

A P P E A R A N C E S

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I N D E X

WITNESS: EXAMINATION:Q. NO:

Billy Riordan Mr. Healy 1 - 804

THE TRIBUNAL RESUMED AS FOLLOWS ON THURSDAY, 10TH
APRIL, 2003 AT 10.30AM.

CONTINUATION OF EXAMINATION OF BILLY RIORDAN BY

MR. HEALY:

Q. MR. HEALY: I just want to clarify the documents you were working from to make sure we are working from the same documents. I think it only occurred to me yesterday, when you mentioned the last two or three documents we put on the overhead projector, that you are working from a, I take it, a full set of the documents retained by the Department of Finance in their own files, following the conclusion of the process; that would be all the Department of Finance documents?

A. No.

Q. I see.

A. I don't think I have seen any of the Department of Finance's documents.

Q. I see. Are you talking, then, about your own documents in the Department of Finance? By that I mean the ones kept under your file reference, which I think were furnished to the Tribunal on the basis that they were known as BR 1, BR 2.

A. Correct, yeah.

Q. I see. And on top of that, I take it you were provided with copies of the books that had been made available to Matt Shaw from which contain documents which the Tribunal has extracted from a much, much larger bulk of departmental documents?

A. They were two leverarch files I think supplied by Matt Shaw, yeah.

Q. Now, yesterday we, before we got sidetracked into those additional documents, you were we were discussing the evaluation model and the evaluation process, if you like; and I just want to ask you what your recollection is or what your understanding is of the evaluation process, and in particular, the way in which what the evaluation model calls the two parts of the process were to work, the quantitative and the qualitative. Can you tell me what your understanding of that is?

A. This is based on, I suppose, review of the documents rather than a recollection of my understanding at the time.

Q. Do it both ways. Tell me what you recall from reviewing the documents.

A. My understanding is that the quantitative evaluation you want me to go through what I understood to be the integration between the quantitative and qualitative?

Q. Tell me what you understood the quantitative to mean,

the qualitative to mean, and what their role was in the overall process.

A. The quantitative evaluation, as I understand it, was to be a numeric-based exercise taking data, numeric data primarily, feeding into a the evaluation model in the format of the document not in the format, but as laid out in the documents that we discussed at Tab 1 and Tab 2 of this folder yesterday.

Q. The weightings folder?

A. The weightings folder, yes, and the and the outcome of that was to be the quantitative evaluation.

Q. Right.

A. The qualitative evaluation was to be a the word that seemed to be used by Andersens at the time was "holistic", to bring a more to bring the whole thing together, if you like, and it was to be a further exploration of some of the essential aspects of the process. And sorry, you asked me about how the two interrelated also.

Q. Yes.

A. I didn't really have an absolutely concrete view of how the two of them were interrelated, to be honest with you. I think the way sorry, I say that, I suppose, from recollection at the time, but again, it wasn't an aspect that I was particularly focused on, on how these two things worked together.

Subsequently, then, as I make out from the report, the

quantitative evaluation had some difficulties in scoring some of the indicators and was subsumed into the qualitative evaluation.

Q. So originally it was envisaged that you'd have a quantitative and then a qualitative?

A. And the quantitative was to give rise to a readily obtained indication of where the competition was heading.

Q. Yes. If you read the evaluation model I take it you have read the evaluation models; if you can't recall reading it at the time, which presumably you must have done, you can recall do you recall reading it recently?

A. Not from cover to cover, to be absolutely honest with you, no.

Q. You were present, I think, in the course of at least one project meeting, where Mr. Andersen presented the model and explained how it worked?

A. Yes.

Q. And I think Mr. Jimmy McMeel, in the course of his evidence, mentioned his understanding of it. This is at Book 41, Tab 65. He referred to his understanding of the process.

A. I don't have that in front of me.

Q. Well

A. This is not the weightings folder?

Q. No, no, it's not. You see where he says, in the

second paragraph, "The evaluation document deals with quantitative and qualitative evaluations." Do you see that on the second paragraph, the first sentence?

A. Yes.

Q. And I think, as you indicated a moment ago, the quantitative evaluation involved feeding in a lot of measurable, very, very concrete information.

A. Numeric data.

Q. Numeric data, and measuring it in accordance with certain formulae; isn't that right?

A. Yes.

Q. And what these formulae did was they measured the various applications by reference to the indicators that were used to reflect the criteria set out in the RFP; isn't that right?

A. Would you repeat that question, please.

Q. The formulae were used this isn't in that document now the formulae were used to measure the applications, if you like, in accordance with or to measure the applications by reference to the indicators that corresponded to the criteria set out in the RFP; isn't that right?

A. I understand so. Again, as I say, it wasn't an area I was having a major involvement in.

Q. But isn't that what it says? Isn't that what the evaluation model is saying?

A. Say it once more. I want to be clear. There is also

discussions about indicators, and others, in terms of indicators denominated a certain category of factor.

Q. We went through that yesterday. You have the criteria set out in the Government decision contained in the RFP as well?

A. The paragraph 19 criteria, right.

Q. Correct. They are broken down into dimensions.

A. Right.

Q. The dimensions are broken down into indicators?

A. Right.

Q. You saw in the model where each of the indicators had a weighting attached to it?

A. Right.

Q. There were formulae set out in the evaluation model to enable you to measure each application, or the information contained in each application, by reference to the indicators; isn't that right?

A. Yes.

Q. Or with reference to the indicators. So when an application came in and you looked at it under the indicators that applied to the first criterion, credibility of business plan and approach to market development, you looked at those indicators, you looked at the formulae, you looked at the application, you took the information from the application and you applied the formulae to it, or either you didn't do it; a computer did it, or something did it?

A. I didn't do it. When you say "you", I just want to be

Q. That's what was done. At least that's what was intended to be done.

A. Yes.

Q. And it was understood that in the quantitative evaluation, you could only use indicators that were susceptible to measurement, isn't that right, by inputting numeric data?

A. You could only use numbers.

Q. Indicators?

A. Numbers that effectively

Q. No, you could only use indicators that were susceptible to being measured by inputting numeric data?

A. Yes, I believe so, yes.

Q. In the qualitative evaluation, you'd use a much wider range of indicators, many of which, perhaps even most of which were not susceptible to being evaluated by measuring numeric data submitted by the applicant; isn't that right?

A. Yes.

Q. So the quantitative evaluation gave you a lot of hard, concrete, measurable information but over a very maybe not very, but certainly over a relatively narrow range of indicators?

A. Yes.

Q. But the qualitative allowed you a much wider perspective from which to judge the applications; isn't that right?

A. Yes.

Q. And what the qualitative lacked in concreteness, if you like, it made up for in breath of judgement; and what the quantitative lacked in breath of judgement, it made up for in hard concrete information. Isn't that right?

A. I would never have thought of it that way, but it certainly didn't occur to me at the time as that being the balance or the difference between the two.

Q. Did you hear Mr. McMeel say that he understood that they both usually came up with the same result, and that one was regarded as a form of it's on the overhead projector he says one was regarded as a check on the other.

If you look at the second paragraph of the document that's on the monitor. It says

A. Which is on Tab I have the folder now; which tab is it on, please?

Q. It's in Tab 41 sorry, I beg your pardon, it's on Tab 65 of Book 41.

A. Yes, I see it now. Thank you.

Q. And the second paragraph begins "The evaluation document deals with quantitative and qualitative evaluations. The latter acts as a check on the

former, and as such, is at a higher level. The quantitative evaluation forms an annex to the evaluation report. The consultants' experience has been that both the quantitative and qualitative evaluations tend to produce the same leading candidates. The qualitative process narrows it down."

Do you see that?

A. Yes, I do.

Q. So the qualitative enables you to look at the quantitative, enables to you take another view of it and to check whether it seems reasonable, whether it stands up, or whatever. Would that be your understanding of it?

A. It wouldn't necessarily have been my understanding, no, that the qualitative was a check on the quantitative. But as I say, I was a bit more removed from this than others.

Q. Did you have an understanding of it? Surely it's

A. To be honest with you, I don't recall my understanding. I am working from I really don't remember what way I thought about it that long ago, no, but I do see I am trying to really trying to regenerate, if you like, which may be a wrong thing to do, but I am trying to regenerate my understanding from looking at the documents.

Q. I might be able to remind you of some of your own work on it in a moment. Do you recall when you were doing

the financial evaluation, the qualitative financial evaluation, you were arguing for certain indicators to be included as part of the evaluation process; do you remember that?

A. Yes, I suggested efficiency indicators, yes.

Q. We'll come to that in an a moment. If you look at the rest of that passage, that section of Mr. McMeel's note, you will see he says "Weightings for the quantitative evaluation criteria were discussed, but it was agreed that for reasons of confidentiality, no formal hard-copy record would be kept."

Now, in fact we know that there was a hard-copy record kept, but in any case, it does record the fact that there were discussions; do you see that?

A. I do, yeah.

Q. Now, it would appear that the weightings were initially adopted only for the quantitative part of the evaluation process. That seems to follow from the evaluation model, doesn't it?

A. That weightings were only to be applied to the

Q. No, only adopted initially?

A. That's what appears to be from the documentation, yes.

Q. For the quantitative portion of the model, we know this from Ms. Nic Lochlainn's documents, and we saw it there on Mr. McMeel's own document as well; isn't that right?

A. Can I just have one second, please?

Q. Yeah.

A. Sorry, I just wanted to have a quick read of the minutes of that meeting. Thank you.

Q. Yesterday we looked at a copy of the first version of the quantitative evaluation; do you remember that?

A. At Tab 1, yeah.

Q. It was in the I think it may have been in the weightings book; I may have referred you to it somewhere else.

A. I have it in the weightings book, yeah.

Q. In fairness, I think the weightings book, I don't know if it contains the whole of the evaluation model or merely just a few passages from the end of it. But do you recall, in any case, that I referred you to the result of the quantitative report, and I referred you in particular to the weights; do you remember that?

A. The result sorry, you referred me

Q. I referred you to the "Results" page of the quantitative report, which was page 7 of the first quantitative report.

A. Yes, I see that.

Q. And I drew your attention to the fact that it contained the weights.

A. This is the one dated the 30/8/95?

Q. Correct.

A. Yes. Thank you.

Q. And I think I drew your attention to the fact that the

weights contained there were the same as those contained in the evaluation model that was adopted, with the qualification that no adequate allowance had been made for the rebalancing of the weights after the EU intervention. Do you recall that?

A. Yes.

Q. Because, in that first model, Mr. Andersen weighted tariffs at 15% of the marks and the licence payment at 16, instead of weighting tariffs at 18 and the licence payments at 11; do you remember that?

A. Yes.

Q. Do you remember I drew your attention to a meeting, I think it may have been the 4th September meeting, Mr. Andersen undertook to correct that?

A. Yes.

Q. Now, one of the things that I particularly drew your attention to was the fact that the weights for solvency and IRR were a total of 15%; do you remember that?

A. Yes.

Q. One of the things we didn't discuss yesterday was the fact that if you add up all of those weights, they come to more than 100; they come to 103, in fact.

A. Right.

Q. And I have got I have now managed to look at I think what I call your BR 1, BR 2 documents, your own documents, the ones that you referred me to yesterday.

And I had a look at one or two other pages, and it seems that you yourself carried out that computation as one might expect an accountant to do, I suppose and you arrived at the figure of 103?

A. Yes. I don't honestly know whether that was in response to somebody else saying there is a problem with the way these add up. I did it myself, but

Q. It may have been, but I'll just get

A. Do you want me to get my copy of it?

Q. I am going to make it easy for you. I'm going to give you a book with it in it; it will make it a lot easier for you. It won't be necessary to refer to all of these documents, but they are a selection of some documents taken from what I'll call your BR 1, BR 2 books, your own files in the Department of Finance.

And if you go to the second leaf?

A. Yes.

Q. Does it contain the 30th August 1995 version of the quantitative evaluation?

A. It does, yes.

Q. Now, I think there might be a date on the top of it, looks like the 4/9, something like that; I am not sure.

A. I think that's what it does say, yes. It's a very faint copy.

Q. Underneath that I think it says "superseded"; do you see that?

A. Yes, it does.

Q. Now, obviously you didn't write "superseded" when you got it. You must have written the "superseded" later, when you got the next version of the quantitative report?

A. I would imagine so.

Q. And if you go through it and you go to the last page, page 7, you'll see where you have noted the scoring of some of the indicators; do you see that?

A. Yes.

Q. And you have drawn attention to you have added up the two weights for the first two indicators as I was saying, you have added up the weights for the first two indicators, total annual minutes, number of SIM cards; do you see that?

A. Yes.

Q. You get 7.5. The next thing you have noted is the fact that the OECD basket, which is the tariffs indicator, should be at 18%; isn't that right?

A. Yes, and I think the 3% in the brackets.

Q. And then if you go down to the number 10, the licence payment, you have noted again that that should have had 3% taken from it and that it should be at 11%?

A. Yes.

Q. And then underneath that, the two items of solvency and IRR, you have noted that they come to a total of

15. Do you see that?

A. Yes, I see that.

Q. Now, then you have a tot underneath of 103, I think?

A. Yes.

Q. Now, then you have a note which says "See over"?

A. Yes.

Q. And the next document is "Normalisation of Quantitative Evaluation"; do you see that?

A. Yes.

Q. And it contains a list of the aspects; do you see that?

A. Yes.

Q. With the original markings. I think they are in fact not the aspects, but the dimensions; in any case, somebody has written "aspects" in there?

A. They are per that they relate to paragraph this paragraph 19; is that right?

Q. Yes. What you see on the left-hand side, I think the word "Aspect" is probably something that could cause confusion, but they seem to relate to paragraph 19; those are the paragraph 19 criteria. Do you see that?

A. Yes.

Q. And then you have the weightings next to them on the right-hand side?

A. Yes.

Q. Then you have the normalised. Then you have the rounded weightings, and it brings you down to 100; do you see that?

A. Yes.

Q. Do you recall who you got that document from?

A. I don't.

Q. I think Ms. Nic Lochlainn had a copy in her file as well. So I presume it must have been from her you got it.

A. I have just I have no recollection.

Q. And do I not understand that the purpose of normalisation is to it's not an Andersen document, is it, by any chance?

A. I just don't know, to be honest.

Q. And correct me if I am wrong, but was the purpose of this document to enable you to use, if you wanted to, this scoring system, while at the same time arriving at a total of 100?

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

Q. Right.

A. Does that make sense?

Q. I think it does, yes.

CHAIRMAN: So the exercise essentially was correcting the two changes that the European Union had caused and

then taking account of the tot coming to 103 by doing the relatively straightforward exercise of dividing by 103 and multiplying by 100.

A. And each of the numbers on the left-hand side that are called "original" down by exactly the same amount, to a level that did add up to 100.

Sorry, if you can hear me.

Q. MR. HEALY: I now want to try to pass on to something you were discussing yesterday, the last two documents that you mentioned. They dealt with

A. Should I put this away now?

Q. For a moment, yes.

When you were carrying out the evaluation, do you recall that the financial evaluation, as part of the qualitative evaluation of the financial elements of the criteria that were agreed, you attended sub-group meetings; isn't that right?

A. I attended the first sub-group meeting which took place on, I believe I think it was the 6th; I think it was established yesterday it was the 6th September. There was then a planned sub-group meeting for the if you give me one second, please I think for the 19th September, and the amendments or the if you like, the adjustment to the mandatory tables which AMI were to carry out following the identification of these errors, which they were asked to do, and which they were doing using the input from my memo, if you

recall, dated 15th September.

Following that sorry, I am taking this in very bad order. Let me just do this in a structured way.

On the 15th September, I suggested how they might amend the mandatory tables. They were to do this in advance of the next meeting of the financial evaluation sub-group. When we arrived in Copenhagen for that meeting on the 19th, where the meeting was scheduled, those amendments had not been completed, those adjustments had not been completed. And because the financial scoring is of itself so numeric based, without the reformatted tables and the input from the tables, that financial evaluation could not be progressed.

So I, and I do recall this, I recall finding that when I got to Amsterdam, AMI and I think Jon Bruel and Michael Thrane particularly, if I have those names correctly were endeavouring to complete this work, bearing in mind the 15th was a Friday; the meeting was for the following Tuesday. They had not completed the work by the following Tuesday, so that the financial sub-group had no did not really take place at all.

In fact I remember most of the time waiting around for these amendments or adjustments or reformatting to be completed. They were not completed by the time I left Copenhagen.

CHAIRMAN: I am being pedantic; I think you had a

brief reference to Amsterdam.

A. Sorry, I deal quite a bit with Amsterdam a bit these days; sorry.

But sorry, in Copenhagen; and therefore, I left Copenhagen we left Copenhagen without the word I was using, it was a nonentity; I have no notes of the meeting. I don't think the meeting effectively, as slated, took place.

Then I see that in a document maybe I am going

Q. MR. HEALY: Go right ahead.

A. Is this any good to you?

Q. Yes, it's very valuable.

A. Then I see that there was, in a fax from Andersens, from Martin Brennan, on the 22nd September, 1995, which unfortunately well, I have one reference on it; it's 000979, which looks like a prenumbering

Q. What book are you pulling that from?

A. That reference is from the book of the two documents I first got from Matt Shaw, which were extracts from the Department of Transport, Energy and Communications files.

Q. And you say it's a fax dated ... ?

A. 22nd September, and including a memo dated 21st September. Sorry, it's titled the memo itself is titled its's from Martin Brennan and Fintan Towey, and it's "the work programme for the next approx ten days".

Q. I understand that, yes. That document is at Book 42, Leaf 111. Maybe you'll just continue with the narrative as you understand it.

A. Then I believe that document says that the scoring, if you look at the fifth-last line or sixth-last line,

"The scoring of the scoring of the marketing aspect, financial aspect and other aspects."

And it says "It is suggested that the award of marks to the remaining aspects is decided at a meeting on Thursday 28th."

I take that to be the award of the final results of the marketing aspect, the financial aspect and the other aspects.

And it says "The scoring of the financial aspect will be self-explanatory." I think what they mean by that is it's numeric, and therefore it's quite formulaic and less, if you like, less judgmental.

"Whereas we need to consult each other concerning the scoring of the market aspect." I believe they were only in a position to conclude that financial aspect once they had completed the work on the tables, or the financial tables, which I think they did very shortly before that meeting on the 28th.

Q. I see.

A. So if that were if that and I don't know whether it is considered or is a third financial sub-group, but it is certainly a meeting between Andersens,

Martin Brennan and Fintan Towey in relation to the financial evaluation. Then that may be then I was not at that meeting.

Q. I see. So if I can just clarify that. You were at a meeting on the 6th September; that's the one we discussed yesterday.

A. It's the one with the quite lengthy note that we spoke about yesterday.

Q. And you were then at a meeting in Copenhagen which was, effectively, a non est; is that right?

A. Yes, as I recall, yes.

Q. And there was to be a further meeting on the 28th, which you didn't attend, where Mr. Andersen said the financial evaluation would be completed, and his view was that it would more or less speak for itself?

A. Yes.

Q. And what delayed those meetings, or what delayed the conclusion of the matter at the meeting in Copenhagen that you attended on the 19th/20th was the fact that the hard data wasn't available?

A. That's as I recall it.

Q. And you assume that it became available in order to enable the evaluation to be completed?

A. If you give me one second, I might be able to clarify the availability. There is a document here on which I had hoped there would be a date.

Yes, it's the 20th September, which would have been

the day after I left Copenhagen, sorry, where AMI produced, if you like, reformatted data for input to the evaluation.

To answer your question, yes, I think it was after, it was after that meeting, but before the meeting of the 28th, that that data was finalised.

Q. I see. Maybe we'll just go through those meetings, then. The first meeting was the one you mentioned yesterday and the one of which you made a fairly careful note was attended by yourself, Mr. Thrane, Mr. Riordan, and Mr. Fintan Towey?

A. Sorry, by Michael Andersen sorry, you said Mr. Billy Riordan.

Q. I am sorry, I beg your pardon; I should have said by Mr. Andersen; you, Mr. Riordan; Mr. Thrane and Mr. Towey.

A. Yes.

Q. And it was envisaged that you would, at that meeting, that you would carry out the financial evaluation; that was the purpose of that meeting, presumably?

A. I believe so.

Q. And you made the point

A. I don't know whether it was intended that there would be more than one meeting.

Q. I understand that. You brought up the fact that there appeared to be, as you saw it, a number of serious mistakes in the mandatory tables?

A. Yes.

Q. And you say that you discussed that at length, and it was agreed that this was a serious state of affairs?

A. Sorry, just to be clear, I didn't bring up I didn't bring up the mistakes; I brought up the fact that there were mistakes. The mistakes had already, I think, been identified at that point. But I just want to distinguish between I didn't say there was mistakes in the mandatory table and people said "Really? Tell us about them". What I did say was, just before we went into this, "How are we going to deal with the fact that there are mistakes?"

Q. In view of what we know to be the mistakes in the mandatory tables, you were saying that you take the view that this was a serious state of affairs; and I think what you were suggesting, or indeed I think the meeting agreed that you needed to check the tables, and judging from what you said yesterday, I think you understood that the task of checking the tables would be a mammoth one?

A. Would be?

Q. A mammoth one.

A. I expressed that in the note, yes.

Q. And there seemed to be, I suppose, some lack of enthusiasm for doing that; there seems to be a lack of enthusiasm for carrying out that task?

A. On whose part?

Q. On the part of the meeting.

A. On the part of the meeting; sorry, could you just tell me how you read that?

Q. Well, was it done, first? Maybe we'll find that out.

A. Oh, I think it was done by Andersens.

Q. By Andersens?

A. Yeah.

Q. Mr. Towey suggested that there be a quick and dirty check; is that right?

A. Yes.

Q. What does that mean?

A. I think that what he had intended was, and again I have to say I am speculating here, but I think what he intended, what you would read by that is that he intended to that a high-level review of the essential data be reviewed in order to say whether there is a sufficient level of unreliability in the tables or error in the tables such that a further review, a more detailed review, would need to be done.

So in order to see that whether a less mammoth-like task would be done at first, to see whether what I had thought would be a mammoth task. That's not to say that I was right that there would have been a mammoth task; I just thought it might have been a mammoth task.

Sorry, have I been clear there with what is meant by that "quick and dirty"?

Q. I think so. And was that carried out?

A. Yes.

Q. The quick and dirty check?

A. Yes.

Q. And what did that show?

A. Sorry, I believe it was carried out. Let me just check.

Sorry, I can't quite find it at the moment. I am just not quite sure on that, because there was an exercise done also to compare the internal sorry, the mandatory tables with the internal financial projections. Do you follow what I mean by that?

Q. I think I do.

A. There were, in certain of the submissions, there were two sets, as I recall, there were two sets of numbers, if you like: internal financial projections prepared by the consortium, and then data supplied in the form of mandatory tables.

So there would have been, if you like, two sets of profit and loss accounts, two sets of balance sheets.

Right? That those were compared to see whether they were materially different.

Q. And do you know whether the quick and dirty check confirmed your view that the tables were as unreliable as you thought and that they would need to be reformatted or reworked or whatever?

A. As I say, I haven't found the output I haven't been

able to locate it.

Q. I thought you told me a moment ago that you felt that Michael Thrane had actually done all this work.

A. You see, there was also a second exercise done, which Michael Thrane did do, to compare

Q. Just stick with the first exercise first.

A. Sorry, that's where I came up with the Michael Thrane, so I don't know I can't see yet, or I can't see at this point, I can't put my hand on where that exercise was done.

Q. Let's just get this clear so. A lot of work you felt needed to be done. You thought it was a mammoth task.

At one point there was a question of resources being available. You said you'd have to check with your management whether you could make yourself available. I don't think you made yourself available to do this.

Am I right?

A. I believe you are correct.

Q. If it was done, this was done by Michael Thrane. You thought it was done by Michael Thrane, but you are not so sure, but maybe there are documents in here that will show that it was done by Michael Thrane?

A. I can't recall the output.

Q. What do you mean by you "can't recall the output"?

A. I can't recall where it was recorded it was done.

Q. Maybe I can help you.

A. Thank you.

Q. I am going to read out a portion of the note of the meeting of the 23rd October of 1995. This is at Tab 133 of Book 132 of Book 43. I will remind you of what it contains, first, before I refer you to it.

At the meeting of the 9th October, you made reference, I think, to the fact that at a previous meeting you made reference to the fact, rather, that Mr. Bruel of AMI had stated that he was sufficiently satisfied that the financial tables as evaluated were adequate and true. Do you remember making that statement?

A. I do, and I have seen it I do actually remember making the statement as well as seeing it in documents as well.

Q. Is that statement connected in any way with the subject matter we are talking about now?

A. My statement was to ensure that Andersens were satisfied with every aspect of the mandatory tables, so it is related to that, yes.

Q. So you wanted you were anxious, I think, that Andersens would affirm that they were satisfied, as it were, or assert that they were satisfied with the financial tables?

A. Correct.

Q. You hadn't carried out any check of your own; is that right?

A. I don't believe I did.

Q. And you hadn't checked Andersens' work?

A. I don't believe sorry, no, I didn't, no, I don't believe I did.

Q. And obviously it was for that reason that you are saying, "Look, I haven't had any time to do this, I didn't do it, I haven't checked Andersens' work, I want Andersens to say here and now that they are satisfied that the financial tables are okay, having regard to the criticisms we made"?

A. That is correct.

Q. Now, at the meeting on the 6th September, apart from doing some work, or apart from trying to do work with the numbers which you had to defer, you did some work on suggesting indicators; isn't that right?

A. Yes.

Q. And I am not going to go into the details of it, but there was some discussion about what would be the appropriate indicators to be used to assess or to evaluate some of the financial features of the applications, isn't that right?

A. Yes.

Q. And that was the end of that portion of the meeting. You went on then to discuss performance guarantees?

A. Sorry, let me just check one thing. I am not sure of the order of the meetings.

Q. You needn't worry about the order. At some point you discussed performance guarantees. That was the other matter?

A. Correct, yes.

Q. And the performance guarantees meeting was attended by yourself, by Fintan Towey, by Marius Jacobsen and Ole Feddersen?

A. I see that from the note, yes.

Q. In that book of documentation that I have just given you, I don't know if we have given this a number, the most recent book of documentation abstracted from your BR 1 and BR 2 documents, the first few documents are the ones that you mentioned yesterday. Just briefly I'll just go through them, because I want to come on to another document.

The first one contains your handwritten notes of the meeting of the 6th September; is that right?

A. This is quite a scrappy document, is it? I say that against myself, but

Q. Yes. Do you see that?

A. These are the handwritten notes, yes, which I believe gave rise to the typed note.

Q. Yes. If you go on two or three pages into that document, I think to page 4, you'll see where you start trying to score some of the indicators; do you see that?

A. Yes, I do.

Q. Can you tell me, was there any discussion of weighting these indicators?

A. Sorry, I don't recall any discussion of weighting the

indicators.

Q. Can you tell me, how did you arrive at the totals, the subtotals? Obviously they were only provisional on this document, because you didn't have the information.

A. Which page has the subtotals on it, please?

Q. I think there are subtotals on page 4, are there? If there aren't, you tell me.

A. Sorry, I don't see them.

Q. What are the numbers at the bottom of the document?

A. The 6.7, 7.6, 4.5, I don't know. There was a word written over the word "Craig" which I can't read, do you see that, which is in a circle, or an oval, do you see that at the very bottom? I don't know what that word is, unfortunately, so I don't know what those numbers are.

Q. I think it's "maximum" something, "IRR"?

A. No, I mean there is a word below it.

Q. Sorry, I beg your pardon?

A. What the word above it is says is "Max. Exposure/IRR".

Q. If you look at the monitor, you may find it easier.

A. I can't, I am sorry, I can't make out what that is.

Q. If you pass on from that

A. Sorry, I am not sure that they are subtotals.

Q. All right, don't worry about it.

A. Could you give me one second on one thing? Just let me try something.

Q. I can come to another document

A. Just give me one second; I may be able to shed some light on it, if you don't mind. Again, what I'll be doing here is just simply trying to regenerate, rather than recall.

No, I can't. I can't actually shed any light on it.

Q. What were you trying to do there?

A. I was trying to see if you applied numeric values to the letters, whether it would come back, but I don't think that would work. Have you tried that, please?

Q. Just looking at it now, I was wondering what you had done. But we'll come on to another table, and it might be easier to try to carry out some exercise like that.

The next document contains the narrative of the meeting based, presumably, on your notes and your recall. Then after that you have a narrative of the performance guarantees sub-group; do you see that?

A. Yes.

Q. Do you see, the next document, it says "Qualitative evaluation"

A. Which could you just remind me which one?

Q. If you pass over the two narratives, the sub-groups proceedings.

A. The typed narratives?

Q. Yes.

A. Yes.

Q. The next document is headed "Qualitative evaluation Ireland GSM2", do you see that, 13th September 1995?

A. I see that, yes.

Q. "Qualitative evaluation of the applications dimensions: Finance."

There is a reference to an evaluation meeting at the AMI meeting, Room 6, September 1995?

A. Yes.

Q. Then it says "Furthermore a post evaluation took place in AMI's GSM room on the 13 September 1995."

Were you present at any meeting on the 13th September in Copenhagen?

A. No.

Q. And that meeting well, were you at any meeting in Dublin with AMI on that day?

A. I don't think so. I don't recall, and I don't have any...

Q. All right. If you go on to the next page of that document, these are working documents, I think, to arrive at

A. I just want to I'll check my diary for that day.

Q. In fact, I don't think you could have been in Copenhagen; that's for sure.

A. No, but to take the point whether it was in Dublin, it's not in my diary.

Q. Did AMI have a GSM room in Dublin, did they?

A. I don't know.

Q. They had a GSM room in Copenhagen; isn't that right?

They had a room which we know from other documents, I think, was a dedicated GSM room?

A. I don't recall that.

Q. If you go to the second page of that document, there is a table, and it has a lot of workings on it.

A. Yes.

Q. I think it's your workings, and I think on the first page as well there is some of your writing; isn't that right?

A. Yes.

Q. It has a list of indicators under the dimension finance; do you see those?

A. Yes.

Q. Now, we know that ultimately a different list of indicators was used, but this was part of the process.

What does the writing at the top of the page say?

A. The one with the arrow coming out to it?

Q. Yes.

A. I think it says "Judgement calls based on a global evaluation of the backers".

Q. I see. Thanks. And is that your note of what you felt, I think, or what somebody else said?

A. I don't know sorry, I would think sorry, I don't know, but I think I am speculating that it's most likely my note of what somebody else said.

Q. But it wasn't said at a meeting at which you were

present on the 13th September, in any case, because

that's what generated this document; isn't that right?

The document was generated at a meeting which you were

not in attendance?

A. Yes, I believe so, so I don't think well, it wasn't

said in the course of generating the document, and I

don't know when those handwritten notes were made.

Q. Do you know how the subtotal or the total at the

bottom of that page is arrived at?

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

Q. Yes.

A. I don't.

Q. Do you know how you arrived at any subtotals in this

dimension, finance?

A. I don't recall, no.

Q. To this day, would you know how to work out a subtotal

on this dimension?

A. I don't know sorry, I could look at it; I don't

know whether it would be by applying the numeric value

and seeing what that gave rise to. Do you want me to

try that?

Q. Well, is that what you would do to check? Would you

apply numeric values?

A. Certainly one check I'd try, yes, it would be one way

of looking at it. Then I don't know, and this

comes back to your weightings, I don't know whether

there were relative proportions of importance between

the various financial dimensions, and I don't know whether it simply came down to a judgement call.

Q. But do you recall being involved in it?

A. I don't, no, I don't have no, I don't, no. That's not to say that I wasn't, but I don't recall it.

Q. I understand.

Am I right in saying you don't have any documents which show you how to arrive at a total that you can point me to and show me how to arrive at the total using the same system as is set out in any document?

Do you follow me?

A. Could you repeat that, please.

Q. I don't think there is any document that tells me how to arrive at that total that I could follow.

A. I don't recall one, but that doesn't mean there isn't one.

Q. Around this time, as we know from that document, you were also involved in the presentations; isn't that right?

A. Yes.

Q. And this was an opportunity to meet the members, or the individuals representing the various consortia, and it was designed to enable you to pose a number of general questions to all of them, and some applicant-specific questions to some of them, and also to hear what they had to say about their applications; isn't that right?

A. Yes. I think that's in the minutes of one of the meetings.

Q. Yes. And in any case, we know from the presentations that we have listened to here, and from the transcripts we have seen and I think of which you have seen a copy, that is more or less how it was done?

A. Mm-hmm, yes.

Q. The consortium representatives came in, they made a presentation emphasising the high points, the best points, if you like, of their applications. Then they answered questions of a general nature, and then they answered specific questions, and there was a little bit of dialogue back and forth?

A. That's what I see from the record, yeah.

Q. Now, what was your understanding of the membership of the Esat Digifone consortium as a result of this presentation?

A. That the consortium was 50% Telenor and 50% Communicorp. I must be clear, I don't know whether that is as a result of the presentation or in advance of the presentation.

Q. Well, did the presentation in any way change your view of what the consortium membership was?

A. Not from what I see, although they had held out that they would sell or place 20%, I don't know 20% of the share capital with institutions.

Q. Did you hear Mr. McMeel saying or did you see any

of his evidence concerning this matter?

A. I didn't. I haven't seen any transcript of

Q. He said that he understood that the Esat Digifone consortium consisted of 40% Telenor, 40% Communicorp and then there were the banks, AIB, IBI, Standard Life and Advent.

A. I didn't understand that to be the case.

Q. Are you sure of that?

A. Sorry, that's my recollection. I can't be absolutely sure.

Q. I see.

Are you aware that around this time, on the 4th August, the Minister announced who the members of the various consortia were, and that in relation to Esat Digifone, he said it consisted of Communicorp, Telenor, together with some institutional investors?

A. I wasn't aware of that.

Q. Could I just refer you to a document that I think may have been handed out, but perhaps not put on the overhead projector, when Mr. McMeel was giving his evidence.

A. Sorry, can I just come back on that, because maybe I am being I see that I have some notes on Esat Digifone on my files. Can I don't know how I can guide you toward them. But I have a point here that Communicorp is 40%, Telenor 40% and unnamed institutions 20%, so I may have I can't recall what

my understanding was at that point in time, just when

I look at that document.

Q. When did you make that note? Do you know?

A. I would say I made that note quite early in the overall process, to be honest with you. I don't know the basis for the note.

Q. Could I just have a look at the note?

A. Can I just

Q. Would you just

A. I just have some scribblings on it

(Document handed to counsel)

Q. I haven't seen it.

A. Have you seen this?

Q. I don't think I have come across this. Maybe you'd just

A. I can point you towards it, if you like. It says

"Esat Digifone notes."

If you go to my files

Q. Maybe I'll just read out what it says here.

It says "Esat Digifone notes. Service launch after nine months with 90% coverage, Communicorp 40%, Telenor 40%, unnamed investors 20%". But then you have a bracket with them named: AIB, IBI, Standard Life, Advent. Do you see that?

A. Yes.

Q. If I could just give you that back.

A. Just to come back, I am not absolutely a hundred

percent sure of what my understanding was at that point in time.

Q. Well, Mr. McMeel's understanding was somewhere along those lines; isn't that right?

A. From what you tell me, yes.

Q. And the document that's contained in his file is along those lines, the document that I am just about to refer to.

A. Thank you.

Q. You see this document? You see that it says "J McM" on the top with a number after it. I think Mr. McMeel indicated that was the way his secretary identified his documents. Do you see that?

A. Yes, I see that.

Q. It says "Preliminary Screening of Applications". Do you see that?

A. Yes.

Q. Probably results from, I suppose, some examination of the applications as they came in, a first look at them?

A. Have you a hard copy of this? It's just a bit difficult to read here, and I can't see from this angle. Can somebody just give me a hard copy, please?

Q. Yes.

A. It's just this screen is a bit I have it now; thank you.

Q. Do you see what it says, "Esat Digifone,

composition of consortium"?

MR. NESBITT: Mr. Chairman, I am concerned; My Friend

quoted from what Mr. McMeel said in the transcript,

that he knew that it was a 40:40:20 partnership.

Having gone back to his transcript reference, I can't

find that being said. In fact, what I see is My

Friend asking that question and the witness appearing

to say he might have known; he wasn't certain.

I am concerned that this witness should be under a

misapprehension as to what Mr. McMeel said.

MR. COUGHLAN: I can deal with that. I didn't put

this document to Mr. McMeel because he readily

conceded that his understanding of the composition of

the consortium at the time was as in this particular

document, but we'll bring in Mr. McMeel and put the

document if My Friend has any difficulty about it.

There was no difficulty in the Department of Finance

understanding of this at all.

CHAIRMAN: Carry on.

Q. MR. HEALY: If you like, you can forget about what

Mr. McMeel said for the moment and just look at the

document.

Do you recognise his way of referring to documents at

the top, do you?

A. I do indeed, yes.

Q. Would you have been given access, or would you have

been given these documents as well? Would they have

been put on a GSM file in the Department of Finance?

A. I presume this came from sorry, I am assuming this came from the GSM file in the Department of Finance?

Q. Yes.

A. So therefore it would have been on

Q. Yes?

A. You are asking me whether I had it?

Q. You would have had access to it?

A. There was nothing I wasn't prohibited from seeing the GSM file, although I kept my own two files, if you know what I mean.

Q. I appreciate that, but your own file didn't contain this?

A. I don't see it.

Q. But it does contain what you have shown to me a moment ago, and what you have shown me a moment ago contains something similar to this, doesn't it?

A. It does indeed.

Q. Let's just look at this for a moment. It says

"Composition of consortium.

"Esat, Telenor, (Norwegian PTT)".

I am not sure what PTT means.

A. Public Telecommunications Company.

Q. The Norwegian semi-state telecommunications company, anyway.

"20% to AIB, IBI, Standard Life", etc. Do you see that?

A. Yes.

Q. Could you read out your own note for a moment.

A. "Communicorp 40% Esat, Telenor 40% (Norwegian)" and then "unnamed institutions 20%. (AIB, IBI Standard Life, Advent)".

What I think my reference there is, unnamed institutions, I think is that they said they had they were going to place 20% with unnamed institutions, and possibly those institutions were the ones there. It sounds a bit strange to have "unnamed" and then have names. I think that's how those two aspects interrelate.

Q. Is that your recall of what you thought?

A. No, it's my interpretation of what you see there.

Q. In McMeel's note to file, in any case, there is no doubt about AIB, IBI and Standard Life; isn't that right?

A. Correct.

Q. Now, another document here which seems to come from your files as well. This is a document that came from your BR 1 file, Billy Riordan 1 file; in other words, it was from one of your own files, not from a purely Department of Finance file.

A. Yes.

Q. I'll try and get a hard copy for you now. You don't have to look for your own.

A. Thank you. Yes.

Q. Do you recognise the document?

A. I do. It's from my file.

Q. And what's written on the top? Can you tell me?

A. "Graph" something "expenditure."

I don't know what the it looks like "meeting",

which doesn't make sense.

Q. If we just go through the document anyway. It's

headed "Esat", and it has a list of queries. The

first one is "Who invests in Esat who is the Irish investor?"

"2. There is a going concern qualification in Esat

and in Communicorp at 31/12/94. Have the"

something, blank "any comments to make on these.

"3. Financial strength of Communicorp partners has to

be questioned on the basis of the above. This is a

particular concern in the light of the negative

reserves being on offer for three years by Esat

Digifone.

"4. The Advent commitment is not open-ended.

Assuming things that there is $\text{£}1/230$ million available

for Esat.

"5. Currently Communicorp is owned 34% by Advent and

66% by an Irish investor. However, the Advent

commitment letter indicates that they hold 25%.

Furthermore the commitment letters say that this 25%

cost $\text{£}1/210$ million, while the bid document indicates

that Advent has invested $\text{£}1/219.5$ million. I need to get

a full expose on who owns Communicorp and what percentages.

"6. I don't see any indication of plans for handset subsidization.

"7. The total equity investment requirement is 50, approximately, pounds. However, Communicorp has a commitment of up to £30 million from Advent. Does this mean that Communicorp has an extra £10 million available from Advent should it need it? I say this because Communicorp should only have to contribute £20 million of the £50 million equity investment, i.e. 40%.

"8. On the issue of windfall gains, Esat proposes 35% increase in profit after tax would constitute a" something. "This would be distributed in a number of manners, including a prepayment of the annual licence fee. This hardly benefits anybody but the company.

"9. Presumably the following structure will be in place for Esat Digifone:

"Communicorp 40%, with a capital commitment of 20 million

"Telenor 40%, with a commitment of 20 million.

"Investors (AIB, IBI, Standard Life) 15% with a commitment of 8.5 million. Advent 5%, with a commitment of 3.5 million.

"Total 100%.

"Total commitment, 52. Loans 72, total between equity

capital and loan capital, 124 million".

Do you see that?

A. Yes.

Q. Now, I think I am right in suggesting that this document was prepared by you in advance of the presentations, because it seems to, in some way, prefigure many of the questions that you raised at the presentation, doesn't it?

A. I have looked at this document. I cannot for the life of me recall the origin of this document. I see what you are saying. Part of my and I really have, because this is one I saw in my files, and I really don't recall.

Q. When did you see it on your files?

A. When I was given the files by the by Matt Shaw.

Q. I see. And

A. And I went through them, and I just cannot fathom I cannot just work out the origins, to be honest with you. I say that for a number of reasons: First of all, it is it deals with some issues that I wouldn't have necessarily been alive to, such as the fact that I don't see any indication or plans for handset subsidization.

Now, so I have tried to I have really tried to work out whether this is mine, because it doesn't for example, it doesn't have any reference at the top. I don't see a reference at the top of it in the form of

BR reference; I don't see that reference, which would have been on my documents. It does contain some of my handwriting, though, so I just really struggle.

I also and I have looked at it over and over again trying to understand what it says. "This is a particular concern in the light of the negative reserves being on offer for three years by Esat Digifone".

"Being on offer" is not a phrase that I would ever use. It just doesn't it wouldn't be a normal phrase.

So I am really I struggle to see what the origin of it is. I don't know and again I am moving in the area of speculation I don't know whether I discussed with Andersens and Andersens and myself jointly prepared it. I don't know whether Sean McMahon prepared it. I don't know whether Fintan Towey prepared it.

I just don't know, unfortunately. So I am happy to deal with what it contains, but I don't know the origins of it.

Q. Let's take it step by step.

A. One point that puzzles me somewhat is there is no similar documents on my files for any of the other consortia, whatever.

Q. I see. Did you participate in the questioning of individuals representing any of the other consortia?

A. I believe I did.

Q. I think you had a fairly significant role in the questioning of the representatives of the Esat Digifone consortia?

A. Sorry, I just on the questioning, yeah, I do recall

Q. Let just take it one at a time so we don't get confused.

You did participate in the Esat Digifone consortium quite actively in the questioning of that consortium?

A. In the questioning, yes.

Can I just say that the as I recall, before each meeting, before each of those presentations, we discussed what questions would be asked; and I think it was probably with Jon Bruel that I would have discussed what financial questions might come forward, and perhaps probably with Fintan Towey. But I am speculating there, but I do recall some discussion; I just can't remember who was there. And I remember agreeing the questions that would be asked at the presentations.

Q. Well, one of the matters dealt with in this document, in particular in paragraphs 4 to 7, concerns the Advent commitment to Communicorp. And that was in fact an issue that you took up; isn't that right?

A. When you say "took up", at what point?

Q. Presentation.

A. Yes, I believe I took it up, because I was asked to pose the questions at the presentation.

If I could just beyond, just after that document in my files, there is a handwritten document.

Q. Right, well, maybe I don't have it here.

A. Okay, it looks like this.

Q. If you can just give me that document, we'll get a copy of it. And if we can get the other document you had a moment ago as well. Yes. Maybe if we put it on the overhead projector.

A. Do you want the other document as well?

Q. Yes, if we just put that up as well. Perhaps you'll deal with this document first, the one that's on the projector now.

A. I don't have it in front of me, because you have it.

Q. Can you deal with it on the monitor?

A. I can't read it.

Q. If you can just tell me about that document, what you were going to tell me.

A. Yes. I believe that this document was the notes of the questions that I was to put at the presentation.

Q. Right.

A. Sorry, do you want me to try and read it to you?

Q. Yes, please.

A. I am starting at the lines there is some things at the top, but "The application states that Advent has invested \$19.5 million for 34% of Communicorp.

However, in their letter of 10 July 1995, Advent refer to an investment of 10 million for 25%. Can you confirm that since 10 July '95, Advent have increased their holding in Communicorp by 9% in return for a further 9.5 million?

"Secondly, Advent are providing up to 30 million to fund Communicorp. In what form will this funding be provided to Communicorp? If it is a loan, how will it affect Communicorp" I don't know, it could be "bottom line". It could be.

Now, there's a line drawn, and I believe beneath that are the notes that I probably made. I can't be sure of this, now, but I think they may be notes I think they are notes made possibly in response to the questions.

Do you want me to continue to read?

Q. Yes, please, yes.

A. I think it says "some funding agreed"; it could be "marketing".

Q. Read the parts that you can readily read.

A. I think it says "Drop out credits." Oh, I think that might be a reference to that if a call was dropped, the customer could dial again within a minute, the same number, and not get billed for the first minute, or something like that.

Then it says "IRR 18.2% 15.2% if DCS 1800 came in".

I have a bad smudge; the smudge is worse on this copy,

to be honest with you.

Q. Maybe "instead of"?

A. Okay, I can't see that.

"2004, where it is now. Assumption is 8% "

something "fall in such circumstances."

I think that must be in relation to the DCS 1800 as

being an upgrade or an alternative form of GSM

technology.

"Application states Advent invested 10 million.

"Advent letter 10 million for 25%

"Application 19.5 million for 34% (i.e. 12 million)

"Have Advent increased their investment?

"Respond to make it a condition of licence that

something will be in place within 12 months of launch

(no 30-second requirement)".

Q. Something to do with, maybe, blocking and drop-out?

A. Possibly that again.

"1. Have had to increase from 34 to 47%

"2. Advent have invest extra 9.5 million dollars

"3. Communicorp Irish investors have 3: 1 additional

leverage in voting power.

"4. Advent end up with 37 percent of 40% (plus 5

percent)

"5. Expect to place a further 6% of each party's

equity (i.e. reduced to 34% each) Irish investors

end up in 37% (15% plus" I think it must be "12%",

if it adds up to 27%.

I believe but I am regenerating here, but I believe what's below the line are the notes I made during the presentation.

Q. I understand, of the responses given by the representatives?

A. That's what I believe, but I don't recall. But I believe that the first two paragraphs, if you can call them that, are questions that I was asked to ask at the presentation. Now

Q. We'll just go back to the document you handed me a moment ago, the one where you described Communicorp as having 40% and Telenor 40%.

A. Yes.

Q. This is undoubtedly your own document, isn't that right, generated by you?

A. Correct. I am not sure of the context. I am not sure if it was generated as a result of looking at an executive summary or whether it was generated by virtue of some discussion at a meeting; I don't know.

I don't recall. I don't recall the origin of it, but it's definitely my handwriting; it's definitely my document.

Q. One thing is absolutely clear: It doesn't describe Communicorp and Telenor as 50:50 holders in the company.

A. That's right.

Q. So you must have been mistaken when you told me that a

moment ago?

A. I could well have been.

Q. They are 40:40, according to your own note?

A. According to this.

Q. Then you have "unnamed investors" underneath that

A. Can I just clarify. What might have given rise to the

confusion was that they could have been 50:50 at that

point of time, and this could be reflecting what they

intended to become if they moved to the next stage of

winning the licence. That is again, I am

speculating, but that is what it could have I am

trying to give you as much feel for what could have

been going on.

That could have been why I thought it was 50:50. It

may have been 50:50 in the application. What it may

have said, "We are 50:50 now; we are going to move in

the direction of being 40:40:20".

Q. I appreciate that, but certainly this note records

your impression, you weren't interested in the

details, it was 40:40:20?

A. I am not sure if that records where the share capital

was at the time of the application or whether it

records what the direction in which the share capital

would move, because I haven't said "current share

structure" and I haven't said "future share

structure".

Q. What you had is an application before you at that

stage, before the presentations, and at the presentations you had a number of applicants, and they represented themselves as being those people, isn't that right, or that those were the people who would be applying for the licence and who would be getting it, if they were successful; is that right?

A. Just could you just repeat the question, please.

Q. These were the people who were applying for the licence, and they were saying, "If we get the licence, that's the way we are going to take it"; isn't that it?

A. When you say "these are the people", I don't think that AIB, IBI and Standard Life were applying for the licence

Q. Can I just stop you for a minute. Your note says "Communicorp, Telenor and unnamed investors"; right?

A. Yes.

Q. And then you have 20%, and then you have four investors named; all right?

A. Yes.

Q. Now, you are aware that Esat Digifone asked that in public statements about the ownership of the consortium, those four investors would not be named, for confidentiality reasons; you are aware of that?

A. I don't recall that.

Q. And maybe that's what is that what you are indicating there, that these investors are not named,

because they are not named in any public documents concerning the consortium and the Minister didn't name them. He did indicate that they existed, but he didn't name them?

A. Right.

Q. And you are saying they are unnamed.

A. Sorry, did he indicate that they existed or would exist in the future? Did he indicate that they existed at that point in time?

Q. Yes, I just want to be careful about that.

A. Did he say they were current investors, or potentially future investors?

Q. He said in his public statement, which we'd better put on the overhead projector, and I presume that's based on information made available by the Department. This is from your files now, by the way from the Department files, I beg your pardon, the Department of Finance files.

Was Cabrini Keegan in the Department of Finance?

A. She was. So is this an announcement by the Minister sorry, by Mr. Lowry?

Q. Yes. It's an announcement of 4th August, which was the date the applications the closing date. It says, if you go to the second paragraph: "The Minister is pleased to note a high level of interest in developing the Irish mobile market. Six tenders were submitted before the noon deadline for receipt of

applications. Details for the applicants are as follows".

The next one says "Esat Digifone, a consortium consisting of Communicorp Group Limited and Telenor, together with some institutional investors."

A. I see that, yes.

Q. Does that answer your question?

A. Sorry, it answers what the Minister said, yes, thank you.

Q. But I presume the Minister can only have said what he said based on what civil servants told him.

A. Yes, I agree.

Q. And the civil servants who presumably prepared that document were basing it on what they were told by the applicants in their applications.

A. I believe so, but again, it's not beyond the realms of possibility, I think, that the civil servants could have said this is what the Esat Digifone consortium will consist of.

Q. I think it says "applicants"; do you see that?

A. Yes. And I see "are as follows"; I see that. I don't know you know, I am speculating.

Q. What do the words say, Mr. Riordan? Does it not say who the applicants are?

A. I accept that, yeah.

Q. I mean, is it this is not rocket science. It says the applicants are Communicorp, Telenor and some

institutional investors. Is that right?

A. I agree, it's not rocket science.

Q. But it's very simple. Is there any problem with that document, in reading it or understanding it?

A. No, no.

Q. And I think I am right, correct me if I am wrong, in saying that reading that document, you would be correct in forming the impression that Communicorp, Telenor and some institutional investors were the applicants for this licence on the Esat Digifone application?

A. Could you repeat the question, please?

Q. If you read that document

A. Yes.

Q. it would be reasonable to form the impression that the applicants on the Esat Digifone application were Communicorp, Telenor and institutional investors?

A. I agree.

Q. Now, if you read your document, then, the one that we had, our own document describes the consortium in terms which is similar to those contained in the document that we were discussing a moment ago, the provenance of which you can't quite understand.

A. Yes.

Q. Isn't that right? Your document conveys one extra piece of information, that they are unnamed investors; isn't that right? Because they couldn't be named

publicly; isn't that right?

A. Yes, this document, yes, down there is unnamed, yes.

I don't particularly recall this named or unnamed, but

I see it there, and I see it in the Minister's

statement.

Q. Perhaps that explains why you have written down

"unnamed" and then you actually name them. I mean,

you are an intelligent person, and clearly you have

put an awful lot of work into this. And it seems to

me that that's a reasonable explanation for why you

would say "unnamed", and then name them; isn't that

right?

A. Sorry

Q. Isn't it a reasonable explanation for you writing down

"Unnamed investors" and then naming them, that they

were notified to you or you were informed of them as

people who were unnamed in statements about the

ownership but who were in fact notified to the

evaluators in the applications?

A. Yes.

Q. And now if we could go back to the document, the

provenance of which you had some difficulties with.

A. Yes.

Q. It does contain your writing, as you have confirmed, I

think.

A. Correct.

Q. And you draw attention to the, I think, the use of

English in it, and in particular, you drew attention to the expression in the third numbered paragraph, second sentence: "This is a particular concern in light of the negative reserves being on offer for three years by Esat Digifone."

A. Yes.

Q. Now, it's presumably only in the course of the process you got this document?

A. As opposed to I don't see where else I could have got it.

Q. Exactly. So you must have got it from DTEC, from somebody else in Finance involved in the process, or from somebody in AMI?

A. As I say, I have no idea where the document came from.

Q. But it came from within the process?

A. I believe so. Are you asking whether it might have come from Esat or somebody external? I believe it must have done. It must have come from someone within the process.

Q. Isn't it clear it didn't come from Esat? It must have come from somebody within the process. Judging from the content of it, doesn't it seem reasonable it was generated in advance of the presentations?

A. I agree, yes.

Q. And in advance of the presentations, it contains content which signifies a number of things; firstly, some going concern qualification in Esat. Going

concern qualification would be, I suppose, another way of putting it another way of describing some financial difficulties in Esat Telecom or in Esat Digifone?

A. That would be frequently be used as a term to describe a qualification in an audit report.

Q. Yes. Do you see where it says "At the 31/12/94"?

A. Yes.

Q. Could that be a reference to accounts in existence where Communicorp is concerned, in any case?

A. Yes, I would

Q. And "going concern"

A. Sorry, I would imagine that's what that refers to. I would imagine that it refers to the accounts as at that point.

Q. And "going concern qualification" is a form of accountancy shorthand, is it? Is it the type of thing, or is it the type of expression that might be used by an accountant?

A. Well, the audit report, I think, would contain the phrase "A going concern qualification", or a qualification in relation to a going concern. So it would be that phrase would be in the audit report.

Q. Is it a phrase or an expression that would be used more frequently by accountants than anyone else?

A. Yes.

Q. Is it possible Mr. Buggy gave you this?

A. I really don't know.

Q. I see.

Then if you go on to paragraph 5 in particular, that contains a reference to a number of issues that were taken up at the presentation; isn't that right?

A. Yes.

Q. I think it's safe to say that it's similar to some of the points made in your handwritten note that you were to take up at the presentation, isn't it?

A. I think it pretty closely correlates to the first of the paragraphs of the handwritten notes.

Q. Now, if you go to the last sentence in that paragraph 5, it says "I need to get a full expose on who owns Communicorp and what percentages". Do you see that?

A. Yes.

Q. Somebody is looking for information there?

A. Yes.

Q. Is it possible that this came from Andersens, then, looking for information about Communicorp?

A. It's possible. Do you mean the document I just don't know. It's possible.

Q. Whoever prepared the document had a very good understanding (correlates of the Communicorp/Advent investment issue; isn't that right?

A. Yes, it would appear that they had an understanding, yeah, and I don't recall my having a great

understanding at that point in time.

Q. I see. So

A. But I don't recall that, but

Q. Is it likely that your understanding came from reading this type of document?

A. Quite possibly, yeah.

Q. And then to go to the bottom of the document, which contains a very full breakdown of ownership. Do you notice it shows Communicorp as having 40%, Telenor as having 40%, then three institutional investors at 15%?

Do you see that?

A. Yes, I see that, yes.

Q. And Advent at 5%?

A. Yes.

Q. Which is a reference which could presumably only have come from a close reading of the application to Advent's direct 5% interest in Esat Digifone; do you follow?

A. I follow, yeah, I follow what you are saying.

Q. And not only does it contain the proposed interests of each of the consortium members, it also contains the amount of capital that they were to contribute or would be liable to contribute; do you see that?

A. Yes.

Q. Now, after the presentations, there was a meeting on the 14th September, which was the last the day of the last presentation, in fact. I'll refer you to the

meeting.

A. Sorry, I think I have it here. This would be on the 14th, would it?

Q. Correct.

A. Yes, okay.

Q. It's contained at Leaf 104 of Book 42.

A. I have a version of it, if that's okay.

Q. This meeting was attended by you and by Mr. Jimmy McMeel?

A. Yes, I see that, yes.

Q. I'll just refer you to the main parts of it so that you can refresh your memory.

You'll see that on the it starts off under the heading "Opening", and if you go down to the third paragraph: "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 presentations had served to highlight considerable variation between the applicants."

It goes on to refer to the A4 presentation.

A. Would that have been because it was the most recent one?

Q. The most recent one.

A. Thank you.

Q. It then goes on to review the current position. It

says "The group agreed that the presentations had served a useful exercise.

" the ability of each applicant to work as a team had been highlighted all applicants had been treated equally

" the presentations had served to consolidate the initial views on the applications arising from the quantitative assessment

" the importance both of a foreign applicant having a good knowledge of the Irish scene and an Irish applicant having an understanding of the global picture was noted. Some companies show that they could take a proactive role in developing the market where required.

"Mr. Brennan also stated, and the group agreed, that no further contact between the evaluation team and the applicants was possible, although access to the Minister could not be stopped."

Now, do you see that part of the note?

A. Yes.

Q. Do you recall any discussion at the meeting of this issue of contact with the Minister?

A. I don't.

Q. A number of people who were present at the meeting appear to have mentioned the proposition, or mentioned in notes they made of the meeting, that there was some discussion or some reference to any risks to the

process; do you ever remember that?

A. I am telling what I am going to do; I am going to fish out my copy of these notes and I am going to see if there is anything more on them, if I can find it.

Just to make sure I haven't noted anything.

I have that. I don't have anything written there on my copy.

Q. I'll try and find it in a minute.

A. I do have my copy, and I don't have any further notes that relate to that point, if you know what I mean, so...

Q. Is it in your own BR files that you are getting that from?

A. Yes. It would be I don't know where you have the same reference, but it's Tab 17 on what I have written is BR 2; I don't know whether you numbered them in the same order. I have a whole I have a section of the file that has the Project Team meetings together.

Q. Do you have a note headed "Post presentation meeting"?

If you go to the black book of documents that I gave you this morning, it may be contained in that.

A. Sorry, I don't mean to sort of lose my way here, but what I have in front of me is my notes of the 14th September 1995 meeting; is that what you want me to look at sorry, not my notes, my copy of the notes.

Is that

Q. I understand. I didn't

CHAIRMAN: This is the considerably lengthier document than the minutes, that the minute-taker also furnished a contemporaneous note.

A. Ah sorry, okay, okay.

Q. MR. HEALY: Can we just have a look at your notes and make sure we are ad idem.

Sorry, that has nothing on it, you are saying?

A. No, it does have a reference actually it does have something on a third page, where in relation to the work that needed to be done in the financial indicators and the tables.

Q. Okay. There is another document that may refer to the same thing. I am going to refer you to it now, in the book of documents I gave you this morning, which is

A. These are extracts from my files, are they?

Q. Yes, 17 pages from the back of that document.

A. Yes, I see that.

Q. Do you have a document that says "Post presentation meeting"?

A. Yes.

Q. It's in your writing, is it?

A. It is indeed, yes.

Q. And I take it, from the fact that it's post presentation meeting, it probably refers to this meeting of which there is also an official note, the one I just read out to you?

Could you help me to decipher some of the writing? I

am not criticising it; it's far better than my own.

But if you could start at the top.

A. It says "Risks to process", and it's underlined, and

it says " supplementary analysis capital in A5

EU rules.

"All treated equally no risks.

"Political pressure will come on stream.

"Short listing"

There is a star then. I can't read that, to be

honest.

Q. Does that look like "groupage" or something,

"groups"

A. It could be "groups are", or "groupage".

Q. Maybe it's "groups are possible."

A. "Not with significant time"

Q. "Not worth", I think.

A. Sorry, "Not worth significant time A2 and A6.

Meeting A5 and A3".

Q. Does that say "meeting"? After what might be the T,

it looks like this is an H, or something else.

A. Yes, it does. I see what you mean.

Q. It could be "healthy", could it?

A. It could be "healthy", indeed. I am sorry.

Q. Okay, the next one, go on.

A. "Middle A4 and A1

"comprehensive analysis A1 A3, A4 and A5."

Then "Additional indicators.

Revised figures."

Q. "Revisit indicators", is it?

A. I can't see it, to be honest with you "Indicators.

Supplementary analysis.

"Draft 1 date 3 October."

Q. Or "due"?

A. "Due", sorry, "due 3 October."

Q. Does the writing at the top of the document throw any further light on the contents?

A. I can't make it out. I am sorry.

Q. Now, do you think there is any connection between the note you have made there, "Political pressure will come on stream", and the reference in the formal minute of the meeting which was held the same time, where Mr. Brennan referred to there being no further contact between the Evaluation Team and the applicants, and he stated that access to the Minister could not be stopped?

A. I can't be sure. There could be a connection. I'll tell you what makes me hesitate slightly. The order I can't recall, to be honest with you, but I accept it's possible, absolutely, I do.

Q. When I was asking, and I think when other members of the Tribunal team were asking witnesses what that reference in the official minute meant, it was hard for people to throw any light on it. And I always wondered whether it didn't refer to some prospect of

political pressure, but your note actually refers to political pressure coming on stream. Can you remember any discussion of what form that political pressure might take?

A. I definitely can't, no, unfortunately.

Q. Can you think of any reason why political pressure would come on at that particular time, after the presentations?

A. I am speculating here, and I will speculate. The only thing I can imagine is that once the applicants had finished any contact with the process, that they might have said, "Well, now we'll try and do some lobbying".

Q. Is it also possible that once the applicants had had contact with the process in the form of face-to-face contact with the evaluators, that they might have formed some impressions, rightly or wrongly, about what the evaluators thought of them?

A. Quite possible, quite possible, I accept that, but...

Q. And one of the things you had mentioned at that point, in your own notes of the post presentation meeting, was supplementary analysis on capital in A5. Isn't that right? And you have noted that under a heading

A. I see that at the top of the page, yes.

Q. And you have got it under a heading "Risks to the Process"; do you see that?

A. Yes.

Q. It's the same heading, maybe, as political pressure; maybe not?

A. Yes, it could have been that I am speculating again, I am sorry, but I am speculating, is that would you rather I didn't?

Q. Speculate away.

A. That, perhaps, you know, that's the kind of language that Michael Andersen could use as well, "risks to the process". But I could also you know, in terms of things you know, it's the kind of phrase he might have used in terms of saying things to be done, or gaps to close, or whatever way you want to describe that. But he and I notice there is a line between there is a blank line, if you see, between "Risks to Process" and there is a dash beside "Supplementary Analysis"; okay?

Q. Yes.

A. So I think it might be misleading to necessarily conclude that "Risks to Process" is a heading for "Political pressure will come on stream". Now, I can't be sure about that. I think I could have started by Andersen could have said some of the risks to the process or some of the further things we need to do, and I would have gone " supplementary analysis", and I may not have recorded whatever else he said, or he may not have gone on to say anything else in that regard. Then I may have skipped a line,

because I don't see how "all treated equally, no risks" could be a risk to the process, if you know what I mean.

Q. Yes.

A. So I can't necessarily confirm, even through my speculation, that the risks to the process relates to the political pressure point.

Q. I take it you didn't discuss what had transpired at the presentations with anyone other than members of the Evaluation Team?

A. Absolutely categorically not.

Q. And you are absolutely certain that nobody that you know of discussed it with anyone?

A. Absolutely categorically not. Like, the civil servants and everybody were very, very confidentiality conscious, to be honest with you. I had never been involved in a process that involved sweeping rooms for bugs and things like this, so...

Q. The only sweeping of the rooms was because of the prospect that you might have been overheard by one of the applicants; isn't

A. I don't know. It's the kind of thing I would have said, I wasn't necessarily familiar with those kinds of processes.

Q. The reason I ask you that question, as I am sure you'll know, is because the Tribunal has information that suggests that the Minister met with Mr. O'Brien

on the Sunday following that meeting. You are aware of that? That's the 17th September.

A. Sorry, I have nothing to offer there, to be honest.

Q. That's why I am asking you the question.

A. Sorry, I have seen newspaper reports to that effect.

Just for my own reference, where was that meeting to take place? Where did it take place?

Q. In a public house in Leeson Street?

A. Hourican's, is it? Yeah, I am aware of that meeting.

Q. I think the meeting actually took place in Hartigan's.

A. Oh sorry, pardon me; I didn't mean to show my expertise at pubs. Sorry, I am not aware of anybody talking outside the process.

Q. Did you regard Mr. Colin McCrea as a member of the Evaluation Team?

A. I did not.

Q. Now, after this meeting, I think the financial evaluation process we discussed already was continuing. We already mentioned

A. Can I put some of these down? Which ones do you want to keep?

Q. I just want to bring you on to the next thing I want to talk about. You can get rid of that book, anyway.

Is that the book with the minutes of meeting in question in it? Not the small black one; you'll need that.

We discussed the progress of the sub-group responsible

for carrying out the financial evaluation. You had the meeting on the 6th; then there was a document generated on the 13th, apparently as a result of as a result of what was described as a post evaluation which took place in AMI's room on the 13th September.

You have made some notes on this document, but you weren't present at any meeting in connection with it.

Your next involvement was to go to Copenhagen on the 19th/20th, at which no progress could be made. And then you had no further involvement in completing the evaluation; is that right?

A. That's correct.

Q. So the evaluation was actually completed without your involvement?

A. Yes. As far as I am aware, my next point of involvement was in the review of the finance section of the report, but "yes" is the answer to your question, sorry.

Q. Well, if you could go to that blue folder again, the first or black folder again, sorry the first leaf contains documentation which I think you filed in your BR 1 book as documentation connected with the financial evaluation. And if you can identify that post evaluation document of the 13th September, I can bring you on to the document I now want to ask you about.

A. Yes.

Q. That, I think, is a three-page document.

The next document then says "Questions on financial evaluation dated 11 September". Obviously it's not in chronological order, but it's in your handwriting. I am not going to dwell on it, but do you see it?

A. Yes. Three pages, I see two pardon me, the previous document is a I see the document, yes.

Q. 11 September, a manuscript document?

A. Yes.

Q. Starting with that, if you can go on nine pages.

A. To a set of tables, is it?

Q. Yes.

It says "Version of the 20th September, 1995, background information for the evaluation". Do you see that?

A. Yes.

Q. And what you have here is a set of tables containing numerical information?

A. Yes.

Q. Now, I think that was intended to be used not in the quantitative, although it may have been used in the quantitative as well, but to be used for the qualitative?

A. Yes.

Q. And if you look at the first page on the left-hand side, it says "Marketing aspects", and then you have an amount of information hard data, if you like

relevant to that particular portion of the evaluation;

do you see that?

A. I think it says "market", not "marketing".

Q. "Market aspects". I think it probably should read "marketing aspects", because if you go to the next second-next page, it says "Technical aspects". Do you see that?

A. Just to be that may not necessarily be the case, because I think it might sorry, I am way outside here, but if I can be of help I think it says "assumptions made about the market", not about marketing and marketing endeavours.

Q. I see. Are you sure it's not something to do with marketing?

A. No, it's not marketing; it's to do with market. So the number of GSM2 subscribers would be the size of the market. The total cellular market size is an aspect of the market. Churn on applicant's network is, I imagine, how many people changed, come on and off however, would also be related to the market.

Rather than marketing being in terms of advertising, communication and promotional.

Sorry, I am only trying to be helpful, but that's what I see there. I don't have any recollection.

Q. Fine.

You recall that Mr. Andersen divided his various dimensions up into aspects, do you remember that, on

the evaluation model?

A. I am sorry; I struggle with these terms.

Q. We'll come back to them later.

A. Let me just

Q. It needn't trouble you at the moment.

If you go to the second-next page, do you see it's

"technical aspects"? Do you see that?

A. Yes.

Q. Go on another bit and you come to "financial aspects".

A. Yes.

Q. Okay. Now, if you go to the end of that document, you

will see some workings by you, and then the next

document is a letter from AMI to you of the 26th

September.

A. Yes.

Q. It says "Dear Billy,

"Please find the attached spreadsheets on A1 through

to A6."

A. Yes.

Q. Is that what you'd call those documents we have just

been through?

A. Can you just give me one second, please?

Q. Yes.

A. I believe so. I can't be a hundred percent certain,

but I believe it's highly likely, yes.

Q. So you are being sent on these documents?

A. Yes.

Q. And then the next, second-next page contains another version of the qualitative evaluation, this time dated 27th September; do you see that?

A. Yes.

Q. Can you read the legend on the top in handwriting, the four points?

A. It says "1. Review of tables.

"2. Adequacy of evaluators.

"3. Methodology applied to each evaluator.

"4."

Q. I wonder, should that be "adequacy of evaluation"?

A. I don't know, because I don't know, because I don't know whether "evaluator" refers to liquidity as an evaluator. So I don't know. It reads as "evaluator" to me.

And then "4. Fairness of marks."

Q. I see, right. Then it refers to an evaluation meeting at the AMI meeting room on the 6th. That's the one you were at. It refers to a post evaluation on the 13th that you weren't at.

A. Yes.

Q. And it refers to a second evaluation meeting that you were at on the 19th but didn't actually generate anything?

A. Yes.

Q. Except paper, as far as we can see.

And then on the next page you have a list of scores;

do you see that?

A. Yes.

Q. And each of the indicators under this dimension are given a mark with respect to each applicant, and then at the bottom you have a total; do you see that?

A. Yes.

Q. Do you know how those totals are arrived at on this table?

A. I don't.

Q. If you go to the end of that document and then go on to the next document, which contains it's a manuscript document of your own.

A. Yes.

Q. It's headed "Notes for meeting on the 9/10".

A. Yes.

Q. There are three points on the left-hand side. Can you read them out for me, the top left-hand side.

A. Yes. It says "NB re rather"

Q. "Confident"?

A. It looks like a very incomplete version of "confident". It could be "confident".

Then "2. Sensitivity analysis.

"3. Sigma and" I am imagining it's "Communicorp and Advent.

"Notes for meeting".

Q. Just to the right of that, it says "Quantitative evaluation.

Performance guarantees."

Underneath that it says "Meeting with Donal Buggy".

Do you see that?

A. Yes.

Q. Then it says "Notes for meeting. Points 1 and 2.

"1. Have not checked tables and are relying on the recalculated tables produced by Andersen."

A. Yes.

Q. "2. Need to do a final" I can't read the rest of it.

A. I think it says "Check of", but I can't read the next I can't read the next bit.

Q. Right.

A. Sorry.

Q. Underneath that, then you have "Typos and English"?

A. And "Deep pockets phrase".

Q. Then you have a table, which is similar to the table that we saw a moment ago?

A. Yes.

Q. It's a table for the financial dimensions. And underneath that, then you have a reference to a list of pages and to you have some comments with respect to each page; do you see that?

A. Yes.

Q. I think, you can correct me if I am wrong, that that is a reference to pages from the report of the 3rd October, which may have been given to you in advance

of the full report being put together?

A. You may well be right. I don't have a copy of that, so I can't crosscheck the page references, but it would seem quite possible, yes.

Q. If you go to the report, I don't think you get those page references, because I think that what you got was extracts in advance of their being put into the report; do you follow me?

A. Okay. Sorry, I follow you, and that may well be right. I can't recall, but those extracts obviously what you are saying sorry, if I understand you correctly, what you are saying is I may have got four or five pages and they may have contained the page numbers 38, 39, 40, something like that; is that what you think?

Q. I think so, yes.

A. Okay.

Q. I couldn't tally them up with pages in the report.

A. Right, of any draft?

Q. No, and I understood you to say that you didn't get the full report of the 3rd until you actually turned up at the meeting on the 9th October.

A. I can't recall. That could possibly have well been the case.

Q. The phrase "deep pockets" I think was removed from the report and was replaced by the expression "financial strength".

A. Right.

Q. Does this reference to Mr. Donal Buggy indicate that you met with Mr. Buggy to discuss

A. I believe it does.

Q. what had been sent to you by Mr. Andersen, presumably?

A. Sorry, I cut across you there

Q. Does it indicate that you were meeting with Mr. Buggy to discuss what had been sent to you by Mr. Andersen?

A. It certainly indicates that I was meeting with Donal Buggy. I don't know whether it was to discuss a draft of the report that Donal Buggy had, a draft of the report that I had, an extract from the report that we had been sent, either individually or to one of us. But I believe it does reflect a discussion I had with Donal Buggy. And if I look at my diary, if this is any help

Q. Yes, do see

A. If I look at my diary, I do have "GSM2 Bug 8am-11am on the 9th October". Then I have "a meeting 11am-3.30."

So from all of this, I am reconstructing

Q. You met him

A. that I met him before the meeting.

Q. And you prepared these notes in advance of the meeting?

A. No, I believe these notes were discussed during the meeting with Donal Buggy. I think these are notes

that I took during the meeting with that I had with

Donal.

Q. For the purpose of preparing yourself for the later meeting at 11 o'clock in the afternoon?

A. That's what I reconstruct, to be honest with you. I can't be a hundred percent sure, but I'd be 95 percent happy that that's the way it worked.

Q. Now, you had taken over part of Mr. Buggy's burden when he was on holidays and couldn't attend project meetings as the financially qualified person on the Department side; isn't that right?

A. As the resource that was bringing financial or what I would call financial accounting knowledge, yeah.

Q. And the evaluation, the financial evaluation that took place in this case was originally envisaged as one which would involve you. The meeting that you attended couldn't go ahead, the first meeting; the second meeting you didn't have the relevant information, and you attended no further meeting?

A. Just the very first thing you said was, just could you repeat.

Q. It was envisaged that you'd be at the very first meeting and that you'd be part of the evaluation sub-group dealing with financial evaluation?

A. Yes.

Q. The first meeting couldn't you couldn't conclude anything. You had a discussion about a few

indicators. You pointed to some problems with the information. By the second meeting, that hadn't been sorted out. And you didn't attend any further

A. At the first meeting, we discussed indicators, and we did score some indicators, as you see from

Q. It was clear from the outset that you were to be part of this sub-group?

A. It was.

Q. And it seems obvious why you should be part of it, because you have specific expertise as an accountant?

A. That's right. Just the way it was proposed was that I would attend those meetings to deal with any questions that might arise that I might be able to help with as a result of my accountancy expertise; correct.

Q. But you would obviously you wouldn't be attending at the meeting waiting for somebody to ask you a question?

A. I totally agree. As I said yesterday

Q. I just want to clarify that. If you were at a meeting, you were there to make a contribution as a qualified person?

A. And I would try to be as constructive as I can in those discussions.

Q. And while I can well understand you are anxious to ensure, to distinguish between your role as a civil servant and your role as somebody on secondment, I think it's clear from the vast amount of material that

you generated, that you put a lot of work into all of this?

A. In the areas that I was involved with, yes. I did most of that work in the period of the first three weeks of September.

Q. But you didn't attend any meeting of the financial evaluation sub-group at which conclusions were drawn as to how that aspect of the evaluation should be dealt with?

A. That's correct.

Q. So there was no accountancy expertise at any of those meetings, from the Irish side?

A. At the final if that meeting on the 28th September is considered to be a third meeting, if you like, I was not there, but that's not like, that's not to say that AMI did not bring that expertise.

Q. Of course, but on the Irish side, there was no one?

A. I accept that.

Q. I want to pass on

CHAIRMAN: Five past two. Thank you.

THE TRIBUNAL THEN ADJOURNED FOR LUNCH.

THE TRIBUNAL RESUMED AS FOLLOWS AFTER LUNCH:

CONTINUATION OF EXAMINATION OF BILLY RIORDAN

BY MR. HEALY:

Q. MR. HEALY: This morning we were looking in the black folder of documents, or black ring binder of documents I gave you this morning. We were looking at the notes

you were making at a meeting with Mr. Donal Buggy in anticipation of going to the Project Group meeting of the 9th October; isn't that right?

A. Yes. Do you want me to go back to that?

Q. If you just go back to that for a minute. Now, I think I suggested that what you were doing here was referring to an advance copy of extracts from the draft report of the 3rd October 1995, and that seems to me to be the only way to make sense of your references to page numbers. Do you see that at the bottom?

A. Yes, I see the page numbers.

Q. At the bottom of that document. And what you have done is you have looked at the financial figures, and you have formed a view, and I suspect that that view was formed as a result of a discussion between yourself and Donal Buggy; would that be right?

A. Certainly I think this was discussed between myself and Donal Buggy. What I am not sure is whether I scored this or I extracted it from the report and then reviewed the scorings in the report. I am not sure about which of those gives rise to that level of

Q. I understand. What you have got here is a whole load of grades under each of the applicant codes, A1, A2, A3, A4, A5 and A6. Down along the left-hand we have all the indicators with reference to which the score is given?

A. That's right.

Q. Those scores, with one or two changes, are the same as the scores in the draft, and indeed the same as the scores ultimately in the 3rd October version; isn't that right?

A. As I said, we don't have a 3 October version.

Q. Right, I'll just get it so and look at it. In fact, without referring to the 3rd October for a moment, I think I can help you without the need to juggle too many documents.

If you go back two pages on that black ring binder, you come to the 27th September 1995 version of the qualitative evaluation; do you see that?

A. Yes.

Q. And that has a list of indicators under the dimension finance, and a list of the coded numbers or names for each of the applicants?

A. Right, yes.

Q. And I think that has a set of scores which, in one way or another, and I'll come to the two ways, tallies with what you have got on that page that we were looking at which contains your manuscript notes?

A. Okay.

Q. If you look, for example, at A2 in your manuscript note for a moment you can leave that on the monitor if you look at A2 in your manuscript note and you go down to the item, the fifth item; do you see that?

A. Yes.

Q. "Profit interest", I think it is?

A. Yes.

Q. The score you have put in here is C?

A. Yes.

Q. And in bracket next to that, B?

A. Yes.

Q. Now, if you look at that table, you see the score for that item is B?

A. Yes.

Q. So it seems to me that what's in brackets is the score that was on what was sent to you by Andersen, and what is next to the brackets is what you appear to have been suggesting.

A. Right, okay.

Q. And I think that, as you said, you made these notes in the course of a meeting with Mr. Buggy, so can we assume that it was as a result of whatever discussions you had with Mr. Buggy that you were proposing these alternative markings; I won't say any more than that.

A. I don't recall, to be honest, the C alternative to B. I don't understand.

Q. I appreciate you might not recall it, but isn't that the only reasonable explanation for it?

A. It is an explanation; I can't think of another, yes.

Q. And if you look at all of the other areas where you have brackets, you'll find that what's in brackets is

what's on this document on the overhead projector, on that document that came from Andersens; and what you have next to the brackets would appear to be what was being proposed as the score.

Now, if you go to the bottom line, which has the total, do you see that?

A. Yes.

Q. The total on the document that came from Andersens was A, C, B, C, B, C; do you see that?

A. C, B, C, isn't it? Yes.

Q. A, C, B, C, B, C; those were the totals for the six applicants?

A. Yes.

Q. And what you seem to be suggesting is A, B, C, D, C, D?

A. Right, yeah.

Q. Isn't that right?

A. Yeah.

Q. So you are suggesting slightly different totals; do you notice that?

A. Yes, I see that.

Q. Now, I don't want to have to go through them now, but we know from Mr. Buggy's notes that he seems to have arrived at a similar conclusion at his notes of the same meeting that he had with you.

A. Okay.

Q. So it would appear that those conclusions were

reached, presumably, as a result either of your suggestions or in some way contributed to by what transpired in the course of your meeting?

A. Yes, I would have thought so.

Q. Now, then you went to the meeting of the 9th at 11 o'clock, I think, that morning; isn't that right?

A. Can I just grab something for a second, do you mind?

Q. It's in this minute is in Book 42

A. These are meeting minutes, are they?

Q. Yes. I'll give you the actual reference. Book 42, Leaf 120.

Have you turned that up?

A. Yes.

Q. Now, you see the opening remarks: "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 2 applicants. The Minister is disposed towards announcing the result of the competition quickly after the finalisation of the evaluation report."

Now, if you go on to the next document in Leaf 121, you'll see a handwritten a transcript of a handwritten verbatim note of the same meeting; this was prepared by Ms. Margaret O'Keeffe, who was, I think, taking the notes at the meeting.

Have you got that document?

A. I do, yes.

Q. And the first heading is "Confidentiality". Do you see that?

A. Yes.

Q. "Minister knows shape of evaluation and order of top two.

Minister of State does not know.

Quick announcement."

Then the agenda "Draft report"; that is presumably a reference to the draft report of the 3rd October, dated 3rd October?

A. Yes.

Q. Underneath that, "Future work programme: A, producing draft number two.

"Good working draft produced on time.

Annex should be part of the main report.

Object is 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.

"Different groups examined dealing with commissions

etc.

Relevance of annex dealing with conflict.

Full discussion needed on Annex 10.

Minister does not want the report to undermine itself

e.g. either a project is bankable.

Should be balanced arguments."

Do you see that?

A. Yes.

Q. Now, do you remember we were discussing yesterday the notion of the reference to bankability in your notes on the 18th October version?

A. Yes.

Q. And you thought this might have something to do with something you think that you understood Mr. Fitzgerald to say to Mr. Brennan?

A. Having seen Mr. Brennan's statements, yeah.

Q. But do you see the you see, the note here suggests that this information was conveyed to the well, I suggest, perhaps you'll have to disagree with me or not, that this information came to the meeting in the form of a statement which goes "Minister does not want the report to undermine itself, either a project is bankable".

The "bankable" proposition appears to be connected with some information conveyed to the report from the Minister; do you see that?

A. I see the bankability coming up at that stage, yes.

Q. But do you see that it's connected with a reference to what the Minister wanted?

A. I see the connection there, yeah.

Q. Do you remember that?

A. I don't.

Q. You see the item before it, "Full discussion needed on Annex 10." Do you remember what Annex 10 contained?

A. I don't.

Q. Annex 10 contained an analysis of financial aspects of the top three, I think, contenders: Mobicall, Persona and Esat Digifone; can you recall that section of the report?

A. I don't, to be honest, not offhand.

Q. You see, what I have always thought is that it was in the context of the somewhat negative comments about the finances of Esat Digifone that the Minister's information was conveyed to the meeting.

A. I don't have any recollection of a Ministerial input to the meeting.

Q. I see. I suppose we have to assume that Ms. O'Keeffe's note is an accurate note of what was said. You are not suggesting it isn't?

A. No, I am not, no. Sorry, I am saying I don't recall any input from the Minister to the process to the meetings.

Q. Well, maybe clarify that for me. I don't think the note suggests that the Minister was present.

A. No, but I don't remember anybody saying this is what the Minister wants, or the Minister has suggested that these are bankable. I don't remember any such suggestion.

Q. I see. That is what the note says, isn't it?

A. It says "The Minister does not want the report to undermine itself, e.g. either a project is bankable."

Q. Does that indicate something the Minister wanted?

A. That the Minister does not want the report to undermine itself. I don't think it necessarily indicates that the Minister thought a project was bankable.

Q. You don't think

A. I don't think it necessarily says that, and I don't recall anything, so I can't add anything.

Q. Well, you don't recall the remark "The Minister does not want the report to undermine itself either"?

A. I don't, no.

Q. So you don't recall any part of the remark?

A. I don't, no.

Q. So you are not suggesting it wasn't made?

A. No, I am not.

Q. And you are not suggesting that the note isn't a correct note?

A. No, I am not.

Q. It's just that you don't recall it at all?

A. Correct.

Q. Now, you have your own note of that meeting, but I found it difficult to read it, and hopefully you'll be able to help us. It's in Leaf 123.

A. I think I have it. Do you want me to take you through it?

Q. If you wouldn't mind, because the copy on the overhead projector is, I think, close to the best copy the Tribunal has.

A. Okay. It reads "9 October 1995 Clare Street". There is initials of who was at the top. "MB, FT".

Q. "BR", is it?

A. There is two "BRs", "J. McQ.", another "BR", "DB"; I can't make out the rest of them. Okay?

Q. Go ahead?

A. It says "Agenda.

1. Draft report

2 where to from here.

"1. Draft report.

Description of process should be in the body of the report.

More elaboration required in many areas.

Terminology needs to be explained.

"Annex 10 needs to be revisited. Should those consortia be eliminated? Need to say that the project is bankable and that in an overall context both the consortia have sufficient resources.

Need to avoid undermining the conclusions:"

I just can't make out that word.

Q. "Readers", I think. I am only guessing at it from other notes I have seen of the same meeting.

A. It could be "Readers".

"Secretary, Sean Fitzgerald, programme manager. DD and PF" is David Doyle and Phil Furlong.

"Methodology needs to be elaborated upon, needs to be clear how the document has come together.

"Executive summary would be useful.

"Note: Andersens are sufficiently satisfied that the figures as finally stated are a reasonable and fair basis on which to proceed. They stated that any further amendments which might arise would not make any difference to the evaluation."

Q. I think that's the specific point you wanted clarified in relation to the tables; isn't that right?

A. Yes, I believe it is, yes.

Q. That's why you probably underlined it as well?

A. I haven't underlined it.

Q. If you look to the left-hand side, you see, you have "note" underlined. It's on my copy.

A. Sorry, the word "note" is underlined?

Q. Do you see "note", and underlined? Do you see that?

A. Yes. "Further analysis is not considered necessary."

I think it says "MB believes that this has been done effectively.

"Going through report.

"Grades used instead of marks." "Heuristic", I think is what that word is.

"Description of consortium, expansion of information vis-a-vis different market research.

Work.

Grammar, methodology

weighting, discussions conference call

financial observations to be faxed

end of week methodology session

next week 16/10 2nd draft."

You will see from that, by the way, that I don't make any reference to any input by the Minister.

Q. You don't. But we do know that it's in two other versions

A. Fine.

Q. No, no, we'll just be clear about it. You start off by saying in your report "Agenda"; do you see that?

A. Yes.

Q. And if you look at both the formal note of the meeting and if you look at the official note of the meeting, there is a reference to things that happened before the agenda.

A. Yes.

Q. And in each of them there is a reference to what the Minister knows.

A. Yes.

Q. So you didn't note those things either.

A. No, I didn't.

Q. And your note of course doesn't contain many of the other things that are in the verbatim note; isn't that right?

A. Yes, that's correct.

Q. Now, if we look at the section of your note, if you could read the section of your note on the first page again under the heading "Draft Report", and the fourth bullet point.

A. "Annex 10 needs to be revisited. Should those consortia be eliminated? Need to say the project is bankable and that in an overall context both the consortia have sufficient resources."

Q. Underneath that, "Need to avoid undermining the report."

A. "The conclusions", I think it says.

Q. Sorry, "Need to avoid undermining the conclusion"; I beg your pardon.

So clearly you had read you may not recall it now, but it would suggest you had read Annex 10; would that be right?

A. No, not necessarily. These could have been observations made by somebody else at the meeting.

Q. I see. Somebody else may have said it; I understand.

A. Correct.

Q. And what somebody else was saying, then, was, should

these the people referred to in Annex 10 be eliminated altogether because they had financial problems? That's what Annex 10 says.

A. That's what I think that's what I would interpret, but again I am reconstructing.

Q. And then somebody says "Need to say that project is bankable"?

A. Yes.

Q. And then at the end you have "Need to avoid undermining the conclusion"?

A. Yes. I think it says "Conclusions".

Q. "Conclusions"; sorry.

So it seems that the discussion about undermining the report occurred in the context or in a context in which Annex 10 was being discussed, and the financial troubles of the leading contenders; is that right?

A. I can't confirm that.

Q. Well, isn't that what the note suggests?

A. It suggests, but it doesn't confirm it, yes.

Q. And doesn't it suggest that it was in that context of the financial problems of the lead contenders that somebody said, "Should they be eliminated altogether because they don't because they have financial problems"?

A. Sorry, I don't think it's necessarily that clear that the two are connected, to be honest with you.

Q. Well, what could they mean so?

A. Well, the second point could be made fifteen minutes after the first point.

Q. Well, on what other basis could they have been eliminated?

A. Sorry, no, what I mean, this point maybe we are talking at cross-purposes. The point about needing to undermine the conclusions, that could have been made at a later point.

Q. We are at cross-purposes, yeah, so I am right about the other reasonable interpretation?

A. Could you repeat it?

Q. That it's in the context of the financial problems canvassed in Annex 10, that it was suggested that A5 and A3 should be eliminated.

A. Yes, I think that's a fair statement.

Q. And do you recall that one of the things that Article 19 required was that the candidates, or the applicants who got the licence, would have to have sufficient financial and technical capability? Do you remember that?

A. I do.

Q. It was regarded as something of considerable importance, wasn't it, in the RFP?

A. I don't recall that, but I recall the matter, but I don't recall the problems.

Q. Isn't it the opening section of paragraph 19?

A. I don't know. I'd have to look at paragraph 19.

Q. And it's in that context of the proposition that these problems in Annex 10 might at least warrant discussing somebody being eliminated, that a suggestion was made that the project or that it should be stated that the project was bankable; is that right?

A. Sorry, could you just repeat the question?

Q. I am trying to work out from your note the context in which the expression "Need to say that the project is bankable" was used or was uttered. And it's in the context of somebody suggesting that you needed to discuss, at least, whether, because of what was contained in Annex 10, the consortia named in Annex 10 should be eliminated?

A. Sorry, if I could put maybe if I can try and respond. What I think is that the this "bankable" concept is related to the statement that these projects will be are capable of being funded or capable of being bankable. And I think that is related, as you say, to the perceived relative weakness of A3 and A5. I am just not that well acquainted with Appendix 10, to be honest with you.

Q. That's what Appendix 10 is about.

A. Sorry, I am just not that well acquainted with it.

Q. Appendix 10 says they don't have the money to do the project.

A. Does it? Okay.

Q. Yeah. That's what the opening line says. But it

suggests a solution, I hasten to add.

A. Right. But sorry, just to be clear on this, I think the two are related, definitely.

Q. Mm-hmm.

Then it goes on to say "Need to avoid undermining the conclusions." If this was the result of the report, or the result of the evaluation, what would be undermining the conclusions? How did that arise?

A. I don't know, really.

Q. Was this a desire to avoid or does it indicate a desire to avoid negative comment in the report?

A. I don't know.

Q. Could it refer to anything other than something like that?

A. Again, I just don't know. I can't I can't put together the context of it.

Q. When you went to that meeting, you had just had a meeting with Mr. Buggy; isn't that right?

A. Correct.

Q. And as a result of your meeting with Mr. Buggy, you had formed a view as to the scoring of the financial evaluation indicators and the finance dimension of the evaluation; isn't that right?

A. Yes.

Q. And your view was not just that the parts of the report dealing with that section should be improved by introducing better text; you also had a view that the

score was wrong, isn't that right well, that it should be different?

A. Yes, yes.

Q. And do you recall if you brought that to the attention of anyone at the meeting?

A. I don't recall, no.

Q. Is that because you were told at the meeting that nobody wanted a report that would undermine itself?

A. No, I don't believe so.

Q. Why didn't you bring it to the attention of the meeting, then?

A. Sorry, I am not saying I didn't bring it to the attention of the meeting. I am saying I don't recall bringing it to attention of the meeting.

Q. Your note doesn't mention any reference to you bringing that to the attention of the meeting.

A. That's correct.

Q. It was the one thing that you prepared for in advance of the meeting; isn't that right?

A. Well, if you see over the page, on the second, there is a section that says "Going through report". And I think that's the point at which, over quite a lengthy period, comments were made on the report. I would say probably it was at that stage, through that part of the meeting, that the comment would have been made, but certainly

Q. If we could just stop there for a minute. You haven't

any note of having introduced your comments at that part of the meeting?

A. I see that, yes.

Q. Although you have gone to the trouble of noting on the previous page your requirement that "Andersen assert or state that they were satisfied with the tables"; do you see that?

A. Yes.

Q. And you have made a careful note of that?

A. Yes.

Q. And you have made no note that you went through the matters, that you and Donal Buggy had gone to the trouble of noting the previous hour or two, I suppose?

A. That's totally correct, yes.

Q. And does it not seem, therefore, to be the case that you probably didn't bring that to the attention of the meeting?

A. I wouldn't accept that at all.

Q. Wouldn't you?

A. No.

Q. All right. But if you did bring it to the attention of the meeting, then, there seems to have been no discussion of it, to judge from any other note of the meeting.

If you look for a moment at we can forget the official minute; that doesn't tell you very much. If you go to Margaret O'Keefe's note on Leaf 121, and if

you go down through the various headings, you will see that there are references to your name in, I think, one or two places.

On the third page, there is "Billy Riordan, methodology stitched back closer"; do you see that?

A. Yes.

Q. That seems to tally with something mentioned in your own note.

A. Okay.

Q. And on the next page, "Billy 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 ten more people would come up with the same results. Because of uncertainty cannot trust quantitative."

Do you see that?

A. Yes.

Q. No reference there to your introducing any alternative suggestions for scoring the financial dimension?

A. Or discussion of financial strength, yes, I agree.

Q. If you go on to the next reference to your name, "Billy Riordan: Do we carry out any further assessment of the validity of the information presented?"

A. Yes.

Q. What do you think that was about?

A. I think whether we needed to do any further assessment

of whether information had been presented by people was correct.

Q. In other words

A. So further background checking on information presented.

Q. And what was the answer you got? Do you recall?

A. I don't.

Q. I think, in fairness, judging from your own note, there may be an answer to that. Maybe I am wrong.

In any case, the changes that you had proposed in the scoring

A. Are you finished with this minute?

Q. For a moment, yes.

A. Because I just think that if you go forward to page 7 of the minute, if you see the top of the page, it says "Financial risks". And it says, "No doubt that A5 will survive. A3 have agreement in place that if one shareholder does not come up, the others will pay.

Put in requirements in licence conditions."

I believe that's a possibility where my where that point might have been discussed.

Q. If you look at that, it seems to be with reference to page 40 of the report; isn't that right?

A. Correct.

Q. And page 40 is about sensitivities, risks and credibility factors?

A. Right.

Q. It isn't the section dealing with the financial evaluation?

A. But two pages earlier would have been.

Q. Page 38. If you go to the reference to page 38, do you see that, two lines up, page 38, and it says "A6 to be looked at".

A. Yes, I see that.

Q. It doesn't say anything else, does it?

A. No.

Q. I suppose it's at that point, if at any point, you might have introduced your suggestions as to the scoring?

A. What I just want to be clear about is if I had a concern about a scoring of any point, at any point, I would have brought it up. And I want to be absolutely clear about that.

Q. Well, did you have a concern?

A. If it's noted there in the handwritten minutes, then I would have brought it up. Sorry, if I had a question, rather than a concern, if I had something that required explanation, rather than a concern, I would have brought it up.

Q. Right. So if you brought that up at the meeting, and on the basis of what you tell me, it would have been brought up, and if it was brought up, we know that those scorings weren't changed, so therefore somebody there was some discussion, and then it was

decided not to change the scoring?

A. Correct.

Q. Do you remember that?

A. I don't.

Q. That would have been a fairly significant thing at the meeting, wouldn't it?

A. Not necessarily. If the reason for the scoring was explained, and it was satisfactory, then that would have been fine; so it wouldn't necessarily have been a major issue.

Q. But again, I suppose, if it had been brought up and had been mentioned, you'd have put in your note "Scoring of finances okay"?

A. Not necessarily.

Q. I see. Okay.

I want to go to Book 56, please.

A. Sorry, do you want to go on? I'll come back to something

Q. Do you want to draw my attention to something?

A. I haven't been able to put my hand on it.

Q. We might be able to find it here if you tell me

A. I am just looking for the draft of the 3rd October, my draft, the draft I would have reviewed.

Q. I thought you said in your response to the questionnaire, you didn't get it. You see, that's why I suggested to you, because what I thought you got was a couple of extract pages from it.

A. All the extracted pages from it.

Q. All right. I don't think we have it here, but I'll try and turn it up for you.

The next thing that happened after this well, if I can clarify one further aspect of this meeting. I just wanted to check one thing about the meeting before I leave it. You don't need to open it. I just want to see if Mr. Buggy is recorded as having made any mention of I want to see if Mr. Buggy was mentioned as having made any contribution.

A. Sorry, could you repeat what you are saying?

Q. I am trying to see from Ms. O'Keefe's note whether Mr. Buggy is recorded as having made any contribution to the meeting of the 9th.

A. I see.

Q. And it doesn't appear that he is noted as having made any contribution.

As of that moment, it would appear that the financial evaluation up to then had been carried out without any direct involvement from the either of the two Irish accountants; isn't that right?

A. Apart from the earlier meetings, yeah.

Q. Yes. Mr. Buggy, I presume, was the person who was intended to be part of the group, but it was because of his absence that you became involved?

A. Correct.

Q. And I suppose it was to bring him up to speed, then,

that you and he had a meeting subsequently?

A. Are you referring to the meeting on the 9th?

Q. Yes.

A. No, we may have met before that.

Q. I understand. But if you did meet before that, again, it was presumably to bring him up to speed because he wouldn't have been at any of the meetings; although not much happened at them, he wouldn't have been at them. Isn't that right?

A. Yes.

Q. So that neither of you was at any Evaluation Group meeting at which any final concluded result was reached in relation to finance?

A. Correct.

Q. And although you had queries, you think that they were brought up, but you have no note of them being brought up at the meeting of the 9th?

A. Yes.

Q. I want you to go to Book 46, and to what I think is your version of the 18th October Book 56 your version of the 18th October version of the evaluation report. It's at Leaf 5.

A. Sorry, this is the 18th October draft, is it?

Q. Yes. Do you see it?

A. Yes.

Q. On the front page you have some notes?

A. Yes.

Q. Which seem to refer to, firstly, to the 24th October; do you see that?

A. Yes. Sorry, when you say "firstly", at the top of it, yes.

Q. Then underneath that there is some very hard to decipher manuscript, and then A, B, C and the word "black". What's that about? Do you know?

A. I don't know, to be honest.

Q. There are two different types of writing in it?

A. Two different pens, yeah.

Q. Two different pens. It would seem that the black indicates later marks and that the lighter pen indicates earlier marks.

A. Okay.

Q. I'll show you why I think that in a moment. In relation to one set of grades, the grades are put in brackets, and you raise a query about this in the lighter ink, and in the black ink you then say "Brackets removed"; do you follow me? I'll show it to you later on.

Are you familiar with this document?

A. I am familiar with it, yes. Sorry, I haven't read it, but I am familiar with it.

Q. Well, could you go to page 6 for a moment.

Now, you have got a number of manuscript marks on that page in two different pens: dark pen and lighter pen.

And do you see the second-last paragraph, where it

says "The draft report discussed on the 9th October has, following the incorporation of comments from the PTGSM, culminated in this final report. As unanimous support was given by the PTGSM to the results of the evaluation, Andersen Management International was requested to submit this final report." And you have crossed that out.

A. Yes.

Q. And you appear to put a question mark next to it as well; do you see that?

A. Yes.

Q. And I take it that that is because you didn't give unanimous support to the result of the evaluation?

A. No, that could have been that could reflect comments it's more likely to reflect the comments of the meeting. And do you see beside the cross out, I have written "stet".

Q. I don't want to catch you out, so I'll stop you there.

I have another note from you on another copy of this, and it's in this document, BR 2 documents that were handed out, I think, yesterday. It will be put on the projector now, and I'll give you a copy as well.

This is an extract from the report that seems to have been independently faxed to you. I am only saying that because it's in your papers, but not as part of the whole report; it's simply as part of a number of pages from the report.

And do you see where it says "Finally the results were put in the structure of this report and presented at PTGSM meeting on the 9th October. As unanimous support was given by the PTGSM to the results of the evaluation, Andersen Management International was requested to submit a final report". There is a question mark next to that.

"Don't agree that this took place." Do you see that?

A. Yes.

Q. Wouldn't that suggest that I am right, then, in saying that you didn't agree with that statement in the report?

A. Again, I am not sure whether that's my view or the view of the wider group. Do you follow me?

Q. Well, what group were you meeting with when you made that note, then?

A. Well, I may have made that note as a result of the other note. I don't know when I made that note.

Q. I am trying to find out from the document now. I can't see where it came from, but it seems to be part of a 17-page fax. Now, we know that it can't be it doesn't seem to have been part of the full report of the 3rd; it can't have been earlier than the 9th. Do you understand me?

A. Yes.

Q. Because it refers to a meeting on the 9th. It must have occurred before the report of the 18th October

A. Before the 18th October?

Q. report was put together.

I think the entire document has now been identified
for me and I can deal with it.

If you look in your own notes, you may find a fax
document from Andersen Management International to
Fintan Towey.

A. This would be in my own notes?

Q. It's at BR 2, Divider 24.

A. Thank you.

Q. We will put it on the overhead projector as well.

A. It appears to be the 11th October is the fax
date 11th October is the date on the fax cover
sheet.

Q. Go to the top of the document, please.

A. Yes.

Q. I am trying to look at the hard text myself. Now, the
document seems to be a fax to Fintan Towey; do you see
that?

A. Yes.

Q. From Michael Andersen. Then on the top it's dated
the 11th; if we just go up a little bit, we'll see the
date.

A. Yes.

Q. You can see it from the hard text?

A. Yes.

Q. Now, at the top right-hand corner of the document,

there is a note, "16/10/95"; do you see that? And it seems to say "Seen by JMM", which I presume is Jimmy McMeel; isn't that right?

A. Yes.

Q. Now, if you go to the last page of that document, that fax, I think maybe it's not the last page in the document you have got, but if you go to the page that I have put on the monitor now and on the overhead projector. Do you see it?

A. Yes.

Q. That's your handwriting on that page; isn't that right?

A. Yes, it is, yeah.

Q. Does that suggest that you were expressing your own view in relation to that passage of the report?

A. Well, I see that it says, as you say, "Seen by JMM", so it could have been as a result of discussion between myself and Jimmy McMeel, which would have been before the draft of the 18th October, yeah I am sorry, I am saying that for my own purposes.

There appears to be handwriting of Jimmy McMeel on it as well, so that's what makes me think that myself and Jimmy McMeel may have discussed this.

Q. But if you have discussed it with Jimmy McMeel, are you not then recording your own view

A. Not necessarily, no.

Q. that he wasn't at the meeting of the 9th?

A. Oh sorry, I see what you are saying, yeah, okay.

Sorry, does that necessarily mean it's my view?

Q. Well

A. Because I may well have reported to Jimmy what took place at the meeting of the 9th, straight afterwards, and told him what happened.

Q. Yes. But that's your handwriting?

A. Yes it is, definitely.

Q. It's your handwriting?

A. Yes.

Q. Isn't the only reasonable interpretation of it that you wrote that when you were given this document, or that you wrote it at a meeting with Mr. Jimmy McMeel, and if you said at that meeting, "Don't agree that this took place", meaning unanimous support for the result, that that can only be as a result of what happened at the meeting?

A. Correct.

Q. Now, it can only mean that other people didn't give unanimous support or that you didn't give unanimous support?

A. Correct. Can I just have a quick second just to look at this minute do the formal minutes of the meeting reflect unanimous support?

Q. I don't think they do. And you are not the only one to note this.

A. Sorry?

Q. You are not the only one to note this.

A. To note that there wasn't unanimous support at that point, I see.

Q. Yes.

A. Okay, yeah, I don't see it in the official minutes either. I am coming at this document completely cold, so that's why I may need to work my thoughts on it.

Q. Of course. But you clearly were anxious to emphasise this, because you made a note on it, and is that perhaps because your own views were not accepted, having put them, about the result on the financial dimension?

A. No.

Q. I see.

A. Not as I recall. I could be something as fundamental as that probably would have stuck out in my memory.

Q. But you are absolutely clear there was no unanimous support for the result at that meeting?

A. I don't recall it now, but I see that I recorded that there was some question mark about that statement that unanimous support was given at that point, yeah.

Q. Well, not some question mark. Let's be clear about this. This is a very important aspect of the inquiry, Mr. Riordan. It says "Don't agree that this took place". It's not just a question mark. You are saying "I do not agree that this took place."

A. Sure.

Q. So there was, as far as your note is concerned, there was no unanimity at that meeting?

A. Yes.

Q. And it may interest you to know that Mr. Buggy, in his notes on that section of the report, crossed out that section.

A. I haven't seen his

Q. Yeah, well, you may I may refer you to one or two parts of it, but I don't want to take you through it in detail.

Now, you made a lot of notes on the report. I am not going to go through them all. If you could just go on to page 14 for a moment, please.

A. Sure. Yeah.

Q. You have that page?

A. I do indeed, 14, yeah.

Q. And you see the heading "Marketing Aspects"?

A. Yes.

Q. And you have a lot of there is a lot of manuscript on the page; tots, figures and so on?

A. Yes.

Q. And it all appears to be in your handwriting; isn't that right?

A. It does indeed, yeah.

Q. Now, you see the second sentence in the paragraph that begins maybe I should read the whole paragraph, the

paragraph that begins "The dimensions of the marketing aspects are identified as market development, coverage, tariffs and international roaming plans.

These dimensions are all mentioned directly in paragraph 19 of the RFP document. Market development ranks as the most important evaluation criterion of all, whereas tariffs have been offered a place as number three; coverage and international roaming plan both rank as less important as they have been lined up as number 5 and 6 indents of paragraph 19 respectively."

A. Yes.

Q. I suppose it's interesting that the word "offered" is used there in that Danish English. It might throw some light on the document we were looking at this morning. Do you see that? It just occurred to me.

A. That's true.

Q. Maybe the document this morning had an Andersen provenance.

You have some comments on the right-hand side. I think you say "Market development and credibility of business plan"; do you see that? Is that what it says on the right-hand side, in manuscript?

A. "Market development and credibility of"

Q. "Biz" something. I think that what that is is a reference to the first criterion in paragraph 19.

A. Right.

Q. If you go down to the bottom of the page, you might find something else that is perhaps of some assistance to you. Do you see in the last sentence is "A5 has the most elaborate approach to market development the dimension with the highest priority and the highest weight, (c.f. paragraph 19 of the RFP document)."

You seem to have written in "Part of the dimension".

Do you see that?

A. Yes.

Q. And that may be a reference to the fact that market development and credibility of business plan is a criterion that's broken down into a number of different dimensions, of which market development is only one?

A. Right.

Q. And you are probably drawing attention to that point.

A. Well, sorry, I must stress, these could well have been points raised by other people at the meeting. These are not necessarily my points. That applies to all these types of notes. In fact there are umpteen examples of where I have made comments that I really wouldn't have been in a position to author, if you know what I mean.

Q. Maybe that will help us to identify when and where some of the comments were made.

Did you get a copy of this report in advance of the meeting of the 23rd?

A. I am sorry, I just don't know. It's something I have asked myself. I don't know.

Q. If you didn't, obviously you were making these notes as the meeting progressed; isn't that right?

A. Yes, if I didn't have it beforehand, correct.

Q. This would have been the first and last time you had have seen this document in time to make any changes; isn't that right?

A. Yeah, I think so, yeah.

Q. Because after this meeting you had no more role in the matter; isn't that right? You had no further role in the matter?

A. If this was the meeting on the 23rd.

Q. Yes, and even if it went into the 24th, that was it, as far as you are concerned?

A. Sorry, beyond that point, yes.

Q. Do you see the tots that you have carried out? Do you see those?

A. In this "marketing aspects" table?

Q. Yes.

A. Again, I can't be sure that I carried them out or that they weren't discussed at the meeting, if you know what I mean, but I have seen the ones that I have recorded.

Q. Okay, for the moment let's assume that you are writing what you have seen or what you have heard being discussed.

If you look at the first if you just go to the section in the gap between paragraph 4.0, and 4.1.

A. Yes, I see it.

Q. You have three things: Market development experience financial key figures".

Do you see that?

A. Yes.

Q. "Financial key"?

A. "Key", anyway.

Q. After that you have a question mark, and it says "Agrees to"

A. It could be "quantitative evaluation".

Q. Could it? And opposite

A. Sorry, it could be the qualitative or quantitative.

Q. I see.

You have then three weightings, opposite market development, experience and financial key; do you see that? 7.5

A. I have three percentages, yeah.

Q. 10, and 15.

A. Yes, sorry.

Q. And if you look at the marketing aspects in the table, for market development you have put in, next to it, the figure 7.5%; do you see that?

A. Yes.

Q. Now, what do you think you were either doing or

recording somebody else as doing by inserting those figures?

A. I don't know, because there seem to be other percentages afterwards, 18.5 and 44.4.

Q. Yes.

A. I don't recall.

Q. Well, the 7.5, 10% and 5% that you have mentioned in fact relate to the evaluation model, don't they?

A. Sorry, the quantitative evaluation model?

Q. Yes.

A. I don't know, but...

You mean Tab 2 of that other folder that we were looking at?

Q. Yes, it's on the overhead projector. And it's on the monitor as well.

A. They could well do. Let me just...

Except for "Tariffs" has 18, and it has 15 here, doesn't it?

Q. Yes, but we know the 15 is a mistake; that's clear.

A. So the 15 should be 18

Q. Well

A. in the document on the screen?

Q. No. Don't you know the document on the screen came into existence before the change was made resulting from the EU intervention? Do you remember that?

A. Sorry, okay.

Q. So the document on the screen had to have it in at 15.

A. So after the EU intervention, am I right in saying the 15 became 18 and the licence fee became 11? Is that it?

Q. Yes. And do you remember you noted those changes yourself in your own notes on these documents?

A. Yes. So that would appear that those percentages tie up to that, yes.

Q. Now, somebody seems to have done a tot there, do you see that, or you did a tot, one or the other?

A. Sorry, although again, now that I look at that, see where it says number 4, "international roaming plan, 7.5", and it says on this item on the screen, it says "number of international roaming agreements, 6".

Q. I am going to come to that.

A. Sorry, I just can't be that clear on that, to be honest. I can understand what you are saying, but

Q. I was only referring you to the top. I just wanted to check that firstly, the three weightings at the top, 7.5, 10 and 15, they certainly tally with this document, don't they, with the exception that we know that there had to be a renormalisation for the reasons that we discussed earlier?

A. Yes, that seems to be right.

Q. Now, then there is a tot, and the tot seems to be based on taking the scores and applying the weightings?

A. Right.

Q. And as you have pointed out, the weighting for international roaming doesn't seem to appear anywhere in the documentation we have seen up to now; isn't that right?

A. Say that once more.

Q. 7.5.

A. Could you just repeat the question, please.

Q. The tot is based on applying a weighting to the scores, and the weightings that we see for market development, coverage and tariffs are ones that we have seen in the documents?

A. Yes, sorry, this is the six I mentioned, yes.

Q. The weighting for international roaming plan is one we haven't seen in any document.

A. Right, yeah.

Q. So unless you can tell the Tribunal that you were involved in doing this tot, it would appear that there was you were recording quite different views about weightings at this point on the 23rd; isn't that right?

A. As I say, I can't be clear whether it's my own views or somebody else's views.

Q. Well, if you look at the tot, and you can't say how the tot was arrived at

A. If you refer to the 1.77, for example?

Q. Yes, and the 1.565.

A. I can't I can't recall that.

Q. But whoever came up with that tot came up with a result that was different to the result in the "Subtotals" line of the table; isn't that right?

A. Yes.

Q. Because he has given the highest mark to B sorry, the highest mark to A3, whereas the table gives the highest mark to A5; isn't that right?

A. I see that, yes.

Q. Can you recall any discussion about this, seeing as there seems to have been whatever happened, there seems to have been an amount of material generated for your note?

A. For my note here on this

Q. Yes.

A. Yeah.

Q. Is it possible that you were doing what you were perhaps naturally, as an accountant tempted to do when I showed you one here this morning, and that was to carry out your own tot?

A. It's possible, but I just don't know.

Q. From the fact that there are figures on this page, isn't it clear that somebody was carrying out a tot based on the conversion of marks in the form of letters to numeric marks?

A. Yes, but I am not sure I don't know whether the weightings necessarily carried through. I just don't know whether those weightings from the quantitative

analysis carry through to this, necessarily.

Q. That's one of the questions the Tribunal has as well.

A. In other words, I am not necessarily sure it's correct to apply those weightings in the qualitative analysis.

Q. Because they were fixed for a quantitative analysis.

You could apply them if you agreed to do it, couldn't you?

A. I suppose

Q. There is no reason to say "We'll apply the same weightings"?

A. Yes, I agree. If you decided if you decided you know, if the team decided to do something

Q. If the team decided "We'll use these weightings for the quantitative evaluation", there was nothing to stop them saying at later point, "We'll use them as well for the qualitative"?

A. I would have no view on that. I would ask Andersens whether they thought that was a fair approach.

Q. And you'd expect to see it documented somewhere?

A. If it was discussed, I would expect to see it documented.

Q. Could you go to page 18 of the report for a minute.

A. I have it.

Q. Just to put this page in context. The table we looked at a moment ago contained a table setting out the result of the marketing aspects of the qualitative evaluation.

A. Okay, yes.

Q. It drew together the results of four dimensions:

market development, coverage, tariffs and

international roaming plan.

A. Okay, thank you, yeah.

Q. Now, on this page, what we are looking at is the work

that went to make up the results for the four

dimensions.

A. So that comes up into the previous table we looked at.

Q. Precisely. So that what we are now looking at here is

the table that generates the score for market

development.

A. I see that, yes.

Q. So that A1 gets a total score for market development

of C, and that C is translated into the table for

marketing aspects?

A. I see that, yes.

Q. And that C is generated by totting up the results

achieved by A1 on the evaluation of its application

with respect to each of ten indicators; do you see

them?

A. Yes.

Q. Now, I take it all these numbers are yours, and I am

going to I won't say that you put them in when

carrying out your own tot.

A. It's my handwriting.

Q. Yes. Were you carrying out your own tot?

A. I don't know. I don't know whether that was a tot that was in wider discussion or whether I was doing it myself.

Q. Well, doesn't it seem that you were doing it yourself? Because you have put next to each 5, you have put an A; next to each A, you have put a 5; each B, you have put a 4; and so on?

A. That could have been done by the Project Group as well in discussion.

Q. I appreciate that, but isn't it unlikely that if somebody else was doing the tot, you'd go to the trouble of writing down everything, unless you were going to do the tot yourself?

A. No, not necessarily.

Q. You say that doesn't represent you carrying out your own tot?

A. I am not saying that. I am saying I don't know whether it represents me carrying out my own tot or somebody else carrying out a tot.

Q. What's most likely?

A. I don't know, really, to be honest with you. You know, just

Q. Maybe I am misunderstanding something, Mr. Riordan, but next to every A you have put a 5, next to every B you have put a 4, every C a 3, every D a 2, and every E a 1.

A. Yeah.

Q. I can see no other reason why you would have done that except to carry out your own tot.

A. Unless the Project Team unless there was a group of people saying "Let's try this exercise".

Q. Yes. Do you know how the subtotals are arrived at?

A. I presume the 29 is the addition of the 3 plus the 4 plus the 1, etc. I presume.

Q. It's impossible to say from the report?

A. How the 29 is derived?

Q. It doesn't say on the report how the subtotal is arrived at.

A. Can you just tell me exactly what you mean by "the subtotal"? The C, or the 29?

Q. The C is the printed subtotal, isn't it?

A. Yeah.

Q. I think the 29 you'll get if you add all the numbers.

A. Yeah, that's what I think, yeah.

Q. Is that how the exercise was carried out first day, do you know? Do you know how this exercise was carried out first day, how do these scores come to be in the form be documented from As, Bs, Cs Ds and so on?

A. If I take the line "Market Research", how the score was derived for A1

Q. Yes.

A. I don't know how that was derived. I presume that was an output from a sub-group.

Q. You don't know how the totals were arrived at?

A. At the bottom, the C at the bottom again.

Q. Yes?

A. I don't recall how it was arrived at.

Q. Mr. McQuaid said in his evidence each of the elements

is given a lettered score, then they were all

converted into numbers, and then they were added up?

A. Okay.

Q. The average obtained, and then converted back into

A. That seems to be what happened there, all right.

Q. Is that what happened in all the evaluation

sub-groups, do you know?

A. I don't.

Q. Do you know if there was a weighting to be applied to

these?

A. I don't. I don't recall a weighting in relation to

the finance sub-group.

Q. You weren't there at the finalisation of the work of

that sub-group?

A. That's correct.

Q. And I think you told me a moment ago you don't know

how the tot was arrived at; isn't that right?

A. Sorry, yes, yeah. That's correct.

Q. If you go to page 28, you'll see that you seem to be

asking or somebody seems to be asking questions

like the ones I have just been asking you. See the

word "Weighting" with a question mark next to it?

A. Yes.

Q. It says, I think, "Weights applied?" On the right-hand side, in your handwriting; do you see that?

A. I have half the words, if you know what I mean, on the photocopy.

Q. Then it says "Not to be given". Do you see that?

A. Can I just read that? Sorry, "Not to be..." I can't read

Q. I think I have a file here from Finance; it may be a bit better.

It says "Not to be given", and underneath that, "What is the weight?"

A. That's what it says, "What is the weight?" Okay, I have only three squiggles, to be honest with you. The sentence above, "For this reason the marks awarded" that's what I am trying to understand "under the different dimensions should not contribute with the same weight to the calculation of the final marks of the technical aspects."

I'll come back to this, but the technical aspects is a dimension; is that

Q. No, no, technical aspect is an aspect of which there are a number of dimensions.

A. Sorry, okay.

Q. And it says "For this reason, it was decided that the marks awarded under the different dimensions should not contribute with the same weight to the calculation of the final marks to the technical aspects."

That would seem to suggest, as you or whoever else made the suggestion which you were recording, that the weightings should be there; it should be possible for somebody to work out whether the result was a satisfactory one. Isn't that right?

A. I am struggling, to be honest with you. If I were to put if I were to say what it says, "Should not contribute with the same weight," should not contribute with equal weight; is that your understanding?

Q. That's my understanding.

A. Right, okay. Okay, so I am reading that to say that these things should not be equally weighted?

Q. Yes. But you need to know what the weights are to check what the subtotal is, don't you?

A. I don't know, because actually I don't know whether

Q. How could you evaluate the conclusion that A1 should get a C without knowing what weight was to attach to any one of the four dimensions?

A. I don't know, to be honest.

Q. Don't you agree with me that you couldn't do it without knowing the weight, if there is a weighting used to arrive at the result?

A. The only thing is if they mean by weight, is equal relevance, and they don't necessarily mean an arithmetic weight, so equal emphasis or equal importance.

Q. I think in this report, don't we know that the word "weightings" is used quite often, and they seem to refer, don't they, to a specific agreement on weightings?

A. That's sorry, I don't

Q. Does the report make any sense to you then?

A. Here?

Q. Yeah.

A. Well, if you were replace the word "weight" with "equal importance", I think it would make sense then, not necessarily have numeric weights. But I am guessing, I am speculating here

Q. But weren't people at the meeting, or you, asking questions about this, and the questions you were asking relate to weighting?

A. Yes, indeed.

Q. And if you got an answer to the effect that that meant something else, isn't it likely that you would have written in what you were told was the answer?

A. It's possible, yes.

Q. Isn't it likely? Isn't it probable? Because otherwise it's very difficult to see any answers to the questions that you have written.

A. Yes, I agree.

Q. And you have written them on three different occasions, and if you got a satisfactory answer, wouldn't you have simply written a line through it and

said whatever you have said to me now, and we are just speculating, you might have written down you might have taken out the word "weight" and put in "same relevance", or something else?

A. Yes. What does the final report change at all?

Q. I don't think the final report changes that, but I'll just check it. We'll pass on, and we'll check it while we are going onto the next...

If you go on to page 31 it's still in the final report, by the way.

A. Right, thank you.

Q. If you go on to page 31, there is a heading, I think, "Network Capacity"; do you see that?

A. Yes.

Q. And there are there is a table, Table 8, setting out the marks for that dimension?

A. Right, yeah.

Q. And next to it you have in a box what I think are the words "Doesn't work" and "40, 40, 10, 10", and then in another box "To be checked" with an arrow down to "J McQuaid", and then "OK" after that; do you see that?

A. Yeah.

Q. That was suggestive you got some sort of an answer to some queries you were raising about this?

A. I don't think I would necessarily have been raising queries in this area.

Q. Somebody else was?

A. I believe so. It's an area that's far from my area of expertise.

Q. But I presume totting up marks is not beyond your area of expertise, if it simply involves applying a weighting to letters that can be converted into numeric values?

A. But I don't know if the sub-group that evaluated this had worked some sort of weighting structure into their evaluation.

Q. Mr. McQuaid said they had, but you don't seem to have been able to get any information, or at least nobody gave any information about it at the meeting?

A. Well, perhaps what I have recorded there is John McQuaid said this is actually okay, the weightings stack up, you know, as far as the relevant importance of this, I am happy with the grades. You know, I would have been totally incapable of second-guessing the grading on that.

Q. I appreciate you weren't second-guessing them. I am simply saying you couldn't check the result yourself; you had to rely on what John McQuaid told you.

A. Correct.

Q. The document doesn't tell you how the result is arrived at.

A. Correct. Well, sorry, I believe so. When you say it doesn't necessarily tell you how the C, A, B, A, turns into a C at the bottom

Q. Correct?

A. I think it's a judgement of the sub-groups.

Q. If you go on to the next page, page 32, you see in the middle of the page, just before the document goes on to performance guarantees, the last sentence in the previous section reads "This indicator has been given a low weight in the aggregated scoring of the dimension". Do you see that?

A. Yeah.

Q. And the question is "What are the weightings?"

A. Yeah.

Q. So either you are asking that question or somebody is asking it.

A. Correct.

Q. If you go on to page 34, I am just going to summarise these notes at the top of the page, but significant that again these are questions about weights. And the answer is that John McQuaid says that they are right, I think referring to the conclusion.

A. Yes.

Q. And do you see the date at the top, "24/10, John McQuaid says they are right."

A. Yes.

Q. So that would seem to be something that was not dealt with at the meeting on the 23rd but dealt with on the following day?

A. Could have been, yeah.

Q. Maybe the question was raised on the 23rd, and the answer provided on the 24th?

A. Perhaps, yeah.

Q. But again there is no answer in the text. That's simply relying on what Mr. McQuaid says?

A. Yes.

Q. If you go on to page 41, this is a portion of the report dealing with financial matters.

A. Yes.

Q. And again you see on the right-hand side, there is the word "weights" and a question mark; do you see that?

A. Yes.

Q. Then there is a score for A6 crossed out, another score put in, and then both those scores crossed out and the word "stet" put in; do you see that?

A. Yes.

Q. And the same for A3; do you see that?

A. Yes.

Q. And then on the if you go further over to the left, in the column which contains a list of the indicators, a list of the dimensions, I think, there are a series of numbers. Do you know what they are about?

A. If I read them, the 3, 4, 2, 5, 1, 1, 1, 1

Q. If you look at that list first. Next to that is another list, and then to the right of the word "Solvency" do you see the word, or the letter "2"?

A. Yes.

Q. And then underneath that, 1, 3, 2, 1, and so on?

A. I have no idea what they mean.

Q. Does this suggest there was a lot of confusion about weightings on the 23rd and 24th October?

A. Just I am not clear on the timing of the comments, to be honest with you.

Q. Well

A. So I don't know, but it certainly indicates there were questions being asked about the relative weightings within the qualitative analysis.

Q. And they were being asked on the 23rd at the earliest, and to some extent, on the 24th, possibly; is that right?

A. That appears to be the case, yeah.

Q. Could you go to for a moment, could you go to page 48. You see Table 16 contains a list of all of the dimensions grouped under the various aspects; do you see that?

A. Yes, yeah.

Q. And at the bottom you have a grand total?

A. Yes.

Q. And then there is a comment "Why brackets"; do you see that?

A. Yeah.

Q. Then underneath that, "Gone"; is that right?

A. I have "G-O-N". It probably does say "Gone", yeah.

Q. And then do you see, in the marketing aspects

subtotal, there is an arrow into "A/B", and a "B?"

put next to that; and is that to suggest that the

"A/B" is wrong?

A. I think it was to question whether it should be a B.

Q. Somebody else is questioning it, or are you

questioning it?

A. I don't know.

Q. Well, somebody, whether it's you or somebody else, is

questioning it; isn't that right?

A. I see that, yeah. Well, sorry, that's what I read by

it.

Q. And if you relate back to the very first table that I

asked you to look at, do you recall that on page 14,

where you have a table which contains those marketing

aspects and the same scores do you see that?

A. Yes, I see that.

Q. And you see that the tot that you have put in suggests

that A5 had a lower mark than A3; do you see that?

A. I see that, yeah.

Q. And I suppose that was probably connected with the

reference to a B for A5 on this Table 16; would that

be right?

A. It could well be. I don't recall, but it could well

be.

Q. Could you go on to the next page, page 17, for a

moment I beg your pardon, Table 17.

A. Yes.

Q. Sorry, I can come back to something else; I'll deal with this page first.

Now, you see you have a box on the top of that page?

A. Yes.

Q. And the box has an arrow down to the word "Weight"; do you see that?

A. Yes.

Q. And it says "Not agreed by Project Group". Do you see that?

A. Yes.

Q. And then something crossed out?

A. Could be "Final weighting".

Q. "Final weighting"; maybe.

Then you have "No reason why the 10 should be split in this way."

A. Right.

Q. I suppose it should read "No reason why the 30 should be split in this way", because the 10 isn't split at all.

A. Okay.

Q. Do you know what that's about?

A. I don't, to be honest with you.

Q. Do you think that you made those contributions?

A. I don't. I think they are contributions that were made, but I don't know whether I made them. Sorry, I should be clear; it's my handwriting, but I don't know, if you like, from whom they came.

Q. Do you remember the documents that I referred you to yesterday and this morning in which, on the evaluation model, the weightings were the weightings for market development were half the weightings for financial key figures? Do you remember that?

A. Yes.

Q. The weighting for market development was 7.5 and the weighting for financial key figures was 15? Do you remember?

A. 15, yes.

Q. And do you remember

A. This is in the quantitative evaluation.

Q. Yes, and do you remember how I drew your attention to the fact that you had marked those weightings at various points in the process when you were given copies of the quantitative evaluation? Do you remember that?

A. Remind me; sorry.

Q. You were marking some of these weightings for financial key figures; you drew attention to them.

A. Can you just bring me back to where

Q. Let's just take this slowly.

Firstly, do you agree with me that you were familiar with the weightings in the evaluation model at the time?

A. The qualitative evaluation?

Q. The quantitative.

A. The quantitative, sorry.

Q. There were none in the qualitative. You were familiar with them at the time?

A. At this stage?

Q. At the time of the process.

A. Yes.

Q. And if you were familiar with them, is it because you see different weightings here that you might have raised a question as to whether these weightings had been agreed by the Project Group?

A. Not necessarily, no. This could have been this could have been brought, really, up by anybody who was you know, who was there.

Q. Do you remember who was making these points at the meeting?

A. I honestly don't.

Q. If all of these points were made by other people, it would seem to suggest they were being made by people who had quite a good grasp of the report, wouldn't it?

A. Yeah, I guess so, yeah. Sorry, no sorry, I make that statement loosely. I don't necessarily follow that line. Could you just say that again?

Q. If these points were being made at the meeting, they were being made by people who had a good grasp of the report?

A. I wouldn't be in a position to make that statement.

Q. Well, are any of the comments that have been made,

none of them are un-intelligible?

A. No.

Q. They are all to the point?

A. It's highly judgmental to say what constitutes a good grasp of the report.

Q. We won't use those kind of words. They are all intelligible comments; they make sense in the context of the content of the report?

A. Yeah, okay.

Q. None of them is frivolous?

A. No, but they may have been addressed in discussing it.

Q. They may have been. But you don't have any answers; you only have questions?

A. On this, yes.

Q. And this was two days before the Minister made the announcement?

A. Yes, according to the time line I have, yeah.

Q. One day before the Secretary was told; isn't that right? He was told on the 24th?

A. Okay.

Q. If you go to the next page for a moment, do you see Table 18?

A. Yes.

Q. Again, do you see on the left-hand side a list of all of the dimensions? This time they have been regrouped in accordance with the

A. So another in different grouping from 17, are they?

Q. Another in the same grouping as 17, but they are different from 16. They are the same dimensions, but they have been grouped this time on Table 18 and 17 according to the evaluation criteria.

A. Right.

Q. But it's all the same dimensions.

A. Yeah.

Sorry, just to come back on something you said a few minutes ago. There is a lot of questions here with no answers. The answers may have been reflected in the final report.

Q. Well, they are not.

A. Okay

Q. I don't think. I don't think there is any answer to these questions that I could find, anyway.

A. Okay. Sorry, I interrupted you there; you were going to ask me...

Q. If you go on to the next page, page 18

A. Sorry, Table 18, is it?

Q. Table 18, I beg your pardon. Page 51.

You see the list of the dimensions?

A. Yes.

Q. You see the weights next to them?

A. Yes.

Q. Now, again do you recognise the weightings that I was referring to earlier, 7.5, 15, 10? Do you see that?

A. From a quick look, they seem to be similar or

identical to the ones in the quantitative evaluation.

Q. Evaluation model.

A. Yeah.

Q. Now, these weightings have been mentioned from the first page to the last page, almost, of this report; right? They are mentioned in the very first table we looked at, Table 1; isn't that right?

I hope I am right in that number. Table 1 on page 14, we have similar weightings to these being mentioned. Do you see that?

A. Sorry, I am struggling. What page is it again?

Remind me.

Q. Page 14, Table 1.

A. Yeah.

Q. Market development, 7.5. Do you see that?

A. Yes.

Q. And if you go to Page 51, you see market development, 7.5?

A. Yes.

Q. Okay. And now we have mentioned one or two other areas where weightings were mentioned.

A. Right.

Q. Now, if those queries concerning weightings were questions and if answers were provided, can you explain to me how the same questions are coming up on page 14 and coming up 40-odd pages later on Page 51?

A. I can't.

Q. And doesn't that mean that they are coming up because people aren't getting accurate answers? Isn't that the only conclusion you could come to?

A. No, not necessarily.

Q. Well, why would you be repeating a mistake, if you were at a very important meeting and somebody said if you were using that weighting, or somebody was using it, and you were recording their using it, and if an answer was given to the effect that these are the wrong weightings, wouldn't you have expected the correct weightings to have been put in the next time the same issue came up?

A. But are these not the same weightings that are in Table 1, in Table 18? So if I understand the question, you are asking me if the tables, weightings in Table 1 were agreed as being wrong, why are they repeated in Table 18?

Q. The handwritten ones.

A. The handwritten ones, why they are repeated in Table 18?

Q. Yes.

A. But the ones in Table 1 are not necessarily viewed as being wrong.

Q. Well, maybe they are not.

A. But what I am confused about here is whether it's appropriate or was agreed it be appropriate to apply any weightings to the qualitative evaluation.

Q. Yes. You don't seem to know the answer to that question yet. I am not criticising you for not knowing it, but I mean, the Tribunal can't get a clear answer to it.

A. I don't know the answer to that.

Q. And this document suggests that over a review of the document, which we understand from other witnesses took an awfully long time

A. I think it did. I think it was a long meeting.

Q. whoever made this comment concerning the weighting of market development at Table 1 on page 14, either he, you or somebody else was making a similar comment when, presumably hours later, you got to Page 51; wouldn't that seem reasonable?

A. Yeah, but sorry, is it not also possible that somebody put in the weightings on Table 51, 18, to see how it compared, just to compare one with the other? Is that not also a possibility?

Q. It's possible somebody was doing that. It's not recorded in the report that they were doing that.

A. You see, as I say, I can't recall whether weightings were to be applied I can't recall whether weightings were to be applied at all to the qualitative evaluation. I just can't recall.

Q. If you go to the tot on that page, you see where somebody has endeavoured to apply weightings and to arrive at a tot; do you see that?

A. Sorry, at the bottom of the table?

Q. Yes. Do you know who applied those weightings to the scores to arrive at a tot?

A. Sorry, when you say the weightings at the bottom?

Q. No

A. Sorry, the numbers, the 72.4, etc.?

Q. Yes.

A. I don't.

Q. Either you did it, or somebody did it and you recorded somebody else doing it; isn't that right?

A. I'd imagine so.

Q. If somebody else did it, they were either, therefore, sitting next to you, so that you were able to copy down what they were doing, or they were doing it on a flip chart or they were calling out the results; is that right?

A. Very possibly, yeah.

Q. Well, can you remember somebody calling out the results as they totted up each one of these?

A. I can't.

Q. Can you remember it being done on a flip chart?

A. No.

Q. Do you remember who you were sitting near at this meeting?

A. No.

Q. And you don't remember doing it yourself?

A. No. Sorry, I just want to be clear here, that doesn't

mean I didn't do it myself; I just don't know.

Q. Of all the people who did it, is it not more likely that you, as an accountant, would have done it, or that Mr. Buggy, as an accountant, would have done it than anyone else?

A. I don't see that, necessarily. There were engineers there if you are referring, as I think you are, to numeracy, I would have thought there were any amount of people, economists, or it could have been Andersens, who also had people with engineering qualifications, doctors, MBAs etc., it could have been

CHAIRMAN: There is, though, a concept of balancing the books, though, isn't there?

A. Yes.

CHAIRMAN: That would be akin to your discipline.

A. I want to be clear, I am not saying I didn't do it; I just don't know.

Q. MR. HEALY: Could you look at the score at the bottom of that in manuscript?

A. Yes.

Q. Correct me if I am wrong when I read it out. It says "B minus, C minus, B arrow up, B minus, B arrow up, and C arrow up"; isn't that right?

A. I see that, yes.

Q. And that would suggest that A3 and A5 had the same score of a "B arrow up", and A1 and A4 had the same

score of a "B minus"; is that right?

A. Yes, I see that.

Q. And this is an attempt by somebody, or by you, to reconvert the scores from numbers back to letters; is that right?

A. I can see that, yeah.

Q. And that would suggest, if that were the result, that A3 and A5 had the same marks; is that right?

A. I can see that, yes, yeah.

Sorry, I suppose what I'd say is at 82%, "B up" would be a lower "B up", if you like, to 86.9.

Q. It would, 86.9 or 86.4?

A. It's not clear

Q. It would be, yes. But on a qualitative scoring, I suppose, small percentages have to be allowed for a margin of error, don't they?

A. It seems reasonable, but again, I wouldn't have a view on that. You know, I would come back to a lot of this report, and a lot of what we are talking about now really reflected issues of balance, policy, etc., that I wouldn't have seen while I was quite happy to make common-sense observations, I wouldn't have seen it as core to my role to second-guess the report. I saw I saw the people

Q. Can that be correct, Mr. Riordan? I wonder, can that be correct? Did you not suggest your own alternative scoring of the results of the finance dimension?

A. Yes, but when it came to the final report, you know, if I got satisfactory answers to my queries, I was happy to take those issues. And I would have had, as I say, more input to discussion of the pages that relate to the finance section, definitely, than I would have to the overall pulling together of the results.

Q. It's four o'clock, Sir; I think I'll finish within about three-quarters of an hour tomorrow morning.

CHAIRMAN: I am conscious of Mr. Riordan's proper anxiety that he must be free by four o'clock. Is it still desirable that we take half past ten, just in case anything takes longer? Obviously I am not committing any other counsel just to make safe.

MR. NESBITT: I don't think, if it finishes in 45 minutes tomorrow, subject to My Friends, we'll have any difficulty with the four o'clock deadline.

CHAIRMAN: Pardon, Mr. Nesbitt?

MR. NESBITT: If My Friend Mr. Healy only takes 45 minutes tomorrow, I understand there won't be any difficulty to meet the four o'clock deadline. 10.30 might be a difficulty tomorrow morning. I have a personal problem, and I wouldn't wish

CHAIRMAN: Well, thinking also of Mr. Riordan, do you feel, provided people remain broadly within anticipated parameters, with a bit of judicious expediency, that we can conclude by four o'clock?

MR. NESBITT: There will be no difficulty about concluding by four o'clock.

CHAIRMAN: All right. I'll make it eleven o'clock; if needs be, we'll eat slightly into lunch hour. All right.

THE TRIBUNAL THEN ADJOURNED UNTIL THE FOLLOWING DAY, FRIDAY, 11TH APRIL, 2003 AT 11AM.