

<p>1 2 (1.50 pm) 3 LORD JUSTICE LEVESON: Yes, Mr Rhodri Davies. 4 Closing submissions by MR DAVIES 5 MR DAVIES: Sir, if I can borrow some terminology from the 6 Tour de France, I am, I think, in the position of the 7 lanterne rouge, the last man in the field. 8 Whilst Mr Jay, consistently supported by his team, 9 like Mr Bradley Wiggins, of course sports the maillot 10 jeune for consistently leading the field in the English 11 vocabulary race. 12 But leaving the glamour of the Champs-Elysees for 13 the more businesslike surroundings here, we, as have 14 others, have made submissions in writing on the last 15 stage of this Inquiry, in our case, I'm afraid, at some 16 length, and I'm not going to try, and indeed I could 17 not, cover the same ground now. 18 LORD JUSTICE LEVESON: You needn't apologise. 19 News International have prepared submissions on a number 20 of topics and I'm very grateful to you, and the team 21 that supports you, for the work has been put into them. 22 MR DAVIES: I'm grateful. Indeed, as you, I'm sure, 23 appreciate, the team is a bit like an iceberg. I may be 24 above the surface, but there's a great deal below. They 25 do most of the work, I am pleased to say.</p> <p style="text-align: center;">Page 1</p>	<p>1 Before looking at the lessons learnt from the 96 2 days of evidence and submissions that the Inquiry has 3 heard -- 97 today, I think -- it is appropriate to take 4 stock of the extent of the landscape that has been 5 covered. 6 The Inquiry has heard evidence that has gone back 7 over 30 years, to the purchase of the Times and the 8 Sunday Times by News International in 1981. It has 9 received evidence on stories going back over nearly as 10 long a period, and it has surveyed developments in the 11 law and regulation governing the press since the second 12 Calcutt report in 1993. 13 The number of editions of newspapers that have been 14 published over that period of 20 to 30 years is vast. 15 20 years covers over 6,000 editions of the daily papers 16 and over 1,000 Sunday papers. Inevitably, the Inquiry 17 has sampled only a fraction of the output of the press 18 over that period. And equally inevitably, the sample 19 that it has looked at has had what one might call a "bad 20 story bias". Just as lawyers tend only to see the 21 contracts that are broken and doctors see mostly those 22 who are ill, the Inquiry has seen mostly the stories 23 that people have complained about. 24 We know that the Inquiry is aware of this and it has 25 asked papers to submit their best five public interest</p> <p style="text-align: center;">Page 3</p>
<p>1 One aspect we've dealt with in writing, which I'm 2 not going to cover this afternoon, is plurality. That's 3 a complex issue and we've dealt with it in writing, and 4 I shall leave our submissions on that there. 5 The Inquiry has shone its light on the culture, 6 practices and ethics of the press in three modules, 7 covering: the press and the public, the press and the 8 police and the press and politicians. 9 The first of those focused on the way the press goes 10 about getting and reporting on stories, and on the 11 effect of the conduct of the press on the public. The 12 second module, the press and the police, had a twin 13 focus. One eye was on the day-to-day relations between 14 press and police and the other on the question of 15 whether there were corrupting relationships between the 16 press and the police, which explained why Clive Goodman 17 was the only journalist prosecuted for voicemail hacking 18 in 2006 and why the Metropolitan Police were resistant 19 to reopening their investigation in 2009 and indeed 20 2010. 21 The third module, the press and politicians, also 22 had a twin focus, with one eye on the routine reporting 23 of politics and the other on the question of whether 24 illicit deals were done between politicians and press 25 proprietors.</p> <p style="text-align: center;">Page 2</p>	<p>1 stories as a counterbalance, but we hope we will be 2 forgiven for the reminder, because it is extremely 3 difficult to balance the emotional impact of live 4 evidence in this room against the dry, intellectual 5 knowledge that the majority of those 7,000 editions over 6 20 years never gave rise to any serious complaint but 7 did inform and entertain millions of readers every day. 8 The other consequence of listening to the vivid 9 accounts of those who came to give evidence is that it 10 is easy to lose track of the chronology. Their evidence 11 was fresh to them and to their listeners, but often the 12 events described took place some time ago. 13 To take the most obvious examples, anyone engaged in 14 voicemail hacking received a definite shock to the 15 system with the arrest of Mr Goodman and Mr Mulcaire 16 in August 2006. The consequences of what happened 17 before then are still being felt, but that is almost six 18 years ago now. 19 Equally, it was in 2006 that the Information 20 Commissioner released his two reports with the now 21 well-known league table of newspapers in the second 22 report, "What price privacy now?". Since then, as both 23 the current Information Commissioner and his predecessor 24 have confirmed to the Inquiry, their problems with the 25 illegal trade in personal information have not been with</p> <p style="text-align: center;">Page 4</p>

<p>1 the press.</p> <p>2 LORD JUSTICE LEVESON: Doesn't that merely establish,</p> <p>3 Mr Rhodri Davies, that there hasn't been a complaint?</p> <p>4 I'm not minimising it and I'm not seeking to draw too</p> <p>5 much from it, but just thinking about it, one of my</p> <p>6 concerns has been that the problems facing any</p> <p>7 investigation of the press start with the need for</p> <p>8 a complainant. The truth is that "What price</p> <p>9 privacy?" -- the Motorman did not start because of</p> <p>10 a press complaint. It started because of an abuse of</p> <p>11 DVLA, concern about DVLA.</p> <p>12 MR DAVIES: Yes.</p> <p>13 LORD JUSTICE LEVESON: Then of course they search and find</p> <p>14 the material and it all comes out.</p> <p>15 So I'm not minimising the validity of the point that</p> <p>16 you make, that nobody has complained to the Information</p> <p>17 Commissioner about the press. That's a fair point.</p> <p>18 Mr Graham made it. But there must be a limit beyond</p> <p>19 which that point goes, isn't there? Is that fair or</p> <p>20 not?</p> <p>21 MR DAVIES: There is a limit, yes, but I think one has to</p> <p>22 assess the Information Commissioner's statements in this</p> <p>23 context. First of all, that the Information</p> <p>24 Commissioner, with his department, has a full-time job</p> <p>25 of listening out for this sort of thing, and I think</p> <p style="text-align: center;">Page 5</p>	<p>1 challenge is quite how far I can use that and how far</p> <p>2 the press can use it, not merely as a defence -- and it</p> <p>3 is a defence -- but as an offensive point. Do you see?</p> <p>4 MR DAVIES: Yes. Well, one must accept that it's not</p> <p>5 conclusive, but the reflection which occurred to me as</p> <p>6 you were speaking, sir, is simply this, that with all</p> <p>7 acquisitions of personal data, whether it is by a debt</p> <p>8 collecting agency or a local authority or something,</p> <p>9 it's inherent in the nature of the exercise that it is</p> <p>10 true.</p> <p>11 So I think the point which you made to me just now</p> <p>12 about the press having a true story and people not going</p> <p>13 into how they got the information is actually probably</p> <p>14 equally true if a debt collection agency turns up with</p> <p>15 some information which you wouldn't expect them to have,</p> <p>16 but is still true.</p> <p>17 LORD JUSTICE LEVESON: Yes, well, I made the point. I</p> <p>18 certainly don't want to take it too much.</p> <p>19 MR DAVIES: But it is certainly not conclusive.</p> <p>20 So we would say that those matters undoubtedly have</p> <p>21 their place in the history, but one has to be cautious</p> <p>22 in the extent to which one can say that they are current</p> <p>23 examples of the culture, practices and ethics of the</p> <p>24 press.</p> <p>25 Going on to the evidence heard in Module 1, there is</p> <p style="text-align: center;">Page 7</p>
<p>1 indeed one or other -- I can't remember now which --</p> <p>2 said, "If it had been going on, I'm fairly sure I would</p> <p>3 have heard about it". And secondly, they do get</p> <p>4 complaints. Indeed, they've made that absolutely clear.</p> <p>5 They get plenty of complaints, but they're not about the</p> <p>6 press.</p> <p>7 So what one would have to suppose for this to be</p> <p>8 a serious problem is that although they're getting</p> <p>9 complaints about other people abusing personal data, for</p> <p>10 some reason they're not getting them about the press,</p> <p>11 although the press is doing it as well, and that --</p> <p>12 LORD JUSTICE LEVESON: The way in which I would put it is</p> <p>13 slightly different. I would say that the press focus</p> <p>14 has been on standing up stories.</p> <p>15 MR DAVIES: Yes.</p> <p>16 LORD JUSTICE LEVESON: And once they've stood up the story,</p> <p>17 so it's true, the problem facing the victim of the story</p> <p>18 is not the mechanism but the fact, and the fact is that</p> <p>19 the story was true. Do you understand the point I'm</p> <p>20 making? Therefore they won't necessarily focus on how</p> <p>21 the story was stood up.</p> <p>22 MR DAVIES: Yes.</p> <p>23 LORD JUSTICE LEVESON: I don't want you to misunderstand the</p> <p>24 point that I'm making. I am not in any sense detracting</p> <p>25 from Mr Graham's evidence. I have it on board. My</p> <p style="text-align: center;">Page 6</p>	<p>1 no doubt that that made out the case that all has not</p> <p>2 been well with the press. The Motorman data cannot all</p> <p>3 be explained away as thought to have been obtained</p> <p>4 legally or as justified by journalism in the public</p> <p>5 interest.</p> <p>6 The voicemail hacking at the News of the World was</p> <p>7 profoundly wrong and is deeply regretted by</p> <p>8 News International. The reporting of stories concerning</p> <p>9 Chris Jefferies was unacceptably out of balance, and</p> <p>10 there are other examples which could be given.</p> <p>11 Mr Sherborne went through a number this morning.</p> <p>12 It must also be recognised that, although it has</p> <p>13 done much good work, the PCC was not conceived as</p> <p>14 a regulator and has not proved able to act as one. And</p> <p>15 we accept that the case for a new approach to the</p> <p>16 regulation of the press is made out. What shape that</p> <p>17 should take is a matter I will come back to.</p> <p>18 Before I do, I must say something about Module 2 and</p> <p>19 then Module 3.</p> <p>20 In Module 2, the Inquiry heard evidence on the</p> <p>21 relations between the press and the police. One aspect</p> <p>22 of that concerned the protocols which ought to govern</p> <p>23 the day-to-day relations between press and police. That</p> <p>24 is a matter which lends itself to governance through</p> <p>25 a code of practice. You heard from Mr Garnham yesterday</p> <p style="text-align: center;">Page 8</p>

<p>1 that the police themselves are still working on that, 2 and I'm not going to say anything about that this 3 afternoon.</p> <p>4 The other focus of the evidence in Module 2 was the 5 question of why the investigation into phone hacking in 6 2006 did not go further. The blunt question the Inquiry 7 had to consider was whether it was because of corrupt 8 relationships with News International that the police 9 did not turn over more stones and prosecute more 10 journalists in 2006 or until 2011.</p> <p>11 That question received a clear and unambiguous 12 answer. The convincing evidence of Deputy Assistant 13 Commissioner Peter Clarke was that the investigation was 14 limited as it was because the police were under 15 unprecedented strain in dealing with 70 major 16 anti-terrorist operations at the same time.</p> <p>17 The London bombings had killed 52 people in July 18 2005. The day after the arrests of Goodman and Mulcaire 19 in 2006, the Metropolitan Police made 24 arrests in 20 Operation Overt, which concerned a plot to place bombs 21 on transatlantic flights and therefore to kill a great 22 many more people.</p> <p>23 The police had to prioritise, and quite properly. 24 Anti-terrorism operations came higher than extending 25 a phone hacking operation which was already sending</p> <p style="text-align: center;">Page 9</p>	<p>1 be emphasised is again that it was not a corrupt one.</p> <p>2 So the vital message which emerged from the evidence 3 heard in Module 2 is that there were a variety of 4 reasons why the police made the decisions they did, but 5 those reasons did not include corrupt relationships 6 between the Metropolitan Police and News International.</p> <p>7 In that regard, we agree wholeheartedly with the 8 burden of Mr Garnham's submissions to you yesterday that 9 it is essential to distinguish perception from reality.</p> <p>10 Indeed, it is a prime function of a public inquiry 11 to see which, if any, perceptions are borne out by 12 reality. In this instance, the reality is that the 13 police made their own decisions and they were not 14 corrupted by News International.</p> <p>15 LORD JUSTICE LEVESON: Do you think it was sensible that the 16 ultimate Assistant Commissioner and other officers dined 17 with News International while they were being 18 investigated?</p> <p>19 MR DAVIES: I'm not sure that it's for us to answer that 20 question, sir, but one thought one has is that, given 21 that the investigation was very properly secret, indeed 22 I think "covert", in police terms, it might have 23 occurred to them that they risked sending the wrong 24 message if they cancelled such an engagement, but 25 I don't know. But that, we would submit, is not</p> <p style="text-align: center;">Page 11</p>
<p>1 a warning signal to the industry.</p> <p>2 It is not for us to judge the decisions which DAC 3 Clarke made as to where to apply his resources, but what 4 we can note is that it had absolutely nothing whatever 5 to do with any influence exercised by 6 News International.</p> <p>7 The reasons that the police did not do more in 2006 8 and 2007 were operational reasons. They were not 9 corrupt reasons. That, we submit, is a headline finding 10 which emerges with signal clarity from the evidence 11 heard by this Inquiry.</p> <p>12 Why, then, was the matter not reopened following the 13 Guardian article in July 2009 and subsequently in 2010?</p> <p>14 By July 2009, DAC Clarke had retired, and, rightly 15 or wrongly, the police saw the Guardian's article not as 16 a non-judgment suggestion that phone hacking merited 17 another look, but as an attack on the integrity of the 18 2006 investigation.</p> <p>19 A combination of a justified belief that the 2006 20 investigation had been conducted with complete integrity 21 and a misunderstanding of its actual scope, then 22 resulted in a swift and offensive response from the 23 police.</p> <p>24 With the benefit of hindsight, it is easy to say 25 that that was a wrong decision, but the point that must</p> <p style="text-align: center;">Page 10</p>	<p>1 a judgment for us to make.</p> <p>2 LORD JUSTICE LEVESON: That's fair enough.</p> <p>3 MR DAVIES: The third module, Module 3, was the second 4 module with a twin focus: on the routine reporting of 5 politics and on the question of whether illicit deals 6 were done between politicians and press proprietors.</p> <p>7 On the question of whether illicit deals had been 8 done, there is no disguising the fact that the focus 9 was, to a remarkable extent, upon the question of 10 whether illicit deals had been done between 11 Rupert Murdoch and politicians.</p> <p>12 The Section 21 notice addressed to Mr Murdoch 13 identified at least 12 cases where the Inquiry wished to 14 investigate the possibilities of illicit deals or 15 improper influence. These ranged in time over nearly 30 16 years, from the acquisition of the Times and the 17 Sunday Times in 1981 to the development of Conservative 18 Party media policy in 2010, and in subject matter from 19 support for the Iraq War in 2003 to involvement in the 20 education sector.</p> <p>21 Every one of the questions raised has been the 22 subject of time-consuming and expensive research, and 23 every one has been answered. In most cases, both by 24 Mr Murdoch and by the politicians alleged to have been 25 on the other side of the deal.</p> <p style="text-align: center;">Page 12</p>

3 (Pages 9 to 12)

<p>1 The Inquiry has had the unique power and opportunity 2 to summon before it both press proprietors and 3 prime ministers. It has heard from four 4 prime ministers, going back to 1992; and not only from 5 prime ministers, but from others at the heart of 6 Government. Secretaries of state, press spokesmen and 7 senior civil servants.</p> <p>8 What have we learned from this unprecedented parade 9 of witnesses? We have learned that Mr Murdoch is always 10 interested in the political issues of the day, that he 11 has strong views on Europe, which he is not shy of 12 expressing, that he was a supporter of the Iraq War and 13 that he feels passionately about education. And we have 14 learned that these are the things he talks about when he 15 meets politicians and we have learned that he does not 16 trade the support of his papers for personal or 17 commercial benefits.</p> <p>18 We have learned that because he has told us so, 19 because wherever available, the contemporaneous 20 documents support his account and because the 21 politicians have told us so as well. For it takes two 22 to tango. If there is to be an illicit deal between 23 a press proprietor and a politician, then both have to 24 cast their integrity to the winds.</p> <p>25 One may think politicians from one or all parties to</p> <p style="text-align: center;">Page 13</p>	<p>1 of these issues and of most of the conspiracy theories 2 over the years was the acquisition of the Times 3 Newspapers from the Thomson companies in 1981. The 4 trigger for the Inquiry's interest in this issue was the 5 assertion by Woodrow Wyatt in his diaries that he had 6 had all the rules bent for Mr Murdoch over the 7 acquisition of those two papers.</p> <p>8 That entry in Lord Wyatt's diaries was made 14 years 9 after the events in 1995. When it was published, it 10 prompted Mr Mullin to fix a date with Mr Biffen, who had 11 made the crucial decision, to ask him what had really 12 happened. Mr Biffen went to the trouble of digging his 13 pocketbook out of the attic to check his recollection 14 and reported to Mr Mullin that, so far as he knew, 15 everything had been above board.</p> <p>16 When one examines the documentary record, it 17 decisively supports Mr Biffen's recollection. 18 Mr Murdoch is plainly recorded as not opposing 19 a reference to the MMC. It was Mr Biffen who decided 20 not to make a reference, and his reasoning is fully 21 transparent. Thomsons, not Mr Murdoch, had set 22 a deadline which they would not move and the MMC could 23 not report before the deadline. Neither of those 24 immovable objects was of Mr Murdoch's making, but faced 25 with them, Mr Biffen's decision makes perfect sense.</p> <p style="text-align: center;">Page 15</p>
<p>1 be misguided, wrong-headed or incompetent, or all three, 2 but that is not the question. The question is whether 3 they sold their souls to Mr Murdoch or 4 News International or to some other faction of the 5 press. An answer came to that question, and it was a 6 unanimous and vehement: No.</p> <p>7 The witnesses who gave that answer often related it 8 to an awareness of the duties and responsibilities which 9 come with the great offices of state. The point was 10 vividly put by Jack Straw when asked whether the 11 decision to commit British troops to Iraq was determined 12 by the stance of the News International papers. He 13 answered that it was not a factor, that it would have 14 been disgusting if it had been and that it was, and 15 I quote:</p> <p>16 "About putting British troops in harm's way, and 17 bluntly, was much, much more serious than that, so no, 18 is the answer".</p> <p>19 If one wants to take a more cynical approach, 20 another political old hand, Ken Clarke, pointed out that 21 it would be a very naive politician who believed that 22 the press would stand by him if events turned against 23 him, which makes such pacts a fruitless exercise for 24 a politician.</p> <p>25 The starting point for the Inquiry's consideration</p> <p style="text-align: center;">Page 14</p>	<p>1 The documentary record compellingly explains what 2 happened and it leaves no room for deals. When one adds 3 the recollections of Mr Biffen and the evidence of 4 Mr Murdoch, the irresistible conclusion is that there 5 was no deal. And that sets the tone for what follows.</p> <p>6 The Inquiry asked about a string of policies or 7 decisions adopted by New Labour under Mr Blair and 8 Mr Brown. The issues raised range from Labour Party 9 policy before the 1997 election, through to the rules of 10 Premium League television rights in 2005, with a detour 11 on the way into the question of whether Mr Blair had 12 felt it necessary to take the advice of the publisher of 13 the Sun on how to mend diplomatic fences with the 14 president of France.</p> <p>15 Not surprisingly, both Mr Murdoch and Mr Blair 16 answered no to that.</p> <p>17 I'm not going to go through each issue, but I must 18 mention the remarkable and convincing unanimity with 19 which the charges were rejected, and not just by the 20 principal actors.</p> <p>21 I've already mentioned Mr Straw's reaction to 22 suggestions of News International input into decisions 23 over the Iraq War. Lord Mandelson, a key figure in the 24 party, rejected the idea of any Faustian pact between 25 the Labour Government and Rupert Murdoch. He did not</p> <p style="text-align: center;">Page 16</p>

<p>1 believe that there was ever a deal, express or implied. 2 Alastair Campbell, at the centre of the New Labour 3 project, said that he didn't think there ever was a deal 4 between Mr Murdoch and Mr Blair. Nothing, he said, was 5 traded with Mr Murdoch on policy. 6 Lord O'Donnell, a civil servant at the heart of 7 Whitehall from 1989 to 2011, said on this subject that 8 he was not aware of anything. He could give no specific 9 examples of things where he thought something happened 10 that shouldn't have done. 11 In 2009, of course, the Sun famously switched its 12 support from the Labour Party to the Conservatives, and 13 in 2010, the country acquired the Coalition Government. 14 Lord O'Donnell remained in place, and his evidence 15 straddles both governments. 16 In a different way, so does Mr Gove, and he was 17 clear that neither as a journalist nor as a politician 18 had he seen, observed or heard any evidence of an 19 express or implied deal between a politician and a press 20 proprietor. 21 Mr Cameron made it absolutely clear that with his 22 own background in television, he did not need 23 News International to make his party's media policies 24 for him. And Mr Osborne was withering over the 25 suggestion that the Conservative Party somehow conspired</p> <p style="text-align: center;">Page 17</p>	<p>1 the first place, but nobody suggests that it took any 2 turn for the worse. 3 4 Returning from that slight detour to the question of 5 deals. After 30 years in which rumours and conspiracy 6 theories have abounded, the Inquiry has, so far as 7 possible, called before it all the main actors and many 8 of the supporting cast. 9 The Inquiry has heard from Mr Murdoch that he did 10 not ask for deals and it has heard from politicians that 11 they did not promise them, and that the business of 12 government is too important for deals with the press. 13 Collectively and individually, their evidence has 14 shown a consistent pattern and delivered a compelling 15 answer. There was no deal in 1981, and there have been 16 no deals since. 17 As with the Module 2 question concerning the 18 motivations of the police, this is a negative answer, 19 but it is a very important negative answer. Speculation 20 and rumour comes cheap and it swirls through the books, 21 the magazines, the papers and especially the Internet. 22 But the evidence has now been heard and not one of the 23 supposed deals has stood up to examination. 24 That is a statement about the past. What about the 25 future?</p> <p style="text-align: center;">Page 19</p>
<p>1 to get the B SkyB bid onto Mr Hunt's desk. 2 As to what happened when the bid did reach Mr Hunt's 3 desk, after a sequence of events which could not 4 possibly have been plotted or foreseen by 5 News Corporation or News International, the Inquiry has 6 received an enormous quantity of documentation. One 7 point that shines through is that nobody ever offered 8 Mr Hunt any sort of deal to wave through the bid and nor 9 did he wave it through. 10 On the subject of that bid, I must mention that, as 11 the Inquiry knows, Mr Michel has filed a further witness 12 statement in response to the evidence given by 13 Mr Norman Lamb MP. 14 In that statement, he makes it quite clear that he 15 did not set out to make any threats to Mr Lamb, and that 16 if Mr Lamb thought he was being threatened, that can 17 only have been a misunderstanding which has 18 unfortunately festered until very recently. 19 We would also point out that although Dr Cable did 20 indeed refer the bid to Ofcom not long after Mr Michel's 21 meeting with Mr Lamb, there is no suggestion that 22 coverage by any News International titles of the Lib 23 Dems thereupon turned nasty. 24 It is true that Mr Clegg said that he didn't think 25 they had received particularly favourable treatment in</p> <p style="text-align: center;">Page 18</p>	<p>1 You asked yesterday about the culture of the press. 2 We would suggest that the key to the culture of the 3 press is the apparently banal but nonetheless true 4 statement that what drives journalists and papers is the 5 desire to get the news and to publish it first. 6 News is, of course, information that is new, that is 7 not already well-known. News is also information that 8 is accurate. There is no professional or personal 9 satisfaction to be gained from publishing information 10 that is inaccurate, and doing so also exposes you to the 11 risk of an action for defamation. 12 The culture is, therefore, one which seeks after 13 truth. A stream of editors and journalists have said 14 that, and there is no reason to disbelieve them. 15 That instinct can also be seen in a perverted form 16 in the cases where things have gone wrong. The 17 journalists who paid Mr Whittamore were not paying him 18 for inaccurate information but for accurate information. 19 Those who engaged in phone hacking were acting 20 disgracefully, but they were not after fictitious 21 stories, they were after true stories. 22 What we see is that the excesses of the press have 23 occurred when the search for a story has overcome the 24 boundaries of privacy. That is in some way as 25 a consequence of the history.</p> <p style="text-align: center;">Page 20</p>

<p>1 Defamation law is something which journalists have 2 grown up with. Privacy law really began in the United 3 Kingdom with the decision of the House of Lords in the 4 Naomi Campbell case in 2004. It is not, we suggest, 5 a coincidence that the use of Mr Whittamore and phone 6 hacking started before then. The boundaries of privacy 7 have not historically been in the DNA of the press but 8 they have now had eight years to learn, and the lesson 9 is, we think, sinking in, and is well on its way to 10 being thoroughly absorbed.</p> <p>11 As Mr Millar explained yesterday, the Editors' Code 12 has moved with the times over that period, and whilst no 13 doubt not perfect, it is overall a good document.</p> <p>14 What is needed is a mechanism or an agency to 15 improve compliance with the code, but that mechanism or 16 agency must take its place in an already complex world, 17 with a number of powerful factors in play.</p> <p>18 First, it must recognise that the press is already 19 set around with laws. It has been said, a little 20 glibly, that nothing has changed since Sir David 21 Calcutt's second report. It is true that Parliament has 22 not enacted his authoritarian vision for the supervision 23 of the press by a tribunal appointed by ministers, but 24 in every other respect, a great deal has changed.</p> <p>25 We have an anti-harassment statute, we have</p> <p style="text-align: center;">Page 21</p>	<p>1 These papers do not exist on a plain diet of serious 2 stuff. They sell because they mix information with 3 amusement, emotion, cheekiness and popular idiom. 4 Between them, they give the United Kingdom a uniquely 5 vivid and vibrant national press with a daily readership 6 of somewhere between 17.5 and 20 million, depending on 7 exactly how you do the figures.</p> <p>8 That popular press must be allowed the scope to 9 continue to entertain and amuse as well as to educate 10 and to inform. It is as well to remember that the right 11 to freedom of expression articulated by Article 10 is 12 a right not only to impart information and ideas but 13 also to receive them.</p> <p>14 When the public buy newspapers, they are exercising 15 their Article 10 rights to receive information and 16 ideas, and most of them choose to exercise those rights 17 by buying the popular papers rather than the 18 broadsheets.</p> <p>19 Fourthly, it must be acknowledged that the printed 20 press is economically very fragile. I hope the Guardian 21 will forgive me for mentioning their recent results, but 22 they have just announced losses of 44 million following 23 on 31 million last year, and significant redundancies 24 amongst reporters are expected to follow. Trinity 25 Mirror's travails over the last year have been widely</p> <p style="text-align: center;">Page 23</p>
<p>1 a privacy law, we have a broader Data Protection Act, we 2 are in the throes of recognising that defamation law has 3 become too great a fetter on freedom of speech. We know 4 that phone hacking is against the criminal law. An 5 editor has to navigate his way through these thickets 6 every day and they already represent a formidable body 7 of constraints.</p> <p>8 Secondly, a new system must not inhibit the vital 9 functions of comment on and criticism of those in power, 10 together with legitimate investigative reporting, 11 including investigations that, although 12 well-intentioned, do not turn up a scandal in the end.</p> <p>13 Thirdly, and by contrast, it must recognise the 14 vital importance of the tabloid press. It is the easy 15 option intellectually and ethically to defend those 16 elements of the press that trade in seriousness and 17 high-mindedness. Indeed, they are rarely criticised. 18 But they are not the press that the vast majority reads.</p> <p>19 Of course, even most of the broadsheet press is not 20 as serious-minded as perhaps the Times Literary 21 Supplement or the Economist, but the majority of 22 newspaper readers do not read the Times, the Telegraph 23 or the Guardian, they read the popular and the 24 mid-market press: the Sun, the Mail, the Mirror and the 25 Express.</p> <p style="text-align: center;">Page 22</p>	<p>1 chronicled.</p> <p>2 Mr Millar explained yesterday that the Telegraph was 3 handsomely profitable at present, but he also made it 4 clear that they did not know what the future would 5 bring, even in the short term.</p> <p>6 As for News International, the last year has been 7 a one-off, but the underlying position is that the Times 8 has been unprofitable for many years, the Sunday Times 9 has recently been loss-making and while the Sun is 10 profitable, the situation is no longer as healthy as it 11 once was.</p> <p>12 Speaking to you this morning, Mr Sherborne was 13 somewhat contemptuous of commercial motivations, but it 14 is right to have in mind that without a profitable 15 press, there will be no press at all. This is a fragile 16 industry and it cannot support the imposition of 17 expensively, heavy-handed, regulatory structure.</p> <p>18 Fifthly, the reason for that fragility must be 19 recognised in the form of competition from the Internet. 20 The news dissemination from this Inquiry itself is an 21 example we have all observed at first hand. The 22 Inquiry's proceedings have been streamed live over the 23 net for all to see. For those not watching, instant 24 updates have come from blogs, from Tweets and from 25 articles on news Internet sites. Significant</p> <p style="text-align: center;">Page 24</p>

<p>1 developments have been reported on the news and 2 discussed on the current affairs programmes of radio and 3 television, and all of that has happened before the next 4 day's papers have hit the doorsteps. 5 In that state of play, it cannot be either 6 economically or legally fair to lay a burden of 7 regulation upon the printed press which is not laid 8 equally upon the Internet, and that, as we all know, is 9 a very difficult thing to achieve, and not a problem 10 faced by Sir David Calcutt in 1993. 11 If one wants an example of the competition that the 12 printed press faces, one need only read Paul Staines's 13 recent witness statement to the Inquiry in which he says 14 that more regulation of the press will be good for his 15 business, that is to say the Guido Fawkes blog, but he 16 will ignore all of it. 17 It is idle to seek a solution that perfectly 18 accommodates the Internet and the other factors I have 19 identified, but we suggest that the best solution is 20 that put forward by Lord Black and Lord Hunt. This has 21 a number of great merits. 22 First, it is voluntary and has been and is being 23 developed by those who will pay for it and be subject to 24 it. 25 Secondly, being voluntary, it avoids the definition</p> <p style="text-align: center;">Page 25</p>	<p>1 in the news delivery market and it can be introduced 2 without delay. 3 Sixthly, it will have teeth comparable to or sharper 4 than most press councils in the EU. 5 Seventhly, the annual reporting requirement is 6 a good idea, and will serve to raise standards. 7 For all those reasons, we support the PressBoF 8 proposals and we would add that in supporting that 9 approach, we suggest that Mr Sherborne exaggerated just 10 a little the power of the press when he spoke this 11 morning. 12 The press can gather information and it can publish 13 it, but it does not have compulsory powers to gather 14 information. It can't give orders, it can't send troops 15 to Afghanistan, it can't issue statutory notices, it 16 can't execute search warrants. It can only speak, and 17 in doing that it is in competition with broadcasters and 18 the Internet. 19 The power to speak is not an insignificant power, 20 but it's not an overweening one either, and the 21 regulation of that not so strong but very important 22 power should not be, and need not be, too heavy-handed. 23 Finally, we would add that whatever the regulatory 24 solution may be, lessons have been learned here. Such 25 statements are often met with a lift of the eyebrows,</p> <p style="text-align: center;">Page 27</p>
<p>1 and funding problems we have identified at paragraphs 33 2 onwards of our overview submissions lodged last week. 3 Voluntary regimes can be flexible on such matters. 4 To pick up a point that was discussed yesterday, 5 once statute intervenes to enforce or to encourage 6 participation, then it has to define who has to 7 participate in order not to be penalised. That gives 8 rise to a problem of definition, and if you resolve it 9 in a fashion that leaves out Internet competition, it 10 threatens to impose a competitive disadvantage of those 11 within the definition. 12 To be blunt, the position is that people may 13 volunteer for something which the Government cannot 14 fairly impose upon them. 15 Thirdly, any statute can be at risk of amendment and 16 of the misuse of delegated legislative powers. Ofcom 17 advised the Inquiry that this is a credible risk and the 18 material on the point is very well gathered in the 19 written submissions of Associated Newspapers from 20 paragraph 44 onwards, which we very gladly adopt on this 21 point. 22 Fourthly, it does not require public funds. Even 23 Mr Jay's only "10 million" is hard to justify if there 24 is a self-funded scheme available. 25 Fifthly, it is flexible. It can respond to changes</p> <p style="text-align: center;">Page 26</p>	<p>1 but you heard yesterday from DAC Akers of the 2 co-operation given by the MSC to the Metropolitan 3 Police, of the instances where the MSC has carried out 4 investigations which have not been asked for by the 5 police and that the senior management and corporate 6 approach now is to assist and come clean. 7 Despite what Mr Sherborne said this morning, it is 8 a culture of clean-up which is now in place. 9 In that regard, Mr Sherborne also referred to the 10 question of email deletions. All I want to say about 11 that is that under the direction of the MSC, enormous 12 resources have been devoted to reconstituting email 13 databases and appropriate disclosures have been made to 14 the police. 15 Indeed, I think the Inquiry has heard in the past 16 of -- I forget how many millions of emails which have 17 been surveyed for the purpose, but the number is 18 astonishingly large. 19 In addition, Mr Rupert Murdoch made available to the 20 Inquiry as an exhibit to his witness statement 21 a detailed explanation of the position in relation to 22 the retention and deletion of emails by 23 News International. That statement was made by 24 Mr Cheesebrough, News International's chief information 25 officer. There are confidentiality limitations which</p> <p style="text-align: center;">Page 28</p>

<p>1 apply to its use, but the Inquiry has it.</p> <p>2 One may add to those considerations the sober</p> <p>3 reflections that the News of the World, a 168-year-old</p> <p>4 paper, has been felled. The electronic cupboards have</p> <p>5 been stripped bare. There have been a lot of arrests</p> <p>6 and a host of civil claims. These are lessons that are</p> <p>7 too severe to be forgotten, and News International is</p> <p>8 determined not to have to learn them twice.</p> <p>9 That is the ground I wanted to cover and what</p> <p>10 I wanted to say, and it remains only for the</p> <p>11 News International team, as those perhaps most</p> <p>12 constantly present, to thank the Inquiry Team from top</p> <p>13 to bottom for the courtesy with which the Inquiry has</p> <p>14 been conducted.</p> <p>15 LORD JUSTICE LEVESON: Thank you.</p> <p>16 This is an interesting moment. Save for a number of</p> <p>17 what might be described as "loose ends" or "updates",</p> <p>18 The gathering of formal evidence by the examination of</p> <p>19 witnesses is now at an end. It only leaves me to thank</p> <p>20 all those who have worked very hard to maintain the</p> <p>21 timetable which has pressed upon us from start to</p> <p>22 finish.</p> <p>23 So I start by thanking all those who participated as</p> <p>24 core participants, their legal teams, all those who, as</p> <p>25 Mr Rhodri Davies has observed, work invisibly under the</p> <p style="text-align: center;">Page 29</p>	
<p>1 surface as well as those who are visible, for doing what</p> <p>2 they can to provide information timeously and ensure</p> <p>3 that the Inquiry has kept on track.</p> <p>4 I thank the Inquiry Team, Mr Jay, counsel and all</p> <p>5 those who work as part of the team in a different part</p> <p>6 of this building for their efforts, never-ending, again</p> <p>7 to keep the Inquiry on track.</p> <p>8 And I thank the press who have reported on the</p> <p>9 Inquiry, either from here or in the marquee, for keeping</p> <p>10 everybody informed as to what's gone on.</p> <p>11 For most of you, I suppose, the task is now done and</p> <p>12 you can move on to other productive work. For me and</p> <p>13 for the team, however, we have only just started.</p> <p>14 I will produce a report as soon as I reasonably can.</p> <p>15 I recognise the urgency of the matter and the need to</p> <p>16 provide my views for the consideration of the Government</p> <p>17 and all those interested parties speedily, so that</p> <p>18 decisions can be made as to the way forward.</p> <p>19 As I have said, if anything happens over the next</p> <p>20 months which I feel impacts on the work of the Inquiry,</p> <p>21 I will not hesitate in bringing it up, and if that means</p> <p>22 that we will rendezvous back in this room again, so be</p> <p>23 it, but in the meantime, thank you all very much.</p> <p>24 (2.38 pm)</p> <p>25 (The hearing concluded)</p> <p style="text-align: center;">Page 30</p>	

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