

<p>1 Monday, 23 January 2012</p> <p>2 (10.00 am)</p> <p>3 LORD JUSTICE LEVESON: Mr Barr, in the light of further</p> <p>4 reports in the media, I begun wish to make it clear that</p> <p>5 suggestions or possibilities that I put to witnesses</p> <p>6 should not be taken as insight into the proposals that</p> <p>7 I intend to make. I repeat that if change is required,</p> <p>8 one of the purposes of this Inquiry is to devise</p> <p>9 a system or series of proposals that balance the</p> <p>10 legitimate interests of the free press and the right of</p> <p>11 free speech on the one hand, and the legitimate</p> <p>12 interests of affected members of the public on the</p> <p>13 other.</p> <p>14 It is critical that whatever comes of this Inquiry</p> <p>15 works for both. One of the ways of doing that is to try</p> <p>16 out ideas coming from different directions to test</p> <p>17 reactions. By asking these questions in public,</p> <p>18 everyone hears them and all can consider what is worth</p> <p>19 pursuing and of value, and what has unforeseen</p> <p>20 consequences that will work against the ultimate public</p> <p>21 interest. It is in that spirit that suggestions put to</p> <p>22 witnesses must be considered. I am presently minded to</p> <p>23 use module four to focus on emerging findings. I hope</p> <p>24 that I do not have to repeat this clarification yet</p> <p>25 again.</p> <p style="text-align: center;">Page 1</p>	<p>1 responds to my notice, that it will never be a matter</p> <p>2 for me to issue such a policy. The responsibility for</p> <p>3 deciding whether to issue guidance, and if so in what</p> <p>4 form, will remain with the director in the light of such</p> <p>5 consultations that he thinks are appropriate.</p> <p>6 I anticipate that Mr Starmer will give evidence on</p> <p>7 this issue before I conclude module one. This will be</p> <p>8 in addition to any evidence that he might be asked to</p> <p>9 provide in relation to module two and the chronology of</p> <p>10 investigations into the activities at</p> <p>11 News International.</p> <p>12 Thank you.</p> <p>13 MR BARR: Thank you, sir, and good morning. The witnesses</p> <p>14 we are going to hear from today are Mark Thompson, the</p> <p>15 Director General of the BBC, Lord Patten, the chairman</p> <p>16 of the BBC Trust, Mr Jim Gray, who is the editor of</p> <p>17 Channel 4 News and Mr John Battle, who is head of</p> <p>18 compliance at ITN.</p> <p>19 There are a number of witnesses to be taken as read.</p> <p>20 From the BBC, these include Greg Dyke, Nicholas Eldred,</p> <p>21 Robert Peston, Nicholas Robinson and Richard Watson.</p> <p>22 From ITN: Tom Bradby, Maggie Carver, Gary Gibbon, John</p> <p>23 Hardy and David Mannion. From Sky: Matthew Hibbert.</p> <p>24 There is also an agreed summary of the BBC's</p> <p>25 evidence, which is going to be posted onto the website;</p> <p style="text-align: center;">Page 3</p>
<p>1 In that context, I have taken on board what a number</p> <p>2 of editors have said about the operation of the criminal</p> <p>3 law. I made it clear that I considered it highly</p> <p>4 unlikely that a proposal coming out of an Inquiry into</p> <p>5 conduct, practice and ethics of the press, set up after</p> <p>6 serious criticism of the way in which the press, and in</p> <p>7 particular of the News of the World, had operated, would</p> <p>8 lead to a suggestion that the law should be amended to</p> <p>9 decriminalise such conduct. On the other hand, there is</p> <p>10 legitimate concern that clarity might be needed in</p> <p>11 relation to investigations which are undeniably in the</p> <p>12 public interest and which could lead to breaches of the</p> <p>13 law.</p> <p>14 I have always appreciated that the code for crown</p> <p>15 prosecutes requires the public interest to be considered</p> <p>16 before any prosecution is undertaken, and in the light</p> <p>17 of the circumstances, I've caused a notice to be issued</p> <p>18 to the Director of Public Prosecutions under section 21</p> <p>19 of the Inquiries Act 2005 asking for evidence about the</p> <p>20 approach to public interest when the activities of</p> <p>21 a journalist are being considered, and for detail as to</p> <p>22 any present policy or guidance. I have also asked for</p> <p>23 a draft policy, which can be discussed in evidence.</p> <p>24 Having said that, whatever view I might ultimately</p> <p>25 form, I make it clear at this stage, before the DPP</p> <p style="text-align: center;">Page 2</p>	<p>1 that's to say, an agreed summary of their documentary</p> <p>2 evidence.</p> <p>3 LORD JUSTICE LEVESON: Thank you. Thank you very much to</p> <p>4 all those who have put effort into preparing these</p> <p>5 statements and summaries. They are all of value. If</p> <p>6 one took each witness in turn, it would inevitably mean</p> <p>7 that this Inquiry would take a period of time which</p> <p>8 would be unsatisfactory.</p> <p>9 MR BARR: Indeed, sir.</p> <p>10 Can I now call Mr Thompson?</p> <p>11 LORD JUSTICE LEVESON: Certainly.</p> <p>12 MR MARK JOHN THOMPSON THOMPSON (sworn)</p> <p>13 Questions by MR BARR</p> <p>14 MR BARR: Mr Thompson, could you give the Inquiry your full</p> <p>15 name, please?</p> <p>16 A. My full name is Mark John Thompson Thompson.</p> <p>17 Q. Are the contents of your witness statement true and</p> <p>18 correct to the best of your knowledge and belief?</p> <p>19 A. Yes, they are.</p> <p>20 Q. You tell us that you are currently the Director General</p> <p>21 of the BBC and that you took up your appointment on</p> <p>22 22 June 2004. I'd like to ask you a little bit more</p> <p>23 about your professional background, please. Am I right</p> <p>24 to understand that your career in journalism started at</p> <p>25 university when you edited the student newspaper, Isis?</p> <p style="text-align: center;">Page 4</p>

<p>1 A. That's correct.</p> <p>2 Q. And that early interest in journalism developed into</p> <p>3 a career at the BBC which was interrupted only by</p> <p>4 a two-year stint as chief executive of Channel 4 between</p> <p>5 2002 and 2004?</p> <p>6 A. That's correct.</p> <p>7 Q. And that while at the BBC, you worked on a number of</p> <p>8 very well-known programmes -- watchdog, Breakfast Time,</p> <p>9 Newsnight, the 9 o'clock News, Panorama -- before moving</p> <p>10 into more senior management?</p> <p>11 A. Correct.</p> <p>12 Q. You've been the head of features, the head of factual</p> <p>13 programmes, the controller of BBC 2, the director of</p> <p>14 national and regional broadcasting and the director of</p> <p>15 television?</p> <p>16 A. All true.</p> <p>17 Q. You tell us that the BBC is a national public service</p> <p>18 broadcaster established by royal charter, which is</p> <p>19 supplemented by a framework agreement between the BBC</p> <p>20 and the Secretary of State. The charter was last</p> <p>21 renewed in July 2006 and came into force in January</p> <p>22 2007.</p> <p>23 The BBC exists, you tell us, to serve the public</p> <p>24 interest, and its main object is a promotion of its</p> <p>25 public purposes. The BBC operates on television, radio,</p> <p style="text-align: center;">Page 5</p>	<p>1 founded on the BBC's stated editorial values, which are</p> <p>2 set out in -- I think it's section 1.2 of the</p> <p>3 guidelines, and the detailed guidelines are</p> <p>4 an outworking from those fundamental values. So the</p> <p>5 foundation of the entire enterprise is based around the</p> <p>6 values -- journalistic and editorial values of the BBC</p> <p>7 which we lay out and which we believe connect to the</p> <p>8 public purposes and the principles laid out in the</p> <p>9 charter.</p> <p>10 Q. If you view the guidelines in that two-tier way, they</p> <p>11 themselves are informed by editorial policy guidance?</p> <p>12 A. Yes.</p> <p>13 Q. Does that guidance serve to put flesh on the</p> <p>14 over-arching principles set out in the guidance?</p> <p>15 A. Yes, it does.</p> <p>16 Q. Can I now pause to ask you some specific questions about</p> <p>17 editorial policy. Can we start first of all with the</p> <p>18 policy on sources.</p> <p>19 Are the policies such that the BBC might broadcast</p> <p>20 a story from a single confidential source?</p> <p>21 A. The BBC does many different kinds of journalism, and</p> <p>22 different principles and practices can apply to</p> <p>23 different forms of journalism. In news journalism, it</p> <p>24 is perfectly possible that, for example, a senior member</p> <p>25 of a political party speaking about their own opinions</p> <p style="text-align: center;">Page 7</p>
<p>1 online and via the world service. You tell us that the</p> <p>2 sovereign body is the BBC Trust, which is responsible</p> <p>3 for setting overall strategic direction, and for having</p> <p>4 oversight of the executive board.</p> <p>5 In your position, you sit at the head of the</p> <p>6 executive board, don't you?</p> <p>7 A. I do.</p> <p>8 Q. And that makes you the editor-in-chief for the BBC?</p> <p>9 A. That's correct.</p> <p>10 Q. You are, in that position, responsible for service</p> <p>11 delivery and compliance, including compliance with legal</p> <p>12 and regulatory obligations?</p> <p>13 A. Correct.</p> <p>14 Q. The editorial chain of management, if I've understood it</p> <p>15 correctly, for any particular broadcast runs from the</p> <p>16 producer up to the divisional director and then up to</p> <p>17 you as editor-in-chief; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. In terms of ethical compliance, you secure that at</p> <p>20 a high level through the use of guidelines, which the</p> <p>21 BBC is required to produce?</p> <p>22 A. Yes.</p> <p>23 Q. And they set out the over-arching principles</p> <p>24 editorially; is that right?</p> <p>25 A. They do. It's important to say that the guidelines are</p> <p style="text-align: center;">Page 6</p>	<p>1 in an unattributable way, might itself be a legitimate</p> <p>2 story for our political editor or political</p> <p>3 correspondent to report, because the fact that they've</p> <p>4 said those things, given their role, is intrinsically</p> <p>5 a story.</p> <p>6 In the context of, let's say, an investigation,</p> <p>7 where, again, contentious allegations are to be made, it</p> <p>8 would be our general -- our universal preference to have</p> <p>9 multiple sources of evidence, both potential witness</p> <p>10 evidence and other forms of evidence, documentary or</p> <p>11 filmed or recorded evidence. We would generally be very</p> <p>12 reluctant to rely on a single source for that kind of</p> <p>13 story.</p> <p>14 Q. What sort of checks and safeguards would you expect to</p> <p>15 be in place if the BBC was going to go ahead with such</p> <p>16 a source?</p> <p>17 A. There would be -- in a circumstance where this was being</p> <p>18 proposed by a journalist, proposed by a producer or</p> <p>19 a correspondent, we would expect them to refer the</p> <p>20 proposal to do this to a more senior editorial figure,</p> <p>21 and both of those people to seek advice from our</p> <p>22 editorial policy guidance team -- we have a team of</p> <p>23 people who are led by the director of editorial policy</p> <p>24 and standards of the BBC, who can advise impartially on</p> <p>25 these matters -- and if it was proposed further that the</p> <p style="text-align: center;">Page 8</p>

<p>1 source to be relied upon would remain anonymous, it                  2 would be certainly considered reasonable that the                  3 journalist's editor should ask for and be told the name                  4 of this anonymous source, so you have a second and more                  5 senior BBC person weighing up the credibility of the                  6 proposed source.                  7 But to be honest, it would require a very particular                  8 circumstance and a high bar for us to be content in                  9 almost all circumstances to proceed on the basis of                  10 a single, unattributed source, if we were talking about                  11 allegations in the context of an investigation.                  12 LORD JUSTICE LEVESON: Not least because of the libel risk?                  13 A. Well, just so, just so. So there's potential                  14 a defamation risk. But to be honest, even more                  15 fundamentally than that, the core of the BBC's editorial                  16 mission is to deliver the most trustworthy and accurate                  17 journalism that we possibly can, and irrespective of --                  18 although clearly defamation risk is a real one, we want                  19 a high level of security about the accuracy of our                  20 journalism, and for obvious reasons, relying on                  21 a single, unattributable source, unless it is the                  22 circumstance I described, is potentially very dangerous.                  23 One can imagine circumstances where it might be                  24 justified, but it would need a great deal of discussion                  25 and analysis involving very senior people in the</p> <p style="text-align: center;">Page 9</p>	<p>1 contemplated -- only be contemplated -- in the context                  2 of a clear and serious public interest story. We define                  3 "public interest", and the first thing one would have to                  4 be clear about is that there was a genuine public                  5 interest, and I mean a rather clear and apparent public                  6 interest at stake in the story. There would need to be,                  7 again, clear prima facie evidence already gathered that                  8 there was some wrongdoing or criminality at work, which                  9 could be uncovered and which therefore might                  10 potentially, in the proportionality test, argue that                  11 secret filming, secret recording might be justified.                  12 Further, we would have to be satisfied that there                  13 was no other journalistic means that could be used                  14 alternatively to achieve the same object of recording                  15 and therefore proving the anti-social or criminal                  16 behaviour, and we would also want to satisfy ourselves                  17 about a number of other matters, including the safety of                  18 all of those involved, those who might be filmed and                  19 those doing the recording.                  20 The process -- this is a so-called mandatory                  21 referral -- it will be referred to very senior people,                  22 to senior editors in the editorial chain of command, and                  23 also to the controller of editorial policy. We have                  24 a policy of logging every request for such secret                  25 filming, whether the request is granted or not. We have</p> <p style="text-align: center;">Page 11</p>
<p>1 organisation. In the context of news, for example,                  2 I would expect the director of news, who reports                  3 directly to me, to be involved in those discussions, and                  4 I might well be involved myself.                  5 MR BARR: Moving from the question of sources to privacy,                  6 it's clear from the documents which have been provided                  7 to the Inquiry that there are occasions on which the BBC                  8 will infringe a person's privacy, but according to the                  9 documents, only where the public interest outweighs the                  10 right to privacy.                  11 I'm interested in the way in which that judgment is                  12 performed at the BBC, because again, the documents                  13 provided show that proportionality is an element of the                  14 test as applied in BBC procedures. Could you explain to                  15 us how that is done in practice?                  16 A. So the underlying principle here is -- and the                  17 guidelines are very clear -- that we should respect                  18 privacy unless there are very strong public interest                  19 reasons for not doing so. Now, the exact way in which                  20 it might be proposed that privacy will be in some way                  21 intruded upon vary in broadcasting, but a characteristic                  22 example might be a proposal to secretly film or secretly                  23 record something or someone in the course of an                  24 investigation.                  25 The first thing to say is this would only be</p> <p style="text-align: center;">Page 10</p>	<p>1 a policy against all fishing expeditions and against                  2 blanket approvals. Each instance of proposed secret                  3 filming has to be separately approved, and we have                  4 a form in which the case and the various points in the                  5 case around the prima facie evidence, around the                  6 likelihood of the filming being likely to demonstrate                  7 the anti-social behaviour and so forth -- and then it's                  8 on the basis of that, of weighing up the evidence, the                  9 seriousness of the public interest and potentially the                  10 gravity of the anti-social or criminal behaviour which                  11 it's intended to record and all other factors, and it's                  12 on the basis of that the decision is made.                  13 In complex cases -- an investigation, for example,                  14 where it's proposed that an undercover researcher might                  15 be inserted into an environment. For example,                  16 a Panorama from last year about alleged abuse at a care                  17 home would be an example of this. At the point where                  18 the initial approval is considered and a determination                  19 made, we might require -- and in that case did                  20 require -- a complete protocol to be drawn up about the                  21 rules of engagement that would be applied and the                  22 safeguards that would be in place before the secret                  23 filming took place.                  24 Now, all of this is about the decision to sanction                  25 secret filming or secret recording. We also have</p> <p style="text-align: center;">Page 12</p>

<p>1 a policy of an entire second layer of decision-making                  2 if, later on in the production process, it is further                  3 proposed that the material that's been gathered or some                  4 of the material that's been gathered should actually be                  5 broadcast. So we have one exercise at the point where                  6 it's suggested that the filming should be considered and                  7 should be approved, and we have a second process of then                  8 deciding, once the material's been gathered, whether it                  9 remains still strongly in the public interest that it                  10 should be broadcast.</p> <p>11 We would say that secret filming, simply carrying it                  12 out, is potentially, obviously, an intrusion of privacy                  13 and potentially the privacy of a number of different                  14 people, not all of whom may be malfactors in this story                  15 but obviously there is a second and potentially much                  16 greater point of intrusion when said footage or said                  17 audio is then broadcast to millions of people.</p> <p>18 Q. When making that second evaluation as to whether the                  19 public interest merits overriding privacy and                  20 publishing, is the size of the potential audience                  21 a factor that's taken into account? I'm thinking here                  22 that a programme like the 9 o'clock News is broadcast to                  23 an audience of many millions of people. Is that part of                  24 the proportionality evaluation or not?                  25 A. No, I don't. I do not believe that is -- certainly</p> <p style="text-align: center;">Page 13</p>	<p>1 Q. Thank you. Moving to the question of phone hacking --                  2 LORD JUSTICE LEVESON: Before we start that, let me just                  3 focus on a couple of things you just said. First of                  4 all, the effect of your provisions is to provide an                  5 audit trail, which anybody, should they question it, can                  6 see.</p> <p>7 A. Yes.</p> <p>8 LORD JUSTICE LEVESON: One of the concerns that have been                  9 expressed is that that's very, very bureaucratic. Do                  10 you find it such?</p> <p>11 A. Well, the intention is to make proposals to secretly                  12 film or secretly record very deliberate, that time                  13 should be taken and the evidence should be considered,                  14 senior colleagues should be involved in the discussion                  15 and that we should note it carefully.</p> <p>16 Now, manifestly that does indeed lead to forms,                  17 meetings, discussions, emails, approvals or rejections,                  18 and what is perfectly true is that that essentially adds                  19 a certain amount of delays in the process. I mean, we                  20 wouldn't -- if one imagines a kind of hot pursuit, these                  21 procedures would not be very satisfactory for kind of                  22 flipping from overt filming to secret filming on the                  23 fly, as it were, but we think that the -- in this case,                  24 the greater importance is around deliberation and care,                  25 because we think that even when there are -- even when</p> <p style="text-align: center;">Page 15</p>
<p>1 should never be and I don't believe in practice that it                  2 is a consideration. We take -- one of the reasons that                  3 we log all requests for secret filming -- not just those                  4 which are approved but all of them -- is so we have                  5 a sense across the BBC of how many requests are being                  6 made, because we are determined to ensure that secret                  7 filming remains a resource of last resort, that it's                  8 done under tightly controlled conditions after being                  9 very carefully weighed in advance, and that it never                  10 becomes something that is used by producers as                  11 a production value, in other words as something to make                  12 a programme seem more exciting, more attractive, that it                  13 must be done as a piece of evidence-gathering.</p> <p>14 The most important considerations at the point of                  15 broadcast are, firstly, in a sense the most obvious one,                  16 which is: has the secret recording actually demonstrated                  17 the thing that it was said to demonstrate? In other                  18 words, as it were, in terms of material evidence, does                  19 it pass that test? And then a set of issues, for                  20 example, around the identifies of people who are shown                  21 in the footage and whether it's appropriate to either                  22 blank some faces out or potentially not to show some                  23 material because it might, in ways which would be                  24 harmful, identify individuals or expose them to                  25 humiliation or whatever.</p> <p style="text-align: center;">Page 14</p>	<p>1 the end, as it were, has got a very strong public                  2 interest defence -- in other words, the broad topic that                  3 you're doing has a very clear and strong public interest                  4 defence -- that the means that you are proposing to use,                  5 if they stray into areas of intrusion or privacy, have                  6 to be considered very carefully, and in the end,                  7 although I think it's fair -- the critics may be right                  8 to say that it might sometimes be that it would take us                  9 some time and take us quite a lot of effort to work out                  10 whether or not we should proceed down the route of                  11 secret filming. That is justified because of the                  12 greater protection it affords us and affords the people                  13 who are touched by our journalism against unwarranted                  14 intrusions into their privacy.</p> <p>15 LORD JUSTICE LEVESON: Have you found that this system has                  16 prevented you pursuing stories which you might otherwise                  17 have wished to pursue or broadly do you find that, given                  18 that it takes a bit of time to make a programme anyway,                  19 there hasn't been that sort of problem?                  20 A. I don't believe that we have missed important stories                  21 because of these procedures. It's fair so say that in                  22 one or two instances -- the relatively recent Primark                  23 case is an example, where we have not had a clear -- the                  24 Primark film involved a piece of film which was brought                  25 to the BBC essentially by a third party and which had</p> <p style="text-align: center;">Page 16</p>

<p>1 been already filmed, so it was an existing piece of film 2 rather than something we decided to go -- 3 LORD JUSTICE LEVESON: Yes. 4 A. I mean, at the very least, the problems with that piece 5 of film, and in particular, as it were, establishing the 6 chain of evidence and provenance of that film proved 7 very damaging to that programme and damaging to the BBC, 8 because in the end it was a piece of film which both we 9 and, more importantly, the BBC Trust concluded could not 10 be relied upon. Indeed, the BBC Trust ended up finding 11 that the balance of probability -- that the film was not 12 authentic. 13 One of the advantages of the methodologies we use, 14 although in some ways pretty onerous, is that they are 15 very, very good as well, and the way we actually do 16 secret filming is very good at protecting the provenance 17 and the chain of evidence for the material that we 18 gather. 19 LORD JUSTICE LEVESON: There is always a risk that you could 20 be taken for a ride by somebody else, as indeed some 21 newspapers have been, with false material. 22 A. Correct. Correct. And so hypothetically, if someone 23 were to bring you a piece of film which look 24 interesting, the first question I would hope that my 25 colleagues would ask themselves is: can we -- if this</p> <p style="text-align: center;">Page 17</p>	<p>1 all, was there any evidence to suggest that BBC staff 2 might have hacked phones? 3 A. No, there was no evidence whatsoever. Nor was there 4 even -- in a sense -- I had not heard and have not ever 5 heard a rumour or a whisper or a suggestion that they 6 have. 7 Q. And yet you decide to commission a review to check 8 whether it has happened or not? 9 A. Yes. 10 Q. What was the thinking behind that decision? 11 A. The thinking was we -- I took the decision to -- with 12 colleagues, and after discussions with the chairman of 13 the BBC Trust, to do a review because the BBC is the 14 biggest journalistic organisation in this country. 15 Evidence had come to light of this practice being used 16 by other organisations, at least one other organisation 17 or individuals in that other organisation, and it seemed 18 to me that as part of the BBC's overall desire to assure 19 the highest possible standards of its journalism, it's 20 appropriate to ask the question: is there any evidence 21 that that -- what we are told has been happening at 22 News of the World has ever been done at the BBC? 23 On the face of it, the character of public service 24 broadcasting and the character of the BBC's editorial 25 mission is different in many respects from that of some</p> <p style="text-align: center;">Page 19</p>
<p>1 looks -- that might form part of a prima facie case to 2 do your own secret filming, but much better if then we 3 could go and proceed to try and capture the same or 4 similar evidence in our own rather structured, 5 deliberate way. 6 LORD JUSTICE LEVESON: That allows you to say it's not 7 fishing, but doesn't go further. That's one 8 possibility. 9 A. The point about fishing is the prima facie evidence has 10 to be solid. 11 LORD JUSTICE LEVESON: Yes. All right. Yes. 12 MR BARR: Thank you. 13 Moving to the question of hacking, you tell us that 14 in July of last year, when the hacking scandal broke, 15 you decided to commission a review to see whether the 16 BBC's procedures were robust, and also to go further and 17 to investigate whether, amongst other things, there was 18 any evidence of hacking in the BBC. 19 A. Yes. 20 Q. Just to get it out of the way, it's right, isn't it, 21 that the review found no evidence that phones had been 22 hacked by BBC staff? 23 A. That is correct. 24 Q. Could I ask you at this stage about why it was that you 25 felt it necessary to commission that review? First of</p> <p style="text-align: center;">Page 18</p>	<p>1 newspapers. The kinds of stories we do are different. 2 In matters of privacy, our focus, when there is a debate 3 about intrusions of privacy, are, I think without 4 exception, in a journalistic context, around 5 investigations into matters which I think everyone would 6 accept were of public interest. We don't do 7 extensive -- you know, we don't do any investigations 8 into people's private lives for their own sake. 9 So there are differences between the way the BBC -- 10 what the BBC tries to do with its journalism and what 11 was being reported about News of the World. But 12 nonetheless, a series of techniques made possible in 13 recent years by the extraordinary explosion in mobile 14 phones and mobile phone technology and voicemail 15 technology meant that we thought it would be prudent -- 16 I thought it would be prudent to look closely at whether 17 there was any evidence that any of the things which were 18 being alleged to have happened at News of the World had 19 happened at the BBC. 20 Q. We heard last week from the chief executive of 21 a newspaper group on the same topic, and she had decided 22 not to commission the sort of investigation that you 23 did, saying that it was no way to run a business when 24 there was no evidence of phone hacking. Can I ask you: 25 looking back with hindsight, would you agree with her</p> <p style="text-align: center;">Page 20</p>

<p>1 and conclude that your review was a waste of time and 2 money or would you maintain that your decision to 3 investigate was necessary and appropriate? 4 A. I would maintain that it was necessary and appropriate. 5 I would draw your attention to the fact that the BBC is 6 not a business, and it might well be that someone 7 running a media business might take a different view 8 from the view that I took as Director General of the 9 BBC. The BBC is a public service broadcaster. It is 10 committed to be the most trusted, trustworthy source of 11 news in the world, and we want to maintain the highest 12 possible standards in all matters, including matters 13 related to privacy. I think given, in a sense, that 14 moment, which arguably we're still in, of -- well, at 15 the very least, I think it being underdetermined how 16 widespread some of these issues have been in media, 17 I think it was prudent to look at whether the BBC could, 18 in its journalism and journalistic practice, hold its 19 head up and say, "Actually, we don't do these things", 20 and the great advantage of doing a review, a review 21 which both talked to editors, senior departmental heads 22 and journalists, but also involved a fairly significant, 23 essentially forensic examination of many millions of 24 lines of purchase orders and other forms of accounts in 25 the BBC, was that at the end of that, although of course</p> <p style="text-align: center;">Page 21</p>	<p>1 hacking, and the same assurances about email hacking 2 follow as well. 3 On blagging -- and I'm looking now at paragraph 54 4 of your witness statement -- your investigation 5 included, didn't it, looking at Operation Motorman? 6 A. Yes. 7 Q. And the Information Commissioner's reports which 8 followed. There are two references, you tell us, to the 9 BBC in the reports. One, in fact, relates to the BBC 10 being the subject of an investigation, but the other 11 does -- 12 A. Yes, I believe that one was -- appears in the records as 13 "BBC wine blag", so perhaps an effort by a newspaper to 14 try and find out how much wine the BBC's ordering, but 15 nothing has appeared in any newspaper. We think we were 16 a target in that case. 17 Q. I won't ask you if we can take you to be a sober 18 organisation. I'll move on to the second half of 19 paragraph 54, where it says: 20 "The other appears to be an occasion in 2001 where 21 a BBC journalist making a current affairs programme 22 asked an investigator to check whether a target of the 23 investigation was on an inward flight to Heathrow." 24 You tell us that you consider this request to have 25 had a strong public interest justification.</p> <p style="text-align: center;">Page 23</p>
<p>1 it is impossible to rule out something emerging at some 2 point in the future, I have a very high level of 3 confidence in saying that these things did not happen at 4 the BBC and that the systems that we have in place to 5 try and defend our editorial values and standards, at 6 least in these matters, seem to have worked very well. 7 LORD JUSTICE LEVESON: Your review went rather wider. It 8 was not only hacking but blagging, payments to police 9 and public officials, payments to mobile phone 10 companies, payments to private investigators, and the 11 entire range of conduct which has been the subject of 12 recent criticism? 13 A. And if I may say so, sir, that was the intention of the 14 exercise, to try and look at the entire category of 15 allegation and examine thoroughly whether or not there 16 were issues at the BBC against any of those matters. 17 MR BARR: Yes. You deal with it starting at page 18 of your 18 witness statement, first of all under the subheading 19 "Phone hacking, computer hacking and blagging". 20 A. Yes. 21 Q. Then you move on to "Payments to police and public 22 officials", including politicians. Payments to mobile 23 phone companies were investigated and payments to 24 private investigators. You've been able to give the 25 Inquiry the assurance that you just have about phone</p> <p style="text-align: center;">Page 22</p>	<p>1 Can you help us at all with a little bit of 2 background as to what that justification was? 3 A. Yes, I can. I believe this programme, which, by the 4 way, was an investigation which was not concluded and 5 was never broadcast for quite other reasons -- this was 6 a programme which was looking at whether paedophiles who 7 had been convicted in the UK might nonetheless -- and 8 were on the appropriate registers on this country, might 9 nonetheless be able to -- and indeed were getting jobs 10 where they would have access to or contact with children 11 in other countries, a topic which I regard as having 12 a strong public interest justification. 13 I understand that the programme was trying to track 14 one particular known paedophile and it looks as 15 though -- it certainly looks like a request was made to 16 the private investigator involved in Operation 17 Motorman -- this is Mr Whittamore, I think -- to find 18 out whether this individual was on a particular flight 19 and that was part of the investigation. 20 Now, I think that -- this is 2001, and I wasn't 21 personally involved in the decision-making. It's quite 22 hard to completely recreate the circumstances in which 23 the decision -- 24 Q. Okay, you've told us enough for us to understand. 25 A. But in my view, both the -- not just the programme as</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 a whole but the request to try and find out whether this                  2 particular paedophile was on the aircraft, I would                  3 regard as being justified in the public interest.                  4 Q. Thank you. You move on to tell us about police and the                  5 public officials and you say that the review indicated                  6 that the BBC had not made any improper payments to                  7 police officers. The qualification "improper" I'd like                  8 to explore. What would you consider to be a proper                  9 payment to a police officer by the BBC?                  10 A. I think occasionally, for example, when police officers                  11 appear on Crimewatch -- in other words, they become                  12 on-air contributors -- sometimes a small payment is                  13 made. But we're talking about a very small payment in                  14 respect of the kinds of broadcasting activities for                  15 which people in other walks of life would get exactly                  16 the same level of payment. It's quite rare, but in no                  17 sense are -- when the BBC is considering payments for                  18 contributors, are police officers put in some special                  19 category or paid more or paid less.                  20 Q. You would agree with me that to obtain confidential                  21 information from a police officer by payment would be                  22 wrong?                  23 A. Yes.                  24 Q. And improper?                  25 A. Yes, I do.</p> <p style="text-align: center;">Page 25</p>	<p>1 does use private investigators and you tell us that it's                  2 often to find the whereabouts of people in order to send                  3 them a right-of-reply letter --                  4 A. If I may just perhaps -- I think it's worth just stating                  5 before I answer -- by far the most common use of private                  6 investigators is actually to provide security and                  7 surveillance services as whole for the BBC, often                  8 protecting journalists when they're at work. So the                  9 great bulk of the use of private investigators -- and                  10 you will see that for an organisation of the BBC's size,                  11 we don't use private investigators very much, actually.                  12 When they are used, it is generally for surveillance and                  13 security. Sometimes it's used for things like serving                  14 right of reply letters.                  15 Q. Against that important piece of context, the use of                  16 private investigators to find people for a right of                  17 reply, is it a big problem for the BBC, tracking down                  18 people in order to enable them to exercise a right of                  19 reply?                  20 A. It can be. Particularly in the context of consumer                  21 programmes, for example. Imagine a consumer programme                  22 which has been investigating -- this might be quite                  23 a small feature -- some relatively small business or                  24 a businessman who is alleged to be defrauding or, in                  25 some other way, disadvantaging his or her customers, and</p> <p style="text-align: center;">Page 27</p>
<p>1 Q. So far as politicians, you say that there are guidelines                  2 which set out the circumstances in which MPs can be paid                  3 and that the position is that normally they should be                  4 only paid a limited and realistic disturbance fee and/or                  5 any reimbursement for expenses. Again, there's                  6 a qualification, the use of the word "normally". In                  7 what circumstances would the BBC go beyond that?                  8 A. Both with politicians and indeed police officers --                  9 I mean, the business of turning up to be interviewed,                  10 for example, on news and current affairs programmes,                  11 which is the overwhelming majority of occasions where                  12 politicians would appear on the BBC, that's what's meant                  13 by "normally".                  14 I understand that occasionally, when a politician --                  15 or indeed, again, anyone else -- appears on an                  16 entertainment programme on the BBC or a comedy programme                  17 on the BBC, they might receive a fee. But crucially,                  18 again, in no sense are either politicians or policemen                  19 marked out and treated differently because of their                  20 professions. This would be, as it were, the standard                  21 practice with different kinds of programme at the BBC,                  22 and across journalism, the most they would be expected                  23 to be paid would be a very small disturbance fee if                  24 there had been some disturbance.                  25 Q. Thank you. Moving to private investigators, the BBC</p> <p style="text-align: center;">Page 26</p>	<p>1 for whom we have multiple address, multiple business                  2 addresses, possibly multiple personal addresses, and                  3 where it would be very, very time-consuming for the                  4 journalist themselves to try and actually track down the                  5 person who is behind these companies across all these                  6 different addresses, and -- in this context, using                  7 a private investigator or a firm of private                  8 investigators simply to try to find out where's the best                  9 place to deliver the right-of-reply letter is something                  10 which is sometimes given to them to do.                  11 This is typically rather undramatic, though. It's                  12 literally trying to go through a number of records and                  13 try and work out where is the place where you're most                  14 likely to actually get the letter to the person so they                  15 have a proper chance to reply to the allegations we're                  16 making.                  17 Q. The Inquiry has already heard some evidence about                  18 investigative journalists on consumer affairs                  19 investigations and the difficulties that might be faced                  20 in tracking down those who don't want to be tracked down                  21 and exposed, and the difficulties which particularly                  22 arise when the target is overseas or using overseas                  23 PO Boxes and so on and so forth. Can I ask: what does                  24 the BBC do if it simply cannot find the subject of such                  25 an investigation? Does it publish or not?</p> <p style="text-align: center;">Page 28</p>

<p>1 A. The -- I mean, it depends -- it depends, obviously, on                  2 the character of the allegation, its weight but also its                  3 character.                  4 If there was a story which we felt was very strongly                  5 in the public interest, that the public should know                  6 about it, and we had made extensive efforts to try and                  7 find the person against whom the allegations were being                  8 made and had failed, it is possible, I think, that in                  9 those circumstances we would ultimately broadcast,                  10 although I would hope that we would broadcast the fact                  11 that we had, as yet, been unable to put the allegations                  12 to the person and would wish to do so in the future, so                  13 if, at some point in the future, the person wanted to                  14 come forward, we would still afford them their right of                  15 reply to the allegations.                  16 But our practice is, wherever we can, to give people                  17 a good deal of time to respond to allegations. For                  18 a serious investigation, a Panorama, five days would not                  19 be untypical, and with complex financial investigations,                  20 we might well afford someone ten days to respond to                  21 allegations, and although that long period where we --                  22 we give people to think about and to respond to                  23 allegations to some extent can itself compromise our                  24 ability to broadcast, we think it's more important that                  25 people do get the chance to respond to allegations which</p> <p style="text-align: center;">Page 29</p>	<p>1 A. Perhaps I can give you an example of a programme which                  2 was looking at bail hostels and whether or not offenders                  3 were able to re-offend despite the fact that they were                  4 meant to be in a bail hostel. This to some extent                  5 meant -- again, the prima facie evidence we had been                  6 brought is that they were and they could be seen doing                  7 so.                  8 In practice, this meant the team working undercover                  9 and quite a few individuals being followed, essentially,                  10 to see whether or not, when they left the bail hostel --                  11 what they were up to.                  12 LORD JUSTICE LEVESON: I see.                  13 MR BARR: Taking a short diversion on the question of right                  14 of reply and prior notice, in cases where you have                  15 decided to intrude on somebody's privacy because the                  16 public interest, you think, justifies it, is the subject                  17 given the right of reply before publication?                  18 A. Yes. I'm going to make a possibly slightly circular                  19 argument. We would only -- we would only be proposing                  20 to broadcast something in such circumstances if we                  21 believed that the secret recording, secret filming                  22 involved showed something which, in a sense, demanded                  23 a reply. In other words, the material in question would                  24 contain an allegation to which the individual should                  25 respond.</p> <p style="text-align: center;">Page 31</p>
<p>1 are made to them and they get the chance to respond not                  2 just immediately, but also having given some thought to                  3 the matter.                  4 Q. Before you give up on trying to trace somebody and                  5 decide if the public interest is strong enough to                  6 broadcast anyway, how hard do you try? How would you                  7 describe the threshold that you apply?                  8 A. We take the issue of affording people a chance to reply                  9 to allegations very seriously indeed, and that is true                  10 even of quite -- quite short consumer features as well                  11 as very large-scale Panoramas about important public                  12 figures. One of the reasons that sometimes teams of                  13 private investigators are brought in to do this is                  14 precisely so that enough effort can be put into that                  15 whilst the journalists are carrying on with the primary                  16 journalism, the point being that it's very, very unusual                  17 for the BBC to use primary investigators for primary                  18 journalistic investigation. They're much more likely to                  19 be used in support, through security or surveillance, or                  20 in this case, through the attempt to find people so that                  21 we can deliver right of reply --                  22 LORD JUSTICE LEVESON: I understand security. I understand                  23 the example you've just given. Just explain, if you                  24 could, in what sort of circumstance you might use them                  25 for surveillance?</p> <p style="text-align: center;">Page 30</p>	<p>1 So, yes, the answer is in all circumstances where --                  2 I'm talking principally about secret filming, but                  3 I think it would apply to other forms of intrusion of                  4 privacy as well -- we would expect, were the thing to be                  5 broadcast, that we would be broadcasting because it was                  6 saying something about the person which did require                  7 a response.                  8 I mentioned a Panorama about abuse in a care home.                  9 What essentially the programme ended up with was                  10 a series of sequences of film showing pretty serious                  11 grave abuse of individuals, and these allegations were                  12 indeed put to the company which owned the care home, and                  13 indeed shared with the authorities and so forth.                  14 Q. My last question on this little diversion before we                  15 return to private investigators more generally: has the                  16 BBC had issues with privacy injunctions? It's obviously                  17 been a very big issue for the press in recent years.                  18 A. I believe -- I mean, I think this has only occurred at                  19 the BBC in the context of Family Court and child                  20 protection issues. I believe that only one -- there's                  21 one incident of an interdict being sought and granted in                  22 the Scottish courts, which the BBC did not challenge, in                  23 relation to a vulnerable teenager. And in toto, the                  24 numbers of privacy complaints which the BBC receives                  25 I think has been very low indeed, running at perhaps two</p> <p style="text-align: center;">Page 32</p>



<p>1 or three complaints across the entire output of the BBC 2 per year, with only a very small minority then leading 3 to the BBC making a settlement. 4 To be honest, I think where things have gone wrong 5 in -- and it's been very rare. It's been, as it were, 6 genuine mistakes, as it were, rather than wilful 7 intrusion of any kind. This is -- I mean, it's worth 8 perhaps restating simply that the BBC simply doesn't do 9 many of the kinds of story which have proven problematic 10 elsewhere in the media. 11 Q. Returning, as I promised to do, back to private 12 investigators, at paragraph 59 of your witness statement 13 you tell us that the review shows that private 14 investigators have occasionally been used in the context 15 of investigative journalism to seek to identify the 16 target of an investigation or personal details about 17 them. You give an example. On one occasion, a private 18 investigator was used to discover the details of the 19 owner of a vehicle from a number plate, and then you go 20 on to assert that that was in the public interest. 21 My first question about that is: would you accept 22 that in order to ascertain the details of the owner of 23 a vehicle from a number plate, one has to involve in 24 prima facie illegal conduct because it requires getting 25 confidential information from the DVLA?</p> <p style="text-align: center;">Page 33</p>	<p>1 the car was the conspirator he was tracking. 2 I understand that the -- it became clear that it was in 3 fact a company car which had nothing to do with the 4 conspirator, and the car and its occupant -- no further 5 action was taken and nothing was broadcast. 6 Now, I think it is the case that there are many 7 different ways in which the private investigator who was 8 asked to find the name that went with the number plate 9 would have obtained the information. The issue of 10 whether -- in the end, the public interest in 11 broadcasting such information versus the intrusion of 12 privacy didn't arise and I'm satisfied that the 13 journalist involved, from everything I know, genuinely 14 believed, and with good reason, that he was following 15 someone who was involved in a serious criminal 16 conspiracy. 17 Q. Was there, as far as you're aware, prima facie evidence 18 to found that belief? 19 A. Yes. So in other words, it is hard, in retrospect, to 20 be certain, but it seems to me that it's an example 21 where the technique used was justified in the context of 22 the public interest journalism that was involved. 23 Q. We started this excursion through the review which you 24 commissioned by talking about hacking. Looking through 25 your procedures, we've not been able to find -- and it's</p> <p style="text-align: center;">Page 35</p>
<p>1 A. At the time -- this programme was some years ago, and 2 I believe at the time the investigation took place, 3 there were many organisations which had access to the 4 DVLA, indeed including -- many private investigation 5 companies had direct access to the DVLA database and 6 there were many different ways in which this information 7 could be obtained. 8 Perhaps it's also worth saying that, going back to 9 my, as it were, two-stage editorial decision-making -- 10 again, I wasn't involved myself in the decision-making 11 related to this programme, but there will be a set of 12 considerations initially amongst the programme makers 13 about whether it would be appropriate to try and find 14 out the owner of a car with the relevant registration 15 number. There will be a second, and in this case 16 I think a much more serious matter, if you were deciding 17 to broadcast either the number plate or the name of the 18 individual involved, and that second stage never took 19 place. 20 This circumstance was of a BBC journalist who was 21 following someone who he had good reason to believe was 22 a conspirator in a serious criminal conspiracy, was 23 pursuing the person in -- by car, lost the trail of the 24 car in front but made a note of the number plate, and 25 was trying to confirm whether the person he'd seen in</p> <p style="text-align: center;">Page 34</p>	<p>1 been confirmed, I think, that there is no specific 2 prohibition in the BBC's procedures on phone hacking or 3 the interception of communications; is that right? 4 A. It is correct. Our view would be that any proposal to 5 do such a thing would clearly, clearly take you into all 6 of the areas which are covered. In other words, I mean, 7 there are extensive guidelines on privacy and any 8 proposal to intrude into privacy. So I believe that the 9 guidelines and the values of the BBC are clearly against 10 it but it's true that because it has not come up in the 11 BBC, historically it was not thought necessary to put 12 a specific prohibition into the guidelines. 13 One of the things I would expect us to do, however, 14 is to look quite closely at the proceedings of this 15 Inquiry and the broader unfolding story about the 16 response to phone hacking, and I think it's certainly 17 possible that, as it were, for the avoidance of doubt, 18 we would judge that in the next edition of the 19 guidelines we should simply say, "None of these things 20 are allowed." I think if you read the guidelines it's 21 quite clear that they're not allowed, but I can 22 certainly see that given what's happened elsewhere that 23 laying it on very, very clearly and saying explicitly 24 that phone hacking and computer hacking are not allowed 25 would be a good idea.</p> <p style="text-align: center;">Page 36</p>

<p>1 Q. Can I move on to questions of accuracy. It's abundantly 2 plain from your witness statement that the BBC places 3 a very high importance on the question of accuracy, and 4 indeed, as I understand it, places accuracy above speed 5 in its journalistic principles? 6 A. Yes. 7 Q. That must pose particular challenges, must it not, in 8 new media, particularly with real-time tweeting and with 9 blogs. Can you help us with how the BBC tries to live 10 up to its very high expectations of truth and accuracy 11 in the new media world? 12 A. So the first principle is that the public have every 13 right to expect that the standard of accuracy and 14 probity and the other values should be exactly the same 15 in the context of digital media as they are in 16 conventional television and radio broadcasting, and we 17 shouldn't allow the immediacy of the medium to make our 18 editorial decision-making too summary or abbreviated. 19 In practice -- if I give you will a couple of 20 examples. We -- users of our website will know that 21 some of our most notable journalists will frequently 22 post what are sometimes called blogs but they're really 23 short reports or short statements on our website. 24 Robert Peston, Nick Robinson, Stephanie Flanders, John 25 Simpson, would all be people who do this from time to Page 37</p>	<p>1 all, are you finding that those checking systems on your 2 new media broadcasts are proving workable in practice? 3 A. Yes. I think we are, though I think it's fair to say 4 that we are still -- the web is in a sufficiently early 5 stage in its development that I think we are still 6 potentially grappling with some new issues. 7 I'll give you one simple example. We would expect, 8 if we use a piece of video or a still photograph which 9 has been provided by a member of the public -- in our 10 jargon, user-generated content, UGC -- although it is 11 possible to -- for either a website or for a radio or 12 television broadcaster to present it in context and to 13 explain it is what it is, it's something we've received, 14 whose provenance we can't guarantee at the same level. 15 You still have to be extraordinarily careful about the 16 use of such material, and yet sometimes such material 17 can be, for a period of time, the only way of covering 18 a certain story. I think of events in some Middle 19 Eastern countries, both now and in the recent past, 20 where sometimes such material -- if it's a scenario 21 where BBC and other international journalists can't get 22 into the country, such material might be very important 23 in getting some sense of what's going on in the country, 24 and yet, because your journalists weren't on the ground 25 themselves making sure that you are very, very careful Page 39</p>
<p>1 time. It's worth saying these are all statements by 2 important BBC journalists appearing under the BBC 3 banner, and they are considered and approved by a senior 4 editor or colleague before they go up on the site. So 5 in other words, we apply the same kind of scrutiny that 6 we would to the, let us say, three or four-minute report 7 that the same correspondent or editor will be providing 8 for the 6 o'clock news on the radio or the 10 o'clock 9 news on the television. 10 That really is the -- that gives you a sense of what 11 we're trying to do, which is to try and make sure that 12 accuracy on the website is to the same standard as it 13 would be on television and radio. Indeed, it's worth 14 saying that one of the issues for the BBC, and for every 15 news organisation, about the web is that once you put 16 something on the web, it's there forever. Broadcasting 17 is there and at the end of the bulletin for most people 18 it's gone, but people can go back and example the 19 accuracy and impartiality of news stories that were 20 posted by the BBC many years ago, so in some ways 21 because the web has something of the quality of being 22 a permanent record, it's no less demanding in terms of 23 accuracy than television or radio. In some ways, more 24 so. 25 Q. Can I pick up two things from that answer. First of Page 38</p>	<p>1 about attribution and about the limitation you place and 2 share with the public about how far the material can be 3 relied upon. That's still, I would say, something which 4 we and other broadcasters and newspapers are still 5 working through. 6 Q. On the duration of how long material should stay on the 7 web once posted on your website, I'd like to explore 8 with you where you see the balance between leaving 9 intrusive material online and the utility of a historic 10 record of what has been published. Does the BBC have 11 any policy on the duration for which material remains on 12 its website? 13 A. The essential point is that if we believe that something 14 is appropriate to broadcast because the public benefit 15 of broadcasting outweighs any other consideration in 16 a proportionality test, broadly my view would be that 17 that should -- that that same judgment should, as it 18 were -- my presumption would be that that should be true 19 indefinitely. I mean, we know that people record TV and 20 radio programmes and keep them themselves, so it may 21 well be that even if something is broadcast on 22 television, there will be a permanent record made of it, 23 and so my broad presumption would be that the material 24 that we broadcast or put on the web should be available 25 indefinitely. Page 40</p>

<p>1 Now, there might be particular circumstances in                  2 relation to individuals where one might want to take                  3 a different view, but it's worth saying that we do not,                  4 as a rule, broadcast, in my view, material which is                  5 unwarranted in its intrusion into the private lives of                  6 individuals. We don't broadcast that material, and so                  7 the circumstances in which one is asked to or might want                  8 to consider amending a website or taking something down                  9 from a website, as it were, for personal privacy reasons                  10 are vanishingly small. I can't recall an example of                  11 that.</p> <p>12 Q. I'm going to move now to what I'll call broadly                  13 compliance, the systems in place to ensure that the                  14 standards you've told us about are in fact maintained.                  15 You tell us that there is an editorial standards board                  16 which reports to the executive, and its job is to                  17 monitor and review compliance systems, and also to act                  18 to key themes arising from complaints.</p> <p>19 In addition to that, you say that there are                  20 contractual safeguards which are written into contracts                  21 with third-party suppliers of content, and you also tell                  22 us about training through the BBC Academy, and a further                  23 layer of assurance in the Safeguarding Trust. We'll                  24 come to the genesis of that trust in a moment, but my                  25 present question is: could you explain to us a little</p> <p style="text-align: center;">Page 41</p>	<p>1 right decisions. We have, as you say, through the BBC                  2 Academy, extensive training and indeed mandatory                  3 training for any journalist who first arrives at the BBC                  4 and so forth, and we also make, contractually, everyone                  5 in the BBC regularly sign up to their responsibility to                  6 live up to the editorial guidelines.</p> <p>7 But Safeguarding Trust was -- in addition to those                  8 formal structures arising at a level discussed out of                  9 some particular editorial lapses at the BBC,                  10 Safeguarding Trust was an attempt to, in a sense, spark                  11 a conversation about values and about behaviours which                  12 went beyond the formal guidelines and which involved                  13 seminars which essentially every programme maker in the                  14 BBC had to attend -- I attended one like everyone                  15 else -- in which a series of quite interesting editorial                  16 dilemmas were there to be discussed and debated, and the                  17 attempt was to try, as we do with, in particular, our                  18 College of Journalism learning, not simply to set up                  19 a set of rules but rather to try and encourage people to                  20 discuss and debate the kinds of editorial play-off,                  21 absolutely the play-off between issues of intrusion                  22 and -- versus, in a sense, the public's right to know                  23 about certain things or issues about how far artifice in                  24 programming -- in factual programming can go, so that,                  25 in a sense, you're trying, at a cultural level, to make</p> <p style="text-align: center;">Page 43</p>
<p>1 bit about how that works?</p> <p>2 A. Certainly. If I can -- to put it in its context, we                  3 have a chain of command which makes editorial decisions                  4 and where -- the monitoring of standards, the discussion                  5 of problems, the mistakes that we've made and possible                  6 suggestions about changes to the guidelines takes place                  7 in that vertical stack. Indeed, at the top of it is the                  8 executive board of the BBC. There's the BBC Trust with                  9 its oversight role as well but on the executive side,                  10 the executive board will take, once a quarter, an                  11 overall compliance report, which will include editorial                  12 compliance and notification of any significant editorial                  13 lapses.</p> <p>14 Below that, in the most senior management board,                  15 again, we will look regularly at a list of the most                  16 sensitive or editorially difficult programmes that are                  17 under production, to consider those. We also, as you                  18 say, have the editorial standards boards. So we have                  19 that vertical system, as it were, as a chain of command.</p> <p>20 We have a parallel advisory system, which is the                  21 director of editorial policy and standards, David                  22 Jordan, and alongside them, programme legal advice, who                  23 are there, at one remove directly from programme-making,                  24 to advise editorial decision-makers from myself down to                  25 the most junior researchers and to help them reach the</p> <p style="text-align: center;">Page 42</p>	<p>1 sure that people are alive not just to the rules we                  2 already know about but to the kind of dilemmas which may                  3 arise and which you would hope they would then use their                  4 good judgment to solve.</p> <p>5 LORD JUSTICE LEVESON: The word that you've used there is                  6 the key, isn't it? It's the culture.</p> <p>7 A. Yes.</p> <p>8 LORD JUSTICE LEVESON: Are you simply trying to decide what                  9 your culture is or to shift it in a way that you believe                  10 is the right way for it to go? Because changing                  11 culture, as I've listened to the events of the last few                  12 months, seems to me an extremely difficult problem.</p> <p>13 A. Yes. I don't think the BBC needs to change its                  14 journalistic culture, which I think over decades -- the                  15 core of the culture is incredibly strong, and it's very                  16 open and dispatious in a good way. In other words,                  17 most of these topics get argued about a lot and the most                  18 junior members of staff will come up to me and argue                  19 about decisions I've taken or -- it's a very open,                  20 lively culture. There are issues -- there are                  21 absolutely issues, though, about an environment where,                  22 unlike the BBC 50 years ago, there's a significant                  23 amount of production which is made by third parties, by                  24 independent producers and others. It's a culture where                  25 there's a higher use of freelancers across the industry</p> <p style="text-align: center;">Page 44</p>

<p>1 than there used to be and you cannot, without taking 2 slightly more deliberate steps, ensure that everyone, as 3 it were, automatically knows what our culture is. So 4 it's more about trying to reinforce a really strong 5 culture than it is about trying to change the culture. 6 In other words, I think the probity, the integrity and 7 the conviction of our journalists is -- I think is not 8 to be questioned. It's trying to maintain that, and in 9 particular to accept also that, in a sense, new 10 technologies and new ways of making programmes presents 11 us with new problems.</p> <p>12 LORD JUSTICE LEVESON: Yes. I wasn't --</p> <p>13 A. Phone hacking is a relatively recent possibility in 14 the --</p> <p>15 LORD JUSTICE LEVESON: I wasn't suggesting that there was 16 some great problem which you felt suddenly you had to 17 address, but, really, tilting to deal with new problems 18 is exactly what I had in mind.</p> <p>19 A. Yes.</p> <p>20 LORD JUSTICE LEVESON: As the world evolves.</p> <p>21 A. Yes.</p> <p>22 LORD JUSTICE LEVESON: And technology evolves and the way of 23 news-gathering evolves and the way in which you gather 24 your information, as you've just said, that's precisely 25 what I'm actually asking about. Yes.</p> <p style="text-align: center;">Page 45</p>	<p>1 LORD JUSTICE LEVESON: The trouble is, if you get it wrong 2 then you're going to get it wrong in a very, very public 3 way, and you don't need me to identify the examples 4 where at least there's been a perception that you've got 5 things wrong.</p> <p>6 A. That's exactly my point, that we're trying to get an 7 error rate in editorial decision-making which is 8 vanishingly small, because a single lapse, which might 9 be, frankly, not even noticed or certainly passed over 10 quickly by another organisation, will be a very big 11 issue for the BBC. Though I have to say, in my view, 12 that's the flipside of the extraordinary levels of trust 13 and support the public place in the BBC. So we have 14 a lot to live up to and that is why we would rather err 15 on the side of slightly too much in the way of training 16 and debate about editorial standards than slightly too 17 little.</p> <p>18 MR BARR: The final limb of your compliance system that I'd 19 like to explore is the complaints system.</p> <p>20 A. Yes.</p> <p>21 Q. I'm going to attempt something which is not entirely 22 easy, which it is a simple exposition of your complaints 23 system.</p> <p>24 A. I hope to be able to help you, but go ahead.</p> <p>25 Q. Am I right that your complaints framework is set by the Page 47</p>
<p>1 MR BARR: The Safeguarding Trust initiative, has it in 2 practice proved useful, do you think?</p> <p>3 A. I believe so. It's complicated because in 4 a journalistic culture, the levels of scepticism are 5 normally fantastically high and the benefit of any 6 proposed new compulsory seminar is chewed over 7 energetically by all concerned. And suggesting such 8 a thing, by the way, is not always the way of winning 9 a popularity contest. I believe --</p> <p>10 LORD JUSTICE LEVESON: Grandmothers and eggs.</p> <p>11 A. And of course, the challenge an organisation like the 12 BBC faces is we are trying to deliver an incredibly 13 consistent, high level of accuracy, impartiality and 14 fairness. I mean, 99.999 per cent, which means that you 15 are trying to get behaviours across the entire 16 organisation to a certain level, and there is a danger 17 that you worry about half a per cent, one per cent, 18 a tenth of one per cent of behaviours at one end of the 19 organisation, and indeed, there are a lot of journalists 20 in the organisation who could teach me a thing or two 21 about journalistic standards. In other words, there is 22 a danger you patronise your rock solid core by raising 23 questions which are real questions, maybe, for some of 24 the people at the edges of behaviour. That's quite 25 hard. Trying to get that balance right is hard.</p> <p style="text-align: center;">Page 46</p>	<p>1 BBC Trust?</p> <p>2 A. Correct.</p> <p>3 Q. Complaints in the first instance are dealt with by the 4 BBC?</p> <p>5 A. Yes.</p> <p>6 Q. Save, if it's fairness or privacy, where there is an 7 option to go to Ofcom?</p> <p>8 A. Correct.</p> <p>9 Q. The BBC Trust provides an appellate role from decisions 10 of the BBC?</p> <p>11 A. Yes.</p> <p>12 Q. And there are some matters at appellate level which can 13 be dealt with either by the Trust or by Ofcom?</p> <p>14 A. Yes.</p> <p>15 Q. And there is an agreement between the BBC Trust and 16 Ofcom about the operation of the system whereby they try 17 and stay out of each other's way? Does that --</p> <p>18 A. It all sounds horribly familiar, yes.</p> <p>19 Q. -- succinctly set out the position?</p> <p>20 A. Yes.</p> <p>21 Q. And there is a complaints monitoring board which keeps 22 an eye on the complaints and the complaints system?</p> <p>23 A. Yes.</p> <p>24 Q. The present system has been the subject of some 25 criticism for being overly complicated and too slow, Page 48</p>

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<p>1 hasn't it? That criticism has come from, amongst other                  2 places, the House of Lords. It may be more a question                  3 for Lord Patten in due course, but is it the intention                  4 of the BBC to simplify the complaints procedure?                  5 A. Yes. Yes, it is. I think Lord Patten will, I'm sure,                  6 be able to talk about that.                  7 Just a couple of points from me. Firstly, the                  8 overwhelming majority of complaints that the BBC                  9 receives are dealt with very swiftly at the first                  10 instance. The BBC receives well over a million contacts                  11 from the public every year, of which only a relatively                  12 small proportion are complaints, but that still adds up                  13 to something like 240,000 complaints a year, of which                  14 the overwhelming majority are responded to very quickly.                  15 We have a target of responding in ten days. I think                  16 we're currently at 93, 94 per cent of that target, and                  17 in, again, the overwhelming majority of cases, the                  18 complaint is satisfactorily dealt with at that stage.                  19 Where I think people then feel that we -- that the                  20 system currently can be slow -- there is two further                  21 stages. If, at the first instance, the complainant is                  22 not happy, we then have on the management side something                  23 called the editorial complaints unit, which can                  24 investigate and reach a finding on whether the complaint                  25 is justified or not. That deals with the complaints</p> <p style="text-align: center;">Page 49</p>	<p>1 but it's worth saying that not every complaint -- in                  2 fact, the overwhelming majority of complaints are not of                  3 the kind that's likely to lead to court anyway. "You                  4 moved my favourite programme because the tennis overran"                  5 is a complaint, and it's a serious complaint from                  6 someone who's been disappointed because in another act                  7 of proportionality, some scheduler has decided that                  8 sticking with the Murray match was more important than                  9 showing programme X, which could be shown on BBC 2.                  10 So a very, very large number of complaints to the                  11 BBC are not of a kind which could be litigated later in                  12 a defamation proceeding or something like that. Those                  13 kinds of complaints, serious complaints about lack of                  14 accuracy, lack of impartiality, lack of fairness and so                  15 forth, are a tiny minority of the whole.                  16 Q. Can you give me some idea -- and I'm not trying to put                  17 you on the spot for a precise statistic, but how many                  18 broadly successful defamation actions are there against                  19 the BBC?                  20 A. Well, if we work backwards, I don't believe that we've                  21 lost a defamation action in court for a decade, but                  22 there are some defamation actions which we have chosen                  23 to settle over the years. That's certainly the case.                  24 Q. What sort of frequency?                  25 A. Well, we're talking about probably middle single figure</p> <p style="text-align: center;">Page 51</p>
<p>1 which have not been satisfactorily, to the satisfaction                  2 of the complainant, dealt with in the first stage.                  3 If, after that stage, a complainant is still not                  4 happy, they can proceed either to the BBC Trust or, in                  5 the case of certain kinds of editorial issue, on to                  6 Ofcom, but by this point, I think with the Trust we're                  7 talking about just over 100 complaints going to the                  8 Trust out of a pile which began with 240,000, of which                  9 I think the Trust hears about 40, in a recent year, of                  10 which, perhaps, six or seven are complaints which are                  11 upheld at appeal.                  12 So, in a sense, part of the issue with the complaint                  13 process is it's dealing with a very, very large number                  14 of complaints, but also seeking to give very careful                  15 consideration in successive stages, including an                  16 appellate stage, to the complaints where, in a sense,                  17 the complainant believes they're the most serious and                  18 the ones which are most complex and difficult to                  19 resolve.                  20 Q. How successful is your complaints system at keeping the                  21 BBC out of court?                  22 A. The answer is that the BBC is -- is -- I think, given                  23 the scale of its operations and in particular the                  24 hundreds of thousands of hours of broadcasted                  25 journalism, factual material, is not in court very much,</p> <p style="text-align: center;">Page 50</p>	<p>1 actions being begun each year, not all of which would                  2 reach a conclusion.                  3 Q. Probable.                  4 A. Four, five, six a year, sort of thing.                  5 Q. Moving now to some of the problems that there have been,                  6 you've described very extensive systems but as we all                  7 know, that has not prevented some difficulties emerging.                  8 Perhaps the most high profile in recent years was the                  9 fallout from the Hutton report and the Neil report which                  10 the BBC commissioned in response to it. That was                  11 a problem which essentially emerged from the treatment                  12 of sources and checking, wasn't it?                  13 A. Yes.                  14 Q. What did the BBC do about that?                  15 A. Well, we -- the Neil report was very wide-ranging and                  16 led to many changes in the organisation, certainly more                  17 explicit guidelines on the validating of information                  18 from sources and the strong desirability of multiply                  19 sourcing stories which involve serious allegations,                  20 paragraphs in the guidelines which broaden the                  21 requirement to consider the public interest and make the                  22 consideration of the public interest more explicit, as                  23 well as an understanding of the need for precise -- to                  24 use your language -- prior notification or right of                  25 reply when serious allegations are going to be made.</p> <p style="text-align: center;">Page 52</p>

<p>1 But more broadly, the Neil report also led to the                  2 foundation of the College of Journalism, to improve and                  3 broaden journalistic training, including training about                  4 journalistic standards and ethics inside the BBC, and in                  5 some ways that Neil report is the foundation of                  6 a greatly strengthened approach to not just compliance                  7 but to the maintenance of high journalistic standards,                  8 and rather as I referred to in the context of                  9 Safeguarding Trust, also an explicit desire on the BBC's                  10 part to use journalistic best practice and our most                  11 outstanding practitioners to engage all of their                  12 colleagues in the debate.</p> <p>13 If you go on the College of Journalism website, much                  14 of which is available to the public, you'll see that the                  15 character of it is to share dilemmas and to debate and                  16 discuss ethical issues in the context of real examples                  17 of stories and so forth. So in many ways, out of the                  18 Neil report and therefore in the aftermath of Hutton,                  19 a fundamental kind of reenergising of the approach we                  20 took to training, and finally there were significant                  21 changes and improvements made to the complaints process                  22 as a result of what had happened as well.</p> <p>23 Q. Despite all of those changes following 2004, very                  24 serious ethical problems emerged in 2007, didn't they?                  25 A. Yes. It must be said -- I mean, this is not by way of</p> <p style="text-align: center;">Page 53</p>	<p>1 in the heart of journalism and news and current affairs,                  2 problem two took place in entertainment. We also                  3 simultaneously, or nearly simultaneously, had a problem                  4 with a promotional video of a documentary made by an                  5 independent producer about the Queen, which was in                  6 this -- not as broadcast but in this promotional video                  7 was -- had been cut in a misleading way.</p> <p>8 These two incidents together made us think that                  9 especially in those parts of the BBC which were beyond                  10 the news and current affairs core, although there were                  11 some -- it was entirely appropriate that people in news                  12 and current affairs should be involved as well, we did                  13 need to have a -- you know, to sit down and have                  14 a proper conversation about our values, our standards,                  15 and start talking about where boundaries in various                  16 kinds of programming existed. That's what Safeguarding                  17 Trust was designed to do. But in particular, in                  18 relation to competitions.</p> <p>19 Again, we significantly strengthened the editorial                  20 management and control of competitions and we set up                  21 a special unit in the BBC with the specific job of                  22 guiding and advising programme makers and, where                  23 necessary, providing the technical expertise to                  24 facilitate competitions and votes so that we could be                  25 certain that every single competition and vote would go</p> <p style="text-align: center;">Page 55</p>
<p>1 exculpation, because they were extremely serious, but                  2 they were an entirely different part of the operations                  3 and involved people who were not, as it were, part of                  4 that core BBC journalism machine. So if you like, if                  5 the work post-2004 was to try and ensure that the                  6 training, compliance, guidelines, structure and the                  7 editorial chain of command was really strong in news                  8 after what had happened, our next issues were about                  9 a series of examples when principally competitions --                  10 competitions and public voting, various kinds of                  11 interaction with the public on various programmes -- had                  12 been done in ways which were not acceptable by way of                  13 fairness and transparency with the public.</p> <p>14 These were not examples where there had been any                  15 individual pecuniary gained by the individuals involved,                  16 and there was no suggestion of corruption in the                  17 instance of the BBC -- that's not necessarily true of                  18 other broadcasters -- but we certainly let the public                  19 down by simply not running some of the competitions that                  20 we were running with the public in a fair and                  21 transparent way.</p> <p>22 Q. Deceiving them, to be blunt?                  23 A. The effect of some of this was to deceive them.                  24 Q. What did you do about that?                  25 A. Well, I mean, in a sense, if problem one was -- happened</p> <p style="text-align: center;">Page 54</p>	<p>1 through that system, would be properly controlled --                  2 again, we would know what was going on -- so we could                  3 stop any recurrence of the problems we discovered with                  4 those competitions.</p> <p>5 I think it's fair to say that since we put those                  6 controls in place, as yet, we've not had any recurrence                  7 of those problems.</p> <p>8 Q. You spoke publicly and frankly about those difficulties                  9 on television. How important did you think it was for                  10 you, as Director General, to make that public statement?                  11 A. I think it's fundamental to my duty in this role.                  12 I think my job is to -- to -- not just to sit on top of                  13 a management machine and try and optimise it for                  14 editorial compliance -- that's, you know, in a sense,                  15 part of what one has to do to try and get the right                  16 result -- but also to take responsibility for what the                  17 BBC broadcast and also to take personal responsibility                  18 for occasions when we have fallen short of our high                  19 standards.</p> <p>20 I believe that as quickly as possible -- when you're                  21 clear that you or someone who's been working with you                  22 has made a mistake, as quickly as possible you should                  23 tell the public directly that you recognise that the BBC                  24 has made mistakes and that we are sorry for letting them                  25 down and that we will do everything in our power to make</p> <p style="text-align: center;">Page 56</p>

<p>1 sure that that kind of mistake doesn't happen again, and 2 that was absolutely the spirit of the way we responded 3 both to the competitions and to the Queen documentary. 4 Q. Sadly that wasn't the end of difficulties of an ethical 5 kind, because the next year, 2008, there was a problem 6 with Messrs Brand and Ross behaving in an unacceptable 7 manner. Had they undergone the Safeguarding Trust 8 training or not? 9 A. To be honest, I don't know the answer to that question 10 but we can certainly find out and write to you with the 11 answer to it. 12 Q. Thank you. 13 A. But the Brand/Ross incident again certainly a very 14 serious lapse of editorial judgment but essentially of 15 a different character. This is -- there have been, for 16 decades, lively debates about the boundaries of comedy 17 and taste in cutting-edge comedy, about how far can you 18 go, and certainly that was a programme which went, in my 19 view, far, far, far beyond the line -- it wasn't close 20 to the line; it was far beyond the line -- and it 21 exposed two issues which we've talked about extensively 22 in public: firstly, simply, a serious lapse of judgment 23 not just by the people directly involved in the 24 programme but by some very senior decision-makers in the 25 BBC, and secondly, a weakness in the way in which</p> <p style="text-align: center;">Page 57</p>	<p>1 A. I talked about the principal response, which was to look 2 hard at the way in which compliance took place and the 3 need to make some changes in editorial leadership. 4 We also introduced some measures to deal with 5 conflict of interest. Where an independent producer was 6 owned by a prominent star and some sense of -- in this 7 case, the producer had been seconded from the BBC into 8 the independent producer -- the producer who made this 9 programme had gone to work for this indie which was 10 controlled by one of the artists and we wondered whether 11 that conflict should be addressed and it has been. 12 We also added a new guideline about intimidation and 13 humiliation to the guidelines. So there were a number 14 of ways which, again, we tried to respond to what had 15 happened to make sure that that kind of incident 16 wouldn't happen again. 17 Q. Thank you. My next topic is about your relationship 18 with the print media in general, in particular the 19 tabloids. It's right, isn't it, that the BBC sometimes 20 will pick up and follow a scoop which has been broken by 21 the tabloid media? 22 A. Yes. 23 Q. And they, for various reasons, not least that they're 24 not fettered by a duty to be impartial, have more 25 editorial freedom than you do?</p> <p style="text-align: center;">Page 59</p>
<p>1 programme compliance was taking place, certainly in that 2 part of the BBC. In other words, that we were going 3 through a process which appeared to give us comfort 4 around the compliance of the programme, but manifestly, 5 given that this programme had got through that system 6 and still got onto the air, those systems were 7 insufficiently secure, and so we needed specifically to 8 tighten up the way in which we ensured that programmes 9 -- "compliance" is a rather grand word. It meant that 10 somebody senior and responsible would listen to or watch 11 a programme and judge that it lived within the 12 reasonable expectations of the public around taste and 13 decency before it was transmitted. 14 MR BARR: Thank you. 15 Sir, would now be a convenient moment for a short 16 break? 17 LORD JUSTICE LEVESON: Certainly. We will have just a few 18 minutes to allow the shorthand writer to recover. Thank 19 you, seven minutes. 20 (11.32 am) 21 (A short break) 22 (11.42 am) 23 MR BARR: Mr Thompson, before I move to the next topic, was 24 there anything else you wanted to say about your 25 response to the problems in 2008?</p> <p style="text-align: center;">Page 58</p>	<p>1 A. Yes, that's true, but what I want to say is that the 2 judgment of whether or not we should pursue a story and 3 the extent to which -- I'm using the term slightly more 4 broadly now -- it is in the public interest and in line 5 with the BBC's own editorial priorities that we should 6 pursue the story, has to be judged on its own merits. 7 The fact that something has been put into the public 8 domain does not in and of itself mean that the BBC 9 should pursue the story. 10 If I can give you an example. If you watch the way 11 we review the papers or listen to it on the Today 12 programme or on breakfast, you will note, when we can, 13 that we try quite hard not to feature in detail personal 14 allegations which are made on the front pages or inside 15 newspapers if there is no wider public interest argument 16 for doing so. So in other words, there are plenty of 17 stories which appear in print which we do not pursue. 18 There are, however -- and it's manifestly an area 19 for quite difficult and fine judgments -- there are 20 occasions where the tabloid newspapers will deliver 21 scoops which are manifestly very much in the public 22 interest and should be pursued and represent outstanding 23 journalism. There are also some difficult cases where 24 a story which has perhaps begun or feels as if it's 25 begun as an essentially -- a story about private</p> <p style="text-align: center;">Page 60</p>

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<p>1 individuals, be they celebrities or not, acquires 2 a status as part of a broader public or national debate, 3 and where our judgment will be -- it would be wrong not 4 to report on that wider story.</p> <p>5 Q. Do you think that the decision to put accuracy over 6 speed, which the BBC has adopted, could be successfully 7 adopted by the print media or is that simply 8 unrealistic?</p> <p>9 A. I'm not sure, to be honest, it quite reflects the 10 challenges that the print media face now. To be honest, 11 on speed, print is, just because of its character, 12 frequently being beaten by the Internet, by -- you 13 mentioned tweets, and by 24-hour continuous news on 14 television and radio.</p> <p>15 I think that the -- so, in other words, the -- I'm 16 not sure that -- and particularly the kinds of stories 17 which involve intrusions into privacy and those kinds of 18 investigation are not normally time critical, and 19 what -- I think, whether they're a broadcaster or 20 a newspaper which is developing, I think they're more 21 interested in exclusivity and having ownership of the 22 story and being seen to have had the story first, not 23 because they've been in a race but because they've 24 investigated it exclusively and they are able to reveal 25 that story as theirs.</p> <p style="text-align: center;">Page 61</p>	<p>1 Director General, had lunch once, possibly twice, with 2 the Metropolitan Police Commissioner. I sometimes bump 3 into other senior police officers when I go and visit 4 one of our regional headquarters and meet some of our 5 local stakeholders and partners, but these are not 6 frequent or extensive contacts.</p> <p>7 Q. You're describing much less frequent contact than some 8 newspaper editors have described. What's your view as 9 to the reason for that discrepancy?</p> <p>10 A. I can't, to be honest, speak for them, but I can speak 11 for myself, which is that one of the things I try and do 12 and my senior colleagues try and do is to remain an 13 impartial organisation with relatively arm's length 14 relationships and businesslike relationships with all 15 different parts of British society, including the 16 British establishment, and that goes for the police and 17 politicians as well.</p> <p>18 Q. That does take me to my next topic, which is 19 politicians. You have described contact with 20 politicians over investigations by the BBC of FIFA. 21 Could you help us with the sort of influencing that was 22 attempted when the BBC was investigating the FIFA 23 scandal?</p> <p>24 A. I think the important point I want to the begin with: 25 everyone is entitled to have an opinion and everywhere</p> <p style="text-align: center;">Page 63</p>
<p>1 So I don't think speed of itself, in the kinds of 2 journalistic practices we're talking about, is quite the 3 issue that you say it is, but certainly for the BBC, we 4 would rather be right than first, if we have -- I mean, 5 frankly, where we can, we'd like to be right and first, 6 but if we have to choose, we'd rather be right than 7 first.</p> <p>8 Q. You've described some very extensive systems to us this 9 morning but it is also right to accept the BBC is a very 10 large organisation, isn't it?</p> <p>11 A. It's a gigantic organisation and also an organisation 12 where -- systematic quantitative and qualitative 13 research with the British public suggests that the 14 public have got uniquely high expectations of the BBC. 15 In other words, that the standard to which the BBC is 16 held by the public is higher than for any other medium. 17 It's unreasonable, I think, to suggest that every single 18 other media outlet in the UK can or practically could 19 operate in the same way the BBC does.</p> <p>20 Q. You've anticipated my next question with that. 21 Moving on then to your relations, first of all with 22 the police. Do you have professional conduct with 23 people at commissioner or chief constable level?</p> <p>24 A. I occasionally see senior police officers but it is 25 occasional. I might have, in my course of time as</p> <p style="text-align: center;">Page 62</p>	<p>1 is entitled to express their opinion. In particular, in 2 matters to do with the BBC, I feel they're entitled to 3 express to me, whether it's someone I bump into in the 4 supermarket or whether it's a senior politician, and 5 I have never, while Director General or indeed before 6 then, in my view, been put under what I would describe 7 as unreasonable or improper pressure.</p> <p>8 But the investigation into FIFA was controversial 9 because it was proposed and indeed we did broadcast the 10 investigation in the week when FIFA was deciding which 11 country would stage the 2018 -- 2022 but 2018 World Cup. 12 England was one of the candidates for the 2018 13 World Cup, and it was felt by some, including some 14 senior politicians, that it might adversely affect 15 England's chances of winning the World Cup in 2018 if 16 this programme was to go ahead as scheduled.</p> <p>17 My response to them -- which I have to say, nobody, 18 in a sense, then came back or tried to overturn or 19 overrule -- my response was: I believe that we were 20 right to pursue the investigation and I thought it would 21 be wrong to adjust the scheduling or the character of 22 the programme in any way, and I wanted to stand behind 23 Panorama's absolute right to do that investigation and 24 to broadcast it as scheduled, which is what we did.</p> <p>25 Q. If I'm understanding you rightly, pressure of that sort</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)



<p>1 from a politician or a request from a politician of that                  2 sort you would regard as proper and something to be                  3 expected?                  4 A. I think anyone can ask the question and find out whether                  5 you've kind of thought about these dimensions, but                  6 I mean the point I always make on these occasions is                  7 a straightforward one, which is that we -- our job and                  8 the way we serve our audience and serve this country is                  9 by telling the truth in our journalism, and we need to                  10 press on, frankly, regardless of other political or                  11 other considerations.                  12 Q. Could you help me now? You had two years as chief                  13 executive with Channel 4. Was there any significant                  14 cultural or ethical difference between Channel 4 and the                  15 BBC when it came to broadcasting standards?                  16 A. In terms of accuracy, fairness, impartiality and so                  17 forth in the journalism of Channel 4 News and other                  18 journalism on Channel 4, I would say no. I was very                  19 impressed by the editorial culture I found there, and                  20 I believe that Channel 4 is -- has done much                  21 distinguished investigative work over the years and                  22 certainly from my time there and from everything I know                  23 about Channel 4 since, has remained a well-run and                  24 editorially tightly managed enterprise, which, as                  25 I believe about the BBC as well, nonetheless manages to</p> <p style="text-align: center;">Page 65</p>	<p>1 differentiation in the marketplace, and you named the                  2 Sunday Times, the Independent and the Guardian in that                  3 regard.                  4 A. Yes.                  5 Q. Do you regard the economic pressures on the industry at                  6 the moment as a real threat to ethics or not?                  7 A. I think -- to be honest, that's a slightly different                  8 question.                  9 Q. Yes?                  10 A. I mean, I believe that we've seen a period where I think                  11 Fleet Street -- and I think this is true of mid-market                  12 and tabloid Fleet Street as well as broadsheet                  13 Fleet Street -- has actually done some outstanding                  14 investigative work. I mean, this has been a period of,                  15 I think, great strength in investigation -- in                  16 investigative journalism for newspapers, something which                  17 shouldn't get lost in this broader debate.                  18 It's not clear to me, and it's -- fairly                  19 straightforwardly, I am a broadcaster and that's my                  20 experience, and I have not worked in newspapers. It's                  21 not clear to me why necessarily the economic pressures                  22 on newspapers would go directly to ethics. I can see                  23 that they might go to the amount of resource, the amount                  24 of time, the amount of journalistic time that might be                  25 available for investigative journalism. I don't see</p> <p style="text-align: center;">Page 67</p>
<p>1 do very brave and groundbreaking journalism.                  2 In areas of factual programming, particularly                  3 factual entertainment programming, comedy and drama,                  4 it's probably true to say that the public have slightly                  5 different expectations of Channel 4 than they do of the                  6 BBC in terms of the edginess and strength of some of the                  7 old Channel 4 shows. That's -- part of Channel 4's                  8 remit, in a sense, is to be not the BBC, to be --                  9 particularly in certain areas of comedy.                  10 Q. It's just the ethics that I'm interested in.                  11 A. Ethics, I would say a very similar environment.                  12 Q. Thank you. The final thing I'd like to do is look at                  13 the future. I'd like to do that by examining a speech                  14 you made in, I think, September of last year at the                  15 International Press Institute's annual world congress in                  16 Taiwan. It's at tab 12 of the bundle. In that speech,                  17 you expressed some concerns about the future of                  18 investigative journalism. You dealt with a number of                  19 the pressures on investigative journalists. The first                  20 one I'd like to pick up on is the economic pressures.                  21 A. Yes.                  22 Q. Here you recognise that there are economic pressures                  23 now, but you went on to point out that there are                  24 a number of newspaper titles which use investigative                  25 journalism as a way of securing competitive</p> <p style="text-align: center;">Page 66</p>	<p>1 intrinsically why the economics should necessarily mean                  2 that ethical standards will be reduced.                  3 Some people, I know, have claimed that economic                  4 pressures led to, in quotes, shortcuts being taken, but                  5 I can't -- I've not witnessed that and can't give you                  6 any evidence about it.                  7 Q. Moving on to the next pressure you identify, which is                  8 the Internet. You conclude on that subject that:                  9 "The explosion of digital media has, if anything,                  10 strengthened the argument for a cadre for professionally                  11 trained journalists to sift and make sense of it                  12 [I think that's true of news generally]. How else can                  13 the public satisfy themselves that what they are reading                  14 or looking at is an important fact and not                  15 unsubstantiated gossip or a random element in someone's                  16 delusional conspiracy theory."                  17 That's against the background of accepting that some                  18 scoops are, these days, broken first on the Internet by                  19 bloggers.                  20 A. Yes. You'll note that in that paragraph I talk about                  21 the decision of Wikileaks and Julian Assange to bring                  22 a basket load of very well-known newspapers around the                  23 world to sift through and, in various ways, validate the                  24 material that was there.                  25 I think that more broadly I would say that actually</p> <p style="text-align: center;">Page 68</p>

<p>1 the saliency of rather traditional news brands,                  2 including the BBC's, on the Internet is very striking,                  3 the extent to which, rather than, in a sense, a wave of                  4 new brands arriving, that some of the most best-known                  5 brands in global traditional media loom very large on                  6 new media. There are some new ones but the New York                  7 Times, the Guardian internationally and the BBC are all                  8 rather traditional brands who are widely trusted in an                  9 Internet context, partly, I think, because of the sense                  10 of security that people get when they go to those                  11 websites.                  12 Q. You strongly make the case for the strength of                  13 a reputable and regulated source of news on the                  14 Internet. Can I ask you: do you think that there is                  15 a need for regulation of news bloggers, or perhaps at                  16 least some of the more professional of them, in the                  17 future or are you content to see something of a Wild                  18 West continue?                  19 A. On the Internet?                  20 Q. Yes.                  21 A. This is a -- I mean, I think one has to be realistic                  22 about -- I mean, whether there might be some, as it                  23 were, desired need or not, about the practicalities of                  24 what's going on on the Internet, and it seems to me                  25 to -- you know, as it were, to attempt to apply the same</p> <p style="text-align: center;">Page 69</p>	<p>1 which I would hope we would deliver to the same standard                  2 as we do in television and radio, ie to really quite                  3 a high standard of -- and with any amount of oversight                  4 and beyond that.                  5 At the other end, you have things on the Internet                  6 which have the status essentially of individual letters                  7 or correspondence, at which, it seems to me, the idea of                  8 a full third degree wouldn't be appropriate, even if it                  9 was practical.                  10 LORD JUSTICE LEVESON: No, the question is --                  11 A. The issue is where you go in the middle.                  12 LORD JUSTICE LEVESON: -- where you could draw a line                  13 between what is chat but digitally --                  14 A. Yes.                  15 LORD JUSTICE LEVESON: -- and what is effectively                  16 a business. So if you're making money out of a website                  17 or whatever, does that justify a different regime --                  18 A. Yes.                  19 LORD JUSTICE LEVESON: -- than if you're simply privately                  20 blogging or tweeting or commenting on Facebook.                  21 A. Yes, and two other factors one might look at is reach.                  22 In a sense, just how big an impact would something on                  23 a particular website have? If something's only going to                  24 be read by one other person, if that, it's very                  25 different than if it's going to be read by millions of</p> <p style="text-align: center;">Page 71</p>
<p>1 level of control and supervision of the global Internet                  2 that one might seek to apply to a public broadcaster or                  3 cluster of public broadcasters in the UK is simply                  4 impossible.                  5 I guess that the question is: is there a line that                  6 you can draw, maybe more than one line, inside the                  7 Internet, which has both conceptual credibility and also                  8 is practicality drawable? Is it possible to say that                  9 the extensions of broadcasters and newspapers, both                  10 international and domestic, which aspire to professional                  11 news, aspire to editorial control in other media, can be                  12 regarded as a subset of the Internet, beyond which you                  13 may accept that it's the Basic Law of defamation and of                  14 child protection and so forth which will apply and                  15 nothing more than that, or do you want to be more                  16 ambitious?                  17 I think it's -- the practical issues in trying to be                  18 much more ambitious than that would be insuperable, but                  19 it's a matter I guess the Inquiry is going to look at.                  20 LORD JUSTICE LEVESON: Yes. But your view of the problem is                  21 important, because it's something you've lived with sore                  22 some time.                  23 A. And I'm -- it seems to me that the Internet conveys many                  24 different kinds of content. At one extreme, you have --                  25 and you've heard me say this -- it conveys BBC content,</p> <p style="text-align: center;">Page 70</p>	<p>1 people.                  2 And I think there's something about credibility.                  3 A damaging allegation made under a very credible banner                  4 might do much greater harm, if untrue or unfair or an                  5 intrusion of privacy, than one which was, again,                  6 somewhere in the kind of wild darkness of the Internet                  7 and with no credibility behind it. That, I think, does                  8 seem to point to me to a division where you're talking                  9 about significant enterprises with significant reach and                  10 some level of aspiration to be credible.                  11 LORD JUSTICE LEVESON: Yes. The only distinction that I've                  12 been able to think about -- and I'd be grateful if you                  13 have any further thoughts on it -- is where it's being                  14 run as a business. We know that some people in public                  15 life have blogs, which are just their own thoughts,                  16 which have an enormous reach.                  17 A. Yes.                  18 LORD JUSTICE LEVESON: My reaction is: however wide the                  19 reach of that individual, it's probably beyond the level                  20 at which anybody should be thinking about whether there                  21 is some supervening control.                  22 A. I understand the point. I suppose my point is almost                  23 the other way around, that there might be some                  24 businesses on the Internet which are so small that                  25 attempting to bring them into the net of regulation</p> <p style="text-align: center;">Page 72</p>

<p>1 would be difficult, if not impossible.                  2 LORD JUSTICE LEVESON: I agree.                  3 A. And it may be that in addition to your test of "is it                  4 a business", you might need "of sufficient scale",                  5 measured by reach or influence or some such.                  6 LORD JUSTICE LEVESON: Whether you can do it or not or how                  7 you do it, I don't know.                  8 A. Nor do I.                  9 LORD JUSTICE LEVESON: I'm very conscious that it is another                  10 player in the room which has to be thought about.                  11 A. No, very much so, and I think in particular it would be                  12 perverse not just for the BBC but perverse, I think, for                  13 any notable media brand in the UK, to say, "We'll be                  14 restrained in this medium, in print or on television or                  15 on radio, but because of the character of the Internet,                  16 things that we would never dream of bringing to the                  17 public's attention over here, we can over here."                  18 So I think for very large media enterprises --                  19 unfortunately, there's no escape from the fact that                  20 wherever you do it, in some way the same ethical                  21 standards and principles should apply.                  22 LORD JUSTICE LEVESON: Some of the complaint I've received                  23 is that: "What we can't do in print, somebody else can                  24 do on the Internet", and the discussion about                  25 injunctions has been a very good example of that.</p> <p style="text-align: center;">Page 73</p>	<p>1 there referring only stories with a public interest                  2 justification or are you asserting that the newspapers                  3 should always be able to publish just what they want, as                  4 long as they are prepared to accept the consequences                  5 later?                  6 A. I think I'm suggesting the second of those two. In                  7 other words, that -- we haven't talked in great detail                  8 about the public interest, but I accept that there are                  9 some stories which fit under a public interest                  10 justification. There are other stories which, you know,                  11 in the old cliché, the public might be interested in but                  12 don't fit under a public interest, that arguably the                  13 paper should still be able to publish and bring to the                  14 public's attention. They might be completely harmless                  15 and everybody might be happy, or they might be stories                  16 which provoked other kinds of challenge.                  17 Q. I'd like to explore that assertion then, because if the                  18 press are to be free to publish whatever they like                  19 without restraint, doesn't that leave the potential for                  20 them to do enormous damage to people which can't                  21 properly be repaired afterwards?                  22 A. I believe that the dangers involved in prior restraint                  23 to freedom of expression and, I mean, what lies behind                  24 freedom of expression, the freedom of the public to hear                  25 what they want to hear, and anything they want to hear,</p> <p style="text-align: center;">Page 75</p>
<p>1 A. All I would say in response to that is that you have to                  2 be quite careful, I think, about exploring exactly where                  3 competitive advantage might lie there. If somebody                  4 else -- it goes to your point about business. If                  5 somebody else is, as it were, monetising the story on                  6 the Internet, an "exclusive" which is unregulated and on                  7 which they're making money which otherwise might have                  8 been made by a media player in print or in broadcast,                  9 I take the point. But if it's simply out there not                  10 being monetised, it's not obvious that the competitive                  11 advantage is lost.                  12 LORD JUSTICE LEVESON: I take the point, which is why                  13 I sought to draw the distinction that I did.                  14 MR BARR: Can I move now to page 6 of your speech, where you                  15 look to the future under the heading "An agenda for                  16 reform"? You set out some basic principles at the start                  17 of this section. In the third paragraph under the                  18 heading, you say:                  19 "I'm not suggesting that journalism without a clear                  20 public interest justification should be banned, by the                  21 way. In a free society, newspapers and others should                  22 have the right to publish whatever they want without                  23 prior restraint, although they must also face the                  24 consequences, legal and otherwise."                  25 Can I understand where you're coming from? Are you</p> <p style="text-align: center;">Page 74</p>	<p>1 are so great that although I take the point about                  2 privacy, I'm not persuaded that prior restraint is                  3 a safe course to go down.                  4 Q. But doesn't it leave the newspaper owner, the person                  5 who's able to buy his ink by the barrel, free to destroy                  6 and target his enemies?                  7 A. I think it depends on what post-publication redress                  8 looks like and in particular, whether the incentives for                  9 the -- not just the newspaper but for the media provider                  10 are such that the dangers of post-publication redress                  11 are so severe that they think twice. It's not obvious                  12 to me that the only way of solving the problem is by                  13 introducing prior restraint.                  14 Q. You're not --                  15 A. And I think the business of how you get -- who is to                  16 decide and how is it to be decided is likely to be                  17 troublesome.                  18 LORD JUSTICE LEVESON: One of the ideas that we've                  19 discussed -- and I repeat they're ideas only -- is that                  20 in a type of privacy invasion story, there should be                  21 a facility for a publisher to go to some body -- it                  22 doesn't matter what you call it or how you define it for                  23 these purposes -- and use the validation of not prior                  24 notifying, and therefore risking prior restraint, within                  25 any subsequent civil proceedings, and failure to go and</p> <p style="text-align: center;">Page 76</p>

<p>1 get some sort of recognition of the validity of the 2 judgment could equally be taken into account in 3 subsequent civil proceedings as justifying some form of 4 exemplary or aggravated award.</p> <p>5 A. I think I understand the idea. I think there is 6 a question about whether we can be certain -- you've 7 heard me talking about the BBC and our requirement for 8 prima facie evidence, and indeed for a very strong 9 public interest defence. Are we certain -- are we 10 always certain that revelations which turn out to have 11 very considerable public interest, it turns out, whether 12 that is always known about enough in advance for the 13 kind of procedure you're talking about?</p> <p>14 LORD JUSTICE LEVESON: At the end of the day, that would be 15 something that somebody would be able to take into 16 account. The truth is that at the moment of 17 publication, the publisher knows what he knows and knows 18 only what he knows. He doesn't know what might 19 ultimately come out of it.</p> <p>20 A. Yes.</p> <p>21 LORD JUSTICE LEVESON: If there's some uncovenanted 22 consequence somewhere down the track, then so be it, but 23 I'm not convinced that that possible subsequent 24 justification should affect the way in which you could 25 go about it. I'm not saying "must"; I'm not saying</p> <p style="text-align: center;">Page 77</p>	<p>1 Q. You go on to tell us that you favour two systems, one 2 for broadcasters and one for the print media, and you 3 explain that you are against statutory regulation. Can 4 I explore that in more detail? Are you against any sort 5 of legislation at all within a future statutory scheme, 6 or do you see a place for legislation as a backstop 7 measure?</p> <p>8 A. Certainly I think that the statutory approach is clearly 9 possible in principle. Indeed, the BBC exists under 10 a quasi-statutory system and Channel 4 straightforwardly 11 under a statutory system. I say -- I doubt the path 12 will be as practical and fruitful as effective 13 self-regulation.</p> <p>14 Now, I think it's fair to say that one of the things 15 that I've been struck by, by looking at and reading 16 reports of evidence to this Inquiry, is a number of 17 troublesome issues with the context of self-regulation, 18 of which one obvious example is the issue of membership. 19 If it's an industry body which you can --</p> <p>20 LORD JUSTICE LEVESON: I'm interested you consider that 21 troublesome. I certainly do.</p> <p>22 A. And the moment that you, in the argument, end up 23 believing that compulsion is necessary, that it's 24 important that people are members of the club, if the 25 club is to be a complete solution. I would accept it's</p> <p style="text-align: center;">Page 79</p>
<p>1 I necessarily agree.</p> <p>2 A. I understand.</p> <p>3 LORD JUSTICE LEVESON: I'm merely trying to find a way to 4 balance the powerful complaint, and it's particularly in 5 relation to privacy --</p> <p>6 A. Yes.</p> <p>7 LORD JUSTICE LEVESON: -- that once it's out there, it's out 8 there forever, and you can never ever put the genie back 9 in the bottle. You can't unreport something that's in 10 the public domain and therefore, although I take the 11 point you make about the danger of requiring prior 12 notification, I am seeking to find a way of actually 13 making the point that you yourself made, namely to make 14 it sufficiently risky for a publisher not to notify that 15 he has to be very careful about the information he has, 16 otherwise the risks are that much greater.</p> <p>17 A. I understand.</p> <p>18 LORD JUSTICE LEVESON: All right.</p> <p>19 MR BARR: You're not trying to suggest, are you, that 20 newspapers shouldn't behave ethically and have their own 21 ethical codes to ensure --</p> <p>22 A. Not at all, not at all. Not at all. And, moreover, 23 I think they should be -- it seems to me that all media 24 players should be held to account for the decisions they 25 make in the context of their ethics and standards.</p> <p style="text-align: center;">Page 78</p>	<p>1 hard to see how that can be done without some kind of 2 statutory framework. But it's possible to imagine, 3 I think, a scenario where you have an industry-led 4 body --</p> <p>5 LORD JUSTICE LEVESON: Oh --</p> <p>6 A. -- whereby, you know, there might be a statutory 7 solution for refuseniks. It could be a new statutory 8 regulator. It could be -- we already have in 9 broadcasting Ofcom. You could have a statutory 10 alternative into which, as it were, refuseniks end up 11 automatically if they're not part of the industry-led 12 body. So it's possible to imagine --</p> <p>13 LORD JUSTICE LEVESON: The only problem with that is then 14 you have parallel systems. But I've not suggested 15 statutory regulation in any way in relation to content.</p> <p>16 A. Yes.</p> <p>17 LORD JUSTICE LEVESON: I'm merely seeking to provide the 18 muscle -- I think Mr Harding spoke about it, and I think 19 Mr Dacre's talked about the "teeth" -- to make decisions 20 that stick.</p> <p>21 A. Yes.</p> <p>22 LORD JUSTICE LEVESON: How you staff it would have to be 23 independently organised. It would have to have an 24 enormous press input. It would have to have a public 25 input.</p> <p style="text-align: center;">Page 80</p>

<p>1 A. Yes.</p> <p>2 LORD JUSTICE LEVESON: But beyond that, I'm simply</p> <p>3 listening. But I think what Mr Barr was interested to</p> <p>4 know, and I'm certainly interested to know, is whether</p> <p>5 self-regulation can exist, what is effectively</p> <p>6 self-regulation --</p> <p>7 A. Yes.</p> <p>8 LORD JUSTICE LEVESON: -- can exist within a framework that</p> <p>9 means that it bites everyone.</p> <p>10 A. Yes.</p> <p>11 LORD JUSTICE LEVESON: In other words, you can't simply say,</p> <p>12 "Well, I don't want to be a member of the club."</p> <p>13 A. Yes. I say in the speech that the self-regulatory body</p> <p>14 would have to be given the power to conduct unfettered</p> <p>15 investigations into complaints and in cases of serious</p> <p>16 complaints --</p> <p>17 LORD JUSTICE LEVESON: I would love to know how you can do</p> <p>18 that without some sort of framework.</p> <p>19 A. Well --</p> <p>20 LORD JUSTICE LEVESON: Because I'm just not sure about the</p> <p>21 contractual ability to say, "You can impose a fine", or:</p> <p>22 "You can investigate."</p> <p>23 A. Yes.</p> <p>24 LORD JUSTICE LEVESON: And if the relevant newspaper or</p> <p>25 whatever says, "Well, I'm not prepared to give you my</p> <p style="text-align: center;">Page 81</p>	<p>1 of a cloak, because ultimately, if they want to do</p> <p>2 anything, they have to hand it on to somebody else. But</p> <p>3 if you have a framework which means they can do it, they</p> <p>4 can investigate and they have the power to do this, that</p> <p>5 or the other, then you never get to --</p> <p>6 A. Absolutely, but in your second case, it's then become</p> <p>7 a statutory body in all but name, hasn't it, itself?</p> <p>8 LORD JUSTICE LEVESON: Well, I'm not sure.</p> <p>9 A. With all those additional powers and the compulsion for</p> <p>10 people to join it.</p> <p>11 LORD JUSTICE LEVESON: But then the question arises: who is</p> <p>12 doing it? Who is deciding it? And the membership of it</p> <p>13 could be very, very different. People tend to think not</p> <p>14 serving editors any more, and I'm not trying to identify</p> <p>15 who but it could be members of the industry.</p> <p>16 A. If you look at the membership of the BBC Trust and of</p> <p>17 Ofcom, you'll find distinguished ex-editors and</p> <p>18 journalists who are used in these complaints and</p> <p>19 appellate processes in exactly that way. But these are</p> <p>20 clearly statutory or quasi-statutory bodies.</p> <p>21 In other words, the fact that you have some industry</p> <p>22 representatives on the body doesn't itself make it a --</p> <p>23 in my view, a self-regulatory body as such.</p> <p>24 LORD JUSTICE LEVESON: No, I understand that, and the whole</p> <p>25 thing has to be thought out, but the thing you have in</p> <p style="text-align: center;">Page 83</p>
<p>1 emails", what do you then do? Are there civil</p> <p>2 proceedings for an injunction to require them? I mean,</p> <p>3 it's that sort of issue, and I appreciate that this is</p> <p>4 nuts and bolts, but that's what lawyers tend to think</p> <p>5 of, in terms.</p> <p>6 A. It seems to me that you have a choice, probably,</p> <p>7 therefore, about some level of direct statutory</p> <p>8 framework for the -- can we still call it</p> <p>9 self-regulatory body itself? Or you can countenance</p> <p>10 some form of parallel structure, where you have -- it</p> <p>11 certainly wouldn't have to be Ofcom, but let's take</p> <p>12 Ofcom. Ofcom has already, in broadcasting, the power to</p> <p>13 conduct investigations, to impose sanctions and so</p> <p>14 forth. Is it not possible to imagine a self-regulatory</p> <p>15 body which has the power to refer serious cases to</p> <p>16 a second body?</p> <p>17 LORD JUSTICE LEVESON: Of course. Of course it is. But the</p> <p>18 risk of that is that if there's going to be a fine or</p> <p>19 some sort of penalty imposed, and that has to be your</p> <p>20 secondary body, then I would anticipate some of those</p> <p>21 who are very enthusiastic about self-regulation would</p> <p>22 say, "Hang on, it's this extra person who is now</p> <p>23 imposing the penalty because we couldn't", and therefore</p> <p>24 although you still have your press standards body, which</p> <p>25 is entirely self-regulatory, that becomes a little bit</p> <p style="text-align: center;">Page 82</p>	<p>1 relation to the Trust is you have a charter, you have</p> <p>2 a whole structure in place, and the Trust is part of the</p> <p>3 BBC.</p> <p>4 A. Yes.</p> <p>5 LORD JUSTICE LEVESON: In other words, its decisions bite --</p> <p>6 A. Yes.</p> <p>7 LORD JUSTICE LEVESON: -- because the charter of the BBC</p> <p>8 says its decision bite.</p> <p>9 A. Yes.</p> <p>10 LORD JUSTICE LEVESON: Unless somebody says the decisions of</p> <p>11 whatever body you set up bite, then they don't</p> <p>12 necessarily bite, absent consent.</p> <p>13 A. No, indeed.</p> <p>14 LORD JUSTICE LEVESON: That's the issue.</p> <p>15 A. But isn't it another challenge that, in a sense, the</p> <p>16 BBC, which reaches 95, 97 per cent of the British</p> <p>17 population every week and hundreds of millions of people</p> <p>18 around the world is paid for by the public. It's an</p> <p>19 important point we haven't raised yet. The money we</p> <p>20 spend -- in a sense, there is a very good reason why</p> <p>21 there's a kind of not just one belt and braces but</p> <p>22 a number of braces and so forth, to make sure this</p> <p>23 entire system is accountable and that findings and</p> <p>24 sanctions and so forth do bite, and crucially, there's</p> <p>25 transparency with the public about each stage of it,</p> <p style="text-align: center;">Page 84</p>

<p>1 including apologies, corrections, complaints and so 2 forth. That would be a very onerous system to -- 3 LORD JUSTICE LEVESON: I'm not for a moment suggesting that 4 one could impose upon the press the type of system that 5 operates in relation to the broadcast media, although, 6 interestingly, of course, you are competing with them 7 online in just the same way, whether somebody goes to 8 the BBC or the Times online or the Daily Mail online or 9 whatever. But you couldn't do that for all the reasons 10 you mentioned. At least, that's my present view, I say 11 immediately. 12 A. And it would be undesirable. I think it is quite 13 valuable, in terms of plurality of media in this 14 country, that the press are not as regulated and 15 constrained as a broadcast media whose power is more -- 16 and whose reach is broader and more immediate and 17 therefore whose influence is potentially -- 18 LORD JUSTICE LEVESON: I agree with that as well. I want to 19 ask some questions about plurality in a moment, but 20 perhaps we'll come to that. 21 MR BARR: My penultimate question for you, Mr Thompson, 22 picks up on what you have to say about the coverage of 23 the hacking scandal at the top of page 7 of your speech, 24 where you describe it as a betrayal of journalism that 25 the industry didn't report on itself, at least without</p> <p style="text-align: center;">Page 85</p>	<p>1 LORD JUSTICE LEVESON: You appreciate, of course, that in 2 part one of this Inquiry I can't deal with that. This 3 is very much the Polo with a hole in the middle. 4 A. Which is why, in a sense, I think proper 5 dispassionate -- I think there has been a danger of -- 6 somehow that the whole process gives the sense that all 7 newspaper journalism or all tabloid newspaper journalism 8 is bad or dishonest, and that simply isn't the case, and 9 I think that trying to keep objectivity about the range 10 of journalism and about the quality of much of our 11 newspaper journalism is an important part of the story 12 as well. 13 MR BARR: That's a concern which the Inquiry is astute to. 14 LORD JUSTICE LEVESON: Mr Thompson, if I've said that once 15 a day during the course of the last few months, that's 16 the minimum. 17 A. Yes. 18 LORD JUSTICE LEVESON: Of course we are talking about what 19 is, in volume terms, a small issue, but in public 20 perception and importance, really, I believe, very 21 important. 22 A. Indeed. 23 MR BARR: My final question is: is there anything else about 24 future regulation that you would like to say to the 25 chairman?</p> <p style="text-align: center;">Page 87</p>
<p>1 some prominent exceptions, until the story became simply 2 too big to ignore. Isn't that silence on such a big 3 story eloquent of the need for tighter regulation in 4 whatever form that might take? 5 A. Firstly, I think it's troubling. Regulation might be 6 part of the solution, though I'd say to you that it 7 seems to me there are quite interesting questions about 8 corporate governance and about organisational culture 9 there as well, which regulation on its own probably 10 wouldn't solve. 11 But I want to say more broadly that since I gave 12 this speech, I think that coverage of this story and its 13 ramifications has been very widespread in the print 14 media and some excellent journalism has been done across 15 newspapers on the story, and I think in a way, for 16 everyone who is covering the story -- and the BBC is 17 covering it itself -- I think the most important thing 18 at the moment is to keep the coverage as accurate and as 19 dispassionate as possible, given that so many of the 20 fundamental questions of fact are still, to some extent, 21 underdetermined. One of the reasons this Inquiry is 22 important is because I don't think we know yet enough of 23 the underlying facts and basic questions. How 24 widespread were some of these practices across 25 Fleet Street I don't think we have answers to yet.</p> <p style="text-align: center;">Page 86</p>	<p>1 A. I think the only point I would make is back to 2 plurality, really, which is that I think that this 3 country, in the end, has benefited from having a range 4 of media which are funded differently, constituted 5 differently, have different objectives, and it's 6 a system which, to some extent, is potentially 7 reinforcing of itself. When the BBC was in a real 8 crisis during the Hutton affair, and there was a -- 9 appeared to be a stand-off between the BBC and the 10 British government, one of the things that, in a sense, 11 made that stand-off possible for the public to 12 understand and to engage with was the fact that we had 13 a -- we have an incredibly lively, varied press, who 14 were able to freely report on it and although of course 15 I understand it's not for a second the intention of and 16 would not be the intention of the Inquiry to somehow put 17 every bit of British media into one basket, those issues 18 about the protection of plurality, so that we don't end 19 up with a system which can, at some moment in the 20 future, be controlled, whether by a particular political 21 party or by a kind of moment of moral panic, and where 22 the range of information and debate available to the 23 public is reduced -- that is very important, whatever 24 the precise solution which has to be arrived at in terms 25 of reform of the regulation.</p> <p style="text-align: center;">Page 88</p>

<p>1 LORD JUSTICE LEVESON: I agree with your basic proposition                  2 entirely, but let me just move on. Before I forget,                  3 I am going to go back to the evidence you just gave                  4 a moment ago about the possibility that that if somebody                  5 didn't join the club, there could be some statutory                  6 solution. That would require the club to be defined in                  7 a statute, wouldn't it?                  8 A. Yes.                  9 LORD JUSTICE LEVESON: Because --                  10 A. Yes, it would.                  11 LORD JUSTICE LEVESON: -- otherwise you could have six clubs                  12 and you could say, "I'm not a member of that club, but                  13 I'm a member of this club."                  14 A. Yes.                  15 LORD JUSTICE LEVESON: So even in that example -- and that                  16 might be a solution, I'm looking for anything that could                  17 work -- then that still would require some descriptor.                  18 A. Yes, it would, and then perhaps the debate then moves                  19 to, you know, how light a statutory framework can be,                  20 I guess, to allow a body which essentially has been                  21 co-designed by the industry and will be run with the                  22 significant participation of the industry.                  23 LORD JUSTICE LEVESON: I agree. And it could generate                  24 a kite mark, and if the body were given the power to                  25 require evidence or to impose financial penalties,</p> <p style="text-align: center;">Page 89</p>	<p>1 A. Yes.                  2 LORD JUSTICE LEVESON: But I apprehend you may be talking                  3 about yourself as well.                  4 "The civic benefit, not just in terms of the                  5 public's right to know but also, at least in principle,                  6 in terms of better policies and laws and better conduct                  7 by public and commercial bodies alike, may be derived by                  8 exposing the kinds of serious wrongdoing, deception,                  9 hypocrisy and unjustified secrecy that go beyond the                  10 private to have real and significant public                  11 ramifications."                  12 It's that phrase that I just wanted to ask you                  13 about, "to go beyond the private to the have real and                  14 significant public ramifications".                  15 Would that be for you a fair description of the                  16 public interest?                  17 A. Well, it was indeed a summary that I -- and I think it                  18 is. I mean, you will see a more -- there's this prosaic                  19 list in our guidelines mentioned in my witness                  20 statement. But yes, I think that summary is --                  21 LORD JUSTICE LEVESON: Now, here's my question: do you                  22 believe that that concept is or should be different for                  23 a public broadcaster to an independent broadcaster to                  24 the press generally? In other words, are you setting                  25 for yourself, in this descriptor, what you believe, as</p> <p style="text-align: center;">Page 91</p>
<p>1 actually you've created the type of organisation that is                  2 what I've been talking about. The only difference is --                  3 and it's an interesting difference -- that still you                  4 wouldn't have to be in it but if you didn't, there's                  5 something rather less pleasant around the corner. Well,                  6 that's worth thinking about.                  7 A. It might be the hell has got no occupants as well.                  8 LORD JUSTICE LEVESON: That's true. Let me just pick up                  9 a number of other points. I wanted to come back to                  10 public interest, which you said we've not really talked                  11 about.                  12 There are a number of descriptions of public                  13 interest in a number of the pieces of paper that you                  14 very helpfully provided but I'm actually going to go,                  15 rather than to the paper that the BBC has produced, back                  16 to your speech, because there is something in your                  17 speech which I would just like to ask you about.                  18 A. Yes.                  19 LORD JUSTICE LEVESON: What you say in your speech is:                  20 "They are all people for whom the public interest is                  21 not some infinitely elastic concept to justify any                  22 intrusion or journalistic malpractice, but it means                  23 something precise."                  24 Here you're talking about some of your investigative                  25 reporters.</p> <p style="text-align: center;">Page 90</p>	<p>1 a journalist with a lifetime's experience of the                  2 business, is a higher standard than should apply, first                  3 of all, if one takes the public nature of broadcasting                  4 out to another broadcaster, and then to the press?                  5 A. No, I think I'm not saying that. I think I'm saying                  6 that that is my definition of the public interest, which                  7 I would expect, in a sense, to apply to all instances                  8 where the public interest is cited.                  9 However, I might well go on to say that I would                  10 expect a public broadcaster like the BBC to have                  11 a particular focus on ensuring its journalism met the                  12 public interest and had a public interest justification,                  13 whether it was an investigation or not, much more than                  14 I would, I don't know, a gossip magazine. In other                  15 words, it's perfectly possible to conduct journalism                  16 which does not meet that high bar. I'm sceptical about                  17 whether you should then be able to use that high bar to                  18 justify what you've done unless you can justify it.                  19 So, in other words, I think that what varies across                  20 the landscape is not what the public interest is but to                  21 what extent the missions of different media                  22 organisations are about focusing on it, keeping almost                  23 exclusively to it -- almost everything the BBC does in                  24 journalism I would hope would meet a public interest                  25 test -- or whether it's a media organisation which</p> <p style="text-align: center;">Page 92</p>

<p>1 sometimes might use a public interest defence but                  2 sometimes might be doing something which is closer to                  3 offering journalistic entertainment to the public, which                  4 must be defending on its own merits or demerits.                  5 LORD JUSTICE LEVESON: And if nobody's harmed by it, it may                  6 not matter.                  7 A. Yes.                  8 LORD JUSTICE LEVESON: I understand that point. But if one                  9 goes to one of the types of stories that has been the                  10 subject of -- well, actually one could talk about each                  11 of the stories that those who have given evidence to the                  12 Inquiry have spoken about. Whether it's intrusion into                  13 a footballer's sexual activities or into the background                  14 of somebody who's suspected of crime, the test, if it                  15 involves an invasion of privacy or the like -- it's                  16 quite difficult for me to see why it should be                  17 different.                  18 A. Well, the second -- I think, if I may say so, there's                  19 a difference between a proposed investigation into the                  20 private life, sex life, of a footballer as such, and the                  21 investigation into someone who might be responsible for                  22 a crime. I would say that the exposure of a single                  23 crime meets my test of -- I mean, in a sense, any crime                  24 potentially -- certainly the reason we have public law                  25 courts is --</p> <p style="text-align: center;">Page 93</p>	<p>1 I'm sure you're right when you're talking about the                  2 press but one of the criticisms that might be addressed                  3 to the BBC is the extent to which the reach of the BBC                  4 is undermining plurality within the press, and in                  5 particular in regional and local newspapers, where the                  6 BBC has now, as it were, grown roots into local and                  7 regional news in a way that is still developing but may                  8 be said to be undermining the viability of local                  9 newspapers. I'm sure that's a topic upon which you have                  10 thoughts.                  11 A. A big topic, and perhaps best dealt with in summary now,                  12 but at whatever length you wish.                  13 Firstly, the BBC's local and regional programming                  14 services have not grown extensively in recent years at                  15 all. We have a system of local radio stations which we                  16 began to build out in the 1960s and were completed in                  17 the 1970s. We have regional television services,                  18 essentially dropping a half hour programme at 6.30 and                  19 bulletins around the day, which have been going, again,                  20 for 50 years, 60 years, and we have relatively modest                  21 websites associated with roughly the same geographical                  22 areas as our local radio stations. Slightly different                  23 arrangements in the other nations.                  24 I think what has happened is two things have                  25 happened: firstly, the economics of local and regional                  Page 95</p>
<p>1 LORD JUSTICE LEVESON: Yes, I accept that, I accept that.                  2 A. So the second one I think potentially you could make the                  3 case. The first one, unless there was some other                  4 circumstance -- and there might be another circumstance.                  5 We've known sometimes controversies about whether                  6 footballers in prominent positions in the national                  7 squad -- at that point it becomes a matter of legitimate                  8 public debate.                  9 LORD JUSTICE LEVESON: You see, it's always going to be                  10 fact-sensitive.                  11 A. Yes.                  12 LORD JUSTICE LEVESON: And the best example is the Ferdinand                  13 litigation, where it was because he'd become captain                  14 that actually played an important role in the                  15 decision-making of Mr Justice Nicholl.                  16 A. Yes.                  17 LORD JUSTICE LEVESON: I just wanted to ask you about that,                  18 because "real and significant public ramifications"                  19 seems to me to be quite a useful phrase which -- it may                  20 appear in other places, but I saw it for the first time,                  21 I think, in your speech.                  22 The next thing I want to ask you about is -- before                  23 I do, is there anything else that you feel that you can                  24 add on the question of public interest?                  25 The next thing I want to ask you about is plurality.</p> <p style="text-align: center;">Page 94</p>	<p>1 newspapers have deteriorated for reasons which are quite                  2 other than the BBC.                  3 LORD JUSTICE LEVESON: Yes, I understand. Advertising and                  4 recruitment --                  5 A. Classified advertising and so forth. Secondly, arguably                  6 ITV's relative investment in -- both in local and                  7 regional journalism but also more broadly in production                  8 outside London has diminished, and the BBC, not in                  9 journalism but in certain kinds of network production,                  10 has slightly increased its proportion of spend.                  11 I don't think any of that, to be honest, adds up to                  12 a crisis of plurality, nor is it obvious that people are                  13 substituting a decision to buy a newspaper or look on                  14 the local news website by using a BBC service instead.                  15 Broadly, heavier use of BBC websites is correlated with                  16 heavier use of other websites at every level: local,                  17 regional, national. In other words, the more people are                  18 interested in the news, the more they tend to use these                  19 kinds of sites.                  20 So I have yet to see any evidence of a kind of                  21 tangible kind that there's a substitution effect; in                  22 other words, that the use of the BBC is adversely                  23 affecting either the economics or even the usage of                  24 local and regional media, and broadly, when it's                  25 asserted, it's asserted without any data to demonstrate                  Page 96</p>



<p>1 it.</p> <p>2 More broadly, I would say about the BBC that the BBC</p> <p>3 plays quite an important -- there's no question that the</p> <p>4 BBC is a very, very influential provider of news and</p> <p>5 journalism to the UK. We've talked about network news.</p> <p>6 We provide about just under a quarter of the minutes</p> <p>7 broadcast of journalism, network journalism, and we</p> <p>8 represent over 70 per cent of the consumption, which</p> <p>9 suggests something about the public's appetite for and</p> <p>10 trust in the BBC, that consumption is so much greater</p> <p>11 than the share. But the very important role the BBC</p> <p>12 plays is, in programmes like Question Time and any</p> <p>13 questions, and in our many phone-ins -- in other words,</p> <p>14 discussion programmes -- is actually being a platform in</p> <p>15 which different opinions and different voices are heard.</p> <p>16 One of the advantages of being an impartial</p> <p>17 broadcaster is that we tend to want to include opinions</p> <p>18 of every kind in our programmes, which is sometimes not</p> <p>19 true of the print press and sometimes, in a sense, the</p> <p>20 range of voices is narrower in newspapers.</p> <p>21 So I would see overall the BBC, at national and</p> <p>22 international level but also regionally and locally, as</p> <p>23 quite a strong supporter of plurality in the system.</p> <p>24 But to go back to my previous point, I think a system</p> <p>25 where the only kind of media available came from the</p> <p style="text-align: center;">Page 97</p>	<p>1 a world that nobody wants. I've just wondered whether</p> <p>2 you, who do live in a world regulated by the state --</p> <p>3 and I appreciate you're a public broadcaster and you</p> <p>4 have all the other comforts of that position, but I just</p> <p>5 want to know whether this argument is being overstated.</p> <p>6 A. I think the answer -- the essential answer is no, but</p> <p>7 it's worth saying that both the BBC Trust, the charter,</p> <p>8 the BBC guidelines and Ofcom are all configured</p> <p>9 absolutely by people trying strenuously hard to achieve</p> <p>10 what I think you're trying to achieve in the context of</p> <p>11 the press, which is an appropriate balance between</p> <p>12 creativity, risk-taking, originality, courageous</p> <p>13 journalism and proper controls in the context of public</p> <p>14 broadcasting.</p> <p>15 But I think if you simply took the Ofcom code now</p> <p>16 and threw it over to the press, I think it would be very</p> <p>17 constraining of the press. So I think in a way, I think</p> <p>18 it's horses for courses, and we have a system in</p> <p>19 broadcasting, grown up over decades, which is configured</p> <p>20 with a particular vision of public broadcasting in mind.</p> <p>21 Not just in my mind, but in the mind of the regulators.</p> <p>22 LORD JUSTICE LEVESON: Yes. I wasn't actually thinking of</p> <p>23 simply saying, "This is all very easy, just make them</p> <p>24 all subject to Ofcom." At least, I'm not presently</p> <p>25 thinking that.</p> <p style="text-align: center;">Page 99</p>
<p>1 BBC, or even from the public broadcasters, would be</p> <p>2 impoverished compared to what we have today, and I think</p> <p>3 that the pungency of the opinions and the cut and thrust</p> <p>4 of our newspapers is an incredibly valuable part of</p> <p>5 plurality in this country.</p> <p>6 LORD JUSTICE LEVESON: Yes. The problem is how to support</p> <p>7 local newspapers and how to do something that makes</p> <p>8 it -- and how to make sure that one doesn't do something</p> <p>9 that makes it more difficult, rather than easier for</p> <p>10 them to thrive.</p> <p>11 A. Indeed, and certainly I think a straightforward question</p> <p>12 about the cost to a local newspaper of any proposed</p> <p>13 regulatory solution is a significant question.</p> <p>14 LORD JUSTICE LEVESON: Now you're becoming an advocate</p> <p>15 again, Mr Thompson.</p> <p>16 One further question: do you believe that there has</p> <p>17 been any limitations on your editorial discretion</p> <p>18 consequent upon the presence of Ofcom?</p> <p>19 A. Could you help me by just describe what you mean by</p> <p>20 "limitation"?</p> <p>21 LORD JUSTICE LEVESON: Yes. Many people have said it would</p> <p>22 be terrible to have any sort of system that had</p> <p>23 a statute anywhere near the regulation of the press</p> <p>24 because it would destroy freedom of expression, the free</p> <p>25 press, and really quite grandiloquent statements of</p> <p style="text-align: center;">Page 98</p>	<p>1 A. But I think the objection -- it's not -- I'm</p> <p>2 essentially, frankly, a bystander to this debate, but</p> <p>3 the objection to --</p> <p>4 LORD JUSTICE LEVESON: Yes, I wonder how impartial</p> <p>5 a bystander.</p> <p>6 A. I hope, particularly in our coverage --</p> <p>7 LORD JUSTICE LEVESON: Oh no, in coverage, certainly, but --</p> <p>8 A. Because of one's -- our position as a big media player</p> <p>9 in this, we of course are very interested in the broad</p> <p>10 issues of regulation of the media, which is why it's</p> <p>11 reasonable -- indeed, our charter specifically allows us</p> <p>12 to express opinions on these matters.</p> <p>13 My point is simply, I think, that the objection to</p> <p>14 a statutory framework or a statutory constitution or</p> <p>15 a statutory body is not that it's impossible to lay out</p> <p>16 an appropriate code for the press, because in a sense</p> <p>17 that's what a self-regulatory body would have to do</p> <p>18 anyway. It's more to do with whether or not the</p> <p>19 independence of the press from government and from other</p> <p>20 powerful interests could be guaranteed in the long-term</p> <p>21 in a framework which, at any point, Parliament could</p> <p>22 change.</p> <p>23 LORD JUSTICE LEVESON: Yes. Well, that brings me on to the</p> <p>24 way in which the freedom and the independence of the</p> <p>25 judiciary are maintained and preserved by a statutory</p> <p style="text-align: center;">Page 100</p>

<p>1 provision. Any attempt to change the detail would 2 effectively impact on that statutory provision, but 3 there it is. 4 A. It's worth saying in the context of the BBC that 5 certainly historically the BBC has argued against 6 a statutory foundation, preferring instead the idea of 7 royal charters given over 10-year periods, precisely to 8 stop the risk of political changes to its constitution 9 in mid-flight, as it were. 10 LORD JUSTICE LEVESON: Yes, but we'd never be changing the 11 constitution of any of the press; we'd only ever -- 12 A. No, the danger -- I absolutely agree. The theoretical 13 danger is at some point if -- in the middle of 14 a particular political moment, where it's felt that the 15 press need to be gripped, Parliament decides to change 16 the rules of how it's regulated in mid-flight. 17 LORD JUSTICE LEVESON: The answer to that may be -- and 18 I wouldn't want you to think that I'm fighting for 19 a solution I already have, because, as I said, 20 I haven't, but the fact is that if that situation arose, 21 there would be nothing to stop Parliament passing an Act 22 tomorrow anyway. 23 A. That's true. 24 LORD JUSTICE LEVESON: Mr Thompson, thank you very, very 25 much indeed.</p> <p style="text-align: center;">Page 101</p>	<p>1 chancellor of the University of Oxford? 2 A. Correct. 3 Q. You assumed the role of chairman of the BBC Trust on 4 1 May 2011 and are therefore something of a newcomer to 5 the broadcasting media. I'd like to take advantage of 6 that fresh pair of eyes to ask you your views about what 7 you found when you assumed office. 8 First of all, could I ask you about the arrangements 9 between the Trust and the BBC executive? We heard them 10 outlined in Mr Thompson's evidence. Are you satisfied 11 that the arrangements for an independent sovereign body 12 and a separate executive are effective and appropriate 13 at the BBC? 14 A. Yes. They emerged from the implosion of a former system 15 of governance in the wake of the Hutton Inquiry and 16 imbrogllo. I think they work in a satisfactory way. 17 The Trust has the strategic authority. It sets out the 18 policies and guidelines which the executive should 19 pursue. It deals with complaints, it deals with the 20 editorial guidelines, vetting those, and I think is 21 properly conscious of the distinction between its own 22 responsibilities and the responsibilities of the 23 Director General, as the editor-in-chief. 24 I would never ever seek to interfere with one of his 25 editorial decisions. I wouldn't, for example, ever ask</p> <p style="text-align: center;">Page 103</p>
<p>1 A. Okay. 2 MR BARR: Sir, the next witness is Lord Patten. 3 CHRISTOPHER FRANCIS PATTEN, LORD PATTEN OF BARNES (sworn) 4 Questions by Mr Barr 5 MR BARR: Lord Patten, could you tell the Inquiry your full 6 name, please? 7 A. Christopher Francis Lord Patten of Barnes. 8 Q. Are the contents of your witness statement true and 9 correct to the best of your knowledge and belief? 10 A. They are. 11 Q. Lord Patten, you are presently the chairman of the BBC 12 Trust. You come to that office with the background of 13 a successful career in politics. It's right, isn't it, 14 that amongst other things you were Secretary of State 15 for the Environment, the chancellor of the Duchy of 16 Lancaster and the chairman of the Conservative party? 17 A. Correct. 18 Q. Thereafter, you were the governor of Hong Kong until the 19 handover of power? 20 A. Correct. 21 Q. You were the European Commissioner for external 22 relations? 23 A. Yes. 24 Q. And more recently, you have had a career as chancellor 25 of the University of Newcastle and then, presently, the</p> <p style="text-align: center;">Page 102</p>	<p>1 to see a BBC programme, at least not in conceivable 2 circumstances, before it was broadcast, if the Director 3 General had decided it was worth broadcasting. 4 So I think there's a real distinction but I do think 5 we can provide a robust system of government. It may 6 not be perfect but I'm rather impatient of endless 7 debates about institutional architecture, having spent 8 five years of my life at the European Commission. 9 Q. I shall try not to question you on that theme for too 10 much longer. You chair a trust which has 11 a vice-chairman and ten ordinary members, including 12 a member from England, Scotland, Wales and Northern 13 Ireland respectively. 14 A. That's correct, and with a range of experiences, and 15 perhaps, particularly germane to the discussion which 16 I've listened to this morning, the member for England, 17 who chairs our editorial standards committee, has a long 18 experience in journalism of getting on for 30 years, 19 I think 29 years. He was the editor of a Metropolitan 20 evening paper which itself had an investigations unit, 21 has done work with the Press Complaints Commission and 22 is therefore extremely professionally well informed 23 about the issues she and her committee have to deal 24 with. 25 Q. Amongst the powers of the trust are to point the</p> <p style="text-align: center;">Page 104</p>

<p>1 chairman of the executive board; is that right?</p> <p>2 A. That's right.</p> <p>3 Q. We've heard some of the other powers that you've had.</p> <p>4 When you assumed office, you commissioned a governance</p> <p>5 review, didn't you?</p> <p>6 A. That's right.</p> <p>7 Q. If I've understood it correctly, essentially two main</p> <p>8 themes emerge from that. One was that the complaints</p> <p>9 system was capable of improvement; is that right?</p> <p>10 A. That's truly right.</p> <p>11 Q. And is something being done about that?</p> <p>12 A. Yes. I noticed that you had an interest in the</p> <p>13 complaints procedure. Perhaps I can just sketch out</p> <p>14 again briefly what it consists of. There are actually</p> <p>15 three parts. The first part is dealt with by the</p> <p>16 executive's information department and, if necessary, by</p> <p>17 the programme itself, and about 240,000 people, as the</p> <p>18 Director General said, use that procedure.</p> <p>19 Those who aren't satisfied by it can go to a second</p> <p>20 procedure, which I think only involves about 200 -- when</p> <p>21 I say "only about", it is 257 people at the last</p> <p>22 count -- whose complaint is looked at by the complaints</p> <p>23 unit. Then, if they're not satisfied, about 57 in the</p> <p>24 latest count appeals are taken by the Trust where there</p> <p>25 are matters of substance which the Trust believe may not</p> <p style="text-align: center;">Page 105</p>	<p>1 level, we have the Primark decision in the bundle. It's</p> <p>2 a very thorough piece of work, and I wanted to ask you:</p> <p>3 is that representative of the sort of decision that one</p> <p>4 gets at Trust level?</p> <p>5 A. Yes, it's very typical of the quality of the decisions</p> <p>6 that are made and the thoroughness.</p> <p>7 I think sometimes journalists understandably worry</p> <p>8 about the thoroughness of the process but I do think</p> <p>9 that at the end of the day -- a phrase that was used</p> <p>10 earlier -- it's very important to the gold standard of</p> <p>11 accuracy and impartiality which the BBC tries to set</p> <p>12 that the process should be as thorough as that. But if</p> <p>13 you're reporting, for example, on the Middle East, and</p> <p>14 know that any report that you deliver is likely to</p> <p>15 attract or may well attract hundreds or thousands of</p> <p>16 complaints from Ohio and other places, which we have to</p> <p>17 consider just as if they'd come from Darlington, and if</p> <p>18 you know that the process is going to be very elaborate</p> <p>19 at looking at the quality of your journalism, it can,</p> <p>20 I think, sometimes be a bit tough on journalists, but</p> <p>21 I think we have to do it in order to safeguard the</p> <p>22 standards which I mentioned earlier.</p> <p>23 Q. Returning to your governance review, the other main</p> <p>24 thread that I drew out of it was that there was a need,</p> <p>25 your reviewer thought, to simplify and speed up some the</p> <p style="text-align: center;">Page 107</p>
<p>1 have been adequately dealt with, and I think the problem</p> <p>2 has been that the system is very complicated for people</p> <p>3 to understand, so I wanted there to be greater clarity</p> <p>4 about how it should work and more simplicity in that</p> <p>5 sense, and I also thought that it was very important for</p> <p>6 us to be faster, if we could, and quicker, and I hoped</p> <p>7 that the appointment of -- of an editorial -- of a chief</p> <p>8 of editorial complaints, of corrections, will help to</p> <p>9 deal with that.</p> <p>10 LORD JUSTICE LEVESON: Am I right in saying that it only</p> <p>11 gets to the final stage, to the Trust, with the</p> <p>12 permission of the Trust?</p> <p>13 A. That's correct. But --</p> <p>14 LORD JUSTICE LEVESON: So you have a whole parallel legal</p> <p>15 system here which requires leave to appeal to get to</p> <p>16 your body?</p> <p>17 A. Well, we do have our own in-house legal advice and we</p> <p>18 also acquire, at exemplary cost, the best legal advice</p> <p>19 from outside.</p> <p>20 LORD JUSTICE LEVESON: Yes.</p> <p>21 A. I think it shows in the quality of some of the judgments</p> <p>22 we've made. For example, in the Primark case, which you</p> <p>23 talked about earlier.</p> <p>24 MR BARR: I was going to come to that, because as to the</p> <p>25 thoroughness of investigation of complaints at Trust</p> <p style="text-align: center;">Page 106</p>	<p>1 other procedures, including the editorial procedures</p> <p>2 which are in place. Is that right?</p> <p>3 A. Yes, but simplify so as to make more understandable, not</p> <p>4 simplify so as to cut corners.</p> <p>5 Q. That's --</p> <p>6 A. Can I just add one point? I do have an instinct, which</p> <p>7 is not borne out by a wealth of statistical evidence,</p> <p>8 that we should learn to say "sorry" quicker.</p> <p>9 Q. You're anticipating my next question: how are you go</p> <p>10 going to go about speeding up and simplifying the</p> <p>11 procedures at the BBC, including the editorial policy</p> <p>12 decisions, without losing that gold standard which is so</p> <p>13 important to the BBC?</p> <p>14 A. Well, I hope that will be the principal task of the</p> <p>15 senior executive of the BBC, who will now be charged</p> <p>16 with dealing with -- with having overall responsibility</p> <p>17 for complaints. It's the sort of editorial post which</p> <p>18 has, I think, been introduced in some newspapers, both</p> <p>19 in this country and in other countries, beginning,</p> <p>20 I think, with the New York Times, with varying degrees</p> <p>21 of success. But I hope that the BBC will do it well.</p> <p>22 Q. As well as your governance review, we can also tell from</p> <p>23 your witness statement that when the hacking scandal</p> <p>24 broke, you were thinking alike with Mr Thompson, because</p> <p>25 you tell us that you got in touch with him to ask for an</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

<p>1 investigation of the BBC in relation to the matters 2 which were affecting the News of the World. You heard 3 my questions to Mr Thompson. What in your mind was the 4 importance of the BBC investigating whether its stable 5 was clean? 6 A. Well, first of all it's germane that when I asked the 7 Director General whether he would investigate whether 8 the BBC had been involved in any of that sort of 9 systemic criminality which we were reading about in part 10 of the press, he said he'd already asked for the 11 inquiry, which is, I think, a level of his concern for 12 the reputation and practices of the organisation. 13 Secondly, given, I think, the general surprise at 14 the extent of the practice in part of the media, 15 I suspect that both of us wanted to be absolutely clear 16 that what other people seemed to be doing in such 17 prodigious -- to such a prodigious extent hadn't 18 polluted journalism at the BBC, and I think we also were 19 aware -- I was certainly conscious of the fact that we 20 would be reporting this on our news channels and better 21 be sure that we were clean ourselves. 22 Q. You also -- 23 A. Can I just add: I don't think that, given the importance 24 of public trust to the BBC -- and you see that in all 25 the polls that have been done, in the surveys and so on,</p> <p style="text-align: center;">Page 109</p>	<p>1 (1.03 pm) 2 (The luncheon adjournment) 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 111</p>
<p>1 and you find it reflected anecdotally -- because of 2 that, I don't think the BBC can afford to make any 3 mistakes in these sort of areas, and when it does, it 4 suffers badly. 5 Q. Perhaps picking up that theme, you've heard this morning 6 that there is, in fact, no specific ban on phone hacking 7 or the interception of communications in BBC procedures, 8 albeit there are umbrella procedures which would capture 9 those activities. Do you think it would be an 10 improvement of the present systems if there was 11 a specific ban on phone hacking? 12 A. Well, I do think that the procedures, when you read 13 them, would clearly deter or prevent phone hacking, but 14 I have no doubt at all that partly as a result of this 15 Inquiry we will be obliged, even if we don't want to do 16 so but I can't imagine not wanting to do so, to be 17 absolutely explicit. 18 LORD JUSTICE LEVESON: I don't think I'll be obliging you to 19 do anything, Lord Barnes -- 20 A. No, but I think that the public opinion is going to -- 21 LORD JUSTICE LEVESON: Yes, that's different. Mr Barr, is 22 that convenient? 23 MR BARR: It is. 24 LORD JUSTICE LEVESON: Very good. I hope it's not 25 inconvenient for 2 o'clock, Lord Patten.</p> <p style="text-align: center;">Page 110</p>	

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