

<p>1 Tuesday, 24 January 2012 2 (10.00 am) 3 LORD JUSTICE LEVESON: Good morning, yes. 4 MR JAY: The first witnesses today are Mr Kampfner and 5 Mr Heawood, please. 6 MR JONATHAN PORTREE HEAWOOD (sworn) 7 MR JOHN PAUL KAMPFNER (sworn) 8 Questions by MR JAY 9 MR JAY: First of all, please, respectively your full names 10 for the Inquiry? 11 MR KAMPFNER: John Paul Kampfner. 12 MR HEAWOOD: Jonathan Portree Heawood. 13 MR JAY: Mr Kampfner, you provided a submission to the 14 Inquiry dated 13 January of this year. Is this your 15 formal evidence to the Inquiry? 16 MR KAMPFNER: Yes, it is. 17 MR JAY: Or at least your first submission, because 18 I understand you may wish to submit another submission 19 later. 20 Does the same apply to you, Mr Heawood, in relation 21 to your submission of 30 November of last year? 22 MR HEAWOOD: Yes, it does. 23 Q. Can I ask you first of all, please, respectively to tell 24 us about your organisation and then about yourself. 25 LORD JUSTICE LEVESON: Just before you do, it's right, isn't it?</p> <p style="text-align: center;">Page 1</p>	<p>1 abuse, use of violence, suppression of journalists 2 around the world who are killed or otherwise 3 intimidated, but we also are heavily involved in what we 4 call the shades of grey. That is areas where free 5 expression comes up against competing rights, whether it 6 is privacy, confidentiality, data protection and 7 elsewhere, and this brings us and has brought us for 8 several years now very much to the forefront of the 9 debate in Western countries and particularly in the UK. 10 Q. Thank you. And yourself, Mr Kampfner? 11 MR KAMPFNER: I've been a journalist for longer than I care 12 to remember, more than 20 years. I started at Reuters 13 as a graduate trainee. I served in Bonn and Moscow. 14 Then I was the bureau chief of the Daily Telegraph in 15 Moscow and East Berlin for the events of the late 80s 16 and early 90s. I moved to the lobby to be chief 17 political correspondent of the Financial Times. I moved 18 to the BBC where I covered politics for the Today 19 programme and Newsnight. I became political editor of 20 the New Statesman and then editor of the New Statesman 21 in 2005 to 2008 and since then I moved -- I kept a lot 22 of my -- what I would call journalistic instincts but 23 moved into the NGO world. 24 Q. Thank you. Mr Heawood next, please. 25 MR HEAWOOD: So English PEN is the founding centre of an</p> <p style="text-align: center;">Page 3</p>
<p>1 it, that certainly at the seminars one, if not both of 2 you, actually spoke? 3 MR KAMPFNER: I did so, yes. 4 LORD JUSTICE LEVESON: Would it be fair to allow me to 5 incorporate what you said there into the record of this 6 Inquiry? 7 MR KAMPFNER: I'd be happy to. 8 MR HEAWOOD: I think my remarks were from the floor at the 9 seminar but likewise. 10 LORD JUSTICE LEVESON: Thank you very much. 11 MR JAY: Mr Kampfner first of all. 12 MR KAMPFNER: Index on Censorship celebrates its 40th 13 anniversary this year. It was founded as a response to 14 Soviet dictatorship and was designed to promote free 15 expression around the world and to highlight areas of 16 censorship around the world. In those days, a much 17 clearer definition between dictatorships and democracy. 18 Over time it has evolved. In the just over three years 19 I have been involved -- and I will be leaving at the end 20 of March -- Index has changed quite considerably. We 21 embrace the digital age with alacrity. We do 22 considerably more campaigning and lobbying around the 23 world in addition to the editorial work that we do and 24 we embrace -- the term I use is we cover and highlight 25 not just black and white cases of censorship, egregious</p> <p style="text-align: center;">Page 2</p>	<p>1 international writers' association known as 2 PEN International, which now has centres in over 100 3 countries around the world. PEN was established in 1991 4 by a group of writers who were very concerned to aid 5 international understanding between writers and that 6 evolved over the years into the free speech NGO that we 7 are today. We see our mission as promoting the freedom 8 to write and the freedom to read and identify and remove 9 any barriers to those freedoms, whether those barriers 10 are political, legal, social or economic. 11 I have been director of English PEN for six and a 12 half years. Before that I worked for a think tank. 13 Before that, for the Observer newspaper, where I was on 14 the books desk, and before that I was in academia. 15 Q. Thank you very much. Can I ask you, Mr Kampfner, first 16 of all, page 54660 -- I'm working from the numbers we 17 have furnished for the documents; on the internal 18 numbering it's page 4 of your submission -- where you 19 set the context for free expression and press freedom in 20 a developing environment. May I ask you, please, to 21 encapsulate the points you're making there? 22 MR KAMPFNER: There is a difference -- there is a huge 23 amount of convergence but there are also differences 24 between press freedom and freedom of expression. 25 Freedom of expression is the broader right of</p> <p style="text-align: center;">Page 4</p>

<p>1 individuals, as much as organisations, news 2 organisations, whatever, to express themselves freely in 3 all contexts but within the boundaries of law. 4 We take a -- what I regard as a reasonable but 5 a fundamentally principled view on free expression, 6 which is: where there needs to be curtailment of that 7 free expression, it needs to be very clear and it needs 8 to be narrow. We work from very strong -- a very strong 9 belief not only in the American version of the first 10 amendment but in the European equivalent, namely 11 Article 10, while at the same time not in any way 12 diminishing the competing rights. 13 Therefore, our brief -- we are not -- Index, even 14 though -- and it's obviously an area you will wish to 15 come to -- we, together with PEN and others, have been 16 leading the libel reform campaign. That could be seen 17 to be -- and we've had very good working relations with 18 newspapers on that front. We represent the interests of 19 no media organisation. 20 Q. Thank you. You also remind us at the bottom of 54660 21 of the global repercussions any recommendations made by 22 this Inquiry will have, since the commentary, you point 23 out, in China and Iran, for example, on the government 24 responses to the summer riots. So others are watching 25 us?</p> <p style="text-align: center;">Page 5</p>	<p>1 it might be useful -- I'm sorry, Mr Jay -- just to 2 articulate -- I think I've heard you on this subject 3 before but publicly to articulate where you see the 4 difference between freedom of expression, which you have 5 talked about, and freedom of press, which has different 6 connotations. 7 MR KAMPFNER: Freedom of the press is a subsection of 8 freedom of expression. As I say, freedom of expression 9 is a broader concept. Without a vigorous press and 10 without a vigorously free press, then free expression is 11 severely damaged, because newspapers, broadcasters and 12 others in the mainstream media remain -- even though 13 their proportion perhaps is diminishing all the time, 14 they remain still the most significant conduit of 15 information and comment and news. That proportion is 16 constantly now being diminished by the rise of 17 unmediated bloggers, citizen journalism, using crowd 18 sourcing and other methods as well, so -- but one can 19 always exaggerate the extent to which people "don't read 20 newspapers", because even if newspaper circulations 21 inexorably seem to decline, the impact on broadcasters 22 and others remains strong. 23 So it is a significant but not the only vehicle for 24 information, and a conduit of freedom of expression for 25 the public. But there are other areas of press</p> <p style="text-align: center;">Page 7</p>
<p>1 MR KAMPFNER: Absolutely, and again an area, I imagine, you 2 will probe, which is our submission on areas where we 3 regard the otherwise understandable incorporation of 4 laws and norms into European Union countries, namely 5 France and Hungary, can, if done wrongly, have an 6 extremely deleterious effect. 7 So while not exaggerating the importance or the 8 status of the UK decisions made here and statements made 9 here, such as reported statements that I have alluded to 10 several times, such as the reported response of the 11 prime minister to the riots in August, which was, on one 12 level, an understandable instinct to shoot the 13 messenger -- BlackBerry messenger in this case -- and to 14 say it is the medium that is at fault -- time and again, 15 through diligent research and, we hope, convincing 16 argument, we seek to prove that invariably it is not the 17 medium; it is other issues that need to be tackled. 18 Q. Thank you. Mr Heawood, you make similar points, but in 19 your own way. At page 53717, on the internal numbering 20 page 2 of your submission -- 21 LORD JUSTICE LEVESON: Just before you pass to Mr Heawood 22 Mr Kampfner, you were actually distinguishing between 23 freedom of expression and freedom of the press. 24 MR KAMPFNER: Mm-hm. 25 LORD JUSTICE LEVESON: I think if you're dealing with that,</p> <p style="text-align: center;">Page 6</p>	<p>1 practice, again I'm sure to be gone into, whether it's 2 corporate bullying, poor corporate governance, 3 et cetera, which can act as much as a curb on free 4 expression as more broadly defined. 5 MR JAY: Thank you. 6 Mr Heawood, page 51717, you provide the context: 7 Article 10 and the changing environment, particularly 8 the introduction of greater technologies and different 9 technologies. In your own words, please, are there any 10 matters you would wish to draw out? 11 MR HEAWOOD: In terms of the introduction of new technology, 12 digital technology, in a way, it just allows me to build 13 on a point that John made a moment ago about 14 jurisdiction. I mean, there's an exemplary effect of 15 laws made and practised in this jurisdiction. Other 16 countries may want to emulate them. 17 There's also a very direct effect -- and we've seen 18 this in libel -- because of the transjurisdictional 19 nature of internal publications, so that suits 20 repeatedly brought or issued in the high courts for 21 libels which may have actually taken place involving 22 overseas claimants and/or overseas defendants. I think 23 that's one impact of the digital revolution on the reach 24 of English jurisdiction, one reason to be very careful 25 about making changes here.</p> <p style="text-align: center;">Page 8</p>

<p>1 The other impact, again as John has noted already,                  2 is the fact that we are all now potential publishers.                  3 The press, the institutional press, may still play                  4 a very particular role. That role has changed, it will                  5 continue to change. We're all now not merely consumers                  6 of media content; we all have the capacity, the                  7 capability to become producers of media content. So                  8 I think article 10, which for many may have been a right                  9 that was something that was slightly abstract, a right                  10 for others, is a right which actually we all now can                  11 directly enjoy through access to the Internet, and                  12 I think it's one reason why in the submission and today                  13 I want to make very clear that I think one thing we have                  14 to get right here is the underlying law. I think if we                  15 seek to regulate an industry which is actually in the                  16 process of transformation and may, in ten years' time,                  17 not exist in a recognisable time, we may be regulating,                  18 as it were, a stable door, and the horse has bolted. So                  19 the law has to be right.                  20 MR KAMPFNER: May I just elaborate further on your original                  21 question about distinguishing between free expression                  22 and a free press.                  23 The free expression -- having discussed the issues                  24 of media, we defend free expression, whether it is                  25 doctors, whether it is academics and peer review. A lot</p> <p style="text-align: center;">Page 9</p>	<p>1 MR KAMPFNER: Thank you. This is an important part of our                  2 submission, and humbly we would ask you, sir, to                  3 consider the view which has very rarely been made to you                  4 so far in this Inquiry that while I as an individual and                  5 Index as an organisation and I'm sure all right-minded                  6 people unequivocally condemn the actions that led to and                  7 arose through the phone hacking scandal, and while we --                  8 as we will set out -- strongly advocate improved                  9 regulation and other methods to ensure better behaviour,                  10 nevertheless the -- born from my own experience over                  11 many years and our work at Index, the weakness of the UK                  12 media and the fundamental weaknesses of media in general                  13 are something that should be strongly taken into                  14 account.                  15 Referring -- I go through very briefly in my                  16 submission areas upon areas, whether it's entertainment                  17 and celebrity journalism, business journalism, sports                  18 journalism, and of course one of the fundamental                  19 requirements of a good journalist is to nurture their                  20 sources, to become friends with the CEO, with the                  21 spin doctor, with, if it's a company, the CFO or                  22 whatever, in order for them to give you information that                  23 could potentially turn into an interesting insight or an                  24 interesting story.                  25 My experience, however, of the Westminster lobby in</p> <p style="text-align: center;">Page 11</p>
<p>1 of -- a vast amount of the work that we did when we                  2 launched the libel reform campaign was to protect the                  3 right of speech and writing for people who are not                  4 journalists at all: speakers at conferences, as I say,                  5 scientists, academics, NGOs whose free speech is chilled                  6 by either deliberate acts of oppression or by the use of                  7 wrong laws or unbalanced laws, such as English libel.                  8 Artistic expression and censorship norms -- there are                  9 all manner of UK laws that potentially impede upon that.                  10 So it is the right of individuals, organisations,                  11 interest groups as well as the media to speak freely.                  12 Q. I move on to the next theme. Mr Kampfner, it's 54661                  13 under the rubric "Weaknesses of UK journalism".                  14 Mr Heawood, it's 53718, where you make the separate and                  15 different but maybe related point that what is most                  16 troubling about certain media organisations is their                  17 power. So there's weakness on the one hand and there's                  18 power on the other.                  19 First of all, Mr Kampfner, weaknesses. There are                  20 two questions I have for you: what are the weaknesses                  21 and are they systemic? That's the first question. As                  22 a subset of the systemic point and maybe the second                  23 question: are they truly systemic, rather than being                  24 derived from what you call the laziness and pliancy of                  25 some journalists?</p> <p style="text-align: center;">Page 10</p>	<p>1 the time when I was there from the mid-1990s until                  2 ostensibly the mid-noughties was a media that was                  3 extraordinarily pliant, particularly -- and I'm not                  4 making any political points here but I think I'm                  5 highlighting a particular era, and I'm not particularly                  6 qualified to talk about the current era because while I,                  7 to a small degree, am involved in it, to a much lesser                  8 degree than I used to be.                  9 But having been a foreign correspondent and worked                  10 with journalists who risked life and limb to eke out                  11 information and stories, to come to a culture at                  12 Westminster where, with some very notable exceptions,                  13 there was a culture almost of feeding -- it was just                  14 feeding the beast. I remember the spin doctors -- and                  15 I quite often had more sympathy for them than I did for                  16 some of the journalists -- would literally say, "All                  17 right, we have to feed the beasts today, what are we                  18 going to feed them with?" and they would line up to be                  19 fed.                  20 I remember one spin doctor, who I don't think it                  21 would be fair to name, one day -- I had just started out                  22 at the Financial Times and it was all about the                  23 soon-to-be-incoming Labour government and it's                  24 rapprochement with business. It was about 1996, and he                  25 was giving me a story about a new business initiative,</p> <p style="text-align: center;">Page 12</p>

<p>1 and literally dictating pretty much the story to me down                  2 the phone, you know: "And then Tony Blair will say this,                  3 and then this happened and this happened." And I turned                  4 around and asked him a couple of questions, like: "But                  5 didn't you say this last week? Didn't this happen?                  6 Doesn't this contradict something else?" To which I got                  7 a response which I always will remember, which is: "Shut                  8 up, take it down if you want more from where this came                  9 in the future."                  10 This really was -- and I turned around politely and                  11 got on with the guy and said, "Actually, I don't                  12 really -- you go and give it to somebody else. I want                  13 to do my own --" I'm not trying to sound worthier than                  14 anybody else, because obviously if I had lunch with                  15 ministers or whatever and they gave me a good story,                  16 I would do that story -- it would be crazy not to -- but                  17 there was a culture of compliance, of docility.                  18 Now, if someone was on the floor, if there was a                  19 politician on floor, they would all give him a kicking.                  20 It was a sort of her instinct. When the going was                  21 clear, you would do it. But just as you had this very                  22 strong -- and it was -- a huge amount was obviously                  23 driven by the culture at the time, which was                  24 a desperation of politicians to endear themselves with                  25 News International, with Associated as well and with all</p> <p style="text-align: center;">Page 13</p>	<p>1 details of MPs' expense claims and was consistently                  2 pushed back and the law was used against her and she was                  3 taken to court and she took MPs to court,                  4 took Parliament to court and fought a very long, very                  5 painful battle, very much unsupported by the                  6 institutional press who largely didn't think it was                  7 a story worth pursuing -- compare what happened to                  8 Heather Brooke and what happened finally when the                  9 Telegraph decided that when this disk, this unredacted                  10 disk which was being prepared ultimately as a result of                  11 Heather Brooke's campaign -- when that disk came                  12 illegally into the Telegraph's hands, they decided it                  13 was one of the biggest stories of the century and they                  14 would publish over several weeks, as we all know, with                  15 enormous consequences.                  16 I'm not convinced that the power at this date in law                  17 of the lone campaigner was equivalent to the power of                  18 a very large newspaper group like the Telegraph to bring                  19 something of that importance, of that public interest                  20 into public debate. I'm not suggesting for that reason                  21 that we should celebrate or fail to question the power                  22 held by those big beasts of the media. I'd like the                  23 same power to be enjoyed by other players, other actors,                  24 other speakers, other publishers, providing they                  25 follow --</p> <p style="text-align: center;">Page 15</p>
<p>1 the media groups, but there was a distinct pecking                  2 order. There was very much a sense of services renders:                  3 you write the story, and the more faithfully you write                  4 the story, the more stories you are going to get in the                  5 future.                  6 To me, while obviously political journalism is about                  7 nurturing your services, that seems to be a travesty of                  8 this idea which Tony Blair then, later on in his                  9 farewell speech, led to him coining the phrase "feral                  10 beasts". They were occasionally feral but most of the                  11 time they were locked up.                  12 Q. Thank you. Mr Heawood, the power of the press. You                  13 make a number of succinct points on 53718. Can I ask                  14 you, please, to develop those and to deal with the                  15 apparent confrontation between weakness on the one hand                  16 and power on the other, and what you mean by "power"?                  17 MR HEAWOOD: I think it's a necessary power. I think it's                  18 a power that the press continues to hold and I think                  19 it's a power that should be there in society, whether                  20 it's held by the newspapers that we're familiar with or                  21 some other source that's coming into being, which may be                  22 certain NGOs or individual campaigners.                  23 As I talk about in the submission, if you compare                  24 what happened to Heather Brooke, who, as an individual                  25 campaigner, spent several years trying to reveal the</p> <p style="text-align: center;">Page 14</p>	<p>1 LORD JUSTICE LEVESON: But it's who has the megaphone, isn't                  2 it?                  3 MR HEAWOOD: Well, the Telegraph on that occasion had the                  4 megaphone and was able --                  5 LORD JUSTICE LEVESON: I understand, but Ms Brooks didn't,                  6 and it works in two ways. It's not merely the ability                  7 to pick up a story and run with it; it's also the                  8 ability to drop a story. One of the points that has                  9 been made is: who is checking up on the press                  10 themselves, if not the press? The press hold us all to                  11 account, whether we be politicians or businesses or                  12 judges. The court of public opinion is there for the                  13 press to put our behaviour in front of them. But who                  14 does it for them? Who looks at the press?                  15 MR HEAWOOD: I agree, and clearly that's the topic of the                  16 Inquiry, and I think it's worth remarking that if you                  17 look at parliamentary journalism, if you think about                  18 speaking truth to power and you think about where power                  19 is actually held and exercised in this country -- one                  20 would hope it would be by Parliament. It's democratic                  21 seats. Parliamentary coverage has fallen by about                  22 95 per cent in the mainstream press from the second half                  23 of the 20th century to today. We've gone from 10,000                  24 words a day in the Times and the Guardian down to about                  25 500 on a good day. So I think the press is, in all</p> <p style="text-align: center;">Page 16</p>

<p>1 sorts of respects, failing to fulfil that consistent 2 role of speaking truth to power.</p> <p>3 But I think it comes back to my original point, that 4 it's important to get the law right. We want the 5 individual campaigner to be able to be confident that 6 they can pursue that story. We want the press to be 7 aware that if they choose not to pursue a story or they 8 pursue a story in a way which we are unhappy with as 9 a society and we want legal redress against that, that 10 that redress will be forthcoming.</p> <p>11 One of the huge problems in this instance is 12 actually the pocket, the depth of the pocket. It's not 13 simply that the Telegraph can in some way bully 14 government. The Telegraph is still -- you know, they 15 largely follow the laws of the land. I have no 16 objection to the Telegraph. But they have a much deeper 17 pocket than an individual campaigner, and lawyers have 18 similarly hungry pockets for what newspapers can 19 provide.</p> <p>20 So I think there is a real problem here with legal 21 costs as well. I think, you know, there's a lot in this 22 Inquiry of seeking to hold journalists to account. It 23 would be interesting to hold lawyers and the legal 24 industry to account as well. I mean, research in libel 25 has shown that the average cost of a libel trial in this</p> <p style="text-align: center;">Page 17</p>	<p>1 costs are just enormous, not just for individuals, and 2 they are frightening and they are chilling, to use the 3 free expression sense of the term, for individuals and 4 for small publications as well, and there is another -- 5 there is a more editorial argument, which is the 6 pick-up, that when a story is run by a mainstream media 7 organisation, it is deemed by broadcasters and others to 8 have an imprimatur.</p> <p>9 Finally in this area of weakness -- it is 10 a statement that I used at the seminar back in October 11 and it's one I've used in various newspaper commentaries 12 since, and I was pleased that it was taken up by the 13 Times in a leader article a week or so ago -- I would 14 simply emphasise again that if you look back at the main 15 news stories of the past decade, and you can take your 16 pick, but whether it is issues such as weapons of mass 17 destruction, whether it is the failings of the banks and 18 whatever, just simply ask yourself -- and I think it's 19 absolutely crucial to this Inquiry: did the media find 20 out too much of what was going on or too little?</p> <p>21 We're not here to hold a candle for the media. What 22 we do -- what I personally and what my organisation 23 fundamentally worries about, however, is that any 24 misplaced increase in restrictions on the media will 25 limit the public's right to know. That is a far bigger</p> <p style="text-align: center;">Page 19</p>
<p>1 jurisdiction is 140 times greater than the average cost 2 across the EU.</p> <p>3 So I think there are some real issues here about 4 access to justice on the part of the individual.</p> <p>5 MR JAY: Mr Heawood, we're going to come to this. Let me 6 just pick out one theme. You talk about empowerment of 7 the individual. You also say, in the penultimate 8 paragraph, 53718, that the press has a voice which is 9 collectively more powerful than the sum of its readers 10 or users. Might it be said that that is an argument for 11 the need to regulate the press more, owing to its power?</p> <p>12 MR HEAWOOD: Not necessarily, because I think as I say, one 13 of the reasons for that power is also to do with 14 financial resources, in the same way that companies are 15 more powerful than their individual shareholders or 16 customers. It's not necessarily a desirable property of 17 the press; it's a reality.</p> <p>18 Q. Okay. I think you --</p> <p>19 MR KAMPFNER: Sorry, I wanted to come in on a couple of 20 points. Obviously if you take Jonathan's example of 21 Heather Brooke and MPs' expenses and the Telegraph, 22 there were two areas that militated against the 23 individual and worked for the news organisation. One is 24 the law. As Jonathan has alluded to and as to be 25 developed later, libel and other legal areas and legal</p> <p style="text-align: center;">Page 18</p>	<p>1 question than whether or not a particular newspaper can 2 do this or that.</p> <p>3 Q. May I touch on the issue of risk aversion, 54662. If 4 I can just summarise the points you make and then ask 5 you to comment. You rightly say that investigative 6 journalism is expensive and the returns, if any, may be 7 long-term. There is a need for a vigorous press, what 8 you say or you call a freedom to engage in robust or 9 even grubby comment. Matters of taste must not be 10 regulated.</p> <p>11 I think the question is: does that not create a risk 12 of collateral damage?</p> <p>13 MR KAMPFNER: Well, part of the answer to that question will 14 come in, I would imagine, the more specific comments 15 about regulation and what I would term to be the need 16 for better regulation. We contend that there are 17 already a plethora of laws that, legitimately or 18 otherwise, already curtail the right to investigate and 19 in some cases even the right to express, but the -- 20 sorry, I've lost my thread.</p> <p>21 Q. It's the risk of collateral damage.</p> <p>22 MR KAMPFNER: Yes. There will always be -- there is no such 23 thing as the perfect system. There is no such thing as 24 perfect regulation, which does not mean that we, and 25 you, sir, should not be straining every sinew to find</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 it. I don't want to put myself in the position of                  2 saying, "Oh yes, there will always be victims and that's                  3 a price to pay." No, because for every individual who                  4 is wrongfully traduced, whose life is made a misery,                  5 that is an individual tragedy. But if we get regulation                  6 stronger, details to be discussed, if the                  7 already-existing strong and copious laws were better                  8 enforced, which in many cases they are not now, and                  9 if -- an area I'd like to focus a bit upon at some                  10 point -- we can improve on editorial lines of                  11 accountability, responsibility and corporate governance,                  12 then I think you have the building blocks in place.                  13 That will never prevent wrongful things happening --                  14 that is both the nature of journalism, as the first                  15 draft, and it's also the nature of human error, and in                  16 some cases bad behaviour -- but you will have a system                  17 that does not chill free speech, but at the same time                  18 does make a requirement of looking always at your own                  19 standards and your own behaviour as you go along.                  20 Q. Mr Heawood, do you wish to add to that point?                  21 MR HEAWOOD: Well, I think I'm broadly in agreement, but                  22 I think the words "collateral damage" suggests a kind of                  23 negligence attitude and I think neither of us is here to                  24 suggest that the press should be negligent in any way.                  25 But I think the point is that one would rather live in</p> <p style="text-align: center;">Page 21</p>	<p>1 are a means for us to try to create a society that                  2 enables all of us to be equal, to enjoy our dignity and                  3 our freedoms.                  4 I think the way that the privacy law has developed,                  5 where the court seems to see it as a conflict between                  6 rights, is rather problematic. I think to a large                  7 extent the rights are complimentary. Without a private                  8 sphere, it's very hard to enjoy a public sphere in which                  9 we can express ourselves and speak truth to power and                  10 vice versa, so I certainly don't want to answer the                  11 question by suggesting that one right is more important                  12 than the other.                  13 LORD JUSTICE LEVESON: But inevitably the courts are going                  14 to have to balance those two. One could take any of                  15 these privacy cases that have been fought through the                  16 courts and the court is trying to balance freedom of                  17 expression on the one hand, the right of the press on                  18 the one hand, against the individual rights of the                  19 person who is complaining about their infringement.                  20 MR HEAWOOD: I think if you look at it in the same way that                  21 any other civil tort is brought to court. I mean, it's                  22 required of the claimant to show that some harm, some                  23 real harm has taken place. I think if we inherit what                  24 we've developed in libel law over the last 800 years,                  25 where we have a reverse burden of proof and we don't</p> <p style="text-align: center;">Page 23</p>
<p>1 a perhaps slightly too noisy, open society than in                  2 a slightly too quiet and overly restricted and overly                  3 regulated society.                  4 Q. Can I ask you this: is it your position that the                  5 starting point, or perhaps the primary right is the                  6 right of free speech, however you wish to articulate it,                  7 Article 10 of the Convention, and therefore you need to                  8 find a justification or reason for curtailing or curbing                  9 that right, rather than the other way around, that the                  10 primary right may be the private rights of individuals                  11 and you need to find a reason or justification for                  12 departing from that right? Do you start from free                  13 speech, each of you, and then are look for an exception,                  14 or do you start from a different position? Can I ask                  15 you first, Mr Heawood?                  16 MR HEAWOOD: Yeah. I think ultimately these are both right,                  17 and one thing the court may want to look at is the                  18 ultimate objective of the whole rights portfolio. This                  19 is not simply about one right trumping the other. The                  20 reason we have a framework of rights and we have, you                  21 know, 30 articles in total, is to achieve something                  22 equivalent to human dignity, human flourishing, equality                  23 before the law.                  24 So I think in a way it's not really about one right                  25 being more or less important than another. The rights</p> <p style="text-align: center;">Page 22</p>	<p>1 expect the claimant to show harm -- I mean, in the libel                  2 reform campaign we press very hard that there needs to                  3 be serious and substantial harm for a libel action to be                  4 brought, and I guess we do begin then by asking the                  5 claimant in a privacy case, for instance, to show that                  6 some real harm has taken place or conceivably will take                  7 place as a result of publication.                  8 To that extent, I suppose, you are then presuming --                  9 you know, free speech is the presumptive right, and then                  10 if that harm is established, then you may want to ask                  11 the defendant in such a case --                  12 LORD JUSTICE LEVESON: I asked the question because that                  13 rather answers Mr Jay's. But let me give an example.                  14 One of the people who gave evidence, JK Rowling, a very                  15 successful authoress, but who wishes not to be in the                  16 public limelight. She says she writes books. She                  17 doesn't want her family photographed. She doesn't want                  18 to be doorstepped. She doesn't want any of this.                  19 When you come to describe "serious or substantial                  20 harm", it might be argued: well, what is the harm?                  21 People are very interested in her because of her                  22 success.                  23 MR HEAWOOD: I think there are two things here which are                  24 becoming confused, which is the harm of a publication in                  25 a newspaper, which may be the result of a story that has</p> <p style="text-align: center;">Page 24</p>

<p>1 been generated by someone who has some connection with                  2 JK Rowling and has chosen to give that story to the                  3 newspaper -- now, that may be morally objectionable, but                  4 unless some real harm is consequent upon it, it seems                  5 problematic to make it illegal.                  6 On the other hand, if you're talking about real                  7 intrusion and somebody actually, as we heard from                  8 JK Rowling, somehow invading her daughter's private                  9 space and putting a note in her daughter's school bag,                  10 or the doorstepping or the long lenses through the                  11 window, I think there's a very different wrong that's                  12 taking place that has very little to do with Article 10                  13 rights at all. It's about -- it's a form of trespass or                  14 a form of intrusion, which I think the law could look at                  15 very severely.                  16 MR KAMPFNER: To answer your Article 10 question, I think                  17 I would take a more emphatic position. We, as an                  18 organisation representing freedom of expression in the                  19 UK and around the world, do regard Article 10 rights as                  20 fundamental to democracy.                  21 Where they are impinged upon, where they are                  22 restricted as necessarily they may be, whether it is                  23 shouting "fire" in a crowded theatre, whether it is                  24 specific areas of official secrets or operations where                  25 there -- we would like there to be public interest</p> <p style="text-align: center;">Page 25</p>	<p>1 MR KAMPFNER: Yes.                  2 Q. Public interest, please, I can pick up that theme next.                  3 It's 54664, 53719. I'm going to deal, Mr Heawood, with                  4 your points first, 53719.                  5 You make a number of points, but one of them is that                  6 public interest should, you say, be a partial defence to                  7 otherwise unlawful activity. May I ask you to develop                  8 that point, please? Are you saying, for example, in                  9 relation to RIPA 2000, interception of communications,                  10 that there should be a public interest defence in this                  11 context?                  12 MR HEAWOOD: Yes, I think -- and this was in response to                  13 a question that Lord Justice Leveson set before the                  14 Christmas break. He asked: should it be a complete or                  15 partial defence? I'm being quite specific: it should be                  16 a partial defence. It's not an absolute get-out-of-jail                  17 card. You can't simply wave the public interest card                  18 and that's end of story.                  19 I think, as I say in the submission, the nature of                  20 the public interest defence will be different in                  21 different areas of law. I'm not convinced that you can                  22 have a blanket public interest exemption. But I think                  23 if you begin from the starting point that the public                  24 interest is something along the lines of a publication                  25 that actually enhances the ability of the public, in</p> <p style="text-align: center;">Page 27</p>
<p>1 defences in some the laws where there are none, where                  2 there are competing rights and Article 8 rights as                  3 determined by judges -- and we think they should be                  4 determined by judges and judges alone -- then they will                  5 come up against those competing rights, but we do start                  6 from a straightforward Article 10 position.                  7 Jonathan has spoken about JK Rowling. I'd also                  8 mention one of the other witnesses who gave you very                  9 telling and vivid testimony. When Sienna Miller -- and                  10 correct me if I have my facts wrong -- was talking about                  11 how the paparazzi were hammering on her windscreen                  12 trying to evoke any kind of reaction so they could then                  13 snap that less than flattering picture, it's our                  14 contention -- not only is that reprehensible                  15 behaviour -- and I'd like to come, at the appropriate                  16 time, to issues around the progeny of stories, editorial                  17 processes and editorial management, and that includes                  18 freelancers as well -- but that is covered in the                  19 existing law. Were it to be properly enforced, laws                  20 on harassment, that kind of behaviour, it may not be                  21 preventable in the first instinct, but it sure as                  22 anything is, if this is the right term, dealable with                  23 regards.                  24 MR JAY: You say it's an actionable tort, the tort of                  25 harassment and trespass?</p> <p style="text-align: center;">Page 26</p>	<p>1 whole or in part, to play a part in the life of their                  2 society, to understand their society -- and that may be                  3 slightly different from the PCC code, for instance. I'm                  4 not convinced about -- that simply the revelation of                  5 hypocrisy is a sufficient definition of "public                  6 interest". That seems to open the door to a whole                  7 swathe of publications which don't in any way contribute                  8 to that public interest in the outcome of a story. The                  9 public may be interested as observers, but they don't                  10 have an interest in that more narrow sense.                  11 So I think it is possible to define the public                  12 interest. I think what you then have to look at in some                  13 cases is the good faith of the journalist and whether                  14 they acted with the public interest whole-heartedly in                  15 mind or are using it as an excuse for something.                  16 I think the nature of public interest in, for                  17 instance, a libel publication is very different from the                  18 nature of public interest in, for instance, a breach of                  19 the Official Secrets Act. It may not be enough for                  20 someone to breach the Official Secrets Act in good                  21 faith. Their faith may be very, very, very faulty. You                  22 may want an objective test. The court may want to come                  23 to a decision whether or not it was in the public                  24 interest for that particular revelation to come out, but                  25 I think in different areas of law such as libel, it may</p> <p style="text-align: center;">Page 28</p>

<p>1 be what's called a subjective test, where the court 2 simply needs to be persuaded that the journalist or 3 other publisher acted really with a conviction that it 4 was in the public interest for that publication to be 5 made. But I think it has to be a narrow definition, and 6 on the basis that it's a defence against, as I said 7 before, a real tort, that real harm has to have been 8 shown.</p> <p>9 Q. Yes, you have a test, as you explained to us, of serious 10 and substantial harm, which is a threshold both 11 presumably for libel and for privacy, and unless you 12 surmount that threshold, one doesn't get into any of the 13 consequential balancing arguments.</p> <p>14 MR HEAWOOD: Quite. You don't get off the starting blocks.</p> <p>15 Q. Yes. Fair enough. You also, Mr Heawood, draw our 16 attention to very definitions of the public interest in 17 the middle of page 53720, which we can note.</p> <p>18 MR HEAWOOD: Yes.</p> <p>19 Q. Mr Kampfner, you approach this from a similar angle but 20 make different points, 54664. I think it may be said 21 that you pose two questions, which you answer. The 22 first is: is the problem located in the failure to 23 enforce existing laws which are perfectly adequate?</p> <p>24 MR KAMPFNER: The short answer is: yes.</p> <p>25 Q. The second question: in any event, is uncertainty</p> <p style="text-align: center;">Page 29</p>	<p>1 of thing.</p> <p>2 But I would throw it slightly on its head and say in 3 those various laws where -- I mean, I've written a lot 4 about what I regard as an absence of civil liberties in 5 this country which permeates very deeply into a very 6 secretive Whitehall mindset. There is a suspicion 7 invariably of information and there is almost a -- built 8 into the walls, there is a determination to keep as much 9 information out of the public domain as possible.</p> <p>10 One example: when I was editing the New Statesman, 11 we had a very strong story given to us by 12 a whistle-blower in the Foreign Office. We were taken 13 to the official secrets -- we were slapped with an 14 official secrets case, my magazine and the 15 whistle-blower -- interestingly not me myself. It's 16 interesting how, in all these issues, whether it's 17 official secrets or libel, they can pick and choose who 18 they go for at individual times. And it was thrown out 19 on the first day, I'm pleased to say, at the Bailey, 20 because this was a straightforward case of trying to 21 silence a publication in order to save the bacon of 22 a cabinet minister. It's all in the public record.</p> <p>23 And there is often a presumption -- one can get into 24 the wrongful or misguided error of always thinking it's 25 the media that is doing too much. I repeat my statement</p> <p style="text-align: center;">Page 31</p>
<p>1 created by the open-textured nature of the public 2 interest defence in libel and privacy?</p> <p>3 MR KAMPFNER: Well, the current public interest test, 4 insofar as it exists in libel, namely the Reynolds 5 defence, we have contended right from the outset, and 6 I'm pleased to say I think this seems to now have broad 7 consensus in the originals of the draft bill and in the 8 joint committee's response to the draft bill and 9 hopefully in the final bill soon to be published. We 10 think the Reynolds defence is not remotely a strong 11 enough public interest defence and a defence of 12 responsible journalism.</p> <p>13 So there isn't, in many cases and in other torts, in 14 our view, a strong enough defence of public interest 15 journalism recognised in courts, and as written in our 16 submission, it doesn't exist in a series of laws 17 where -- I completely agree with Jonathan -- it is 18 a qualified defence. It cannot be an absolute defence. 19 You couldn't say, "The fact that we revealed, in a war 20 situation, you know -- two hours before troops were 21 being sent in a particular place, we revealed that they 22 were going to invade this part of a particular country; 23 that was a public interest defence." I think any such 24 defence would be seen as insufficient where it came to 25 endangering life or dealing in operations or that kind</p> <p style="text-align: center;">Page 30</p>	<p>1 of earlier, that in so, so many areas it is extremely 2 difficult for the media, faced with a wall of laws and 3 other restrictions, to find out otherwise legitimate 4 information.</p> <p>5 Q. Can I deal with practical solutions to address the 6 question of uncertainty in the context of public 7 interest. It may be a constitutional solution as well.</p> <p>8 Is it a possible solution, you think, for Parliament 9 to set out in a statute the broad parameters of what 10 public interest might mean and then leave it to 11 a regulator to give flesh to those factors in individual 12 cases, or would you say it's desirable for the existing 13 or a new press regulator to seek to tabulate all 14 relevant public interest considerations, perhaps 15 depending on the context, as Mr Heawood as said, so that 16 we have almost a code book which can then be applied in 17 individual cases? How do you see it, Mr Heawood?</p> <p>18 MR HEAWOOD: I'm not sure that I've come to a final position 19 on that. It's a debate that's going on at the moment. 20 English PEN, Index, the Media Standards Trust and others 21 are very interested in exactly that question.</p> <p>22 I think I tend towards the second route that you 23 outlined. I'm not sure that as a single piece of 24 statute would do enough. I think it potentially could 25 cause further confusion because, as I said, the nature</p> <p style="text-align: center;">Page 32</p>



<p>1 of public interest in different areas of publication is 2 so different. So I think a code book that perhaps at 3 least gathered together the different areas and the 4 different requirements that might be relevant would be 5 of more value.</p> <p>6 Q. What do you think, Mr Kampfner?</p> <p>7 MR KAMPFNER: I would be strongly worried about the first 8 proposition. After all, it is the same Parliament that 9 keeled over at the first sign of trouble when it came to 10 the superinjunction and Trafigura. Parliament's 11 commitment to -- and the same Parliament that tried to 12 get -- to change freedom of information to prevent the 13 exposure of MPs' expenses -- the default position, while 14 there are many, many honourable exceptions who we work 15 with and who we respect, and while we completely 16 understand the competing pressures, the record of 17 Parliament in navigating a course towards better 18 accountability and better transparency is very poor 19 indeed.</p> <p>20 Q. Fair enough. The next theme is privacy, 54667. At 21 54669 -- well, let me go over the points you make, 22 Mr Kampfner, at 54667 first.</p> <p>23 The first point you make is that you feel that 24 Article 8 of the Convention has been overinterpreted, is 25 that right, to yield a chilling effect?</p> <p style="text-align: center;">Page 33</p>	<p>1 stifling a significant amount of investigative 2 journalism.</p> <p>3 Could I seek to put the point in this way, perhaps: 4 that particularly in privacy cases, genie out of the 5 bottle argument, the harm is done, one could say prior 6 notification should be the general rule, but that would 7 always leave open the possibility for exceptions. One 8 such exemption might be precisely the sort of case 9 you're addressing at the bottom of 54668, where there's 10 concern that an injunction would be improperly gained on 11 imperfect information, causing lasting harm. Would you 12 agree with that formulation?</p> <p>13 MR KAMPFNER: Yes, I would. I would also point you back to 14 Ian Hislop's testimony of a week or two ago, where he 15 talked about injunctions simply being used to stop 16 coverage in perpetuity of issues.</p> <p>17 LORD JUSTICE LEVESON: That's a slightly different point, 18 though, isn't it, because that goes to the speed and 19 efficacy of a remedy, which I've been trying to address 20 with a number of people, as I'm sure you're aware. What 21 I think we're focusing on at the moment is the 22 substantive position. How you then solve a problem and 23 how you cope with trying to resolve the issue between 24 the two competing parties and the speed that you can do 25 that is a slightly separate point, but there is</p> <p style="text-align: center;">Page 35</p>
<p>1 MR KAMPFNER: It has been, from time to time, a bit like 2 Churchill and democracy. I can't think of a better way 3 of dealing with the issue than leaving it to the 4 discretion of judges, and as with any judgment, one can 5 always argue the toss and agree or disagree with those 6 final decisions.</p> <p>7 We do -- I think the -- some of the main problems 8 arose from the Fontaniva(?) case, where it was -- 9 broadly, the continental view of privacy, which is 10 pretty much everything is private unless we seek to make 11 it otherwise, began to seep in from that judgment, which 12 we regarded as wrong and dangerous.</p> <p>13 However, subsequently, in any of the many cases 14 involving footballers or others in the public eye, these 15 are difficult issues and there does need to be a public 16 interest -- a strong public interest defence. One could 17 literally go case by case through them and say: yes, no, 18 yes, no or possibly.</p> <p>19 We would very much assume a public interest unless 20 there is a convincing argument that there isn't, and 21 certainly the public realm is a public place.</p> <p>22 Q. Yes. Thank you. That moves to the next point, 23 Mr Kampfner. Prior notification, bottom of 54668. You 24 address Mr Mosley's evidence and make the point that in 25 your view prior notification could lead to injunctions</p> <p style="text-align: center;">Page 34</p>	<p>1 a fundamental issue, isn't there, namely whether it is 2 ever right to permit a story to be published without 3 giving a right of reply -- and I understand your answer 4 to that, or prior notification -- and if it isn't, then 5 how you couch the way in which you put the requirement 6 to ensure that sensible decisions are made in individual 7 cases which are then testable quickly. But the 8 "quickly" bit is a slightly separate point, isn't it?</p> <p>9 MR KAMPFNER: Point absolutely taken, sir. I mean, what I 10 would say -- two things. One is a practical, one is a 11 broad one. There is already, correct me if I'm wrong, 12 an assumption of a requirement in good journalism to 13 test your story or test your supposition against the 14 person about whom you are writing in any Reynolds 15 defence, which is broader than simply in cases of libel. 16 It is obviously good journalism, if I'm writing about 17 someone, to get their point of view before you write it. 18 But there may well be cases when, for absolutely 19 legitimate journalistic reasons, you cannot and should 20 not do that. If you're exposing corruption and you know 21 they are going to slap a story -- I mean, what sometimes 22 happened in politics -- and again, it may not happen 23 now, I'm not qualified to judge -- was you go back to 24 a spin doctor or a minister and say, "I understand this 25 and this and this is happening", and they'll just go and</p> <p style="text-align: center;">Page 36</p>

<p>1 give the story to a rival just to spike your gun. So                  2 there were often non-legal but editorial reasons for not                  3 doing that.                  4 But on prior notification, we just took, as did the                  5 British government, an absolutely strong view in                  6 Strasbourg that prior notification is deeply as                  7 enshrined in statute -- and thankfully the European                  8 Court agreed with us. And they didn't just agree with                  9 us; they agreed with us vehemently. Their judgment was                  10 unequivocal on that.                  11 You just need to read, as we have written,                  12 a number -- those countries that currently require prior                  13 notification in statute: Albania, Azerbaijan, Latvia,                  14 Lithiania, Moldova, Poland, Russia and Ukraine. These                  15 are not paragons of free expression.                  16 MR JAY: Yes, but is that a fair argument? There may be                  17 other problems with their press regulation systems --                  18 MR KAMPFNER: Many indeed, yes. No, but I think by way of                  19 example, at least in part --                  20 Q. You say the United Kingdom shouldn't be added to that                  21 list.                  22 Mr Heawood, do you have a separate angle on prior                  23 notification or do you endorse what we've just heard?                  24 MR HEAWOOD: Yeah, I completely endorse those points.                  25 I think, just to add a sentence to the point about</p> <p style="text-align: center;">Page 37</p>	<p>1 issue about these various speech laws in general,                  2 whether it's libel or privacy, that we seem to treat the                  3 harm that is done so much more seriously than we do the                  4 harm of someone losing a limb. Personal injury cases,                  5 the redress that's available to someone who may b                  6 permanently incapacitated is often rather less than the                  7 redress that we seem to be thinking should be available                  8 to people whose --                  9 LORD JUSTICE LEVESON: I don't think the privacy awards have                  10 matched the type of sums that we've been reading about                  11 in the press recently agreed. Those agreements might be                  12 for all sorts of reasons. If you want to debate the                  13 size of awards in personal injury cases, that's                  14 something which I'm very happy to talk about, but I'm                  15 not sure how helpful it is, because there are different                  16 features that come into play.                  17 MR HEAWOOD: I take the point, but I think taken as a whole,                  18 the cost of defending a libel or defending an                  19 injunction -- an application for an injunction is so                  20 great that it does have a potentially chilling effect,                  21 which we make talk about when we talk about costs.                  22 MR JAY: Before I deal with the issue --                  23 LORD JUSTICE LEVESON: Part of it, then -- both of you, it's                  24 not so much the substantive law that you challenge,                  25 although in some regards you do; it's the ability to get</p> <p style="text-align: center;">Page 39</p>
<p>1 accuracy. I think in a libel case the wrong is that the                  2 information is false and damaging. In a privacy case,                  3 we're simply talking about an unjustified intrusion into                  4 someone's private, virtual or physical space. In libel,                  5 if you're talking fundamentally about accuracy, then                  6 there may be a greater responsibility on the journalist                  7 to check out the accuracy of the story and therefore the                  8 Reynolds steps, as they currently exist, do require                  9 journalist to notify the subject of the story in                  10 advance.                  11 I think in privacy, if for some reason it's                  12 absolutely clear that the information is accurate,                  13 I think it is worrying to then impose this prior                  14 notification requirement because you are essentially                  15 asking the subject to snap an injunction on publication.                  16 Q. Isn't that slightly anomalous, though, that in libel the                  17 wrong, if there is a wrong, can be corrected by a public                  18 announcement of the court and a payment of damages and                  19 the public understands that a wrong has been righted,                  20 but in privacy, the complaint, of course, can be                  21 100 per cent accurate, but the damage, the intrusion of                  22 privacy, is permanent, which is an argument, of course,                  23 in favour of prior notification. Is that not a possible                  24 analysis?                  25 MR HEAWOOD: It is, but it seems to bring up a rather odd</p> <p style="text-align: center;">Page 38</p>	<p>1 a remedy and the cost of sorting it out?                  2 MR HEAWOOD: In part, but I think also to clarify, in libel                  3 prior notification isn't an absolute requirement. It                  4 may be a requirement as part of a series of hurdles in                  5 the Reynolds defence on a public interest issue, where                  6 a libel -- a publication may be largely accurate but                  7 there is some inaccuracy in the mix. I think what                  8 Max Mosley and others have called for is an absolute                  9 requirement for privacy, which I think is problematic.                  10 MR JAY: We understand a possible room for a more nuanced                  11 position, that there's a general rule with exception to                  12 that rule.                  13 MR HEAWOOD: Potentially, and that may be slightly more                  14 desirable if it was written into code rather than into                  15 statute.                  16 MR KAMPFNER: And again, it would come into the points I'd                  17 like to make at the appropriate time on editor                  18 management and corporate governance.                  19 MR JAY: We're soon going to come to those points, but just                  20 an insight, Mr Kampfner, that the two international                  21 European examples you provide us with, 54672, the French                  22 privacy example and then the Hungarian experience -- can                  23 we try and summarise the position thus in relation to                  24 France, because you're the first witness, I think, who's                  25 given us an insight into this. Under article 9 of the</p> <p style="text-align: center;">Page 40</p>

<p>1 Civil Code, which was introduced by amendment in 1970, 2 there is a general right to privacy. That's just one 3 sentence in the code and the courts have interpreted 4 that, particularly the higher courts in France, quite 5 restrictively. You require a good and solid 6 justification to breach that right and you give us an 7 example of the Meteron(?) secret diaries case; is that 8 correct?</p> <p>9 MR KAMPFNER: Correct, sir. It is within the same -- 10 originally, citing Article 8, in other words the same 11 body of law that operates now in the British 12 jurisdiction. However, the codification into the French 13 constitution as a constitutional right gives it further 14 strength. It is a very -- which partly goes to the 15 French approach to privacy and the private life, but it 16 is a broader one about the ownership of the public space 17 and the ownership of image.</p> <p>18 Here is an example: a French TV crew wanting to do 19 a GV, a generally view shot of a beach, talking about 20 exceptional weather at a particular time, cannot 21 identify a single person on the beach because each 22 person lying on the beach owns their only image and 23 could sue, and so therefore pictures are blurred. It is 24 an absolute view. It is sort of the Hanover decision on 25 speed. It is absolutely a view that the public realm is</p> <p style="text-align: center;">Page 41</p>	<p>1 and other courts are being similarly deprived of their 2 independence -- some of the -- many of the provisions in 3 the media law are seemingly innocuous and mainstream. 4 Co-regulation, licensing, fining, et cetera. If you 5 looked at them on a piece of paper, a lot of these laws, 6 you would say, "What's the problem with that?" Several 7 witnesses have come to this Inquiry and advocated 8 similar such measures, and of course the British 9 heritage and British jurisdiction is different, but it 10 is a case of "be careful what you wish for" because this 11 has led to owners -- because they are part of this 12 internal coregulation under statute provision, they're 13 frightened stiff of any form of journalism that would 14 lead the new adjudicator to deem them not to be fit and 15 proper, and we have cases -- and we can bring you more, 16 as any other organisation in this field can -- of 17 self-censorship and of outright censorship, even in the 18 12 months that this law has been in existence.</p> <p>19 Q. Thank you. I'm going to move on now to the issue of 20 regulation, which subdivides internal and then external 21 regulation. Mr Heawood first. This is 53772, internal 22 regulation.</p> <p>23 The basic themes may be these: the need for clear 24 lines of responsibility, the need for audit trails and 25 the need for sound governance. Mr Heawood, in your own</p> <p style="text-align: center;">Page 43</p>
<p>1 private unless any individual wishes their movement in 2 the public realm to be identified and commented upon. 3 It's, in our view, an unhappy place to be.</p> <p>4 Q. Conceptually?</p> <p>5 MR KAMPFNER: Yes. In many cases, French beaches are very 6 happy places to be.</p> <p>7 Q. The Hungarian example -- can we deal with this shortly 8 because we won't, with respect to Hungary, necessarily 9 be looking for detailed lessons from Hungary, but the 10 problem, as you see it, Mr Kampfner?</p> <p>11 MR KAMPFNER: I would also, Mr Jay, say that Hungary isn't 12 a far flung place about which we know little and care 13 even less. It is now an integral member of the European 14 Union, the European Commission and the European 15 Parliament. The European Parliament, along with the 16 White House, the OSCE and pretty much every 17 UN commission under human rights -- pretty much everyone 18 condemned or criticised the media law both in its 19 substance and its tone, and the European Commission was 20 -- got one or two minor changes but was pretty powerless 21 to act.</p> <p>22 The points where I think it is salient for this 23 Inquiry to remember is that while the prime minister of 24 Hungary, Viktor Orban, seems to have some difficulties 25 with democracy at the moment -- the constitutional court</p> <p style="text-align: center;">Page 42</p>	<p>1 words, how would you develop those issues? What are you 2 looking for, please?</p> <p>3 MR HEAWOOD: I think those are points that are taken from 4 the Index on Censorship submission. I'm happy to expand 5 on those. I think one of the greatest innovations that 6 we currently have in the press is the internal 7 ombudsman, the readers' editor, which the Guardian and 8 the Observer have blazed a trail in appointing, but it's 9 an internationally recognised model, and I would 10 certainly be interested in a regulator which obliged 11 members of that regulator to have an internal ombudsman 12 as a first port of call. I think the vast majority of 13 complaints can be resolved very quickly and effectively 14 if there is someone inside the newspaper who is able to 15 resolve complaints but is editorially and commercially 16 independent, and I think that independence is something 17 to be cherished. It's unusual at the Guardian and the 18 Observer because of the nature of their ownership by the 19 Scott Trust, but I certainly see no reason why other 20 newspapers couldn't be obliged to have a similar 21 function in-house.</p> <p>22 Q. Thank you. Mr Kampfner?</p> <p>23 MR KAMPFNER: I completely endorse that point.</p> <p>24 More broadly, we see a strong independent framework 25 of self-regulation where the regulator does the</p> <p style="text-align: center;">Page 44</p>

11 (Pages 41 to 44)

<p>1 complaint mediation work that it does now, that it                  2 strongly facilitates ADR in -- alternative dispute                  3 resolution in its many manifestations -- and I think                  4 that's a very important carrot to membership, that where                  5 you are a member, you will have the facilities and the                  6 means -- it's not the only means, but very good means --                  7 to seek resolution where resolution is required.                  8 The regulator should have a very strong standards                  9 arm to it, where it should be seen to be at one arm                  10 removed but at the same time consistently to be looking                  11 at the standards of newspaper behaviour, twice yearly                  12 meetings with editors and others important in that media                  13 organisation.                  14 So we see a strong regulator -- the code needs some                  15 tweaking, but it's fundamentally a good code. We think                  16 there should be far stronger lines between the funding                  17 arm of the regulator and its operations. We -- it's my                  18 view that serving editors -- even if they recuse                  19 themselves from individual decisions, I just think it                  20 diminishes from the sense of transparency and of                  21 disinterest in outcomes, and so serving editors should                  22 not be part of that, but --                  23 LORD JUSTICE LEVESON: It undermines the trust of those who                  24 might complain.                  25 MR KAMPFNER: Correct. You do, however, because of the</p> <p style="text-align: center;">Page 45</p>	<p>1 back, get stronger information, come back."                  2 So the story -- fast-forward. The story is strong,                  3 the news editor is prepared to back it. The news editor                  4 talks to the editor with the reporter present, really                  5 cross-questions the reporter. "Are you sure about it",                  6 et cetera. So you get to a point where the editor is                  7 satisfied beyond reasonable doubt. He or she is going                  8 to take a risk on this story, a reputational risk on                  9 this story.                  10 That editor should then go to the managing editor,                  11 or their publisher if it's a magazine, and say, "I'm not                  12 going to give you the details because it's my                  13 responsibility but I'm going to sanction an operation,                  14 to coin a phrase, in which we're going to use                  15 potentially the following methods to get a story which                  16 we're strongly of the view is in the public interest."                  17 Another conversation: "Are you sure, are you sure",                  18 et cetera. You have that conversation, and the managing                  19 editor says, "Fine, it's your call, completely support                  20 what you're doing. Go ahead with that."                  21 The story may come to nothing. The story may be                  22 a fabulous story, and so the concerns fall away because                  23 of the public interest test, or it may go badly wrong                  24 and there are then problems then ensue.                  25 The quarterly board meetings of the news</p> <p style="text-align: center;">Page 47</p>
<p>1 fast-changing nature of the media, particularly now in                  2 the digital age, you do need -- I think if you're                  3 a former editor 20 years ago, you're probably not in                  4 touch with the immediacy and the changes that are                  5 happening exponentially in the news media and                  6 particularly the challenges of the Internet newspapers.                  7 If we think it's bad now, newspapers used to wait until                  8 the following morning to put something out. Now they                  9 put it out at 4 o'clock in the afternoon or whenever                  10 they get it, so the challenges are greater than they                  11 were.                  12 One area I would like to stress -- and I hope this                  13 is the right place to do so -- is editorial management,                  14 corporate responsibility, corporate governance. Just                  15 imagine the following scenario: a reporter on the news                  16 desk has got wind of a very good story, talks to the                  17 news editor about it. It will involve, perhaps, any of                  18 the areas we highlight: phone hacking, paying sources                  19 for information, stealing documents, forging documents,                  20 impersonation, blagging, secret recording, secret                  21 filming, et cetera. It could potentially involve any of                  22 those. So in other words, we're in difficult terrain.                  23 The news editor has a private conversation, thinks:                  24 "Well, actually this is pretty flaky. Who is your                  25 source? This may just be somebody with a grievance. Go</p> <p style="text-align: center;">Page 46</p>	<p>1 organisation could and should have an agenda item on                  2 standards and practices: "So, in the last quarter, how                  3 many potentially underhand operations did you do?"                  4 "Well, we did eight." "Okay, don't tell us the details.                  5 We don't need to join those two sets of dots. How did                  6 they go? Were you satisfied with the process?"                  7 And then you add into that a role for the regulator                  8 to discuss -- again, without joining the dots, without                  9 compromising sources -- and you have a robust internal                  10 mechanism that ultimately comes down to the directors of                  11 that news organisation. There is a massive                  12 self-interest for them, as News International and News                  13 Corporation directors are now finding to their cost.                  14 Where you don't apply procedure editorial standards --                  15 the "I was in Tuscany" excuse, "I didn't know about it,                  16 I didn't know who the bloke in the dirty mac in the                  17 corner was", is just no excuse.                  18 The buck does stop with the editor and not knowing                  19 is not an excuse and it's an issue of corporate                  20 self-interest to make sure that procedures are good.                  21 But where done properly, this will not in any way chill                  22 free speech. I think it will be great for newspapers to                  23 say, "We did 37 investigations last year. They involved                  24 the following methods, and we're proud of each and every                  25 one of them."</p> <p style="text-align: center;">Page 48</p>

<p>1 I think that will be greatly enhancing for a news 2 organisation.</p> <p>3 Q. Mr Heawood, I imagine you endorse all of that?</p> <p>4 MR HEAWOOD: Yes, nothing to add to that.</p> <p>5 Q. Just picking up a number of themes from Mr Kampfner's 6 submission on external regulation. First, you say that 7 the regulator should be an authority on the big issues 8 of the day. What do you mean by that?</p> <p>9 MR KAMPFNER: Where there -- we're constantly, in the media, 10 in the broader sense of media, coming up against all 11 these dilemmas of data, of the other sense of privacy, 12 which is corporations and search engines and others, and 13 ISPs holding information about individuals, the 14 Wikileaks case. All kinds of issues flying around. The 15 regulator/ombudsman should be somebody who has a voice 16 and who helps -- who contributes to the public discourse 17 on really thorny issues.</p> <p>18 Q. May I move to a related matter, the issue of statutory 19 regulation, which I know, Mr Kampfner, you oppose, and 20 is this right, Mr Heawood, you adopt a similar position 21 on? Or position to?</p> <p>22 MR HEAWOOD: Yes, yes, very clear position. Clearly opposed 23 to statutory regulation.</p> <p>24 I think also -- thank you -- this holy grail has 25 appeared of co-regulation, this term which is now used</p> <p style="text-align: center;">Page 49</p>	<p>1 problem of some publishers who choose not to opt in, but 2 are still subject to the law of the land -- this is why 3 I reiterate that it's crucial to get the law of the land 4 right and to facilitate access to justice. I think 5 ultimately that's preferable and then to be a member and 6 subscriber to that code becomes a badge of honour for 7 the publications which are involved and you may wish to 8 incentivise membership in various ways and compliance 9 with the code may, as now, be recognised by the courts 10 as one of the incentives for membership and compliance.</p> <p>11 I may have missed something but I haven't yet seen 12 a model which somehow charts a magical course between 13 those routes and somehow manages to get the best of 14 both. I'm not sure that it exists.</p> <p>15 MR BARR: Before I suggest such a model, Mr Kampfner, are 16 you broadly in agreement with what you've just heard?</p> <p>17 MR KAMPFNER: We see no need in a robust environment for any 18 statutory element to regulation, where there is, as I've 19 outlined, I hope, strong editorial practice, where there 20 is a good code and there is robust self-regulation as 21 set out in this form or in variance of that. We believe 22 that that will suffice in improving standards.</p> <p>23 LORD JUSTICE LEVESON: But it hasn't to date. One can look 24 at history, as you probably heard me say over the years, 25 over the weeks --</p> <p style="text-align: center;">Page 51</p>
<p>1 as if it's a kind of magical third way between the rock 2 and the hard place of statutory or self-regulation, and 3 every example of co-regulation that I've seen so far 4 seems to be a veiled form of statutory regulation, 5 insofar as it usually provides that somewhere in the 6 process an elected politician has the capacity to exert 7 some influence over the decisions or the composition of 8 a press council or a press commission.</p> <p>9 LORD JUSTICE LEVESON: But it's not difficult to remove the 10 scope of politicians. It's really a more fundamental 11 question than that which I'd be grateful for your 12 assistance on, which concerns the way in which you 13 ensure that common standards are commonly applied across 14 everyone.</p> <p>15 MR HEAWOOD: I'm not sure who that "everyone" is. I think 16 this is one of the problems -- I think -- this is why 17 I mean it's a rock and a hard place. I don't think 18 there's a magical way between them. You may ultimately 19 have to choose the rock or the hard place, and if the 20 rock is statutory, where you do have that capacity for 21 political oversight, and the hard place is self, where 22 it is independent but there are flaws with that, I think 23 one would prefer to go down the self-regulatory route, 24 where it's essentially an opt-in, contractual model 25 where you may still encounter, as it were, the Desmond</p> <p style="text-align: center;">Page 50</p>	<p>1 MR KAMPFNER: It probably feels like years.</p> <p>2 LORD JUSTICE LEVESON: There is some calamity, something 3 must be done, there's a commission or a report, 4 recommendations are made. Your predecessors said, "We 5 must be self-regulated and that's the route" and then, 6 two years on, there's something else. Now we must do 7 something -- no, one last chance, whatever you want to 8 call it, and over the last 20 years there have been 9 examples. I'm very sympathetic to a great deal of what 10 you say, but when you assert, as you say, that that will 11 suffice in improving standards, I'm not sure of your 12 evidence base for that assertion.</p> <p>13 MR KAMPFNER: I'm not sure -- I accept what you say, sir, in 14 that it's a prediction more than anything else. The 15 dangers -- I hope I have given a reasonable fist of 16 drawing upon the dangers of statutory elements to 17 regulation around the world. I hope I have pointed out 18 that we don't lack for laws where it comes to dealing 19 with areas of wrongful behaviour. We have a reasonable 20 code. Nobody in their right mind would argue that the 21 PCC, whatever the reasons for that, has not -- nobody 22 could remotely sympathise or even seek to explain its 23 actions in the early part of the Milly Dowler case, in 24 the McCanns' case. I was just as touched and horrified 25 by the examples set out to you and the Inquiry in the</p> <p style="text-align: center;">Page 52</p>

<p>1 first three or four weeks of evidence.                  2 But I would simply argue that yes, there have been                  3 many last-chance saloons before, but with the right                  4 robust and considerable changes -- I've outlined some                  5 and you've had many other witnesses who better than me                  6 have outlined others -- a strong system of                  7 self-regulation -- you could have the ombudsman or the                  8 chair of the new regulator reporting to the DCMS Select                  9 Committee on the -- not on the individual judgments but                  10 on the general performance mechanisms of the regulator                  11 once a year. You can have all kinds of areas where, at                  12 every level, the behaviour, the standards and the                  13 compliance is rigorously monitored. I just -- and                  14 I think advocates of freedom of expression, mindful of                  15 foreign precedents and mindful of the weaknesses of the                  16 media, would just resist strongly and urge you not to go                  17 down the statutory route.                  18 MR JAY: ADR, please, finally. 53722, Mr Heawood. 54675,                  19 Mr Kampfner.                  20 Mr Heawood, first of all, identify the key features                  21 of the ADR scheme you have in mind, please.                  22 MR HEAWOOD: So we're talking about alternative dispute                  23 resolution. Again, it returns to my central point that                  24 the underlying law has to be right and it has to be                  25 accessible. So when you look at libel -- and many of</p> <p style="text-align: center;">Page 53</p>	<p>1 try to find some sort of settlement, but in most cases                  2 there should be a heavy incentive to go down those                  3 routes, which would be recognised by the courts in the                  4 costs awards --                  5 LORD JUSTICE LEVESON: Of course there's a snag there that                  6 we discussed with Mr Barber, that those of very great                  7 wealth might be perfectly prepared to use the very                  8 expensive court route itself to effectively squash the                  9 expression that you wish to preserve, and if it's                  10 voluntary, then nothing can be done to stop that.                  11 MR HEAWOOD: You mean they will refuse to mediate and will                  12 say, "See you why court"? Well, quite, and this is                  13 a problem that we have wrestled with considerably, but                  14 problems have been put to us around Article 6 rights of                  15 access to justice. If you're suggesting that some                  16 private body which offers mediation or arbitration                  17 services could replace the courts --                  18 LORD JUSTICE LEVESON: No, you can't, because of Article 6                  19 MR HEAWOOD: Quite.                  20 LORD JUSTICE LEVESON: That's right. Therefore, if there is                  21 such a mechanism, it has to be provided by law. Now, it                  22 might not work and the victims might not like that, but                  23 it's just the other side of the coin.                  24 MR HEAWOOD: If I can just make one final point there. To                  25 that extent, we have then looked down the Tribunal</p> <p style="text-align: center;">Page 55</p>
<p>1 the cases -- many of the more egregious cases that have                  2 come up in the course of the Inquiry are actually libel                  3 cases, although it's not within the terms of reference                  4 of the Inquiry as such -- what we are very concerned                  5 about is that libel doesn't currently work for either                  6 party. It doesn't seem to prevent some of those really                  7 grotesque attacks on individuals' reputation, but at the                  8 same time, it is being used very effectively to silence                  9 all kind of publishers, NGOs, scientists, researchers,                  10 academics, book publishers, authors, historians                  11 et cetera, who don't have the resource to fight those                  12 cases.                  13 So in order to get resolution for both parties we                  14 have found, in our research, that mediation is actually                  15 phenomenally surprisingly successful in more than                  16 90 per cent of cases where it's been used. Early                  17 neutral evaluation has been used less but it does -- in                  18 the cases where it has been used, it has been                  19 equivalently successful.                  20 So what we are recommending through our alternative                  21 libel project is that those options should be made not                  22 mandatory -- because there are some problems attached to                  23 making forms of ADR mandatory and in some cases it may                  24 be inappropriate. The rights and wrongs may be so black                  25 and white that actually it's a waste of people's time to</p> <p style="text-align: center;">Page 54</p>	<p>1 route. Many people are talking about: can you not have                  2 a libel tribunal, perhaps a broader press tribunal that                  3 sat within the courts and tribunals service? I think                  4 unless that tribunal came with quite severe cost capping                  5 and other ways of limiting the ability for size of                  6 chequebook to determine the amount of time spent, I'm                  7 not sure it offers significant advantages, really, over                  8 the High Court.                  9 LORD JUSTICE LEVESON: I understand.                  10 MR KAMPFNER: We would like, sir, to jointly submit in due                  11 course the full report that we're doing jointly on                  12 alternative dispute resolution and currently we expect                  13 it to be published in March, and we've done a draft of                  14 it, which I trust you received. We have an advisory                  15 committee involving a number of lawyers chaired by                  16 Sir Stephen Sedley, and we hope it will be a valuable                  17 contribution.                  18 It's our view that judges could take cognisance of                  19 the willingness or otherwise of parties to engage in any                  20 of the several potential fora for -- or mechanisms for                  21 dispute, but they're not obliged to.                  22 LORD JUSTICE LEVESON: I'll be very interested to see what                  23 Sir Stephen, who has a great deal of experience in this                  24 area, and his team have to suggest finally, and of                  25 course there will be an opportunity for that to be</p> <p style="text-align: center;">Page 56</p>

<p>1 presented and discussed. But once one seeks to permit 2 judges to take account of this feature or that future, 3 there has to be some jurisdictional basis for them so to 4 do. There has to be something that says, "You can take 5 this into account", otherwise judges are acting outwith 6 the law, and whatever we do and however well we do it or 7 we don't do it, we try to do it consistently with our 8 obligations to respect the law, whether it be a statute 9 or common law.</p> <p>10 MR KAMPFNER: It's your area and not ours, but is there not 11 already a de facto recognition of some element of 12 prejudicial activity in terms of early determination of 13 meaning?</p> <p>14 LORD JUSTICE LEVESON: Well, yes, but that's because there's 15 a decision that that's what's been ordered should happen 16 in this particular case. Anyway.</p> <p>17 MR JAY: I have about three minutes left. Mr Kampfner, 18 Mr Heawood, are there any points you feel we haven't 19 covered or you haven't covered adequately which you wish 20 now to draw to our attentions?</p> <p>21 LORD JUSTICE LEVESON: Your statements, of course, are part 22 of the record and I've read them both carefully, but I'm 23 very keen that you do have the chance to say any extra 24 if you want to.</p> <p>25 MR KAMPFNER: I would like to conclude on a very specific</p> <p style="text-align: center;">Page 57</p>	<p>1 sensible libel reform and we are very keen to see that 2 completed.</p> <p>3 Just one very small point about the chilling effect. 4 Sometimes people talk about the "chilling effect" of law 5 or regulation as if it's desirable, as if it's necessary 6 there should be a deterrent. Now, obviously law serves 7 a deterrent purpose but the chilling effect is something 8 quite different. The chilling effect of a bad law or 9 a law which is badly applied or inaccessible is that 10 certain subjects simply go unreported. So in libel 11 we've had evidence from publishers that a majority of 12 publishers will now not touch certain individuals. They 13 won't commission books or biographies about them because 14 they're so litigious that they know they might be 15 financially destroyed if they did so.</p> <p>16 So I think we need to be very careful about the nature 17 of the chilling effect and to make sure that the law is 18 right, that it's accessible either through a regulator 19 or through the courts in the best form. But essentially 20 just to say thank you very much for being here, for 21 letting us come.</p> <p>22 MR JAY: Thank you both very much.</p> <p>23 LORD JUSTICE LEVESON: Thank you.</p> <p>24 I would be grateful, if you can spare the time, if 25 you would stay and listen to some of the other interest</p> <p style="text-align: center;">Page 59</p>
<p>1 point that is absolutely, in our view, fundamental to 2 freedom of expression in the UK, and I said it -- 3 I alluded to it in my seminar presentation but I want 4 very much -- and I said it this morning in the Times -- 5 to exhort you and the Inquiry to make it clear, where 6 clarity is required, because the decisions are being 7 taken in coming weeks, that libel -- substantive reform 8 of libel through the final defamation bill should not be 9 held up pending resolution of all the many issues that 10 you are wrestling with. You will be reporting in the 11 autumn. Where there are measures that need to follow, 12 that will take another many months, and if libel, which 13 is there -- it's pretty much there. Pretty much 14 consensus has been reached through the joint committee 15 of the Lords in Commons on the substantive issue. It's 16 ready on the stocks. It's a fast bill. We've had 17 prelegislative scrutiny and I think it would be 18 a tragedy if inadvertently, of course, this -- the 19 ongoing work of this Inquiry delayed the insertion of 20 libel into the Queen's speech in May.</p> <p>21 So anything you might wish to say or do now or at an 22 appropriate point, we would be very grateful on that 23 score.</p> <p>24 MR HEAWOOD: I'd obviously completely endorse that. We 25 spent several years of our lives trying to achieve</p> <p style="text-align: center;">Page 58</p>	<p>1 groups that are coming to give evidence today, which 2 have different concerns, which it seems to me may impact 3 on some of the nuanced discussion surrounding the very 4 big issues that you've spoken about.</p> <p>5 MR HEAWOOD: I agree, and I've read their submissions with 6 great interest. As far as possible, we'll stay for part 7 of the day.</p> <p>8 MR KAMPFNER: I was wondering, sir, whether you were 9 possibly on the point of saying something about libel 10 and then you didn't. Did we stop you in your prime?</p> <p>11 LORD JUSTICE LEVESON: No. It's quite difficult to do that 12 with me. What I decided to do -- and I will tell you 13 exactly what I've decided to do -- is to look rather 14 carefully at what has been happening. I have not 15 studied the legislative pre-scrutiny. I don't know 16 precisely what the provisions proposed are. I've not 17 seen precisely how they fit in to my terms of reference. 18 But what I will do is I will do that, particularly if 19 you have any material that will help me do it, and 20 I will then make the position clear.</p> <p>21 I would be very surprised if anything that I was 22 doing should prevent legislation being proposed and 23 advanced because libel is not specifically within the 24 terms of my reference, but I felt it wrong to shoot from 25 the hip, as it were, in response to your submission,</p> <p style="text-align: center;">Page 60</p>

<p>1 which I've seen before. I would rather make                  2 a considered response. You've seen that during the                  3 course of this Inquiry, periodically I say things at an                  4 unexpected time in an unexpected way. I have very much                  5 your request in mind. I will consider it, but I hope                  6 you will not consider it discourteous if I take just                  7 some moments to think about what I should say and how                  8 I should say it.                  9 MR KAMPFNER: Thank you.                  10 MR HEAWOOD: Thank you.                  11 MR JAY: Thank you. Sir, may we take our break until                  12 quarter to 12?                  13 LORD JUSTICE LEVESON: Certainly.                  14 (11.33 am)                  15 (A short break)                  16 (11.44 am)                  17 MS HEATHER HARVEY (affirmed)                  18 MS ANNA VAN HEESWIJK (affirmed)                  19 MS JACQUI HUNT (affirmed)                  20 MS MARAI LARASI (affirmed)                  21 Questions by MR JAY                  22 MR JAY: I am going to ask each of you respectively, please,                  23 to say who you are and who you represent. First of all,                  24 please, Ms Larasi.                  25 MS LARASI: My name is Marai Larasi. I represent the End                  Page 61</p>	<p>1 MS VAN HEESWIJK: My name is Annie van Heeswijk and I'm the                  2 campaign manager for human rights organisation Object,                  3 which campaigns against the sexual objectification of                  4 women in the media and popular culture.                  5 Q. Thank you. Finally please, Ms Harvey?                  6 MS HARVEY: My name is Heather Harvey and I'm currently the                  7 (inaudible) research and development manager at Eaves.                  8 Eaves is a charity that works on all forms of violence                  9 against women. We have front line support which deals                  10 with cases of violence against women and across all                  11 forms of violence against them and we have a research                  12 and development function, which is the team I'm based                  13 in.                  14 Q. Thank you.                  15 LORD JUSTICE LEVESON: I can see where it says "inaudible"                  16 that even now it's all going too quickly. I appreciate                  17 there's a lot to be said, but I'm very keen to make sure                  18 that I have a full record of what you're all saying.                  19 Before Mr Jay starts, can I thank each one of you                  20 for the submissions you've received, which I've read and                  21 which will form part of the record of this Inquiry. I'm                  22 very grateful to you all for the trouble you've                  23 obviously gone to to put these together.                  24 MR JAY: I'll just identify the submissions and then ask you                  25 each to confirm that this is your evidence to the                  Page 63</p>
<p>1 Violence Against Women coalition. It's a UK-wide                  2 coalition of more than 40 organisations which campaigns                  3 to the government at every level in the UK. We have                  4 part of our work that is focused on preventing violence                  5 against women as well as addressing it and members                  6 include organisations such as Women's Aid and Refuge.                  7 I've worked in the violence against women field for over                  8 17 years, I'm co-chair of this coalition and director of                  9 a national organisation called Imkaan, which works                  10 against violence around black and minority ethnic women                  11 and girls.                  12 LORD JUSTICE LEVESON: Before we start, could I ask, to help                  13 the lady who is trying to record all this -- and                  14 I failed to assist her sufficiently with the last group                  15 of witnesses -- if you'd all speak rather more slowly.                  16 Right.                  17 MR JAY: Thank you. Ms Hunt, please.                  18 MS HUNT: My name is Jacqui Hunt. I'm director of the                  19 London Office of Equality Now, which is an international                  20 human rights charity working to protect and promote the                  21 rights of women around the world. We mobilise                  22 grass-roots action and action of our membership, which                  23 is in now 160 countries, to support the efforts of local                  24 and national groups to promote women's rights.                  25 Q. Thank you.                  Page 62</p>	<p>1 Inquiry. First of all, Ms Larasi, it's a submission                  2 dated January of this year, is that right, and this is                  3 your formal evidence to the Inquiry?                  4 MS LARASI: Yes.                  5 Q. Ms Hunt, 22 December last year and likewise your formal                  6 submission to the Inquiry?                  7 MS HUNT: Yes, it is.                  8 Q. Ms Van Heeswijk, you put in a witness statement                  9 yesterday?                  10 MS VAN HEESWIJK: Yes.                  11 Q. You have updated the submission, so it notionally bears                  12 yesterday's date, and you've also provided us with                  13 a bundle of 20 exhibits which are in a yellow file; is                  14 that right?                  15 MS VAN HEESWIJK: That is correct.                  16 Q. Again, that is your formal submission to the Inquiry.                  17 Finally, Ms Harvey, your submission, 22 December of last                  18 year?                  19 MS HARVEY: Yes.                  20 Q. I'm going to ask each of you, please, to explain                  21 succinctly at this stage why it is that you have sought                  22 to come to this Inquiry and assist the Inquiry with                  23 submissions and evidence. First of all, please,                  24 Ms Larasi.                  25 MS LARASI: So from an evil perspective, the media creates,                  Page 64</p>



<p>1 reflects and enforces attitudes. Those who work in the 2 media should be conscious of this and should actively 3 seek not to reproduce attitudes which condone violence 4 against women and girls. Too often this is done through 5 inaccurate reporting -- for example, on the law on 6 rape -- intrusive reporting on victims and their 7 families and misrepresentation. Example of criminal 8 trials, for example, reporting only the defence 9 perspective.</p> <p>10 Sensationalist selection of violence against women 11 stories -- for example, the Facebook murder -- and the 12 language used can somehow imply that the victim provoked 13 her assault. Supporting experts and court reports 14 reported might, for example, say that a particular crime 15 is cultural or religious and therefore is less serious 16 or somehow inevitable.</p> <p>17 Q. Thank you very much. Now, Ms Hunt, as an encapsulation, 18 please, what is it that prompted you to wish to assist 19 this Inquiry?</p> <p>20 MS HUNT: Just very briefly, international human rights 21 standards require elimination of discrimination against 22 women, including standards that the UK has signed up to, 23 and sexist stereotypes in the media are a form of 24 discrimination against women.</p> <p>25 Q. Thank you. Ms Van Heeswijk, please?</p> <p style="text-align: center;">Page 65</p>	<p>1 strongly support the principle of freedom of expression 2 for the press, but I suppose where we have concerns is 3 that freedom of expression for the press doesn't always 4 tackle exactly what the high ideals of journalism are, 5 as I understand it, about, which is, as others have well 6 put this morning, holding our states to account, holding 7 decision-makers to account, challenging the status quo 8 and the norms of our society, imparting information in 9 a way that is not misrepresenting, in a way that is not 10 misleading, in a way that is accurate, and what we are 11 concerned about is our -- as others have said, our press 12 not only reflects our society but can also create and 13 shape and reinforce standards in our society, and if we 14 do not take into account the existing power and balances 15 that are in our society at the moment, then you can 16 simply replicate discrimination, sexism or a misleading 17 interpretation of what is occurring, and for us, we feel 18 the press has a really vital important role to actually 19 challenge the status quo and the sexism and 20 discrimination in our society and can do that in a way 21 that doesn't actually conflict with the principles of 22 freedom of expression but it requires maybe some 23 tweaking, amendments, some better guidance. So we will 24 be calling for things like better guidelines, some 25 greater involvement of independent parties, greater</p> <p style="text-align: center;">Page 67</p>
<p>1 MS VAN HEESWIJK: Firstly, it's clearly widespread concern 2 about the ever-increasing sexualisation and 3 objectification of women, as highlighted and outlined in 4 the recent government commissioned reviews, the Bailey 5 review and before that, the review into the 6 sexualisation of young people.</p> <p>7 It is clear that the Page 3 tabloids contribute to 8 a culture in which women are perceived as existing for 9 the sole purpose of providing these sex objects or being 10 sex objects, essentially. What is particularly harmful 11 about this is that these images exist within mainstream 12 newspapers, which are not age-restricted and are openly 13 displayed at child's eye level, despite the fact that 14 such material would be prohibited from the workplace -- 15 because of equality legislation it would be considered 16 a form of sexual harassment -- and despite the fact that 17 such sexually objectifying and degrading images would be 18 restricted on broadcast media before the 9 pm watershed.</p> <p>19 So essentially what we are proposing is that there 20 are very simple solutions to tackle the sexualisation 21 and objectification of women in the mainstream Page 3 22 tabloid press.</p> <p>23 Q. Yes, and Ms Harvey, please?</p> <p>24 MS HARVEY: We're very grateful to have the opportunity to 25 contribute. We feel, as others to this Inquiry, that we</p> <p style="text-align: center;">Page 66</p>	<p>1 liaison with groups who deal with equalities-type issues 2 and we think that we can go a long way to actually 3 delivering what the high ideals of journalism are about 4 in a way that is not so harmful as it, we believe, 5 currently can be to women, such as deterring women from 6 bringing forward complaints about rape being just one 7 example which I can talk more to in my submission.</p> <p>8 Q. Before I ask each of you to develop those points, I'm 9 going to look at individual examples which are referred 10 to in your various submissions. I think I'm going to 11 start with Object, Ms Van Heeswijk. This, to make it 12 clear, is a joint submission --</p> <p>13 MS VAN HEESWIJK: It is.</p> <p>14 Q. -- by your self and Turn Your Back On Page 3. The 15 specific examples start at, on the internal numbering, 16 page 6. I'm just going to check whether we've provided 17 updated URN numbers. I'm not sure we have.</p> <p>18 LORD JUSTICE LEVESON: Page 6 of the internal?</p> <p>19 MR JAY: Internal numbering under your tab 3A.</p> <p>20 LORD JUSTICE LEVESON: Yes? Internal page 6, the evidence 21 from the Sun.</p> <p>22 MR JAY: That's right. Because what you've done, is this 23 right, is to start off by taking a week in the life, if 24 that's the right way of putting it, of three tabloid 25 papers and you've looked at a week in mid-November of</p> <p style="text-align: center;">Page 68</p>

<p>1 last year; is that right?</p> <p>2 MS VAN HEESWIJK: That's correct.</p> <p>3 Q. First of all, please, in relation to the Sun, you make</p> <p>4 four general points. The Page 3 girl. Can I ask you,</p> <p>5 please, about the Dear Deirdre column and explain the</p> <p>6 issue in relation to that?</p> <p>7 MS VAN HEESWIJK: Essentially what we're trying to</p> <p>8 illustrate here is the extent to which women are</p> <p>9 persistently and relentlessly portrayed as a sum of</p> <p>10 sexualised body parts within the Page 3 tabloid press.</p> <p>11 I think you will find that there is a sort of gradient</p> <p>12 of extremity running from the Sun to the Daily Star to</p> <p>13 the Sport, which I know I have given copies to</p> <p>14 everybody, but what runs -- the common theme throughout</p> <p>15 this is the Page 3 feature, which is of a topless or</p> <p>16 sometimes fully nude young woman, who is sexualised and</p> <p>17 objectified. It isn't actually restricted only to the</p> <p>18 third page. In the Sport it's on every page, including</p> <p>19 the front page. The same would be the case for the</p> <p>20 Star.</p> <p>21 In the Sun, we have the Page 3 girl. We have the</p> <p>22 Dear Deirdre, which is essentially a daily agony aunt</p> <p>23 and is another staple of the Sun but provides another</p> <p>24 example of always being accompanied by a woman in her</p> <p>25 underwear, essentially, who is sexualised in this way.</p> <p style="text-align: center;">Page 69</p>	<p>1 our tab 6. Is that right?</p> <p>2 MS VAN HEESWIJK: Yes.</p> <p>3 Q. Thank you. Sorry, please continue.</p> <p>4 MS VAN HEESWIJK: So we have the front page of the Sun. We</p> <p>5 have here -- I think it's quite difficult to read but it</p> <p>6 says "Bodyguards for battered Towie sisters".</p> <p>7 Essentially the story is about acts of violence that</p> <p>8 were inflicted upon the Towie sisters and the photograph</p> <p>9 used to accompany that is clearly a sexualised image of</p> <p>10 one of them in her underwear, which we would say</p> <p>11 completely trivialises the acts of violence that she</p> <p>12 was subjected to and sends out a broader message</p> <p>13 essentially of not taking these kinds of violent acts</p> <p>14 seriously.</p> <p>15 Q. I think you wanted to talk about exhibit 10 as well; is</p> <p>16 that right? Another Sun front page?</p> <p>17 MS VAN HEESWIJK: Exhibit 10 is extremely relevant because</p> <p>18 inside the Sun, one of the issues of course is that</p> <p>19 these are mainstream newspapers. They're not</p> <p>20 age-restricted. They're not sold and -- they're not</p> <p>21 displayed on the top shelf. They're readily available</p> <p>22 and completely mainstream, and so within the Sun we have</p> <p>23 also adverts for the porn and sex industry.</p> <p>24 We have the Page 3 staple and we have, on the front</p> <p>25 page here, the Sun offering free toy Lego, which is</p> <p style="text-align: center;">Page 71</p>
<p>1 It's one of the many examples within the Sun of the way</p> <p>2 in which women are portrayed.</p> <p>3 Q. Thank you. So if we look through the Sun examples --</p> <p>4 I'm not going to look at all of them but they're all</p> <p>5 illustrative really of a theme. The first one, Kelly</p> <p>6 Brook, her breasts are described as "Mitchell brothers"</p> <p>7 and we can see the photograph, and your analysis is</p> <p>8 she's essentially reduced to a pair of breasts.</p> <p>9 MS VAN HEESWIJK: I would just like to refer you to the</p> <p>10 exhibits that we have printed, only because I think</p> <p>11 there are some stronger examples within them, because</p> <p>12 we're not going to be able to go through every single</p> <p>13 exhibit in this original submission.</p> <p>14 Q. I'm in your hands. If you feel in relation to the Sun</p> <p>15 there are stronger examples in our yellow file, please</p> <p>16 identify those and we will look at them.</p> <p>17 MS VAN HEESWIJK: Okay. Let's find -- so we have -- for</p> <p>18 example, one of the issues that we have raised is not</p> <p>19 only the way that women are persistently sexualised and</p> <p>20 objectified, but the trivialisation and even sometimes</p> <p>21 sort of eroticisation of the reporting of violence</p> <p>22 against women.</p> <p>23 In the Sun, we have, in exhibit 6, an example of the</p> <p>24 front page --</p> <p>25 Q. Just while we find it, it's exhibit 6A, which is under</p> <p style="text-align: center;">Page 70</p>	<p>1 clearly going to be directed at children, parents buying</p> <p>2 this for children, again despite the fact that the</p> <p>3 images within the Sun would be prohibited from being</p> <p>4 displayed within a workplace, because they would be</p> <p>5 considered a form of sexual harassment for adults. The</p> <p>6 images within the Sun would not be shown before the</p> <p>7 watershed on television and yet they're commonplace</p> <p>8 within an unrestricted newspaper which describes itself</p> <p>9 as a family newspaper.</p> <p>10 Q. Thank you. Any further exhibits? I'm going to deal</p> <p>11 with exhibit 11 separately, because that raises</p> <p>12 a slightly different point, but any of the other</p> <p>13 exhibits in relation to the Sun before we go back to</p> <p>14 your submission?</p> <p>15 MS VAN HEESWIJK: The other thing I would say about the Sun</p> <p>16 is because it has such a huge readership, there's a very</p> <p>17 big issue in relation to even parents and teachers</p> <p>18 trying to regulate this kind of material. So, for</p> <p>19 example, through our work, through Object's work with</p> <p>20 teachers in schools, teachers have often told us about</p> <p>21 their difficulties in relation to this issue because</p> <p>22 clearly they are wanting to encourage their children and</p> <p>23 young people to read the newspapers, to engage with the</p> <p>24 news, to know what's going on in the world. They have</p> <p>25 periods where children are supposed to bring in</p> <p style="text-align: center;">Page 72</p>

<p>1 newspapers, and invariably they bring in the Sun and the 2 Daily Star.</p> <p>3 The reading age of these newspapers are low. 4 They're very easy to read, essentially, and they are 5 going to be attractive to young people to buy, and so 6 teachers find themselves in a situation where they're 7 having to confiscate newspapers from children which the 8 children were free to buy at their local corner shop, at 9 the local supermarket -- of course, a point that the 10 children don't fail to make -- because of the sexualised 11 and degrading images that exist within these newspapers.</p> <p>12 I could refer you to another example of the Sun, 13 which is under Exhibit 15. This is a whole story on one 14 of the Page 3 idols. Interestingly enough, the term 15 "idol" there. Again, what story is this telling to 16 young girls about what they should aspire to, about the 17 stereotypes of femininity that are portrayed to young 18 girls?</p> <p>19 And in particular, I'd like to refer you to the 20 photographs of her again in a bikini at -- as 21 a 14-year-old.</p> <p>22 Q. This is page 4 of 10 at the bottom right.</p> <p>23 MS VAN HEESWIJK: Yes.</p> <p>24 Q. You give other examples in relation to the Sun in your 25 submission. In example 4, page 7, is a fictitious Page 73</p>	<p>1 the Daily Star, since it might be said these are all 2 thematic; in other words, very similar?</p> <p>3 MS VAN HEESWIJK: I think the imagery on the front pages is 4 extremely relevant because, as I've said, these 5 newspapers are displayed at child's eye level in the 6 mainstream. There are some examples of front covers 7 under exhibit 1. One of them is the Daily Star.</p> <p>8 Q. 1B is the Daily Star. We can see the photograph on the 9 left-hand side.</p> <p>10 In terms of the examples you give, you might like to 11 look at example 2, at the bottom of page 11.</p> <p>12 MS VAN HEESWIJK: Mm-hm.</p> <p>13 Q. The use of language and the associated image.</p> <p>14 MS VAN HEESWIJK: I think another point to make here is the 15 assumptions that they make about the presumed male 16 reader. So they say: 17 "We assume you're not even reading this because 18 you're still getting a massive pervy eyeful of that pert 19 ass going up a fake ski slope."</p> <p>20 So even when the image itself is of a woman engaging 21 in an activity, in a sport, skiing, she is still 22 sexualised and reduced to a body part in this example.</p> <p>23 Q. Thank you. We've read some of the other examples, but 24 unless you wish to alight on any specifically, can we 25 move on to the Sport and then the Sunday Sport. Is this Page 75</p>
<p>1 scenario involving Prince Harry and Pippa Middleton, 2 which is self-explanatory, which, as you say, eroticises 3 sexual harassment and portrays Ms Middleton only in 4 relation to her bottom.</p> <p>5 And then example 9 -- I'm only alighting on these 6 randomly -- "How to stop your man having affairs": 7 "Cook dinner in just your lingerie once a week." 8 Could I move on from the Sun to the Daily Star, 9 please, which is page 10 of your submission. There are 10 also examples in the yellow file.</p> <p>11 MS VAN HEESWIJK: Sorry, what is actually up on the screen 12 at the moment is from the Sun, but it is actually 13 another example of trivialising violence against women. 14 It's example 15.</p> <p>15 Q. Thank you. If we go to the Daily Star in the 16 submission -- it's page 11 on the internal numbering. 17 You say at the top of page 11: 18 "In relation to the covers, hyper-sexualised imagery 19 of semi-naked women is commonplace on the front covers 20 of the newspaper. Page 3 'glamour models' extend over 21 several pages." 22 There is a Daily Star forum, which you explain, and 23 then there are various pornographic advertisements. 24 Which of the examples, please, Ms Van Heeswijk, 25 would you like us to look at particularly in relation to Page 74</p>	<p>1 right: there's a mid-week edition of the Sport -- 2 MS VAN HEESWIJK: And a Sunday.</p> <p>3 Q. -- and a Sunday edition. In terms of the front pages, 4 we have the example of a mid-week front page at exhibit 5 1A in the yellow file; is that correct?</p> <p>6 MS VAN HEESWIJK: That is correct.</p> <p>7 Q. A Sunday example, exhibit 3 under our tab 3 in the 8 yellow file?</p> <p>9 MS VAN HEESWIJK: Is that going to be up on the screen? Are 10 we waiting for that to go up?</p> <p>11 Q. I think we should see exhibit 3, please.</p> <p>12 MS VAN HEESWIJK: Yes, I think so too. So I mean, as you 13 can see, in this exhibit the women are completely 14 nameless, headless. It's only focusing on one part of 15 their body, which is extremely objectifying and 16 sexualised, and it's also -- it's very worrying because 17 they're here clearly in a sort of vulnerable position 18 and it's normalising the up-skirt photographs. It's 19 normalising this sort of voyeurism and form of sexual 20 harassment and bullying which we know are of great 21 concern, particularly actually to young girls, young 22 women in schools, who are often subjected to this form 23 of sexual bullying and harassment, especially now with 24 the widespread use of camera phones, and this is a front 25 page photograph. Page 76</p>

19 (Pages 73 to 76)

<p>1 Q. You provided us with a copy of the Sunday Sport last 2 Sunday?</p> <p>3 MS VAN HEESWIJK: Yeah, this is the most recent.</p> <p>4 Q. We can --</p> <p>5 MS VAN HEESWIJK: If you care to look through it, you'll see 6 that sort of every page is just photograph upon 7 photograph of more or less all white women who have 8 been -- and these women are completely sexualised and 9 objectified, degraded, portrayed as sex objects.</p> <p>10 We really have to ask ourselves what kind of a story 11 this tells, especially, I think, to young children, to 12 boys and girls, when they see in mainstream newspapers 13 men in suits, men in sports attire, men as active 14 participants, as subjects, and women as sexualised 15 objects who essentially are naked or nearly naked on, in 16 the case of the Sport, every single page. But it is 17 a common theme throughout the other newspapers as well.</p> <p>18 Q. The last exhibit I'd like you to look at, just to 19 identify it, is exhibit 4. It's a picture of 20 Charlotte Church when I think she was 15. Where is this 21 from, do you know?</p> <p>22 MS VAN HEESWIJK: This is in the Star. I mean, there are 23 many things you could say about this, but essentially 24 it's Charlotte Church at 15. The commentary is 25 important here:</p> <p style="text-align: center;">Page 77</p>	<p>1 LORD JUSTICE LEVESON: Regulating in that regard, you simply 2 meanwhile where the newsagents are required to display 3 them?</p> <p>4 MS VAN HEESWIJK: Sir, if they're classified pornography, 5 then there are age restrictions. There's an issue with 6 lad's mags, which there's only a voluntary code as to 7 the sale and display of.</p> <p>8 LORD JUSTICE LEVESON: That's voluntary, is it?</p> <p>9 MS VAN HEESWIJK: It's completely voluntary, and some 10 supermarkets respect this code and they do -- with lads' 11 mags, they do display them on the top shelf and they 12 cover them, but many don't.</p> <p>13 The issue with these newspapers is they're never 14 displayed on the top shelf. They are completely 15 mainstream and freely available to anybody, and the fact 16 that they exist within a newspaper, I think, lends them 17 a sort of legitimacy and makes this type of portrayal of 18 women seem unquestionable, seem sort of normal and 19 acceptable, essentially.</p> <p>20 Again, this type of material wouldn't pass a test 21 for pre-watershed broadcast media, so again I think that 22 there is an issue there of why it is seen as acceptable 23 for them to exist within print-based media.</p> <p>24 MR JAY: The issue of regulation is one I'm going to come to 25 at the end.</p> <p style="text-align: center;">Page 79</p>
<p>1 "She's a big girl now. Child singing sensation 2 showed just how quickly she's grown up after she turned 3 up at a Hollywood bash looking chest swell."</p> <p>4 Clearly sort of an emphasis on a 15-year-old young 5 woman's breasts, and interestingly enough, that's 6 juxtaposed with this article, which is sort of outrage 7 against a spoof sort of satire around paedophilia. The 8 hypocrisy within these sort of newspapers is often quite 9 evident.</p> <p>10 Q. Can I ask you this general question, if I can seek to 11 put it in these terms. If one were to rename these 12 papers Penthouse, Mayfair or whatever, what is the 13 difference, if any, between a publication which is, if 14 I can put it in these terms, expressively pornographic 15 and the material we've just been looking at? Is there 16 a differences, and if so, what is it?</p> <p>17 MS VAN HEESWIJK: I think you'll find that there isn't 18 a marked difference between the content which exists 19 within these classified pornographic materials and the 20 contents within some of these mainstream Page 3 21 tabloids, so the difference therefore is how they are 22 regulated. One could say that it is actually more 23 harmful to have these images within mainstream 24 newspapers because of the normalising effect that it 25 therefore has and the legitimising effect that it has.</p> <p style="text-align: center;">Page 78</p>	<p>1 MS VAN HEESWIJK: May I make one other point about the 2 exhibits?</p> <p>3 Q. Please.</p> <p>4 MS VAN HEESWIJK: Only because I think it's extremely 5 interesting that when we were sent the submissions -- 6 when the submissions were sent to all of those of us who 7 are giving evidence, the images within our submission 8 were actually censored, and that I find interesting 9 because they were censored for adults within this 10 hearing when in fact they are freely available in 11 mainstream newspapers which are not age-restricted.</p> <p>12 Q. Yes. Thank you.</p> <p>13 May I move to the submission, please, of End 14 Violence Against Women. You give us ten individual 15 cases. There may not be time to address all of them, 16 but I think you did certainly want to speak to the 17 Facebook murder, which is our page 54610. If you could 18 encapsulate the issue there and your concern?</p> <p>19 MS LARASI: So what we have is -- this is a Daily Telegraph 20 story and the way it was reported was "Man murdered wife 21 after she changed Facebook status to single" and the 22 whole tone of the story focuses on she changed her 23 status to simultaneous, you know, their relationship was 24 breaking down, and then he killed her. He was getting 25 more and more depressed, et cetera. From a violence</p> <p style="text-align: center;">Page 80</p>

<p>1 against women and girls perspective, he killed her 2 because he was abusive. He killed her and he killed 3 her. He didn't kill her because she changed her status 4 on Facebook.</p> <p>5 For us, the concern is the focus on her actions, the 6 focus on Facebook trivialises the murder of this woman, 7 and also moves the focus away from this man's violent 8 actions, and so for us it's particularly concerning.</p> <p>9 Responsible journalism for us would look like, you 10 know: "This is how often women are killed, women are 11 murdered twice a week by a current or former partner, 12 over 50 women are killed every week", et cetera, and 13 would contextualise it within a wider violence against 14 women and girls framework, not focus on she changed her 15 Facebook status, and the fact that it became known a 16 Facebook murder is in itself symbolic. It wasn't 17 a Facebook murder. It was a murder of a real woman by 18 her partner.</p> <p>19 Q. It's the singling out, you say, of one adventitious 20 feature without any proper understanding of the overall 21 context; is that right?</p> <p>22 MS LARASI: Absolutely, absolutely.</p> <p>23 Q. The revealing rape victims' identity case, although 24 a serious error, I'm going to pass over because it 25 speaks for itself.</p> <p style="text-align: center;">Page 81</p>	<p>1 We don't know the true circumstances in terms of the 2 conversations that were had, et cetera, but what we do 3 know is there is a context, which is that young women 4 are vulnerable, and what responsible reporting could do 5 is focus on the vulnerability of young women and 6 contextualise it, rather than using terms like "orgy", 7 "Lolita", et cetera, and putting that in the public 8 domain with no regard to the impact this reporting might 9 have on those young women or might have on other young 10 women in a similar situation.</p> <p>11 LORD JUSTICE LEVESON: But even if you're going to put the 12 defence perspective, is there not a further argument 13 that what is critical is also to put the perspective 14 that you've just identified?</p> <p>15 MS LARASI: I'm not quite sure I --</p> <p>16 LORD JUSTICE LEVESON: Well, your complaint is that this 17 story provides a slant and an unbalanced slant.</p> <p>18 MS LARASI: Yes.</p> <p>19 LORD JUSTICE LEVESON: You're not suggesting it should be 20 a slant the other way?</p> <p>21 MS LARASI: No.</p> <p>22 LORD JUSTICE LEVESON: You're merely requiring it to be 23 balanced --</p> <p>24 MS LARASI: Absolutely.</p> <p>25 LORD JUSTICE LEVESON: -- and contextualised?</p> <p style="text-align: center;">Page 83</p>
<p>1 Item 3, please, gang rape of young girls, an "orgy", 2 5462. Your concern there?</p> <p>3 MS LARASI: This was the Daily Mail and is particularly 4 upsetting. The first thing is you put the term "orgy" 5 in something and what you immediately do is you grab 6 people's attention. It becomes titillating. But also 7 we have a situation where two young girls were raped. 8 We're talking about unlawful sex. They were incapable 9 under British law of giving consent.</p> <p>10 What then happens in the story is it completely 11 focuses on their behaviour, their attitudes, what they 12 did, et cetera. So it wasn't just the headline itself; 13 the whole tone of the story really focuses on what those 14 young women did and didn't do, and even went so far 15 as to focus on their parents as opposed to the behaviour 16 of the young men.</p> <p>17 And what we also find is this almost sympathetic 18 approach to these young men. They added that the 19 careers of the promising young footballers had been 20 ruined by the biggest mistakes of their lives. Now, 21 that, yes, is reporting what happened in a court 22 situation but the ways of reporting it so that what 23 you're not doing is actually trivialising or exoticising 24 what happened to -- young women are particularly 25 vulnerable to sexual exploitation and sexual violence.</p> <p style="text-align: center;">Page 82</p>	<p>1 MS LARASI: The way you would in a broadcast context. I'm 2 not saying that you can't have a position where you say, 3 you know: "In court, there was scrutiny of the young 4 girls' behaviour", et cetera. I'm not saying that you 5 couldn't do that, and say that's what happened in court, 6 but I would expect that some scrutiny of the young men's 7 behaviour -- and I would expect it would be reported in 8 a way that was a lot more responsible, that suggested 9 actually young women are vulnerable. So you 10 contextualise the young women's behaviour within the 11 context of young women being vulnerable to sexual 12 exploitation.</p> <p>13 The idea of that -- for example: 14 "The other girl was more reluctant and was raped by 15 just one player."</p> <p>16 I mean, that tone in itself actually indicates that 17 you're not focusing on the young woman's vulnerability 18 and you're not also thinking about -- you know, "just 19 one player"? A rape is a rape, therefore, for that 20 young woman, there's likely to be a whole -- you know, 21 a degree of trauma associated with that experience.</p> <p>22 MR JAY: Your position is not censorship of comment; it is 23 responsible reporting, which requires balanced comment. 24 Is that right?</p> <p>25 MS LARASI: Absolutely, and also seeking out of expertise,</p> <p style="text-align: center;">Page 84</p>

<p>1 of professionals who are able to speak to the issues                  2 that are being reported. So, for example, dialogue with                  3 Rape Crisis as an organisation, you know, could look at                  4 what's the situation around young women. Who's                  5 reporting to you? Are there particular vulnerabilities?                  6 Et cetera. That would be been a much more responsible                  7 way of approaching it.                  8 Q. Item 4, please, 54614. This is racism and misogyny                  9 wrapped up into one. It is a traveller family with 12                  10 children and a particular report in the Sun in February                  11 of last year. What, in essence, in the issue here?                  12 MS LARASI: This is one of those stories where, apart from                  13 promoting racist stereotypes, I'm not actually quite                  14 sure -- and misogynistic position, what interest -- what                  15 this particular story was hoping to do except feed                  16 particular stereotypes.                  17 The family concerned were placed in temporary                  18 accommodation by Harringay local authority during the                  19 broadcast of a really popular Channel 4 showing of My                  20 Big Fat Gypsy Wedding. The woman concerned complained                  21 of being harassed, there were children, her children                  22 were photographed. You know, in my mind, the whole tone                  23 of this is completely irresponsible and I think that's                  24 it. It's completely irresponsible. I'm concerned about                  25 the racism, I'm concerned about the misogyny in the                  Page 85</p>	<p>1 girls rather than on the idea of culture.                  2 One of the things I've noted -- and we haven't given                  3 an example here -- is the frequency with which the focus                  4 is on a Muslim father. You know, a Muslim father did                  5 this, this happened within Muslim families, et cetera.                  6 From our perspective as experts working around violence                  7 against women and girls, we know that this is not                  8 primarily an Islamic issue, we know that this is                  9 happening across a range of communities, and we know                  10 that where culture and religion can be used as vehicles,                  11 ultimately the causes are the same. It's violence                  12 against women and girls. It's patriarchy. Those are                  13 the issues we would ask reporters to focus on and we                  14 would want people to provide a broad perspective, so                  15 speaking to a range of experts as opposed to one                  16 practitioner who may actually have one position, which                  17 is: this it is associated with fundamentalism.                  18 Q. Thank you. The last example I'm going to ask you                  19 specifically to comment on -- of course, the Inquiry has                  20 read the others -- is item 8 at page 54625, which is the                  21 piece based on an unpublished and unfinished MSc                  22 dissertation. This is a Daily Telegraph article,                  23 I think.                  24 MS LARASI: Yes. What's disturbing about this particular                  25 piece is the original press release said "Promiscuous                  Page 87</p>
<p>1 reporting.                  2 Q. Understood. Then I think you cover the issue of                  3 honour-based violence in at least two examples. It's                  4 not so much the examples necessarily as the point you                  5 want to make.                  6 MS LARASI: Yes.                  7 Q. Can you encapsulate, please, for us the essence of that                  8 point?                  9 MS LARASI: So very often practices such as honour-based                  10 violence or forced marriage are reported in the popular                  11 press in gratuitous detail. The language, for example,                  12 is inaccurate, so forced marriage is often referred to                  13 as "arranged marriage", sending the wrong message about                  14 what the issue is.                  15 There's the idea that particular practices are                  16 reported primarily as cultural or as religious rather                  17 than as violence against women and girls, and therefore                  18 are not linked to other forms of violence against women                  19 and girls, which actually serves to exoticise the                  20 violence that particular women are experiencing.                  21 A responsible approach would be to say, "Violence                  22 against women is happening in a range of contexts.                  23 Forced marriage is one element of violence against                  24 women. So is honour-based violence." That way you focus                  25 on the idea of the violence against the women and the                  Page 86</p>	<p>1 men are more likely to rape". The Telegraph reported                  2 the piece as "Women who dress provocatively more likely                  3 to be raped".                  4 My immediate concern is: why would you twist the                  5 piece in that way? What agenda is being served? Rather                  6 than focusing on the actual -- you know, the information                  7 that was in the press release. And so I'd be really                  8 concerned about the reporter's intent, or the editorial                  9 intent around this particular piece, because it's                  10 misrepresenting the information and it's also presenting                  11 an unpublished piece almost as science, as research,                  12 et cetera, that is valid and it's completely twisted and                  13 distorted the original piece, anyway.                  14 Q. I put this point to you only as an idea. Would fair,                  15 responsible and comprehensive reporting about violence                  16 in women seek to bring in a number of strands. The                  17 first strand, not in any particular order, may be human                  18 nature, some men are violent. Another strand may be                  19 cultural, economic, social, religious. Another strand                  20 may be more subtle, the influence of what we read,                  21 press, socio-economic forces. Maybe those are in the                  22 second strand. And what we need is a picture which                  23 embraces all those strands rather than a picture which                  24 seeks to alight on any one of the strands? Is that                  25 right or not?                  Page 88</p>

<p>1 MS LARASI: Absolutely, but there is also -- because the                  2 other side of it is a context where men who commit                  3 violence are excessively demonised in the press and                  4 portrayed as beasts or demons or monsters, and actually                  5 men who commit violence are our fathers or brothers or                  6 sons. They're the men around us, and when you demonise                  7 those particular men in that particular way, what you do                  8 is you actually take it out of the context of normal                  9 society.                  10 When you're talking about one in three women                  11 experiencing violence in her life, we're talking about                  12 huge statistics there. So what we want is for people to                  13 understand that violence against women and girls too                  14 often is very normal. So if you sensationalise it, what                  15 you are likely to do is have people disconnect from it,                  16 have people "other" that violence, and therefore not see                  17 it as something that's related to them. The impact then                  18 on women reporting, if you have this whole exotic or                  19 "other" thing happening, for us is a concern, because if                  20 things are reported badly, then actually how women see                  21 that is, you know: "This isn't me", or: "It's not                  22 necessarily safe for me to report", or: "I might not be                  23 believed", or: "But he wasn't a demon; he was somebody                  24 that was my loving husband and he happened to be really                  25 really violent."                  Page 89</p>	<p>1 in?                  2 It will usually involve asking particular                  3 commentators and maybe politicians, lawyers, academics,                  4 experts, frontline NGO services to come and actually                  5 comment on maybe what happened, why did it happen, is                  6 there anything that we should know more about that might                  7 enable us to prevent this happening in future or take                  8 measures that could minimise the possible likelihood of                  9 harm?                  10 What I'm concerned about -- and I only reference two                  11 cases here, but actually if you take just recently --                  12 over the Christmas period, for instance, I think                  13 probably most of us were struck by the fact that there                  14 were about four instances of a man murdering his wife                  15 and children. I'm not saying they're necessarily                  16 linked, I'm not saying it's necessarily the same thing,                  17 but what I am saying is I would expect responsible                  18 journalism to actually look at those things as: what is                  19 going on here? What is happening? Why is it happening?                  20 Is there anything -- is there a common factor or isn't                  21 there? There may not be, but those are valid questions                  22 to ask. Is there any research on this issue or isn't                  23 there? If there isn't, should there be? If there is,                  24 what does it say about it?                  25 I think in actual fact from the work that we do we                  Page 91</p>
<p>1 So you know, there's something about actually                  2 providing a balanced perspective that for us will be                  3 much more useful and what we don't want are reports that                  4 actually damage individual women and we don't want                  5 reports that excessively demonise violent men.                  6 Q. Thank you very much. May I move on, please, to                  7 Ms Harvey and your submission. You provide us case                  8 studies, examples and analysis. May I start, please,                  9 with 54246, which is under our tab 4.                  10 MS HARVEY: Yes.                  11 Q. In the middle of the page, failing to ask appropriate                  12 challenging questions. This is the difference between                  13 reporting of last summer riots and then reporting of                  14 cases of male violence against women. In your own                  15 words, please, what do you see the key differences to                  16 be?                  17 MS HARVEY: Well, taking -- that's just one example. The                  18 riots over the summer or gang violence or a whole range                  19 of other features that get covered in the news will                  20 often be covered in what I would say is quite                  21 a responsible way, where it is situated in a context                  22 where they look at: are there any wider patterns here?                  23 Are there any trends here? What's the research here?                  24 What's the statistics here? How does this particular                  25 incident fit with the wider context that we're working                  Page 90</p>	<p>1 know that there is research that looks into those kinds                  2 of factors. So what we're concerned about is these                  3 cases get treated as a one-off example of a few bad                  4 apples, and it's a tragedy, a one-off thing. There's                  5 nothing anyone could do about it. You could never                  6 predict it could happen. There's nothing particularly                  7 you could do to prevent it.                  8 Whereas the position we're coming from, which                  9 reflects the position in CEDAW and other international                  10 conventions is that violence against women is linked                  11 directly to the public policy sphere. It's linked to                  12 our society and our economy and our choices. It's not                  13 inevitable and it's a reflection -- a cause and                  14 a consequence of inequality.                  15 So what we would expect in terms of responsible                  16 reporting is that some of those questions get asked,                  17 some people are called upon to actually say: well, what                  18 are -- "You are our politicians. You are our                  19 decision-makers. What do you think about this? What                  20 are your steps to deal with it? What are you doing                  21 about?"                  22 And they're very, very rarely, if ever, treated in                  23 that way. It's simply a one-off tragic case. How                  24 awful, how dreadful, what a shame, nothing we can do                  25 about it. So it's just a lack of contextual ignorance                  Page 92</p>

<p>1 and failing to ask the right questions, but I think  2 where that becomes a problem for us is that that again  3 causes us to sit back and think there isn't anything we  4 can or should be doing about and it can have  5 quite a damaging effect as well in terms of what is your  6 priority and your focus and your public responsibility  7 and your accountability, whereas, as I said before,  8 in -- a free press which it is actually meeting its own  9 aims of holding people to account, could and should,  10 I think, be asking those kind of more challenging  11 questions about our society and the status quo.  12 Q. Thank you. A related issue, but it flows on from the  13 general issue you just adumbrated, at the bottom of  14 page 54247, invisibility of the victim and identifying  15 with the perpetrator.  16 MS HARVEY: Yes.  17 Q. Do you want to say something about that?  18 MS HARVEY: Yes. We actually also referenced the Facebook  19 murder as an example of this and again, some of those  20 family killings over the Christmas period. What we feel  21 is that a lot of the coverage of cases of violence  22 against women, whether that's sexual violence or other  23 forms of violence against women, have a considerable  24 focus on the perpetrator in often quite a sympathetic  25 way. So he was depressed, he was losing his job, he</p> <p style="text-align: center;">Page 93</p>	<p>1 the reader could go away with is the impression that  2 there is a validation or a justification or  3 an explanation of why that man would commit that  4 violence, and these things do have an implication for  5 whether a woman will report a case or not. Will she  6 blame herself? That's particularly the case in rape  7 instances that we deal with. I think we're going to  8 come to that later.  9 Q. Yes, in the context of rape -- this is 54249 -- you  10 point out that the stranger rape scenario is quite rare,  11 and the more statistically familiar example is  12 acquaintance or date or even marital rape. Can I invite  13 you, please, to develop that theme?  14 MS HARVEY: Yes. If I'm really honest, this is where it  15 becomes quite difficult because understandably the media  16 are reporting the cases that go to court and they're  17 reporting the cases that are, in their view, or what  18 they perceive to be their readers' views, the most  19 interesting, the most different, or unusual, or in many  20 cases, the ones that most fit with what their readers'  21 own views are or how they view society.  22 So I can see how this happens, but it's kind of  23 which comes first. These two things feed off each  24 other. Something like only 8 per cent of rapes are the  25 kind of stranger who leaps out of a bush on a dark night</p> <p style="text-align: center;">Page 95</p>
<p>1 feared that his wife was going to leave him, he was  2 provoked. She said something that triggered him in some  3 way. And often it's amazing how little you find out  4 about the woman who is actually the victim. Whilst --  5 again, I think the point that was made by my colleagues.  6 It's not that those things are not valid to be said.  7 They are. There will be all sorts of reasons that may  8 cause a man to be violent, but the point is ultimately  9 he has been violent, he has chosen to be violent and  10 there is a context for that and there is another half to  11 that story, which is what's been happening in the lives  12 of that woman and of women more generally.  13 And again, putting it in context of the statistics,  14 when you look at two women a week being killed by their  15 partners or ex-partners, there is a kind of a context  16 there which needs to be addressed, and the tendency to  17 kind of obscure the victim so you find out virtually  18 nothing about her, or worse, in many cases, to  19 scrutinise her very intensely and actually look at what  20 was her behaviour and what was her lifestyle like. Was  21 she a difficult person? Did she say unpleasant things?  22 Was she having an affair? She may have been, and all  23 those things might be reprehensible or dislikeable or  24 may make the situation more difficult, but the way it's  25 portrayed all too often is -- the implication and what</p> <p style="text-align: center;">Page 94</p>	<p>1 or attacks a woman sleeping in her bed at night. That  2 is about 8 per cent of rapes. The rest are acquaintance  3 rapes, date rapes, market tall rapes. You would never  4 know that from reading the papers, but that feeds  5 a discourse around what is a "real" rape, who is a  6 "real" victim, who is a "real" rapist, and where that  7 becomes particularly harmful for us is we will find  8 examples of women saying that they will blame  9 themselves, that they shouldn't come forward because  10 they were drinking or wearing certain clothes or they'd  11 known this person, it was a friend of theirs, or even,  12 in some cases, they'd had sex with them in the past, and  13 what they have read in the papers or heard in the  14 discourses is that in some way they are responsible for  15 that, that that's not "real" rape.  16 So where it's harmful is it actually can deter women  17 from reporting rape. This is similar with false  18 allegations. Again, there is a very significant intense  19 interest in reporting so-called false allegations of  20 rape. Again, there's very little contextualisation  21 around how common is a false allegation of rape compared  22 to a false allegation of other crimes. What goes on  23 that causes a false allegation? What is recorded or  24 reported as a false allegation? It could be no crime.  25 It could actually -- there's a whole series of things</p> <p style="text-align: center;">Page 96</p>



<p>1 that actually could get reported as a false allegation                  2 where actually it may just have been that there was no                  3 conviction.                  4 LORD JUSTICE LEVESON: I've not thought about this in quite                  5 the context that I am now, but of course there are all                  6 sorts of entirely sensible laws relating to reporting,                  7 and of course, because of the entirely correct approach                  8 not to identify victims, do you think that there is less                  9 interest in reporting the marital example because the                  10 newspaper report then loses all context? Because if                  11 it's a marital rape and you can't identify the victim,                  12 then you can't identify the defendant either, because                  13 the whole thing has to then move into language which is                  14 much more non-specific, so that there is no risk to the                  15 identification issue. Is that a problem? I've never                  16 ever thought of it that way, but it's just arising out                  17 of what you've been saying.                  18 MS HARVEY: I think what we're trying to focus on here is --                  19 there was recently a Mumsnet survey and it was very                  20 unscientific, informal, but it was a huge number of                  21 women who responded around sexual violence and they said                  22 that -- there was a very high proportion of them had                  23 experienced some form of rape, whether that was date                  24 rape or marital rape, whatever. They said they would                  25 not report it -- when they were asked: "Would you report                  Page 97</p>	<p>1 MS HARVEY: I think it's more about the stereotype and                  2 perception of what is a real rape. So that is both what                  3 gets reported and also what then gets -- reported by the                  4 media, that is, and also reported to the police for                  5 action to be taken. I don't think that's so much about                  6 the identification as it's about the stereotype that                  7 a real rape is a stranger leaping out of a bush.                  8 LORD JUSTICE LEVESON: Jumping out of the bushes.                  9 I understand that point.                  10 MS HARVEY: I may be missing your point, I'm sorry.                  11 LORD JUSTICE LEVESON: Very well. I'm also conscious that                  12 much is made about the low conviction rate for rape                  13 without any understanding of the enormous problems there                  14 are when one is analysing the behaviour of two human                  15 beings who don't actually agree about what happened in                  16 an incident that is not witnessed by anybody else.                  17 That's one of the problems of which I'm sure you're                  18 aware.                  19 MS HARVEY: Yes.                  20 LORD JUSTICE LEVESON: But that's not quite the purpose of                  21 this exercise, and I'm sorry to take you down that                  22 track.                  23 MS HARVEY: No, sorry.                  24 MR JAY: Finally, Ms Harvey, in relation to your examples or                  25 your themes, could I ask you please to address the new                  Page 99</p>
<p>1 it? Did you report it?" they said no, they wouldn't,                  2 because they were in fear of being blamed or of being                  3 accused of false allegations.                  4 LORD JUSTICE LEVESON: You don't have to persuade me around                  5 that. Anybody who's spent 40 years in the criminal                  6 justice system, as I have, knows only too well about the                  7 underreporting, the issues that stand in the way of                  8 accessing justice. I hope we're better now than we                  9 were.                  10 MS HARVEY: Indeed.                  11 LORD JUSTICE LEVESON: We've certainly put some effort into                  12 it.                  13 MS HARVEY: Yes.                  14 LORD JUSTICE LEVESON: So to get the whole picture --                  15 I understand, although I'm very happy that you make it                  16 clear so that everybody else does. I am just                  17 interested, for the purposes of this, in whether the                  18 anonymity rules mean that the larger proportion of                  19 reported rapes that go to court are not reported because                  20 they are not as interesting. Do you see the question                  21 I'm asking?                  22 MS HARVEY: I do. I'm not sure that I would focus on the                  23 anonymity rules as the issue here, really.                  24 LORD JUSTICE LEVESON: No, I'm not focusing on them. I'm                  25 just asking the question.                  Page 98</p>	<p>1 media theme, 54249 and following page, and your concern                  2 there.                  3 MS HARVEY: Yes. I only briefly mentioned it here but                  4 obviously there's increasingly and rightly debate in the                  5 general media and general public and comment, blog and,                  6 as others have said, almost all of us have become                  7 publishers in a way.                  8 I think the point that I reference here -- some of                  9 you will have seen the New Statesman article which                  10 actually asked women about their experiences of                  11 blogging, commenting and what kind of responses they                  12 got, and what was quite shocking about it, even for me,                  13 was the level of abuse that people get, and there was                  14 a recognition even amongst some of the male commenters                  15 as well that the abuse that women get when they comment                  16 on issues of public policy generally, but particularly                  17 on issues relating to women's rights or feminism or                  18 anything of that nature, is very sexist and gendered                  19 abuse. It's not purely: "You're talking rubbish and you                  20 don't know what you're talking about", or: "Shut up",                  21 or: "I disagree about you", which is a normal feature in                  22 debate; there is language -- quite violent and vitriolic                  23 language like, "You should have ..." I mean, some of it                  24 I couldn't even repeat here, but: "You should have your                  25 tongue ripped out. You should be raped backwards with                  Page 100</p>

<p>1 a bush." It's ridiculous, but that is the kind of                  2 language that is used, that you should be gang raped,                  3 you should be raped in every orifice with an implement.                  4 These are genuine things that have been said, as well as                  5 a focus on your looks, you're ugly, or an assumption                  6 that you must be a lesbian, as though that was a very                  7 bad thing, you're unattractive to men, you're not                  8 interested in men and you're man-haters. Assumptions                  9 about your sexuality, assumptions about your looks and                  10 quite -- as I say, very violent and obscene abuse which,                  11 as I say, I can't even repeat here in some cases.                  12 Now, the women themselves and a lot of even the men                  13 who were also involved in the whole comment thread                  14 around that recognised that that was actually about                  15 preventing or resenting women's rights to comment on                  16 public matters. If she's talking about cupcakes and                  17 children, it might be okay, but if she's talking about                  18 public policy, if she's talking about women's rights,                  19 about equality, about the economy, there is a challenge                  20 to her right to have and express an opinion, and a lot                  21 of the women who actually blog themselves feel that this                  22 is actually about intimidating women into knowing their                  23 place, and that's -- for me, the nub of this matter,                  24 really, is women's voices and women's issues are                  25 actually being silenced, to some extent intimidated, not                  Page 101</p>	<p>1 specific examples you would draw to our attention which                  2 we could consider in the context of your general                  3 submission?                  4 MS HUNT: I think to reinforce what my colleagues have been                  5 saying, over the years this has been a huge issue for                  6 the international community and decades of work on                  7 looking into this, and to really focus on the harms of                  8 this sexist stereotyping in media and it being a barrier                  9 to achieving the equal participation of women -- we                  10 don't have, for example, very diverse images of women in                  11 the media. BME women, older women, women with                  12 disabilities are virtually absent from the media.                  13 Women in decision-making roles, they have very                  14 negative stereotypes. Blair's babes, Dave's dolls.                  15 Even when the content of the article is about an                  16 interesting issue and may be a very interesting debate,                  17 the headlines there signal immediately trivialisation of                  18 women, infantilisation of women, demeaning of women, so                  19 that women, again, to pick up what Heather was saying,                  20 having an opinion is really seen, in a broader sphere,                  21 as something negative and it reinforces the way society                  22 maybe thinks about those issues and legitimises that.                  23 And the other part, in terms of the freedoms we're                  24 mentioning, is the legitimisation and normalisation of                  25 sexualism in society by the broader community, which may                  Page 103</p>
<p>1 properly covered, not adequately or covered in a partial                  2 way, in a stereotyped way that can be misleading,                  3 misrepresentive, inaccurate and is not a true                  4 representation of how women experience life.                  5 I think the point I noticed this morning with PEN's                  6 submission -- I very much liked what they used as their                  7 definition around public interest, that that might be                  8 something that looks at how it can enhance the public's                  9 ability to engage in public debate.                  10 As I've said before, we support freedom of speech.                  11 With that in mind, that it should enable people to                  12 equally participate in shaping, deciding, commenting on                  13 our society and holding our society to account, and our                  14 view is that the way that media covers women at the                  15 moment -- the portrayal of women in media, the roles                  16 that are focused on, the stereotypes that are there --                  17 it curtails and limits women's freedom of expression and                  18 women's ability to engage in that public debate, and we                  19 think actually the press can be a crucial and helpful                  20 partner in actually challenging some of those norms and                  21 enabling that freedom of speech and expression for                  22 everybody with just a little bit of tweaking these and                  23 there. Thanks.                  24 Q. Finally, please, on individual examples -- I know you                  25 haven't given any, Ms Hunt, but are there any themes or                  Page 102</p>	<p>1 also legitimate violence against women, and that in turn                  2 might have a legitimate -- a consequence on access to                  3 justice for women.                  4 So if you're looking at all these particular -- any                  5 example of women given a sexist stereotype, it's                  6 actually limiting women's participation in society or                  7 having justice or being able to combat violence                  8 So I think any of the examples we give, they come back                  9 to those fundamentals.                  10 Freedom of the press: fine, yes, important, really                  11 critical, and we use it to expose what governments are                  12 doing. It's really really key, but we have to find                  13 a way to make sure that women are not sidelined and                  14 objectified and taken out of political and human and                  15 society participation.                  16 Q. May I turn now to the issue of recommendations, please.                  17 In framing that issue, may I just draw attention to two                  18 or three matters? The first is that under the existing                  19 code, clause 1, there's an obligation to the press to be                  20 accurate. If I paraphrase, there's considerable                  21 latitude to comment. Under clause 12, there's an                  22 anti-discrimination provision, if I can put it generally                  23 and crudely, and that must include gender                  24 discrimination. There's a free speech issue, which each                  25 you recognise, and there is also the possibility of                  Page 104</p>

<p>1 amending the code if the code doesn't adequately address                  2 the concerns each of you raise. But I wonder if I might                  3 ask each of you in turn, first of all perhaps starting                  4 with Ms Lewis, to tell us your blueprint for                  5 recommendations for change.                  6 MS LARASI: So the first point for us is, I suppose,                  7 a softer recommendation, which is one around training,                  8 and we know that that throws up challenges in terms of                  9 achieving that, but having journalists receiving manager                  10 training on the law of reporting violence against women                  11 so you don't have the "I didn't know, I shouldn't have                  12 disclosed, you know, her identity", including the                  13 absolute and clear rule that victims of alleged rape                  14 have anonymity, but also looking at violence against                  15 women and girls within a UK context and a broader                  16 context, so there's understanding of what the genuine                  17 issues are, and some myth-busting, so that what you have                  18 is you have journalists that are themselves empowered                  19 because actually what they have is accurate information.                  20 For us, there's also something around sanctions for                  21 journalists who break the law, and at the moment it's                  22 almost as if free press feels as if it somehow grants                  23 some degree of immunity. We want accountability. We                  24 want a free press, but we want an accountable press.                  25 We also want to see editors be more willing to</p> <p style="text-align: center;">Page 105</p>	<p>1 MS LARASI: Yes. So if I can contact the Advertising                  2 Standards Agency if I drive past something and I think                  3 that the image isn't appropriate, and I've done that,                  4 I want to be able to comment, as an individual member of                  5 the public or as an organisation, on something that                  6 I actually think is inappropriate in terms of press                  7 behaviour.                  8 I think that's it.                  9 MR JAY: So in terms of complaining, one could have perhaps                  10 the sort of sufficient interest test, which we                  11 understand in public law, which would allow groups to                  12 complain as well.                  13 MS LARASI: Yes.                  14 Q. I think that's a point each of you wishes to make                  15 individually, but it's come from Ms Lewis. Ms Hunt, any                  16 recommendations you would wish to advance today?                  17 MS HUNT: In addition to that, I think we want women's                  18 groups or equality organisations to be involved in                  19 setting the standards within a new, say, Press                  20 Complaints Commission, because we know now there are                  21 those headlines of discrimination and inaccurate                  22 reporting, and there's also a carve-out for so-called                  23 good taste or tone, and I think if you don't understand                  24 the context and you don't understand the gender equality                  25 arguments, you might be persuaded in thinking this is</p> <p style="text-align: center;">Page 107</p>
<p>1 remove editorial material which blames victims.                  2 Victim-blaming is very different from providing                  3 a critical perspective around violence against women and                  4 girls, and we need to make that really clear. So                  5 looking at the circumstances, looking at the wider                  6 issues is not the same as having a tone which suggests                  7 "she called this down on herself".                  8 We also really urgently need some kind of public                  9 discussion about the way -- and I think actually what                  10 I'll do is leave that to Anna, because that's a bit more                  11 around the pornography side of things, but our members                  12 have also stated that they want to see a regulatory                  13 system which has teeth. At the moment we're concerned                  14 that the current system doesn't have adequate -- doesn't                  15 provide an adequate framework for seeking redress.                  16 We also know that very often women who have been                  17 wronged do not feel able to take on carrying out                  18 a complaint. If we have a mechanism that would allow                  19 groups to take up complaints and to support individual                  20 women in taking out complaints, then we believe that                  21 that would be useful --                  22 LORD JUSTICE LEVESON: Or you could do it by having the                  23 ability for a group to make the complaint --                  24 MS LARASI: Absolutely.                  25 LORD JUSTICE LEVESON: -- rather than the individual victim</p> <p style="text-align: center;">Page 106</p>	<p>1 about tone rather than actually about the substance of                  2 discrimination, so we would like that.                  3 And in terms -- I wasn't quite sure what                  4 Lord Leveson was saying in terms of the group. I think                  5 we don't want just a group who's supporting an                  6 individual to be able to make that complaint. We would                  7 like more along the lines, say, of the CEDAW optional                  8 protocol where you're making complaints, both an                  9 individual who is directly affected and either grave or                  10 systemic, a pattern of abuse that we can then go to the                  11 media and say, "This is systemic, this is a pattern of                  12 abuse that constantly feeds into the sexualisation" --                  13 LORD JUSTICE LEVESON: The idea, what I was suggesting and                  14 I think what Mr Jay has also spoken about, is anybody                  15 can complain who has a sufficient interest, so it could                  16 be the victim, it could be groups such as yours had                  17 a legitimate right to raise issues with the relevant                  18 authority, whether it's a commission, a regulator,                  19 whatever, to have them adjudicated upon, which would                  20 have the benefit not merely of providing a potential                  21 sanction, but also an encouragement to education to                  22 change the way in which issues are discussed without                  23 itself, as it were, using a big club to prevent free                  24 speech.                  25 MS HUNT: Just an additional point, if I may. Sexism</p> <p style="text-align: center;">Page 108</p>

<p>1 doesn't start in the newsrooms. It's in our society.                  2 So we're also asking -- and maybe this isn't appropriate                  3 for this forum -- the government to really take a lead                  4 on education campaigns both in schools and generally in                  5 the public about stopping discrimination and promoting                  6 sex equality.                  7 MR JAY: Ms van Heeswijk.                  8 MS VAN HEESWIJK: So essentially our summary of                  9 recommendations would be, one, the regulation of printed                  10 material should be consistent with the regulation of                  11 other forms of media, so essentially that would mean                  12 that material that would not pass the test for                  13 pre-watershed television should not be allowed to be                  14 printed within unrestricted newspapers.                  15 Secondly, that any form of regulation or printed                  16 materials should be guided by equality legislation that                  17 already exists, so in this case I'm referring to the Sex                  18 Discrimination Act, the Equality Act and making the                  19 point that any messages and images which would not be                  20 considered suitable for the workplace under those pieces                  21 of legislation again should not be printed and readily                  22 accessible within unrestricted newspapers.                  23 I would reiterate the point about groups being able                  24 to make complaints on the basis of how groups are                  25 persistently stereotyped and misrepresented.</p> <p style="text-align: center;">Page 109</p>	<p>1 some form of stronger sanction.                  2 But really it's the main thing again would be this                  3 point about having some means of bringing a complaint as                  4 a member of a group or a community, because I think                  5 that's the only way you can bring in line the                  6 possibility of some of the perhaps less tangible but                  7 nonetheless real harms that could arise in a system that                  8 is -- persists as being unequal and discriminatory.                  9 Q. Thank you. Finally may I deal with a discrete issue                  10 which comes out of our yellow file. Tab 11. It bears                  11 really on our third module. This is Ms Van Heeswijk's                  12 evidence in relation to what the Sun were doing. I'm                  13 not sure about the date. Could you help us?                  14 LORD JUSTICE LEVESON: I think it's 2004.                  15 MS VAN HEESWIJK: Yes.                  16 MR JAY: This is an attempt to ban Page 3 and then use                  17 pressure to try and thwart there. Could you talk us                  18 through this one, please?                  19 MS VAN HEESWIJK: Of course. I guess firstly I would say                  20 that it's a shame that the editors of these newspapers                  21 were not questioned on these issues when they were in                  22 front of you, but I think it is very crucial that this                  23 issue is re-addressed in module 3, and this is one of                  24 the reasons why, because essentially these newspapers                  25 credit created a culture of fear which silences groups,</p> <p style="text-align: center;">Page 111</p>
<p>1 Then just additionally the issue of gender equality                  2 being the sort of baseline of any form of regulating                  3 this type of material, so that it is considered in                  4 relation to the impact that it has on women, the impact                  5 that it has on shaping the attitudes of children and                  6 young people about women, about young girls, rather than                  7 in relation to more subjective notions of obscenity, for                  8 example.                  9 My key point would be that this really -- we're not                  10 proposing any form of radical -- any radical overhaul of                  11 media regulation; we're just calling for consistency,                  12 essentially, of how other areas of the media are                  13 regulated to be -- and for the print media to be brought                  14 in line it that.                  15 Q. Thank you. Ms Harvey?                  16 MS HARVEY: I think my colleagues can -- Ms Larasi has                  17 covered most of what I want to say. For us it's about                  18 improved guidance in training, it's about representation                  19 and input and expertise from a wider and more                  20 independent group. We would definitely like quick and                  21 affordable access to remedies. We would like                  22 a proactive power to whatever this new body would be to                  23 undertake research or investigations when they                  24 themselves identify or receive lots of complaints around                  25 patterns or trends or clusters of issue. We would like</p> <p style="text-align: center;">Page 110</p>	<p>1 politicians, anybody much from speaking out against                  2 their persistent portrayal of women as sex objects                  3 against Page 3, and one of the ways that they most sort                  4 of famously did that is through the real vilification                  5 and targeting of Clare Short, who instigated a campaign                  6 against Page 3 in the 1980s.                  7 What we see an example from the Sun newspaper that                  8 actually perhaps the second example, which is 11B is                  9 more illustrative, because it is a photograph of the                  10 page within the Sun. What we have here is Clare Short's                  11 face was superimposed onto a Page 3 model and the                  12 headline is:                  13 "Fat, jealous Clare brands Page 3 porn."                  14 They likened Clare Short to the "back of a bus" and                  15 they told jokes about that -- well, jokes in inverted                  16 commas, that making her into a Page 3 girl would be                  17 a "mission impossible". Clearly, the sort of -- the --                  18 if it wasn't the purpose, the effect has been to                  19 essentially close down free speech in relation to groups                  20 and individuals feeling free to speak out and make                  21 a critique against these newspapers.                  22 As my colleague spoke about the often abusive                  23 comments that bloggers receive when they speak about                  24 issues relating to women's equality, which is clearly                  25 part of this wider culture that needs challenging, and</p> <p style="text-align: center;">Page 112</p>

<p>1 these individual bloggers, here we're speaking about                  2 a national newspaper making similar comments about                  3 a politician, a democratically elected politician who                  4 took this campaign on because of the concerns of her                  5 constituents. I think this is very, very concerning,                  6 alarming. It's something that continues, so Harriet                  7 Harman, for example, has been vilified for the position                  8 that she has taken on Page 3, and then more recently                  9 Dr Even Harris, who actually put forward a motion at the                  10 Liberal Democrat conference, which was accepted, which                  11 essentially is supportive of the recommendations within                  12 this submission, again was deemed villain of the week                  13 within the Sun.                  14 So this is clearly a sort of bullying tactic and                  15 I think considering the fact that the editors themselves                  16 were not questioned on these issues, I think it's really                  17 essential that politicians have an opportunity to speak                  18 about the experiences that they've had when they have                  19 spoken up against the Page 3 phenomenon.                  20 MR JAY: Thank you very much.                  21 LORD JUSTICE LEVESON: There's a limit to what the context                  22 of this Inquiry can achieve, but listening to your                  23 arguments as they've developed and with the graphic                  24 illustrations that you've provided, the start would                  25 certainly be, it seems to me from what you say, to</p> <p style="text-align: center;">Page 113</p>	<p>1 appreciate that that absolutely is changing the law.                  2 There's no question of trying to find a soft way of                  3 doing this. That's rock-solid legislation.                  4 MS VAN HEESWIJK: Which is why, I guess, it should be posed                  5 to the politicians.                  6 LORD JUSTICE LEVESON: Yes, all right.                  7 MS VAN HEESWIJK: Only because the other part of it, of                  8 course, is that the politicians are under international                  9 obligations, as my colleague has pointed out, to tackle                  10 the portrayal of women in this way, and therefore, if                  11 this is one of their obligations, their international                  12 obligations, legal obligations, it should be something                  13 that they are questioned about in relation to the media.                  14 LORD JUSTICE LEVESON: I think that's very interesting and                  15 I'm sure that we have noted that for when we get to the                  16 next stage, and if anything arises that you want to                  17 suggest should be put to the witnesses who are coming,                  18 then I have no doubt you know how to get in touch with                  19 us and to suggest it.                  20 MS VAN HEESWIJK: We do. Thank you very much.                  21 LORD JUSTICE LEVESON: Thank you very much indeed for                  22 coming, and I repeat my thanks for the effort that you                  23 put into these submissions.                  24 We'll say 2.05 pm.                  25 (1.05 pm)</p> <p style="text-align: center;">Page 115</p>
<p>1 permit bodies such as yours to be able to take up issues                  2 of press standards with whomsoever is responsible for                  3 regulating it. Would that be fair?                  4 MS LARASI: It would be a good start.                  5 MS VAN HEESWIJK: It would certainly be a start.                  6 LORD JUSTICE LEVESON: The point being I appreciate you have                  7 all sorts of other anxieties and I understand them, but                  8 I'm sure you understand also the length and the breadth                  9 of what I can do within the context of this Inquiry.                  10 I agree that there are elements that come into module 3                  11 here, but how much further one can go without raising                  12 all sorts of other issues which could take me another                  13 year to think about is not entirely straightforward.                  14 So I'm not discouraging you, but I'm merely asking                  15 whether I've understood the absolute priorities.                  16 I understand you have a whole range of priorities.                  17 MS VAN HEESWIJK: I guess one issue would be is that this                  18 type of policy and regulation is completely -- it's sort                  19 of universally accepted and receives widespread support                  20 in relation to broadcast media, and therefore we would                  21 not see it as a real sort of drastic ask or proposal or                  22 recommendation to recommend that this already generally                  23 accepted policy would then be applied to print-based                  24 media.                  25 LORD JUSTICE LEVESON: Yes. I understand the point. You'll</p> <p style="text-align: center;">Page 114</p>	<p>1 (The luncheon adjournment)                  2                  3                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: center;">Page 116</p>

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