

<p>1 8 December 2011</p> <p>2 (10.00 am)</p> <p>3 MR BARR: Good morning, sir. We're going to be calling</p> <p>4 evidence today from seven learned academic witnesses.</p> <p>5 We're going to be adopting a different format today from</p> <p>6 that which we've followed thus far. I believe the term</p> <p>7 is called hot-tubbing.</p> <p>8 LORD JUSTICE LEVESON: That's in Australia. It doesn't have</p> <p>9 to be called that here.</p> <p>10 MR BARR: We may have to think of an English term for the</p> <p>11 process, but what is going to happen in practice is four</p> <p>12 of our academic witnesses are going to be called this</p> <p>13 morning and three this afternoon. Both Ms Patry Hoskins</p> <p>14 and myself are going to be questioning, and the idea is</p> <p>15 better to extract the wisdom and learning of these</p> <p>16 witnesses and to debate some of the issues which it is</p> <p>17 hoped will assist you, sir, in your task.</p> <p>18 LORD JUSTICE LEVESON: Yes. I've been provided with</p> <p>19 a formidable body of material. I can't pretend I've</p> <p>20 read every word. A lot of it deals with the courses</p> <p>21 that are being run in educational establishments that</p> <p>22 deal with ethics, which is interesting but not of course</p> <p>23 at the centre of the issues that I'd like to discuss.</p> <p>24 I'm pleased for the background, but I'm sure you'll</p> <p>25 appreciate that having got what's happening on the</p> <p style="text-align: center;">Page 1</p>	<p>1 could you give the Inquiry your full name, please?</p> <p>2 PROFESSOR BARNETT: My full name is Steven Julius Barnett</p> <p>3 MR BARR: Could you confirm your place of work?</p> <p>4 A. University of Westminster, 309 Regent Street, London.</p> <p>5 LORD JUSTICE LEVESON: Just before we go on, I'm open to</p> <p>6 suggestion on this, but I'm reminded that none of the</p> <p>7 witnesses have taken the oath. It may be that it's not</p> <p>8 appropriate, but I just want to make sure that we</p> <p>9 clarify the basis upon which we're proceeding.</p> <p>10 MR BARR: Sir, I'm in your hands. I think it might be</p> <p>11 better for formality that the evidence is given on oath.</p> <p>12 I was certainly proposing to adduce the witness</p> <p>13 statements so that they can be confirmed and posted on</p> <p>14 the Internet for all to read.</p> <p>15 LORD JUSTICE LEVESON: Yes. Do any of you have any</p> <p>16 objection to that? No? Right, let's do that.</p> <p>17 PROFESSOR STEVEN BARNETT (affirmed)</p> <p>18 PROFESSOR GEORGE BROCK (sworn)</p> <p>19 PROFESSOR BRIAN CATHCART (affirmed)</p> <p>20 PROFESSOR ANGELA PHILLIPS (affirmed)</p> <p>21 Questions from MR BARR</p> <p>22 MR BARR: If we could resume, Professor Barnett, is it right</p> <p>23 that you are the Professor of Communications at the</p> <p>24 University of Westminster?</p> <p>25 PROFESSOR BARNETT: That's right.</p> <p style="text-align: center;">Page 3</p>
<p>1 ground, for the next generation of journalists what</p> <p>2 I need to know is how it then works out and what I can</p> <p>3 do about the problems that I'm required to address.</p> <p>4 MR BARR: Indeed, sir. There's no doubting the industry</p> <p>5 that's been put into the statements and exhibits which</p> <p>6 have been produced by the witnesses. The statements</p> <p>7 are, of course, going to be taken as read. There may be</p> <p>8 a few questions at the start to paint the landscape of</p> <p>9 the courses, but we intend to spend most of the sessions</p> <p>10 dealing with the nub of the issues that confront the</p> <p>11 Inquiry.</p> <p>12 LORD JUSTICE LEVESON: Thank you very much indeed.</p> <p>13 MR BARR: Thank you, sir. Might I now introduce the</p> <p>14 witnesses that we are going to be hearing from this</p> <p>15 morning. They're sitting in alphabetical order, to</p> <p>16 assist those who do not know them well.</p> <p>17 LORD JUSTICE LEVESON: I think I do, because I've certainly</p> <p>18 heard from at least three of them before, but do so.</p> <p>19 MR BARR: It's Professor Steven Barnett on the left, from</p> <p>20 the University of Westminster, Professor George Brock</p> <p>21 from City University, Professor Brian Cathcart from</p> <p>22 Kingston University and Angela Phillips from Goldsmiths</p> <p>23 University of London, sir.</p> <p>24 LORD JUSTICE LEVESON: Thank you.</p> <p>25 MR BARR: If I could start by asking Professor Barnett,</p> <p style="text-align: center;">Page 2</p>	<p>1 MR BARR: And you've been teaching in the University's</p> <p>2 School of Media, Art and Design for 18 years?</p> <p>3 PROFESSOR BARNETT: That's right.</p> <p>4 MR BARR: And you've had a personal chair since 2000?</p> <p>5 PROFESSOR BARNETT: That's correct.</p> <p>6 MR BARR: You tell us that the university's media department</p> <p>7 is the oldest in the country?</p> <p>8 PROFESSOR BARNETT: That's right.</p> <p>9 MR BARR: And you're also an external examiner for the</p> <p>10 journalism course at the University of Kent?</p> <p>11 PROFESSOR BARNETT: That's right.</p> <p>12 MR BARR: Over the last 25 years you've directed over 30</p> <p>13 research projects?</p> <p>14 PROFESSOR BARNETT: Yes.</p> <p>15 MR BARR: And you are currently acting as specialist adviser</p> <p>16 to the House of Lords Select Committee on Communications</p> <p>17 for its inquiry into investigative journalism?</p> <p>18 PROFESSOR BARNETT: That's right.</p> <p>19 MR BARR: You've been a member of the National Union of</p> <p>20 Journalists for nearly 30 years? You were a columnist</p> <p>21 on the Observer?</p> <p>22 PROFESSOR BARNETT: That's right.</p> <p>23 MR BARR: And you have been an editorial board member of the</p> <p>24 British Journalism Review since its inception in 1990?</p> <p>25 PROFESSOR BARNETT: That's right.</p> <p style="text-align: center;">Page 4</p>

<p>1 MR BARR: And you have published a number of books and 2 articles on journalism? 3 PROFESSOR BARNETT: That's right. 4 MR BARR: And media policy. 5 Professor Brock, if I could ask you -- 6 LORD JUSTICE LEVESON: Just before we go on, you've not yet 7 introduced his statement, so we'll do it when his 8 statement comes to be considered, because of course 9 Professor Barnett spoke at one of the seminars. Yes. 10 MR BARR: Professor Brock, could you confirm your full name, 11 please? 12 PROFESSOR BROCK: George Laurence Brock. 13 MR BARR: And you are Professor and Head of Journalism at 14 City University London? 15 PROFESSOR BROCK: That's correct. 16 MR BARR: You joined the university in 2009? 17 PROFESSOR BROCK: Yes. 18 MR BARR: Before that, you had worked since 1981 at the 19 Times in various posts including Comment Editor, Foreign 20 Editor, Brussels Bureau Chief, Managing Editor and 21 Saturday Editor? 22 PROFESSOR BROCK: That's correct. 23 MR BARR: Before that, you were a reporter on the Yorkshire 24 Evening Press in York? 25 PROFESSOR BROCK: Yes.</p> <p style="text-align: center;">Page 5</p>	<p>1 MR BARR: Your career in journalism began with a graduate 2 traineeship at Reuters? 3 PROFESSOR CATHCART: Correct. 4 MR BARR: You remained at Reuters as a correspondent between 5 1978 and 1986? 6 PROFESSOR CATHCART: That's correct. 7 MR BARR: You then joined the launch team of the Independent 8 newspaper as a foreign news sub-editor? 9 PROFESSOR CATHCART: I did. 10 MR BARR: And then you were the launch foreign editor of the 11 Independent on Sunday in 1990 and you later became the 12 paper's deputy editor? 13 PROFESSOR CATHCART: That's right. 14 MR BARR: You left in 1997 to work as a freelance and to 15 write books? 16 PROFESSOR CATHCART: Correct. 17 MR BARR: They include "Were You Still Up for Portillo?" in 18 1997, "The Case of Stephen Lawrence, "Jill Dando: Her 19 Life and Death" and "The Fly in the Cathedral". 20 From 2003 to 2007, you were the assistant editor and 21 also media columnist of the New Statesman? 22 PROFESSOR CATHCART: Correct. 23 MR BARR: And in 2010, you were the specialist adviser to 24 the House of Commons Select Committee on Culture, Media 25 and Sport in the inquiry which produced the report</p> <p style="text-align: center;">Page 7</p>
<p>1 MR BARR: And subsequently you spent five years as 2 a reporter for the Observer? 3 PROFESSOR BROCK: That's right. 4 MR BARR: You are an ex-president and current board member 5 of the World Editors Forum? 6 PROFESSOR BROCK: Yes. 7 MR BARR: And you're on the board of the International Press 8 Institute and chair its British Committee? 9 PROFESSOR BROCK: That's right. 10 MR BARR: You also write a blog on journalism, the link for 11 which is set out in your witness statement, and you 12 write in the Times, the British Journalism Review and 13 the Times Literary Supplement? 14 PROFESSOR BROCK: Yes. 15 MR BARR: I turn now to Professor Cathcart. Could you give 16 us your full name, please? 17 PROFESSOR CATHCART: Brian John Cathcart. 18 MR BARR: And you were Professor of Journalism at Kingston 19 University, is that right? 20 PROFESSOR CATHCART: I still am. 21 MR BARR: You still are, and have been since 2005? 22 PROFESSOR CATHCART: Yes. 23 MR BARR: Before that, you were a senior lecturer for two 24 years? 25 PROFESSOR CATHCART: Yes.</p> <p style="text-align: center;">Page 6</p>	<p>1 "Press standards, libel and privacy". 2 PROFESSOR CATHCART: That's correct. 3 MR BARR: At Kingston you are Director of Research in the 4 department and you've led two research projects in 5 association with the Natural History Museum? 6 PROFESSOR CATHCART: Correct. 7 MR BARR: Ms Phillips, if I could ask you, please, to 8 confirm your full name to the Inquiry? 9 MS PHILLIPS: My name is Angela Phillips. 10 MR BARR: And you currently work at Goldsmiths College at 11 London? 12 MS PHILLIPS: That's right. 13 MR BARR: You run all the print journalism programmes? 14 MS PHILLIPS: Yes. 15 MR BARR: The journalism MA and you co-founded the 16 innovative MA in digital journalism with the college's 17 department of computing? 18 MS PHILLIPS: That's right. 19 MR BARR: You've been a journalist for over 30 years, 20 starting in the alternative press in the 1970s and 21 moving on to work for national newspapers, magazines, 22 television and radio, both the BBC and independents? 23 MS PHILLIPS: That's right. 24 MR BARR: You trained initially as a photographer and worked 25 for several years as a photo journalist before moving</p> <p style="text-align: center;">Page 8</p>

<p>1 mainly into print. You were awarded an MA in media and 2 cultural studies in 2003 and you currently freelance for 3 the Guardian and you contribute to Comment is Free on 4 the Guardian blog site? 5 MS PHILLIPS: Yes. 6 MR BARR: And you're a participant in Goldsmiths' Leverhulme 7 Media Research Centre? 8 MS PHILLIPS: That's right. 9 MR BARR: Thank you. Can I now turn to ask you formally 10 about your witness statements? Could I ask you first of 11 all, Professor Barnett, are the contents of your witness 12 statement true to the best of your knowledge and belief? 13 PROFESSOR BARNETT: Yes, they are. 14 MR BARR: And did you attend the seminar earlier this year? 15 PROFESSOR BARNETT: Yes, I spoke at the third seminar. 16 MR BARR: Those comments at the time were made on the basis 17 that they would not form formal evidence. Would you 18 like them to be treated as formal evidence for 19 Lord Justice Leveson's purposes? 20 PROFESSOR BARNETT: Yes, please, I'm happy -- 21 LORD JUSTICE LEVESON: Is there anything in them that you've 22 now -- we'll doubtless come this, but I'd be very keen 23 to know if there is anything in it that you've now 24 changed your mind about or want to expand upon during 25 the course of the day?</p> <p style="text-align: center;">Page 9</p>	<p>1 to hear your reflected views as we get more into the 2 evidence and hear more so that I am better informed 3 about what can be done for the future. 4 It's critical, and I've said this publicly before 5 and I don't mind repeating it -- I know 6 Professor Brock's getting this, but it's really a common 7 comment -- to ensure that whatever system, if there is 8 to be a change, is understandable, is acceptable to all 9 and will work. You may have observed that I said during 10 the course of the evidence that I was absolutely opposed 11 to producing something that was only of interest to you 12 as professors of journalism in years to come as an 13 interesting sideline which produced a document that 14 simply sat on a shelf. Not that I'm trying to deprive 15 you of work to do in the future, but I am very keen that 16 this enormous expense produces something that is 17 sensible, worthwhile and workable. 18 Right, sorry to interrupt you, Mr Barr. 19 MR BARR: Not at all. 20 Professor Cathcart, are the contents of your witness 21 statement true and correct to the best of your knowledge 22 and belief? 23 PROFESSOR CATHCART: Yes. 24 MR BARR: And are you content for your contributions to the 25 seminar to be received formally in evidence?</p> <p style="text-align: center;">Page 11</p>
<p>1 PROFESSOR BARNETT: I'm very happy for that to be included 2 as spoken at the time. 3 LORD JUSTICE LEVESON: Thank you very much. 4 MR BARR: Professor Brock, the same questions. Is your 5 witness statement true and correct to the best of your 6 knowledge and belief? 7 PROFESSOR BROCK: Yes, it is. 8 MR BARR: And did you speak at the seminar? 9 PROFESSOR BROCK: Yes, I spoke at the third seminar. 10 MR BARR: Are you content for those contributions to the 11 seminar to be received formally in evidence? 12 PROFESSOR BROCK: Yes, I think that's fine. There's a good 13 deal more to say on the subject but -- 14 LORD JUSTICE LEVESON: I'm sure there is -- 15 PROFESSOR BROCK: -- it stands fine as it is. 16 LORD JUSTICE LEVESON: -- and I'm very keen for you all to 17 have the opportunity of saying what is to be said on the 18 subject. Let me make it abundantly clear, this has been 19 your -- not to say your life's work, but within your DNA 20 for a very long time and it isn't part of my DNA as yet, 21 but it is becoming so, and therefore I'm very keen for 22 your help, and although we'll formally discuss various 23 of the issues this morning and during the course of the 24 day, I wouldn't want you to think that your contribution 25 should then be considered at an end. I'd be very keen</p> <p style="text-align: center;">Page 10</p>	<p>1 PROFESSOR CATHCART: Yes. 2 MR BARR: Ms Phillips, I understand that you were one of 3 a number of contributors to the Goldsmiths witness 4 statement, but is it true to the best of your knowledge 5 and belief? 6 MS PHILLIPS: Yes, it is, and I just wanted to say that 7 Professor Curren had originally been asked to give 8 evidence but we worked together in the Leverhulme 9 research group and it was felt that as I teach practical 10 journalism, that I might be of more use to you today, so 11 that's why Professor Curren isn't here. 12 MR BARR: We're delighted to get the collective benefit of 13 Goldsmiths experience today. Are you able to confirm 14 that the Goldsmiths contribution, if I put it that way, 15 to the seminar can be received formally in evidence? 16 MS PHILLIPS: Absolutely. 17 MR BARR: Before we leap into the meaty issues, can I start 18 with a little bit of background about the role of 19 university training for journalists? We sense from the 20 witness statements that there has been a trend, perhaps 21 over the last two decades, where university training has 22 grown considerably for journalists such that it is now 23 the most frequently delivered training for journalists 24 and has replaced in-house training as the mainstream 25 entry into the profession. Is that right?</p> <p style="text-align: center;">Page 12</p>

<p>1 MS PHILLIPS: It's slightly more conflicted than that 2 because quite a lot of it's postgraduate, quite unlike, 3 for example, in America. Although there are 4 undergraduate journalism programmes, we also have, 5 certainly City and Goldsmiths, all of us, I think, have 6 important postgraduate journalism programmes, so that 7 quite a large number -- the last research I saw said 8 that something like 50 per cent of people going into 9 journalism in I think it was 2002 already had 10 a postgraduate qualification of some kind, so I think 11 it's quite important to recognise that there are two 12 different levels. There is undergraduate journalism and 13 there's quite a lot of postgraduate journalism and those 14 journalists will have had a different kind of first 15 degree.</p> <p>16 PROFESSOR BROCK: But nevertheless, if I can just add, it is 17 broadly absolutely right to say that because there is 18 less in-house training going on, more of it has happened 19 in universities. The traditional way in which, for 20 example, national papers were staffed was by people who 21 graduated in the informal sense of the word out of 22 regional papers, while somewhere around the 1990s that 23 flow just dwindled to a trickle, and they weren't being 24 trained and they weren't emerging in such numbers and 25 they weren't being so well trained, and that boosted</p> <p style="text-align: center;">Page 13</p>	<p>1 journalists of sufficient calibre or not?</p> <p>2 PROFESSOR BARNETT: My answer would be no. I think there is 3 actually almost an abundance of people, which is very 4 gratifying, who are keen, eager, quite idealistic about 5 their view of what journalism can do, what they can 6 achieve as journalists, the role of journalism in 7 a democratic society. So I don't know if my colleagues 8 would agree or not, but my sense of it is that we 9 certainly have no shortage of good applicants who are 10 keen to study media and become journalists.</p> <p>11 PROFESSOR BROCK: We certainly have no shortage of 12 applicants. In terms of quantity and quality, I don't 13 think there's a problem if you're talking about the 14 national press and what -- in the broad terms, the BBC, 15 Sky, employers like that who tend to broadcast across. 16 If you're talking about the regional newspapers, I think 17 it's much harder for them to find trainees. The 18 relative pay has gone down very much more sharply. They 19 don't train people. There isn't a career progression to 20 higher up in the business, if I can put it that way, and 21 therefore the quantity and quality of people going into 22 the regional press has changed a lot, and not for the 23 better, broadly speaking.</p> <p>24 PROFESSOR CATHCART: I would think there's something to add 25 about the regional press there which is they're actually</p> <p style="text-align: center;">Page 15</p>
<p>1 applications for university courses, and indeed the 2 creation of university courses too.</p> <p>3 MR BARR: And if --</p> <p>4 LORD JUSTICE LEVESON: Hang on. You have to speak. If you 5 want to speak, just crack on.</p> <p>6 PROFESSOR BARNETT: I just wanted to add, to add to what 7 George was saying, I think the broad trend is 8 undoubtedly away from training on the job, on the 9 ground, towards university courses, but the point that 10 I would like to emphasise, as far as I can tell this is 11 happening on an essentially piecemeal basis. There is 12 no coordination of the way in which this is happening. 13 It is a process where on the one hand you have in 14 particular local newspapers closing down their schemes 15 because they can't afford to run them, or even the 16 national schemes being reduced in size, and at the same 17 time, as George said, universities picking up the slack, 18 but not in any kind of coherent or organised way. It's 19 simply responding to that kind of demand, that there are 20 people, students, who want to study the media and go 21 into journalism, but are not finding the routes in that 22 were traditionally there.</p> <p>23 MR BARR: If no one else want to contribute on that opening 24 question, could I move on to pick up from that and ask: 25 is there any difficulty with the supply of budding</p> <p style="text-align: center;">Page 14</p>	<p>1 shrinking their staff numbers, not increasing them. 2 They're not big recruiters these days.</p> <p>3 In response to your central question, there is no 4 shortage of very, very bright young people wanting to be 5 journalists.</p> <p>6 MS PHILLIPS: I would absolutely agree with that. We get 7 amazing students at Goldsmiths and we don't tend to -- 8 they haven't ever tended to go to the local newspapers, 9 or to local or regionals, they've tended to go to 10 nationals and magazines, which is probably fortunate 11 given what's happening at the local level at the moment.</p> <p>12 LORD JUSTICE LEVESON: Before you go on, can I go back to 13 the question you answered a moment ago. Is there a call 14 for a requirement for a common standard across the 15 universities? Or is the diversity of the courses you 16 offer and therefore perhaps the varying standards -- and 17 I'm not going to go into the debate -- of the training 18 that your undergraduates or your graduates receive of 19 value or not a good idea? Is my question sufficiently 20 clear?</p> <p>21 PROFESSOR CATHCART: I would say that one of the virtues, as 22 we would see it, of the system is that it's quite 23 competitive. You want students to come to your 24 university and like the look of your course. You make 25 it as -- in our case, as practice-oriented as in a sense</p> <p style="text-align: center;">Page 16</p>

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<p>1 you can, within the confines of a university. You want 2 to give them a really good preparation, and you promote 3 that and we compete. That's the university model, as it 4 were.</p> <p>5 MS PHILLIPS: And good students do a lot of research before 6 they decide which courses they're going to apply for, 7 and they're very sussed. They do know the differences 8 between them. And when they come to interview -- and 9 I don't know about the others, but we interview every 10 single student coming into our postgraduate courses -- 11 they're pretty clear about why they're making the 12 decisions they're making about which courses they want 13 to go to.</p> <p>14 LORD JUSTICE LEVESON: So the diversity is positive and 15 a good thing?</p> <p>16 MS PHILLIPS: I think absolutely, yes.</p> <p>17 PROFESSOR BARNETT: Just to add to that, we're very 18 old-fashioned in that we interview every student coming 19 onto the undergraduate course -- there aren't very many 20 universities left that still do that -- and have exactly 21 the same experience, that they've done their research, 22 which is much easier now on the Internet, they 23 understand the variety of courses available. In our 24 case, it's 50 per cent practice, 50 per cent theory, 25 which I think is the same as Goldsmiths.</p> <p style="text-align: center;">Page 17</p>	<p>1 our postgraduate and undergraduate students are quite 2 different in the kind of people they are and what they 3 are interested in. So at postgraduate level we tend to 4 get students who are either hoping to get into the 5 nationals or into business magazines or the sort of 6 higher end of the magazine sector and they know that's 7 the kind of students who come to Goldsmiths, so they are 8 selecting a course that's going to be a bit more -- 9 going to have a bit more of an academic -- be more 10 critical than maybe another kind of course.</p> <p>11 LORD JUSTICE LEVESON: As Professor Brock has identified, my 12 question leads on to the whole question of 13 accreditation, which we'll come onto at some stage. 14 Just while we are talking about the subject. Right, 15 sorry.</p> <p>16 MR BARR: Indeed, accreditation was the next issue I was 17 going to introduce. We've read in the statements that 18 there are a number of accreditation bodies and some of 19 you have courses accredited to more than one body, other 20 courses accredited to one body and the observation is 21 made that there is no over-arching organisation to the 22 delivery of content of academic training.</p> <p>23 So could I ask, and I'll start with you, 24 Professor Barnett, simply because you're on the left and 25 perhaps we can move across, is there any difficulty with</p> <p style="text-align: center;">Page 19</p>
<p>1 MS PHILLIPS: Yes.</p> <p>2 PROFESSOR BARNETT: And they appreciate that they're going 3 to have a slightly more theoretical approach to the 4 subject at Westminster or at Goldsmiths than perhaps at 5 other universities which are more vocational. That's 6 part of the mix.</p> <p>7 LORD JUSTICE LEVESON: And that's good?</p> <p>8 PROFESSOR BARNETT: Absolutely.</p> <p>9 PROFESSOR BROCK: There is a very large variety, or rather 10 I think it would be better to say there is a spectrum 11 across which courses run, with theoretical at one end 12 and practical at the other, and different schools teach 13 in slightly different ways. Their mixture of the two 14 will be different. I certainly haven't ever heard 15 a call for consistency of --</p> <p>16 LORD JUSTICE LEVESON: No, I'm just asking the question.</p> <p>17 PROFESSOR BROCK: But it was your first question and 18 I haven't heard it.</p> <p>19 There is a separate issue, which I think we're 20 likely to get asked about, about the accrediting 21 organisations, but I won't get into that right now.</p> <p>22 LORD JUSTICE LEVESON: That's what it leads up to.</p> <p>23 MS PHILLIPS: The industry is so different. There are some 24 courses that are far more populist in their approach, 25 they are both more vocational and more populist. And</p> <p style="text-align: center;">Page 18</p>	<p>1 accreditation? Would it be better to have something 2 more standardised or is the system working now?</p> <p>3 PROFESSOR BARNETT: Is the system working? I suppose it 4 depends on what you want as your ultimate objective. 5 I suppose we'll come -- I made it clear in my evidence 6 that I actually think it's what happens once you get 7 into the newsroom that is the issue, rather than the 8 training, but -- and I think that's a separate problem.</p> <p>9 MR BARR: We'll come to that.</p> <p>10 PROFESSOR BARNETT: In terms of the training itself, because 11 I teach on the theory side, I asked my practice 12 colleagues about this, they are fairly clear that the 13 NCTJ, the National Council for the Training of 14 Journalists, is regarded as slightly inflexible and is 15 not necessarily an appropriate accreditation to have. 16 It doesn't actually help. It produces a sort of 17 a narrowness in course delivery which we didn't want. 18 Whereas the broadcast equivalent, the BCTJ, is rather 19 more flexible and we are accredited to the BCTJ.</p> <p>20 So I think it depends essentially at a local level 21 for each of us what we want to achieve and to what 22 extent it fits our own kind of course aims and 23 diversity. It comes back to the point, I think, about 24 diversity and for some universities it fits, for some 25 courses it fits, for others it doesn't.</p> <p style="text-align: center;">Page 20</p>

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<p>1 MR BARR: Before I throw that question open to our other 2 witnesses, perhaps I could invite you to focus on 3 ethical training and whether there ought to be any 4 over-arching accreditation of ethical training or 5 whether it's best split as it is at the moment. Any 6 thoughts on that?</p> <p>7 PROFESSOR BROCK: It might in theory be better to have an 8 over-arching body. I think in practice journalism in so 9 many of its aspects is changing so rapidly that that 10 would really be quite difficult to do. The situation 11 that Steve was describing just now, we're in the same 12 position at City. We are not accredited to the NCTJ and 13 for broadly the same reasons as Steve's colleagues 14 decided, so I won't labour the point, it's too rigid, 15 it's too difficult for us to operate, and we did not 16 think that it would improve our courses by doing it. 17 And that continues to be the case and we keep that under 18 review but we are in the broadcasting one and we're also 19 in the Periodicals Training Council.</p> <p>20 I think that however journalism is changing so 21 rapidly that an over-arching or standard on 22 organisation, even if you were just thinking about 23 ethical training, would be extremely difficult to do. 24 And given the state of training as I see it, I think 25 that competitive plurality, if I can put it that way,</p> <p style="text-align: center;">Page 21</p>	<p>1 ethics because it is effectively a corner of the 2 teaching, of the requirement of the NCTJ diploma, 3 a small corner of it that addresses ethical questions. 4 I'm sure that every teacher who delivers an NCTJ course 5 everywhere in the country teaches it in an ethical 6 manner, but the council itself does not place the stress 7 on ethics that I certainly would like to see and I think 8 that's a pity, but it's also a reflection of the NCTJ 9 being the servant of the industry.</p> <p>10 MS PHILLIPS: Absolutely.</p> <p>11 PROFESSOR CATHCART: And the industry's priorities not being 12 highly ethical, shall we say. They have not passed down 13 from on high a demand to the NCTJ to deliver high 14 standards of ethics teaching.</p> <p>15 MS PHILLIPS: I looked at the NCTJ when I started the 16 Goldsmiths MA in the mid-1990s and I decided not to 17 apply for NCTJ accreditation for much of the reasons 18 that we've heard so far. I felt it was far too narrow 19 and it positively prevented a postgraduate course from 20 looking at the industry or in any way interrogating the 21 job of a journalist. The idea is because basically the 22 NCTJ is run by the industry, it seeks simply to imprint 23 industry ideas on teaching.</p> <p>24 It seems to me that at postgraduate level, young 25 people should be asked to think about what journalism is</p> <p style="text-align: center;">Page 23</p>
<p>1 seems to be working effectively. And therefore I don't 2 think that -- it would be a disproportionate effort to 3 try and produce an over-arching organisation.</p> <p>4 PROFESSOR CATHCART: Yes, I agree with George about the 5 over-arching quality. I think we at Kingston have an MA 6 that is accredited to the NCTJ and we did that because 7 we were setting up a -- our focus is on print or on 8 written journalism, and we don't teach broadcast at all 9 and I think our feeling was that this was the 10 appropriate way to teach journalists, teach young 11 journalists to get them jobs in the local and regional 12 press particularly, which tend to require NCTJ 13 qualification. So we married the two, the degree and 14 the NCTJ, now the diploma.</p> <p>15 It is a difficult -- it's a difficult MA, it's a 16 very demanding MA. When we recruit, we interview them 17 all, we warn them that piling the NCTJ qualification 18 work on top of the university -- the demands of a 19 university MA degree is very, very demanding. So, you 20 know, these are students who can't, for example, or find 21 it extremely difficult to hold down, you know, part-time 22 jobs outside their degree as students often have to 23 these days. It's tricky.</p> <p>24 But I have -- I mean, I have been critical, I was 25 critical at the seminar of the NCTJ in the field of</p> <p style="text-align: center;">Page 22</p>	<p>1 and what their role as a journalist would be and very 2 particularly to think about the power that journalists 3 have once they are actually working, so that we at 4 Goldsmiths, we really think that theory and practice 5 need to work together and that ethics needs to be part 6 of what you do from the moment students come in the door 7 because they need to be constantly challenged with 8 ethical questions.</p> <p>9 If you put the straitjacket of an NCTJ, very kind of 10 nuts and bolts, it's very tick boxy. If you put that 11 straitjacket on top of a postgraduate course, I felt you 12 would actually be stopping students from thinking about 13 what they were doing and we like to think that what we 14 do at Goldsmiths is encourage people to think. It's 15 very importantly part of what we do.</p> <p>16 LORD JUSTICE LEVESON: Is a fair summary of that that you're 17 not focusing on what was done yesterday as necessarily 18 correct; you're actually requiring people to think about 19 behind that question and ask: what should we be doing 20 tomorrow?</p> <p>21 MS PHILLIPS: You couldn't have put it better. That's what 22 I say -- as my students leave to go into the world, 23 I basically say at the moment everything's really 24 difficult and really hard and jobs are scarce, but you 25 are going to be the journalists of tomorrow, and what</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 we've taught you will stand you in good stead for the 2 future, not the past. 3 That was the other problem I always had with the 4 NCTJ, that they were teaching too old regulations. We 5 started with a multi-platform postgraduate course in the 6 mid-1990s. The NCTJ didn't have a course that would 7 have fitted that. We would have had to drop most of it. 8 But we are Periodicals Training Council accredited 9 because they have a completely different approach. They 10 come along and say, "Let's see what you're doing and 11 whether it's good enough for us", and that's a much 12 better way of accrediting courses because it allows many 13 flowers to bloom. It means that we can all be 14 different. The fact that we do have somebody coming 15 along and saying, "You're different and we like it", 16 rather than, "You're different and you're not doing what 17 we tell you to do". 18 PROFESSOR BARNETT: In fact, accreditation on that basis 19 would be quite easy. 20 MS PHILLIPS: And much cheaper. 21 PROFESSOR BARNETT: All accrediting bodies would need to do 22 would be to ask for the course content details and see 23 to what extent ethics form an important component of the 24 various modules that are being taught. 25 In our first year course, the first three lectures</p> <p style="text-align: center;">Page 25</p>	<p>1 PROFESSOR CATHCART: I would think -- all of us, I'm sure, 2 would agree that what we're trying to produce is not 3 just journalists but reflective journalists, who think 4 about what they're doing, who ask the question: why do 5 I do this job? Is this really journalism? Is this the 6 right sort of journalism to be doing? Am I doing it in 7 appropriate ways? 8 MR BARR: If everybody has said what they'd like to say 9 about that topic, I'll move on. I'm going in a moment 10 to move to the question of how at an academic strange 11 you can possibly prepare a student for the realities on 12 the ground, but before we go to that theme, given your 13 somewhat lukewarm reaction to the accreditation schemes 14 that exist, could I ask you this practical question: do 15 any of you feel that there is insufficient emphasis on 16 ethical training at the academic stage? 17 PROFESSOR BARNETT: No. My short answer is no. Certainly 18 those courses that I'm involved with, those on which 19 I have been an external examiner, what I know of the 20 courses of my colleagues, I think it could be -- even if 21 we're being as self-critical as we possibly can, I would 22 find it quite difficult to identify courses where there 23 is insufficient emphasis on ethical training. That for 24 me is not the issue, I'm afraid. 25 PROFESSOR BROCK: I'd broadly endorse that. I haven't</p> <p style="text-align: center;">Page 27</p>
<p>1 that first year students have are all about ethics and 2 regulation. It is an integral part of the introduction 3 to journalism. But there is no ethics module. It is 4 like a stick of rock, it goes through virtually every 5 one of the modules that is being taught at the 6 discretion of the individual lecturer. But it would be 7 quite easy to actually accredit on that basis by seeing 8 to what extent those components are contained within 9 existing courses. 10 PROFESSOR BROCK: Can I just stress that we are adapting 11 courses all the time for the changes in the business. 12 We've just introduced a virtually compulsory module in 13 our teaching which we've called entrepreneurial 14 journalism. This is not about ethics but what it does 15 is teach young journalists what it's going to be like if 16 they find themselves, say, in a small Internet start-up. 17 If they go and work in a small Internet start-up, that 18 may not be regulated by anyone, or it may be regulated 19 by someone. It will vary. And therefore you have to 20 have a basis of the ethics teaching which is independent 21 of the machinery that they may encounter, or the 22 circumstances they may encounter because they are -- 23 this is the point I'd really like to try and get 24 across -- changing very rapidly. 25 MS PHILLIPS: I would absolutely agree with that.</p> <p style="text-align: center;">Page 26</p>	<p>1 inspected every single course that comes under these 2 headings, but the good ones that I know about, the 3 quantity of ethical teaching is not the issue. 4 MS PHILLIPS: I teach one of the ethics lectures, or 5 a couple of ethics lectures, and one of the thing 6 I think we're up against all the time is that we are 7 teaching students to be ethical and knowing that they're 8 going into an industry where they're going to be under 9 constant pressure, and we have to make them aware of 10 that as well. 11 So we do show, or I do show examples of newspapers 12 that have either sailed very close to the wind in terms 13 of the PCC regulations or indeed have completely ridden 14 right over the top, and we talk about why this happens 15 and we talk about it in the context of the kind of 16 extraordinary competitive pressures that the newspapers 17 are under and what happens to young journalists when 18 they go into the system. 19 I feel you can't really teach ethics without 20 teaching people about the commercial realities of 21 journalism in this country, and I think that -- I'm sure 22 we would all agree that actually young people come into 23 journalism through training as very ethical young 24 people. I think that's how they come to us and I think 25 that's -- certainly as far as I'm concerned, that's how</p> <p style="text-align: center;">Page 28</p>

<p>1 they leave us.</p> <p>2 PROFESSOR CATHCART: If I could just add one thing. I think</p> <p>3 it's worth drawing the contrast with the ancient time</p> <p>4 when I entered journalism, when certainly I received no</p> <p>5 explicit ethical training whatsoever. I went into -- as</p> <p>6 it happened, I worked in Reuters, in a highly ethical</p> <p>7 environment, as I started. I was fortunate in that</p> <p>8 sense, but the training I was given at Reuters did not</p> <p>9 include a single word about ethics. We have come a long</p> <p>10 way.</p> <p>11 MR BARR: If the position is that now your students are</p> <p>12 leaving having been fully taught about ethics, it takes</p> <p>13 us to the interesting question that was being introduced</p> <p>14 there: to what extent can you, in fact, prepare somebody</p> <p>15 for the moral hazards that they then go on to encounter</p> <p>16 in very busy, very pressurised working environments?</p> <p>17 Can you instill moral courage in your students?</p> <p>18 PROFESSOR BARNETT: For me, that's the problem. I've been</p> <p>19 very struck over the course of the last few weeks by</p> <p>20 some of the evidence from people who have clearly had to</p> <p>21 be extremely courageous to stand up and talk about what</p> <p>22 the reality is at the coalface. Richard Peppiatt is an</p> <p>23 obvious example.</p> <p>24 MS PHILLIPS: Yes.</p> <p>25 PROFESSOR BARNETT: I quoted in my evidence the editor of</p> <p style="text-align: center;">Page 29</p>	<p>1 what's driven this Inquiry in the first place, very much</p> <p>2 concentrated on the national tabloids, I don't think is</p> <p>3 something that you can actually teach someone to deal</p> <p>4 with.</p> <p>5 That is in the end a matter of your individual moral</p> <p>6 courage as to whether you feel you can afford to put</p> <p>7 your head above the parapet and say no.</p> <p>8 PROFESSOR CATHCART: In the context of a workplace where it</p> <p>9 is extremely hard to get a job in the first place. So</p> <p>10 you have students who knock around doing several unpaid</p> <p>11 internships. They will eventually get -- I think this</p> <p>12 is an important factor -- they will eventually get</p> <p>13 probably a short-term contract or some casual</p> <p>14 employment, paid employment on a paper. When you're in</p> <p>15 that vulnerable position and the editor says, "I want it</p> <p>16 done this way", you're not just making a moral choice,</p> <p>17 you're making a financial choice.</p> <p>18 MS PHILLIPS: Yes, I mean I obviously talk to my own</p> <p>19 students and I've also done some research in this field</p> <p>20 talking to journalists. I don't know whether that's</p> <p>21 going to come up later or whether you want me to talk</p> <p>22 about it now.</p> <p>23 LORD JUSTICE LEVESON: Keep going. Let's see how we get on.</p> <p>24 MS PHILLIPS: As far as my own students are concerned, we</p> <p>25 teach using a live website called the EastLondonLines</p> <p style="text-align: center;">Page 31</p>
<p>1 the Press Gazette who wrote -- Dominic Ponsford -- who</p> <p>2 quoted somebody from one of the red tops last year</p> <p>3 talking about when you have your editor shouting at you</p> <p>4 to get a story, you lose your morality. You don't</p> <p>5 really see celebrities as being real people, you see</p> <p>6 them as a product, as a story.</p> <p>7 We saw the same thing in the book published last</p> <p>8 year by Sharon Marshall which I've quoted as well.</p> <p>9 She's talking about ten years of working in the red</p> <p>10 tops. The pressures that you are under. And they are</p> <p>11 told in no uncertain terms that if they don't do what</p> <p>12 they are asked to do, there is no shortage of young,</p> <p>13 willing recruits who are waiting to take up the very</p> <p>14 valued and rare job that they have.</p> <p>15 So I'm talking specifically now about life, if you</p> <p>16 like, on the kinds of national tabloid newspapers where</p> <p>17 a lot of these problems have occurred. I think it's</p> <p>18 less stark and less problematic for the majority of</p> <p>19 journalists who are working on local and regional</p> <p>20 newspapers. I think there are different problems, which</p> <p>21 very much emanate from the economic pressures that</p> <p>22 they're under, and that's more to do with reliance on</p> <p>23 public relations, what Nick Davies has called</p> <p>24 "churnalism", having to turn the stories round very</p> <p>25 quickly, but the kind of ethical problems, which is</p> <p style="text-align: center;">Page 30</p>	<p>1 which is like a local paper and it runs all year, so</p> <p>2 they are working very much in a real newsroom</p> <p>3 environment and dealing on a kind of daily basis with</p> <p>4 the fact that we now have quite a big audience so they</p> <p>5 get comments and they know what it feels like, they know</p> <p>6 that the people out there are real. I think that's one</p> <p>7 of the most important things, that they're not writing</p> <p>8 about people who are cardboard cut-outs, they're real</p> <p>9 human beings and they will respond.</p> <p>10 So we have an absolute, no questions asked,</p> <p>11 everybody has a right of reply on EastLondonLines and</p> <p>12 our students know that and they learn that, but I have</p> <p>13 to say that only two students to my knowledge have ever</p> <p>14 gone to work on one of the red tops from my course,</p> <p>15 which might be something to do with the students who</p> <p>16 arrive and where they go.</p> <p>17 In terms of my research, though, I have</p> <p>18 interviewed -- I did two research projects, one early</p> <p>19 in -- sort of 2002 and another one in 2007 and 2008.</p> <p>20 They were fairly small samples and I was interviewing</p> <p>21 people right across the press. I wasn't specifically</p> <p>22 interviewing them about ethics. In the first wave I was</p> <p>23 looking at how ethnic minority journalists operated in</p> <p>24 mainstream newsrooms and I wanted to see how they dealt</p> <p>25 with stories that were quite often racist and how they</p> <p style="text-align: center;">Page 32</p>

<p>1 were able to deal with that. The second wave of 2 research was actually looking at how people were using 3 new technologies to do research. 4 The ethical questions came up almost unasked. In 5 the first set of interviews, some of the people were 6 under most extraordinary pressure because what seemed to 7 be happening was that young ethnic minority journalists, 8 often quite naively going into red top newsrooms, were 9 actually being asked to do the stories that dealt 10 directly with black and ethnic minority people, so that 11 they were -- partly because they would be more likely to 12 get an interview, and then they were finding that the 13 work that they were writing was being twisted and 14 changed, and they found it almost intolerable. 15 The interesting thing about it is that as I look at 16 the names of people on the newspapers, an awful lot of 17 them aren't working where they used to work. I mean one 18 in particular who I interviewed, talked -- he said at 19 the end the trouble was that he'd come in from a local 20 newspaper: 21 "I was doing shifts on a daily basis. It was up to 22 them to decide whether to renew my job the next day. So 23 if I lost my job I wouldn't be able to pay the rent or 24 anything like that, which probably isn't an excuse, but 25 there was still that thought there." Page 33</p>	<p>1 journalists, they were paranoid about me suggesting what 2 newspaper they worked for because they were afraid that 3 somebody might work out who they were. They could not 4 speak publicly. 5 The second wave of research that I did, which was, 6 as I said, looking at Internet research -- incidentally 7 I didn't hear any instances of phone hacking, but I was 8 at that point talking mainly on the more upmarket press 9 because I was simply interested in how people were using 10 the Internet to do research, but again, while doing that 11 research, people were talking about the extraordinary 12 pressures they were under to simply repurpose, take 13 stories from elsewhere which they might not necessarily 14 even have checked, rewrite them, and you'd find people 15 had stories that were going out under their bylines but 16 they'd only written about three lines of. It had just 17 been cobbled together through the day from a whole lot 18 of different places. 19 So to suggest that they would have any -- they don't 20 feel they have any control over what eventually winds up 21 either on the page, or certainly this was happening 22 a lot on the Internet, that the Internet editions 23 were -- you take a bit from this paper and a bit from 24 that paper and you put it together and you make a couple 25 of phone calls, and the next time you look at it a whole Page 35</p>
<p>1 He, I'm quite glad to say, I've noticed is now 2 working for the Guardian, so he no longer has to deal 3 with that any more. And you find that quite a lot of 4 these young people are coming in, working under 5 extraordinary pressure and trying to find a way to get 6 on to the more ethical newspapers because they don't 7 want to do this stuff. But then a lot of them get 8 trapped because the red tops pay much more, in a lot of 9 situations, so they get trapped by the fact that they've 10 got themselves into a situation where they have quite 11 a good salary coming in and they kind of go with it. 12 There was one particular person who said, who was at 13 that time a news editor, who kept talking about how he 14 kept meaning to leave, he was going to leave. As far as 15 I know, he's still there. But a lot of people do try to 16 leave and a lot of the kind of things that -- the kind 17 of problems are at quite a low level. 18 Somebody else said, a young woman reporter was 19 saying: 20 "They want attractive people in the paper, they want 21 blondes, they want nice looking girls, the younger the 22 better. You know that's what they want, so that's what 23 you get because otherwise you'll either be in for 24 a shouting or you'll have to do it again." 25 I must add that when I interviewed these Page 34</p>	<p>1 lot more had been added or it had been changed a lot. 2 The other thing I found that was that at that 3 particular time there was huge, huge commercial pressure 4 to go online first, so that all the newspapers were 5 moving towards the online first way of doing things, 6 which meant working much, much faster, but they were 7 also losing staff. 8 At this stage, and I think it's reasonable to say 9 that I was interviewing people in the Telegraph at this 10 point, an awful lot of the most senior journalists, the 11 ones who would be responsible for a very different kind 12 of reporting which was much more thoughtful, which was 13 much more led by specialists, were leaving, either under 14 pressure or because they didn't like it any more, so 15 that the whole layer of more senior, more seasoned, more 16 knowledgeable journalists were quietly disappearing. 17 I just drop that in because I think it probably was 18 having some kind of effect. 19 MR BARR: If I can ask perhaps our other witnesses -- 20 PROFESSOR BROCK: Your question was to what extent does the 21 teaching of ethics prepare people for what they will 22 find in actual newsrooms? I think there are three quick 23 things I'd say. 24 Firstly, our training is -- I think the best 25 training is very practical oriented. We do similar Page 36</p>

<p>1 things to the things Angela has been describing, we're 2 trying to shift the websites we produce to be out there 3 that people can actually see, in other words they're 4 produced in the real world and they have to manage all 5 the risks and difficulties that that requires. I think 6 that that brings ethical dilemmas home to people in 7 a way that classroom teaching doesn't necessarily do. 8 I think you can actually warn people, and we do tend to 9 warn people, what they are likely to find in red top 10 newsrooms. Not very many of our post grads particularly 11 go to red top newsrooms but we will tell them what it's 12 likely to be like. 13 The last thing I would say is that wherever this is 14 going to be, we try to have teachers who have 15 experienced some of these dilemmas. You had evidence 16 I think two days ago from David Leigh, who was giving 17 you descriptions of the kind of dilemmas he does with 18 the Master's students on the investigative journalism 19 course that we run, and I think the more people actually 20 live dilemmas, the more vivid it will become for people 21 and that's the most effective form of teaching in my 22 view. 23 MR BARR: We've had an indication from Ms Phillips about the 24 number of her students who go on to work for the red 25 tops. Could I ask our other witnesses to give us some</p> <p style="text-align: center;">Page 37</p>	<p>1 but let me just move it on a bit because, as you know, 2 the Inquiry has been criticised for not having expertise 3 from the very, very bulk market end of the business, and 4 we're talking about ethics and the proper approach to 5 journalism, which is obviously very important, but I am 6 very keen to know to what extent there is an ability to 7 help those who might want to work in the mass market 8 newspapers, and we all know that we can talk about the 9 Telegraph or the Guardian or these papers, and then the 10 Mail or the Sun will say, "Actually, we sell many, many 11 more copies", where the pressures are very different, as 12 you've said, and how one gets to people who get into 13 that business, or whether actually they're just 14 a by-product of a different system. So actually you 15 have two parallel routes into journalism, one through 16 the universities and these very focused courses which 17 I've seen about, and another through the gossip 18 columnists and that side of an industry which nobody can 19 pretend isn't important and doesn't sell newspapers. 20 PROFESSOR CATHCART: I think from our point of view, we -- 21 I mean, you simply try to straddle the -- if you can 22 straddle a spectrum, you try to prepare students for any 23 sort of journalism, in our case mostly written 24 journalism, that they are likely to encounter and likely 25 to need in the job market. Students will be drawn by</p> <p style="text-align: center;">Page 39</p>
<p>1 indication of the sort of proportion of your output, if 2 I call them that, who go on to work for the red tops? 3 PROFESSOR CATHCART: Red tops would be a small proportion. 4 We're talking twos and threes in any year of output. 5 I think one of the things that we're not mentioning here 6 is that one of the big employers of university leavers 7 is the business-to-business sector, is magazines and 8 websites that serve the business community, you know, 9 the sort of marketing world and so forth. That's a big 10 employer and it dwarfs the uptake of the red tops. 11 MR BARR: Is that the -- 12 PROFESSOR BARNETT: Absolutely. One of the problems is that 13 you try and keep in touch with students and some of them 14 will start on perhaps a local paper or an online 15 publication. A few years down the line, they might end 16 up at a red top but by that time you've lost touch with 17 them so you don't really get the feedback. 18 I think the real issue for this Inquiry, and I know 19 there's been an issue about anonymised evidence, but 20 I do think there is -- there needs to be, I would hope, 21 some flexibility given to those who are very keen to try 22 and give a flavour of what life is like, but are really 23 scared of being identified and putting their head above 24 the parapet. 25 LORD JUSTICE LEVESON: I'm very conscious of that problem,</p> <p style="text-align: center;">Page 38</p>	<p>1 their own tastes in various directions and they have 2 teachers of a variety of experiences, as George has 3 indicated, who bring, you know, practical knowledge of 4 all of these markets. 5 And I think the -- you know, our student -- our 6 campus newspaper, which the students produce in their 7 final year, our award-winning campus newspaper is -- 8 it's newsy, it's tabloidy, so that the actual experience 9 the students have in their final year of producing 10 a newspaper which will be read by their peer group and 11 indeed outside the university and, alas, by the 12 university management, which is never very comfortable 13 with it, is their experience is wide tabloidy. It's 14 quite newsy and punchy. They're trying to attract the 15 attention of their peer group. 16 PROFESSOR BARNETT: I think implicit in your question is 17 a really important issue, which is: are we in danger of 18 kind of saying broadsheet journalism is wonderful but 19 tabloid journalism is a problem? I don't think any of 20 us would actually subscribe to that at all. There are 21 elements of the way in which some red top newspapers in 22 this country have behaved which are clearly undesirable 23 and needs to be somehow prevented, but there is an art 24 and a skill to good tabloid journalism that all of us, 25 I think, would recognise, and which many students both</p> <p style="text-align: center;">Page 40</p>

<p>1 feel they want to practice and we would encourage them 2 to practice. 3 LORD JUSTICE LEVESON: Yes, the example is the presentation 4 of extremely complex issues -- 5 PROFESSOR BARNETT: Absolutely. 6 LORD JUSTICE LEVESON: -- in a visual, visually attractive 7 and easy to understand way. 8 PROFESSOR BARNETT: If you've ever tried to explain some 9 kind of complex financial problem or around pensions 10 reform, for example, in 500 words in a kind of tabloid 11 editorial, you'll know how difficult that is. It is 12 a real skill. And someone who can manage that, either 13 can learn it or just understands the nature of that 14 skill, that's a very, very valuable thing to be able to 15 do. 16 And there are tabloid skills in terms of taking 17 a story and looking at angles, human interest angles of 18 it, whereas where broadsheets might look at the social 19 policy implications, the economic implications, the 20 policy context, et cetera, if you're looking for 21 a really kind of clear human interest angle on 22 a breaking story, the tabloids can often be the best way 23 to get a real kind of live interest in that story. The 24 issue is getting the best of that while avoiding those 25 egregious excesses that we've seen over the last couple</p> <p style="text-align: center;">Page 41</p>	<p>1 cultures have come from the -- you know, have had the 2 sort of training and education which informs them in the 3 necessary ways. That's the connection, I suppose. 4 MS PHILLIPS: I do keep in quite close touch with my 5 postgraduate students and know where they are, and we 6 have had students go to the Mail training scheme and 7 I feel fairly sure that if they felt that they were 8 under pressure, that they would actually come back to me 9 even after they'd left. So they are quite protective 10 both of the learning environment and of the environment 11 they're going into, but I have to say I'm always -- 12 I remain worried about them, but I think that they've -- 13 you know, the ones who have gone to the Mail have seemed 14 to have -- they've been fine. 15 I think we would all agree that good -- one of the 16 things about the tabloids in particular is that they're 17 really funny a lot of the time. That's why people read 18 them. I don't think any of us would want to lose that. 19 I mean, they have a role to play. I just happen to 20 think that it's possible to be funny without being at 21 the same time vicious, and I think a lot of what happens 22 in the tabloids is vicious. I don't think we want 23 everything to be the same as the Guardian, the 24 Independent, the Telegraph and the Times. I think that 25 would be really quite sad. But I do think we have to</p> <p style="text-align: center;">Page 43</p>
<p>1 of years. 2 PROFESSOR BROCK: I was just going to go back to your 3 original question. I really don't think we should try 4 to pretend, and I hope that I haven't, that the teaching 5 of ethics is really the important influence on how 6 people behave. How people behave is determined by the 7 culture of a newsroom, basically. That's the 8 fundamental influence on what people do. 9 That culture is formed by a whole number of things: 10 the competitive situation, how competition is 11 understood, signals from the top, law and regulation, to 12 mention only a few. And you can't -- I mean, you can 13 tell people about what they might be about to face, but 14 for me the central issue is producing incentives that 15 will work, above all, in popular newsrooms, which 16 popular newsrooms will actually sustain and make happen. 17 I think I'm trespassing on the next bit of the 18 discussion, and I'm opening a very wide ... but for me, 19 that's the essence of the issue. 20 LORD JUSTICE LEVESON: I entirely understand the point and 21 agree with it. The discussion about what goes on in 22 universities is a good run up to the wicket, but it 23 isn't bowling the ball, is it? 24 PROFESSOR CATHCART: It has the relationship you would hope 25 over time that the people who shape the newsroom</p> <p style="text-align: center;">Page 42</p>	<p>1 recognise that the culture in the newsrooms that are 2 providing and producing those -- that light-hearted 3 approach to the daily news is quite different. 4 LORD JUSTICE LEVESON: I want to celebrate all that is good 5 about every aspect of the newspaper, the print media. 6 It's been commented that I've only been focusing on all 7 the criticisms, but actually that's not -- that's to 8 fail to understand the nature of the process that we're 9 doing. We're not mixing it up. All the titles will 10 have their chance to put their perspective forward, and 11 I welcome that and I'm not in any sense seeking to beat 12 down either the mid-market or the tabloid press at all. 13 They do, in large part, an enormously valuable job for 14 the very reason that we've just been identifying. The 15 problem is going to be to try and find the line and the 16 way of affecting approach so that we can remove what at 17 least some people consider to be a problem in our 18 output. 19 MR BARR: Sir, thank you. I'm going to return to ethical 20 issues later, but before I do that, I'm handing over to 21 my learned friend. 22 Questions from MR PATRY HOSKINS 23 MS PATRY HOSKINS: Can I ask you a question that leads on 24 from the discussion we've been having because a gap 25 seems to have been identified. Each of you said that</p> <p style="text-align: center;">Page 44</p>

<p>1 only a very few of your students go on to work for 2 tabloids or red tops, and what I wanted to understand is 3 whether you have a feel for where people who do -- new 4 recruits to tabloids, where they do get their training 5 and what's the basis of -- on what basis do they go into 6 the industry, if they don't go through you? Can you 7 answer that or is that not possible? 8 PROFESSOR BARNETT: I think some of them do go and some of 9 them start off -- there are still ways into journalism 10 through starting off on your local paper at the age of 11 16 or 17 or 18. A lot fewer than there used to be 20 or 12 30 years ago. It's an interesting question. I don't 13 know if there's any systematic research on where today's 14 tabloid journalists did their training, but I suspect if 15 we actually did a survey, we would find that their 16 background and training was not dissimilar to 17 journalists elsewhere. 18 PROFESSOR BROCK: I would expect to find, if such research 19 was done, a smaller proportion of people with 20 postgraduate qualifications. I suspect that the people 21 incoming to red tops are coming from small news 22 agencies, regional papers, websites, particularly 23 specialising in gossip, celebrity gossip. They'll come 24 from a variety of places and they may come from no form 25 of previous journalistic activity or training at all.</p> <p style="text-align: center;">Page 45</p>	<p>1 a job and, you know, move to London. 2 LORD JUSTICE LEVESON: That only serves to underline the 3 very pressure that you've just been talking about. 4 PROFESSOR CATHCART: Exactly. 5 PROFESSOR BARNETT: There's good evidence -- apart from 6 Richard Peppiatt's evidence which certainly backs up 7 what Brian was saying, in the current edition of the 8 British Journalism Review which I would commend, and 9 I will certainly submit it afterwards in evidence, 10 there's a piece by a chap called Michael Williams who 11 was deputy editor of the Independent on Sunday and now 12 teaches I think at Central Lancashire, who talks about 13 some of his students coming back to him and saying 14 precisely that, that they are under a lot of pressure 15 partly because there is a lot of casual work and that's 16 what you need to do if you want to keep your employment. 17 MS PHILLIPS: There's also a huge industry of people doing 18 real life stories, which is basically finding people 19 with a story to tell and ghosting those stories, because 20 those are used both by women's weekly magazines and by 21 the tabloids, and there are agencies that deal in that, 22 so that people starting off can start off by doing that 23 kind of work, and if you're good at it and you do enough 24 of it, you'll get noticed and that's maybe getting to do 25 a few shifts and that leads to something else and</p> <p style="text-align: center;">Page 47</p>
<p>1 Most journalism should take people in -- of whatever 2 level of quality, should take in people who come from 3 outside the normal streams because they will have 4 special skills that are appropriate. It's very 5 important to journalism that it does that actually 6 occasionally. So I would expect the origins of people 7 on the reporting staffs of red tops to be very mixed, 8 probably. 9 PROFESSOR CATHCART: I would agree. I think Steve used the 10 word or described it as anarchic, that the recruit in 11 the press generally is pretty anarchic, pretty 12 scattergun or whatever, and I think you mentioned 13 a variety -- these business-to-business magazines are 14 often a starting place for journalists, they move on 15 from there. 16 I would stress again the degree that they rely on 17 casual, short-term employment particularly at the 18 beginning of a career but over quite long periods, so 19 you'll have people working day to day or on a month 20 contract or you will have a great many people 21 contributing as freelancers. So they will be 22 particularly obviously out of town, they will rely on 23 stringers who may get one piece in every month or every 24 two months, and on that basis, if they succeed at that, 25 if they're any good at that, they might eventually get</p> <p style="text-align: center;">Page 46</p>	<p>1 there's quite a drift backwards and forwards from that 2 side of the magazine sector into the tabloids as well. 3 LORD JUSTICE LEVESON: I might be trespassing on 4 Ms Patry Hoskins' next question, but I can't help it. 5 MS PATRY HOSKINS: That's all right. 6 LORD JUSTICE LEVESON: It's quite difficult to see how to 7 redress that because it's quite difficult to think of 8 a way of saying, well, you shouldn't be employing people 9 in this way because I just don't think that works, and 10 therefore all one can do is to try to change the culture 11 from within, it seems to me. 12 PROFESSOR CATHCART: Exactly. 13 LORD JUSTICE LEVESON: Please comment. 14 PROFESSOR CATHCART: You come back to George's point, which 15 is that it's about the culture of the people at the 16 heart of the production system. 17 LORD JUSTICE LEVESON: I'm merely agreeing. 18 MS PHILLIPS: I think one of the ways which I was -- we'll 19 come back to later, but I think one of the ways is we 20 don't have an automatic right of reply in this country. 21 We don't have a statutory right of reply, and a lot of 22 other European countries there is a statutory right of 23 reply. I think if there was a statutory right of reply, 24 journalists would be more careful because if somebody 25 is -- if you know that what you say, you -- if you know</p> <p style="text-align: center;">Page 48</p>

<p>1 that you will always have to see immediately under your 2 article the person you've spoken about having an 3 opportunity to tell you, to tell everybody that you were 4 wrong, I think that that might be one way of reaching 5 right inside newsrooms, and I'm quite surprised that 6 it's not an issue that has come up very much in these 7 sessions, because it's quite standard in a lot of other 8 European countries. 9 LORD JUSTICE LEVESON: We have a long way to go, so you've 10 just made it an issue. 11 MS PHILLIPS: I have made it an issue, yes. 12 LORD JUSTICE LEVESON: But do you have any views about that? 13 PROFESSOR BARNETT: Yes, I assumed we were coming on to 14 different forms of -- 15 LORD JUSTICE LEVESON: I'm sure we are, yes. I'm sorry, 16 I apologised before. 17 PROFESSOR BARNETT: I think there are a number of ways in 18 which newsrooms can be -- the culture of newsrooms can 19 be changed simply by making it either uncommercial or 20 inconvenient or very awkward both for individual 21 journalists but more importantly for the publication 22 they work for to encourage those kinds of practices. 23 The sanction I particularly like is that -- and 24 I think this happens in France -- not only does an 25 offending newspaper have to publish a right of reply if</p> <p style="text-align: center;">Page 49</p>	<p>1 journalists and how they dealt with newsrooms and in 2 particular having to deal with stories that might 3 concern race and so on. Is there anything more that you 4 wanted to add, because I appreciate you said several 5 times, "I think we'll come on to this". I didn't want 6 to stop you in full flow. Is there anything else you'd 7 like to tell us about that particular project and that 8 research, because it ties in with some evidence we've 9 heard earlier in the Inquiry. 10 MS PHILLIPS: It was a very small piece of research so 11 I don't want to put too much emphasis on it, but I think 12 I've already said the key issue of it, the key issue was 13 this sense of people feeling that if they wanted to get 14 on, they just needed to -- they had to swallow it, stay 15 where they were, demonstrate that they could do 16 journalism and that -- you got the feeling there was 17 almost like a seasoning process, that they had to 18 demonstrate that they were tough enough and that that 19 would take a while. 20 And because in order to move on to a different kind 21 of newspaper, you have to have a really good cuttings 22 file, what you would then have to do -- one of the 23 things I was particularly interested in was the degree 24 to which people were writing what we call off diary 25 stories, which is basically coming up with their own</p> <p style="text-align: center;">Page 51</p>
<p>1 they are inaccurate, but if the complaint is upheld, 2 they then have to pay for an advertisement in rival 3 newspapers advertising the fact that they got it wrong 4 in their own newspaper. I like that idea, I think it's 5 great. The idea of a newspaper proprietor having to 6 fork out money to his rivals because one of his 7 journalists has made a mistake, I think we might see 8 a very, very sudden swift shift in -- 9 LORD JUSTICE LEVESON: All right, I'm going to let Ms Patry 10 Hoskins run this as she wants. 11 PROFESSOR BARNETT: I think we might be moving a bit too 12 far. 13 MS PATRY HOSKINS: I promise we'll come back to regulation 14 and various issues like that, but can I ask you just 15 very briefly first about various bits of research that 16 you have each undertaken? 17 Ms Phillips, you've told us a bit about the 18 research -- I'll come to you first because you've told 19 us a bit about the research that you've undertaken, two 20 different pieces of research. Can I ask you a little 21 bit more about the first of the projects there. I think 22 it was a project in, was it 2002? 23 MS PHILLIPS: Mm-hm. 24 MS PATRY HOSKINS: Interviewing people right across the 25 press, you said, but in particular ethnic minority</p> <p style="text-align: center;">Page 50</p>	<p>1 ideas because I felt that that was an area where -- 2 I was looking for culture change, so I was looking to 3 see whether ethnic minority journalists were able to try 4 and change the culture in the newsroom by coming up with 5 their own stories, and they often tried and I thought 6 that that was very -- I was really encouraged by that 7 because what I was interested in was how journalists 8 coming in can have an influence on the newsrooms they 9 come into. And I think that they do. 10 I think that as you bring more journalists from 11 ethnic minority backgrounds into a newsroom, it does 12 begin to change the way in which the newsroom operates, 13 but in certain instances you can see that it hasn't had 14 any effect and they all leave. So it will be quite 15 interesting to look at the pattern of ethnic minority 16 journalists going in and then out of newsrooms as they 17 find they can't actually cope with what they're asked to 18 do, and there are certainly some newsrooms which I think 19 we're all aware of where it would be very hard to see 20 the kind of constant stream of kind of anti-immigration 21 and anti-asylum stories and actually stay working there. 22 MS PATRY HOSKINS: Can I just pick you up on that? You said 23 earlier that some of the journalists that you'd spoken 24 to reported having to write stories that they considered 25 to be racist. You remember you said that. Can you tell</p> <p style="text-align: center;">Page 52</p>

<p>1 us a bit more about that? Was there pressure on 2 journalists to write stories that were contrary to the 3 beliefs that they themselves held? 4 MS PHILLIPS: Oh, absolutely. This particular quote was 5 somebody saying: 6 "I thought the story was appalling. I thought all 7 along that it was a ludicrous exercise with no logic 8 whatsoever and I felt very ashamed about it. I talked 9 to a senior reporter and said I wasn't very happy about 10 it and he said to keep my head down and say nothing. He 11 said I'd lose my job if I raised it with anyone more 12 senior to him." 13 As I said, I was virtually -- you know, they would 14 not speak to me at all if I was to say what newsrooms 15 they came from even, so I can't say any more than that. 16 But that was a journalist who is no longer working for 17 that newsroom. 18 I think what people felt was that you get in there 19 and you keep your head down and you prove that you can 20 deal with anything. 21 Another one I spoke to said that the only time he 22 had ever been able to exercise what is laughably called 23 the right of conscience was once he was able to point 24 out to a more senior editor that actually this 25 particular story affected his family directly and he was</p> <p style="text-align: center;">Page 53</p>	<p>1 MS PATRY HOSKINS: Is there anything else you want to add? 2 MS PHILLIPS: No. 3 MS PATRY HOSKINS: Does anybody else want to touch on this 4 issue? 5 PROFESSOR CATHCART: While we're on the subject of race and 6 the press, one of the simple exercises you can do in the 7 classroom is to get students to go through a week's 8 papers and look at the picture bylines and see how many 9 of them are Whittamore and how many of them are a 10 visible ethnic minority, and it's always a shock, even 11 to the students, how very small the numbers of ethnic 12 minority columnists are. There are lots of issues about 13 how many women there are, and it's certainly not 14 proportionate, but the black and Asian contributors to 15 newspapers visible on that level are very few. 16 Any research that has been done, and not nearly 17 enough has been done about the employment of people from 18 ethnic minorities in the press, any research shows it's 19 pathetically small even today. 20 MS PATRY HOSKINS: How does that compare to the number of 21 students from ethnic minority backgrounds that your 22 courses attract? 23 PROFESSOR CATHCART: There's almost no comparison. Our 24 student body is, I suppose, among other students it's 25 a third, perhaps, are black or Asian or Arab by</p> <p style="text-align: center;">Page 55</p>
<p>1 allowed not to write it. 2 But these stories, they just -- as I said, they fell 3 out. They were not very hard to find, but people would 4 only say it if I promised not to mention their names at 5 all, ever. 6 MS PATRY HOSKINS: I'm not asking you to name any names or 7 any newspapers, of course, but can you give us an idea 8 of how many journalists you spoke to? 9 MS PHILLIPS: It was very small. This was in 2002. There 10 weren't very many ethnic minority journalists. I'm not 11 pretending it was in any way a quantitative study. 12 There was a very small number and it was looking for 13 something quite specific, so it was just -- I was quite 14 surprised by the impact. 15 I mean, the second research I did was -- again it 16 was looking -- because it was looking for how people -- 17 looking for working methods, so there was probably 18 about -- I think it was six people in three different 19 newsrooms, but they were all quite -- from different 20 levels within the newsrooms. Different ages and 21 different backgrounds. 22 So again I'm not pretend -- I never suggested it was 23 a huge sample. It was qualitative research and it was 24 looking at what people's experiences were and what was 25 interesting was it came up completely unbidden.</p> <p style="text-align: center;">Page 54</p>	<p>1 background. 2 MS PATRY HOSKINS: Is that true across the board? 3 PROFESSOR BARNETT: I would say if not more, possibly 4 40 per cent. And Brian's absolutely right. I mean the 5 profile, the ethnic profile of working journalists 6 actually bears very different relationship, certainly at 7 the national level, to those who start off on our 8 journalism courses. 9 PROFESSOR CATHCART: And I think actually it feeds through 10 to what's been happening at this Inquiry. I think 11 you've seen witnesses who have been almost entirely 12 white. This is a white world we're talking about. 13 We're talking about white people addressing white 14 people. Not just in the Inquiry, I'm not suggesting 15 it's the Inquiry's fault in any way, but the process of 16 the press in this country, the national press, and 17 particularly the mass circulation national press, is 18 about white people addressing white people. 19 PROFESSOR BROCK: I haven't counted, but I would guess that 20 there is some difference in ethnic minority ratios 21 between postgraduate journalists and undergraduate 22 journalists. I would expect to see fewer ethnic 23 minorities on postgraduate courses, but I haven't 24 counted it. 25 MS PHILLIPS: Yes, we certainly find there are fewer and</p> <p style="text-align: center;">Page 56</p>

<p>1 it's because of the class structure of ethnic minority 2 people in this country, it's harder for them to afford 3 it and we don't have as many bursaries as we would like. 4 MS PATRY HOSKINS: The ones that do come through your 5 courses, what happens to them? Where do they go if 6 they're not represented on the national newspapers? 7 PROFESSOR BARNETT: That is a very good question. I think 8 there is certainly an ethnic minority press and there 9 are specialist publications, magazines, et cetera, which 10 would employ quite a few, actually, and this might not 11 be so true with Brian, but quite a few go into 12 broadcasting where there is a much better record in 13 terms of diversity. 14 PROFESSOR BROCK: I was about to say the same thing. 15 Television quite strongly. 16 PROFESSOR BARNETT: And radio. I think every other sector. 17 PROFESSOR BROCK: And business to business too. 18 MS PHILLIPS: It isn't just a record of diversity. 19 Television and radio tend to pay more. I think if you 20 come from a working class background and you don't have 21 enough money to get through your first degree, let alone 22 a second degree, to then go into print journalism is 23 problematic and it's of course going to get much, much 24 worse. What is required, really, are a lot more 25 bursaries. Certainly from my experience at Goldsmiths,</p> <p style="text-align: center;">Page 57</p>	<p>1 months there was a knock on the door, there was a woman 2 standing at the door who asked if it was true that this 3 celebrity lived in our street and rather unthinkingly 4 I just said, "Yes", and they then asked which number, 5 and which point I sort of gathered my wits and said, 6 "Are you a journalist?" and she said, "Yes". I think 7 I asked which newspaper but I can't remember what they 8 said. 9 Anyway, I then said, "I'm sorry, I'm not helping". 10 I put a note through the door of the celebrity, saying, 11 "I think there's some journalist after you" and actually 12 talked to a couple of neighbours subsequently who said 13 that in fact this woman and an accomplice were hanging 14 around in a car for hours trying to catch a photo. 15 The point that I've made in the piece that I wrote 16 is -- and I think this is crucial -- this particular 17 celebrity, who is a platinum-album-selling artist and 18 has given enormous pleasure to millions of people around 19 the world, had never sought personal publicity, has 20 never done anything wrong, has never done any deals with 21 Hello magazine. There is absolutely nothing that one 22 can point to in their private life that one might argue 23 is in the public interest to be exposed, but there was 24 a rumour going around that they were having 25 a relationship with a sporting celebrity, and it was no</p> <p style="text-align: center;">Page 59</p>
<p>1 those who do come do very well because the newspapers 2 are very well aware that their newsrooms are not 3 sufficiently diverse. If a star pupil comes through 4 from an ethnic minority background who has made it 5 through, I don't think anything will hold them back at 6 that stage. I think a lot of the problem is economic. 7 MS PATRY HOSKINS: Interesting as this topic is, I think we 8 should move on to the other areas of research, if I can. 9 I'll turn to Professor Barnett first. I'm going to ask 10 you a bit about the section in your witness statement 11 dealing with culture, practices and ethics, being highly 12 relevant to our terms of reference. You share with us 13 in that section of your witness statement two personal 14 experiences which I think are very helpful. If you 15 wouldn't mind, can I ask you first about the experience 16 about the celebrity on your street? Perhaps you can 17 tell us a bit about it and then what you think you can 18 pass on to the Inquiry as the kind of lesson to be 19 learnt from that experience. 20 PROFESSOR BARNETT: Yes. I actually -- this happened 21 several years ago and I only wrote it up for the British 22 Journalism Review this year. It's just a short piece 23 but it happened several years ago where a very 24 well-known singer, I won't even give the gender let 25 alone the name, moved into our street and within a few</p> <p style="text-align: center;">Page 58</p>	<p>1 more than a rumour, and in fact an article to that 2 effect then appeared in a newspaper a few days later, 3 most of it entirely fabricated. 4 At the time, I was sort of rather disappointed with 5 myself that I hadn't gone up to these people and said, 6 "What do you think you're doing and why are you doing 7 it?" I wish I had. But it was just a very good 8 personal example of the attraction of celebrities and 9 show business for no reason other than they make good 10 stories. 11 MS PATRY HOSKINS: Can I just pick up, we may as well 12 explore some of the more general points. You said this 13 person had never courted publicity, had never given 14 interviews to Hello or OK magazine. Does that indicate 15 that you take the view that if a celebrity does choose 16 to speak to Hello or OK magazine or puts their personal 17 life in the media in that way, this somehow might 18 justify a higher level of not intrusion, but a higher 19 level of interest in their private life? 20 PROFESSOR BARNETT: No, I don't necessarily think that's 21 true. I think that as soon as you try and create 22 a public image, which -- and there is evidence to 23 suggest that actually the way you live your life 24 privately is very different to that public image that 25 you've tried to create and manipulate, there might be</p> <p style="text-align: center;">Page 60</p>

<p>1 a kind of hypocrisy argument, and I say might. I think 2 this is a very grey area, because I think it's easy to 3 use it as an excuse, particularly for mass circulation 4 newspapers, to delve into the private lives of 5 celebrities. 6 For me, the much more important principle here is 7 that celebrities become celebrities very often because 8 they are good at something. I think Steve Coogan made 9 this point, "I happen to be a good writer", he said, and 10 this person happened to be a wonderful singer. There 11 are people who are very good at sport or are wonderful 12 dancers, and they became famous and possibly rich 13 because they are very good at something. 14 The idea that therefore, about because they excel at 15 what they do, they should then become legitimate targets 16 for journalistic exposure or even any kind of intrusion 17 that they don't want seems to me to be entirely wrong 18 and entirely counter-productive and it's actually -- 19 I think in a funny kind of way it's quite British, in 20 a bad way, and I don't think it reflects well, actually, 21 on our own culture. 22 MS PATRY HOSKINS: What about the argument that these people 23 who are very talented in whatever field might be seen as 24 role models? For example, for young children who may 25 buy CDs or downloads or the young boy who goes to watch</p> <p style="text-align: center;">Page 61</p>	<p>1 degrees, is that we have reached a point where anybody 2 who is prominent for almost any reason is fair game to 3 certain media -- and it incidentally isn't only 4 newspapers, it's websites as well -- in almost any 5 aspect of their private life they can find out about or 6 they can buy information about. 7 It seems to me that while it is a very difficult 8 grey area, it surely ought to be possible to design 9 a law which doesn't chill proper journalistic enquiry 10 while at the same time providing some protection for 11 private life and particularly the relatives and children 12 of people who are in prominent positions who I think 13 have suffered a great deal and you've heard quite a lot 14 of evidence about that. 15 I'm not suggesting that this task would necessarily 16 be easy. Clearly there has to be public interest 17 defences inside it. But I do think that the present 18 state of the law really doesn't work particularly 19 effectively, conscientiously though judges have 20 attempted to interpret what is an extremely broad band 21 of interpretation they were left by the Human Rights 22 Act. That's my view in summary. 23 PROFESSOR BARNETT: Can I just add one thing? For me, I'm 24 less convinced about a new privacy law. The crucial 25 issue is defining the public interest. If we had</p> <p style="text-align: center;">Page 63</p>
<p>1 the footballer playing football, those people are role 2 models to generations, in some cases, of people. 3 PROFESSOR BARNETT: In terms of what they do, if what they 4 do they do badly or they are found to have done it in 5 some way, engaged in some kind of corruption; if this 6 great singer turns out to have been miming and it's 7 somebody else's voice, then of course that is absolutely 8 legitimate to be exposed as hypocrisy. But if they are 9 doing something which is completely detached from their 10 professional life, what they are good at, and they are 11 doing something that's entirely legal in their own time 12 in their own house privately, I cannot see any 13 conceivable justification for saying, oh, this person is 14 a role model, therefore we can put a camera in their 15 bedroom or we can follow them down the road and expose 16 their private life. I just don't see the logic. 17 MS PATRY HOSKINS: Does anyone else have a view? 18 PROFESSOR BROCK: I'm on record as saying that I think what 19 recent events have shown is that we do need to rewrite 20 privacy legislation. I don't think that balancing 21 Article 8 and Article 10 of the Human Rights Act has 22 worked particularly well. I don't think that -- I'm not 23 necessarily sure that I would settle every case 24 identically to Steve, but I think that he is absolutely 25 right to argue that what has happened, possibly by</p> <p style="text-align: center;">Page 62</p>	<p>1 a parliamentary definition, if there was a law which 2 actually said, "Here is a definition of the public 3 interest", it's not going to resolve every single case, 4 they would need to be done on a case-by-case basis 5 through the courts as happens now between Article 8 and 6 Article 10. But at least it would then have democratic 7 legitimacy of Parliament behind it and more importantly 8 it could help to liberate good journalism. 9 As George said, what it could do is provide 10 a defence perhaps to phone hacking, perhaps to the 11 Bribery Act, and there would be a defence on grounds of 12 real public interest which Parliament has defined, but 13 that would not include intruding into the private lives 14 of celebrities just because they are celebrities. 15 LORD JUSTICE LEVESON: Do you have such a definition? 16 PROFESSOR BARNETT: Pardon? 17 LORD JUSTICE LEVESON: Do you have a definition? 18 PROFESSOR BARNETT: Yes, and it comes from the BBC website 19 LORD JUSTICE LEVESON: Thank you. 20 PROFESSOR BARNETT: It's in the BBC's editorial guidelines 21 and I think that works perfectly well. I'd rather see 22 Parliament debate it and pass it rather than me give my 23 definition. 24 LORD JUSTICE LEVESON: Just before you say that, I don't 25 think they've yet invested you with the power to pass</p> <p style="text-align: center;">Page 64</p>

<p>1 legislation, Professor.</p> <p>2 PROFESSOR BARNETT: Not yet.</p> <p>3 LORD JUSTICE LEVESON: And I am sure that they haven't given</p> <p>4 me that responsibility either, so all that will happen</p> <p>5 is that whatever I come up with at the end will be</p> <p>6 debated in Parliament, and again picking up a comment</p> <p>7 that's been made in the press in the last few weeks, I'm</p> <p>8 not legislating anything, I'm merely providing the</p> <p>9 vehicle through which those who do legislate may or may</p> <p>10 not wish to consider how to proceed.</p> <p>11 PROFESSOR BROCK: Can I just round off by way of adding to</p> <p>12 what Steve has said, that I think we have been much too</p> <p>13 nervous for much too long in debating and building in</p> <p>14 proper public interest defences, and I think the media</p> <p>15 has been at fault here in not taking enough interest in</p> <p>16 this issue.</p> <p>17 PROFESSOR CATHCART: Yes, I would also say, with George's</p> <p>18 assistance, Hacked Off is looking at these issues and</p> <p>19 will in due course, I hope, with City's co-operation, be</p> <p>20 producing a proposal for you on these issues of</p> <p>21 a definition and where it might apply.</p> <p>22 On the issue of privacy legislation, I'm more with</p> <p>23 Steve. I'm doubtful about the need for new legislation,</p> <p>24 and I think one of the reasons we debate the need for</p> <p>25 new legislation is because the media, which have</p> <p style="text-align: center;">Page 65</p>	<p>1 we can't have a completely divided system.</p> <p>2 But I think that the idea of keeping the existing</p> <p>3 privacy law and having a proper defence would cover</p> <p>4 a lot of the issues that we are faced with, I think.</p> <p>5 MS PATRY HOSKINS: We're moving on now to more general</p> <p>6 questions of changes to the law and moves us on neatly</p> <p>7 as well to changes to regulation, if that's deemed</p> <p>8 necessary. It may well be that this is a good time for</p> <p>9 us to take a short break?</p> <p>10 LORD JUSTICE LEVESON: We ought to because the shorthand</p> <p>11 writer has been working hard --</p> <p>12 MS PATRY HOSKINS: And then come back to this very</p> <p>13 interesting issue.</p> <p>14 LORD JUSTICE LEVESON: -- for an hour and a half and I'm</p> <p>15 very keen to hear your views, both now and, as I've</p> <p>16 said, it doesn't stop just because you finish today.</p> <p>17 I'll still be here for some time and I'm very keen to</p> <p>18 hear your views, whenever you have them. Thank you.</p> <p>19 (11.38 am)</p> <p>20 (A short break)</p> <p>21 (11.47 am)</p> <p>22 MS PATRY HOSKINS: Right, I'm going to move on to the issue</p> <p>23 of regulation of the press, if I can. I know we had</p> <p>24 started off down a road of talking about changes to the</p> <p>25 law but can I just for a moment talk about that. I'm</p> <p style="text-align: center;">Page 67</p>
<p>1 a vested interest in wrecking what there is now, have</p> <p>2 hogged the debate for so long and have shouted at us all</p> <p>3 through their mighty megaphone for so long that we</p> <p>4 believe there's something wrong, when I'm not convinced</p> <p>5 there is.</p> <p>6 MS PHILLIPS: I think that we would all agree with the idea</p> <p>7 that there needs to be a proper public interest defence</p> <p>8 and I'm involved with the Co-ordinating Committee for</p> <p>9 Media Reform, which is trying to bring together a number</p> <p>10 of the organisations, both academic and non-governmental</p> <p>11 organisations in this area, and certainly one of the</p> <p>12 things that we will be pushing for is some form of clear</p> <p>13 public interest defence.</p> <p>14 LORD JUSTICE LEVESON: Will you be providing some views some</p> <p>15 time before next summer?</p> <p>16 MS PHILLIPS: Absolutely.</p> <p>17 LORD JUSTICE LEVESON: I look forward to reading them.</p> <p>18 MS PHILLIPS: Yes. I think that one of the big problems</p> <p>19 with privacy legislation as it is, of course, is that</p> <p>20 it's available to people who can afford to take things</p> <p>21 to court, so I do think that there needs to be some form</p> <p>22 of -- it should be possible for people who do not have</p> <p>23 a lot of money to be able to make use of media law</p> <p>24 through some form of tribunal system. That's one of the</p> <p>25 other things that we are going to be suggesting because</p> <p style="text-align: center;">Page 66</p>	<p>1 sure you're all very familiar with the way that the</p> <p>2 press is currently regulated, I'll assume that, but can</p> <p>3 I start like this: does anyone want to argue that the</p> <p>4 current system of regulation works well and should be</p> <p>5 left alone?</p> <p>6 PROFESSOR CATHCART: No.</p> <p>7 MS PATRY HOSKINS: Does anyone want to argue that there</p> <p>8 should be less regulation, which is obviously an</p> <p>9 argument we've seen referred to quite a lot?</p> <p>10 PROFESSOR CATHCART: No.</p> <p>11 MS PATRY HOSKINS: Okay. Let's scale back a little bit</p> <p>12 then. The current system of regulation, what does the</p> <p>13 PCC do well, in your view? Who wants to kick-off?</p> <p>14 PROFESSOR BARNETT: It has an absolutely perfectly good code</p> <p>15 of practice, the Editors' Code, which is not dissimilar</p> <p>16 to the Ofcom Code. As I said in my evidence, it's less</p> <p>17 thorough than the BBC Editorial Code, but it seems to me</p> <p>18 to be perfectly adequate and workable as a benchmark of</p> <p>19 professional standards. That is not the problem. The</p> <p>20 problem is enforcement and implementation.</p> <p>21 PROFESSOR BROCK: Let's not forget that the PCC functions</p> <p>22 pretty well for regional papers and magazines. It's</p> <p>23 national newspapers where the issues have arisen.</p> <p>24 I also agree with Steve that I think the code is</p> <p>25 pretty good. When I was a managing editor, we observed</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 the code as best we could and I thought it was a pretty 2 useful document for doing that. 3 PROFESSOR CATHCART: I would add that it appears to be quite 4 a good mediator and handle complaints quite well within 5 the narrow remit of its complaints service, but it 6 appears to do so well. 7 MS PATRY HOSKINS: Anything you'd like to add? 8 MS PHILLIPS: I think it deals with issues of accuracy quite 9 well, but it doesn't seem to deal well with anything 10 else. 11 I would agree that the code of conduct is something 12 worth hanging on to. It's also quite like the NUJ code 13 of conduct, and it's a perfectly reasonable document. 14 The question is how do you ensure that it actually 15 happens? 16 MS PATRY HOSKINS: So that's been a very brief session on 17 what the PCC does well. Can we move on then to what it 18 doesn't do so well? Perhaps I'll take you in reverse 19 order just for a change, just to put you on the spot. 20 MS PHILLIPS: What it doesn't do very well? Well, it 21 doesn't work. 22 MS PATRY HOSKINS: Okay. 23 MS PHILLIPS: It doesn't seem to be able to get the more 24 powerful newspapers to abide by it. 25 One of the things that I think is quite interesting</p> <p style="text-align: center;">Page 69</p>	<p>1 agency, a sort of outsourced complaints agency, then you 2 are perpetrating a trick on your customers, and I think 3 it's -- you know, I think it's a disgrace that it has 4 been allowed to go on so long and that that trick has 5 been sustained for so long. 6 LORD JUSTICE LEVESON: They do have a power to investigate 7 don't they? 8 PROFESSOR CATHCART: They do. In the Articles of 9 Association there is a phrase there which says that they 10 can act on their own discretion. As far as I can make 11 out, if that's happened, it's only happened twice or 12 three times and it has had no impact whatsoever. It has 13 certainly not been accepted as the practice of the PCC 14 that it will go out and do so. 15 PROFESSOR BROCK: And indeed, the PCC's early statements 16 about phone hacking only showed when the organisation 17 made a complete idiot of itself -- only showed that if 18 you were going to take seriously the investigative power 19 which appears to be written in, although it's a bit 20 vague, I think it's fair to say, they would have to do 21 it in a consistent way and have worked it out. Just 22 charging in a rather superficial way into a highly 23 polarised issue and making a judgment about it that 24 turned out to be completely wrong is exactly what not to 25 do. So that's an illustration of where it goes wrong.</p> <p style="text-align: center;">Page 71</p>
<p>1 is the degree to which editors seem to see regulations 2 as a challenge. I mean, you get -- it's all about going 3 as close to the wire as you possibly can and seeing how 4 far you can get rather than thinking about how you could 5 actually manage to operate within the regulations. 6 I do think that there are some things that the PCC 7 have done which are important. I mean, I think that 8 when they brought in a code about harassment, certainly 9 at local level in relation to private people, it has had 10 some effect, but obviously it hasn't had any effect when 11 it comes to celebrities, so it needs to work. 12 MS PATRY HOSKINS: Okay. 13 PROFESSOR CATHCART: I've described it in the past as a sort 14 of confidence trick by the industry. It's not 15 a regulator, although the industry has been saying for 16 20 years that it is. And it's interesting to see now 17 that it's, you know, Lord Hunt is accepting that it's 18 not a regulator, and indeed Lord Wakeham did so a couple 19 of weeks ago. 20 I think that I'd better describe what I mean by 21 a confidence trick. If you say that you have a body 22 that is enforcing standards and raising standards in 23 your industry to the public, and you insist on it 24 because, again, you have command of the megaphone, and 25 at the same time this body is simply a complaints</p> <p style="text-align: center;">Page 70</p>	<p>1 I think it's also been guilty -- I think I'm just 2 underlining Brian's point -- of trying to pretend that 3 it's a regulator when actually it's a complaints 4 mediation service. 5 PROFESSOR BARNETT: I'd go along with all of that. The only 6 problem is it was billed from the very beginning as 7 a regulator. When David Calcutt produced his report in 8 1990, and indeed then reviewed his own report in 1993, 9 he actually talked about this new system of 10 self-regulation. So whether or not it is actually 11 a self-regulator, a regulator, it was certainly billed 12 after the excesses of the 1980s, which led to its 13 creation, it was billed as an answer to deal with the 14 issues that had arisen during the 1980s and was billed 15 as an answer that was a regulatory answer. 16 So it's all very well now for, you know, the current 17 and previous chairmen to talk about, "We're actually 18 only a complaints mechanism". That is not the way in 19 which they either were set up to do, nor indeed the way 20 they wanted themselves to be perceived as doing at the 21 time. 22 MS PATRY HOSKINS: I suppose that takes us neatly on to what 23 it should be. I think you all agree that it does some 24 limited things well, there are some aspects of it that 25 you think it does not well at all. That would take us</p> <p style="text-align: center;">Page 72</p>

<p>1 on to what should replace it.</p> <p>2 I don't know if you've seen today it's been reported</p> <p>3 what the PCC itself proposes. I printed off this</p> <p>4 morning a news report headed "PCC proposes wide-ranging</p> <p>5 shakeup of press self-regulation". Obviously it's</p> <p>6 interesting to see where they themselves feel it should</p> <p>7 change. What I'm going to do is identify some proposals</p> <p>8 and you tell me whether you think you agree --</p> <p>9 LORD JUSTICE LEVESON: It's a bit hard if they've not had</p> <p>10 a chance to read details.</p> <p>11 MS PATRY HOSKINS: Absolutely not, and I promise if you</p> <p>12 haven't had a chance to read it, that's fine. The</p> <p>13 issues are familiar ones and perhaps I'll just deal with</p> <p>14 some of the solutions they have come up with and we can</p> <p>15 talk about the issues rather than the general package</p> <p>16 that they propose.</p> <p>17 I suppose the first thing, we were just talking</p> <p>18 about this, is the power to investigate. Can I have</p> <p>19 your views, please, on how a power to investigate would</p> <p>20 work, what sorts of situations you would like the PCC or</p> <p>21 new body to be able to investigate in? Who wants to</p> <p>22 kick us off?</p> <p>23 PROFESSOR CATHCART: I will. I draw the analogy with, you</p> <p>24 know, other areas of life. If there's a railway</p> <p>25 accident, there is an inquiry and lessons are learned.</p> <p style="text-align: center;">Page 73</p>	<p>1 the truth".</p> <p>2 So some means of dealing with those kinds of</p> <p>3 third-party complaints -- and I can see the problem in</p> <p>4 terms of you can't complain about a story about another</p> <p>5 individual without their consent. I get that,</p> <p>6 I understand that. But I think where we're dealing with</p> <p>7 the nature of stories which are, as I say, traducing</p> <p>8 particular groups, I think has to be done.</p> <p>9 MS PATRY HOSKINS: Am I right in thinking so far we have</p> <p>10 investigations -- you would like to see investigatory</p> <p>11 powers in situations where there might have been a high</p> <p>12 profile controversy of some kind, you'd like to see</p> <p>13 investigations take place where a third party wanted to</p> <p>14 complain about a particular way in which it had been</p> <p>15 represented. Are there any other investigatory powers</p> <p>16 that you think such a body should have?</p> <p>17 MS PHILLIPS: I think there needs to -- something we were</p> <p>18 talking about earlier, to do with whistle blowing, and</p> <p>19 I believe this is something the PCC has mentioned this</p> <p>20 morning. It should be easier for journalists who are</p> <p>21 concerned about what they're being asked to do to find</p> <p>22 an avenue. There is no avenue at all. And when a group</p> <p>23 of journalists at the Express Newspapers a few years ago</p> <p>24 tried to raise a broad issue -- again this was about the</p> <p>25 coverage of Travellers and the fact that they were</p> <p style="text-align: center;">Page 75</p>
<p>1 In the press, I was very influenced by observing the</p> <p>2 McCann case develop over month after month after month</p> <p>3 like a slow motion crash, and yet there was no</p> <p>4 introspection in the industry afterwards. The damages</p> <p>5 were paid, the books were closed and they moved on.</p> <p>6 That is not -- you know, we wouldn't accept in the</p> <p>7 railway industry or in, for example, a hospital, we</p> <p>8 wouldn't accept that nobody went back and assessed what</p> <p>9 had happened and tried to identify how things could be</p> <p>10 changed to prevent it happening again. So I think</p> <p>11 a mechanism -- a regulator who is prepared to go in and</p> <p>12 do that is essential.</p> <p>13 PROFESSOR BARNETT: I'd like to add to that dealing with</p> <p>14 third-party complaints. At the moment, there is no</p> <p>15 facility, for example, for groups that feel themselves</p> <p>16 to have been traduced in some way to make a complaint.</p> <p>17 The obvious example is travellers, the way they have</p> <p>18 been portrayed in some tabloid newspapers, asylum</p> <p>19 seekers. These are groups of people which have</p> <p>20 organisations which represent their interests, like</p> <p>21 Amnesty International, but at the moment there is no</p> <p>22 facility for representations to be made on behalf of</p> <p>23 groups of people to say, "These particular stories, the</p> <p>24 way in which this particular story has been laid out is</p> <p>25 either completely inaccurate or a gross distortion of</p> <p style="text-align: center;">Page 74</p>	<p>1 being -- they felt that they were being coerced into</p> <p>2 writing stories which they felt were inappropriate, the</p> <p>3 response from the Press Complaints Commission at that</p> <p>4 time was to say that -- I paraphrase this, but that the</p> <p>5 role of the Press Complaints Commission is not to stand</p> <p>6 between an employer and the employees, which basically</p> <p>7 left journalists completely out on a limb. They had no</p> <p>8 possibility for finding a way of channelling their own</p> <p>9 concerns.</p> <p>10 So I think there needs to be a way in which</p> <p>11 journalists who are working on a newspaper, and they're</p> <p>12 not going to do it very often because it puts their own</p> <p>13 position at risk, but they need to have a place where</p> <p>14 they can safely go and say, "Things are not right".</p> <p>15 And then I would agree that there needs to be some</p> <p>16 mechanism for looking at broader areas of concerns,</p> <p>17 rather than simply specific complaints.</p> <p>18 PROFESSOR BROCK: I am going to part company with my</p> <p>19 colleagues on this point. I'll take an opportunity</p> <p>20 later on, if I may, just to explain the context of what</p> <p>21 I think about regulation in general, but I'm very, very</p> <p>22 cautious about the blithe conversations about</p> <p>23 investigatory powers. It's very easy to draw the</p> <p>24 conclusion from what has happened to the PCC that what</p> <p>25 it lacks is investigatory powers, but I think we have to</p> <p style="text-align: center;">Page 76</p>

<p>1 be very careful before we encourage systems in which 2 people are going to have the freedom to wander into 3 newsrooms and find things out. That actually is not 4 a particularly good idea in general and I think we have 5 to be extremely careful about how we set that up. I'll 6 leave it at that for the time being.</p> <p>7 MS PATRY HOSKINS: Feel free to tell us about the context. 8 That's very interesting.</p> <p>9 LORD JUSTICE LEVESON: We don't want to lose the point.</p> <p>10 PROFESSOR BROCK: Okay, but it is wider than the point about 11 investigative powers.</p> <p>12 MS PATRY HOSKINS: That's fine.</p> <p>13 PROFESSOR BROCK: I base what I say on my experience as 14 a managing editor and I think that a system of 15 regulation that is really going to work effectively has 16 to balance an externally imposed deterrent, if you like. 17 With an internal incentive and unless the deterrent and 18 the incentive are properly balanced, you won't get 19 a sustainable effect of the kind you need.</p> <p>20 I think that what we need to do, instead of 21 concentrating so hard on reforming the self-regulation 22 mechanism, which happens to be the one that exists, we 23 should start by thinking about the legal context in 24 which as I've already said I think public interest 25 defences are rather weakly put. I think there is quite</p> <p style="text-align: center;">Page 77</p>	<p>1 PROFESSOR BROCK: It would be the carrot indeed. If I may 2 just give the example of the News of the World, now a 3 dead newspaper. They used to find themselves in court 4 quite a lot. They also did investigative work. If they 5 were in court and their position in court was going to 6 be damaged by the fact that they were doing things like 7 phone hacking, it seems to me that the senior executives 8 of that popular paper would be very much more careful 9 about what was going on in their newsroom because they 10 would have an actual incentive in the operation of the 11 law to do better, to be more careful about what was 12 happening.</p> <p>13 I've outlined these in the latest edition of the 14 British Journalism Review, which Steve happens to have 15 brought along, at a slighter greater length than I've 16 been able to do now. Thank you for your patience.</p> <p>17 PROFESSOR BARNETT: I'm not sure that these positions -- 18 this is turning into a university seminar.</p> <p>19 LORD JUSTICE LEVESON: That's exactly the purpose. That's 20 why you're together.</p> <p>21 PROFESSOR BARNETT: Okay. I'm not sure these positions are 22 actually incompatible. Yes, there needs to be -- I'm 23 not sure that there is that much difference between 24 rooting these changes in law and rooting them in 25 enforcement -- giving a beefed-up PCC or a new regulator</p> <p style="text-align: center;">Page 79</p>
<p>1 a lot of revision that needs to be done there, both -- 2 and it's under way in the defamation law, I think it 3 should happen in privacy law and I think there has to be 4 access to quicker, cheaper justice for people who are 5 using those kinds of law as complainants.</p> <p>6 I think the expansion of the public interest defence 7 is really important because I want to see a form of 8 regulation which arises from people's wish to do things 9 better rather than simply from the imposition of 10 external penalties or indeed the imposition of external 11 investigation. And I think that if you say that it is 12 easier to access a public interest defence in a case 13 such as defamation or privacy probably being the two 14 most prominent principal ones here, then I think if that 15 public interest defence depended partly on the integrity 16 of your editorial systems, or more generally, the 17 integrity of your newsroom and what you could 18 demonstrate about it, did you have self-disciplines that 19 prevented people doing things wrong, do you show how 20 that operates, are you clear about what your code is, 21 how do you respond to complainants and so on, that 22 I think would be a more effective way of growing up 23 a system that might be called regulation or it might be 24 called self-regulation.</p> <p>25 MS PATRY HOSKINS: That would be the carrot?</p> <p style="text-align: center;">Page 78</p>	<p>1 the kind of enforcement facilities that the law would 2 provide. It seems to me that if newsrooms -- if we go 3 back to George's point, which I completely agree with, 4 that the key to this is how do you change the newsroom 5 cultures to a more ethical environment, that if you know 6 that the publication of an inaccurate story, a blatantly 7 mischievously inaccurate story is going to involve 8 a complaint which there will then be questions asked 9 about how you came to that story, without actually 10 naming your sources, who did you go to, who did you 11 check them with, and there is a sort of paper trail, all 12 we're talking about is a newsroom which enforces 13 precisely those kinds of codes and modus operandi that 14 I think you were talking about, George.</p> <p>15 So I don't think those positions are incompatible. 16 What you do need is that regulatory framework which 17 persuades the newsroom that that's how they have to 18 behave, that they need that audit trail and they need to 19 encourage the kinds of behaviour that won't result in 20 those sorts of complaints.</p> <p>21 LORD JUSTICE LEVESON: It's not just accuracy, either.</p> <p>22 PROFESSOR BARNETT: No.</p> <p>23 LORD JUSTICE LEVESON: Isn't it also ethical?</p> <p>24 PROFESSOR BARNETT: Absolutely. It's ethical journalism, 25 it's actually abiding by the Editors' Code in all its</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1 respects.</p> <p>2 PROFESSOR BROCK: I was only going to say but the difference</p> <p>3 is that I think it will be more effective if this is</p> <p>4 grown up by the newsrooms themselves in response to the</p> <p>5 right incentive. That's possibly a small difference</p> <p>6 between us.</p> <p>7 PROFESSOR CATHCART: I certainly buy the idea that public</p> <p>8 interest defences can have a big influence in changing</p> <p>9 culture. I just make two points. The first is that</p> <p>10 it's often said that, you know, when something's</p> <p>11 illegal, the law deals with it, but the process by</p> <p>12 which, if you'll forgive me, the law deals with some of</p> <p>13 the problems that we're facing is imperfect. If you</p> <p>14 look at the case --</p> <p>15 LORD JUSTICE LEVESON: That's the mildest way.</p> <p>16 PROFESSOR CATHCART: If you look at the case of</p> <p>17 Christopher Jefferies, he sued eight newspapers and</p> <p>18 you've heard how he was monstered. He sued eight</p> <p>19 newspapers and they paid -- we don't know what the sum</p> <p>20 was, but the legal gossip is something less than</p> <p>21 £500,000 between them. They had a field day with his</p> <p>22 life for three days over the quiet new year weekend. If</p> <p>23 I do the sums right, the average was that it cost each</p> <p>24 of them £20,000 a day. That's good business. It sounds</p> <p>25 like Christopher Jefferies has had justice, but it</p> <p style="text-align: center;">Page 81</p>	<p>1 facts.</p> <p>2 LORD JUSTICE LEVESON: That's slightly different. That's</p> <p>3 probably right. But there is a concern that I recognise</p> <p>4 in what Professor Brock says about investigators</p> <p>5 marching in -- and the other problem, of course, is that</p> <p>6 there are only so many investigators and policemen and</p> <p>7 what have you to go around for the range of activity</p> <p>8 which has to be the subject of investigation. We can't</p> <p>9 simply rely on there being a policeman to arrest</p> <p>10 a photographer for harassment, or a regulator to be able</p> <p>11 to find out about one private detective and then get all</p> <p>12 sorts of information. We have to find something else as</p> <p>13 well.</p> <p>14 PROFESSOR CATHCART: I think there has to be a threshold at</p> <p>15 which investigation becomes justified. I don't think</p> <p>16 that a huge sort of internal investigation of every</p> <p>17 newsroom whenever there's a complaint is justified. But</p> <p>18 I think that in issues where, you know, there is</p> <p>19 a genuine public concern, as there was in the McCann</p> <p>20 case, for example --</p> <p>21 LORD JUSTICE LEVESON: Yes, we've ground exceeding fine and</p> <p>22 here it is now.</p> <p>23 PROFESSOR CATHCART: Indeed. In those cases, I think</p> <p>24 that -- in cases like that, I think our regulator has to</p> <p>25 be able to, as it were, call witnesses and find out</p> <p style="text-align: center;">Page 83</p>
<p>1 doesn't affect the way in which the newspapers are</p> <p>2 likely to proceed in the future.</p> <p>3 And indeed if you project it into the past, what</p> <p>4 happened to Christopher Jefferies is not all that</p> <p>5 different to what happened to Robert Murat who sued</p> <p>6 a lot of news organisations. It's not all that</p> <p>7 different although it was much more slow motion than</p> <p>8 what happened to Kate and Gerry McCann, who sued.</p> <p>9 Suing may get you what looks like a headline sum of</p> <p>10 money in damages, but it is not forcing the newspaper</p> <p>11 industry to think about its own culture in any way.</p> <p>12 They can pay these sums of money and move on. Indeed,</p> <p>13 you heard Gerry McCann argue that they actually make</p> <p>14 a profit overall in some of these cases.</p> <p>15 That's not good enough. It's not finding where the</p> <p>16 wheels have come off and saying we need to tighten these</p> <p>17 bolts.</p> <p>18 So I come back to the idea that some sort of</p> <p>19 post-mortem process has to be introduced into the</p> <p>20 proceedings and I think an investigative arm, which was</p> <p>21 proposed by the Media Select Committee in 2009, is an</p> <p>22 important standards element for a regulator.</p> <p>23 LORD JUSTICE LEVESON: But does it need to be able to</p> <p>24 investigate as opposed to adjudicate?</p> <p>25 PROFESSOR CATHCART: I think it needs to be able to find</p> <p style="text-align: center;">Page 82</p>	<p>1 what's gone wrong.</p> <p>2 PROFESSOR BARNETT: It doesn't seem to be a problem in</p> <p>3 broadcasting. We have an apparatus and it works fine.</p> <p>4 If a programme is broadcast about me which I think is</p> <p>5 materially inaccurate, I can make a complaint to Ofcom</p> <p>6 and I don't think -- it doesn't take a huge machinery to</p> <p>7 ensure that there is some kind of recompense, some kind</p> <p>8 of investigation and recompense. The broadcaster will</p> <p>9 have the records of how they came to that story, they</p> <p>10 will provide it to the regulator, I will get my answer.</p> <p>11 I don't think it's a particularly big deal.</p> <p>12 PROFESSOR CATHCART: One final thing. I would commend to</p> <p>13 the Inquiry one or two of the final reports by the Press</p> <p>14 Council, which conducted investigations of this kind in</p> <p>15 critical moments. I see Sir Louis Blom-Cooper, over</p> <p>16 there, ran one into the Strangeways prison riot and</p> <p>17 I would suggest it's a model of what could be achieved.</p> <p>18 LORD JUSTICE LEVESON: There you are, Sir Louis. Yes?</p> <p>19 MS PHILLIPS: I would agree that I think we have to separate</p> <p>20 adjudication, conciliation and investigation. They are</p> <p>21 completely different. I think that obviously an</p> <p>22 investigation is something that would only be triggered</p> <p>23 if something was going on that was more than the concern</p> <p>24 about one particular individual event. And I think we</p> <p>25 could all look back over the last ten, certainly over</p> <p style="text-align: center;">Page 84</p>

<p>1 the last ten years and see where clearly patterns were 2 arising, and one would like to imagine that a regulatory 3 body that was concerned with the press would be looking 4 for those kinds of patterns where something clearly was 5 happening over a long period of time or, in the case of 6 the McCanns, it was an accumulation of coverage. 7 I think -- 8 LORD JUSTICE LEVESON: So this is proactive rather than 9 reactive? 10 MS PHILLIPS: I think one would like to feel that there was 11 some kind of proactive possibility in a regulatory body, 12 but one wouldn't expect it to be used all the time. It 13 would need to be triggered by something clearly 14 important going on, and I think that that would need to 15 be left to the decision of whatever board was structured 16 to run it, but one wouldn't -- it needs to be there. 17 PROFESSOR BROCK: I think the problems of -- if we're 18 imagining a broadly speaking -- or people want to 19 imagine a stronger regulator, I think the problems of 20 inclusion, ie who is covered by it and are they 21 compelled to be included in the system, are rather 22 bigger than people sometimes acknowledge. 23 I think if you then have to think about 24 investigation and presumably stiffer sanctions, because 25 that's often implied as well, you are very close to what Page 85</p>	<p>1 paying £2 million to the regulator. 2 There is absolutely the issue of compulsion, and 3 I don't know if you were planning to come onto that, but 4 how do you persuade all the publications to come into 5 this umbrella; and there has to be a implication of 6 sticks and carrots, but my favoured solution is perhaps 7 to have Ofcom as a sort of backstop regulator. There 8 has to be something behind this new system, but 9 preferably the new system would start by being 10 self-regulatory. It would be operated and run by those 11 within the industry for the industry, including, as we 12 know happens with the Press Council in Ireland, working 13 journalists. That seems to work very well. 14 MS PATRY HOSKINS: Can I pause you there just to tell you 15 what the PCC have said about this issue of getting 16 people to join in with the system. They say this: 17 "A crucial part of the new system would see each 18 publisher sign a contract with the PCC. Each newspaper 19 owner would have to sign up to the complaints mechanism, 20 submit to investigation and accept financial sanction, 21 with each contract lasting between three and five years. 22 The idea is to create a mechanism tighter than the 23 existing model of self-regulation but not as stiff as 24 statutory intervention. It would be possible for the 25 PCC to enforce against errant newspapers because the Page 87</p>
<p>1 Steve was suggesting just now, which is effectively 2 extending the Ofcom regime to printed, perhaps, and 3 online media. 4 I would on the whole be in favour of a mixed economy 5 of legislation because I think that produces probably 6 better public interest journalism with words in the end, 7 but if you're going to get into a very elaborate 8 regulatory system, you might as well extend Ofcom. 9 I was forwarding an idea that is different, but as soon 10 as you're into sanctions, investigation and so on, 11 you're not very far from just drawing Ofcom across to 12 extend across more people. More outlets, I should say. 13 PROFESSOR BARNETT: You can take the best and the worst. 14 I think extending Ofcom won't work for a number of 15 reasons, not least because we don't want to license the 16 press. The reason Ofcom works in the end is because the 17 ultimate sanction is you can take the broadcast licence 18 away, and that's the root of its effectiveness. 19 But I think you can take the good bits of Ofcom, 20 which is that it is an effective regulatory system, that 21 it has set up a mechanism for dealing quickly with 22 problems, with complaints around ethical issues, and 23 I used in my evidence the example of Carlton Television. 24 It was discovered by the Guardian to have faked large 25 sections of its documentary in 1996 and they ended up Page 86</p>	<p>1 publisher would have signed up by contract, insiders 2 describe it as a self-licensing system, and any breaches 3 would amount to contempt of court." 4 Would any of you have any support for that system? 5 PROFESSOR CATHCART: There's the simple obvious problem that 6 Richard Desmond might not renew his contract. 7 PROFESSOR BROCK: Or might not want to sign it in the first 8 place. 9 PROFESSOR CATHCART: Something like that depends on a sort 10 of kite mark quality to it which I think is quite 11 difficult to deliver in newspapers. They would need all 12 to be boasting "We carry the kite mark" quite a lot 13 before it had any impact on the public. 14 LORD JUSTICE LEVESON: Which of course brings the elephant 15 in the room, namely the Internet. 16 PROFESSOR CATHCART: Yes. 17 LORD JUSTICE LEVESON: Or those who might rejoice in not 18 having the kite mark. 19 PROFESSOR CATHCART: Indeed. 20 MS PHILLIPS: Which is one of the reasons why I think that 21 the right of reply is quite an important weapon, because 22 it's outside all of the -- I mean, I think there are 23 different ways in which a new regulator could be 24 organised around tribunals and lots of different ideas 25 about carrots and sticks, but I think that to have Page 88</p>

<p>1 a statutory right of reply which kind of floats above 2 all of it would apply to the Internet as well. In fact, 3 it would apply primarily to the Internet because it's on 4 the Internet that it's easiest to do.</p> <p>5 There's absolutely no reason why every single 6 internal outlet should not be required, as long as -- 7 I mean, as long as they were within British 8 jurisdiction, which clearly does raise some problems, 9 but I think it's not insurmountable, if everybody simply 10 had to promise to give the right of reply at the bottom 11 of any article and above the comments -- it's not the 12 same as a comment column, it's a right of reply column. 13 I think if that was something that simply everybody had 14 to produce, I think for a start it would mean that you 15 would begin to see the use of internal ombudsmen. 16 I think you would begin to see that newspapers would 17 rather conciliate than publish a reply in a right of 18 reply slot.</p> <p>19 I think it would simply mean that every time you 20 write an article, you would know that immediately below 21 where you had written, somebody else could come along 22 and say, "This is all made up". I mean, there would 23 have to be checks and balances about it. There would 24 have to be -- it would have to be quite carefully worked 25 up how such a right of reply would be used, but I think</p> <p style="text-align: center;">Page 89</p>	<p>1 wrong with it.</p> <p>2 PROFESSOR BARNETT: I don't understand how that would work 3 out of jurisdiction.</p> <p>4 MS PHILLIPS: As I said, it would clearly be problematic, 5 but if one is going to assume that everybody faced with 6 a right of reply is simply going to move to another 7 jurisdiction, I don't think that's going to happen. 8 I think most people will deal with it.</p> <p>9 PROFESSOR BARNETT: I suppose I'm slightly concerned -- it 10 seems to me that blogging and the Internet is actually 11 a wonderful opportunity for complete freedom of speech, 12 and I am not entirely convinced about the right of 13 reply --</p> <p>14 MS PHILLIPS: But it often isn't used as an opportunity for 15 complete freedom of speech. If you look at newspapers 16 and you look at their comment columns --</p> <p>17 PROFESSOR BARNETT: I entirely accept that if we're talking 18 about the online manifestations of existing 19 publications, I completely agree. But to extend it 20 across all online, you know, any kind of blogging 21 I think is different.</p> <p>22 Can I raise another point, which is actually more 23 about the carrots for bringing people in to this sort of 24 brave new world, and they've both been raised before, 25 but I think they're both attractive. One is to find</p> <p style="text-align: center;">Page 91</p>
<p>1 it would have quite a salutary effect because it would 2 be immediate. It would mean that if somebody wrote 3 something about you today and you heard about it, 4 there's no reason why within hours you shouldn't have 5 your right of reply up there on the Internet.</p> <p>6 There have been lots of complains for right of reply 7 over a number of years, and they've always been squashed 8 because the editors have always said, "We can't have 9 a right of reply because it would completely ruin our 10 newspapers. We don't want somebody who doesn't know how 11 to write getting kind of a space bang slap in the middle 12 of one of our beautifully organised pages".</p> <p>13 Actually, there was some point in that. It would 14 have looked strange on a regular basis to have something 15 on the front page saying, "Actually, what we said 16 yesterday was wrong". I think there are occasions when 17 that's necessary, when somebody has clearly said 18 something that's completely wrong, but if you had 19 a right of reply that is simply always exercised online 20 where it's easy, and there's no argument that I can 21 think of against it, you are improving democracy, you 22 are improving accountability and you are going some way 23 towards balancing the freedom of press with the freedom 24 of expression of the individual. And it would be 25 terribly easy. Which means there must be something</p> <p style="text-align: center;">Page 90</p>	<p>1 some way of financially incentivising those publications 2 by perhaps saying that if you are not part of this 3 regulatory system, if you choose not to be, you will be 4 subject to VAT. I think that's -- I've seen various 5 projections about what that might raise, potentially -- 6 or what you might lose, which can run into millions of 7 pounds, and that seems to me to be a powerful incentive.</p> <p>8 LORD JUSTICE LEVESON: Depending on whether it's legally 9 possible.</p> <p>10 PROFESSOR BARNETT: I've heard that some people are 11 objecting that you have to go to Brussels and get 12 permission. If the will is there, I have not heard of 13 any legal objections to doing that. The exemption from 14 VAT is predicated on an assumption that the printed word 15 is good for democracy. That's my understanding of how 16 it comes about. If you want to be outside of an 17 umbrella which says we are actually -- this system of 18 regulation is there because we accept that the printed 19 word is part of the democratic process, then it seems to 20 me if you don't want to be part of that, I don't see how 21 you can then say, "But I want to be exempt from VAT". 22 So that's one thing.</p> <p>23 The other thing is I think what's been suggested is 24 that for those within this new regulatory system there 25 could be caps on -- if you operate some kind of</p> <p style="text-align: center;">Page 92</p>

<p>1 voluntary tribunal and all sides agree to be bound, 2 there could be caps on any kind of damages that might be 3 awarded -- 4 LORD JUSTICE LEVESON: Or you could do it the reverse way, 5 by saying that if you're not within that system, and 6 you're found liable for some failure, then there is an 7 additional -- 8 PROFESSOR BARNETT: Absolutely, absolutely. 9 LORD JUSTICE LEVESON: -- award. 10 PROFESSOR BARNETT: And that would need to be enough to make 11 it sufficiently incentivised for an organisation to want 12 to be part of this system. 13 But I also think we should emphasise the potential 14 role of this whole kite marking area. I think if there 15 was a sufficient amount of publicity -- we all remember 16 the Advertising Standards Association: "legal, decent, 17 honest, truthful". None of us really know what the PCC 18 stands for. That's because of publicity, because the 19 ASA was prepared to publicise the standards which it 20 expected people to adhere to, and I think a new kite 21 marked regulatory system for the press could do the 22 same. 23 MS PATRY HOSKINS: I'm going to pause you there because 24 I know Mr Barr wants to come back on to interesting 25 questions about the definition of the public interest</p> <p style="text-align: center;">Page 93</p>	<p>1 before you at the seminars, Paul Dacre, on the point of 2 membership, as it were, he said something similar. He 3 said that he would be looking for the help of 4 Parliament, as it were, on that point, and I think the 5 same is true with the money. 6 PROFESSOR BROCK: One of the reasons that I have suggested 7 starting at a different point than attempting to produce 8 a more elaborate, more effective regulatory mechanism 9 than the one that exists at the moment, is I think the 10 problem of paying for it is a really hard one, and 11 therefore, if you build it into an incentive system -- 12 I won't rehearse my previous argument -- then I think 13 people would have a stronger incentive to come up with 14 the money to run it. 15 I think under the scheme I'm proposing, serious 16 newspapers would get together collectively, they 17 wouldn't just do this as a matter of individual 18 declaration. They would get together to agree common 19 codes. They might easily use external people, people 20 from the legal world, quite obviously, to look at or 21 indeed adjudicate some complaints and so on. 22 LORD JUSTICE LEVESON: That's one of the possibilities. 23 PROFESSOR BROCK: And they would have to provide the 24 resources for that system and they would have an 25 incentive to do that, as I've described.</p> <p style="text-align: center;">Page 95</p>
<p>1 and other ethical questions. I'll give you each a few 2 moments to tell us, because I think every witness has 3 come forward in this Inquiry so far and said "It's all 4 very difficult, I don't have a solution in my pocket", 5 but we thought that if anyone can tell us -- 6 LORD JUSTICE LEVESON: Before you do that, that's a good 7 question, but I have a slightly different one. How is 8 all this going to be financed? It's all very well for 9 Ofcom with the broadcasting money that is behind it, but 10 print journalism as we know is going through a very, 11 very difficult time, so if anybody has any ideas on 12 that, I'd be very interested to hear it before you get 13 the general opportunity. 14 PROFESSOR CATHCART: I find there are two elements we come 15 back to in this debate, where the role of the state 16 becomes of interest. One is -- we've just discussed 17 it -- the area of compulsion and membership and so 18 forth, and the other is money. I think that we will 19 hear, we are hearing a great many projects for press 20 regulation, but I think that if they don't answer those 21 two questions about compulsion and -- then, you know, 22 they're not answers. I would love to think there was an 23 alternative, but I can't see how those two questions 24 could be answered without some involvement by the state. 25 On the first point, I would say that when he came</p> <p style="text-align: center;">Page 94</p>	<p>1 MS PATRY HOSKINS: That takes us back to my more general 2 questions. I want to give each of you a short 3 opportunity to show us or tell us what the brave new 4 world would look like in your view. Should look like. 5 Who wants to kick-off? I'm going to start with 6 Professor Barnett. We're back to starting on the left. 7 PROFESSOR BARNETT: I was hoping I would be let off this 8 time. In my evidence, I submitted a number of broad 9 principles which I think need to underpin any new 10 system. If you're asking me to outline the nuts and 11 bolts of a new regulatory system, I will -- well, I'm 12 not going to do that now. 13 MS PATRY HOSKINS: I'm not going to give you the time to do 14 that. 15 PROFESSOR BARNETT: Good, okay. I would make two genera 16 comments: that ideally the new beefed-up system should 17 be run by the press for the press. There are various 18 ways in which we could try to ensure that it is not run 19 by a small band of newspaper editors. I talked about 20 getting working journalists involved on the board, and 21 I think there are models from other countries like 22 Ireland which I think we would do well to look at. 23 And I think the more -- I completely agree with 24 George. The more we can encourage that body to impose 25 its will and get newspapers and other publications on</p> <p style="text-align: center;">Page 96</p>

24 (Pages 93 to 96)

<p>1 board voluntarily, the better it's going to be for 2 everyone, but the history of press regulation has told 3 us over the last 50 years that left to itself, 4 self-regulation, pure self-regulation, does not work. 5 It simply does not work, and I think we have reached a 6 point now where we simply cannot listen to the same 7 promises and the same commitments that we heard 22 years 8 ago at Colcutt and say, "This time it's one more drink 9 in the last-chance saloon." 10 We've been there and done that. There has to be now 11 some kind of backstop regulatory framework which says, 12 "You said you're going to do this, we think we believe 13 you're going to do this, and if you're going to do it, 14 you have nothing to fear, but we're going to be here and 15 watch you just to make sure that you actually do that." 16 One final point. There is, I think, almost 17 a deliberate campaign sometimes amongst those who don't 18 want any kind of statutory involvement at all to talk 19 about state interference, and there are comparisons made 20 with Zimbabwe and Burma and Hungary and all sorts of 21 other awful countries on the basis that as soon as you 22 involve Parliament, the world falls apart. 23 I think we have to accept ultimately we live in 24 a democracy, we have elected representatives in 25 Parliament, that is what the legislature is for. We are</p> <p style="text-align: center;">Page 97</p>	<p>1 agree with others, then you have a package of incentives 2 that I think balance externally imposed requirements 3 with internal incentives, but I think the key to that is 4 stopping being nervous about defining as best we can, 5 it's not easy, public interest. 6 MS PATRY HOSKINS: We'll come back to that -- 7 LORD JUSTICE LEVESON: Just before we move on, the critical 8 part of that would be that there is a mechanism that is 9 straightforward and accessible for people who are 10 adversely affected to be able to seek redress, because 11 otherwise, if you say, as indeed has been said, the law 12 is there, I will be the first to recognise that the 13 courts, the criminal and the civil courts, do provide 14 a remedy, but they are not for the faint-hearted or 15 those without, in the main, a very considerable amount 16 of money. 17 PROFESSOR BROCK: I was trying not to repeat entirely what 18 I had said before but I do think that that revision of 19 the law must include some easier, quicker access to 20 people who feel themselves that they have been wronged, 21 but I do think that that is, on balance, and if you take 22 all the elements of what I'm proposing together, that 23 that is a more attractive idea than what is going to be 24 a very complex, very elaborate and I suspect very 25 expensive new beefed-up regulatory system. Everybody is</p> <p style="text-align: center;">Page 99</p>
<p>1 not talking about government intervention in speech. 2 We're talking about Parliament laying down a framework 3 for a process which ensures that the kinds of excesses 4 that we've seen over the last five years, and indeed 20 5 years ago, don't happen again. 6 MS PATRY HOSKINS: Thank you very much. We'll call that the 7 "bar is closed" argument. The last-chance saloon is 8 definitely shut. 9 PROFESSOR BARNETT: We've been there and the pub is closed. 10 MS PATRY HOSKINS: Professor Brock? 11 PROFESSOR BROCK: You don't have to be flinging around names 12 like Zimbabwe and Burma to say that if you are serious 13 about freedom of expression, you really do want to 14 minimise the involvement of the state or the government. 15 I said, however, that I thought that the framework of 16 laws in which the news media operate are extremely 17 important and they could do with some revision. Most of 18 that agenda is already known, although I would add to it 19 a revised privacy law, but I think that the key is the 20 improvement of the public interest defences in them. 21 Because if you do that and you make access to a stronger 22 public interest defence, the incentive for running 23 a good newsroom and being able to declare what those 24 things are and being transparent about it and adhering 25 to standards which you give yourself or maybe even you</p> <p style="text-align: center;">Page 98</p>	<p>1 focusing on the new regulatory system. I think it has 2 big problems of inclusion and cost, and I think it is 3 just as good, in fact better, to look at the external 4 legal environment, but you're absolutely right that 5 access to justice is absolutely basic to that. 6 MS PATRY HOSKINS: Mr Cathcart? 7 PROFESSOR CATHCART: I agree with a great deal of what's 8 gone before. I think we need to remind ourselves that 9 there's a big issue of public trust here, and public 10 trust in journalism has been very badly damaged in the 11 past few years. I think that the remedy has to be seen 12 to be radical. That's all the more the case when we 13 have the history of the last chance -- I'd go back 14 further than Steve. I think you go back to the first 15 Royal Commission, 1946 to 1949, I think, which reports, 16 recommends the setting-up of a Press Council and it 17 takes three and a half years before the press -- and an 18 awful lot of leaning on and threats of legislation 19 before the press will set something up. 20 That, if you look through the history, and this is 21 another thing that Hacked Off is doing, that sort of 22 conduct is repeated and repeated. We're in that 23 position now. We can't let it happen again. 24 A new step has to be taken and something that has to 25 show that we take this seriously. This isn't about</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 journalists dealing with journalists or journalists 2 dealing with politicians or journalists dealing with the 3 police. This is about journalists and the public and 4 about the quality of life in Britain and the quality of 5 information we get in our newspapers and so forth, and 6 there has to be appropriate remedy to what has happened. 7 I don't seek any Zimbabwe solutions. I agree 8 entirely with George that the biggest changes will 9 happen in the newsroom cultures and that a good public 10 interest defence will help to engender that, although 11 the effects, as you say, will be much greater in some 12 papers than others, but we need to see something which 13 says that this industry is putting itself right or being 14 put right after this car crash that we've had in the 15 last few years. 16 MS PHILLIPS: It's interesting, in about 1994 or 1995 17 Alan Rusbridger wrote a paper which was doing something 18 similar to what George Brock is now suggesting, which is 19 to have a public interest defence and at the same time 20 to tighten up the privacy law and he came up with that 21 and very quickly it all disappeared. 22 I think that one of the problems that we have to 23 accept is that we have basically two kinds of press 24 here. There is the press, which I would include the 25 Times and the Guardian and the Independent, who would be</p> <p style="text-align: center;">Page 101</p>	<p>1 and the main reason must be that they're going to get 2 something out of it, and that would be to some extent 3 some protection from legal action in the trickier cases 4 where there is a public interest defence, certainly. 5 I think there would be a way of making that work. 6 But the question of funding, I don't think I have an 7 answer there. There has been quite a lot of discussion 8 about the possibility of using something in parallel 9 with the tribunal system, which -- certainly the 10 employment tribunal system works to allow people to 11 access justice through the employment tribunal system 12 without spending a lot of money, and maybe some similar 13 sort of arrangement. 14 LORD JUSTICE LEVESON: That answer is the one that we've 15 just been given, namely that's the state. 16 MS PHILLIPS: I gather the building industry has a form of 17 tribunal system which operates within its own regulatory 18 system. I'm not a lawyer and I know nothing about the 19 building industry, but I have read that this is 20 a possibility. 21 PROFESSOR CATHCART: I would just add that -- I'm sure 22 you'll hear evidence from Ofcom. I have heard people 23 from Ofcom say that the cost of what they deliver in 24 terms of journalism isn't that high, and certainly isn't 25 an order of magnitude higher than the cost of the PCC at</p> <p style="text-align: center;">Page 103</p>
<p>1 very happy to sit down and organise some self-regulation 2 which we would undoubtedly use, as indeed they pretty 3 much do now. 4 So what one needs to think about is what about the 5 rest, what about everybody else? Because that's really 6 what the problem is. 7 I've already talked about the right of reply. 8 I think that that is something that would be very 9 useful. It's used in other countries in Europe. It is 10 not considered to be onerous and it does reach into 11 newsrooms, it does change culture. 12 Media reform is also interested in some form of new 13 body which would certainly incentivise people to belong 14 in much the same way as you discussed, by encouraging 15 people to use both an ombudsman system and a tribunal 16 system which would be within the new body and which 17 would provide a cap, so that if you belonged to the body 18 and complaints were taken through that body, you would 19 be to some extent protected from the much harsher 20 environment of the courts and the much higher fines in 21 the courts, and that would in itself be an incentive for 22 people to join. 23 Because it's absolutely right that it won't work 24 unless everybody's in there and if everybody is going to 25 be in there they have to have a reason to be in there,</p> <p style="text-align: center;">Page 102</p>	<p>1 the present. 2 PROFESSOR BARNETT: Less than 5 million is what was said at 3 one seminar that I attended. 4 MS PHILLIPS: If the newspapers started behaving better, it 5 would be a lot cheaper all around. 6 LORD JUSTICE LEVESON: Yes, well ... 7 MS PATRY HOSKINS: Thank you very much. I'm going to hand 8 over to Mr Barr. 9 Further questions from MR BARR 10 MR BARR: Thank you. 11 We've heard a lot about the public interest and it's 12 obviously of fundamental importance to any debate about 13 journalist ethics and for that reason I'd like to 14 explore it with you in more detail. Could we have on 15 the screen, please, the document which ends with 16 reference number 48884. This is page 7 of the 17 submission of Professor Barnett. If we could have 18 magnified, please, the bullet points. This links in to 19 what Ms Phillips was just talking about, the public 20 interest defence. This is proposed, I think, in 21 Professor Barnett's statement as a statutory definition, 22 but putting aside for the moment whether any definition 23 should be statutory or otherwise, and just looking at 24 this formulation, I wanted to ask each of you whether 25 you were content with this as a definition of public</p> <p style="text-align: center;">Page 104</p>

<p>1 interest or whether you had anything to add or to 2 detract from that definition? And perhaps, since it's 3 you, Professor Barnett, who included it in your witness 4 statement, it might be fairest if I ask you to set the 5 ball rolling.</p> <p>6 LORD JUSTICE LEVESON: No, no, I think he should speak last 7 after everybody else has commented.</p> <p>8 MR BARR: By way of right of reply. In that case, 9 Professor Brock, that leaves you in the hot seat.</p> <p>10 PROFESSOR BROCK: Okay. This is the first time I've read 11 this particular definition. Is this your drafting?</p> <p>12 PROFESSOR BARNETT: On the basis of BBC, Ofcom, et cetera, 13 yes.</p> <p>14 PROFESSOR BROCK: Right. I don't see anything to object to 15 in that list. I think I would put the fourth bullet 16 point first, because it's the broadest and the most 17 general, and I'd make it as wide as it could be made. 18 I mean, I don't think I can produce a drafting solution 19 to you right off the top of my head here, but I think 20 that -- I mean, what I'm trying to grope for is to say 21 that you don't want to limit what might be important and 22 useful to a democratic citizen because you don't know in 23 advance what it might be, and the broader that phrasing 24 of the fourth bullet point can be without becoming 25 meaningless, the better.</p> <p style="text-align: center;">Page 105</p>	<p>1 MS PHILLIPS: I think we have the Irish one somewhere, and 2 that's pretty straightforward. And also research seems 3 to indicate that people have a fairly clear 4 understanding of what is meant when you use the phrase 5 "public interest", and I think it needs to be -- I think 6 the trouble with number 3 is that it will be very easy 7 to suggest that a footballer who has been caught out 8 having an affair has been misled by trying to create 9 a false image of himself as being a good bloke.</p> <p>10 PROFESSOR BARNETT: I think that would be difficult, 11 unless -- this is actually more to cover the MP who has 12 been campaigning on a platform of family values and is 13 then found to be having an affair.</p> <p>14 LORD JUSTICE LEVESON: Yes, we can tinker with the language, 15 of course, that's what lawyers do for a living, but it's 16 to get the concepts across. In that regard, of course, 17 one has to bear in mind that I have heard one witness at 18 least say in terms that what is in the public interest 19 is exactly the same as what interests the public.</p> <p>20 MS PHILLIPS: He was paraphrasing Rupert Murdoch in a speech 21 he made five or six years ago. He said the same thing. 22 I don't think anybody really apart from 23 News International thinks that is a reasonably good 24 definition of public interest.</p> <p>25 PROFESSOR BARNETT: Including I think the public themselves.</p> <p style="text-align: center;">Page 107</p>
<p>1 But the first three seem to me to be fine. If I had 2 another half hour, I might be able to think up other 3 bullet points, but that seems a perfectly good place to 4 start.</p> <p>5 LORD JUSTICE LEVESON: You don't have just half an hour, 6 Professor Brock. You have as long as you want.</p> <p>7 PROFESSOR CATHCART: I mean, I agree and, you know, 8 I recognise these are essentially the sentiments in the 9 existing industry codes. You'd know better than I. 10 I think the privacy lawyers would be looking at driving 11 coaches and horses through number 3 there on the 12 preventing the public being misled by the hypocrisy of 13 those attempting to create a false image of themselves. 14 I think there are several definitions to be established 15 along the way. I agree with the sentiment, but I think 16 the wording is problematic.</p> <p>17 MS PHILLIPS: Yes. I mean, I would suggest that number 3 is 18 quite broad, but I don't think that drafting a public 19 interest defence is sort of beyond us. Also, we already 20 have the Reynolds defence, which goes quite a long way 21 in that direction anyway. So we're starting from 22 something that already exists.</p> <p>23 There is also the Irish -- this is from the BBC one, 24 is it?</p> <p>25 PROFESSOR BARNETT: It's an amalgam.</p> <p style="text-align: center;">Page 106</p>	<p>1 MS PHILLIPS: Yes.</p> <p>2 PROFESSOR BARNETT: I can't remember, I think the Media 3 Standards Trust did some research on that.</p> <p>4 One thing I just wanted to add, if I could, is the 5 issue of proportionality. In the BBC's editorial 6 guidelines, before it has its own small list of what 7 represents the public interest, there is a two-line 8 phrase which for me would need to be incorporated into 9 any statute or definition, which goes: 10 "When using the public interest to justify an 11 intrusion, consideration should be given to 12 proportionality: the greater the intrusion, the greater 13 the public interest required to justify it."</p> <p>14 That seems to me to be a perfectly good, succinct 15 way of approaching this whole question, which is 16 proportionality.</p> <p>17 PROFESSOR BROCK: There are two ways of looking at public 18 interest because Angela mentioned another one. You can 19 try and say what is the information that falls within 20 the category that is fulfilling the public interest? 21 The other aspect of it, which is probably quite 22 important to what we've been discussing, is: is the 23 journalism being done in a responsible, serious way? 24 Those are obviously subjective terms, but the Nicholls 25 principles to which Angela referred just now are a</p> <p style="text-align: center;">Page 108</p>

<p>1 slightly different thing to Steve's shopping list there. 2 That's a list of basically benchmark checks about 3 whether the journalism has properly been done. I think 4 it depends on the use you're making of the definition of 5 the public interest, but both of these aspects of it are 6 important. 7 Can I just also underline Steve's point about how 8 people do understand very easily what the public 9 interest does? I think it was the IPPR did research in 10 2002 or 2003 and they asked a lot of focus groups -- 11 they showed them a lot of journalism of varied kinds and 12 said, "Is this in the public interest?" The research -- 13 which I'm summarising very crudely -- basically said it 14 was extremely easy for people to decide this and they 15 had a very consistent basis for doing it without any 16 prior guidance. 17 PROFESSOR BARNETT: And were quite clear that the public 18 interest was not consonant with what the public were 19 interested in. 20 PROFESSOR BROCK: I think Angela has the reference. 21 MS PHILLIPS: I do, Svennevig and all the other -- Morrison 22 and Svennevig 2002. 23 PROFESSOR BROCK: That's the one. 24 MS PHILLIPS: I may even have the whole reference. I have 25 the references with me.</p> <p style="text-align: center;">Page 109</p>	<p>1 to setting a line about there are some things that are 2 completely unacceptable in all circumstances -- I think 3 that would be difficult to do other than saying that -- 4 agreeing with David Leigh that murdering somebody 5 wouldn't be justified. 6 PROFESSOR BARNETT: This comes back to what George was 7 saying before, about having in place a mechanism which 8 is going to encourage that kind of integrity within the 9 newsroom. Again I go back to television as the obvious 10 analogy. There are clear practices not just within the 11 BBC but within commercial television as well, but there 12 are two separate stages. 13 The first is if you are going to do something which 14 is going to involve any potential breach of ethical 15 procedures, you first seek permission. Depending on the 16 nature of that breach, if for example it might involve 17 breaking the law, it goes right up to the very top, to 18 the editorial standards director or whatever. 19 And then there is a separate thing. Once you've got 20 permission, you've gathered the information having got 21 their permission, there is a separate procedure for 22 transmission. So there are two separate points at which 23 you are seeking advice and talking about the nature of 24 the journalism that you're doing, and if the second 25 permission is given, then the broadcast goes ahead using</p> <p style="text-align: center;">Page 111</p>
<p>1 MR BARR: Thank you. Having had a brief excursion into the 2 definition of public interest, what that helps us do is 3 it helps us to inform the debate about when the end 4 justifies the means. We've had a witness recently who 5 explained that in his opinion there would always be some 6 limits on the means. He gave an extreme example: 7 a journalist wouldn't murder somebody in order to get at 8 a story, or whatever the magnitude of the public 9 interest. Professor Barnett has introduced the concept 10 of proportionality as perhaps informing that debate. 11 Could I now invite your contributions as to where 12 and how the line is drawn as to when the end justifies 13 the means. Is it necessarily on a case-by-case basis or 14 are there useful pointers that can help us with that? 15 PROFESSOR BROCK: I think it is necessarily case by case. 16 I think proportionality is important. I do think that 17 the integrity of the journalism matters sometimes 18 because in some cases the ends are bound to be sometimes 19 speculative. That is to say you get legal cases where 20 there is challenge over one method or another, and the 21 news media concerned has said, "What we thought we were 22 going to find was this, but actually something 23 interrupted us", an injunction or whatever it was. 24 There I think the integrity of the editorial process is 25 an important piece of the publication's defence. But as</p> <p style="text-align: center;">Page 110</p>	<p>1 the material that you gathered following the first 2 permission. 3 It seems to me that it's that kind of audit trail 4 which could easily be supplanted into newspaper 5 newsrooms to demonstrate that there's been serious 6 consideration according to a proper set of codes and the 7 decision was reached that this was a proportional breach 8 of normal codes. 9 LORD JUSTICE LEVESON: But your first audit trail actually 10 satisfies another problem as well, doesn't it, which is 11 the problem where there was legitimate material 12 available to justify the investigation which, when 13 undertaken, actually came to nothing and then comes out 14 into the public domain. You have to be able to justify 15 the work, even though at the end nothing came of it. 16 PROFESSOR BARNETT: I think that is absolutely right. In 17 other words, you're not just going on a fishing 18 expedition. 19 LORD JUSTICE LEVESON: That was the next phrase, yes. 20 PROFESSOR BARNETT: No, I think that's absolutely right. 21 PROFESSOR CATHCART: I mean, I just remind the Inquiry the 22 suggestion by Alan Rusbridger in connection with the 23 idea of audit trails, which I think would do a lot to 24 improve newsroom cultures by making everybody stop at 25 every stage and think, both reporters and news editors</p> <p style="text-align: center;">Page 112</p>

<p>1 and editors, and Alan Rusbridger's suggestion was that 2 there should be some harm test, that you should actually 3 when you write your story look at a questionnaire which 4 says, "Am I going to harm anybody?" You know, make 5 a list of who it might harm and then, "Can I justify 6 this?" and he had I think five questions which made it 7 more explicit and elaborate.</p> <p>8 LORD JUSTICE LEVESON: This was from Sir David Omand.</p> <p>9 PROFESSOR CATHCART: Indeed, and something like that could 10 be adapted in newsrooms that would bring people right up 11 against these issues straight away, and if there was 12 a yes in those boxes, a tick, it would then go up the 13 system and that would be part of it.</p> <p>14 I think when we look at the idea of newspapers or 15 journalists defending themselves in court, if you say, 16 "I work in a newsroom where that is the environment", 17 that is going to stand you in good stead, I would argue.</p> <p>18 PROFESSOR BROCK: Can I put it a different way? I think 19 a good public interest defence has to recognise that 20 some of what people are doing in news media could be 21 described as risk management, which is why I say it is 22 case by case. If you take the example of the Daily 23 Telegraph, and the disk about MPs' expenses, if you were 24 offered that disk, you must have had to consider two 25 possibilities. One was that it had simply been stolen,</p> <p style="text-align: center;">Page 113</p>	<p>1 who has the most stories is listed every day, it's going 2 to be quite difficult to stop and do a tick box for 3 everything -- which in itself might be a good reason for 4 doing it because it might slow everybody down a bit.</p> <p>5 But I think in most cases these sorts of stories are not 6 run-of-the-mill stories; they're talking about people 7 actually having done specific and individual 8 investigation and where they are using information that 9 they themselves have trawled. I just think one has to 10 think about the practicalities of something that applies 11 to every story.</p> <p>12 PROFESSOR CATHCART: I suppose I would answer that -- this 13 is not much different from what we expect of people in 14 the medical profession, people in policing. They have 15 to fill in forms.</p> <p>16 MS PHILLIPS: Okay.</p> <p>17 PROFESSOR CATHCART: I actually think there could be 18 a test --</p> <p>19 MS PHILLIPS: I'll try it tomorrow.</p> <p>20 PROFESSOR CATHCART: Your first tick would be decisive as to 21 whether you had to fill in anything else.</p> <p>22 MS PHILLIPS: Ah, that would probably help.</p> <p>23 PROFESSOR CATHCART: In electronic newsrooms, these things 24 can be done very quickly --</p> <p>25 MS PHILLIPS: Would you like to send it to me and I'll trial</p> <p style="text-align: center;">Page 115</p>
<p>1 or secondly, that it might have involved the bribery of 2 a public official. If you're proposing to buy it, you 3 might be compounding the offence.</p> <p>4 The risk management there -- and at least two 5 newspapers turned it down, on presumably that basis. 6 However, the Telegraph didn't and I think they were 7 justified in what they did, because of the disclosures 8 they made which Parliament was exactly planning not to 9 make.</p> <p>10 So it's a matter of -- it needs to recognise risk 11 management to some degree, obviously not an infinite 12 degree.</p> <p>13 PROFESSOR BARNETT: To add a slightly light-hearted comment, 14 one of the newspapers who turned it down was the Sun 15 allegedly because Rebekah Brooks thought there wasn't 16 enough sex in it.</p> <p>17 MS PHILLIPS: That's an interesting one. I'm just trying to 18 imagine this tick-boxing happening in a busy newsroom 19 and whether it would actually work. I think that the 20 principles behind it are admirable and I can imagine, 21 quite easily imagine Alan coming up with it, but I can't 22 quite see, when you know, for example, that there are 23 journalists in some newspapers churning out 13 stories 24 a day. Now, if you're churning out 13 stories a day and 25 if anybody -- if you look on Journalisted, the person</p> <p style="text-align: center;">Page 114</p>	<p>1 it in our newsroom, see if it works.</p> <p>2 PROFESSOR CATHCART: Yes. I think that the point that we -- 3 partly because of the pressure of the press itself, we 4 demand effort in terms of accountability and audit and 5 good paperwork from all sorts of people in all sorts of 6 walks of life. I think maybe the holiday is over for 7 journalists.</p> <p>8 LORD JUSTICE LEVESON: That raises the point, doesn't it, 9 that journalists rightly hold all of us to account -- 10 and I do say rightly -- judges, parliamentarians, 11 everybody, and they criticise judges on the basis 12 they're unelected and unaccountable -- I'm not sure we 13 are unaccountable, but that's another point -- but 14 nobody does it for them.</p> <p>15 PROFESSOR BARNETT: As university teachers, we have to do 16 the same thing. There is no end of audit forms we have 17 to fill in to demonstrate that we are acting 18 appropriately and I resent it when I have to do it, but 19 I completely understand why I have to do it, because 20 there is public money being spent on us doing 21 a reasonably competent job. And I think Brian's 22 absolutely right. The one area of industry that hasn't 23 so far been caught up in this really quite recent and 24 modern move towards greater accountability is the press, 25 and I think Brian put it very well: maybe the holiday is</p> <p style="text-align: center;">Page 116</p>

<p>1 over.</p> <p>2 PROFESSOR BROCK: I'm not arguing that journalists should be</p> <p>3 unaccountable, but in a plural and open society, news</p> <p>4 media will compete, which judges and doctors, with</p> <p>5 respect to them, don't, in the same way, and if you are</p> <p>6 competing there will be some constraints on what you can</p> <p>7 do in terms of box-ticking.</p> <p>8 LORD JUSTICE LEVESON: That's fair, that's a fair point.</p> <p>9 PROFESSOR BARNETT: Except I come back to television, which</p> <p>10 is equally competitive. I did some research ten years</p> <p>11 ago amongst journalists working for different TV</p> <p>12 channels and they all complained about the intense</p> <p>13 pressure, the move towards tabloidisation, having to</p> <p>14 look for lighter stories, and they complained about the</p> <p>15 direction of audience research, but none of them talked</p> <p>16 about being under pressure to break ethical codes, and</p> <p>17 none of them said that the burden of having to make</p> <p>18 themselves accountable was too great.</p> <p>19 So I'm afraid I have less sympathy with that</p> <p>20 objection.</p> <p>21 MR BARR: Thank you. We're very shortly going to have to</p> <p>22 draw this fascinating session to a close, and in</p> <p>23 a moment I'm just going to ask you if any of you think</p> <p>24 we've missed anything of fundamental importance which</p> <p>25 you would like to raise.</p> <p style="text-align: center;">Page 117</p>	<p>1 debate than having you each formally one by one go</p> <p>2 through what you said without being able to comment on</p> <p>3 what the others said. I hope you found that helpful.</p> <p>4 MS PHILLIPS: I think it's very helpful, although I draw</p> <p>5 your attention to the fact that the press is absent</p> <p>6 today, and that is one of the issues that we all have to</p> <p>7 deal with, that actually the press talks to itself, and</p> <p>8 we're very glad that you've asked to talk to media</p> <p>9 academics because as media academics we do an awful lot</p> <p>10 of thinking about it and we value being able to</p> <p>11 contribute to this, because in the pages of our</p> <p>12 newspapers there have been very few voices from media</p> <p>13 academics.</p> <p>14 LORD JUSTICE LEVESON: I don't know whether there are any</p> <p>15 members of the press in the marquee downstairs, I simply</p> <p>16 can't tell you.</p> <p>17 MS PHILLIPS: There weren't on the way in.</p> <p>18 LORD JUSTICE LEVESON: But if you feel either individually</p> <p>19 or collectively there is something that you would like</p> <p>20 to contribute, I am looking for solutions to the range</p> <p>21 of problems and I am perfectly happy to acknowledge who</p> <p>22 is responsible for them. I'm simply trying to get an</p> <p>23 answer that works. Thank you all very much indeed for</p> <p>24 spending the time. Thank you.</p> <p>25 We'll start again at 2 o'clock.</p> <p style="text-align: center;">Page 119</p>
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<p>1 Before I do that, I've had one request from a core</p> <p>2 participant -- ah, I've been told that I needn't raise</p> <p>3 it, so that takes us straight to the final question.</p> <p>4 Is there anything that any of you thinks is so</p> <p>5 fundamental that we must hear about it now? As</p> <p>6 Lord Justice Leveson has made clear more than once, we</p> <p>7 will be delighted to have your further thoughts in</p> <p>8 writing, as has emerged throughout the debate. It's</p> <p>9 obvious there are one or two points on which you are</p> <p>10 going to be able to help us and we look forward very</p> <p>11 much to hearing from you as you see fit.</p> <p>12 LORD JUSTICE LEVESON: There's no doubt there are many</p> <p>13 points upon which you'll be able to help. What I have</p> <p>14 said, and I'm happy to repeat to you, is that this</p> <p>15 actually is the problem for the press rather than my</p> <p>16 problem. I am required to address it, but it is</p> <p>17 critical that we get a system that everybody can live</p> <p>18 with that meets the requirements of our democratic</p> <p>19 society but also meets the legitimate complaints that</p> <p>20 undeniably have bubbled up more than once in the last 20</p> <p>21 years and now have to be dealt with.</p> <p>22 Could I end this morning by thanking you. I hope</p> <p>23 you've found that the seminar system worked. I thought</p> <p>24 that it would be more valuable for you to be able to</p> <p>25 talk each listening to the other and contributing to the</p> <p style="text-align: center;">Page 118</p>	<p>1 (1.01 pm)</p> <p>2 (The luncheon adjournment)</p> <p>3</p> <p>4</p> <p>5</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> <p style="text-align: center;">Page 120</p>
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