

Keir Starmer QC  
Director of Public Prosecutions



CPS

Headquarters  
50 Ludgate Hill  
London  
EC4M 7EX

John Whittingdale OBE MP  
Chairman Culture, Media and Sport Committee  
House of Commons  
7 Millbank  
LONDON, SW1P 3JA

Faxnumber 020 7796 8680  
Switchboard 020 7796 8000

DX No 300850 Ludgate EC4

3 November 2009

Dear Mr Whittingdale,

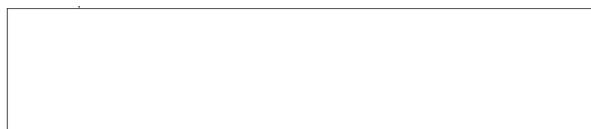
Thank you for your letter of 20 October, in which you have asked, on behalf of the Culture, Media and Sport Committee, for a number of specific pieces of information. I will deal with them in the same order as your letter.

1. The prosecution document bundle given to Mr Justice Gross: The prosecution bundle contained a document entitled 'Observations on Sentence' and authorities relevant to sentence. I attach a copy of the 'Observations on Sentence' document.
2. The defence bundles: I am sure you will understand when I say that it would not be appropriate for the prosecution to provide these. The solicitors representing Mr Goodman and Mr Mulcaire are Henri Brandman & Co, 71 Wimpole St, London W1G 8AY (020 7224 0616) and Russell Jones and Walker, 324 Gray's Inn Rd, London W1X 8DH (020 7837 2941, respectively. Requests for defence bundles should be addressed to them.
3. David Perry QC's opinion to the CPS: There was no written legal opinion relating to the interpretation of section 1 of the Regulation of Investigatory Powers Act 2000 (RIPA). Counsel's advice on the ambit of section 1 of RIPA was given to the CPS orally in conference. Advices given to the CPS by Counsel are not usually disclosed. Having said that, it may be helpful for you to know that the advice was based on: section 1(1) of RIPA, which requires the communication to be intercepted 'in the course of its transmission'; section 2(7) of the same Act, an interpretive provision, which gives an extended meaning to the times when a communication is to be taken as being in transmission; and the observations of Lord Woolf CJ in R (on the application of NTL) v Ipswich Crown Court [2002] EWHC 1585 (Admin); [2002] 3 WLR 1173; [2002] QB 131, at paragraphs 18-19, in relation to the effect of section 2(7): 'Subsection (7) has the effect of extending the time of communication

until the intended recipient has collected it'. The CPS view was that the observations of Lord Woolf were correct, and accorded with the rationale of the prohibition in section 1 (1). Moreover, it was also our view that in this case there was nothing to be gained from seeking to contend for a wider interpretation of section 2 (7) than that contemplated by Lord Woolf.

4. Shortening of the charge period: The period of the conspiracy was shortened because, whilst it was possible to prove interceptions from February 2005, on the available evidence it was not possible to prove that these took place in pursuance of a conspiracy until the November date. However, although the pre-November interceptions were not part of the charge, they were opened as part of the prosecution case and, forming as they did part of the context of the conspiracy, they remained matters which the judge was entitled to take into account in the sentencing exercise when determining the seriousness of the offence and the level of culpability.
5. Helen Asprey's voicemails: I am informed that in relation to Helen Asprey, in common with each of the victims, expert evidence was gathered relating to: (a) how voicemail messages were left, stored and accessed; and (b) how and when they were in fact accessed in this case.

I hope this is of help



KEIR STARMER QC