



Post Office Counters Ltd
Horizon Programme Director

SUBJECT TO CONTRACT - WITHOUT PREJUDICE

Mike Coombs
Director Programmes
ICL Pathway
Forest Road
Feltham
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15 December 1998

Dear Mike

Here is the suggested veto conditions on the Expert decisions. Can I stress that these have not been discussed with the Benefits Agency nor do I expect them to agree with the concept of the Expert.

GRO

DAVE MILLER

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SECRET CONTRACT WITHOUT PREJUDICE

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SUBJECT TO CONTRACT - WITHOUT PREJUDICE

DRAFT

CONDITIONS FOR A VETO ON THE EXPERT OPINION

If the PO Board disagrees with the Expert decision and believes acceptance on that matter is reasonably likely :

1. To adversely affect the Post Office's key commercial relationships - particularly clients, sub-postmasters and other strategic partners.
2. To demonstrably damage the Post Office by:
 - undermining our overall customer offer
 - damaging our image with customers
 - damaging our market position
 - adversely affect significant numbers of customers
3. To adversely impact Post Office control of critical operations including our need to retain end to end design and integration of operational processes.
4. To compromise the integrity of Post Office accounting systems.

Keith

To Stuart Sweetman

From Mena Rego

14 December 1998

Subject COMMERCIAL TERMS

ICL have asked the public sector to take on a further NPV hit of £113m made up as follows: POCL £105m, BA £8m. The POCL figure includes c £25m for Benefit Encashment Services which under normal circumstances we would pass to BA under Contract B but are now proposing to meet ourselves.

I believe the Chairman and John Roberts have agreed that we can work to a minus £135m NPV on the mainline case. This does not include the £8m additional NPV that ICL are seeking for PAS/CMS.

In addition there are aspects of the Commercial and Contractual proposals and Funding where BA agreement will be necessary if we are to meet ICL's terms ie back to back arrangements on Guarantees, BA agreement that ICL's funding proposals are acceptable etc funding proposals are acceptable etc.

I believe Sarah Mullen has accepted my suggested amendment to the report (issues section) on this point ie "the offer is acceptable to POCL ... from existing resources" has been changed to

"the offer is acceptable to the Post Office who would meet the remaining gap on its contracted services and absorb increased prices for benefit payment transaction without passing them onto BA".

(NB She has also reinforced the point that the PO do not favour option 2)

However, my note does not emphasise the point that BA co-operation is needed if we can finalise agreement with ICL Pathway (as I did not wish to sound "equivocal"). However, if we do not clarify our position now I suspect then George McCorkell will consider that he has carte blanche to pass all charges/risks back to POCL. I believe at very least you need Adrian Montague's confirmation that he/Treasury/DTI will support us in this area (though I very much doubt they will - I hear the loud sound of drawbridges going up around Whitehall).

Mena Rego

POST
OFFICE

Keith

David Sibbick
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151 Buckingham Palace Road
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Post Office Counters Ltd

Stuart J Sweetman BSc FCA
Managing Director

14 December 1998

Dear David

BA/POCL AUTOMATION PROGRAMME

I know Ministers are meeting this evening to agree the way forward on the BA/POCL Automation Programme.

I have just been briefed on the contents of the latest Inter-Departmental Working Group Report and I know that POCL have been given opportunities to input and comment, for which I am grateful. I do feel that there are a couple of points we have commented on at working level that I would like to reinforce in the event that Ministers are giving serious consideration to termination.

First, on the legal front - I believe the Solicitor General has now offered a view on Treasury Counsel opinion. I am pleased to see that both the Solicitor General and Treasury Counsel support the same view as POCL, i.e., that issuing a Time of the Essence Notice is the lowest risk strategy from a litigation point of view.

Our legal advice is very clear. To issue anything other than a Time of the Essence Notice for a reasonable period (in this context completion of the Operational Trial by 1 October 1999) would expose the contracting authorities to significant risk. If you take the Public Sector as a whole this could be a significant damages claim of up to almost £400m of which a significant proportion would fall to the Post Office. The Post Office Board would like to be assured that Ministers have given very careful thought to this exposure before they take a decision not to follow the legal advice on the safest way forward.

Cont.

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We are firmly of the view that issue of a Time of the Essence Notice would force ICL to co-operate in a negotiated termination. They clearly cannot afford to continue without our agreement to improvements in the current contractual terms. I believe as an exit strategy this is exactly what Ministers would want to see.

Secondly, I would like to make it clear that the Post Office are in full support of the programme's continuation, to the extent of absorbing significantly worsened commercial terms, on the basis of the programme continuing in its current form. If there is any notion of a negotiated settlement leading to Option 2, i.e., cessation of the Benefit Payment Card, then we would need to consider our position afresh. John Roberts previously made this point to Frank Field, then Social Security Minister in June this year. We would not wish this point to be overlooked in any Ministerial decision.

I look forward to hearing the outcome of Ministerial deliberations. I sincerely hope that there is a way forward on this programme which is of strategic importance to not just ICL/Fujitsu, but also the Post Office.

Yours sincerely

GRO

STUART SWEETMAN

copy: Adrian Montague