to proceed to page 18 of that

document, which contains Part 5 of the document headed

"Procedure for the Qualitative Evaluation Process".

A. Yes.

Q. Do you have that page?

A. I have, indeed, yes.

Q. And you will recall, in the past half an hour, Ms. O'Brien putting to you that there is nothing in this section of the document to say that quantitative weightings should be applied to qualitative assessment. You recall her putting questions like that?

A. Yes.

Q. Well, now, just after the first paragraph, I want to read out one phrase. After the first paragraph, it says: "The following describes some of the major steps in the qualitative evaluation process."

And then we have a list of seven, or sorry, nine items there. So can we take it from that that this list was not a binding list where the group was concerned; that it was open to the group to formulate or work on the basis of other steps that they might decide upon or just employ in the course of their evaluation?

A. Yes, it was a list drawn originally drawn up by AMI at a fairly early stage of the competition process, when I think certainly the team from the Department, who had no previous experience of such competitions, were really just getting were getting to grips with the process and were, at that time, very much relying on AMI, who had experience of such competition processes in other countries.

So it certainly doesn't say that the it says "some"

there. It wasn't exhaustive. It wasn't necessarily complete. And of course, as I said, it was done at a particular point in time, and it wasn't immutable, either.

Q. No, because it says it doesn't just say "some"; it says "some of the major steps". So in other words, scope was left open for other major steps that might be used in the evaluation process?

A. Yes.

Q. If deemed suitable, depending upon how matters progressed?

A. Yes.

Q. If I could bring you down to Item 6 in that list in any event: "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 in order to make fair comparisons between the applications."

Just two points arising from that. The evaluators, it says that they should not that they must, but that they should take the results from the quantitative evaluations into the account. So in other words, the evaluators were entitled to take into account the weightings that were included in the quantitative evaluations? It follows.

A. Yes.



Q. But more importantly in this paragraph, the final phrase, which I suggest to you represents the object of the exercise and sets out what the group was required to do in the qualitative evaluation process, namely, make fair comparisons between the applications; isn't that so?

A. Yes.

Q. But it was for the group to decide, as it proceeded, what was appropriate and fair?

A. Yes.

Q. Subject to one proviso: It would be unfair if applicants were treated differently; in other words, if there was discrimination between applicants. Isn't that so?

A. Yes.

Q. Now, you have told us I just want to move on just from that for a moment you have told us about your sub-group, your members: yourself, Mr. Ryan, Mr. Jacobsen and Mr. Feddersen. And no doubt, in due course, we'll hear from these three gentlemen on the same topic.

Now, before I ask you about your work, can you confirm to me that over the years, your years as a public servant and with Telecom Eireann, you have experience with a lot of meetings, for want of a better word, you would have attended meetings regularly over the years?

A. Yes.

Q. And I think I can confirm or you could confirm that the at these meetings, decisions could have been taken perhaps on important matters, perhaps on minor matters on a regular basis?

A. Yes.

Q. Can you confirm to me that your sub-group worked in a meticulous and in a conscientious manner?

A. Yes, I was very satisfied that the sub-group which carried out the four the evaluation of the four dimensions, as I say, behaved in a conscientious and an effective manner. I was very happy with the expertise of the sub-group. And also there was consensus, there was good consensus within the group as well.

Q. Did you treat all the applicants and applications in an identical manner?

A. Yes.

Q. Each of the six?

A. Each of the six were treated in an identical manner.

Q. Was there any discrimination between the applicants?

A. None whatsoever.

Q. Were they all treated equally in your sub-group?

A. They were all treated equally. And I think that is for technical, for technical evaluations, that is not difficult to achieve, because we are comparing very much like with like.

Q. Now, we are only dealing with your sub-group, but the

Tribunal seems to accept that all groups comported themselves in the same manner. Day 203, Question 506, Ms. O'Brien said to you that "There was no reason to believe that anyone else did it any differently"; so we can assume, then, that all of the groups treated each of the applications that came before them in an identical and equal manner.

Now, can you tell us whether or not there was any outside pressure on your group, or on any of its members?

A. There was no outside pressure whatsoever.

Q. Was there any political pressure?

A. No political pressure at all.

Q. Was there any inside pressure, and we are only talking now within your sub-group, in the sense of any member of the sub-group having a particular agenda or seeking to promote particular applicants or particular results, that you can recall?

A. No. There certainly was not as I said earlier, the sub-group worked very well as a team, and there was consensus on the scores was achieved without difficulties, without any difficulties.

Q. Now, moving on from the sub-groups to the main PTGSM group, and the meetings you would have attended, and the working of the main group as you observed them.

Now, I want to ask you really the same questions, on the basis of your experience of meetings and what you

observed: Were all of the applicants and applications treated in an identical manner?

A. Yes.

Q. Was there any discrimination between any of the applications or the applicants on any ground whatsoever?

A. No.

Q. Did you observe any political pressure, or even the traces of political pressure coming into play in deliberations or in decision making?

A. No.

Q. Was there any other outside pressure that you observed, any other type of outside pressure that you observed, overtly or covertly or implicitly or explicitly, in the course of discussions or decision making?

A. The only outside intervention was the intervention of the European Commission regarding the fee structure.

Q. Did you observe anything that would appear like inside pressure, if I can describe it as such? In other words, members of the main group this includes Andersens, of course acting in a manner that indicated a particular agenda, a particular preference, a particular wish, a particular desire, particular bias in respect of aspects of applications or anything like that?

A. No, no. Mind you, I have to say, I cannot comment for

the evaluation sessions which I did not attend.

Q. I am only speaking of your observations.

A. My observations, yes.

Q. And you, of course, as you have told us earlier, have many years experience of meetings and the conduct of people at meetings, where you would be sensitive to any type of conduct of the type I have mentioned?

A. Yes.

Q. Now, in relation to the question of secrecy, as you have indicated, it certainly would have been of advantage to an applicant to have knowledge in advance of weightings, as I think you have indicated?

A. Yes.

Q. Again, on the basis of your observations and experience of the group, was secrecy kept in relation to weightings, and indeed everything else that happened in the groups, so far as you could judge?

A. Yes, as far as I am concerned, the confidentiality was maintained during the period of evaluation of the tenders.

Q. Now, just in relation to my clients, Telenor, what was your opinion of Telenor on the technical side, the side that you were involved?

A. Based on the technical volume of their bid document, and also the technical people at the presentation meeting, I have to say I was impressed by Telenor. I did of course know that they did have one at that

time had one of the highest, if not highest, mobile penetration in the world, and this reflected their sort of they were knowledgeable, they were particularly knowledgeable about achieving sufficient capacity within cities, and their technical people came across very well at the presentation, and also the quality of the technical proposal was good.

Q. Thank you very much, Mr. McQuaid.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. MCGONIGAL:

Q. MR. MCGONIGAL: Mr. McQuaid, just a couple of matters.

I am not going to repeat all the matters that Mr.

Fitzsimons has dealt with, but I want to dip my toe

into this technical stuff for a moment. And can I

take you back to the meeting of the 18th May for a

second?

A. Yes.

Q. Now, the meeting of the 18th May appears to be the

first meeting when the document of the 17th May was

first discussed?

A. That is correct.

Q. And that document was a document which was produced by

Andersen or AMI?

A. Correct.

Q. And during the course of that meeting, as appears from

the minute, that document was discussed in depth?

A. It was presented. The document was presented by AMI,

yes.

Q. And we see we can see from the minutes that the various different sections, paragraph 3.1, 3.2, 3.3, they were gone through individually?

A. Yes.

Q. And changes were discussed and agreed?

A. Yes.

Q. And those changes were subsequently are subsequently to be found and reflected in the document of the 8th June?

A. Correct.

Q. Now, before we leave the 18th May, I just want you to turn to paragraph to the second page, and what is called paragraph 4.

A. Yes.

Q. Now, looking at the document, first of all, of the 17th May, what is under paragraph 4 is a series of quantitative indicators?

A. I will have to get this document. Sorry, what page is that again?

Q. It's page 16.

A. Yes.

Q. Now, on the left-hand side we'll see indicators, and those are quantitative indicators?

A. Yeah.

Q. On the right-hand side is weight, and underneath is a series of weights?

A. Yes.

Q. It appears that at that meeting, those weights were not agreed?

A. What was agreed sorry, those particular weightings

Q. Were not agreed?

A. At the first meeting, no.

Q. Now, what was agreed, according to paragraph 4 in the minutes of the 18th May, is that reference can be made on the file to the formula agreed?

A. Yes.

Q. Now, the formula agreed, as I understand it, is the document which you referred to this morning and is to be found in 1A, and is the note of Maev Nic Lochlainn dated 31st May: "Agreed at the meeting of the 18 May 30, 20, 15, 14, 7, 4, 5, 3."

A. Yes.

Q. And those were the weightings which were agreed for the criteria?

A. Yes. They were the weightings to be used for corresponding to the evaluation criteria, paragraph 19 of the RFP, which the applicants would be working to.

Q. And were the weightings to be used agreed and to be used for both the qualitative and quantitative analysis?

A. Yes. My understanding is that the first of all, that the evaluation criteria would have had to be



respected, because they were published, and also the weightings would have had to be respected.

Q. So that when one goes to the quantitative analysis, if one did, to the criteria, you would use those weightings; and equally, if you went to the qualitative analysis to use the weightings, you would use those weightings?

A. Yes.

Q. And those weightings were, to a small extent, subsequently amended on the 27th July, and that is to be found at Document Book 54, Document 5.

A. Yes.

Q. When the 3% adjustment was made?

A. Sorry, yes, there are two 3%*s* here. In the document of the 8th June, the second version of it, the weightings in that table, this is in the quantitative

Q. I'll come to that in a second. Let me take it in stages.

The weightings that were to be used both in the qualitative and quantitative were amended on the 27th July, Book 54, Document 5, and it became 30, 20, 18, 11, 7, 4, 5, 3?

A. Yes. This was as a result of the capping of the licence fee.

Q. Now, following the meeting of the 18th May, what appears to have happened is that AMI took the document

of the 17th May together with the changes which had been agreed, went back to Copenhagen, and came up on the 8th June with the document which is now at Tab 2?

A. Yes.

Q. Now, going straight to page 17, what they appear to have done there was, they have again got the quantitative indicators?

A. Yes.

Q. And the weightings which they have, as you pointed out this morning, they in fact add up to 103; but those weightings were intended to reflect the weightings which were to be which had been decided in relation to the criteria?

A. Yes, they did reflect those weightings, with two exceptions: The first evaluation criteria, credibility of the business plan, works out at 32.5 based on those weightings, as opposed to 30% for paragraph 19 criteria. And the other one that was different was coverage; they add up to 7.5% as compared with 7. But all the other ones match the weightings decided at the May meeting.

Q. Now, as I understand it, and I am curious about this, if you go to Appendix 3 of the final report.

A. Yes, corresponding

Q. That table, in fact, would correspond to the weightings which were agreed on the 18th May as amended?

A. Yes. Again there were slight changes there to reflect the subsequent 3% change as a result of the capping of the licence fee, and also to correct this 103%; and when you map them back to the evaluation criteria, they correspond exactly with those weightings agreed at the May meeting.

Q. Now, in actual fact, the weightings which were used on the quantitative evaluation, which you may have seen, are the ones which are set out in the document, page 17-21 of Book 2?

A. Sorry, which document again?

Q. Page 17 it's book number 2 Book 54, I beg your pardon.

A. Sorry, which document is that?

Q. Book 54, Number 2; sorry, Mr. McQuaid.

A. This is the document, the evaluation model dated the 8th June.

Q. Yes. Now, when you went to your subcommittee meeting in September of '95, can you tell me, what is your recollection in relation to what, if any, quantitative analysis results you had at that time?

A. My recollection is that we had a copy of the results of the quantitative analysis available to us as well as the information from the mandatory tables, which was provided and which fed the quantitative evaluation; and we also had graphical information, graphical representation of the data in the mandatory

tables as well.

Q. And if you just go to Book 54, Document 6?

A. Yes.

Q. I don't know whether yours has two pages or more than two pages. Is there two pages there, or more than two pages?

A. I have two pages, yes.

Q. I think in fact there are four pages altogether, but that's the quantitative analysis of the 30th August, '95. And insofar as you can recollect, is that the document which you had which you may have had at the meeting on the 7th?

A. Insofar as I can recollect, that appears to be the document, yes.

Q. And insofar as you gave consideration to any part of the quantitative analysis or weights attached, that would have been the document that you would have had regard to?

A. Yes.

Q. Now, apart from that document, you didn't see any other quantitative analysis document subsequent to that, am I right in thinking?

A. Yes.

Q. And as I understand it, and just correct me if I am wrong, as I understand it, your subcommittee, in relation to the areas which you were involved in, didn't meet after the 8th September or thereabouts;

you had finished your evaluation at that time?

A. Yes. We did our evaluations before the presentations in sorry, we did our evaluations in Copenhagen before the presentations by the applicants in Dublin.

Q. And there was no need to revisit them after the presentations?

A. No. We had consensus at the evaluation sessions.

Q. Thanks very much, Mr. McQuaid.

THE WITNESS WAS EXAMINED AS FOLLOWS BY MR. O'DONNELL:

Q. MR. O'DONNELL: Mr. McQuaid, you were the technical expert. I think you had previously some 22 or 23 years experience in Telecom; is that correct?

A. 23 years in Telecom and two years in the BBC.

Q. I see. So you were the person heading up the technical section of the Department at this stage?

A. The technical division, that's right, yes.

Q. And I think it's perhaps helpful to look at the technical scores that the various consortia got, because it's clear, I think, from the groups that you were involved in, that the winning consortium, the winning applicant got very high scores.

I think if you turn to Table in the final report, if you turn to Table 15, we can see the scores.

Firstly, am I right in thinking that you were involved in scoring radio network architecture, network capacity, coverage, and frequency efficiency, and you think you had some input into the performance

guarantees?

A. I said I had a vague recollection of that, but I think in the minutes, which I have been reading more carefully now, I think Mr. Towey and he was involved in performance guarantees.

Q. Yes, but again, just to look at those the scores in those four categories.

A. Sorry, what page are you on?

Q. It's Table 16. It's page 48 of the final report.

And I think we can see that the winning consortium received an A for radio network architecture and an A for network capacity?

A. Yes.

Q. And then further down it received an A for coverage and an A for frequency efficiency?

A. Yes.

Q. It also appears to have received an A for performance guarantee, but that's four As, so it couldn't have scored any higher in that category?

A. No.

Q. And I don't think that any of the other consortia scored as highly as it in those technical areas?

A. No.

Q. I think that's clear. So it was clearly, technically, by far the best application?

A. Yes.

Q. And nobody suggested that that score, those scores be

changed in any way?

A. No.

Q. And I think, just dealing with the way in which the tables were presented, we know that there were three tables: There was Table 16, 17 and 18 included in the first report?

A. Yes.

Q. And they were also included in the second report?

A. Yes.

Q. And ultimately also included in the third report, although there was a division, which we'll come to?

A. Yes.

Q. And the PTGSM had no difficulty or dispute as to including those tables in the reports? There was no suggestion that those tables wouldn't be included?

The only dispute, I think, the only issue at the end was where you would put the last table; isn't that right?

A. Yes.

Q. So nobody suggested that these tables not be included or that the tables were in any way wrong?

A. No.

Q. And nobody in the PTGSM suggested any alternative approach to the approach utilised ultimately in the last table, Table 17, which was the application of the weights to the scores that had been achieved?

A. No.

Q. So there was agreement throughout on that, on the way that that approach was utilised?

A. Yes. I think there was a consensus on the result.

Q. That's what I am coming to. Whatever about the wording of the report, there was agreement on the result?

A. There was consensus on the result, yes.

Q. And it was clear that no matter how much drafting or redrafting was going to be done of the report, that was not going to change the result?

A. No.

Q. And that was clear to everyone?

A. That was clear, because all of the dimensions had been evaluated at that stage. There was consensus on the final scores. The evaluation criteria was known, published, and the weightings for those evaluation criteria had been decided at the main meeting with the 3% correction.

Q. So there was consensus on the criteria were fixed; you had to use them.

A. We had to respect the criteria.

Q. You had to comply with them, and you had to utilise them. There was consensus on the weightings, because they had been fixed?

A. Yes.

Q. There was consensus on the scores that the sub-groups had come up with?



A. Yes.

Q. There was consensus on the conversion of those scores into numbers, and there was a consensus of the applications of the weightings to those numbers; isn't that right?

A. Yes.

Q. And so there was consensus on the tables that were set out?

A. Yes.

Q. And in fact those tables don't appear to change throughout the reports, except there may have been typographical errors, but there is no change or rescoring or revisiting any of that, any of the work that's been done in respect of those tables?

A. No. I think the minutes of the last meeting reflect that.

Q. Yes, and I think you, in your you made a point, I think, earlier that you were keen that Table 17, what became Table 17, the last table, and Table 16, become separated from what might be called the Andersen dimension model; is that right?

A. Yes, yes.

Q. I think the you have made the point, I think, that the Andersen model groups the various criteria under different aspects, or listings; they call them aspects, marketing aspects, technical aspects, and so on?

A. Yes.

Q. And it groups them there in the first table?

A. Yes.

Q. But I think, when we look at the final report, the section in which the last tables appear is in a separate section. The Andersen model appears in Section 5, but the last tables, Tables 16 and 17, appear in Part 6 of the report; isn't that right?

A. That's right, the final section that Section 6, yes.

Q. And that report is headed, that section of the report is headed "The Final Evaluation", and it says "It is now necessary to determine the ranking of the applications in accordance with the priorities specified in paragraph 19 of the tender document. It is clearly stated in the document that the evaluation would be carried out on an equitable basis in accordance with the information contained therein and in accordance specifically with the evaluation criteria set out in descending order of priority."

And that was agreed that was what happened, and that was why those tables were included?

A. Yes.

Q. So I suppose if somebody wanted to look to see the results, you wanted to present this in an accessible, easily digestible form, would you send them to Table 17, which was the last table?

A. Yes.

Q. Because that table sets out the weights that had been agreed, the scores that had been obtained, and the multiplication of those weights by the scores to give you the ultimate

A. And it was also explicit with reference to both the evaluation criteria and the weightings of those evaluation criteria.

Q. And we know that there were a range of views about how much work needed to be done to improve the presentation of the report. Some people thought a little bit of work needed, some people thought a bit more, some people thought a considerable amount of work was needed?

A. Yes.

Q. I think you felt there was a fair bit of work?

A. Some more work, yes, yes, some more work was needed.

Q. What was absolutely clear was the result?

A. Yes.

Q. And that was not going to be changed?

A. No.

Q. And nobody ever suggested that?

A. No.

Q. Now, in relation to your own position, I think you made it clear that you felt that the your own experience within the Department, and I think you also or now, in the private sector, you would have

fairly well-tuned antennae to what was happening around you, if pressure was being put on people or if pressure was being put on yourself?

A. Indeed.

Q. And at any time during your involvement in this evaluation process, were you personally ever subjected to influences intended to compromise your independence?

A. I was never subjected during this process to any influences.

Q. If you had been subjected to something that was intended to compromise your independence, would you have any difficulty or doubt about complaining about this?

A. No.

Q. Were you aware of any other person who was subjected to any influences intended to compromise his or her independence or overpower his will?

A. Within the Evaluation Team?

Q. Yes.

A. No.

Q. Insofar as you were concerned, there was no outside interference in the way this team conducted its work?

A. No.

Q. In relation to AMI, you dealt with AMI, and you participated in the sub-groups with them?

A. Yes.

Q. At no stage did they ever try to influence you in any particular way?

A. No, no. I found on the technical side, I found

Q. That's all you can comment about?

A. That's all I can comment on. I found the two individuals very knowledgeable and very helpful, and in particular, I found Mr. Marius Jacobsen extremely knowledgeable. He was a fairly elderly gentleman who had been involved in the development of mobile cellular telephony and the design of it, going back to the original Scandinavian systems, the original mobile telephony systems, which were originally deployed in the Scandinavian countries. So he had a tremendous knowledge of mobile the technical aspects of mobile telephony. And he had been on various international committees over a long period of time and was recognised as an expert.

Q. So as far as you were concerned, these were people who were highly perfectly well qualified to participate in this, of considerable expertise, and were of considerable assistance to you?

A. Yes, yes.

Q. And I think that was the way with AMI, that while they weren't delegated with the job of carrying out the evaluation process, they were an integral part of participation in the evaluation process, they participated in sub-groups, they produced drafts of

reports?

A. Yes.

Q. And so on?

A. Yes, because we did not AMI had experience previously in other competitions. We did not.

Q. And so far as you are concerned, therefore, the result that was arrived at was an agreed result and was never changed, nor was it ever suggested that it be changed?

A. No.

Q. Thanks very much, Mr. McQuaid.

CHAIRMAN: Very good.

Thanks for your attendance and cooperation over the course of this week and previously, Mr. McQuaid.

Well, that's the sole remaining witness for today.

Tuesday at eleven

MR. O'DONNELL: Subject to Mr. McMahan's availability. I hope he will be available, unless barring something unforeseen.

CHAIRMAN: If anything very good.

The Tribunal then adjourned until Tuesday, 1st April, 2003 at 11am.