From: Kate Harrison <KateHarrison@hglaw.co.uk>
To: aarhus compliance <aarhus.compliance@unece.org>,
Date: 26/06/2014 23:45
Subject: RE: ACCC/C/2012/77 (United Kingdom) - draft findings for comment

Dear Fiona

Thank you.

We are satisfied with the draft findings. It seems to me that the comments from the UK are those which were already rehearsed, at length, during a thorough consideration by the compliance committee, at which I appeared on behalf of Greenpeace.

The only comment I would make was this. During that hearing, the James Maurici QC, on behalf of the UK, suggested that the reason Greenpeace did not proceed was because we knew our case to be unarguable. I advised Greenpeace. I did not think our case was unarguable: far from it. Had the case been unarguable then there would have been no need for the UK to instruct an elite an expensive legal team, Michael Belloff QC, Jonathan Swift QC and a junior barrister, to make that argument.

The fact that they did so and were awarded their costs at more than five times the norm signalled that to go further would be very expensive. Five times the norm for a judicial review could well result in adverse costs of as much as a million pounds.

In my view, rather than deploy such efforts in saying the case was unarguable, it would have been right for the UK to concede that Greenpeace's case was arguable and to proceed to a full hearing of this important issue. To claim, and be awarded, such enormous costs at an initial stage was of course a bar to the case being taken any further.

Kind regards

Kate Harrison