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**From:** Nick Smith  
**Sent:** 29 October 2010 09:12  
**To:** Alan Coyle  
**Cc:** Bob McCafferty; Andy Conway; Carol Campbell; Marshall Poulton  
**Subject:** RE: adjudications

What I understand Tom was seeking is effectively confirmation of what the win/loss position is re the adjudications to allow him to be satisfied that Donald Anderson's assertions are incorrect.

We have not been involved in advising on adjudication strategy, though we have been given selected DRP results to date (mostly where there has been a contractual rather than simply financial interpretation). As Andy indicated, it may be that there is an element of trust being investigated.

As with the recommendation to terminate, in my view the best way to deal with this is for tie to provide their views on the outcome of the adjudications (most of which is already done anyway) and for this to be validated independently validated, whether via CEC legal or in another way. The question of whether the adjudicator's views are correct or not is a different matter and not relevant for current purposes.

So to answer your very valid query, you are absolutely correct that simply articulating DLA's view will not of itself fulfil Tom's request. This view then needs to be verified and checked. For some of the adjudications this will be easier than for others as it is a QS result, not a legal interpretation result.

Having thought about it further there is in theory no reason why CEC legal could not check the results against the summary provided to look for the differences. The problem we are left with is twofold - (i) the resource implications of this given the other workstreams; and (ii) the fact that these adjudication decisions are extremely legally complex and specialist (as with the Infraco contract itself). There is a risk, however small, that some key nuance could be missed.

Given Susan is not responding until next week, we can take a view on how to proceed and advise Tom accordingly.

Marshall, have you any views on the technical issues?

Happy to discuss.

Kind regards

Nick

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Please note that I am not in the office on a Monday

-----Original Message-----

From: Alan Coyle  
Sent: 29 October 2010 07:20  
To: Nick Smith  
Cc: Bob McCafferty; Andy Conway  
Subject: adjudications

Nick,

There was considerable discussion on this matter at yesterdays meeting. I have to say i do not see how asking DLA to give a view on adjudications that you can then give a view on satisfies Tom's request.

DLA clearly have a vested interest here, therefore their view of life may be slightly coloured on adjudication results. Whilst i fully understand that it is not possible to give a definitive win/loss view surely it is possible to articulate cec legal's view, including the financials. If it is lack of resource in the given timescales that is your concern i think it would be better to communicate this with Tom rather than provide him with another view from DLA.

Given that cec have all the DRP info on the extranet i don't think it will look clever down the line if we merely opine on a DLA review rather than do our own. Marshall was also task with looking at these results from a technical stand point, do you know if this is being acted on?

Alan

Sent from my HTC Touch Pro 2 on Vodafone

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