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**IN THE COMPETITION**  
**APPEAL TRIBUNAL**

Case No: 1381/7/7/21

Salisbury Square House  
8 Salisbury Square  
London EC4Y 8AP

Monday 29<sup>th</sup> January – Friday 22<sup>nd</sup> March 2024

Before:  
The Honourable Mr Justice Waksman

Eamonn Doran

Derek Ridyard

(Sitting as a Tribunal in England and Wales)

**BETWEEN:**

Justin Le Patourel

**Class Representative**

v

(1) BT Group PLC  
(2) British Telecommunications plc  
(Together, "BT")

**Respondent**

**A P P E A R A N C E S**

Ronit Kreisberger KC, Derek Spitz, Michael Armitage, Jack Williams and Matthew Barry (On behalf of Justin Le Patourel)

Daniel Beard KC, Sarah Love, Daisy Mackersie, Natalie Nguyen and Ali Al-Karim  
(On behalf of BT)

Jennifer MacLeod (On behalf of the Competition & Markets Authority)

1 Wednesday, 28 February 2024

2 (10.00 am)

3 THE CHAIRMAN: Good morning. Some of you are joining us  
4 live stream on our website, so I must therefore start  
5 with the customary warning: an official recording is  
6 being made and an authorised transcript will be  
7 produced, but it is strictly prohibited for anyone else  
8 to make an unauthorised recording, whether audio or  
9 visual, of the proceedings, and breach of that provision  
10 is punishable as a contempt of court.

11 Yes, Ms Kreisberger.

12 MR DAVID MATTHEW (continued)

13 Cross-examination by MS KREISBERGER (continued)

14 MS KREISBERGER: Thank you, sir.

15 Mr Matthew, good morning. I would like to start  
16 with your first report. That is {IR-E/19/76}. Do you  
17 have the hard copy there, Mr Matthew?

18 A. Yes, I do.

19 Q. I will wait for the --

20 A. Section 4.1.2.

21 Q. That is right. If we could zoom in on that heading and  
22 the paragraphs below.

23 So the heading there, Mr Matthew, is "Ex post  
24 competition law v Ex ante regulation - Differences in  
25 customer detriment/abuse".

1           So, Mr Matthew, there you are distinguishing between  
2           ex ante regulation and abuse under ex post competition  
3           law, yes?

4           A. Yes.

5           Q. The abuse we are talking about here is of course the  
6           abuse of unfair pricing?

7           A. Yes.

8           Q. Now, Mr Matthew, could you please read to yourself  
9           paragraph 160. (Pause).

10          A. Yes, I have read it.

11          Q. So you begin there by saying that the 2017 review was:

12                 "... motivated by a broader set of considerations  
13                 than just competition concerns."

14          A. Yes, so vulnerability is important here.

15          Q. Yes. You go on to say that the market issues at the  
16                 heart of the investigation were based on Ofcom's view  
17                 that VOCs were disengaged, vulnerable and needed  
18                 particular protection?

19          A. Yes.

20          Q. Now, what you are suggesting here, Mr Matthew, is that  
21                 Ofcom's intervention in 2017 was motivated by the  
22                 specific concerns about the needs of a vulnerable  
23                 customer group, yes?

24          A. Yes, I am suggesting that is part of it.

25          Q. You are saying here that given these specific concerns

1 about this customer group, the Tribunal should not place  
2 weight on the fact that Ofcom intervened in VOC prices  
3 when the Tribunal is determining whether BT's SFV prices  
4 were unfair within the meaning of limb 2, yes?

5 A. I think that is one of the reasons. I mean, the other  
6 reason is just in general I would say the ex ante  
7 thresholds are substantially lower than ex post.

8 Q. Yes, we will come back to that, but staying with your  
9 first reason. Now, yesterday I spent some time taking  
10 you through the Ofcom Provisional Conclusions and the  
11 statement, and I showed you yesterday the key elements  
12 of Ofcom's assessment, much to Mr Beard's delight.

13 Now, I am not going to go back to them, but since we  
14 have had the overnight break I will just remind you of  
15 them in summary.

16 So Ofcom defined relevant markets for SFV services,  
17 it did that applying the SSNIP test. It found bundles  
18 to be outside the markets. It found that BT had  
19 a dominant position, and that SFV prices were well above  
20 competitive levels, and that those prices caused  
21 consumer detriment to VOCs and SPCs.

22 Now --

23 MR BEARD: These are submissions. I do not understand what  
24 the point of this is, and I do not understand how it  
25 fits with limb 2 at all at this stage.

1 THE CHAIRMAN: I can see that there is -- I can see what is  
2 coming, let me put it that way. I think the point that  
3 Ms Kreisberger wants to make is if that is what Ofcom  
4 were doing, and we are certainly not to go all over it  
5 again today, but if, for the purposes of argument, that  
6 is what Ofcom said in its Provisional Conclusions and in  
7 its statement, I think a point is then going to be  
8 raised about how that fits with Mr Matthew's conception  
9 of the basis for Ofcom's intervention.

10 Is that right?

11 MS KREISBERGER: It is, and it is going to be quite  
12 a specific point, and perhaps I can come back to you  
13 after I have completed --

14 THE CHAIRMAN: Yes, let us -- for the sake of argument,  
15 Mr Matthew, you have been through a lot of stuff  
16 yesterday on the documents. We have a record of your  
17 answers. You may or may not agree precisely with the  
18 summary which Ms Kreisberger is putting to you, but let  
19 us assume her summary is correct for the purposes of the  
20 questions that follow.

21 MS KREISBERGER: Thank you, sir.

22 THE CHAIRMAN: Right.

23 MS KREISBERGER: Mr Matthew, your area of expertise is the  
24 economics and practice of antitrust and regulation, so  
25 each of those points I have just put to you will be

1 familiar to you as the sorts of issues which arise in  
2 ex post competition cases?

3 A. So market definition, SMP, yes, they come up in  
4 antitrust.

5 Q. Mr Matthew, you devote a whole section of your report,  
6 it is section 3, to excessive pricing, so you will  
7 recognise these issues as the hoops one has to jump  
8 through in an excessive pricing case?

9 A. So, yes, if you want to bring an excessive pricing case,  
10 you have to show the firm in dominant and a number of  
11 other things.

12 Q. So that would be the framework of analysis?

13 A. Correct.

14 Q. If we go to the transcript, {Day17/100:5}. Now, you  
15 agreed that your evidence in section 4.1.2 of your  
16 report is seeking to draw a distinction between ex ante  
17 regulation and ex post competition law?

18 A. Yes.

19 Q. Then in the hot tub you said this, line 5:

20 "So I do not think you can read across from that  
21 decision [that is 2017] and say, well, because Ofcom did  
22 it, it must therefore -- or there is even any kind of  
23 presumption that it would be unfair under competition  
24 law in general under limb 2."

25 A. Yes.

1 Q. Now, I have shown you that Ofcom's various conclusions  
2 in 2017 traversed the same territory as the Class  
3 Representative's unfair pricing claim?

4 A. They are defining markets, they are talking about SMP.  
5 There is then a question about whether the Provisional  
6 Conclusions read across into the final statement. My  
7 point is about the finding that it was right to  
8 intervene on the VOC prices is not going to be the same  
9 level of considerations as I would expect under ex post.

10 Q. Yes, so you are focusing on --

11 A. Both in terms of the general thresholds for  
12 intervening --

13 Q. We will come back to that.

14 A. -- and also the fact that Ofcom is starting this off  
15 very clearly with the vulnerability and lack of  
16 engagement that it perceived in respect of VOCs in mind.

17 Q. Now, if we just bring up paragraph 160 again, so that is  
18 {IR-E/19/76}, and I have taken you there to your  
19 wording. When we get to limb 2 under the *United Brands*  
20 test, the question is whether Ofcom's findings about SFV  
21 prices in 2017 support the Class Representative's case  
22 that BT's prices are unfair as well as excessive, yes,  
23 that is the question under limb 2?

24 A. The point I was making is you cannot take Ofcom's  
25 decision and say that implies abuse under competition

1 law.

2 Q. Yes, that is your evidence, Mr Matthew.

3 A. That is the point I make.

4 Q. But what I am putting to you is that it is also relevant

5 that Ofcom's intervention was motivated, to use your

6 language, by the same competition concerns which

7 constitute the Class Representative's case?

8 A. Yes, I just -- I do not see that connection.

9 THE CHAIRMAN: I am not quite following. The question

10 is: was Ofcom's intervention, I suppose, wholly or in

11 part, motivated by the sort of typical competition

12 questions about market definition, SMP, dominance etc.?

13 That is the question that is being put to you.

14 A. So in respect of SMP and dominance, what Ofcom is doing

15 here is they are -- so stepping back a year or two

16 before, they have identified that Line Rental prices are

17 starting to go up, and there is the digital

18 communications review in 2015/2016 which is a sort of

19 strategic step-back by Ofcom looking across the piece at

20 how it approaches communications markets. It does it

21 from time to time. A large part of that was about the

22 transition to full fibre broadband, which is not

23 relevant here, but there was also a discussion of,

24 "well, what about consumer markets" where -- you know,

25 we have got retail competition is working well in

1           general, but it is not -- the benefit is not being  
2           shared equally everywhere, and as part of that they  
3           comment on VOCs as a group that they are concerned about  
4           being disengaged and vulnerable and that they are  
5           starting to think about intervening in some way to make  
6           things better for them. That is essentially where it  
7           starts. So my comments here are partly about the  
8           significance of vulnerable customers, partly because  
9           that is mentioned repeatedly in the 2017 statements but  
10          also as the sort of intro to how all of this came  
11          through.

12                 They then -- sorry, this is a long answer, but they  
13          then announced they are going to look at this properly,  
14          and they open the 2017 review, and by that point they  
15          are shifting into the territory of, "okay, well, BT is  
16          the biggest supplier here and we are going to -- we are  
17          thinking about direct price intervention to bring down  
18          prices, so we are going to go through the SMP  
19          framework", and obviously they go through the steps that  
20          are similar to those you find in an antitrust case where  
21          you define markets, you reach views about significant  
22          market power which is usually seen as broadly similar to  
23          dominance, and then they are making a decision.

24                 My distinction is primarily about the decision. So  
25          when Ofcom is making this decision they are not looking

1 for something that is very unfair, that is an  
2 exceptionally high price or margin. They are looking  
3 for, "okay, well, we have got a group of customers here  
4 where SMP can apply, because we think it would be better  
5 to reduce prices to them", including, importantly,  
6 because, one, they are vulnerable, they thought; two,  
7 they are disengaged, they thought; and three, the  
8 impacts on competition are probably not likely to be  
9 very significant, and obviously take a different view  
10 about SPCs where those considerations did not apply.

11 MS KREISBERGER: Mr Matthew, just picking up on what you  
12 said there. You said:

13 "My distinction is primarily about the decision."

14 I am going to suggest to you that a more accurate  
15 language would be that your distinction is about the  
16 remedy which ultimately came down to a settlement, as  
17 distinct from the findings that Ofcom made in the 2017  
18 review.

19 A. Okay, I am not -- so the decision to intervene on prices  
20 is the remedy that they lay out in this process, if that  
21 is what you mean. So, yes, I am commenting on that  
22 decision that the margins and prices were sufficiently  
23 high that there was a case for intervention, they were  
24 being governed by the considerations of an ex ante  
25 regulator, which I consider to be very different and

1           much lower by way of threshold than I would expect under  
2           ex post law.

3           MS KREISBERGER: Sir, I said I would come back to you,  
4           I hope that answers ...

5           THE CHAIRMAN: Yes.

6           MS KREISBERGER: These do all go to unfairness questions.

7           THE CHAIRMAN: You have put the point and you have got what  
8           Mr Matthew says about it. Thank you.

9           MS KREISBERGER: Mr Matthew, I said I would come back to  
10          threshold. If we could go to your evidence in the  
11          hot tub. So this is turning to your evidence about the  
12          threshold for Ofcom's intervention on SFV prices.

13          Could we bring up the transcript for {Day17/5:9-15}.  
14          We see there what you said, Mr Matthew:

15          "I was just literally ..."

16          So this is two days ago.

17          "I was just literally trying to cast my mind over  
18          precisely what was said last week, but I think the main  
19          point that I made was ex ante regulation has  
20          a substantially lower threshold and broader scope than  
21          an economics view of ex post. I was going to come back  
22          to the implications of the Ofcom review in the later  
23          questions."

24          So your point, Mr Matthew, and you have made it  
25          today again, is that ex ante regulation has a lower

1 threshold than ex post competition law?

2 A. Yes, correct. Well, in my view.

3 Q. You have said several times in your evidence that Ofcom  
4 has a bias against intervention, yes?

5 A. It does, yes.

6 Q. Now, if we go back to your report, {IR-E/19/10}. Could  
7 we focus on the footnotes at the bottom of the page,  
8 footnote 11. You refer there to Ofcom's 2006 paper on  
9 key regulatory principles, one of which is to operate  
10 with a bias against intervention?

11 A. Correct.

12 Q. Now, I would like to take you to another document where  
13 Ofcom explains this key regulatory principle in more  
14 detail. It is at {C/322.1/1}, and this is Ofcom's  
15 annual plan for 2005/2006.

16 Could we go to the next page, please, {C/322.1/2}  
17 and it is the bottom part of the page, paragraph 2.5.

18 You see there the second bullet point, so Ofcom says  
19 here:

20 "What our principles mean in practice is that ...

21 "Our bias against intervention means that a high  
22 standard of proof must be satisfied. In other words,  
23 there must be a clear case for intervention, and the  
24 prospective benefits must exceed the costs of any  
25 action."

1           Mr Matthew, that sounds like a high threshold for  
2           regulatory intervention?

3           A. So let us just put those words and the general  
4           observations about the bias against intervention into  
5           context. So one of the many well known difficulties of  
6           being an ex ante regulator, and trying to do your best  
7           for the sectors you are covering, is of course you are  
8           given these very strong powers to intervene on an  
9           intrusive basis.

10          THE CHAIRMAN: Speaking of intrusion, just put it to one  
11          side, if you can, Mr Matthew.

12          A. I will. So essentially you are given these powers, and  
13          one of the risks is you have a lot of powers and you  
14          make decisions, and regulators do get things wrong, and  
15          they have a very healthy, I think, regard for their own  
16          frailties when it comes to getting everything right.  
17          One of the concerns you have, as a regulator, on an  
18          ongoing basis, is you do not want -- usually you do not  
19          want to become a second layer of management or  
20          a micro-manager of your industry.

21                 So it is how to -- the conundrum is how do you give  
22                 people powers to take real effect when you are trying to  
23                 guide the sector without compromising commercial  
24                 incentives, markets etc., when you can use them. The  
25                 bias against intervention is just part of that; it is

1 saying, it is not, we are just going to intervene all  
2 the time, every time we see something we do not like.  
3 We are going to give space, we are going to use a whole  
4 variety of different incentive mechanisms, we are going  
5 to make judgments about how well competition will do  
6 versus regulation, we are going to make judgments about  
7 how much we should expect consumers to engage in markets  
8 rather than bringing in consumer affairs, all of that  
9 kind of stuff. So you have a bias against intervention  
10 to limit your powers to where it really is the right  
11 thing to do.

12 But when it comes to making decisions, the point  
13 I was making earlier is if they decide, "well, here we  
14 think it is better if VOC customers get lower prices",  
15 they can make that judgment against their principal  
16 duties, and they decide to intervene because they think  
17 the benefits there are higher than the costs. I do not  
18 think it is anything about the threshold being close to  
19 the ex post threshold.

20 Q. In this annual plan, Ofcom do not say: the test we apply  
21 is the one you just set out, Mr Matthew. We are not  
22 going to intervene every time we see something we do not  
23 like.

24 That is not the threshold, is it? It is very clear:  
25 "Our bias against intervention means that a high

- 1 standard of proof must be satisfied."
- 2 Yes?
- 3 A. Yes, that is about the standard of proof and evidence  
4 you want when you are making your decisions, which  
5 should be high.
- 6 Q. There must be a clear case for intervention?
- 7 A. Yes.
- 8 Q. Then the specific requirement is that prospective  
9 benefits exceed the costs?
- 10 A. Yes, so all sensible stuff that is consistent with the  
11 characterisation I just gave, which is my reading of  
12 what those words mean.
- 13 Q. So against the background of this high threshold, Ofcom  
14 did overcome its bias against intervention in relation  
15 to SFV customers?
- 16 A. Yes, as I said, the threshold is not comparable to  
17 ex post in my view, but, yes, they have overcome it in  
18 the case of VOCs.
- 19 Q. When one is considering whether BT's excessive SFV  
20 prices are unfair under limb 2, another relevant fact is  
21 that Ofcom overcame its bias against intervention?
- 22 A. As I have said, I just do not think that is a useful  
23 starting principle.
- 24 Q. I am coming on to my last topic, and if we could go back  
25 to your report, {IR-E/19/74} at paragraph 154,

1 Mr Matthew, you also rely on the fact that Ofcom did not  
2 intervene in September 2013. What you say is at the end  
3 of this paragraph:

4 "... Ofcom ... did not intervene in general in 2013  
5 ..."

6 That is a factor you are citing there which you say:

7 "... gives weight to the conclusion that BT's prices  
8 for access and calls were not excessive or unfair."

9 Mr Matthew, I would like to show you an Ofcom  
10 document published four months later in January 2014.  
11 That is {C/340.1/1}.

12 A. That is in the very convenient bundle that you gave me.

13 Q. It should be in your bundle.

14 A. It is, it is. Sorry, I have just mislaid my pack.

15 There we go, "Mr Matthew Cross-Examination Bundle".

16 Sorry, what was ...

17 Q. You can see there on the EPE there is the front page.

18 So it is "Cost and value of communications services in  
19 the UK". 28 January 2014. It is a consultation  
20 document.

21 A. Yes.

22 Q. Now, in this document Ofcom reviews the development and  
23 cost of communication services over the previous  
24 ten years. Let us turn up page {C/340.1/11} and you see  
25 there the heading at 2.1.6, "Some standalone Line Rental

1 charges have risen over recent years but cheaper  
2 alternatives are available".

3 Then let us have a look at the third paragraph:

4 "Despite this range of choice and the overall  
5 positive trend in fixed voice costs, some retail prices  
6 for Line Rental have increased in recent years. This is  
7 related to the fact that landlines generally tend to be  
8 sold as a bundle with other products - historically with  
9 voice calls, more recently with broadband. Market  
10 competition has tended to focus on the headline price of  
11 the bundle, which has generally fallen. Consequently  
12 consumers buying a landline service without broadband  
13 may not benefit fully from the effects of competition.  
14 Furthermore, some providers (TalkTalk and Virgin Media)  
15 have recently ceased their standalone landline service.  
16 Ofcom will continue to monitor this situation  
17 carefully."

18 Mr Matthew, Ofcom is here expressing the concern  
19 that standalone customers may not be benefiting from  
20 competition compared to bundle customers, is it not?

21 A. So, yes, so this is the beginning of monitoring --  
22 sorry, this is part of monitoring, not the beginning of  
23 it. So what they are doing is, this is a general  
24 overview. Sorry, is this document ... A sort of  
25 overview of what is happening in the market, sorry.

1           So, yes, what they are doing is they are monitoring,  
2           they are picking up the Line Rental point. They are  
3           observing that there are a variety of prices in the  
4           market and they are saying they are going to monitor it  
5           carefully, and that monitoring is what eventually turns  
6           up in the digital communications review in similar guise  
7           but things have moved on.

8           So they are monitoring. I do not think it says that  
9           they think there is a competition problem at this stage  
10          or the beginnings of a case for intervention under their  
11          own standards. If there was, then probably they would  
12          have started something a bit earlier.

13         Q. But you agree they express a concern there?

14         A. I agree -- so let us just see ... I think it is an  
15          observation. I am not sure they use the term "concern".

16         Q. An observation that:

17                 "... consumers buying a landline service without  
18                 broadband may not benefit fully from the effects of  
19                 competition."

20         A. So I do not think that is a concern yet. That is  
21          a statement that: here we have a statement of consumers  
22          who might not be doing as well out of competition as the  
23          rest of the market or other parts of the market, and  
24          they are picking up on TalkTalk and Virgin have stopped  
25          supplying, so they are noticing that, and the Line

- 1 Rental prices, they are seeing positive ... do they  
2 refer to Line Rental here?
- 3 Q. I am going to take you over the page in just a moment,  
4 but --
- 5 A. I would not characterise it as a concern. This is  
6 monitoring and noticing: here is something which we  
7 should be watching going forwards.
- 8 Q. But you would accept that Ofcom is saying they will  
9 "monitor this situation carefully" in the final  
10 sentence?
- 11 A. Yes, and in my report I made clear they kept an eye on  
12 the retail markets throughout.
- 13 Q. Let us go over the page, {C/340.1/12} and you see there  
14 Figure 8. That is a figure showing standalone Line  
15 Rental costs, is it not, and the price of BT Line Rental  
16 is the blue line, yes?
- 17 A. Just give me a second. (Pause). Yes, so they have got  
18 a line for BT Line Rental, another one for the cheapest  
19 alternative providers, and other reference points.
- 20 Q. You see there the cost of Wholesale Line Rental is the  
21 green line going down?
- 22 A. Yes.
- 23 Q. So this figure shows a steady increase in the BT Line  
24 Rental price since around 2009?
- 25 A. So if you take -- this figure does. If you take the low

1 point, it is going up. As we discussed at length in  
2 these proceedings, that is Line Rental. It is far from  
3 the complete picture. The picture in this period, from  
4 memory, the ARPUs would look a bit different, but here  
5 they are noticing the Line Rental, and that is what they  
6 are recording they are going to keep an eye on --

7 Q. That is what they are going to keep an eye on?

8 A. Then when they come to do the full review, of course,  
9 they do look at the other call revenues --

10 Q. So in the period between 2009 and 2013, Ofcom is  
11 recording the increase in Line Rental and the decrease  
12 in the WLR?

13 A. Yes, and the availability of cheaper alternatives for  
14 Line Rental.

15 Q. Now, Mr Matthew, you do not mention this 2014 review in  
16 your reports, do you?

17 A. Again, I am going to ask you to tell me -- if that is  
18 not true, I am sure it is right. I do not recall.

19 Q. It is not a lie.

20 A. I do not recall mentioning it.

21 Q. That is correct, and we can hand it up if it is helpful.  
22 We now have the full set of your instructions. We had  
23 been told a page was missing from the bundle.

24 A. Yes.

25 Q. We can hand it up, if helpful. This document does not

1 feature in the list of Ofcom documents you were sent.

2 A. I will take it on trust. I certainly do not recall  
3 looking at this document. It is consistent with my  
4 observations about monitoring the market, but ...

5 Q. I have already put to you that this document shows that  
6 Ofcom was concerned at the beginning of 2014 that  
7 standalone customers were not benefiting fully from  
8 competition, but what this also means is that by  
9 January 2014 BT knew about Ofcom's concerns about BT's  
10 increasing Line Rental prices?

11 A. So as I said a minute ago, I am not sure we have yet got  
12 a concern in front of us, and as to what BT took from it  
13 you will have to ask them, I do not know. I do not  
14 think I would read from this there is a real problem  
15 with line -- well, Line Rental or voice services taken  
16 together, yes.

17 Q. Could we go to the transcript at {Day4/34:1}. This is  
18 the cross-examination of Ms Cheek, who was BT's  
19 Principal of Regulatory Affairs. You see there at  
20 line -- is that the right ... I think we need to go over  
21 the page. I am so sorry, it is page {Day4/36:1}. There  
22 we go.

23 So the question put to Ms Cheek in relation to this  
24 document is that:

25 "... it ... cannot be said ... that Ofcom was giving

1 BT a clean bill of health in terms of SFV pricing  
2 in January 2014, can it?"

3 She said:

4 "No, that is true."

5 So BT accepts that Ofcom was concerned at the start  
6 of 2014. BT knew that, and it continued to press ahead  
7 with its programme of annual Line Rental price increases  
8 after that date.

9 Now, let us come back to your evidence, Mr Matthew,  
10 {IR-E/19/74}, coming back to paragraph 154, which I took  
11 you to at the outset. You say there --

12 A. Sorry, could you just give me the page number?

13 Q. I am sorry, that is page 74 of your first report.

14 A. Yes.

15 Q. Paragraph 154, which we have already seen, where you say  
16 that the Tribunal should place weight on the fact that  
17 Ofcom did not intervene in general in September 2013 in  
18 deciding whether BT's SFV prices were unfair.

19 In retrospect, Mr Matthew, do you think you should  
20 have mentioned that only four months later Ofcom was  
21 sounding the warning bell on Line Rental price  
22 increases?

23 A. No, I mean, I am not sure I was aware of this document  
24 but I do not think so. This is 2013, it takes a view as  
25 to the retail market for voice services at that time,

1 and it says we have looked at what is happening to the  
2 overall cost of calls, sorry, calls and access together,  
3 they are coming together, and competition seems to be  
4 working.

5 In the document you just showed me they are starting  
6 to say, "well, we are just going to start keeping an eye  
7 on Line Rental here", and they did, and that culminates  
8 eventually in decisions to take action, which is  
9 consistent with my report.

10 So I do not see a contradiction, and I do not see  
11 that that statement in 2014 implies a concern that is  
12 leading to, "well, we are going to come in and start  
13 price regulating". There is a long way to go before you  
14 get to that stage.

15 Q. Yes. So your evidence is that the Tribunal should place  
16 weight on the 2013 Ofcom report on calls for the  
17 purposes of the limb 2 unfairness assessment, but not  
18 place weight on its observations in 2014 that SFV  
19 customers were not benefiting from competition?

20 A. Yes, so in terms of looking back and interpreting where  
21 Ofcom was at that stage, I would place a lot more weight  
22 on a substantive market review document that says it is  
23 looking at how well competition is doing for these  
24 services, and looks at indicators of what the actual  
25 price trends were and the competition was, over and



1           questions, as the chairman indicates, in the first  
2           instance, but obviously my colleagues may well have  
3           follow-ups.

4           MR BEARD: I am so sorry, Mr Doran, I know this is  
5           a formality, but I think actually, although I know  
6           Dr Hunt has testified to his reports, Mr Loomes has not.  
7           It is just a matter of --

8           MR DORAN: You are quite right.

9                     I am sorry, Mr Spitz.

10           Examination-in-chief of PROFESSOR LOOMES by MR SPITZ

11           MR SPITZ: Not at all. Thank you very much.

12                     Good morning, Professor Loomes. You should see in  
13           front of you a bundle with your expert reports, and  
14           I would like you to turn to the report that has the Opus  
15           reference {E/8/59}. If you go to the first page of that  
16           report, do you see your first expert report?

17           PROFESSOR LOOMES: Yes, I see it.

18           MR SPITZ: It is dated 7 September 2023. You will see that  
19           if you turn to page 59, the last page of the report.

20           PROFESSOR LOOMES: Yes, 7 September.

21           MR SPITZ: That is your signature on that page, is it?

22           PROFESSOR LOOMES: Yes.

23           MR SPITZ: Professor Loomes, does the content of this report  
24           represent your true and complete view at the time you  
25           wrote it?

1 PROFESSOR LOOMES: It does.

2 MR SPITZ: Thank you.

3 If I can then ask you to turn to {IR-E/9/1}.

4 PROFESSOR LOOMES: Yes, I have got that.

5 MR SPITZ: Is that your reply report there?

6 PROFESSOR LOOMES: Dated 10 November, yes.

7 MR SPITZ: Indeed, that is correct.

8 Could I ask you to turn to page 32, {IR-E/9/32}.

9 PROFESSOR LOOMES: Yes, I am on page 32.

10 MR SPITZ: As you said there, you will see it is dated

11 10 November 2023. Professor Loomes, is that your

12 signature on page 32?

13 PROFESSOR LOOMES: Yes, it is.

14 MR SPITZ: Are the contents of this report your true and

15 complete view at the time you wrote the report?

16 PROFESSOR LOOMES: Yes, they are.

17 MR SPITZ: Thank you.

18 Lastly, could I ask you to turn to the Joint

19 Experts' Statement which is at {E/50/1}.

20 PROFESSOR LOOMES: Yes.

21 MR SPITZ: That is the Joint Experts' Statement of the

22 behavioural experts.

23 PROFESSOR LOOMES: That is right.

24 MR SPITZ: If you turn to page {E/50/32}.

25 PROFESSOR LOOMES: Yes, it is dated 14 December.

1 MR SPITZ: Yes, indeed. If we could go to page 32.

2 PROFESSOR LOOMES: Yes, I am here.

3 MR SPITZ: Is this your signature at the foot of the page?

4 PROFESSOR LOOMES: Yes, it is.

5 MR SPITZ: Does what is recorded under your name in the  
6 Joint Experts' Statement represent your true and  
7 complete view at the time the joint statement was  
8 finalised?

9 PROFESSOR LOOMES: Yes, it does.

10 MR SPITZ: Thank you.

11 Questions by THE TRIBUNAL

12 MR DORAN: Thank you very much.

13 Good morning again, gentlemen. I am going to ask  
14 the questions alternatively, so not the same person will  
15 lead in response each time.

16 We will start perhaps with some key -- the key terms  
17 and concepts which are the start of the list of  
18 questions. I suppose the context here is the question  
19 about barriers to entry and expansion, in truth, and the  
20 deliberate choices or not that customers made when  
21 contemplating these products and whether to stay.

22 So could you help us with these notions of  
23 "engaged", "active", "informed" and "deliberate", and  
24 what the right definition and appropriate test might be  
25 here.

1                   Perhaps you would start, Professor Loomes.

2       PROFESSOR LOOMES: Well, I could start, but this is the  
3                   formulation that BT have come up with, rather than the  
4                   formulation that I came up with, but I could have a stab  
5                   at it, if you want me to.

6       MR DORAN: Perhaps you would have a stab at it, and then  
7                   perhaps, if you think we should be thinking about these  
8                   things in some other way, you would tell us about that  
9                   as well.

10       PROFESSOR LOOMES: Yes, well, I think that in all of these  
11                   things, one of the things that I think that Dr Hunt and  
12                   I do agree about is that all of these things are ...  
13                   (Pause to move microphone) ... is that none of these  
14                   things are sort of 1-0. None of these are yes or no.  
15                   You are either active or you are inactive, you are  
16                   either engaged or disengaged. That they are on  
17                   a spectrum from, let us say, very inactive to highly  
18                   active.

19                   Would you agree?

20       DR HUNT: Yes.

21       PROFESSOR LOOMES: I think that the issue as I see it, the  
22                   litmus test as far as I would be concerned, is where  
23                   along these spectra the Class Members are and how that  
24                   informs us about the ability of actions of the Class  
25                   Members or inactions of the Class Members to provide an

1 effective constraint on BT's ability to raise its prices  
2 to excessive levels. So that is the context that  
3 I would place these terms in.

4 I would say one might look at the engagement, for  
5 instance, and what I would take to be engagement is that  
6 it involves a degree of interaction with the stimuli,  
7 with price information, with quality information, which  
8 could lead to the next stage, which would be a degree of  
9 action, deciding to take some steps to explore whether  
10 there are alternative deals available than the one that  
11 somebody is on, or whether they should continue with the  
12 one that they are on now, which, in turn, if they decide  
13 to allocate time and effort to that, would mean that  
14 they may collect information, possibly from their  
15 existing provider about alternative tariffs that the  
16 existing provider offers, or possibly information about  
17 other providers and the products that they offer.

18 Then they arrive at a point where they are  
19 considering at least two alternatives, the one that they  
20 are currently buying and an alternative to that one, and  
21 are weighing up the pros and cons, the advantages and  
22 disadvantages, and seeing whether the balance of  
23 arguments favour staying with their existing product or  
24 moving to an alternative, switching to an alternative  
25 product.

1 MR DORAN: So these fit in to your attention -- position,  
2 etc., the framework that you set out in terms of how  
3 people would gather information and consider it and  
4 evaluate it and then take any necessary action?

5 PROFESSOR LOOMES: Also, as far as the attention phase is  
6 concerned, whether they have reached a sufficient  
7 threshold in order to decide to devote more time and  
8 effort to exploring the possibility.

9 MR DORAN: The threshold is going to be a separate point, we  
10 will come back to it in a second. That is a very  
11 helpful start. Thank you.

12 Dr Hunt, how would you approach these?

13 DR HUNT: Thank you. So I will focus first on "engaged", if  
14 that works. I will make a general point, though, to  
15 start, is we are going to look at "engaged", "active",  
16 "informed" and "deliberate". On my reading of the  
17 literature, there is no single agreement on definitions  
18 on these terms. I think that is useful for you to be  
19 aware of.

20 The best source that I have found and I have used  
21 and referred to is this 2014 UK Regulators Network  
22 "Consumer Engagement and Switching" paper that has --  
23 talks quite a bit about engagement and has a definition  
24 of some of these terms, and therefore I think that can  
25 be quite helpful.

1           My -- the particular definition I have used, it was  
2 informed by that UK RN paper. It is whether someone is  
3 aware of other providers and has put their mind to  
4 whether they are content with BT or may want to consider  
5 switching to another provider. So obviously this  
6 definition is for the purposes of these proceedings.  
7 But I completely agree with Professor Loomes that things  
8 are on a spectrum, absolutely.

9           So the question you also asked about testing. Would  
10 you like to hear about that as well?

11 MR DORAN: Yes, please.

12 DR HUNT: So if we want to think about how to test  
13 engagement, I have set out my thoughts on testing  
14 engagement in section 6.1 of my paper. So I have got  
15 three -- for me, there are three main ways of measuring  
16 engagement. To be clear, what we would really like to  
17 know, of course, is what consumers were really thinking  
18 and aware of, and these sort of things, but we have to  
19 use of course the information that is available.

20           There are three ways of thinking about testing. So  
21 the first is switching rates. I think it will be common  
22 ground that those people who have switched could be  
23 considered to be engaged. So we want to look at  
24 switching rates, we want to look at the relative levels.  
25 Secondly, and this accords with my definition which is

1 in the UK RN paper, we want to think about awareness of  
2 other providers and whether people are aware of other  
3 providers or not. The third thing in terms of testing,  
4 again, it is in section 6.1, is whether or not the  
5 triggers, whether we think they were sufficient for  
6 consumers to engage. So we want to do an analysis on  
7 those triggers.

8 Finally, I would like to talk about two overall  
9 thoughts with respect to testing, this will be true for  
10 all of the other dimensions or definitions that we are  
11 looking at as well, is that generally I think we want to  
12 get the best available data for the test. So certainly  
13 my focus has been trying to get hard quantitative data  
14 wherever available, and we may supplement that with  
15 other data, try and get good data from the market. For  
16 a number of these testing concepts and ideas, I think we  
17 can only understand them relatively, and we will come to  
18 this later, of course, but we need some sort of  
19 benchmark to assess what is a high level of switching,  
20 what is a high level of satisfaction, these kind of  
21 things. I think we need yardsticks in order to make  
22 those judgments.

23 So those are my thoughts on "engaged".

24 I can continue down the list.

25 MR DORAN: It would probably be helpful if you wanted to

1           make points about the other elements, and then we will  
2           go back to Professor Loomes to ask him about testing.

3       DR HUNT: Right, thank you.

4           So when it comes to "active", from my point of view  
5           I see no material distinction between "engaged" and  
6           "active". My definitions are almost the same.

7           Secondly, where we are starting to think about  
8           definitions and how we operationalise them, I think it  
9           is important that we have definitions that do not have  
10          overly aspirational standards. We have got to make sure  
11          that we are not trying to assume that humans, as we  
12          agreed on, humans will be like Econs. So we have to  
13          make sure that the standards which we are holding people  
14          to are reasonable within the context of markets, and  
15          well-functioning markets in particular.

16          Then the third point with respect to that, "active",  
17          is, "yes, of course we can have the test". Because  
18          I think of "active" as I do "engaged", therefore exactly  
19          what I said with respect to "engaged" is also been  
20          arbitrary for "active". So I really think of those  
21          broadly as synonymous.

22          Moving to "informed", if that works?

23       MR DORAN: Yes.

24       MR HUNT: So when it comes to "informed", my definition is  
25          that -- my definition of "informed" is informed by the

1 UK RN paper. My definition is people have sufficient  
2 information in order to take decisions that align with  
3 their preferences and goals, then actually within --  
4 this is in the JES, Joint Experts' Statement, and then  
5 sort of consider in particular the decision about  
6 whether to allocate time and effort into going in  
7 acquiring additional information on the market, and then  
8 on the layout, some slightly more detailed  
9 considerations of what would be sufficient information  
10 in those circumstances.

11 Two further thoughts on the definition. One is  
12 I think it is useful to think about what is a lower  
13 bound of information that might be considered for people  
14 to be informed. It seems to me that a lower bound is  
15 having awareness of other providers at some level. We  
16 can discuss what is enough, to have awareness of other  
17 providers, and also I think they have to have  
18 a reasonable idea of what the offers might be from those  
19 other providers. But at least in my thinking it does  
20 not necessarily have to be very concrete details, it  
21 might be: do I think I am going to get a better deal if  
22 I look around, broadly? How do I think BT's offer might  
23 compare to -- do I think BT is a cheaper provider  
24 compared to others? This is the sort of information  
25 which might be necessary.

1           It is very important when we think about  
2 informedness to bear in mind that, you know, shopping  
3 around is I think for telecoms in particular, but  
4 shopping around often more generally is not necessarily  
5 a pleasurable experience, at least for utilities and  
6 those sort of things. You know, it is effortful, it is  
7 costly.

8           In terms of how do we test for all of this? We have  
9 got three parts to that. The first part is, and this is  
10 from engagement, so it will be section 6.1 of my paper,  
11 you have to think, well, if people are getting these  
12 triggers or getting various sources of information, you  
13 know, we can think about that, about that starting  
14 activity, this triggering, but we can also think about  
15 what do those pieces of information contain, of course.  
16 So we have to think about what information are they  
17 gleaning from the various triggers, and we will come to  
18 that probably.

19           The second thing is, in terms of informedness, is  
20 looking at people's ability to assess, you know,  
21 generally products compared to other products. There  
22 are three different parts of that which are all covered  
23 in section 6.2 of my paper. So this is information, do  
24 they know their own consumption needs and usage, and are  
25 they able to compare to other providers? There is

1 a whole bunch of detail in that which we will come to,  
2 I am sure.

3 Lastly, with respect to testing, I think we also  
4 have to think, and this has been alluded to a couple of  
5 times, what information do we think people actually  
6 need, and that is going to vary for different  
7 individuals depending on the kind of decision that they  
8 are trying to make. So, for example, the kind of  
9 information I might need in order to think about "should  
10 I shop around", is different from the kind of  
11 information I am going to need as to, well, what  
12 provider am I going to choose. That is different  
13 informational needs.

14 So I will move on to "deliberate", if that works.  
15 So in terms of "deliberate", so my definition of  
16 "deliberate" is whether the SFV customer has been  
17 essentially making a trade-off with thinking about BT  
18 versus other providers. I am definitely deliberately  
19 using the terms of other providers here. You can look  
20 at my AAAA definition. But other providers slightly  
21 more generally, because I think in many cases it is not  
22 going to be a specific concrete alternative from another  
23 provider. You are just going to think, you know, do you  
24 want to shop around or not, for example, which I think  
25 is a completely legitimate thing to do.

1           So when I think about "deliberate", in my mind  
2 someone could be considered to be deliberate if they are  
3 engaged, informed, and have no material barriers to kind  
4 of acting. So that to me would make -- you know, that  
5 is how I think we can, at least for me, how I link  
6 across these concepts.

7           So those in terms of -- those are my definitional  
8 thoughts on "deliberate".

9           When it comes to how do you test for deliberateness,  
10 this is in sections 6.3 and section 7 of my paper, I get  
11 into the testing for deliberate -- where something is  
12 deliberate. So the first of those things you have to  
13 test for is whether there are these material barriers or  
14 not, and that is section 6.3.1 of my paper. Then  
15 I tried to look at switching levels, to consider whether  
16 people who switch are deliberate, which I think we  
17 agreed they are.

18           Then you have to look into whether people who did  
19 not switch are deliberate or not, and that is where we  
20 get into -- in my paper it is section 6.3.3 and  
21 section 7, which I think about --

22 MR DORAN: I think we are going to come to that.

23 DR HUNT: Yes, and so testing is basically: does it look  
24 like they are well matched, do people look like they are  
25 well matched, you know, and use the best available

1 evidence we have to see whether they look well matched.

2 So that is how I think about these four concepts in  
3 terms of definitions and testing.

4 MR DORAN: Thank you.

5 Professor Loomes, I said I would come back to you  
6 about testing. Is there anything you wanted to say  
7 about that?

8 PROFESSOR LOOMES: Well, I think there can be no kind of  
9 simple one-size-fits-all test, but I think that as you  
10 examine the evidence that has been given by previous  
11 witnesses and previous expert evidence, you might want  
12 to sort of work through the stages and think where you,  
13 Members of the Tribunal, would judge these to lie on  
14 these spectra of engagement, of action, of information,  
15 of deliberation.

16 So it seems to me that if we hear evidence, as we  
17 have done, that when messages, emails or direct  
18 mailshots are sent out to these BT customers, BT's  
19 expectation is that about 50% of them will not open  
20 them. They will not open the email, they will not  
21 proceed with the direct mail.

22 I think that if that is the case, then it is very  
23 hard to argue that they are active or engaged to the  
24 extent that is ever going to provide any kind of  
25 pressure on prices on BT not to raise their prices.

1           But supposing that they then do open their email or  
2           their letter, and then the question is, what do they do  
3           next? They read it? Well, it looks from the general  
4           evidence that people who read it find that the gives are  
5           put on the front page, and the details about the price  
6           rises are put on the second page, often putting stuff on  
7           the second page does not impact on people's  
8           consciousness.

9           So what information? They may have access to  
10          information, I think Dr Hunt refers to the ability of  
11          people to consider. But the question is, do they  
12          actually access that information? Do they actually  
13          consider it? It is true that there is a lot of stuff  
14          out there, and if you are moderately adept with the  
15          internet you can go to price comparison sites, but do  
16          people do that? Do they, when they turn to page 2 of  
17          their price change notification, do they work out from  
18          this rather complicated information what the cost is  
19          going to be, what the extra cost is going to be of all  
20          of these changes on the basis of their existing patterns  
21          of use of phones and, in the case of SPCs, of broadband.  
22          But in the case of phones, do they figure out what  
23          the price implications of those changes are?

24          What alternatives might they look for? Are they  
25          going to just look on the internet for an alternative

1 supplier? Are they going to consider the alternatives  
2 that are available to them from within BT? Are they  
3 going to be able to make a reasonable judgment about  
4 what the relative advantages and disadvantages of at  
5 least two options are? That is the sense in which we  
6 refer to deliberateness.

7 If they are not going to weigh up these things, they  
8 do not feel able, they might be extremely put off by the  
9 prospect of wrestling with this bank of numbers and  
10 trying to figure out what the implications are for them,  
11 then they may simply say, well, I am just going to do  
12 nothing. That in effect means that they are not putting  
13 any pressure on BT to constrain its prices.

14 MR DORAN: That is your view about significant numbers of  
15 them?

16 PROFESSOR LOOMES: That is my view about significant numbers  
17 of them.

18 MR DORAN: It is weighing up to which you think is the  
19 threshold for this sort of pressure?

20 PROFESSOR LOOMES: I think that is minimal, but I mean, you  
21 know, one might suppose the literature, including the  
22 literature to which Dr Hunt has contributed, suggests,  
23 for example, in the financial field, that people are  
24 much more likely to switch to an alternative savings  
25 plan within their own -- within the existing

1 institution, existing bank, than they are perhaps to go  
2 to a competitor, which is altogether a more demanding  
3 exercise to do, or potentially demanding exercise to do.

4 So one might suppose that BT's customers would look  
5 and evaluate and take seriously alternatives that BT is  
6 offering them, as well as perhaps making more effort to  
7 look at other options that other providers may be  
8 offering them.

9 MR DORAN: Thank you.

10 I wonder if we could just go to the point that you  
11 raised, Dr Hunt, about the people who do not switch, and  
12 what we should make of them, whether this is an  
13 inability to acquire the relevant information, or  
14 perhaps the right trigger or whatever it is, or whether  
15 this is a deliberate action and how we should judge  
16 that.

17 DR HUNT: Yes. So I would say that the structure that  
18 I outlined in my previous answer I think holds both for  
19 those -- I think holds for all individuals, both those  
20 who might stay with BT and those who switch, so an  
21 overall structure.

22 With respect to those who did not switch in  
23 particular, we have to be quite careful in trying to  
24 assess what the behaviour of not taking an action, what  
25 lies behind that behaviour. There is a different

1 hypothesis that could explain that. So it could be that  
2 they are entirely content with their situation, or it  
3 could be, as is sort of suggested by the Class  
4 Representative's side, that this situation where  
5 consumers are passive, they do not know what is going  
6 on, they are actually -- they could be -- we have to try  
7 and separate the two hypotheses.

8 MR DORAN: It is effectively applying the tests, or applying  
9 the concepts we have just been talking about.

10 DR HUNT: That is right. I think particularly with those  
11 who do not switch, so I have a whole section sort of --  
12 section 6.3 -- sorry, in section 6.3.3 I go through  
13 this, and then in the whole section 7 I really try and  
14 get into it in detail. So I think for the people who do  
15 not switch you need to do extra, you need to do more.

16 So you need to try and do your best to try and look  
17 at: do they seem -- does it seem like they are well  
18 matched with this BT product? What do we know about  
19 their preferences? What do we know about BT's product?  
20 What do we know about their perceptions of the different  
21 aspects of BT's product and service? Then try to make  
22 an overall assessment that we then put in, along with  
23 the assessment of, for me it is "engage, assess and  
24 act", for Professor Loomes it is the kind of AAAA  
25 framework.

1           So I think you need to do this extra work,  
2           especially for those who do not switch, to try and  
3           evaluate: do we think they are making some kind of  
4           error, essentially, by remaining with BT?

5       MR DORAN: Professor Loomes, how do you think we should  
6           approach this question of the non-switchers in relation  
7           to how much they engage with the question?

8       PROFESSOR LOOMES: I think it is very difficult to tell what  
9           the motivations and the reasons for non-switching are  
10          unless you undertake a reasonably focused study of it.  
11          One of the things which I think was a pity, from what  
12          came out of the discussions between Ofcom and BT at the  
13          time that the Commitments were made, is that BT appeared  
14          to resist very strongly the idea of studies exploring  
15          behavioural remedies for the Split Purchase Customers  
16          and agreed to those trials for the Voice Only Customers,  
17          giving us more insights into what was going on with the  
18          Voice Only Customers than with the Split Purchase  
19          Customers. So I think it is difficult to know, because  
20          there might be many reasons why people do not switch.

21          But my contention has been that the most likely  
22          explanations are that they simply did not find enough  
23          reasons to engage, enough of a trigger to encourage them  
24          to allocate more of their time and effort to looking for  
25          alternatives, either within BT or with other providers,

1 but got on with other parts of their lives instead.

2 So it was not an active choice in many cases, it was  
3 simply the default. They had been with BT for many,  
4 many years. There was nothing, for some of them at  
5 least, for many of those who did not switch, there was  
6 nothing strong enough to push them. They paid very,  
7 very little attention to information about price  
8 increases, as far as one can tell. They may have been  
9 more influenced by other considerations, which perhaps  
10 we will come on to, more qualitative considerations  
11 about the shortcomings of having Voice Only in a world  
12 where broadband was developing and people were becoming  
13 more and more dependent on being able to interact  
14 online. Those things may have been more powerful  
15 reasons. But price and the elasticity or responsiveness  
16 or sensitivity of price to price changes appears for  
17 these folks to have been very low, not a particular  
18 driver of switching, and they were concerned with other  
19 things more acutely than that.

20 It is that that I tended to focus on, because, as  
21 I understood it, that is what these proceedings are  
22 primarily focused on, and that is whether BT was raising  
23 prices to an extent that was excessive over  
24 a significant period of time.

25 THE CHAIRMAN: Can I just come on that one and for the

1 moment let us put to one side the context here, which  
2 is, as you say, the question of excessive and unfair  
3 pricing, but just in terms of what you have been -- what  
4 you are both looking at, which is this question of  
5 deliberate choice, because that is how it came out in  
6 the statements of case, and you have both referred to  
7 that in the Joint Experts' Statement.

8 If someone says: I know I have got stuff there,  
9 I know there is something about a price increase, I know  
10 there is a possibility of going elsewhere, but I am  
11 prioritising other aspects of my life and I am simply  
12 not going to spend time on this, is that not  
13 a deliberate choice?

14 PROFESSOR LOOMES: It sounds a little bit like that branch  
15 of conventional economics which is talking about  
16 rational inattention, and also it is an aspect of some  
17 search models which say, well, we will only continue to  
18 search if the marginal benefits of a further search are  
19 equal to or greater than the marginal costs of the  
20 further search.

21 So if you were to go down that line and think of it  
22 as being a sophisticated computation about whether it  
23 was worth taking more action, whether it was worth  
24 allocating more time and effort, then I think the  
25 evidence of bounded rationality in human beings suggests

1           that it is not a realistic model, like the Econ model is  
2           not a realistic model of how ordinary humans are  
3           operating.

4           But if you are saying that people may just  
5           intuitively, on the basis of some kind of heuristic,  
6           they might say to themselves, well, it is only £1, other  
7           things have gone up, I expect things to go up  
8           year-on-year because inflation takes us up year-on-year,  
9           and so I am making a judgment, not on the basis of any  
10          real information but just kind of past experience and  
11          a feel for things, and I am making a decision that  
12          I will not go there. You could say, "well, that is  
13          a deliberate decision", but it does not involve the  
14          collection of any more information, it does not involve  
15          any action, and it does not place any constraint on BT.

16        THE CHAIRMAN: Forget about constraint on BT for the moment,  
17          because what we really want to concentrate on is this  
18          question of deliberate choice because that is the issue  
19          which has emerged. The issue of deliberate choice may  
20          resonant in a number of different aspects in this case  
21          but that is for us to consider.

22          But on your specific brief, as it were, I will just  
23          the ask question in a different way and then we will  
24          continue, which is, all right, let us suppose it is not  
25          a sophisticated form of rational inattention, it is more

1           heuristic or intuitive approach which you have just  
2           described. In relation to the question of deliberate  
3           choice what is wrong with that?

4       PROFESSOR LOOMES: You could say that a heuristic is a fast  
5           and frugal is the terminology that Gigerenzer would use  
6           is a fast and frugal way of making a situation. So in  
7           that sense you could say it is deliberate: I am choosing  
8           to use this shortcut to avoid having to spend much more  
9           time on it.

10       THE CHAIRMAN: Thank you.

11       MR RIDYARD: Just have a separate question on what, if any,  
12           reliance we can place on switching evidence. Let us say  
13           we had -- let us say we got two samples of a hundred  
14           people and in one of those samples we found that 50%  
15           switched and the other one we found that 75% switched.  
16           Obviously we can draw conclusions about the people who  
17           switch but in many ways the interesting people are the  
18           ones who did not switch. So in those two samples can we  
19           infer anything about the people who did not switch? Can  
20           we infer in one sample anything about the non-switchers  
21           in those two samples because of the fact that in one  
22           sample they are half of the population and the other  
23           sample there are only 25% of the population?

24       DR HUNT: So the way that I think about switching is related  
25           to that, the hypothesis that we talked about previously

1           about whether people are remaining in a way that is  
2           positive because they are content or are they remaining  
3           because there is some other reasons, Professor Loomes  
4           has just talked of behavioural biases, for example.

5           So I think the big concern is that there is this  
6           inertia but it is actually a mistake on the part of  
7           individuals.

8           So when we are trying to think about these kind of  
9           benchmarks I think what we are trying to do is,  
10          primarily is trying to think, are we worried that the  
11          levels of switching are low? If we are worried that the  
12          levels of switching are low that means we should be more  
13          concerned, we should do some further analysis to check  
14          out whether we do think there is some kind of problem or  
15          not.

16          So that is at least how I have been using benchmarks  
17          in particular to try and think about, are the levels of  
18          switching of concern or not for this particular class or  
19          sub-classes.

20          MR RIDYARD: Then the implication there is you would be less  
21          concerned about the group where 75% had switched than a  
22          group where 50% had switched.

23          DR HUNT: Obviously 50% or 75% are very high numbers.

24          MR RIDYARD: All right, use different numbers. But I am not  
25          talking about this case, I am just taking about the

1 principle, whether you can infer from the rate of  
2 switching what is going on with the non-switchers. That  
3 is my question.

4 DR HUNT: I mean, there can be a lot of other things going  
5 on, so this is in particular why I was focusing on the  
6 lower numbers. So you might be worried, if switching is  
7 in low single digit numbers, then I think you really  
8 might want to investigate more.

9 You can absolutely get -- to be clear, switching in  
10 and of itself implies a lot of costly activity on behalf  
11 of consumers, so you can absolutely have switching  
12 levels that are too high as well, but at least, in the  
13 context of this particular case, I have been focusing on  
14 whether switching numbers were too low.

15 PROFESSOR LOOMES: Can I ask, your thought experiment, these  
16 two groups, are they somehow randomised between two  
17 treatments, in order to test whether something that is  
18 applied to one group but not applied to the other group  
19 is having an effect on switching, is that what you are  
20 ...

21 MR RIDYARD: I suppose -- let us say they have been  
22 randomised in some way, so we are happy that the two  
23 groups are -- there is nothing to choose between the  
24 groups a priori.

25 PROFESSOR LOOMES: Okay, so the idea is there is nothing to

1 choose between the two groups as far as you know, and  
2 then some treatment effect, one might be a control group  
3 and the other might be a treatment group, and you are  
4 looking to see whether a particular treatment has an  
5 impact on the rate of switching in one direction or the  
6 other.

7 MR RIDYARD: Yes.

8 PROFESSOR LOOMES: I think to some extent that is what  
9 a number of the randomised controlled trials, the field  
10 studies, including those that Dr Hunt did when he was at  
11 the FCA, were trying to find out. They were trying to  
12 find out whether the way in which information was  
13 presented, whether notifications were given in one form  
14 or another, whether people were given one or two pieces  
15 of information, one about landlines, another about  
16 broadband, or were given both pieces of information in  
17 the same letter, whether you could see that those  
18 differences in otherwise comparable randomised groups  
19 had an impact.

20 What those studies seem to show is that there were  
21 very low levels of engagement across all of the  
22 treatments and in the control group, but some of these  
23 things had an effect. But very few of them, even if it  
24 was a statistically significant effect, had effects that  
25 were large in absolute or relative terms. They might be

1 moving you from a baseline of 3% to a figure of 6% or 7%  
2 in the case of the more effective -- more successful  
3 ones.

4 DR HUNT: I agree with most of that. I would not  
5 necessarily agree with the interpretation that generally  
6 these trials have shown that engagement was low.  
7 I think that really -- it comes back to these two  
8 hypotheses issue I was talking about, right. I do not  
9 think we can necessarily infer, because there are low  
10 levels of switching, that engagement is low. You need  
11 other things in order to -- other pieces of analysis in  
12 order to make that assertion.

13 So switching rates are a useful piece of evidence,  
14 very useful piece of evidence indeed, but if switching  
15 rates are low we need to do further analysis.

16 PROFESSOR LOOMES: What sort of thing would you suggest?

17 DR HUNT: So I would suggest doing what I basically did in  
18 section 7 of my paper, which is trying to look at: do we  
19 think people are content or not?

20 On the one particular study of mine that has been --  
21 so I did a whole series of studies in various different  
22 markets.

23 MR DORAN: We will come back to satisfaction, and those  
24 other measures that you refer to, a little later on.

25 DR HUNT: So in terms of these randomised control trials, we

1           were testing, sending different notifications. So the  
2           one that has been particularly used in Professor Loomes'  
3           paper -- I mention it in my paper -- that was  
4           specifically focused on cash savings, so this is an  
5           instant access savings account, and a whole bunch of the  
6           conclusions of that study were because we were arguing  
7           that the product was a commodity product.

8           So a whole bunch of the conclusions that come out  
9           from that study, we basically kind of were assuming that  
10          people were staying on a commodity product, where you  
11          can get the same product and earn a higher rate of  
12          interest, therefore, we can infer in that situation that  
13          low switching rates are bad, but you need the additional  
14          analysis to inform that. If you have additional  
15          information that can suggest that people are actually  
16          content with where they are, then low switching can be  
17          just fine. Not that we have low switching rates here,  
18          but just to be clear, switching rates have a whole bunch  
19          of different ways of being interpreted.

20         MR DORAN: Would you add anything to that, Professor Loomes?

21                 It is not an obligation, but merely if you would like  
22                 to.

23         PROFESSOR LOOMES: Yes, I think there appears to be, in BT's  
24                 own Defence documents, in the Re-Re-Amended Defence it  
25                 still persists, that they are arguing that Voice Only

1 Customers in particular made a mistake because they  
2 should have switched to a cheaper available product that  
3 was giving them the things that they wanted, but they  
4 did not do so. HPS is what I am thinking of. I do not  
5 think we understand very much about what the reasons  
6 were for that, but it looks as if that was not what you  
7 would consider to be an informed decision. If you were  
8 informed that you could save £11 a month by switching to  
9 a product within BT's repertoire, why would you not do  
10 it? What would explain people, if they were making that  
11 as a deliberate choice, what would explain them  
12 deliberately choosing not to save £10 or £11 a month?  
13 We do not know, at least I do not know the answer to  
14 that.

15 THE CHAIRMAN: Just one moment, please. (Pause)

16 DR HUNT: Can I ask a question?

17 THE CHAIRMAN: Just one second.

18 DR HUNT: Sorry. (Pause)

19 THE CHAIRMAN: Yes.

20 DR HUNT: So Professor Loomes, completely fine, has been  
21 making a number of comments about the empirical nature  
22 of the situation. I have not been responding to those  
23 comments because I think we will come to them in due  
24 course. I just want to check whether that is a sensible  
25 way to be contributing.

1 MR DORAN: We are shortly to break, but if there is anything  
2 you wanted to say immediately?

3 DR HUNT: So for example, with respect to Home Phone Saver,  
4 I would not agree with that characterisation, but  
5 I would imagine that we will be able to come to these  
6 things at a time, or should I specifically ...

7 MR DORAN: Shall we start with that immediately after the  
8 break, if that is all right?

9 DR HUNT: Sure. I think we will come to them during the  
10 questions as well. Yes, I am very happy to do that.

11 MR DORAN: Have a look in the break about where you would  
12 like to put those in. We want to make sure that we  
13 gather your response to Professor Loomes on that  
14 particular point.

15 DR HUNT: Yes. I would also like to respond to all of the  
16 earlier points as well, which I just assumed we would do  
17 in due course.

18 MR DORAN: Let us do that after the break then.

19 (11.26 am)

20 (A short break)

21 (11.42 am)

22 MR DORAN: Dr Hunt, I promised that you would start the  
23 session now, because there were various points you  
24 wanted to make in response to Professor Loomes.

25 DR HUNT: Actually for most of the points I will be happy to

1           come to them as we do over time. I guess I will briefly  
2           talk about Home Phone Saver.

3       MR DORAN: Yes, please do.

4       DR HUNT: Thank you.

5           So Home Phone Saver, this was a retention product by  
6           BT. These are products that BT is looking for people  
7           who are either coming to them directly or they know they  
8           are likely to switch away, so it is not continuing to  
9           put it in front of people all the time. It was put out  
10          there a number of times. So, for example, price change  
11          notifications was on the front page of a couple of  
12          those. So it was sent out, so it is -- I do not think  
13          we should view this as a product that was just some  
14          superior product that people just did not know. It is  
15          not like that, it is a retention product.

16          Secondly, it is not actually -- it turns out it is  
17          not absolutely a superior product at all for all people.  
18          For those people who are relatively low usage in terms  
19          of their phone, it is actually going to be cheaper to be  
20          on Unlimited Weekends. For those people who are high  
21          mobile users -- so mobile prices were higher on the Home  
22          Phone Saver product, and actually this is a period where  
23          people are -- you know, from a variety of other  
24          evidence, landline users are concerned about mobile  
25          costs. So the mobile costs are, I believe, double on

1 Home Phone Saver, so it is quite a bit more.

2 We also know from, but I have mentioned these,  
3 I believe it is 4 million letters were sent out that had  
4 Home Phone Saver on them. We know from that, and we  
5 also know from the engagement trial that was done at the  
6 end of 2018, so this is the way -- this was the  
7 randomised trial that was done on behalf of  
8 British Telecom, sending out letters to hundreds of  
9 thousands of people, it was one of these randomised  
10 trials, that people really did not respond very much to  
11 Home Phone Saver.

12 We will get into, I am very sure, the degree to  
13 which people read these letters, which I think I have  
14 some good evidence, I think they do read these letters,  
15 on the whole, but I will explain more, in more detail.

16 So we have also got good evidence that suggests that  
17 people are not -- you know, may not be selecting into  
18 Home Phone Saver even when they are aware of it. So  
19 I do not agree with the characterisation of Home Phone  
20 Saver.

21 MR DORAN: Thank you very much. We might move to the next  
22 question, which is in danger of rehearsing things we  
23 have talked about, but you might just have a look at  
24 whether the distinction between those who do not  
25 allocate sufficient time, if there is anything else to

1 be said, whether that is some sort of high level  
2 economic assessment, or whether this is people who do  
3 not understand the materials.

4 I think it is probably your turn, Dr Hunt, to go  
5 first.

6 DR HUNT: Sure. So looking at question 3, I thought  
7 a potentially helpful way to reframe it for the Tribunal  
8 would be, it seems to be pointing at two things. So the  
9 first thing is capability. Is there any concern about  
10 the degree of capability that individuals have? I say  
11 broadly -- we can absolutely look at some people, but  
12 broadly I do not think we are concerned about the  
13 general capability of these individuals for shopping  
14 around and for these kind of things. Secondly, the  
15 question is getting at time and cost, time and effort,  
16 which is costly.

17 Then what Professor Loomes has contributed is the  
18 idea that we need to think about behavioural biases.  
19 This is the idea that we are all humans, we are not  
20 Econs, and there is a question of the degree to which we  
21 can think about things being deliberate, and I do think  
22 that is to some degree correct. There is no doubt we  
23 are all humans and that we are not Econs.

24 I think, when thinking about these distinctions in  
25 the context of looking at excessive pricing under

1 ex post competition law, we have to -- I think it is  
2 worth thinking quite carefully about what intervening in  
3 that circumstance might be if we are concerned about  
4 behavioural biases.

5 So I am not generally -- there may be situations  
6 where one might want to intervene under ex post  
7 competition law on the part of behavioural biases, but  
8 I do not think this is the sort of circumstance where  
9 you might want to do that. So expanding on this. So if  
10 one were to intervene, that is a paternalistic  
11 intervention. Does that make sense?

12 MR DORAN: Well, in the sense that if you assume that people  
13 have a good reason for not applying more time.

14 DR HUNT: If you are intervening, you are assuming there is  
15 some lack of capability, whether it is more extreme or  
16 whether it is some kind of behavioural element of being  
17 human. So intervening is a paternalistic measure.

18 THE CHAIRMAN: We know what is good for you.

19 DR HUNT: Yes, precisely.

20 Now, I am not actually against some form of -- to be  
21 clear, certainly in my previous role at the Financial  
22 Conduct Authority, we did intervene all the time with  
23 concern that people were not acting in their own best  
24 interests, so ... However, I think in the context of  
25 a company that has already been ex ante regulated all

1 the time by a regulator who is thinking quite hard about  
2 these things, has a very detailed rules, or quite  
3 detailed rules when it comes to price change  
4 notifications, and many other aspects of the general  
5 conditions, for us to intervene using ex post  
6 competition law on the basis of behavioural biases,  
7 especially in the context of excessive pricing, that  
8 seems to me quite a strong intervention.

9 THE CHAIRMAN: I think I would just make the same  
10 observation that I made to Professor Loomes. That is  
11 getting into a bigger question.

12 DR HUNT: Yes.

13 THE CHAIRMAN: Whether in the context of an ex ante or  
14 ex post situation, one should intervene. I think that  
15 is probably going beyond the areas that we need to hear  
16 from you on, because we need to concentrate on the issue  
17 here, which is the question of deliberate choice or not.

18 DR HUNT: Yes. Can I make one very small comment on that.  
19 It is -- behavioural economics does get into these  
20 questions of paternalism, so it could be helpful for the  
21 Tribunal when thinking about these issues.

22 THE CHAIRMAN: Right, thank you.

23 MR DORAN: Did you have anything to say, Professor Loomes,  
24 about question 3, this -- you talked about basically  
25 a heuristic approach to decision making earlier on.

1 I do not know whether you have anything you want to say  
2 in relation to those who do not spend enough time?

3 PROFESSOR LOOMES: No, I think I have made the point that,  
4 and I tried to make the point in my first report, that  
5 the main general reason why humans do not behave like  
6 Econs is because they have scarce time, attention,  
7 cognitive capacity, relative to the mass of things that  
8 they might be asked to think about. So under those  
9 circumstances they are going to neglect some things,  
10 they are going to use shortcuts, they are going to  
11 overlook what might, if they had more time to think  
12 about it, have been better opportunities. They are not  
13 going to see them, they are not going to collect all of  
14 the information.

15 This is where it comes back to this idea of  
16 a spectrum. It is a question of at what point can you  
17 say that these people were making an informed deliberate  
18 decision in terms of being able to assess the options  
19 that they were considering, and then trading off the  
20 advantages and disadvantages of each of them against the  
21 other, and I think that for many people in many  
22 circumstances, including this area, there is a very  
23 limited amount of that going on.

24 MR DORAN: I suppose that perhaps brings us to the next  
25 question really about benchmarks, in which you can judge

1           whether that is a feature of these particular -- of this  
2           particular decision maker or not. I think it is perhaps  
3           your turn to think about that for us.

4       PROFESSOR LOOMES: I think that Dr Hunt and I disagree quite  
5           a lot about this issue.

6       MR DORAN: Yes.

7       PROFESSOR LOOMES: I do not see what value the idea of  
8           benchmarks which I take to be rates of switching in the  
9           Dual Play bundles market has for the question about  
10          switching and behaviour in the SFV market, and the  
11          reason for that is that the two groups are very  
12          different from one another. In the case of the  
13          Voice Only Customers, they are very different in terms  
14          of observable characteristics, much less so for the SPCs  
15          compared with the Dual Play customers. But what we do  
16          not see in this analysis are the unobservable  
17          differences that there are between them.

18                So the way that I would see it is you have in the  
19          bundles market, I do not think it is just restricted to  
20          Dual Play, is it, because I think Dual Play may be about  
21          half of the bundles market, and there are other kinds of  
22          bundles as well.

23       MR DORAN: Yes.

24       PROFESSOR LOOMES: But you see the firms have identified  
25          that is where the future lies, and they are competing

1 quite vigorously with each other, and I think price  
2 competition features much more prominently there. So  
3 you are observing people, the customers, who have  
4 already switched maybe several times, but certainly at  
5 least one once from their past history, unless they are  
6 coming into the bundles market from not having been in  
7 the market at all, but generally speaking they will have  
8 switched from something else.

9 They have a different mental attitude to switching.  
10 They perhaps are less concerned about moving away from  
11 the status quo, because there was no status quo  
12 established. There is less of an incumbency, less of  
13 a presence by BT in the bundles market, so the other  
14 companies feel able to compete more vigorously. That is  
15 very different from the situation in the SFV sector  
16 where, by and large, many of the people who were most  
17 inclined to switch have switched, and they have switched  
18 out. The switching rates there -- as Dr Hunt pointed  
19 out, the switching rates there are largely switching out  
20 of SFV and into the bundles market. It is not an active  
21 business of switching within the SFV sector to anything  
22 like the same extent.

23 Because that is the case, because these customers  
24 are perceived as being particularly hard to reach and  
25 particularly sticky, and because they are about to be

1 history, the market is steadily in decline and there is  
2 a substantial migration away from that sector, then the  
3 firms are not competing very hard, and indeed some of  
4 them are dropping out of the market completely.

5 So it seems that the comparisons are not useful.  
6 The importance is to focus on the SFV sector which is  
7 the subject of these proceedings.

8 MR DORAN: Benchmarks are not helpful for us, Dr Hunt?

9 DR HUNT: Thank you. Can I first make a comment in response  
10 and then discuss benchmarks.

11 My first comment in response is my estimate of  
12 switching rates, which we will come to, is around 10%  
13 for the Voice Only Customers, so I do not think of that  
14 as being particularly low, we can discuss it as we get  
15 into benchmarks, and I do not agree with the  
16 characterisation of those being particularly inert,  
17 having these status quo biases. I do not see any  
18 evidence for that at all. I see plenty of other  
19 evidence for the hypothesis that they are actually quite  
20 satisfied with the product, so I put that aside.

21 Benchmarks. So what I have tried to go through in  
22 various parts of my report, all of section 6, throughout  
23 parts of section 7, we are trying to do the testing that  
24 we have discussed, we have laid out some concepts, some  
25 definitions, and we are trying to test whether people

1 are engaged, informed, deliberate. There are a whole  
2 bunch of metrics to use.

3 So, for example, broadly you could characterise the  
4 metrics in three different ways. The first thing is  
5 that metrics have a kind of consumer capability. I use  
6 this in a very general sense. So, for example,  
7 awareness of other providers. It is not clear to me  
8 prima facie what is a high awareness and what is a low  
9 awareness of other providers. I need some kind of  
10 benchmark in order to be able to judge that.

11 Similarly, under consumer capability, we were  
12 looking at how easy do people find it to compare these  
13 landline products to other products. Again, I need  
14 benchmarks in order to be able to assess that. So this  
15 is under consumer capability.

16 There is also -- I also use benchmarks for looking  
17 at satisfaction, we went through that a bit on Monday,  
18 and preferences, the preferences of consumers. Again,  
19 it is not clear for any of these metrics that there  
20 is -- that there is some kind of clear, given way of  
21 measuring. We need some kind of yardstick.

22 Then the third thing that I have used things for is  
23 kind of perceptions, so in particular, so I will give an  
24 example here, perceptions of reliability and of looking  
25 at BT customers' perceptions of reliability. Again, I

1           need benchmarks in order to judge: does that seem to be  
2           a high level or does that seem to be a low level?

3           So in many parts of my report, throughout section 6  
4           and section 7, I am using benchmarks in order to make  
5           judgments.

6           If I was going to use two things I think were most  
7           important for using benchmarks, the first one is  
8           switching, as we have discussed. People want to figure  
9           out: are switching levels of Voice Only Customers low or  
10          not? It is through benchmarking that my conclusion is:  
11          no, not particularly low.

12          The second thing I would say probably is the  
13          satisfaction levels, so we are trying to judge: are the  
14          satisfaction levels of Voice Only Customers particularly  
15          high? We went through this on Monday. We had this 96%  
16          happiness, and in particular zero people being very  
17          dissatisfied in terms of the BT Voice Only Customers.  
18          So that -- how do we judge that? We need to look at  
19          other -- we need to look at other products, and it looks  
20          really good.

21          So those are my thoughts on benchmarks.

22          MR DORAN: We will come to some of those as we come to the  
23          other factors towards the end of the hot tub.

24          I suppose now we can move on to the switching.

25          DR HUNT: Can I make a comment on the second part?

1 MR DORAN: Yes, sorry, I did not ask you particularly about  
2 Dual Play. Professor Loomes talked about that and I did  
3 not specifically put it to you.

4 DR HUNT: So I do use Dual Play in quite a number of --  
5 somewhere between five and ten times in my report.  
6 I mean, in fact I just used it when we discussed  
7 switching rates and satisfaction. So I guess the first  
8 thing is: does that appear to be useful or not? My  
9 answer to that question is: yes, yes, it is useful.

10 If you think about slightly more generally, there is  
11 the question of whether we think Dual Play is a workably  
12 competitive market, and Ofcom has, over a number of  
13 reports, concluded that it is.

14 So that seems to me potentially useful. Not for  
15 necessarily everything we might want to look at, but if  
16 I want to look at, say, for example, some of these  
17 consumer measures, do consumers feel like they are able  
18 to compare products well across providers? It seems to  
19 me Dual Play is actually really quite a reasonable  
20 benchmark to use. If I want to look at satisfaction,  
21 again, that seems -- I am not denying the supply side  
22 might be somewhat different in some ways, but it does  
23 not seem to me to stop it being a useful benchmark.

24 I also use a number of other benchmarks as well as  
25 Dual Play, it is not only Dual Play. There are a number

1           of others.

2           MR DORAN: Thank you.

3                    We might now turn to switching, if we may. I think  
4           it is probably -- I am now slightly lost. I think it  
5           might be Professor Loomes to start.

6                    Do we know if there is an agreement yet, can you say  
7           about the nature and extent of switching? Were you able  
8           to make any progress particularly about the differential  
9           as between VOCs and SPCs, how you view this?

10           DR HUNT: I would be happy to take us through the evidence  
11           that I have put together. This is something that I  
12           spent a considerable amount of time on, so I would be  
13           ...

14           MR DORAN: Yes.

15           MR HUNT: Shall I take us through the evidence I put  
16           together and then we can discuss that?

17           MR DORAN: Is that the best way to do it?

18           PROFESSOR LOOMES: I guess so. I think that ...

19                    Mr Spitz is standing up.

20           MR SPITZ: Yes, just to bring the Tribunal up to date, Mr  
21           Doran. There is a document that is being exchanged  
22           between the parties to try and agree precisely the  
23           levels of switching. Significant progress has been  
24           made, and we hope that we can put an agreed document in  
25           front of the Tribunal shortly.

1 (Pause)

2 MR DORAN: We will come back to that then later on.

3 Hopefully we will get on to it today sometime.

4 MR BEARD: We may well be able to. But given that these  
5 issues will flow through into the questioning, it may  
6 well be sensible -- because I think the gaps may well  
7 turn out to be quite small, but it might be useful for  
8 the Tribunal if the evidence is looked at, and then  
9 Professor Loomes can provide his comments, but I imagine  
10 it will be relatively swift.

11 But, yes, we will try and sort it out. We had hoped  
12 it would be done before today.

13 MR DORAN: Okay, thank you very much.

14 DR HUNT: So shall I quickly take us through it?

15 MR DORAN: If we think it will be done today, if we think we  
16 might have that today, that would be a good time to go  
17 through the ...

18 MR BEARD: I think we only got what they are talking about  
19 late last night, so I think there might actually be some  
20 practical issues with actually consulting with Dr Hunt  
21 on it, so I think ...

22 MR DORAN: Shall we take stock later on as to where we are  
23 and then we can return to this question.

24 MR BEARD: I am entirely in the Tribunal's hands.

25 MR DORAN: Let us do that.

1           Can we just talk then about the relevance of  
2           switching, if we move on to question 7, about when we  
3           are thinking about people who continue to choose SFV  
4           services, how the rates of switching of people who move  
5           away helps us in any way.

6       DR HUNT:  Yes.  Shall I begin?

7       MR DORAN:  You start, Dr Hunt.

8       DR HUNT:  So the first thing to say, I think there is,  
9           I believe there is common ground that people who switch  
10          made active and deliberate decisions.  I think we will  
11          discuss "informed" more.

12          So it is clear that switching is useful for judging  
13          whether someone is active or whether someone is  
14          deliberate and getting, at minimum, lower bound  
15          estimates, because we are agreed that that is a useful  
16          measure.

17          There is -- also, it is clear that those people who  
18          switched have had to find some alternative, and they  
19          have made some kind of assessment.  So it definitely  
20          speaks to informedness as well.  So I think switching is  
21          also useful for considering informedness.

22          So switching rates are -- switching is useful in and  
23          of itself, because people have had to be active,  
24          deliberate, and some level of informedness.  We can look  
25          at a single year, but we can also look -- we have not

1           seen the figures, but we can also look over time as  
2           well.

3           So one thing, for example, I am really aware of is,  
4           there is this Figure 3.3 of Helen Jenkins' second report  
5           {E/18/49}. That is the one that has the 2014 cohort,  
6           and you see it going down over time, and we say within  
7           three to four years of that cohort, 50% of that cohort  
8           were no longer there, and the majority of that is  
9           because people are actively choosing to ...

10          So that suggests pretty high levels of activity,  
11          pretty high levels of deliberateness, and pretty high  
12          levels of informedness as well. So it seems to me that  
13          switching is -- the switching behaviour is generally  
14          really quite useful for understanding those people who  
15          at least ultimately switched, those people who -- the  
16          people who are -- would be in the green in the top. In  
17          Helen Jenkins' chart there is a green which gets bigger  
18          and bigger and bigger over time.

19          So at minimum, switching is useful for those  
20          individuals. However, I think it is also useful more  
21          generally for those who do not switch, because we know  
22          from there being high levels of switching that it is  
23          possible to acquire information, it is possible to  
24          assess information, and it is possible to act.

25          So it talks to whether there are barriers for any of

1           those, whether using an AAAA framework or whether using  
2           an EAA framework, it speaks to each of those different  
3           steps, because it gives us an idea whether there are  
4           barriers to those steps or not. So I think switching is  
5           useful across the board.

6           MR DORAN: Thank you.

7                     Professor Loomes.

8           PROFESSOR LOOMES: I think what my instructions were asking  
9           me to do was to concentrate on the Class Members,  
10           i.e. the people who had not switched out of SFV  
11           products, and I do not think that -- I am perfectly  
12           happy to agree that there has been, over the years,  
13           a substantial migration away from SFV products and  
14           towards bundled products, that is certainly true.  
15           I think it is highly likely to be for historical,  
16           technological, social reasons, qualitative features.  
17           The improvement in what having broadband offers to  
18           people, they see it is more important, they see its  
19           benefits. They are also pushed to some extent by the  
20           difficulties of operating in a world which is  
21           increasingly referring people to go online, rather than  
22           dealing with them face-to-face or on the telephone.

23                     So I think people who have switched you can see are  
24           people who perhaps have found some reason or some  
25           attraction of that kind as time as changed, but it tells

1 us that the people who have not switched are people who,  
2 for one reason or another, have not seen those changes  
3 as beneficial to them, or have not been aware of the  
4 possibilities that are out there, and they are  
5 a different kind of person who knows, whether you  
6 explain it in terms of not making decisions, or in terms  
7 of not being very well informed or highly aware, then  
8 they are the people who are left behind. The people who  
9 have the most resistance to switching are the ones who  
10 form what people have referred to as the rump, and that  
11 may mean that they are really rather different in  
12 a number of ways from the people who have switched.

13 But it is a continuum, and therefore we should not  
14 be surprised to see that as circumstances, the so-called  
15 secular trend, as circumstances make it more and more  
16 advantageous to be in a bundle, to have broadband at  
17 least, and more and more difficult not to have it, you  
18 are going to see this gradual migration. But as you see  
19 this migration, the people who are left behind are in  
20 many ways, therefore, much more vulnerable to having  
21 higher prices imposed upon them because they are much  
22 less flexible and much less -- they are much more sticky  
23 and much less likely to switch away.

24 So it is the people who have not switched, being  
25 rather different from the people who have switched, that

1 is the issue that I was asked to address: why people  
2 might, in the face of what objectively looks like  
3 attractive alternatives, why they might not take those  
4 alternatives.

5 MR DORAN: So you do not think that we should place too much  
6 emphasis on what Dr Hunt said, which is that the  
7 barriers to switching, we can look -- we can observe  
8 that the barriers to switching must be relatively low or  
9 lowering, because all these people are switching?

10 PROFESSOR LOOMES: I think that it is a question -- the  
11 barriers to switching would tend to slow people down.  
12 The advantages of switching, if they are rising, and the  
13 barriers to switching are staying the same, you would  
14 expect more and more people to be overcoming these  
15 barriers, but it does not mean to say that the barriers  
16 do not restrain or discourage a substantial proportion  
17 of people who remain as SFV customers.

18 MR DORAN: So you would characterise the advantages, perhaps  
19 the secular trend, being more apparent, rather than the  
20 barriers reducing?

21 PROFESSOR LOOMES: I cannot say that the barriers have  
22 reduced or stayed about the same. I think that probably  
23 Ofcom have tried, with various interventions to make it  
24 easier for people to switch, less worry about losing  
25 their numbers, for example, so I think that has

1           contributed as well.

2           MR DORAN: Yes.

3           THE CHAIRMAN: I just want to come back on this point about,  
4           you said, well, it is a continuum, and obviously it is,  
5           because most people in the case so far have agreed that  
6           the percentage of this group of customers which is  
7           switching every year is significant, but you seem to be  
8           looking at, although you recognise the continuum in  
9           a fairly static way, because you say there is a rump,  
10          but the rump itself is getting smaller, and for every  
11          customer or group of customers who one year stays with  
12          BT, a significant number of them are going to switch the  
13          following year.

14          Now, that might be because they could not be  
15          bothered to think about it one year, and then they  
16          decided next year that they were going to do something  
17          about it, or they had a bit more time, or the accretion  
18          of information that was coming across put it higher up  
19          in on their horizon. As opposed to, which I think you  
20          were suggesting, that the relative attractions of  
21          broadband had somehow been made more prominent, or that  
22          the advantages were becoming more significant at each  
23          ongoing year, and that is how it came to their  
24          attention.

25          So I suppose the question is when you have got this

1           continually decreasing rump, why is it that that  
2           phenomenon does not tell you something about the  
3           customers who, in any one particular year, decided to  
4           stay but might then go the following year?

5           PROFESSOR LOOMES:  If we take the formulation of the claim,  
6           BT's claim, that all those or the great majority of  
7           those who continue to buy BT's products, rather than  
8           switch away, were making active, informed and deliberate  
9           decisions, then we would have to explain why those  
10          active, informed, deliberate decisions in, say, 2018,  
11          2019 and 2020 fell in favour of continuing to buy the  
12          SFV product, and then changed.  What is the nature of  
13          those decisions that changed in 2021 for those people  
14          who switched between 2020 and 2021?

15                 Your characterisation of it seems to me to be to  
16          have much going for it and to be the kind of thing I was  
17          saying, which is that in those earlier years they just  
18          did not think about it very much.  They did not get  
19          around to it.  They did not have any reason to be aware  
20          of what was happening in the bundles market.  They were  
21          doing it -- they were staying put, not as an active,  
22          deliberate, informed decision, but because it was the  
23          default if they were not going to spend any time  
24          thinking about it.

25          THE CHAIRMAN:  So that really comes back to the discussion

1           we had earlier on about what status you give to this  
2           what you describe as a heuristic decision to stay,  
3           rather than some more sophisticated decision-making  
4           process.

5           PROFESSOR LOOMES: Yes, but I mean, there are several  
6           heuristics, and the -- for example, if you have  
7           a substantial number of people in any year who receive  
8           notifications from BT of one kind or another and do not  
9           even read them, I am not sure that that counts as  
10          a heuristic, except if your heuristic is: I do not  
11          believe there is likely to be very much of any value to  
12          me in a BT communication. They are probably trying to  
13          sell me something and I do not really want to engage  
14          with it.

15          THE CHAIRMAN: Right, thank you.

16          DR HUNT: Can I make a -- I was waiting until we discussed  
17          triggers in more detail, but it is the second time it  
18          has come up, so I will ...

19                 I really do not agree with that characterisation of  
20          the letters at all, and I think all of the evidence  
21          suggests actually that somewhere between 60% and 80%,  
22          possibly even more, would have been reading these  
23          letters. So various pieces of research that I have done  
24          actually, so including the cash savings, randomised  
25          controlled trial that I looked at earlier, that

1 suggested on average, across the whole cohort, 60% of  
2 people read the letters, but it was actually about 80%  
3 for those who were older.

4 MR DORAN: We will come on to triggers, I promise you.

5 Is there anything else we should say that switching  
6 is relevant to here, if not to people taking active  
7 decisions in relation to staying put with BT services.

8 Does it play into any other behavioural economic issues?

9 DR HUNT: So I do have a couple of other points, which is:  
10 so it is true that the majority of people were switching  
11 to Dual Play, but it is not -- it certainly was not the  
12 only thing people were switching to as well.

13 We also see, it is worth pointing out for the  
14 switching, that 50% of the switching is outside of BT as  
15 well, so people are -- there is I think quite a lot of  
16 information we can take away, at least I take away from  
17 that, in terms of how easy people find it to acquire  
18 information from other providers, assess that  
19 information. So I think there is quite a lot that we  
20 can use for evidence.

21 MR DORAN: If we look more broadly about the switching rates  
22 of groups of consumers, other than SFV customers, is  
23 that relevant to our deliberations?

24 I think it is probably, Dr Hunt, your turn to start.

25 DR HUNT: Yes, so coming back to what I said earlier, we

1           need frames of reference in order to judge many --  
2           various types of consumer behaviour, or their  
3           capabilities and other things. One of those things that  
4           we need some frame of reference for is switching rates.  
5           It is not prima facie clear what is a low level, what is  
6           a medium level.

7           So yes, I think -- so we talked about Dual Play, but  
8           actually, at least in my paper, and it has been done, to  
9           be honest, throughout the whole regulated industries,  
10          people use -- people look at switching rates across the  
11          various different industries in order to judge what is  
12          happening in other industries, so, yes.

13         PROFESSOR LOOMES: When people look across the different  
14          sectors and industries, they find very big differences  
15          in switching rates. They find very, I mean in  
16          percentage terms, high levels of switching in insurance  
17          markets, and much higher for car insurance and home  
18          insurance than it is for most other things. They find  
19          very low levels of switching in the banking sector.  
20          People switching their current accounts is at a very low  
21          level. I know that Dr Hunt was talking about switching  
22          savings accounts.

23          But the circumstances that are different in those  
24          different sectors might have a great deal to do with  
25          explaining these large differences in switching rates,

1           which means that it seems quite meaningless to say that  
2           switching rates in the power industry for electricity  
3           and gas are low if you are comparing them with the  
4           insurance sector, but are high if you are comparing them  
5           with the banking sector.

6           Where does that comparison get you, except to tell  
7           you that the circumstances in these different sectors  
8           are sufficiently different from one another that if you  
9           are looking at switching, you are seeing clearly  
10          different patterns of behaviour. It does not tell you  
11          why.

12         MR DORAN: We might move on, then, to evidence of switching  
13          within SFV services.

14          Professor Loomes, have you got thoughts on whether  
15          that provides evidence of active, informed  
16          decision-making, both within call packages or Line  
17          Rental services?

18         PROFESSOR LOOMES: No, I relied quite heavily on Mr Parker  
19          and his team's work for looking at those issues, because  
20          I considered that my instructions were to look at  
21          non-switching, what would justify non-switching  
22          behaviour. So I do not think I will have very much  
23          particularly to offer on that question, except to the  
24          extent that I am being consulted in the attempt to come  
25          to some agreement about those figures with BT's

1           representatives.

2           MR DORAN: Right, which we will come on to.

3                     Dr Hunt.

4           DR HUNT: So we do know that switching levels within SFV  
5           services across different providers were in the sort of  
6           low single digit level. Some of my evidence maybe we  
7           will discuss more later when we get to that.

8                     However, when you talk about call packages and these  
9           kind of things, we also know that actually switching in  
10          that regard was -- again, I find I need frames of  
11          reference to judge high, but the evidence that we have  
12          from one of the BT documents from 2016 is that the  
13          changing of a call package, or things like Caller  
14          Display or these kind of things, the changes for the  
15          solus customers were 41% in the previous two years, and  
16          I think it was something like 81%, or maybe a bit  
17          higher, sort of ever since they had become BT customers.

18                    So we definitely have evidence that people are  
19          making changes. I think of that as quite a high rate of  
20          change, that people are making changes for their BT  
21          product.

22          PROFESSOR LOOMES: Is that switching?

23          DR HUNT: No, but I was responding to the question.

24          MR DORAN: Yes, would you -- you would not describe that as  
25          switching, choosing a different ...

1 PROFESSOR LOOMES: I would not describe it as -- I do not  
2 think it would be considered to be switching in terms of  
3 the basic package of Line Rental and calls that people  
4 have adopted. It does not seem that it is switching, it  
5 is adding or subtracting a particular add-on or  
6 a particular product.

7 If we are going to consider that to be switching,  
8 then there might be an enormous amount of switching.

9 MR DORAN: I suppose some of the call packages will give you  
10 effectively a cheaper, depending on your usage, could  
11 give you a cheaper price for your calls. Similarly, you  
12 can get a discount on your Line Rental if you buy it for  
13 a year, for example. There are variations on the theme.

14 PROFESSOR LOOMES: Yes, that is true, but ...

15 MR DORAN: There is a sort of pricing element in there as  
16 well.

17 PROFESSOR LOOMES: Yes, and in that respect I think the  
18 question of Right Plan is worth taking a moment to think  
19 about, because Right Plan was based on the idea that  
20 people may not be very good always at picking what was  
21 the best plan for them, and the opportunity was given to  
22 those who opted in to get advice on the basis of their  
23 recent expenditure, the recent pattern of calls, as to  
24 whether there would be a better plan that would save  
25 them money. This suggests, first of all, that people

1           may not be very good at judging whether their existing  
2           plan within BT is the best thing available to them.

3           So if you want to think of modifying the plan by  
4           moving from one call package to another call package as  
5           switching, then I suppose that there is quite a lot of  
6           room for that, but I am not sure that the statistics  
7           that Ofcom were collecting about switching was  
8           addressing those kinds of variations in a particular  
9           plan, whether somebody has Call Protect added or taken  
10          away or applies for some add-on or other. I do not  
11          think that that was included in the notion of switching.

12       MR DORAN: Right, okay.

13          Perhaps the last point on switching here is whether  
14          there is anything to say about the people who switched  
15          into BT SFV services over the period. Does that add  
16          anything to the sum of our knowledge?

17       DR HUNT: It was a good question that made us realise it is  
18          not something that I specifically addressed in my paper.  
19          So the evidence shows that there is roughly 10% of the  
20          number of people in the year are joining as kind of  
21          a gross addition. So that is quite a high percentage of  
22          people. In the way that I have been thinking about the  
23          terms, I think actually they accord with  
24          Professor Loomes' definitions as well. We should  
25          certainly think of these people as active and

1 deliberate. I think we should also -- in my view if  
2 they have assessed and decided to join BT we should  
3 think of them as being reasonably informed as well  
4 because I do think that is a simple thing to work out  
5 and consider.

6 PROFESSOR LOOMES: I am afraid I cannot summon up the  
7 precise reference but I am pretty sure that there was  
8 somewhere in Dr Jenkins' evidence that focused on  
9 a particular year when there was an influx of people  
10 into BT. I think that she said that a year later half  
11 of them had gone. So they had come into BT. They have  
12 realised perhaps that it was not a very good service and  
13 they had left, 50% of them, within a year. Certainly  
14 when you look at the churn models, the churn models that  
15 I looked at in my first report, you see that one of the  
16 factors that is highly correlated with switching away  
17 from BT is short tenure, people who have not been there  
18 very long.

19 So it may be that they do not really know what they  
20 are getting until they get it and then when they get it  
21 they do not like it and they go somewhere else.

22 MR DORAN: I think we might move on to triggers then.

23 DR HUNT: Okay.

24 MR DORAN: I think it is, Professor Loomes, for you to  
25 actually start with the triggers. How would you help us

1           define them?

2           PROFESSOR LOOMES: The way I have thought about triggers is  
3           that it is some form of stimulus that causes you, in  
4           a world where you do not have enough time and attention  
5           and cognitive capacity to deal with everything that you  
6           might be interested in dealing with, but it causes you  
7           to pause and to decide to allocate some initial extra  
8           time and effort and cognitive capacity to a question, in  
9           this case the question being: am I getting good value?  
10          Should I do something about my existing provider?  
11          Should I consider either a different service within that  
12          provider's portfolio, or should I consider getting  
13          information and moving towards making a deliberate  
14          choice between what I am currently getting and what  
15          might be available to me elsewhere?

16          MR DORAN: It starts off your AAAA, the framework that you  
17          lead us through in your first report.

18          PROFESSOR LOOMES: I see it as being an event of some kind  
19          that is sufficiently powerful that it triggers, that it  
20          overcomes, the default position, which is to say: I have  
21          not got time for this.

22          MR DORAN: Would you disagree, Dr Hunt?

23          DR HUNT: So I have fairly similar thoughts. I have  
24          a couple of additional things to add. A trigger is just  
25          a stimulus that can lead to some kind of action.

1 I think in the context of the proceedings we should  
2 think of at least two different types of trigger. So  
3 the first type of trigger is anything that is providing  
4 information to the SFV customers about the changes to  
5 their BT products and service. So that is going to be  
6 obviously the price rises, also the other changes that  
7 happened as well. So there are a variety of things that  
8 could be conveying that information to individuals. We  
9 will get in turn bills or other notifications as well.  
10 So lots of things that could be conveying information  
11 about price rises and changes.

12 There are also triggers as well. So there are  
13 also -- we also have to bear in mind, and actually the  
14 documents talk about the various reports which Ofcom and  
15 others talk about.

16 Other triggers that could be really important,  
17 marketing of other firms is going to be important. Also  
18 dissatisfaction, that is a very common trigger for if  
19 people -- it does not seem like there was much  
20 dissatisfaction here but that is another potential  
21 trigger.

22 Thirdly, if you have a desire for a different  
23 product or this kind of thing that could be a trigger as  
24 well. So there are a variety of different triggers.

25 Then there are a whole variety of different actions

1           that you could take if you have been triggered. You  
2           might decide to think, okay, fine, but actually I am  
3           pretty happy with the product that I have and quite  
4           deliberately decide not to take -- not to go and do --  
5           it is a costly effort in order to get more information  
6           about the products.

7           So this is the variety of different actions that can  
8           be triggered.

9           MR DORAN: I think it is you to go on perhaps the next  
10          question which is: what were the triggers -- can we be  
11          clear about the triggers that people were -- is there  
12          anything else to say about the triggers in relation to  
13          this particular case?

14          DR HUNT: Yes. So I talked about the first class of  
15          triggers are triggers that provide any information about  
16          changes to BT's product, in particular the price rises.  
17          So I think there is five types of trigger in that  
18          regard. So the first thing is absolutely the price  
19          change notifications which we will discuss in more  
20          detail as to what impact they will have had.

21          Secondly, there is also the variety of other  
22          notifications after 2018, so this would be for the  
23          remaining SPC customers, so those are the annual best  
24          tariff notification, the end of contract notification  
25          and the annual statement. These are in what I consider

1 to be the rough order of importance by the way, which we  
2 will come to.

3 Thirdly, there is also going to be bills, so people  
4 got their bills either monthly or if they had chosen  
5 otherwise to get them quarterly. That would obviously  
6 provide information about these price rises.

7 Fourth, there are bank statements as well. So  
8 I know from -- I spent 20 years in financial services,  
9 two-thirds, three-quarters of people pay attention of  
10 their bank statements or else they get their accounts  
11 online.

12 Lastly, there is the press announcements and -- so  
13 there are five different ways that people would be  
14 getting information about these -- about the price rises  
15 in particular.

16 It is really important when we think about these  
17 five sources of information triggers with respect to  
18 the price rises that they all work together. So they  
19 are all -- BT makes a decision to increase its prices  
20 and have these variety of changes that the calls gives.  
21 Then there is going to be a variety of different ways  
22 that that information is going to get to consumers. So  
23 there is going to be the PCN. For some there will be  
24 these other notifications. There will be the bill. In  
25 the next question we will discuss that, but we know that

1 BT had to plan around people getting their first bills  
2 after price rises. The call centres. Bank statements  
3 and then potentially press announcements. They will all  
4 be working together to convey information to consumers,  
5 so they absolutely do not work in isolation.

6 MR DORAN: Do you see these as cumulative in some cases?

7 DR HUNT: Yes, you can think of cumulative. But also to the  
8 extent that we are focusing on price rises it is not  
9 only -- you also have to think about over time. So if  
10 the concern here, and we will very much come to this in  
11 the next question, the concern here is that people were  
12 unaware of prices, the fact that I received  
13 a notification last year telling me about a price rise  
14 and then I am going to receive a notification this year  
15 giving me more information about a price rise, overall  
16 that is going to contribute to awareness of increase of  
17 prices. I do not think we can think about isolation  
18 over time as well. So we have to think about a whole  
19 variety of different things that people will have been  
20 receiving.

21 So, yes, those are my main thoughts on the triggers  
22 people will have received. In the next question I think  
23 we will come to considering whether they will have been  
24 impactful.

25 MR DORAN: Professor Loomes.

1           PROFESSOR LOOMES: I think that the opposite of accumulation  
2           is lack of reaction due to habituation. If you are  
3           getting these price change notifications every  
4           nine months or whatever, I think it is first of all  
5           quite unlikely that most people will remember in any  
6           detail the contents of a price notification letter  
7           nine months previously. That kind of memory does not  
8           seem to be very common. But people will say, well it is  
9           another one. It is what we expect. It is probably  
10          pretty much what they did last year and the year before  
11          and all of these companies do much the same thing. They  
12          all move along together. There are no surprises here.  
13          There is nothing that makes me think suddenly I have got  
14          to do something about this. I have got to spend time on  
15          this. There is a feeling, well, it probably would not  
16          be worth my while to look around because relatively they  
17          are all moving together.

18                 I think that Ms Blight indicated in her evidence  
19          that there was quite a long stretch of time when there  
20          probably was not more than £1 between all of the big  
21          suppliers. If consumers have a sort of rough idea that  
22          that is the case, then they are not going to be  
23          motivated very highly by these price change  
24          notifications even if they wanted to take on the rather  
25          daunting business of trying to figure out what these

1 price notification notices were going to mean for their  
2 monthly bill.

3 You might say, well, they will see their monthly  
4 bill in their next bank statement, or the bank statement  
5 after that, after the price rises have come in. That  
6 would require a level of monitoring which I think is not  
7 necessarily common amongst the population. People,  
8 unless there is a shocking increase, unless there is  
9 a bill shock they are just going to look at it as one  
10 more item that is part of the general inflation that is  
11 going on.

12 So I do not think that those kinds of triggers are  
13 likely to have much impact. Where I do think that there  
14 might be -- triggers that might have an impact, although  
15 this came quite late on chronologically, would be the  
16 case where BT is a supplier of both voice and broadband  
17 to their split service customers and where they are able  
18 to put together a letter which says: here is what you  
19 are currently paying for your voice and here is what you  
20 are currently paying for your broadband under the  
21 separate contracts. This is what it comes to each month  
22 and here is what we could provide for you in a bundle  
23 which is giving you pretty much the same thing.

24 You might think under those circumstances if people  
25 are persuaded that this really is pretty much the same

1 thing but one way of buying it is a number of pounds  
2 a month bigger than another way of buying the same  
3 thing, that might be a sufficient stimulus, they might  
4 think: "well, if it is £6 or £7 a month, that is £70,  
5 £80 a year, that is worth doing something about",  
6 although evidence, again from Dr Hunt's work on the  
7 financial sector, suggested that a lot of people would  
8 not be getting out of bed for less than £100 when it  
9 comes to switching their savings accounts.

10 So that may still not be enough to overcome the  
11 desire to just let it roll on and not pay any attention  
12 to it and give your mind to other things, but I can see  
13 that there might be a trigger of that kind. It also  
14 seems to me likely that there were triggers, not  
15 financial ones necessarily, not in terms of increases in  
16 the bill, but there were triggers in terms of the  
17 frustrations that people may have felt at not being able  
18 to do things because they did not have broadband or the  
19 persuasion that they may have had, the encouragement  
20 they may have had from members of their families and  
21 friends who would make them aware of just how much there  
22 was available to them on broadband.

23 So I could imagine under those circumstances that  
24 that would be sufficient to trigger people to move but  
25 in particular, to move away from Voice Only and to

1           either get broadband as a separate supplier or to go for  
2           a bundle. I can imagine that that would be suitable  
3           trigger for some people.

4       MR DORAN: I think you have almost rolled into the next  
5           question about "to what extent were these triggers  
6           sufficient to prompt meaningful engagement?" There is  
7           one particular point which Dr Hunt alluded to and which  
8           I recall from the BT evidence about planning for call  
9           centre responsiveness in relation to when announcements  
10          were made by BT and that they had to be careful about  
11          planning resources.

12                Is there anything you would like to say about -- you  
13           suggest little by way of responsiveness to many of these  
14           triggers, but is there anything you would like to say  
15           about that in particular or anything else about --

16       PROFESSOR LOOMES: I simply do not know the scale of how  
17           many more calls were made and what the outcome of those  
18           calls were and what the calls were about. I do not have  
19           the information on that, I am sorry.

20       MR DORAN: Dr Hunt.

21       DR HUNT: Is this on the question: to what extent were these  
22           triggers sufficient to have meaningful engagement?

23       MR DORAN: Yes.

24       DR HUNT: I do think we have a number of pieces of evidence  
25           that speak to this.

1           First of all, I think there is common ground between  
2 myself and Professor Loomes that there will be -- there  
3 is sort of a degree of awareness among consumers about  
4 these price rises. So there is already some ... My view  
5 is that I think the majority of individuals would have  
6 been aware of each of these different price rises and  
7 I am going to explain why I think that is the case.

8           So the first is we have got good evidence from  
9 a couple of reports. There is this Firefish report  
10 which was done for BT in 2014. There is the "Enriching  
11 Understanding of Standalone Voice Customers Report" that  
12 was done, commissioned by Ofcom in 2017, that people  
13 actually have got a pretty good awareness of the prices  
14 that they are on, the prices that they are facing.

15           I am not necessarily claiming they would know all of  
16 the various different elements of prices. They had  
17 overall a pretty good awareness of prices. So if you  
18 know what your price is today, presumably you have got  
19 some -- you have known something about the price rises  
20 that have happened.

21           Secondly, from my own research that we have alluded  
22 to in the financial sector, we know that around 60% of  
23 individuals, that this was across quite a range of  
24 individuals, read these letters, and this was a survey  
25 that was done several, I think it was two or three

1 months after people have received the letters and still  
2 60% of people remembered the letters and said that they  
3 had read them.

4 That number agrees with similar evidence that we  
5 have from Ofgem. In fact, I was just last night looking  
6 at one of my own other reports, one of these other  
7 randomised controlled trials in general insurance, home  
8 and car insurance, and there the levels were 70% to 80%  
9 of people reading the letters. So I think people  
10 actually do open and read these letters.

11 Moreover, in my FCA study what we found actually  
12 was -- there was -- I cannot remember if it was 15% or  
13 25% but it is one of those two numbers -- was an  
14 increase in the percentage of older people who read the  
15 letters. So older people were more likely, so older  
16 people, approximately at the 80% level of opening these  
17 letters and looking at them when they came in. So we  
18 know that people are actually paying attention to these  
19 letters.

20 We have discussed BT call centres. They staggered  
21 out the sending of these price change notifications over  
22 three months deliberately in order not to have too many  
23 people calling up. So that is a sign that actually it  
24 is an appreciable level of calls.

25 This is just on the -- I talk about five different

1 types of notification that were relevant to the price  
2 rises. This is just in the first of these which is  
3 the price change notifications.

4 If we move -- so there is also the other  
5 notifications, the end of -- the annual notifications  
6 and the end of contract notifications, annual  
7 statements, there is also some effect as well. I do not  
8 have any more evidence on those.

9 The third type is people's bills. If people are  
10 looking at the letters that they receive from their  
11 providers they are also going to pay attention to their  
12 bills that you would see monthly or quarterly.  
13 Moreover, we know that 35% of voice customers were not  
14 on direct debit. So these are people who have to pay  
15 their bills.

16 Moreover we know that that percentage is higher,  
17 I believe my understanding is that that percentage is  
18 higher for Voice Only Customers because we know the  
19 Post Office were targeting specifically targeting older  
20 people who came into the Post Office to pay their bills  
21 by person.

22 So those bills are going to be really important  
23 information for providing information about price rises.  
24 We then also have bank statements. I mentioned earlier,  
25 I worked in financial services for a long time. People

1 pay attention to what is going on in their bank. Not  
2 necessarily a point that was made by Professor Loomes  
3 previously was: "well, okay, things are just going to be  
4 bouncing around, you do not pay the same amount per  
5 month". That might be true for some consumers but if  
6 you are on an Unlimited Anytime package and you  
7 are mostly on a fixed amount over time, I think you are  
8 going to notice those changes as well.

9 Then lastly, I mean, I personally do not think they  
10 are going to make that much difference and we can come  
11 into that if there is interest, about press  
12 announcements as well, so people also might be getting  
13 stuff from the press announcements.

14 Overall I think we have got really good evidence  
15 that people were well aware of the prices that they were  
16 on. So if we have got a high degree of awareness that  
17 suggests to me that there has been meaningful engagement  
18 by the Class Members.

19 As to the second part of the question, I do not  
20 think we can actually necessarily infer about  
21 informedness or deliberateness. I think you have to do  
22 additional analysis on that but from the evidence, at  
23 least that I have looked at, when it comes to triggers  
24 is that these are going to be really sufficient for  
25 people to be aware of price rises and therefore to

1 engage.

2 MR DORAN: Thank you. Professor Loomes, have you anything  
3 to add?

4 PROFESSOR LOOMES: I think some of the examples of higher  
5 rates of reading letters if they come from the financial  
6 sector that is a different thing completely because it  
7 will typically be people with substantial amounts of  
8 savings who have a high stake in savings rates and they  
9 are going to be much more motivated to read these  
10 letters than people who are on a contract or receiving  
11 some telecoms service that they have been receiving for  
12 years and years and years and will see these rises as  
13 being just in line with what they have been accepting  
14 for many years previously. It does not seem to me that  
15 that would explain why any one price rise would suddenly  
16 have this effect on people.

17 DR HUNT: But we know from Ofgem it is true in the energy  
18 sector -- I have just quoted information from savings,  
19 from general insurance, from the energy sector, all of  
20 which find about 60% to 70% of people reading their  
21 letters. I see no other good quality information to  
22 suggest otherwise.

23 MR RIDYARD: Do we have information about BT letters  
24 specifically?

25 DR HUNT: I do not I think. Actually, no, I do have one

1 other piece of information that speaks to it and this is  
2 of awareness of gives. So I think we know awareness of  
3 gives was moderately high and I think the main way that  
4 people knew about the gives was this price change  
5 notifications, so I mean obviously in order to have  
6 a really high awareness of gives you have got to have  
7 read the price change notification, so that is one piece  
8 of evidence that I can immediately think of.

9 MR DORAN: Thank you. Have you anything to add on 13.2,  
10 Professor Loomes, about inferring a decision not to  
11 switch as informed? I think Dr Hunt said that more  
12 evidence would be needed on that. I take it you would  
13 not disagree to that as a secondary part of that  
14 question.

15 PROFESSOR LOOMES: No, I mean, there was the study that was  
16 undertaken as part of the agreement with Ofcom which was  
17 trialing various different types of letters and --

18 MR DORAN: This is post-Commitment.

19 PROFESSOR LOOMES: It was post-Commitment but it was  
20 negotiating in the process of arriving at the commitment  
21 of agreement and VOCs were involved in these trials and  
22 the measure of engagement was agreed with BT. It was  
23 a pretty low criteria that was set and the trial found  
24 really very low levels of engagement or response to any  
25 of the various of these letters that were going out.

1 DR HUNT: I do not think that is a correct characterisation  
2 of that study. What happened in the study is they sent  
3 five different types of letter. They had measures of  
4 engagement that -- a variety of different measures  
5 including calling up a call centre. What they found was  
6 that the letters did not prompt a change in consumer  
7 behaviour. That does not say in the slightest that  
8 people did not read the letters. My understanding is in  
9 fact they found that people did read the letters from  
10 that study. I would have to go back and double check  
11 the information. So I do not think we can -- I think if  
12 anything the study cuts completely the other way.

13 PROFESSOR LOOMES: No, I do not agree with that, I am sorry.  
14 What they found was that people may have read the  
15 letters although a number of people do not recall ever  
16 having received the letters, but what it does show is  
17 that reading the letters itself is not a trigger to  
18 engagement. These people did not engage. Only very low  
19 percentages responded in a way that was considered to be  
20 engagement by BT in that study.

21 DR HUNT: Again, I think we really have to look at the  
22 specifics of the study. So in this particular case,  
23 engagement was considered to be switching behaviour.  
24 Calling up to BT and making changes to your call  
25 package, all these kind of things. The letters that

1           were sent out were letters that were either getting  
2           attention for Home Phone Saver or getting attention for  
3           broadband or these kind of things. So what do we learn  
4           from this kind of study? We learn that these letters  
5           causally do not change -- do not get people to switch  
6           away or change their call package.

7           I believe on the follow-up survey they did ask  
8           whether people read the letters and absolutely they did.  
9           So what it suggests is rather to the contrary, people  
10          were actually quite happy with what they had already.  
11          I think that is the more natural interpretation of that  
12          study so there is no -- I really think we have to pay  
13          attention to the facts of that study.

14         MR DORAN: Without putting words in your mouth, that is  
15          rather going back if to the point I was putting to you  
16          a moment ago that you might be able to infer that  
17          a decision not to switch is you have engaged and you  
18          have taken a deliberate decision not to switch.

19         DR HUNT: Yes, that would be my interpretation.

20         MR DORAN: Thank you. Professor, have you anything to add  
21          to that?

22         PROFESSOR LOOMES: We are clearly going to disagree, are we  
23          not, about the interpretation of this study? There were  
24          differences in the rates of response to these different  
25          propositions but they were the kinds of things that you

1           might expect if they were encouraging people, as was the  
2           case with broadband or landline or giving them  
3           information about average spend or giving them  
4           information about switching costs, you might think that  
5           if people were going to act on receiving these letters  
6           then you would have seen some kind of significant  
7           reaction to these treatments, and the only one where  
8           there was a significant reaction I think, as far as  
9           I recall, was the mention of Home Phone Saver. But if  
10          you mentioned Home Phone Saver in the same letter as you  
11          mentioned broadband the effect disappeared.

12         MR DORAN: Right.

13         DR HUNT: That is presupposing that the consumer should have  
14          any reaction at all and if in fact the letter has  
15          conveyed no useful information to the individuals you  
16          are indeed going to see no reaction.

17         MR DORAN: Final point on triggers then. Can we see  
18          anything very different between how VOCs respond to  
19          triggers and SPCs respond to triggers?

20         DR HUNT: So for VOCs the evidence that I have -- the best  
21          evidence we have on VOCs when it comes to these letters  
22          is that older people read them considerably more than  
23          younger people, so that is -- obviously we know what the  
24          age profiles are like for VOCs, so that suggests to me  
25          that VOCs are going to pay more attention to these

1 letters.

2 We also I believe know that VOCs have got higher  
3 rates of paying each of their bills, so that is going to  
4 be absolutely relevant to the triggers as well.

5 MR DORAN: You mean actually going somewhere to pay rather  
6 than --

7 DR HUNT: Yes, we know they go to the Post Office and that  
8 is how they are targeting them. That means two things.  
9 One is if they have lower rates of direct debit, the  
10 fact they pay means they are going to be more aware of  
11 the price changes. Also the fact that those individuals  
12 who pay in a Post Office are -- that is why the  
13 Post Office, all this attempt to put stuff up right near  
14 the tills which will provide information about the  
15 Post Office offer.

16 So we have got good reasons to think that the  
17 triggers would be broadly affecting VOCs more. I think  
18 the main thing that cuts in the other direction when it  
19 comes to SPCs is Dual Play marketing where I would  
20 expect SPCs to pay more attention to Dual Play marketing  
21 than VOCs because they are -- we know that they  
22 change -- that they have already got the internet as  
23 well. Albeit, actually we know that VOCs switched at a  
24 reasonably high rate to Dual Plays per year, 89%, but  
25 still I think that marketing would be more relevant for

1           VOCs than SPCs.

2       MR DORAN: Professor Loomes.

3       PROFESSOR LOOMES: I think, as I mentioned earlier, that  
4           I could imagine that a communication to somebody who was  
5           receiving both their voice and their broadband from BT  
6           but with separate contracts and a direct comparison,  
7           a kind of personalised comparison for them saying, this  
8           is what you are spending on this and this is what you  
9           could be spending on a bundle, I can see that something  
10          like that might very well work quite well.

11          But that is an exception really. That is a minority  
12          and even then it seems that a large number of those folk  
13          took a while to switch and still have not completely  
14          switched over to bundles and I believe that there might  
15          be reasons in terms of taking the separate packages  
16          being cheaper for certain kinds of groups, but I do not  
17          know the extent of that position.

18       MR DORAN: Do you want to take up, say anything on Dr Hunt's  
19          example of older people who pay in cash at the  
20          Post Office and who read their letters, I think he said,  
21          and therefore there appears to be a degree of engagement  
22          and also they go to the place which is marketing  
23          Voice Only to them?

24       PROFESSOR LOOMES: I was not quite sure whether that was to  
25          do with reading their letters. I thought that was more

1 to do with the fact that they were having to pay their  
2 bills or were paying their bills via the Post Office and  
3 so Dr Hunt will correct me if I am wrong in remembering  
4 what he said, but it sounded as if that would make them  
5 more aware of their bill because they are actually  
6 paying it rather than just sort of allowing it to be  
7 done by direct debit.

8 So that might be a push factor but also a pull  
9 factor might be that the Post Office was investing in  
10 trying to attract those people using the fact that many  
11 of those people would be familiar with the staff, with  
12 the people working in the Post Office who might have  
13 known them over many years and feel more open to an  
14 approach by them than they would by a marketing letter  
15 from one of the other companies sent through the post  
16 which they very often would not read at all.

17 MR DORAN: Would you go on to say then that not switching  
18 was a deliberate choice? I think that was the challenge  
19 that Dr Hunt might have made to you, which is these  
20 people had seen the letters about the price rise, had  
21 gone to pay their bills, saw the marketing materials on  
22 the screens surrounding where they were paying the bills  
23 and yet stayed with BT.

24 PROFESSOR LOOMES: Yes, well, I think that you can only  
25 explain that in terms of people not having sufficient

1 motivation from those stimuli to allocate time and  
2 effort to switching to the Post Office and not seeing  
3 that the advantages were big enough for them.

4 MR DORAN: Right, thank you. I think we are ready for  
5 lunch.

6 THE CHAIRMAN: 2 o'clock.

7 (1.00 pm)

8 (Luncheon Adjournment)

9 (2.00 pm)

10 THE CHAIRMAN: Mr Beard.

11 MR BEARD: Sorry, I do not know whether it is bad news or  
12 good news. I had a quick look over the short  
13 adjournment at the letter that has been sent back on the  
14 switching data. There is not full agreement. I think  
15 the differences may be relatively small, and actually,  
16 in relation to Dr Hunt's data, I think what the  
17 criticisms are is that his switching numbers are  
18 actually lower than Dr Jenkins' estimates. I am not  
19 sure that is going to make a great deal of difference  
20 for the purposes of today. But unfortunately I think  
21 that at the moment, given that we have the experts  
22 empanelled, it may be we do need to deal with that  
23 switching issue, because we do not have full agreement  
24 on it.

25 THE CHAIRMAN: I think, subject to what Mr Doran would like

1 to say, we will continue the questions that we have got  
2 at the moment and then look at it at the end.

3 On that note, let us start with you as you are on  
4 your feet, Mr Beard. Do you have any idea how long you  
5 might be as far as cross-examination is concerned?

6 MR BEARD: Yes, definitely less than an hour.

7 THE CHAIRMAN: Less than an hour.

8 MR BEARD: Yes.

9 THE CHAIRMAN: Mr Spitz.

10 MR SPITZ: Sir, I think I will need about two hours. It is  
11 going to go a little longer.

12 THE CHAIRMAN: Just a minute. (Pause)

13 MR SPITZ: So we will be picking up issues that took place  
14 in the hot tub under limb 2 with Dr Hunt, so it will not  
15 be confined to the questions that are discussed today.

16 THE CHAIRMAN: Yes, because he gave evidence the other day.

17 MR SPITZ: He did.

18 MR BEARD: It was understood that on the satisfaction survey  
19 material, Ms Kreisberger indicated that  
20 cross-examination would be by Mr Spitz subsequently, so  
21 no objection to that.

22 THE CHAIRMAN: Right. Then while you are both on your feet,  
23 so far as the actuarial evidence is concerned, obviously  
24 we have not heard the hot tub yet, but in terms of any  
25 pre-planned cross-examination or points that you want to

1           raise, do you have anything on that?

2           MR BEARD: No, Ms Love will be doing the cross-examination  
3           for BT in relation to this.

4           The difficulty with cross-examination in relation to  
5           the actuaries is that if it gets disposed of in the  
6           hot tub, great; if it turns into cross-examination, some  
7           of it is quite technical, and it is that which creates  
8           the duration problem. So I do not want to, on behalf of  
9           Ms Love, suggest that I have a particular estimate.

10          I will make enquiries and see where she is with things.

11          THE CHAIRMAN: Mr Spitz.

12          MR SPITZ: From our point of view, I was thinking that we  
13          would probably be done in an hour and 15.

14          THE CHAIRMAN: On that basis it seems we are going to need  
15          Friday afternoon. I am not saying we will have to, but  
16          we would have to be making a fair trot through  
17          everything to finish all of this tomorrow afternoon.

18          MR BEARD: I understand.

19          THE CHAIRMAN: But nonetheless, particularly if we want at  
20          least to finish the hot tub today, we will probably sit  
21          a bit later today, and we will probably still start at  
22          10 o'clock tomorrow and see where we go.

23          MR BEARD: Understood.

24          THE CHAIRMAN: Thank you.

25          MS KREISBERGER: Whilst we are on housekeeping, there is

1 Mr Duckworth's attendance.

2 THE CHAIRMAN: Thank you for making enquiries. He is  
3 available which day?

4 MS KREISBERGER: He is available Monday afternoon, so we  
5 wondered if he could be interposed at 2 pm.

6 THE CHAIRMAN: That is a good idea, and we will get to you  
7 tomorrow probably with the particular areas of interest  
8 that we have, so that he is alerted to what it is we  
9 want to talk about.

10 MS KREISBERGER: Yes, thank you, sir.

11 THE CHAIRMAN: The other side can see that as well.

12 (A short pause)

13 MR DORAN: We might make a start then, gentlemen. Could we  
14 turn to the information section, which is section D, and  
15 I think, Professor Loomes, it is for you this one to  
16 start off with, and we have in fact touched on this area  
17 already, but to what extent Class Members, if at all,  
18 were aware of the nature, level and frequency of price  
19 rises on their SFV service?

20 PROFESSOR LOOMES: Well, I do not know that we can say  
21 exactly how often they were aware or how frequently they  
22 believed that price rises had occurred, but I think  
23 the price rises were occurring at roughly nine-monthly  
24 intervals, and so it would be surprising if you asked  
25 them: have prices gone up over the past few years, if

1           they said no, would we expect them to have registered  
2           that prices have gone up? But whether they could tell  
3           you whether it has been once every nine months, I do not  
4           know.

5           MR DORAN: You think that in terms of the level, that they  
6           would understand the scale of the price rise?

7           PROFESSOR LOOMES: Well, I do not think they would  
8           understand it from the price notification if their  
9           arrangements were at all complicated. If they used  
10          out-of-plan calls, or if they used any of the other  
11          products, I do not think they would be able to give you  
12          a very precise prediction of what that would mean at the  
13          time of receiving the letter. But they might look at  
14          their bank statements or look at what they had to pay in  
15          subsequent months and register what they were paying,  
16          although I suspect that many did not, unless there was  
17          a particular item on their bank statement that caused  
18          them surprise.

19          MR DORAN: Right.

20                 Okay, Dr Hunt.

21          DR HUNT: So my view is that most would have been aware of  
22          each price rise, and at any point in time aware  
23          approximately of the overall level of price rises.

24                 In terms of awareness, we have got two pieces of --  
25          I am afraid this is the best evidence we have -- we have

1 two pieces of qualitative evidence, the Firefish work  
2 for BT in 2014, and the "Enriching Understanding of  
3 Standalone Voice Customers Report" in 2017.

4 MR DORAN: These are the two studies you refer to in your  
5 report.

6 DR HUNT: Yes, I refer to them in my report, exactly. They  
7 suggest that people were aware of prices -- at least  
8 broadly of their prices.

9 Then I discussed the three good quality pieces of  
10 evidence that we have in terms of whether people read  
11 letters that are most applicable, so they were from cash  
12 savings, from general insurance and from Ofgem, all of  
13 them suggesting that approximately 60 to 80% of people  
14 read the letters, and that it was -- for the cash  
15 savings study that it was more true for older people,  
16 significantly more true for older people.

17 So I think people are -- would be reading these  
18 letters. I appreciate they will -- I do not think they  
19 would necessarily have a detailed understanding of the  
20 terms. My view, looking at the letters, is probably  
21 they would have -- the Line Rental increase was fairly  
22 I think clear across the PCNs. Some of the other  
23 changes I think it is probably a little bit harder for  
24 people to interpret. The call package changes were  
25 quite easy to understand, but in some ways -- that

1 covers the majority of the costs, so I think those would  
2 have been pretty clear.

3 I will just go back to what I said earlier about  
4 bills. I really think bills would have made  
5 a significant contribution. People are -- especially  
6 for those who are actually paying each bill. People  
7 experience the pain of paying, as we have all  
8 experienced many times in our lives.

9 MR DORAN: This in particular was the point you were making  
10 about the Post Office, the people who go and pay.

11 DR HUNT: Yes, there were two points. One is there were the  
12 people who were paying the bills, whether through the  
13 Post Office or otherwise, and you experience paying for  
14 things and it makes a difference.

15 The second point is that those people who paid their  
16 bills through the Post Office, they would then have been  
17 exposed to additional marketing from the Post Office.

18 MR DORAN: Can you remind me where in your report the  
19 figures in relation to the numbers of customers who were  
20 paying --

21 DR HUNT: It is not in my report.

22 MR DORAN: Where have I seen that, do you know?

23 DR HUNT: I am not certain where you have seen that.

24 MR DORAN: I have read it somewhere.

25 DR HUNT: I am afraid I think I am in the same camp.

1 MR DORAN: Right, thank you.

2 DR HUNT: So we have also discussed -- there are also other  
3 notifications, there are also bank statements. So there  
4 is really quite a lot of information which comes to  
5 people about the price rises. This is the underlying  
6 evidence that leads me to my opinion that I believe they  
7 would have been aware of -- most people would have been  
8 aware of each price rise and would have a good general  
9 level of awareness at any point in time.

10 It is also worth -- we discussed quite a bit these  
11 randomised control trials earlier. I have run many of  
12 these randomised control trials, often hundreds of  
13 thousands of people testing various different letters.

14 If you change these letters a bit, even if you  
15 change them quite a lot, it does not change the response  
16 rates that much. So response rate, and this was a point  
17 that Professor Loomes made earlier, so I think we can  
18 think of BT's letters having done a pretty good job in  
19 terms of informing people.

20 So as a concluding point on this, on this point, it  
21 seems to me that sort of Class's argument in some ways,  
22 and in fact I believe Ms Kreisberger referred to it on  
23 Day 1, is that the SFV customers were like frogs sitting  
24 in a saucepan that is getting hotter and hotter, and  
25 just kind of sitting there passively and getting boiled.

1           As I have just outlined, I think people really had  
2           quite a good understanding of their product, because as  
3           I also said just before lunch, people had a good  
4           understanding of these gives, the awareness was quite  
5           high.

6           So it just seems to me this is a very unlikely  
7           characterisation of the true situation, and it turns out  
8           that indeed the idea of boiling a frog is a myth anyway,  
9           it is actually not true at all that it is possible of  
10          frogs, and I do not think that is true of humans either.

11         MR DORAN: Perhaps it leads on, and I think you would answer  
12          this first anyway, which is the extent to which Class  
13          Members were aware of alternative services and  
14          alternative providers, because if they are dissatisfied,  
15          then if they are going to do anything they need to go  
16          somewhere else, so they need to be able to compare the  
17          services and find alternative providers.

18         DR HUNT: Yes. So the first thing to note is that switching  
19          levels, I think, again, using the framework of  
20          references that we have, switching levels are quite  
21          high. So my best estimate for VOCs is they are about  
22          10%. My best estimate for SPCs, they are a little over  
23          25%. So these are --

24         THE CHAIRMAN: Per year?

25         DR HUNT: Per annum, that is right. So, exactly, just

1 looking at one year. If you go over a few years, those  
2 accumulate very significantly. So we are seeing very  
3 large rates of switching away from the Class.

4 So that prima facie shows that people are able to  
5 acquire information to some degree, even if some of it  
6 is within BT, within BT switching. Approximately half  
7 of it is within BT, but half of it is not -- half of it  
8 is to other providers. So I think that gives us very  
9 good evidence that in fact people are finding  
10 information about other providers.

11 Moreover, we know, because the majority of people  
12 are switching to Dual Play, they are also getting  
13 information about other services as well.

14 A piece of evidence that suggests -- that we touched  
15 on before lunch -- a piece of evidence that suggests  
16 knowledge about tariffs and deals is this -- the changes  
17 within BT to call packages or reactions to promotions  
18 or -- which we know the best estimate was 41% over  
19 a two-year period. So we have got another quite good  
20 data point that suggests that people are able to get  
21 information.

22 MR DORAN: Sorry, just go back to the 41% again.

23 DR HUNT: It comes from a July 2016 document that was  
24 produced for Ofcom by BT. It was a presentation by  
25 John Petter, who was the CEO at the time, to Ofcom, and

1           then they followed up with a note. It was about changes  
2           that the solus base had made to either their -- I am  
3           afraid I cannot remember the full thing off the top of  
4           my head, they had either made to their call package or  
5           to anything like Caller Display or 1571, or any other  
6           changes, and they were able to see the percentage that  
7           had made that both in the two previous years, and they  
8           had said since they had become a customer of BT whether  
9           they made any changes. That of course is much higher,  
10          I think it was 81% approximately.

11                 So we can see there are quite large degrees of  
12          activity also there. So we see -- we have good evidence  
13          of people making changes.

14                 The other thing I will say comes from section 6.2.1  
15          of my report, in which we were looking at ability to  
16          acquire information, and we can see that 69% of the  
17          Class had access to the internet, so obviously they are  
18          able to acquire information relatively easily through  
19          that. Of the remaining 41%, who are primarily VOCs, in  
20          fact, sorry, completely VOCs, they are ...

21          THE CHAIRMAN: 31%.

22          DR HUNT: Sorry, yes. Thank you very much. Sorry -- yes,

23                 I have no notes in front of me.

24          THE CHAIRMAN: No, you cannot see it.

25          DR HUNT: So 31%, indeed. So of that remaining 31%, we know

1 they are primarily VOCs, and we also know that when we  
2 look at the specific sources of information that people  
3 use, so there is good information available on this.  
4 Ofcom I think ask in most years, they have a switching  
5 tracker. In their 2015 Consumer Experience Report they  
6 specifically have -- so that is the main source that  
7 I have used, which we could go to.

8 So if we look at the specific sources of information  
9 that people use to get information, while it is true  
10 that the internet is important, that is 47% of people  
11 using the internet in general to get information. If we  
12 look at the specific things that people are doing to get  
13 information, the next highest is 20%, which is -- so the  
14 20% is going to ...

15 MR DORAN: Would it help if we turned up the switching  
16 tracker or whatever you wanted us to?

17 DR HUNT: I think I can remember, actually. So 20% is price  
18 comparison websites. The 19 -- 20% is price comparison  
19 websites, but 19% is family, or it might be friends, we  
20 could double-check. So it is very, very close to  
21 actually the use of price comparison websites. Then  
22 there is 15% of people said they would go to providers'  
23 websites to get information, reasonably high, but 14%  
24 said they would speak to friends to get information.

25 So it is absolutely true that the internet is

1 important, of course, but there are amongst the -- if  
2 you take internet in general, two of the top four  
3 sources of information are friends and family as well,  
4 so there are other sources of information that people  
5 may draw upon.

6 MR DORAN: Thank you.

7 Professor Loomes.

8 PROFESSOR LOOMES: I do not know whether people are saying  
9 this is what they would do or whether they are saying  
10 this is what they did do or had done, because there is  
11 a difference between the ability to access the internet,  
12 and nobody doubts that the information exists if you are  
13 actually able to use the internet to the extent of  
14 finding it, but that is not to say that you will be able  
15 to process that information.

16 The information is, I think, much more complicated  
17 than Dr Hunt suggests, and in my report I gave a quote,  
18 I think it was from Mr Bunt, who noted that most  
19 providers tended to offer three key calling plans with  
20 different numbers of inclusive calls, different call  
21 rates etc., making call pricing more complicated to  
22 compare like for like than Line Rental, and this was  
23 reflecting on the fact that BT's own competitor insight  
24 team was struggling to make these direct comparisons.

25 Now, if these professionals are struggling to make

1           these direct comparisons, then one imagines that  
2           ordinary folk who are trying to make these comparisons  
3           will find it extremely difficult, and may have only  
4           rather low confidence in the attempts that they make or  
5           may be put off entirely from the attempt.

6           MR DORAN: Just on the specific point of the switching  
7           tracker, do you know if that is "would" do something or  
8           "did" do something?

9           PROFESSOR LOOMES: I do not know.

10          MR DORAN: Perhaps somebody can help us find that out.

11          DR HUNT: I think I have the document. If we go to  
12           {C/348/56}. I might be mistaken but I believe that is  
13           correct. Here we go.

14           So let us -- I am afraid it says "Actual sources of  
15           trusted information", so it is obviously the left-hand  
16           side. See if I got my numbers all correct. I did.

17          MR DORAN: So this is sources that people actually had?

18          DR HUNT: Yes.

19          MR DORAN: Right, thank you.

20           I do not know if you wanted to comment on that,  
21           Professor Loomes?

22          PROFESSOR LOOMES: No.

23          MR DORAN: This also would cover the final point in that  
24           question about being able to find information on  
25           relevant tariffs and deals, it is all part of the same

1           issue really?

2       DR HUNT:   Yes.

3       PROFESSOR LOOMES:   Yes, I mean, again, it is an issue where  
4           people could in principle find this information, but the  
5           question is how well they are able to use this  
6           information, how well they are able to process the  
7           information, and how well they are able to use the  
8           information to make the best choices for themselves, and  
9           there is considerable doubt about the ability of at  
10          least a substantial proportion of customers to find the  
11          right plan for them, the one that is best for them,  
12          which is what was highlighted by the information on  
13          Right Plan itself.

14                There are two things I think one might say about  
15          Right Plan.   The first is that although it seemed to be  
16          a kind of win, do not lose, situation, in the sense that  
17          if you signed up for Right Plan you would either be told  
18          how you could save some money if you were to change your  
19          arrangements with BT, or you were told that you were  
20          already on the best deal, and under those circumstances  
21          you were not going to be made any worse off by signing  
22          up.

23                But the fact is that the take-up rate of that was  
24          very low, and of those who took it up, I think the  
25          savings for about 30% of them were in the region, on

1 average, of £11 a month. So that would have suggested  
2 that there were a substantial minority, at least, of  
3 people who were not able to identify what was the right  
4 plan for them and were losing £130/£140 a month, and it  
5 prompted somebody in BT to refer to the income coming  
6 from the "irrationals", which is if you projected those  
7 savings that were identified by Right Plan for the small  
8 minority who picked, who chose, to opt in to use the  
9 Right Plan, if you projected that across the 9 million  
10 customer base, then it would have been something in the  
11 region, or possibly in excess, of £300 million a year  
12 that was being paid by the irrationals, and that to have  
13 rationalised it would have been to have reduced the  
14 income of BT very considerably.

15 MR DORAN: Yes. I think this rolls on actually to questions  
16 17 and 18, which is: to what extent were Class Members  
17 in fact aware of alternatives?

18 Then I think, Professor Loomes, this picks up your  
19 point: to what extent were Class Members able to assess  
20 the information about the alternative? It is on that,  
21 you say, not entirely clear that they were aware of it,  
22 and, if they were, not entirely clear, or perhaps not  
23 clear at all, that they were able to assess it.

24 I do not want to put words in your mouth.

25 PROFESSOR LOOMES: No, no, that is what I would say.

1           Awareness, coming back briefly to the business of  
2 opening letters. Opening letters and reading emails,  
3 according to Ms Blight, was below 50%, so there is an  
4 example where the circumstances in BT are not the same  
5 as the circumstances in the financial sector. But the  
6 general issue of awareness, of an ability to identify  
7 the best plan, is another quote from BT which says:

8           "Customers are increasingly baffled by the  
9 complexity of tariffs, option fees, and the varying  
10 components of their bills."

11           That complexity contributes to irrationality which  
12 is worth circa £300 million each year. So there is  
13 a substantial question about how far people can process  
14 their own plans and how far they are on the best plan  
15 for them. And if that is a difficulty that they are  
16 having with their own plans, with something with which  
17 they have greater familiarity, it seems unlikely that  
18 they would be able to access the same level of detail  
19 from other providers and process it in the same way,  
20 accurately, and identify which of the alternatives would  
21 be best for them.

22 MR DORAN: I think, Dr Hunt, that leaves you with responding  
23 ... I think it largely covers both 17 and 18, and 19  
24 actually, in the questions.

25 DR HUNT: Yes. Can I take them in turn?

1 MR DORAN: Please do, yes, and then we will see if  
2 Professor Loomes has anything else to add once you have  
3 done that.

4 DR HUNT: So on 17: to what extent were Class Members in  
5 fact aware of alternatives? I will speak again to the  
6 switching rates, high overall to other providers, all  
7 that within BT activity we talked about, that all speaks  
8 to awareness of those alternatives.

9 Secondly, there is awareness of other providers,  
10 which I think is important. So this is in ...

11 MR DORAN: That is this table here which we still have up?

12 DR HUNT: No, it is actually a set of different tables. If  
13 we just go to my report. Let me get the page. If we go  
14 to my report, page 56, so that was {E/21/56}. Yes, this  
15 chart. This is awareness of other providers.

16 So this shows actually -- so we have got the VOCs,  
17 then I think we have got comparable ... We can see the  
18 VOCs do have a pretty good awareness of -- so this is  
19 British Telecom and not British Telecom, and we can see  
20 they have a good awareness of Sky, Virgin, TalkTalk,  
21 Post Office, Tesco and others.

22 So together this implies that they are aware of 2.3  
23 providers, other than BT. So we do have good evidence  
24 that they are aware of other providers.

25 MR DORAN: What about the having sufficient data in order to

1           be able to take a decision?

2       DR HUNT:  Yes.  So is that moving into assessment or is that  
3           just awareness?

4       MR DORAN:  I suppose they bleed, if I can put it that way,  
5           you assess, and you start then to assess somebody else,  
6           somebody else's offer.

7       DR HUNT:  Yes, so this was almost right at the beginning  
8           of -- so awareness of other providers.

9       MR DORAN:  That is what I was thinking.

10      DR HUNT:  But everything I just said about switching, that  
11           implies some pretty concrete information.

12      MR DORAN:  Indeed.

13      DR HUNT:  But I'm not aware of much more than we know  
14           besides that in terms of the specific information that  
15           they gathered.

16      MR DORAN:  Right, okay.

17      DR HUNT:  That is question 17, I believe.

18      MR DORAN:  Yes.

19      DR HUNT:  To question 18, so: to what extent were Class  
20           Members able to assess information about alternative  
21           providers?

22           Again, we know lots of people are moving to other  
23           providers, so across the Class as a whole there is  
24           around, from the 2015-2018 period, there is around --  
25           this is around 8% of people a year are switching to

1           other providers. The levels of switching are overall  
2           13.7-17.8%, but half of that is to other providers. So  
3           we know there are lots of people who are making  
4           assessment, but ...

5       MR DORAN: Which implies they are gathering the information  
6           and ...

7       DR HUNT: Yes, indeed. Well, it tells us both and more.

8           We know, in terms of whether people understand their  
9           own consumption, needs and usage, again from Ofcom's  
10          switching tracker data, that three-quarters of people  
11          say that they understand their own consumption, needs  
12          and usage, so that is a high level.

13          We know from Firefish, which is this qualitative  
14          research, I think it would be helpful if we had some  
15          quantitative to put with. That also suggests that  
16          people have a good understanding of at least the overall  
17          package that they are on currently.

18          In terms of the ability to assess, so Ofcom  
19          absolutely looked at their -- how much people were able  
20          to understand their own usage, and they made the point  
21          that overall people are on fairly fixed plans, the call  
22          packages, so people obviously understand that, and they  
23          have a good sense of whether they are choosing to call  
24          mobiles often or not. So people have a fairly good  
25          understanding. That sort of led Ofcom, which I agree

1 with, that actually it is relatively easy to compare  
2 across providers.

3 So those call plans, so Unlimited Weekends,  
4 Unlimited Evenings and Weekends, Unlimited Anytime, all  
5 of the providers have those plans, so it is actually  
6 pretty easy to compare across those plans. Indeed, when  
7 you ask individuals whether they can make cost  
8 comparisons, about half of them say they can make these  
9 cost comparisons.

10 So speaking to Professor Loomes' point about the  
11 internal BT docs, from what I can glean of those  
12 documents, when they use the term "irrational", they are  
13 using the term to say that they are on a calling plan  
14 within BT where they could be doing better if they were  
15 on a different calling plan, but to the extent there is  
16 information available to us, and that is what they refer  
17 to as "rationality".

18 Their rationality, to the extent we can glean from  
19 the documents, or what I think we can take away, is this  
20 is some kind of ex post analysis. So if I go back and  
21 look at what somebody did last month or the last  
22 six months, and look at what plan would it have been  
23 best that they would have been on, that is an ex post  
24 analysis, whereas if someone is having to choose which  
25 calling plan to be on, that is a forward-looking

1 analysis. So it was not -- from what I could take away  
2 from the documents, it looked like that they had been  
3 doing at least not the kind of analysis that I would do  
4 if I was thinking about rationality at all.

5 Then it is all about choosing within different call  
6 plans, and, indeed, the major thing that they  
7 identified, I believe, was that you were -- there were  
8 people who were on Unlimited Weekends who should,  
9 according to that analysis, which I think is 14%, should  
10 be on Unlimited Anytime, which of course is more  
11 expensive, more expensive per month.

12 A few thoughts, like they had not really done a  
13 decent analysis for us to know whether that is actually  
14 a correct and fair assumption to make, it is just this  
15 ex post after the fact look at what calling plan people  
16 are on, and I think it is actually harder to choose  
17 between the call packages because you have got to  
18 have -- like people's calls are going to vary over time,  
19 and having to judge which ...

20 So you might actually just be happier being on  
21 a lower price fixed per month anyhow, but also judging  
22 over time I think is a harder thing to do than if you  
23 are literally going to compare different call packages  
24 across providers, who has got the cheapest prices.

25 So I do not think we can take away -- even if you

1 accept that some people were making mistakes about what  
2 plan they were on, and I suspect it is quite a bit lower  
3 than BT estimated, even if you accept they were making  
4 some mistakes about which call package, I do not think  
5 that goes across to whether you can choose who has got  
6 the cheapest call package for Unlimited Weekends or  
7 Unlimited Anytime.

8 MR DORAN: Right.

9 Just before we go to you, I will not forget you,  
10 Professor. But in answer to Professor Loomes' point  
11 about SFV customers being able to get hold of the  
12 information that they need about the other providers,  
13 given that the Voice Only Customers, by definition, at  
14 least a large chunk of them, are not on the internet, is  
15 that where we go back to what you were saying to us  
16 about five minutes ago about access via family, friends  
17 etc.?

18 DR HUNT: Certainly in part, yes. So 41% of the Voice Only  
19 Customers had access to the internet, so that would  
20 always be in their home per se. So, for example, in the  
21 "Enriching Understanding of Standalone Voice Customers  
22 Report" document there is an anecdote, well, it is  
23 a qualitative research, that there is a couple I believe  
24 who go to the library to use the internet. But  
25 people -- so 41% were using the internet at least

1           weekly, so that still leaves 59% who were not. Yes,  
2           I think family and friends are likely to be a major  
3           source from which they would be acquiring information,  
4           but there would also be other sources as well.

5           MR DORAN: Very helpful, thank you.

6                     Professor Loomes.

7           PROFESSOR LOOMES: On the question of retrospective or  
8           prospective --

9           MR DORAN: That is an interesting thought.

10          PROFESSOR LOOMES: It would seem that since a great majority  
11          of BT customers, according to the qualitative survey, a  
12          thousand telephone interviews were conducted with BT  
13          VOCs ...

14          MR DORAN: You want to have this up? Do you want to talk us  
15          through this?

16          PROFESSOR LOOMES: It is paragraphs 5.13 and 5.14 in my  
17          reply report. I do not know how easy that is to  
18          identify. I think that the reference is {F/632/1}.

19          MR DORAN: So this is the survey.

20          PROFESSOR LOOMES: This is the survey. I think if you look  
21          at slide {F/632/7}, for example. I am trying to see it  
22          from here.

23          MR DORAN: Do you want to blow it up slightly?

24          PROFESSOR LOOMES: Yes, it is saying ...

25          MR BEARD: Would it be useful, this is the document

1 I actually was cross-examining Dr ... We have it in  
2 colour, and I just wonder whether, if you are going to  
3 these bits, it might actually be useful to have it in  
4 colour.

5 MR DORAN: Ah, yes. I have mine here, thank you. (Handed)

6 MR BEARD: It may be easier for Professor Loomes to read it  
7 in colour as well.

8 THE CHAIRMAN: Thank you.

9 MR DORAN: Is that helpful, Professor Loomes?

10 PROFESSOR LOOMES: Yes, thank you.

11 MR BEARD: Sorry, it does not have page numbers because it  
12 has been taken separately, but I think we are fairly  
13 confident it is the right version.

14 THE CHAIRMAN: Yes, thank you.

15 DR HUNT: Page 7. On the bottom left there are small page  
16 numbers you can see.

17 MR DORAN: Oh right, yes. Yes, "Broadband could be relevant  
18 to some ..." That is the one.

19 PROFESSOR LOOMES: So it is saying that only 42% are aware  
20 of other providers in their area. It goes on to say  
21 that of those who say they are aware -- this is BT  
22 customers of BT VOCs who say they are aware, when they  
23 are asked to name such a provider, 37% of those who say  
24 they are aware of another provider cannot provide the  
25 name.

1 MR DORAN: Right.

2 PROFESSOR LOOMES: So it does not sound like it is a huge  
3 awareness of other providers, and the average of 2.3 is  
4 an average which includes people who are customers of  
5 other companies.

6 So on the question of awareness, again, there is  
7 a study by Ofcom in 2023 looking at social tariffs.  
8 This is {E/45.224/1}. I think you only have to go to  
9 the second or third page. There we are. {E/45.224/3}

10 So that is indicating in the bottom right the  
11 percentage of benefits claimants who are unaware of  
12 social tariffs, more than half are unaware of social  
13 tariffs. Of UK households who are receiving Universal  
14 Credit, and therefore would normally be expected to be  
15 eligible for a social tariff, which would bring them  
16 considerable benefits, at that time 5.1% only had signed  
17 up. So 95%, more or less, who were entitled to save  
18 possibly a couple hundred pounds a year by moving on to  
19 a social tariff were not doing so.

20 I think the figure for take-up has improved a little  
21 bit in recent months, but it is still a very small  
22 minority and unawareness is still very considerable,  
23 I believe more than 50%.

24 MR DORAN: I am conscious this is quite late in the period  
25 that we are considering, the one you have got up on the

1 screen now.

2 PROFESSOR LOOMES: Yes.

3 MR DORAN: The one that Mr Beard helpfully handed up is  
4 dated March 2019. Is there anything earlier in the  
5 period that would assist us in any way?

6 DR HUNT: The earlier thing that I showed up, which was from  
7 the 2015 Consumer Experience Report, was -- that is the  
8 one that has 2.3; 2.3 other providers. So it contrasts  
9 to this document which I do have a few comments on here.

10 MR DORAN: We will pick up that. So that is the 2015 ...

11 DR HUNT: That is the 2015 Consumer Experience Report by  
12 Ofcom. {C/348/1}.

13 MR DORAN: Thank you.

14 Now, I think it is only fair to go to you. You have  
15 got some thoughts on --

16 DR HUNT: Yes.

17 MR DORAN: That is back to page 7, the "Broadband could be  
18 relevant ..." slide, is it?

19 DR HUNT: Yes, so if we looked at the total awareness of  
20 VOCs that would be applied, so if you take this bottom  
21 chart that I am pointing to here, what you would need to  
22 do in order to get a total awareness of VOCs of those  
23 companies is times that bottom chart by 42%.

24 MR DORAN: Sorry, we should just get this up. It is  
25 {F/632/7}, please. That is grand, thank you.

1 DR HUNT: This would imply, if we follow this through, the  
2 logic, this would imply that 15% of VOCs were aware that  
3 they could go to Virgin, 12% of VOCs -- because you have  
4 got 42% times that bottom number --

5 MR DORAN: Right.

6 MR HUNT: 15% would go to Virgin. 12% would go to -- were  
7 aware they could go to TalkTalk. 7% were aware of Sky,  
8 and only 2% were aware of the Post Office. So those  
9 seem to me incredible numbers.

10 So what I think is happening here is a couple of  
11 things. One is the specific question that is being  
12 asked here, which differs to the question that was asked  
13 for the -- I think it was the 2015 Consumer Experience,  
14 which is where my chart relating to providers was wrong.  
15 There is a different question being asked.

16 So the question being asked here is: are you aware  
17 of any other providers in your area? Then, if they said  
18 "yes" to that: which providers are you aware of in your  
19 area?

20 But I actually think the "in your area" was likely  
21 to make a big difference. If I was asked that, I think  
22 I would be quite hesitant to provide an answer, because  
23 it is -- it requires you being very specific and quite  
24 sure, whereas the other question was: which providers  
25 are you aware of?

1           Now, it turns out in this market, my understanding  
2           is that each provider provides over the vast majority of  
3           the UK, so you do not need to know whether someone is in  
4           your area or not, you just need to be aware of the  
5           provider. So personally I think that is more relevant.  
6           When people are trying to think of alternatives and  
7           whether they should reach out to alternatives, I do not  
8           think you particularly need to know whether it is in  
9           your area or not, you need to know of the other  
10          providers, you would contact them, and then you would  
11          find out that the vast majority of firms are available  
12          in the vast majority of places.

13          There is also a second reason that we might be  
14          slightly concerned about this as well, which is if we go  
15          back to -- actually the slide before, slide {F/632/6},  
16          and if we look on the left-hand side of slide 6 we can  
17          see the actual demographic characteristics. So these  
18          demographic characteristics that we can use to compare  
19          to the VOCs. So, for example, I did that in section 5.4  
20          on the paper, where we went into Class characteristics.  
21          The Class characteristics that I looked at is  
22          50-something percent were retired. So I would have to  
23          double check to get those numbers correct, but it is  
24          approximately, slightly over 50% are retired on that  
25          base, and there is 83% in this.

1           So I think there is a mix of quite a different  
2           question, and some natural -- you often get selection  
3           biases in surveys, and selection biases means that  
4           I would be -- in fact, I am very clear that I prefer to  
5           use the numbers that I provided that come from -- the  
6           original source is a Kantar Omnibus survey, that was  
7           what Ofcom used. So it seems to me a strict (inaudible)  
8           source.

9           MR DORAN: Have you any final thoughts on that,

10          Professor Loomes?

11          PROFESSOR LOOMES: Let us talk about the selection bias. It  
12          is true that people who agree to participate in surveys  
13          may not be completely representative of the population,  
14          but they will generally tend to be people who are more  
15          engaged rather than less engaged. More willing to give  
16          some of their time to a survey organisation, rather than  
17          less willing. So you would think that these figures  
18          come from people who are above averagely engaged or  
19          enthusiastic or interested, rather than below. So it  
20          should not understate the results.

21          DR HUNT: That seems to me speculative that it would go in  
22          that direction. I could quite easily explain how the  
23          biases might go in a different direction, and indeed,  
24          when we look at this, we have hard information on the  
25          demographic characteristics, and that hard information

1 shows that in fact more retired people have been willing  
2 to speak to the people who were doing the survey than  
3 others. So that is some hard information there.

4 I think actually it cuts against what Professor Loomes  
5 was just saying.

6 MR DUCKWORTH: Does any of this relate to people making an  
7 informed or deliberate choice about not switching? Does  
8 it inform us at all?

9 DR HUNT: One would hope so. Yes, I think it does. So for  
10 those that have switched, which we can come back to,  
11 there is quite clear behaviour; that tells us quite  
12 a lot about them having to have gone out, acquired  
13 information, they have made some kind of assessment,  
14 they have obviously -- you know. So we are agreed they  
15 will have deliberated. So we know quite a lot about  
16 those.

17 If we return to Helen Jenkins' Figure 3.3  
18 {IR-E/18/49}, which is the green bars and the black  
19 bars, we know the vast majority of people are in the  
20 green, so actually that does speak to a lot of the  
21 individuals.

22 When it comes to those people who have not switched,  
23 who did not ultimately switch, what it means is I think  
24 we have, at least in my assessment is I strongly  
25 believe, from the evidence I said before, that they have

1 really been aware of BT's price rises, that they really  
2 do understand those price rises over time, the price  
3 they are on at any particular point in time. We know  
4 they are aware of alternative providers. We at least  
5 know that they could acquire information and that they  
6 could assess it, so we know quite a bit about those  
7 individuals.

8 Personally, I think we need to do additional  
9 analysis. So what I have tried to in my report to do is  
10 lots of different pieces of analysis, and then you  
11 triangulate across them.

12 MR DORAN: So what would you refer to in your report for  
13 that, so that we have it in our note.

14 MR HUNT: For the non-switching individuals, it is  
15 primarily -- it is section 6.3.3 and section 7, but that  
16 is why I think we need to do an extra lift, and then  
17 what we are trying to assess is: do we think that they  
18 are well matched to BT as a provider or not? That is  
19 the additional assessment I think we need to do.

20 MR DORAN: In broad terms, that assessment, what have you  
21 done to triangulate?

22 DR HUNT: So it is that assessment, you put it together with  
23 satisfaction.

24 MR DORAN: Satisfaction.

25 DR HUNT: Yes, you put it together with engagement and

1 information, the kind of things we were discussing, and  
2 then across, when you look across these various  
3 different pieces of analysis, you have quite a broad  
4 picture, and that does allow various pieces of  
5 triangulation.

6 MR DORAN: So not just those who switch take a deliberate  
7 choice, but those who do not, on that analysis, take a  
8 deliberate -- there is a proportion who do not do as  
9 well.

10 MR HUNT: Yes, that is right.

11 MR DORAN: Professor Loomes, I think we are coming to the  
12 end of this particular section, but is there anything  
13 you wanted to add to that?

14 PROFESSOR LOOMES: I think that what Dr Hunt is doing here,  
15 and in his section 7, is taking a number of standalone  
16 measures on different dimensions and then showing some  
17 where BT appears to have a higher rating from its  
18 customers than some other customers of other providers  
19 have for that same dimension, and then assuming that  
20 this tells you the choice they would make, which in this  
21 case would be a choice to prefer BT.

22 But as we will see, I think, when we get on to  
23 section E, that is not a valid way of thinking about  
24 people making a deliberate choice, because they are not  
25 comparing two things directly and making trade-offs

1           between them.

2           MR DORAN: So you put emphasis there on the choice they  
3           would make rather than the choice they did make?

4           PROFESSOR LOOMES: No, I am putting emphasis on the fact  
5           that Dr Hunt is inferring the choice that he thinks they  
6           would make, but has no evidence about what actually  
7           caused them to make those choices.

8           MR DORAN: We will come back to this in a second. We are  
9           coming on to those factors now.

10                  Before we do that, is there any particular point to  
11           make separately about VOCs or SPCs here?

12           DR HUNT: A couple of points. So when it comes to SPCs, we  
13           have got to remember that 80% plus of them already have  
14           a relationship with their other provider, so I think  
15           that is really important for them having additional  
16           sources of information.

17                  From -- we have various pieces of analysis that  
18           suggest that broadband they may have may be part of the  
19           bundle. So, for example, if I look in the switching  
20           tracker data, I can see between a third and 50% of the  
21           SPCs are with Sky, which suggests that they might  
22           actually have that broadband as part of a package with  
23           other products. So that is just -- they might be  
24           getting quite a bit of information from another  
25           provider. Of course, as we say, these SPCs have very

1 high switching rates indeed. My estimate is above 25%.

2 So we are talking about switching quite a lot; all  
3 of those points are much stronger for the SPCs, just  
4 because they have got this -- really this remarkably  
5 high switching rate. The VOCs, I think we need to do  
6 more analysis, which we have just been discussing.

7 MR DORAN: Yes.

8 Professor Loomes.

9 PROFESSOR LOOMES: I think it may be there is still some  
10 dispute about these switching rates that have to be  
11 resolved, but I think that the short answer to your  
12 question is that there appears to be a distinction  
13 between VOCs and SPCs in this respect, SPCs being more  
14 likely to switch, and quite possibly, because they have  
15 ready access to broadband, likely to be more  
16 knowledgeable about other options.

17 MR DORAN: Right, good.

18 Let us talk about these particular factors that are  
19 in section E. What about the question about ascribing  
20 value by, or whether Class Members ascribe value to  
21 their BT SFV service?

22 DR HUNT: So the way that I --

23 MR DORAN: Also, of course, whether that informs the  
24 deliberate decisions, just to be ...

25 DR HUNT: Yes. So overall I have tried to assess that to

1 the best of my capability. My takeaway is that there  
2 appears to be quite a lot of value.

3 Now, I should be clear about what I have tried to  
4 assess in terms of value. So what I have been trying to  
5 look at is what economists refer to as gross consumer  
6 surplus, otherwise known as gross or consumer benefit,  
7 so that is what section 6.3.3 and section 7 are trying  
8 to get at.

9 Now, we have -- we very much have partial  
10 information that allows us to get at that. So what  
11 I have tried to do is break down BT's -- so do you want  
12 me just to speak to relevance, or should I speak  
13 slightly more generally to significance as well?

14 MR DORAN: I think it would be quite helpful if you took  
15 both of the points.

16 DR HUNT: So what I have tried to do in those two sections  
17 is look at the various different components that would  
18 seem to contribute to gross consumer surplus. So the  
19 first is -- so I will go through a variety of different  
20 things, five different things.

21 So the first of those five is the value of the core  
22 functionality of the landline. It is important to  
23 understand that VOCs in particular seem to be using  
24 their landline a lot more than others. They get -- we  
25 see their call rates are much higher. So we see that

1 they say that they particularly value their landline,  
2 they really want to have it. So these suggest that the  
3 value of that call functionality is particular high for  
4 this group of consumers.

5 We can then look at various different components of  
6 the quality and in particular how they changed over  
7 time. We covered some of this on Monday, so I will try  
8 and keep it quick.

9 The first of those was reliability, so we --  
10 I believe we know that -- VOCs particularly care about  
11 reliability. This is one of the reasons that -- or the  
12 fact that people care about reliability is one of the  
13 reasons that BT focused on developing their customer  
14 service capability. So they went from Openreach  
15 Care Level 1 to Openreach Care Level 2, as you know, for  
16 a few years. They also introduced the Fault Fix  
17 Guarantee as well. So my understanding is those were  
18 things that were likely particularly of concern to older  
19 customers, who were being particularly VOCs.

20 We also know that they invested in onshoring of call  
21 centres. They started -- I think it was announced in  
22 early 2016. It happened -- it was originally 80% and  
23 went to 90% quite quickly, and then went to 100% for  
24 other firms in January 2020. So we know in particular  
25 that older people, and those with hearing difficulties,

1 particularly valued speaking to people with local  
2 accents. It is another thing which suggests that we got  
3 relatively high gross consumer surplus for VOCs in  
4 particular on that dimension.

5 If we move to the fourth thing, we know that we have  
6 got these sort of additional service features, or gives.  
7 So this is -- we are now moving through sections, the  
8 subsections of section 7 of my report. So as we go  
9 through the additional service features, we talked quite  
10 a bit about Call Protect being introduced by BT. It  
11 seems that -- well, in fact we know that older people in  
12 particular really valued the nuisance call protection.  
13 In fact, I believe actually in the document we have  
14 still got on the Opus screen it goes into how people  
15 particularly care about the nuisance call protection.  
16 That seemed to be of particular value to older customers  
17 and that was introduced. We also -- I think that is the  
18 main thing with respect to older customers.

19 Lastly, we know when it comes to trusted brand, and  
20 I am sure we will discuss this, is that the VOCs  
21 particularly say that they want to remain with BT  
22 because of the trusted brand. Say 30% of BT VOCs say  
23 that the main reason they want to stay with BT is  
24 because of the trusted brand. That compares to only 6%  
25 of non-BT VOCs. So that is quite suggestive that they

1 really value the brand.

2 So when we try and look at five different components  
3 of consumer benefit, gross consumer surplus, we can see  
4 that overall they seem to be high, relatively high for  
5 VOCs compared to other -- either other customers of BT,  
6 or in some case customers of other firms as well.

7 MR DORAN: Professor Loomes.

8 PROFESSOR LOOMES: Well, let us -- can I first of all ask  
9 a question so that I am clear about the terminology. Is  
10 the term "ascribed value", is that different from the  
11 concept of maximum willingness to pay, and is it  
12 different from the concept of economic value which has  
13 been much discussed in these hearings? What are the  
14 differences between those three things.

15 DR HUNT: Sure. The way that I have used the term here,  
16 I have used -- so if we can map that to economics.  
17 "Value" in the sense that I have used it is gross  
18 consumer surplus or gross benefit. So if you look at  
19 that, that would be the area under the demand curve.  
20 The net consumer surplus is obviously the difference in  
21 the area between that and the price that people are  
22 paying. The maximum willingness to pay, to my  
23 understanding, is the same as gross consumer surplus.

24 PROFESSOR LOOMES: It is the demand curve, basically, is it  
25 not?

1 DR HUNT: It is the -- that would be the maximum willingness  
2 to pay.

3 PROFESSOR LOOMES: Right, so it is the maximum willingness  
4 to pay of each individual, but ordered, so that those  
5 who are willing to pay most come at the left-hand side  
6 of the demand curve, and then as you get people willing  
7 to pay less and less and less, that is the slope on the  
8 demand curve --

9 MR HUNT: Yes, that is right.

10 PROFESSOR LOOMES: -- and everything underneath that, above  
11 a certain price, is consumer surplus.

12 DR HUNT: Net consumer surplus.

13 PROFESSOR LOOMES: Is that different from economic value?

14 DR HUNT: I would have to -- I was not asked to look at  
15 economic value per se. I restricted myself to looking  
16 at that, so I think you would have to ask someone else  
17 to speak to that.

18 MR DORAN: With that uncertainty, Professor Loomes, have you  
19 anything to add?

20 PROFESSOR LOOMES: Well, it is impossible from pointing to  
21 these scores, these standalone scores, I think, to infer  
22 anything at all about maximum willingness to pay or  
23 ascribed value.

24 So let us take the example of the 19% of BT  
25 customers.

1 MR DORAN: Which page are you on now? Do we need to get it  
2 up?

3 PROFESSOR LOOMES: I do not know if there is a slide that  
4 shows all of these percentages.

5 MR DORAN: Would it help to get your report up?

6 PROFESSOR LOOMES: From my report -- it is the reply report,  
7 paragraph 5.18.

8 MR DORAN: Do you have the document reference there that  
9 would just help the ...

10 PROFESSOR LOOMES: Yes, I think so. It is referring  
11 actually to Dr Hunt's paragraphs {E/21/104}.  
12 {IR-E/9/28}.

13 MR DORAN: Is this the starting point for you, Professor  
14 Loomes or do you want to go to Dr Hunt's?

15 PROFESSOR LOOMES: I do not know if you have the diagram and  
16 the bar chart, do you?

17 DR HUNT: I think I do.

18 PROFESSOR LOOMES: Then that would be useful to see.

19 DR HUNT: Let me find it. So this would be going to  
20 {E/21/90}.

21 MR DORAN: Thank you. It is the Figure 22 at the top.

22 PROFESSOR LOOMES: That is right.

23 MR DORAN: Thank you very much.

24 PROFESSOR LOOMES: The heading of it is "Proportion choosing  
25 reliable service as their main reason for choosing their

1 current landline provider".

2 So the question that is being put to them, I think  
3 people are allowed to give more than one judging by the  
4 way the numbers stack up, but the question that is being  
5 put to them is: what is the main reason for you choosing  
6 your current landline provider?

7 Now, 19% have said BT and that is clearly more than  
8 have taken that particular dimension as their main  
9 reason, and the reason for that is that they have taken  
10 as their main reason other things which they have taken  
11 in larger percentages than BT and particularly  
12 important, I think, and this goes back to -- I do not  
13 have the diagram for this, but it goes back to my  
14 report. It says in the same survey 11% of BT customers  
15 gave price of overall calls package as a main reason for  
16 choosing their current landline provider. This was  
17 a lower figure than for all the other six providers  
18 where responses ranged from 13% to 28% with an  
19 unweighted median of 18.5%.

20 At the same time -- I probably should finish reading  
21 this paragraph -- 31% of BT customers gave good/better  
22 overall deal as a reason but the corresponding figures  
23 for the other six providers was substantially higher.  
24 The other six, their first reason or main reason for  
25 choosing, ranged from 42% to 78%, with an unweighted

1 median of 63.5% chose good/better overall deal.

2 You would think that if what you are trying to  
3 measure is the maximum willingness to pay, you would  
4 think that those providers who favour call package value  
5 or overall better deal would be ascribing a higher value  
6 to those characteristics and because BT's customers  
7 ascribe a lower value to those characteristics because  
8 smaller numbers of them choose either of those two  
9 things about the calls package or the overall  
10 good/better deal, but they are being asked to choose  
11 something, then they say, well, BT is not particularly  
12 good on overall calls package and it is not particularly  
13 good on good/better deal so I cannot put either of those  
14 things as my main reason, but I have got to give these  
15 guys an answer and so I am going to choose as my main  
16 reason something else like reliability because that is  
17 the best that I can say about BT.

18 So it seems that if you were to be comparing in  
19 terms of value, ascribed value you would think that  
20 using Dr Hunt's analysis, which of course is not making  
21 direct comparisons at all, but using Dr Hunt's analysis  
22 you would think that all six other providers do better  
23 on two dimensions that must surely be most heavily  
24 weighted or amongst the most heavily weighted in  
25 determining ascribed value.

1           The reason why reliability comes up better for BT is  
2           because BT customers are not so enthusiastic on the  
3           dimension of the good/better deal or the calls package  
4           value.

5           MR DORAN: Did you want to add anything?

6           DR HUNT: Yes.

7           MR DORAN: I thought you might.

8           DR HUNT: So what Professor Loomes has pointed out, the less  
9           people who are BT customers are choosing the better  
10          overall calls package deal or the price of overall calls  
11          package, and I do not dispute that people do not  
12          consider BT to be a particularly cheap or one of the  
13          cheapest providers. I do not dispute that at all. In  
14          this particular question they are being asked a number  
15          of different dimensions, of which we have spoken about  
16          three, but there are another three or four different  
17          things that people have to choose as well and people  
18          have to choose the main reason that they are interested  
19          in a firm.

20          The thing that I think we would really like to have  
21          is we would like to understand, as economists, what are  
22          people's utility functions, how do they weight different  
23          factors, and I agree this does not give us directly that  
24          information, but I think it gives us some reasonably  
25          helpful information, right. I tend to look at this and

1 think, tend to take it broadly at face value in thinking  
2 this kind of suggests to me that actually BT, along with  
3 the points that Professor Loomes made, BT customers  
4 are -- less think that BT has a lower price, or care  
5 less about price, and care more about things like  
6 reliability and these kind of things.

7 That is all I was doing in my analysis, was trying  
8 to get a sense of what are the factors that seem to be  
9 important for BT customers, and then evaluating how BT  
10 compares on those factors.

11 MR DORAN: Thank you.

12 What about, can we go on to -- I think it is your  
13 turn, Dr Hunt, just levels of satisfaction, people's  
14 reported levels of satisfaction --

15 DR HUNT: Sure.

16 MR DORAN: -- in terms of their decision to continue  
17 with ...

18 DR HUNT: Yes, so I think satisfaction is a useful metric.

19 I mean, I am not going to say the single metric at all.  
20 As I said, I think we need a whole different bunch of  
21 different metrics and I think it gives us a good overall  
22 picture. I particularly like satisfaction, because it  
23 has -- one assumes that it implicitly consumes a trading  
24 of some sense of the overall benefit to them and some  
25 sense of the overall cost to them when they are making

1           that judgment of satisfaction, so I think I find it  
2           a fairly helpful metric.

3       MR DORAN:   What would you point us to look at in particular  
4           in relation to levels of satisfaction for people who  
5           stay put?

6       DR HUNT:   So section 6.3.3 of my report is where I deal with  
7           that.

8       MR DORAN:   Thank you.

9           Professor Loomes.

10      PROFESSOR LOOMES:  Well, I think it is fair to say that the  
11           table that Dr Hunt produces on satisfaction shows that  
12           these --

13      MR DORAN:   Would you like us to go to it?  Would that be  
14           helpful.

15      DR HUNT:   Yes, I could do that.  So it is {E/21/76}, the top  
16           chart.

17      MR DORAN:   Figure 18?

18      DR HUNT:   Yes.

19      PROFESSOR LOOMES:  What you have got there is the customers  
20           of ... I think the previous table would have been ...

21      DR HUNT:   The one lower down, okay.

22           So if you could do the table that is at the bottom  
23           of this page and goes into the next page as well.

24      PROFESSOR LOOMES:  So that what this table says, if I have  
25           understood it correctly, is that each of the providers

1 had a sample of their customers answering a question  
2 about satisfaction, and they all come up with something  
3 in the region of 80 to 90%, so there is a fairly high  
4 level of satisfaction across all of these different  
5 providers. BT is not really very much ahead, by maybe  
6 one or two percentage points, but it is not a direct  
7 comparison. It is not that the same individual is  
8 saying: I am more satisfied with BT than with Sky, or  
9 I am more satisfied with Sky than with BT. It is trying  
10 to take these standalone scores from different customer  
11 bases.

12 Now, why might it be that a company provider that is  
13 actually getting a lower satisfaction score from its  
14 customers than BT is getting from its customers, why  
15 might that occur? It might occur because those  
16 customers who were dissatisfied with BT have switched,  
17 they have gone somewhere else. They are leaving behind  
18 the customers who are least dissatisfied with BT, and so  
19 they are likely to be giving, on average, a higher  
20 score.

21 It is the same thing with the --

22 MR RIDYARD: I thought those were the customers we were  
23 interested in, because those are the one that are being  
24 the subject of the abuse, the ones that are left.

25 PROFESSOR LOOMES: Well, and then, to take the step on from

1           there, it is something which I did not talk about in my  
2           report, and perhaps should have done, but there seems to  
3           me to be here an issue of cognitive dissonance in the  
4           sense that -- I mean, for those who do not know, the  
5           idea of cognitive dissonance is that people do not like  
6           to hold two conflicting or dissonant beliefs at the same  
7           time. They like to think of themselves as having  
8           coherent beliefs and preferences. So if you have been  
9           with BT for 10 or 15 years, as many of these people  
10          have, and somebody comes along and asks you: are you  
11          satisfied or dissatisfied? You think to yourself, well,  
12          I cannot say I am dissatisfied because I have been here  
13          for 10 or 15 years, and the only thing I can reasonably  
14          say, in order to justify not having switched, is that  
15          I am satisfied. Whereas people who have switched, they  
16          think, well, I have switched before because I am  
17          dissatisfied, I am entitled to express a view of  
18          dissatisfaction.

19                 The same sort of thing goes for the responses in the  
20          Dual Play market where people, maybe they are switching  
21          more because they are more dissatisfied with their  
22          present provider, and maybe there is less switching in  
23          the SFV sector because people have not had reasons to be  
24          dissatisfied.

25          MR DORAN: Thank you.



1 that comes from various Ofcom reports, in particular the  
2 switching tracker. There is quite striking patterns  
3 when we look at the reasons for choosing and the levels  
4 of trust in their landline provider.

5 We can absolutely talk about interpretation, but  
6 I think there is clearly information we want to take  
7 into consideration and think about which is relevant to  
8 what we want to think about. When I look at the kind of  
9 trust that we have, if I put that together with the  
10 analysis of engagement, assessment, or, put another way,  
11 a kind of degree of informedness and these kind of  
12 things, this suggests to me the best way to interpret  
13 these numbers is probably at face value, and I therefore  
14 find them also quite, you know, not only relevant but  
15 also significant to my analysis.

16 MR DORAN: Thank you.

17 Professor Loomes.

18 PROFESSOR LOOMES: I think Dr Hunt is basing at least some  
19 of this on Ofcom work, and I reproduce something that he  
20 says in 5.24 of my reply report where he cites Ofcom as  
21 follows:

22 "'Stay with trusted provider' is by far the biggest  
23 main reason given for not being interested in changing  
24 provider. (62% of SFV customers)."

25 So it is another of those things, like satisfaction,

1           where, if you have not got a particularly good reason in  
2           terms of -- a positive reason in terms of the value of  
3           BT, you turn to something like trust. You say: I have  
4           not done anything for years, then that means I have not  
5           got very many positive reasons, I have just been  
6           continuing on, and now you are asking me to give  
7           a reason, and I look down the list and I say, well,  
8           I trust them.

9           Whether that trust is justified I guess is something  
10          that, in part, these proceedings will discuss, but it  
11          seems to me that the phrase "not being interested" in  
12          changing provider is indicative of not engaging, rather  
13          than making an informed decision involving trade-offs.

14          Switching activity and evaluation of different  
15          alternatives may be more likely to occur, and does seem  
16          more likely to occur, in those sectors where people do  
17          not trust the providers so much. If I do not trust the  
18          provider, I keep checking up on them and seeing whether  
19          they are making better -- whether they are making good  
20          offers or whether there are other people making better  
21          offers.

22          In this case, resorting to trust is a kind of way of  
23          saying it absolves me from thinking up any positive  
24          reason, and it justifies it using the cognitive  
25          dissonance idea again. It avoids any dissonance between

1           having been with them for so long. I can justify having  
2           been with them for so long and not looking at  
3           alternatives by saying I trust them, and that being  
4           a reason why, if you trust them, you might not spend  
5           much time opening their letters, reading their letters,  
6           worrying about the price changes, because you trust that  
7           they are looking after you, you trust that they are  
8           doing what other people in the market are doing, and so  
9           there is no reason to worry or engage.

10       MR DORAN: Maybe that is a good point, then, to move on to  
11       question 5 of this set, which is these psychological  
12       factors which, I think, Professor Loomes, you touch on  
13       in particular in your report, the status quo effect,  
14       loss aversion, regret aversion, the omission-commission  
15       asymmetry.

16                Is there anything in particular we should note about  
17       these factors in relation to people's deliberate  
18       decisions to continue purchasing?

19       PROFESSOR LOOMES: Well, I think it is more a matter of  
20       avoiding doing something which you are not certain  
21       about. If you do not feel certain that an alternative  
22       is a better deal for you, and you are concerned that if  
23       you make some action, if you commit to a switch and then  
24       it turns out badly, you may feel an additional degree of  
25       discomfort as a result of that having been a decision

1           which you have made, and the tendency for people to  
2           stick with the default, which Thaler and Sunstein  
3           describe as the no action option, the no change option,  
4           the do nothing option, is very strongly established, and  
5           I see no reason why it should not be at least as  
6           prevalent in these circumstances as we know it is in  
7           many other sectors and many other areas of people's  
8           activities.

9           So I think that what I have had to say about it is  
10          in the report, and I am happy to expand on any of those  
11          points, but I think that is the general force of it, and  
12          it is quite a powerful effect, it may be quite  
13          a powerful effect, and it may be the difference between  
14          choice, between two options that are made from a neutral  
15          standpoint when you do not have one or the other  
16          already, but where they are both out there, and you have  
17          to choose between them; and the very different patterns  
18          of choice that you observe, when you start off having  
19          one of those things, and then the question is: do I keep  
20          going with that thing or do I switch to the alternative?

21          Whichever one of those two items you make the  
22          default will, by virtue of having been made the default,  
23          or being the status quo, get a much larger proportion of  
24          the choices than the other option, and you can flip that  
25          over by changing which one is the default or the status

1           quo. That is just a very strong feature in the  
2           literature in many contexts, and I think it is  
3           particularly applicable here, because the longer that  
4           people have been with an initial supplier the bigger the  
5           gap has to be.

6           It slightly reminds me of what we were listening to  
7           earlier in the day from Mr Matthew, and Ofcom's view  
8           that taking action and intervention has to have an extra  
9           degree of confidence and justification, rather than to  
10          leave things as they are to desist from that  
11          intervention. That would be similar to the kind of  
12          omission-commission bias, that you do not want to do  
13          something that turns out to be the wrong thing, you  
14          would rather let things run on, even if they are not the  
15          best option for you.

16       MR DORAN: Thank you.

17          Now, Dr Hunt, you have made particular points about  
18          higher levels and switching and satisfaction scores and  
19          things that Professor Loomes would not necessarily agree  
20          with you on. Is there anything in particular about  
21          these factors that you wanted to talk about?

22       DR HUNT: I agree that these are all established factors in  
23          the academic literature. I mean, the big question is  
24          the degree to which they are relevant in this particular  
25          setting. Of the -- I do not particularly see any reason

1 to think that loss aversion, regret aversion or  
2 omission-commission asymmetry, I have not seen any  
3 particular evidence.

4 Default effects are probably the most established of  
5 all of these, so I do -- but in this particular example  
6 we see that actually, switching late again, but we see  
7 very large amounts of switching. I would expect to see,  
8 if people were just staying along with the default,  
9 I would expect to see at least some moderate levels of  
10 satisfaction, not the very high levels of satisfaction  
11 that we see.

12 There has been lots of work done in psychology in  
13 recent years and a lot of that is finding that whether  
14 a given effect is relevant in a specific setting you  
15 need specific evidence for, to judge whether that is  
16 happening or not. So I do not dispute these are all  
17 established factors, but I do not see any reason to  
18 believe in this particular setting, and whether -- to  
19 use all the various different sources together, and then  
20 we have to -- we have different hypotheses we are trying  
21 to figure out which we have got evidence for. I do not  
22 particularly think we have got any particular evidence  
23 for any of these factors.

24 MR DORAN: Right, thank you. Then was there anything  
25 specific you have to say about the decision-making

1 environment, the nature of it additionally, when it  
2 comes to people continuing to purchase their SFV  
3 services?

4 DR HUNT: I do not particularly have any comments.

5 MR DORAN: There was some degree of agreement in the joint  
6 experts' report about the decision-making environment,  
7 but I wondered if there was anything particular either  
8 of you wanted to say?

9 PROFESSOR LOOMES: It has occurred to me ... In the history  
10 of behavioural economics, I am not going to give you the  
11 whole history, but in the history of behavioural  
12 economics much more recent behavioural economics has  
13 been concerned with individual behaviour and consumer  
14 behaviour, but there is a bit of tradition of the  
15 behavioural firm, looking at the way in which senior  
16 executives and decision-makers and managers in firms  
17 have a sort of behavioural attitude, and it strikes me  
18 that that might have contributed to the way in which  
19 this sector, the SFV sector, has evolved.

20 Because my reading, my interpretation, is that there  
21 has been a sort of feeling amongst the decision-makers  
22 in the various companies, including BT, that there is  
23 not much you can do in terms of using price to stop  
24 people migrating away to better products, in particular,  
25 access to broadband and the other things that are in the

1 bundles. You cannot -- price is ineffective there.

2 We see that when the Commitments came in into  
3 effect, you did not see a great movement back, even  
4 though suddenly the price had been reduced by more than  
5 30%, so there was very little evidence of  
6 price-sensitivity working in that direction. You see,  
7 amongst the BT executives, you see an attitude which is  
8 basically saying: we will do -- next year our base plan  
9 will be what we did last year, and then we will tweak it  
10 a little bit, and we will rely on the behaviour of the  
11 other firms to keep up with us.

12 So that what you are seeing, and in fact I think  
13 that Ms Blight, it will not appear in the transcript,  
14 but I was able to watch online when Ms Blight was giving  
15 her evidence. We can go to the transcript, if you like,  
16 on {Day8/123-125:1}, where she pictured that each of the  
17 companies was going up a bit, and she was saying: and so  
18 we keep on doing this, and we kind of think it cannot go  
19 on forever, but on the other hand it seems to work this  
20 time, so we will do it again. You had this kind of  
21 picture of like a building of a house of cards, but  
22 a concern that it might one day fall down, but it has  
23 not fallen down, it has gone on creeping up.

24 I think that consumers, the customers, may very well  
25 have had an idea in their minds that that is how this

1 sector works, that all of these companies will put their  
2 prices up every nine months, every year, by a bit, there  
3 will not ever be much to choose between them, and  
4 therefore there is no point in being particularly  
5 concerned about it, because you are not going to be able  
6 to switch away to another provider of Voice Only, or the  
7 voice part of SFV services. You will not be able to  
8 make very much -- save very much by just switching  
9 between them, because the minute you switch to them they  
10 will put their prices up too, and that is justified by  
11 the way in which the people who are doing the pricing  
12 seem to have approached the problem.

13 So I think that is what I have taken to be what  
14 I have understood from the nature of the decision-making  
15 environment. That is how it has been operating.

16 MR DORAN: Thank you.

17 Then are there any particular characteristics of the  
18 Class Members that we have not already considered that  
19 go to this ostensibly deliberate decision to continue  
20 purchasing their SFV service?

21 DR HUNT: So I will just say that I have already mentioned,  
22 so I will ...

23 MR DORAN: Sorry, you have already mentioned?

24 MR HUNT: I have already mentioned, so I will keep it brief.

25 The onshoring, particularly relevant to older

1 people. Call Protect, particularly relevant to older  
2 people. My read is that the triggers, when we looked at  
3 the triggers, they are going to be particularly captured  
4 by older people who are actually going to pay more  
5 attention to the letters, the emails sent to them.

6 Yes, those are ...

7 PROFESSOR LOOMES: I suppose it seems to me understanding  
8 the effect that comes through as age-related, but seeing  
9 it more in terms of where people were in their lives at  
10 the time that broadband started to become widely  
11 available. So you have the people who were 75 at the  
12 time -- in 2015, at the time that this claim period  
13 begins. They would have been born in 1940. Many of  
14 them would have got right through their working lives  
15 having had very little to do with computers, and  
16 certainly very little to do with home broadband, and  
17 might have been unaware or under-aware of what broadband  
18 could offer. But as broadband began to offer more and  
19 more benefits, so that would have perhaps -- and not  
20 having broadband meant more and more difficulties in  
21 functioning normally -- they would generally slowly be  
22 pushed into realising that that was something that they  
23 needed. Not because they are old, but because of  
24 getting used to technology that has come late in their  
25 lives and that they are less familiar with, whereas

1 younger people would have had it earlier in their lives,  
2 seen its benefits earlier, and probably be more likely  
3 to go for bundles in the first place.

4 So what we see is this migration, and that seems to  
5 be -- the main feature is this movement for qualitative  
6 reasons, and as far as the managers are concerned, as  
7 far as the price setters are concerned, they are saying:  
8 we cannot do anything about this, we cannot fight it  
9 with price, we may as well take advantage of the fact  
10 that those who are left, those who are the slowest to  
11 switch, are the ones who, in a sense, we can put  
12 the prices up to, and we will not lose many of them on  
13 price-related grounds.

14 That turns out to have been the way that this sector  
15 is operating.

16 MR DORAN: The last few questions, I think 23 and 24 we  
17 could perhaps take together, which is the significance  
18 of these factors, if there is anything in particular to  
19 say, and also whether they differ particularly as  
20 between VOCs on the one hand and SPCs on the other, but  
21 not repeating points that we have already been through.

22 I think it is Professor Loomes to start, actually.

23 PROFESSOR LOOMES: Then I had better not repeat it.

24 What I have just said would suggest that VOCs are  
25 different for those sorts of reasons from SPCs, who have

1 moved much earlier to take broadband on board, but have  
2 not yet moved on another step to the other benefits that  
3 they might find -- qualitative benefits they might find  
4 from bundles.

5 MR DORAN: Thank you.

6 Dr Hunt.

7 DR HUNT: I have already covered significance when I was  
8 discussing relevance.

9 When it comes to VOCs versus SPCs, I think when we  
10 consider the ascription of any value, satisfaction, VOCs  
11 generally would seem to be higher for both of those. In  
12 particular, for value, I described call functionality,  
13 I described the various different elements of quality,  
14 especially the quality of improvements and innovations.  
15 They are really mostly the kind of things, exactly the  
16 kind of things that VOCs would benefit from.

17 In terms of reasons for choosing and trust, so we  
18 know that in particular it is VOCs that are saying that  
19 they care about BT being a trusted provider, more than  
20 SPCs. I do not see any particular reason to think that  
21 psychological factors in a decision-making environment  
22 are different, and VOCs, as we know, are, when it comes  
23 to characteristics, are obviously quite a bit older than  
24 SPCs.

25 MR DORAN: Then are there things that we should particularly

1           note in relation to the fact that class members may be  
2           different to the rest of the population?

3       DR HUNT: I have got some small things to say about that.

4           I do not think any of it is particularly necessary to  
5           say.

6       PROFESSOR LOOMES: What we are missing data on are things  
7           like people's perceptions and attitudes, their kind of  
8           psychological traits, and whether there are differences  
9           in the way that people feel about their telecom  
10          products, depending on the population as a whole. But  
11          I think we just do not have those data, interesting  
12          though they would be to have, and perhaps Ofcom in some  
13          future surveys might look for some established  
14          psychological measures of personality to see whether  
15          those metrics of personality turn out to have any kind  
16          of predictive value in helping to further explain the  
17          behaviour that we observe.

18       MR DORAN: That is for another case.

19       PROFESSOR LOOMES: Yes.

20       THE CHAIRMAN: Just a question on that, because I think  
21          I saw that from your report, that you are really talking  
22          about the behaviour of consumers in general, you are not  
23          tying any of this to particular attributes of these  
24          Class Members because you say you do not have the  
25          information available.

1 PROFESSOR LOOMES: No, I mean, I would say that the  
2 correlations between some of the observable features,  
3 like age and switchiness, the correlations are there  
4 higher than they would be for the average, the kind of  
5 median person in the population. So the correlations  
6 vary.

7 What I was saying is that it was not simply possible  
8 to say that one caused the other, and what causes those  
9 things I would say would be something like the way that  
10 technology has developed at different points in  
11 different people's lives, depending on how old they are.  
12 It may be also -- it might turn out that those people  
13 who have the greatest expressions of loyalty and the  
14 greatest reluctance to leave BT, or the greatest wish  
15 not to open their mail and receive messages from BT or  
16 any other company, or any of those things, it may be  
17 that those things correlate with personality measures  
18 which are not objectively visible, observable, from the  
19 outside in the way that age or income are. But that  
20 would be, as you say, a future case or a future research  
21 project. I am always pitching for future research  
22 projects.

23 MR DORAN: Just pause there for a second. (Pause)

24 THE CHAIRMAN: The one thing that we parked was this  
25 question of switching -- let me just -- I just reread

1           the reports, and where we had got to really was  
2           this: that in Dr Hunt's report ...

3       MR BEARD: Are you looking for Figure 10?

4       THE CHAIRMAN: Yes. Well, he starts the analysis at  
5           paragraph 195, and then he has got Figure 10, which is  
6           where we have got the percentage numbers who switch  
7           every year, and then whether this is switching the  
8           supplier or switching the service. Then he has also  
9           done some more granular estimates using the Ofcom  
10          switching tracker.

11                 Now, in response to that, in Professor Loomes'  
12           report, Professor Loomes does not, as such, take issue  
13           with those figures, but says it is not relevant, because  
14           what we are looking at here are the non-switchers rather  
15           than the switchers. But then -- so there was no real  
16           issue as we saw it on the experts' reports, but there is  
17           a note of doubt which is injected into the joint  
18           statement where Professor Loomes questions what we call  
19           the averages.

20                 Now, I just wanted to ask this: Professor Loomes --  
21           can we get up on the screen {IR-E/21/48} -- you will be  
22           familiar with this, this is Dr Hunt's kind of primary  
23           switching analysis of what the percentages are each year  
24           for the total. I mean, that is Voice Only and SPC. Do  
25           you take issue with anything that is there? Because you

1           did not in your reply report.

2           PROFESSOR LOOMES: No, because I had not done any  
3           independent analysis of switching. These data come from  
4           BT, were made available to Dr Hunt and Frontier, and  
5           I relied on Frontier to do the sort of delving into the  
6           detail.

7           The point that I notice was that the figures that  
8           Dr Jenkins used seemed to be substantially larger in  
9           some respects, but that is only something that has been  
10          drawn to my attention more recently, and it may be that  
11          it is resolved by the difference between deaths and  
12          bereavements and other reasons for leaving.

13          THE CHAIRMAN: Obviously, as we can see from your reply  
14          report, we do not need to look it up, but it is  
15          paragraphs 339-342, your point was that this was  
16          irrelevant anyway, that is what you said there. That  
17          these figures -- you said you did not undertake any  
18          detailed analysis, and you said Dr Hunt's analysis of  
19          switching rates does not help to explain the question we  
20          were asked to address, which is the extent to which  
21          those who did not switch away were making active  
22          choices.

23          PROFESSOR LOOMES: Yes.

24          THE CHAIRMAN: That was the point you were really taking  
25          there. It was a relevance point.

1 PROFESSOR LOOMES: I would stick with that. The only thing  
2 I would say is that I think I am inclined to accept that  
3 the Ofcom data I cited at the beginning of my first  
4 report understates this trend. This trend is very  
5 important but, as far as I can see, it is not primarily  
6 price-related, it does not have implications for higher  
7 price --

8 THE CHAIRMAN: No. So in the debate between you which we  
9 have had thus far, is there any reason why, to the  
10 extent that it is the backdrop to the discussion you  
11 have had on switching, is there any reason why the  
12 Tribunal simply cannot proceed, for these purposes, for  
13 your evidence, on the table at Figure 10?

14 PROFESSOR LOOMES: I cannot give you any such reasons  
15 because I have not examined in detail the way in which  
16 these numbers were derived. However, I do have great  
17 respect for Dr Hunt and his ability to -- with numbers,  
18 and so I am disinclined to say that these are likely to  
19 be wildly wrong, but I do not know whether they are  
20 right either.

21 THE CHAIRMAN: No. But the argument -- the points that you  
22 have made have really been against that backdrop, but  
23 you have made different points about relevance and what  
24 you can draw from them, things of that kind.

25 PROFESSOR LOOMES: Yes, exactly.

1 THE CHAIRMAN: Just one moment. (Pause).

2 For our part, and we will hear Mr Spitz on it, but  
3 for our part, whatever there may be about doing an  
4 ultimate document between the parties, ultimately on the  
5 switching rates, on that basis, and from what we have  
6 heard, it is not really turning on whether one expert  
7 says it should be a percentage here more or a percentage  
8 less, it is on the question of the relevance; we would  
9 be included, on the basis of what we have heard, simply  
10 to go on the basis of Dr Hunt's table.

11 MR BEARD: I think there is no other basis on which you can  
12 proceed because there was no challenge to it. I mean,  
13 I did not want to make a basic point of adversarial  
14 procedure, but when one expert is instructed not to  
15 consider an issue, and promptly does not, and does not  
16 take issue with any figures, that is the evidence for  
17 the Tribunal.

18 THE CHAIRMAN: Yes.

19 Mr Spitz.

20 MR SPITZ: We have no objection to proceeding on that basis.

21 THE CHAIRMAN: Good.

22 MR SPITZ: There are two points of debate between our side  
23 and Mr Beard's, but I think that that does not need to  
24 shape the position that the Tribunal takes for the  
25 evidence of the behavioural --

1 THE CHAIRMAN: That is exactly what we were getting at.

2 Good, we will proceed on that basis then.

3 MR BEARD: We have already reviewed these matters, but, of  
4 course, if there were objections to other figures and  
5 they were not put to Dr Jenkins, there may well be  
6 a discussion on that.

7 THE CHAIRMAN: I understand that. I do not expect to have  
8 cross-examination of Dr Hunt that starts to challenge  
9 these figures.

10 Now, let us move on. Right. Is there anything by  
11 way of clarification that you wish to ask or can we  
12 proceed to ...

13 MR BEARD: I did have one. Sorry, it is Mr Spitz first.

14 MR SPITZ: No, we do not have anything.

15 THE CHAIRMAN: Thank you.

16 Questions by MR BEARD

17 MR BEARD: We did have a clarification, but in fact, sir,  
18 you asked it in relation to evidence on differences  
19 between the overall population and the Class.

20 The other one, though, was simply the fact that  
21 Dr Hunt had referred to a figure of 41%.

22 If we go to [draft] page 108 in today's transcript,  
23 if that were possible. If we keep going down. Yes.

24 So there was a discussion -- I was just putting this  
25 in context. There was a discussion about levels of

1 switching, where Dr Hunt gave figures of 10% annual  
2 switching for VOCs, 25% for SPCs. Then if we keep going  
3 down, then there is a reference, if we keep going, to  
4 41% over a two-year period in relation to tariffs,  
5 deals, call packages, and so on, and there was  
6 a reference to it being a document that had been  
7 prepared by BT for Ofcom.

8 I thought it was sensible, given that this had come  
9 up in the hot tub, that we went to that document --  
10 well, what I think is that document, but Dr Hunt will be  
11 able to tell me otherwise. I think it is {F/104/1}.

12 DR HUNT: Yes.

13 MR BEARD: It was very difficult to understand the exchange.

14 I do not know if it is sensible for Dr Hunt to go  
15 first, just to explain what he was referring to in this  
16 document, because having looked at it, it is not  
17 completely obvious.

18 MR DORAN: I think that would be very helpful.

19 MR BEARD: So I will sit down.

20 DR HUNT: Yes, I think maybe we will have to walk through  
21 this. This was a document that was produced by BT for  
22 Ofcom after there had been a presentation, so I think  
23 the people receiving this document would have had more  
24 context for understanding it, so I will have to walk you  
25 through it.

1           The figure that I referred to is in the bottom  
2 right, this is the 41% that I talked about, and they are  
3 saying about the percentage of people who have made  
4 various changes in their Voice Only base. This is  
5 the -- and I can see I might need to -- you can see that  
6 there has been a change in call package, what they call  
7 a promotion change, which is in the third column. It is  
8 about 5% have done that in the previous two years. In  
9 the fourth column we see adding or removing a calling  
10 feature which is 10%. We have both in the fifth column,  
11 and actually there is this other category which includes  
12 some down-spinning, yes, includes people who purchased  
13 Home Phone Saver, purchased Line Rental, or have made  
14 some other changes as well, so it is 13%. The total  
15 percentage, the sum of those different things, is 41%  
16 over the previous two years.

17           Then the -- I knew it was 80-something, the number  
18 I did not fully remember. It was since they had first  
19 been with BT had they made a change, so this is the 88%  
20 number that is on the far right-hand column.

21 MR DORAN: That is very helpful.

22           It seems only fair to allow Professor Loomes to add  
23 anything to that.

24 PROFESSOR LOOMES: I have not absorbed it quickly enough,  
25 I am afraid. (Pause)

1 MR DORAN: Thank you very much.

2 THE CHAIRMAN: So cross-examination.

3 MR BEARD: Indeed.

4 THE CHAIRMAN: What we propose to do is to sit late tonight  
5 in order to do that, go to about quarter to five so that  
6 we can get through something today.

7 MR BEARD: I am more than happy to, as long as those who are  
8 doing the transcript and others are content to.

9 THE CHAIRMAN: Let us see if we can do that.

10 MR BEARD: I am not sure I will finish completely but I will  
11 probably get quite a long way through.

12 THE CHAIRMAN: That is what we ...

13 MR BEARD: Yes. I guess we might need to pause, rise, or  
14 certainly remove Dr Hunt -- I mean, he is welcome to  
15 stay there, I do not mind, but I imagine he may want to  
16 just come out of ...

17 THE CHAIRMAN: Yes, do leave the witness box. Thank you.

18 MR BEARD: Formally speaking, Professor Loomes does not need  
19 to be re-sworn at this point, because he has not left  
20 the witness box.

21 THE CHAIRMAN: No.

22 MR BEARD: It is your witness to introduce, Mr Spitz, but  
23 I am going to assume I can just carry on, unless you  
24 have any questions in direct?

25 MR SPITZ: Thank you. I think you are safe to do that.

1           Professor Loomes, I do not have any questions.  
2           Mr Beard will have some questions for you in  
3           cross-examination.

4           Cross-examination of PROFESSOR LOOMES by MR BEARD

5           MR BEARD: Good afternoon, Professor Loomes.

6           So we have done a bit of clarification on one of the  
7           figures, the Figure 10, and again, I think this is going  
8           to be relatively straightforward. I just wanted to  
9           clarify that you did not have any issue with a couple of  
10          other figures, which I do not think you will do because  
11          of the nature of your instructions.

12          So if we could just pick up Dr Jenkins' Report -- so  
13          we have dealt with the Dr Hunt Report. So {E/18/49}.  
14          Sorry, it will have to be IR, if you do not mind,  
15          please. {IR-E/18/49}.

16          Have you seen this table, Professor Loomes?

17          A. I do not remember seeing it, but I may have done.

18          Q. Right. So I am concerned not to ask you questions if  
19          you have not looked at this. This is a table setting  
20          out the 2014 cohort of BT SFV customers. But if you  
21          have not looked at it, I am slightly loath to ask you  
22          questions.

23          THE CHAIRMAN: Sorry to interrupt. Was this not the one,  
24          Professor Loomes, that you were talking about earlier  
25          on, about the green and the black and we had

1 a discussion about the rump? I thought you were  
2 recalling in fact this very document, because you were  
3 making the point about the rump might have to be  
4 regarded differently, and then you and I had  
5 a discussion about that. I had thought this was the one  
6 you had in mind.

7 A. Well, I do not see any numbers in the bars themselves,  
8 so my recollection of what I saw from Dr Jenkins had  
9 numbers in the bars, but perhaps that was a different  
10 version. Perhaps that was -- anyway ... let us see.

11 MR BEARD: Sorry, sir, I was under the same impression as  
12 you. But if this is not the table that was being  
13 referred to earlier, and Professor Loomes has not seen  
14 it, then I am a little stuck with asking him questions,  
15 because it would not be fair to ask the witness whether  
16 he agrees or disagrees with a table he has not seen. So  
17 I think I will have to leave that one.

18 Could we just go down the page. Maybe it is the  
19 next page over, I am so sorry {IR-E/18/50}. Can we  
20 focus on the top.

21 I am guessing you have not seen this one either,  
22 Professor Loomes, then?

23 A. No, it does not strike me ...

24 Q. No, okay. Could we go back to page {IR-E/18/47} in this  
25 document. I am going to guess it is the same answer for

- 1           that one as well?
- 2       A. I have seen that, but I do not understand, I have not  
3       understood how it has been derived, and I thought that  
4       this was part of what the discussion had been about  
5       between yourself and the Class Representative's team  
6       that I understood that they felt that this figure had  
7       been derived from some other data Dr Jenkins produced,  
8       which may have been the first one that you showed me but  
9       I do not recognise it in that form, and that, since that  
10      was under question, that this one might also be under  
11      question.
- 12      Q. Yes. I do not think that is probably right,  
13      Professor Loomes, from the messages we have received  
14      from the other side, but I am not going to presume. But  
15      I think -- I am taking from what you are saying that you  
16      have not either reviewed or critiqued this and you  
17      cannot comment on this document?
- 18      A. Well, I have not reviewed or critiqued it, but I will do  
19      my best to answer a question if you want to ask one, and  
20      if I cannot answer it I will tell you.
- 21      Q. I was going to ask if you agreed with the numbers on it,  
22      Professor Loomes.
- 23      A. I see.
- 24      Q. I think we are going to be struggling there, are we not?
- 25      A. Yes, I think so.

1 Q. It was a fairly straightforward question, but I do not  
2 think we are going to be able to do that, given the  
3 answer you have just given. Because I was literally  
4 trying to lay out some baseline issues in relation to  
5 numbers, but I am not going to ask you on the hoof, for  
6 the first time, to audit this, because I think you have  
7 not looked at it and you cannot confirm those numbers?

8 A. No, I cannot confirm them.

9 Q. Right. Let us go back to one or two things that you  
10 have referred to today and therefore I can ask you  
11 about. I am taking things slightly out of order.

12 You made some comments not long ago about both  
13 cognitive dissonance and reliability and trust in  
14 response to surveys being some kind of residual  
15 category. Now, none of that appears in any of your  
16 reports or materials, and I just wanted to check to what  
17 extent you had looked at any of the background survey  
18 material when you gave those answers?

19 A. Well, it is -- you are perfectly right to say that I did  
20 not use the term "cognitive dissonance", and I did not  
21 discuss cognitive dissonance as such, but I think I did  
22 discuss the issue about reliability, the 19% of BT  
23 customers who said that reliability was their main  
24 reason for choosing BT, and as you can see from my  
25 report, I then went back to the original survey and

1 discovered that, although I do not have the figures  
2 right in front of me, but I discovered that on these  
3 other dimensions, such as the value of calls packages  
4 and overall a good deal, I then found what were the  
5 percentages from each of the providers' customers who  
6 gave that as their main reason.

7 Q. Sure. Sorry, I am not disagreeing, and I do not think  
8 Dr Hunt was disagreeing, that there were different  
9 rankings for different providers in relation to  
10 different scores, and BT scored highest in relation  
11 to -- or, rather, people who were BT customers who were  
12 asked questions chose reliability as the primary reason  
13 above things like cost -- price, for example?

14 A. No, no, they did not choose it as the primary reason,  
15 because I think, again, I would have to find the point  
16 in my report, maybe you have got it to hand, but 19%  
17 gave that reason but I think 31% gave a reason that was  
18 to do with calls packages or a good or better deal.

19 Q. You are completely right, Professor Loomes.

20 A. So more of those people identified a different dimension  
21 than reliability.

22 Q. You are quite right. They were interested in the call  
23 packages and the value from the call packages,  
24 presumably. That is why they ranked it highest. Yes,  
25 you are completely right. Then reliability was at 19%?

1 A. Yes.

2 Q. I think one of the things you suggested was that in some  
3 of these surveys people might put reliability almost  
4 like a default option, I know default options have been  
5 discussed a lot, but as a default option in relation to  
6 these sorts of issues, and I just wanted to check  
7 whether you had looked at some of the other materials  
8 that you have been referring to, for instance, the Ofcom  
9 material or this Solus Landline only customers. It is  
10 this one, the coloured one.

11 A. This one?

12 Q. Yes. So it is {F/632/1} for the ...

13 A. Yes, I have looked and referred to this document.

14 Q. I just wanted to take you to page {F/632/9}.

15 A. The trouble is these are not page-numbered.

16 Q. If you look in the bottom left-hand corner --

17 A. Yes, I have got it, I have got page 9, yes. "NPS and  
18 satisfaction ..."

19 Q. Yes, exactly. So I am not going to ask you about NPS,  
20 we have done -- I have put this to Mr Parker. It is  
21 actually the other side of the page I just wanted to go  
22 to here.

23 You will see there that actually there is a very  
24 wide range of options that was being put forward in  
25 relation to this survey that could be selected. Do you

1 see that?

2 A. Yes.

3 Q. So when we think about people choosing matters as  
4 a default, they did choose reliability here as the  
5 highest one, albeit it is only joint highest with the  
6 ability to make a call without it dropping. Now, again,  
7 you might say that is a reliability issue, but then you  
8 have got a very wide range of choices that are being  
9 selected and quite a wide range and spread of values.  
10 There is no sense here that reliability is just being  
11 used as a default option, is it, by the consumer group?

12 A. These values that you refer to on the right-hand edge,  
13 are these NPS scores or averages of NPS scores?

14 Q. I am not sure that they are Net Promoter Scores, no.  
15 I think these are just satisfaction scores.

16 A. So how are they operating? On a basis of 0-10 or  
17 something like that?

18 Q. I would ask you the same question, since you are  
19 referring to this material.

20 But I think if we go back to page {F/632/4}, we have  
21 some methodology. It says "Methodology and sample ..."  
22 at the top. This does not actually have a page number  
23 at the bottom. Do you have it?

24 A. Yes.

25 Q. This is where it talks about the methodology, and then

1 on the right-hand side it has the sample, and then it  
2 says "Survey content", and it says:

3 "The questionnaire ..."

4 So this was the questionnaire put by the  
5 interviewers, as far as we can tell.

6 "... covered two broad areas:

7 "NPS and customer experience metrics (eg value,  
8 ease, recognition, call quality)."

9 Now, I do not know, but I am guessing that that  
10 right-hand table we were going to was looking at the  
11 customer experience metrics rather than NPS?

12 A. Right, so --

13 Q. Because just to be clear, NPS, as I understand it, sets  
14 a series of rankings as to whether or not you would  
15 recommend something, not recommend it, or be broadly  
16 neutral, yes? Whereas here you are coming out with  
17 a range of scores which look like, as you suggest, they  
18 might be on scores 1-10, effectively, on customer  
19 experience. Does that make sense?

20 A. Yes.

21 Q. So the point I was putting to you here was that clearly  
22 in this survey there was an awful lot of options put  
23 forward here, and the idea that reliability was some  
24 kind of default you drop into does not really make sense  
25 in the context of this survey at least, does it,

1 Professor Loomes?

2 A. I see. No, I mean, I think that each of these are being  
3 taken in turn, and somebody is being asked something  
4 like: on a scale from 0 to 10, how would you rate the  
5 landline connection being reliable?

6 Q. That is how it looks to me, so you read it the same way?

7 A. Yes.

8 Q. Thanks.

9 A. So the answer to that might be: I am going to give it  
10 a 9 because I have always found it always very reliable.  
11 Not: I am going to give it a 9 because I particularly  
12 value it.

13 Q. Well, I think we can -- that distinction is almost  
14 a piece of theology. If you are valuing something at  
15 a 9 when you are asked a whole load of questions, to say  
16 that you are not valuing it on that scale feels like  
17 a strange proposition, does it not, Professor Loomes?

18 A. No, it is saying: to what extent do you subscribe to  
19 this being true? Then take the second one, the ability  
20 to make a call without it dropping. They may say: well,  
21 it almost never drops, so I am going to give it a 9 or a  
22 10 or an 8, because I am recalling my experience that it  
23 does well on those -- on that criterion.

24 It is not saying that I value it, it is saying that  
25 is how it has been for me, that is the factual

1 experience I have had.

2 Q. Right. So when this is being carried out as  
3 a satisfaction assessment, you do not think you can draw  
4 anything in relation to satisfaction from those scores?

5 A. Well, I would have to see the context of the whole  
6 survey and whether it is something that is -- if it is  
7 clearly meant in the question, if the question is framed  
8 in such a way in terms of how much you like it or how  
9 valuable it is to you, then I would agree with you. If  
10 the question was: how valuable do you think it is that  
11 the landline connection is reliable? Then if somebody  
12 says 9, then I would say yes.

13 Q. Okay. Let us -- I am not going to push this further.  
14 Just the high scores reliability here, and I will not  
15 put it higher than this, are consistent with customers  
16 valuing BT because of reliability?

17 A. Yes, it is consistent.

18 Q. So can we just go to Ofcom, so {C/2/111}. This is, just  
19 to put it in context, it is the Annexes to Ofcom's  
20 Provisional Conclusions made in 2017 which led to the  
21 Commitments. You are aware of that broad issue?

22 A. Yes, sure.

23 Q. You may not have looked at this in detail. Have you  
24 looked at this section on reasons for not being  
25 interested in switching?

1 A. Yes, I think I have, because I think I may have --  
2 perhaps Dr Hunt cited it, but that 62% state this as  
3 a reason for not being interested, I think that was  
4 something that I read out a few minutes ago.

5 Q. Yes, I think you did. I was just checking because  
6 I wanted to make sure I am not at cross-purposes with  
7 what you are saying.

8 You will see there that the survey, although we do  
9 not have the details, clearly offered categories such  
10 as:

11 "Other reasons stated by SFV customers were hassle  
12 ... no cost benefit ... and provider satisfaction ..."

13 As possible alternatives.

14 So in that context, is it really right to be  
15 thinking of reliability or trust as a residual category,  
16 given you have got things like "hassle", which I think  
17 a lot of people would think of as a residual category  
18 that one might tick if one was not thinking much about  
19 why one did not switch?

20 A. Well, it is hard to say, but let me just give it some  
21 thought. (Pause)

22 They prefer to stay with a trusted provider.

23 Q. Yes.

24 A. That seems like a reason that they might give. But it  
25 might be that the -- unless it is an open-ended

1 question, if it is one where they are just presented  
2 with a number of predetermined categories, then that may  
3 be the one that they find it easiest to answer.

4 Q. Okay, I see the point. But then it goes on and says:

5 "The 2015 Jigsaw survey shows that 30% of BT  
6 voice-only customers cited 'Trusted brand' compared to  
7 only 6% for non-BT as the reasons for choosing their  
8 current supplier."

9 Even if you were dealing with sort of constrained  
10 categories, is there not something instructive there,  
11 Professor Loomes?

12 A. Yes, I think for those people who have been with BT  
13 since it was privatised, or been with BT for many, many  
14 years, then if they have not had a bad experience they  
15 may feel that it is a trusted brand, and that is what is  
16 being reflected there.

17 That does not answer the question of how much value  
18 they attach to it, but it might be understandable that  
19 they would reply in that way.

20 Q. Right --

21 A. Sorry, I do not want to interrupt you, but ...

22 Q. No, please.

23 A. Can we go back to your previous question because --  
24 about this one (indicated), the one about reliability.

25 Q. Yes, sure. {F/632/9}, is it that strand that you want

1 to look at?

2 A. Yes, because -- that is the one. Because I have just  
3 noticed down in the bottom right that there is an  
4 interpretation of what the colours mean, and the colour  
5 blue means product performance.

6 Q. Yes.

7 A. So they are not evaluating it, they are just saying it  
8 performs well on these criteria. But that is not the  
9 same as saying: I am giving a 9 because I value it very  
10 highly.

11 Because they have value as a separate category, the  
12 red bars, and in terms of value they come mostly, apart  
13 from one on clear pricing, they come right down towards  
14 the bottom, 7s.

15 Q. Lower down, which might fit with the premium issue that  
16 Dr Hunt was raising. But as you rightly said, you do  
17 not know what the questions were in relation to product  
18 performance, do you?

19 A. No. I assume that the people who did the survey would  
20 have worded it in a way which made it clear it was  
21 product performance they were after.

22 Q. I see. So although you were doubtful earlier, now you  
23 are relatively confident as to the terms of that survey?

24 A. Well, it is just because that is the way they have coded  
25 it up.

1 Q. I see.

2 A. They distinguish between value/price and product  
3 performance, suggesting that they are not the same  
4 thing.

5 Q. I see.

6 A. But I am sorry, I interrupted you.

7 Q. No, I am very happy for you to go back to these things,  
8 because we have not heard from you, or at least the  
9 documents have not been put to BT witnesses, so it is  
10 interesting to see your different takes on them.

11 Now, I have a slight difficulty with the next  
12 question because I was actually going to go back to one  
13 of those sets of figures from Dr Jenkins, which  
14 I thought you had seen but you had not seen.

15 Let me deal with it another way. Can we go back to  
16 that document {F/104/1} that you saw right at the end of  
17 the process. Dr Hunt briefly talked you through this,  
18 Professor Loomes. So what you see here is people who  
19 had been customers of BT, and this is Voice Only base,  
20 and you will see this is 2016, so we are looking at  
21 about 2.5 million as the total Voice Only base. You can  
22 see that in the second column, both sets, right?

23 A. Yes.

24 Q. Then you will see the next column across -- I will just  
25 focus on the two years to July 2016 for ease for this.

1 A. So you are going down to B?

2 Q. Yes, let us just do B. The language is the same but  
3 I can make the points on one or other, so I will just do  
4 it on the lower one because that is the one that Dr Hunt  
5 initially focused on. They are both relevant but the  
6 questions can be ...

7 The first one is "Promotion Change". So this is an  
8 indication of the number of people in the past two years  
9 from amongst the Voice Only base who changed promotion,  
10 for instance, moving from Unlimited Evening and Weekend  
11 Calls to Unlimited Anytime Calls.

12 So this is an indication of people making a choice  
13 to change their call package. You understand that?

14 A. The fact that it is labelled "Promotion Change", does  
15 that mean there was a particular offer on making that  
16 change?

17 Q. We do not understand that to be the case.

18 A. What does the "Promotion Change" mean?

19 Q. I think it is simply to do with the package, because you  
20 get inclusive calls in the package, but the different  
21 packages offer you different sets of calls.

22 A. Oh, I see. So there has been no particular attempt to  
23 market that change or to draw people's attention to  
24 whether they are on the right package or not.

25 Q. I do not believe that that is anything to do with what

1 is being analysed here. We are just looking at numbers.

2 But I actually have a much simpler question than  
3 whether or not there may not have been any marketing  
4 here. If you have changed your call package, what you  
5 will have done is engaged with BT, to the extent that  
6 you needed to shift the basis on which you had a call  
7 package with your landline at one point during those  
8 two years over to a different call package. You  
9 understand that?

10 A. I understand that. So it is the sort of thing that  
11 could come out of somebody opting into Right Plan, and  
12 Right Plan telling them that they could save some money  
13 if they were to change their call package.

14 Q. It could be that, if Right Plan were operating. Or it  
15 could be that people looked at their call charges and  
16 decided that actually they wanted to move to a different  
17 package. As you might anticipate, Unlimited Anytime  
18 Calls is a more expensive package than Unlimited Evening  
19 and Weekends?

20 A. Well, it is more expensive as a package, but it could  
21 save them money if they are making lots of daytime  
22 calls.

23 Q. That is precisely right. It could be so, absolutely.

24 A. That is the sort of thing that Right Plan would  
25 recommend to them if they had opted into Right Plan.

1 Q. That could be something that Right Plan certainly would  
2 recommend to them if they had done --

3 A. Okay.

4 Q. -- depending on their prior call usage.

5 THE CHAIRMAN: Sorry, Mr Beard. After Professor Loomes said  
6 "Well, this could have come from the Right Plan", but  
7 then you asked the question, "Or it could have come from  
8 someone looking at their call charges and now deciding  
9 to change packages". I am not sure we got an answer to  
10 that.

11 A. Well, I cannot say it could not have come from that  
12 because it perfectly well could have done.

13 MR BEARD: Sorry, my fault.

14 A. I am just saying that it is not clear that all of it  
15 comes from just that second thing. It might be that,  
16 although there was no separate promotion on it, if  
17 somebody had gone in for Right Plan, that is the sort of  
18 thing that Right Plan would have recommended, and that  
19 may have prompted them to make the change. We know that  
20 people were prompted by Right Plan, or at least  
21 a fraction of them were prompted by Right Plan to make  
22 changes.

23 Q. But I think the point I am making here is that --  
24 obviously you are aware that the case put by the Class  
25 Representative is that the focal product for the

- 1 purposes of market definition is the access and call  
2 package?
- 3 A. Yes.
- 4 Q. Here, what we are seeing is customers specifically  
5 engaging with BT in relation to a component of that call  
6 and access package, correct?
- 7 A. Yes.
- 8 Q. Then we have got -- the next over is "Calling Feature  
9 Change", so this is adding or removing calling features  
10 such as BT 1571. You know what 1571 is?
- 11 A. Yes.
- 12 Q. It is the ability to track a number back that you have  
13 been called from. So in order to obtain a 1571 service,  
14 or indeed adding any calling feature, you will have  
15 needed to think about your current package and you will  
16 have needed to engage with BT again, correct?
- 17 A. Yes, I imagine so.
- 18 Q. Then you will see the next column is people that have  
19 done both, because there is no double-counting. So the  
20 first column is those that have only done a promotion  
21 change in the last two years, the second column is those  
22 that have only done a calling feature change, and then  
23 the third column is people that have done a combination  
24 of those two things. You see that?
- 25 A. They are not overlapping at all with the other two

1 numbers.

2 Q. No, no.

3 A. Okay.

4 Q. Otherwise the sums at the end would be double-counting.

5 A. Yes.

6 Q. So, no. So what you have got is engagement through  
7 promotion change, engagement through calling feature  
8 change, and then you have got people that engage through  
9 both calling features and promotion changes during the  
10 two years, yes?

11 A. Yes.

12 Q. Then in addition to those you have got people who are  
13 customers who have purchased Home Phone Saver, Line  
14 Rental Saver, who have down-spun from broadband to  
15 Voice Only, or are BT Basic customers. You see those?

16 A. Any one of those.

17 Q. Yes, it is any one of those. So you obviously know, you  
18 have commented on Home Phone Saver which is what has  
19 been referred to as a retention product but it is  
20 a longer term payment that you commit to, lower rates  
21 for a particular call package with access. You know  
22 about Home Phone Saver, yes?

23 A. Yes.

24 Q. So again, with Home Phone Saver these are customers that  
25 will have to have engaged with BT in order to move to

- 1 Home Phone Saver, yes?
- 2 A. Yes.
- 3 Q. The same is true in relation to Line Rental Saver. Are  
4 you familiar with the Line Rental Saver product?
- 5 A. Yes.
- 6 Q. So that is what was referred to in evidence as 12 months  
7 for the price of 10?
- 8 A. Yes.
- 9 Q. So again, longer term commitment to payment. You pay  
10 less. So people who are price-sensitive might be  
11 interested in things like Home Phone Saver and Line  
12 Rental Saver, yes?
- 13 A. Yes.
- 14 Q. Again, you will have had to engage with BT. Then to  
15 have down-spun from broadband to Voice Only. So that is  
16 people that had broadband with BT but decided to not  
17 have broadband any more and actually just go back to  
18 having or possibly having for the first time the  
19 Voice Only landline. You understand that?
- 20 A. I do, and do you have a breakdown between those two  
21 different categories?
- 22 Q. Not in here I do not, but the point I just want to make  
23 is of course you would have to engage with BT again to  
24 change your package and move to the Voice Only service.  
25 You understand that?

- 1 A. Yes.
- 2 Q. So then the last one is BT Basic customers. That has  
3 been referred to as the social tariff and I will come to  
4 that in just a moment because you mentioned social  
5 tariffs. That is a special tariff where you actually  
6 have to hit certain low income thresholds and criteria  
7 and then you can have BT Basic. You are aware of that?
- 8 A. Yes. I am just slightly puzzling over the previous  
9 category, the down-spun from broadband to Voice Only,  
10 because I thought that these 2.5 million were  
11 Voice Only.
- 12 Q. Yes.
- 13 A. So why would people who had been having broadband  
14 included in this number when they were not Voice Only in  
15 the first place?
- 16 Q. Because they will be picked up as Voice Only within the  
17 last two years and so what it is identifying is people  
18 who have arrived from down-spinning?
- 19 A. I see, so they were not Voice Only three years ago, they  
20 had broadband.
- 21 Q. But they might actually not have been Voice Only  
22 two years ago because it is a two-year span. They have  
23 dropped down into the category.
- 24 A. Okay, all right. I have understood that, yes.
- 25 Q. The reason why they are identified is because you are

1           dealing with a cohort of standalone fixed voice  
2           customers and you are asking who is in it and what have  
3           they done in the last two years?

4           A. Yes.

5           Q. Sorry, just to go back to BT Basic because I am not sure  
6           that we confirmed -- I think this will not be  
7           contentious but BT Basic, you actually have to qualify  
8           for. You understand that?

9           A. It is like being on Universal Credit or some other kind  
10          of payments that you are getting to support you.

11          Q. Yes, and then you are entitled to --

12          A. Then you are entitled.

13          Q. So you need to actually go to BT and say, look, I fulfil  
14          the criteria for BT Basic, yes?

15          A. Yes.

16          Q. The point here is that the overall total we come to is  
17          41% of the total of Voice Only base that we are dealing  
18          with here. All of those people will have had active  
19          engagement with BT during that two-year period, will  
20          they not?

21          A. That is what it looks like.

22          Q. So all of those people will have had to think about  
23          their access and call charges and features packages and  
24          engage with BT, correct?

25          A. It seems right.

1 Q. So in terms of thinking about these people being somehow  
2 inert or unaware in relation to this million what we  
3 have here is actually good evidence that during that  
4 two-year period they have actively thought about their  
5 package of charges, calls and features, correct?

6 A. Yes, they have thought about what they are getting from  
7 BT and how they might modify within BT, yes.

8 Q. They have actually taken action in relation to it?

9 A. It looks like it, yes.

10 Q. I just want to go to one of the documents you referred  
11 to earlier just in relation to social tariffs. That is  
12 {E/45.224/1}.

13 A. Yes. But going back to the figure, the table that we  
14 were just discussing. 41%, you are saying have had some  
15 contact with BT about some kind of modification of their  
16 BT service.

17 Q. Yes.

18 A. So you are saying 60% have not ...

19 Q. 60% in those two years have not specifically changed  
20 anything in relation to any of those elements?

21 A. In at least those two years.

22 Q. Yes, it may well be. Obviously I did not go to the  
23 higher one which is the 88% which is over the whole  
24 cohort, but I was just testing your answers in relation  
25 to that.

1           A. No, I mean, it is -- the reason I ask is because it  
2           struck me when I was listening to you outlining your  
3           case at the beginning of these proceedings that you were  
4           saying: "well, you know, 14%, 15% are switching" and you  
5           were saying this is vast, this is huge. But it means  
6           that in any one year 85% were not switching, which is  
7           about six times vaster. That is kind of ultra vast.  
8           What I was looking at or asked to look at were the  
9           reasons why those people were not switching at all and  
10          here -- so I am kind of interested in why 60% are not  
11          paying any attention to any of those things even though  
12          things like the Home Phone Saver and BT Basic would have  
13          been for many of them extremely advantageous.

14          Q. Right. Look, Professor Loomes, I was dealing here with  
15          what I think you would refer to as the rump; in other  
16          words, people that have not shifted and not switched.  
17          Your instructions were to deal with those elements.  
18          I was asking you about those. You are completely right  
19          that that table does not show what happened with the  
20          other 60% of Voice Only Customers, but you also know of  
21          course that in relation to Voice Only Customers that we  
22          are talking about here we are talking about both ---we  
23          are talking about a range of people that may be doing  
24          a range of things. Not only are these 41% actively  
25          engaged but it will also of course cover both VOCs and

1 SPCs, that cohort.

2 I will be making submissions in relation to those  
3 issues. I wanted your answers in relation to the  
4 engagement of that portion which is identified there.

5 In relation to switching your maths between 15% and  
6 85% is impeccable. However, what we saw in relation to  
7 the tables that you have not reviewed is that between  
8 2014 and 2022 over 75% of the group that is supposed to  
9 be in the Class have left. That, Professor Loomes,  
10 really is massive.

11 Let us go back to {E/45.224} --

12 THE CHAIRMAN: Are you asking him to comment on that?

13 MR BEARD: No, I am not. That is a statement. I do not  
14 need to --

15 THE CHAIRMAN: If you do not want to that is fine.

16 MR BEARD: I want to go back to {E/45.224}.

17 A. Just very briefly on this 41%/59%, so that my maths is  
18 even more precise. These 41%, as far as I can tell, are  
19 any of those categories, it is not on the screen at the  
20 moment, so I cannot tell, but were any of those  
21 categories representing people who were switching away  
22 from VOC to another provider or were they just staying  
23 with BT?

24 MR BEARD: That is the snapshot of people staying with the  
25 BT.

1 A. So they are staying with BT. So it gives no insights  
2 into them switching away and you are saying: "but it  
3 might provide some insights into them staying with BT  
4 because they have made some adjustment within the  
5 Voice Only area of different call packages and different  
6 things like HPS and BT Basic." That is the point you  
7 are making, is it?

8 Q. That is going to be some of the points we are making in  
9 due course.

10 A. Okay.

11 Q. Could we go to {E/45.224/1}. This is April 2023. I do  
12 not think this was referred to in any of your materials,  
13 I may be wrong.

14 A. No, you are right, I did not refer to it.

15 Q. Did you dig this out, Professor Loomes?

16 A. Yes, I dug it out on the basis of I think an item on the  
17 BBC News about the -- I think Ofcom were making  
18 a criticism, or at least were encouraging providers to  
19 make bigger efforts to identify and encourage people who  
20 could have saved a lot of money and were entitled, were  
21 eligible, to move to whatever the provider's social  
22 tariff was, which, in the case of BT --

23 Q. So this was a focus on vulnerable people that was the --

24 A. It was a focus on people who were on benefits basically  
25 because they were the only ones I think who were

1 entitled.

2 Q. I am just interested, did you review any of the  
3 documentary material about how BT tried to focus on  
4 promoting BT Basic or dealing with vulnerable customers  
5 at all in your analysis?

6 A. Yes, again, I could not unfortunately provide an exact  
7 reference, but I do remember, for example, an email  
8 exchange which I think might have involved Ms Blight,  
9 where Ofcom were urging BT to take more steps to get  
10 people who were entitled to be on BT Basic to actually  
11 move across. So I have seen that there has been some  
12 discussion about it, yes.

13 Q. I am not going to take you to Ms Blight's evidence  
14 because she gave unchallenged evidence about all the  
15 activities that were going on. I will just take you to  
16 one document in that context. {F/657/1}.

17 A. Can you blow it up slightly?

18 Q. We probably do not need to see the full list. This is  
19 2019. This is a meeting of the head of BT Consumer with  
20 Sharon White at Ofcom.

21 "Sharon was extremely happy with the fixed BB  
22 pricing initiatives and BT trajectory in general, using  
23 words like 'fantastic' and 'really pleased', so  
24 a brilliant outcome there. She also believes there were  
25 no grounds for CMA to launch a market study and that we

1 are more or less there on pricing. She thinks on  
2 vulnerability BT is leading the way but that this is not  
3 fully understood by others and we need to be more vocal.  
4 Focus for Ofcom in the coming year will be on better  
5 identifying vulnerable customers and learning from other  
6 sectors."

7 I do not think the rest of it ...

8 So there I think you see the sort of concerns that  
9 Ofcom have and are being manifest in the document that  
10 you were referring to, but in a meeting with BT actually  
11 Ofcom are indicating not only in relation to pricing but  
12 the treatment of vulnerable people BT are actually  
13 leading the way, and you do not have any reason to doubt  
14 that, do you, Professor Loomes?

15 A. I have no information about what the other providers are  
16 doing, and so I do not have any reason to doubt, and it  
17 seems to me quite plausible that BT would have been  
18 taking early initiatives. I think BT Basic came in  
19 relatively early compared with a lot of other providers.

20 MR BEARD: Thank you.

21 This probably is a convenient moment.

22 THE CHAIRMAN: Yes. Thank you.

23 We are going to start at 10 o'clock tomorrow,  
24 please.

25 Professor Loomes, you will finish your evidence

