

<p>1 Thursday, 31 May 2012 2 (10.00 am) 3 LORD JUSTICE LEVESON: Yes, Mr Jay. 4 MR JAY: Today's witness is the Right Honourable 5 Jeremy Hunt, please. 6 MR JEREMY RICHARD STREYNESHAM HUNT (sworn) 7 Questions by MR JAY 8 MR JAY: Your full name, please? 9 A. Jeremy Richard Streynsham Hunt. 10 Q. Thank you. You provided us with a witness statement 11 dated 4 May this year. It has three annexes, the 12 standard statement of truth. Is this your formal 13 evidence to the Inquiry? 14 A. Yes, it is. 15 Q. In terms of your career, Mr Hunt, you have been a Member 16 of Parliament since 2005, Shadow CMS and then, since 17 11 May 2010, Secretary of State for Culture, Olympics, 18 Media and Sport; is that correct? 19 A. That's correct. 20 LORD JUSTICE LEVESON: Mr Hunt, as I've said to everybody 21 else, thank you very much for the effort that has 22 clearly been put into the statement and all the 23 exhibits. I'm grateful to you, and of course the 24 assistance you've received from your staff. 25 A. Thank you, sir.</p> <p style="text-align: center;">Page 1</p>	<p>1 a section on my website which is really there for the 2 benefit of my constituents, where I put up press 3 articles that have been about me, so that people can see 4 what I'm up to. That was a comment by a journalist from 5 Broadcast magazine, but it's not how I would describe 6 myself. 7 Q. So why did you put it up on your website then, if it 8 didn't represent your view? 9 A. Well, I think it's helpful to my constituents to put up 10 all the comments about me, positive or negative. There 11 are comment sections on my website where constituents 12 themselves put up comments, positive or negative. 13 Q. Okay. We know from material which Mr Rupert Murdoch 14 provided to us -- this is his exhibit KRM 40, it's in 15 the PROP file at page 01962 -- that you had two meetings 16 with Mr James Murdoch in opposition, on 12 October 2009 17 and 12 February 2010. Hopefully that will come up on 18 your screen. It's not available in the various files 19 you have. 20 One of the agenda items, according to 21 Mr James Murdoch, was reform of Ofcom. Can you remember 22 what, if at all, was discussed on that occasion? 23 A. Not particularly. I think James Murdoch has a general 24 hostility to Ofcom and the BBC, and he may have said 25 that the burden of regulation from Ofcom was too</p> <p style="text-align: center;">Page 3</p>
<p>1 MR JAY: Your approach generally to media ownership, you 2 cover these in paragraphs 3 and 4 of your statement at 3 05597. Is there anything you wish to add to that? 4 A. No. 5 Q. You helpfully explain your reserve functions under the 6 relevant legislation in relation to media plurality. 7 This is paragraphs 8 to 14. Dr Cable gave us a similar 8 explanation, and there are no specific points which 9 arise. You draw attention to the relevant guidance and 10 the public interest test, which is under section 58 of 11 the Act. When did you first become acquainted with 12 that, Mr Hunt? 13 A. I think I only really became acquainted with it when the 14 powers were transferred to me from the Department of 15 Business on 21 December. 16 Q. Thank you. Can I deal with your period in opposition, 17 first of all. Your personal website said at one stage: 18 "Like all good Conservatives, Hunt is a cheerleader 19 for Rupert Murdoch's contribution to the health of 20 British television." 21 So that presumably represented and perhaps still 22 represents your view; is that correct? 23 A. I would say it's not correct, and perhaps I could also 24 correct the impression that that statement gave, which 25 Mr Smith also corrected in his evidence. I have</p> <p style="text-align: center;">Page 2</p>	<p>1 onerous, that sort of general tenor. My focus in both 2 those meetings were my two policy priorities, which were 3 superfast broadband and local TV, and I was unable to 4 excite much interest in him in those two areas. 5 Q. But did he try and excite interest in you on the issue 6 of reform of Ofcom? 7 A. I think, apart from sort of generally expressing a view 8 that the broadcasting market was too heavily regulated, 9 I don't think we got into much more substantive 10 discussions than that. 11 Q. Had you read by that stage his MacTaggart lecture, which 12 was delivered on 28 August 2009? 13 A. Yes, I had. 14 Q. Did you share the views and opinions expressed in that 15 lecture? 16 A. There were some things that he talked about which 17 I thought were very important. He talked about the 18 importance of having independent commercially viable 19 media operators as a very important element of plurality 20 of news provision, and I completely agree with that. 21 There were other things that I disagree with. 22 I disagree with the general thrust of his views on the 23 BBC, in particular his description of the BBC as 24 state-sponsored journalism, and the suggestion that the 25 BBC is an arm of the state, whereas my experience of the</p> <p style="text-align: center;">Page 4</p>

<p>1 BBC has always been and is that it operates very 2 effectively at arm's length from the government, even 3 though its funding mechanism comes through my 4 department. 5 Q. Did you share his views as to the licence fee, in 6 particular at one stage I think it may have been 7 Conservative Party policy to top slice the licence fee? 8 A. Generally speaking, I didn't share his view on the 9 licence fee. I think James Murdoch thinks the licence 10 fee is wrong full stop. He describes it as an 11 intervention in the market, whereas I believe that the 12 BBC is a benchmark for quality in broadcasting in this 13 country and indeed all over the world, and the licence 14 fee is a critical part in making that possible. 15 With respect to top slicing, that's the sort of 16 principle that other broadcasters should be able to bid 17 for a share of the licence fee, that was a policy option 18 that we floated in opposition. I think I floated it as 19 a particular option in the spring of 2008, but we never 20 adopted it as a policy. 21 Q. Okay. I think in July 2009 you travelled to New York to 22 see executives of News Corporation; is that correct? 23 A. I believe it was September 2009, but yes, and I didn't 24 travel to New York to see executives of News 25 Corporation. I went to New York because I wanted to do</p> <p style="text-align: center;">Page 5</p>	<p>1 Rupert Murdoch was also present for part of the event. 2 Can you remember the date? 3 A. I can't remember the date off the top of my head, but 4 I think it was after I'd become Culture Secretary. 5 Q. I think that was the occasion where it was said you were 6 hiding behind a tree to avoid being spotted by a Wall 7 Street journalist. Is that correct or not? 8 A. No. What actually happened was I went to a dinner which 9 I think was hosted by the master of UCL, it wasn't 10 a private dinner with James Murdoch, and on my way to 11 the dinner, I spotted a large group of media journalists 12 and I thought this is not the time to have an impromptu 13 interview, so I moved to a different part of the 14 quadrangle. 15 Q. There may or may not have been trees; is that right? 16 A. There may or may not have been trees. 17 LORD JUSTICE LEVESON: All right, I think we've moved on. 18 MR JAY: Yes, I am. 19 15 June 2010, which was the day the bid was 20 announced, Mr Hunt. When did you first learn that the 21 bid was in the offing, as it were? 22 A. I don't think I knew about the bid until getting a call 23 from Mr Murdoch on the day that it was announced. 24 Q. You don't think so or you're sure you didn't know about 25 the bid before?</p> <p style="text-align: center;">Page 7</p>
<p>1 some research into local television and America has the 2 most developed local television market in the world, but 3 I was offered to meet executives at News Corporation, 4 and I thought that was a good thing to do while I was 5 there. 6 Q. Did those include Mr James Murdoch or not, can you 7 recall? 8 A. No, they didn't. 9 Q. We know he was working in London at the time. Can I ask 10 you this, though: did you discuss anything else, other 11 than local television? 12 A. We had more general discussions about broadcasting. 13 News Corporation have never been particularly interested 14 in local television in the UK, so they weren't 15 particularly interested in talking about that to me, 16 although they were happy to talk about their experience 17 of local television in the US. That was my primary 18 purpose. They talked about -- I think one of the things 19 we talked about was the impartiality rules, which we 20 have here under the Broadcasting Code, which they don't 21 have in the US, so we had some discussion about that. 22 Q. Okay. In May 2010 there was another meeting -- it's 23 more accurately described, I think, as you say in 24 annex B, 05624, as an evening reception and dinner, 25 James Murdoch and others from News Corporation.</p> <p style="text-align: center;">Page 6</p>	<p>1 A. Well, I'm -- yes, I'm -- I'll say I'm sure, because 2 I don't recall any conversation or knowledge about it, 3 and I think it was complete news to me, so I am sure. 4 I can't be, you know, completely certain that at no 5 stage ever was it ever mentioned to me that one day they 6 might buy the rest of it, but for the avoidance of 7 doubt, I don't believe I was ever told at any stage that 8 they had any concrete plans. 9 Q. Because presumably it was your judgment, knowing the 10 company, that that was one of their aspirations in due 11 course to acquire the remaining publicly owned shares in 12 BSKyB; is that correct? 13 A. No. I would have thought they had lots of different 14 aspirations and commercial ambitions, and I would have 15 thought they would be focusing on the growth of BSKyB. 16 I wouldn't have particularly thought that the purchase 17 of those shares was a corporate objective. 18 Q. But on the occasion that Mr Murdoch called you, you deal 19 with it in paragraph 29 of your statement, are we to 20 deduce that you indicated broad sympathy to the proposed 21 acquisition at that stage? 22 A. I don't remember exactly what I said, but I would 23 imagine that I did. I also made a comment to the 24 Financial Times. My view was that the Murdochs 25 controlled BSKyB, they only had a 39 per cent</p> <p style="text-align: center;">Page 8</p>

<p>1 shareholding, but I think most people felt that they 2 controlled the company. James Murdoch was the chairman 3 of BSkyB. And so I didn't think that there was 4 a significant change in plurality represented by them 5 purchasing the shares that they didn't own. 6 Q. Do you think he phoned you to ascertain your view or for 7 some other reason? 8 A. I think he phoned me as a courtesy. I do remember him 9 saying that he was calling me and Vince Cable. 10 Vince Cable, obviously, is the person who had 11 responsibility for the decision, and me as the Secretary 12 of State responsible for the media sector. 13 Q. Did he say to you that he'd already spoken to Dr Cable 14 or not? 15 A. I think he did, yes. 16 Q. So he had spoken to Dr Cable before speaking to you, is 17 that the sequence of events? 18 A. He definitely mentioned talking to Dr Cable. Whether he 19 said, "I am calling Dr Cable", or whether he said, "I've 20 called Dr Cable", I can't remember. 21 Q. Your general thinking at the time, paragraph 28 of your 22 statement, 05602, you say: 23 "I have always been open about the fact that I was 24 broadly sympathetic to the proposed acquisition prior to 25 taking responsibility for it."</p> <p style="text-align: center;">Page 9</p>	<p>1 I remember my rather unsuccessful attempts to excite him 2 about superfast broadband and local TV, which continued 3 to be unsuccessful. 4 Q. There was another meeting at the Conservative Party 5 conference in that year in October 2010. We see that 6 from annex B again at 05626. This time it was 7 Rebekah Brooks and Frederic Michel. Can you recall 8 whether the BSkyB bid was discussed on that occasion? 9 A. Yes, it was. 10 Q. Was Mr Smith present on that occasion? 11 A. I believe he was. 12 Q. Can you remember anything about the content of the 13 discussion which might assist us? 14 A. As I remember, I think they expressed some concern that 15 they weren't getting a sympathetic hearing from 16 Vince Cable, but not much more than that. 17 Q. What response if any did you give to that concern? 18 A. I would have said that my own view broadly speaking was 19 that I didn't think there was a plurality issue, so 20 I would have probably expressed some surprise that 21 Vince Cable may have thought there was more of 22 a problem. 23 Q. How well did you know Mr Michel by that point? Of 24 course we're October 2010. 25 A. Well, I knew Mr -- I mean, I didn't know Mr Michel</p> <p style="text-align: center;">Page 11</p>
<p>1 So that was your thinking then. Whether it changed, 2 of course, we will discuss. 3 There was another meeting, I think towards the end 4 of June, which is mentioned both in your annex B and in 5 a Guardian piece which is under tab 13 of your bundle, 6 which I think took place on 28 June. Do you remember 7 that? 8 A. I don't have the Guardian piece in front of me, but yes, 9 it did take place on 28 June. 10 Q. Was it the case that there were no officials present and 11 no written agenda or briefing? 12 A. Yes. I was told by my officials that it was entirely 13 proper to have meetings where there were officials 14 present who took minutes, and meetings where there 15 weren't officials present and minutes weren't taken and 16 it was entirely my discretion and I had that meeting 17 with Mr Murdoch. I also had meetings with other 18 officials, with the chairman of the BBC Trust, the head 19 of ITV and a number of other people when I'd just become 20 Secretary of State. 21 Q. Do you believe that the BSkyB bid was discussed on that 22 occasion? 23 A. I would be very surprised if it wasn't discussed, 24 because obviously it would have been top of Mr Murdoch's 25 mind. I don't remember any particular discussions.</p> <p style="text-align: center;">Page 10</p>	<p>1 particularly well full stop. I'd, you know, probably 2 had a few coffees with him in my time in opposition, as 3 I would have met representatives from all media 4 companies when I was Shadow Culture Secretary. 5 I got to know him a little bit better because of the 6 fact that that year we both had children born 7 coincidentally in the same hospital on pretty much the 8 same night, and by chance we bumped into each other in 9 the maternity ward, but our families never socialised 10 together, we never socialised together. 11 Q. Thank you. If I can move forward now in time to 12 October, we know that on 7 October 2010 -- this is 13 page 07905, in the second of the supplementary bundles, 14 under tab SS.Aa. 15 A. Which bundle is this, Mr Jay? 16 Q. Second supplementary bundle. 17 A. If I don't need to see it, I'm happy to carry on. 18 LORD JUSTICE LEVESON: I'd prefer that you had these 19 documents in front of you, if you don't mind. 20 A. Right, I have supplementary folder 2. I think that's 21 probably the one. That's it. 22 MR JAY: If it's tabbed in the same way, you'll find a tab 23 SS.Aa. It's the first document under that tab, 07905. 24 A. No. Sorry, will it be on the screen now, Mr Jay? 25 Q. Yes.</p> <p style="text-align: center;">Page 12</p>

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<p>1 A. Right, I can see it.</p> <p>2 Q. We can see that you were sent -- in fact to know exactly</p> <p>3 what you were sent we have to turn over the page, but</p> <p>4 I'm sure you would accept what I say about this --</p> <p>5 a briefing document, which was addressed to you, which</p> <p>6 relates, I think, to the plurality aspects of the bid.</p> <p>7 We know it was sent by Mr Michel to Mr Smith, and then</p> <p>8 Mr Smith forwarded it to you. That's demonstrated by</p> <p>9 07905.</p> <p>10 Mr Smith's observation was:</p> <p>11 "Obviously strictly commercially confidential but</p> <p>12 very interesting."</p> <p>13 And your comment appears to be:</p> <p>14 "Very powerful actually."</p> <p>15 So it follows that plainly you considered this</p> <p>16 document and were expressing a positive view about it.</p> <p>17 Is that fair?</p> <p>18 A. Yes. I think the document confirmed the view that</p> <p>19 I already had that I didn't think there was a major</p> <p>20 plurality issue with this acquisition.</p> <p>21 Q. Did you know at the time that Mr Smith had obtained this</p> <p>22 from Mr Michel?</p> <p>23 A. I knew that he'd obtained it from News Corp. I don't</p> <p>24 know if I knew that it had come from Mr Michel.</p> <p>25 Q. Did you deduce that he probably obtained it from</p> <p style="text-align: center;">Page 13</p>	<p>1 account that I use is my personal one.</p> <p>2 Q. So most of the contact we have, perhaps all of it, from</p> <p>3 Mr Smith by email is obviously to your personal email</p> <p>4 account; is that the correct position?</p> <p>5 A. That's correct.</p> <p>6 Q. There are also some text messages at about this time</p> <p>7 which are relevant, Mr Hunt. If you go to the section</p> <p>8 of this same file called TT, and look at 08147.</p> <p>9 A. Yes.</p> <p>10 Q. And we start, please, with the message timed at 19.25 on</p> <p>11 2 November 2010. This is from Mr Michel to you:</p> <p>12 "Just sent Adam our digital numbers."</p> <p>13 Can you assist us as to what that might relate?</p> <p>14 A. This is on 2 November?</p> <p>15 Q. It is, yes.</p> <p>16 A. Yes. I don't think I can, actually. I'm not sure what</p> <p>17 their digital numbers would have been.</p> <p>18 Q. Okay. On 9 November, the message is:</p> <p>19 "Can you meet James tomorrow morning for a catch-up?</p> <p>20 Would be good. Even early morning."</p> <p>21 And then there's an email which relates to the</p> <p>22 organisation of it, but on 12 November at 19.25, FM to</p> <p>23 JH:</p> <p>24 "James and I will see you Monday at 6.45."</p> <p>25 And you text back immediately:</p> <p style="text-align: center;">Page 15</p>
<p>1 Mr Michel?</p> <p>2 A. I would think that would be an intelligent guess to have</p> <p>3 made, if I'd been interested in who the precise person</p> <p>4 was. I mean, his role -- part of his role was liaison</p> <p>5 with external interest groups and stakeholders, and so</p> <p>6 he would have sourced information from lots of different</p> <p>7 people, but it wouldn't have been a surprise to me.</p> <p>8 Q. But from within News Corporation, the main point of</p> <p>9 contact from Mr Smith's perspective was Mr Michel, so</p> <p>10 it's not a massive deduction, is it, to state that the</p> <p>11 source must have been Mr Michel?</p> <p>12 A. I agree. It's not a massive deduction.</p> <p>13 Q. Did anyone other than Mr Smith know that you'd received</p> <p>14 this?</p> <p>15 A. I don't believe so. Nor do I believe I would have made</p> <p>16 a secret of it.</p> <p>17 Q. We know from other material that it went to your</p> <p>18 personal email account. Is anything to be inferred from</p> <p>19 that?</p> <p>20 A. No, that is the only email account I use.</p> <p>21 Q. So you don't have an email account within the</p> <p>22 department; is that correct?</p> <p>23 A. No, my departmental email gets looked after by my</p> <p>24 private office, and if there's anything they need to</p> <p>25 show me from that, they show me, but the only email</p> <p style="text-align: center;">Page 14</p>	<p>1 "Great."</p> <p>2 A. Yes.</p> <p>3 Q. So this is going to be Monday, 15 November, I believe.</p> <p>4 You then got some legal advice on 12 November, and</p> <p>5 that's to be found in the main file of documents, which</p> <p>6 is the primary evidence under tab 3, page 04248. We've</p> <p>7 seen this before in another place with Mr Stephens.</p> <p>8 He's also exhibited it. If you go to tab 3, I hope</p> <p>9 you'll be able to turn up this advice. It's dated</p> <p>10 12 November.</p> <p>11 A. Could you give me the page number again?</p> <p>12 Q. Yes, 13573 -- no, 04248. Sorry, I gave the correct</p> <p>13 number first time. It's in two places in our files,</p> <p>14 I gave the incorrect one. 04248.</p> <p>15 A. Yes.</p> <p>16 Q. It's directed to you personally. We know it's dated</p> <p>17 12 November. You wanted to know what powers you had in</p> <p>18 relation to media mergers generally. The recommendation</p> <p>19 is:</p> <p>20 "There is no role in the process for the DCMS so we</p> <p>21 would recommend that you do not have any external</p> <p>22 discussions on the B Sky B media merger nor write to</p> <p>23 Secretary of State BIS about it. If you want to</p> <p>24 contribute, you could write a letter stating facts</p> <p>25 backed up with evidence ... however this carries with it</p> <p style="text-align: center;">Page 16</p>

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<p>1 risks."</p> <p>2 The reason being, in the middle of the page:</p> <p>3 "Secretary of State BIS is performing</p> <p>4 a quasi-judicial role as the statutory decision-maker."</p> <p>5 So the advice was twofold, first of all not to have</p> <p>6 any external discussions. Did you interpret that as not</p> <p>7 to have discussions with someone like Mr Murdoch about</p> <p>8 the bid?</p> <p>9 A. The advice I was asking was what was my locus to express</p> <p>10 an opinion that might be taken into consideration by</p> <p>11 Dr Cable in making his quasi-judicial decision, and the</p> <p>12 advice I got was that essentially I didn't have a locus</p> <p>13 of intervention and I shouldn't intervene, so</p> <p>14 I interpreted that advice to mean that I shouldn't have</p> <p>15 any contact with anyone if that was part of a process</p> <p>16 that was going to be making an intervention with</p> <p>17 Dr Cable, because that might threaten the judicial</p> <p>18 robustness of Dr Cable's solution.</p> <p>19 I didn't interpret it to mean that I couldn't be in</p> <p>20 touch with people in the industry that I was responsible</p> <p>21 for and understand the issues around a merger that was</p> <p>22 the biggest merger the media industry had ever seen and</p> <p>23 on which thousands of jobs depended. In fact, I thought</p> <p>24 it was my duty to understand the issues around that</p> <p>25 merger and to be well across them.</p> <p style="text-align: center;">Page 17</p>	<p>1 with me that Vince Cable had refused to have with them,</p> <p>2 and that therefore to have that meeting would be to</p> <p>3 create a parallel process where another government</p> <p>4 department is getting involved in the process in a way</p> <p>5 that might not be seen to be appropriate.</p> <p>6 Q. But wasn't the logic exactly the same, that the reason</p> <p>7 why Dr Cable shouldn't be meeting with people like</p> <p>8 Mr Murdoch would be exactly the same reason why you</p> <p>9 should not be meeting people like Mr Murdoch, if I can</p> <p>10 put it in those terms. Do you accept that?</p> <p>11 A. No. First of all, I don't know and I didn't know</p> <p>12 whether Dr Cable was being advised whether or not he</p> <p>13 should meet Mr Murdoch. That would obviously be his</p> <p>14 judgment and his legal advice. My perspective as</p> <p>15 Secretary of State responsible for the media sector was</p> <p>16 that I thought I had an absolute duty to be across the</p> <p>17 most important issue in that industry.</p> <p>18 Q. You asked for the matter to be further considered, if</p> <p>19 I can put it in these terms, at 04250, which is the next</p> <p>20 page:</p> <p>21 "SoS has noted the advice and asked to see the</p> <p>22 results of Jonathan's request to the legal advisers as</p> <p>23 soon as possible."</p> <p>24 The legal advice came on 19 November. We've seen it</p> <p>25 before with Mr Stephens. It starts at 04254, and the</p> <p style="text-align: center;">Page 19</p>
<p>1 Q. We'll come back to that second point fairly shortly. If</p> <p>2 you look at the second page of this note, 04249, you'll</p> <p>3 see that legal advisers have cleared the note and it was</p> <p>4 copied to the Minister of State and to the Permanent</p> <p>5 Secretary. It was also copied to the special advisers.</p> <p>6 Did you discuss its content with Mr Smith, do you think?</p> <p>7 A. I don't recall a conversation, but it's quite possible.</p> <p>8 Q. Did you indicate to him your frustration, if you had it,</p> <p>9 about the content of this note?</p> <p>10 A. I think I had a concern about the situation where we had</p> <p>11 this very important, very significant merger in my</p> <p>12 sector where, as I had said, I didn't think there was</p> <p>13 a particular problem with it but the organisation</p> <p>14 concerned said that they did feel that they were</p> <p>15 encountering a number of obstacles, and so I wanted to</p> <p>16 be absolutely proper about the way I approached this</p> <p>17 because I recognised that it was another department's</p> <p>18 decision.</p> <p>19 This was probably the first time that I heard the</p> <p>20 phrase quasi-judicial or had some kind of exposure to</p> <p>21 what the implications of quasi-judicial meant, and we</p> <p>22 had a meeting in the diary initially and I decided to</p> <p>23 cancel that meeting not because I thought it was wrong</p> <p>24 to have contact with News Corporation, but because</p> <p>25 I thought they were probably wanting to have the meeting</p> <p style="text-align: center;">Page 18</p>	<p>1 conclusion at 04256 at paragraph 16 was:</p> <p>2 "Whilst there is nothing legally which precludes the</p> <p>3 Secretary of State CMS from making representations to</p> <p>4 the Secretary of State BIS to inform the latter's</p> <p>5 decision as to whether to refer the public interest</p> <p>6 considerations in this merger to the Competition</p> <p>7 Commission, it would be unwise to do so."</p> <p>8 Did you accept that advice?</p> <p>9 A. Yes. I don't know if I saw this longer version of the</p> <p>10 advice or not, but I did accept it.</p> <p>11 Q. On 7 --</p> <p>12 LORD JUSTICE LEVESON: Just before you go on to the 7th,</p> <p>13 that advice contains within it a description of this</p> <p>14 concept of quasi-judicial decision:</p> <p>15 "By this, we mean a decision which is not driven by</p> <p>16 policy concerns, and has to be taken on the facts before</p> <p>17 the decision maker. It is not a Cabinet decision, and</p> <p>18 no collective Cabinet responsibility applies.</p> <p>19 Similarly, a decision on a planning application, or an</p> <p>20 application for a harbour revision order will be</p> <p>21 characterised as quasi-judicial decisions."</p> <p>22 Did you have that understanding by this stage of the</p> <p>23 exercise that Dr Cable was involved in?</p> <p>24 A. I don't think I did. I don't actually recall seeing</p> <p>25 this longer version of the advice. I do recall the</p> <p style="text-align: center;">Page 20</p>

5 (Pages 17 to 20)

<p>1 advice that I received on 12 November. Obviously I did 2 become extremely familiar with what quasi-judicial 3 meant. 4 MR JAY: The email which the legal director sent on 5 7 December at 04257 says: 6 "Thanks, I appreciate that the advice is not what JS 7 [that's obviously the Permanent Secretary] and possibly 8 JH wanted to hear." 9 Is that a correct deduction? 10 A. I think it probably is a correct deduction in terms of 11 myself. I don't know about the Permanent Secretary. 12 Q. The next stage is what happened on 15 November in 13 relation to the meeting which had been organised with 14 Mr Murdoch. You have referred to it, but we have 15 separate evidence of it in the file KRM 18, which 16 contains, as you know, various emails largely from 17 Mr Michel back up to his superiors. It's page PROP and 18 then the last five numbers are 01667. 19 A. Yes. 20 Q. It's Mr Michel to Mr Murdoch: 21 "Jeremy tried to call you. He has received very 22 strong legal advice not to meet us today as the current 23 process is treated as a judicial one (not a policy one) 24 and any meeting could be referred to and jeopardise the 25 entire process." <p style="text-align: center;">Page 21</p> </p>	<p>1 "... not to meet him today as it would be 2 counter-productive for everyone, but you could have 3 a chat with him on his mobile which is completely fine, 4 and I will liaise with his team privately as well." 5 We know that there was a telephone call between you 6 and Mr Murdoch that day. Was it by mobile phone? 7 A. I believe it was, yes. 8 Q. Was it your view that that was appropriate? 9 A. Yes. As I mentioned earlier, it was always made clear 10 to me by my officials that it was entirely appropriate 11 and proper to have contact with stakeholders at which 12 officials were present and minutes were taken, and 13 contact at which officials weren't present and minutes 14 weren't taken, that was at my discretion, and so I felt 15 in this situation I didn't want to get involved in the 16 quasi-judicial process and I thought that was the 17 intention of the meeting that News Corp wanted, but 18 I thought it was entirely appropriate to hear what a big 19 player in my industry was saying about a particular 20 situation. Indeed, I thought that was my duty to do so. 21 I should perhaps say sort of in parentheses, if 22 I may, Mr Jay, that I think having been through the 23 BSkyB bid and the process that I've been through, 24 I would take a different view about the presence of 25 officials in conversations that a Culture Secretary has <p style="text-align: center;">Page 23</p> </p>
<p>1 Is that an accurate statement of what Mr Michel was 2 told by someone? 3 A. I don't believe I spoke to Mr Michel, so I couldn't tell 4 you if it was an accurate statement or not. 5 Q. I think the evidence was that it was Mr Smith who spoke 6 to Mr Michel on this occasion, but it's whether Mr Smith 7 has correctly understood what the very strong legal 8 advice was, which was that the meeting in effect had to 9 be called off because this was a judicial process, as he 10 puts it. Is that broadly speaking correct in your view? 11 A. It may well have been the case that Mr Smith had seen 12 the advice that I'd received on 12 November and we had 13 decided -- well, we did decide that the meeting 14 shouldn't go ahead, so it's possible that there was 15 a discussion between Mr Michel and Mr Smith, but that's 16 obviously something that they would have to say whether 17 it happened or not. 18 Q. Is Mr Smith correct when he says that you're very 19 frustrated about it? 20 A. I may have been frustrated. I was worried about a bid 21 in my sector that could potentially mean that thousands 22 more jobs would be created, and the main protagonist was 23 concerned about the process they were having to go 24 through, so I may well have been worried. 25 Q. The next paragraph sets out what Mr Michel's advice was: <p style="text-align: center;">Page 22</p> </p>	<p>1 with media proprietors. I just wanted to be efficient 2 and I thought it was really a question of whether you 3 wanted someone present to take minutes, but given the 4 massive number of conspiracy theories that abound, 5 I think actually going forward I would always want to 6 have officials present and taking notes. 7 Q. If a meeting is inappropriate, as this might tend to 8 suggest, why is a telephone call appropriate? 9 A. Well, I didn't see the telephone call as a replacement 10 for the meeting. My interpretation of the advice was 11 that I should not involve myself in a quasi-judicial 12 process that's being run by another Secretary of State, 13 and that that was the purpose of the meeting that was 14 requested by News Corp and that's why that wasn't 15 appropriate. But I think it would have been perfectly 16 appropriate to have had a meeting with News Corp with 17 officials present taking notes setting out the ground 18 rules. You know, "Jeremy Hunt cannot involve himself in 19 Vince Cable's media plurality decision and we can't 20 discuss the rights and wrongs of that, but he's 21 Secretary of State for the media so he can hear if 22 you've got other concerns or concerns about process or 23 anything else you want to express, he can hear them, but 24 he can't involve himself or make representations with 25 respect to that decision." <p style="text-align: center;">Page 24</p> </p>

6 (Pages 21 to 24)

<p>1 Q. But what was discussed on the phone, then, Mr Hunt?</p> <p>2 A. I just heard Mr Murdoch out, and basically heard what he</p> <p>3 had to say about what was on his mind at that time.</p> <p>4 Q. But what you heard on the phone is exactly the same</p> <p>5 thing as you would have heard had there been</p> <p>6 a face-to-face meeting, isn't that right?</p> <p>7 A. Well, it depends, because I think, as I say, if he had</p> <p>8 wanted to have a face-to-face meeting in which he</p> <p>9 expressed the arguments as to why he believed that there</p> <p>10 was no media plurality decision, that was something to</p> <p>11 be decided by Dr Cable, and I think if we'd had</p> <p>12 a face-to-face meeting, we'd have said, "Look, this is</p> <p>13 something that's being considered quasi-judicially by</p> <p>14 another Secretary of State and we can't involve</p> <p>15 ourselves in that".</p> <p>16 Q. Did you say that to Mr Murdoch during the course of the</p> <p>17 call, do you think?</p> <p>18 A. I think it's likely that we explained it, because we</p> <p>19 were -- you know, we'd cancelled the meeting, which we</p> <p>20 know from some of his evidence that he used some quite</p> <p>21 colourful language to express his frustration about.</p> <p>22 Q. The only evidence we have as to what was discussed is in</p> <p>23 the file of text messages, which is supplementary bundle</p> <p>24 volume 2, tab TT, 01847. A text timed at 15.49 on</p> <p>25 16 November. Mr Michel to you. Do you see that one?</p> <p style="text-align: center;">Page 25</p>	<p>1 your point of contact with News Corporation, is that</p> <p>2 fair?</p> <p>3 A. It's fair, but Mr Smith was my point of contact with</p> <p>4 pretty much every external state holder during my period</p> <p>5 in both opposition and as Culture Secretary.</p> <p>6 Q. You also knew that News Corp would be intending to send</p> <p>7 you, in their words, "helpful arguments", didn't you?</p> <p>8 A. Well, I suppose it's rather like Mr Smith said in his</p> <p>9 evidence: if someone offers you to send something --</p> <p>10 send you something, you acknowledge it, but I don't</p> <p>11 believe I'd have asked for it.</p> <p>12 Q. Okay. We move forward a few days to a private</p> <p>13 memorandum which went through a couple of drafts. It's</p> <p>14 in this self-same file, the second supplementary bundle,</p> <p>15 SS.Aa. The first draft, I think, is -- you can confirm</p> <p>16 this -- 07909. This is an email you send to Mr Smith</p> <p>17 timed at 13.14 hours on 19 November 2010.</p> <p>18 First of all, so we know where we are with this,</p> <p>19 Mr Hunt, if you go forward a couple of pages I think we</p> <p>20 see the second draft and then the final version is the</p> <p>21 same as the second draft but slightly differently</p> <p>22 formatted. Is that a correct deduction I've made, first</p> <p>23 of all?</p> <p>24 A. I think so, probably, yes.</p> <p>25 Q. Can we be clear about the first draft, which is 07909.</p> <p style="text-align: center;">Page 27</p>
<p>1 A. Yes.</p> <p>2 Q. "Thanks for the call with James today, greatly</p> <p>3 appreciated. Will work with Adam to make sure we can</p> <p>4 send you helpful arguments. Warm regards, Fred."</p> <p>5 And your reply almost immediately is:</p> <p>6 "Pleasure."</p> <p>7 We can see that?</p> <p>8 A. Yes.</p> <p>9 Q. So it's reasonable to suppose that the call was</p> <p>10 successful to the extent that some reassurance was given</p> <p>11 by you to Mr Murdoch insofar as you could give it. Is</p> <p>12 that fair?</p> <p>13 A. Well, I wouldn't have given him any reassurance about</p> <p>14 the media plurality decision that Vince Cable was taking</p> <p>15 because that was not my -- that was not anything I could</p> <p>16 get involved with, and I would have made that clear to</p> <p>17 him, so I probably gave him a sympathetic hearing, but</p> <p>18 I wouldn't have said that I can get involved in that</p> <p>19 decision because I had taken and accepted the advice</p> <p>20 that I couldn't.</p> <p>21 Q. The third sentence of the text:</p> <p>22 "Will work with Adam to make sure we can send you</p> <p>23 helpful arguments."</p> <p>24 That indicates that you well knew that Mr Smith and</p> <p>25 Mr Michel were working quite closely by this stage as</p> <p style="text-align: center;">Page 26</p>	<p>1 Is that something you drafted, which you asked Mr Smith</p> <p>2 to look at, or is it a first draft Mr Smith prepared for</p> <p>3 you?</p> <p>4 A. I generally draft my own notes to the Prime Minister, so</p> <p>5 I would imagine that I drafted this.</p> <p>6 Q. You asked him to check it for typos and to format it</p> <p>7 nicely, but we'll see what if anything happened to it:</p> <p>8 "James Murdoch is pretty furious at Vince's referral</p> <p>9 to Ofcom."</p> <p>10 That's what you learnt on 16 November during that</p> <p>11 phone call; is that right?</p> <p>12 A. Correct.</p> <p>13 Q. "He doesn't think he will get a fair hearing from Ofcom.</p> <p>14 I am privately concerned about this because News Corp</p> <p>15 are very litigious and we could end in the wrong place</p> <p>16 not just politically but also in terms of media policy."</p> <p>17 What did you mean by "the wrong place not just</p> <p>18 politically"?</p> <p>19 A. Well, I think I took that phrase out of the final draft,</p> <p>20 so the first point I'd make is that that wasn't my</p> <p>21 primary concern. But I would imagine that I was saying</p> <p>22 that, you know, we're a party that believes in the free</p> <p>23 market, in supporting enterprising companies, in</p> <p>24 government bureaucracy not getting in the way of</p> <p>25 companies that want to expand and backing people who</p> <p style="text-align: center;">Page 28</p>

7 (Pages 25 to 28)

<p>1 take risks, and I think that I felt that the approach</p> <p>2 the government was taking felt inconsistent with that.</p> <p>3 Q. Wasn't there also a question, though, that you would be</p> <p>4 in confrontation, or might be, with News Corp, which</p> <p>5 could place the Conservative Party at least in the wrong</p> <p>6 place politically? Was that not an aspect of this?</p> <p>7 A. I don't believe so. I didn't give it a huge amount of</p> <p>8 thought, but I think that on a situation like this, you</p> <p>9 know, the politics actually in the sense that you're</p> <p>10 talking about are actually very complex, because you had</p> <p>11 one Conservative-supporting newspaper group that was</p> <p>12 very strongly in favour of the bid and you had two</p> <p>13 Conservative-supporting newspaper groups that were very</p> <p>14 strongly against the bid. I'm not sure -- I don't think</p> <p>15 there's any political win in any possible outcome, as</p> <p>16 far as a Conservative-led government is concerned.</p> <p>17 Q. In terms of the media policy, which you then go on to</p> <p>18 explain in this, it would be fair to say that you were</p> <p>19 favouring the bid; is that correct?</p> <p>20 A. As you can tell from the note, I could see -- I mean, my</p> <p>21 perspective on the media industry is that I am a very,</p> <p>22 very passionate supporter in having a free and vibrant</p> <p>23 press, and I actually think we have one of the freest</p> <p>24 and most vibrant media industries and press in the</p> <p>25 world, and I think it's very good for our democracy, and</p> <p style="text-align: center;">Page 29</p>	<p>1 So you were seeking a high level policy meeting to</p> <p>2 discuss wider media policy considerations, weren't you?</p> <p>3 A. What I felt was that there was a very big issue that was</p> <p>4 going to affect an industry sector that I was</p> <p>5 responsible for, a very important industry sector, and</p> <p>6 I thought that it would be appropriate to have a meeting</p> <p>7 to discuss policy and not the quasi-judicial decision</p> <p>8 that Vince Cable was taking.</p> <p>9 I do now understand a lot more about quasi-judicial</p> <p>10 positions, it's probably pretty much engraved on my</p> <p>11 brain because we've been thinking about it so hard, and</p> <p>12 I think that -- I now realise that it would not have</p> <p>13 been possible for Vince Cable to attend such a meeting</p> <p>14 and he would have been advised not to attend such</p> <p>15 a meeting.</p> <p>16 Q. When we come to the second draft, 07911, which appears</p> <p>17 to be timed at 16.18, may I understand what had</p> <p>18 occurred. Was it Mr Smith who had reworked it or was it</p> <p>19 you who had had second thoughts and sent a second draft?</p> <p>20 A. I don't know, but I would imagine possibly either.</p> <p>21 I may well have had a conversation with Mr Smith in that</p> <p>22 time.</p> <p>23 Q. There isn't a third possibility, but you're not sure</p> <p>24 whether it was Mr Smith's hand which we see here in</p> <p>25 terms of the amendments or whether it was your further</p> <p style="text-align: center;">Page 31</p>
<p>1 I had a concern and I have a concern, actually, that the</p> <p>2 model of the newspaper industry is not financially</p> <p>3 viable in the long term because of technology changes,</p> <p>4 and because of that I saw this bid and the potential of</p> <p>5 this bid as an opportunity to help modernise the</p> <p>6 industry so that it could carry on playing that sort of</p> <p>7 free and vibrant role.</p> <p>8 Q. So for all the reasons you've given, you were supportive</p> <p>9 of the bid; is that correct?</p> <p>10 A. I was sympathetic of the bid. The reason I hesitate</p> <p>11 slightly on the word "supportive", because I wasn't --</p> <p>12 you know, apart from informing the Prime Minister of my</p> <p>13 views, I wasn't actually going out and doing anything</p> <p>14 about it.</p> <p>15 Q. We can see from the last paragraph:</p> <p>16 "What next? Ofcom will issue their report saying</p> <p>17 whether it needs to go to the Competition Commission by</p> <p>18 31 December. Much of what we do will be constrained by</p> <p>19 the absolute necessity to respect due process at every</p> <p>20 stage."</p> <p>21 So you'd fully taken on board the note of</p> <p>22 12 November, where that point was made. Then you say:</p> <p>23 "But I think that you, I, Vince and the DPM should</p> <p>24 meet to discuss our response to potential different</p> <p>25 scenarios. May I arrange such a meeting?"</p> <p style="text-align: center;">Page 30</p>	<p>1 cogitations; is that right?</p> <p>2 A. Well, I think --</p> <p>3 LORD JUSTICE LEVESON: It is an email from Mr Hunt to</p> <p>4 Mr Smith.</p> <p>5 A. Yes, I think it is, so I imagine it's me having</p> <p>6 rethought it, is the answer, because he then replies at</p> <p>7 16.30:</p> <p>8 "Much happier with this version."</p> <p>9 I think that probably suggests that I made the</p> <p>10 changes.</p> <p>11 MR JAY: The changes you made, you removed the reference to</p> <p>12 "not just politically", you shortened it. Arguably you</p> <p>13 beefed up the second paragraph where you say:</p> <p>14 "... I think it would be totally wrong to cave in to</p> <p>15 the ..." coalition, I paraphrase, as this "represents</p> <p>16 a substantial change of control given that we all know</p> <p>17 Sky is controlled by News Corp now anyway."</p> <p>18 That statement of opinion is a clear opinion, isn't</p> <p>19 it, in favour of the bid, would you agree?</p> <p>20 A. Yes, I'm expressing my view, but I'm also recognising,</p> <p>21 because I talk about due process, that this is not</p> <p>22 a decision for either me or for the Prime Minister.</p> <p>23 Q. The final paragraph is slightly changed. It's no longer</p> <p>24 respecting due process, the language is "has to be</p> <p>25 decided at arm's length", but the sense is fairly</p> <p style="text-align: center;">Page 32</p>

8 (Pages 29 to 32)

<p>1 similar, isn't it?</p> <p>2 A. Yes.</p> <p>3 Q. So you believed that this memorandum was probably the</p> <p>4 subject of private discussion between you and Mr Smith,</p> <p>5 is that correct?</p> <p>6 A. Yes.</p> <p>7 Q. So Mr Smith self-evidently knew your view on this</p> <p>8 critical issue, didn't he?</p> <p>9 A. Yes.</p> <p>10 Q. We know from one document I didn't take Mr Smith to,</p> <p>11 it's in his diary, at 09203, that on 6 December it</p> <p>12 appears that he had a meeting with Mr Michel in the</p> <p>13 SpAds' room, which is room 202. First of all, are you</p> <p>14 able to assist us, is that the SpAds' room?</p> <p>15 A. The SpAds' room I know, but I don't know what number it</p> <p>16 is.</p> <p>17 Q. Did you know at the time that Mr Smith and Mr Michel had</p> <p>18 met at DCMS?</p> <p>19 A. I don't think so.</p> <p>20 Q. You don't think so or you're sure?</p> <p>21 A. Well, you're asking me did I know at the time. I have</p> <p>22 no recollection of being told the meeting happened.</p> <p>23 Mr Smith wouldn't tell me, as a matter of course, who he</p> <p>24 was meeting. I mean, he met lots of people from</p> <p>25 different industry sectors.</p> <p style="text-align: center;">Page 33</p>	<p>1 together what might have happened that day, but because</p> <p>2 I sent him a text that said "Sorry to miss ur call", I'm</p> <p>3 presuming that he tried to call me and I had a missed</p> <p>4 call on my mobile and so I sent him a text back. I may</p> <p>5 have tried to call him back and not got a response and</p> <p>6 sent him a text back.</p> <p>7 Q. We certainly know that by 12.57, a few minutes later,</p> <p>8 you were aware that DG in Brussels had, as it were,</p> <p>9 allowed the competition aspect of the bid to go through,</p> <p>10 because you send a text message to Mr Murdoch:</p> <p>11 "Great and congrats on Brussels, just Ofcom to go!"</p> <p>12 A. Yes.</p> <p>13 Q. Would you agree that that is conveying a somewhat</p> <p>14 positive view on where the process had reached?</p> <p>15 A. Yes.</p> <p>16 Q. But you think at that point you were unaware of the</p> <p>17 Dr Cable furore, if I can so describe it?</p> <p>18 A. I think we could probably find out as a matter of fact</p> <p>19 when the furore broke, but as I say, I don't believe it</p> <p>20 broke until the afternoon.</p> <p>21 Q. The best evidence we have as to the timing, but it's not</p> <p>22 conclusive, if you turn back through the bundle at tab</p> <p>23 SS.B, it's going to be page 08089.</p> <p>24 A. Yes.</p> <p>25 Q. Your other special adviser, Sue Beeby, sends you an</p> <p style="text-align: center;">Page 35</p>
<p>1 Q. You were aware generally what Mr Smith was doing on your</p> <p>2 behalf at this time, weren't you?</p> <p>3 A. Mr Smith's job was to be a contact point with all</p> <p>4 outside industry stakeholders, so he spent a lot of time</p> <p>5 talking to people from many different companies.</p> <p>6 Q. Okay. I move forward then to 21 December 2010 and some</p> <p>7 text messages, first of all. If you go to the TT part</p> <p>8 of this file, please, Mr Hunt, it's page 08155. We need</p> <p>9 to go through this quite carefully.</p> <p>10 We can see that at 12.46 in the afternoon on that</p> <p>11 day you sent a text to Mr James Murdoch:</p> <p>12 "Sorry to miss ur call. Am on my mobile now</p> <p>13 Jeremy."</p> <p>14 Mr James Murdoch, six minutes later, texts you back:</p> <p>15 "Have to run into next thing. Are you free anything</p> <p>16 after two fifteen? I can shuffle after this."</p> <p>17 And then you fix on a time at about 4 pm. So first</p> <p>18 of all, by 12.46, were you aware of -- if I can put it</p> <p>19 in these terms -- the remarks which Dr Cable was</p> <p>20 recorded as having made on 3 December?</p> <p>21 A. I don't believe I was, because I think those remarks</p> <p>22 broke in the early afternoon.</p> <p>23 Q. So the purpose of the call then, if it wasn't related to</p> <p>24 those remarks, was related to what?</p> <p>25 A. Well, I don't think that I -- I'm trying to piece</p> <p style="text-align: center;">Page 34</p>	<p>1 emailed timed at 15.50 on 21 December.</p> <p>2 A. Yes.</p> <p>3 Q. Setting out what she describes as Vince's comments. I'm</p> <p>4 not sure whether this is the full transcript, it doesn't</p> <p>5 really matter. So certainly at the latest by 15.50 and</p> <p>6 possibly earlier you got to hear about the furore; is</p> <p>7 that correct?</p> <p>8 A. Yes. I don't know when I opened that email, but I would</p> <p>9 imagine I usually do open my emails fairly promptly.</p> <p>10 LORD JUSTICE LEVESON: The probability is you'd heard</p> <p>11 slightly earlier, because her email to you is:</p> <p>12 "Here are Vince's comments."</p> <p>13 So this isn't telling you actually something quite</p> <p>14 odd has happened you ought to know about, so it may be</p> <p>15 you'd had some sort of conversation.</p> <p>16 A. I think that's likely, yes.</p> <p>17 MR JAY: At about 4 pm, I think it was shortly after but</p> <p>18 we'll see from other evidence the exact time, you had</p> <p>19 a conversation with Mr Murdoch. Do you remember what</p> <p>20 was discussed?</p> <p>21 A. Yes. We discussed Vince's comments. So I did know at</p> <p>22 that stage.</p> <p>23 Q. The next relevant document is 08107, which is under tab</p> <p>24 SS.E, which is a -- not sure whether it's an email or</p> <p>25 a text. Probably an email, Mr Hunt.</p> <p style="text-align: center;">Page 36</p>

<p>1 A. Probably an email because it says Gmail at the top.</p> <p>2 Q. Sorry, you're right. 16.10, so it's after the call you</p> <p>3 had with Mr Murdoch on this afternoon, 21 December, to</p> <p>4 Mr Coulson:</p> <p>5 "Could we chat about this? Am seriously worried</p> <p>6 Vince will do real damage to coalition with his</p> <p>7 comments ..."</p> <p>8 That speaks for itself, but the question is did you</p> <p>9 have a chat with Mr Coulson?</p> <p>10 A. I don't think I did talk to him, no.</p> <p>11 LORD JUSTICE LEVESON: I'm sorry, could we just go back so</p> <p>12 that I understand. You chatted to Mr Murdoch at</p> <p>13 4 o'clock. What was that conversation?</p> <p>14 A. That was Mr Murdoch expressing his concern that there</p> <p>15 was bias in the process, the quasi-judicial process,</p> <p>16 because of what Dr Cable had said, and I think my email</p> <p>17 to Andy Coulson and text message to George Osborne were</p> <p>18 my response to Mr Murdoch's call.</p> <p>19 MR JAY: Yes.</p> <p>20 LORD JUSTICE LEVESON: Do you remember what you said to</p> <p>21 Mr Murdoch in response?</p> <p>22 A. I think I -- I think we know it wasn't a long</p> <p>23 conversation because the call was at 4 o'clock and</p> <p>24 within ten minutes I was already sending an email, but</p> <p>25 I think he was just saying he was totally horrified that</p> <p style="text-align: center;">Page 37</p>	<p>1 this stage?</p> <p>2 A. No.</p> <p>3 Q. At 16.58, Mr Osborne texts you:</p> <p>4 "I hope you like the solution!"</p> <p>5 What was that a reference to?</p> <p>6 A. Well, I think his -- well, first of all I think my text</p> <p>7 to him was saying basically I'm worried this process</p> <p>8 doesn't look like it's being run fairly, and his</p> <p>9 response was saying, "Well, we've got a solution", and</p> <p>10 I think in between me sending a text to him and me</p> <p>11 getting that response, at official level we had an</p> <p>12 inkling that Number 10 were thinking of transferring the</p> <p>13 responsibility to me as a way of dealing with the issue.</p> <p>14 Q. Yes. But you were the solution, and that's what you</p> <p>15 were being told at 16.58; is that correct?</p> <p>16 A. Correct.</p> <p>17 Q. Can I be clear, though, that when Mr Osborne says,</p> <p>18 "I hope you like the solution!", does that mean that you</p> <p>19 already knew what the solution was or was this the</p> <p>20 revelation of the solution?</p> <p>21 A. Well, I think my -- I think I knew that it was in the</p> <p>22 offing, but I was worried about that being the solution</p> <p>23 because I knew that I had publicly made some comments</p> <p>24 that were sympathetic to the bid and I wasn't sure</p> <p>25 whether that would mean that I could handle the bid, so</p> <p style="text-align: center;">Page 39</p>
<p>1 this seemed to show -- well, I used the phrase I think</p> <p>2 in a text to Mr Osborne of "acute bias" and I suspect</p> <p>3 that was the phrase that he used to me.</p> <p>4 MR JAY: The relevant texts to Mr Osborne are under the TT</p> <p>5 file at 08159. You sent him two texts timed at 16.08;</p> <p>6 is that right?</p> <p>7 A. Yes.</p> <p>8 Q. The first one says:</p> <p>9 "Cld we chat about Murdoch Sky bid? I am seriously</p> <p>10 worried we are going to screw this up. Jeremy."</p> <p>11 And then at the same time you sent another text:</p> <p>12 "Just been called by James M. His lawyers are</p> <p>13 meeting now and saying it calls into question legitimacy</p> <p>14 of whole process from beginning", and then the phrase</p> <p>15 you have remembered, "acute bias."</p> <p>16 The inference is that the call with Mr James Murdoch</p> <p>17 didn't last very long; is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Did you have any discussions after 16.08 with anybody</p> <p>20 else you can recall, Mr Hunt, about this issue?</p> <p>21 A. I may well have talked about it internally to my</p> <p>22 officials and special advisers. I imagine it was a sort</p> <p>23 of hot breaking issue, so I probably talked about it to</p> <p>24 a few people internally.</p> <p>25 Q. Do you think you had any conversation with Number 10 at</p> <p style="text-align: center;">Page 38</p>	<p>1 I think by that stage we were making sure Number 10 knew</p> <p>2 about those comments so that they didn't go ahead and</p> <p>3 announce me and then -- not knowing about those</p> <p>4 comments, and then find out that actually I wouldn't be</p> <p>5 able to do it as a result of those comments.</p> <p>6 Q. I think it's clear from that last answer that there were</p> <p>7 discussions internally involving the Permanent Secretary</p> <p>8 as to whether any of your public pronouncements might</p> <p>9 preclude you from acquiring responsibility under the</p> <p>10 Enterprise Act for this bid; is that correct?</p> <p>11 A. Yes.</p> <p>12 Q. Were you asked, though, about anything which was not in</p> <p>13 the public domain, but which might embarrass you should</p> <p>14 it enter the public domain?</p> <p>15 A. No.</p> <p>16 Q. Do you feel that such matters should have been</p> <p>17 volunteered by you?</p> <p>18 A. Are you talking about my memo to the Prime Minister?</p> <p>19 Q. Well, the memo to the Prime Minister, the conversation</p> <p>20 with Mr Murdoch and the text message we've looked at</p> <p>21 about the congratulations for Brussels, just Ofcom to</p> <p>22 go. It's the accumulation of pieces of evidence. It's</p> <p>23 that material, Mr Hunt, basically.</p> <p>24 A. I think that all that material is entirely consistent</p> <p>25 with the overall position that I'd taken that I was</p> <p style="text-align: center;">Page 40</p>

10 (Pages 37 to 40)

<p>1 sympathetic to the bid and I didn't think there was 2 a media plurality issue, I didn't think we should 3 second-guess the regulators and I thought that due 4 process should be followed. 5 Q. Isn't there a difference, though, between what was 6 stated publicly at interview with the Financial Times 7 and the sort of material we've been looking at? Do you 8 see there as being possibly any difference? 9 A. I don't think there's a substantive difference because 10 substantively my position in all those communications is 11 the same: I, broadly speaking, had the view that BSKyB 12 was already controlled by the Murdochs so I didn't think 13 there was a change in plurality, but I believed that due 14 process had to be respected, so I do not think there's 15 a particular difference. 16 Q. Would you have sent that text message of congratulations 17 after 16.58 that afternoon? This is the text: 18 "Great and congrats on Brussels, just Ofcom to go!" 19 A. No, I don't think I would have sent that text. But 20 actually, I don't think that I had been appointed at 21 16.58. I think that they were still -- I think that it 22 was being mooted as a possible solution then, but 23 I don't think there had been a final decision. 24 Q. When do you think the final decision was taken? 25 A. When the Prime Minister got legal advice that it would Page 41</p>	<p>1 a responsibility for a quasi-judicial decision with your 2 brain wiped clean. The point about a quasi-judicial 3 role is that you set aside any views that you have and 4 you decide objectively on the basis of, in this case, 5 media plurality and not on the policy considerations 6 that had been my preoccupation to that point. 7 Q. Your text message went beyond the wider policy 8 considerations. Arguably it went into the merits of the 9 issue. When one couples it with the memorandum you sent 10 to the Prime Minister, you were setting out a clear 11 position, I'm sure it was defeasible, but a clear 12 position as to where you stood in relation to this bid. 13 Would you not agree? 14 A. I wouldn't agree, no. I think I was expressing my 15 sympathy for the fact that I thought this bid could be 16 very important in terms of the UK media sector. I was 17 giving a view that I'd expressed publicly that I didn't 18 think that there was a plurality concern and I was also 19 talking about due process, but the moment that I was 20 given responsibility, I think my suitability in the 21 role, if I can put it this way, is demonstrated by the 22 actions I took when I did take responsibility for the 23 role, because I believe I did totally set aside all 24 those sympathies. Indeed, I set up a process explicitly 25 to make sure that I couldn't express any of those Page 43</p>
<p>1 be okay for me to take responsibility for the 2 quasi-judicial process. 3 Q. Approximately when was it that evening, do you think? 4 A. An hour or so later. 5 Q. So if we move the time forward an hour, I think it's 6 clear you wouldn't have sent that text message to 7 Mr Murdoch after you had formally acquired 8 responsibility; is that correct? 9 A. Um, yes. 10 Q. But doesn't it follow from that answer that this is 11 something that you should have volunteered for 12 consideration by the lawyers as to whether you were the 13 right person? 14 A. I don't believe so, because I don't think there's 15 anything substantively different in my texts to 16 Mr Murdoch. It just shows that I was broadly 17 sympathetic to the bid and that was the issue that was 18 being considered by government lawyers. 19 Q. To put it bluntly, Mr Hunt, Dr Cable had just lost the 20 role through the appearance of bias in one direction. 21 Doesn't it emerge from a fair reading of this text that 22 you shouldn't acquire the role for the equal and 23 opposite reason? 24 A. No, because, as I understand it, the point about 25 a quasi-judicial role is not that you acquire Page 42</p>	<p>1 sympathies or use any of those sympathies to inform my 2 decision. 3 Q. There was some legal advice, we know, from tab SS.E, 4 again from the legal director within your department, 5 timed at 17.30. It's 08108. We've seen it before with 6 Mr Stephens. Have you found that one, Mr Hunt? 7 A. Yes, I have. 8 Q. It's clear looking at this that this is a reference to 9 your Financial Times interview, isn't it? 10 A. Yes. 11 Q. But to nothing else, would you agree with that? 12 A. Yes. 13 Q. And it's that that you forwarded to Mr Edward Llewellyn 14 at Downing Street; is that correct? 15 A. Yes. I don't know if I personally forwarded it, but we 16 made sure that Downing Street was aware of that. 17 Q. It looks as if it's come from your email to Mr Llewellyn 18 at the top there, do you see that? 19 A. I haven't got that, but if it did, then I sent it. 20 Q. Given all the flurry of activity that day and the 21 expression of private view which that activity 22 evidences, don't you feel that that should have been 23 placed into the melting pot for consideration? 24 A. No, because I don't think there was anything different 25 in the private view to what I'd expressed publicly. Page 44</p>

11 (Pages 41 to 44)

<p>1 Q. It was consistent but it was additional in the sense 2 that in quantitative terms there's more of it, and in 3 qualitative terms we can see that you've expressed 4 a view about the bid itself. Do you see that? 5 A. Well, I am not a lawyer, but I would say that I don't 6 think there is a substantive difference. I think that 7 it was widely known that I was broadly sympathetic to 8 the bid and I'd said so, and I'd also talked about my 9 belief that due process was extremely important and that 10 was the substantive issue that had to be considered. 11 Q. Was it your view that adherence to due process and the 12 taking of independent advice at all material times 13 would, as it were, cure any perception of bias which 14 might have arisen? 15 A. Well, the two are separate. Adherence to due process 16 didn't require me to seek independent advice every time 17 I had to make a critical decision. That was my choice 18 to do that. One of the reasons I did that was precisely 19 because I had expressed these public sympathies for the 20 bid and so I wanted the public to know that I was 21 approaching this completely even-handedly, and so 22 I believe that the best discipline for that would be 23 when there was a critical decision, that at the same 24 time as I announced that decision, I would publish the 25 independent advice that I had received. I wouldn't be Page 45</p>	<p>1 16.58, subject to any legal advice. The final decision 2 was made within about an hour of that. The Cable 3 comments as it were broke earlier that afternoon. 4 I know it was four days before Christmas, but it was 5 made quickly, wasn't it? 6 A. Well, I think the situation demanded the government 7 acted quickly because it was a very important merger 8 decision. There was a very serious issue created by 9 Dr Cable's comments, which I'm sure he would 10 acknowledge, so I think it was absolutely right the 11 Prime Minister acted decisively. 12 Q. It's also right that there shouldn't be delay because 13 the greater the delay, the greater the uncertainty, and 14 the higher the risk that the bid might not go through. 15 Is that correct? 16 A. That wasn't the preoccupation of any of us. Our concern 17 was to make sure that there was a proper, fair process. 18 That was the government's responsibility. 19 Q. But as an underlying or background consideration, 20 a delay would create uncertainty, which might imperil 21 the bid. Do you accept that as a proposition of common 22 sense? 23 A. I mean, you know, obviously any delay might imperil the 24 bid, but that wasn't the priority. I don't even think 25 that was a consideration. As far as the Prime Minister Page 47</p>
<p>1 bound by that independent advice, but if I wanted to 2 differ from that independent advice, I would have to 3 give a pretty good reason as to why I was differing from 4 it, and I thought that was the best way of giving people 5 confidence that I was approaching this decision totally 6 impartially, which indeed I was. 7 Q. Because by approaching it in that way, you would also 8 protect yourself and your department from judicial 9 review proceedings, which is presumably what you were 10 advised; is that right? 11 A. I certainly wanted it to be a legally robust decision, 12 but I didn't have to seek independent advice, for 13 example, on the suitability of the UILs in order to 14 protect myself from judicial review. There's absolutely 15 no legal requirement to seek that independent advice. 16 But I think it was more about persuading the public that 17 I was approaching the process fairly. 18 Q. Do you think that the decision to transfer to you was 19 made over hastily without proper regard to whether you 20 were truly the right person to undertake this sensitive 21 and difficult task? 22 A. I don't believe so, no. The Prime Minister asked for 23 legal advice, he got it from the government lawyers, and 24 he made his decision accordingly. 25 Q. We know that the decision had been made in principle by Page 46</p>	<p>1 was concerned, he had a problem because one of his 2 Cabinet ministers had made comments that meant that it 3 was not going to be appropriate for him to continue 4 being responsible for the bid, so he needed to find 5 another Cabinet Minister who could take on those 6 responsibilities, so that was a government 7 responsibility to solve that problem. 8 Q. We know there was a meeting the following day when BIS 9 officials came to DCMS to advise as to where they were 10 in relation to the process and to bequeath the bid, as 11 it were. There's some evidence as to that. Under this 12 same file in tab INB, you'll find, I hope, at page 07896 13 a briefing note. 14 A. Yes. 15 Q. Which I think is a briefing note which comes from BIS, 16 but if it doesn't, could you assist us? 17 A. I'm afraid I don't know who it comes from, but it may be 18 a composite note that was done by BIS and my own 19 officials. 20 Q. The only reference to the process is the first bullet 21 point: 22 "The DCMS Secretary of State will now take the 23 decision. Legally, it is important he does so on the 24 merits of the case, ie it is not a collective Cabinet 25 decision, and it is important to avoid any appearance of Page 48</p>

<p>1 his independence being compromised."</p> <p>2 But there's no other explanation, is there, of what</p> <p>3 the quasi-judicial process entails, would you agree?</p> <p>4 A. No. Just looking through it, I can't see anything else.</p> <p>5 Q. Mr Stephens exhibited an email on 22 December which also</p> <p>6 recorded the advice, at least from the DCMS perspective.</p> <p>7 It's page 13583.</p> <p>8 A. In the same file?</p> <p>9 Q. No. I'm not sure you have it, unfortunately.</p> <p>10 Mr Stephens when he gave his evidence referred us to it.</p> <p>11 It is quite short. It's going to come up on the screen.</p> <p>12 A. It's on the screen, yes.</p> <p>13 LORD JUSTICE LEVESON: It's on the screen.</p> <p>14 MR JAY: It's timed at 17.44. We know the meeting was in</p> <p>15 the afternoon. The first bullet point:</p> <p>16 "BIS officials outlined the Secretary of State's</p> <p>17 role in the process and the various legal</p> <p>18 considerations."</p> <p>19 So it looks as if that was a reference to the</p> <p>20 quasi-judicial aspect of the decision?</p> <p>21 A. Correct.</p> <p>22 Q. Do you think that term was used on that occasion?</p> <p>23 A. I'm sure it was.</p> <p>24 Q. I think it's clear that you yourself had not previously</p> <p>25 exercised a quasi-judicial function, had you?</p> <p style="text-align: center;">Page 49</p>	<p>1 you to undertake frequent interactions; is that correct?</p> <p>2 A. No. What I felt was that in terms of the decision</p> <p>3 I took, the quasi-judicial role meant that I had to be</p> <p>4 fair to both sides. So we had to be very careful in</p> <p>5 terms of treating each side equally. That didn't mean</p> <p>6 the same amount of meetings with each side, because at</p> <p>7 certain moments in the bid process it was going to be</p> <p>8 necessary to have more meetings, principally because</p> <p>9 News Corp decided to go the UIL route and there was</p> <p>10 a period of negotiation of the contents of the UILs, but</p> <p>11 what I'm really saying in paragraph 37 is that because</p> <p>12 of my other duties as Secretary of State, I was going to</p> <p>13 be bumping into people who had views on the bid.</p> <p>14 I think during that period I spoke at the Oxford</p> <p>15 Media Convention where the whole media world would be</p> <p>16 gathered and I gave a speech and answered questions and</p> <p>17 there would have been coffee afterwards, and so there</p> <p>18 would have been -- but they were brief interactions, and</p> <p>19 I interpreted that to mean there might be a casual</p> <p>20 comment about the bid, but they weren't part of my</p> <p>21 consultation process.</p> <p>22 Q. So putting aside de minimis interactions, which you've</p> <p>23 just discussed, can we see if this works, that any</p> <p>24 communication you had would have to be transparent,</p> <p>25 preferably documented within the Parliament and if</p> <p style="text-align: center;">Page 51</p>
<p>1 A. No.</p> <p>2 Q. Your witness statement at paragraph 35 and following</p> <p>3 deals with your understanding of what this function</p> <p>4 amounted to. It's paragraph 36, really. Our</p> <p>5 page 05603. You set aside your personal views, make</p> <p>6 your decision objectively and impartially on the</p> <p>7 evidence --</p> <p>8 A. Sorry, which page are we, Mr Jay?</p> <p>9 Q. It's your paragraph 36, page 05603.</p> <p>10 A. Yes.</p> <p>11 Q. "I should not be biased or make the decision on party</p> <p>12 political grounds. It should be a case-specific</p> <p>13 decision taken with reference to the issue of plurality</p> <p>14 ... and not on other policy considerations ..." and you</p> <p>15 take it alone.</p> <p>16 A. Yes.</p> <p>17 Q. Paragraph 37:</p> <p>18 "Unlike a judge, whilst I needed to be careful,</p> <p>19 I was not incommunicado and continued to exercise my</p> <p>20 duties as Secretary of State ..."</p> <p>21 And that obviously entailed appearing in Parliament.</p> <p>22 The third full sentence of this paragraph:</p> <p>23 "They involved frequent interactions with many</p> <p>24 people both supporting and opposing the bid."</p> <p>25 So you felt that your quasi-judicial role allowed</p> <p style="text-align: center;">Page 50</p>	<p>1 necessary placed in the public domain if need arose.</p> <p>2 Would you agree with that formulation?</p> <p>3 A. I would agree with that formulation with respect to</p> <p>4 anything that was material to my decision.</p> <p>5 Q. Or anything which was material to the process by which</p> <p>6 your decision was taken, would you agree with that?</p> <p>7 A. No. I think what I interpreted -- my interpretation of</p> <p>8 quasi-judicial, I think, you know, obviously having</p> <p>9 completed this process, one learns lessons, and I'm not</p> <p>10 saying I would necessarily make exactly the same</p> <p>11 interpretation now, but my interpretation at the time</p> <p>12 was that what was important was that the decision was</p> <p>13 impartial, unbiased, and that I decided it on the basis</p> <p>14 of the evidence in front of me, and so that was where</p> <p>15 the transparency was important, but if there was</p> <p>16 something that was, you know, a trivial -- not trivial,</p> <p>17 that's the wrong word, but it wouldn't necessarily apply</p> <p>18 to every single matter of process.</p> <p>19 Q. We can put to one side minimal interactions, certainly,</p> <p>20 but can I be clear, would such interactions have to be</p> <p>21 through official channels?</p> <p>22 A. All the interactions which related to the decision that</p> <p>23 I was going to take would be through official channels,</p> <p>24 but as I explained there, if I bumped into someone in</p> <p>25 a lift or gave a courteous reply to a text message,</p> <p style="text-align: center;">Page 52</p>

13 (Pages 49 to 52)

1 **I didn't think that was off limits.**
 2 Q. Yes. Putting those to one side, we're talking about
 3 matters of greater substance, but are we agreed that
 4 those interactions would have to be through official
 5 channels?
 6 **A. Any formal interactions with respect to my decision,**
 7 **yes.**
 8 Q. And official channels included Mr Smith, didn't they?
 9 **A. Yes.**
 10 Q. And you were aware that he was, as it were, your channel
 11 out to News Corp in the personification of Mr Michel; is
 12 that correct?
 13 **A. Well, I think it's important to be clear about what we**
 14 **mean by "channel". I didn't see Mr Smith in this**
 15 **process as being someone who would be telling me what**
 16 **News Corp thought or telling News Corp what I thought.**
 17 **I saw him as a point of contact, an official point of**
 18 **contact in the process, so that News Corp had someone**
 19 **that they could call if they had concerns about the**
 20 **process, and someone who was there to -- you know,**
 21 **I mean the situation in which we inherited**
 22 **responsibility for a bid was one in which News Corp felt**
 23 **they had not been fairly treated, and so I wanted to**
 24 **make sure that there was someone there who could answer**
 25 **questions about how the process was going in a helpful**
 Page 53

1 way.
 2 Q. Any communication between Mr Michel and Mr Smith would
 3 be no different, would it, to communication between
 4 Mr Michel and you, because Mr Smith was your agent. Do
 5 you agree with that?
 6 **A. Not in this process. I think sometimes special advisers**
 7 **have a role which is about speaking for their boss, but**
 8 **in this situation Mr Smith's role was a different one.**
 9 **He was a point of contact in a very complex process, and**
 10 **there to advise News Corp about the questions they had**
 11 **about the process and I think also to reassure them that**
 12 **the process was fair.**
 13 Q. What express instructions, if any, was Mr Smith given as
 14 to what his special role was?
 15 **A. Well, he was present at all the meetings where we had**
 16 **advice from lawyers and officials in the department, so**
 17 **he heard that advice, and it was understood that he**
 18 **would be a point of contact for News Corp in the**
 19 **process.**
 20 Q. But what express instructions was he given as to the
 21 role he would undertake?
 22 **A. I don't think he was given any express instructions**
 23 **other than how I've described it.**
 24 Q. So in terms of the discharge of the function which had
 25 been allocated to him, your evidence is he would work
 Page 54

1 that out from what he heard at meetings; is that
 2 correct?
 3 **A. Yes.**
 4 Q. Did you give him any instructions as to what not to do?
 5 **A. No. As I say, he heard in the way that I heard all the**
 6 **things that we needed to be careful about.**
 7 Q. His ordinary function as special adviser was to
 8 represent you and to communicate your view, is that not
 9 correct?
 10 **A. That is one of the things that special advisers do, but**
 11 **that isn't -- that isn't the only thing they do. A lot**
 12 **of the things that special advisers do is they are**
 13 **a contact point for industry stakeholders, they are**
 14 **understanding policy issues, and giving me advice as to**
 15 **what policy I should have with respect to a particular**
 16 **issue that's bubbled to the surface, so they have**
 17 **a number of different functions.**
 18 Q. Yes, but in their interactions with third parties, they
 19 are representing you, aren't they?
 20 **A. I think they would be seen by third parties as someone**
 21 **who had a good understanding of what I thought.**
 22 Q. But they would be expected to communicate your view and
 23 no one else's, would you agree with that?
 24 **A. Well, I think they -- because they worked closely with**
 25 **ministers, and I doubt there's a minister who worked**
 Page 55

1 more closely with a special adviser than I worked with
 2 Adam Smith, I really did work very closely with him for
 3 the best part of six years, I think it was a given that
 4 he would know what I thought on different issues.
 5 I don't think that's quite the same as speaking for me,
 6 which is a different thing, but I think people would
 7 have expected him to know my views.
 8 Q. Yes, he knew your thinking on any significant issue.
 9 That was part of his job. He would acquire that through
 10 his familiarity with working with you. Would you agree
 11 that he's not just able, but also politically astute?
 12 **A. I think he's politically astute, but I wouldn't have**
 13 **said amongst the different type of characters that we**
 14 **have at Westminster Adam was one of the more political**
 15 **ones. I would say he was politically fairly neutral.**
 16 **I mean, I -- for me, Adam's primary role -- I had**
 17 **certain policy priorities and, you know, superfast**
 18 **broadband is just by way of an example, and Adam knew**
 19 **what I wanted to do and I only had the time to have one**
 20 **meeting a week on superfast broadband, but I wanted**
 21 **things to be happening every day, so Adam would be**
 22 **someone who could go to other meetings behind the scenes**
 23 **with officials and they knew that he would know what**
 24 **I was thinking and they could get more details. I might**
 25 **have said something in a meeting that was just one**
 Page 56

<p>1 sentence and he might be able to elaborate on that</p> <p>2 because he knew me well. That was, I think, his main</p> <p>3 role.</p> <p>4 Q. You appreciated that your departmental lawyers were in</p> <p>5 contact with their opposite numbers, as it were in</p> <p>6 News Corp and BSKyB. You also appreciated that your</p> <p>7 officials were in contact, but Mr Smith's role</p> <p>8 specifically was to be the point of contact with</p> <p>9 Mr Michel. Is that agreed?</p> <p>10 A. No, I don't think that was how it was decided. I think</p> <p>11 Mr Smith's role was to be a point of contact amongst</p> <p>12 a number of official points of contact, but I do not</p> <p>13 think we said, "Adam, you're going to look after</p> <p>14 Mr Michel." I don't think we had that kind of</p> <p>15 conversation.</p> <p>16 Q. But in terms of who was going to look after Mr Michel in</p> <p>17 the ordinary course of things, that would be Mr Smith</p> <p>18 because that's what he'd been doing before 21 December,</p> <p>19 would you agree?</p> <p>20 A. It's certainly true that Mr Smith would be the person</p> <p>21 that Mr Michel would naturally want to contact.</p> <p>22 Q. And the text message which Mr Michel sent you on</p> <p>23 Christmas Eve under the TT file, page 08147, states --</p> <p>24 you probably remember this one:</p> <p>25 "Hi, James has asked me to be the point of contact</p> <p style="text-align: center;">Page 57</p>	<p>1 (11.29 am)</p> <p>2 (A short break)</p> <p>3 (11.39 am)</p> <p>4 MR JAY: Mr Hunt, why involve a special adviser at all in</p> <p>5 this quasi-judicial process?</p> <p>6 A. Well, he was an absolutely key and trusted aide. He is</p> <p>7 highly intelligent, highly able, and I believed that he</p> <p>8 would have a very positive role to contribute in terms</p> <p>9 of making sure that the process was run robustly and in</p> <p>10 the right way generally. He's a very talented person</p> <p>11 and he's amongst the officials who are closest to me, so</p> <p>12 it would have been quite a natural thing; indeed,</p> <p>13 I think as Mr Stephens said, entirely proper and</p> <p>14 appropriate for special advisers to be involved in</p> <p>15 decisions that their ministers -- or issues that are</p> <p>16 very important to their ministers.</p> <p>17 Q. In paragraph 38 of your statement you make it clear that</p> <p>18 the most important way you could demonstrate objectivity</p> <p>19 in your decision-making was to commission independent</p> <p>20 advice, and of course you had a panoply of expert advice</p> <p>21 within the department and you had legal advice, but why</p> <p>22 have this extra layer of contact between a special</p> <p>23 adviser and, to put it bluntly, a lobbyist?</p> <p>24 A. There wasn't an extra layer of contact. Adam Smith's</p> <p>25 role was to be an official point of contact. It was</p> <p style="text-align: center;">Page 59</p>
<p>1 with you and Adam throughout the process on his behalf."</p> <p>2 A. Yes.</p> <p>3 Q. So that's making it clear what role Mr Smith might be</p> <p>4 attaining. And then your reply is:</p> <p>5 "Thanks Fred. All contact with me now needs to be</p> <p>6 through official channels until decision made."</p> <p>7 But in context that means that "for these purposes</p> <p>8 Mr Smith is my official channel", would you agree?</p> <p>9 A. I wasn't specifying that it had to be Mr Smith. I was</p> <p>10 saying that all contact had to be go through the</p> <p>11 official machinery of which Mr Smith was a part.</p> <p>12 LORD JUSTICE LEVESON: Is that convenient?</p> <p>13 Mr Hunt, we take a break to give the shorthand</p> <p>14 writer a rest, but just before we do, if I just ask one</p> <p>15 question: it was abundantly clear to you, wasn't it,</p> <p>16 that enormous care had to be exercised? One of the</p> <p>17 things in the note from BIS was a reference to the fact</p> <p>18 that the Secretary of State for BERR -- the decision to</p> <p>19 intervene in the Lloyds HBOS merger was judicially</p> <p>20 reviewed on the basis that his discretion had been</p> <p>21 fettered by comments by the Chancellor, so great</p> <p>22 sensitivity around all these decisions?</p> <p>23 A. Absolutely right.</p> <p>24 LORD JUSTICE LEVESON: Yes. All right, we'll just take</p> <p>25 a few minutes.</p> <p style="text-align: center;">Page 58</p>	<p>1 absolutely essential in a process like that that there</p> <p>2 should be someone who News Corp would be able to contact</p> <p>3 at the department if they had questions about process,</p> <p>4 and it was agreed Adam Smith would be an appropriate</p> <p>5 person to do that.</p> <p>6 Q. But it was an extra layer in the sense that the lawyers</p> <p>7 and the department would be the primary layer of formal</p> <p>8 contact, they could provide detail as to process, as to</p> <p>9 timetable, but this was superadded. This was Mr Smith</p> <p>10 in contact, with your agreement, with News Corp's</p> <p>11 lobbyist. Why was that appropriate?</p> <p>12 A. I don't accept that it was an additional layer. We set</p> <p>13 up Mr Smith to be one of a number of points of contact.</p> <p>14 The context of our approach on this was that we had</p> <p>15 inherited responsibility for a deal where we believed we</p> <p>16 were at serious risk of judicial review by News</p> <p>17 Corporation over the way that the government had handled</p> <p>18 the bid, and I was absolutely determined to make sure</p> <p>19 that it was an open and transparent process and</p> <p>20 a process that was fair to them. It had to be fair to</p> <p>21 everyone, but the context that we inherited</p> <p>22 responsibility for the bid was a question mark over</p> <p>23 whether the government was being fair to them.</p> <p>24 So I said we want to be open and transparent and we</p> <p>25 do want to have points of contact for News Corporation,</p> <p style="text-align: center;">Page 60</p>

<p>1 and Mr Smith was one of those.</p> <p>2 Q. In what way were Mr Smith's contacts open and</p> <p>3 transparent, given that they could never have emerged</p> <p>4 had there not been this Inquiry or, heaven forbid,</p> <p>5 a judicial review application against the department</p> <p>6 when the department would have been obliged to have</p> <p>7 disclosed them?</p> <p>8 A. Mr Smith's contacts in that respect were, in terms of</p> <p>9 what they were -- not the content of the contact but in</p> <p>10 terms of the fact of the contact was no different to</p> <p>11 contact by Mr Zeff, one of my departmental officials,</p> <p>12 who also had text message exchanges with Mr Michel and</p> <p>13 email exchanges with Mr Michel, so the fact of his</p> <p>14 contact wasn't different.</p> <p>15 Q. Wasn't there at least a risk that in the absence of an</p> <p>16 express instruction or warning as to what he couldn't</p> <p>17 do, Mr Smith would as it were revert to the default</p> <p>18 position, which was to act as your representative?</p> <p>19 A. I didn't believe there was a risk of that because</p> <p>20 Mr Smith is extremely able, bright. He's dedicated,</p> <p>21 he's hard-working, and he was new to the process as</p> <p>22 I was new to it and he was party to all the advice that</p> <p>23 I was hearing and he was hearing.</p> <p>24 Q. You were, of course, aware that Mr Michel was an</p> <p>25 extremely effective lobbyist, weren't you?</p> <p style="text-align: center;">Page 61</p>	<p>1 didn't was because we didn't predict this barrage of</p> <p>2 contact from Mr Michel. We thought he was perhaps</p> <p>3 a little pushy, yes, I suppose we would have said that</p> <p>4 he was at that end of the spectrum, but we weren't</p> <p>5 expecting 542 text messages to Mr Smith, including,</p> <p>6 I think -- to my total astonishment, I think it was 35</p> <p>7 text messages in just two days at one point in the</p> <p>8 process, and however many, 140 or so, phone calls.</p> <p>9 I think when you do the analysis, and it's slightly back</p> <p>10 of the envelope analysis, Mr Michel looks like he was</p> <p>11 trying to contact Mr Smith about five times every</p> <p>12 working day, which is an extraordinary amount of</p> <p>13 contact, and we didn't anticipate that at all.</p> <p>14 Q. Was Mr Smith given equivalent instructions to be the</p> <p>15 point of contact with lobbyists, public relations</p> <p>16 experts, whoever, for the coalition?</p> <p>17 A. He would have fulfilled that role as being a point of</p> <p>18 contact for the department, but for large parts of the</p> <p>19 process it was only appropriate to have contact with</p> <p>20 News Corporation, and so the vast majority of his</p> <p>21 contact would have been with News Corporation.</p> <p>22 Q. Do you accept that Mr Smith interpreted his role, at the</p> <p>23 very least, to reassure News Corp during the process?</p> <p>24 A. Yes. I think they had felt that they had not been</p> <p>25 fairly treated by the government, and we all wanted to</p> <p style="text-align: center;">Page 63</p>
<p>1 A. I think we are all aware of that now.</p> <p>2 Q. You were aware of that at the time, weren't you, from</p> <p>3 your interactions with him?</p> <p>4 A. I just thought he was, you know, a public affairs</p> <p>5 specialist at News Corporation.</p> <p>6 Q. Yes, but the job of such an individual is to be</p> <p>7 charming, charismatic, try and push doors open, frankly</p> <p>8 to be pushy. Are we agreed about that?</p> <p>9 A. I think different organisations do their lobbying in</p> <p>10 different ways, and he was certainly a character.</p> <p>11 I didn't mark him out as being more effective or less</p> <p>12 effective than people representing organisations that</p> <p>13 I've come across.</p> <p>14 Q. Didn't you think he's someone whose personal text</p> <p>15 messages to you were evidence of a degree of pushiness?</p> <p>16 A. There was a bit of pushiness, yes, I think that was</p> <p>17 apparent, and you can probably sense my responses were</p> <p>18 often sort of one word. I do as a point of principle</p> <p>19 always try and reply to text messages as a courtesy, but</p> <p>20 they got pretty brief.</p> <p>21 Q. Didn't you see risks here in relation to Mr Smith that</p> <p>22 he was the point of contact with Mr Michel, Mr Michel</p> <p>23 wasn't exactly one who would push back, he would push</p> <p>24 forward, you were exposing him to danger, weren't you?</p> <p>25 A. We didn't see any risks at the time. The reason that we</p> <p style="text-align: center;">Page 62</p>	<p>1 reassure them that they were going to get no favours,</p> <p>2 but they were going to be fairly treated.</p> <p>3 Q. What other value then was Mr Smith adding?</p> <p>4 A. Well, he was adding immense value to me as a special</p> <p>5 adviser in lots of other policy areas. I mean, we were</p> <p>6 doing lots of other things at the same time as this bid</p> <p>7 was happening, but for the bid process this was what he</p> <p>8 was doing.</p> <p>9 Q. But his role was to keep News Corp reassured, some would</p> <p>10 say happy, during a process which became increasingly</p> <p>11 protracted and difficult. Is that not fair?</p> <p>12 A. Well, it was certainly to keep them on board with the</p> <p>13 fairness of the process, yes.</p> <p>14 Q. Why not to keep them on board overall, since you had</p> <p>15 a concern that the wheels might fall off if there were</p> <p>16 excessive delay?</p> <p>17 A. I didn't have that concern. I was responsible for</p> <p>18 a quasi-judicial process. I had put aside my policy</p> <p>19 priorities in this area. I'd actually put them aside</p> <p>20 willingly because of course it's important that the</p> <p>21 media industry is successful, but media plurality is</p> <p>22 a much, much higher order decision. It's about the</p> <p>23 health of the democracy and it's about making sure that</p> <p>24 many generations of Brits go on to be able to choose</p> <p>25 their own destiny. It was a very, very important</p> <p style="text-align: center;">Page 64</p>

<p>1 decision so that was my priority.</p> <p>2 Q. Do you feel, looking back on this, that Mr Smith</p> <p>3 reasonably drew the inference that you would wish him to</p> <p>4 communicate to your private view to Mr Michel?</p> <p>5 A. I don't believe he did communicate any private views to</p> <p>6 Mr Michel. I think the views of mine that he will have</p> <p>7 communicated to Mr Michel were views that I had</p> <p>8 expressed in meetings with News Corp, and anyway, my</p> <p>9 private view was the same as my public view: I needed to</p> <p>10 make a decision about plurality. That was the decision</p> <p>11 and it needed to be done objectively and impartially and</p> <p>12 that was what I did.</p> <p>13 Q. In that sense, you had two private views. You had the</p> <p>14 private view that you needed to undertake the process</p> <p>15 according to law, but at the same time you had a private</p> <p>16 view, see the memorandum to the Prime Minister of</p> <p>17 19 November, which was favourable to this particular</p> <p>18 view. It's that private view to which I'm referring.</p> <p>19 Do you see that, Mr Hunt?</p> <p>20 A. But I set that private view aside, I knew that</p> <p>21 I couldn't make this decision on the basis of that</p> <p>22 private view, and I had a view that I felt more</p> <p>23 passionately the more I thought about the decision about</p> <p>24 plurality that actually a decision about plurality is</p> <p>25 a public interest decision. It's an absolutely</p> <p style="text-align: center;">Page 65</p>	<p>1 say here is factually correct, so we're not going to</p> <p>2 look at underlying material.</p> <p>3 30 December 2010, you received advice from the OFT,</p> <p>4 which was to the effect that you had jurisdiction to</p> <p>5 make a reference to the CC. That was a limited decision</p> <p>6 under the 2002 order.</p> <p>7 Then the following day, more importantly, you</p> <p>8 received advice from Ofcom on the plurality issue, and</p> <p>9 their advice was -- this is paragraph 1.57 at 04385 --</p> <p>10 that there was a need for a fuller review by the</p> <p>11 Competition Commission. Is that correct?</p> <p>12 A. Correct.</p> <p>13 Q. There are two documents we should look at. There was</p> <p>14 a meeting on 6 January 2011 with representatives of</p> <p>15 News Corp.</p> <p>16 A. Yes.</p> <p>17 Q. That is in the bundle of primary materials under tab 18.</p> <p>18 The Inquiry has seen this document before. It's</p> <p>19 page 04536. May we note in relation to this meeting,</p> <p>20 once you've found it in the bundle, who was present?</p> <p>21 A. Well --</p> <p>22 Q. We can see who was present. Mr Smith was there, amongst</p> <p>23 others on your side, and Mr Michel was there on behalf</p> <p>24 of News Corp.</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 67</p>
<p>1 fundamental and important decision. Far, far more</p> <p>2 important than even something as important as the</p> <p>3 commercial viability of the UK media industry, and that</p> <p>4 was my focus.</p> <p>5 Q. Okay, we may come back to that issue, but can we deal</p> <p>6 now fairly economically, Mr Hunt, with the way the bid</p> <p>7 was handled in terms of process after 22 December? You</p> <p>8 set out a general narrative in your witness statement in</p> <p>9 paragraph 39 and following.</p> <p>10 The key messages we can read are that you took</p> <p>11 expert advice at all material times, you went further</p> <p>12 than the statute strictly speaking required although you</p> <p>13 had power under the statute to obtain advice from Ofcom</p> <p>14 and the OFT on the UILs, which is what you did. When</p> <p>15 the UILs were put out for consultation first on 3 March,</p> <p>16 then consideration was given subsequently to revision,</p> <p>17 following advice from Ofcom. Then finally, at the end</p> <p>18 of June the second version of the UILs were put out for</p> <p>19 short consultation, a period closing on 8 July. That's</p> <p>20 the broad message. But the detail is to be found in</p> <p>21 annex A, which is under tab 2.</p> <p>22 May we spend just a little time looking at the</p> <p>23 highlights because I'm sure you would wish to bring the</p> <p>24 points out, but I've been able to cross-reference this</p> <p>25 with three lever-arch files of detail and everything you</p> <p style="text-align: center;">Page 66</p>	<p>1 Q. When you had a meeting with the coalition on 24 March</p> <p>2 2011, their public relations advisers, who I think were</p> <p>3 Weber Shandwick --</p> <p>4 A. Weber Shandwick.</p> <p>5 Q. They weren't invited, were they?</p> <p>6 A. Mr Michel was an employee of News Corp, so he had a role</p> <p>7 as Mr Murdoch's aide, and that's why it was appropriate</p> <p>8 for him to be there.</p> <p>9 Q. But the coalition's public relations advisers then were</p> <p>10 independent contractors and you felt that that made</p> <p>11 a material difference; is that the argument?</p> <p>12 A. I don't think it was my decision, but that was the</p> <p>13 decision that was communicated to them.</p> <p>14 Q. The message you put across on this occasion was that the</p> <p>15 Ofcom advice was that there should be a reference to the</p> <p>16 CC. You were considering the matter but were likely to</p> <p>17 conclude, given the low threshold, that that's what</p> <p>18 would happen, but the possibility of accepting</p> <p>19 undertakings in lieu of a referral were mentioned at</p> <p>20 this meeting. Do you see that?</p> <p>21 A. Yes. They weren't mentioned by us. What actually</p> <p>22 happened, to my recollection, was that I arrived back in</p> <p>23 the office on 5 January, I believe, that year, and I had</p> <p>24 this introductory meeting with News Corp and I said that</p> <p>25 I had read the Ofcom report, basically accepted it,</p> <p style="text-align: center;">Page 68</p>

17 (Pages 65 to 68)

<p>1 I was going to refer it to the Competition Commission.</p> <p>2 The process was that we sent them a letter saying</p> <p>3 that we were minded to refer it to the Competition</p> <p>4 Commission because they are an adversely affected party.</p> <p>5 They then had the opportunity to make representations</p> <p>6 back, and so that was what I told them. I don't think</p> <p>7 they had seen the Ofcom report at that point so we let</p> <p>8 them see the Ofcom report and make representations back,</p> <p>9 but they knew that I basically planned to refer it to</p> <p>10 the Competition Commission.</p> <p>11 Q. We know that the first version of the UILs were sent to</p> <p>12 you as early as 18 January, but before then I should</p> <p>13 make reference to a meeting you had with Mr Ed Richards</p> <p>14 of Ofcom on 10 January which is under tab 24.</p> <p>15 LORD JUSTICE LEVESON: Just before we do, if we just go</p> <p>16 through because I think it may be important to see the</p> <p>17 sense of this. You opened this meeting on 6 January,</p> <p>18 and you spoke about a fair and legally robust process,</p> <p>19 that you were minded to send to the Competition</p> <p>20 Commission. You identified the timeframe for them to</p> <p>21 respond. Then they came back to say they had concerns</p> <p>22 about the analysis and they wanted to explore remedies.</p> <p>23 And then you said there were areas where you wanted to</p> <p>24 seek clarification of the Ofcom report; is that right?</p> <p>25 A. Yes.</p> <p style="text-align: center;">Page 69</p>	<p>1 You acknowledged they had supplied UILs "aimed at</p> <p>2 addressing any potential impact on the sufficiency of</p> <p>3 plurality from the proposed merger. The legal framework</p> <p>4 was clear that undertakings were permissible at this</p> <p>5 stage ..."</p> <p>6 So you had received advice internally to that effect</p> <p>7 presumably, Mr Hunt; is that right?</p> <p>8 A. Well, what had happened at that stage was that we had,</p> <p>9 if you like, concluded the first part of the process,</p> <p>10 which is that I had said that I was minded to refer it</p> <p>11 to the Competition Commission, I had a duty to consult</p> <p>12 News Corp. They had given me their objections to the</p> <p>13 Ofcom report. I had also spoken to Ed Richards and</p> <p>14 asked him some questions that had arisen in my mind</p> <p>15 about the report, but I was -- after that process, I had</p> <p>16 still decided that it met the low threshold necessary</p> <p>17 for referral to the Competition Commission. So that was</p> <p>18 my decision.</p> <p>19 Then they said -- in fact, they indicated on</p> <p>20 6 January in their meeting that were that to be the</p> <p>21 case, they would want to offer undertakings, so we had</p> <p>22 an inkling, and I was advised that I had a duty under</p> <p>23 public law to consider any undertakings, if I thought</p> <p>24 they were -- merited consideration. And I think on</p> <p>25 18 January, I don't think we were sent the UILs in final</p> <p style="text-align: center;">Page 71</p>
<p>1 LORD JUSTICE LEVESON: And you were going to share both the</p> <p>2 questions and the answers, and then they responded to</p> <p>3 that?</p> <p>4 A. Yes.</p> <p>5 MR JAY: The meeting with Mr Richards is under tab 24 at</p> <p>6 page 04553. Its purpose was to seek clarification on</p> <p>7 aspects of the report, and you asked five specific</p> <p>8 questions of Mr Richards, as we can see from this.</p> <p>9 A. Yes.</p> <p>10 Q. Mr Smith was present. You said under item 3:</p> <p>11 "He had agreed to provide News Corp with the minutes</p> <p>12 of today's meeting with Ofcom, Ofcom would be able to</p> <p>13 agree the minutes in advance."</p> <p>14 Do you happen to know when the minutes became</p> <p>15 available? This is relevant to one of the emails in KRM</p> <p>16 18.</p> <p>17 A. I don't.</p> <p>18 Q. Okay. The next meeting is the one of 20 January, which</p> <p>19 is item 31 in this bundle at page 04626. The same</p> <p>20 personnel who attend, save I think that this time junior</p> <p>21 counsel is present, just before he took silk, actually.</p> <p>22 A. Right.</p> <p>23 Q. But by then you'd got the UILs in, perhaps not in draft,</p> <p>24 in final form, and your opening remarks were that you</p> <p>25 were still minded to refer.</p> <p style="text-align: center;">Page 70</p>	<p>1 form, but they may have been the final form that</p> <p>2 News Corp wanted, but really that was just to give us an</p> <p>3 indication of what the undertakings were, and they were</p> <p>4 a pretty big offer. I mean, they were basically</p> <p>5 saying -- this was a decision I had about news</p> <p>6 plurality, and they were saying that they would exclude</p> <p>7 the one news organisation that's part of BSkyB from the</p> <p>8 whole deal.</p> <p>9 So prima facie, it seemed to be an offer that</p> <p>10 I needed to consider, and I was also advised that I was</p> <p>11 obliged to consider it as a public law duty, so we then</p> <p>12 had that meeting.</p> <p>13 Q. You also received advice which News Corp had obtained</p> <p>14 from Lord Pannick Queen's Counsel, which was precisely</p> <p>15 to the same effect, namely that you did have not merely</p> <p>16 the power but a public law duty to consider any</p> <p>17 substantial UIL offers to remedy at this stage. That</p> <p>18 was sent to you at about this time, wasn't it?</p> <p>19 A. Yes. There were two additional points that I think it's</p> <p>20 worth mentioning. The first is that News Corp in their</p> <p>21 submission objecting to the Ofcom report said that I did</p> <p>22 have the option to -- not to refer it to the Competition</p> <p>23 Commission and I would have to do that by challenging</p> <p>24 certain assumptions that were made in the Ofcom report</p> <p>25 that they thought were not fair, and I rejected that</p> <p style="text-align: center;">Page 72</p>

18 (Pages 69 to 72)

<p>1 advice.</p> <p>2 Then the second thing, which doesn't come out in the</p> <p>3 minutes because civil servants --</p> <p>4 LORD JUSTICE LEVESON: It's not advice, you rejected the</p> <p>5 submission.</p> <p>6 A. I rejected the submission; correct. I rejected their</p> <p>7 legal view that that was a way that I could proceed.</p> <p>8 And then the second significant thing that happened</p> <p>9 at that meeting, so we got into a situation where they</p> <p>10 had put in this very substantial undertaking, which is</p> <p>11 to remove the one news organisation that's part of BSkyB</p> <p>12 from the whole bid, so I thought, you know, this does</p> <p>13 merit serious consideration, this could potentially</p> <p>14 address plurality concerns because they're just going to</p> <p>15 leave Sky News exactly as it was, that was the sort of</p> <p>16 gist of it.</p> <p>17 But then I decided to do something else, which</p> <p>18 I wasn't required to do, which Mr Murdoch was very cross</p> <p>19 about. In fact, I would describe that meeting as, you</p> <p>20 know, a very difficult meeting in terms of the tone of</p> <p>21 the meeting, because I said I will consider these</p> <p>22 undertakings, but I'm going to get independent advice</p> <p>23 not just from one regulator, but two. The</p> <p>24 Enterprise Act allows me, if I want to, to get advice</p> <p>25 from the Office of Fair Trading and I said I was going</p> <p style="text-align: center;">Page 73</p>	<p>1 because we got lots of letters from Slaughter & May</p> <p>2 acting for the media coalition -- was that they should</p> <p>3 be financially viable, because it was all very well to</p> <p>4 spin off Sky News, but if in fact in practical terms it</p> <p>5 was totally dependent on News Corp for its single</p> <p>6 biggest contract and its revenue, then in practical</p> <p>7 terms it wouldn't be independent of News Corp, they</p> <p>8 might be able to exercise some editorial control.</p> <p>9 So I thought financial and commercial viability was</p> <p>10 incredibly important, and plurality considerations were</p> <p>11 very important, and that was, I think, the moment when</p> <p>12 I put in place two processes to make sure that every</p> <p>13 decision I had I was in possession of expert advice and</p> <p>14 was going to be able to decide it on a totally impartial</p> <p>15 and unbiased basis.</p> <p>16 MR JAY: Yes. The final version of the UILs came through on</p> <p>17 24 January. OFT and Ofcom were commissioned to provide</p> <p>18 advice the following day. The advice came back on</p> <p>19 11 February, as annex A demonstrates, and they had</p> <p>20 concerns, Ofcom in particular, in four key areas, which</p> <p>21 you identify on page 05619, the entry there for</p> <p>22 15 February.</p> <p>23 Some of those areas you've mentioned, but one</p> <p>24 important one was that the board of the new company</p> <p>25 would need to be independently chaired.</p> <p style="text-align: center;">Page 75</p>
<p>1 to exercise that right. It says nothing about going to</p> <p>2 Ofcom, but I said I was going to ask for Ofcom's</p> <p>3 independent advice as well.</p> <p>4 This was not welcome to Mr Murdoch, because, as</p> <p>5 you'll see from some of his exchanges, he considered</p> <p>6 Ofcom to be an organisation that was hostile to the</p> <p>7 interests of News Corp, but I thought it was very</p> <p>8 important to do so because it was Ofcom who had said in</p> <p>9 their report delivered on 31 December that they had</p> <p>10 plurality concerns, and they listed in a lot of detail</p> <p>11 in a very thorough report -- I didn't agree with every</p> <p>12 word, but they listed in a lot of detail what their</p> <p>13 plurality concerns were, and I thought it was very</p> <p>14 important to test these UILs against the experts who had</p> <p>15 told me that they did have plurality concerns with the</p> <p>16 original shape of the deal.</p> <p>17 Now, from Mr Murdoch's point of view, he considered</p> <p>18 that was tantamount to wanting to kill the deal, because</p> <p>19 he believed that Ofcom would use every mechanism at</p> <p>20 their disposal -- you see a sense of this from some of</p> <p>21 Mr Michel's comments about Ofcom. So that was the first</p> <p>22 thing.</p> <p>23 Then the second thing which was very important</p> <p>24 was -- and this was a concern that was regularly raised</p> <p>25 by opponents of the bid, even at this early stage,</p> <p style="text-align: center;">Page 74</p>	<p>1 A. Yes.</p> <p>2 Q. In other words, it wouldn't be Mr James Murdoch?</p> <p>3 A. That was a very, very significant thing for Mr Murdoch.</p> <p>4 I mean, you know, News Corporation thinks that one of</p> <p>5 its primary functions is what it says on the tin, is</p> <p>6 news. He first of all didn't think he should have to</p> <p>7 spin off Sky News at all because he didn't believe there</p> <p>8 was a plurality issue with the original proposal, and</p> <p>9 this was going to cost him hundreds of millions of</p> <p>10 pounds more; but secondly, he was at the time chairman</p> <p>11 of BSkyB, and that included being chairman of Sky News,</p> <p>12 and he thought he would -- he wanted to continue to be</p> <p>13 chairman. I think that was pretty important to him.</p> <p>14 And Ofcom did not want that, and so they -- so that was</p> <p>15 then presented to me.</p> <p>16 There were other things that Ofcom -- there were</p> <p>17 other concerns. There was a concern that they wanted to</p> <p>18 have very strict measures in place to stop News</p> <p>19 Corporation buying additional shares above 39 per cent.</p> <p>20 James Murdoch was very concerned, for example, that</p> <p>21 a commercial rival would come in and purchase the other</p> <p>22 61 per cent of the shares and that might mean that he</p> <p>23 lost control of Sky News forever, and so there was</p> <p>24 a concession there that -- there was a dispute.</p> <p>25 This was presented to me, and I wrote to</p> <p style="text-align: center;">Page 76</p>

<p>1 James Murdoch with all the outstanding areas of 2 disagreement between himself, Ofcom and the OFT, and 3 I gave him 24 hours to back down on every single one of 4 them. So I said, you know, I support Ofcom, I support 5 the OFT, and if we're going to accept these UILs, we're 6 going to consider them and start the consultation, 7 I need to know that you will back down. I think I sent 8 that on 15 February.</p> <p>9 Q. You did, and within your 24-hour deadline on 16 February 10 they came back with further revisions to the UILs which 11 met the four concerns, or which at least purported to. 12 You sought further advice from Ofcom and OFT on that. 13 The advice came back on 1 March and that advice was 14 generally speaking that the plurality concerns were now 15 met. Is that fair?</p> <p>16 A. Yes. In fact, I think I had legal advice as early as 17 14 February that in principle I could accept the UILs if 18 I wanted to and allow the deal to go through, but Ofcom 19 and the OFT still had these concerns, and I said I want 20 to get to the bottom of these concerns and I want them 21 to be addressed, and so we didn't get the final advice 22 from Ofcom until just before 3 March.</p> <p>23 Q. After overnight work on 2 and 3 March, which we know 24 about from material in KRM 18 when the UILs were tweaked 25 and more importantly redactions were made to them on Page 77</p>	<p>1 issues, but it takes time to go through all those 2 responses and that's what my officials were doing. Then 3 they were discussing with Ofcom and the OFT whether they 4 felt there was substance to any of the points that were 5 raised, and then when they did find there was substance 6 to some of them, they then went back to News Corporation 7 to ask for further safeguards.</p> <p>8 One of the original -- in the original UILs, one of 9 the safeguards in terms of editorial independence was 10 that the Broadcasting Code, which includes political 11 impartiality, and there was a big worry about political 12 impartiality being preserved at Sky News if News 13 Corporation owned 100 per cent of it, so the 14 Broadcasting Code was going to be written into the 15 Articles of Association. That was a very significant 16 point.</p> <p>17 But in the consultation responses, people suggested 18 we should go further than this and so we decided that we 19 would suggest that the Secretary of State had to approve 20 the Articles of Association for the new company. We 21 made the point that there had to be a monitoring trustee 22 who would check that in the process of being spun off 23 the spirit of the undertakings was being observed, and 24 we also insisted on some kind of protection for the new 25 company because we recognised that Sky News gets a lot Page 79</p>
<p>1 grounds of commercial sensitivity, you gave an 2 announcement to Parliament that you were minded to 3 accept the UILs on 3 March, but that there was going to 4 be a public consultation, which would expire on 5 27 March.</p> <p>6 A. I think 21 March.</p> <p>7 Q. 21 March, pardon me, that's correct. We know what the 8 fruits of that consultation were. There were 40,000 9 responses. Most of them were hostile to the UILs; is 10 that right?</p> <p>11 A. That's correct.</p> <p>12 Q. 24 March there was also a meeting with the coalition. 13 You asked Ofcom and the OFT to provide further advice on 14 the carriage and brand licence agreements, but that took 15 a period of time before it arrived. Indeed, it didn't 16 arrive, I think, until 22 June, so there was a period of 17 apparent delay, without seeking to apportion any blame 18 for it, between March and June. Is that the picture?</p> <p>19 A. Yes. The reason for that principally was the 40,000 20 responses that we had. I mean, we had a lot of 21 responses, it was a genuine consultation. We were 22 looking through those responses to see whether there 23 were relevant comments. A lot of the responses were 24 about competition issues, which I wasn't allowed to 25 consider, because I could only look at media plurality Page 78</p>	<p>1 of cross-marketing on other Sky channels and we wanted 2 to make sure that that continued under the new 3 arrangement.</p> <p>4 So it was a further strengthening of these UILs in 5 a way that made Sky News massively more independent of 6 James Murdoch than it was then or indeed is now.</p> <p>7 Q. Thank you. The advice came back from OFT and Ofcom on 8 22 June. By 24 June, you'd given some preliminary 9 consideration to it. There's one email I'd like you, 10 Mr Hunt, to look at, please. It's in the file of 11 primary documents under tab 120, page number 05121. I'm 12 afraid it's in the second volume.</p> <p>13 A. Is it on the screen, because I can perhaps have a look 14 at it there, because I can't find it --</p> <p>15 Q. Yes, it's come up. This is from your PPS, isn't it?</p> <p>16 A. Yes.</p> <p>17 Q. So expressing your view. Your two special advisers are 18 copied in. It gives us some flavour of where you are at 19 this time because it may be relevant to one of the KRM 20 18 documents:</p> <p>21 "Sorry for keeping you hanging on earlier. SoS has 22 read the covering letters and advice from OFT and Ofcom, 23 but not the amended documents in full yet -- which he is 24 keen to do Monday so I've scheduled him some time for 25 that. Page 80</p>

<p>1 "SoS talked to Jon ..."</p> <p>2 That's Jon Zeff, of course, who is the lead policy</p> <p>3 adviser on this, isn't he?</p> <p>4 A. Yes.</p> <p>5 Q. "... and I briefly on his way out of the building. In</p> <p>6 principle SoS would like to aim for an announcement on</p> <p>7 Thursday next week ..."</p> <p>8 So this is an announcement which would be to</p> <p>9 Parliament, would it?</p> <p>10 A. Yes.</p> <p>11 Q. "... subject to giving further thought to Ofcom and</p> <p>12 OFT's advice and studying the docs in more detail on</p> <p>13 Monday. He understands the challenges with that --</p> <p>14 specifically in agreeing redacted docs -- but thinks we</p> <p>15 should push News Corp to have redactions done for Tues</p> <p>16 night. He's also not minded to give more than the</p> <p>17 statutory 7 days for further consultation."</p> <p>18 These are your preliminary views, which as it</p> <p>19 happened did not depart much from your final views, once</p> <p>20 we see what happened on 30 June.</p> <p>21 The last paragraph has been either cut off or</p> <p>22 redacted off, it's not altogether clear:</p> <p>23 "I think you were going to take up with colleague</p> <p>24 and News the viability of this. If there are any show</p> <p>25 stoppers [again I can't read what follows] ... it might</p> <p style="text-align: center;">Page 81</p>	<p>1 consequence that you then indicated you would refer to</p> <p>2 the CC and then on 13 July the bid was withdrawn.</p> <p>3 A. Yes.</p> <p>4 Q. In the circumstances of which we're all aware.</p> <p>5 A. Yes.</p> <p>6 Q. That is the formal process. We've taken it quite</p> <p>7 quickly, in about 20 minutes, but can I give you this</p> <p>8 opportunity. Is there any aspect, Mr Hunt, that you</p> <p>9 would like to draw out particularly from this formal</p> <p>10 process which we haven't, you feel, properly covered?</p> <p>11 A. Well, I think the bit that we haven't touched on, which</p> <p>12 I think is relevant to these considerations, is the way</p> <p>13 the phone hacking issue was developing, sort of in</p> <p>14 parallel to decisions about this bid.</p> <p>15 I sort of think the phone hacking happened, as far</p> <p>16 as I was concerned, in three stages. The first stage</p> <p>17 was on 26 January, when Operation Weeting started, so we</p> <p>18 had a moment there where we were having a proper, full</p> <p>19 police investigation into these issues and there had</p> <p>20 been lots of discussion prior to that as to whether this</p> <p>21 had been investigated properly or not, and Assistant</p> <p>22 Commissioner Sue Akers was starting that very rigorous</p> <p>23 process.</p> <p>24 So my perspective at this point is: this is a police</p> <p>25 matter.</p> <p style="text-align: center;">Page 83</p>
<p>1 be good to discuss at/in the margins of the Monday</p> <p>2 morning coms meeting."</p> <p>3 Was the idea that Mr Smith would speak to News about</p> <p>4 the viability of this?</p> <p>5 A. I don't think it was particularly that Mr Smith should,</p> <p>6 but I think the sense of that is that someone should.</p> <p>7 Q. Thank you. On 30 June you make your announcement to</p> <p>8 Parliament. Because we were only now looking at amended</p> <p>9 UILs and there had already been a consultation on the</p> <p>10 first version, the statutory consultation period could</p> <p>11 be very short, and you indicated that it could close, as</p> <p>12 it did, on 8 July; is that correct?</p> <p>13 A. That's correct, yes.</p> <p>14 Q. And you received in that short period of time 156,000</p> <p>15 responses. Virtually all were, again, anti, weren't</p> <p>16 they?</p> <p>17 A. Yes.</p> <p>18 Q. What happened thereafter is well known, but we're going</p> <p>19 to have to look at underlying documents as well. On</p> <p>20 11 July you wrote to OFT and Ofcom asking them whether</p> <p>21 the responses to the second consultation led them to</p> <p>22 reconsider any part of their advice, but on that</p> <p>23 self-same day, News Corp withdrew the UILs --</p> <p>24 A. Mm.</p> <p>25 Q. -- probably with the intention but certainly with the</p> <p style="text-align: center;">Page 82</p>	<p>1 Then, I think, on -- if I remember rightly, on</p> <p>2 8 April, News International announced that phone hacking</p> <p>3 had gone much more widely than was suggested in the</p> <p>4 Clive Goodman case and that potentially thousands of</p> <p>5 people had been affected by it, and what I wanted to</p> <p>6 know at that stage was: should that impact on my</p> <p>7 consideration of media plurality?</p> <p>8 We sought legal advice I think the same day,</p> <p>9 actually we didn't get it for about ten days, but we</p> <p>10 sought legal advice about whether phone hacking was</p> <p>11 relevant. The general advice we'd been getting was:</p> <p>12 just as I shouldn't allow policy issues to impinge on my</p> <p>13 decision-making on media plurality, so phone hacking</p> <p>14 shouldn't impinge on it either. This was an extraneous</p> <p>15 matter.</p> <p>16 But the advice we got on 18 April did say that the</p> <p>17 one way that phone hacking could impinge was if they</p> <p>18 thought there was an issue of trust, so that accepting</p> <p>19 undertakings basically meant that you had to be</p> <p>20 confident that you could trust the people that you were</p> <p>21 doing a deal with over those undertakings.</p> <p>22 So at that stage it was a matter about</p> <p>23 News International. It wasn't a matter that there was</p> <p>24 any evidence at all that it affected News Corporation</p> <p>25 executives that we were dealing with. We thought they</p> <p style="text-align: center;">Page 84</p>

21 (Pages 81 to 84)

<p>1 had a problem with a company that was part of News 2 Corporation group, but there was no evidence, and we 3 didn't think we'd have any legally robust basis to 4 suggest at that stage there was an issue of trust. 5 Then -- I'm sorry to be a bit lengthy, but I just 6 think it's important to understand why I wrote the final 7 letter that I wrote to Ofcom, because it is -- you know, 8 I think it's an important indication of the way we 9 approached the bid. 10 Then we had the horrific Milly Dowler revelations on 11 4 July, which I don't think anyone could not have been 12 touched by, and then a couple of days later News 13 Corporation announced that they were closing the News of 14 the World. 15 That, for me, was a very, very significant moment 16 because then I began to wonder whether there could be 17 a management issue that spread beyond News International 18 to News Corp, and even if it wasn't an issue of trust, 19 even if I accepted that the people that we were 20 negotiating the UILs with, we were doing so in good 21 faith, I asked myself, if they found it necessary to 22 close down a whole newspaper -- this is a big, big deal 23 for a company like News Corporation -- is there 24 a corporate governance issue here? Is this a company 25 that actually doesn't have control of what's going on in</p> <p style="text-align: center;">Page 85</p>	<p>1 contingently when the UILs were being considered in the 2 context of whether you could trust the company to be 3 loyal to the UILs. 4 Your view was in April there was insufficient 5 evidence, but your view changed in July, that there 6 might be sufficient evidence. That's really the nub of 7 it, isn't it? 8 A. Yes. And then I followed the procedure that I'd 9 followed consistently, which was to seek an independent 10 view about that before I took a decision. 11 But just to answer Lord Justice Leveson's point, we 12 didn't get that advice back from Ofcom and the OFT, 13 because in the event the bid was withdrawn just a couple 14 of days after we sent the letter asking Ofcom for that 15 advice. 16 Q. Mr Hunt, we've looked at the formal process and it's all 17 documented. There is also a process within the 18 department which is evidenced by a range of emails which 19 you've disclosed and there are also some text messages. 20 I'm going to deal with it chronologically, but I have to 21 take it in sections otherwise we're going to be darting 22 around too much material. We've going to look first of 23 all at what the emails might demonstrate and then we're 24 going to look at the text messages, but the emails will 25 be looked at chronologically. The first one is in the</p> <p style="text-align: center;">Page 87</p>
<p>1 its own company, even if the management don't know about 2 what's happening? 3 So it was really that and, of course, the fact that 4 there was a plurality issue with a big newspaper being 5 closed down and the fact that Ofcom had been asked to 6 investigate whether BSkyB was a fit and proper licence 7 holder for a broadcasting licence, those came together. 8 So a week after the Milly Dowler revelations I wrote to 9 both Ofcom and the OFT to ask them whether they still 10 stood by the advice they'd given me at the end of June 11 that plurality considerations had been addressed by the 12 UILs as they did then. 13 Q. Yes. 14 LORD JUSTICE LEVESON: Is that advice available? The advice 15 as to the impact of phone hacking? 16 MR JAY: It's referred to in some of the documents we're 17 going to look at fairly shortly. 18 LORD JUSTICE LEVESON: Very good. 19 MR JAY: As a matter of law, Mr Hunt, what you've said is 20 correct on my understanding, that the intervention 21 notice which Dr Cable promulgated on 4 November 2010 was 22 on one ground only under the Enterprise Act and 23 therefore it could not be appropriate to take into 24 account an extraneous consideration, which is the phone 25 hacking issue. It only could become relevant</p> <p style="text-align: center;">Page 86</p>	<p>1 second supplementary file under tab IND at page 07747. 2 A. 007? 3 Q. 07747, under the tab IND. 4 A. Yes. 5 Q. We're on 27 January, where we have evidence here that 6 the two-week period which is being referred to in the 7 context of OFT and Ofcom was their advice on the UILs; 8 is that correct? 9 A. Yes. 10 Q. And we can see that Mr Smith sent an email back to 11 various people indicating that he had a conversation 12 with you about the two weeks. He says: 13 "I agree, Jeremy was pretty clear to me he wanted it 14 done in two weeks unless, having looked at it, they come 15 back with a good reason for needing longer." 16 LORD JUSTICE LEVESON: I think we just ought to explain what 17 a UIL is, for those who may not be quite as familiar as 18 we've become with this concept. 19 If you refer to the Competition Commission, then 20 there's a complete process that analyses probably at 21 great length all the features surrounding this 22 particular bid, and the idea of an undertaking in lieu, 23 which is what a UIL means, is that the company seeking 24 to acquire says to you, the Secretary of State, "Well, 25 I understand what your concerns are, they are A, B, C,</p> <p style="text-align: center;">Page 88</p>

<p>1 D. We will give you the following undertaking -- or 2 make the following promises to cope with your concerns, 3 and in that way avoid the complexity, complication, 4 time, all the rest of it, of a referral to the 5 Competition Commission, because if we can make promises 6 that satisfy your concerns, then there won't be 7 a necessity to do it." 8 That's what you were doing, talking about UILs. 9 They were then making promises to you as to how they 10 would organise their affairs, to see whether that coped 11 with the concerns which had been expressed to you 12 through the OFT and Ofcom, and therefore by April your 13 question becomes: well, they're making these promises, 14 but is there a question about whether I should be 15 accepting promises in the light of what is being 16 revealed in another subsidiary of News Corp? 17 A. That's right. 18 LORD JUSTICE LEVESON: And that's the concern that gets 19 greater throughout July. 20 A. That's correct. 21 LORD JUSTICE LEVESON: Have I correctly understood it? 22 A. Absolutely. 23 LORD JUSTICE LEVESON: I thought I had, but just in case it 24 wasn't, that was the point. 25 MR JAY: Thank you. The next document we're going to look Page 89</p>	<p>1 pro-Murdoch and at the same time the Labour Director of 2 Communications was contacting all Labour front benchers 3 with, you know, the line that you shouldn't link phone 4 hacking and -- which was obviously something that the 5 Murdochs would welcome. 6 Q. Wasn't the irony possibly this, that both you and 7 Mr Smith appreciated that privately you were 8 pro-Murdoch, although of course you had to follow 9 a proper legal process which had the appearances of 10 being anti-Murdoch? 11 A. No. Because we weren't following a process for 12 appearances sake. I mean, I did not know what the 13 independent advice I would get back from Ofcom and the 14 OFT was. If Ofcom had said that the undertakings were 15 not financially viable, I would have taken that very 16 seriously -- sorry, if OFT had said they weren't 17 financially viable, I would have taken that very 18 seriously. If Ofcom had said that the undertakings 19 didn't meet plurality concerns, I would have taken that 20 very seriously. 21 So we pushed the boat off the pier, but we didn't 22 know where the boat was going to end up, so that was 23 a very -- it was a very different process to the way 24 I think you've described it, if I may say. 25 Q. Okay. Under tab SS.B, further forward in the same file, Page 91</p>
<p>1 at is under tab SS.Aa at page 07931. Mr Smith forwards 2 to you, if you have it, an email on behalf of 3 Ed Miliband's director of strategy, who is Tom Baldwin. 4 Are you with me on that? 5 A. Yes. 6 Q. 07931. It was to the effect that Labour spokespeople 7 should "... avoid linking hacking with the BSkyB bid, to 8 accept ministerial assurances that meetings with 9 Rupert Murdoch are not influencing that process and to 10 ensure that complaints about tapping are made in 11 a personal, not shadow ministerial capacity. 12 And then you emailed back Mr Smith: 13 "Classic!! Something for the dispatch box or to use 14 any time we are accused of being pro-Murdoch." 15 That's a sort of private joke, I suppose, between 16 you and Mr Smith, is it? 17 A. I don't think it was particularly a private joke. We 18 saw great irony in the fact that first of all we had 19 a process where we weren't being pro-Murdoch, we were 20 actually doing things that James Murdoch was very cross 21 about. At that stage on 2 February, we had said that 22 even though we didn't have to, we were going to go back 23 to Ofcom to ask what they thought about the UILs, and he 24 was pretty furious about that, but at the same time -- 25 so we're getting these accusations that we were being Page 90</p>	<p>1 page 08096, now you're communicating with your other 2 special adviser, Sue Beeby, do you see that? 3 A. Mm-hm. 4 Q. You say: 5 "Both our favourite journalists, Andy Porter and 6 Patrick Foster ..." 7 Who do they work for? 8 A. I think one worked for the Telegraph and the other for 9 the Times. 10 Q. "... have texted me asking for an exclusive on ..." 11 That bit has been redacted out, I'm not exactly sure 12 why. 13 "Could we think of something exclusive we can give 14 each of them either on that or perhaps something around 15 News Corp. Let's chat tomorrow." 16 And then: 17 "Your special adviser has spoken to Mr Foster. 18 I have spoken to Patrick and given him ..." I'm not sure 19 what that is, "exclusive." 20 LORD JUSTICE LEVESON: Is that something "nothing at all to 21 do with our business"? 22 A. Yes. 23 MR JAY: "This is on the proviso that he writes a bit about 24 Labour ... he's happy to do that. Andy will want [then 25 it's all redacted out] before we officially announce it. Page 92</p>

23 (Pages 89 to 92)

1 Shall we chat about this later as it's a bit more
 2 sensitive, as is anything on News Corp."
 3 I mean, this is an example of no doubt fairly common
 4 practice of feeding favourite journalists stories; is
 5 that right?
 6 **A. I think when you're -- you know, you're managing your**
 7 **media as either in opposition or in governments, you**
 8 **have a choice. You can sometimes put a story out to**
 9 **everyone, in which case it might not get picked up at**
 10 **all, or you give a journalist an exclusive on the basis**
 11 **that they'll give it a good show. So I think both those**
 12 **two journalists had contacted me asking me if I could**
 13 **give them some kind of an exclusive and I was just**
 14 **passing on that request to Sue Beeby.**
 15 Q. Was there any irony then, Mr Hunt, in the use of the
 16 term "favourite journalists", or do we read that
 17 literally, as they were chosen because they are your
 18 favourite journalists?
 19 **A. No, I think I was just -- they are two people that I --**
 20 **we knew them both quite well and so I was just -- I knew**
 21 **them better than I knew many journalists. That was all**
 22 **I was really saying.**
 23 Q. Okay. I'll leave that one and go forward in time but
 24 backward in the bundle to the 2 March 2011, page 07787,
 25 which is under tab IND. The evening of 2 March.

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1 **A. Yes.**
 2 Q. A meeting which you chaired. This is in advance of the
 3 announcement you're going to make to the markets first
 4 thing in the morning, that's going to be about at 7.30
 5 in the morning, and then later to Parliament.
 6 The relevant part of this is the next page. You can
 7 help us with this, please, because it may assist us. Do
 8 you see the third line:
 9 "I would have thought that we could send them
 10 [that's the letters to OFT and Ofcom] to News Corp at
 11 the same time as we communicate our decision, but
 12 grateful for views. They would also like to see a copy
 13 of the PN ..."
 14 That's the Parliamentary announcement, is it?
 15 **A. That's the press notice.**
 16 Q. "Could we show them that at the same time (assuming that
 17 it is ready by then)?"
 18 Does one draw the inference that authorisation was
 19 being sought and given to give News Corp advance notice
 20 of the announcement which was going to be made by press
 21 notice at 7.30 am on 3 March?
 22 **A. I believe that it is standard practice when you make an**
 23 **announcement to Parliament about a particular company**
 24 **that they do have notice of that in advance, and I think**
 25 **that was all that was talking about.**

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1 Q. Because it's clear that Mr Smith acted on that vis-a-vis
 2 Mr Michel, but it's relevant to understand on what basis
 3 he might have done so. We can see Mr Smith was copied
 4 in on this email.
 5 **A. (Nods head).**
 6 Q. Back to tab SS.Aa, 8 March now, page 07957. What had
 7 happened, Mr Hunt, so that we have our bearings, is on
 8 this date Enders had provided a note, a critical one, on
 9 the UILs. This was part of the consultation process.
 10 That was forwarded to you by Mr Smith, that's clear from
 11 the bottom of page 07957, and then Mr Smith, 17 minutes
 12 later, also sent you what he described as News Corp's
 13 initial reaction to the Enders analysis. Do you see
 14 that?
 15 **A. Mm.**
 16 Q. We know from other evidence that News Corp's initial
 17 reaction was communicated to Mr Smith by Mr Michel. Did
 18 you know that to be the case at the time?
 19 **A. I didn't know it to be the case, but I wouldn't have**
 20 **been surprised to know that the News Corp reaction was**
 21 **coming via Mr Michel.**
 22 Q. Did he to your recollection have a discussion with you
 23 about News Corp's initial reaction or not?
 24 **A. Not to my recollection, but it might have happened.**
 25 Q. Because throughout this process are we to gain the

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1 impression that if an email like this was sent on to
 2 you, if it was self-explanatory, then you'd deal with it
 3 without a discussion, but if it warranted a discussion,
 4 you would in the natural and ordinary course of things
 5 have one with Mr Smith?
 6 **A. Yes. I think that's probably slightly overstating how**
 7 **closely involved I was in the discussion. I think he**
 8 **kept me informed. I don't actually recall this**
 9 **particular part of the bid in great detail, but if**
 10 **Enders, who are a respected industry analyst, had**
 11 **written with some concerns about the UILs, we would have**
 12 **taken it very seriously and tried to understand if there**
 13 **was substance in them, and as I know Enders, Adam might**
 14 **have wanted to let me know that that was happening and**
 15 **what News Corp's reaction was, but it wasn't really**
 16 **a process that I would be involved in, because**
 17 **essentially because I wanted to structure the process so**
 18 **that I -- basically no one would believe that I had any**
 19 **kind of discretion, I was following independent advice,**
 20 **giving huge weight to independent advice, and it was**
 21 **really my own discretion for making -- or to a large**
 22 **part removing my discretion, really the negotiations at**
 23 **this stage were between Ofcom and the OFT and News Corp,**
 24 **so I was being informed of what was going on, but in**
 25 **terms of what the UILs should contain, I think News Corp**

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<p>1 knew by this stage that I would listen to Ofcom and the 2 OFT, so if they wanted something in as a UIL, if they 3 wanted something excluded as a UIL, it was Ofcom and the 4 OFT that they had to persuade.</p> <p>5 Q. Yes, thank you. Can we move to the first file of 6 supplementary material. We're now on 24 March, under 7 tab EX.P, page 07656. 24 March is the date of the 8 meeting you're going to have with the Slaughter & May 9 team for the coalition. It was fixed for the afternoon 10 of that date. Do you recall that?</p> <p>11 A. Yes. Sorry, what was the page reference?</p> <p>12 Q. 07656. This is an email we saw last week, sent by 13 Mr Michel to Mr Smith, which contains what he calls 14 a rebuttal document. If you look on the next page, 15 07657, you'll see the Slaughter & May argument to the 16 left-hand side, and then the News Corp rebuttal on the 17 right-hand side.</p> <p>18 A. Yes.</p> <p>19 Q. Is this a document which was sent to you by Mr Smith, do 20 you believe, in advance of the meeting?</p> <p>21 A. Not to my recollection, no.</p> <p>22 One thing I should say, which is something that 23 didn't really occur to me until I was looking at these 24 documents closely as part of this Inquiry's process, was 25 that it's quite interesting, we had quite regular</p> <p style="text-align: center;">Page 97</p>	<p>1 like, we had this lock on the process that in the end we 2 were going to get advice from the OFT and Ofcom about 3 the UILs before I made my decision, and it was going to 4 have a lot of impact on that decision.</p> <p>5 Q. Okay. May we move forward in time to April 2011 and 6 back to the second supplementary file, tab IND, 7 page 07805.</p> <p>8 A. Sorry, just give me a moment. What was the tab again, 9 Mr Jay?</p> <p>10 Q. IND.</p> <p>11 LORD JUSTICE LEVESON: D?</p> <p>12 MR JAY: D, pardon me.</p> <p>13 A. Yes.</p> <p>14 Q. I'm sorry to dart around, but I wanted to bring this out 15 chronologically. Page 07805. Look at the bottom of the 16 page once you've found it.</p> <p>17 A. Yes.</p> <p>18 Q. You'll see an email of 18 April. The second bullet 19 point meshes in with what you've told us half an hour 20 ago, namely that you were giving some consideration to 21 the fit and proper person issue in relation to the 22 News Corp/Sky merger, do you see that?</p> <p>23 A. Yes.</p> <p>24 LORD JUSTICE LEVESON: PI, is that public interest?</p> <p>25 A. Yes, it is.</p> <p style="text-align: center;">Page 99</p>
<p>1 contact from Slaughter & May, and we did -- right from 2 the start of the process we did actually take into 3 account what they said quite seriously.</p> <p>4 So when the idea of undertakings was broached in the 5 press, somehow it got out into the press, Slaughter & 6 May fired off a letter pretty quickly saying any 7 undertakings would have to be structural and couldn't be 8 behavioural and would have to be financially sustainable 9 and that's a big question as to how you would get them 10 to do that, and that advice we followed. So we did take 11 what they said pretty seriously.</p> <p>12 Q. Although Mr Smith in the events which happened was not 13 in contact at all with their public relations advisers, 14 was he?</p> <p>15 A. I don't think that's material. What's material is that 16 the points that they were making were being carefully 17 considered.</p> <p>18 Q. But there may be a difference, though, between the 19 message and the messenger for these purposes, would you 20 accept that?</p> <p>21 A. I think what's important in the process that I was 22 running is that we were being even-handed, we were being 23 open-minded. We were listening to comments from the 24 opponents of the bid, we were listening to what 25 News Corp said, we were wanting to be fair. And, if you</p> <p style="text-align: center;">Page 98</p>	<p>1 LORD JUSTICE LEVESON: Thank you.</p> <p>2 MR JAY: In the middle of the page, Rita recalls you as 3 raising two points. The first is: 4 "Are we sure the process is going as fast as it 5 can -- Secretary of State keen to make decision asap 6 post holidays. I said I thought it was but we'd stay on 7 the case." 8 That's the first point. Possible concern now about 9 the delay, would you accept?</p> <p>10 A. Well, I want everything to happen quickly in government, 11 and this had been a process that had been -- at this 12 stage it had already taken four months, or the best part 13 of, and so I wanted it to happen as briskly as possible. 14 However, whenever I was asked by people who were looking 15 through the consultation responses or by Ofcom and the 16 OFT for more time, I would always give them more time. 17 So I wanted to make sure that everyone involved in 18 the bid was giving it priority amongst the other things 19 they had to do, but having given it that priority, I was 20 happy for them to have as long as they wanted.</p> <p>21 Q. Okay. And the other point is, and it's coincident with 22 the point which we've already seen: 23 "Secretary of State wants to make sure we've 24 thoroughly kicked the tyres on scope for invoking the 25 standards limb of the PI test."</p> <p style="text-align: center;">Page 100</p>

25 (Pages 97 to 100)

<p>1 So we're back to the same point, it's the fit and 2 proper person point, isn't it, which you were as it were 3 testing out for consideration? 4 A. Well, I wanted to know, because there is a fit and 5 proper person public interest test in the 6 Enterprise Act, and what I wanted to establish was: am 7 I able to invoke that because of the phone hacking 8 considerations? Was I able to invoke that? And I was 9 advised that I wasn't able to do that because you can 10 only invoke a public interest test once. 11 So it could have been invoked by Dr Cable when he 12 invoked the test on media plurality. Obviously he 13 didn't know about the phone hacking at that stage, so 14 that's why he presumably didn't consider that, but we 15 did know about phone hacking now, so that's why I wanted 16 to know whether I was able to invoke it, and I was told 17 I wasn't. 18 LORD JUSTICE LEVESON: At this stage you're simply asking 19 the question? 20 A. Correct. 21 MR JAY: 12 May now. First volume of the supplementary 22 bundle, tab EX.P, page 07696. This is an email from 23 Mr Michel to Mr Smith. Has it come up? This is further 24 thoughts from Mr Michel to Mr Smith. It's not forwarded 25 to you at the time. What we see at the top of the page</p> <p style="text-align: center;">Page 101</p>	<p>1 A. I think that they thought that the phone hacking -- 2 I mean, obviously it was their -- News International was 3 part of News Corp, so they might have been more aware 4 than we were that there were more and more explosive 5 revelations down the track, as it were, and they were 6 worried about the impact they might have, and I think 7 reading through Mr Michel's internal emails in KRM 18, 8 he constantly says phone hacking is -- they're not 9 taking account of phone hacking, so we don't need to 10 worry. That was kind of the News Corp internal view. 11 We, looking at it externally, didn't know that this 12 was a volcano that was about to erupt. We just had to 13 look at the evidence of what was emerging in the media. 14 We didn't know that there was worse to come. And we 15 were just taking legal advice at every stage as to 16 whether we should have been intervening on the basis of 17 it. 18 LORD JUSTICE LEVESON: What, of course, News Corp will have 19 known was that their Management Standards Committee, 20 chaired by Lord Grabiner, was in the process of going 21 through materials and handing such materials as they 22 felt were appropriate to the police; is that right? 23 MR WHITE: Not in May. July. 24 LORD JUSTICE LEVESON: Thank you very much, I'm happy to be 25 corrected.</p> <p style="text-align: center;">Page 103</p>
<p>1 refers to the disclosure exercise for this Inquiry. 2 Just what Mr Michel says at the end: 3 "We are keen to start the consultation as quickly as 4 possible because, in any event, the agreements are not 5 subject to the consultation. 6 "Otherwise, we won't be done before mid-June, which 7 will be catastrophic for many important reasons." 8 Do you happen to know what those reasons were? 9 A. I don't. I obviously didn't see this letter, but 10 I think with the benefit of hindsight we can probably 11 understand what he might have been talking about. 12 Q. Can you share that with us, please? 13 A. Actually, I can't see the sentence that you're talking 14 about. I heard you read it out. 15 LORD JUSTICE LEVESON: It's the last sentence in the email. 16 A. Oh, right. Well, I think that, looking at Mr Michel's 17 emails in KRM 18, his internal emails, it's very clear 18 that phone hacking was something that was a growing 19 concern to News Corp, and I think they obviously were 20 worried that it might derail this bid, as indeed in the 21 end effectively it did. 22 LORD JUSTICE LEVESON: I see. It's the pace of the police 23 investigation and the impact on further disclosures that 24 that might generate which might create more trouble; is 25 that the point you're making?</p> <p style="text-align: center;">Page 102</p>	<p>1 MR JAY: If that's your interpretation, Mr Hunt, presumably 2 that's the interpretation Mr Smith received from this at 3 the time from Mr Michel. Are we in agreement? 4 A. No, because this is not my -- this is not -- this is 5 saying that's what my interpretation is now, now I know 6 what was happening with phone hacking. Neither myself 7 nor Mr Smith knew the picture that was about to emerge 8 for phone hacking. 9 Q. What's rather odd is that Mr Michel is expressing 10 a private thought of some sensitivity to Mr Smith. He's 11 saying rather Delphically: unless it's done by a certain 12 date, it will be catastrophic for many important 13 reasons. One inference might be that Mr Smith will 14 either know what that was or will find out. But wasn't 15 that notion communicated to you, Mr Hunt? 16 A. It certainly wasn't, and I'd be very surprised if 17 Mr Smith had any idea whatsoever as to what those 18 Delphic reasons might be. I think that News Corp are 19 a very determined company and they're always putting 20 everyone under pressure to do things quickly. I wanted 21 to do things briskly but properly, so I think he would 22 just look at that and say this is just another example 23 of News Corp trying to pile on the pressure. 24 Q. But didn't you get the general message from Mr Smith 25 that that's precisely what News Corp were doing through</p> <p style="text-align: center;">Page 104</p>

26 (Pages 101 to 104)

<p>1 Mr Michel, namely piling on the pressure?</p> <p>2 A. No, I didn't. I didn't get that impression. You've</p> <p>3 spoken to Mr Smith. He's a very uncomplaining, decent,</p> <p>4 hard-working person, and I think he said to you that he</p> <p>5 saw his job as being a buffer for me, so he saw his job</p> <p>6 to absorb that pressure. I was very determined as</p> <p>7 Secretary of State that responsibility for this bid</p> <p>8 should not derail all the other important things that</p> <p>9 I had to do in my department, so I think Mr Smith saw</p> <p>10 himself as being that buffer and that was why he</p> <p>11 wouldn't have informed me of all these conversations.</p> <p>12 Q. One might see that as a buffer he wouldn't inform you of</p> <p>13 all the conversations but given we are encountering here</p> <p>14 a period of delay with attendant pressure from News Corp</p> <p>15 as one might expect, did not the general gist of the</p> <p>16 message from Mr Michel be imparted to you by Mr Smith,</p> <p>17 namely they're getting a bit uppity now or words to that</p> <p>18 effect?</p> <p>19 A. It may well have been, and it wouldn't have been any</p> <p>20 surprise. You know, as a company they want everything</p> <p>21 done at the speed of light, but I don't remember it</p> <p>22 being raised with me, if I can put it this way, as</p> <p>23 a specific issue that I needed to address.</p> <p>24 Q. It would just have been part of the background noise</p> <p>25 which was coming out at this stage, is that fair?</p> <p style="text-align: center;">Page 105</p>	<p>1 know, but I did certainly attach a lot of weight to what</p> <p>2 they said.</p> <p>3 Q. The third substantive paragraph:</p> <p>4 "It would be good to understand the state of play as</p> <p>5 it does seem the timetable you outlined to me is</p> <p>6 slipping away massively and we might want to consider</p> <p>7 our options at this stage."</p> <p>8 So it looks as if Mr Smith had communicated</p> <p>9 a timetable to Mr Michel and we get some understanding</p> <p>10 of what that timetable was from the next sentence, would</p> <p>11 you agree?</p> <p>12 A. Yes.</p> <p>13 Q. And in so doing, Mr Smith was acting within or without</p> <p>14 his authority, in your view?</p> <p>15 A. I think entirely within his authority. He was a contact</p> <p>16 point about process. We wanted to be open and</p> <p>17 transparent with News Corp about the process that we</p> <p>18 were following that involved their company. This was</p> <p>19 nothing to do with the decision as to whether I was</p> <p>20 going to accept that the UILs met plurality concerns or</p> <p>21 not, but to tell News Corp that we were aiming for</p> <p>22 24 June, I think, would be absolutely a legitimate part</p> <p>23 of the process.</p> <p>24 Q. Okay. We can move forward in time, I think, to 28 June.</p> <p>25 I'm afraid we're in the second volume of this</p> <p style="text-align: center;">Page 107</p>
<p>1 A. If Mr Smith said anything to me at all.</p> <p>2 Q. Turn over the page to 07697. This is Mr Michel again to</p> <p>3 Mr Smith, 29 May.</p> <p>4 A. Sorry, I don't have it yet. There we are.</p> <p>5 Q. It's been redacted for some reason, the name, but we</p> <p>6 know from KRM 18 that this is a reference to</p> <p>7 Ed Richards, okay, so we might as well put his name</p> <p>8 straight back in.</p> <p>9 "We are getting some feedback from OFT and MPs that</p> <p>10 Ed Richards is very much in driving seat on the</p> <p>11 agreements discussion and meeting JH regularly to update</p> <p>12 him."</p> <p>13 Was that factually correct?</p> <p>14 A. No. It is true that I met Mr Richards most weeks</p> <p>15 because I have a meeting about the rollout of superfast</p> <p>16 broadband and local television which Mr Richards came</p> <p>17 along to, so I did see Mr Richards regularly.</p> <p>18 If you're saying -- obviously for News Corp Ofcom</p> <p>19 was a bete noir so they would have thoroughly objected</p> <p>20 to the idea of Ofcom being in the driving seat of</p> <p>21 anything, but as far as I was concerned actually Ofcom's</p> <p>22 view was critical. I wanted to know whether Ofcom were</p> <p>23 satisfied that plurality concerns were being addressed</p> <p>24 by these undertakings, and so whether you would describe</p> <p>25 that as them being in the driving seat or not I don't</p> <p style="text-align: center;">Page 106</p>	<p>1 supplementary bundle under SS.Aa at page 08008, which is</p> <p>2 an email from you to Mr Smith.</p> <p>3 A. I haven't quite got it on the screen.</p> <p>4 Q. The UILs which are being referred to there --</p> <p>5 LORD JUSTICE LEVESON: It's not there yet. I'll read it:</p> <p>6 "Hiya. Those new UILs are pretty thorough ..."</p> <p>7 A. I have it now, sir.</p> <p>8 LORD JUSTICE LEVESON: Very good.</p> <p>9 MR JAY: "... feels like the world doesn't trust the</p> <p>10 Murdochs further than they can be thrown! What was the</p> <p>11 resolution on the issue of Murdoch family members buying</p> <p>12 shares in Newco? Thx."</p> <p>13 Can you remember the context of that observation</p> <p>14 about the Murdochs?</p> <p>15 A. I can't remember the exact context. We'd had 40,000</p> <p>16 objections to the UILs that Ofcom and the OFT had said</p> <p>17 satisfied their plurality concerns. I think it's</p> <p>18 a fairly accurate description of the mood of the country</p> <p>19 at that time, actually, and, you know, in terms of the</p> <p>20 Murdoch family members buying shares in Newco, the</p> <p>21 concern had been expressed that if Sky News was spun</p> <p>22 off, that a Murdoch family member might buy -- you know,</p> <p>23 News Corporation was limited to holding 39 per cent of</p> <p>24 the shares of Sky News, but a Murdoch family member</p> <p>25 might purchase some of the other shares in order to, as</p> <p style="text-align: center;">Page 108</p>

27 (Pages 105 to 108)

<p>1 it were, help the Murdochs gain control of the spun-off 2 Sky News through the back door, and I wanted to be sure 3 that that wasn't going to be possible in terms of the 4 way the UIIs were set up. 5 Q. So this is a remark which one reads entirely 6 straightforwardly, it's your interpretation of what the 7 world at large were saying, and you were reporting that 8 back without irony to Mr Smith; is that right? 9 A. Yes. 10 Q. Can we move forward to July? We are still in the second 11 supplementary bundle under tab IND, a series now of 12 emails which start at 07822. There are seven of them 13 we're going to look at, or seven pages worth. 14 LORD JUSTICE LEVESON: Can you do this in five minutes? 15 MR JAY: Probably best to do it with a clean start. 16 LORD JUSTICE LEVESON: Then let's break now and we'll resume 17 at 2 o'clock, if that's all right with you, Mr Hunt. 18 A. Yes. 19 LORD JUSTICE LEVESON: Thank you very much. 2 o'clock. 20 (12.58 pm) 21 (The luncheon adjournment) 22 23 24 25</p> <p style="text-align: center;">Page 109</p>	

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