
From: Anthony Rush [anthony@[REDACTED]]
Sent: 07 March 2010 10:03
To: Fitchie, Andrew
Cc: Graeme Bissett (external contact); david_mackay@[REDACTED]; Richard Jeffrey; Steven Bell; Stewart McGarrity; Susan Clark; Alastair Richards; Mandy Haeburn-Little
Subject: Response to Infraco - FOISA Exempt
Attachments: resp503.doc

Andrew,

I attach my latest draft. Others may wish to change the style and it would not offend me – my draft reflects my bare reaction to Reid’s letter.

I have worked with Fraser McMillan (Pinsent Masons) for many years and having dissected Reid’s letter word for word I am in no doubt it has little or no input from Fraser.

I do not consider the letter to be a “good” letter – in fact I am surprised that an executive of Reid’s standing would have signed it – I can assure you I wouldn’t have done so in his position, nor would I have expected my “superior” to have – I certainly wouldn’t have put it before him. (Although I doubt whether, one way or the other, I would have ever survived with him).

The letter shows a complete disregard for the terms of the contract. Moreover it naively suggests that we should let ourselves be seduced into believing and acting as though their “commercial position” is the same as “their “commercial rights”. The letter’s thrust is predicated on inconsistency.

However, the bottom line for **tie** is that they have to make a commercial decision having taken legal advice – consequently I haven’t copied this draft to Brandon at this stage – “commerce before the law”. Nor have I had time to read his report – I understand that he has deduced that we have to challenge Wilson’s decision in the Courts quite soon and we may have to factor this in.

My firm view is that **tie** should decide to adopt the option best suited to this draft reply. Moreover they should not give Infraco the comfort of being able to understand that termination at this time is off the table. Consequently I favour the three month “probationary” period approach I suggested yesterday.

I apologies if all of this arrives late in the Pitchfork process – but this is a dynamic process.

I will draft the other letter referred to in 8.3 after our lunch guests have departed. (I assure Graeme that I do only drink “fizzy water” at lunch time)

Tony