

<p>1 2 (2.10 pm) 3 MR BARR: Our first witness this afternoon is Mr Allan from 4 Facebook. 5 LORD JUSTICE LEVESON: Thank you. 6 MR RICHARD BEECROFT ALLAN (affirmed) 7 Questions by MR BARR 8 MR BARR: Mr Allan, good afternoon. Could you tell us your 9 full name, please? 10 A. My full name is Richard Beecroft Allan. 11 Q. Are the contents of your witness statement true and 12 correct to the best of your knowledge and belief? 13 A. They are. 14 Q. You tell us that you are the director of public policy 15 for Europe, Middle East and Africa for Facebook? 16 A. That's correct. 17 Q. You're responsible for the company's involvement on 18 matters of public policy across the region, including 19 the United Kingdom. Your team works on a broad 20 portfolio of issues, including privacy, online child 21 safety, freedom of expression, e-commerce regulation and 22 public sector uses of social media. 23 Before joining Facebook in June 2009, you were the 24 European government affairs director for Cisco and 25 you've been an academic visitor at the Oxford Internet Page 1</p>	<p>1 Q. About their activities. And that the application also 2 has photography, event, videos, groups and pages, which 3 are ways of connecting one user to another. 4 There are various other communication channels, 5 chat, personal messages, wall posts, pokes or status 6 updates. Is that right? 7 A. That is correct. 8 Q. There is a development platform, which enables companies 9 and developers to integrate their own applications and 10 services with Facebook, and you tell us that the net 11 result of offering these services is that there are 800 12 million active users globally, including some 30 million 13 in the United Kingdom alone, and that number is not just 14 people who have had accounts, but who have returned to 15 the site in the last 30 days? 16 A. That's correct. 17 LORD JUSTICE LEVESON: Well, what percentage of the 18 population of that -- I was about to say that's one in 19 two, but it's more than one in two, because, of course, 20 you can only get into it when you're 13. 21 A. It is, sir, yes. For the adult population of 13 plus, 22 it's more than 50 per cent of the UK population. 23 MR BARR: Facebook employs 3,000 people worldwide. A lot of 24 private and public sector organisations use Facebook 25 services. For example, you tell us Facebook partnered Page 3</p>
<p>1 Institute. 2 You also between 2008 and 2009 chaired the UK 3 Cabinet Office's power of information taskforce, working 4 on improving the use of government data. You were the 5 Member of Parliament for Sheffield Hallam between 1997 6 and 2005, and you were appointed to the House of Lords 7 in 2010. 8 A. That's correct. 9 Q. Can I ask you now a little bit about the product 10 Facebook. You tell us that in essence the company 11 develops technologies that facilitate the sharing by 12 individuals of their information through what you call 13 the social graph, the digital mapping of people's 14 real-world social connections. Anyone over the age of 15 13 can sign up, but you wish to emphasise that Facebook 16 does not itself produce the content that is shared via 17 the service. 18 You tell us a little bit more detail about the 19 platform. It's made up of core site features and 20 applications. Fundamental features include a person's 21 home page and timeline. There is also a news feed -- 22 it's not news in the sense that we may have been using 23 it, but this is news about a user's friends and what 24 they are posting? 25 A. Correct. Page 2</p>	<p>1 with the Electoral Commission in the run-up to the last 2 General Election in this country, indeed to encourage 3 young people to register to vote, and the monarchy made 4 extensive use of the service during last year's royal 5 wedding celebrations. 6 It's a service which is free to use at the point of 7 use, and funding is derived mainly from advertising, but 8 there is also supplementary revenue from the sale of 9 Facebook Credits. 10 A. That's correct. 11 Q. Moving now to the corporate structure, Facebook's 12 international headquarters are in Dublin, and the global 13 headquarters are in Menlo Park, California. Can you 14 help us with the distinction between international 15 headquarters and global headquarters? 16 A. Yes, the headquarters operation in Dublin consists of 17 around 400 people carrying out a very broad range of 18 functions, including those which are directly related to 19 users. Any use of the service outside the US and North 20 America has a contract with Facebook Ireland for the 21 delivery of that service to them. Then Facebook Ireland 22 in turn has a number of subsidiary offices around the 23 particular union. Of particular relevance here, it has 24 an office in the UK, which provides a much more limited 25 set of functions, primarily related to marketing and Page 4</p>

<p>1 sales support.</p> <p>2 Q. Indeed, you explain that in your witness statement, that</p> <p>3 Facebook UK Limited is really a small and supporting</p> <p>4 operation, and that the user is actually contracting</p> <p>5 with Facebook Ireland Limited?</p> <p>6 A. That's correct.</p> <p>7 Q. Having dealt with the product in outline, and the</p> <p>8 corporate structure, can I ask you, as I did with the</p> <p>9 witnesses from Google, a little bit about Facebook's</p> <p>10 approach to privacy in principle, please. Can we start</p> <p>11 with the document at tab 11 of the bundle. It's an</p> <p>12 article published by the Guardian on 11 January 2010, so</p> <p>13 just over two years ago, reporting the words of the</p> <p>14 Facebook founder, Mark Zuckerberg, and he was saying</p> <p>15 that he thought that privacy was no longer a social</p> <p>16 norm. He's quoted as saying -- I'm looking at the third</p> <p>17 paragraph:</p> <p>18 "People have really gotten comfortable not only</p> <p>19 sharing more information and different kinds, but more</p> <p>20 openly and with more people. That social norm is just</p> <p>21 something that has evolved over time."</p> <p>22 Can I ask you: what is Facebook's approach in</p> <p>23 principle to the privacy of information?</p> <p>24 A. So Facebook has created a platform whose express purpose</p> <p>25 is to allow people to connect with other people, be that</p> <p style="text-align: center;">Page 5</p>	<p>1 all of your friends or do you just want to share it</p> <p>2 perhaps with a subset of them, your family or your</p> <p>3 closest friends?"</p> <p>4 Q. Thank you. Like a lot of very large media companies,</p> <p>5 privacy has been a controversial issue for Facebook, and</p> <p>6 if I could take you to the last tab in the bundle,</p> <p>7 tab 12, we have an article there dating from February</p> <p>8 2009, which reports the interest of the American</p> <p>9 regulator, the FTC, in changes to Facebook's privacy</p> <p>10 policies, which rather widened the uses which Facebook</p> <p>11 could put information to.</p> <p>12 Can you help us, please, with what the outcome of</p> <p>13 that FTC involvement was?</p> <p>14 A. I'm pleased to be able to tell you that we reached</p> <p>15 a settlement with the FTC in November of last year, with</p> <p>16 a series of undertakings that we agreed to with them to</p> <p>17 ensure that, for example, we have clearly defined</p> <p>18 privacy officers both on the product side and the policy</p> <p>19 side within the company, that we will report regularly</p> <p>20 back to the FTC on what it is that we're doing, and</p> <p>21 that, for example, we will undertake certain forms of</p> <p>22 engagement with our users beyond those which we already</p> <p>23 do and which are very extensive, when we make certain</p> <p>24 forms of changes to the platform.</p> <p>25 So that agreement is there with the FTC, and I think</p> <p style="text-align: center;">Page 7</p>
<p>1 family or friends or organisations of interest to them,</p> <p>2 and then to share information with that group of</p> <p>3 connections. So our core raison d'etre is to give</p> <p>4 people the ability to share personal information with</p> <p>5 others. But crucial to that is the notion that the</p> <p>6 individual controls what information they're sharing and</p> <p>7 who they may share it with, so they control both the</p> <p>8 content and the audience. So for us, privacy is</p> <p>9 a notion which is very much at the heart of what we're</p> <p>10 trying to do, but very much a notion that's allied with</p> <p>11 that concept of control.</p> <p>12 I guess we would contrast it with a notion of</p> <p>13 secrecy, keeping information entirely to yourself and</p> <p>14 not sharing it with anyone, where clearly a platform</p> <p>15 like ours is of no use to somebody who's not interested</p> <p>16 in sharing information with a group of people. So it's</p> <p>17 very much about sharing what you wish to share with the</p> <p>18 group with whom you wish to share it, and that's</p> <p>19 articulated when you use the service by a set of very</p> <p>20 clear controls.</p> <p>21 If I go on to the Facebook site, I'm offered the</p> <p>22 ability to share whether it's a photo or a textual</p> <p>23 comment or a link to something else and right in front</p> <p>24 of me is a little icon that says, "Do you want to share</p> <p>25 this with the whole world? Do you want to share it with</p> <p style="text-align: center;">Page 6</p>	<p>1 it does -- I mean, the fact that this happened reflects</p> <p>2 the fact that as a platform Facebook is under an</p> <p>3 enormous amount of scrutiny, and that huge user base of</p> <p>4 800 million users means that people are very willing to</p> <p>5 come forward if they have concerns or criticisms about</p> <p>6 the platform, and I would say equally we're willing to</p> <p>7 meet them and to try and find an agreement and</p> <p>8 a settlement.</p> <p>9 Q. In addition to American regulation, of course, Facebook</p> <p>10 Ireland is subject separately to the regulation of the</p> <p>11 Irish authorities, and in particular their data</p> <p>12 protection commissioner. You have in the bundle the</p> <p>13 report of an audit, recent audit, dated 21 December 2011</p> <p>14 into Facebook's activities from a data protection point</p> <p>15 of view. Is that right?</p> <p>16 A. That's correct.</p> <p>17 Q. I won't go into the details of that just at the moment,</p> <p>18 but to continue with the legal theme, it's right, isn't</p> <p>19 it, that Facebook, like Google whom we heard from, tries</p> <p>20 to comply as a matter of policy with the laws of the</p> <p>21 lands where it operates?</p> <p>22 A. That's correct.</p> <p>23 Q. Can I ask about the way in which the agreement between</p> <p>24 the individual user and Facebook Ireland works? As</p> <p>25 I understand it, at the core of the agreement is</p> <p style="text-align: center;">Page 8</p>

<p>1 a statement of rights and responsibilities, and this                  2 sets out what it is that the user is promising to do and                  3 not to do. This is exhibited to your witness statement,                  4 and perhaps if we look at page 12, following the                  5 pagination at the bottom of the page --                  6 LORD JUSTICE LEVESON: 54812. Is that what you mean?                  7 MR BARR: 54820.                  8 LORD JUSTICE LEVESON: I see. So 12 on the internal                  9 numbering?                  10 MR BARR: That's right.                  11 LORD JUSTICE LEVESON: Yes.                  12 MR BARR: There's a section of the statement of rights and                  13 responsibilities. Paragraph 5, "Protecting other                  14 people's rights":                  15 "We respect other people's rights and expect you to                  16 do the same."                  17 I won't go through all of it, but perhaps I could                  18 pick up on number 1:                  19 "You will not post content or take any action on                  20 Facebook that infringes or violates someone else's                  21 rights or otherwise violates the law.                  22 "2. We can remove any content or information you                  23 post on Facebook if we believe that it violates this                  24 statement ...                  25 "8. You will not post anyone's identification</p> <p style="text-align: center;">Page 9</p>	<p>1 that unlike Google, which only provides you with an                  2 index -- and I don't intend to belittle the importance                  3 of an index -- you are hosting content and to that                  4 extent have a responsibility not for the content,                  5 because you're not putting it on and you haven't got the                  6 people to read it all, but you have some measure of                  7 control over it.                  8 A. That's correct, sir, and I would say, and I think it's                  9 hopefully clear from the evidence we've given, that we                  10 fully accept that responsibility and have taken the                  11 necessary measures to make sure we can discharge it.                  12 MR BARR: If we turn back one page from the section we were                  13 looking at in the exhibit at section 3, we have the                  14 safety section, which contains many of the prohibitions                  15 to which you've just referred. 6 is the prohibition on                  16 bullying, intimidating or harassing any user, 7 deals,                  17 amongst other things, with pornography, violence or                  18 threats, and 10:                  19 "You will not use Facebook to do anything unlawful,                  20 misleading, malicious or discriminatory."                  21 A. Yes.                  22 Q. An important feature of Facebook is that you have to use                  23 your real identity, don't you?                  24 A. That's correct, yes.                  25 Q. In the bundle, we needn't turn it up, is an example from</p> <p style="text-align: center;">Page 11</p>
<p>1 documents or sensitive financial information on                  2 Facebook."                  3 Does that give you the contractual underpinning to                  4 remove illegal material?                  5 A. That's precisely the purpose of those clauses, yes.                  6 LORD JUSTICE LEVESON: Is it just illegal?                  7 A. There is a range of other materials, sir, that's set out                  8 in our community standards, which is a separate document                  9 that covers areas, for example, like nudity and                  10 pornography. So nudity and pornography that would                  11 otherwise be legal in many jurisdictions will be removed                  12 from Facebook as a matter of policy because we don't                  13 want that material on the site. So it does go way                  14 beyond the illegal into other forms of content that are                  15 simply regarded as unsuitable under our terms for the                  16 audience that we have.                  17 LORD JUSTICE LEVESON: So that might include, for example,                  18 bullying?                  19 A. Precisely, and there is -- you're right, sir, there are                  20 specific clauses on bullying and harassment, nudity and                  21 pornography, excessive violence, hate speech and other                  22 forms of content which we would regard as unsuitable for                  23 what we have, which is a general audience, 13 plus,                  24 across multiple cultures and jurisdictions.                  25 LORD JUSTICE LEVESON: Because the problem is, of course,</p> <p style="text-align: center;">Page 10</p>	<p>1 a news report -- from a PCC report of a case in which                  2 a reporter had used a false identity to create                  3 a Facebook address. Can I take it from the terms that                  4 we've just looked at that that would be a breach of the                  5 Facebook terms and conditions and, if you'd been aware                  6 of it in advance, would have been an account which would                  7 have been closed?                  8 A. Absolutely. If I can elaborate on that just a little,                  9 the real identity culture is at the core of what                  10 Facebook has done. You may be aware that there are                  11 a wide range of services on the Internet that offer                  12 a similar functionality, that people can connect with                  13 each other and form into groups. We believe that                  14 Facebook has been so successful precisely because it has                  15 enforced very robustly a policy that says: if you're                  16 coming on the platform, you must present yourself as                  17 yourself, so that when others engage with you, they can                  18 have a reasonable confidence that you are who you say                  19 you are. That means that people typically have 100 or                  20 200 connections of people they know in the real world,                  21 and a much richer engagement, we think, than they would                  22 have on many of the other spaces on the Internet where                  23 you're talking with people operating under pseudonyms,                  24 made-up names --                  25 LORD JUSTICE LEVESON: But how do you know?</p> <p style="text-align: center;">Page 12</p>

<p>1 A. Most of the verification we get is precisely that social                  2 verification. If you come onto the platform and don't                  3 present yourself under your real identity, you don't                  4 have a meaningful experience. Conversely, if you do                  5 present yourself under your real identity, so if, for                  6 example, you connected with me, I would be able to see                  7 that you have an ecosystem of friends and family around                  8 you, and therefore reasonable confidence you are who you                  9 say you are. If you had no friends at all, or simply                  10 a random set of friends, then I would have a lot less                  11 confidence that you were who you said you were.</p> <p>12 LORD JUSTICE LEVESON: Do you have mechanisms available to                  13 you -- I'm not going to ask what they are -- to check up                  14 on that sort of thing?</p> <p>15 A. We have a security team who are constantly looking for                  16 the people trying to get around the system, and indeed,                  17 in many of perhaps the sort of hard cases we indeed                  18 might be looking at the sort of people who are carrying                  19 out malicious behaviour will use fake identities quite                  20 deliberately because they feel less accountable for                  21 doing so.</p> <p>22 So we have systems precisely to try and pick that up                  23 because we don't want those people on our platform, we                  24 don't want those identities on our platform. Yes, there                  25 are some systems in place, and we actually find the</p> <p style="text-align: center;">Page 13</p>	<p>1 comment on the site. So you read an article, and                  2 instead of commenting as "Angry of Tunbridge Wells", you                  3 now comment as Richard Allan, and they found that people                  4 commenting in their real identities will engage in                  5 a better discussion than they would do when they were                  6 Angry of Tunbridge Wells.</p> <p>7 Q. Can I ask you now about what mechanisms there are for                  8 dealing with posts which readers and users find                  9 objectionable? I understand there are various                  10 mechanisms, so perhaps we can deal with them one at                  11 a time.</p> <p>12 First of all if we deal with the horizontal                  13 controls, if I can call them that, between users. It's                  14 right, isn't it, that there are mechanisms for one user                  15 to object to the post of another directly and ask them                  16 to remove it?</p> <p>17 A. That's right. We've created our system called social                  18 reporting really for two reasons. One is being very                  19 conscious of this scale that we have where people are                  20 posting phenomenal amounts of content, you're always                  21 looking for the most effective way of resolving                  22 a dispute. So having mechanisms where if somebody posts                  23 a photo of me I simply let them know, in most cases that                  24 will resolve the dispute. You don't need to escalate it                  25 either to Facebook or to a regulator or to a court to</p> <p style="text-align: center;">Page 15</p>
<p>1 strongest protection, again, is that community of users.                  2 We effectively have an 800 million strong Neighbourhood                  3 Watch community of people who will very happily report                  4 to us if they think someone is a fake identity or                  5 behaving strangely.</p> <p>6 MR BARR: Since Facebook took on the policy of real identity                  7 and enforced it rigorously, has there been any                  8 discernible change in the amount of objectionable                  9 content that's been posted and had to be removed?</p> <p>10 A. Just to be clear, real identity has been at the core of                  11 what Facebook's done since the beginning, and we firmly                  12 believe that that's why, for the typical user of                  13 Facebook, they can be using it day in, day out, month                  14 in, month out, and never come across objectionable                  15 content. It really is a rare experience that one comes                  16 across content that is problematic on the Facebook                  17 platform, and that's because most people are feeling                  18 accountable. When they do something on Facebook, it's                  19 literally in front of their friends and family, and                  20 therefore -- people will overstep the mark, but they're                  21 much less likely to do so.</p> <p>22 What we've also found with our partners, that's been                  23 one of the reasons that Facebook has been taken up to                  24 such a high degree, so, for example, many newspapers now                  25 will use Facebook identities for people wanting to</p> <p style="text-align: center;">Page 14</p>	<p>1 resolve that situation if we make it very simple for                  2 people to do that, fix things between themselves.</p> <p>3 Q. So this is as simple as "I don't like that, please will                  4 you take it down"?</p> <p>5 A. "Please remove it". And the second part of that is                  6 people do learn, and if I tell somebody that I don't                  7 like them posting photos of me, hopefully they're going                  8 to stop posting photos of me in future, because they'll                  9 have learnt from me. Whereas if an anonymous source                  10 simply removed that content, they may never get the                  11 message that it's me who's upset about it.</p> <p>12 Q. And is there a function for allowing an intermediary to                  13 get involved in the user-to-user disagreement?</p> <p>14 A. Precisely. We've also recognised that in some cases,                  15 and you might think particularly in those instances of                  16 bullying for a younger person, that it would be helpful                  17 to bring in a teacher, a parent or some other trusted                  18 adult and make them aware of the dispute, because you                  19 need to resolve that dispute between individuals in                  20 a physical space, you can't just resolve it just online.                  21 So the social reporting feature also allows you to say                  22 "Please send this report to a third party because I want                  23 to get them engaged in my dispute".</p> <p>24 Q. There is though still an option to go straight to                  25 Facebook, isn't there, and complain about content?</p> <p style="text-align: center;">Page 16</p>

<p>1 A. Exactly. So there are reporting buttons right across 2 the site and this design essentially tries to deal with 3 it in a tiered way: resolve it between yourselves if you 4 can, perhaps escalate to somebody else if that's 5 appropriate. If the dispute is still going on, then 6 escalate it to us and we can remove the content or 7 remove the user, and of course in very extreme 8 circumstances you may wish to escalate it to the public 9 authorities in your country because there's something 10 that requires their intervention.</p> <p>11 Q. Just to be clear, does the user have to start at the 12 bottom or can the user go straight to Facebook?</p> <p>13 A. They get the choice. They get offered the different 14 options, they can come straight to us if they choose to 15 do so.</p> <p>16 Q. When a complaint comes to you, whether it's after 17 a failed attempt below or direct to you, what test does 18 Facebook apply to the post of a UK user in deciding 19 whether or not to take down the content?</p> <p>20 A. The primary test is conformance with the statement of 21 rights and responsibilities, and we actually find that 22 most of the incidents that are reported to us -- 23 actually, even including many of those where there may 24 be an allegation of illegality, they're generally 25 resolved because of some other breach of rights and</p> <p style="text-align: center;">Page 17</p>	<p>1 national domain names to create different entities like 2 Google does and some other service providers, and 3 Facebook, which is a single global community. It's 4 designed so that I can speak with my cousin in the 5 United States, so it makes no sense to have a UK 6 Facebook and an American Facebook. There is one 7 Facebook.</p> <p>8 Given that we have that structure, that design goal, 9 to have a single global community, there are sometimes 10 exceptional circumstances where we get a report of 11 content that is illegal in one jurisdiction and not in 12 others, and there are technical means available to 13 restrict the access to some of the content on Facebook 14 on the basis of the person who is viewing it. It's not 15 something we do by preference, and as I say our 16 experience is that it's not something that we commonly 17 have to do, because most of the breaches are breaches of 18 our terms of service that are global breaches and 19 therefore actionable globally.</p> <p>20 Q. I was talking earlier about the situation where one user 21 is objecting to the material posted by another. Can 22 I ask you now about the situation where a non-user, 23 a third party learns that objectionable material has 24 been posted by a Facebook user. How does such a person 25 complain to you about that?</p> <p style="text-align: center;">Page 19</p>
<p>1 responsibilities. Somebody may be using a fake identity 2 to post the information, there may be nudity or 3 pornography involved, there may be forms of hate speech 4 that are unacceptable under our terms, therefore the 5 situation can be resolved if you like by reference to 6 the statement of rights and responsibilities rather than 7 requiring a technical legal analysis.</p> <p>8 Q. Sorry, carry on.</p> <p>9 A. I was going to say for cases where it's clear that it's 10 about illegality or illegal compliance in the UK 11 specifically, then we would apply the test, I think 12 similar to many other companies, of saying: if it's not 13 in conformance with UK law and it's been posted by 14 a user in the UK, then that user has breached our terms 15 of service by making that posting and then we'll take 16 the appropriate action.</p> <p>17 Q. You've explained the tools, the weapons in your arsenal, 18 if I put it that way. One is to just remove a post. At 19 a more serious level, you can prevent a user using the 20 system at all. There's a third way, blocking content. 21 You are technically able, if needs be, to block certain 22 content to certain destinations; is that right?</p> <p>23 A. Yes. I think it's perhaps important to understand the 24 distinction between a service like Facebook and I think 25 you heard evidence earlier about people using different</p> <p style="text-align: center;">Page 18</p>	<p>1 A. So we offer an extensive help centre on the service, and 2 the help centre contains material directed to people who 3 use the service but also directed towards people who 4 don't use the service and they can go there and carry 5 out searches on some of the common terms you might think 6 of like defamation, invasion of privacy and so on, and 7 they will find material that directs them towards 8 getting help. Typically they may need to use a web form 9 in order to report things, because they can't report it 10 directly themselves.</p> <p>11 We also find in practice that again because of the 12 large number of people now using Facebook, that in 13 practice people will simply find somebody else who is 14 a user of Facebook and get them to report it for them.</p> <p>15 Q. Does that third-party reporting system allow complaints 16 of defamation and privacy invasion to be made?</p> <p>17 A. So we have a generic reporting term that covers -- which 18 is designed to allow people to give us notice of 19 potential illegal content and the kinds of things they 20 give us notice of are typically a combination of 21 intellectual property violations, copyright, trademark, 22 et cetera, and issues like defamation and invasion of 23 privacy. So there is a form available on the site that 24 people can use to report content that they believe is 25 illegal and in order to put us on notice of that illegal</p> <p style="text-align: center;">Page 20</p>

<p>1 content.</p> <p>2 Q. The Inquiry has heard some evidence about the speed at</p> <p>3 which new media companies are able to deal with</p> <p>4 complaints and complaining that they're not dealt with</p> <p>5 quickly enough. Are you able to help us with how</p> <p>6 quickly Facebook is able to turn around complaints of</p> <p>7 privacy and defamation made by UK users?</p> <p>8 A. Yes. In common with what you'll hear from companies</p> <p>9 generally, we will operate a system where we can't</p> <p>10 entirely control the inputs, because they will be</p> <p>11 responsive to particular pressures at a particular time,</p> <p>12 but we do have some targets and I checked with the legal</p> <p>13 team who deal with this class of violation, the material</p> <p>14 that comes in as a form of notice, including defamatory</p> <p>15 material, and their expected turnaround time is 24 to 48</p> <p>16 hours. That's what they aim to do.</p> <p>17 Q. We heard from the Google witnesses that they have</p> <p>18 lawyers adjudicating on whether or not material is</p> <p>19 defamatory and making decisions as to whether or not it</p> <p>20 should be taken down. Do you do the same?</p> <p>21 A. We have teams both in Dublin and in our California</p> <p>22 offices who are a combination of lawyers and</p> <p>23 non-lawyers. Our front line staff are known as our user</p> <p>24 operation staff and we train a set of those staff</p> <p>25 particularly in these kinds of violations. So in many</p> <p style="text-align: center;">Page 21</p>	<p>1 individually.</p> <p>2 Q. For a photograph that has gone around thousands or even</p> <p>3 millions of users, that means that the subject of the</p> <p>4 intrusion has to make, if it's a million copies of the</p> <p>5 photograph, a million separate requests for it to come</p> <p>6 down. Is that right?</p> <p>7 A. I think that's correct for the Internet generally, and</p> <p>8 yes, correct for Facebook.</p> <p>9 LORD JUSTICE LEVESON: Lord Allan, could you speak a bit</p> <p>10 more slowly, please, because we're trying to keep</p> <p>11 a track of it.</p> <p>12 A. Okay, sorry.</p> <p>13 MR BARR: Does that mean for all practical purposes that</p> <p>14 there are some viral transmissions of images or texts</p> <p>15 which, once out there, are almost impossible to put back</p> <p>16 into the bottle?</p> <p>17 A. I think practically on the Internet, yes. This is --</p> <p>18 I think there is a much broader debate, shall we say, on</p> <p>19 the Internet, of which I think the issues before this</p> <p>20 Inquiry are very much a part of that debate, around how</p> <p>21 one stops content of all sorts that is either grossly</p> <p>22 illegal or, for example, copyright infringement</p> <p>23 material, how one stops that spreading across the</p> <p>24 Internet, and I think this is a common challenge that is</p> <p>25 faced in all of those debates, that there are -- the</p> <p style="text-align: center;">Page 23</p>
<p>1 cases it can be fairly obvious, a trademark or</p> <p>2 a copyright violation, for example, can be very</p> <p>3 straightforward. Some forms of defamation can be very</p> <p>4 straightforward, particularly where the case is well</p> <p>5 known. Those staff are trained to identify and deal</p> <p>6 quickly with those cases that are obvious, and then are</p> <p>7 able to escalate through, if you like, the more legally</p> <p>8 trained staff, and even through to outside counsel, if</p> <p>9 necessary, for very specific cases where there's some</p> <p>10 area of contention or doubt.</p> <p>11 Q. Can I ask you now about more complicated cases? Take,</p> <p>12 for example, a photograph which is a gross invasion of</p> <p>13 privacy, which goes viral throughout the Internet, but</p> <p>14 including very many Facebook users. If you received</p> <p>15 a complaint about such a photograph from a UK user, what</p> <p>16 can Facebook do about that?</p> <p>17 A. The system that we operate is a notice and take-down</p> <p>18 system and the notice relates to a specific item of</p> <p>19 content on the site rather than to, if you like,</p> <p>20 a generic piece of content, so again I think similar to</p> <p>21 a response you may have heard elsewhere, we don't have</p> <p>22 in place a system that allows us to say this photo</p> <p>23 should be removed from every place on which it occurs on</p> <p>24 the site, but we could have in place reporting links on</p> <p>25 every photo on the site so people can report them</p> <p style="text-align: center;">Page 22</p>	<p>1 ability to copy digital material instantaneously does</p> <p>2 represent a new set of challenges.</p> <p>3 LORD JUSTICE LEVESON: Has this debate reached any</p> <p>4 conclusion?</p> <p>5 A. It hasn't, if I say respectfully. I mean it is an</p> <p>6 incredibly fierce debate, particularly around the</p> <p>7 copyright area. I'd say that's where it's become most</p> <p>8 advanced, and there are huge debates in many countries</p> <p>9 around the world about how to deal with it there.</p> <p>10 LORD JUSTICE LEVESON: It's not just of course written</p> <p>11 copyright, it's also -- one knows about music, films,</p> <p>12 the rest of it. Everything.</p> <p>13 A. Precisely. I think that's where perhaps if I can</p> <p>14 suggest there may be some interesting material for your</p> <p>15 Inquiry, because they are looking at similar issues,</p> <p>16 like how does one stop a particular film clip being</p> <p>17 copied across the Internet, a photo. Some of the</p> <p>18 technical issues and the philosophical issues about</p> <p>19 what's the responsibility of the person who posted it,</p> <p>20 what's the responsibility of the intermediary, how do we</p> <p>21 prevent this without adversely impacting freedom of</p> <p>22 expression, I think some of those debates are consistent</p> <p>23 with some of the issues that you're examining.</p> <p>24 LORD JUSTICE LEVESON: The other problem is that you may get</p> <p>25 a book or an article, but if one of them -- if they're</p> <p style="text-align: center;">Page 24</p>

<p>1 copied in just a slightly different form, you have to                  2 have some sort of mechanism to identify them, which                  3 I would have thought quite difficult.                  4 A. Precisely. That's another area which again has become                  5 very current in these broader debates around does one                  6 simply create an incentive for the clever technologist                  7 to find a technological work-around of a regulatory                  8 measure designed to prevent something, and all of these                  9 factors I think are -- in trying to get to the right                  10 solution for creating good order across the Internet,                  11 I think all of these factors are relevant.                  12 MR BARR: Is there any guidance given to users which might                  13 inform them about when they should think twice before                  14 further disseminating material?                  15 A. Yes. One of the innovations that we've been working                  16 on -- and again, to be very clear, we regard our success                  17 as being dependent on a number of factors. I already                  18 talked about real identity as one of them. Providing                  19 a safe and orderly environment in which your daily                  20 experience is not coming across illegal or offensive                  21 material in terms of our terms of service is another of                  22 them. So we're constantly trying to assist the people                  23 who use our service to understand what the limits are,                  24 what they can and can't do.                  25 One of the innovations that we're working on at the                  Page 25</p>	<p>1 should be fine. You could imagine the circumstances                  2 under which somebody has a problem with one particular                  3 article on the New York Times, and in those                  4 circumstances, we would regard it as disproportionate to                  5 remove all links to that publication because of the one                  6 article.                  7 Again, I think there's a very comparable debate                  8 going on in the copyright space about at what point does                  9 a site that someone might link to become wholly illegal                  10 or primarily illegal and therefore subject to some form                  11 of action, removal, and at what point does that site                  12 that's otherwise perfectly legitimate that happens to                  13 have a very small amount of illegal material, to what                  14 extent should one be reasonably permissive of that site                  15 having connections?                  16 Q. Can I ask you now about regulation? What is Facebook's                  17 view about decisions of domestic regulators? For                  18 example, in this country, we have the Press Complaints                  19 Commission. Would you regard a decision of the PCC as                  20 being conclusive or at least very cogent proof that                  21 material was objectionable?                  22 A. I looked at the examples that you kindly sent from the                  23 PCC, and I think what was interesting to me was that                  24 they seemed to be rather examining the behaviour of                  25 newspapers in taking material from Facebook and using                  Page 27</p>
<p>1 moment is where we've had to remove a piece of content,                  2 to post a message, so when that user next logs on, they                  3 get a message right in front of them that says, "Hey,                  4 you've reached our terms of service, this is what you                  5 did, you must click here to acknowledge that you                  6 breached the terms of service before you can carry on                  7 using Facebook", so that kind of thing, which we call an                  8 educational checkpoint, makes people stop and take some                  9 education, is an example of the kind of innovation that                  10 we think can provide for a very safe environment and one                  11 in which hopefully people get better behaved over time                  12 because they understand the rules better.                  13 Q. Another problem to bowl at you, and which you touch upon                  14 in your witness statement, is what happens when you have                  15 a link in a post which is a link to material which is                  16 very largely not a problem, but includes some                  17 objectionable content. What could you do in that                  18 circumstance?                  19 A. All the time our starting point -- and again I think the                  20 starting point for most of our peers -- is that we've                  21 created a platform on which people should be free to                  22 speak, as long as they do that within our rules. So if                  23 they are -- part of their speech is that they're                  24 interested in linking to a newspaper site, for example                  25 the New York Times, and discuss material on there, that                  Page 26</p>	<p>1 it, rather than directed at things that were posted on                  2 Facebook.                  3 Q. We'll certainly come to that aspect in a moment. But                  4 have you come across PCC decisions being used to support                  5 an application to take material down?                  6 A. No, not that I'm aware of. The cases we've been aware                  7 of have rather been of that nature, people taking                  8 material from Facebook elsewhere rather than putting                  9 material onto Facebook, and the PCC -- or PCC judgments                  10 in some way being seen as part of that, of a complaint                  11 to Facebook. Again, looking at it structurally, I would                  12 imagine that if the PCC have found against a newspaper                  13 and they've published a correction, then anyone on                  14 Facebook who linked to that newspaper would, one would                  15 hope, see the corrected version rather than the original                  16 version that was subject to complaint.                  17 Q. Indeed and one would expect compliance by someone who                  18 was within the PCC scheme with the judgment.                  19 Can I ask you now about what Facebook's position                  20 might be if there were to be, and I stress the "if",                  21 a future media regulator in this country dealing with                  22 press complaints, if it were to find content                  23 objectionable and say so and it was material posted on                  24 Facebook. Is Facebook likely to be receptive to such                  25 decisions and prepared to take such material down?                  Page 28</p>

<p>1 A. It's not surprising to say I think any Internet provider                  2 would want to give this considerable thought, but just                  3 to start that process off, it does seem to me that                  4 looking at the PCC judgments in most of those cases that                  5 citizens typically place different stock on a piece of                  6 content on the basis of whether it's posted on a social                  7 network like Facebook or printed in a newspaper.                  8 In other words, people were in some cases very                  9 comfortable to have material online on a social network                  10 service like ours, it wasn't causing them a problem, but                  11 the moment that it was put into an editorialised                  12 authoritative source like a newspaper, it became                  13 significantly problematic for them.                  14 So I think that if one is moving towards the kind of                  15 model that you've discussed with ourselves and other                  16 witnesses, for us it would be important to distinguish                  17 editorialised published content from what one might call                  18 chatter on the Internet, and that to make an                  19 adjudication about editorialised published content would                  20 in turn feed through to the Internet platforms. If the                  21 original material were corrected, that in turn would                  22 feed through to anyone who linked to that original                  23 material in an editorialised publication.                  24 If the model is to somehow make judgments about the                  25 kind of chatter that people do on Internet sites,</p> <p style="text-align: center;">Page 29</p>	<p>1 investigating, so you're not ending up simply unable to                  2 cope with the volume, and if you do decide to proceed,                  3 then we could offer some expert guidance on how to cope                  4 with volumes of complaints on the Internet.                  5 LORD JUSTICE LEVESON: But is there a search mechanism on                  6 Facebook?                  7 A. There is a search mechanism. It's not the same as the                  8 Google-type search mechanism because it's generally just                  9 searching public content. Again, sir, one of the                  10 crucial distinctions between a social network likes ours                  11 and general searchable Internet content is that very                  12 large amounts of the content is only published between                  13 small groups of individuals.                  14 LORD JUSTICE LEVESON: Yes.                  15 A. Rather than to the whole world. And therefore are not                  16 searchable, sorry, I should say, for that reason.                  17 LORD JUSTICE LEVESON: Yes. And not at the core of the                  18 issues that concern me, because what you're really                  19 saying is that Facebook is one giant for children's                  20 playground conversation or for other groups' collective                  21 communal conversations?                  22 A. I think that's a very very good analogy, yes. A lot of                  23 the conversation is the chatter in the pub, if you're an                  24 adult, or the chatter in the playground if you're                  25 younger. It happens to be online and digital, but the</p> <p style="text-align: center;">Page 31</p>
<p>1 I think my starting point would be to have concerns                  2 about whether that's workable and whether proportionate                  3 to the offence that's being caused.                  4 Q. Not least given the number of users?                  5 A. Yes, and the amount of content that's simply on the                  6 site.                  7 Q. Can I explore just a step further: if there was to be                  8 a future regulator to whom a person could apply directly                  9 and make a complaint about a Facebook posting and that                  10 Facebook was expected then to respond to that complaint                  11 and be the subject of a binding adjudication by the                  12 body, what would Facebook's response be to such                  13 a proposal?                  14 A. So to look at the proposal, but to, I think, issue some                  15 words of caution, that we are familiar with dealing with                  16 disputes between people about content at very large                  17 scale and getting to that point where we feel confident                  18 about dealing with those complaints has been very                  19 challenging, and is for any Internet service in terms of                  20 getting systems that can cope with the amount of                  21 conversations that are now taking place across the                  22 Internet.                  23 If you were setting out to create something similar                  24 as a regulatory body, then I would offer some words of                  25 caution about the thresholds you apply before you start</p> <p style="text-align: center;">Page 30</p>	<p>1 way in which people approach those conversations is very                  2 similar to any other kind of conversation.                  3 LORD JUSTICE LEVESON: Could I ask a question which may                  4 reduce the impact of all this: does it have a shelf                  5 life? In other words, if you've put some material on                  6 Facebook, is it there forever?                  7 A. So it's the individual themselves who decides when to                  8 put the content on and when to take it off. We're very                  9 clear, our terms of service again state very clearly you                  10 own the content on Facebook. We're just undergoing                  11 a transition at the moment to a different way of                  12 displaying the content that a user posts to something                  13 called Timeline. When we've gone through that                  14 transition, any user will be able to see all the content                  15 they've ever posted on Facebook and be able with a click                  16 to delete it or restrict the audience or change it.                  17 So we, Facebook, don't put the shelf life on, but we                  18 give individuals the tools to decide --                  19 LORD JUSTICE LEVESON: The opportunity to decide their own                  20 shelf life. I've got it.                  21 A. Precisely.                  22 MR BARR: I said I would return to the question of others                  23 using or misusing material which has been posted on                  24 Facebook, and one of the articles that we've put into                  25 your bundle concerns the survivors of the Dunblane</p> <p style="text-align: center;">Page 32</p>



<p>1 massacre and how Facebook material which they had posted                  2 was used in a story about the anniversary of the tragedy                  3 at Dunblane. Is there anything that Facebook can do to                  4 prevent that sort of misuse of Facebook-posted material?                  5 A. The primary way in which we approach this is to offer                  6 the user education and tools, so the kind of tools they                  7 have are their ability to choose who are on their                  8 friends list, which audience they have for a piece of                  9 content, to block people if people are trying to access                  10 their data they don't like, they can create a block so                  11 that person can never access them.                  12 So we've given them the toolkit to do that, because                  13 of course sometimes people will go around that and get                  14 hold of the content.                  15 I'm afraid once they've taken the photo and copied                  16 it off to somewhere else or taken the content and copied                  17 it elsewhere, then there's nothing at that stage that                  18 Facebook can do to recover that content. It is an area                  19 where, I guess, as a citizen I can see there is                  20 potentially a gap now between the individual citizen's                  21 ability perhaps to take action about misuse of their                  22 data, where it's been copied digitally from the                  23 Internet, but I think it's not something the service                  24 provider can do once the content is in another                  25 environment.</p> <p style="text-align: center;">Page 33</p>	<p>1 don't put it in this way, but I will: "Why are you                  2 hitting me, because however you control me, there are                  3 a whole load of other people out there who are just                  4 poking their thumbs up at you and there's nothing you                  5 can do about it"?                  6 A. I would make two points on that.                  7 Firstly, I think, just to put in context the                  8 relationship between the media and social media, that                  9 actually we are becoming one of the major distribution                  10 channels for traditional editorialised media content.                  11 So somebody like the Guardian has now over 5 million                  12 people using an application where they bring the                  13 Guardian content into Facebook, and we drive traffic for                  14 them and help them to share their material across social                  15 media.                  16 We certainly see it as much more complementary set                  17 of things that we offer. They offer great content, we                  18 don't produce content. We offer great distribution.                  19 That can be a challenge for them to distribute through                  20 their traditional websites. So I think the relationship                  21 is hopefully less confrontational than --                  22 LORD JUSTICE LEVESON: No, I don't think they were saying                  23 it's confrontational. It's used to me as                  24 a confrontation with me saying, "It's all very well you                  25 having a go at us, but" --</p> <p style="text-align: center;">Page 35</p>
<p>1 Q. Returning to your witness statement, is it right that                  2 Facebook works with domestic institutions such as the                  3 Advertising Standards Agency and the Information                  4 Commissioners' Office?                  5 A. That's correct, yes.                  6 MR BARR: I think that's all I have for you. Thank you very                  7 much indeed.                  8 A. Thank you.                  9 LORD JUSTICE LEVESON: Sorry, one of the great issues that                  10 the Inquiry is facing is the extent to which what might                  11 be described as the traditional media is being impacted                  12 by social media and other similar types of publication                  13 online, and the concern that information that they are                  14 not permitted to publish can spin around social media                  15 sites in a way that puts them at a commercial                  16 disadvantage, but also could prejudice proceedings or                  17 whatever.                  18 I'm not saying that Facebook were at all involved                  19 in, for example, identifying the name of somebody who                  20 had sought an injunction, and whether that came to                  21 Facebook, it doesn't really matter, because it could                  22 equally come through any one of these routes.                  23 Has your industry given any thought to how that                  24 position can be regularised or made better, because one                  25 of the arguments that is presented to me is -- they</p> <p style="text-align: center;">Page 34</p>	<p>1 A. To put that on one side and come then to your comments                  2 about what do people say on our environment, as                  3 I understood it, should that be equalised with what                  4 people can say in their environment, again to come back                  5 to that analogy of the chatter, the conversation in                  6 a social space, to us that would be like saying you                  7 should equalise what people are allowed to say in a pub                  8 with what people can say in a newspaper. They are just                  9 different ways of speaking, and of course people do                  10 gossip in pubs and spread names and so on in the same                  11 way that they do online. Without unravelling the                  12 Internet and shutting down or severely curtailing these                  13 kinds of services, I find it hard myself to see how one                  14 can deal with that.                  15 LORD JUSTICE LEVESON: Because there is no mechanism whereby                  16 you can, even if you wanted to, really control content,                  17 save for individually looking at a particular post and                  18 saying, "That shouldn't be there, it's off"?                  19 A. Exactly. And the kind of measures that one could take                  20 to control content, you know, at a deeper network level,                  21 I think are ones that most people would regard as                  22 disproportionate and excessive.                  23 LORD JUSTICE LEVESON: That's the point. Because as soon as                  24 you have to insert a human being into the process of                  25 making a decision, you have made it extremely labour</p> <p style="text-align: center;">Page 36</p>

<p>1 intensive and utterly incompatible with trying to                  2 service the need of 30 million users across the UK.                  3 A. I can only agree.                  4 LORD JUSTICE LEVESON: Yes, well, I think I'm trying to                  5 summarise your evidence rather than make some new                  6 suggestion. Lord Allan, thank you very much indeed.                  7 A. Thank you.                  8 LORD JUSTICE LEVESON: We have one witness left. Let's just                  9 have five minutes now before we take the witness. Thank                  10 you.                  11 (3.02 pm)                  12 (A short break)                  13 (3.07 pm)                  14 MS PATRY HOSKINS: Good afternoon, sir. The final witness                  15 today is Ms Camilla Wright from Popbitch.                  16 MS CAMILLA JANE WRIGHT (affirmed)                  17 Questions by MS PATRY HOSKINS                  18 MS PATRY HOSKINS: Ms Wright, please state your full name to                  19 the Inquiry.                  20 A. I'm Camilla Jane Wright.                  21 Q. You should find behind tab 1 of the bundle you have in                  22 front of you your witness statement to the Inquiry?                  23 A. Yes.                  24 Q. Can you confirm that the contents of that statement are                  25 true to the best of your knowledge and belief?                  Page 37</p>	<p>1 Q. -- who receive the email on a weekly basis. And that                  2 newsletter is also published on the website?                  3 A. Yes.                  4 Q. And then you have a message board, where registered                  5 users can post and discuss various topics?                  6 A. We have a full website where content relevant to us is                  7 posted and part of that is a message board or forum.                  8 Q. Okay. Can I ask you firstly about the newsletter                  9 briefly. As for the content of the newsletter, you                  10 explained to us that this is news about popular culture,                  11 politics, sports, celebrities, the entertainment                  12 industry and the media. There are also links to videos,                  13 reviews and so on.                  14 A. That's right.                  15 Q. There's also a joke at the end?                  16 A. There's always a joke.                  17 Q. And the newsletter is text based. You explain to us                  18 that you made a conscious decision from the outset not                  19 to have paparazzi-type photographs of celebrities in the                  20 newsletter or on the website; is that right?                  21 A. That's right.                  22 Q. As for who the newsletter is aimed at, you explain in                  23 paragraph 7 that it's aimed at a time poor subscriber                  24 base who nonetheless want to keep up with the world and                  25 the content is designed to be light-hearted, humorous                  Page 39</p>
<p>1 A. Yes, they are.                  2 Q. I'm going to touch first of all on your career history                  3 before we come on to look at the role of Popbitch. At                  4 paragraph 5 of your statement, you explain that after                  5 university you gained expertise in business and the                  6 third sector, and then you started to write for economic                  7 and financial magazines. You then started to write on                  8 a freelance basis on popular culture issues and then you                  9 co-founded Popbitch in the year 2000, and since 2004 you                  10 have been full-time publisher and editor.                  11 A. Yes.                  12 Q. You explain that you also write for magazines, tabloids                  13 and broadsheets on a freelance basis, offering comment                  14 on the media and on popular culture?                  15 A. Yes.                  16 Q. Is that correct?                  17 A. That's right.                  18 Q. Can I ask now about Popbitch itself, please. You                  19 explain the role of Popbitch and what it does in                  20 paragraph 6 of your statement, but can I summarise it in                  21 this way: it's a website and its content really                  22 comprises two main elements: a weekly newsletter, which                  23 is sent to those who have subscribed to Popbitch by                  24 email, and you have around 350,000 subscribers --                  25 A. Yes.                  Page 38</p>	<p>1 and entertaining?                  2 A. We look at it as a ten-minute entertainment in a working                  3 week.                  4 Q. You say you now have 350,000 subscribers to the                  5 newsletter. How did it start out?                  6 A. We started out just basically putting together stories                  7 for friends from the media and entertainment industry.                  8 We would gather together some funny stories, put them                  9 together, email them to friends. We kind of started it                  10 because the world of entertainment is very exciting, we                  11 all -- many of us love it, but it's very controlled.                  12 The entertainment industry controls what you write about                  13 it a lot. It's very PR-driven. Working freelance for                  14 magazines, you very much were stopped from writing                  15 things that you wanted to write, just interesting                  16 things, nothing against the law or anything.                  17 LORD JUSTICE LEVESON: "Controlled" is not the word that's                  18 been used to describe it in the course of the last few                  19 months in this Inquiry, so you're providing me with                  20 a slightly different take on it.                  21 A. Well, I think so. There's a very, very big PR industry,                  22 which I think can act as gatekeepers to what is said                  23 about celebrities, famous people, and very much they                  24 like to tell magazines and newspapers what can be                  25 written. I'm sure -- I think the people from Hello! and                  Page 40</p>

<p>1 OK! last week said to you that 70 to 80 per cent of what 2 goes in the magazines is placed there by the agents and 3 the managers and the PRs of celebrities.</p> <p>4 So if you want to write about people, you have to be 5 very careful, in a commercial sense, what's written. If 6 you approach somebody whose publicist maybe represents 7 50 others, if you don't write what they like, they don't 8 like you to talk to their other clients. If perhaps you 9 want to say something about somebody who is the brand 10 ambassador for a big brand, you have to be careful that 11 they don't pull their advertising. So there are 12 commercial concerns that the mainstream media face every 13 day when writing about this world. And that's maybe 14 a slightly different perspective from the one you've 15 had.</p> <p>16 MS PATRY HOSKINS: You were just telling us how you came to 17 set up Popbitch and how it all started. You explained 18 that when you were freelancing you found that the world 19 of celebrity was very controlled, so how did that lead 20 you on to Popbitch?</p> <p>21 A. It's very cheap to send out emails. It's not expensive 22 to set up a website. You can -- and we started to send 23 out information to friends. People then asked to 24 subscribe to it, so we set up a very simple mechanism to 25 do that, and then over time more and more people wanted</p> <p style="text-align: center;">Page 41</p>	<p>1 and others didn't. You look at the hypocritical gap 2 between how those in the public eye seek to be portrayed 3 and how they really act.</p> <p>4 That leads me neatly on to issues of standards and 5 the public interest. I'm going to ask you in a moment 6 whether you consider the stories that you publish in 7 your newsletter to be or to have a public interest in 8 a moment, but first of all it may be instructive to 9 examine an example or two of the types of stories that 10 you run in the newsletter.</p> <p>11 Not in the bundle, but what I've done is printed out 12 the latest version of the newsletter. Do you have "For 13 Chuck's Sake"?</p> <p>14 A. I do.</p> <p>15 MS PATRY HOSKINS: Do you have it?</p> <p>16 LORD JUSTICE LEVESON: Yes. One page?</p> <p>17 MS PATRY HOSKINS: Yes, I only printed out part of it. Can 18 I check whether you have it? If not, can I pass a copy?</p> <p>19 We'll wait until the technician has it, so she can 20 show it on screen.</p> <p>21 A. Sure.</p> <p>22 Q. I just want to examine the sort of format, first of all. 23 Right at the top, under the headline with a name, 24 there's a kind of advertising or promotional feature?</p> <p>25 A. That's right.</p> <p style="text-align: center;">Page 43</p>
<p>1 to subscribe to it, which adds to your costs, but now we 2 have a system that can send out emails to 350,000 people 3 very easily.</p> <p>4 The content has changed as we've gone along. We've 5 broadened it to anything that people are interested in 6 in popular culture. On one side is the stories behind 7 the stories, what's going on in the media that covers 8 popular culture. I guess, similar to Street of Shame in 9 Private Eye, but we look at the celebrity media, and 10 also the light-hearted details, jokes about people and 11 films in any aspect of popular culture.</p> <p>12 Q. I was going to ask about paragraph 8 of your statement. 13 You explain that the idea was to reference the old-style 14 Hollywood magazines which popularised the publication of 15 insider information, and that you try to act in the 16 style of something like a Private Eye for the celebrity 17 world. Would that be a comparison you're happy to 18 make --</p> <p>19 A. Yes.</p> <p>20 Q. -- between you and, say, a publication like Private Eye?</p> <p>21 A. Parts of it works in a similar way, yes.</p> <p>22 Q. You go on to say that Popbitch doesn't just cover the 23 stars of popular culture, but looks behind the scenes at 24 areas missed by the popular media, plus the stories 25 behind the stories and why certain stories got published</p> <p style="text-align: center;">Page 42</p>	<p>1 Q. Then there are some quotations, and then under the main 2 heading "Popbitch" there is a story about 3 Mr Kris Humphries, former husband of Kim Kardashian, do 4 you see that?</p> <p>5 A. That's right.</p> <p>6 Q. I don't know if that's visible on the screen --</p> <p>7 LORD JUSTICE LEVESON: Lower down.</p> <p>8 MS PATRY HOSKINS: Perfect. This is a story about 9 Kris Humphries who was playing at Madison Square Gardens 10 just before Christmas. He came on court to play, 11 whereupon he was promptly and rather violently booed by 12 the crowd. He was then taken off shortly afterwards and 13 the crowd began chanting, "We want Kris, we want Kris". 14 Why? So that he would come back on and they could boo 15 him some more.</p> <p>16 You say: 17 "If there is a more concise allegory for the role of 18 celebrities in the 21st century we have yet to hear it." 19 Just explain to us just by using the example how you 20 would source a story like that?</p> <p>21 A. This story came from somebody I know very well who was 22 at the game, who at the time relayed what happened to 23 us. We checked that he was playing there, everything 24 seemed to match. We added the second paragraph because 25 I guess what Popbitch does, it's trying to entertain but</p> <p style="text-align: center;">Page 44</p>

<p>1 it's also trying to inform. We were just trying to show                  2 that by taking an example of a story that was going on                  3 now that nobody else had perhaps covered, that this is                  4 what celebrities are almost used for in society.                  5 They're there for our fun, but also they take -- it can                  6 get a bit darker, and they're there for people to joke                  7 at. So that's where the story came from, and that was                  8 the point of putting it in.                  9 Q. All right. Can I ask you about one other story on that                  10 page.                  11 A. Sure.                  12 Q. It's the one almost at the end. There's a final story                  13 about Joan Collins, but we'll ignore that one for the                  14 moment. The one just above that says this:                  15 "In the first draft of the Dr No screenplay, the                  16 writers decided that Dr No should be a monkey."                  17 Why did you publish a story like that?                  18 A. I think it's an entertaining fact. It's the weird                  19 little details in popular culture that I think we as                  20 humans respond to. That came from Cubby Broccoli's                  21 biography, which has just been published. He was the                  22 producer of all the James Bond films and that just                  23 jumped out at me, that of all the things about the first                  24 Dr No film that would have possibly changed the history                  25 of all the James Bond films for us is if Dr No had been</p> <p style="text-align: center;">Page 45</p>	<p>1 involved with.                  2 We've never had an advertiser try and tell us what                  3 to write or to take anything out, so it's gone okay so                  4 far.                  5 Q. All right, so that's what you say about good editorial                  6 standards. Let me ask you now about the process. I've                  7 asked you about sources.                  8 A. Sure.                  9 Q. But at paragraph 11 onwards you say a lot more about the                  10 way in which material is sourced. If I can summarise it                  11 in this way, you say that the newsletter is written                  12 largely by a network of contributors --                  13 A. It's written in our office by me and a very small team,                  14 but we largely source our stories from a network of                  15 contributors that are all around the world.                  16 Q. You say these are basically a group of about 200 to 250                  17 trusted sources in this circle?                  18 A. Yes.                  19 Q. That are known to you or your closest team members. So                  20 is your evidence in that respect simply that a story                  21 will come in from one of those sources and just because                  22 of who they are and the fact that you trust them, that                  23 will be good enough, or are there any other checks?                  24 A. It will be for some stories, but for some stories that's                  25 not enough. You would want to get a second source to</p> <p style="text-align: center;">Page 47</p>
<p>1 played by a monkey.                  2 Q. I don't think we need to look at any other ... I'm just                  3 trying to understand the product.                  4 LORD JUSTICE LEVESON: No, I understand.                  5 Q. What I want to now do is understand the process by which                  6 you decide whether or not a story is going to feature in                  7 the newsletter. You say in your witness statement at                  8 paragraph 45 that Popbitch is a commercial product,                  9 reliant on mainstream advertisers and sponsors, and                  10 therefore it's important to have good editorial                  11 standards. Now, why? How does that follow?                  12 A. I don't think it is good to be an inaccurate                  13 publication. I think it is good, if you are adding to                  14 the plurality of media voices out there, trying to be                  15 accurate, trying to tell true stories, perhaps stories                  16 that other people aren't doing, just to add to the                  17 breadth of knowledge of the world, is a good thing. And                  18 if you were asking people to trust you with their brand,                  19 to -- for them to put their faith in what you're                  20 writing, then you owe it to them and to yourselves to                  21 have high standards.                  22 We're saying that we have 350,000 subscribers who                  23 regularly read this, and therefore, if you want to put                  24 your brand to the subscribers, somewhere there's a --                  25 you know, there is a reputable product for you to be</p> <p style="text-align: center;">Page 46</p>	<p>1 check the plausibility or gain extra evidence to support                  2 it.                  3 Q. What would make you go away and check?                  4 A. Very much depends case by case on a story. If it's from                  5 somebody who you are absolutely convinced that has                  6 foolproof knowledge, I would take it. If it's                  7 a contentious or controversial story, I would want to                  8 get somebody else to be able to back up what they're                  9 saying and try and find, if possible, some evidence to                  10 support what they're both saying.                  11 Q. You say that if the stories are not originated from one                  12 of your inner circle of trusted sources, stories can                  13 come in in a number of other ways. This is paragraph 13                  14 onwards. Unsolicited email tips and stories, registered                  15 users of the message board, stories found by staff                  16 writers or freelance contributors and personal                  17 experience written in by readers.                  18 A. Yes.                  19 Q. Those examples seem to be a million miles away from                  20 trusted sources that you know well, so what process is                  21 undertaken there when stories come in through that type                  22 of source?                  23 A. We've had some amazing stories sent in from anonymous                  24 sources that turn out to be 100 per cent true. We would                  25 start off by doing a simple check on the veracity of the</p> <p style="text-align: center;">Page 48</p>

<p>1 information we've got. About 50 per cent of things that                  2 get sent in you can work out right away aren't true just                  3 by a couple of phone calls or a simple Google check.                  4 Maybe it's about a pop band in one country and they                  5 actually are in another country on that day. So that                  6 would be where you would start.                  7 You would then try and find from somebody that you                  8 do know well and somebody who is likely to know at least                  9 if this information is plausible whether or not this is                  10 true. At the same time, we would engage in an email                  11 exchange with the third person, the anonymous user. If                  12 they're willing to discuss with you how they got the                  13 story, where they got the story, a few more details, you                  14 can largely work out whether or not there's truth in it.                  15 From personal experiences, we tend to write them up                  16 as "X writes ...". I give it as a personal experience.                  17 These tend to be, "I met a celebrity in the bar last                  18 night, they were buying a gin and tonic". That kind of                  19 level of contentious subject-matter.                  20 Q. Does that somehow improve things? If you don't say in                  21 your newsletter simply "X celebrity was in a bar and                  22 this happened", but you say, "Someone has written in and                  23 said that X celebrity was in a bar on a particular                  24 night", does that make any conceivable difference?                  25 A. I think people writing on the Internet and people</p> <p style="text-align: center;">Page 49</p>	<p>1 A. I think if you start adding a financial inducement to                  2 somebody for information, they could give you stories                  3 that they know they shouldn't or they could hurt their                  4 jobs or they could even give you embellished information                  5 in order to get the money, and therefore taking that                  6 temptation out of people's way, we are hoping that there                  7 will be fewer of those stories that come to us.                  8 Q. All right. Do you consider yourself to be bound by the                  9 laws of the UK? Libel laws --                  10 A. Yes, publishing in the UK, we are bound by UK media law.                  11 Q. So presumably you have to ensure that the stories are                  12 not libellous or defamatory?                  13 A. That is our intention.                  14 Q. Let's assume for a moment that you're satisfied that                  15 a particular story that has come in to you won't fall                  16 foul of libel or defamation laws and you're happy that                  17 it's accurate, so you've got to that point. I want to                  18 understand what other considerations you bear in mind                  19 before deciding whether or not to publish in your                  20 newsletter. Do you consider whether it's an invasion of                  21 that particular person's privacy, for example?                  22 A. In an era where injunctions have been such                  23 a much-talked-about thing, that obviously has to be                  24 a consideration. I think if I could put it this way,                  25 Popbitch is an entertainment product, therefore we are</p> <p style="text-align: center;">Page 51</p>
<p>1 reading on the Internet, as I think the guy from                  2 Facebook touched on earlier, is different, somehow, to                  3 reading traditional media. It's how you experience it.                  4 A lot of our facts and stories are the same sort of                  5 thing that could be found in a newspaper or magazine,                  6 they carry our editorial stamp, but the Internet has                  7 evolved so that it's a two-way conversation between                  8 reader and writer. I think media theorists call them                  9 a network public rather than an audience. Readers                  10 expect to be involved in shaping the stories, getting to                  11 the bottom of something. So we would put something out                  12 there saying, "Somebody told us this", expecting                  13 somebody else to actually verify it. "Actually, we have                  14 a different experience. Yes, I was in that bar as well,                  15 this is what happened."                  16 So a percentage of our stories work in that way.                  17 I think that's how blogs work, stories, comments. It's                  18 just it gives -- the Internet is just evolving in                  19 a slightly different way to traditional media, and                  20 I guess our product has evolved as part of the Internet,                  21 so if you are reading Popbitch, you understand what                  22 you're reading, you understand that readers are sharing                  23 their experiences with you and you can share yours back.                  24 Q. You explain later on in your statement that you never                  25 pay for tips or stories. Why is that?</p> <p style="text-align: center;">Page 50</p>	<p>1 trying to do no more than poke fun at people in the                  2 world of celebrity, and therefore we'd add in some extra                  3 things -- is the story funny? Is there a bit of                  4 a punchline? We get a lot of stories in which we don't                  5 print, which are things like somebody's gone to rehab,                  6 somebody's ill, somebody has cancer, or it's about their                  7 children. You could probably publish them, but they're                  8 not going to make people laugh, so we would look on that                  9 maybe as an extra defining process.                  10 Q. I'll ask you about public interest in a moment. You say                  11 that, but Popbitch famously was able to say that                  12 Victoria Beckham was pregnant, correctly say that                  13 Victoria Beckham was pregnant before any other media                  14 organisation in the UK was able to confirm that, and                  15 that's not something which just is published to make                  16 people laugh. That's an interesting titbit about --                  17 A. Yes.                  18 Q. -- someone's life. It could also have been said to be                  19 an invasion of Victoria Beckham's privacy to publish                  20 that before anyone else knew. In that kind of story,                  21 would you take into account the fact that the story may                  22 be an invasion of that person's privacy?                  23 A. It was a long time ago. As far as I can remember with                  24 this story, people were talking about it quite openly;                  25 they just hadn't printed it. We printed the story.</p> <p style="text-align: center;">Page 52</p>

<p>1 I would be I think since then much more careful about 2 making sure that a pregnancy was beyond 12 weeks 3 before -- in this case, this was that as well, but 4 I would be very careful about doing that. I don't think 5 we've actually touched on that for several years. 6 LORD JUSTICE LEVESON: It's interesting that as you've been 7 giving evidence you've used the words "truth", 8 "accurate", you've there used the "12 weeks". All these 9 terms are to be found in the PCC code. 10 A. Mm-hm. 11 LORD JUSTICE LEVESON: Is that a code that you've 12 considered? 13 A. I'm aware of the code, yes. I don't know whether -- 14 I don't -- we're not a part of the PCC and we're not 15 a newspaper, but I am aware of the code. 16 LORD JUSTICE LEVESON: You don't have to be a newspaper. 17 There are lots of magazines that are part of the PCC. 18 I know that Mr Hislop isn't. 19 A. No. 20 LORD JUSTICE LEVESON: He's made that very clear and 21 explained why. But you compare yourself to Street of 22 Shame for popular culture, but Street of Shame carries 23 with it sometimes some potentially defamatory material, 24 and Mr Hislop knew exactly how many libel actions he'd 25 been the subject of, which, as you've just identified</p> <p style="text-align: center;">Page 53</p>	<p>1 it stands, or at least as it seems to be looked at. 2 It's not broad enough. 3 Q. Is this paragraph 48 of your statement? 4 A. Paragraph 48. It's not fit for purpose for the culture 5 we're in now. 6 Q. Can we explore that a little? 7 A. Definitely. These days the power to shape and influence 8 people's lives doesn't just come from politicians and 9 policy making. The people who have possibly greater 10 influence over the public come from a much wider pool. 11 I would say nobody who is a public figure has that 12 influence, and some people use it very consciously. You 13 see film stars becoming the defining voices of the 14 Balkans, Darfur. You have people straying into public 15 policy areas, charities are lining up celebrities to 16 talk to the public, fashion labels pay famous people to 17 wear their clothes, to influence behavioural patterns in 18 consumerism. David Beckham was the person chosen to 19 represent Britain in our Olympic bid. It wasn't 20 a politician. 21 So how people live and behave in the wider sense of 22 the public eye seems to have a very strong effect on the 23 public. Just by being in the public eye is enough, and 24 therefore I think that it would be more in the public 25 interest to widen what should and shouldn't be known,</p> <p style="text-align: center;">Page 55</p>
<p>1 and recognised, could hit you in just the same way. 2 A. Sure. 3 LORD JUSTICE LEVESON: You're not protected from that. 4 A. No, absolutely. 5 LORD JUSTICE LEVESON: So I'm just wondering what the 6 problem is that you have with something like the PCC. 7 A. Our self-regulation has worked for us, it's possibly 8 been stronger than the PCC -- 9 LORD JUSTICE LEVESON: Self-regulation doesn't quite mean 10 that. Self-regulation is the industry, the body, the 11 collective looking at the one. What you're talking 12 about is personal regulation, in other words your own 13 set of rules. 14 A. That's right. 15 LORD JUSTICE LEVESON: Sorry. 16 MS PATRY HOSKINS: That's all right. 17 Do you consider when you are -- I'm glad I don't 18 have to ask many of my questions, now. 19 When you're deciding whether or not to publish 20 a story in the newsletter, do you consider whether it's 21 in the public interest to publish it, and what does the 22 public interest mean in your view, in the context of the 23 information that you are publishing? 24 A. I've said in my witness statement I think it's helpful 25 to look at the definition of public interest I think as</p> <p style="text-align: center;">Page 54</p>	<p>1 what shouldn't be talked of, because I think there's 2 good reason to see if there's a gap between people's 3 private life and public life as they have this power 4 over us. 5 Q. I understand the argument that celebrities pervade our 6 culture in a much wider sense than they used to, 7 I understand that. What I want to understand from what 8 you've just said is to what extent that means that their 9 private life should be open to scrutiny by Popbitch or 10 anyone else. Are you saying that anyone who is a public 11 figure can have their private life scrutinised or should 12 have their private life scrutinised in that way simply 13 because of the fact that celebrity culture has evolved 14 in the way that it has? 15 A. I think people will chatter about and scrutinise public 16 figures as and when they choose to. As we heard 17 earlier, there's the conversation on Facebook every day. 18 If you mean should publishers do this, then it's a very 19 difficult area, there's going to be a grey area between 20 who's put their public life up for scrutiny and 21 therefore where there's a gap between how they're 22 appearing and how they're -- they are in real life 23 matters to us. 24 Does that mean that everybody has no privacy? No, 25 I don't think so, but --</p> <p style="text-align: center;">Page 56</p>

14 (Pages 53 to 56)

<p>1 Q. Where do you draw the line? Where does Popbitch draw 2 the line? 3 A. It's a moving line. It's not -- there is no absolute 4 line, I don't think. We draw the line, I would say, we 5 look at who is making themselves influential, and if so, 6 are they living up to it. I think beyond that it's very 7 difficult to say where a line is, but I think that would 8 be a good place to start. 9 Q. Are there any celebrities that you simply would not 10 mention on Popbitch because they are demonstrably 11 private, they have said publicly that they do not wish 12 their private life to be touched upon by the media? 13 I am going to give you the example of JK Rowling, who's 14 made it absolutely clear both publicly and in the 15 context of litigation that she just doesn't want her 16 private life to be discussed, put out there in the 17 public domain. Not necessarily talking about her, you 18 don't have to give me an example about her, but are 19 there celebrities that you simply wouldn't publish 20 stories about because they've said they don't want 21 stories to be published about them? 22 A. I don't know if it's celebrities who have said they 23 don't want to be talked about, I don't know if that 24 should come into it, but there are a lot of people who 25 live their lives beyond their talent privately, and</p> <p style="text-align: center;">Page 57</p>	<p>1 that was different, we would put them there. If 2 somebody was -- did not have that kind of public face, 3 they were just writing a book, going to work as an 4 actor, it would be -- we would have no material and 5 therefore no desire to write about them -- 6 LORD JUSTICE LEVESON: Well, you could, couldn't you? Let's 7 take Ms Rowling as an example. She might have 8 a disgruntled employee who would be only too pleased to 9 send you some material, but do you think that the mere 10 fact -- I say "mere" without any disrespect -- that she 11 is an acclaimed author in whom the public are 12 interested, not because of the way that she conducts her 13 life but because she's written some extremely successful 14 books, that that would mean that you would default to 15 publishing such a comment? 16 A. It depends. I mean, if the disgruntled employee had 17 a very interesting story, which put different light on 18 Ms Rowling, quite possibly. If it was just taking 19 pictures of her in the street or something, we wouldn't 20 remotely go there. 21 I think just the fact of people in the public eye 22 and therefore the public being interested in you means 23 that you are -- you can't put yourself -- you can't 24 choose when you're public and choose when you're 25 private. Kate Middleton, she's never really uttered</p> <p style="text-align: center;">Page 59</p>
<p>1 therefore it would be very unlikely that we would either 2 get any interesting stories about them or get new 3 stories about them. 4 Q. So the line actually for you is not whether they've said 5 they want to be private but actually whether -- 6 A. But their actions, but their actions. 7 Q. -- but actually whether your readers would be interested 8 and whether -- 9 A. And that is by their action. If they don't do things 10 which bring them -- somebody can say they want their 11 life to be private, but live it quite publicly. If they 12 say they want their life to be private and do so, that 13 would be enough, I guess, we wouldn't look at writing 14 about them. 15 Q. Ms Wright, the answer you gave me a moment ago was that 16 you would draw the line, really, if there were no 17 stories around or you just didn't get the information or 18 you thought your readers wouldn't be interested in the 19 information, then probably you wouldn't publish the 20 stories. 21 A. That's true but that's sort of the same line. As 22 I said, we're looking at people who are culturally 23 influential, who have put themselves up in this sense 24 and therefore it would provide a counter point to their 25 public face if we had stories about their private life</p> <p style="text-align: center;">Page 58</p>	<p>1 anything about what she buys, where she shops, and yet 2 millions and millions of pounds of the economy are 3 apparently dependent on people wanting to resemble 4 Kate Middleton. There's no -- JK Rowling is an 5 admirable woman, a single mother who wrote some of the 6 most successful books in history. People will want to 7 be like her. 8 LORD JUSTICE LEVESON: So there isn't a difference between 9 public interest and the interest of the public? There 10 isn't a difference? 11 A. It depends on the material. What would you want to 12 write about Ms Rowling? If it's that she's behaved in 13 public badly to somebody, that would, I would say, be in 14 the public domain. If she's done something in her 15 private life, which has no bearing on her public life, 16 that's her private life. 17 LORD JUSTICE LEVESON: So -- sorry. 18 MS PATRY HOSKINS: I was going to follow that up. I want to 19 be absolutely fair to you Ms Wright, in the answers 20 you're giving, that it would depend on the material. Am 21 I right in saying that if you were to find out that 22 Ms Rowling was nine weeks pregnant, you wouldn't publish 23 that? 24 A. No. 25 Q. If you were to find out that Ms Rowling -- I don't want</p> <p style="text-align: center;">Page 60</p>

<p>1 to keep using her as an example, but someone like 2 Ms Rowling was -- 3 A. If we found out, say, that she plagiarised her books, 4 that would be information I would use. If this was 5 something -- if she'd bought a new kitchen, I'm not 6 terribly interested. 7 Q. What if she'd bought a new kitchen and she was rude to 8 the staff in the shop? 9 A. If it was in a public place, in the shop, yeah, that's 10 public domain. 11 Q. I was going to ask you a question about the code. You 12 say you're aware of it. Does that mean you're aware of 13 it in abstract terms or you have a copy that you read 14 and reference when you're making decisions? 15 A. We have -- we take advice from media lawyers, who have 16 at times given us aspects of the code that they think 17 would be relevant to us. 18 Q. So you don't have it on your desk? 19 A. I don't read it every day. 20 LORD JUSTICE LEVESON: Sorry? 21 A. I don't read it every day. 22 LORD JUSTICE LEVESON: Have you read it at all? 23 A. From cover to cover, no, but I have read the bits where 24 we have been told it's relevant to us. A lot of the PCC 25 code relates to members of the public and how -- we</p> <p style="text-align: center;">Page 61</p>	<p>1 A. There are a group of, I would say, long-term users who 2 would help shape the conversation on the message board. 3 It's not moderated as such. 4 Q. But if someone was to point out to you, say, 5 a defamatory comment, do you have control to the extent 6 that you can remove it? 7 A. Yes. What would happen, if somebody made a complaint, 8 we would look at it and act upon it right away. In the 9 witness statement I think I gave examples of when we 10 would be very happy to take off posts. 11 Q. I understand. I'm going to ask you now about when 12 things go wrong. How many complaints do you receive 13 from celebrities or those representing them each year, 14 roughly? 15 A. Very few. I think we've made, to the best of my memory, 16 five to six apologies, so that would be like one every 17 two years. 18 Q. Do they usually come from celebrities who are not happy 19 with the stories you've written in the newsletter or are 20 they complaints about the message board? 21 A. Probably more -- I would have to check, but probably 22 more on the newsletter than the message board. 23 Q. I understand. Can we turn to tab 2, please, in the 24 bundle. There's a short report there dated 17 March 25 2008, which is headed:</p> <p style="text-align: center;">Page 63</p>
<p>1 never cover that kind of story. So those bits I would 2 leave out. 3 MS PATRY HOSKINS: Is there something about the fact that 4 you are essentially a gossip website that means that 5 less credence is given by readers to the story that you 6 run than, say, if you were a national newspaper? 7 A. I probably should ask our readers. 8 Q. Do you think they take what you say with a pinch of 9 salt? 10 A. I would say that people look at things on the Internet 11 slightly differently. Things are written in 12 a tongue-in-cheek manner. You would probably take it 13 differently than if it was written in a national 14 newspaper. 15 Q. Is that because of the way that you are regulated, do 16 you think? 17 A. I think that's just how -- as I said earlier -- people 18 use the Internet in a different way. 19 Q. I need to touch on the message board very briefly. 20 You've told us that registered users can use it to 21 discuss whatever they want. Presumably they can post 22 a message almost instantaneously, and you have limited 23 control over what they're going to post. Do you control 24 the message board in any way? Do you have moderators or 25 anyone else who looks at the postings?</p> <p style="text-align: center;">Page 62</p>	<p>1 "Max Beesley wins apology from Popbitch. Popbitch 2 agrees to its first ever statement in open court." 3 I don't want to relate the details of this back 4 publicly, but it's clear from this report that following 5 a story that you published about Mr Beesley in the 6 Popbitch newsletter, he contacted you to point out that 7 the story was incorrect. This led to a successful libel 8 action and you paid substantial damages to Mr Beesley 9 and had to carry an apology to Mr Beesley. Is that an 10 accurate summary of what happened? 11 A. It is, yes. 12 Q. Can you tell me what went wrong on that particular 13 occasion and whether you have ever had to pay damages 14 since then to any other celebrity? 15 A. This was a story that appeared to come from two very 16 good sources and I wrote it in good faith, but I made 17 a misjudgment and I have to hold my hands up and say 18 that on this occasion this was wrong. But, no, since 19 there there hasn't been anything. 20 Q. Did you learn anything from that particular experience? 21 A. Yeah, you learn not to get things wrong. I think you 22 also learn the value of negotiation and mediation with 23 anybody that makes a complaint as speedily as you can. 24 Q. Can I ask you about paragraph 30 of your statement, 25 please. You say this:</p> <p style="text-align: center;">Page 64</p>

16 (Pages 61 to 64)



<p>1 "Some newspapers have tried to use Popbitch to post 2 stories that they wouldn't do themselves so that they 3 can quote them as being on the Internet and therefore 4 they can publish as in the public domain. I have tried 5 to avoid Popbitch being used for this purpose." 6 Can I ask you a little bit about that? First of 7 all, "some newspapers", do you mean -- let me find a 8 fair way of putting it. Do you mean tabloid newspapers, 9 broadsheet newspapers or both? 10 A. I mean both. 11 Q. I'm not going to ask you to give me specific examples 12 unless you want to, but what's your understanding of why 13 they come to you and try to persuade you to publish 14 a story, despite the fact that they themselves have 15 chosen not to? Is it to pass on litigation risk? 16 Presumably they have to ask themselves the same 17 questions as you about privacy and public interest. Why 18 do they do this? 19 A. From the stories involved, I'm not sure it would be 20 a litigation risk, but perhaps they have commercial 21 considerations in newspapers, the subject matter might 22 be something that their editor would not -- would be 23 worried about. Maybe it's politically difficult for 24 them, and therefore if something is out there on the 25 Internet and said to be in the public domain, they could</p> <p style="text-align: center;">Page 65</p>	<p>1 Q. You do publish information, you accept all of that? 2 A. Mm-hm. 3 Q. Perhaps I can guess the answer to this, but I want to 4 ask whether you think sites like yours ought to be 5 regulated other than just by having your own rules and 6 procedures in place, but should be regulated in the same 7 way as other outlets that publish information, such as 8 newspapers, magazines and so on, and if not, why not? 9 A. Being an Internet publisher is different. We do publish 10 in the UK, but we publish around the world, we have 11 servers around the world, and we try and comply with 12 local law. And therefore the same regulation for 13 magazines and newspapers would probably be -- it may or 14 may not be useful for us. 15 In the future, whatever the Inquiry proposes I think 16 we would look at very carefully to see whether we 17 thought it was something that we thought would be useful 18 for us to sign up to. 19 Q. Have you heard any of the proposals that have been 20 floated during the course of this Inquiry? 21 A. I've been watching some of the Inquiry, but if you 22 would -- 23 Q. Have you noted anything that concerns you about some of 24 the proposals that have been floated? 25 A. I've been watching it more for the press information,</p> <p style="text-align: center;">Page 67</p>
<p>1 then quote that and write the story. 2 Q. Do I understand your answer to mean that they may not -- 3 say the story is about a particular politician, they 4 don't want to offend that particular politician, or they 5 may have a commercial reason for not wanting to offend 6 someone, therefore they would ask you to publish it so 7 they can say "It wasn't my fault, it was already out 8 there"; is that it in a nutshell? 9 A. You wouldn't be far wrong. 10 Q. How often does this happen? 11 A. It hasn't happened often and not for some time. I think 12 now there are very easy ways for people to get stories 13 on the Internet through social media. 14 Q. Right. When you said that you've tried to avoid 15 Popbitch being used for these purposes, does that mean 16 you generally say no to such requests? 17 A. Yes. 18 Q. What if the information is really interesting and you 19 did want to publish it? Would you still say no? 20 A. That hasn't yet happened. 21 Q. Now, the thorny issue of regulation. 22 A. Mm-hm. 23 Q. Obviously you're not members of the PCC. You do run 24 this website as a business, though? 25 A. Mm-hm.</p> <p style="text-align: center;">Page 66</p>	<p>1 I think. 2 Q. I understand. 3 LORD JUSTICE LEVESON: Let me give you an insight into 4 questions I've been asking, not conclusions I've 5 reached. But before I do, would it be fair to say that 6 the underlying ethos of your business is rather 7 different from that which you might think from the 8 second part of its name? There was an article in the 9 Independent, which quoted you and said: 10 "We've been happy to prick the pomposity of some of 11 the big stars over the years, but it was always meant to 12 be done with love. Other sites are more cynical. If 13 you don't love the world of celebrity and pop culture in 14 some way, it's very easy to be nasty about it." 15 Therefore would it be fair to say that what you're 16 doing is very gently to poke a bit of fun at people and 17 not to try and make statements or invade them in any 18 way? 19 A. That would be our attempt. That's what we're aiming 20 for. 21 LORD JUSTICE LEVESON: I understand. And for that reason it 22 may be that where you don't necessarily get things 23 right, that doesn't mean to say that the person affected 24 doesn't have a sense of humour and can live with it, 25 which may be the difference. I'm not saying it is,</p> <p style="text-align: center;">Page 68</p>

<p>1 I don't know. But if I just test it with a slightly                  2 different story, I rather gather from what you've said,                  3 but tell me if you agree with me, that the mere fact                  4 that somebody was a Premier League footballer, not                  5 a particularly famous one, but he played in the Premier                  6 League, wouldn't necessarily mean that if you learnt                  7 that he was having an affair, you would put it in your                  8 article?                  9 A. Yes.                  10 LORD JUSTICE LEVESON: Because there's nothing funny about                  11 that.                  12 A. "Man has affair" is not necessarily a big story.                  13 LORD JUSTICE LEVESON: Yes. But some lighter story might                  14 get in, not because it really did reveal some deep                  15 hypocrisy but because it just provides a slightly                  16 different reflection, a lighter reflection?                  17 A. Yes.                  18 LORD JUSTICE LEVESON: Would that be fair? So when you talk                  19 about hypocrisy, we've used that word in a very, very                  20 clear, pure sense. You're using it in a slightly                  21 lighter sense?                  22 A. That is largely true, but if the story was "Footballer                  23 who had built his whole personal brand on being married                  24 but was having an affair", that would be a story.                  25 "Footballer has affair" wouldn't be a story.</p> <p style="text-align: center;">Page 69</p>	<p>1 every week, otherwise we get -- we had a privacy                  2 injunction against us in 2009, which was up at the Court                  3 of Appeal last year, so this does affect us greatly, but                  4 I guess what we don't normally -- the stories we would                  5 normally look at are not the kiss-and-tell kind of                  6 stories, which I think, to at least some degree, is                  7 where the injunction versus freedom of expression battle                  8 has been fought so far.                  9 LORD JUSTICE LEVESON: Not just kiss-and-tell.                  10 A. No.                  11 LORD JUSTICE LEVESON: The trouble about life is it hits you                  12 in so many different ways you can't articulate them all.                  13 A. It's such a grey area, that we don't -- where that line                  14 is -- we're trying to find it as well.                  15 LORD JUSTICE LEVESON: That's the point. That's why                  16 I wonder whether you -- it's not for me to give you                  17 advice, but actually to read the code, I appreciate some                  18 of it won't touch you, but as a piece, it actually                  19 provides a window on how these issues could be solved,                  20 and that brings me to the issue that Ms Patry Hoskins                  21 was asking you about, which is how one brings everybody                  22 into a common standard. I'm not sure that there is                  23 a great difference between what you do and what                  24 newspapers do. You liken yourself to Private Eye.                  25 Private Eye is printed, you are digital. I'm not so</p> <p style="text-align: center;">Page 71</p>
<p>1 LORD JUSTICE LEVESON: Yes, but --                  2 A. For us.                  3 LORD JUSTICE LEVESON: -- that gets us into the whole issue                  4 which you may have seen reflected in the decision in the                  5 case of Rio Ferdinand, which actually was fought out in                  6 this building, and the balancing exercise that judges                  7 have to do to decide whether the Article 8 rights to                  8 privacy --                  9 A. Of course.                  10 LORD JUSTICE LEVESON: -- which bind you just as much as                  11 they bind everybody else --                  12 A. We know.                  13 LORD JUSTICE LEVESON: -- override the Article 10 rights of                  14 freedom of expression. That's the balance.                  15 A. Yes.                  16 LORD JUSTICE LEVESON: It may be that you coming into this                  17 exercise in the way that you've described, jokes among                  18 friends, suddenly an explosion of interest in that, so                  19 more readers than some of the broadsheet publications,                  20 on the basis of the number of people you're emailing out                  21 to, hasn't required you to come up to the hard                  22 decisions -- I'm sure you did in relation to the libel                  23 action, that's a rude awakening -- that are actually                  24 forming the basis of the work of the Inquiry?                  25 A. We have to balance the 8 and 10 just like everybody else</p> <p style="text-align: center;">Page 70</p>	<p>1 sure I understand that there is really a difference                  2 between those two. And the question is whether it isn't                  3 sensible, and in the public interest -- you'll forgive                  4 me for using that word -- that there is a common set of                  5 standards.                  6 Now, applying it from your perspective, from your                  7 point of view, might lead to a slightly different result                  8 in a case because of the way you are going to tell                  9 a story and because of what you're trying to do, but                  10 that doesn't necessarily mean there shouldn't be                  11 a common standard, and if there should be, how one                  12 brings people in. To some extent you've identified that                  13 you'll see what I have to say and then make some                  14 decisions, unless I behave in such a way that you don't                  15 have a much of a decision to make --                  16 A. Of course.                  17 LORD JUSTICE LEVESON: -- depending on whether anybody pays                  18 any attention to what I say, and I recognise that I will                  19 produce a report which somebody will decide to act upon                  20 or not.                  21 In the light of all that, I'd like to know whether                  22 you think that that might be helpful, and help you                  23 manoeuvre your way, rather than having to reinvent the                  24 wheel, through these difficult issues where people with                  25 willingness to take on challenges, particularly as you</p> <p style="text-align: center;">Page 72</p>

<p>1 get larger and larger, may be more and more prepared to 2 do so.</p> <p>3 So that's the first question. I'll carry on and 4 then you can answer all.</p> <p>5 The second would be whether it would be valuable to 6 have somebody, have a body, not just a lawyer, although 7 I don't decry lawyers, perhaps not surprisingly, but 8 somebody with experience in the field of journalism who 9 you can pick up the phone to and ask, "This is a bit of 10 a call, what's your view?" You won't necessarily be 11 bound by that, but just to have that advisory, to be 12 alert when somebody has complained and is concerned 13 about the risk of harassment, so that you know when 14 that's happening, so that you're aware of it, and 15 possibly to have an arbitral system of some sort 16 available to you if somebody wants to make a fuss, which 17 you can resolve without having to go to extremely 18 expensive lawyers and indulge in the sort of litigation 19 that it's clear, from what you've said, you have 20 experience of.</p> <p>21 So that's the sort of construct that I'm thinking 22 about. Now, whether it's made to be binding or whether 23 it is in some sense consensual is one of the big issues 24 that -- and you will have read on the website, if you've 25 read any of the evidence or seen it, that editor after</p> <p style="text-align: center;">Page 73</p>	<p>1 regulation and therefore you have your problem of people 2 coming from different areas and publishing to the UK but 3 not being regulatable by them.</p> <p>4 LORD JUSTICE LEVESON: But you could be.</p> <p>5 A. I could be.</p> <p>6 LORD JUSTICE LEVESON: Unless you went to live in America 7 and did it from there.</p> <p>8 A. Yes. But it's -- actually I don't think it is even that 9 on the Internet. The servers could be from America.</p> <p>10 LORD JUSTICE LEVESON: You'd have to be careful about where 11 you're publishing. Who is the publisher.</p> <p>12 A. Of course. But all -- I guess something to think of is 13 how many Internet publishers are going to think of doing 14 this, and how many are going to take the opportunity of 15 being, I guess, a global -- a potentially global 16 enterprise and not being part of a regulatory system.</p> <p>17 LORD JUSTICE LEVESON: Yes, I understand that, but if 18 a journalist published for money in the UK, then it's 19 not entirely obvious why any system which covers 20 journals published in the UK shouldn't cover --</p> <p>21 A. No, I understand. And it may well prove to be that this 22 is a very useful mechanism for us to join. But, as 23 I said, it would have to be something that we would look 24 at down the line.</p> <p>25 LORD JUSTICE LEVESON: Or, California beckons.</p> <p style="text-align: center;">Page 75</p>
<p>1 editor is very concerned about the principle of 2 self-regulation, and I understand why, although I don't 3 think it means quite how you used it in your statement.</p> <p>4 A. No.</p> <p>5 LORD JUSTICE LEVESON: But the critical thing is that 6 everybody is involved. There can't be different people 7 shooting off in different directions, because that 8 doesn't lend for balance, or indeed fairness in the 9 public interest.</p> <p>10 I'm not trying to sell you something which I haven't 11 yet formulated in my mind, but I am asking you to 12 consider, in the light of all that I've said, what you 13 think about those ideas, because it's obvious that 14 because of your difficulties you've had to think about 15 them, and doubtless for the purposes of giving evidence, 16 which is why that paragraph about public interest 17 appears. So that's the general idea, without committing 18 myself to anything, and without committing you to 19 anything.</p> <p>20 A. Everything you say is very interesting and it could well 21 be a very useful thing for us to sign up to. With being 22 an Internet product, it would be just as easy for us to, 23 I guess, be published from America or something like 24 that, and therefore perhaps not me but a lot of people 25 on the Internet might choose to not sign up for</p> <p style="text-align: center;">Page 74</p>	<p>1 A. I've heard it's nice this time of year.</p> <p>2 MS PATRY HOSKINS: You've covered all my questions, so 3 unless Ms Wright wanted to add anything, those are all 4 my questions.</p> <p>5 LORD JUSTICE LEVESON: No. I think there is a difference, 6 and if the article in the Independent to which I've 7 referred is right, it may be that the nastier stories 8 which may appear in other Internet magazines which have 9 set up since yours will cause more concern, which only 10 serves to underline why the rules have to cover 11 everybody, even if in 99.9 per cent of the cases none of 12 it would touch what you are trying to do for your 13 audience. Does that make sense?</p> <p>14 A. It makes sense to me. I guess the ongoing issue that we 15 have with the Internet, and you touched upon with 16 Facebook, is as things -- technology is constantly 17 evolving. Who considers themselves a journalist, who 18 considers themselves a broadcaster, who considers 19 themselves a blogger, the world is changing as these 20 platforms change. How you deal with that, I guess, is 21 yet another challenge.</p> <p>22 LORD JUSTICE LEVESON: Yes. But I think that I might see 23 there's a distinction between Facebook, where one person 24 is communicating with their friends --</p> <p>25 A. Or, say, somebody on Twitter amasses tens of thousands</p> <p style="text-align: center;">Page 76</p>

1 of followers.  
2 LORD JUSTICE LEVESON: Or Twitter, or Twitter -- and  
3 organisations that are in the business of selling  
4 themselves by reference to news or information. That's  
5 the difference between the pub chatter, to take the  
6 analogy that was mentioned before, and that which the  
7 state -- and I don't mean government, I say immediately,  
8 but the broad corpus, all of us has an interest in  
9 seeing is conducted on a level playing field. Whether  
10 that's achievable is the very centre of the Inquiry.  
11 Thank you very much indeed.  
12 A. Thank you.  
13 MS PATRY HOSKINS: Thank you. That concludes the evidence  
14 for today, sir.  
15 LORD JUSTICE LEVESON: Thank you very much indeed.  
16 (4.09 pm)  
17 (The hearing adjourned until 10 o'clock on 30 January 2012)  
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<b>ability</b> 6:4,22 24:1 33:7,21	<b>advice</b> 61:15 71:17	<b>appear</b> 76:8	<b>back</b> 7:20 11:12 23:15 36:4 44:14 48:8 50:23 64:3	73:22	43:11 63:24
<b>able</b> 7:14 13:6 18:21 21:3,5,6 22:7 32:14,15 48:8 52:11,14	<b>advisory</b> 73:11	<b>appeared</b> 64:15	<b>badly</b> 60:13	<b>biography</b> 45:21	<b>business</b> 38:5 66:24 68:6 77:3
<b>absolute</b> 57:3	<b>affair</b> 69:7,12,24 69:25	<b>appears</b> 74:17	<b>balance</b> 70:14,25 74:8	<b>bit</b> 2:9,18 5:9 23:9 45:6 52:3 65:6 68:16 73:9	<b>buttons</b> 17:1 <b>buying</b> 49:18 <b>buys</b> 60:1
<b>absolutely</b> 12:8 48:5 54:4 57:14 60:19	<b>affairs</b> 1:24	<b>application</b> 3:1 28:5 35:12	<b>BARR</b> 1:3,7,8 3:23 9:7,10,12 11:12 14:6 23:13 25:12 32:22 34:6	<b>block</b> 18:21 33:9 33:10	
<b>abstrac</b> 61:13	<b>affect</b> 71:3	<b>applications</b> 2:20 3:9	<b>based</b> 39:17	<b>blocking</b> 18:20	<b>California</b> 4:13 21:21 75:25
<b>academic</b> 1:25	<b>affirmed</b> 1:6 37:16	<b>apply</b> 17:18 18:11 30:8,25	<b>basically</b> 40:6 47:16	<b>blogger</b> 76:19	<b>call</b> 2:12 15:13 26:7 29:17 50:8 73:10
<b>accept</b> 11:10 67:1	<b>Africa</b> 1:15	<b>applying</b> 72:6	<b>basis</b> 19:14 29:6 38:8,13 39:1 70:20,24	<b>blogs</b> 50:17	<b>called</b> 15:17 32:13
<b>access</b> 19:13 33:9 33:11	<b>afternoon</b> 1:3,8 37:14	<b>appointed</b> 2:6	<b>battle</b> 71:7	<b>board</b> 39:4,7 48:15 62:19,24 63:2,20,22	<b>calls</b> 49:3
<b>acclaimed</b> 59:11	<b>age</b> 2:14	<b>approach</b> 5:10 5:22 32:1 33:5 41:6	<b>bear</b> 51:18	<b>body</b> 30:12,24 54:10 73:6	<b>Camilla</b> 37:15,16 37:20
<b>account</b> 12:6 52:21	<b>Agency</b> 34:3	<b>appropriate</b> 17:5 18:16	<b>bearing</b> 60:15	<b>Bond</b> 45:22,25	<b>cancer</b> 52:6
<b>accountable</b> 13:20 14:18	<b>agreed</b> 7:16	<b>arbitral</b> 73:15	<b>beckam</b> 55:12 52:13 55:18 52:19	<b>boo</b> 44:14	<b>career</b> 38:2
<b>accounts</b> 3:14	<b>agreement</b> 7:25 8:7,23,25	<b>area</b> 22:10 24:7 25:4 33:18 56:19,19 71:13	<b>beckons</b> 75:25	<b>booed</b> 44:11	<b>careful</b> 41:5,10 53:1,4 75:10
<b>accurate</b> 46:15 51:17 53:8 64:10	<b>agrees</b> 64:2	<b>areas</b> 10:9 42:24 55:15 75:2	<b>becoming</b> 35:9 55:13	<b>books</b> 59:14 60:6 61:3	<b>carefully</b> 67:16
<b>achievable</b> 77:10	<b>aim</b> 21:16	<b>argument</b> 56:5	<b>Beecroft</b> 1:6,10	<b>bottle</b> 23:16	<b>carries</b> 53:22
<b>acknowledge</b> 26:5	<b>aimed</b> 39:22,23	<b>arguments</b> 34:25	<b>Beesley</b> 64:1,5,8 64:9	<b>bottom</b> 9:5 17:12 50:11	<b>carry</b> 18:8 20:4 26:6 50:6 64:9 73:3
<b>act</b> 40:22 42:15 43:3 63:8 72:19	<b>aiming</b> 68:19	<b>arsenal</b> 18:17	<b>began</b> 44:13	<b>bound</b> 51:8,10 73:11	<b>carrying</b> 4:17 13:18
<b>action</b> 9:19 18:16 27:11 33:21 58:9 64:8 70:23	<b>alert</b> 73:12	<b>article</b> 5:12 7:7 15:1 24:25 27:3,6 68:8 69:8 70:7,13 76:6	<b>beginning</b> 14:11	<b>breach</b> 12:4 17:25	<b>case</b> 12:1 22:4 48:4,4 53:3 70:5 72:8
<b>actionable</b> 19:19	<b>Allan</b> 1:3,6,8,10 15:3 23:9 37:6	<b>articles</b> 32:24	<b>behave</b> 55:21 72:14	<b>breached</b> 18:14 26:6	<b>cases</b> 13:17 15:23 16:14 18:9 22:1,6,9 22:11 28:6 29:4,8 76:11
<b>actions</b> 53:24 58:6,6	<b>allegation</b> 17:24	<b>articulate</b> 71:12	<b>behaved</b> 26:11 60:12	<b>breaches</b> 19:17 19:17,18	<b>cause</b> 76:9
<b>active</b> 3:12	<b>allegory</b> 44:17	<b>articulated</b> 6:19	<b>behaving</b> 14:5	<b>break</b> 37:12	<b>caused</b> 30:3
<b>activities</b> 3:1 8:14	<b>allied</b> 6:10	<b>asked</b> 41:23 47:7	<b>behaviour</b> 13:19 27:24	<b>briefly</b> 39:9 62:19	<b>causing</b> 29:10
<b>actor</b> 59:4	<b>allow</b> 5:25 20:15 20:18	<b>asking</b> 46:18 68:4 71:21 74:11	<b>behavioural</b> 55:17	<b>bring</b> 16:17 35:12 58:10	<b>caution</b> 30:15,25
<b>add</b> 46:16 52:2 76:3	<b>allows</b> 16:12 22:22	<b>asked</b> 41:23 47:7	<b>belief</b> 1:12 37:25	<b>brings</b> 71:20,21 72:12	<b>celebrations</b> 4:5
<b>added</b> 44:24	<b>amasses</b> 76:25	<b>asking</b> 46:18 68:4 71:21 74:11	<b>believe</b> 9:23 12:13 14:12 20:24	<b>Britain</b> 55:19	<b>celebrities</b> 39:11 39:19 40:23 41:3 44:18 45:4 55:15 56:5 57:9,19 57:22 63:13,18
<b>adding</b> 46:13 51:1	<b>amazing</b> 48:23	<b>aspect</b> 28:3 42:11	<b>belittle</b> 11:2	<b>broad</b> 1:19 4:17 55:2 77:8	<b>celebrity</b> 41:19 42:9,16 49:17 49:21,23 52:2 56:13 64:14 68:13
<b>addition</b> 8:9	<b>ambassador</b> 41:10	<b>aspects</b> 61:16	<b>best</b> 1:12 37:25 63:15	<b>broadcaster</b> 76:18	<b>cent</b> 3:22 41:1 48:24 49:1 76:11
<b>address</b> 12:3	<b>America</b> 4:20 74:23 75:6,9	<b>assist</b> 25:22	<b>better</b> 15:5 26:11 26:12 34:24	<b>broadened</b> 42:5	<b>centre</b> 20:1,2 77:10
<b>adds</b> 42:1	<b>American</b> 7:8 8:9 19:6	<b>assume</b> 51:14	<b>beyond</b> 7:22 10:14 53:2 57:6,25	<b>broader</b> 23:18 25:5	<b>century</b> 44:18
<b>adjourned</b> 77:17	<b>amount</b> 8:3 14:8 27:13 30:5,20	<b>attempt</b> 17:17 68:19	<b>bid</b> 55:19	<b>broadsheet</b> 65:9 70:19	<b>certain</b> 7:21,23 18:21,22 42:25
<b>adjudicating</b> 21:18	<b>amounts</b> 15:20 31:12	<b>attention</b> 72:18	<b>big</b> 40:21 41:10 68:11 69:12 73:23	<b>broadsheets</b> 38:13	<b>clearly</b> 6:14 7:17 32:9
<b>adjudication</b> 29:19 30:11	<b>analogy</b> 31:22 36:5 77:6	<b>audience</b> 6:8 10:16,23 32:16 33:8 50:9 76:13	<b>bind</b> 70:10,11	<b>Broccoli's</b> 45:20	<b>click</b> 26:5 32:15
<b>admirable</b> 60:5	<b>analysis</b> 18:7	<b>audit</b> 8:13,13	<b>binding</b> 30:11	<b>building</b> 70:6 built 69:23	<b>clients</b> 41:8
<b>adult</b> 3:21 16:18 31:24	<b>Angry</b> 15:2,6	<b>author</b> 59:11		<b>bullying</b> 10:18 10:20 11:16 16:16	<b>clip</b> 24:16
<b>advance</b> 12:6	<b>anniversary</b> 33:2	<b>authoritative</b> 29:12		<b>bundle</b> 5:11 7:6 8:12 11:25 32:25 37:21	<b>closed</b> 12:7
<b>advanced</b> 24:8	<b>anonymous</b> 16:9 48:23 49:11	<b>authorities</b> 8:11 17:9			<b>closest</b> 7:3 47:19
<b>adversely</b> 24:21	<b>answer</b> 58:15 66:2 67:3 73:4	<b>available</b> 13:12 19:12 20:23 73:16			
<b>advertiser</b> 47:2	<b>answers</b> 60:19	<b>avoid</b> 65:5 66:14			
<b>advertisers</b> 46:9	<b>anybody</b> 64:23 72:17	<b>awakening</b> 70:23			
<b>advertising</b> 4:7 34:3 41:11 43:24	<b>anyone's</b> 9:25	<b>aware</b> 12:5,10 16:18 28:6,6 53:13,15 61:12 61:12 73:14			
	<b>apologies</b> 63:16				
	<b>apology</b> 64:1,9				
	<b>apparently</b> 60:3				
	<b>Appeal</b> 71:3				

<b>clothes</b> 55:17	<b>complain</b> 16:25 19:25	54:20 74:12	<b>conversations</b> 30:21 31:21 32:1	<b>critical</b> 74:5	<b>default</b> 59:14	<b>directions</b> 74:7
<b>code</b> 53:9,11,13 53:15 61:11,16 61:25 71:17	<b>complained</b> 73:12	<b>considerable</b> 29:2	<b>Conversely</b> 13:4	<b>criticisms</b> 8:5	<b>defined</b> 7:17	<b>directly</b> 4:18 15:15 20:10 30:8
<b>cogent</b> 27:20	<b>complaining</b> 21:4	<b>consideration</b> 51:24	<b>convinced</b> 48:5	<b>crowd</b> 44:12,13	<b>defining</b> 52:9 55:13	<b>director</b> 1:14,24
<b>collective</b> 31:20 54:11	<b>complaint</b> 17:16 22:15 28:10,16 30:9,10 63:7 64:23	<b>considerations</b> 51:18 65:21	<b>cope</b> 30:20 31:2 31:3	<b>crucial</b> 6:5 31:10	<b>Definitely</b> 55:7	<b>directs</b> 20:7
<b>Collins</b> 45:13	<b>complaints</b> 20:15 21:4,6 27:18 28:22 30:18 31:4 63:12,20	<b>considered</b> 53:12	<b>copied</b> 24:17 25:1 33:15,16 33:22	<b>Cubby</b> 45:20	<b>definition</b> 54:25	<b>disadvantage</b> 34:16
<b>combination</b> 20:20 21:22	<b>complaints</b> 20:15 21:4,6 27:18 28:22 30:18 31:4 63:12,20	<b>considers</b> 76:17 76:18,18	<b>copies</b> 23:4	<b>culturally</b> 58:22	<b>degree</b> 14:24 71:6	<b>disagreement</b> 16:13
<b>come</b> 8:5 13:2 14:14 17:14 23:5 28:3,4 34:22 36:1,4 38:3 44:14 47:21 48:13,21 51:7,15 55:8 55:10 57:24 63:18 64:15 65:13 70:21	<b>compliance</b> 18:10 28:17	<b>consistent</b> 24:22	<b>copy</b> 24:1 43:18 61:13	<b>culture</b> 12:9 38:8 38:14 39:10 42:6,8,11,23 45:19 53:22 55:4 56:6,13 68:13	<b>deliberately</b> 13:20	<b>discernible</b> 14:8
<b>comes</b> 14:15 17:16 21:14	<b>compliance</b> 18:10 28:17	<b>consists</b> 4:16	<b>copyright</b> 20:21 22:2 23:22 24:7,11 27:8	<b>current</b> 25:5	<b>delivery</b> 4:21	<b>discharge</b> 11:11
<b>comfortable</b> 5:18 29:9	<b>compliance</b> 18:10 28:17	<b>constantly</b> 13:15 25:22 76:16	<b>core</b> 2:19 6:3 8:25 12:9 14:10 31:17	<b>curtailing</b> 36:12	<b>demonstrably</b> 57:10	<b>discriminatory</b> 11:20
<b>coming</b> 12:16 25:20 70:16 75:2	<b>compliance</b> 18:10 28:17	<b>construct</b> 73:21	<b>corporate</b> 4:11 5:8	<b>cynical</b> 68:12	<b>depend</b> 60:20	<b>discuss</b> 26:25 39:5 49:12 62:21
<b>comment</b> 6:23 15:1,3 38:13 59:15 63:5	<b>compliance</b> 18:10 28:17	<b>consumerism</b> 55:18	<b>correct</b> 1:12,16 2:8,25 3:7,16 4:10 5:6 8:16 8:22 11:8,24 23:7,8 34:5 38:16	<b>D</b>	<b>dependent</b> 25:17 60:3	<b>discussed</b> 29:15 57:16
<b>commenting</b> 15:2,4	<b>compliance</b> 18:10 28:17	<b>contacted</b> 64:6	<b>corrected</b> 28:15 29:21	<b>daily</b> 25:19	<b>depending</b> 72:17	<b>discussion</b> 15:5
<b>comments</b> 36:1 50:17	<b>compliance</b> 18:10 28:17	<b>contains</b> 11:14 20:2	<b>correction</b> 28:13	<b>damages</b> 64:8,13	<b>depends</b> 48:4 59:16 60:11	<b>disgruntled</b> 59:8 59:16
<b>commercial</b> 34:15 41:5,12 46:8 65:20 66:5	<b>compliance</b> 18:10 28:17	<b>content</b> 2:16 6:8 9:19,22 10:14 10:22 11:3,4 14:9,15,16 15:20 16:10,25 17:6,19 18:20 18:22 19:11,13 20:19,24 21:1 22:19,20 23:21 26:1,17 28:22 29:6,17,19 30:5,16 31:9 31:11,12 32:8 32:10,12,14 33:9,14,16,18 33:24 35:10,13 35:17,18 36:16 36:20 38:21 39:6,9,25 42:4	<b>correctly</b> 52:12	<b>Darfur</b> 55:14	<b>desire</b> 59:5	<b>disrespect</b> 59:10
<b>Commission</b> 4:1 27:19	<b>compliance</b> 18:10 28:17	<b>contentious</b> 48:7 49:19	<b>costs</b> 42:1	<b>darker</b> 45:6	<b>despite</b> 65:14	<b>disseminating</b> 25:14
<b>commissioner</b> 8:12	<b>compliance</b> 18:10 28:17	<b>contents</b> 1:11 37:24	<b>counsel</b> 22:8	<b>data</b> 2:4 8:11,14 33:10,22	<b>destinations</b> 18:22	<b>distinction</b> 4:14 18:24 76:23
<b>Commissioners</b> 34:4	<b>compliance</b> 18:10 28:17	<b>context</b> 35:7 54:22 57:15	<b>counter</b> 58:24	<b>dated</b> 8:13 63:24	<b>detail</b> 2:18	<b>distinctions</b> 31:10
<b>committing</b> 74:17,18	<b>compliance</b> 18:10 28:17	<b>continue</b> 8:18	<b>countries</b> 24:8	<b>dating</b> 7:7	<b>details</b> 8:17 42:10 45:19 49:13 64:3	<b>distinguish</b> 29:16
<b>common</b> 20:5 21:8 23:24 71:22 72:4,11	<b>compliance</b> 18:10 28:17	<b>contract</b> 4:20	<b>country</b> 4:2 17:9 27:18 28:21 49:4,5	<b>David</b> 55:18	<b>development</b> 3:8	<b>distribute</b> 35:19
<b>commonly</b> 19:16	<b>compliance</b> 18:10 28:17	<b>contracting</b> 5:4	<b>couple</b> 49:3	<b>day</b> 14:13,13 41:13 49:5 56:17 61:19,21	<b>develops</b> 2:11	<b>distribution</b> 35:9 35:18
<b>communal</b> 31:21	<b>compliance</b> 18:10 28:17	<b>contractual</b> 10:3	<b>course</b> 3:19 8:9 10:25 17:7 24:10 33:13 36:9 40:18 67:20 70:9 72:16 75:12	<b>debate</b> 23:18,20 24:3,6 27:7	<b>difference</b> 49:24 60:8,10 68:25 71:23 72:1 76:5 77:5	<b>document</b> 5:11 10:8
<b>communicating</b> 76:24	<b>compliance</b> 18:10 28:17	<b>contrast</b> 6:12	<b>court</b> 15:25 44:10 64:2 71:2	<b>debates</b> 23:25 24:8,22 25:5	<b>different</b> 5:19 17:13 18:25 19:1 25:1 29:5 32:11 36:9 40:20 41:14 50:2,14,19 59:1,17 62:18 67:9 68:7 69:2 69:16 71:12 72:7 74:6,7 75:2	<b>documents</b> 10:1
<b>communication</b> 3:4	<b>compliance</b> 18:10 28:17	<b>contribution</b> 10:3	<b>covered</b> 45:3 76:2	<b>debated</b> 23:25 24:8,22 25:5	<b>difficult</b> 25:3 56:19 57:7 65:23 72:24	<b>doing</b> 7:20 13:21 46:16 48:25 53:4 68:16 75:13
<b>community</b> 10:8 14:1,3 19:3,9	<b>compliance</b> 18:10 28:17	<b>contrast</b> 6:12	<b>covers</b> 10:9 20:17 42:7 75:19	<b>December</b> 8:13	<b>difficulties</b> 74:14	<b>domain</b> 19:1 57:17 60:14 61:10 65:4,25
<b>companies</b> 3:8 7:4 18:12 21:3 21:8	<b>compliance</b> 18:10 28:17	<b>controls</b> 6:6,20 15:13 40:12	<b>co-founded</b> 38:9	<b>decide</b> 31:2 32:18,19 46:6 70:7 72:19	<b>digital</b> 2:13 24:1 31:25 71:25	<b>domestic</b> 27:17 34:2
<b>company</b> 2:10 7:19	<b>compliance</b> 18:10 28:17	<b>control</b> 6:7,11 11:7 21:10 35:2 36:16,20 62:23,23 63:5	<b>create</b> 12:2 19:1 25:6 30:23 33:10	<b>decided</b> 45:16	<b>digitally</b> 33:22	<b>doubt</b> 22:10
<b>company's</b> 1:17	<b>compliance</b> 18:10 28:17	<b>controlled</b> 40:11 40:17 41:19	<b>creating</b> 25:10	<b>decides</b> 32:7	<b>direct</b> 17:17	<b>doubtless</b> 74:15
<b>comparable</b> 27:7	<b>compliance</b> 18:10 28:17	<b>controls</b> 6:6,20 15:13 40:12	<b>credence</b> 62:5	<b>deciding</b> 17:18 51:19 54:19	<b>directed</b> 20:2,3 28:1	<b>Dr</b> 45:15,16,24 45:25
<b>compare</b> 53:21	<b>compliance</b> 18:10 28:17	<b>control</b> 6:7,11 11:7 21:10 35:2 36:16,20 62:23,23 63:5	<b>Credits</b> 4:9	<b>deep</b> 69:14		<b>draft</b> 45:15
<b>comparison</b> 42:17	<b>compliance</b> 18:10 28:17	<b>controlled</b> 40:11 40:17 41:19		<b>deeper</b> 36:20		<b>draw</b> 57:1,1,4 58:16

<p><b>E</b></p> <p><b>earlier</b> 18:25 19:20 50:2 56:17 62:17</p> <p><b>easily</b> 42:3</p> <p><b>East</b> 1:15</p> <p><b>easy</b> 66:12 68:14 74:22</p> <p><b>economic</b> 38:6</p> <p><b>economy</b> 60:2</p> <p><b>ecosystem</b> 13:7</p> <p><b>editor</b> 38:10 65:22 73:25 74:1</p> <p><b>editorial</b> 46:10 47:5 50:6</p> <p><b>editorialised</b> 29:11,17,19,23 35:10</p> <p><b>education</b> 26:9 33:6</p> <p><b>educational</b> 26:8</p> <p><b>effect</b> 55:22</p> <p><b>effective</b> 15:21</p> <p><b>effectively</b> 14:2</p> <p><b>either</b> 15:25 23:21 58:1</p> <p><b>elaborate</b> 12:8</p> <p><b>Election</b> 4:2</p> <p><b>Electoral</b> 4:1</p> <p><b>elements</b> 38:22</p> <p><b>else's</b> 9:20</p> <p><b>email</b> 38:24 39:1 40:9 48:14 49:10</p> <p><b>emailing</b> 70:20</p> <p><b>emails</b> 41:21 42:2</p> <p><b>embellished</b> 51:4</p> <p><b>emphasise</b> 2:15</p> <p><b>employee</b> 59:8 59:16</p> <p><b>employs</b> 3:23</p> <p><b>enables</b> 3:8</p> <p><b>encourage</b> 4:2</p> <p><b>enforced</b> 12:15 14:7</p> <p><b>engage</b> 12:17 15:4 49:10</p> <p><b>engaged</b> 16:23</p> <p><b>engagement</b> 7:22 12:21</p> <p><b>enormous</b> 8:3</p> <p><b>ensure</b> 7:17 51:11</p> <p><b>enterprise</b> 75:16</p> <p><b>entertain</b> 44:25</p> <p><b>entertaining</b> 40:1 45:18</p> <p><b>entertainment</b> 39:11 40:2,7 40:10,12 51:25</p> <p><b>entirely</b> 6:13 21:10 75:19</p> <p><b>entities</b> 19:1</p> <p><b>environment</b> 25:19 26:10</p>	<p>33:25 36:2,4</p> <p><b>equalise</b> 36:7</p> <p><b>equalised</b> 36:3</p> <p><b>equally</b> 8:6 34:22</p> <p><b>era</b> 51:22</p> <p><b>escalate</b> 15:24 17:4,6,8 22:7</p> <p><b>essence</b> 2:10</p> <p><b>essentially</b> 17:2 62:4</p> <p><b>et</b> 20:22</p> <p><b>ethos</b> 68:6</p> <p><b>Europe</b> 1:15</p> <p><b>European</b> 1:24</p> <p><b>event</b> 3:2</p> <p><b>everybody</b> 56:24 70:11,25 71:21 74:6 76:11</p> <p><b>evidence</b> 11:9 18:25 21:2 37:5 47:20 48:1,9 53:7 73:25 74:15 77:13</p> <p><b>evolved</b> 5:21 50:7,20 56:13</p> <p><b>evolving</b> 50:18 76:17</p> <p><b>exactly</b> 17:1 36:19 53:24</p> <p><b>examine</b> 43:9,22</p> <p><b>examining</b> 24:23 27:24</p> <p><b>example</b> 3:25 7:17,21 10:9 10:17 11:25 13:6 14:24 22:2,12 23:22 26:9,24 27:18 34:19 43:9 44:19 45:2 51:21 57:13,18 59:7 61:1</p> <p><b>examples</b> 27:22 48:19 63:9 65:11</p> <p><b>exceptional</b> 19:10</p> <p><b>excessive</b> 10:21 36:22</p> <p><b>exchange</b> 49:11</p> <p><b>exciting</b> 40:10</p> <p><b>exercise</b> 70:6,17</p> <p><b>exhibit</b> 11:13</p> <p><b>exhibited</b> 9:3</p> <p><b>expect</b> 9:15 28:17 50:10</p> <p><b>expected</b> 21:15 30:10</p> <p><b>expecting</b> 50:12</p> <p><b>expensive</b> 41:21 73:18</p> <p><b>experience</b> 13:4 14:15 19:16 25:20 48:17 49:16 50:3,14 64:20 73:8,20</p>	<p><b>experiences</b> 49:15 50:23</p> <p><b>expert</b> 31:3</p> <p><b>expertise</b> 38:5</p> <p><b>explain</b> 5:2 38:4 38:12,19 39:17 39:22 42:13 44:19 50:24</p> <p><b>explained</b> 18:17 39:10 41:17 53:21</p> <p><b>explore</b> 30:7 55:6</p> <p><b>explosion</b> 70:18</p> <p><b>express</b> 5:24</p> <p><b>expression</b> 1:21 24:22 70:14 71:7</p> <p><b>extensive</b> 4:4 7:23 20:1</p> <p><b>extent</b> 11:4 27:14 34:10 56:8 63:5 72:12</p> <p><b>extra</b> 48:1 52:2,9</p> <p><b>extreme</b> 17:7</p> <p><b>extremely</b> 36:25 59:13 73:17</p> <p><b>eye</b> 42:9,16,20 43:2 55:22,23 59:21 71:24,25</p> <p><b>e-commerce</b> 1:21</p> <p style="text-align: center;"><b>F</b></p> <p><b>face</b> 41:12 58:25 59:2</p> <p><b>Facebook</b> 1:4,15 1:23 2:10,15 3:10,23,24,25 4:9,20,21 5:3,5 5:14,24 6:21 7:5,10 8:2,9,19 8:24 9:20,23 10:2,12 11:19 11:22 12:3,5 12:10,14 14:6 14:13,16,18,23 14:25 15:25 16:25 17:12,18 18:24 19:3,6,6 19:7,13,24 20:12,14 21:6 22:14,16 23:8 26:7 27:25 28:2,8,9,11,14 28:24,24 29:7 30:9,10 31:6 31:19 32:6,10 32:15,17,24 33:1,3,18 34:2 34:18,21 35:13 50:2 56:17 76:16,23</p> <p><b>Facebook's</b> 4:11 5:9,22 7:9 8:14 14:11 27:16 28:19 30:12</p>	<p><b>Facebook-post...</b> 33:4</p> <p><b>faced</b> 23:25</p> <p><b>facilitate</b> 2:11</p> <p><b>facing</b> 34:10</p> <p><b>fact</b> 8:1,2 45:18 47:22 52:21 56:13 59:10,21 62:3 65:14 69:3</p> <p><b>factors</b> 25:9,11 25:17</p> <p><b>facts</b> 50:4</p> <p><b>failed</b> 17:17</p> <p><b>fair</b> 60:19 65:8 68:5,15 69:18</p> <p><b>fairly</b> 22:1</p> <p><b>fairness</b> 74:8</p> <p><b>faith</b> 46:19 64:16</p> <p><b>fake</b> 13:19 14:4 18:1</p> <p><b>fall</b> 51:15</p> <p><b>false</b> 12:2</p> <p><b>familiar</b> 30:15</p> <p><b>family</b> 6:1 7:2 13:7 14:19</p> <p><b>famous</b> 40:23 55:16 69:5</p> <p><b>famously</b> 52:11</p> <p><b>far</b> 47:4 52:23 66:9 71:8</p> <p><b>fashion</b> 55:16</p> <p><b>fault</b> 66:7</p> <p><b>feature</b> 11:22 16:21 43:24 46:6</p> <p><b>features</b> 2:19,20</p> <p><b>February</b> 7:7</p> <p><b>feed</b> 2:21 29:20 29:22</p> <p><b>feel</b> 13:20 30:17</p> <p><b>feeling</b> 14:17</p> <p><b>Ferdinand</b> 70:5</p> <p><b>fewer</b> 51:7</p> <p><b>field</b> 73:8 77:9</p> <p><b>fierce</b> 24:6</p> <p><b>figure</b> 55:11 56:11</p> <p><b>figures</b> 56:16</p> <p><b>film</b> 24:16 45:24 55:13</p> <p><b>films</b> 24:11 42:11 45:22,25</p> <p><b>final</b> 37:14 45:12</p> <p><b>financial</b> 10:1 38:7 51:1</p> <p><b>find</b> 8:7 13:25 15:8 17:21 20:7,11,13 25:7 28:22 36:13 37:21 48:9 49:7 60:21,25 65:7 71:14</p> <p><b>fine</b> 27:1</p> <p><b>firmly</b> 14:11</p> <p><b>first</b> 1:3 15:12</p>	<p>38:2 43:8,22 45:15,23 64:2 65:6 73:3</p> <p><b>firstly</b> 35:7 39:8</p> <p><b>fit</b> 55:4</p> <p><b>five</b> 37:9 63:16</p> <p><b>fix</b> 16:2</p> <p><b>floated</b> 67:20,24</p> <p><b>follow</b> 46:11 60:18</p> <p><b>followers</b> 77:1</p> <p><b>following</b> 9:4 64:4</p> <p><b>foolproof</b> 48:6</p> <p><b>footballer</b> 69:4 69:22,25</p> <p><b>forever</b> 32:6</p> <p><b>forgive</b> 72:3</p> <p><b>form</b> 12:13 20:8 20:23 21:14 25:1 27:10</p> <p><b>format</b> 43:22</p> <p><b>former</b> 44:3</p> <p><b>forming</b> 70:24</p> <p><b>forms</b> 7:21,24 10:14,22 18:3 22:3</p> <p><b>formulated</b> 74:11</p> <p><b>forum</b> 39:7</p> <p><b>forward</b> 8:5</p> <p><b>fought</b> 70:5 71:8</p> <p><b>foul</b> 51:16</p> <p><b>found</b> 14:22 15:3 28:12 41:18 48:15 50:5 53:9 61:3</p> <p><b>founder</b> 5:14</p> <p><b>free</b> 4:6 26:21</p> <p><b>freedom</b> 1:21 24:21 70:14 71:7</p> <p><b>freelance</b> 38:8,13 40:13 48:16</p> <p><b>freelancing</b> 41:18</p> <p><b>friends</b> 2:23 6:1 7:1,3 13:7,9,10 14:19 33:8 40:7,9 41:23 70:18 76:24</p> <p><b>front</b> 6:23 14:19 21:23 26:3 37:22</p> <p><b>FTC</b> 7:9,13,15 7:20,25</p> <p><b>full</b> 1:9,10 37:18 39:6</p> <p><b>fully</b> 11:10</p> <p><b>full-time</b> 38:10</p> <p><b>fun</b> 45:5 52:1 68:16</p> <p><b>function</b> 16:12</p> <p><b>functionality</b> 12:12</p> <p><b>functions</b> 4:18 4:25</p>	<p><b>Fundamental</b> 2:20</p> <p><b>funding</b> 4:7</p> <p><b>funny</b> 40:8 52:3 69:10</p> <p><b>further</b> 25:14 30:7</p> <p><b>fuss</b> 73:16</p> <p><b>future</b> 16:8 28:21 30:8 67:15</p> <p style="text-align: center;"><b>G</b></p> <p><b>gain</b> 48:1</p> <p><b>gained</b> 38:5</p> <p><b>game</b> 44:22</p> <p><b>gap</b> 33:20 43:1 56:2,21</p> <p><b>Gardens</b> 44:9</p> <p><b>gatekeepers</b> 40:22</p> <p><b>gather</b> 40:8 69:2</p> <p><b>general</b> 4:2 10:23 31:11 74:17</p> <p><b>generally</b> 17:24 21:9 23:7 31:8 66:16</p> <p><b>generic</b> 20:17 22:20</p> <p><b>gently</b> 68:16</p> <p><b>getting</b> 20:8 30:17,20 50:10</p> <p><b>giant</b> 31:19</p> <p><b>gin</b> 49:18</p> <p><b>give</b> 6:3 10:3 20:18,20 29:2 32:18 49:16 51:2,4 57:13 57:18 65:11 68:3 71:16</p> <p><b>given</b> 11:9 19:8 25:12 30:4 33:12 34:23 61:16 62:5</p> <p><b>gives</b> 50:18</p> <p><b>giving</b> 53:7 60:20 74:15</p> <p><b>glad</b> 54:17</p> <p><b>global</b> 4:12,15 19:3,9,18 75:15,15</p> <p><b>globally</b> 3:12 19:19</p> <p><b>go</b> 6:21 8:17 9:17 10:13 16:24 17:12 20:4 33:13 35:25 42:22 48:3 59:20 63:12 73:17</p> <p><b>goal</b> 19:8</p> <p><b>goes</b> 22:13 41:2</p> <p><b>going</b> 13:13 16:7 17:5 18:9 27:8 38:2 42:7,12 43:5 45:2 46:6</p>	<p>52:8 56:19 57:13 59:3 60:18 61:11 62:23 63:11 65:11 72:8 75:13,14</p> <p><b>good</b> 1:8 25:10 31:22 37:14 46:10,12,13,17 47:5,23 56:2 57:8 64:16,16</p> <p><b>Google</b> 5:9 8:19 11:1 19:2 21:17 49:3</p> <p><b>Google-type</b> 31:8</p> <p><b>gossip</b> 36:10 62:4</p> <p><b>gotten</b> 5:18</p> <p><b>government</b> 1:24 2:4 77:7</p> <p><b>graph</b> 2:13</p> <p><b>great</b> 34:9 35:17 35:18 71:23</p> <p><b>greater</b> 55:9</p> <p><b>greatly</b> 71:3</p> <p><b>grey</b> 56:19 71:13</p> <p><b>gross</b> 22:12</p> <p><b>grossly</b> 23:21</p> <p><b>group</b> 6:2,16,18 47:16 63:1</p> <p><b>groups</b> 3:2 12:13 31:13,20</p> <p><b>Guardian</b> 5:12 35:11,13</p> <p><b>guess</b> 6:12 33:19 42:8 44:25 50:20 58:13 67:3 71:4 74:23 75:12,15 76:14,20</p> <p><b>guidance</b> 25:12 31:3</p> <p><b>guy</b> 50:1</p> <p style="text-align: center;"><b>H</b></p> <p><b>Hallam</b> 2:5</p> <p><b>hands</b> 64:17</p> <p><b>happen</b> 63:7 66:10</p> <p><b>happened</b> 8:1 44:22 49:22 50:15 64:10 66:11,20</p> <p><b>happening</b> 73:14</p> <p><b>happens</b> 26:14 27:12 31:25</p> <p><b>happily</b> 14:3</p> <p><b>happy</b> 42:17 51:16 63:10,18 68:10</p> <p><b>harassing</b> 11:16</p> <p><b>harassment</b> 10:20 73:13</p> <p><b>hard</b> 13:17 36:13 70:21</p> <p><b>hate</b> 10:21 18:3</p> <p><b>headed</b> 63:25</p>
--	---	--	--	---	--	--

<b>heading</b> 44:2	25:2	<b>inform</b> 25:13	12:11,22 22:13	<b>June</b> 1:23	<b>Kris</b> 44:3,9,13,13	<b>libellous</b> 51:12
<b>headline</b> 43:23	<b>identifying</b> 34:19	45:1	23:7,17,19,24	<b>jurisdiction</b>	<b>L</b>	<b>life</b> 32:5,17,20
<b>headquarters</b>	<b>identities</b> 13:19	<b>information</b> 2:3	24:17 25:10	19:11	<b>labels</b> 55:16	52:18 56:3,3,9
4:12,13,15,15	13:24 14:25	2:12 5:19,23	29:1,18,20,25	<b>jurisdictions</b>	<b>labour</b> 36:25	56:11,12,20,22
4:16	15:4	6:2,4,6,13,16	30:19,22 31:4	10:11,24	<b>lands</b> 8:21	57:12,16 58:11
<b>hear</b> 21:8 44:18	<b>identity</b> 11:23	7:11 9:22 10:1	31:11 33:23	<b>JUSTICE</b> 1:5	<b>large</b> 7:4 20:12	58:12,25 59:13
<b>heard</b> 8:19 18:25	12:2,9 13:3,5	18:2 34:3,13	36:12 49:25	3:17 9:6,8,11	30:16 31:12	60:15,15,16
21:2,17 22:21	14:4,6,10 18:1	41:23 42:15	50:1,6,18,20	10:6,17,25	<b>largely</b> 26:16	71:11
56:16 67:19	25:18	49:1,9 51:2,4	62:10,18 65:3	12:25 13:12	47:12,14 49:14	<b>light</b> 59:17 72:21
76:1	<b>ignore</b> 45:13	54:23 58:17,19	65:25 66:13	23:9 24:3,10	69:22	74:12
<b>hearing</b> 77:17	<b>ill</b> 52:6	61:4 66:18	67:9 74:22,25	24:24 31:5,14	<b>larger</b> 73:1,1	<b>lighter</b> 69:13,16
<b>heart</b> 6:9	<b>illegal</b> 10:4,6,14	67:1,7,25 77:4	75:9,13 76:8	31:17 32:3,19	<b>latest</b> 43:12	69:21
<b>Hello</b> 40:25	18:10 19:11	<b>infringement</b>	76:15	34:9 35:22	<b>laugh</b> 52:8,16	<b>light-hearted</b>
<b>help</b> 4:14 7:12	20:19,25,25	23:22	<b>intervention</b>	36:15,23 37:4	<b>law</b> 9:21 18:13	39:25 42:10
20:1,2,8 21:5	23:22 25:20	<b>infringes</b> 9:20	17:10	37:8 40:17	40:16 51:10	<b>liken</b> 71:24
35:14 63:2	27:9,10,13	<b>injunction</b> 34:20	<b>intimidating</b>	43:16 44:7	67:12	<b>likes</b> 31:10
72:22	<b>illegality</b> 17:24	71:2,7	11:16	46:4 53:6,11	<b>laws</b> 8:20 51:9,9	<b>limited</b> 4:24 5:3
<b>helpful</b> 16:16	18:10	<b>injunctions</b>	<b>intrusion</b> 23:4	53:16,20 54:3	51:16	5:5 62:22
54:24 72:22	<b>images</b> 23:14	51:22	<b>invade</b> 68:17	54:5,9,15 59:6	<b>lawyer</b> 73:6	<b>limits</b> 25:23
<b>Hey</b> 26:3	<b>imagine</b> 27:1	<b>inner</b> 48:12	<b>invasion</b> 20:6,16	60:8,17 61:20	<b>lawyers</b> 21:18,22	<b>line</b> 21:23 57:1,2
<b>high</b> 14:24 46:21	28:12	<b>innovation</b> 26:9	20:22 22:12	61:22 68:3,21	61:15 73:7,18	57:3,4,4,7 58:4
<b>Hislop</b> 53:18,24	<b>immediately</b>	<b>innovations</b>	51:20 52:19,22	69:10,13,18	<b>lead</b> 41:19 72:7	58:16,21 71:13
<b>history</b> 38:2	77:7	25:15,25	<b>investigating</b>	70:1,3,10,13	<b>leads</b> 43:4	75:24
45:24 60:6	<b>impact</b> 32:4	<b>inputs</b> 21:10	31:1	70:16 71:9,11	<b>League</b> 69:4,6	<b>lining</b> 55:15
<b>hit</b> 54:1	<b>impacted</b> 34:11	<b>Inquiry</b> 21:2	<b>involved</b> 16:13	71:15 72:17	<b>learn</b> 16:6 64:20	<b>link</b> 6:23 26:15
<b>hits</b> 71:11	<b>impacting</b> 24:21	23:20 24:15	18:3 34:18	74:5 75:4,6,10	64:21,22	26:15 27:9
<b>hitting</b> 35:2	<b>importance</b> 11:2	34:10 37:19,22	47:1 50:10	75:17,25 76:5	<b>learns</b> 19:23	<b>linked</b> 28:14
<b>hold</b> 33:14 64:17	<b>important</b> 11:22	40:19 67:15,20	65:19 74:6	76:22 77:2,15	<b>learnt</b> 16:9 69:6	29:22
<b>Hollywood</b> 42:14	18:23 29:16	67:21 70:24	<b>involvement</b>	<b>K</b>	<b>leave</b> 62:2	<b>linking</b> 26:24
<b>home</b> 2:21	46:10	77:10	1:17 7:13	<b>Kardashian</b> 44:3	<b>led</b> 64:7	<b>links</b> 22:24 27:5
<b>hope</b> 28:15	<b>impossible</b> 23:15	<b>insert</b> 36:24	<b>Ireland</b> 4:20,21	<b>Kate</b> 59:25 60:4	<b>left</b> 37:8	39:12
<b>hopefully</b> 11:9	<b>improve</b> 49:20	<b>insider</b> 42:15	5:5 8:10,24	<b>keep</b> 23:10 39:24	<b>legal</b> 8:18 10:11	<b>list</b> 33:8
16:7 26:11	<b>improving</b> 2:4	<b>insight</b> 68:3	<b>Irish</b> 8:11	61:1	18:7 21:12	<b>literally</b> 14:19
35:21	<b>inaccurate</b> 46:12	<b>instances</b> 16:15	<b>issue</b> 7:5 30:14	<b>keeping</b> 6:13	<b>legally</b> 22:7	<b>litigation</b> 57:15
<b>hoping</b> 51:6	<b>incentive</b> 25:6	<b>instantaneously</b>	66:21 70:3	<b>Kim</b> 44:3	<b>legitimate</b> 27:12	65:15,20 73:18
<b>horizontal</b> 15:12	<b>incidents</b> 17:22	24:1 62:22	71:20 76:14	<b>kind</b> 26:7,9	<b>lend</b> 74:8	<b>little</b> 2:9,18 5:9
<b>Hoskins</b> 37:14	<b>include</b> 2:20	<b>Institute</b> 2:1	<b>issues</b> 1:20 20:22	29:14,25 32:2	<b>Let's</b> 37:8 51:14	6:24 12:8
37:17,18 41:16	10:17	<b>institutions</b> 34:2	23:19 24:15,18	33:6 36:19	59:6	45:19 55:6
43:15,17 44:8	<b>includes</b> 26:16	<b>instructive</b> 43:8	24:18,23 31:18	40:9 43:24	<b>level</b> 18:19 36:20	65:6
54:16 60:18	<b>including</b> 1:18	<b>integrate</b> 3:9	34:9 38:8 43:4	49:18 52:20	49:19 77:9	<b>live</b> 55:21 57:25
62:3 71:20	1:20 3:12 4:18	<b>intellectual</b>	71:19 72:24	59:2 62:1 71:5	<b>LEVESON</b> 1:5	58:11 68:24
76:2 77:13	17:23 21:14	20:21	73:23	<b>kindly</b> 27:22	3:17 9:6,8,11	75:6
<b>hosting</b> 11:3	22:14	<b>intend</b> 11:2	<b>item</b> 22:18	<b>kinds</b> 5:19 20:19	10:6,17,25	<b>lives</b> 55:8 57:25
<b>hours</b> 21:16	<b>incompatible</b>	<b>intensive</b> 37:1	<b>J</b>	21:25 36:13	12:25 13:12	<b>living</b> 57:6
<b>House</b> 2:6	37:1	<b>intention</b> 51:13	<b>James</b> 45:22,25	<b>Kingdom</b> 1:19	23:9 24:3,10	<b>load</b> 35:3
<b>huge</b> 8:3 24:8	<b>incorrect</b> 64:7	<b>interest</b> 6:1 7:8	43:5,7 52:10	3:13	24:24 31:5,14	<b>local</b> 67:12
<b>human</b> 36:24	<b>incredibly</b> 24:6	43:5,7 52:10	54:21,22,25	<b>kiss-and-tell</b>	31:17 32:3,19	<b>logs</b> 26:2
<b>humans</b> 45:20	<b>Independent</b>	55:25 60:9,9	55:25 60:9,9	71:5,9	34:9 35:22	<b>long</b> 26:22 52:23
<b>humorous</b> 39:25	68:9 76:6	65:17 70:18	65:17 70:18	<b>kitchen</b> 61:5,7	36:15,23 37:4	<b>longer</b> 5:15
<b>humour</b> 68:24	<b>index</b> 11:2,3	72:3 74:9,16	72:3 74:9,16	<b>knew</b> 52:20	37:8 40:17	<b>long-term</b> 63:1
<b>Humphries</b> 44:3	<b>individual</b> 6:6	77:8	77:8	53:24	43:16 44:7	<b>look</b> 9:4 30:14
44:9	8:24 32:7	<b>interested</b> 6:15	<b>Joan</b> 45:13	<b>know</b> 12:20,25	46:4 53:6,11	38:3 40:2 42:9
<b>hurt</b> 51:3	33:20	26:24 42:5	<b>jobs</b> 51:4	15:23 36:20	53:16,20 54:3	43:1 46:2 52:8
<b>husband</b> 44:3	<b>individually</b> 23:1	58:7,18 59:12	<b>join</b> 75:22	44:6,21 46:25	54:5,9,15 59:6	54:25 57:5
<b>hypocrisy</b> 69:15	36:17	59:22 61:6	<b>joining</b> 1:23	48:20 49:8,8	60:8,17 61:20	58:13 62:10
69:19	<b>individuals</b> 2:12	<b>interesting</b> 24:14	<b>joke</b> 39:15,16	51:3 53:13,18	61:22 68:3,21	63:8 67:16
<b>hypocritical</b> 43:1	16:19 31:13	27:23 40:15	45:6	57:22,23 69:1	69:10,13,18	71:5 75:23
<b>I</b>	32:18	52:16 53:6	<b>jokes</b> 42:10	70:12 72:21	70:1,3,10,13	<b>looked</b> 12:4
<b>icon</b> 6:24	<b>inducement</b> 51:1	58:2 59:17	70:17	73:13	70:16 71:9,11	27:22 55:1
<b>idea</b> 42:13 74:17	<b>indulge</b> 73:18	66:18 74:20	<b>journalism</b> 73:8	<b>knowledge</b> 1:12	71:15 72:17	<b>looking</b> 5:16
<b>ideas</b> 74:13	<b>industry</b> 34:23	<b>intermediary</b>	<b>journalist</b> 75:18	37:25 46:17	74:5 75:4,6,10	11:13 13:15,18
<b>identification</b>	40:21 54:10	16:12 24:20	76:17	48:6	75:17,25 76:5	15:21 24:15
9:25	<b>influence</b> 55:7,10	<b>internal</b> 9:8	<b>judges</b> 70:6	<b>known</b> 21:23	76:22 77:2,15	28:11 29:4
<b>identified</b> 53:25	55:12,17	<b>international</b>	<b>judgment</b> 28:18	22:5 47:19	<b>libel</b> 51:9,16	36:17 54:11
72:12	<b>influential</b> 57:5	4:12,14	<b>judgments</b> 28:9	55:25	53:24 64:7	58:22
<b>identify</b> 22:5	58:23	<b>Internet</b> 1:25	29:4,24	<b>knows</b> 24:11	70:22	<b>looks</b> 42:23
			<b>jumped</b> 45:23			62:25



<b>Lord</b> 1:5 3:17 9:6,8,11 10:6 10:17,25 12:25 13:12 23:9,9 24:3,10,24 31:5,14,17 32:3,19 34:9 35:22 36:15,23 37:4,6,8 40:17 43:16 44:7 46:4 53:6,11 53:16,20 54:3 54:5,9,15 59:6 60:8,17 61:20 61:22 68:3,21 69:10,13,18 70:1,3,10,13 70:16 71:9,11 71:15 72:17 74:5 75:4,6,10 75:17,25 76:5 76:22 77:2,15	20:7 21:13,15 21:18 23:23 24:1,14 25:14 25:21 26:15,25 27:13,21,25 28:5,8,9,23,25 29:9,21,23 32:5,23 33:1,4 35:14 47:10 53:23 59:4,9 60:11,20 <b>materials</b> 10:7 <b>matter</b> 8:20 10:12 34:21 65:21 <b>matters</b> 1:18 56:23 <b>Max</b> 64:1 <b>mean</b> 8:1 9:6 23:13 24:5 54:9,22 56:18 56:24 59:14,16 61:12 65:7,8 65:10 66:2,15 68:23 69:6 72:10 77:7 <b>meaningful</b> 13:4 <b>means</b> 8:4 12:19 19:12 23:3 56:8 59:22 62:4 74:3 <b>meant</b> 68:11 <b>measure</b> 11:6 25:8 <b>measures</b> 11:11 36:19 <b>mechanism</b> 25:2 31:5,7,8 36:15 41:24 75:22 <b>mechanisms</b> 13:12 15:7,10 15:14,22 <b>media</b> 1:22 7:4 21:3 28:21 34:11,12,14 35:8,8,10,15 38:14 39:12 40:7 41:12 42:7,9,24 46:14 50:3,8 50:19 51:10 52:13 57:12 61:15 66:13 <b>mediation</b> 64:22 <b>meet</b> 8:7 <b>Member</b> 2:5 <b>members</b> 47:19 61:25 66:23 <b>memory</b> 63:15 <b>Menlo</b> 4:13 <b>mention</b> 57:10 <b>mentioned</b> 77:6 <b>mere</b> 59:9,10 69:3 <b>message</b> 16:11 26:2,3 39:4,7 48:15 62:19,22	62:24 63:2,20 63:22 <b>messages</b> 3:5 <b>met</b> 49:17 <b>Middle</b> 1:15 <b>Middleton</b> 59:25 60:4 <b>miles</b> 48:19 <b>million</b> 3:12,12 8:4 14:2 23:4,5 35:11 37:2 48:19 <b>millions</b> 23:3 60:2,2 <b>mind</b> 51:18 74:11 <b>minutes</b> 37:9 <b>misjudgment</b> 64:17 <b>misleading</b> 11:20 <b>missed</b> 42:24 <b>misuse</b> 33:4,21 <b>misusing</b> 32:23 <b>Mm-hm</b> 53:10 66:22,25 67:2 <b>model</b> 29:15,24 <b>moderated</b> 63:3 <b>moderators</b> 62:24 <b>moment</b> 8:17 26:1 28:3 29:11 32:11 43:5,8 45:14 51:14 52:10 58:15 <b>monarchy</b> 4:3 <b>money</b> 51:5 75:18 <b>monkey</b> 45:16 46:1 40:24 14:13,14 <b>months</b> 40:19 <b>mother</b> 60:5 <b>moving</b> 4:11 29:14 57:3 <b>much-talked-a...</b> 51:23 <b>multiple</b> 10:24 <b>music</b> 24:11	22:9 <b>need</b> 15:24 16:19 20:8 37:2 46:2 62:19 <b>needn't</b> 11:25 <b>needs</b> 18:21 <b>negotiation</b> 64:22 <b>Neighbourhood</b> 14:2 <b>net</b> 3:10 <b>network</b> 29:7,9 31:10 36:20 47:12,14 50:9 <b>never</b> 14:14 16:10 33:11 47:2 50:24 59:25 62:1 <b>new</b> 21:3 24:2 26:25 27:3 37:5 58:2 61:5 61:7 <b>news</b> 2:21,22,23 12:1 39:10 77:4 <b>newsletter</b> 38:22 39:2,8,9,17,20 39:22 40:5 43:7,10,12 46:7 47:11 49:21 51:20 54:20 63:19,22 64:6 <b>newspaper</b> 26:24 28:12,14 29:7 29:12 36:8 50:5 53:15,16 62:6,14 <b>newspapers</b> 14:24 27:25 40:24 65:1,7,8 65:9,21 67:8 67:13 71:24 <b>nice</b> 76:1 <b>night</b> 49:18,24 <b>nine</b> 60:22 <b>non-lawyers</b> 21:23 <b>non-user</b> 19:22 <b>norm</b> 5:16,20 <b>normally</b> 71:4,5 <b>North</b> 4:19 <b>noted</b> 67:23 <b>notice</b> 20:18,20 20:25 21:14 22:17,18 <b>notion</b> 6:5,9,10 6:12 <b>November</b> 7:15 <b>nudity</b> 10:9,10 10:20 18:2 <b>number</b> 3:13 4:22 9:18 20:12 25:17 30:4 48:13 70:20 <b>numbering</b> 9:9	<b>nutshell</b> 66:8 <hr/> <b>O</b> <b>object</b> 15:15 <b>objecting</b> 19:21 <b>objectionable</b> 14:8,14 15:9 19:23 26:17 27:21 28:23 <b>obvious</b> 22:1,6 74:13 75:19 <b>obviously</b> 51:23 66:23 <b>occasion</b> 64:13 64:18 <b>occurs</b> 22:23 <b>offence</b> 30:3 <b>offend</b> 66:4,5 <b>offensive</b> 25:20 <b>offer</b> 12:11 20:1 30:24 31:3 33:5 35:17,17 35:18 <b>offered</b> 6:21 17:13 <b>offering</b> 3:11 38:13 <b>office</b> 4:24 34:4 47:13 <b>officers</b> 7:18 <b>offices</b> 4:22 21:22 <b>Office's</b> 2:3 <b>OK</b> 41:1 <b>okay</b> 23:12 39:8 47:3 <b>old-style</b> 42:13 <b>Olympic</b> 55:19 <b>once</b> 23:15 33:15 33:24 <b>ones</b> 36:21 <b>ongoing</b> 76:14 <b>online</b> 1:20 16:20 29:9 31:25 34:13 36:11 <b>onwards</b> 47:9 48:14 <b>open</b> 56:9 64:2 <b>openly</b> 5:20 52:24 <b>operate</b> 21:9 22:17 <b>operates</b> 8:21 <b>operating</b> 12:23 <b>operation</b> 4:16 5:4 21:24 <b>opportunity</b> 32:19 75:14 <b>option</b> 16:24 <b>options</b> 17:14 <b>order</b> 20:9,25 25:10 51:5 <b>orderly</b> 25:19 <b>organisation</b> 52:14 <b>organisations</b> 3:24 6:1 77:3	<b>original</b> 28:15 29:21,22 <b>originated</b> 48:11 <b>ought</b> 67:4 <b>outcome</b> 7:12 <b>outlets</b> 67:7 <b>outline</b> 5:7 <b>outset</b> 39:18 <b>outside</b> 4:19 22:8 <b>override</b> 70:13 <b>overstep</b> 14:20 <b>owe</b> 46:20 <b>Oxford</b> 1:25 <b>o'clock</b> 77:17 <hr/> <b>P</b> <b>page</b> 2:21 9:4,5 11:12 43:16 45:10 <b>pages</b> 3:2 <b>pagination</b> 9:5 <b>paid</b> 64:8 <b>paparazzi-type</b> 39:19 <b>paragraph</b> 5:17 9:13 38:4,20 39:23 42:12 44:24 46:8 47:9 48:13 55:3,4 64:24 74:16 <b>parent</b> 16:17 <b>Park</b> 4:13 <b>Parliament</b> 2:5 <b>part</b> 16:5 23:20 26:23 28:10 39:7 43:17 50:20 53:14,17 68:8 75:16 <b>particular</b> 4:23 4:23 8:11 21:11,11 24:16 27:2 36:17 49:23 51:15,21 64:12,20 66:3 66:4 <b>particularly</b> 16:15 21:25 22:4 24:6 69:5 72:25 <b>partnered</b> 3:25 <b>partners</b> 14:22 <b>Parts</b> 42:21 <b>party</b> 16:22 19:23 <b>pass</b> 43:18 65:15 <b>Patry</b> 37:14,17 37:18 41:16 43:15,17 44:8 54:16 60:18 62:3 71:20 76:2 77:13 <b>patterns</b> 55:17 <b>pay</b> 50:25 55:16 64:13 <b>pays</b> 72:17 <b>PCC</b> 12:1 27:19	27:23 28:4,9,9 28:12,18 29:4 53:9,14,17 54:6,8 61:24 66:23 <b>peers</b> 26:20 <b>people</b> 3:14,23 4:3,17 5:18,20 5:25,25 6:4,16 8:4 11:6 12:12 12:19,20,23 13:16,18,23 14:3,17,20,25 15:3,19 16:2,6 18:25 20:2,3 20:20,13,18,24 22:25 25:22 26:8,11,21 28:7 29:8,25 30:16 32:1 33:9,9,13 35:3 35:12 36:2,4,7 36:8,9,21 40:23,25 41:4 41:23,25 42:2 42:5,10 45:6 46:16,18 49:25 49:25 52:1,8 52:16,24 55:9 55:12,14,16,21 56:15 57:24 58:22 59:21 60:3,6 62:10 62:17 66:12 68:16 70:20 72:12,24 74:6 74:24 75:1 <b>people's</b> 2:13 9:14,15 51:6 55:8 56:2 <b>percentage</b> 3:17 50:16 <b>Perfect</b> 44:8 <b>perfectly</b> 27:12 <b>permissive</b> 27:14 <b>permitted</b> 34:14 <b>person</b> 16:16 19:14,24 24:19 30:8 33:11 49:11 55:18 68:23 76:23 <b>personal</b> 3:5 6:4 48:16 49:15,16 54:12 69:23 <b>person's</b> 2:20 51:21 52:22 <b>perspective</b> 41:14 72:6 <b>persuade</b> 65:13 <b>pervade</b> 56:5 <b>phenomenal</b> 15:20 <b>philosophical</b> 24:18 <b>phone</b> 49:3 73:9 <b>photo</b> 6:22 15:23 22:22,25 24:17
---	---	--	---	--	--	--

33:15 <b>photograph</b> 22:12,15 23:2 23:5 <b>photographs</b> 39:19 <b>photography</b> 3:2 <b>photos</b> 16:7,8 <b>physical</b> 16:20 <b>pick</b> 9:18 13:22 73:9 <b>pictures</b> 59:19 <b>piece</b> 22:20 26:1 29:5 33:8 71:18 <b>pinch</b> 62:8 <b>place</b> 13:25 22:22,23,24 29:5 30:21 57:8 61:9 67:6 <b>placed</b> 41:2 <b>plagiarised</b> 61:3 <b>platform</b> 2:19 3:8 5:24 6:14 7:24 8:2,6 12:16 13:2,23 13:24 14:17 26:21 <b>platforms</b> 29:20 76:20 <b>plausibility</b> 48:1 <b>plausible</b> 49:9 <b>play</b> 44:10 <b>played</b> 46:1 69:5 <b>playground</b> 31:20,24 <b>playing</b> 44:9,23 77:9 <b>please</b> 1:9 5:10 7:12 16:3,5,22 23:10 37:18 38:18 63:23 64:25 <b>pleased</b> 7:14 59:8 <b>plurality</b> 46:14 <b>plus</b> 3:21 10:23 42:24 <b>pm</b> 1:2 37:11,13 77:16 <b>point</b> 4:6 8:14 26:19,20 27:8 27:11 30:1,17 36:23 45:8 51:17 58:24 63:4 64:6 71:15 72:7 <b>points</b> 35:6 <b>poke</b> 52:1 68:16 <b>pokes</b> 3:5 <b>poking</b> 35:4 <b>policies</b> 7:10 <b>policy</b> 1:14,18 7:18 8:20 10:12 12:15 14:6 55:9,15 <b>politically</b> 65:23	<b>politician</b> 55:20 66:3,4 <b>politicians</b> 55:8 <b>politics</b> 39:11 <b>pomposity</b> 68:10 <b>pool</b> 55:10 <b>poor</b> 39:23 <b>pop</b> 49:4 68:13 <b>Popbitch</b> 37:15 38:3,9,18,19 38:23 41:17,20 42:22 44:2,25 46:8 50:21 51:25 52:11 56:9 57:1,10 64:1,1,6 65:1,5 66:15 <b>popular</b> 38:8,14 39:10 42:6,8 42:11,23,24 45:19 53:22 <b>popularised</b> 42:14 <b>population</b> 3:18 3:21,22 <b>pornography</b> 10:10,10,21 11:17 18:3 <b>portfolio</b> 1:20 <b>portrayed</b> 43:2 <b>position</b> 28:19 34:24 <b>possible</b> 48:9 <b>possibly</b> 45:24 54:7 55:9 59:18 73:15 <b>post</b> 9:19,23,25 15:15 17:18 18:2,18 26:2 26:15 36:17 39:5 62:21,23 65:1 <b>posted</b> 14:9 18:13 19:21,24 24:19 28:1,23 29:6 32:15,23 33:1 39:7 <b>posting</b> 2:24 15:20 16:7,8 18:15 30:9 <b>postings</b> 62:25 <b>posts</b> 3:5 15:8,22 32:12 63:10 <b>potential</b> 20:19 <b>potentially</b> 33:20 53:23 75:15 <b>pounds</b> 60:2 <b>power</b> 2:3 55:7 56:3 <b>PR</b> 40:21 <b>practical</b> 23:13 <b>practically</b> 23:17 <b>practice</b> 20:11 20:13 <b>precisely</b> 10:5,19 12:14 13:1,22 16:14 24:13	25:4 32:21 <b>preference</b> 19:15 <b>pregnancy</b> 53:2 <b>pregnant</b> 52:12 52:13 60:22 <b>prejudice</b> 34:16 <b>Premier</b> 69:4,5 <b>prepared</b> 28:25 73:1 <b>present</b> 12:16 13:3,5 <b>presented</b> 34:25 <b>press</b> 27:18 28:22 67:25 <b>pressures</b> 21:11 <b>presumably</b> 51:11 62:21 65:16 <b>prevent</b> 18:19 24:21 25:8 33:4 <b>prick</b> 68:10 <b>primarily</b> 4:25 27:10 <b>primary</b> 17:20 33:5 <b>principle</b> 5:10,23 74:1 <b>print</b> 52:5 <b>printed</b> 29:7 43:11,17 52:25 52:25 71:25 <b>privacy</b> 1:20 5:10,15,23 6:8 7:5,9,18 20:6 20:16,23 21:7 22:13 51:21 52:19,22 56:24 65:17 70:8 71:1 <b>private</b> 3:24 42:9 42:16,20 56:3 56:9,11,12 57:11,12,16 58:5,11,12,25 59:25 60:15,16 71:24,25 <b>privately</b> 57:25 <b>probably</b> 52:7 58:19 62:7,12 63:21,21 67:13 <b>problem</b> 10:25 24:24 26:13,16 27:2 29:10 54:6 75:1 <b>problematic</b> 14:16 29:13 <b>procedures</b> 67:6 <b>proceed</b> 31:2 <b>proceedings</b> 34:16 <b>process</b> 29:3 36:24 46:5 47:6 48:20 52:9 <b>produce</b> 2:16 35:18 72:19	<b>producer</b> 45:22 <b>product</b> 2:9 5:7 7:18 46:3,8,25 50:20 51:25 74:22 <b>prohibition</b> 11:15 <b>prohibitions</b> 11:14 <b>promising</b> 9:2 <b>promotional</b> 43:24 <b>promptly</b> 44:11 <b>proof</b> 27:20 <b>property</b> 20:21 <b>proportionate</b> 30:2 <b>proposal</b> 30:13 30:14 <b>proposals</b> 67:19 67:24 <b>proposes</b> 67:15 <b>protected</b> 54:3 <b>Protecting</b> 9:13 <b>protection</b> 8:12 8:14 14:1 <b>prove</b> 75:21 <b>provide</b> 26:10 58:24 <b>provider</b> 29:1 33:24 <b>providers</b> 19:2 <b>provides</b> 4:24 11:1 69:15 71:19 <b>providing</b> 25:18 40:19 <b>PRs</b> 41:3 <b>PR-driven</b> 40:13 <b>pseudonyms</b> 12:23 <b>pub</b> 31:23 36:7 77:5 <b>public</b> 1:14,18 1:22 3:24 17:8 31:9 43:2,5,7 50:9 52:10 54:21,22,25 55:10,11,14,16 55:22,23,23,24 56:3,10,15,20 57:17 58:25 59:2,11,21,22 59:24 60:9,9 60:13,14,15 61:9,10,25 65:4,17,25 72:3 74:9,16 <b>publication</b> 27:5 29:23 34:12 42:14,20 46:13 <b>publications</b> 70:19 <b>publicist</b> 41:6 <b>publicly</b> 57:11 57:14 58:11 64:4	<b>publish</b> 34:14 43:6 45:17 51:19 52:7,19 54:19,21 57:19 58:19 60:22 65:4,13 66:6 66:19 67:1,7,9 67:10 <b>published</b> 5:12 28:13 29:17,19 31:12 39:2 42:25 45:21 52:15 57:21 64:5 74:23 75:18,20 <b>publisher</b> 38:10 67:9 75:11 <b>publishers</b> 56:18 75:13 <b>publishing</b> 51:10 54:23 59:15 75:2,11 <b>pubs</b> 36:10 <b>pull</b> 41:11 <b>punchline</b> 52:4 <b>pure</b> 69:20 <b>purpose</b> 5:24 10:5 55:4 65:5 <b>purposes</b> 23:13 66:15 74:15 <b>put</b> 7:11 18:18 20:25 23:15 29:11 32:5,8 32:17,24 35:1 35:7 36:1 40:8 46:19,23 50:11 51:24 56:20 57:16 58:23 59:1,17,23 69:7 <b>puts</b> 34:15 <b>putting</b> 11:5 28:8 40:6 45:8 65:8	<b>rare</b> 14:15 <b>reached</b> 7:14 24:3 26:4 68:5 <b>read</b> 11:6 15:1 46:23 61:13,19 61:21,22,23 71:17 73:24,25 <b>reader</b> 50:8 <b>readers</b> 15:8 48:17 50:9,22 58:7,18 62:5,7 70:19 <b>reading</b> 50:1,3 50:21,22 <b>real</b> 11:23 12:9 12:20 13:3,5 14:6,10 15:4 25:18 56:22 <b>really</b> 5:3,18 14:15 15:18 31:18 34:21 36:16 38:21 43:3 58:16 59:25 66:18 69:14 72:1 <b>real-world</b> 2:14 <b>reason</b> 31:16 56:2 66:5 68:21 <b>reasonable</b> 12:18 13:8 <b>reasonably</b> 27:14 <b>reasons</b> 14:23 15:18 <b>receive</b> 39:1 63:12 <b>received</b> 22:14 <b>receptive</b> 28:24 <b>recognised</b> 72:18 <b>recognised</b> 16:14 54:1 <b>recover</b> 33:18 <b>reduce</b> 32:4 <b>reference</b> 18:5 42:13 61:14 77:4 <b>referred</b> 11:15 76:7 <b>reflected</b> 70:4 <b>reflection</b> 69:16 69:16 <b>reflects</b> 8:1 <b>regard</b> 10:22 25:16 27:4,19 36:21 <b>regarded</b> 10:15 <b>region</b> 1:18 <b>register</b> 4:3 <b>registered</b> 39:4 48:14 62:20 <b>regularised</b> 34:24 <b>regularly</b> 7:19 46:23 <b>regulatable</b> 75:3 <b>regulated</b> 62:15	67:5,6 <b>regulation</b> 1:21 8:9,10 27:16 54:12 66:21 67:12 75:1 <b>regulator</b> 7:9 15:25 28:21 30:8 <b>regulators</b> 27:17 <b>regulatory</b> 25:7 30:24 75:16 <b>rehab</b> 52:5 <b>reinvent</b> 72:23 <b>relate</b> 64:3 <b>related</b> 4:18,25 <b>relates</b> 22:18 61:25 <b>relation</b> 70:22 <b>relationship</b> 35:8 35:20 <b>relayed</b> 44:22 <b>relevance</b> 4:23 <b>relevant</b> 25:11 39:6 61:17,24 <b>reliant</b> 46:9 <b>remember</b> 52:23 <b>remotely</b> 59:20 <b>removal</b> 27:11 <b>remove</b> 9:22 10:4 15:16 16:5 17:6,7 18:18 26:1 27:5 63:6 <b>removed</b> 10:11 14:9 16:10 22:23 <b>report</b> 7:19 8:13 12:1,1 14:3 16:22 19:10 20:9,9,14,24 22:25 63:24 64:4 72:19 <b>reported</b> 17:22 <b>reporter</b> 12:2 <b>reporting</b> 5:13 15:18 16:21 17:1 20:15,17 22:24 <b>reports</b> 7:8 <b>represent</b> 24:2 55:19 <b>representing</b> 63:13 <b>represents</b> 41:6 <b>reputable</b> 46:25 <b>requests</b> 23:5 66:16 <b>required</b> 70:21 <b>requires</b> 17:10 <b>requiring</b> 18:7 <b>resemble</b> 60:3 <b>resolve</b> 15:24 16:1,19,20 17:3 73:17 <b>resolved</b> 17:25 18:5 <b>resolving</b> 15:21
---	---	--	--	--	--	--

<p><b>respect</b> 9:15 47:20</p> <p><b>respectfully</b> 24:5</p> <p><b>respond</b> 30:10 45:20</p> <p><b>response</b> 22:21 30:12</p> <p><b>responsibilities</b> 9:1,13 17:21 18:1,6</p> <p><b>responsibility</b> 11:4,10 24:19 24:20</p> <p><b>responsible</b> 1:17</p> <p><b>responsive</b> 21:11</p> <p><b>rest</b> 24:12</p> <p><b>restrict</b> 19:13 32:16</p> <p><b>result</b> 3:11 72:7</p> <p><b>return</b> 32:22</p> <p><b>returned</b> 3:14</p> <p><b>Returning</b> 34:1</p> <p><b>reveal</b> 69:14</p> <p><b>revenue</b> 4:8</p> <p><b>reviews</b> 39:13</p> <p><b>Richard</b> 1:6,10 15:3</p> <p><b>richer</b> 12:21</p> <p><b>right</b> 3:6 6:23 8:15,18 9:10 10:19 15:14,17 17:1 18:22 23:6 25:9 26:3 34:1 38:17 39:14,20,21 43:23,25 44:5 45:9 47:5 49:2 51:8 54:14,16 60:21 63:8 66:14 68:23 76:7</p> <p><b>rights</b> 9:1,12,14 9:15,21 17:21 17:25 18:6 70:7,13</p> <p><b>rigorously</b> 14:7</p> <p><b>Rio</b> 70:5</p> <p><b>risk</b> 65:15,20 73:13</p> <p><b>robustly</b> 12:15</p> <p><b>role</b> 38:3,19 44:17</p> <p><b>roughly</b> 63:14</p> <p><b>routes</b> 34:22</p> <p><b>Rowling</b> 57:13 59:7,18 60:4 60:12,22,25 61:2</p> <p><b>royal</b> 4:4</p> <p><b>rude</b> 61:7 70:23</p> <p><b>rules</b> 26:12,22 54:13 67:5 76:10</p> <p><b>run</b> 43:10 62:6 66:23</p> <p><b>run-up</b> 4:1</p>	<p style="text-align: center;"><b>S</b></p> <p><b>safe</b> 25:19 26:10</p> <p><b>safety</b> 1:21 11:14</p> <p><b>Sake</b> 43:13</p> <p><b>sale</b> 4:8</p> <p><b>sales</b> 5:1</p> <p><b>salt</b> 62:9</p> <p><b>satisfied</b> 51:14</p> <p><b>save</b> 36:17</p> <p><b>saying</b> 5:14,16 18:12 31:19 34:18 35:22,24 36:6,18 46:22 48:9,10 50:12 56:10 60:21 68:25</p> <p><b>says</b> 6:24 12:15 26:3 45:14</p> <p><b>scale</b> 15:19 30:17</p> <p><b>scenes</b> 42:23</p> <p><b>scheme</b> 28:18</p> <p><b>screen</b> 43:20 44:6</p> <p><b>screenplay</b> 45:15</p> <p><b>scrutinise</b> 56:15</p> <p><b>scrutinised</b> 56:11,12</p> <p><b>scrutiny</b> 8:3 56:9 56:20</p> <p><b>search</b> 31:5,7,8</p> <p><b>searchable</b> 31:11 31:16</p> <p><b>searches</b> 20:5</p> <p><b>searching</b> 31:9</p> <p><b>second</b> 16:5 44:24 47:25 68:8 73:5</p> <p><b>secrecy</b> 6:13</p> <p><b>section</b> 9:12 11:12,13,14</p> <p><b>sector</b> 1:22 3:24 38:6</p> <p><b>security</b> 13:15</p> <p><b>see</b> 9:8 13:6 28:15 32:14 33:19 35:16 36:13 44:4 55:13 56:2 67:16 72:13 76:22</p> <p><b>seeing</b> 77:9</p> <p><b>seek</b> 43:2</p> <p><b>seen</b> 28:10 70:4 73:25</p> <p><b>self-regulation</b> 54:7,9,10 74:2</p> <p><b>sell</b> 74:10</p> <p><b>selling</b> 77:3</p> <p><b>send</b> 16:22 41:21 41:22 42:2 59:9</p> <p><b>sense</b> 2:22 19:5 41:5 55:21 56:6 58:23 68:24 69:20,21 73:23 76:13,14</p> <p><b>sensible</b> 72:3</p>	<p><b>sensitive</b> 10:1</p> <p><b>sent</b> 27:22 38:23 48:23 49:2</p> <p><b>separate</b> 10:8 23:5</p> <p><b>separately</b> 8:10</p> <p><b>series</b> 7:16</p> <p><b>serious</b> 18:19</p> <p><b>servers</b> 67:11 75:9</p> <p><b>serves</b> 76:10</p> <p><b>service</b> 2:17 4:4 4:6,19,21 6:19 18:15,24 19:2 19:18 20:1,3,4 25:21,23 26:4 26:6 29:10 30:19 32:9 33:23 37:2</p> <p><b>services</b> 3:10,11 3:25 12:11 36:13</p> <p><b>set</b> 4:25 6:19 10:7 13:10 21:24 24:2 35:16 41:17,22 41:24 54:13 72:4 76:9</p> <p><b>sets</b> 9:2</p> <p><b>setting</b> 30:23</p> <p><b>settlement</b> 7:15 8:8</p> <p><b>severely</b> 36:12</p> <p><b>Shame</b> 42:8</p> <p><b>53:22,22</b></p> <p><b>shape</b> 55:7 63:2</p> <p><b>shaping</b> 50:10</p> <p><b>share</b> 6:2,4,7,17 6:18,22,24,25 7:1 35:14 50:23</p> <p><b>shared</b> 2:16</p> <p><b>sharing</b> 2:11 5:19 6:6,14,16 6:17 50:22</p> <p><b>Sheffield</b> 2:5</p> <p><b>shelf</b> 32:4,17,20</p> <p><b>she'd</b> 61:5,7</p> <p><b>shooting</b> 74:7</p> <p><b>shop</b> 61:8,9</p> <p><b>shops</b> 60:1</p> <p><b>short</b> 37:12 63:24</p> <p><b>shortly</b> 44:12</p> <p><b>show</b> 43:20 45:1</p> <p><b>shutting</b> 36:12</p> <p><b>side</b> 7:18,19 36:1 42:6</p> <p><b>sign</b> 2:15 67:18 74:21,25</p> <p><b>significantly</b> 29:13</p> <p><b>similar</b> 12:12 18:12 22:20 24:15 30:23 32:2 34:12 42:8,21</p>	<p><b>simple</b> 16:1,3 41:24 48:25 49:3</p> <p><b>simply</b> 10:15 13:9 15:23 16:10 20:13 25:6 30:5 31:1 47:20 49:21 56:12 57:9,19</p> <p><b>single</b> 19:3,9 60:5</p> <p><b>sir</b> 3:21 10:7,19 11:8 31:9 37:14 77:14</p> <p><b>site</b> 2:19 3:15 6:21 10:13 15:1 17:2 20:23 22:19,24 22:25 26:24 27:9,11,14 30:6</p> <p><b>sites</b> 29:25 34:15 67:4 68:12</p> <p><b>situation</b> 16:1 18:5 19:20,22</p> <p><b>six</b> 63:16</p> <p><b>slightly</b> 25:1 40:20 41:14 50:19 62:11 69:1,15,20 72:7</p> <p><b>slowly</b> 23:10</p> <p><b>small</b> 5:3 27:13 31:13 47:13</p> <p><b>social</b> 1:22 2:13 2:14 5:15,20 13:1 15:17 16:21 29:6,9 31:10 34:12,14 35:8,14 36:6 66:13</p> <p><b>society</b> 45:4</p> <p><b>solution</b> 25:10</p> <p><b>solved</b> 71:19</p> <p><b>somebody</b> 6:15 15:22 16:6 17:4 18:1 20:13 27:2 34:19 35:11 41:6,9 44:21 48:5,8 49:7,8 50:12,13 51:2 52:6 58:10 59:2 60:13 63:7 69:4 72:19 73:6,8 73:12,16 76:25</p> <p><b>somebody's</b> 52:5 52:6</p> <p><b>someone's</b> 52:18</p> <p><b>soon</b> 36:23</p> <p><b>sorry</b> 18:8 23:12 31:16 34:9 54:15 60:17 61:20</p> <p><b>sort</b> 13:14,17,18 25:2 33:4</p>	<p>43:22 50:4 58:21 73:15,18 73:21</p> <p><b>sorts</b> 23:21</p> <p><b>sought</b> 34:20</p> <p><b>source</b> 16:9 29:12 44:20 47:14,25 48:22</p> <p><b>sourced</b> 47:10</p> <p><b>sources</b> 47:7,17 47:21 48:12,20 48:24 64:16</p> <p><b>space</b> 16:20 27:8 36:6</p> <p><b>spaces</b> 12:22</p> <p><b>spac</b> 19:4 23:9 26:22</p> <p><b>speaking</b> 36:9</p> <p><b>specific</b> 10:20 22:9,18 65:11</p> <p><b>specifically</b> 18:11</p> <p><b>speech</b> 10:21 18:3 26:23</p> <p><b>speed</b> 21:2</p> <p><b>speedily</b> 64:23</p> <p><b>spin</b> 34:14</p> <p><b>sponsors</b> 46:9</p> <p><b>sports</b> 39:11</p> <p><b>spread</b> 36:10</p> <p><b>spreading</b> 23:23</p> <p><b>Square</b> 44:9</p> <p><b>staff</b> 21:23,24,24 22:5,8 48:15 61:8</p> <p><b>stage</b> 33:17</p> <p><b>stamp</b> 50:6</p> <p><b>standard</b> 71:22 72:11</p> <p><b>standards</b> 10:8 34:3 43:4 46:11,21 47:6 72:5</p> <p><b>stands</b> 55:1</p> <p><b>stars</b> 42:23 55:13 68:11</p> <p><b>start</b> 5:10 17:11 29:3 30:25 40:5 48:25 49:6 51:1 57:8</p> <p><b>started</b> 38:6,7 40:6,9 41:17 41:22</p> <p><b>starting</b> 26:19,20 30:1</p> <p><b>state</b> 32:9 37:18 77:7</p> <p><b>statement</b> 1:11 5:2 9:1,3,12,24 17:20 18:6 26:14 34:1 37:22,24 38:4 38:20 42:12 46:7 50:24 54:24 55:3 63:9 64:2,24 74:3</p>	<p><b>statements</b> 68:17</p> <p><b>States</b> 19:5</p> <p><b>status</b> 3:5</p> <p><b>step</b> 30:7</p> <p><b>stock</b> 29:5</p> <p><b>stop</b> 16:8 24:16 26:8</p> <p><b>stopped</b> 40:14</p> <p><b>stops</b> 23:21,23</p> <p><b>stories</b> 40:6,8 42:6,7,24,25 42:25 43:6,9 46:15,15 47:14 47:24,24 48:11 48:12,14,15,21 48:23 50:4,10 50:16,17,25 51:2,7,11 52:4 57:20,21 58:2 58:3,17,20,25 63:19 65:2,19 66:12 71:4,6 76:7</p> <p><b>story</b> 33:2 44:2,8 44:20,21 45:2 45:7,9,12,17 46:6 47:20 48:4,7 49:13 49:13 51:15 52:3,20,21,24 52:25 54:20 59:17 62:1,5 64:5,7,15 65:14 66:1,3 69:2,12,13,22 69:24,25 72:9</p> <p><b>straight</b> 16:24 17:12,14</p> <p><b>straightforward</b> 22:3,4</p> <p><b>strangely</b> 14:5</p> <p><b>straying</b> 55:14</p> <p><b>street</b> 42:8 53:21 53:22 59:19</p> <p><b>stress</b> 28:20</p> <p><b>strong</b> 14:2 55:22</p> <p><b>stronger</b> 54:8</p> <p><b>strongest</b> 14:1</p> <p><b>structurally</b> 28:11</p> <p><b>structure</b> 4:11 5:8 19:8</p> <p><b>style</b> 42:16</p> <p><b>subject</b> 8:10 23:3 27:10 28:16 30:11 53:25 65:21</p> <p><b>subject-matter</b> 49:19</p> <p><b>subscribe</b> 41:24 42:1</p> <p><b>subscribed</b> 38:23</p> <p><b>subscriber</b> 39:23</p> <p><b>subscribers</b> 38:24 40:4 46:22,24</p>	<p><b>subset</b> 7:2</p> <p><b>subsidiary</b> 4:22</p> <p><b>substantial</b> 64:8</p> <p><b>success</b> 25:16</p> <p><b>successful</b> 12:14 59:13 60:6 64:7</p> <p><b>suddenly</b> 70:18</p> <p><b>suggest</b> 24:14</p> <p><b>suggestion</b> 37:6</p> <p><b>summarise</b> 37:5 38:20 47:10</p> <p><b>summary</b> 64:10</p> <p><b>supplementary</b> 4:8</p> <p><b>support</b> 5:1 28:4 48:1,10</p> <p><b>supporting</b> 5:3</p> <p><b>sure</b> 11:11 40:25 43:21 45:11 47:8 53:2 54:2 65:19 70:22 71:22 72:1</p> <p><b>surprising</b> 29:1</p> <p><b>surprisingly</b> 73:7</p> <p><b>survivors</b> 32:25</p> <p><b>system</b> 13:16 15:17 18:20 20:15 21:9 22:17,18,22 42:2 73:15 75:16,19</p> <p><b>systems</b> 13:22,25 30:20</p> <p style="text-align: center;"><b>T</b></p> <p><b>tab</b> 5:11 7:6,7 37:21 63:23</p> <p><b>tabloid</b> 65:8</p> <p><b>tabloids</b> 38:12</p> <p><b>take</b> 7:6 9:19 12:3 16:4 17:19 18:15 22:11 26:8 28:5,25 32:8 33:21 36:19 37:9 40:20 45:5 47:3 48:6 52:21 59:7 61:15 62:8,12 63:10 72:25 75:14 77:5</p> <p><b>taken</b> 11:10 14:23 21:20 33:15,16 44:12</p> <p><b>take-down</b> 22:17</p> <p><b>talent</b> 57:25</p> <p><b>talk</b> 41:8 55:16 69:18</p> <p><b>talked</b> 25:18 56:1 57:23</p> <p><b>talking</b> 12:23 19:20 52:24 54:11 57:17</p> <p><b>targets</b> 21:12</p> <p><b>taskforce</b> 2:3</p>
---	---	---	--	--	--	---

<b>teacher</b> 16:17	35:7,20,22	22:1	52:14 67:10	63:1	<b>wants</b> 73:16	49:12
<b>team</b> 1:19 13:15	36:21 37:4	<b>traditional</b> 34:11	75:2,18,20	<b>user's</b> 2:23	<b>wasn't</b> 29:10	<b>willingness</b>
21:13 47:13,19	40:21,22,25	35:10,20 50:3	<b>unable</b> 31:1	<b>user-to-user</b>	55:19 66:7	72:25
<b>teams</b> 21:21	45:18,19 46:2	50:19	<b>unacceptable</b>	16:13	<b>Watch</b> 14:3	<b>window</b> 71:19
<b>technical</b> 18:7	46:12,13 49:25	<b>traffic</b> 35:13	18:4	<b>uses</b> 1:22 7:10	<b>watching</b> 67:21	<b>wins</b> 64:1
19:12 24:18	50:1,8,17 51:1	<b>tragedy</b> 33:2	<b>undergoing</b>	<b>usually</b> 63:18	67:25	<b>wish</b> 2:15 6:17
<b>technically</b> 18:21	51:24 53:1,4	<b>train</b> 21:24	32:10	<b>uttered</b> 59:25	<b>way</b> 8:23 10:13	6:18 17:8
<b>technician</b> 43:19	54:24,25 55:24	<b>trained</b> 22:5,8	<b>underline</b> 76:10	<b>utterly</b> 37:1	15:21 17:3	57:11
<b>technological</b>	56:1,15,25	<b>transition</b> 32:11	<b>underlying</b> 68:6		18:18,20 28:10	<b>witness</b> 1:3,11
25:7	57:4,6,7 59:9	32:14	<b>underpinning</b>	<b>V</b>	32:1,11 33:5	5:2 9:3 26:14
<b>technologies</b>	59:21 61:16	<b>transmissions</b>	10:3	<b>valuable</b> 73:5	34:15 35:1	34:1 37:8,9,14
2:11	62:8,16,17	23:14	<b>understand</b> 8:25	<b>value</b> 64:22	36:11 38:21	37:22 46:7
<b>technologist</b> 25:6	63:9,15 64:21	<b>tried</b> 65:1,4	15:9 18:23	<b>various</b> 3:4 15:9	42:21 47:10,11	54:24 63:9
<b>technology</b> 76:16	66:11 67:4,15	66:14	25:23 26:12	39:5	50:16,19 51:6	<b>witnesses</b> 5:9
<b>tell</b> 1:8,14 2:10	68:1,7 71:6	<b>tries</b> 8:19 17:2	46:3,4,5 50:21	<b>veracity</b> 48:25	51:24 54:1	21:17 29:16
2:18 3:10,25	72:22 74:3,13	<b>trouble</b> 71:11	50:22 51:18	<b>verification</b> 13:1	56:12,14 59:12	<b>woman</b> 60:5
7:14 16:6	74:14 75:8,12	<b>true</b> 1:11 37:25	56:5,7,7 63:11	13:2	62:15,18,24	<b>wonder</b> 71:16
40:24 46:15	75:13 76:5,22	46:15 48:24	63:23 66:2	<b>verify</b> 50:13	65:8 67:7	<b>wondering</b> 54:5
47:2 64:12	<b>thinking</b> 73:21	49:2,10 58:21	68:2,21 72:1	<b>version</b> 28:15,16	68:14,18 70:17	<b>word</b> 40:17
69:3 72:8	<b>third</b> 5:16 16:22	69:22	74:2 75:17,21	43:12	72:8,14,23	69:19 72:4
<b>telling</b> 41:16	18:20 19:23	<b>trust</b> 46:18 47:22	<b>understanding</b>	<b>versus</b> 71:7	<b>ways</b> 3:3 36:9	<b>words</b> 5:13 29:8
<b>temptation</b> 51:6	38:6 49:11	<b>trusted</b> 16:17	65:12	<b>Victoria</b> 52:12	48:13 66:12	30:15,24 32:5
<b>tend</b> 49:15,17	<b>third-party</b>	47:17 48:12,20	<b>understood</b> 36:3	52:13,19	71:12	53:7 54:12
<b>tens</b> 76:25	20:15	<b>truth</b> 49:14 53:7	<b>undertake</b> 7:21	<b>videos</b> 3:2 39:12	<b>weapons</b> 18:17	<b>work</b> 49:2,14
<b>ten-minute</b> 40:2	<b>thorny</b> 66:21	<b>try</b> 8:7 13:22	<b>undertaken</b>	<b>view</b> 8:15 27:17	<b>wear</b> 55:17	50:16,17 59:3
<b>term</b> 20:17	<b>thought</b> 5:15	42:15 47:2	48:21	54:22 72:7	<b>web</b> 20:8	70:24
<b>terms</b> 10:15 12:3	25:3 29:2	48:9 49:7	<b>undertakings</b>	73:10	<b>website</b> 38:21	<b>workable</b> 30:2
12:5 18:4,14	34:23 58:18	65:13 67:11	7:16	<b>viewing</b> 19:14	39:2,6,20	<b>worked</b> 54:7
19:18 20:5	67:17,17	68:17	<b>union</b> 4:23	<b>violates</b> 9:20,21	41:22 62:4	<b>working</b> 2:3
25:21,21 26:4	<b>thousands</b> 23:2	<b>trying</b> 6:10 13:16	<b>United</b> 1:19 3:13	9:23	66:24 73:24	25:15,25 40:2
26:6 30:19	76:25	23:10 25:9,22	19:5	<b>violation</b> 21:13	<b>websites</b> 35:20	40:13
32:9 53:9	<b>threats</b> 11:18	33:9 37:1,4	<b>university</b> 38:5	22:2	<b>wedding</b> 4:5	<b>works</b> 1:19 8:24
61:13	<b>thresholds</b> 30:25	44:25 45:1,1	<b>unlawful</b> 11:19	<b>violations</b> 20:21	<b>week</b> 40:3 41:1	34:2 42:21
<b>terribly</b> 61:6	<b>thumbs</b> 35:4	46:3,14,15	<b>unravelling</b>	21:25	71:1	<b>work-around</b>
<b>test</b> 17:17,20	<b>tied</b> 17:3	52:1 71:14	36:11	<b>violence</b> 10:21	<b>weekly</b> 38:22	25:7
18:11 69:1	<b>time</b> 5:21 15:11	72:9 74:10	<b>Unsolicited</b>	11:17	39:1	<b>world</b> 6:25 12:20
<b>text</b> 39:17	21:11,15 26:11	76:12	48:14	<b>violently</b> 44:11	<b>weeks</b> 53:2,8	24:9 31:15
<b>texts</b> 23:14	26:19 39:23	<b>Tunbridge</b> 15:2	<b>unsuitable</b> 10:15	<b>viral</b> 22:13 23:14	60:22	39:24 40:10
<b>textual</b> 6:22	41:25 44:22	15:6	10:22	<b>visible</b> 44:6	<b>weird</b> 45:18	41:13,18 42:17
<b>thank</b> 1:5 7:4	49:10 52:23	<b>turn</b> 4:22 11:12	<b>updates</b> 3:6	<b>visitor</b> 1:25	<b>Wells</b> 15:2,6	46:17 47:15
34:6,8 37:6,7,9	66:11 76:1	11:25 21:6	<b>upset</b> 16:11	<b>voices</b> 46:14	<b>went</b> 64:12 75:6	52:2 67:10,11
77:11,12,13,15	<b>timeline</b> 2:21	29:20,21 48:24	<b>use</b> 2:4 3:24 4:4	55:13	<b>we'll</b> 18:15 28:3	68:13 76:19
<b>theme</b> 8:18	32:13	63:23	4:6,7,19 6:15	<b>volume</b> 31:2	43:19 45:13	<b>worldwide</b> 3:23
<b>theorists</b> 50:8	<b>times</b> 26:25 27:3	<b>turnaround</b>	6:19 11:19,22	<b>volumes</b> 31:4	<b>we're</b> 6:9 7:20	<b>worried</b> 65:23
<b>thing</b> 13:14 26:7	61:16	21:15	13:19 14:25	<b>vote</b> 4:3	8:6 23:10	<b>wouldn't</b> 57:19
46:17 50:5	<b>tips</b> 48:14 50:25	<b>twice</b> 25:13	20:3,4,8,24		25:22,25 32:8	58:13,18,19
51:23 74:5,21	<b>titbit</b> 52:16	<b>Twitter</b> 76:25	25:23 55:12	<b>W</b>	32:10 46:22	59:19 60:22
<b>things</b> 11:17 16:2	<b>today</b> 37:15	77:2,2	61:4 62:18,20	<b>wait</b> 43:19	53:14,14 55:5	65:2 66:9 69:6
20:9,19 28:1	77:14	<b>two</b> 3:19,19 5:13	65:1	<b>wall</b> 3:5	58:22 68:19	69:25
35:17 40:15,16	<b>told</b> 50:12 61:24	15:18 35:6	<b>useful</b> 67:14,17	<b>want</b> 6:24,25 7:1	71:14	<b>Wright</b> 37:15,16
45:23 49:1,20	62:20	38:22 43:9	74:21 75:22	10:13 13:23,24	<b>we've</b> 11:9 12:4	37:18,20 58:15
52:3,5 58:9	<b>tongue-in-cheek</b>	63:17 64:15	<b>user</b> 3:3 5:4 8:3	16:22 29:2	14:22 15:17	60:19 76:3
62:10,11 63:12	62:12	72:2	8:24 9:2 11:16	39:24 41:4,9	16:14 25:15	<b>write</b> 38:6,7,12
64:21 68:22	<b>tonic</b> 49:18	<b>two-way</b> 50:7	14:12 15:14	43:22 44:13,13	26:1,20 28:6	40:12,15 41:4
76:16	<b>toolkit</b> 33:12	<b>type</b> 48:21	17:7,11,12,18	46:5,23 47:25	32:13,24 33:12	41:7 47:3
<b>think</b> 7:25 11:8	<b>tools</b> 18:17 32:18	<b>types</b> 34:12 43:9	18:14,14,19	48:7 51:17	42:4,4 47:2	49:15 59:5
12:21 14:4	33:6,6	<b>typical</b> 14:12	19:20,24 20:14	56:7 57:15,20	48:23 49:1	60:12 66:1
16:15 18:11,23	<b>top</b> 43:23	<b>typically</b> 12:19	21:23 22:15	57:23 58:5,10	53:5 63:15	<b>writer</b> 50:8
18:24 20:5	<b>topics</b> 39:5	20:8,20 29:5	26:2 32:12,14	58:12 60:6,11	68:10 69:19	<b>writers</b> 45:16
22:20 23:7,17	<b>touch</b> 26:13 38:2	<b>U</b>	33:6 49:11	60:18,25 62:21	<b>wheel</b> 72:24	48:16
23:18,19,24	62:19 71:18	<b>UK</b> 2:2 3:22 4:24	<b>users</b> 3:12 4:19	64:3 65:12	<b>wholly</b> 27:9	<b>writes</b> 49:16
24:13,22 25:9	76:12	5:3 17:18	7:22 8:4 14:1	66:4,19 67:3	<b>wide</b> 12:11	<b>writing</b> 40:14
25:11,13 26:10	<b>touched</b> 50:2	18:10,13,14	15:8,13 21:7	<b>wanted</b> 36:16	<b>widen</b> 55:25	41:13 46:20
26:19 27:7,23	53:5 57:12	19:5 21:7	22:14 23:3	40:15 41:25	<b>widened</b> 7:10	49:25 58:13
29:1,14 30:1	76:15	22:15 37:2	25:12 30:4	76:3	<b>wider</b> 55:10,21	59:3
30:14 31:22	<b>track</b> 23:11	48:15 62:20	37:2 39:5	<b>wanting</b> 14:25	56:6	<b>written</b> 24:10
33:23 34:6	<b>trademark</b> 20:21			60:3 66:5	<b>willing</b> 8:4,6	40:25 41:5

47:11,13 48:17	40:4 42:2				
49:22 59:13	46:22				
62:11,13 63:19					
<b>wrong</b> 63:12	<u>4</u>				
64:12,18,21	<b>4.09</b> 77:16				
66:9	<b>400</b> 4:17				
<b>wrote</b> 60:5 64:16	<b>45</b> 46:8				
	<b>48</b> 21:15 55:3,4				
<u>X</u>					
<b>X</b> 49:16,21,23	<u>5</u>				
	<b>5</b> 9:13 35:11 38:4				
<u>Y</u>	<b>50</b> 3:22 41:7 49:1				
<b>yeah</b> 61:9 64:21	<b>54812</b> 9:6				
<b>year</b> 7:15 38:9	<b>54820</b> 9:7				
63:13 71:3					
76:1	<u>6</u>				
<b>years</b> 5:13 53:5	<b>6</b> 11:15 38:20				
63:17 68:11					
<b>year's</b> 4:4	<u>7</u>				
<b>York</b> 26:25 27:3	<b>7</b> 11:16 39:23				
<b>young</b> 4:3	<b>70</b> 41:1				
<b>younger</b> 16:16					
31:25	<u>8</u>				
	<b>8</b> 9:25 42:12 70:7				
<u>Z</u>	70:25				
<b>Zuckerberg</b> 5:14	<b>80</b> 41:1				
	<b>800</b> 3:11 8:4 14:2				
<u>1</u>					
<b>1</b> 9:18 37:21	<u>9</u>				
<b>10</b> 11:18 70:13	<b>99.9</b> 76:11				
70:25 77:17					
<b>100</b> 12:19 48:24					
<b>11</b> 5:11,12 47:9					
<b>12</b> 7:7 9:4,8 53:2					
53:8					
<b>13</b> 2:15 3:20,21					
10:23 48:13					
<b>17</b> 63:24					
<b>1997</b> 2:5					
<u>2</u>					
<b>2</b> 9:22 63:23					
<b>2.10</b> 1:2					
<b>200</b> 12:20 47:16					
<b>2000</b> 38:9					
<b>2004</b> 38:9					
<b>2005</b> 2:6					
<b>2008</b> 2:2 63:25					
<b>2009</b> 1:23 2:2 7:8					
71:2					
<b>2010</b> 2:7 5:12					
<b>2011</b> 8:13					
<b>2012</b> 77:17					
<b>21</b> 8:13					
<b>21st</b> 44:18					
<b>24</b> 21:15					
<b>250</b> 47:16					
<u>3</u>					
<b>3</b> 11:13					
<b>3,000</b> 3:23					
<b>3.02</b> 37:11					
<b>3.07</b> 37:13					
<b>30</b> 3:12,15 37:2					
64:24 77:17					
<b>350,000</b> 38:24					