

<p>1 Wednesday, 8 February 2012 2 (10.00 am) 3 (Proceedings delayed) 4 (10.08 am) 5 LORD JUSTICE LEVESON: Yes, Mr Jay. 6 MR JAY: I'm asked to remind everybody that tomorrow we're 7 starting at 9.30 to accommodate video evidence from 8 Australia. 9 LORD JUSTICE LEVESON: Yes, as long as that's the reason. 10 MR JAY: The first witnesses today are Dr Moore and Mr Moy, 11 please. 12 DR MARTIN JOHN EDWARD MOORE (affirmed) 13 MR WILLIAM ANDREW MOY (affirmed) 14 Questions by MR JAY 15 MR JAY: First of all, may I ask each of you to provide the 16 Inquiry with your full names, please? First of all, 17 Dr Moore. 18 DR MOORE: Martin John Edward Moore. 19 MR MOY: William Andrew Moy. 20 Q. Each of you has put in a main submission and then 21 a number of additional or subsidiary submissions. In 22 relation to Dr Moore, it's our tab 1. I don't think 23 there is a date on it, but it's a submission which is 24 obviously directed to the Inquiry. May I just confirm 25 that this is your truthful evidence to the Inquiry</p> <p style="text-align: center;">Page 1</p>	<p>1 MR MOY: I am. I should probably say that that speech was 2 written in a request for something to kick off debate 3 and stimulate discussion, so it's not what you might 4 call the Full Fact manifesto, but in its own terms yes, 5 absolutely. 6 LORD JUSTICE LEVESON: Before we start, could I thank you 7 both for the enormous amount of work you've obviously 8 put into all this. As I'm sure you appreciate, your 9 views and your submissions absolutely go to the very 10 core of what I have to consider, and I've found them 11 very interesting. In a different world, I would very 12 much welcome the opportunity to spend a very, very great 13 deal of time talking about them, but I'm sure you 14 appreciate that the dynamic of the time means that's not 15 going to be possible, but I wouldn't want you to think 16 that I was in any sense dismissive or not fully 17 appreciative of what you've done, and there are some 18 bits of work, I mean doubtless Mr Jay will come to parts 19 of it, that I would like to take up and ask for some 20 further work on, if that's possible. 21 Let me just give one example. You've done some work 22 on the statistics in relation to the PCC, which we've 23 received. I don't know whether that's been shared with 24 the PCC and whether they've had the opportunity to 25 respond to it, but I'd quite light to drill into that,</p> <p style="text-align: center;">Page 3</p>
<p>1 Dr Moore? 2 DR MOORE: Yes it is. 3 Q. We have annexed to it other materials including a report 4 in 2009, "A more accountable press", other reports, 5 a statistical review of the PCC and other materials 6 which have been drawn to our attention. Mr Moy, your 7 main submission is at our tab 12. It's an 89-page 8 submission. Again, is that your truthful evidence to 9 the Inquiry? 10 MR MOY: It is. 11 Q. You've provided us again with further materials, 12 a submission on regulatory approaches and user 13 experience, which is our tab 13. Full Fact churnalism 14 corrections, correspondence and a related annex which 15 are tabs 15 and 16. Your response to the 12 key 16 questions on module one, questions which were raised on 17 16 November, that's tab 16. 18 MR MOY: Yeah. 19 Q. Material relating to the Internet, which I understand 20 your conclusions of which you wish to amend? 21 MR MOY: Yeah. 22 Q. And that version has been made available. And then 23 there's the presentation you gave to the seminar on 24 12 October, "The future for self-regulation". Are you 25 happy that that is accommodated into your evidence?</p> <p style="text-align: center;">Page 2</p>	<p>1 because I've been presented with figures and if I can 2 make more sense of them and where the balance lies, I'd 3 be grateful. 4 Right. 5 MR JAY: May I ask you each separately to give a mini 6 biography of yourself and then in your case Full Fact, 7 and in your case, Dr Moore, the Media Standards Trust. 8 First of all, Mr Moy. 9 MR MOY: Sure. I've been director of Full Fact since 10 September 2007, before which I was working in the 11 House of Lords for an independent cross bench peer. 12 It's possibly worth saying I didn't have any substantive 13 dealings with any of the peers who have represented the 14 PCC here. 15 Before that I worked for the All-Party Group on 16 Transport Safety, again a nonpartisan charity, and 17 before that I was doing a philosophy degree. In 18 a previous life I was briefly an IT consultant. 19 Full Fact is a non-partisan, nonprofit organisation 20 which seeks to promote, working with journalists and 21 politicians, the availability of trustworthy information 22 in public debate. We are best known for fact-checking 23 the claims made by politicians and journalists and we're 24 an online publisher, therefore in our own right we're 25 also a critical commentator on statistical policy.</p> <p style="text-align: center;">Page 4</p>

<p>1 We're constituted as a charity, and in the process 2 of registering as a charity, so we operate under 3 a statutory public benefit obligation.</p> <p>4 Q. Thank you. Dr Moore?</p> <p>5 DR MOORE: I graduated from Cambridge in 1992, history, 6 spent three years in the US, came back to do a Master's 7 in history at the LSE, worked briefly in television 8 production on a programme for Channel 4, worked for 9 almost a decade for a small media research and 10 development company that did work across the board for 11 BBC, for IPC Media and many others. Whilst there I went 12 back to the LSE to do a doctorate in the history 13 department, but it was about the relationship between 14 the government and the media, and based on that 15 doctorate, I wrote a book called "The Origins of Modern 16 Spin" published in 2006.</p> <p>17 I became the director of the Media Standards Trust 18 in 2006, at its founding, and have been there since.</p> <p>19 The Media Standards Trust is an independent, 20 nonpartisan charity. Its aim is to foster high 21 standards in news on behalf of the public. It does that 22 through research, like a think tank. It does it through 23 development of online resources for the public, to help 24 them navigate the news. It does it through campaigns -- 25 we work closely with Hacked Off -- and it does it by</p> <p style="text-align: center;">Page 5</p>	<p>1 MR MOY: Yeah.</p> <p>2 Q. The second category is 53728, reporting a third party's 3 spurious information. This addresses the problem with 4 sources?</p> <p>5 MR MOY: Yeah.</p> <p>6 Q. And often sources don't stand up or are simply wrong, is 7 a point you make?</p> <p>8 MR MOY: Yeah.</p> <p>9 Q. And then the third point, wilful inaccuracy, creating 10 the wrong impression, what do you mean by "wilful" 11 there?</p> <p>12 MR MOY: We mean examples where it's hard to see how the 13 journalist could have come up with the story they came 14 up with from the sources they're citing other than by 15 deliberately distorting them.</p> <p>16 Q. You provide one example -- it's perhaps invidious to 17 give examples when I'm doing it I hope fairly 18 randomly -- of a Daily Express piece to do with house 19 prices, it suggested house prices were going up.</p> <p>20 MR MOY: That's right.</p> <p>21 Q. In fact if one looked up at the whole piece, it's quite 22 clear that in fact they were going to go down?</p> <p>23 MR MOY: Yes.</p> <p>24 Q. Which I think is what happened in the end?</p> <p>25 MR MOY: This is something I mentioned in my seminar speech.</p> <p style="text-align: center;">Page 7</p>
<p>1 running the Orwell Prize for political writing.</p> <p>2 Q. Thank you very much. I am going to divide up this 3 session into three sections. First, evidence bearing on 4 current culture, practice and ethics of the press. 5 Secondly, diagnosis of problems, if any, in the existing 6 regulatory system. And third, proposals for reform.</p> <p>7 Mr Moy, your evidence is relevant to all three of 8 those, but is particularly relevant to the first 9 category. If I can ask you, please, to turn up your 10 submission, which is our tab 12, and starts at 52724.</p> <p>11 You provide us, Mr Moy, with a significant number of 12 examples. Are these intended to be comprehensive?</p> <p>13 MR MOY: No. I should make absolutely clear the limits of 14 our research, which is spelt out in the submission. We 15 fact check neither a representative nor a random sample 16 of media outputs. Anything you conclude from the 17 collection of examples we've given is persuasive of the 18 media in general, perhaps, but it can't be said to be 19 a definitive or sort of an academic sample.</p> <p>20 Q. You analyse three types of error. If I could ask you to 21 go to 53727, first up is misunderstanding of the 22 information reported. Just particularly with 23 statistics, often reports become blown out of proportion 24 in order to make them more eye-catching or possibly to 25 fit a certain agenda.</p> <p style="text-align: center;">Page 6</p>	<p>1 The big headline front page splash I think was something 2 like "House prices set to surge", backed up with quotes 3 from various house pricing experts. The quote from 4 Mr Archer was that it will provide significant support 5 for house prices. This was taken out of context from 6 a passage which concluded that "given that house prices 7 have already fallen by some 3 per cent, we believe that 8 they will fall by around 7 per cent in 2011". I just 9 repeat the headline on that was "House prices set to 10 surge". You may be able to do that accidentally under 11 pressure of time, but I'm not quite sure how.</p> <p>12 Before we go on, I should emphasise that this isn't 13 really Full Fact's territory. Our job is to play the 14 bull, not the man, and we don't normally make judgments 15 about the mindset of people who are making claims. It's 16 not our business. It's for our readers to do, and in 17 this case it's for the chairman to do. Clearly it would 18 just be stupid for me to sit here in the Inquiry and 19 claim total naivety about what's going on here, but 20 ultimately these judgments aren't for us, they're for 21 our readers and for you.</p> <p>22 LORD JUSTICE LEVESON: No, I appreciate that, and that's 23 clear. All this material is material that goes into the 24 enormous amount of material that's been generated by the 25 Inquiry to try and consider what's been happening and</p> <p style="text-align: center;">Page 8</p>

<p>1 where we should go for the future. 2 MR MOY: Yes. 3 MR JAY: You've helpfully collected some examples under 4 section 1 at 53737. There are very many examples there. 5 It probably would be invidious to alight on any of them, 6 since if I didn't cover each newspaper, then some would 7 say that I've given unfair weight to a particular 8 newspaper, so for that reason I won't. 9 MR MOY: Sure. 10 Q. I'm going to come back to section 2 in due course to 11 show how complaints are dealt with, but so it's 12 absolutely clear, the Inquiry has considered each of the 13 examples you've given. 14 MR MOY: Right. 15 Q. Dr Moore, your submission touches on current culture, 16 practice and ethics at paragraph 27, although I know it 17 wasn't the primary purpose of your submission to address 18 that, it was more to address my second and third themes. 19 On the Internet numbering, it's page 4. On my version, 20 I don't have the URN number. Paragraph 27. You said: 21 "At its heart the phone hacking scandal was about 22 abuse of power. People within Britain's biggest 23 commercial media company came to believe they were not 24 accountable to regulation, to the law, or to our elected 25 representatives." <p style="text-align: center;">Page 9</p> </p>	<p>1 first factor is the public trust in the press, already 2 very low, may be declining further, and you refer to 3 various polls. What is the message of those poll, apart 4 from what we gather from the headline? 5 DR MOORE: The Ipsos MORI poll, which I think has been 6 running for a number of decades, has consistently had 7 journalists very low towards the bottom, but other polls 8 more recently have suggested that -- and that's, when 9 you break it down, that's more specific to the red tops 10 in the past. If you look at more recently, particularly 11 since I think Hutton onwards, there has been a decline 12 more broadly both of broadsheet and mid-market and 13 tabloid, and even of broadcast. So there seems to have 14 been in the last decade a further decline from across 15 the board, not just simply from some of the papers that 16 people have never particularly trusted. 17 Q. Thank you. Your second subheading, 3.2, at page 58836, 18 "Risks of inaccuracy in the press are increasing", and 19 the point you make there: 20 "Competitive and commercial pressures increase at 21 the same time as numbers of journalists and editors 22 employed decrease." 23 Is that right? 24 DR MOORE: Yes. It's a similar point that Nick Davies was 25 making in Flat Earth News. <p style="text-align: center;">Page 11</p> </p>
<p>1 You're expressing a wide opinion there about what 2 was happening within News International, which again 3 will be for the Inquiry to consider. 4 Paragraph 28a you summarise there the types of issue 5 which have concerned the Inquiry in this first module. 6 Have you any comment on the evidence the Inquiry has 7 received, particularly in these first three or four 8 weeks before the new year? 9 DR MOORE: From the core participant victims? 10 Q. Yes. Is it representative of the sort of matters you're 11 referring to generally here or is it remarkable or 12 exceptional? How would you see it? 13 DR MOORE: Well, I think as the Inquiry heard, it was 14 varied. I think there were clear examples of gross 15 intrusion across many different aspects of people's 16 lives. I think certainly when we wrote our 2009 report, 17 we were very conscious about the coverage specifically 18 of the McCanns, as the Inquiry has been, but we had 19 heard and seen many other examples, both individual 20 examples of people being misrepresented, attacked, and 21 numerous examples of inaccuracy, which Will's talked 22 about and I can talk about more. 23 Q. In your 2009 report, which is under our tab 2, 24 section 3, 58835, you identify three particular factors 25 which bear on current culture, practice and ethics. The <p style="text-align: center;">Page 10</p> </p>	<p>1 Q. Thank you. Then your third point: 2 "Growing concern about privacy intrusion." 3 And you cite in particular Operation Motorman, but 4 then three other pieces of litigation. Obviously the 5 criminal case Goodman/Mulcaire, Murray v Big Pictures 6 case, which we've heard evidence about, and then the 7 Mosley case. 8 Can I ask each of you to comment on a point which 9 has recently been made, that there's been too much focus 10 on the bad in the sense that the majority of journalists 11 exhibit good practice the majority of the time, more or 12 less what Mr Dacre said, but he put it in his own words, 13 of course. Is that a fair representation or does it 14 have to be qualified in some way? Perhaps if you could 15 focus on the way I've put it rather than how anybody 16 else might have put it. 17 DR MOORE: I absolutely think it's incredibly important to 18 talk about the enormous amount of excellent good 19 journalism across the country, and particularly I think 20 at a local level. I think part of the problem here is 21 that there haven't been any allegations at local level, 22 local news is struggling enormously and local 23 journalists are working incredibly hard. 24 I should also say that one of the reasons why the 25 Media Standards Trust runs the Orwell Prize for <p style="text-align: center;">Page 12</p> </p>

<p>1 political writing on behalf of the Council of the Orwell 2 Prize is specifically to highlight and to show the 3 excellent journalism across the board at the national 4 and the local level, and we give prizes not just to the 5 journalism, but also to the blog and to the book that 6 has most closely achieved Orwell's aim of turning 7 political writing into an art. 8 Q. Do you have a perspective on this, Mr Moy? 9 MR MOY: Yes, I share the view that it's important to 10 recognise that the majority of journalists and the 11 majority of journalism is good and worthwhile and much 12 of it is admirable. I think the opposite of the other 13 half of the question. I think we haven't talked enough 14 about the problems. We've spent a lot of time focusing 15 on the impact on individual victims, we've spent a lot 16 of time on intrusion and prize problems, but we've 17 barely touched on the widespread problem of accuracy, 18 which is a huge problem, which the public recognise and 19 have recognised, as Martin was saying, for decades. 20 Unlike the other problems that have prompted the 21 Inquiry, it has been largely unacknowledged by the 22 industry so far, and that is most worrying, because 23 going to the Inquiry's terms of reference, one of the 24 things you're asked to make recommendations about is 25 warning signs that are missed. Fewer than two in 10</p> <p style="text-align: center;">Page 13</p>	<p>1 proceedings because they are generic inaccuracy 2 complexes. 3 MR MOY: They're what the PCC calls general accuracy. They 4 affect society at large. Whether or not the GTP has 5 gone up or down is important to all of us, whether crime 6 has gone up or down is important to all of us, but 7 there's no one person or one body who is responsible for 8 saying, "Hang on, you've infringed on my prerogatives 9 here". It's for the industry to uphold its own 10 standards and it's for the regulator to do the rest. 11 Q. Thank you. We'll come back to that matter in the third 12 section of this evidence. 13 May I address now the effectiveness of the current 14 system of regulation, which I suppose itself divides 15 into three parts: there's the issue of internal 16 regulation within newspaper organisations, there's the 17 issue of the general law, which is certainly addressed 18 by Dr Moore, and that includes certain procedural or 19 adjectival aspects including conditional fee 20 arrangements, and then there's the issue of 21 self-regulation or independent regulation or perhaps 22 something different altogether. 23 The first category, internal regulation, Dr Moore, 24 you touch on that really implicitly in paragraphs 42 to 25 44 of your statement, which is on the internal numbering</p> <p style="text-align: center;">Page 15</p>
<p>1 people trusting journalists to tell the truth is the 2 clearest possible warning sign. It's not inevitable, 3 it's not the case in other comparable countries. It is 4 a real warning sign that not all journalism isn't 5 trustworthy, not even most journalists aren't 6 trustworthy, but enough journalism by enough journalists 7 is untrustworthy that it doesn't make sense for the 8 ordinary member of the public to trust journalism, and 9 that's a huge problem for our society, because 10 journalism is important, and the good journalism is 11 devalued by journalism which is recklessly inaccurate. 12 I suppose the one other thing I should say about 13 accuracy is this is squarely in the realm of regulation, 14 not law. We've heard a lot about how the Inquiry's 15 problems are basically legal problems which should have 16 been fixed by the police. Widespread inaccuracy of the 17 sort shown by the many, many examples we've put before 18 you is a regulatory problem. It is a regulatory 19 failing. It's clearly heralded not just by polls but by 20 many, many examples that expert organisations would 21 point you to, if they hadn't given up trying by now, and 22 it's something that really needs to be at the heart of 23 what the Inquiry makes recommendations about. 24 Q. Thank you very much. Because the examples you give, 25 most of them, there wouldn't be a claimant in defamation</p> <p style="text-align: center;">Page 14</p>	<p>1 at page 7. 2 DR MOORE: Yes. 3 Q. It's implicit in paragraph 44, if I've read it 4 correctly, that the sort of systems which you are 5 recommending here, these are internal systems, are not 6 systems which you believe are currently in place. Is 7 that a correct interpretation of what you're saying? 8 DR MOORE: Yes, that's right. I mentioned at the beginning 9 we do research and development as well as campaigning 10 and the development side we do partly because our belief 11 has always been that it should be, particularly in the 12 case of trustworthiness and accuracy, it's not just the 13 responsibility of news organisations and others, 14 although it is their responsibility; it's also the 15 responsibility of the public, but they need the tools in 16 order to make the judgments as to whether something is 17 trustworthy or not. 18 So we have had three projects very, very focused on 19 online media, specifically to try and give people more 20 tools in which to make more informed judgments as to 21 whether or not something is trustworthy. 22 So the website journalisted.com is a directory of 23 journalists that write in the UK and it's automatically 24 updated with the articles they publish in the press and 25 it gives some basic information about the articles</p> <p style="text-align: center;">Page 16</p>

<p>1 themselves and, if it's provided online, the journalist. 2 And the journalist can claim that profile and add 3 further biographical information, and it's designed 4 specifically to try and give someone both the 5 opportunity to see that the person knows what they're 6 writing about and also an ability to challenge and to 7 contact that person, because up until we launched the 8 site back in late 2007, it was incredibly difficult, 9 incredibly difficult, to try and challenge someone, an 10 individual or an organisation, when it came to 11 inaccuracy or intrusion.</p> <p>12 Similarly, we've done a website called 13 churnalism.com, which is specifically geared to try to 14 help people distinguish between articles that are 15 original and articles that are very closely based on PR 16 copy, press copy. Again, part of the reason for that is 17 the sourcing of articles, in online particularly, 18 remains incredibly poor, and that's despite the fact 19 that it's so easy now to link to original sources that 20 I cannot understand why news organisations don't do it. 21 Many bloggers do it, lots of other people on the 22 Internet do it, but even now mainstream news 23 organisations seem to have a huge reticence to link to 24 original sources.</p> <p>25 Q. I think you're suggesting here that the PCC code, which Page 17</p>	<p>1 ineffective, then it can step in.</p> <p>2 Q. Is there a legitimate concern here that the regulator in 3 this guise may be interfering with editorial comment, 4 matters of news agenda, rather than fact, which are, 5 after all, the exclusive province and discretion of 6 individual papers?</p> <p>7 DR MOORE: Sorry, yes, I didn't mean to imply that, if 8 I did.</p> <p>9 Q. You didn't, no, but I'm putting --</p> <p>10 DR MOORE: Like Onora O'Neill gave a speech in Oxford in 11 November in which she said that really the job of 12 a regulator should be to regulate process, not content. 13 As soon as we start to get towards content then it 14 starts to get -- I completely understand anxieties about 15 censorship, et cetera, but absolutely it should be the 16 role of the regulator to regulate process.</p> <p>17 Q. Thank you. The general law is probably too wide a topic 18 for us sensibly to address in our 90-minute slot. You 19 touch on this, Dr Moore, concern about abolition of CFAs 20 in paragraph 48 of your statement. A bit later on, 21 however, you do refer us to a New Zealand comparable and 22 a Finnish comparable which we will look at because those 23 may well be helpful but I hope you'll forgive me if I'm 24 going to gloss over paragraph 48.</p> <p>25 Can I address now the third subheading, which is Page 19</p>
<p>1 sets out basic standards -- and we'll come to the code, 2 I'm sure -- is not enough. One needs clearer standards 3 of internal regulation which make it clear the 4 procedures journalists should follow in order to create 5 an audit trail and a discipline that sources checked, 6 that the process is transparent, and, if necessary, 7 accountable if an issue arises as to accuracy or 8 intrusion, whatever it might be in due course. Is that 9 more or less it?</p> <p>10 DR MOORE: Exactly. I think that most people, if you asked 11 them, it makes common sense. In the first instance, if 12 they see something that is inaccurate or intrusive or 13 misrepresentative, the immediate reaction is to go to the 14 author of the piece or the organisation involved and 15 tell them. So it makes sense that they should be given 16 the opportunity or the details to enable them to do 17 that.</p> <p>18 In many cases, they're still not, and I can give you 19 examples of that.</p> <p>20 We'll come to this, I know, but it seems to me that 21 actually part of the job of the new regulator should be 22 the oversight of the internal compliance mechanism such 23 that it can talk about best practice, it can indicate 24 what it thinks news organisations ought to be doing, and 25 when they fail to do that and when they clearly are Page 18</p>	<p>1 self-regulation, the existing system, the PCC. Mr Moy, 2 section 2 of your submission, where you give us some 3 examples, case studies I think it would be fair to 4 describe them as --</p> <p>5 MR MOY: Yes.</p> <p>6 Q. -- of your dealings with both newspapers and the PCC 7 when you have attempted to correct errors; is that 8 right?</p> <p>9 MR MOY: Yes.</p> <p>10 Q. Again no doubt the same principle applies, this isn't 11 comprehensive, it is necessarily anecdotal, but it 12 provides us with a picture?</p> <p>13 MR MOY: Yes, and I think that if anything it's skewed 14 towards the fact that we are regular and increasingly 15 experienced users of the PCC. They know who we are, we 16 know who they are, we know how the system works and they 17 know that we comment on them publicly. So if anything, 18 I think we get the better end of the deal compared to 19 the average complainant. But that's speculation.</p> <p>20 Q. The picture which emerges, and it may be invidious to 21 alight on only one example, is that sometimes you have 22 immediate success --</p> <p>23 MR MOY: Is there an example of that?</p> <p>24 Q. Okay, I've overstated it. Sometimes you have 25 a reasonable degree of success, I think immediate is Page 20</p>

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<p>1 putting it too high. On other occasions, it's the 2 opposite end of the extreme, and there are some cases 3 when there's more than one newspaper who in your view 4 has been guilty of inaccurate statement -- 5 MR MOY: Not in our view. They accept the inaccuracies. 6 We've only ever had one case where our view that there 7 was an inaccuracy has ever been not accepted. 8 Q. Thank you. But the approach of individual newspapers to 9 the same complaint varies? 10 MR MOY: Yes. 11 Q. Sometimes within the one complaint. We can see this at 12 53795 without going into the detail of it. 13 MR MOY: Yes. 14 Q. Some newspapers were prepared to accept the error 15 reasonably speedily. Others dragged their feet. Some, 16 I think, denied it altogether. Is that a fair 17 characterisation? 18 MR MOY: Yes. In the final extreme we ended up, I think, 19 having to get a Parliamentary Question to force the 20 public body concerned to clarify the statement so that 21 that position was on the record so that the newspapers 22 would consider correcting it and then we argued for 23 months about prominence, which I think reflects very 24 badly on Ofsted, which was the public body involved, as 25 much as the newspapers.</p> <p style="text-align: center;">Page 21</p>	<p>1 a sort of qualified endorsement, I suppose. 2 Q. Yes. 3 MR MOY: On the other hand, I certainly wouldn't accuse them 4 of bad faith, which I think we have experienced from 5 other newspapers. 6 Q. As I said, it's probably invidious to go further down 7 the ladder, see where we might be at the bottom, so I'll 8 move on. 9 Dr Moore, tab 4 and your analysis of PCC statistics, 10 can we see where we are on this. The basic message we 11 get, I think, from page 58774. It's the problems you 12 have had in analysing the data. 13 DR MOORE: Mm-hm. 14 Q. Level with the upper hole punch you say: 15 "There are four reasons why we can't." 16 That is to say judge how well the PCC is performing. 17 "The PCC only releases a small proportion of the 18 data it captures. The PCC does not make clear the 19 methodology by which it analyses the data. The PCC is 20 not consistent in its definition of the data. The PCC 21 does not have adequate processes to capture the data." 22 Then you develop each of these points, starting at 23 page 58775. Is it possible, Dr Moore, for you to give 24 the headline messages you would wish to give under each 25 of those four categories by reference to your report?</p> <p style="text-align: center;">Page 23</p>
<p>1 Q. Thank you. I'm not going to ask about papers which in 2 your view are particularly bad, but I am going to ask 3 this question: are there any newspapers which in general 4 have a positive approach to the correction of errors and 5 therefore a reasonably satisfactory system? 6 MR MOY: Um ... 7 Q. Or do you feel that -- 8 MR MOY: There is obviously difficulty with singling out 9 particular newspapers in either direction. In our 10 relatively limited experience with the Financial Times, 11 they've been pretty constructive. You send an email, it 12 does disappear into a black box, but you usually get 13 a sensible response within a couple of days, so fair 14 play to them. The Financial Times, obviously, though, 15 is an exception among daily newspapers. 16 The Guardian comes across as having a very strong 17 set of principles in this area, and at its best it works 18 very well. You get a considered response quickly. 19 However, I think the Guardian's quite a good example of 20 why readers' editors aren't a panacea, because 21 effectively it's a single point of failure. We've had 22 examples where perhaps the readers' editor has been ill 23 and it's taken a couple of months to get back to us. 24 Quite understandable. We've also have examples where 25 issues we've raised have just dropped off the radar. So</p> <p style="text-align: center;">Page 22</p>	<p>1 DR MOORE: Of course. I should start by saying this report 2 is unpublished and was submitted to the Inquiry 3 unpublished partly because -- to give some background 4 and context, when we published the 2009 report, one of 5 the criticisms made about us, which had also been made 6 about Nick Davies' book Flat Earth News and other 7 critics, was that people had misunderstood the way in 8 which the PCC's statistics worked and therefore could 9 neither judge the PCC nor judge the newspapers who had 10 either breached or not breached the code. 11 We did our very best, based on the figures 12 available. It's quite hard, because the figures 13 available on the site are quite difficult to access, 14 they're split up into many different chunks, and so we 15 built the website deliberately to try and make it 16 easier, where we scraped all the data going back to 1996 17 from the PCC site, it's open and publicly available, so 18 that you can now look and see who has the most 19 complaints against them, who has the most resolved 20 complaints, the most upheld. You can subdivide it by 21 clause, privacy, accuracy. So you can do what we wanted 22 to do, which was to actually try and get an indication 23 of accountability, which you can't do from the PCC's 24 statistics. 25 Once we had that website and the database, we</p> <p style="text-align: center;">Page 24</p>

6 (Pages 21 to 24)

<p>1 thought we would do some analysis off it. We quickly 2 found that it was extremely difficult to do that 3 analysis because, as I say, the amount of data released 4 is limited. So in 2010, of the over 6,000 original 5 complaints, many of which we know fall off, the only 6 ones available to analyse are 526, so quite a small 7 proportion of that data. 8 Even those 526, it's not a full amount, as we 9 discovered ourselves, because quite a number of people 10 request that their complaint doesn't go up on the 11 website and then when they make that request, often it's 12 taken down. 13 Now, we've said to the PCC we don't think that's 14 consistent. If the person is concerned about privacy 15 and anonymity, then they can request their complaint be 16 anonymised, but from the perspective of actually trying 17 to analyse the complaints and work out what they mean, 18 if you remove it entirely, then clearly it makes it 19 impossible for anyone else to see that there has been 20 a complaint on that basis against that news outlet. 21 So I could go on, but essentially what we found was 22 we could go as far as we could with the data that was 23 available and we could give the indicative results of 24 that data, but we would never, neither would anyone 25 else, ever be able to properly scrutinise or make</p> <p style="text-align: center;">Page 25</p>	<p>1 date of the original article. There is no date recorded 2 for the complaint, but then the complaint resolution, or 3 otherwise, is put up on the website. So the only openly 4 available data was the original article and the 5 resolution as per the website, that's what we measured. 6 When we spoke to them about it, they completely 7 justifiably said that's not a fair representation 8 because actually the complaint can come in some while 9 subsequent to the original article, the resolution often 10 doesn't go on the website immediately that it's made -- 11 we didn't know that, but they told us that -- so it can 12 be much shorter than that. We said great, can you give 13 us any information or detail to show us how much 14 shorter, and they said no. 15 Again, we're at this difficult point, and this is 16 really the point of this was to say it's terribly 17 difficult, particularly given the anecdotal evidence 18 that we hear from Will and from others, many of whom say 19 it's taken an awful long time, much longer than 20 expected, and I'd like to say that from all my 21 experience, the PCC secretariat have been extremely 22 helpful, worked amazingly hard and assiduously and done 23 the best they can. I think in many cases, certainly 24 from people I've spoken to, the problem is with the news 25 outlet rather than with the PCC, but --</p> <p style="text-align: center;">Page 27</p>
<p>1 accountable the complaints body. 2 Q. Thank you. The lack of clarity as regards methodology, 3 that's the bottom of page 58775. You make an 4 interesting point about the average period of time it 5 takes to resolve a complaint, which I think in 2010 -- 6 this was repeated in evidence to the Inquiry -- is 7 nearly 33 days. You're not altogether comfortable with 8 that figure, Dr Moore; is that right? 9 DR MOORE: Well, the conversation when I met with -- not 10 with the current director, when I met with two members 11 of the PCC, this was what I was told. The evidence that 12 the current director, who I speak to regularly, 13 Stig Abell, contradicted this, I have spoken to him 14 since and the two of us are trying to resolve what the 15 discrepancy is. 16 The difficulty from that perspective is we have no 17 access to the data so we can't do the analysis ourselves 18 so we're reliant on what they tell us, and this is what 19 they told us, which is different from what Stig Abell 20 said this week. 21 Q. Your figure is 106 working days, which as you say is 22 three times greater than the PCC's figure. 23 DR MOORE: In other words the data that's available at the 24 moment is -- it's quite hard to back it out, because you 25 can find -- if you work at it, you can normally find the</p> <p style="text-align: center;">Page 26</p>	<p>1 Q. I think I'm going to have to ask you to go more slowly, 2 because I can see -- 3 DR MOORE: Sorry. But the point that we were making was, 4 for example, if one wants to -- as Will has personally 5 experienced -- try and find out if particular papers are 6 obstructive and they take an awful long time to deal 7 with complaints, that would be -- it would be very 8 helpful to know that within the complaint statistics, 9 because then not only would that be -- would the public 10 know that, but then hopefully the news outlet concerned 11 would see that and would feel embarrassed about that and 12 would do its best to improve it. Without having the 13 data, without knowing, it's impossible to do that. 14 Q. It sounds as if you would wish to formulate some 15 specific request of the PCC in relation to one 16 particular year's worth of data, maybe 2010 would be 17 a reasonable year to take, since you've already looked 18 at it to some extent, and then see whether a further 19 analysis can be undertaken. Is that correct? 20 DR MOORE: Absolutely, and I think ironically enough when 21 I was speaking to them about this, as I say, we were 22 preparing this in the early half of 2011, and I spoke to 23 them I think in May, June of 2011, they were right then 24 preparing a new website which they said was going to 25 detail much more of this. That has been, as</p> <p style="text-align: center;">Page 28</p>

<p>1 I understand it, postponed, or at least pushed back 2 because of the events of July. So I'd be very happy to 3 sit down with them and try and work out exactly what 4 this is. 5 MR MOY: Could I perhaps jump in at this point? 6 Q. Please. 7 MR MOY: Speaking not specifically but as regular users of 8 statistics in all forms, this seems like a fairly 9 obvious case of call a statistician, which isn't 10 a regular cry, but what we have is effectively two good 11 faith efforts to produce numbers from data which are 12 leading to widely disparate systems. That suggests 13 either the data is bad or the methodology is bad. 14 I think there's actually a good case that the data 15 is bad, because there isn't an easy definition of many 16 of the things that we're trying to measure here, whether 17 you go from when the article is published or when the 18 resolution is published or when a complaint is received 19 to when it is dealt with. 20 Perhaps quite personally taking the examples we've 21 experienced, if you go from when a complaint is made to 22 when an inaccuracy is accepted, and then you have 23 a separate period of time between when the inaccuracy is 24 accepted and the correction is printed, much of which 25 has been taken up, sometimes months of it, by arguments</p> <p style="text-align: center;">Page 29</p>	<p>1 isn't very useful, probably, unless there's a good 2 reason to believe it's representative. What would be 3 very interesting to see is how many cases take less than 4 a week, less than two weeks, less than three weeks for 5 frequency distribution, if you like. 6 DR MOORE: As I say, split out by news outlets such that you 7 can see which of these outlets are taking an awful lot 8 longer than others. 9 LORD JUSTICE LEVESON: How valuable would this information 10 be, do you think, for what I'm trying to do at the 11 moment? 12 DR MOORE: I think to the point about -- it comes, I think, 13 alongside the legal point, which has been made to me 14 frequently, which is that most people want to have 15 a prompt correction or apology. Mostly people find it 16 very difficult to get a prompt correction or apology. 17 There are many reasons for that. At the moment, it's 18 often extremely hard to work out what those reasons are, 19 because the information isn't available to work out, who 20 is taking a long time and for what reasons. 21 In that respect, yes, I think it would be very 22 helpful to break down who takes a very long time and try 23 and work out why that is. 24 MR MOY: I think my view is slightly different. I don't 25 much care -- I think it's accepted that the PCC needs to</p> <p style="text-align: center;">Page 31</p>
<p>1 about due prominence, so in trying to extract sensible 2 statistics from this kind of quite dynamic process you 3 need some quite clear definitions and some sensible 4 methodology, rather than sort of firing questions at the 5 PCC, looking to the future, I think it might be useful 6 to involve some professional statisticians in designing 7 a data correction process -- 8 LORD JUSTICE LEVESON: But it's worse than that, isn't it, 9 because do I gather from what I've read that assume 10 a complaint is rejected because it doesn't qualify, now 11 that might be done in three days. 12 MR MOY: Less. Three minutes. 13 LORD JUSTICE LEVESON: Another complaint, which actually 14 goes through the process, takes 70 days, for example. 15 MR MOY: Yes. 16 LORD JUSTICE LEVESON: Add the two figures together and then 17 you get an average which is 35 days but that's not 18 representative. 19 MR MOY: No. Famously the average person has one testicle, 20 but it doesn't tell you very much about people. This is 21 one of the classic cases where -- excuse me. 22 LORD JUSTICE LEVESON: No, I understand the justification. 23 Probably that wouldn't apply if you talked about the 24 average male. 25 MR MOY: Indeed. This is a classic case where the average</p> <p style="text-align: center;">Page 30</p>	<p>1 be replaced, so raking over the pathology of exactly how 2 it was failing isn't that interesting. What I think is 3 essential is that any successor to the PCC has 4 a sensible way of monitoring its effectiveness, which is 5 pre-defined, if you like, and which provides clear 6 warning signals if things are going wrong, clear ways of 7 assessing its effectiveness. That may be -- I think 8 Martin is going to say a bit blase about the past, 9 but -- 10 DR MOORE: No, I think that's a fair point, actually. 11 Looking forwards, it seems to me as though one of the 12 problems that we've had is that because there aren't 13 specific -- as I understand it, in the legal process, 14 there are very specific dates for complying with certain 15 aspects of the legal process when it comes particularly 16 to defamation cases. There aren't any similar in the 17 self-regulatory process. If there were, that might be 18 very helpful. So, in other words, if people had to 19 respond to certain requests within a certain timeframe, 20 that actually would be very helpful. 21 MR JAY: That's one of your proposals, I think. 22 MR MOY: It's something we regard as absolutely vital, 23 having been led down the merry dance far too many times. 24 Q. Dr Moore, your assessment of the current system, we see 25 this most clearly in section 5.2 of your 2009 report,</p> <p style="text-align: center;">Page 32</p>

<p>1 your tab 2 of page 58849. You helpfully remind us of 2 the recent form. You deal with the code of practice, 3 but I'm going to cover that in a moment. System of 4 governance on the next page. I think the point you're 5 making there is the existing system of governance is not 6 demonstrably independent, transparent and accountable; 7 is that right?</p> <p>8 DR MOORE: That's right.</p> <p>9 Q. Again, in terms of headlines, why not?</p> <p>10 DR MOORE: It should be said that the time when we said 11 this, it was absolutely not accepted. It was not 12 accepted by the Press Complaints Commission, who 13 attacked the report; it was not accepted by the news 14 industry. Many of the things that the report says are 15 now generally accepted, not just by those outside the 16 industry but by some of the people who have come before 17 the Inquiry. Only yesterday, Baroness Buscombe talked 18 at some length about problems of independence.</p> <p>19 One of the specific concerns we raised in the report 20 was that it seems to us that compared to other 21 regulatory bodies there weren't the independent 22 mechanisms within the constituent bodies, and 23 particularly between the Press Board of Finance. When 24 I spoke to people from other regulatory bodies, they 25 said that normally that would be peopled by accountants</p> <p style="text-align: center;">Page 33</p>	<p>1 against them that are resolved, many of those resolved 2 cases certainly appear to have breached the code. But, 3 because they're resolved, there's no record of a breach 4 kept. I suppose it's the equivalent of pleading guilty 5 and being acquitted.</p> <p>6 That has a number of different effects, one of which 7 is that it means that there is very little learning from 8 it, so one can't -- both within the organisation and 9 more widely in the news industry -- say this 10 organisation is regularly breaching the code on this 11 basis and then take action as a result.</p> <p>12 Then obviously from the public's perspective, they 13 can't look at the individual organisations and see who 14 is or is not regularly breaching the code, and I can 15 give specific examples.</p> <p>16 In 2010, the analysis we did on the evidence 17 available, just to take one example, there were 63 18 resolved complaints against the Daily Mail. If one goes 19 through each of those summaries on the PCC website, it 20 is -- in 47 cases, they clarified, collected or 21 apologised. One wouldn't have thought they would have 22 clarified, corrected or apologised unless there had been 23 some breach of the code. That's absolutely arguable and 24 I accept that, but going by that alone, 47 of 63 is 25 quite a high number. But in terms of the upheld</p> <p style="text-align: center;">Page 35</p>
<p>1 and others who would simply be working out the levy, it 2 would be a transparent levy, a percentage of revenues, 3 et cetera, and then distributing it to the regulatory 4 body.</p> <p>5 This was and is very different. It's peopled by 6 very senior people within the industry, who collect the 7 finance and then distribute it. It has no transparency, 8 despite the governance review itself of the PCC 9 recommending that they become more transparent and put 10 out a website; it hasn't and it didn't. So we don't 11 know if one, in that wonderful journalistic way, follows 12 the money, who pays how much for the system, which seems 13 to me to go partly to the heart of where the power lies, 14 and indeed, going by Baroness Buscombe's evidence 15 yesterday, that's exactly the point that she made.</p> <p>16 In terms of transparency, we've talked a little bit 17 about that. I can talk more.</p> <p>18 In terms of accountability, and this is I think one 19 of the central points and the difference, as we saw it, 20 between -- and still see between the mediation and 21 regulation, is that many editors in front of this 22 Inquiry and elsewhere have talked about how they're very 23 proud to have only had a very limited of upheld 24 adjudications against them. However, if you look 25 through the cases, the complaints that have been made</p> <p style="text-align: center;">Page 34</p>	<p>1 adjudications in 2010, there were zero.</p> <p>2 So from the public perspective, and indeed the way 3 in which the paper presents itself, it has an almost 4 unblemished record, but actually one could argue that 5 it's breaching the code on a regular basis.</p> <p>6 Q. Yes. Thank you.</p> <p>7 Mr Moy, you --</p> <p>8 LORD JUSTICE LEVESON: It's likely to be the -- well, there 9 could be two arguments. First of all, the newspaper 10 takes the view that even if there's an argument about 11 it, it's much better to get it right in the way that the 12 person who is complaining wants it, and that might be 13 seen as positive. On the other, it might be said that 14 the more egregious the breach, the more likely it is 15 that that will be accepted and reflected in a resolution 16 than pursued to an adjudication. There are two possible 17 ways of looking at it.</p> <p>18 DR MOORE: Yes. Actually, the argument has been made, not 19 in front of this Inquiry but a number of times before, 20 that actually part of the point of the complaints system 21 is to resolve and not adjudicate and therefore 22 a resolved complaint is a sign of success.</p> <p>23 The problem is twofold, one of which is from the 24 perspective that the system should act in the public 25 interest as well as in the interests of an individual</p> <p style="text-align: center;">Page 36</p>

<p>1 member of the public. The wider public, from their 2 perspective, see very little -- can see repetitive 3 mistakes and repetitive breaches and apparently no 4 action taken. The individual complainant often is given 5 the impression: this is the best you will get. 6 If I could cite one example, in late 2009, shortly 7 after -- very shortly after Professor David Nutt was 8 dismissed from the government after writing a report 9 which was critical of the drugs policy, two newspapers, 10 the Sun and the Mail, published stories about 11 Professor Nutt. Well, actually more about his children, 12 three children. They had a photograph of one of his 13 sons smoking what they said was cannabis. It was 14 factually incorrect. They'd taken the picture from his 15 Facebook page. They showed a picture of his daughter, 16 saying she was drunk. She wasn't, there was a lid on 17 the bottle. And another photograph of his other son, 18 who lived in Sweden, naked coming out of a sauna. 19 They complained. As I understand it, the PCC, as 20 usual, was extremely helpful and did the best that it 21 could, but after much discussion, the best they could 22 get was the removal of the articles from the website and 23 a commitment from both papers not to publish again and 24 a letter published in the Sun and nothing in the Mail, 25 which was certainly from I think the perspective of the Page 37</p>	<p>1 the top of page 53816. 2 MR MOY: Yeah. 3 Q. This really strikes at the heart of the issue, it may be 4 said, so could I ask you to speak to those matters? 5 MR MOY: The dependence on co-operation? 6 Q. Absolutely. 7 MR MOY: Yes. As I think I said in my seminar talk, the 8 user experience of the PCC is basically defined by the 9 newspapers. The PCC to some extent acts as a postbox 10 between the complainant and the newspaper. If the 11 newspaper drags its feet, the PCC doesn't have the power 12 to compel a response. If the newspaper gives a derisory 13 response, the PCC in our experience doesn't just tell 14 the newspaper where to get off, it puts it to the 15 complainants and asks for a reaction. 16 I know that -- or I'm told that the PCC complaints 17 staff do work very hard behind the scenes with editors 18 to get sort of sensible responses, but we've had cases, 19 for example a classic case, Daily Mail, this was the 20 week before the seminar. We had two adjudications 21 pending on the Wednesday of that week about Daily Mail 22 front pages. These were complaints which had been 23 kicking around for several months. You will recall that 24 at the beginning of that week of the seminar, Paul Dacre 25 announced that there was going to be a page 2 Page 39</p>
<p>1 complainants and certainly from the perspective of the 2 wider public not very helpful. 3 LORD JUSTICE LEVESON: That creates the distinction that 4 I've been trying to draw people out on, between what is 5 a complaints-handling system and a regulator properly 6 so-called. 7 DR MOORE: Exactly. Exactly. 8 MR JAY: Thank you. 9 Mr Moy, you capture your ideas on current failings 10 in the existing regulatory system at 53815 under our 11 tab 13. It is it's fair to say broadly convergent with 12 the evidence we've just heard. 13 MR MOY: Yeah. 14 Q. Under the heading "The user experience", you make the 15 point that the PCC -- some of the things it does well 16 include the ease of making a complaint, acknowledgment, 17 direct contact with human beings, helpful staff. You 18 make all those points. 19 MR MOY: Yeah. 20 MR JAY: "Contrary to expectations, we haven't yet 21 experienced the third party rule". 22 MR MOY: Yes, that has changed. This was written before the 23 seminars, so probably in September, so we're slightly 24 further down that road. 25 Q. Thank you. Then you make some very specific points at Page 38</p>	<p>1 corrections column, and the fact that there was now 2 a page 2 corrections column was a major factor in the 3 PCC adjudication deciding that it wasn't necessary for 4 the full page front page error to have any correction 5 featured on the front page. 6 But we found out -- after the corrections column was 7 announced, we found out that the Daily Mail was 8 unilaterally planning to run these corrections two days 9 before the adjudications were due to take place, because 10 I got an email at 6.30 on a Friday evening from the PCC 11 complaints team saying, "We've just heard from the 12 Daily Mail that they're planning to put these in the 13 corrections column, and as you think the corrections 14 column is a good idea, they assume you'll agree with 15 this". 16 I obviously thought that was as massive abuse of 17 process to circumvent the adjudication procedure like 18 that, and to do so just at Lord Hunt's first ever 19 meeting of the Commission I thought was really bizarre, 20 and the PCC, rather than saying, "No, hang on, you can't 21 do this, this is a ridiculous way to treat us", which 22 I think they should have done, referred it to me to ask 23 what I thought. 24 Which I think absolutely sums up the weakness of the 25 PCC in that sort of situation, and surprisingly, and Page 40</p>

<p>1 alone among the Daily Mail -- the Daily Mail alone does 2 this, as far as I know, but we've seen on several 3 occasions them coming to the PCC the night before 4 something is due to be published or the working day 5 before something is due to be published with little 6 changes to the extent that once I think we had to get 7 them to reprint a correction properly because they'd 8 buried it within another story. We've also seen that 9 happen to another organisation. 10 So there does seem to be a sense that newspapers can 11 play games with the PCC and the PCC can't really do much 12 about it. So, yeah, the PCC depends on the co-operation 13 and frankly it doesn't get it. The PCC depends on good 14 faith, and frankly it doesn't always get it. 15 Q. Thank you. 16 Ideas for reform now. The first subheading, 17 I suppose, is "better internal regulation", but Dr Moore 18 has addressed that in paragraphs 43 and 44 of his 19 submission of page 7 on the internal numbering. I think 20 we've probably already covered those matters, Dr Moore; 21 is that right? 22 DR MOORE: It's probably worth saying, actually, that one of 23 the projects that we have -- that we did for two years 24 was with Sir Tim Berners-Lee and his Web Science Trust 25 and it was specifically looking at how to make -- give Page 41</p>	<p>1 can it really be taken further into regulatory reform? 2 DR MOORE: If one accepts that the future regulator ought, 3 as much as possible, to be overseeing a system of 4 devolved self-regulation, so organisations do have 5 compliance mechanisms within the organisations 6 themselves, which I think it ought to be, then I think 7 this is relevant because at the point where 8 a regulator -- there is a problem and a regulator has to 9 go into an organisation and say, "What went wrong, and 10 how and why?", without some of these mechanisms, and 11 I agree, some of them are best practice, but without 12 some mechanisms by which to track back, an audit trail, 13 if you like, I think it would be much more difficult for 14 the regulator to make an informed judgment. 15 LORD JUSTICE LEVESON: Yes. 16 MR JAY: Mr Moy, you touch on this at page 53814 under our 17 tab 13, under the heading "The regulator is only part of 18 a wider system for upholding standards". In the second 19 paragraph: 20 "For newspapers themselves self regulation should 21 mean just that, journalists and papers upholding high 22 standards themselves and the regulator should be 23 a backstop." 24 I understand that, but how are journalists and 25 papers to uphold high standards themselves? It's a good Page 43</p>
<p>1 people greater tools to assess the trustworthiness of 2 information, particularly news on the web, and we looked 3 at ways in which to make the provenance of stories much 4 clearer, both in terms of basic information like who 5 wrote them, who they were published by and when they 6 were published, and actually building that literally 7 within the structure of a story using what's called 8 metadata. 9 And I think that there are, as I say here, there's 10 an enormous opportunity to make news much more 11 accessible, as Baroness O'Neill has spoken about, 12 without much effort at all. We worked closely with the 13 Associated Press on this. They integrated it into all 14 their articles, such that now when you look at an 15 Associated Press article on the Associated Press 16 essential site it has a small "p" at the top which is 17 a link to the principles to which it adheres, and that's 18 embedded with metadata in every article they publish. 19 I think there are an enormous number of things that 20 could be done, which, as I say, many aren't at the 21 moment. There are some very good organisations and 22 individuals doing some of this stuff, but in general, 23 particularly in the UK, not many. 24 Q. Thank you. 25 LORD JUSTICE LEVESON: Is this a matter of good practice or Page 42</p>	<p>1 idea, but how are we going to achieve this? 2 MR MOY: I find that a slightly surprising question. It's 3 part of the definition of a journalist, it's part of 4 most journalists' essential self-respect, that they 5 uphold to high standards. I mean, especially in 6 relation to accuracy. If you can find a journalist who 7 is willing to proudly say that he's not that bothered 8 about accuracy, then good luck to you. 9 LORD JUSTICE LEVESON: Well, it's not that. I think it's 10 not quite the problem. The problem has been the 11 suggestion that the pressures on the newsroom put 12 pressures on journalists to turn out more and more, 13 which inevitably has an impact on the type of input they 14 would like to put into the article. 15 MR MOY: Right. 16 LORD JUSTICE LEVESON: Which itself can then affect the 17 standard that they would always wish to aspire to, but 18 sometimes can't obtain. 19 MR MOY: Okay, fair enough. In which case I suppose what 20 you're drawing out there is the point that unregulated 21 journalism isn't actually unfettered journalism. It's 22 not just journalism where the journalist gets to do the 23 best job they can possibly do. It's journalism where 24 the journalist has to work within the structure that's 25 defined for them by their company, their managers, who Page 44</p>

<p>1 obviously have goals other than selflessly serving the 2 public benefit, and perfectly properly, too. Which is 3 one reason why we do need regulation to counteract 4 those, if you like, market failures. 5 Nonetheless, there is -- this is a matter of basic 6 civic responsibility in a corporate level and an 7 individual level. Getting to a point where you don't 8 deliberately publish things that are inaccurate is not 9 an achievement, it's square one welcome to civilisation. 10 The analogy here isn't with, you know -- I'm not 11 even sure what the analogy would be. The analogy when 12 we're talking about things like the Express front page 13 where they're deliberately apparently taking things out 14 of context is with a water company putting poison in the 15 water supply. 16 LORD JUSTICE LEVESON: I'm not sure about that, but let's 17 not go there. I'm prepared to accept, and I'm sure 18 journalists would accept, that a high standard of 19 accuracy is important. The question is how to deal with 20 the problems that have arisen in a way that ensures that 21 freedom of expression is not in any sense impacted 22 adversely. 23 MR MOY: Okay. Can I jump in with just a small point, which 24 is I think then you have to start making distinctions in 25 our field of accuracy between, if you like, different</p> <p style="text-align: center;">Page 45</p>	<p>1 the complaints that you make about the mismatch between 2 headlines and material or other egregious errors of fact 3 fall very squarely within what should be a "regulated" 4 -- and I'll put that word in inverted commas before 5 somebody says I've gone somewhere -- world. But one has 6 to make sure that one doesn't create a system that 7 inhibits freedom of expression. 8 MR MOY: Yes. 9 LORD JUSTICE LEVESON: As an uncovenanted consequence of 10 trying to cope with the problems to which you refer. 11 MR MOY: Yes. 12 DR MOORE: Absolutely, and if I could add to the previous 13 point, I don't want to sound too much like an evangelist 14 in the sense that the Internet has all the answers, but 15 at the very least, one of the things that there is an 16 opportunity now, which there wasn't before, is for 17 enormously more transparency and accountability in the 18 sense of being transparent about the sources of articles 19 and being accountable in a sense of making it easy for 20 people to indicate if there are mistakes or to indicate 21 that there has been some form of misrepresentation. 22 Unfortunately, there are not many big mainstream 23 organisations that are doing this. There are many 24 smaller organisations and individuals who are, but in 25 the main, many of the big organisations, bizarrely in my</p> <p style="text-align: center;">Page 47</p>
<p>1 types of inaccuracy. Mistakes happen. That's a normal 2 part of journalism. That's I'm sure a normal part of 3 the law, for that matter. Full Fact makes mistakes, all 4 national newspapers make mistakes. That's not about 5 this. 6 LORD JUSTICE LEVESON: That's why the Court of Appeal 7 exists. 8 MR MOY: Well, indeed, yes, and the Supreme Court, of 9 course. 10 LORD JUSTICE LEVESON: Oh yes. 11 MR MOY: But we have to include in our sense of what 12 accuracy means making corrections when necessary, and in 13 fact that's exactly what clause 1 of the code does, and 14 that's the right answer to what happens as a natural 15 part of the pressures of being busy journalists dealing 16 with complex topics to tight deadlines. Those kind of 17 mistakes, absolutely, the answer is corrected, move on. 18 You haven't done something terrible, you just need to 19 serve your audience by printing a correction. 20 The kind of things where there is a sense that there 21 is a recklessness or a wilfulness about the inaccuracy, 22 that's where I do object, that's where I really do think 23 it is poisoning the news supply. 24 LORD JUSTICE LEVESON: I understand the distinction and 25 that's a very, very important distinction. Obviously,</p> <p style="text-align: center;">Page 46</p>	<p>1 view because it seems to me to actually enhance their 2 credibility and their accountability, but very few of 3 them have adopted most of these. 4 MR MOY: I think just picking up on the freedom of speech 5 point, I don't see effective regulation as opposed to 6 freedom of speech and I think that terror sounds far 7 larger in theory than it is when it's practised by 8 people with goodwill and sensible intentions and when 9 you start looking at specific examples, I think it 10 becomes clearer and less terrifying. 11 But one of the answers to the freedom of speech 12 problem is that part of the right way to deal with this 13 is for ideas to be contested for a civil society, which 14 I mentioned on the page of my submission that we're on 15 at the moment, to be active in challenging 16 misinterpretations in public life. 17 As you've heard, that's largely not true. Civil 18 society currently doesn't feel able to or doesn't feel 19 invited to or doesn't feel a responsibility to be 20 challenging misleading claims in public life. That's 21 something that needs to be understood as to why that 22 might be happening, and if we got to a stage where that 23 was corrected, I think we'd be a lot further on in 24 having a dynamic society, if you like, where the kind of 25 interplay of pressures works out for the best.</p> <p style="text-align: center;">Page 48</p>

<p>1 LORD JUSTICE LEVESON: Mm.</p> <p>2 MR JAY: The next subheading is "Changes to the legal 3 framework", which I think we're going to have to just 4 touch on. Dr Moore, paragraphs 58 to 64 in particular, 5 page 10 on the internal numbering, where you draw 6 attention to some continental examples and 7 a Commonwealth example.</p> <p>8 The Finnish example we may have to look at in some 9 detail because on the face of it, it looks quite 10 interesting. Obviously the Irish example we're getting 11 evidence on and the New Zealand example will be 12 available no doubt online for us to consider.</p> <p>13 DR MOORE: Can I make one point about the New Zealand 14 example because one of the reasons I think it's 15 particularly interest, it's a very recent report in 16 December so it takes into account some of the things 17 that have been happening in this country.</p> <p>18 One of the ways in which I was impressed they looked 19 at it was rather than thinking about the constraints on 20 journalism and some of the arguments that have been made 21 about this Inquiry necessarily being about constraining 22 free press and free speech, they look at it really from 23 an entirely different direction and they say: how can we 24 expand, how can we give the privileges that are 25 currently given to mainstream journalism to anyone who</p> <p style="text-align: center;">Page 49</p>	<p>1 formed a review group to write this report in 2009 has 2 formed a very similar review group with many of the 3 similar people participating, specifically to look at 4 and detail evidence-based recommendations for a new 5 system, and is planning to do that in May of this year. 6 So these are necessarily initial thoughts around that.</p> <p>7 LORD JUSTICE LEVESON: When you say planning to do that in 8 May, planning to publish it in May?</p> <p>9 DR MOORE: Sorry, submit it to the Inquiry and publish it 10 more widely, but certainly submit it.</p> <p>11 We're doing some research specific to that, which 12 we'd be happy to put in beforehand, in relation to some 13 of the mechanisms people have already talked about, 14 particularly around the infamous sticks and carrots, so 15 looking, for example, at the question of VAT, 16 zero-rating and understanding (a) if it's even possible 17 and (b) what it actually means in terms of the 18 amounts --</p> <p>19 LORD JUSTICE LEVESON: For what it's worth, the provisional 20 views that I've received are that it is not possible to 21 distinguish between different types of identical 22 provision namely a newspaper that might satisfy certain 23 conditions above others for VAT purposes.</p> <p>24 DR MOORE: Thank you. We've received different advice, some 25 of which has said that if they can distinguish between</p> <p style="text-align: center;">Page 51</p>
<p>1 is doing journalism? And they talk particularly about 2 the legal privileges, but they cite other ones as well.</p> <p>3 As part of that, they start almost from ground zero. 4 They say what is the news media and how do we define it 5 and once we've defined it, then how can we make that 6 definition encompass all those who want to contribute to 7 the fourth estate and to this sphere?</p> <p>8 Q. Thank you. The essential ingredients of a desirable 9 regulatory framework, Dr Moore first of all, page 11 of 10 your report, paragraphs 66 to 70, you are not 11 comfortable with the notion of a full statutory 12 regulator, that is understood. But you say in 13 paragraph 67:</p> <p>14 "... some statutory basis will be necessary in order 15 to incentivise or require news organisations to 16 participate ... to provide the necessary powers to 17 oversee and enforce the code and provide for 18 independence."</p> <p>19 So you're drawing a distinction there between 20 framework and procedure and substance, and you're making 21 it clear that the statutory regulator would not be 22 involved in matters of substance, namely what the 23 standards should be. Is that correct?</p> <p>24 DR MOORE: That's correct. I think this requires a little 25 bit of context in that the Media Standards Trust which</p> <p style="text-align: center;">Page 50</p>	<p>1 a cake and a biscuit, then they can distinguish between 2 different newspapers. I believe there are European 3 precedents for distinguishing between -- for example, 4 I think it's in Belgium and Denmark, they can 5 distinguish between different types of publication, but 6 I thank you for your advice --</p> <p>7 LORD JUSTICE LEVESON: I'm not giving you advice, I'm merely 8 telling you what I have been told, because it won't 9 surprise you that when this idea was first suggested, my 10 immediate question was: does this work as a matter of 11 law? If you have some advice that says that it does 12 work as a matter of law, I would be very interested in 13 seeing it.</p> <p>14 MR MOY: May I ask, if it's not impertinent, whether the 15 Inquiry will be publishing that advice?</p> <p>16 LORD JUSTICE LEVESON: I've not got formal material yet. 17 I just needed to know whether this was a route down 18 which I should go.</p> <p>19 MR MOY: Yes.</p> <p>20 LORD JUSTICE LEVESON: I have absolutely no doubt that it is 21 going to have to be addressed by the Inquiry, and it 22 will be addressed with chapter and verse. So that 23 requires European law and domestic tax law.</p> <p>24 MR JAY: Dr Moore, you make it clear in paragraph 68 that 25 for reasons of principle and practicality you'd favour</p> <p style="text-align: center;">Page 52</p>

<p>1 a voluntary system in the first instance and the purpose 2 of the statutory basis is some sort of backstop if 3 people do not participate. Have I correctly understood 4 it? 5 DR MOORE: Voluntary for reasons of principle and 6 practicality. It seems to us that in a digital world, 7 it's both extremely undesirable in principle to try and 8 compel people to be part of the system and very 9 difficult in practice to work out (a) where you draw the 10 line around them and (b) what do you do about those 11 people who sit outside the line and refuse to -- or 12 refuse to come in, and I think there it seems to us you 13 quite quickly get into a pseudo licensing system, which 14 we think would be a very bad idea, when you're telling 15 people if they're not coming in the system that they 16 can't publish, and I think that would be very 17 detrimental to free speech. 18 However, if one accepts that and one accepts that 19 the system has to be voluntary, then one necessarily has 20 to start thinking how to make it incentivised enough 21 that people -- the people that you want to be inside are 22 inside, and that's where it comes, I think, necessarily, 23 to thinking about both non-statutory and statutory 24 mechanisms to try and make it carrot enough. 25 LORD JUSTICE LEVESON: But there would have to be statutory</p> <p style="text-align: center;">Page 53</p>	<p>1 LORD JUSTICE LEVESON: But what you're saying is this isn't 2 statutory regulation at all; this is recognition in 3 a statute of a different type of system. 4 DR MOORE: Exactly, like in Ireland in Section 44 of the 5 Defamation Act. 6 LORD JUSTICE LEVESON: But the critical thing about that 7 would be that the statute would have to identify what it 8 is recognising. 9 DR MOORE: Yes, as it does in some detail in the Irish 10 Defamation Act. 11 LORD JUSTICE LEVESON: I understand, I understand, 12 I understand. 13 MR JAY: Mr Moy, your evidence only touches on this. 14 MR MOY: We'll be submitting further evidence for modules 15 three and four. 16 Q. Thank you very much. But is there anything you would 17 like to say at this stage? You touch on it on 18 page 53819, where you refer to privileges which are only 19 justified for those outlets with a demonstrated 20 commitment to press standards, but no doubt you'd wish 21 to elaborate on that in writing in due course, as you've 22 indicated. 23 MR MOY: Yes. I think sort of the logic of that to some 24 extent perhaps speaks for itself. The main thing we'd 25 say about statutory regulation at the moment is, to coin</p> <p style="text-align: center;">Page 55</p>
<p>1 mechanisms if -- and one of the examples or 2 possibilities that I've discussed is recognising in 3 court the views of a regulator, a system of regulation, 4 whether as to benefit or as to avoiding the risk of 5 exemplary damages. There are lots of possibilities. 6 DR MOORE: Absolutely. 7 LORD JUSTICE LEVESON: But that would require, unless you're 8 going to tell me something different, it seems to me it 9 would require some form of statute around it, otherwise 10 I don't see how a court or adjudicator could take it 11 into account. 12 DR MOORE: No, I agree, but I think that there are statutory 13 mechanisms which can be incentives and non-statutory 14 ones as well. So the three levers, as I see it, that 15 one can pull, one is legal, which is around possible 16 recognition within law such that it's taken into account 17 or even possibly separate tribunal; the second is 18 fiscal, and VAT is one but there are others that have 19 been suggested around advertising; and the third is 20 around the access to information, which was brought up 21 by Mr Dacre earlier this week. 22 It seems to me that those are the three levers, and 23 how one pulls them, I entirely agree, particularly the 24 first time, require some sort of statutory basis. The 25 third perhaps less so.</p> <p style="text-align: center;">Page 54</p>	<p>1 a phrase, we agree with Lord Justice Leveson that it's 2 been a bit dismal watching a sort of binary debate 3 between statutory and non-statutory when that seems 4 fairly useless. 5 We have, as Lord Justice Leveson has noted, 6 statutory judicial appointments, a statutory guarantee 7 of judicial independence, we have a statutory guarantee 8 of academic freedom. The people who safeguard the 9 people who are in mental health detention are 10 a statutory body, and that liberty, that freedom, is 11 just as important as freedom of the press and those 12 people are far more vulnerable than newspaper editors 13 and proprietors. So it's simplistic to simply say 14 anything involving statute is terrible, and it would be 15 helpful to have a debate about how we achieve the 16 required ends that reflects that, and that certainly is 17 what we're thinking about at the moment. 18 The other point that came up I think in Lord Grade's 19 evidence, he was very worried about exposure to judicial 20 review. In our conversations with the PCC, we have 21 always been told that they accept that they are subject 22 to judicial review, and we've asked on several 23 occasions. I don't know if you asked them that question 24 yourselves. But they have never, I know, admitted it in 25 court and I know it has never been decided by --</p> <p style="text-align: center;">Page 56</p>

<p>1 Q. I did ask them that question and the answer was possibly 2 somewhat confidential. That's why I didn't go down that 3 road. I asked that question behind the scenes. 4 LORD JUSTICE LEVESON: On the law, I'm likely to be able to 5 work that out myself. 6 MR MOY: I'm sure. But their point being that they have 7 accepted it, at least in what they have said to us. It 8 seems a slightly strange worry to put people off 9 statutory regulation, if that was indeed Lord Grade's 10 principal objection. 11 Nonetheless, it would be much preferable to see 12 a system which kept politicians away from regulating the 13 press as far as possible, and we look forward to seeing 14 what the industry comes up with. 15 MR JAY: Thank you. Mr Moy, you have some ideas in relation 16 to the code of practice at 53818. 17 MR MOY: Yes. 18 Q. You rightly point out that it's a strong document in 19 many ways, but there are particular areas which give 20 rise to concern. Some of these areas have been constant 21 themes in the evidence adduced before this Inquiry. 22 MR MOY: Yes. 23 Q. The due prominence issue, which might need to be more 24 prescriptive; is that right? 25 MR MOY: I think you'll find a much more helpful guide to Page 57</p>	<p>1 burden of proof lies. In our experience, the burden of 2 proof has always lain on the complainant, not on the 3 newspaper, which is contrary to what is said in the 4 Editors' Code book, which frankly bears very little 5 relation to how the code seems to be interpreted in 6 practice. 7 There is no standard of proof. I think this is 8 a fairly extraordinary lapse. So when the PCC is asked 9 to make adjudications, all of that is sort of left 10 hanging, and the adjudications without those concepts 11 being clear can't possibly be clear themselves, and 12 I think even the PCC probably finds this a difficult 13 feature, and certainly we've never found their 14 adjudications clear and I think that's the reason why. 15 So we have put in a submission to the current review 16 of the Editors' Code saying that clause 1 needs to be 17 overhauled, not because it's driving at the wrong 18 things, it's absolutely not, but because actually in 19 practice it's rather obscure and rather difficult to 20 work with. 21 LORD JUSTICE LEVESON: One has to be a bit careful one 22 doesn't create the Maltese penal code. That's not 23 showing a disrespect -- 24 MR MOY: The what, sorry? 25 LORD JUSTICE LEVESON: I'm not showing a disrespect to Page 59</p>
<p>1 our view on the Editors' Code in our submission at 2 tab 16. 3 Q. Thank you. 4 MR MOY: Which is our answer to your 12 questions. 5 Q. It's 54645? 6 MR MOY: 54643 is the beginning of that answer. Obviously 7 our expertise in the code of practice is specific to 8 clause 1. On the other hand, that's the vast majority 9 of what the PCC does. You've heard, I think, on several 10 occasions about the code of practice is a strong 11 document. The people who think that are, with respect, 12 wrong. It's a perfectly reasonable thing to think, but 13 you only think it when you look at it theoretically. 14 From the point of view of people who actually have 15 to make complaints under the code, it's an obscure 16 document and a very hard one to work with, so when you 17 ask a group of academics are these basically the right 18 principles, then they say yes, and quite reasonably, 19 they're absolutely right. But when you try to work with 20 it in practice, it's actually very tricky. 21 Before I go on to what's missing from it, if you 22 look at all the key concepts in clause 1, misleading and 23 distorted, completely undefined and don't seem to be 24 interpreted particularly consistently. There's no 25 explicit burden of proof, it's not clear where the Page 58</p>	<p>1 Malta, but the point I'm making is that one doesn't want 2 a document that is so complex because it's covering each 3 and every possibility that it isn't really possible to 4 navigate through for the public. 5 MR MOY: No, absolutely, but equally a document that 6 specifies neither the burden nor the standard of proof 7 is pretty hard to work with in practice. 8 MR JAY: You make other points. I'm now on 53818 in 9 relation to headlines, which is a point we have been 10 exploring. 11 MR MOY: Yes. 12 Q. And then you say: 13 "A persistent practice of running stories that are 14 inaccurate with a final very late paragraph which 15 effectively invalidates the story", and there have been 16 examples of that put before the inquiry. 17 MR MOY: What's known as the paragraph 19 problem, common 18 enough to have its own name. But what that highlights 19 is the lack of a positive duty in clause 1 of the code. 20 What we don't have in the code is an expectation 21 that the role of journalism is to provide its readers 22 with the best available version of the truth, which is 23 a phrase in common use among journalists, and absolutely 24 the right expectation for what journalists should strive 25 to do. And when we're assessing accuracy, we should be Page 60</p>

<p>1 asking the question of have we here succeeded in 2 providing the best available version of the truth, and 3 we should have that as our ambition.</p> <p>4 If you had that in place, of course paragraph 19 5 would be a clearcut case. What you've effectively done 6 is a sleight of hand there. You're playing tricks. 7 You're saying here's an exciting story and then you're 8 saying at the end well actually no it's not. That may 9 not be inaccurate within the purely negative terms of 10 current code of practice, but it is nonetheless failing 11 to inform your audience and if that was the expectation 12 set forward in clause 1, then a lot of these playing 13 tricks, playing to the letter of the law rather than to 14 the spirit of the law, would go. Would be very easily 15 dealt with.</p> <p>16 I think time and time again, our frustration with 17 the existing system is that it seems to assume good 18 faith on the part of newspapers which just isn't there.</p> <p>19 Q. Thank you. In terms of --</p> <p>20 MR MOY: Sorry, I should qualify that, I noticed a raised 21 eyebrow, quite rightly: which just isn't there in some 22 cases. You can't rely on it being there.</p> <p>23 Q. Yes. Bottom of page 53816, tab 13, Mr Moy, you make 24 some suggestions about what a regulator should be able 25 to do: Impose deadlines for responses?</p> <p style="text-align: center;">Page 61</p>	<p>1 than inaccuracy? I know you're primarily concerned with 2 inaccuracy, but why isn't a resolution of a privacy 3 complaint one which is in the public interest to resolve 4 consensually rather than by an adjudication?</p> <p>5 MR MOY: I didn't say it wasn't. We're suggesting this as 6 a power they should have, not something they should do 7 with a swinging axe. What we have in mind is cases 8 we've been through where the first offer you get is, 9 "We'll amend the headline online only". Then you get 10 the offer of "We'll print a letter from Full Fact 11 disagreeing with our article but we won't change the 12 article or admit there was anything wrong with it". 13 Then you get page 12, then you get page 6, then you get 14 page 4, then you get page 2. All of this, rounds and 15 rounds of correspondence, weeks between them, takes 16 forever, deeply tiring. And all of this, of course, 17 after the actual inaccuracy has been accepted. At this 18 stage, you're just arguing over prominence.</p> <p>19 You've already talked about the PCC should just be 20 able to say, "This is how prominent it should be". 21 Maybe that's the right answer, but at the very least 22 they ought to be able to reject derisory offers.</p> <p>23 I should highlight in that sequence the letter 24 because the code says you have to correct inaccuracies. 25 A letter from somebody else disagreeing with your</p> <p style="text-align: center;">Page 63</p>
<p>1 MR MOY: Yeah, I'm with Martin on that.</p> <p>2 Q. Tackle abuse of its processes, maximise the transparency 3 of its process. You deal with burden and standard of 4 proof issues which you've touched on. Pursue an 5 inaccuracy even without a member of the public willing 6 to argue through the rounds with the newspaper. This is 7 the third-party issue?</p> <p>8 MR MOY: Absolutely vital. I can't stress this enough. If 9 a newspaper has been told that there's a serious problem 10 with a headline and a regulator is aware of this, the 11 fact that the complainant then goes away doesn't mean 12 that the problem has gone away, it doesn't mean that the 13 disservice to the audience has gone away and 14 increasingly with online publication it doesn't mean 15 that the article has gone away either. The idea that 16 the regulator just -- well, it's not a regulator, this 17 is the essential point of it not being a regulator. 18 A regulator would pursue the problem. 19 A complaint-handling body pursues the complaint.</p> <p>20 Q. Can I just ask you to address the penultimate bullet 21 point: 22 "Reject newspapers' proposed resolutions as 23 insufficient in the public interest."</p> <p>24 MR MOY: Yes.</p> <p>25 Q. What happens if the complaint is about privacy rather</p> <p style="text-align: center;">Page 62</p>	<p>1 article isn't correcting an inaccuracy, even though it's 2 routinely accepted as a method of correcting a general 3 inaccuracy.</p> <p>4 Q. You're going to have to slow down. I know we're 5 reaching the end of our allotted slot, but I'm afraid 6 you are going too fast now.</p> <p>7 MR MOY: A letter isn't a correction. It's just a letter.</p> <p>8 LORD JUSTICE LEVESON: I understand.</p> <p>9 MR JAY: Dr Moore, I know you wish to elaborate these issues 10 further in another submission, but you touch on the 11 principles, just so that we know where we are in the 12 final page of your statement, and you probably don't 13 wish to speak to those, you want to do so in a more 14 considered written submission in due course in relation 15 to module four; is that right?</p> <p>16 DR MOORE: That's true, but I suppose one thing that we 17 didn't -- we touched on regulation, but one of the key 18 points that I tried to make in this submission was that 19 it seems to me that there are two slightly overlapping 20 but separate roles that I hope the Inquiry will look at, 21 one of which is around initiating genuine reform as to 22 the legal framework and the second is about the 23 regulatory framework.</p> <p>24 Q. Yes.</p> <p>25 DR MOORE: On the first, I think it's just extremely</p> <p style="text-align: center;">Page 64</p>

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<p>1 important to continue to emphasise that there is an 2 opportunity and a need to defend journalism in the 3 public interest better than it currently is and that 4 means defending it better within the law. I think by 5 doing that not only does one protect good journalism and 6 good journalists. Actually, you also start to better 7 define the line between the public and the private, and 8 which is where I think we're hopefully going to get to.</p> <p>9 Q. Thank you very much.</p> <p>10 Each of you is proposing stronger sanctions for the 11 regulatory body. That might be said goes without 12 saying?</p> <p>13 MR MOY: So is the industry. I think that's now 14 uncontroversial.</p> <p>15 Q. I don't think it's necessary to go into that. And 16 Mr Moy, you've put in a helpful submission on the 17 Internet, which again I'm afraid we never were going to 18 have time to go into but have carefully read.</p> <p>19 Finally, Dr Moore, I should make it clear I've 20 received several questions from another core 21 participant. I'm going to make the executive decision, 22 unless I'm overruled, that I'm not going to ask you to 23 deal with those now, since it would take frankly too 24 long and may or may not be helpful, but what I am going 25 to ask you to do, if you're prepared to do it, is to</p> <p style="text-align: center;">Page 65</p>	<p>1 by points of general inaccuracy, and I know the Inquiry 2 has largely focused on individual named and nameable 3 victims, but we see not just the harmful effects on 4 policy and government making decisions which perhaps it 5 might otherwise not make if better information was put 6 in front of it, and not just the effect in terms of 7 spreading cynicism and unwillingness to engage in public 8 life, but also real damage apparently being done, real 9 hurt being felt by groups of people, and while it's not 10 our job to bang that drum, I thought that needed to be 11 mentioned and I don't think anyone else is going to do 12 it.</p> <p>13 LORD JUSTICE LEVESON: I think they have, actually.</p> <p>14 MR MOY: I mention that for a specific reason, which is that 15 we will always prioritise freedom of speech over 16 a rigorous commitment to accuracy, of course we will. 17 We're an organisation that exists to take part in the 18 severe contest of ideas and to, if you like, be the free 19 speech remedy to inaccuracy. But perhaps when you're 20 wondering where is the balance between the two, it is 21 slightly nudged further over when you realise that 22 inaccuracies do do real harm, more than perhaps we 23 recognise as we become increasingly inured and cynical 24 to misleading use of information in public life.</p> <p>25 LORD JUSTICE LEVESON: Yes. I don't think it's fair to say</p> <p style="text-align: center;">Page 67</p>
<p>1 address these questions in writing and if it's necessary 2 to deal with them other than by putting in further 3 written evidence from you we'll consider that. Are you 4 content with that course?</p> <p>5 LORD JUSTICE LEVESON: Have you raised it with the core 6 participant?</p> <p>7 MR JAY: I haven't, no. It's right to say I haven't. I was 8 hoping to leave some time.</p> <p>9 MR CAPLAN: Can I interrupt. I think I should identify 10 myself.</p> <p>11 MR JAY: I kept you anonymous.</p> <p>12 MR CAPLAN: That's fine, but obviously the answers will be 13 published --</p> <p>14 LORD JUSTICE LEVESON: Of course they shall.</p> <p>15 MR CAPLAN: Thank you.</p> <p>16 LORD JUSTICE LEVESON: I think that's quite a useful idea. 17 Does that conclude?</p> <p>18 MR JAY: It does. I am conscious of the fact I should have 19 left some time to deal with Mr Caplan's points, but 20 I haven't, and therefore --</p> <p>21 MR MOY: Can I just make one last point?</p> <p>22 LORD JUSTICE LEVESON: Please.</p> <p>23 MR MOY: I'm sorry to intrude on your time.</p> <p>24 LORD JUSTICE LEVESON: Don't worry.</p> <p>25 MR MOY: I feel we should emphasise that real harm is done</p> <p style="text-align: center;">Page 66</p>	<p>1 we've not thought about inaccuracy. I'm not suggesting 2 you were quite saying that. Because indeed some of the 3 groups who have come to give evidence have focused on 4 rock solid inaccuracy. But I'm very conscious that 5 inevitably those who are complaining about the work of 6 the press were really complaining about individual 7 circumstances rather than generic issues.</p> <p>8 MR MOY: Yes.</p> <p>9 LORD JUSTICE LEVESON: So I do have the point. Thank you.</p> <p>10 MR MOY: Thank you.</p> <p>11 DR MOORE: May I raise two final points?</p> <p>12 LORD JUSTICE LEVESON: Yes.</p> <p>13 DR MOORE: The first is that I sincerely hope that the 14 Inquiry does take the opportunity for positive and 15 radical change, not just in terms of better protecting 16 the public, but in better protecting journalism in the 17 public interest.</p> <p>18 The second is a plea to not accept as a fait 19 accompli the recommendations necessarily of others, 20 ourselves included. We have and are still doing 21 research on the history of this and I know you've 22 referred to it a number of times in the past, but it 23 does seem to me as though there is a really rather 24 significant danger that the Inquiry, if not extremely 25 careful, could go down a very similar path to the three</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 Royal Commissions and the Calcutt review of the last 60 2 years.</p> <p>3 LORD JUSTICE LEVESON: That is constantly in my mind, 4 Dr Moore.</p> <p>5 I have two issues to raise, very shortly. The first 6 is a refrain that I've received from several editors is: 7 "Well, the answer for the public is very simple. They 8 don't need to buy the newspaper. And they show by 9 buying the newspaper that they like what we do and the 10 way we do it". I would be interested for your comments 11 on that. And then I have one other question for you, 12 but if you have any comment on that, I'd be interested 13 to receive it.</p> <p>14 DR MOORE: Two. The first is that it seems to me as though 15 the argument that the public buy it and therefore it's 16 okay seems to me to be rather moot when one looks at 17 what happened when the public found out how the stories 18 were gathered in July and a paper closed within four 19 days. I think if there was an awful lot more 20 transparency, the public might feel very different about 21 the product they were buying, in the same way one feels 22 about the food you're buying in the supermarket 23 according to the label that's on the food. I think 24 there is an argument there.</p> <p>25 The second is that in the five and a half years that</p> <p style="text-align: center;">Page 69</p>	<p>1 dialogue with Lord Hunt and I will ask him to do the 2 same.</p> <p>3 MR MOY: We haven't met him.</p> <p>4 LORD JUSTICE LEVESON: You haven't?</p> <p>5 MR MOY: No. I met Stig Abell and heard about the proposals 6 earlier last month, but I haven't met Lord Hunt, 7 although I know one of my trustees has talked to him.</p> <p>8 LORD JUSTICE LEVESON: I've made it abundantly clear that 9 this solution, whatever it comes to, has to work for all 10 the reasons, Dr Moore, that you've just mentioned. That 11 means it has to work for the industry, but it also has 12 to work -- I've said it has to work for me, rather 13 grandly representing the public, but your organisations 14 have both thought about these issues for many years and 15 will have very developed views and perspectives which 16 are for me forming rather than formed, and I am sure 17 that the product will be better for your input than 18 without it.</p> <p>19 DR MOORE: Thank you.</p> <p>20 MR MOY: If I may briefly respond to that, because our 21 expertise is how the system works in detail, and at the 22 moment I would say what we've heard from Lord Hunt isn't 23 structurally flawed, but I think at the moment there's 24 a greater chance that the details get worked out in 25 a way that will completely fail than there is that they</p> <p style="text-align: center;">Page 71</p>
<p>1 I've been doing this, one of the things that struck me 2 is that people of course care about the gas bill and 3 they care about the day-to-day things in their lives and 4 people around them. They don't -- entirely 5 understandably they don't notice media coverage per se 6 until it's of direct relevance to themselves or people 7 close to them when it is -- it can be enormously 8 damaging, not just hurtful, but materially damaging to 9 them personally. But in the main, most people, 10 thankfully, never experience that, never go through 11 that.</p> <p>12 LORD JUSTICE LEVESON: All right. Do you want to comment on 13 that?</p> <p>14 MR MOY: I endorse what Dr Moore has said. I'd also point 15 out, as I just did, that the damage that newspapers and 16 anyone who commands mass attention can do isn't limited 17 to the people who read them.</p> <p>18 LORD JUSTICE LEVESON: All right. My second question is 19 this: have either of your organisations met Lord Hunt?</p> <p>20 DR MOORE: Yes. Lord Hunt invited myself and our chair, 21 Roger Graef, to meet him and Stig Abell, I think it was 22 November. It was before he had devised the plan that he 23 has now, but to discuss openly some of the thoughts that 24 we had and some of the possible models that will emerge.</p> <p>25 LORD JUSTICE LEVESON: Could I ask you both to continue that</p> <p style="text-align: center;">Page 70</p>	<p>1 will be worked out in a productive way.</p> <p>2 LORD JUSTICE LEVESON: I think I said either to Lord Hunt or 3 Lord Black that the devil was indeed in the detail. But 4 this is an iterative process for return to the Inquiry 5 and all I'm saying is I'd be grateful if your 6 organisations were involved in these iterations.</p> <p>7 MR MOY: Thank you.</p> <p>8 DR MOORE: Thank you.</p> <p>9 LORD JUSTICE LEVESON: Thank you very much. We'll take 10 a break. 11 (11.47 am)</p> <p>12 (A short break) 13 (11.57 am)</p> <p>14 MR BARR: Sir, good morning. Our next witness is 15 Carla Buzasi.</p> <p>16 MR CAPLAN: Sir, may I very briefly and in 17 a noncontroversial way return to the agenda tomorrow 18 afternoon?</p> <p>19 LORD JUSTICE LEVESON: Yes.</p> <p>20 MR CAPLAN: One procedural matter first, please. Would it 21 please be your order that Mr Dacre's supplementary 22 statement can now be published --</p> <p>23 LORD JUSTICE LEVESON: Yes.</p> <p>24 MR CAPLAN: Thank you very much.</p> <p>25 The second matter, please, is this, I'm not asking</p> <p style="text-align: center;">Page 72</p>

<p>1 for a ruling, just my understanding, and that is that 2 tomorrow he is coming back to deal with the "mendacious 3 smear" matter, the Mail on Sunday story concerning the 4 plummy-voiced executive and the allegation of phone 5 hacking by Mr Grant. I say that because it's in 6 everybody's interests that Mr Dacre has had the 7 opportunity to look at any material that is necessary 8 for tomorrow afternoon. 9 LORD JUSTICE LEVESON: Yes, that's as I understand it, and 10 I notice Mr Crossley is nodding. 11 MR CAPLAN: Nodding. And that the material which he needs 12 to look at and refresh his memory about are his own 13 statements, Mr Grant's statements and Ms Hartley's 14 statements. If there is any other material, I would be 15 very grateful to have the opportunity to see it, in case 16 he needs to access anything else, and I do ask 17 Mr Crossley to let me know if possible, please, by 18 lunchtime. 19 LORD JUSTICE LEVESON: There were some other statements 20 I think submitted, but I am sure that that will be 21 thought about during the course of the morning. Thank 22 you very much indeed. 23 MR CAPLAN: Thank you very much indeed. 24 MR CROSSLEY: The only thing I would add is if Mr Grant's 25 statement could also be published.</p> <p style="text-align: center;">Page 73</p>	<p>1 publishing content aimed at a British audience? 2 A. Yes, that's true. 3 Q. Previously, you worked as the associate editor and 4 online editor at Marie Claire, and before that in 5 a number of roles with Conde Nast's digital team? 6 A. Yes. 7 Q. Can I ask you about the Huffington Post. Can you give 8 us an indication of the sort of circulation that the UK 9 edition has? 10 A. Yes. In December, we had just over 4 million unique 11 users, so that's people who have come to the site. They 12 may have come a number of times during that month, but 13 we would count them just once. So that was global 14 people to the UK site. Within the UK it was 2.7 million 15 people visiting the Huffington Post properties. 16 Q. And the publication itself is solely online, isn't it? 17 A. Yes, absolutely. 18 Q. And it's in the form, if I can suggest this to you, 19 effectively of a Sunday newspaper every day in that it 20 has very many sections? 21 A. Yes. So we span news, politics, entertainment, comedy, 22 technology and international affairs as well. 23 Q. The source material of content for your publication 24 comes from three sources, if I've understood correctly. 25 First of all, there is what might be described as</p> <p style="text-align: center;">Page 75</p>
<p>1 LORD JUSTICE LEVESON: Yes. I think I actually did say 2 that, but it was quite late. Right. 3 MS CARLA SAMANTHA BUZASI (sworn) 4 Questions by MR BARR 5 MR BARR: Sit down and make yourself comfortable. 6 A. Thank you. 7 Q. Could you tell the Inquiry your full name, please? 8 A. Carla Samantha Buzasi. 9 Q. And you are -- I should ask also the witness statement 10 that you provided to the Inquiry, are the contents true 11 and correct to the best of your knowledge and belief? 12 A. They certainly are. 13 Q. You are the editor-in-chief of the Huffington Post UK? 14 A. Yes, that's correct. 15 Q. And the Huffington Post is an online publication which 16 is owned ultimately by AOL Incorporated? 17 A. Yes, that's right. 18 Q. A large American company? 19 A. Yes. 20 Q. There's an intermediary, AOL (UK) Limited, which owns 21 Huffington Post UK? 22 A. Yes. 23 Q. You've worked with AOL since August 2010, and in your 24 role as editor-in-chief you supervise a team of 25 journalists and editors who are based in London</p> <p style="text-align: center;">Page 74</p>	<p>1 original content, and that's material produced by 2 journalists employed by Huffington Post UK and working 3 under your editorial guidance? 4 A. Yes. 5 Q. In that respect, are you effectively very much like any 6 other newspaper in this country, save that you publish 7 solely online? 8 A. Yes. No, we pride ourselves on the fact that we operate 9 as a newspaper organisation would be. These are trained 10 journalists who have come from backgrounds like CNN, 11 BBC, and they're writing original reports day in and day 12 out. 13 Q. In addition, the second stream of content is what might 14 be described as curated content, and that's where your 15 website is linking to other sites on the Internet? 16 A. Yes. I don't believe that any news organisation sort of 17 has the perfect journalism and the monopoly on brilliant 18 stories, so we do link out, make sure that our users can 19 see the best of what's out there on the web. 20 Q. And then finally -- 21 LORD JUSTICE LEVESON: Hang on, is that to other newspapers 22 or just to other material? 23 A. It could be to other newspapers, it could be other 24 blogs, magazine sites or other material, yes. 25 LORD JUSTICE LEVESON: But you couldn't go behind a pay</p> <p style="text-align: center;">Page 76</p>

<p>1 wall?</p> <p>2 A. We do sometimes link to sites like the Times, but if we</p> <p>3 did that, we would make it clear that it was going to</p> <p>4 a pay wall site therefore the user might not be able to</p> <p>5 access that information.</p> <p>6 MR BARR: The third stream of content is that the</p> <p>7 publication hosts a blogging platform, doesn't it?</p> <p>8 A. Yes. It's one of the things that makes the</p> <p>9 Huffington Post unique in that we open that blogging</p> <p>10 platform out to a wide range of people from MPs to</p> <p>11 Joe Bloggs on the street to people experts in their</p> <p>12 field and that makes up a significant portion of our</p> <p>13 content too.</p> <p>14 Q. We'll come back to look of each of those three streams</p> <p>15 in more detail shortly, but before we do that, let's</p> <p>16 look at some jurisdictional matters.</p> <p>17 A. Okay.</p> <p>18 Q. The servers for your operation are in fact based in the</p> <p>19 United States?</p> <p>20 A. Yes, they are.</p> <p>21 Q. But you consider that the English courts have</p> <p>22 jurisdiction over your United Kingdom operation, and as</p> <p>23 you've told us, your journalists are based in London?</p> <p>24 A. Yes, I think that's very important. We are a British</p> <p>25 organisation writing for a British audience, and</p> <p style="text-align: center;">Page 77</p>	<p>1 trustworthy and we're transparent where we've got our</p> <p>2 content from. That means that we're interviewing people</p> <p>3 just as you'd expect any journalist to do on any other</p> <p>4 publication to make sure that we're factually correct.</p> <p>5 Q. Does that mean that on occasions you might publish</p> <p>6 a single-source story if you weren't able to find</p> <p>7 a second source?</p> <p>8 A. Yes, if we weren't able to, but I think in that instance</p> <p>9 I would need to understand why the journalist couldn't</p> <p>10 do that. That might well be because it's based on</p> <p>11 someone's specific opinion about something that's going</p> <p>12 on, but we'd certainly look to caveat that and explain</p> <p>13 why that had been the case.</p> <p>14 Q. If you're going to publish a story, do you expect, if</p> <p>15 you feel that you need to know, to be told the ultimate</p> <p>16 source of the story? Or will you publish a story not</p> <p>17 knowing the source yourself but trusting the judgment of</p> <p>18 one of your journalists?</p> <p>19 A. I haven't had that situation arise. I think that the</p> <p>20 relationships I have with my reporters I would expect to</p> <p>21 know the source, but in line with the PCC, we would look</p> <p>22 to protect those sources ourselves.</p> <p>23 Q. You also tell us that you try to ensure that the</p> <p>24 subjects of your stories are given a reasonable amount</p> <p>25 of time to reply to any charges which are levelled</p> <p style="text-align: center;">Page 79</p>
<p>1 therefore we should be covered by the British courts.</p> <p>2 Q. Looking now, if we may, at the way in which you ensure</p> <p>3 standards, first of all with your original content, you</p> <p>4 tell us that your journalists receive regular training,</p> <p>5 that you have your own editorial guidelines, and you not</p> <p>6 only follow the PCC code but are in fact a member of the</p> <p>7 PCC?</p> <p>8 A. Yes, absolutely. As soon as our journalists arrive with</p> <p>9 us, and as I've said, most of them have come from</p> <p>10 organisations where they would have had legal training</p> <p>11 in the past, they have legal training with us as well.</p> <p>12 We have our own in-house legal team and in some of those</p> <p>13 sessions we'll invite external counsel as well to update</p> <p>14 us on changes in policy.</p> <p>15 Our editorial guidelines, a large part of that has</p> <p>16 been framed to reflect the PCC code and therefore we</p> <p>17 felt it was important that we were signed up to the PCC</p> <p>18 as well.</p> <p>19 Q. We'll come back to the future of regulation and talk</p> <p>20 about the PCC some more later on, but I would like to</p> <p>21 continue to explore the practices so far as your</p> <p>22 original content is concerned. You tell us that you</p> <p>23 always look to double-source articles where possible?</p> <p>24 A. Absolutely. It's very important to me when we're</p> <p>25 building a reputation with the site that we're seen as</p> <p style="text-align: center;">Page 78</p>	<p>1 against them prior to publication.</p> <p>2 A. Yes.</p> <p>3 Q. Are there any circumstances in which you have decided</p> <p>4 not to give prior notice in a case which would be</p> <p>5 invading someone's privacy?</p> <p>6 A. No. Again that situation hasn't arisen yet. I think if</p> <p>7 it was in the public interest, we might make that</p> <p>8 decision, but our site is all about having</p> <p>9 a conversation. If we publish a story and we haven't</p> <p>10 given someone the right to reply, it's very easy for</p> <p>11 them to do that, whether they want to comment on that</p> <p>12 story or write a blog submission to the site, so I would</p> <p>13 much prefer we'd given people that opportunity before</p> <p>14 the story was published, so the conversation can start</p> <p>15 immediately.</p> <p>16 Q. Do your journalists ever use subterfuge to obtain</p> <p>17 stories?</p> <p>18 A. No, they don't.</p> <p>19 Q. Do you envisage that they might do so in future?</p> <p>20 A. No, I don't envisage that, no.</p> <p>21 Q. Moving now from your -- perhaps I should just cover this</p> <p>22 before I move on to your curated content, although I can</p> <p>23 anticipate the answers. As far as you are aware, has</p> <p>24 there ever been any phone hacking at the Huffington Post</p> <p>25 UK?</p> <p style="text-align: center;">Page 80</p>

20 (Pages 77 to 80)

<p>1 A. No, absolutely not.</p> <p>2 Q. Any blagging of confidential information?</p> <p>3 A. No.</p> <p>4 Q. And have any of your journalists ever paid public</p> <p>5 officials for stories?</p> <p>6 A. No, they haven't.</p> <p>7 LORD JUSTICE LEVESON: How many journalists are there?</p> <p>8 A. I have 20 on my team. We started with eight when we</p> <p>9 launched last July, so we've grown a bit, yes.</p> <p>10 LORD JUSTICE LEVESON: Very good.</p> <p>11 MR BARR: Moving now to your curated content, because you</p> <p>12 are linking to other people's websites, you don't have</p> <p>13 the same control over the content, do you?</p> <p>14 A. No, we don't. I mean, there is an editorial decision</p> <p>15 behind who we link to, and that will be because it's</p> <p>16 newsworthy, we believe that our readers and users will</p> <p>17 be interested in those articles, and the prominence we</p> <p>18 give those links really depends on the story itself.</p> <p>19 We launched the day after the Guardian broke the</p> <p>20 phone hacking story, and that day our splash, the big</p> <p>21 headline on our site, linked directly to the Guardian</p> <p>22 because that was their story, they were the ones who had</p> <p>23 uncovered this, and we knew that our readers would be</p> <p>24 interested in it, so due prominence right at the top of</p> <p>25 the front page of the site was linking off to another</p> <p style="text-align: center;">Page 81</p>	<p>1 Q. Moving now to your blogging platform, can we explore</p> <p>2 what sort of standards you expect from your bloggers and</p> <p>3 how you go about enforcing them? First of all, you have</p> <p>4 some guidance, don't you?</p> <p>5 A. Yes.</p> <p>6 Q. Amongst other things, that encourages your bloggers to</p> <p>7 be themselves?</p> <p>8 A. Absolutely.</p> <p>9 Q. And not to impersonate --</p> <p>10 A. Yes. It's important to us that this is an area, as</p> <p>11 I said, for debate, for conversation, and the blogs are</p> <p>12 very much opinion. But we do have blogger terms and</p> <p>13 conditions that by using our blogging platform you are</p> <p>14 bound by. You are free to stop blogging for us at any</p> <p>15 time if you decide that you don't want to comply with</p> <p>16 those terms and conditions.</p> <p>17 I should stress there's not an editorial control</p> <p>18 over that. We want people to have their personalities</p> <p>19 shine through on their blogs, but there is a framework</p> <p>20 in there to ensure that we're -- or our bloggers are</p> <p>21 complying with the law.</p> <p>22 Q. You do, though, permit anonymous and pseudonymous</p> <p>23 bloggers, don't you?</p> <p>24 A. As a general rule, we would strongly encourage our</p> <p>25 bloggers to be upfront about who they are. There have</p> <p style="text-align: center;">Page 83</p>
<p>1 site.</p> <p>2 Q. Accepting that you don't have control over the content,</p> <p>3 you're obviously making a choice to link their site to</p> <p>4 yours.</p> <p>5 A. Yes.</p> <p>6 Q. What judgments, if any, are made to make sure that you</p> <p>7 are linking to reputable sites which are publishing</p> <p>8 accurate information?</p> <p>9 A. I think it's an editorial decision that we make, but</p> <p>10 also at the back of our mind we always have those</p> <p>11 editorial guidelines. Is this a site that we trust? Do</p> <p>12 we believe what they've written? All of that informs</p> <p>13 that decision before we make a decision to post a link.</p> <p>14 Q. So are there links that you think might have interested</p> <p>15 your readers that you've ruled out because you have</p> <p>16 doubts about the site or the content?</p> <p>17 A. Yes, I expect those -- I can't think of any specific</p> <p>18 examples, but I think there are instances where you see</p> <p>19 perhaps something that's interesting but you don't</p> <p>20 believe where that's come from and you perhaps think</p> <p>21 that that story isn't correct, then you wouldn't link to</p> <p>22 it. Perhaps then it would be an opportunity for one of</p> <p>23 our journalists to go and do some investigation</p> <p>24 themselves and see whether it's a story that we can move</p> <p>25 on, and then it would become part of our reporting.</p> <p style="text-align: center;">Page 82</p>	<p>1 been a few occasions, we have someone who blogs about</p> <p>2 the gay nightlife in London and he wants to do that</p> <p>3 anonymously. He's not naming other people, these are</p> <p>4 just his personal experiences, and in an instant like</p> <p>5 that we may allow people to blog anonymously. However,</p> <p>6 we do know exactly who that person is. We have their</p> <p>7 contact details should we need to get in contact with</p> <p>8 them.</p> <p>9 Q. Is that the case for all of your anonymous bloggers?</p> <p>10 A. Absolutely, yes.</p> <p>11 Q. You have a system of pre-moderation of comments, don't</p> <p>12 you?</p> <p>13 A. So the way -- so we're talking about comments on the</p> <p>14 site?</p> <p>15 Q. Comments on the blogs.</p> <p>16 A. Comments on the blogs, yes. Comments on blogs work</p> <p>17 exactly the same as comments on news articles. We don't</p> <p>18 actively pre-moderate through people. We have a filter</p> <p>19 tool, which a small amount of those comments go through,</p> <p>20 which would flag up swearwords, for instance, or certain</p> <p>21 word combinations, and if that filter flags those up,</p> <p>22 then those would go to a human moderator, but in line</p> <p>23 with common practice on news sites in the UK, the</p> <p>24 majority of our comments are not pre-moderated.</p> <p>25 Q. You tell us that there is an element of peer review of</p> <p style="text-align: center;">Page 84</p>

<p>1 comments in that people will respond if somebody posts 2 something outrageous? 3 A. Absolutely. We make it very easy for somebody to flag 4 if they feel something is inappropriate within the 5 comments. Once that's been flagged, our aim is within 6 15 minutes a human moderator will check that comment and 7 see whether it needs to be removed or not. 8 LORD JUSTICE LEVESON: Would that be for privacy, libel, 9 whatever? 10 A. Yes, anything that went in the face of law in this 11 country. 12 LORD JUSTICE LEVESON: So there's a risk that you'll get 13 something libellous up there? 14 A. There is a risk, yes, absolutely, but because of the way 15 that the law is framed in this country, we are not in 16 a position to pre-moderate all our comments. 17 LORD JUSTICE LEVESON: I understand, and you know it will 18 get back to whoever did it, whether the name is 19 published or not, because you know who they are? 20 A. Yes. 21 MR BARR: And they've signed up to say that they're not 22 going to post anything illegal? 23 A. Yes. 24 Q. So you have a contractual lever as well? 25 A. We do, we do.</p> <p style="text-align: center;">Page 85</p>	<p>1 in-house legal team to ensure that we don't have 2 a knee-jerk reaction to anything like that, that each 3 complaint is considered very carefully. But we're 4 talking on a day-to-day basis, you know, less than ten, 5 and that's including those very small typographical 6 errors. 7 Q. Is one of the reasons for this relatively benign picture 8 that the sort of journalism that you're engaged in isn't 9 of the sort which is pushing at the boundaries and very 10 controversial? 11 A. No, I think it's that we're exceptionally careful, we're 12 very aware that we're building a brand in this country 13 at the moment, and therefore we need to be squeaky clean 14 with everything we write. I don't think that means that 15 what we're producing is bland journalism, I think it 16 just means we're being careful to fact-check. 17 Q. I wasn't suggesting your content is bland, but you're 18 not engaged in the sort of controversial investigative 19 journalism that some other publications are? 20 A. No. Certainly our politics team are doing investigative 21 pieces, but we haven't yet uncovered an MPs' expenses 22 scandal or anything like that. We are doing 23 investigative journalism, but nothing too scandalous. 24 Q. Moving now to regulation, and just to set the scene as 25 to what a commercial enterprise this is, it's right,</p> <p style="text-align: center;">Page 87</p>
<p>1 Q. In case those defences you've described fail, there's 2 a complaints procedure, isn't there? 3 A. There is. 4 Q. That applies both to the blogging content and to the 5 original content? 6 A. Yes. At the bottom of every single one of our articles 7 we have a "send a correction" button. It's important to 8 us that people can contact us very quickly and easily in 9 that we have a robust notice and takedown process, so 10 that's put clearly. It's not hidden anywhere on the 11 site, it's at the bottom of every article. 12 Q. And you make clear in your witness statement that you 13 have your own in-house legal team and they have access 14 to independent counsel as well? 15 A. Yes. 16 Q. To make judgments as to how to deal with each complaint. 17 Can you give us some idea of the sort of volume of 18 complaints that are made? 19 A. It depends. The corrections policy, we would get 20 a number of those a day, and that might be something 21 very small, someone spotted a spelling mistake in an 22 article. I'm pleased to say we haven't had any 23 significant complaints on our blogs. We haven't had any 24 with our articles. We have had people who have come to 25 us and, as I said in the witness statement, we've got an</p> <p style="text-align: center;">Page 86</p>	<p>1 isn't it, that AOL bought the Huffington Post, the 2 American entity, at least, for \$315 million last year? 3 A. Yes. 4 Q. So this is big business, isn't it? 5 A. Absolutely. 6 Q. And you explain that you've joined up to the PCC. Have 7 you met Lord Hunt to discuss the way forward? 8 A. No, I haven't, and I would welcome the opportunity to do 9 that. I think it's very important. I think this has 10 been acknowledged here by other people that digital 11 properties, whether those are digital only or they're 12 the digital arm of a more traditional media 13 organisation, are given the opportunity to feed into 14 that. We welcome the fact that we've been invited along 15 today to have our say, but I think that what Lord Hunt's 16 doing, as far as I can see at the moment, it's been very 17 much with reference to the newspaper editors, and 18 I think that -- and I would say this, but, you know, 19 digital websites are the future of the media industry in 20 this country, and I think it's important that we get 21 consulted on that. 22 Q. So if I may consult you on that a little bit, can we 23 start first of all with in your view what the ambit of 24 future regulation should be. I ask that because you 25 raise a point in your statement about individual</p> <p style="text-align: center;">Page 88</p>

1 bloggers, for example, who perhaps are too small and
 2 non-commercial. You think they should fall outside?
 3 **A. I think they should, because I think it shouldn't be**
 4 **financially prohibitive. It shouldn't be people being**
 5 **tied up in red tape before they want to post their first**
 6 **blog somewhere. As I've said, the majority of blogs are**
 7 **opinion pieces. These are people who have something**
 8 **that they want to get off their chest. They're not**
 9 **journalists, so they don't have that platform, as**
 10 **someone like myself would do, and therefore I think it's**
 11 **important that they should be given that voice.**
 12 **When the Huffington Post launched in America, there**
 13 **were only five people. They didn't have the might of**
 14 **AOL behind them as we do know, and I think we should be**
 15 **encouraging that kind of media enterprise.**
 16 **So whatever framework is put in place, I think it**
 17 **shouldn't be prohibitive to that. If people do want to**
 18 **join up, then I think it should be made extremely easy**
 19 **for them to do that, but if a mummy blogger somewhere**
 20 **wants to start a blog in their bedroom, I think we**
 21 **should allow them to get on and do that and not tie**
 22 **themselves up in paperwork before they do that.**
 23 **Q. If it's going to be optional for the small blogger, what**
 24 **about the large media institutions? Are you of the view**
 25 **that in order to be credible all the major media players**

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1 need to be involved?
 2 **A. I think it needs to be so -- held in such high regard**
 3 **that it would be foolish of them not to do that, and**
 4 **I think that the issue we have at the moment, and we've**
 5 **seen, is that some of those news organisations don't**
 6 **hold the PCC in high enough regard and that's why**
 7 **they've decided to opt out of it.**
 8 **I think there also needs to be a reflection of the**
 9 **people who are making up that council, that it is broad**
 10 **across the media industry as well. I've heard other**
 11 **people have been sitting in this chair talking about the**
 12 **fact that it should be experienced editors or ex-editors**
 13 **who have been doing this for a number of years, and**
 14 **I can see why they would make that recommendation, but**
 15 **I think that people throughout the industry need to be**
 16 **consulted. The editorial assistants who are just**
 17 **starting out, who understand the pressures of starting**
 18 **out in their careers and what they're asked to do,**
 19 **I think it's as important that they make up part of that**
 20 **body as it is editors who have been running newspapers**
 21 **for 30 years.**
 22 **Q. In terms of -- you mentioned people sitting outside**
 23 **currently, for perhaps reasons of credibility. There**
 24 **are other reasons, too. For example, we've heard of**
 25 **people who don't want to be judged by the very people**

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1 that their publications criticise.
 2 **A. Yes.**
 3 **Q. How do you get around that? What I'm getting at is**
 4 **would the Huffington Post, do you think, object to some**
 5 **form of statutory underpinning and mandatory membership?**
 6 **A. I think mandatory membership has its issues, and I think**
 7 **for some of the reasons that I've said already. I think**
 8 **the fact is that statutory regulation should be part of**
 9 **the law of the land, which everyone is bound by anyway,**
 10 **and I think to a certain extent, because of that, we are**
 11 **bound by those statutory things right now, because of**
 12 **the things that are illegal. It is illegal to tap**
 13 **phones, whether you are a journalist or a banker or,**
 14 **I don't know, installing someone's gas meter. You**
 15 **aren't able to do that. I think the law should remain**
 16 **as it is, but I think the body that the press is**
 17 **answerable to for inaccuracies and many of the other**
 18 **things that have been spoken about here shouldn't be**
 19 **bound by that.**
 20 LORD JUSTICE LEVESON: Sorry?
 21 **A. Shouldn't be. I don't think then it should be legally**
 22 **binding, but I think if there are illegal practices that**
 23 **are going on, then obviously it should be.**
 24 MR BARR: In terms of the funding of any future system, do
 25 you have any views about how that should be pursued?

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1 Should it be the biggest pays more or should it be the
 2 person who's the subject of the most successful
 3 complaint pays more? Where do you see the best funding
 4 model?
 5 **A. I think our experience in trying to join the PCC showed**
 6 **that there are already flaws with that system, so we**
 7 **went to the PCC back in September and said, "We want to**
 8 **sign up, we already follow your guidelines, we want to**
 9 **be a member of this body", and they didn't actually**
 10 **really know what to do with us to begin with, so they**
 11 **decided, after a number of meetings, that we would be**
 12 **classified as regional press. Then we had to provide**
 13 **our figures to them and then there's a conversation**
 14 **about whether those figures are your international**
 15 **audience or your UK audience and then it was put into**
 16 **a pie chart or whatever and the portion that we made up**
 17 **of the regional press readership, that was how our fee**
 18 **was decided.**
 19 **That seemed to me at the time needlessly complex and**
 20 **slowed the whole process down. I can see that that's**
 21 **a difficult decision to be made. Readership, I'm sure,**
 22 **does come into it, but I think that you don't want to**
 23 **make it so expensive that small companies can't join,**
 24 **and I think probably that readership should be balanced**
 25 **with perhaps brand awareness as well. You know, big**

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<p>1 broadsheets might not have the readership of tabloid</p> <p>2 newspapers, but certainly as far as the UK population is</p> <p>3 concerned, that's a significant media player.</p> <p>4 LORD JUSTICE LEVESON: It becomes very subjective then,</p> <p>5 doesn't it?</p> <p>6 A. It does become subjective, which is why I think it's</p> <p>7 very, very difficult, and I can see why there were</p> <p>8 problems when we came to it, that maybe digital players</p> <p>9 need to be seen slightly differently to magazines.</p> <p>10 I can imagine magazines have far fewer complaints than</p> <p>11 newspapers because of the very nature of the content</p> <p>12 that they publish, and blogs alongside that as well.</p> <p>13 MR BARR: Is there anything else that you'd like to add on</p> <p>14 the question of future regulation?</p> <p>15 A. I think that -- and I'm sure I'm echoing what other</p> <p>16 people have said -- that it needs to be supportive of</p> <p>17 journalists as well. I think that it should provide</p> <p>18 training for journalists as well, and I think that if</p> <p>19 they can do that, again you're far more likely to have</p> <p>20 people want to join up, if it isn't seen as something</p> <p>21 that's just going to be slapping people's wrists every</p> <p>22 now and then. I think there has to be some carrot in</p> <p>23 there as well as stick.</p> <p>24 MR BARR: Thank you. Those were all my questions.</p> <p>25 LORD JUSTICE LEVESON: One of the issues that has been put</p> <p style="text-align: center;">Page 93</p>	<p>1 have gone through legal training, who have lawyers</p> <p>2 sitting 10 metres away from them, and I think that that</p> <p>3 distinction is very important. But certainly when it</p> <p>4 comes to our trained editors, they should uphold the</p> <p>5 standards that journalists on any publication would be</p> <p>6 required to.</p> <p>7 LORD JUSTICE LEVESON: But presumably the standard that you</p> <p>8 would apply to the bloggers would be the same, whether</p> <p>9 they're commenting upon articles in the Guardian, the</p> <p>10 Telegraph, the Mail, which is clearly a very popular</p> <p>11 online newspaper.</p> <p>12 A. Yes.</p> <p>13 LORD JUSTICE LEVESON: Or indeed the BBC.</p> <p>14 A. Mm-hm. And I think that our comment policy and the fact</p> <p>15 that we don't pre-moderate is in line with most of those</p> <p>16 publications, and I think that's reflective of the</p> <p>17 defamation law in this country. In the US, for</p> <p>18 instance, it's very different. The Huffington Post in</p> <p>19 the US moderates most of its comments because the law is</p> <p>20 different there.</p> <p>21 LORD JUSTICE LEVESON: That's interesting. I thought that</p> <p>22 the First Amendment made it much more easy for people to</p> <p>23 say rather more.</p> <p>24 A. But part of the -- one of the things that's so important</p> <p>25 for the brand -- and this is worldwide -- is that it's</p> <p style="text-align: center;">Page 95</p>
<p>1 to me during the course of the months that I have been</p> <p>2 involved in this is the economic viability of the press.</p> <p>3 A. Yes.</p> <p>4 LORD JUSTICE LEVESON: You're in the rather unique position</p> <p>5 of having set up more recently than anybody else I've</p> <p>6 previously seen. Do I gather that there isn't a pay</p> <p>7 wall to the Huffington Post?</p> <p>8 A. No.</p> <p>9 LORD JUSTICE LEVESON: So it's free to the user?</p> <p>10 A. Yes.</p> <p>11 LORD JUSTICE LEVESON: And therefore the economic model</p> <p>12 depends on advertising?</p> <p>13 A. It does, yes.</p> <p>14 LORD JUSTICE LEVESON: Do you think that's going to affect</p> <p>15 the way in which one regulates, whether formally or</p> <p>16 informally? In other words, I suppose I'm really</p> <p>17 asking: do you think there is in reality any difference</p> <p>18 between what you are doing and what somebody is doing</p> <p>19 who is sending off a copy down the line to be printed</p> <p>20 around the country and then distributed to people's</p> <p>21 front doors?</p> <p>22 A. I don't think so, in the original journalism that we</p> <p>23 produce on our site, that there should be any</p> <p>24 difference. But I believe on the blog side of it, that</p> <p>25 is different. These are not trained journalists who</p> <p style="text-align: center;">Page 94</p>	<p>1 a safe place for people to comment. We want people to</p> <p>2 feel that this is an environment where they're invited</p> <p>3 to do that, and they won't have people making personal</p> <p>4 attacks on them if they're expressing a strong opinion.</p> <p>5 LORD JUSTICE LEVESON: Oh, I see. All right. Thank you</p> <p>6 very much indeed.</p> <p>7 A. My pleasure.</p> <p>8 LORD JUSTICE LEVESON: Thank you.</p> <p>9 MR BARR: Sir, our next witness is Mr Staines.</p> <p>10 MR PAUL STAINES (sworn)</p> <p>11 Questions by MR BARR</p> <p>12 MR BARR: Please take a seat, Mr Staines.</p> <p>13 LORD JUSTICE LEVESON: Mr Staines, thank you very much</p> <p>14 indeed for participating and providing the Inquiry with</p> <p>15 the benefit of your views, which come from a very</p> <p>16 different perspective to many of the others that I have</p> <p>17 received.</p> <p>18 A. I should think so.</p> <p>19 MR BARR: Could you confirm your full name, please?</p> <p>20 A. Paul DeLaire Staines.</p> <p>21 Q. Are the contents of your two witness statements true to</p> <p>22 the best of your knowledge and belief?</p> <p>23 A. Yes, they are.</p> <p>24 Q. Can we concentrate on your second statement, please,</p> <p>25 where you tell us a little bit about your background and</p> <p style="text-align: center;">Page 96</p>

24 (Pages 93 to 96)

<p>1 current activities?</p> <p>2 LORD JUSTICE LEVESON: Before you do, possibly I ought to</p> <p>3 make it clear and explain that following a complaint in</p> <p>4 relation to the statement that was published, I was</p> <p>5 concerned that it had come from the Inquiry for probably</p> <p>6 obvious reasons. As soon as it became clear, which it</p> <p>7 had not become clear until a day or so into it, that it</p> <p>8 had not, that was the reason that I immediately stood</p> <p>9 down my request that you attend, because the complaint</p> <p>10 had vanished. But whether you --</p> <p>11 A. Sir, could we publish the first statement then?</p> <p>12 LORD JUSTICE LEVESON: I think we just have.</p> <p>13 A. Oh, okay.</p> <p>14 LORD JUSTICE LEVESON: I think by answering the question</p> <p>15 that you did, whether your statements were accurate, we</p> <p>16 are now intending to put those into the public domain.</p> <p>17 A. Good.</p> <p>18 LORD JUSTICE LEVESON: And you're free, of course, to</p> <p>19 comment, although I think you probably have been.</p> <p>20 A. Well, I haven't been free, because you put a restriction</p> <p>21 order censoring me.</p> <p>22 LORD JUSTICE LEVESON: Free to comment.</p> <p>23 A. The terms of the restriction order didn't allow me to</p> <p>24 comment on the evidence.</p> <p>25 LORD JUSTICE LEVESON: Well, carry on.</p> <p style="text-align: center;">Page 97</p>	<p>1 Q. And you pride yourself in breaking news stories and your</p> <p>2 success stems from doing that time and time again, you</p> <p>3 say, until -- well, beating big news organisations to</p> <p>4 stories.</p> <p>5 A. Yeah, I think we have a record of that. I think the</p> <p>6 BBC's Mark Thompson explained in a speech why we do beat</p> <p>7 them.</p> <p>8 Q. Your economic model is combined of advertising and</p> <p>9 story-broking, isn't it?</p> <p>10 A. Yes. I'd say they're roughly equal, the amount of</p> <p>11 advertising revenue and the amount we get from selling</p> <p>12 stories.</p> <p>13 Q. Your current readership is what?</p> <p>14 A. Daily: 50,000 to 100,000.</p> <p>15 Q. And at times when you are breaking big news stories,</p> <p>16 what sort of visitor rates do you attract then?</p> <p>17 A. I think at the peak we were getting 100,000 an hour. In</p> <p>18 an average month, we would have certainly hundreds of</p> <p>19 thousands, maybe up to a million readers, or a million</p> <p>20 different browsers come to our website.</p> <p>21 Q. You operate also on Twitter. How many followers do you</p> <p>22 have?</p> <p>23 A. 60,000-odd.</p> <p>24 Q. In obtaining readers, how important is the role of</p> <p>25 search engines in directing computer users to your</p> <p style="text-align: center;">Page 99</p>
<p>1 MR BARR: Until it was published, which it just has been.</p> <p>2 A. Thank you.</p> <p>3 Q. You are here because you currently run the Guido Fawkes</p> <p>4 website, and you do that with Mr Cole and a cartoonist;</p> <p>5 is that right?</p> <p>6 A. Correct.</p> <p>7 Q. Before that, you've had one of the more diverse career</p> <p>8 histories of the witnesses before the Inquiry. You tell</p> <p>9 us that between 1986 and 1990, you worked in politics,</p> <p>10 think tanks and campaigns. Between 1989 and 1991 you</p> <p>11 organised mass attendance dance music raves. Between</p> <p>12 1992 and 1994, you were a professional gambler. Then</p> <p>13 between 1995 and 2001, you were a derivatives broker,</p> <p>14 bond dealer, hedge fund trader in London, Hong Kong and</p> <p>15 Tokyo. You were then a litigant in a protracted</p> <p>16 commercial dispute for two years, before commencing</p> <p>17 publication of the Guido Fawkes political blog in 2004,</p> <p>18 and since then, since 2006, you've supplemented that</p> <p>19 activity by being an investment adviser to online</p> <p>20 ventures; is that correct?</p> <p>21 A. That's correct.</p> <p>22 Q. Moving to a little detail about the Guido Fawkes</p> <p>23 website, its raison d'etre is to publish political</p> <p>24 tittle-tattle, gossip and rumour?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 98</p>	<p>1 material?</p> <p>2 A. On a day-to-day basis, I'd say between 25 and</p> <p>3 35 per cent of the traffic comes via search engines,</p> <p>4 particularly Google. If people are searching for</p> <p>5 a story that is of the moment, you know, if they're</p> <p>6 researching for Leveson Inquiry today, then they would</p> <p>7 arrive to us via Google.</p> <p>8 Q. You tell us in addition to covering political</p> <p>9 tittle-tattle, gossip and rumour, you are increasingly</p> <p>10 commenting on and analysing the media industry.</p> <p>11 A. Well, currently we have a situation where the media and</p> <p>12 politics are overlapping quite heavily, and we have</p> <p>13 great fun teasing some of our media rivals.</p> <p>14 Q. You say that you often publish articles about media</p> <p>15 personalities and say what others are afraid to say for</p> <p>16 career reasons. That is an issue which is of some</p> <p>17 interest to the Inquiry. Are you able to help us, from</p> <p>18 your knowledge of the industry: how prevalent are career</p> <p>19 fears for those who are considering speaking out?</p> <p>20 A. I think there's a reluctance to damage your career</p> <p>21 prospects by writing about your rivals, when one year</p> <p>22 you might be writing for the Times, the next year you</p> <p>23 might be working for the Guardian, so people are</p> <p>24 reluctant to put their name to stories attacking rivals.</p> <p>25 I deal mainly with political journalists, and quite</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 often they'll stick the knife into each other via me and 2 won't have their fingerprints on the story. 3 Q. How real do you think the consequences are for 4 journalists who speak out? What I'm getting at is: are 5 these fears, which you tell us about, subjective or is 6 there an objective justification for them? Do 7 journalists who speak out suffer consequences? 8 A. No, journalists have very thin skins and they hold 9 a grudge, so definitely it might damage your career 10 prospects. I think that's part of the problem this 11 Inquiry has had with getting people to go on the record 12 and say that at their publication there was hacking 13 going on or blagging going on, because the only people 14 I see come forward are people who have no longer got 15 careers in active journalism. So people who are still 16 in the business are reluctant to admit to what's been 17 going on. 18 Q. You have certainly said on the Internet that your 19 inspirations editorially are Kelvin MacKenzie and 20 Popbitch. Is that right? 21 A. That's correct. Camilla, who is the boss of Popbitch, 22 is a friend and has given me advice over the years, and 23 I'd say that Kelvin MacKenzie is our lodestar. 24 Q. The nature of your work gives rise, doesn't it, to 25 a number of stories coming your way which are</p> <p style="text-align: center;">Page 101</p>	<p>1 A. Originally I was on Google's free Blogger system. When 2 they became more willing to give in to legal threats, 3 I thought it would be a good moment to switch from them 4 to a hosting provider who was robust and would stand up 5 for my First Amendment protections. 6 Q. So the position now is you have a smaller, independent 7 American entity hosting your website from the 8 United States? 9 A. Correct. 10 Q. And I think you make no bones about it: you have done 11 that to make it more difficult for people in this 12 jurisdiction to challenge what you publish? 13 A. Partly, and partly because of the experience of 14 Wikileaks and I just don't want all of a sudden to have 15 the website disappear because someone's made a -- what 16 I would view as a spurious threat. 17 Q. You go on at the bottom of the first page of your 18 witness statement to tell us that you've been the 19 subject of many threatened legal actions, although none 20 has ever succeeded in the UK courts, and you go on to 21 say that you've repeatedly ignored injunctions and 22 orders issued in the UK courts with no adverse 23 consequences. I'd like to explore that in a little more 24 detail, please, starting first with: what sort of volume 25 of complaints do you receive from lawyers?</p> <p style="text-align: center;">Page 103</p>
<p>1 single-sourced? 2 A. Yeah, quite often there's only one source in the room 3 who can provide us with the information, so we have no 4 choice. We don't rely on single-sourcing from people we 5 don't know. There has to be some authority to that 6 person or we have to have a level of trust built up over 7 time. If someone came in fresh and was a single source 8 and we couldn't verify in any way whatsoever, I'd be 9 very reluctant to run with it. 10 Q. What I was coming to is Mr McKenzie has become of 11 interest because he's given evidence about "lobbying 12 stories in" if they "felt right". I wanted to know 13 whether, in relation to dealing with single-source 14 stories, you follow that lodestar or whether at that 15 point you would depart company and -- 16 A. Depends. If it's a trivial story, you know, an amusing 17 story that's of no consequence, I'd be willing to go 18 with it on that basis. If it's a career-ending story or 19 a story of great import, then I'd be very reluctant to 20 go forward on that basis. 21 Q. You tell us a little bit about the technological set-up 22 of your website, and in particular the fact that your 23 servers are in the USA. Is it right that initially you 24 used Google to host your site and that you've since 25 moved away from that?</p> <p style="text-align: center;">Page 102</p>	<p>1 A. There was a period a few years ago where we would get 2 sent To Whom It May Concern injunctions, ie we weren't 3 named, we were informed that we weren't to report about 4 this matter or that matter, and that died off after 5 I wrote to a couple of the law firms saying that if they 6 sent us that, then we would consider it on its merits, 7 and I thought -- quite often the first I knew about 8 these matters was receiving the To Whom It May Concern 9 injunction, so as of about the Ryan Giggs time, 10 I haven't received a single injunction. 11 Q. You've been the subject of an injunction which was 12 granted on an interim ex parte basis in Ireland, but 13 that injunction was subsequently not made permanent. 14 A. I was injuncted in three jurisdictions by Zac Goldsmith 15 and his sister, Jemima Khan. This was obviously before 16 she became a freedom-of-information campaigner. It was 17 done on Christmas Eve in the year it was. I was quite 18 surprised they managed to get a High Court judge out on 19 Christmas Eve in Dublin. I got no warning. They made 20 undertakings to the court to produce evidence that I had 21 got the material that they claimed I had got. The judge 22 on that basis gave them an interim injunction. In 23 between Christmas and January 4, when it was held over, 24 we had communications directly through myself and Zac, 25 and it was agreed that they would drop it, and when they</p> <p style="text-align: center;">Page 104</p>

26 (Pages 101 to 104)

<p>1 came back to the court and were unable to provide any 2 evidence, they got a judicial bollocking from an Irish 3 High Court judge.</p> <p>4 Q. Have there been other attempts overseas to obtain 5 injunctions against you?</p> <p>6 A. Not that I'm aware of. I've had communications sent to 7 me at my Irish address that have never proceeded.</p> <p>8 Q. You mentioned Ryan Giggs a moment ago. What role did 9 you play in relation to speculation as to his identity 10 whilst it was protected by an injunction?</p> <p>11 A. I can't remember exactly. I think on Twitter I devised 12 a five-a-side football team of various footballers and 13 suggested they should play, and suggested two managers, 14 on Twitter, who might also manage that five-a-side 15 football team, and nothing came of it.</p> <p>16 Q. Do you know whether attempts were made to make something 17 come of it?</p> <p>18 A. Well, I couldn't afford the footballers for a start, but 19 there were various threats from Schillings in the press, 20 but nothing happened. They said they were going to 21 contact Twitter, but there was no follow-up. If there 22 was, I wasn't aware of it.</p> <p>23 Q. Was Mr Giggs one of the team members?</p> <p>24 A. He was.</p> <p>25 Q. I don't think we need go into the others. In addition</p> <p style="text-align: center;">Page 105</p>	<p>1 a story and took the precaution of uploading the memo, 2 since I think it was Carter Ruck were very busy on this, 3 on a foreign website and linked to that, and I think 4 uploaded it in different locations around the globe as 5 the day went on, so Carter Ruck were chasing -- or 6 whichever law firm it was -- various hosting agencies 7 around the world, and when that became boring, I gave it 8 to Wikileaks.</p> <p>9 Q. So is it the reality that, however prestigious the 10 lawyers, the modern Internet, with its global reach, is 11 such that if someone is determined to put information 12 out there and keep it there by reposting it, or whatever 13 other mechanism, in practice it can be made to happen?</p> <p>14 A. I think it's impossible for them to do anything. 15 I would basically upload it to free hosting services 16 after the close of business hours, so if the law firm 17 was contacting Yahoo India, they would find no one at 18 home and it would be up on that website until the next 19 day at the very least.</p> <p>20 Q. So in taking this action, you were effectively deciding 21 practically to thwart what the court was trying to 22 achieve?</p> <p>23 A. Yeah.</p> <p>24 Q. And you were doing that for what reason?</p> <p>25 A. Because I think when you're considering £50 billion of</p> <p style="text-align: center;">Page 107</p>
<p>1 to that activity, can I take you to a couple of examples 2 in the bundle of things you've published? Can we go 3 first of all to tab 4 and look at a page that's right at 4 the very back of tab 4. This concerns Wikileaks. It's 5 a post from February 242008, entitled, "Supporting 6 Wikileaks and freedom of speech":</p> <p>7 "Guido is showing Wikileaks some love with Google 8 Juice. The IP address [then there's an IP address] is 9 the Internet postcode for Wiki. A judge has ordered the 10 web authorities to remove the website url address from 11 the Internet, so this is the only way directly [to] 12 access it now. This is where Guido uploads important 13 documents (like that Northern Rock memo) and others they 14 don't want you to see ..."</p> <p>15 Can I take it from that that what you were doing was 16 making available to those who read your blog material 17 which a court had ordered should be removed from the 18 Internet?</p> <p>19 A. Yeah, this was -- I think, if I recall correctly -- in 20 relation to the Merrill Lynch memo, which was a document 21 produced by Merrill Lynch concerning the prospects for 22 Northern Rock, in which they outlined how it may result 23 in costs to the taxpayer of £50 billion. The FT first 24 published it online and were immediately hit with 25 injunctions. I also got a copy of the memo. I wrote</p> <p style="text-align: center;">Page 106</p>	<p>1 the public's money, the public has a right to know 2 what's going on, and there was no democratic reason why 3 this should be done in secret. This was the taxpayer's 4 money and it was a lot of money.</p> <p>5 Something that I think you might have overlooked is 6 that I'm a citizen of a free republic, and since 1922 7 I don't have to pay attention to what a British judge 8 orders my countrymen to do.</p> <p>9 Q. If we move to another example and look at tab 5, please, 10 what I'm interested in is a document which is about 11 halfway through and it relates to Mr Goodwin. It's 12 dated 19 May 2011. At the top it says page 1 of 33 and 13 at the bottom the date is 1 February 2012, the date on 14 which it was printed out. It has a sticking plaster 15 picture.</p> <p>16 A. It's on the screen.</p> <p>17 Q. Good, I see you have that. 18 Do you have that, sir?</p> <p>19 LORD JUSTICE LEVESON: No. Halfway through tab 5?</p> <p>20 MR BARR: Tab 5. It has two images on it. One is a life 21 insurance advertisement and the other is a sticking 22 plaster crisscrossed. I think it's up on the screen 23 now.</p> <p>24 LORD JUSTICE LEVESON: Yes, thank you.</p> <p>25 MR BARR: This was written after Mr Goodwin's name was in</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

1 the public domain, but what you do here is repeat what
 2 you'd published beforehand. We see in italics towards
 3 the bottom of the page:
 4 "So there was this [then a number of asterisks]
 5 bloke who worked closely with another ***** colleague,
 6 they apparently began an adulterous affair not long
 7 after the *****ing crisis of 2008. He went to court to
 8 stop it getting out that he had been banging her.
 9 Because he is the most notorious ***** of his generation
 10 he also banned references to his profession let he be
 11 identified."
 12 Then afterwards you say:
 13 "Well, that went well for Fred, didn't it? Worth
 14 every penny ..."
 15 And so, although you didn't in fact name Mr Goodwin
 16 in your post, you set out something of a riddle, which
 17 many might have been able to work out?
 18 **A. Well, I mean, I think in that particular instance he had**
 19 **banned references to him as a banker, and so we had to**
 20 **play on words, yes.**
 21 Q. At the top of just above the sticking plaster article,
 22 we see:
 23 "In March Guido told you about it, but had to adhere
 24 slightly to the courts."
 25 So I take it that you were on that occasion paying

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1 at least some attention to the legal status of the
 2 information?
 3 **A. Apparently we were.**
 4 Q. If we go back now to your sources, you've told us
 5 a little bit about them already. I'm looking at the
 6 second page of your witness statement. You say that
 7 about half of your sources are personally known to you.
 8 You're able to verify the provenance to varying degrees
 9 of about another 40 per cent, and then 10 per cent or
 10 less are unknown to you and you do what you can to
 11 verify what they say, and then decide whether to publish
 12 or reject their stories.
 13 **A. We get a lot of stories coming in via email. Some of**
 14 **those emails don't reveal the source's name and are**
 15 **pseudonyms. We also have a voicemail that people can**
 16 **use and people leave us anonymous tips on the voicemail,**
 17 **and also we get documents faxed to us. With those kind**
 18 **of anonymous tips, we will make efforts to verify the**
 19 **document if we can.**
 20 Q. Can I ask you now a little bit, because you deal a lot
 21 with politicians, don't you, and people moving in
 22 perhaps the Westminster village, if I put it that way:
 23 do you find that when people come forward with
 24 information they are sometimes trying to use you as
 25 a vehicle to pursue their own political agendas and to

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1 smear others?
 2 **A. I don't know about smear, but they obviously always,**
 3 **almost always, in fact, have an agenda. Quite often**
 4 **it's quite legitimate. It will be the press officers**
 5 **for various interests. Sometimes it is people in the**
 6 **same party doing down other people in that party. You**
 7 **know, the old saying that on the other side of the house**
 8 **is your opposition, but your enemy is behind you is --**
 9 **applies in politics quite well.**
 10 Q. To what extent do you receive information which
 11 subsequently turns out to be untrue?
 12 **A. I'd say when you're dealing with politicians, quite**
 13 **a lot of what they tell you is untrue, particularly**
 14 **their denials, which subsequently turn out to be true.**
 15 **Over the years we've learnt who you can trust and who**
 16 **you can't, and how to unspin things and detect them when**
 17 **they're lying. Quite often it's misdirection rather**
 18 **than outright blatant lying.**
 19 Q. Is it right that you sometimes are fed stories by
 20 journalists in the mainstream, the old media, who are
 21 not able to get their stories into that week's edition
 22 or that day's edition and are hoping that, by feeding it
 23 to you as a blogger, the story will be kept alive until
 24 the editor can be persuaded of its merits?
 25 **A. I think that happens occasionally. There's different**

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1 **circumstances where it happens. Occasionally a story**
 2 **has been spiked. The editor for some reason doesn't**
 3 **want to go ahead with the story or doesn't fit their --**
 4 **that newspaper's agenda, and they'll give it to us.**
 5 **I mean, that happens less now because I think we're seen**
 6 **as more -- when we were a bit of an underground**
 7 **publication, I think that used to happen quite often,**
 8 **but now most political journalists read the blog it**
 9 **happens less.**
 10 **The second type of story that's given to us is when**
 11 **parts of -- the journalist concerned couldn't get the**
 12 **whole story out or the editor wasn't willing to go the**
 13 **whole hog on a story. They'll give it to us in order to**
 14 **try to push the storyline further or to keep the**
 15 **storyline alive from one week to another week. So, for**
 16 **instance, a Sunday newspaper might flag up some story**
 17 **that they couldn't develop as fully as the journalist**
 18 **concerned wanted, and the editor says, "We're not going**
 19 **any further", but if we were to write about that story**
 20 **in the week, then they would say, "Look, the story is**
 21 **still moving, still alive, it still has the legs", as is**
 22 **the term used in the industry, and that might get the**
 23 **editor to provide resources for that journalist to**
 24 **continue with the story.**
 25 Q. You say in your witness statement, and I'm moving now to

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<p>1 the question of ethics, that your ethical goal is to 2 report the truth as you see it and that that should be 3 the ethical goal of all journalists, whatever their 4 medium. 5 Can I try and expand that and put a number of 6 ethical matters to you? I'm doing this by reference to 7 the PCC code. I know that you're not a member of the 8 PCC, but an important aspect of the code is the need for 9 accuracy. Am I right to understand that you, too, think 10 that accuracy is of great importance to ethical 11 journalism? 12 A. Of course. And if you make a mistake, your readers will 13 lose confidence in you, your reputation will go 14 downhill. 15 I have to say I've heard a lot of testimony from 16 other journalists saying that what people don't realise 17 is the speed with which we have to do things, and we 18 quite often hit stories out, you know, five minutes 19 after we've got the basic details, and the story will be 20 revised and amended during the day on the fly, so we'll 21 get the details correct and hopefully the end story will 22 be spot on. But due to the nature of how fast we move, 23 it's not always -- the first print isn't always spot on. 24 Q. Would it represent the position accurately to say that 25 what you're doing is striving for accuracy rather than</p> <p style="text-align: center;">Page 113</p>	<p>1 privacy as a private citizen who has no public life can 2 expect. These people -- their character speaks to what 3 the voters need to know about them as politicians, so if 4 they misbehave in their private life -- it's quite 5 common that somebody who will lie to their wife will lie 6 to the voters. That's an old adage that has some truth 7 to it. 8 LORD JUSTICE LEVESON: I can understand that, but it may be 9 there isn't quite the difference that is sometimes 10 portrayed, because you don't do stories about 11 individuals outside the political spectrum. Or do you? 12 A. Very rarely do stories -- well, we write increasingly 13 about journalists, but mainly it's about politicians. 14 LORD JUSTICE LEVESON: Yes. 15 A. Invariably there is a public interest angle when you 16 have a politician. 17 LORD JUSTICE LEVESON: That's the point. So if you're not 18 going to go into the area, whether it's celebrity or 19 those who have been accused of crime, all the bits and 20 pieces that I'm sure you've heard about that I've been 21 hearing about, you don't have to make a decision, "Is 22 this an invasion of privacy?", because you're starting 23 from a broadly political perspective. 24 A. Yeah, I'm confident that it's almost always a public 25 interest angle. Although that's not to say that</p> <p style="text-align: center;">Page 115</p>
<p>1 guaranteeing it? 2 A. That would be correct. 3 LORD JUSTICE LEVESON: That's a different issue, isn't it, 4 for those who are in print journalism, because you have 5 the ability to change anything you've written? 6 A. Yeah, we can do -- pixels can be altered instantly. 7 What I'm trying to emphasise is the nature of the speed 8 at which we work. If you have a whole day or a whole 9 week to consider your article, you have a chance to dot 10 the Is and cross the Ts in a way that we don't have 11 because we're in such a hurry, and I think some of the 12 tabloid journalists have been saying, "We do 100 stories 13 a day", and the editors have been saying the same thing. 14 It's not always possible to get things exactly right at 15 speed. 16 MR BARR: Privacy next. That's obviously a part of the PCC 17 code, qualified, though, by the public interest test. 18 Am I right to understand from your witness statement 19 that on matters of privacy you're essentially an 20 adherent to the American school of thought, a First 21 Amendment man rather than a fan of privacy as it's been 22 interpreted in the English courts? 23 A. Yes. I particularly don't think people in public life, 24 people who are, you know, paid for by the taxpayers, or 25 subject to the voters, should expect the same degree of</p> <p style="text-align: center;">Page 114</p>	<p>1 celebrities who misrepresent themselves -- it's not in 2 my area of work, but some of the other celebrities who 3 have been here and claimed to be victims, you know, like 4 Hugh Grant, I think he did put himself out in public and 5 he should expect to be scrutinised. 6 LORD JUSTICE LEVESON: Yes, but, for example, there have 7 been other people who have given evidence as victims who 8 positively don't want to be in the public domain, 9 they're not in the public domain. That issue for you 10 wouldn't arise because you wouldn't be writing about 11 them? 12 A. No, it's not something we cover. 13 LORD JUSTICE LEVESON: Yes. 14 MR BARR: Again perhaps this question needs to be put in the 15 context to the people that you write about. I'd like to 16 ask you about your views on the use of subterfuge. Do 17 you regard it as necessary to get hold of stories of 18 public interest? 19 A. Sometimes. I think you have to employ a degree of 20 subterfuge. I think the PCC ruled against the Daily 21 Telegraph recently for when they sent two reporters to 22 record Vince Cable's views on certain matters. I think 23 that was perfectly legitimate what they did. They got 24 the truth out of Vince Cable. He was saying one thing 25 in private, another thing in public, and the PCC ruled</p> <p style="text-align: center;">Page 116</p>

<p>1 against them for using subterfuge, but they exposed 2 Vince Cable's duplicitousness. 3 Q. Do you ever use subterfuge or cause other people to use 4 subterfuge? 5 A. We have. I've sent reporters in disguise. When UKIP 6 had a policy of banning the burka, I send a female 7 reporter dressed in a burka to interview the leader of 8 the United Kingdom Independence Party and ask him about 9 his worries about the Muslim Eurosceptic vote. It was 10 I think legitimate to juxtapose him on camera with 11 someone in a burka. It was also good fun. 12 Q. Do you, when you decide to use subterfuge, stop and 13 pause for thought and try and balance the invasion and 14 deception on the one hand against the degree of public 15 interest in the story on the other or do you just take 16 a view and decide on whim? 17 A. I think broadly correct. If we think the only way we're 18 going to get this information is by subterfuge, then we 19 will do that. But when we're asking people on the 20 record questions, we do identify ourselves. We don't 21 ring up and pretend to be a constituent when we're 22 asking to put something on the record as a public 23 statement. It's only when we think that they are being 24 deceptive and the only way we can discover this 25 deception or prove this deception is by subterfuge that Page 117</p>	<p>1 A. No. 2 LORD JUSTICE LEVESON: Thank you. 2 o'clock. 3 (1.02 pm) 4 (The luncheon adjournment) 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 Page 119</p>
<p>1 we'd use it. 2 Q. I see, so you would require at least a reasonable 3 suspicion that it was necessary that there was something 4 going on that needed to be uncovered? 5 A. Yeah, and if we said, "We're from the Guido Fawkes blog, 6 will you tell us what you really think?" I'm sure we 7 wouldn't have any success, so we will endeavour to find 8 out what we can. 9 Quite often what we're trying to illuminate is 10 politicians saying one thing to one set of people and 11 another thing to another set of people. That, I think, 12 is -- it's sometimes necessary to use underhand tactics. 13 Q. What about phone hacking? Do you think that might ever 14 be justified? 15 A. I think phone hacking is against the law, and there are 16 criminal sanctions that were available to deal with 17 that, and we don't need to reform the Press Complaints 18 Commission to prosecute those kind of actions. 19 Q. What about email hacking. Would the same apply? 20 A. I think the same would apply. 21 MR BARR: Sir, I'm about to move on to the question of 22 complaints system, such as it is. Is that a convenient 23 time? 24 LORD JUSTICE LEVESON: Yes. It's not inconvenient to you to 25 come back at 2 o'clock, is it? Page 118</p>	

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