

Memorandum



To: Naresh

From: John Cook

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Subject: Acceptance paradigm

28 October 1998

Thanks for sight of the Peter Copping note and your early draft response. I have marked up a couple of suggestions on your paper, but I also think that it is not clear that all the issues have been exposed. I accept that anything can be changed in the current plans, but thought needs to be given to:

1) What is meant by "acceptance"

As currently defined, "acceptance" means the giving up of termination rights for failed acceptance, the commitment to start national rollout (and committed rate of roll-out) and the application of payment guarantees. We could split these out into different points of acceptance, but I know Pathway have strong views on the commercial aspects. For example they have stated informally that a national roll-out without guarantees would be unacceptable as they would be incurring too high a capital risk.

2) How guarantees work

I gained the impression from the papers that there is some confusion on how guarantees work. As currently defined they are minimum revenue guarantees, not transaction volume related. However it has always been claimed by all parties that if volumes were so low as to invoke the guarantees, then there would be no business case for anyone.

Hence the linkage to 80% payment levels is to me wrong thinking. It must be recognised that this programme was established as a PFI, with Pathway recovering revenues for delivered business transactions. I can't see how the 80% applies - are you saying we would pay 80% of the transaction price? I do not see this as helping Pathway, and they would argue that if the contracted transaction was being delivered they should get the full price for that transaction. If they

delivered and rolled out only 80% of functionality they would not be paid for the missing 20% in any case.

3) Purpose of MOT

Pathway have currently planned to make no use of MOT for acceptance. They argue that they have no control over what happens there and therefore the testing would not provide the controlled environment for acceptance. I believe there must be scope to overcome this if we can all work together to plan in detail the what and the how of MOT, but that spirit has not been around previously, and a lot of detail work would be needed to deliver it.

4) Acceptance/business fit

Pathway have always had grave concerns about linking acceptance and release authorisation. They argue that if they deliver that which they are contracted for then we should accept. If what we contracted for does not actually fit the business, or if the business is not ready to take it, then Pathway should not be commercially penalised.

I readily accept that many of these things can and maybe must be changed. There will be procurement issues (e.g. the scope of the EC advertisement) but the starting point should be what the businesses and Pathway want. It seems to me that the papers you have provided, unless they are suggesting early lump sum payments, only present a commercial worsening to Pathway and are therefore unlikely to be well received. There is no point in working hard to move sponsors if what is being discussed is of no value to Pathway.

This has perforce been a quick look at what you gave me, and I have not been part to any discussions. That said, I hope the comments help.

GRO

John Cook
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