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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 29th January – Friday 22nd 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

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 Group PLC and British Telecommunications PLC)

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

Thursday, 8 February 2024

1
 2 (10.00 am)
 3 THE CHAIRMAN: Good morning. Some of you are joining us via
 4 the live stream on the website, so I must start with the
 5 customary warning: an official recording is being made
 6 and an authorised transcript will be produced, but it is
 7 strictly prohibited for anyone else to make an
 8 unauthorised recording, whether audio or visual, of the
 9 proceedings, and breach of that provision is punishable
 10 as a contempt of court.
 11 Yes, Mr Armitage.
 12 MR ARMITAGE: Good morning, sir, Members of the Tribunal.
 13 We have seen the letter from the Tribunal. I am very
 14 conscious of time. I will do my level best to finish by
 15 12.15.
 16 THE CHAIRMAN: You will pretty much have to finish then,
 17 otherwise there is a risk we will not get through
 18 everything else.
 19 MR ARMITAGE: I understand.
 20 THE CHAIRMAN: Thank you very much.
 21 MS MARGARET BLIGHT (continued)
 22 Cross-examination by MR ARMITAGE (continued)
 23 MR ARMITAGE: So, Ms Blight, just to finish on a few points.
 24 We were on the subject of gives. We were on number 4
 25 out of the four main gives that you discuss in relation

1

1 to the 16/17 price change, so the service guarantees.
 2 We had established yesterday that BT introduced
 3 Care Level 2 for all Voice customers in July 2016, then
 4 removed it again and replaced it with the Fault Fix
 5 Guarantee, the approach that you had actually
 6 recommended in 2016/2017, and replaced Care Level 2 with
 7 that approach in 2017. That is where we got to I think
 8 yesterday.
 9 A. That is not quite right. So just to be very specific,
 10 what we got to yesterday was Care Level 2 was launched
 11 in July, and then there was a migration in the
 12 background but ... and then Fault Fix Guarantee was then
 13 soft launched and then trialed. That was on top of
 14 Care Level 2. Then after I was -- I had left the role,
 15 it seems that at a later date Care Level 2 was then
 16 dropped for some customers when the competitive
 17 environment changed. So there was a period of time
 18 where there was Care Level 2 and Fault Fix Guarantee on
 19 top.
 20 Q. I see. But then it was dropped, and I think you said
 21 "for some customers". I think we saw yesterday it was
 22 millions of customers, including SPCs, yes?
 23 A. I am totally basing that on the documents you showed me
 24 because I was in another country at the time.
 25 Q. Yes, understood.

2

1 Now, just in terms of what Fault Fix Guarantee
 2 actually entailed, because that was the account credit
 3 if BT does not fix your fault within a particular
 4 period. Now, unlike with Care Level 2, it is not
 5 a guarantee that the landline will be fixed within
 6 a particular time period, it is an account credit if it
 7 is not fixed. That is the guarantee, is it not?
 8 A. Yes, it is a different proposition.
 9 Q. Different proposition. Just thinking about that from
 10 the perspective of the customer, who might be dependent
 11 on their landline for communicating with their friends
 12 and family, a VOC, for example, when it comes down to
 13 it, what they really want is just to have their landline
 14 fixed as quickly as possible, is it not?
 15 A. Yes.
 16 Q. In fact, yes, if we could look at {F/349/1}, and you
 17 should have it -- I should say, Ms Blight, there is
 18 a further bundle for you which has some emails in it.
 19 I think yesterday you had a preference for reading
 20 emails in hard copy so we have tried to provide those
 21 for today. This is in the larger bundle from yesterday.
 22 MR BEARD: Before you move on, is Mr Armitage suggesting in
 23 his question that for VOC customers there was no
 24 Care Level 2?
 25 MR ARMITAGE: Well, it is a slightly compressed question.

3

1 Not with that question.
 2 MR BEARD: Sorry, you cited -- in the transcript you said
 3 "for example, a VOC", and the suggestion was that they
 4 did not have Care Level 2. I am just clarifying what
 5 your premise is.
 6 MR ARMITAGE: The premise is focusing on the Fault Fix
 7 Guarantee give, so leaving aside Care Level 2, and the
 8 question I actually put was: "what a customer cares
 9 about is getting the fault fixed", and you said "yes".
 10 A. The number one priority, yes. I mean, that does not
 11 mean that they also do not value having a compensation
 12 for if we do not meet them, and what I felt about Fault
 13 Fix Guarantee is that by us putting our money where our
 14 mouth is, I think I might have even used that phrase, it
 15 pressured us in a kind of public way to meet our
 16 commitments, whether that be through Care Level 2 or
 17 also expedites or tech experts or a few of the other
 18 things that I mentioned yesterday of how we could
 19 improve that fault fix.
 20 THE CHAIRMAN: Can I just ask a supplemental very quickly on
 21 that. But you are dependent on Openreach in terms of
 22 fault fixing, are you not?
 23 A. So in order to -- it depends on the fault. So there are
 24 certain restrictions as to what our engineers were
 25 allowed to do as BT Consumer or another third party. We

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1 did negotiate and that changed over time. There were
 2 certain things outside the home that only an Openreach
 3 engineer could do, but sometimes it was not clear from
 4 our diagnostics whether it was internal or external and
 5 therefore we might be able to send maybe a cheaper
 6 engineer that we have more responsibility over sooner,
 7 or in a different time, that might be able to fix it.
 8 THE CHAIRMAN: Right. But Care Level 1 and Care Level 2 are
 9 distinct services that are provided by Openreach that
 10 you have to pay for.
 11 A. Yes, we pay Openreach for a commitment in terms of their
 12 speed of —
 13 THE CHAIRMAN: Yes. But when you went to the Fault Fix
 14 Guarantee, were you then back to Care Level 1 as far as
 15 Openreach was concerned?
 16 A. No, that was on top of. So we were at Care Level 2 and
 17 then we also introduced Fault Fix Guarantee.
 18 THE CHAIRMAN: On top of Care Level 2?
 19 A. Yes.
 20 THE CHAIRMAN: So you were still paying 53p per customer per
 21 month, or whatever it was?
 22 A. Yes.
 23 THE CHAIRMAN: Right. So in that case, from the customer's
 24 perspective, Fault Fix Guarantee was not a substitute
 25 for Care Level 2, it was in addition to Care Level 2.

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1 A. Yes, in direct response to the customer research that we
 2 saw yesterday that showed that people — it was very
 3 relevant to customers but they did not believe it, so by
 4 us saying: okay, you do not believe it, but if we do not
 5 do it, we will give you money.
 6 THE CHAIRMAN: So from BT's point of view, that is an
 7 additional financial potential expenditure on top of the
 8 fact that you are already paying for Care Level 2.
 9 A. Yes.
 10 THE CHAIRMAN: I see, thank you.
 11 MR ARMITAGE: So I had thought the position was, and
 12 perhaps, in relation to Mr Beard's question, to clarify,
 13 prior to July 2016 there was no Care Level 2, it was
 14 Care Level 1 at that stage for everybody —
 15 A. Sorry, except for people on Line Rental Plus, or in
 16 certain vulnerable segments which we had already put on
 17 Care Level 2.
 18 Q. Yes, that is right. Then I think I had shown you
 19 Mr Bunt's witness statement yesterday, and he had
 20 referred to Care Level 2 being withdrawn in 2017, and
 21 that was when the Fault Fix Guarantee came in; that was
 22 our understanding of the position.
 23 A. No, Fault Fix Guarantee came in prior to that.
 24 Q. Prior to 2017?
 25 A. Yes. I launched that product.

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1 Q. It is paragraph 62 of Mr Bunt's statement. We may have
 2 to pick that up.
 3 Now, you might not be in a position to comment but
 4 I will just make the comment. Since 1 April 2019, it is
 5 right, is it not, that Ofcom has operated an automatic
 6 compensation scheme for landline and broadband customers
 7 under which you receive compensation at a daily rate
 8 where there are delays to repairs. Are you aware of
 9 that?
 10 A. I do not know, I am sorry.
 11 Q. That is very fair.
 12 So remaining briefly with Fault Fix Guarantee. Now,
 13 anyone who did not proactively seek compensation via the
 14 guarantee scheme by definition did not benefit from that
 15 scheme. That is right, is it not?
 16 A. The additional compensation with that scheme, there were
 17 already various compensation processes that already
 18 existed, so this is on top of —
 19 Q. Just focusing on — sorry to speak over you — just
 20 focusing on the Fault Fix Guarantee give itself, there
 21 was no benefit for those —
 22 A. It was an opt-in —
 23 Q. — who did not use it, to state the obvious?
 24 A. It was an opt-in, yes.
 25 Q. For those who did get an account credit via the scheme,

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1 reflecting a period where their landline is out of
 2 service, it is not really right to describe that as an
 3 additional benefit in relation to the service, is it,
 4 Ms Blight? It is making up for a period when they were
 5 not able to use the landline?
 6 A. I disagree, because it was a differentiated benefit
 7 versus our competitors. So our competitors at the time
 8 were not giving that guarantee. The benefit was the
 9 promise that there would be financial penalty on our
 10 side if we did not live up to our promises, which of
 11 course created a financial incentive for us to fix the
 12 faults faster.
 13 Q. Just on the point about differentiation, {F/439/1}. If
 14 we could just call that up. Sorry, it is on the screen
 15 already.
 16 A. I am already on it, yes.
 17 Q. It does not have a cover page, but I am told the
 18 metadata says it is dated 23 November 2015.
 19 A. Sure.
 20 Q. So during your time. Could we just look at — let us
 21 just look at page {F/349/2} while we are here, just on
 22 an earlier point. Can you see on the bottom right-hand
 23 column, "Fault fix guarantee", in the row that begins
 24 "Cx", which I think is customer experience.
 25 Do you see there:

8

1 "Better guarantee is good but customers just want it
2 fixed."

3 That is the point we just --

4 A. Yes, I already agreed with that.

5 Q. Yes, just picking it up in passing.

6 Then page {F/349/10}, just on the point about
7 differentiation. We see the heading there:
8 "Our competitors offer reactive money back from day
9 after it is reported."

10 Then there is a reference to Sky, Virgin, TalkTalk,
11 yes?

12 A. Can I just take a second to remind myself of this,
13 please? (Pause)

14 So could you repeat your question for this one.

15 Q. It was just to draw your attention to the sentence at
16 the top:
17 "Our competitors offer reactive money back from
18 [the] day after it is reported."

19 So that is right, is it not, that Sky, Virgin and
20 TalkTalk at least offered reactive money back, yes?

21 A. So what this slide is showing is a day rate money back
22 for the days that they did not have broadband, which --
23 or Voice or whatever the service was, including TV. We
24 also offered something similar. That is much lower --
25 if you think about it, if you are paying -- say you are

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1 paying £18 a month, 18 divided by 30/31 days is not £25.
2 So say you do not have service for three days, we are
3 talking a couple of pounds compensation with this
4 process, not a £25 voucher, which again would,
5 I believe, be on top of other compensation that we were
6 giving as BAU.

7 Q. Could we look at {F/472/1}, just for the last point on
8 service level guarantees. The Tribunal has seen this
9 email --

10 A. Sorry, is this in the other ...

11 Q. Yes, it should be in the smaller bundle. It is going to
12 come up on the screen as well.

13 Can we blow it up on screen, please.

14 A. It does not seem to be in either pack but that is fine.

15 Q. As I say, if we could read this one on the screen,
16 please. If we could just look at, just up to the top of
17 the email, please.

18 The Tribunal has seen this a couple of times already
19 in the proceedings. It is an email from Stuart Murray,
20 July 2016, sent to you and a number of others.

21 So it is July 2016, the month in which the 16/17
22 price increase was implemented. You see here that
23 Mr Murray says that there is not:
24 "... an obvious argument to justify (in a way that
25 would satisfy Jonathan) [so that is Jonathan [Oxley]

10

1 I think at Ofcom] why Line Rental has increased at the
2 rate that it has (leaving aside the justification this
3 year created by the change in Care Level)?"

4 So Mr Murray is referring there to the change from
5 CL1 to CL2 that took place in July 2016?

6 A. Yes.

7 Q. The suggestion being that other than that change in the
8 Care Level that accompanied that price change, he cannot
9 see any other obvious argument to justify to Ofcom the
10 rate at which Line Rental had increased, yes?

11 A. Specifically to Jonathan, I think --

12 Q. Yes, exactly.

13 A. -- who at this point we had already had months of
14 conversations with, and was -- from my perspective,
15 appeared to be uninterested in the facts.

16 Q. So Mr Murray is referring to "the justification this
17 year created", in other words, implicit in what he is
18 saying is there was no justification so far as would
19 satisfy Jonathan at Ofcom, that is the caveat, for any
20 price increases introduced before the 16/17 price
21 increase, yes?

22 A. Yes, in the context of being quite frustrated I think at
23 this point. I think you are seeing the stress and
24 frustration coming through from the experience and back
25 and forth of Ofcom.

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1 Q. The change in the Care Level that he refers to here, we
2 know that was reversed later on for millions of
3 customers, including SPCs, yes?

4 A. When the market competitiveness changed and other -- our
5 competitors fell to Care Level 1, and other initiatives
6 were introduced, such as home tech experts and other
7 engineers, there was a change in the product that was
8 taken from Openreach.

9 THE CHAIRMAN: That is later on.

10 A. Later on, yes.

11 THE CHAIRMAN: Right.

12 A. After I have left.

13 THE CHAIRMAN: Right.

14 MR ARMITAGE: Having been reversed, though, you would accept
15 it could not any longer provide a justification for
16 Line Rental price increases, yes, once Care Level 2 was
17 removed?

18 A. Just to clarify, you mean future price changes?

19 Q. Yes, once it was removed --

20 A. It could not ...

21 Q. -- logically it could not justify further price
22 increases --

23 A. No, I would have assumed -- I do not know what messages
24 were used in future price changes.

25 Q. When Care Level 2 was removed, I think we have

12

1 established there may have been some overlap, what was
 2 then in place was FFG, Fault Fix Guarantee, which you
 3 say in your statement was a much lower cost option.
 4 I think you give a figure of 8 million as opposed to
 5 40 million?
 6 THE CHAIRMAN: Sorry, I thought we had just established that
 7 she had said that actually CL2 was not replaced by Fault
 8 Fix Guarantee initially. Care Level 2 was replaced
 9 later on.
 10 A. Correct.
 11 MR ARMITAGE: Yes, I did not mean to suggest otherwise.
 12 I am talking of the period from which Care Level 2 was
 13 removed, leaving Fault Fix Guarantee in place, yes.
 14 THE CHAIRMAN: Thank you.
 15 MR ARMITAGE: There was not any reduction in the Line Rental
 16 charge at that stage, was there, once the higher cost
 17 Care Level package had been in place?
 18 A. I believe a large proportion of people at that point had
 19 frozen their price rises, because I think that is after
 20 or in the process of the commitments to Ofcom, but I ...
 21 Q. Yes, there were a number of price changes where Line
 22 Rental was frozen and they continued to increase for
 23 customers, including SPCs, after that, but I appreciate
 24 this is after your time, Ms Blight.
 25 Now, just before moving away from the specific

13

1 gives, there were just a couple of points to sweep up on
 2 Call Protect, which was the first give I mentioned
 3 yesterday. Now, I do not think we need to turn it back
 4 up, but you may recall I showed you a document which
 5 said that 43,000 people had signed up for Call Protect
 6 by June 2016 following the notification of the July 2016
 7 price change.
 8 A. Yes.
 9 Q. You made the point that was actually a high response
 10 rate. We have looked into that a bit further overnight,
 11 and I do not want to leave anybody with an unfair
 12 impression, so can I just call up {F/561/1}. You may
 13 have this in hard copy at the back of the new bundle, if
 14 you like.
 15 A. The new one, sorry?
 16 Q. Yes. As I say, it may be easier just to look at this
 17 one on the screen.
 18 Can you see "Consumer Business Unit Review. Q1
 19 2017/18. 20th July 2017"?
 20 A. I can see it on the screen, yes.
 21 Q. Then can we go on to page {F/561/51}, please. Can you
 22 see on the right-hand side "BT Call Protect now over 2m
 23 customers ..."?
 24 A. Yes, I can.
 25 Q. There are some graphs. Yes, sorry, just to say it looks

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1 from that graph as though that is the whole customer
 2 base. It does not refer to solus customers
 3 specifically, does it?
 4 A. I would assume so, yes.
 5 Q. Just to show you one more document just on solus
 6 customers. So this one is not yet on Opus, I do not
 7 think, but it is from BT disclosure. BT have had this.
 8 I will hand up a copy, and I will hand one to you, of
 9 course, Ms Blight. It is just to complete the picture.
 10 (Handed)
 11 It is a short point. So it is a document from
 12 10 March — I am sorry.
 13 Do you see it is 10 March 2021?
 14 A. Sure.
 15 Q. Then if we could just turn on to page 14. Can you see
 16 a nice picture and a heading "Profile of our 800,000
 17 landline only customers"?
 18 No, sorry, this is not yet on Opus.
 19 A. It is this one here?
 20 THE CHAIRMAN: But it is on our EPE screens.
 21 MR ARMITAGE: No, that is a different one. We will provide
 22 the reference once it is up later.
 23 THE CHAIRMAN: Sorry, I see. You asked a couple of
 24 questions on {F/561/1}, and you are now moving on to
 25 this one.

15

1 MR ARMITAGE: Yes. I should have had it removed.
 2 So page 14 of the hard-copy document I have just
 3 handed up. As I say, you see a photograph of some
 4 customers and the heading "Profile of our 800k landline
 5 only customers", so that seems to be the estimate of the
 6 current number of solus customers at this stage.
 7 A. Mm—hm. Sorry, do you mean Voice Only or split purchase?
 8 Q. So landline only. Yes, it does not actually say on the
 9 slide. We might have to sort of cross-check. But it
 10 looks as though it is Voice Only Customers in that it is
 11 landline only, but ...
 12 A. You tell me it is 2021, so ... It does not say.
 13 Q. I am not sure it desperately matters for the purpose of
 14 this point, it is just to show you, in relation to that
 15 8,000 figure, you see a number of graphs and one of them
 16 provides a figure of 45% with Call Protect at that
 17 stage, yes?
 18 A. Yes.
 19 Q. Thank you. Sorry, as I say, that was simply to finish
 20 off the chain of questioning from yesterday, and perhaps
 21 saving Mr Beard some re-examination.
 22 MR BEARD: Very important.
 23 MR ARMITAGE: Now — and one more loose end to tie up on
 24 this particular give, Call Protect. This one is on
 25 Opus, it is {F/664/1}. Again, I think that may be in

16

1 the new bundle for you, Ms Blight. It is another
2 document, but it is already on the Opus system.
3 The context. You recall yesterday we discussed, or
4 I put to you, that other providers had similar
5 propositions to Call Protect during the claim period.
6 I mentioned Sky and TalkTalk, and you very fairly said
7 you did not know about those products. Do you remember
8 that?
9 A. Yes, although what you told me yesterday, they were
10 launched as — in reaction to our product.
11 Q. I did not say that, but I did say that they were
12 launched after, yes, after in time, I did say that.
13 Can we just look at slide {F/664/11} of this
14 document, please. It looks as though, from the heading,
15 at this stage BT was considering introducing a charge in
16 relation to Call Protect, identifying certain PR and
17 product risks. I do not know whether BT ever did —
18 perhaps you do not know, but it looks as though at this
19 stage that is being considered?
20 A. I have no idea.
21 Q. Just on the top bullet, just to see what is said there,
22 "Regulatory ... Customer":
23 "Both Sky and TalkTalk are offering Call Protect
24 equivalents for free ..."
25 Then there is an identified PR and regulatory risk

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1 in charging for a feature that I infer others are
2 offering for free.
3 So just to pick up on that point, it looks as
4 though, from this slide, certainly by this stage Sky and
5 TalkTalk are seen as offering equivalent products, yes?
6 A. Without having detail as to their products, I would not
7 be able to make a judgment as to whether I deem them to
8 be equivalent, but whoever did write this is at least
9 making a broad point around them being perceived as
10 being roughly equivalent.
11 Q. Yes.
12 Thank you for that. That is the four main gives
13 that you discuss in your statement. I have a couple of
14 more general points on gives and then I will move on to
15 some other matters.
16 On the topic of the value of the gives generally to
17 consumers, can we turn up paragraph 45 of your
18 statement, please. {D/4/11}. Again, you are welcome
19 just to look at that on the screen. Perhaps just read
20 that to yourself as quickly as you are able. (Pause)
21 A. Yes, I have read that.
22 Q. So you are referring there to something called NPS
23 scores, that stands for Net Promoter Score?
24 A. Yes.
25 Q. Summarising my understanding, perhaps a simplification,

18

1 it is a measure of how likely a customer is to recommend
2 BT to a friend or colleague on a scale of 1 to 10. That
3 is your summary, actually. I appreciate there may be
4 nuances, but that is the broad picture.
5 A. Yes.
6 Q. Now, in the final sentence — so you make clear in this
7 paragraph that you, within your team, used NPS scores as
8 part of your pricing strategy. You say in the final
9 sentence that was:
10 "... because it provided valuable insight into
11 customers' perception of value for money and their
12 experience of our service."
13 A. Yes.
14 Q. Is that how you used NPS scores?
15 A. Yes.
16 Q. Can we just look at one document on this. It is at
17 {F/461/1}. You should have it in your slimmer hard copy
18 bundle.
19 A. I do not. Do I have it in this other one? No, I do not
20 seem to have that.
21 Q. Okay, we will have to read that one on the screen then,
22 I am afraid. It is a fairly short email.
23 Can we start on the second page, {F/461/2}. I am so
24 sorry, bottom of the first page just to show you who
25 sent this email. Can you see an email from somebody

19

1 called Kevin Macdonald?
2 A. Yes.
3 Q. To John Petter, BT Consumer CEO at the time, and various
4 others. At this stage you are not copied in, but
5 I would like to show you what he says. "Subject: NPS
6 update". This is dated 14 June 2016, so after
7 notifications would have come in for the April — sorry,
8 for the July 2016 price increase which was announced
9 in April that year.
10 A. Yes.
11 Q. So he is providing an NPS update.
12 Then can we go over on to the next page to see what
13 he says. So under the heading "Drivers of Decline", he
14 says:
15 "Value for Money drives the overall decline in NPS."
16 Then he says in the second bullet point:
17 "Our VFM decline is a long-term trend which has been
18 driven by successive price rises combined with industry
19 level commoditisation of BB due to 'Free'.
20 Then under "Size of Decline":
21 "We have seen a larger decline in NPS and VFM with
22 this price rise notification than we did in 2015.
23 In May, we saw a 2 point and 3 point dip in NPS and VFM
24 respectively."
25 Then he compares that with 2015, a different price

20

1 rise notification .
 2 He says:
 3 "Important to note that the impact of the latest
 4 price has been compounded by the fact that the last one
 5 was only implemented six months ago."
 6 He says:
 7 " ... I'm expecting we'll see a further decline in
 8 NPS in Q2 post [the implementation of the] price rise
 9 ... "
 10 He says the same thing was seen post-implementation
 11 the year before.
 12 Then he gives some price rise feedback. He says:
 13 "66% of our customers stated they were aware of at
 14 least one of the 'gives'. Most common 'gives'
 15 recognised are 'more wifi hotspots' and 'increasing
 16 [broadband] speeds for customers' (both with 30%
 17 awareness)."
 18 I think we saw a document yesterday which referred
 19 to those broadband-related gives?
 20 A. Also others, yes.
 21 Q. Then he says finally:
 22 "In May spot month ... we see considerably more
 23 verbatims related to price/price rise compared to
 24 a normal month."
 25 Then he gives a couple of examples which typify the

21

1 feedback, some quite colourful comments. I will just
 2 invite you to read those to yourself. Perhaps you
 3 remember them?
 4 A. I often remember customer feedback. It is very
 5 important to me.
 6 Q. Yes. Then going back to the first page {F/461/1}, can
 7 you see that Mr Macdonald forwards that email to you and
 8 Mr Bunt, saying that he attaches:
 9 " ... some output from our NPS tracker which is
 10 attached here."
 11 I do not think we have the attachment itself in the
 12 disclosure, but I think you can see the thrust of it
 13 from the email.
 14 He says:
 15 "In terms of awareness of the 'gives' ... "
 16 We makes the point again:
 17 " ... we have 66% of customers aware of at least one
 18 of them. The challenge we have is that there is
 19 relatively low awareness of several of the 'gives' — we
 20 do need to boost this in order to reinforce our value
 21 for money credentials. The big hit we are currently
 22 taking on NPS is directly related to a declining
 23 performance with VFM.
 24 Then perhaps just read what you say at the top to
 25 yourself. (Pause)

22

1 A. Yes.
 2 Q. What Mr Macdonald is saying there is that the gives are
 3 not feeding through into better NPS scores, is he not?
 4 That is point he is making?
 5 A. What he is saying, so this is during — just to
 6 orientate everyone, this is during the price
 7 notification and before the prices have actually changed
 8 on 3 July, so this is early data that he has sent, and
 9 it does not actually totally match up to some of the
 10 other documents that we have seen that talked about
 11 value for money and NPS because this is an early read,
 12 right?
 13 So what he is saying here, he is raising early data
 14 he has sent to John and other members of the leadership
 15 that says something that has been different from, at
 16 that point, the feedback I have been getting, and
 17 I think the most reliable is the feedback once we had
 18 had all the data in, right, because this is in progress
 19 poll, polling kind of changes.
 20 Are you following?
 21 Q. I think so, Ms Blight, yes. So this is an email from
 22 June 2016, so a couple of months after the price change
 23 has been announced, yes? We saw that you —
 24 A. It is in the process of notification period, I think.
 25 Q. Yes, that is right. We saw in your statement that

23

1 you — in fact you accepted earlier that NPS was a key
 2 metric that you used to analyse things like the effect
 3 of gives.
 4 A. Yes.
 5 Q. I appreciate your point about the timing. By this
 6 email, Mr Macdonald is saying: on that metric, which you
 7 say is very important, things are going badly rather
 8 than well. He is saying that in this email, is he not?
 9 That is all I am asking you.
 10 A. In this email, yes, he is, and yes, price changes do
 11 impact value for money. I do not think there is any
 12 debate.
 13 Q. No, not on that point, Ms Blight.
 14 Now, the last set of questions on gives before
 15 I promise we will move on to another topic. It is
 16 right, is it not, that BT made representations to Ofcom
 17 about the specific set of gives that you discuss in your
 18 statement, is it not?
 19 A. Yes, we communicated prior to price changes, yes.
 20 Q. You were involved, as you say in your statement, in the
 21 process of liaising with them, making representations to
 22 Ofcom?
 23 A. Yes.
 24 Q. Can we look at one document to see what was said to
 25 Ofcom about, as I say, some of the specific gives that

24

1 you discuss in your statement. So {F/576/1}, which
 2 I hope you have in your hard copy bundle, probably the
 3 larger one on this occasion.
 4 A. Sorry?
 5 Q. {F/576/1}.
 6 A. Okay. That is not a brief though, okay. Is it
 7 different on the EPE?
 8 Q. It should be a document ...
 9 A. Oh, sorry, sorry. Yes.
 10 Q. "Ofcom's Proposed Retail Narrowband Market Review.
 11 30 November 2016".
 12 A. Yes.
 13 Q. Can you see just from the first page, indeed every page,
 14 there is a sort of footer in red font, "Confidential –
 15 BT & Ofcom Only"?
 16 A. Yes.
 17 Q. So it looks as though this is a document with Ofcom as
 18 the intended audience, yes?
 19 A. Yes, sorry, I am just slightly thrown, because this is
 20 the time period where I am on leave.
 21 Q. I see, yes. I think your statement said ... but you
 22 think you had been put on leave by this point?
 23 A. As we discussed yesterday. So this is 30 November.
 24 Q. Yes, I take that point. In that case, I will show you
 25 the document. I anticipate that references in this

1 slide were not popped out of thin air on this date and
 2 you may be able to comment, but of course, if it is
 3 after your time, please just say.
 4 If we look at {F/576/6}. You see a heading
 5 "Concerns about --" and, sorry, just to be clear, this
 6 is BT producing a document for Ofcom as the audience, as
 7 far as we can tell from that footer that we saw on the
 8 first page which referred to "BT & Ofcom only", yes?
 9 A. Yes. I do not know which part of BT though.
 10 Q. I take that point. But it does appear to be a BT
 11 document, does it not?
 12 A. Yes.
 13 Q. "Concerns about rising prices and falling costs do not
 14 reflect the experience of Line-Only customers."
 15 Then can you see a heading "Increased Investment",
 16 and perhaps just read the four bullet points to
 17 yourself. (Pause)
 18 A. Yes.
 19 Q. Can you see the second bullet point there, a reference
 20 to:
 21 "... upgraded Care level ... BT Call Protect ...
 22 answering 90% of calls in the UK."
 23 Those are three of the four sets of gives that you
 24 discuss in your statement, yes?
 25 A. Yes.

1 Q. They say -- the slide says:
 2 "This is costing £1.01 per customer per month ...
 3 (Breakdown in back-up)."
 4 Then there is a heading underneath, "Frozen prices
 5 and falling revenues", and then the second bullet:
 6 "Last year's £1 increase in the price of
 7 Line Rental ..."
 8 I think that must mean the July 2016 price increase,
 9 in context?
 10 A. I would think so.
 11 Q. "... was lower than the commensurate increase in value."
 12 So it looks like the comparison that is being made
 13 for Ofcom's benefit is that the three 2016/2017 gives
 14 cost BT £1.01 per month per customer, whereas
 15 Line Rental only went up by £1. That is the comparison
 16 that is implicitly being made there, is it not?
 17 A. I think the main comparison they are making is between
 18 the "£1.21 including VAT", because obviously we do not
 19 get £1 when we put the price up --
 20 Q. Yes.
 21 A. -- because of --
 22 Q. Yes, that is right. The implication, though, being that
 23 the Line Rental increase of £1 is justified by direct
 24 reference to the cost of the gives?
 25 A. I think what we are saying here is that potentially,

1 unlike other years, in the last year what we have done
 2 is a more for more strategy, so in other words, charging
 3 more but giving more.
 4 Q. Then just looking at page {F/576/8} for the promised
 5 breakdown of those figures. So what BT does on this
 6 slide for each of the three gives specified, it has
 7 given a total 2017/2018 cost to BT and it has estimated
 8 an annual and monthly cost per Voice Only Customer. Can
 9 you see that from the headings at the top of the various
 10 bars?
 11 A. Mm-hm.
 12 Q. Now, all of the gives mentioned here -- fixing faults
 13 faster, UK call centres, BT Call Protect -- they apply
 14 to all Voice customers, not just Voice Only Customers,
 15 yes?
 16 A. Yes.
 17 Q. I am not going to get into, with you, the question of
 18 whether these have been properly allocated to -- these
 19 costs have been properly allocated to Voice Only
 20 Customers. That is not I think a debate that anybody
 21 would be assisted by. But that is the process that has
 22 been gone through here, that process of allocation for
 23 Ofcom's purposes, as we saw from the previous slide,
 24 with a view to justifying the £1 price increase that had
 25 been introduced most recently, yes?

1 A. I think it is pretty obvious they have been divided by
2 about 9, which is the total Voice, or so, customer base
3 at that time. So I would say yes, someone has divided
4 the total cost by all customers, all Voice customers,
5 and then just talked about it as Voice Only in the
6 context here.

7 THE CHAIRMAN: Sorry, I did not quite follow that.

8 A. So if you take 56 million, and then in the next column
9 it says "Effective annual cost per Voice Only Customer",
10 what I am saying is, just doing the maths in my head,
11 I can tell that what someone has done in this slide is
12 take the 56 million, divide it by the total number of
13 lines, 8 something or up to 9 million, to get to £6.32,
14 so what they have done is they have allocated it across
15 the whole base. So although the title talks about
16 Voice Only Customers, they have not weighted it to
17 Voice Only Customers.

18 MR ARMITAGE: Can we look just briefly at what Ofcom made of
19 this.

20 A. Where is that?

21 Q. I am going to tell you, do not worry. So the Ofcom
22 provisional conclusions, I do not think you have those
23 in hard copy. Have you read those before?

24 A. No, I do not think so.

25 Q. Let me just show you a paragraph {C/1/56}. Hopefully it

29

1 will pop up on the screen.

2 A. Sorry, could we make it slightly larger? It is a bit
3 small.

4 Q. Yes. So this is the provisional conclusions published
5 by Ofcom in February 2017. So looking at
6 paragraph 4.60, under the heading "Changes in cost and
7 added value services", there is a reference there to
8 certain WLR charges falling in real terms.

9 Then paragraph 4.61, you see:
10 "In addition, BT claims that it continues to add
11 value for Voice customers by including additional
12 services in the package ..."

13 One of the examples given is nuisance calls or
14 improving service quality.

15 "BT provided an estimate of the costs to it of
16 various improvements it is making, such as moving all
17 customers from Care Level 1 to Care Level 2 ...
18 introducing new services including measures to allow
19 consumers to avoid nuisance and scam calls, and
20 investing in customer care (including answering more
21 calls in UK call centres ...) It estimated these would
22 lead to an effective incremental monthly cost per line
23 of £1.01 (excluding VAT)."

24 Those are the figures we saw on the slide, so it
25 must be a reference to those estimates, yes?

30

1 A. Yes.

2 Q. "Therefore, this does not account for the size of BT's
3 price increases or increased profit margin per line. In
4 addition, internal documents from BT suggest that adding
5 additional services when introducing price increases is
6 driven by the desire for a positive PR [and then over
7 the page] message and regulatory concerns about pricing
8 rather than pre-empting a competitive response."
9 So Ofcom was not convinced by the argument about
10 cost increases, was it?

11 A. It would appear not.

12 Q. I think we have probably exhausted gives. Let us now
13 look at some more general aspects of the process for
14 increasing Line Rental prices that you describe in your
15 statement. Could we begin at paragraph 15, please.

16 A. Of my statement?

17 Q. Of your witness statement.

18 A. Sure.

19 Q. {D/4/4}. Perhaps just read it to yourself again as
20 quickly as you are able. (Pause).

21 So you are describing there the general process for
22 setting prices within the Voice team, Line Rental
23 prices, yes?

24 A. Part of the process and how MTP relates to it.

25 Q. Yes. So the way it seems to work, as you describe it

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1 here, is that BT Consumer's Finance team sets a revenue
2 target for the Voice Division as part of its annual
3 budgeting and MTP process, yes?

4 A. I think it says that we receive it from BT Consumer's
5 Finance ... You would have to ask the Finance team
6 whether they make it, or I am sure you will ask
7 Mr Cackett.

8 Q. Understood. But, yes, exactly. You say the first step
9 for your team is looking at the MTP and that revenue
10 target, yes?

11 A. Yes.

12 Q. So hitting the revenue target is obviously critical for
13 your team in terms of any price change process, yes?

14 A. Hitting the revenue target was a critical part of my job
15 overall.

16 Q. Could we look at the next paragraph, 16. You say:
17 "My understanding is that Finance initially assumed,
18 in preparing the budgets, that Line Rental was going to
19 increase by £1 each year as that was how much it had
20 gone up each year from around 2009. In pricing
21 Line Rental we [that is the Voice team] considered
22 whether to replicate the £1 increase or whether there
23 were reasons that meant we needed to increase it by
24 a different amount to meet the revenue target, or for
25 any other reason ..."

32

1 Then you say:
 2 " ... (I discuss other reasoning that factored into
 3 the pricing decision below)."
 4 So just to unpack that a bit. You say that in
 5 preparing its budgets, including the revenue target to
 6 which you refer, your understanding is that the Finance
 7 team assumes that the price of Line Rental will increase
 8 by £1, yes?
 9 A. Yes.
 10 Q. Based on the fact that there have been similar such
 11 increases in previous years, yes?
 12 A. Yes, historic trend.
 13 Q. In fact, in the two price increases preceding your time
 14 as GM of Voice, so that is the Window price increase in
 15 December 2014 and the Laika increase in September 2015,
 16 Line Rental was in fact increased by £1 on each
 17 occasion; that is right, is it not?
 18 A. Yes, although I think in one of those there was an
 19 e-billing change, which meant you could reduce your
 20 price by £1 if you switched to e-billing.
 21 Q. Subject to that, it was a £1 price increase?
 22 A. Exactly, yes. So they are taking a historic trend and
 23 forecasting it forward. Standard forecasting practice.
 24 Q. Yes. As you say here, the decision you made was whether
 25 to replicate that £1 increase or whether to increase

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1 Line Rental by a different amount.
 2 A. Yes.
 3 Q. So in other words, the baseline position, as far as you
 4 were concerned, was that there would be a Line Rental
 5 increase of £1, yes?
 6 A. As per historic trends, yes.
 7 Q. When you say you considered whether to "increase it by
 8 a different amount", those are your words, what you mean
 9 is whether to increase it by £1 or more than £1; that is
 10 fair is it not?
 11 A. We did talk about doing it by less as well, actually.
 12 Q. You talked about doing it by less?
 13 A. Yes, but also — but, yes, it does tend to be that you
 14 are filling a gap, yes.
 15 Q. Sorry, just to get that clear, you talked about, you
 16 say, increasing Line Rental by less than £1?
 17 A. Yes.
 18 Q. But not freezing Line Rental — I am just talking about
 19 the July 2016/17 price change now.
 20 A. I cannot.
 21 Q. Not freezing it or reducing it, for example?
 22 A. I cannot ... We definitely debated all options.
 23 I cannot remember the freezing, because freezing is
 24 a very specific thing because you are making
 25 a commitment rather than not just putting it up. But,

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1 yes, what I would say is this is basically exactly the
 2 same process as was going on at Virgin as well and I was
 3 aware was going on at all the providers. It is a very
 4 standard process.
 5 Q. Yes. So the standard process which you say BT applied
 6 was to assume £1 as the baseline, then look at whether
 7 to increase by a higher amount, or you say that there
 8 were discussions with a different amount. But certainly
 9 you were looking at increasing, yes?
 10 A. Yes.
 11 Q. We will look at the documents in a moment just to see
 12 what the nature of those discussions was.
 13 Now, you say at the final sentence of that paragraph
 14 that your team's decision on whether to replicate the £1
 15 increase from the assumption or to increase by
 16 a different amount was based on the revenue target and
 17 other reasoning that factored into the pricing decision,
 18 and you say you discuss other reasoning below. We will
 19 come to this. But the factors you go on to discuss are
 20 things like churn and competitive pricing, yes?
 21 A. Yes.
 22 Q. So your evidence here in paragraph 16 is that those
 23 factors were relevant to the question of whether and by
 24 what extent you would increase Line Rental beyond the £1
 25 assumption, yes?

35

1 A. I think — or just meeting it at £1, because if our
 2 research showed we would have catastrophic churn it
 3 would be my responsibility to highlight that and say:
 4 let us not do that because we will make less money. My
 5 job is to be responsible for the profit for that P&L.
 6 Q. Yes, so if you were envisaging catastrophic churn you
 7 might consider a lower increase than £1?
 8 A. For example.
 9 Q. Yes. We will come to the documents, as I say.
 10 Just looking a little bit further on, paragraph 59
 11 of your statement, so {D/4/15}. Can we zoom in, please.
 12 So you are now talking about the 16/17 price change,
 13 that is the specific price change you were involved in:
 14 "In this price change we considered raising
 15 Line Rental by £2 rather than £1."
 16 A. Yes.
 17 Q. You say:
 18 "Ultimately, this was not taken forwards."
 19 So just to pause there, that description is
 20 consistent with what we saw in paragraph 16 about the
 21 general approach that your team took where you decided
 22 whether to replicate the previous £1 price increase or
 23 whether to increase by, in this case, a higher amount,
 24 yes?
 25 A. Yes.

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1 Q. What you say here is that:
 2 " ... [a] £2 increase would have created additional
 3 revenue but we felt that this level of price increase
 4 would have undermined any positive press and customer
 5 reactions from this simplification ..."
 6 "Simplification" is a reference, I think, to some
 7 other changes that were made in relation to things like
 8 call prices?
 9 A. Yes.
 10 Q. You talk about rounding up to the nearest penny, and
 11 so on.
 12 A. Some were rounded down, but yes.
 13 Q. Some of them were rounded down?
 14 A. More were rounded up.
 15 Q. More were rounded up. Yes, I think that is right when
 16 you see the documents. Thank you.
 17 So going up to £2 you say:
 18 " ... would have undermined any positive press and
 19 customer reactions ... and would have led to greater
 20 churn in the longer term."
 21 Yes, greater churn?
 22 A. Yes.
 23 Q. We are going to look at the documents on that in
 24 a moment. Just to put hopefully an uncontroversial
 25 point, considerations of churn obviously did not

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1 dissuade you on this occasion from increasing the price
 2 by £1, did they? You mentioned a moment ago that it may
 3 have been a possibility that there were catastrophic
 4 predictions, but on this occasion they were not there?
 5 A. So we created a package of benefits and offers and
 6 reactions which we felt would be profitable, so it is
 7 all about things like the bespoke offers, Right Plan,
 8 all the different aspects we felt was the right, at
 9 least in the immediate term, revenue decision, or profit
 10 decision, I should say.
 11 Q. Yes. So just on my question, churn did not prevent you
 12 from — considerations of churn, other factors like
 13 competitive pricing, did not prevent an increase of —
 14 it is hopefully a simple question — did not prevent the
 15 £1 increase that you introduced?
 16 A. The reason I am being pedantic, I am sorry for being
 17 such a pedant, but you have to take it within the whole
 18 package, because I do believe that if we had just put it
 19 up by £1, depending upon over what payback period you
 20 look at, that may have been detrimental.
 21 So the overall package that we created, yes, we felt
 22 that we could — there was a manageable amount of churn
 23 as a result of that change that would be net benefit
 24 positive.
 25 Q. So I think the answer to my question is yes. You are

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1 just making the point that you also have to look at the
 2 other elements of the package, yes?
 3 A. Yes.
 4 Q. Thank you. Now, can we just look at some emails on this
 5 which I hope you have in hard copy. {F/475/1}. It is
 6 quite a long chain. I promise I will aim to take you
 7 through it, perhaps not reading every single line. But
 8 can we start at page {F/475/8}, right at the back,
 9 because it is in reverse chronological order.
 10 Can you see an email there from Stuart Murray,
 11 Director of Regulatory Affairs, BT Consumer. We have
 12 seen him a few times before.
 13 A. Yes.
 14 Q. To Mr Petter, BT Consumer's CEO. Just to say, you list
 15 this email in the annex to your statement as one of the
 16 documents you have been referred to.
 17 A. Okay.
 18 Q. I do not know if that rings a bell, but you must have
 19 seen this document in preparing your statement?
 20 A. Yes, I think I have, yes.
 21 Q. You do not discuss it in your statement, but it is one
 22 of the documents listed.
 23 Now, with apologies for jumping around, let us just
 24 look at the letter that Mr Petter — sorry, Mr Murray
 25 attaches to his email to Mr Petter, the draft letter,

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1 which is subject "Ofcom—Solus Voice Commitment Letter".
 2 A. What number is that?
 3 Q. So it is {F/828/1}. I think you have it in hard copy
 4 from yesterday.
 5 A. Yes, thank you.
 6 Q. So if we could have that a bit wider on the EPE.
 7 Can you see from the first page that this is
 8 a letter, draft letter to Lindsey Fussell and then
 9 Jonathan Oxley, we saw Jonathan Oxley's name earlier,
 10 individuals at Ofcom. We see the first paragraph refers
 11 to a meeting on "Monday", so this letter is a follow-up
 12 to that meeting.
 13 Then in the [next] paragraph:
 14 "We understand your concern to be that there are a
 15 significant number of Voice Only consumers for whom
 16 choice of service provider is limited and for whom Line
 17 Rental charges have increased, year on year, over recent
 18 years, and that a proportion of these consumers are
 19 vulnerable, disengaged or both. We further understand
 20 that unless voluntary measures are forthcoming to
 21 satisfactorily address these concerns, Ofcom will review
 22 the retail narrowband market, most likely as an adjunct
 23 to its continuing wholesale narrowband market review."
 24 So that is just the context.
 25 Then could we just go over the page because I just

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1 want to set the emails we were looking at a moment ago
 2 in context. {F/828/2}.

3 Just below halfway on the page, do you see the
 4 paragraph beginning "Notwithstanding our differing
 5 views"?

6 A. Yes.

7 Q. So the point being made:
 8 "Notwithstanding our differing views as to whether
 9 there is sufficient enough concern [I think this is an
 10 early draft] to justify regulatory intervention, for
 11 pragmatic reasons, and primarily to avoid the disruption
 12 and cost that a full retail market review would bring,
 13 BT would be willing to make certain commitments to
 14 address Ofcom's concerns. On that basis, these
 15 commitments would be ..."

16 Then you see what is being proposed at this stage is
 17 the introduction of two new Home Phone Saver type
 18 products, respectively addressing certain categories of
 19 solus Voice customers.

20 Then second bullet point, one of the products is
 21 aimed at customers who make a high volume of calls.
 22 Then a price is specified. I do not think the yellow
 23 indicates confidentiality, I think that indicates this
 24 is in ...

25 A. I think it is in draft.

1 Q. In draft, exactly. So the price of the first product is
 2 specified at £22.99, and then:
 3 "... providing a saving [against] current standard
 4 charges of [£20.75]."

5 So a saving against your current Standard Line
 6 Rental charges, I think that must be, is presented here
 7 in this draft letter, yes?

8 A. Yes. I am sure you are going to go on to the
 9 complications in us being able to answer these, but yes.

10 Q. Yes, I am, but just, as I say, to set it in context.

11 A. Yes, I think that is what that is, but I do not know if
 12 these numbers are accurate, because I think this is the
 13 draft.

14 Q. No, I am just talking about what is being presented.
 15 I appreciate it is a draft document.

16 So for the product aimed at customers who make
 17 a high volume of calls, in this draft letter the price
 18 of that product is set out. That is the £22.99. It is
 19 compared against current standard charges for
 20 Line Rental, as you say.

21 Then the next bullet point, there is another
 22 product. This one is aimed at customers who make a low
 23 volume of calls. You see again the price point
 24 highlighted, £19.99, and again a comparison against the
 25 Standard Line Rental charges and a saving is identified.

1 Then can you see "Note"? Presumably an internal
 2 note, rather than one for Ofcom. It may have been for
 3 Ofcom for all I know, but:
 4 "Note: the charges indicated in this letter are £1
 5 more than the charges shown on the slides shared with
 6 Ofcom on Monday."
 7 Yes, so I think that must be an internal note.

8 A. I think that is an internal note, yes.

9 Q. Now, could we --- so pausing there. So in this draft
 10 letter BT is considering telling Ofcom how much these
 11 new products cost, giving a specific number for the cost
 12 of the two new products for the consumer, yes?

13 A. We are trying to, yes.

14 Q. Saying that they are £1 more than the charges that were
 15 apparently shown to Ofcom for these products, one
 16 assumes, at the meeting that has just happened?

17 A. So can I just put this in context. So this is a meeting
 18 that I believe is in --- they were talking about
 19 April 2016 at this point, so ---
 20 Q. July 2016.

21 A. The emails are April.

22 Q. We will go back to them --- let us go back to them now.
 23 {F/475/8}

24 A. I am sorry, I am a bit confused as to the timing here.
 25 My ... Wait a minute. Sorry. Am I looking at the

1 wrong email then?

2 Q. So {F/475/8}, that is the email where Mr Murray forwards
 3 the draft solus letter.

4 A. I am looking at the wrong bit. I am sorry. Can I just
 5 orientate myself so I can answer accurately.
 6 Yes, sorry, this is after the --- okay, so this is
 7 the --- got you, okay. So I got confused with it being
 8 the other set of conversations from April. Okay, so
 9 this is in July. So, sorry, what was your question
 10 again? It just took me a moment to ...

11 Q. We were looking at the draft letter and we have seen
 12 that in that version of the draft BT had set out
 13 the prices, the precise pound and pence prices of two
 14 proposed new products for solus customers over the
 15 commitments being offered at that stage, and the note
 16 that we saw highlighted in yellow said: "please note
 17 these are £1 more than the versions we shared with Ofcom
 18 at the meeting that has just happened". Yes?

19 A. Yes.

20 Q. So can we then just return to the email chain. Go to
 21 page {F/475/7}, so more recently in the chronology. Can
 22 you see there is an email from Mr Petter to Mr Murray?

23 A. Yes.

24 Q. You are now copied in. He says:
 25 "Good letter. Couple of thoughts ..."

1 Then just going down to the final bullet point
 2 beginning "Re the new tariffs", can you see that
 3 Mr Petter says:
 4 "I worry here that pitching the pricepoints cited
 5 here presume an increase to our base tariffs of £1 — the
 6 problem with that is that it confirms Ofcom's suspicion
 7 that we always take a £1 without thinking."
 8 Then he makes a suggestion about:
 9 "Would it be clear to say that the low volume of
 10 calls variant would be priced at the same price as
 11 Standard Line Rental ..."
 12 Then he says:
 13 "The one point where our meeting got awkward was
 14 where it was obvious we were assuming we could just take
 15 £1 next year."
 16 Now, that is a reference, is it not, to the sort of
 17 assumption to which you refer in your statement about
 18 increasing Line Rental by £1 annually?
 19 A. Yes, the challenge at this point was that we had not yet
 20 made the decision as to what next year's price change
 21 would be, which would be the 17/18 price change. So we
 22 were — we had just launched or put into effect the
 23 previous price change. We were in process of planning
 24 for the next one. The budgetary assumption was this £1
 25 that I have mentioned before. But we were being asked

1 by Ofcom to make a commitment as to what Home Phone
 2 Saver would be the following year, but if you do not
 3 know what your Line Rental price will be, it is very
 4 hard to make a commitment as to what your Home Phone
 5 Saver price will be in a year's time.
 6 So that is why there was a debate and a discussion:
 7 how do we — do we just make a commitment now, not yet
 8 knowing what Line Rental will be, or do we express it as
 9 a discount, or do we just make — decide that it is
 10 going to be £1 next year, without having gone through
 11 all the normal research we would do? That was the
 12 challenge we were in to ...
 13 Q. That is the complication you referred to when I first
 14 brought these emails up, which I think you were
 15 anticipating, yes.
 16 So let us have a look at the discussion.
 17 MR DORAN: Could I just ask one question, please. Could we
 18 just zoom out on the email.
 19 How did you take into account this reference to the
 20 first point, which is:
 21 "BT Consumer's call volumes fell by around 9% ..."
 22 A. How did we take it into account in the Ofcom ...
 23 MR DORAN: Yes, when you are contemplating pricing with the
 24 various factors, so you talk about churn rates and
 25 various other things, you also have the call volumes

1 falling .
 2 A. 100%. So the biggest challenge was to maintain
 3 profitability and maintain revenue, and so as the usage
 4 was declining it was important for us to gain more
 5 revenue from fixed revenues, which would be Line Rental
 6 or calling plans, so getting people onto calling plans
 7 and putting up the price of Line Rental in order — sort
 8 of running to stay still .
 9 On the other hand, though, you know that if people
 10 are using their landline less, maybe they value it less,
 11 so there is this kind of tipping point where you are
 12 trying to put up the price to maintain revenue, but you
 13 may be — they may be declining in their perception of
 14 usage of it .
 15 MR DORAN: These were questions across the entirety of the
 16 Voice base?
 17 A. Yes, 100%.
 18 MR DORAN: The 9 million?
 19 A. Yes.
 20 MR DORAN: Thank you.
 21 MR ARMITAGE: So remaining with the final bullet point from
 22 Mr Petter. Can you then see, after he says:
 23 "The one point where our meeting got awkward was
 24 where it was obvious we were assuming we could just take
 25 £1 next year."

1 Mr Murray adds some comments:
 2 "I think we're stuck here. In the meeting we
 3 proposed pricing and agreed to confirm the pricing we
 4 would offer (we had a bit of confusion if you remember
 5 about what the price of each variant would actually
 6 be)."
 7 So that is — he is saying that you would agree to
 8 provide the price of the two proposed new products, yes?
 9 A. So I was not in the meeting, but I believe John and
 10 Stuart were in the meeting and they felt — they made
 11 a promise that was very hard for them to keep and put us
 12 in a sticky situation .
 13 Q. You can certainly see that when we go through the
 14 emails.
 15 Let us just go up. We can skip over some of them,
 16 but at the top of page {F/475/6}, can you see an email
 17 from Mr James Tickel? No, I am so sorry. Yes, it is .
 18 You need to look at the bottom of page 5 but the email
 19 itself is at top of page 6.
 20 A. Yes, I see, yes.
 21 Q. So if we could have page 6 again. So it is from
 22 Mr Tickel. This time you appear to have been removed
 23 from the chain again for some reason.
 24 He says:
 25 "Not sure I'm getting the final point."

1 Which must be the final point made by Mr Petter in
2 his email.

3 He says:

4 "The two price points for HPS are both compared with
5 today's prices aren't they? I would agree with general
6 point that we should not signal in any way our plans
7 about future price changes."

8 Then Mr Murray on page {F/475/5}. You are copied in
9 on this email from Mr Murray, the one immediately above
10 the Tickle email.

11 He says:

12 "The pricing is looking forward, I think. What
13 I really need is help on the text to deal with John's
14 point, as we really have to put in a number, otherwise
15 Ofcom won't take it seriously. The problem is that the
16 number might indicate a plan next year to again increase
17 Standard Line Rental."

18 So Mr Murray is identifying a problem with tipping
19 off the regulator that you are thinking about increasing
20 your Line Rental again; not suggesting that is not the
21 plan, but that is what Mr Murray is identifying here as
22 a problem, is it not?

23 A. It is a catch 22 of revealing draft commercially
24 sensitive information, so, yes.

25 Q. Yes, I think you say in your witness statement you saw

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1 it as important for BT to inform the regulator about
2 price changes and you would draw a distinction with the
3 position of Virgin, yes?

4 A. Yes, it was very different from what other suppliers
5 were doing, yes.

6 Q. Now, there is some further debate then about what the
7 letter actually reveals. Can you see on page
8 {F/475/4} -- I am sorry, this is slightly tortuous, but
9 can you see Mr Murray's email at 10.13 where he says he
10 is stuck on a train to Newcastle?

11 He says:

12 "It may be John is overly worrying, but he's
13 probably correct that Ofcom will draw conclusion from
14 pricing that we're planning to increase Line Rental next
15 year."

16 That is the 17/18-year he is talking about.

17 "Exam question is really: can we give the proposed
18 price ..."

19 That is the proposed price of the new products, the
20 HPS products.

21 "... and obfuscate that we might be planning to
22 increase Standard Line Rental by a pound?"

23 So it is not just complication, how to -- it is
24 trying to find a way of not revealing to Ofcom that you
25 are planning to increase your Line Rental, yes?

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1 A. Well, I would -- my interpretation of it is actually
2 what I say in the following --

3 Q. I am going to come to that, I assure you. You have
4 a slightly different --

5 A. But, yes, that is what Stuart feels at this point, yes.

6 Q. No, I understand. I promise you I am going to show you
7 what you say as well.

8 So that is the next email above, at 10.16. You say:
9 "Hi guys.

10 "Sorry for being a bit slow to reply -- been a bit
11 hectic this morning.

12 "I agree with John's concern."

13 So that is the concern about what Ofcom might infer
14 from the letter.

15 "The fact is, we have an MTP assumption for
16 Line Rental but we don't have an agreed decision on
17 timing or amount. I just had a kick off with
18 [a gentleman called] Hugo and Pete where we debated if
19 we could go to £19.99 or £19.49 ... so it is definitely
20 a live issue."

21 You referred earlier, did you not, to discussions
22 that were about whether Line Rental might be
23 (inaudible), so that may have been the discussions you
24 were thinking of?

25 A. For example, yes.

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1 Q. Still a discussion about increasing, at this stage, from
2 the £18.99 level that you introduced in July 2016. You
3 refer to a discussion about perhaps a slightly smaller
4 than £1 increase?

5 A. Yes.

6 Q. Then, sorry, there are a few more emails just to take
7 you to. On page {F/475/3}, there is one at the bottom
8 from you as a follow-up email. You say:

9 "Re-reading the letter again. I agree with John's
10 recommendation as we shouldn't really commit to a price
11 point until we know what Line Rental price will be next
12 year."

13 You suggest some changes for the letter.

14 Then you see:

15 "I can see how committing to the prices does help us
16 a bit but if we do, there is actually a chance that we
17 commit to higher prices than we need to!"

18 A. Yes.

19 Q. So your concern there is perhaps a little bit more
20 consumer-focused, is it not, that in fact you might end
21 up putting up prices by more than you need to if you
22 give a commitment in a letter?

23 A. Yes, and I think if you look on the other side, it says:
24 "It's a tricky judgment call as to which is better."

25 So that is what I mean by it is a catch 22 --

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1 Q. It is not a very realistic concern, is it, Ms Blight,
 2 that you would end up accidentally committing to
 3 a higher price than you needed to introduce, and Ofcom
 4 would hold you to it?
 5 A. I fundamentally disagree.
 6 Q. Okay. Then we see an email above that from Mr Murray,
 7 going around the houses again. He says:
 8 "Agree, tricky ... Ofcom are expecting a number.
 9 Not giving [them] a number might put them off the scent,
 10 but equally they might just think we are hiding
 11 something ... i.e' if we're committing to charge no more
 12 than £3 and we're not putting up Line Rental, why
 13 wouldn't we just give a number?"
 14 Then he says:
 15 "Devil and deep blue sea ..."
 16 So I do not know which is which, but I think he must
 17 be saying that telling Ofcom that you are planning to
 18 put up your prices is either the devil or the deep blue
 19 sea, yes?
 20 A. I think he is saying the options available to us: we
 21 either do not give them a price and talk about the
 22 delta, we give them a price that could be too high and
 23 reveals that we have been — we have a planning
 24 assumption of a £1 increase, or the third would be put
 25 in the wrong pricing and then either need to stick with

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1 it, or have a lower price than we would otherwise commit
 2 to.
 3 So none of the options in front of us are a good
 4 one. If we want to communicate in — we are trying to
 5 communicate as clearly as we can but when we do not have
 6 the answers.
 7 Q. Yes. What he is saying is not giving a number might put
 8 them off the scent, but then, equally, they might just
 9 think we are hiding something. So the implicit
 10 comparison is not giving them the number or giving them
 11 the number. Both of them have downsides.
 12 A. We cannot win.
 13 Q. We cannot win, that is "Devil and deep blue sea".
 14 Things that should both be avoided, yes?
 15 A. Exactly.
 16 Q. Then just one more email above that from you:
 17 "We're getting quite philosophical now ..."
 18 That is the word you used yesterday. Perhaps your
 19 favourite word, Ms Blight.
 20 You say:
 21 "I agree it does look like we are obfuscating
 22 without a number."
 23 So that was your position on obfuscation, in
 24 fairness to you.
 25 Then the last email, page 1, there is some more

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1 discussion about wording, but you see in the middle
 2 there is an email from Mr Tickel, and he says:
 3 "... I was proposing in the final sentence that you
 4 would show the actual proposed charges and state these
 5 are savings on today's standard charges, are fixed and
 6 have additional benefits."
 7 So that is the suggestion Mr Tickel makes for the
 8 letter.
 9 Then perhaps if I could just show you the final
 10 letter before the break, to see where this ended up.
 11 A. I do not remember which way we went.
 12 Q. You might remember it.
 13 THE CHAIRMAN: This is the one that did go, is it?
 14 MR ARMITAGE: The one that went to Ofcom.
 15 THE CHAIRMAN: Yes.
 16 MR ARMITAGE: It is at {F/458/1}. The relevant bit of text
 17 is on page 6 — sorry, you see from the first page it is
 18 25 July 2015, and this is the final letter that went to
 19 Ofcom on this matter. So going on to page 6
 20 {F/458/6} — perhaps we could have {F/828}, just to see
 21 the original text alongside it from the draft letter.
 22 So could we have it alongside, {F/828/2}.
 23 So the one on the left without the yellow highlight,
 24 that is the letter that went to Ofcom, then you see the
 25 description of the commitments that are being proposed

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1 to BT:
 2 "To introduce two new Home Phone Saver ... type
 3 products in the spring of 2017 ... would respectively
 4 address those solus Voice customers ..."
 5 So that is the same description of the service.
 6 Perhaps it is not helpful to have them side by side
 7 if it is too small.
 8 THE CHAIRMAN: Can we just — let us just read the first
 9 one, and then you can compare later, but if we can just
 10 see what the first one says.
 11 MR ARMITAGE: Yes, {F/458/6}, if we could just have that one
 12 blown up. Yes, exactly.
 13 THE CHAIRMAN: Right.
 14 MR ARMITAGE: So the bullet point beginning:
 15 "To introduce two new Home Phone Saver ..."
 16 The end of that bullet point:
 17 "... being offered a significant discount to BT's
 18 current standard charges."
 19 Then you see two bullet points describing the two
 20 products, as we saw in the previous draft version. This
 21 is how you describe the price in the final version that
 22 goes to Ofcom:
 23 "... would be charged at no more than £3 more than
 24 our then notified Standard Line Rental charge."
 25 A. Yes.

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1 Q. Then the same formulation is used in the second bullet.
 2 I think that is Mr Tickel's suggestion being implemented
 3 or a version of it in the --
 4 A. I actually think --
 5 Q. Or maybe it was your suggestion. Yes, I think you are
 6 right, I think it is slightly different.
 7 A. I think I am lost as to what it is, because I think we
 8 all recognise that all of the options were bad ones.
 9 Q. Yes, as you said earlier.
 10 A. But we have chosen to, rather than state an explicit
 11 price, talk about it in relation to what the price of
 12 Line Rental is that gives us the ultimate flexibility in
 13 the following year, since at this point we have not --
 14 we do not know what Line Rental will be.
 15 THE CHAIRMAN: When it says a saving versus current, that is
 16 your current standard charges of £19.75, what does that
 17 mean?
 18 A. It means that if it was to exist now it would be -- you
 19 would save £19.75 over the year I think.
 20 MR ARMITAGE: Yes, exactly. If it was introduced now when
 21 Line Rental charges are as they currently stand, that is
 22 the savings being presented. Rather than presenting the
 23 actual price, as you had in the draft letter, you are
 24 presenting a saving against the current Standard Line
 25 Rental but, as we have seen from the discussion, you are

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1 contemplating increasing your current Line Rental
 2 charges by £1. That is the point that Mr Murray talked
 3 about trying to obfuscate, is it not, and that is what
 4 you have done in this final letter?
 5 A. As I have said we did not know what we were going to
 6 rise them by but the budget assumed a £1 increase.
 7 Q. If you are operating on an assumption you are going to
 8 increase your Line Rental by £1, it is not very
 9 transparent to present a comparison with your current
 10 Line Rental prices when you are presenting this new
 11 product, is it?
 12 A. Well, but it would have been not very transparent if we
 13 had simply given a number that then turned out to be
 14 a different number. So I maintain that it was very hard
 15 for us -- you are balancing trying to be as clear as
 16 possible while also recognising that we should not be
 17 giving them completely every confidential commercial
 18 decision that is a live one that we have not even made
 19 yet. I do not know -- if I did this again I do not know
 20 what I would do. It is hard.
 21 Q. It is not ideal that the prices be followed, is it, Ms
 22 Blight?
 23 A. It was a challenging time, yes.
 24 MR ARMITAGE: I do not know if that is convenient --
 25 MR RIDYARD: Drawing the comparison with the current prices

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1 compared to a possible increase in future would that not
 2 be a conservative way of describing the savings?
 3 Because if you are making a saving of £19 relative to
 4 today's price that could be a saving of more compared to
 5 next year's price which might be going up.
 6 MR ARMITAGE: Yes, I will reflect on that over the break if
 7 I can.
 8 A. We did not want to lie. That was the thing.
 9 Q. I am not suggesting anyone is actively lying to the
 10 regulator to be clear.
 11 MR RIDYARD: I thought the premise of your -- unless
 12 I misunderstood it, I thought the premise of your
 13 question was that they were being misleading by not
 14 revealing the price increase, but in fact in this
 15 respect it was actually being conservative not to.
 16 MR ARMITAGE: The point I am making is the concern, just to
 17 foreshadow, identified by Mr Petter, the Consumer CEO at
 18 the start, is not wishing to give the regulator the
 19 impression that there is an assumption that Standard
 20 Line Rental will go up by £1. That is the limited point
 21 I am making. I am not making the point about presenting
 22 a saving in a way that is favourable to BT. That was
 23 not the point I was making. Thanks for that.
 24 So yes, I do not know if that is convenient for
 25 a short break.

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1 (11.18 am)
 2 (A short break)
 3 (11.36 am)
 4 THE CHAIRMAN: Yes.
 5 MR ARMITAGE: So acutely conscious of time, could we move on
 6 to the 2016/2017 price increase and some of the specific
 7 factors taken into account in that process.
 8 Can we just start at paragraph 20 of your statement.
 9 {D/4/5}. You are talking about the process and you say:
 10 "With the assistance of [your] team, [you] collated
 11 information showing the proposed price change, customer
 12 gives, retention deals and the reasons for the proposed
 13 price change. Those reasons, which I discuss below,
 14 including any concerns with customer churn (the phrase
 15 we used within BT to refer to customers leaving), issues
 16 ... on timing ... and how our competitors were pricing,
 17 or offers they were giving that might make BT less
 18 attractive to customers."
 19 Those are the factors you say were relevant to
 20 the price decision process.
 21 Then at paragraph 21, you say:
 22 "The proposed price change and supporting
 23 information would usually be shown in a Microsoft
 24 PowerPoint presentation, which would be presented at
 25 price change meetings."

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1 So by "supporting information", that would include
 2 any concerns about churn and competitive pricing and
 3 those sorts of matters, yes? The sorts of matters you
 4 refer to?
 5 A. Yes. I am sure not every single document contains every
 6 single thing, but yes.
 7 Q. But you would accept, would you not, that if churn and
 8 considerations about competitor pricing had been an
 9 important factor in the 2016/17 pricing decision, that
 10 would have been recorded in these pricing slides that
 11 you refer to, would it not?
 12 A. In some of them. But I mean, remember we would be
 13 getting a churn update on a daily and weekly basis so
 14 ... But, you know, the context would be familiar to
 15 everyone in these meetings.
 16 Q. Well, let us look at the pricing slides to which you
 17 specifically refer in your statement in relation to the
 18 2016/2017 price change process. It is {F/340/1}. We do
 19 not need to turn up your statement on this, but for
 20 everyone's note, it is paragraph 58 of your statement
 21 where you are dealing with the outcome of the process.
 22 A. Sure.
 23 Q. Now, in fact, these are dated 15 October 2015, that is
 24 just before you took up the role of GM at Voice, is it
 25 not?

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1 A. I think, as we discussed before, there was a sort of
 2 transition period of me coming off the Head of Strategy
 3 role and moving into the team. So I may have been
 4 involved in these, but ...
 5 Q. Yes. As I say, they are the ones you cite in your
 6 statement as relevant to the outcome of the process?
 7 A. Yes.
 8 Q. Could we look at what is said about Line Rental. So
 9 beginning at slide {F/340/3}, under the heading
 10 "Executive Summary", we see "Current Position" and
 11 reference to:
 12 "Our price change base plan that drives £170m from
 13 changes across our portfolio from 3 July 2016 including
 14 a £1 increase in [Line Rental] and BT Sport."
 15 So pausing there. The reference to a "base plan",
 16 that reflects your evidence about BT starting from an
 17 assumption that Line Rental would increase by £1, yes?
 18 A. I think so, yes.
 19 Q. So that had already been decided at this time, that the
 20 minimum increase would be £1, yes?
 21 A. No. It is a base plan. That is what we were starting
 22 from. That does not mean it was decided.
 23 Q. Okay, let us see what the document goes on to say.
 24 There is then a reference to:
 25 "Sharon White's recent comments ..."

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1 As we all now know, Sharon White was the CEO of
 2 Ofcom at the time.
 3 " ... suggest that any change in Line Rental pricing
 4 is likely to drive unprecedented levels of stakeholder
 5 criticism ..."
 6 Also reference to what customers are saying about
 7 service and value for money.
 8 You may recall Ms White had given a speech
 9 in October 2015 about Line Rental pricing, among other
 10 things. Is that something you would have been aware of
 11 at the time?
 12 A. Yes.
 13 Q. Then you see under the final bullet point:
 14 "Base plan aims to mitigate this criticism with
 15 value—add stories ..."
 16 Then there is a reference to some of the gives that
 17 we have discussed at some length, yes?
 18 A. Yes.
 19 Q. Then under "Closing the Gap", reference to:
 20 "We ... have a significant margin challenge in
 21 Consumer and the price change offers an obvious
 22 opportunity to address this."
 23 Reference to the BT Sport increases. Then there are
 24 some recommendations about certain price increases that
 25 go above a 7% threshold "through price and portfolio

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1 simplification".
 2 I think that is not a reference to Line Rental, it
 3 is a reference to other aspects of the price change
 4 process. I think you make that point in your statement.
 5 A. Yes, I think so.
 6 Q. Then you see at the bottom of the page, final bullet:
 7 "We have had significant negative feedback on any
 8 options that increase Line Rental by more than £1."
 9 Certain matters.
 10 "Skinny Broadband and Free caller display are not
 11 sufficient to justify the increase. Service promises
 12 may not be enough and are high costs."
 13 Then can we go on to slide 4 {F/340/4}. You see:
 14 "We have assessed opportunities to drive revenue
 15 through portfolio simplification and higher Line Rental
 16 price rises."
 17 You see the first column refers to a "Baseline", and
 18 you can see that that second box under "Baseline", that
 19 involves a £1 Line Rental increase, and then there is
 20 a reference to 64 million. I assume that is the
 21 additional revenue that would follow from a £1
 22 Line Rental increase?
 23 A. Yes.
 24 Q. So I can anticipate your response, but a baseline is
 25 another word for a starting point, is it not?

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1 A. Yes.
 2 Q. You are not going to go any lower than the baseline, are
 3 you, Ms Blight?
 4 A. Not if you are doing a waterfall, you might go below
 5 a baseline. We have not in this situation --
 6 Q. Is that a linguistic point about baselines, or ...
 7 A. Well ...
 8 Q. Sorry, I just did not understand the waterfall --
 9 A. Maybe because my background is physics rather than
 10 economics, but I would see a baseline as something you
 11 can go below, but I do not want to get into semantics
 12 about words.
 13 THE CHAIRMAN: No, but in this context.
 14 A. It has not gone down, so, yes, although actually one of
 15 the options here that was not recommended is a negative
 16 4 million.
 17 MR ARMITAGE: Yes, actually we will look at that in
 18 a minute, yes.
 19 A. So actually in this slide that you are pointing out
 20 there is something that goes below the baseline.
 21 THE CHAIRMAN: Not on Line Rental.
 22 MR ARMITAGE: Not on line -- yes.
 23 A. But "Baseline" refers to the whole column and the plan.
 24 THE CHAIRMAN: I see.
 25 MR ARMITAGE: No, I appreciate that. "Baseline" is the

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1 starting point that is being considered here. Then we
 2 can see, as the headings show, there is "Baseline Plus",
 3 "Portfolio Simplification", "Higher Line Rental
 4 increases". So a number of different options are being
 5 contemplated at this stage, are they not?
 6 A. Including one where the Line Rental goes up to £2 but we
 7 make less money.
 8 Q. Yes, all of them though do involve a price increase of
 9 at least £1 on Line Rental, do they not?
 10 A. That is true, yes.
 11 MR RIDYARD: May I ask just one point of clarification.
 12 Under "Baseline", the "£1 on Line Rental: £64m", the
 13 £64 million is what?
 14 A. I believe it is taking the months of the year and the
 15 customers that will be in-year impact and multiplying
 16 them together. I do not think in this scenario it would
 17 be net of churn. It would be assuming that the churn of
 18 this scale of price increase was already factored into
 19 the overall P&L baseline, so this is just an upside
 20 revenue for the months of the year, so an in-year
 21 revenue benefit.
 22 MR RIDYARD: Increase in revenue assuming no churn.
 23 A. Assuming no incremental churn.
 24 THE CHAIRMAN: Yes.
 25 MR DORAN: The line below, the 28 million -- sorry,

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1 Mr Armitage -- that would assume the call volume
 2 question, that would have been taken into account prior
 3 as well?
 4 A. Yes, so I think it would be taking our forecasted sales
 5 of calling plans, calling features and call usage and
 6 applying an increase on those plans and pence per minute
 7 rates. So it would have already -- it would have
 8 assumed a decline. What it does not necessarily include
 9 in this modelling is if we put up the pricing by more,
 10 then that might discourage people's usage.
 11 MR DORAN: But it assumes the decline.
 12 A. It is a simplistic analysis here just for the benefit of
 13 having some of these.
 14 MR DORAN: Yes. Thank you.
 15 MR ARMITAGE: Then can we see on the right of the page there
 16 are two options under "Not recommended" -- sorry, just
 17 to be clear, the "Baseline Plus" option, and then the
 18 one that is said to be recommended, which is the
 19 "Portfolio Simplification", which you discuss in your
 20 statement under the heading "Recommended", it does not
 21 say on the slide, but those two options do both involve
 22 a £1 increase on Line Rental. They are additional to
 23 that?
 24 A. Yes, the way that the slide works is that this is on top
 25 of, so you are taking that baseline, and then everything

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1 else here is a delta --
 2 THE CHAIRMAN: Everything else is extra on ...
 3 A. A delta to -- yes.
 4 THE CHAIRMAN: I see.
 5 MR ARMITAGE: In relation to the two --
 6 A. Or instead. Sorry, I should say it is the changes.
 7 Because when it says "£2 on Standard Line Rental", we do
 8 not mean £1 plus £2. It is not £3. So "delta" is not
 9 quite accurate. It is a poorly designed slide, I am
 10 very sorry.
 11 THE CHAIRMAN: That is important.
 12 MR ARMITAGE: No, it was clear to me because I was just
 13 talking about the two central columns. So in relation
 14 to those two, the £1 Line Rental is in there.
 15 Then if we look at the two options under the heading
 16 "Not recommended", both of them involve a higher
 17 Line Rental increase, £2. Your point is that it is not
 18 incremental to the £1. That is £2 Line Rental in total.
 19 A. Correct.
 20 Q. Yes. Obviously this is all consistent with your witness
 21 statement in which you say that you were considering
 22 whether to increase Line Rental by £2 rather than £1 at
 23 this stage.
 24 A. Yes.
 25 Q. Can you see that both of the options have -- when you

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1 see that they say "£2 on Standard Line Rental", the
 2 difference is that the right-hand option involves Line
 3 Rental Plus going up by £2 as well?
 4 A. Yes.
 5 Q. So you can see there is a revenue figure attached to
 6 both of those options, yes?
 7 A. Yes.
 8 Q. I think you said earlier that these figures would have
 9 assumed no churn as a result of the price change?
 10 A. I am not 100% certain. It is not that there would be no
 11 churn as a result of the price change. What I am saying
 12 is I do not think we put a churn, additional churn risk
 13 in there or not. So we are assuming, you know, in order
 14 for those recommendations to be believed, so we would
 15 foist this over, you have to believe that we can
 16 maintain churn rates as we have already forecast,
 17 because we already would have assumed there would have
 18 been churn in the baseline.
 19 Q. Yes. Now, can you see underneath both the "Not
 20 recommended" options, so the "Higher line increases",
 21 there are a number of -- so these are the two white
 22 boxes at the bottom with a green tick and then the red
 23 bullet points. Can you see both of them say "PR red
 24 flag on £2 Line Rental increase"? That is identified as
 25 an issue in relation to both of them.

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1 Which brings us back to the concerns we saw on the
 2 first slide about higher Line Rental increases
 3 attracting both PR and regulatory criticism. The same
 4 point is being made there?
 5 A. Yes. That would, of course, have the knock-on impact on
 6 our brand and on churn and value for money perceptions
 7 of our customers.
 8 Q. Sorry, you said "knock-on impact" on churn. But on the
 9 slides as we have seen them, there is nothing here about
 10 an extra £2 on Line Rental being not recommended on the
 11 basis of concern that it would cause significant churn,
 12 is there?
 13 I take the point you have just made, which is that
 14 talking about PR may bring into it broader
 15 considerations of churn. That is the point you have
 16 just made. But on the slides, let us focus on the
 17 wording of the slides, churn is not identified as an
 18 issue in relation to the proposed increase or the
 19 contemplated increase of £2, just in terms of the
 20 wording on the slide, is it?
 21 A. It is not included in the words, but I maintain that it
 22 would have been so obvious to anybody in these
 23 conversations that it would have been an impact, and
 24 that negative PR and negative value for money is highly
 25 correlated with an increase in churn. But it is sort of

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1 irrelevant that it is not explicitly stated, because
 2 anyone in these conversations would -- it would be
 3 obvious.
 4 Q. It would be obvious that the £2 increase is not being
 5 recommended because of concerns about churn, despite
 6 that not being stated on the slides; that is your
 7 evidence?
 8 A. Well, yes.
 9 Q. Okay. Another factor that is not mentioned in terms of
 10 the wording on the slides is a concern that BT's
 11 Line Rental price would then be too far above its
 12 competitors' prices. That is not an issue which is
 13 mentioned here, is it?
 14 A. It is not addressed on this specific slide, but it would
 15 have been totally obvious to anybody in this
 16 conversation.
 17 Q. Totally obvious. So just to be clear on your evidence,
 18 totally obvious to anyone involved in this conversation
 19 that increasing Line Rental by £2 was not a good idea
 20 because it would take you too far ahead of others'
 21 prices?
 22 A. Would be one of the factors, is what we are saying.
 23 So this is about us balancing different factors. As
 24 you can see here, that is why we have not put in here an
 25 option that would be £2 on Line Rental but without us

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1 spending more money in the give section, right? So we
 2 have only even presented things where we will have churn
 3 mitigations that go above and beyond that, and still we
 4 are not recommending them.
 5 So I find it -- I am finding this confusing, because
 6 the context here is that we are getting daily, weekly
 7 churn updates, trading updates, as to what is happening.
 8 I am regularly being sent information about competitors,
 9 as is everybody in these conversations. So the fact
 10 that we do not explicitly call out everything on what is
 11 already a very busy slide, I do not see how that is ...
 12 That is what I am trying to explain, is that it would so
 13 be constantly in the front of our minds.
 14 Q. You accept, though, there is no reference on the slides
 15 where there is -- a PR red flag is identified to a link
 16 between bad PR and increased churn. Just a very simple
 17 question. That is not something that is set out on
 18 these slides, is it?
 19 A. No, we --
 20 Q. The slides present significant revenue benefits from the
 21 larger price increase. I take your point about the
 22 gives, but the revenue benefits associated with the £2
 23 increase, we see £55 million, £64 million. That is set
 24 out on the slides?
 25 A. I do not think you can take it in isolation, because if

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1 you were not doing the incremental gives, you definitely
 2 would be giving incremental churn which you would then
 3 need to be put into the revenue line.
 4 Q. Now, one issue with bad PR, the PR red flag, leaving
 5 aside the point you make about churn, is that that is
 6 something that would also attract increasing scrutiny
 7 from Ofcom, yes? That is a key part of the PR concern
 8 identified here, is it not?
 9 A. It is one of the factors, but that is not mentioned on
 10 the slide.
 11 Q. What, the link between bad PR and Ofcom?
 12 A. No.
 13 Q. Sorry, I thought I had shown you {F/340}, page 3,
 14 {F/340/3} ---
 15 A. Yes, but you were asking me ---
 16 Q. --- Sharon White's comments?
 17 A. Sorry, you were asking me a question about the other
 18 slide and what was included in that, and I am saying
 19 Ofcom is not included on that slide.
 20 Q. Yes. Yes, that may be right. But it is included in the
 21 executive summary as a factor in the decision you are
 22 making here, yes?
 23 A. But so is customers being satisfied with service and
 24 value for money, which is ---
 25 Q. I am just asking you about whether there is a link

1 between bad PR, the PR red flag, and potential increased
 2 scrutiny of Ofcom. I think you said you agreed there
 3 was a link?
 4 A. I think the causality link is more the other way round,
 5 actually, in that Ofcom impacts PR rather than PR
 6 impacts Ofcom. I am not saying there is no link, but
 7 I think the stronger causality is in the other
 8 direction.
 9 Q. Okay. But you accept there is a link. Can I show you
 10 one document on that.
 11 A. Yes, I accept there is a link.
 12 Q. Can I just show you the document anyway. {F/430/1}.
 13 I am not certain you have this in hard copy. You may
 14 do.
 15 A. Okay.
 16 Q. Can you see it is a brief for John Petter, "Meeting with
 17 Sharon White, 27 April 2016 ..." I think you --- there
 18 was some confusion earlier about different meetings with
 19 Ofcom, and you had recalled the meeting in April 2016.
 20 Is this the one you were thinking of?
 21 A. Yes.
 22 Q. So you were involved in the discussions in preparation
 23 for this meeting?
 24 A. Yes, exactly. This shows on the front the different ---
 25 other external comms to other ... what is the word?

1 Stakeholders, yes.
 2 Q. It is just a very short point. If you look at page
 3 {F/340/2}, there is a distinction here between "Talking
 4 notes", which are presumably from Mr Petter's --- things
 5 that he is going to say to Ofcom at the meeting, and
 6 then "Briefing notes", which I take it are things he
 7 ought to read before he says anything at the meeting.
 8 That is how my reading of the two columns.
 9 A. That sounds right.
 10 Q. Then can you see in "Briefing notes", the second bullet
 11 point:
 12 "Ofcom is unlikely to welcome the price changes, in
 13 particular £1 on Line Rental. How Sharon and Ofcom
 14 react will ultimately depend on how politicians and the
 15 press react and how many complaints Ofcom receives."
 16 So that is the link you accepted between PR ---
 17 A. I accept that Sharon was influenced by politicians and
 18 the press, yes.
 19 Q. Thank you.
 20 I am just trying to make a few economies. (Pause)
 21 Extremely briefly, one other factor you refer to in
 22 your statement in relation to Line Rental increases is
 23 a point about costs. Perhaps I will just turn up
 24 paragraph 18, {D/4/5}.
 25 You refer in that paragraph to monthly reviews with

1 the FFinance Team which involve discussion of costs.
 2 You use the phrase:
 3 "... general costs that would impact BT Consumer and
 4 might need to be balanced by increasing revenue ..."
 5 Then you say you were:
 6 "... generally aware of increasing costs for contact
 7 centre staff. [Your] understanding [is] that service
 8 providers across the industry were increasing
 9 Line Rental prices to cover ..."
 10 Then you refer to various operational costs.
 11 Just to be clear about what you are discussing here,
 12 you are talking about consumer-wide costs that would
 13 have been factored into the revenue targets that you
 14 received?
 15 A. Yes, the overall cost of servicing all of our customers.
 16 Q. Yes.
 17 A. Yes.
 18 Q. As opposed to specific cost considerations that you
 19 would have taken into account in the Voice team's
 20 pricing decisions?
 21 A. I think there is probably a mix in there, but yes, as I
 22 think I have said in --- I think in my statement, we sort
 23 of thought of Line Rental, since it was charged to
 24 everyone across the base, as almost the kind of baseline
 25 cost of having a customer.

1 THE CHAIRMAN: You refer to it as a "fee" at one point, I
2 think.
3 A. Yes, exactly, so a membership. We thought about maybe
4 even changing it overtly into that. So, yes, what I am
5 talking about here is the overall cost to serve our
6 customers.
7 MR ARMITAGE: Yes, but it is the consumer-wide costs you are
8 talking about. You would accept, would you not, that
9 the direct costs for the Voice Division, things like the
10 WLR costs, they were generally going down, were they
11 not?
12 A. WLR certainly was. I would say that I am not an
13 economist, so ...
14 Q. No, I am really not trying to get into a debate with you
15 about costs allocation, I am simply trying to clarify
16 the evidence here, and I think it is really for ...
17 A. I think you might be asking an accounting and economics
18 question as to how to allocate costs, and I do not feel
19 qualified to answer.
20 Q. Not deliberately, no. Okay. But in those
21 circumstances, I can move on from that paragraph.
22 As I say, very conscious of the time ...
23 THE CHAIRMAN: You can have a few more minutes after 12.15.
24 We have asked a few questions this morning, so ...
25 MR ARMITAGE: No, no, I am on track.

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1 THE CHAIRMAN: You are on track. Good. Okay.
2 MR ARMITAGE: "Encouraging bundles", paragraph 29 of your
3 statement {D/4/7}. You see there, there is a heading
4 "Encouraging bundles"?
5 A. Mm—hm.
6 Q. You talk about:
7 "... looking at ways to improve customer engagement
8 with landline customers, the focus within BT Consumer
9 was on selling additional broadband, TV or sport
10 packages. The profitability of each customer increased
11 when they took more services from us ..."
12 A. Yes.
13 Q. Now, you are no doubt aware the question of whether
14 solus customers or bundle customers are more profitable
15 to BT, and indeed the right way of measuring that, is in
16 dispute. I think you just said that sort of matter is
17 not within your expertise when you think about cost
18 allocation?
19 A. But outside of how you account for costs, I certainly
20 know from my time at Virgin and at BT, and how I was
21 setting prices for bundles versus solus, including solus
22 broadband when I was at Virgin, that it was never in
23 dispute that bundle customers are more profitable,
24 particularly because of the cost of acquisition being
25 cheaper, and churn — actually, churn is the biggest

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1 factor. If you look at phone and broadband dual copper
2 bundles they have terrible churn.
3 THE CHAIRMAN: You mean lots of people?
4 A. Yes.
5 MR ARMITAGE: Yes. Just focusing on what you say in your
6 statement, you say:
7 "The profitability of each customer increased when
8 they took more services from us because there is a cost
9 associated with servicing each customer regardless of
10 how many services they take."
11 A. Yes.
12 Q. I do not think there is any dispute about the premise.
13 There is a certain cost associated with servicing
14 a customer that does not depend on the number of
15 services they take?
16 A. Yes.
17 Q. Something like sending an annual price change letter,
18 that sort of cost, just as an example?
19 A. Billing PTC, faults, faults tend to be on a line, so it
20 would be a broadband and Voice fault at the same time,
21 so it is a huge thing, truck rolls, acquisition cost is
22 a huge aspect.
23 Q. It does not follow from that premise though that
24 customers are more profitable to BT if they take more
25 services. I am not questioning the premise.

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1 A. Sorry, it does not follow?
2 Q. It does not follow from the fact that there is a cost
3 associated with servicing a customer that is not
4 dependent upon the number of services they take, it does
5 not follow that it is more profitable if a customer
6 takes more services, does it?
7 A. But when you factor in the other things that I just said
8 in terms of acquisition costs, churn and so on, then the
9 customer lifetime value of a bundle customer is
10 significantly higher than a solus customer.
11 Q. Yes, I see, so yes, so what you say here is:
12 "The profitability of each customer increased when
13 they took more services from us."
14 Can we just consider then the position of a Split
15 Service customer. So that is somebody who takes fixed
16 Voice services from BT and also broadband from BT, but
17 under separate contracts rather than in a bundle?
18 A. Yes.
19 Q. I think we are referring to them as Split Service
20 Customers in these proceedings. It is one of the two
21 types of —
22 A. Sure, I understand, yes.
23 Q. You may be happy to take it from me, I think Ofcom
24 estimated around 20% of SPCs are Split Service rather
25 than split supplier?

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1 A. Sorry, please explain that again: Split Service versus
 2 Split Supplier.
 3 Q. Split service is fixed Voice services from BT under one
 4 contract; broadband from BT under a separate contract as
 5 opposed to in a bundle but it is BT?
 6 A. A separate BT contract?
 7 Q. Yes.
 8 A. It is such a bizarre scenario, yes.
 9 Q. As I say, you may be willing to take it from me, Ofcom
 10 estimated around 20% of SPCs were BT split suppliers
 11 Sorry, Mr Beard is shaking his head.
 12 A. It seems like a lot.
 13 MR ARMITAGE: The reference is if it is helpful —
 14 THE CHAIRMAN: Let us assume there is a proportion. For
 15 those who take two separate contracts there are a
 16 proportion that take both contracts separately from BT.
 17 A. I follow.
 18 MR ARMITAGE: Yes.
 19 A. So that group, okay.
 20 Q. The number may be an argument for another day.
 21 It is a fairly short point. A Split Service
 22 customer takes the same number of services from BT as
 23 somebody who takes a dual play bundle, yes?
 24 A. Yes.
 25 Q. So if it is the number of services that determines

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1 whether a customer is more profitable, there is no
 2 distinction between a Split Service customer and a Dual
 3 Play customer on that basis is there?
 4 A. There is a different distinction because they have two
 5 different billing relationships and therefore with some
 6 of the examples I just mentioned, so I guess — if I am
 7 honest, when I was writing this, it did not occur to me
 8 to think of such an edge case but thinking about it
 9 right now it will be somewhere in the middle. So there
 10 will be some costs that are duplicated and other costs
 11 that are not duplicated. One of the big aspects of it
 12 as well it would have churn implications because they do
 13 not have a unified contract. So they can drop one
 14 product but not the other one without incurring any ETC
 15 charges.
 16 THE CHAIRMAN: Just a minute. (Pause). Yes.
 17 MR ARMITAGE: So I think, Ms Blight, although you refer
 18 there to the key factor being the number of services
 19 taken you say actually it is other considerations that
 20 lead you to the view that bundle customers may be more
 21 profitable and you prefer to churn in particular?
 22 A. Yes.
 23 Q. Can I just look at that because in the second part of
 24 this paragraph if we go over the page, {D/4/8}. Sorry,
 25 no, it is paragraph 29. You say:

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1 "Customers with more products with one service
 2 provider also tended to be stickier (i.e. less likely to
 3 switch to another service provider)."
 4 A. Yes.
 5 Q. That is the point you were just making I think?
 6 A. About churn yes, exactly.
 7 Q. Now, you do not cite any particular documents in support
 8 of that point. It is based on your recollection of
 9 matters from, I think, both your time at BT and then
 10 your time at Virgin I think you said?
 11 A. Yes.
 12 Q. Can we just look at one document from BT's disclosure?
 13 A. Sure.
 14 Q. {F/429/1}. Could we zoom in, please.
 15 A. Do I have that?
 16 Q. It should be in the —
 17 A. New ones.
 18 Q. Have you got it in the slimmer bundle, yes.
 19 A. I do.
 20 Q. It is not one of the documents listed in the annex to
 21 your statement but it is a set of emails involving you,
 22 Ms Blight, so you will have seen it before?
 23 A. Sure.
 24 Q. Can you see at the bottom an email from you to various
 25 senior BT people, including Ms Barlow, Mr Murray,

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1 Mr Tickel. You say:
 2 "Hi,
 3 "Some interesting information from the solus churn
 4 data (spreadsheet attached)."
 5 We have not been to it and I am not proposing to
 6 turn it up but you refer in your statement to some big
 7 spreadsheets with lots of different percentages for
 8 churn. Mr Bunt discussed these during the course of his
 9 evidence but that is what you are referring to here?
 10 A. Yes, we would get weekly reports.
 11 Q. Those sort of weekly churn reports. You say:
 12 "It will be interesting to you how this changes (or
 13 doesn't) when competitor broadband is factored in which
 14 I won't be able to see."
 15 So that is a type of churn that is not factored in
 16 it at this stage it seems: customers churning to another
 17 broadband provider?
 18 A. No, I think this is specifically — this is the fact
 19 that at this point it is not possible for me to tell the
 20 difference between Voice, what you are calling
 21 Voice Only and Split Purchase Customers. So I think
 22 what I am positing there is that there may be a churn —
 23 there may be different data if I was able to see that
 24 and split it.
 25 Q. To distinguish between VOCs and SPCs?

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1 A. Right. I do not know whether that is true or not what
 2 I am saying. I am speculating. It would be interesting
 3 to know.
 4 Q. I am going to come on to that actually because that is
 5 a point Ms Barlow makes. What you say there is:
 6 "My summary:
 7 "Solus customers have an annualised churn rate of
 8 14.7% vs 12.5% for bundle customers with Voice.
 9 However, 3.2% of this is bereavement vs only 0.4% for
 10 bundles."
 11 I think reflecting the fact that solus customers
 12 tend to be older, the bereavement rates are higher
 13 generally?
 14 A. Yes.
 15 Q. Then you say:
 16 "If we exclude churn due to bereavement the rates
 17 are 11.5% for solus vs 12.1% for bundle customers.
 18 So that is the annualised churn rate. That is the
 19 concept Mr Bunt referred to?
 20 A. Yes, that is including all bundled customers but if we
 21 broke that down, we would see that fibre would be much
 22 better, with TV would be better. It is kind of dragged
 23 down a bit by copper customers.
 24 Q. You say:
 25 "I think this shows that although solus customers

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1 are more inert than bundle customers — it is not
 2 anywhere as extreme as Ofcom might think it to be."
 3 I accept you are suggesting here the difference, as
 4 you put it, is not as extreme as Ofcom might think but
 5 you are saying here that solus customers are more inert
 6 than bundle customers in terms of churn, are you not?
 7 A. I am. I think one of the biggest factors of that is
 8 house moving though.
 9 Q. Yes, it is just you said in your statement customers
 10 with more products are less likely to switch to another
 11 provider?
 12 A. But they are.
 13 Q. Then just look at what Ms Barlow says in response to
 14 you. She was Director of Voice and Mobile at this time.
 15 I think your boss?
 16 A. Yes.
 17 Q. She thanks you and says:
 18 "My sense is it is a useful data point to drop in to
 19 the conversation but not one to focus on in the slides
 20 as you inevitably get into the debate about true solus
 21 customers (which of course we can't know)."
 22 I think that is the point you just made?
 23 A. Yes.
 24 Q. The rate is for solus customers as a whole. The point
 25 being if you looked at true solus, for example, it may

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1 be a different churn rate, obviously?
 2 A. Well, I think the point she is making is that it is an
 3 interesting piece of information but it is possibly —
 4 it could lead us down a conversation which we cannot
 5 answer the questions on.
 6 Q. Which is a reflection of the fact at this stage there
 7 were limitations on from an Openreach standpoint as to
 8 identifying who was an SPC and who was a truly solus?
 9 A. From a data privacy perspective, yes.
 10 Q. At that stage prior to the commitment?
 11 A. Exactly.
 12 Q. In relation to truly solus, VOCs as I have been
 13 referring to them, they by definition do not have
 14 broadband, yes?
 15 A. Yes, that is what you are telling —
 16 Q. By definition. We do not need to turn it up but you
 17 refer in your statement to BT using focus groups to work
 18 out why this particular customer group did not want
 19 broadband. You say that at paragraph 30.
 20 A. Yes, is it — I think it was solus generically because
 21 I am not totally sure if we were able to find the
 22 customers.
 23 Q. Yes, okay.
 24 A. I do not know if it was specifically VO or Voice.
 25 I cannot remember what I said, but, yes. In the

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1 interests of time, yes.
 2 Q. In fairness to you, paragraph 30 of your statement you
 3 are talking about customers without broadband but the
 4 point you are making, I think a fair one, is that at
 5 this time it was difficult for you to know whether that
 6 was because they were an SPC or truly a VOC. That is
 7 the same point we have just been discussing.
 8 You mention in your statement a proposal for
 9 a discounted laptop?
 10 A. Yes.
 11 Q. Which, as it happened, was never taken forward?
 12 A. Yes, we realised that it did not work.
 13 Q. It did not work. Perhaps partly because of that it is
 14 right to say, is it not, that BT knew that many solus
 15 customers simply were not interested in broadband. That
 16 is fair?
 17 A. Sorry, can I infer that from the laptop point? Sorry?
 18 Q. Do not worry about the laptop point.
 19 A. Sorry.
 20 Q. Just a simpler question. BT knew, did it not, that many
 21 truly solus customers simply were not interested. It
 22 was not they did not happen to have it, they were not
 23 interested?
 24 A. What we knew was that there was a significant group that
 25 were reluctant or had significant barriers. I mean,

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1 yes.
 2 Q. Yes. Let us look at one document on that. I hope you
 3 have it in hard copy. {F/480/1}
 4 A. Sure, okay.
 5 Q. It is an email from you from August 2016. It is just
 6 one page. So you are emailing --
 7 A. The Mobile Team.
 8 Q. The BT Mobile team. Thank you. Referring to -- you are
 9 writing up a discussion from last week on offers for
 10 solus Voice customers.
 11 You say:
 12 "The opportunity:
 13 "Our solus customers are at risk from price
 14 regulation ..."
 15 I think that should be -- sorry, it is a slightly
 16 strange choice of words and I appreciate it is
 17 eight years ago, but presumably that should say: "BT is
 18 at risk of price regulation in relation to solus
 19 customers". That must be what you are saying there?
 20 A. Where does it say?
 21 Q. "Our solus customers are at risk from price regulation."
 22 A. Yes.
 23 Q. It is just a form of words. Then you say:
 24 "... and many of them are not interested in taking
 25 [broadband] (mainly, we either constantly flog them BB

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1 or ignore them -- although we are doing more calling
 2 plans campaigns more recently)."
 3 You referred to an opportunity to make them feel
 4 valued and gain mobile sales by offering them a mobile
 5 exclusive gift.
 6 Then you say under the heading "Complication", among
 7 other things you say you:
 8 "Considering the majority of the solus base are not
 9 online -- they will be more interested in low data,
 10 higher minutes SIM."
 11 So more interested in making calls than going
 12 online.
 13 Then just in the final cluster of bullets under the
 14 heading "Couple of questions I think we need to answer"
 15 you say:
 16 "What is the commercial of risk of customers going
 17 on to take broadband if we go with a deep discounted
 18 prop -- might actually be really low and still the right
 19 thing for the business considering these customers are
 20 either actively not interested in [broadband] or have BB
 21 with a competitor (making them a churn risk)."
 22 So you are making the point there that some solus
 23 customers have broadband with a competitor. You cannot
 24 know the numbers at this stage. You are distinguishing
 25 that from customers who are, as you put it, actively not

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1 interested in broadband?
 2 A. Yes, so I am hoping at this point we will be able to use
 3 our propensity models to identify customers that we have
 4 not been able to sell broadband to that we think might
 5 be -- this would be changing it up other than just
 6 marketing to them calling plans and Home Phone Saver and
 7 things like that. So, yes, and my concerns in here are
 8 mainly practical ones about how we build it into the
 9 system.
 10 Q. Yes. But I derive from this that you personally were
 11 aware and BT was aware many solus customers were not
 12 interested in taking broadband. Those are the words you
 13 use?
 14 A. We were aware that there was a segment definitely and
 15 that is why I was working hard to build products that
 16 I thought would be interesting to them and valuable to
 17 them.
 18 Q. Yes. Just a couple of final points if I may.
 19 Vulnerable customers. Paragraph 60 of your
 20 statement. We do not actually need to turn it up. You
 21 refer to vulnerable customers and you say you are going
 22 to explain how "vulnerable customers impacted on pricing
 23 Voice products during my time as GM for Voice". You
 24 make the point that you think vulnerability is a concept
 25 that should not just narrowly focus on age?

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1 A. Yes.
 2 Q. You say, for example, that BT had a specially trained
 3 team of contact staff to assist vulnerable customers?
 4 A. Yes.
 5 Q. That is nothing to do with Voice pricing, is it, that
 6 sort of approach?
 7 A. Well, it contributes to the overall cost that we are
 8 going above and beyond and providing additional services
 9 that other providers do not do.
 10 Q. Yes, in that sense, yes.
 11 Then you refer at paragraph 62 of your statement to
 12 the BT Basic product which you developed in 2008?
 13 A. Oh, the --
 14 Q. Not you personally, BT --
 15 A. Exactly, I actually launched I believe BT Basic
 16 Broadband when I was GM at Broadband.
 17 Q. You refer to that in your statement. Now, BT Basic is
 18 only available, is it not, to customers in receipt of
 19 certain benefits such as Universal Credit?
 20 A. Yes.
 21 Q. There are eligibility requirements?
 22 A. Yes.
 23 Q. Just to clarify, I do not think you were intended to
 24 suggest otherwise, you say that BT developed BT Basic to
 25 assist customers on certain benefits. It is true

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1 though, is it not, that providing a service like
2 BT Basic was a matter of obligation for BT, was it not?
3 A. Not BT Basic Broadband. BT Basic Voice Only
4 specifically , was part of the USO for BT and for KCOM.
5 Q. Just to be clear, that is the Universal Service
6 Obligation that BT is under in relation to telephony, so
7 talking about BT Basic the telephone product?
8 A. Yes, we were required to have a social tariff . There
9 was not any specificity as to how that should be priced,
10 so obviously we were making choices about how rich that
11 offer is and how we offer it.
12 Q. I accept that. Are you aware that this product is not
13 within the scope of this claim?
14 A. Is or is not?
15 Q. Is not.
16 A. Is not. That makes sense.
17 Q. Then just a final couple of questions if I may.
18 Paragraph 74 of your statement, so this is in the
19 context of the Ofcom process, which I think you very
20 candidly say you found challenging and frustrating.
21 I think you said that earlier today as well?
22 A. I did.
23 Q. What you say in paragraph 74, among other things, is
24 that as a result of the 2017 review, about halfway down
25 the paragraph you say:

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1 "We spent the time we would have spent launching
2 what we called BT Simple initiatives (which were
3 initiatives being developed by VO customers online) on
4 developing and negotiating the commitments BT made to
5 Ofcom. As a result, these BT Simple plans were never
6 taken forward, which I felt was a real shame."
7 You do not refer to any specific plans that were not
8 taken forward but what you seem to be saying is that if
9 it were not for the Ofcom process, certain initiatives
10 to get VOCs online, truly solus customers, would have
11 been introduced to their benefit?
12 A. Yes, and where I am going with this is I took on the GM
13 Voice role because I felt passionately about developing
14 innovative new products like BT Call Protect which I did
15 have the capacity and time to deliver but also
16 particularly in Connected Home, Telecare, Telehealth,
17 other aspects of value for these kind of segments. That
18 was something that was important to me personally which
19 I will not wax lyrical on but it was. So what I found
20 frustrating was I was spending so much time jumping
21 through ever more demanding information requests and
22 data requests that it was stopping me from actually
23 spending time creating products for what I thought was
24 a good — a segment we should care about, and did care
25 about it.

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1 Q. I take it from your evidence, including your oral
2 evidence, what is sometimes called digitally excluded
3 customers, that is something you feel passionate
4 about: getting people online, yes?
5 A. Yes, but not just digitally excluded, vulnerable in
6 other ways. Members of my family are disabled and are
7 eligible for some of these products and in fact I have
8 some disabilities myself, so selfishly these are things
9 that I care about.
10 Q. Ms Blight, you would accept, would you not, that were it
11 not for the commitments process, truly solus customers
12 would not have received a discount in relation to
13 the price of Line Rental. Do you accept that?
14 A. No, what discount?
15 THE CHAIRMAN: One second. I just want to see the question.
16 MR ARMITAGE: Were it not for the commitments process with
17 Ofcom, 2017 Review, I am just asking whether you accept
18 that VOCs, truly solus customers, would not have
19 received a discount in relation to the price of
20 Line Rental. That is to say, the discount that BT
21 ultimately undertook to offer the Carmen discount?
22 A. So they would have received different discounts of which
23 we had in plan but they would not have — I do not
24 believe that we would have restructured our systems to
25 be able to isolate that customer segment, which of

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1 course we could not have done without the additional
2 data, and reduced prices for that segment without the
3 commitment, partly because it would not have been
4 possible for us, but I doubt we would have gone quite as
5 deep I guess.
6 Q. You say quite as deep. The question I asked was without
7 the commitments there would not have been any discount
8 for VOCs?
9 A. No, I think there would have been. I think there would
10 have been discounts because we had discounts, Line
11 Rental Saver, Line Rental Plus, Home Phone Saver.
12 Q. Leaving aside those.
13 A. But those are discounts.
14 Q. Sorry, I do not know why — yes, sorry I see the point
15 you are making, so perhaps the question was not
16 sufficiently clear. In terms of the discount on
17 the price of Standard Line Rental you accept that, were
18 it not for the commitments and review process with Ofcom
19 VOCs would not have received a discount on the price of
20 Standard Line Rental, yes?
21 A. If it were not for the commitments so, yes, because
22 without the commitments we would not have even been able
23 to.
24 Q. We have seen a moment ago from your email you personally
25 recognised, around this time, many VOCs simply were not

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1 interested in broadband, yes?
 2 A. Yes, some were not, some were.
 3 Q. If you were a VOC with no interest in broadband, you
 4 would have missed out on a discount on Standard Line
 5 Rental were it not for the commitments, yes?
 6 A. No, because you would have been eligible for other
 7 products such as Line Rental Saver such as Home Phone
 8 Saver.
 9 Q. Standard Line Rental I said.
 10 A. But those are discounts on Standard Line Rental. I do
 11 not understand --
 12 Q. If you are a customer who is not interested in getting
 13 online the fact that BT may have introduced other plans
 14 to get you online, to which you refer in your statement,
 15 would have been no good to you whatsoever, would it?
 16 A. Sorry, if you do not want to get online, then plans to
 17 get online would not be helpful, yes, I agree with that,
 18 but ...
 19 Q. Thank you.
 20 A. Yes, sorry.
 21 Q. I am just going to turn round if that is all right.
 22 I do not have anything further. There may be other
 23 questions for you from Mr Beard and the Tribunal.
 24 THE CHAIRMAN: Thank you very much, Mr Armitage. Now,
 25 Mr Beard.

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1 MR BEARD: I do have some questions in re-examination but
 2 I am also conscious the Tribunal --
 3 THE CHAIRMAN: We thought we might have a bit of slippage so
 4 we factored that in. The position is that Mr Spitz has
 5 said he needs an hour with Mr Cackett. We have
 6 certainly got some questions of Mr Cackett. But it is
 7 possible that we will slip into the afternoon a bit with
 8 Ms Blight but we have got a sufficient cushion I think
 9 for that.
 10 MR BEARD: Fine. I do not want to constrain the Tribunal
 11 but I will try and go back through a few things briefly.
 12 Re-examination by MR BEARD
 13 MR BEARD: So let me just tidy up one or two issues from
 14 this morning. I will slightly work backwards again just
 15 so that the questions I am asking now are sort of
 16 fresher in memory.
 17 If we could just go to {F/475/4}. This was in an
 18 email chain and it was all part of the discussion about
 19 what the starting point for consideration of price
 20 changes were?
 21 A. Yes.
 22 Q. You see the email that you sent and we saw this.
 23 "We've just had a kick off with Hugo and Pete where
 24 we debated if we would go to £19.99 or £19.49 (on
 25 Standard Line Rental) so it is definitely a live issue."

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1 Do you recall what the increment was that you were
 2 discussing?
 3 A. So £9.99 would be £1; £19.49 would be 50p. This is an
 4 example of us discussing the low £1 increase.
 5 Q. Do you recall what the actual increase was that was
 6 imposed?
 7 A. I am not sure I remember, but I think it might have been
 8 £1. Again, what was finalised was... Mr Bunt delivered
 9 that one.
 10 Q. Actually it was not, but --
 11 A. It was frozen again, yes, exactly.
 12 Q. But it does not matter for these purposes.
 13 You talked a good deal about other competitors and
 14 your consideration of other competitors, and you also
 15 referred on a number of occasions to Virgin and other
 16 competitors. It is clear from your witness statement
 17 that you worked previously at Virgin.
 18 Could we just go to page 33 in today's [draft]
 19 transcript, please. if we could just go up to page 32.
 20 I am sorry. So there was a discussion about -- you did
 21 not remember the discussion about freezing, as you have
 22 just illustrated. But you then say:
 23 "I cannot remember the freezing because freezing is
 24 a very specific thing because you are making
 25 a commitment rather than just not putting it up, yes.

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1 What I would say is this is basically exactly the same
 2 process as was going on at Virgin as well and I was
 3 aware was going on at all the providers. It is a very
 4 standard process."
 5 What are you talking about there? That
 6 considerations that are taken into account or how it
 7 works? What are you talking about?
 8 A. So this I think was the planning process, so my
 9 experience when I was at Virgin is we would also have
 10 a budget and a forecast which did tend to assume
 11 a certain percentage or incremental on products
 12 including Line Rental. It probably would include £1.
 13 My understanding from friends who have worked at Sky and
 14 everywhere else it is pretty standard. So it is a sort
 15 of what we call a top-down target where people are
 16 projecting things forward and then the Commercial teams
 17 need to take that target and debate and make arguments
 18 as to what should be the plan taking that target into
 19 consideration.
 20 Q. Just from your experience in relation to Virgin, do
 21 other providers so far as you are aware use retention
 22 tools, as it has been referred to in the proceedings?
 23 A. Yes, it is standard practice to create products that are
 24 discounted at various depths of discount and offer them
 25 based on churn risk and churn propensity in order to

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1 retain customers. It is an industry-wide -- and in fact
 2 outside telecoms as well.
 3 Q. I will not go through other materials because you have
 4 referred in your witness statement to other competitors,
 5 but could we go to {F/461/2}, please.
 6 A. I will just look at it on here. Yes, I remember this.
 7 Q. I think we need just to go -- if you remember this was
 8 a document that -- a chain of emails that Mr Armitage
 9 took you to?
 10 A. Yes.
 11 Q. If you just go to the top of the chain. It is
 12 discussing the acronyms NPS and VFM?
 13 A. Yes.
 14 Q. You see at the top your response is:
 15 "It would be great if we could discuss this as it is
 16 quite different from the feedback we have had elsewhere
 17 and implies we should be taking quite a different
 18 strategy. It could have a big impact on our approach
 19 for 17/18."
 20 As I say, Mr Armitage was asking you about NPS, net
 21 promoter score, and value for money. What is it you are
 22 referring to as having a big impact?
 23 A. What I am -- the live debate that we are having at the
 24 moment for the next price change is we have just done
 25 a price change that was a larger quantum but had -- we

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1 reinvested quite a bit of that money into more gives,
 2 and so we were debating what is the right balance of
 3 putting up prices by more but reinvesting that in
 4 benefits versus putting them up by less and investing
 5 less. So that was the debate going on.
 6 A critical part of that is what the value for money
 7 perceptions of customers are because that is heavily
 8 linked to churn, very highly correlated and also linked
 9 to help what they are saying to other, their friends and
 10 family and other people. So it impacts acquisition in
 11 fact as well.
 12 So what I am saying here is that at this point I had
 13 been receiving feedback that we had had a really good
 14 positive response and there had been a big impact from
 15 the gives and the above the line marketing we had done,
 16 and some of what Kevin was saying here was a slightly
 17 less positive story. So I was very concerned that
 18 maybe, and we did not have all the data yet because
 19 the price change has not fully launched but I was very
 20 concerned that we were -- we needed to get that balance
 21 right that I talked about before of price rises but also
 22 delivering so we maintain a positive perception amongst
 23 our customer base.
 24 Q. It may be the most obvious question you have been asked,
 25 but the M in value for money, what are we talking about

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1 here, the M?
 2 A. The M?
 3 Q. Yes.
 4 A. So the money that they pay as their overall bundle in
 5 exchange for the services that they receive and their
 6 perceived value of those services. So I mean, you might
 7 have someone paying a lot of money who has a much higher
 8 value for money perception than someone on a really low
 9 amount of money. It is personal.
 10 Q. Thank you. One of the things that was discussed was the
 11 Care Level 2 system that was offered as part of the
 12 packages at certain times and you have given evidence
 13 about when and so on. But could we just go back to the
 14 [draft] transcript, page 6 today, lines 14 and 15. If
 15 we could just scroll up so you can see the question.
 16 {Day8/6:11}
 17 "So I had thought the position was, and perhaps, in
 18 relation to Mr Beard's question, to clarify, prior
 19 to July 2016 there was no Care Level 2, it was
 20 Care Level 1 at that stage for everybody?"
 21 You said:
 22 "Sorry, except for people on Line Rental Plus or in
 23 certain vulnerable segments, which we had already put on
 24 Care Level 2."
 25 Could you just explain what you were referring to

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1 there?
 2 A. Yes, so the customer resolutions team had already done
 3 a significant project, I think in 2014/2015, looking at
 4 how we could better support customers who were deemed
 5 vulnerable, not necessarily Ofcom's definition of
 6 vulnerable. For example, people who were reliant upon
 7 their landline for certain health products, pendant
 8 alarms, had certain disabilities, and we had a process
 9 where as a carer, for example, you could contact BT or
 10 if we found from interactions in a contact centre that
 11 there was a vulnerable customer, we could actually put
 12 them on to our higher Care Level so that we were
 13 proactively supporting that customer better. We could
 14 also flag that they needed to be expedited or treated by
 15 a different team but it was part of a broader set of
 16 actions. I think the document is in one of the packs
 17 but I have not been asked about it.
 18 Q. Thank you. I am going to go back to just clarify one or
 19 two points from yesterday. So transcript
 20 {Day7/109:22-24}. That will pop up. This is in the
 21 context of questions being asked about Call Protect and
 22 you say:
 23 "We had already informed people that a product we
 24 knew was very important to customers would be coming
 25 down the line. It was not central to that first comms."

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1 So do you remember, broadly speaking, what date we
2 are talking about at that time?
3 A. So I think this is us talking about the price change
4 that was communicated — we announced in April and came
5 into effect in July 2016. This was in relation to me
6 being asked about BT Call Protect, so we had intended it
7 being, in the earlier planning documents you saw,
8 a bigger part of those price change comms. We had to
9 delay the launch for various reasons. So then we wanted
10 to still include it in the comms but we included it as
11 a preregistration in that first comms and then I think
12 it was launched and it was November 2016, so it was then
13 included again in the next comms of which there was
14 a debate. But, yes.
15 Q. I just want to take you to a document. You gave me
16 relevant dates. So can we go to {F/405/1}.
17 A. I do not have that one.
18 Q. It is not going to be in your hard copy bundle, sorry.
19 I just want to check whether or not this is one of those
20 comms that you are referring to?
21 A. Yes, this looks like it.
22 Q. Then if we just go down the page.
23 A. Yes, so this is a great example of how we included it in
24 the comms but it was a trail, so the — kind of — the
25 main core gives for this customer segment are at the top

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1 of the page and then there is this second section which
2 is sort of saying, "hey these are the things that are
3 coming down the line", which is why we felt that we
4 could then talk about it again in the next comms. This
5 is not central, as I said, to the price change at the
6 time.
7 Q. Could we go to {F/526/1}. It is quite hard to read
8 this.
9 A. Yes. This is the next year's one, yes.
10 Q. Sorry, when you say it is the next year's one, the sort
11 of second round, as it were, that you were talking
12 about?
13 A. I think this is the next year's price change because the
14 previous one was prices changing in July 2016. This is
15 prices changing in April 2017.
16 Q. Right. So you see the boxes there. Is this the sort of
17 communication you were referring to where it has more
18 prominence?
19 A. Yes.
20 Q. Can we just for completeness, can we go to the next
21 document, {F/527/1}. Do you recall what this one is?
22 A. So this was after I had changed team but I can see quite
23 clearly that again it is a comms from for
24 that April 2017 price change and this is an example of
25 a customer that clearly has broadband as well as Voice

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1 and they are still getting the BT Call Protect message
2 here because it was critical, it was a critical message
3 in this comms for all Voice customers.
4 Q. Thank you. {F/147/1}, please. This was a document
5 Mr Armitage took you to, you may remember.
6 A. Yes.
7 Q. He took you to page {F/147/3}, just so you can recall
8 it. Can we go to slide {F/147/17} here, please. If you
9 want to just scan that. (Pause). Can you explain, is
10 this setting out the objectives for Call Protect and how
11 it works?
12 A. Yes, I believe it is.
13 Q. There is a reference here to vulnerable customers right
14 down at the bottom.
15 A. I am just trying to find it.
16 Q. Just by "Agent"?
17 A. Exactly. So one of the — and it is something I am very
18 proud of, one of the things that was very important for
19 to me when creating Call Protect is we were
20 simultaneously online focused in terms of the customer
21 experience for the mass market but also we were catering
22 to people who did not have broadband and in particular
23 those people that were vulnerable, and so the entire
24 customer experience and how you could operate the
25 product, you could do it through an app or a website or

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1 you could do it via short codes on a landline telephone,
2 and also there was a portal for our customer advisers to
3 be able to set it up for the customer on their behalf if
4 they phoned up and found the landline short codes too
5 challenging.
6 So this was really about us making a huge effort to
7 ensure this was a product that everybody could use and
8 that definitely is not something that I think other
9 people were doing.
10 Q. Thank you. I am just going to move on to the next of
11 the gives that Mr Armitage referred to, the Right Plan.
12 You said in the course of your evidence yesterday that
13 you thought Right Plan was available through a contact
14 centre adviser.
15 Can we just go to {F/240/1}. I think actually, to
16 be fair to Mr Armitage, he went to a different version
17 of this document, but if we could just go to slide
18 {F/240/67} here.
19 If you look at this document, are you familiar with
20 this document?
21 A. I am familiar with the overall document, but because
22 I was managing broadband I think at this time I would
23 have written the broadband pages in it, and my
24 predecessor would have written the Voice ones, but I am
25 familiar with what is on here.

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1 Q. Right. So if we go to the bottom right-hand corner, we
 2 have:
 3 "Ensuring customers have transparency on tariffs."
 4 A. Well, this is a relief, because it clearly says it is
 5 available online or in call centres, which I had
 6 thought. So that is encouraging that that is what it
 7 was. So my understanding is if an adviser had access to
 8 that same online facility, therefore they could help
 9 a customer that was not able to go online and they could
 10 therefore receive the same benefits.
 11 Q. Right. I am just going to ask you, {F/374/1}. I think
 12 you were taken to this document but not to this slide.
 13 Slide {F/374/8}. Do you recall ever seeing this?
 14 A. So, no, I do not know if I did, because I was not yet in
 15 this, but I am familiar with the -- well, I would have
 16 been at the time familiar with the process.
 17 Q. Can you just outline, without going through all the
 18 detail, what is broadly being dealt with here?
 19 A. So you see in the title it says "Unhappy Paths". So
 20 when you design a customer experience you have what is
 21 called a happy path, which is what you hope customers
 22 will do, but then you also have to think about, well,
 23 what could go wrong, so you kind of go through every
 24 single thing that could go wrong and how do you deal
 25 with it.

1 So what they are saying here is, okay, what happens
 2 if I cannot get online? What happens if you can get
 3 online but you do not have a BT login? What if you are
 4 ineligible? What if things are changing over that time
 5 period? What if you do not like the answer and you -- I
 6 think the "restart the clock" is saying: okay, I did not
 7 like -- I am actually going to change my behaviour and
 8 do something other than take the new plan, like just
 9 make fewer calls. Then also there are going to be
 10 people that will feel like they made the switch but they
 11 feel they made the wrong decision.
 12 So this is us working through all the "what ifs" to
 13 ensure there is a good experience for everyone in
 14 Right Plan.
 15 Q. Okay. Thank you.
 16 {F/404/1}, please. This is an email briefing for
 17 journalists that Mr Armitage took you to, and you will
 18 see at the top the starting point is the context of:
 19 "... in recent weeks that our competitors have
 20 increased prices."
 21 It talks about the competitors you have referred to
 22 in your evidence.
 23 "We are now writing to customers to tell them about
 24 our own price rises ..."
 25 A. Yes.

1 Q. If we go down the page, you will see at the bottom
 2 there, there is something to do with Right Plan. Can we
 3 just blow that up. That is really kind, thanks.
 4 It says:
 5 "... is a tool for BT customers ... introduced
 6 two years ago. It offers them the option for us to
 7 monitor their calling pattern ... recommend the best
 8 value plan ... even if it is a cheaper one. Customers
 9 can have peace of mind knowing they are on the best
 10 option and the service is free."
 11 Mr Armitage took you in cross-examination to what
 12 the specific savings could be and talked about those
 13 issues of peace of mind.
 14 If you launch a product like Right Plan, can it
 15 offer broader peace of mind than those that just use it?
 16 A. Yes, and I was sort of trying to say this yesterday but
 17 maybe unsuccessfully.
 18 So all the customers that would have interacted with
 19 it would have received a benefit, even if not
 20 a financial one, even if that was giving them greater
 21 awareness of what their usage was and reaffirming to
 22 them that they were on the right plan for them, so it is
 23 checking that they are on the best value deal. Then
 24 a subset will decide to change their behaviour, a subset
 25 will decide to take a different calling plan or package

1 and potentially save money. Some might even upsell, to
 2 be honest, but ...
 3 Q. If we could just go to {F/345/1}, a short point on this
 4 document. It is an email exchange that Mr Armitage took
 5 you to. If you see in the second email down, this is
 6 the:
 7 "... John gave us the challenge ..."
 8 A. Yes.
 9 Q. Perhaps we can bring up in split screen the {Day7/183:1}
 10 transcript.
 11 You will see the question that Mr Armitage asked
 12 was:
 13 "Question: We saw an email right at the start of
 14 your evidence where you were challenged to come up with
 15 gives that could justify, from the perspective of the
 16 regulator, a higher Line Rental increase ... We saw
 17 that, did we not?
 18 "Answer: I do not disagree. I am not saying that
 19 Ofcom was not an important consideration, they were an
 20 important consideration, I am just saying it is wrong to
 21 categorise us as only ever considering Ofcom."
 22 I just wanted to clarify in the email, did the
 23 request from Mr Petter relate specifically to justifying
 24 a higher Line Rental to Ofcom, as you recall?
 25 A. No, I do not see any evidence here that it is

1 specifically about Ofcom versus about more generally
 2 optimising for either balance of pricing and gives.
 3 Q. If we could go to {Day7/168:21}, there was a reference
 4 to:
 5 "Question: ... shift [ing] millions of customers,
 6 including SPCs, back down to Care Level 1; yes, that is
 7 what happened?"
 8 You say:
 9 "Answer: What I do not know is how things were
 10 changed -- I do not know if that meant that their
 11 care ... their Care Level seems to be changed, from what
 12 you are showing me."
 13 If you just read on through that answer.
 14 A. Yes. (Pause)
 15 Q. So actually I just wanted to work out, what does CAPC
 16 mean?
 17 A. So we would refer to that as "Cap-C". I confess it is
 18 an acronym that I cannot remember for the life of me
 19 exactly what the words meant, but I can explain to you
 20 what the product did.
 21 Q. Please.
 22 A. So this -- in our contract with Openreach, if a customer
 23 or a third party damaged someone's phone line, they were
 24 potentially required -- we, and therefore the customer,
 25 were potentially required to pay for the engineering

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1 visit, which would be I think around £120, so a really
 2 quite big chunk. That meant that there was a period of
 3 time where the customer would get through the fault
 4 experience and they would be warned by a BT adviser that
 5 if they sent out an engineer, then they might be charged
 6 up to £120 for it.
 7 Now, we were not always charging it, we were often
 8 waiving it, all these things. But if you are someone
 9 who is price conscious or just from a cashflow point of
 10 view, £120 is a lot of money, a lot more money than
 11 a Line Rental increase. So what we were finding, or the
 12 customer resolutions team were finding, was that
 13 particularly some vulnerable customers were then not
 14 having their line fixed because they were scared of that
 15 fee.
 16 So what was important for us to do was to change the
 17 policy there. In some cases that required us to swallow
 18 the cost from Openreach and just pay it ourselves. In
 19 other cases it was -- or to kind of loosen or fight
 20 those fees. Then another way of managing it was to
 21 actually send a different engineering supplier. So, for
 22 example, I mentioned Qube. They were another third
 23 party we brought in, in competition with Openreach,
 24 because we could do them to do a truck roll for only
 25 £50, rather than Openreach would be £120.

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1 So that is what I am referring to here, and I think
 2 there was a document you may have seen the other day
 3 with CAPC, and that was relating -- that was the
 4 commercials that were the concern there.
 5 Q. Now, I am not sure whether it is this document you are
 6 referring to, but can we go to {F/260/1}, please.
 7 A. I do not think I have got this one. Yes, this one.
 8 Yes, I remember.
 9 Q. I think --
 10 A. This was it.
 11 Q. This is it, okay. Then if we go to slide {F/260/3}.
 12 A. Yes, so ...
 13 Q. CAPC makes an appearance in the third box down and that
 14 is the product that you are referring to?
 15 A. Yes, exactly that. So this is not a document that
 16 I wrote, it was a document that was written by the
 17 customer resolutions team who were focusing on how they
 18 could they improve the service, not pricing, but the
 19 service for customers who might be in various vulnerable
 20 segments, including those who were elderly. At the time
 21 of this document, I think it was 24(?), I was General
 22 Manager of Broadband and I had responsibility for
 23 pricing of engineering products, which included CAPC, so
 24 I had joint responsibility for CAPC with the Customer
 25 Resolution team, and I took the action to make these

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1 changes which we did.
 2 Q. That is very helpful, thank you.
 3 I just had one more question. It is an explanation
 4 of something you said in the transcript yesterday.
 5 Expedites; could you just briefly explain what an
 6 expedite is in this context?
 7 A. Annoying jargon. In this context, yes. An expedite is
 8 when we book a fault resolution with Openreach. If they
 9 are not able to resolve it fast enough we can pay more
 10 money to speed them up and come sooner. So in the
 11 context of having -- paying for Care Level 1 or
 12 Care Level 2, another way to get a better experience
 13 would be to keep paying for all your customers on
 14 Care Level 1 but spend more money on expedites so that
 15 when someone has a fault you speed up.
 16 THE CHAIRMAN: In a particular case.
 17 A. Exactly. So then you are focusing your spend on when
 18 there is a fault, rather than having that 53p charge on
 19 every single line.
 20 MR BEARD: I do not have any further questions for you,
 21 Ms Blight. I think the Tribunal will have some.
 22 THE CHAIRMAN: We will, but given the time we will break for
 23 the luncheon adjournment now and resume at five to 2.
 24 MR BEARD: I am grateful.
 25 THE CHAIRMAN: Thank you.

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1 (12.53 pm)
 2 (Luncheon Adjournment)
 3 (1.55 pm)
 4 MR BEARD: Sir, before you begin, there is a matter that has
 5 arisen over the short adjournment. I do not know
 6 whether this is --
 7 THE CHAIRMAN: There is a ...?
 8 MR BEARD: A matter that has arisen over the short
 9 adjournment.
 10 THE CHAIRMAN: Oh, right.
 11 MR BEARD: I do not know whether or not it has come to the
 12 Tribunal's attention, but it appears that the Class
 13 Representative has tried to serve a further report from
 14 Mr Parker.
 15 Now, this is the first -- 1 o'clock was the first we
 16 heard anything about this. It is potentially
 17 significant in terms of his evidence, because on the
 18 face of what we see in it, it appears to be saying that
 19 if there were to be a recapture incentive then the
 20 hypothetical monopolist test, on the basis of which
 21 Mr Parker has proceeded, is not appropriate. He then
 22 cites I think it is about 250 pages of exhibits.
 23 Our experts have not had an opportunity to look at
 24 this material. No application has been made. As I say,
 25 the first we have heard about it is 1 o'clock.

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1 We understand that we have a hot tub beginning on
 2 Monday. We understand that the report says, well, it is
 3 responding to points that Mr Ridyard raised. But with
 4 respect, it has been known throughout that BT is
 5 a multi-product firm, it has been clear for many, many
 6 months that it was an assessment that there was
 7 a recapture incentive, and Mr Parker has never dealt
 8 with these issues properly. He is now seeking to put
 9 forward material that our experts need proper time to
 10 deal with.
 11 THE CHAIRMAN: Can I just cut you short there, simply to say
 12 this: can we finish the lay evidence, and then that will
 13 give us an opportunity -- we will go away and read it,
 14 I think, because we have literally just got it now.
 15 MR BEARD: I do not know whether or not it is appropriate
 16 for the Tribunal to read it in these circumstances --
 17 THE CHAIRMAN: Well, you can --
 18 MR BEARD: -- given no application.
 19 THE CHAIRMAN: Alright. I was going to say de bene esse,
 20 but let us discuss the whole thing once we have the lay
 21 witnesses ... Because I do not think it is suggested it
 22 can affect the lay witnesses.
 23 MR BEARD: No, no. I just wanted to put down a marker.
 24 THE CHAIRMAN: You were right to put down your position at
 25 the moment. That is helpful.

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1 We will come back to that once we have finished the
 2 lay witnesses, thank you.
 3 The questions from the Tribunal of Ms Blight will
 4 begin with some from Mr Ridyard.
 5 Questions by THE TRIBUNAL
 6 MR RIDYARD: Just sort of three and a half questions I have
 7 for you.
 8 The first one is just looking at this, the £1
 9 increase in Line Rental that we see, I know there were
 10 deviations from it, but it was almost as if it was
 11 a kind of norm that was happening throughout a certain
 12 period in the mid-2000s and 2010s.
 13 On the face of it, if you have a retail business
 14 which is buying in a wholesale product whose cost is
 15 static or falling, and you are putting a £1 increase in
 16 your selling price year-on-year, you would expect to see
 17 ever-increasing profits, all things being equal. But
 18 can you give us, maybe you cannot answer this question,
 19 but can you give us some feel for what it was doing to
 20 the Voice business at BT when you are getting this
 21 ever-increasing increase in Line Rental, and certainly
 22 the wholesale cost to Openreach was not going down over
 23 that period. So was it ever-increasing profits over
 24 that period?
 25 A. No. From memory, if anything, it was sort of flat or

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1 declining when you look at the average. So over this
 2 time period there was greater mobile adoption and people
 3 using messaging and other forms. So, overall, people
 4 were using landlines less, and also increasingly we were
 5 bundling in calls.
 6 This is -- by the way, I am not just talking about
 7 BT here, this is industry-wide across retail.
 8 So we are seeing declining usage, but also even
 9 faster declining variable revenue, as in the revenue --
 10 usage per minute revenues, because more and more of the
 11 calls are bundled and therefore not charged.
 12 MR RIDYARD: So it was almost moving -- it sort of relates
 13 to the question Mr Doran asked earlier about falling --
 14 obviously we are aware of falling Voice minutes over
 15 this period, and a sort of shift in the way that BT and
 16 others were getting revenues from being a kind of usage
 17 charge to the fixed charge really.
 18 A. Yes, that kind of mix or ratio of those two things was
 19 changing. Then, to my knowledge, there were other costs
 20 that were going up, albeit that the input cost from
 21 Openreach was not going up.
 22 MR RIDYARD: We will be exploring revenue and cost numbers
 23 in the due course over the next few weeks. But I just
 24 wanted to get a sense from you: when you were involved
 25 in the planning and thinking about price rises, and

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1 I think you used the expression you were "running to
 2 stand still " in this respect, so it is a bit
 3 surprising -- I am a bit surprised, I suppose, that
 4 there was not more discussion of that in these annual
 5 price rise propositions, really .
 6 A. Yes, so these are not the only documents or times when
 7 we are discussing the Voice P&L. So these are ... So
 8 imagine we might be having a 30-minute meeting for which
 9 we prepared a document, or maybe it is an hour, to
 10 discuss things specific to the price change. It is in
 11 a backdrop of us all on -- I think it was weekly, and
 12 there were some that were daily, I would be getting
 13 the revenues from Finance, including how we were doing
 14 versus forecast , and I would on a monthly basis be
 15 having sessions with Finance looking at the profits ,
 16 the revenues and the trends, and then also emailing that
 17 up the chain as well .
 18 So there is this constant dialogue about things like
 19 churn and the revenues from pence per minute and what is
 20 happening in the competitor landscape and all of these
 21 things. So we do not necessarily, in that meeting, go
 22 and copy and paste everything from other meetings and
 23 other things going on .
 24 MR RIDYARD: Yes. Just on the same theme: in the
 25 discussions with Ofcom, I mean, Ofcom at this point

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1 seemed to be very much focused on increasing the
 2 ever-increasing landline, the line charges, but I know
 3 in the letters we were taken to this morning, there was
 4 mention of the fall in volume of Voice minutes. But
 5 there seemed to be rather little emphasis, it seemed to
 6 me, on talking to Ofcom about the fact that your whole
 7 way of charging was flipping around, and that was part
 8 of what was going on here .
 9 A. I think that is -- I think that is a fair observation.
 10 I think potentially the reason behind that in most of
 11 these interactions with Ofcom is that they are sending
 12 us a data request, or sending the Reg team a data
 13 request or having a meeting with them, and then that
 14 might get sent to me, and then I am pulling together
 15 that data or information and sending it back. So it is
 16 kind of in these drips, and it is somewhat focused into
 17 what they are asking us, rather than --
 18 MR RIDYARD: They were driving the agenda .
 19 A. They were driving it, exactly. If you look at the whole
 20 span of the emails, because the first requests they gave
 21 us were all -- they were actually asking about broadband
 22 customers and pay TV and mobile and all sorts of
 23 questions, and then it narrowed down. What I felt was
 24 dawning on me through this process is that they were
 25 going to keep on asking us questions until they got the

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1 data that sort of gave them the evidence that proved
 2 their hypothesis. They may not have felt that way, but
 3 that is how it felt from our perspective .
 4 MR RIDYARD: In your consideration of these factors, did you
 5 have -- did you consider the average revenue per user,
 6 was that a key number that you looked at?
 7 A. I would have considered average revenue per user,
 8 although the ARPU calculations tend to not also have the
 9 minutes, the variable usage in them as well, so you have
 10 to kind of add that into the calculation . They were on
 11 different data systems .
 12 MR RIDYARD: Okay .
 13 A. So ARPU I used all the time in broadband and in
 14 transactions, but we had to look at both for Voice .
 15 MR RIDYARD: So just to be clear, you are saying ARPU
 16 typically did not include the Voice revenues?
 17 A. Yes, not all of the calculations did, because we could
 18 not necessarily -- there were two data systems, one
 19 which would have the usage of that customer and then
 20 another one that would have what product codes they were
 21 on. The product codes would define the ARPU minus that
 22 usage. So you would have to combine the two things. So
 23 often, just for ease of conversations, we might talk
 24 about them separately .
 25 MR RIDYARD: Okay, thank you. I am afraid that was one and

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1 a half questions .
 2 My second question is again about the £1, or
 3 whatever it was, the annual increase in the line
 4 charges. When BT was looking at that and considering
 5 the pros and cons, was there explicit -- was there an
 6 assumption that whatever you did, the other operators
 7 would likely follow suit?
 8 A. (Pause) I think there was -- that is what -- what had
 9 historically happened is that everyone was kind of going
 10 up at a similar rate, and we were probably most of the
 11 time only £1 away from each other across the board. So
 12 I think there was the assumption that that might
 13 continue. But at the same time there was concern that
 14 it might not and that it might change and that there
 15 would be an end to that road, particularly since there
 16 would be a tipping point where customers no longer
 17 valued the line enough and that we would have tipped
 18 over it. That was why each year there was still
 19 a debate of, okay, is it time up on this particular
 20 price elasticity? Have we reached the end of that?
 21 MR RIDYARD: There is a bit of a paradox there, is there
 22 not? Because people are using their phones less and
 23 less --
 24 A. Yes .
 25 MR RIDYARD: -- and you are increasing the Line Rental,

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1 which, on the face of it, is the cost of having a phone,
 2 so as a consumer I am telling you I do not really rate
 3 this product as much as I used to do, but then you are
 4 charging me more for it.
 5 A. Yes, and to build on what --- I agree --- to build on your
 6 point of paradox, I think there is a short-term versus
 7 long-term trade off. So typically with a price change,
 8 if you put everyone's price up on the 1 July, let us
 9 say, then you are immediately getting that revenue
 10 benefit, but it might take time for people to churn or
 11 become dissatisfied, for that to flow through.
 12 So there may be an immediate bump, you are trading
 13 off an immediate benefit versus long-term damage to your
 14 brand, and people going: well, actually, I do not really
 15 want this product anymore. So that was the paradox or
 16 the trade-off that we were making and were always
 17 considering: where is that balance?
 18 MR RIDYARD: But if you are told you have to have a phone
 19 line to have a broadband service, then even if you say:
 20 I do not use my phone anymore, you have still got to pay
 21 the Line Rental, have you not?
 22 A. Yes.
 23 MR RIDYARD: So in a way the Line Rental is becoming a price
 24 for something other than the phone, really.
 25 A. Right, and that is exactly why we looked at it being

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1 a membership or turning it to something else. Because
 2 what was essentially happening is it was --- and I think
 3 ASA were right to push for the combination, because
 4 I think that ultimately it was easier for customers to
 5 understand, the full bundle. But yes, it did not ---
 6 I do not think any one provider did --- kind of woke up
 7 one morning and said: we are going to shift it this way.
 8 I think we were all going: "okay, let us take a bit
 9 more, let us take a bit more"; and this was an evolving
 10 market situation that would get eventually to some form
 11 of peak.
 12 MR RIDYARD: Okay. The last question I had was about the
 13 incentives to switching people to bundles. Again, I am
 14 not going to ask you detailed questions about the
 15 economics of that. But just from what you said about
 16 churn in that regard, I think you said this morning that
 17 one of the advantages of bundle customers is that they
 18 had lower churn rates and therefore that avoided --- when
 19 you have less churn, I guess that involves all the fixed
 20 costs and the set-up costs of giving people new routers
 21 and getting engineers to go round and do whatever they
 22 do to the phone line when you switch suppliers.
 23 A. Marketing.
 24 MR RIDYARD: But then you were taken to evidence suggesting
 25 that the churn rates for VOC customers were about the

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1 same or maybe a bit lower than the churn rates for
 2 bundle customers. So does that contradict what you were
 3 saying previously about the benefits of getting people
 4 to trade up?
 5 A. So I think you are referring to the email where I took
 6 out bereavement ---
 7 MR RIDYARD: Yes.
 8 A. --- and was looking at a specific type of churn. So
 9 I think we do not --- no one has shown this evidence, but
 10 if I was analysing this, I would want to take customer
 11 segments or churn cohorts and compare them like for
 12 like. Because some aspects of --- it is a causality
 13 question. So some of the drivers of churn are related
 14 to your personality, some of the drivers of churn are
 15 related to your situation in life, and other drivers are
 16 related to your product holding.
 17 So, for example, if you are someone who has had
 18 a product for a while, and you own your own property or
 19 you are living in a location for a long time, then you
 20 are less likely to churn than someone who is in rental
 21 and moving on a yearly basis, because each time you move
 22 you have to do a change of contract, you have to contact
 23 us, all this stuff.
 24 So those are aspects that if you have, say,
 25 a younger cohort, they are more likely to be renting,

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1 they are more likely to be moving around, so they are
 2 going to be higher churn. Also there is a big churn in
 3 the first couple of months of a contract as well. So
 4 new customers churn faster than older customers.
 5 But if you took individuals that are basically the
 6 same in all other ways, but one of them has one product
 7 from you and another one has --- say, they have got phone
 8 and they have got fibre broadband and they have got TV
 9 and they have got mobile, that second person with more
 10 products will tend to have a lower churn rate.
 11 MR RIDYARD: So your belief would be that if you take the
 12 sort of paradigm VOC customer, and let us say --- I know
 13 they are not all elderly, but let us say an elderly
 14 person who has not changed much for a long time, they
 15 have a low churn rate anyway, but if you were to
 16 persuade them to buy a bundle you think that churn rate
 17 would go down a bit further because they would be
 18 holding other things constant. Whereas the comparison
 19 we saw in the email chain was not a like for like
 20 comparison, because it was in effect comparing an older
 21 cohort with a younger cohort.
 22 A. 100%. I would just add to that that you have to think
 23 about why a customer is inert, because I think when you
 24 say "inert", people might think, oh, that means they do
 25 not care, they are inactive, they are unengaged. But it

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1 could also be that they are happy.
 2 MR RIDYARD: I take that point, but I am just focusing on
 3 this particular point about churn and the incentive
 4 thing.
 5 Thank you, that is all I had.
 6 THE CHAIRMAN: Can I just take up where Mr Ridyard left off
 7 on this question of churn. We have been presented —
 8 and I am only talking about SFV customers now, not the
 9 whole of Voice.
 10 A. Yes, okay.
 11 THE CHAIRMAN: Right. We have been presented with figures
 12 showing that this class of customer has been steadily
 13 declining year—on—year in quite large numbers. So on
 14 the one hand — and it has been said, it is a matter
 15 that we are going to explore with the experts, but it
 16 has been said, well, that is because that is a general
 17 trend which is happening because the number of people
 18 who have landline only or two different contracts is
 19 steadily declining in any event.
 20 A. Yes.
 21 THE CHAIRMAN: Now, when you are considering in your pricing
 22 the risk of churn, are you taking that into account as
 23 something which is just going to happen anyway, you are
 24 going to be losing customers, and that there is another
 25 bit which might be more price—sensitive, or how did you

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1 look at it?
 2 A. So there are push and pull factors to churn. So it is
 3 true that there is a baseline that sort of always exists
 4 whatever you do, and then there will be people that will
 5 leave, either because of a combination of something that
 6 we have done, maybe we have poorly handled their fault,
 7 maybe we put their price up, and maybe at the same time
 8 they have seen a price point from the Post Office or
 9 Virgin or Utility Warehouse, say.
 10 But it is true that there would be — there is
 11 a certain amount of churn that just happens because of
 12 household decline or drop, so if people move in with
 13 somebody else or they move to a care home or they,
 14 heaven forbid, die, then that is not a push or pull
 15 factor, that is just ... that household no longer
 16 exists.
 17 THE CHAIRMAN: Yes. But what I am talking about here are
 18 people who — they are churning in the sense that they
 19 are switching from a landline only SFV into bundles.
 20 A. A cross—sell, yes.
 21 THE CHAIRMAN: What you call a cross—sell. The suggestion
 22 we have to assess is that there is a general trend which
 23 would be across all providers that, in any event, your
 24 market for landline only contracts is just generally
 25 diminishing, and we have seen quite dramatic shifts each

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1 year on the number of people who have just SFV.
 2 A. Yes.
 3 THE CHAIRMAN: Now, is that something, when you are
 4 considering price increases, that you thought about, or
 5 did you look at churn only in terms of if we put up our
 6 price there is going to be a potential movement on the
 7 basis of price, or something along those lines?
 8 A. It is the latter. So as we put up the price of
 9 Line Rental, I guess — no, I know — the moment you put
 10 your solus Voice customers at a — you create a push
 11 factor for them that they might not have had otherwise
 12 to leave, including giving them a window where they
 13 would not pay early termination charges. But at the
 14 same time you may be able to entice them on to
 15 re—contracting or taking broadband, so it kind of also
 16 pushes more people into consolidating. So you are
 17 creating a risk but you are also creating a potential
 18 benefit when it comes to the solus customers.
 19 Now, if I am honest, though, when we thought about
 20 Line Rental, because it was one product code, I probably
 21 spent more time thinking about the 70/80% rather than
 22 the 20%, but that is not to say I did not think of the
 23 20%.
 24 THE CHAIRMAN: The reason I am mentioning it is because if
 25 an important — obviously churn was important to you, it

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1 is clear from the documents. But if your calculations
 2 about Line Rental increase, for example, are sensitive
 3 to a sort of churn calculation, it is not actually —
 4 whatever calculation you do is not really having an
 5 effect, because every year you are losing the same
 6 number of customers. Now, either that is because you
 7 were going to lose them anyway, because people are just
 8 moving away from landline, or you have got it wrong
 9 about your calculations of churn and they are reacting
 10 adversely to price increases.
 11 So the question I would have for you, but
 12 I appreciate you were only there for one year, is: was
 13 nobody saying, well, look, we have done this for
 14 five years now with these increases and every year we
 15 are losing a substantial number of people, so something
 16 is not right?
 17 A. I guess a big chunk of the way you are defining churn is
 18 actually going into the broadband base.
 19 THE CHAIRMAN: Correct.
 20 A. So they are not churn for us.
 21 THE CHAIRMAN: They are not churn for you. Ah, right.
 22 A. Do you see what I am saying? So I think you are right
 23 that there is a chunk that would have gone anyway,
 24 right, and there is a chunk that maybe go — that would
 25 not have gone because we priced them, but then there is

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1 also a chunk that we are saving and we are keeping and
 2 we are building a stronger relationship with them by
 3 selling them broadband or putting them on a calling plan
 4 or ...
 5 THE CHAIRMAN: I follow that. But then you say your churn,
 6 whether you call it statistics or observations, would
 7 not include those who were just leaving their BT
 8 landline contract and going to somebody else's bundle?
 9 A. It would include people going — it would include those,
 10 but not if they were coming to us.
 11 THE CHAIRMAN: Quite.
 12 A. Yes.
 13 THE CHAIRMAN: But a lot were not coming. A lot were but
 14 a lot were not.
 15 A. I agree.
 16 THE CHAIRMAN: Because you are then straight into the
 17 competition in the bundles market.
 18 Perhaps my question is not clear.
 19 A. No, it is a good question. I think the reason why I am
 20 finding it hard to give an articulate answer is that it
 21 is not like a scientific experiment where you can do it.
 22 In a market, there are just so many things going on that
 23 we would do our best to analyse the churn, but it is
 24 very hard to work out the causality.
 25 You may be right; maybe our calculations were wrong

1 and we should not have put it up as much, and that would
 2 have saved churn and we would made more money that way.
 3 It is hard to make that assessment. But, yes, that was
 4 the sensitivity analysis and what we were trying to
 5 guess.
 6 MR DORAN: In a sense, it is particularly true when you
 7 think that for the Voice Only Customer, actually the
 8 interest because of declining call volumes, potentially
 9 the value of the phone is not as high as it was.
 10 A. Yes.
 11 MR DORAN: So the calculation in some way shifts. We
 12 know — I think we talked earlier briefly about the
 13 falls in revenue and how that was taken into account.
 14 A. Yes.
 15 MR DORAN: But you are pricing something — you are
 16 increasing the price of something which people are
 17 tending to value rather less, because one sees it in the
 18 core volume figures.
 19 A. I completely agree, and that is exactly why we would
 20 want to, as quickly as possible, give them products that
 21 they may value in the future, whether that be me trying
 22 to create a BT Mobile deal for them or something like
 23 that, and also trying to make their product more
 24 attractive, so BT Call Protect. You are getting rid of
 25 a negative aspect of their phone in the hope that they

1 will still continue to love it. But I agree with you,
 2 it was a challenge, and I may never know if we got the
 3 balance right.
 4 MR DORAN: There was a slide that Mr Bunt wrote, which we
 5 spoke to him about yesterday, where he talks about that
 6 this is a sort of drug that we have to get off. Is that
 7 the ...
 8 A. Yes, I 100% agree with the drug analogy, and that is
 9 what I sort of was alluding to when I talked about short
 10 term. Because of course when you put the price up, you
 11 immediately get the sugar high of extra revenue, but
 12 then it is very hard to analyse the churn impact and
 13 disaggregate what is the churn from the price change
 14 versus the churn from Sky's marketing or something the
 15 Post Office does.
 16 MR DORAN: The final point on this is that he also said in
 17 the particular slide, and I am afraid I cannot now
 18 recall how this relates to your time, but that it
 19 created "headroom" for your competitors.
 20 A. Yes, I think that was before my time, but I think I know
 21 the one you are talking about.
 22 Yes, I think if one — if any of the main players in
 23 the market puts up prices, then they are not going to
 24 have to reduce their prices to be competitive. By
 25 definition, it creates space that they can then choose:

1 okay, am I going to match it and make revenue, or am
 2 I going to be more aggressive in another way?
 3 MR DORAN: So it reduces the competitive pressure on your
 4 competitors.
 5 A. Yes.
 6 MR DORAN: Which, as I said to him yesterday, is a strange
 7 way to compete; a question.
 8 A. Well, I think — a lot of this time we were thinking of
 9 the market as — our priority was dual play and bundles,
 10 and so it is actually a good way to compete if it drives
 11 consolidation which is something you want.
 12 But I do see what you are saying, that if you were
 13 only considering that market ... But, of course, most of
 14 the time we were not only considering that market.
 15 Maybe we got it wrong, but that is what we were doing
 16 then.
 17 MR DORAN: Thank you.
 18 THE CHAIRMAN: Just to finish off on that point, we then
 19 asked Mr Bunt in the light of: what was his conclusion
 20 in that particular report, what was his recommendation?
 21 You should not increase the price; and effectively that
 22 was not really a matter for him, and this was really
 23 something that the grown-ups were insisting upon. I may
 24 not have his words exactly. But he said he was not
 25 alone in that. I think he said it was a collective —

1 I have forgotten what it was.
 2 Anyway, do you have a perspective on that? I know
 3 you talked about it being a baseline, but really it was
 4 going to be something that was going to be incredibly
 5 difficult to shift.
 6 A. I think you can probably tell from the documents where
 7 I was leading the team that I was working quite hard to
 8 create a price change with more gives and a greater —
 9 and use it as a way to make changes that I thought would
 10 be really beneficial to customers, so I was going to try
 11 and push in there a lot of positives.
 12 THE CHAIRMAN: I can understand that, but is that because
 13 realistically that was the only way you were going to do
 14 it, rather than not increasing the price —
 15 A. Yes, that is how I felt, that if I could — what I was
 16 trying to do was balance delivering the best for our
 17 shareholders and the business, doing the best for our
 18 customers, and I felt at the time that that was the most
 19 equitable way of doing it.
 20 THE CHAIRMAN: That is how you would deal with the
 21 constraints or the parameters within which you were
 22 dealing?
 23 A. 100%.
 24 THE CHAIRMAN: That is helpful.
 25 Just a couple of smaller technical points. I hope

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1 we will not need to go to the document. The one which
 2 showed what the benefits were, that document starting
 3 with "Baseline", "Baseline Plus". I just wanted to
 4 check. So, for example, on the baseline, if you
 5 increase the Line Rental by £1, it said £64 million was
 6 the figure.
 7 Now, was that net of any direct costs? Was weekly
 8 Line Rental taken off that? Was that a net figure in
 9 that respect, or is that all gross revenue?
 10 A. I believe that was gross, yes.
 11 THE CHAIRMAN: Right.
 12 Secondly, on that, can you just remind us, apart
 13 from Wholesale Line Rental, the other wholesale — there
 14 was still a wholesale cost from Openreach for the number
 15 of calls people made.
 16 A. There was — some of the fees were from Openreach, but
 17 also some of the fees would have been interconnect fees
 18 that we were charged by other networks.
 19 THE CHAIRMAN: Right. That depends on call usage, the
 20 number of calls people make.
 21 A. Yes. But what is correct is there were variable costs
 22 related to call usage.
 23 THE CHAIRMAN: All right. Thank you.
 24 Just a quick question on PR which we explored with
 25 Mr Bunt yesterday. He said that the risk of bad PR was

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1 an important or a significant risk —
 2 A. Yes.
 3 THE CHAIRMAN: — because typically the price notification
 4 would go to the press before it actually went to the
 5 customers. I do not know whether that was your
 6 experience?
 7 A. So because there are so many customers you have to phase
 8 the communications to customers over a period of time,
 9 so you talk to the press at the same time as a small
 10 proportion of the customers, if that makes sense. So
 11 some, but, you know, in the thousands rather than the
 12 millions, would get it on day one.
 13 THE CHAIRMAN: Right. I asked him about whether the press
 14 is important, because it might be that — maybe that is
 15 the first way the customer finds out about it, but also
 16 that is the one that actually hits the customer rather
 17 than the individual notifications. Do you have a view
 18 about that?
 19 A. Yes. So I would agree with Mr Bunt in that the concern
 20 for me is that they would read an article in the Daily
 21 Mail that might say something that was generic for all
 22 customers but was not accurate to them, and then call us
 23 up. Maybe if everyone calls up they cannot even get
 24 through, and then they get upset and confused and all
 25 these other things. So we would always prefer them

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1 to — as many people as possible to have a direct
 2 communication with us rather than through the press.
 3 THE CHAIRMAN: Right. Would they react to the direct
 4 communications or were they more likely to react if they
 5 got it from the press, or is it not possible to tell?
 6 A. I think there were reactions to both. I am not sure
 7 which would create a stronger reaction. I guess, over
 8 time, fewer people have read papers, so it has probably
 9 changed over time.
 10 THE CHAIRMAN: That is a very fair point.
 11 In one paragraph you said about:
 12 "... increasing prices by round numbers rather than
 13 a set percentage as the latter disadvantaged some
 14 customers paying higher prices on the legacy product."
 15 Can you just very briefly explain what you meant
 16 there?
 17 A. Yes, that was a change that I made. So previously — so
 18 if you have — if you put prices up by, let us say, 5%,
 19 and in your customer base, particularly the broadband
 20 base, let us say, you have some people that are paying
 21 £5 for broadband and some people who are paying £10 for
 22 broadband, then the people who are paying more get
 23 a higher increase. So the £10 person, they will get —
 24 THE CHAIRMAN: I see. Because it is a percentage of £10 on
 25 a percentage of £5.

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1 A. Exactly. I felt that because we already had disparity
 2 in our pricing, I thought that was unfair. I would
 3 prefer to put both of those people up by the same
 4 amount, thereby, over time, diminishing the spread.
 5 THE CHAIRMAN: I follow that.
 6 Then "legacy products" here, "legacy products" is
 7 presumably landline, is it, just landline --
 8 A. No, not necessarily. There are lots of broadband legacy
 9 products at this time because we have been selling
 10 broadband since the early 2000s.
 11 THE CHAIRMAN: I want to go back as briefly as we can to the
 12 document where we were looking at the letter which
 13 I think came from July 2016, the eventual letter which
 14 went to Ofcom. We have seen the draft of it. I think
 15 the eventual letter was {F/458/1}, dated 25 July. Is
 16 that right?
 17 A. Yes, I think that looks right.
 18 THE CHAIRMAN: The draft was -- I do not want to look at the
 19 draft but I do want to look at this one. It is the page
 20 where we have the saving of £19.75 {F/458/6}. I am just
 21 being a bit slow here so forgive me. But we got to the
 22 stage of saying the two HPSs that you were putting
 23 forwards, they would be:
 24 "... charged at no more than £3 more than our then
 25 notified Standard Line Rental charge (a saving versus

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1 current standard charges of £19.75)." Is that £19.75 a year or what?
 2 Is that £19.75 a year or what?
 3 A. I think it is a year. No, that ... I think it is over
 4 the ... That does not sound right, though. I am not
 5 sure, because it would be more than ...
 6 THE CHAIRMAN: It is not saying that the standard charge is
 7 £19.75.
 8 A. No.
 9 THE CHAIRMAN: Because it was not, it was a different
 10 figure.
 11 A. No, it is not. It is ... Sorry, I am not being very
 12 helpful. It does not sound -- I had thought it was a
 13 year, but now I am looking at it that seems low. I know
 14 we were trying to be conservative here so that we did
 15 not overpromise and then underdeliver.
 16 THE CHAIRMAN: But when it says it is "charged at no more
 17 than £3", so the Home Phone Saver was £3 over the
 18 Standard Line Rental charge?
 19 A. That is what we are saying here. So in Home Phone Saver
 20 you got Unlimited Anytime Calls, and I think there were
 21 also a few other things that were bundled in, but the
 22 main aspect was that you were freezing the pricing. So
 23 the reason partly it was hard to -- well, we did not
 24 know what the price would be, but we also did not know
 25 what the other prices would be in the future, so it is

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1 hard to work out ...
 2 THE CHAIRMAN: Basically it is a bit like a fixed rate or
 3 a variable rate mortgage. I mean, you fix it and you
 4 hope that it is going to work. It should work out
 5 better for you in the long run assuming other prices
 6 increase.
 7 A. Right.
 8 THE CHAIRMAN: So that is what they would be paying a month,
 9 would be £3 a month more than what the Line Rental was
 10 then.
 11 A. At the time of us launching, yes.
 12 THE CHAIRMAN: Except it would stay that way for
 13 three years.
 14 A. It would stay that way, exactly.
 15 MR DORAN: Oh, I see. So it would not move up with the
 16 Line Rental, it would be fixed at whatever number you
 17 gave it.
 18 A. Exactly. So the savings could be higher depending on
 19 what we are doing.
 20 THE CHAIRMAN: But that was for three years, was it?
 21 I do not want to go -- we can find out.
 22 A. I cannot remember if it was 18 months or three years.
 23 THE CHAIRMAN: So question whether the £19.75 -- because on
 24 the other one it is a lower -- it is £17.75, which is
 25 aimed at customers that make a low volume of calls.

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1 A. Yes, so that was the product that Ofcom were asking us
 2 to create.
 3 THE CHAIRMAN: Because there it was a Home Phone Saver but
 4 it starts at the same price as the Standard Line Rental.
 5 A. Yes. So in this scenario, it is -- you get the benefit
 6 of freezing on price and you also get an evening and
 7 weekends call package which was not included in Standard
 8 Line Rental.
 9 THE CHAIRMAN: Thank you. I am sure someone can elucidate
 10 the £19.75 in due course.
 11 A. Either way, the savings depend on how prices change over
 12 time and what your call usage would have been.
 13 THE CHAIRMAN: Yes. Good.
 14 MR DORAN: I just have one further question.
 15 You have told us quite a bit about the data that
 16 came into you about revenues, and you were clearly
 17 thinking about ARPU. We have also been told about
 18 people thinking about margin. What were you, when you
 19 were trying to sort out your pricing, what were you
 20 typically driving towards? Did you have in the back of
 21 your mind a revenue figure, a gross margin figure, an
 22 ARPU figure? What was it you were aiming for?
 23 A. So there would be an annual revenue and gross margin
 24 figure, is what I would have as targets. So in my
 25 scorecard it would be that, and then I would also have

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1 some projects in there. I would also have a propensity
 2 to call on the customers, complaints, that sort of
 3 thing. So I have a set of KPIs, key performance
 4 indicators, that my bonus would be linked to of revenue
 5 and gross margin.
 6 MR DORAN: But revenue and gross margin were the two.
 7 A. Yes.
 8 THE CHAIRMAN: Sorry, I forget to ask. Voice had its own
 9 P&L accounts?
 10 A. For my purposes, yes.
 11 THE CHAIRMAN: Was that something you would look at monthly
 12 or ...
 13 A. Yes, we would have a monthly couple of Finance meetings
 14 where we would review it, and we would also talk about
 15 risks and ops, so risks an opportunities that we were
 16 doing, and how we were doing versus the forecasted plan.
 17 THE CHAIRMAN: Thank you very much.
 18 Any questions, Mr Armitage, Mr Beard?
 19 Further re-examination by MR BEARD
 20 MR BEARD: Yes. Actually I think it may go back to
 21 Mr Ridyard's questions, but it may be worth just having
 22 the witness confirm things.
 23 But before we move off this document, just to be
 24 clear, in relation to the £19.75, it is the Home Phone
 25 Saver with a bundle of calls that is being compared

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1 against Standard Line Rental without any calls, is that
 2 right here?
 3 A. I thought it was versus if they had calls, as in if they
 4 had taken Home Phone Saver and UAC, Unlimited Anytime
 5 Calls.
 6 Q. Yes, that together. But what it is being compared
 7 against is the Standard Line Rental charge. That is
 8 without calls, is that right?
 9 A. Yes, I think that is. I am now kicking myself because
 10 clearly this is not that easy to understand. Sorry.
 11 Q. Okay. I will not take it further.
 12 A. Sorry.
 13 Q. It is no problem.
 14 Actually I just want to confirm a couple of
 15 documents with you because they may be relevant to
 16 questions Mr Ridyard raised.
 17 Can we just go to {F/576/1}, please. This was
 18 a document that you were taken to by Mr Armitage, which
 19 was a deck that I think was presented to Ofcom, but it
 20 is to do with Ofcom's proposed retail narrowband market
 21 review in 2016, so you will recall it.
 22 Can we just go to page {F/576/6}, please. So you
 23 were asked, I think, about some of the issues on
 24 increased investment, and we discussed some of the
 25 numbers or you discussed some of the numbers with

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1 Mr Armitage. But actually there was no questioning
 2 about the bottom left-hand diagram and the commentary
 3 there. Is there anything -- can you explain what is
 4 going on there in terms of the presentation?
 5 A. Yes. So I think that is average kind of -- it is
 6 essentially the variable revenues we are getting in
 7 terms of minutes, so this is AMPU, and that is declining
 8 over time quite significantly. You can see it going
 9 from 20 something to -- and projected forwards, we were
 10 expecting it to go down to as much as £5 which is quite
 11 an extreme decline.
 12 Q. Sorry, it was only because Mr Ridyard was asking about
 13 whether or not there were materials, and I was just
 14 trying to confirm what --
 15 THE CHAIRMAN: AMPU?
 16 A. It is average margin per user, but it is specifically
 17 around the call lists.
 18 MR BEARD: Sorry, just one other ... {F/505/1}. So this
 19 is -- you were shown a November version of this, an
 20 earlier version, by Mr Armitage. This is a December
 21 version.
 22 Can we just go to slide {F/505/7}. This is
 23 December 2016, so I think you will have seen this?
 24 A. Yes, I think I -- December 2016 I would have been on
 25 leave, but these are numbers that would have been

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1 familiar to me anyway.
 2 Q. Can you just describe for the Tribunal, just in summary,
 3 what we are seeing on this slide, because I think it may
 4 be relevant for what Mr Ridyard was asking about.
 5 A. Yes. This is a high level summary of the Voice P&L, so
 6 it has the base there, the revenue from -- on an
 7 average, you know, at an individual level of the line
 8 and calls, the costs. Then if you go down to the
 9 bottom, it is showing the total monthly cost has been
 10 increasing, and that we are managing to stay pretty flat
 11 on margin but only because we are putting up the prices.
 12 MR DORAN: Sorry, the Wholesale Line Rental, in terms of
 13 Direct Costs, is 7.46, 7.23, 7.23, steady.
 14 A. Yes.
 15 MR DORAN: I thought the Wholesale Line Rental was moving
 16 down at some rate of knots.
 17 A. I think this is because it is from 14/15 projecting --
 18 MR DORAN: So this is projecting forward. I see.
 19 A. I do not think it declined any further in 15/16 to
 20 16/17. I think in both of those years it was 7.23.
 21 MR DORAN: Right.
 22 MR BEARD: I think we will have to go back to Wholesale Line
 23 Rental. I think the curve starts early and then
 24 flattens, I think is the issue.
 25 A. Yes. It is from --

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1 MR DORAN: I am mis—remembering.
 2 MR BEARD: There is data on this so I was not trying to test
 3 you on each number.
 4 MR DORAN: No.
 5 MR BEARD: But it was more trying to get a picture.
 6 So, as you say, the margin stays steady. But can
 7 you just explain just for clarity, I am sure everyone
 8 understands, what the term "profitability" then means in
 9 the top?
 10 A. "Our financial demonstrate that increasing value
 11 provision is driving down profitability for Solus Voice
 12 customers."
 13 So as we increase our costs, whether it be SG&A,
 14 labour costs, all those different aspects, and have our
 15 calls generally declining, then our profitability is —
 16 our revenue minus both direct costs but also allocated
 17 costs means that we are not — it is not a big growth.
 18 We are not drastically increasing profitability.
 19 I think it shows — I think we are depicting here my
 20 point around running to stay still.
 21 Q. Just this is actually for the benefit perhaps of
 22 Mr Doran. Can we just go to {C/3/5}.
 23 THE CHAIRMAN: Sorry, just before we do ...
 24 MR BEARD: I am so sorry, sir. I apologise.
 25 THE CHAIRMAN: I was just going to pick up something.

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1 It says:
 2 "Our financials demonstrate that ..."
 3 If you increase value provision, it is driving down
 4 profitability. That is effectively what it ...
 5 What is the "increasing value provision"? Is this
 6 gives, or you do not know, or ...
 7 A. I am actually not sure because I did not write this
 8 slide. I am sorry, it is a bit funnily worded.
 9 I understand why you are asking the question.
 10 THE CHAIRMAN: That is alright.
 11 MR BEARD: I was really just going to the slide to
 12 illustrate there was material that was being provided to
 13 Ofcom about the profitability point.
 14 THE CHAIRMAN: This is something that goes to Ofcom.
 15 MR BEARD: I believe this is —
 16 THE CHAIRMAN: Oh, this is a Project Carmen, so this is the
 17 ...
 18 MR BEARD: Yes, it says at the bottom in red "BT & Ofcom
 19 Only".
 20 THE CHAIRMAN: I see. Right, thank you.
 21 MR BEARD: It was literally just filling in a couple of
 22 blanks. I think there are others, but ...
 23 MR DORAN: I do not want you to divert you from ...
 24 MR BEARD: No, no.
 25 This one is easy, {C/3/5}. If we can just blow up

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1 the panel at the top. When I was talking about the fact
 2 that by the time we are talking about 14/16, the
 3 Wholesale Line Rental being flat — or flatter, I should
 4 say. I am just picking up the point, Mr Doran, that you
 5 highlighted from that chart where you said: I thought
 6 Wholesale Line Rental was falling. Actually what this
 7 is showing is that it fell a little bit but actually it
 8 flattened out by this point.
 9 MR DORAN: Yes. That is very helpful, thank you.
 10 MR BEARD: Credit goes to Ms Mackersie for that one.
 11 I do not have any others. I was merely trying to
 12 ...
 13 THE CHAIRMAN: That is very helpful.
 14 Ms Blight, thank you very much. Thank you for your
 15 evidence. You may leave the witness box now.
 16 (The witness withdrew)
 17 MR BEARD: I am about to move to Mr Cackett. I do not know
 18 whether you want to pick up the issues in relation to —
 19 or shall we leave that until later?
 20 THE CHAIRMAN: Can we leave that until later?
 21 MR BEARD: That is fine.
 22 MR RICHARD CACKETT (affirmed)
 23 Examination—in—chief by MR BEARD
 24 MR BEARD: Can I just check, do you have a bundle in front
 25 of you?

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1 A. Yes.
 2 Q. Is your witness statement just to the side or inside it?
 3 A. Inside.
 4 Q. Thank you very much.
 5 So I will call it up, Mr Cackett, so you can see it
 6 come up on the electronic screen. If we could go to
 7 {D/6/1}, please. You will see the front page I think of
 8 your witness statement. If we could just go through to
 9 page {D/6/10}. Is that your signature, Mr Cackett?
 10 A. It is.
 11 Q. Is the content of this statement true to the best of
 12 your knowledge and belief?
 13 A. Yes, it is.
 14 MR BEARD: Mr Cackett, I will not have any questions for you
 15 at this stage. I believe Mr Spitz is going to ask you
 16 some questions on behalf of the Class Representative,
 17 and then I may have some questions, and the Tribunal may
 18 do, afterwards.
 19 There are some documents that you have exhibited to
 20 your statement that are marked yellow for
 21 confidentiality. If, when you want to give an answer,
 22 any material is confidential and you do not want to give
 23 it in open court, please do indicate. I have said to
 24 Mr Spitz, because he asked me, if there were issues to
 25 do with particular directions of figures that were

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1 marked in yellow, we were not going to treat those sort
 2 of directions as confidential so that he might be able
 3 to ask as many questions as possible in open, but please
 4 do not hesitate if you have any concerns.
 5 A. Thank you.
 6 THE CHAIRMAN: Yes, Mr Spitz.
 7 Cross-examination by MR SPITZ
 8 MR SPITZ: Thank you, sir.
 9 Good afternoon, Mr Cackett.
 10 A. Good afternoon.
 11 Q. You should have next to you a thin file with hard copies
 12 of the documents that I will refer you to as I ask you
 13 a few questions about them, and you will see those
 14 documents come up on the electronic screen when I direct
 15 your attention to them.
 16 Your employment with BT commenced in August 2010; is
 17 that correct?
 18 A. Initially, that is correct, yes.
 19 Q. In what capacity did you join in 2010?
 20 A. I was a Senior Manager in BT Business.
 21 Q. You do not say whether you were in employment before
 22 August 2010?
 23 A. Yes, I was.
 24 Q. Okay. Where were you employed?
 25 A. From 2004 to 2008 I worked for Vodafone, and from 2008

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1 to 2010 I worked for Cable and Wireless.
 2 Q. In your statement you say that you were the Commercial
 3 Director of BT Consumer from January 2013 to May 2016?
 4 (Pause)
 5 A. Yes.
 6 Q. Paragraph 7, I think it is, of your witness statement.
 7 A. Yes.
 8 Q. That was a narrower role than your current role as
 9 Director of Commercial FFinance for BT Consumer; is that
 10 correct?
 11 A. That is correct.
 12 Q. Because at the time EE and Plusnet were not within the
 13 scope of your role?
 14 A. Correct.
 15 Q. As you say, EE was not part of BT Consumer and Plusnet,
 16 which was, was not part of your role?
 17 A. That is right.
 18 Q. They both are now?
 19 A. That is correct, yes.
 20 Q. So you took up your current role as a Director of
 21 Commercial FFinance for BT Consumer in 2018?
 22 A. That is right.
 23 Q. From October 2017 until June 2018 you were not employed
 24 with the BT Group?
 25 A. That is correct.

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1 Q. That is your witness statement at paragraph 8.
 2 You do not say in your witness statement where you
 3 were employed during that period?
 4 A. The Hut Group.
 5 Q. The Hut Group. What was your role for your employer
 6 during that period?
 7 A. I was a FiFinance Director for their own brands.
 8 Q. Then you returned to BT in June 2018 --
 9 A. That is correct.
 10 Q. -- to take up your role?
 11 A. That is correct.
 12 Q. Thank you very much. Now, you attached one document to
 13 your witness statement, that is a BT Consumer medium
 14 term plan dated 9 March 2020. Is that right?
 15 A. That is right.
 16 Q. We will turn to that document a little bit later, but
 17 I wanted to just check, you were not referred to any
 18 other documents during the preparation of your factual
 19 evidence, were you?
 20 A. No.
 21 Q. Now, I understand that you were not at BT between
 22 October 2017 and June 2018, but you were still aware,
 23 once you were in post, that Ofcom had carried out
 24 a review in 2017 of BT's retail Line Rental prices; is
 25 that correct?

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1 A. I think that is likely, yes.
 2 Q. You think it is likely?
 3 A. Yes.
 4 Q. You were aware that in the course of their review of the
 5 market for standalone telephone services, Ofcom asked BT
 6 a variety of questions from time to time?
 7 A. Yes.
 8 Q. Please turn up {OR-F/140/1}, and you will see that,
 9 Mr Cackett, labelled on the side of the file that we
 10 have prepared for you. You will see "{OR-F/140}".
 11 A. Mm-hm. Yes.
 12 Q. Now this is a document that contains BT's response to
 13 various questions set out in Ofcom's notice of 20 July.
 14 You see the date of the notice on the first page in the
 15 top quarter of the page?
 16 A. Yes.
 17 Q. BT provided its response to Ofcom on 8 August 2017 and
 18 you will see that from the line just below that?
 19 A. Okay.
 20 Q. As I have said, I understand you were Consumer Finance
 21 Director for EE, which was part of the BT Group at that
 22 time, between May 2016 and October 2017?
 23 A. Mm-hm.
 24 Q. But you were aware of Ofcom's Review of the Market for
 25 Standalone Landline Telephone Services?

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1 A. Yes, in the way that anyone in the industry would have
 2 been aware of it. It was entirely unrelated to my day
 3 job at that point, though.
 4 THE CHAIRMAN: Just one point. Can we have this expanded,
 5 please? Thank you.
 6 MR SPITZ: Now, would you have been aware of BT's response
 7 to this document?
 8 A. No.
 9 Q. All right. I am going to show you several parts of it
 10 and ask you for your response, and if you find that you
 11 are not able to respond then please do say so.
 12 But I would like to start with page {OR-F/140/3} of
 13 this document. There you will see question 16. If we
 14 can have that enlarged, 16(a). You will see Ofcom asks:
 15 "In relation to BT Consumer Retail Costs and
 16 Management Accounts:
 17 "(a) we understand that BT does not hold a breakdown
 18 of Retail Costs by Services; please confirm if this is
 19 accurate."
 20 Do you see that?
 21 A. Yes.
 22 Q. Underneath that there is a subheading for BT's response
 23 to question 16(a). If we could have that enlarged.
 24 There BT says:
 25 "Confirmed. Costs are broken down by unit to GM

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1 level ... "
 2 "GM" is the gross margin level, correct?
 3 A. Yes.
 4 Q. "... (as shown in Q18a) but SG&A cost are not allocated
 5 by service."
 6 That is correct, is it not?
 7 A. It is correct, yes.
 8 Q. It was correct in 2017?
 9 A. To the best of my knowledge, yes.
 10 Q. Then if you turn to page {OR-F/140/4} of the same
 11 document, question 17. There Ofcom asks, and if we can
 12 enlarge it. Yes, thank you.
 13 "Please provide the following for the 2016-17
 14 financial year:
 15 "(a) the capital employed (net assets) attributable
 16 to ..."
 17 I am going to (ii):
 18 "Retail Residential fixed Voice lines within
 19 BT Consumer."
 20 Do you see that?
 21 A. Yes.
 22 Q. If you have a look towards the bottom of the page under
 23 the heading "Limitations and Assumptions", you will see
 24 BT's response. Do you see that?
 25 A. Yes.

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1 Q. "Question 17(a) (ii) — Please note that Consumer does
 2 not maintain a Balance Sheet by product or service other
 3 than for some product specific balance sheet lines and
 4 for Creditors. We do not therefore hold the information
 5 required to answer for Retail Residential fixed Voice
 6 lines within BT Consumer."
 7 That is correct too, is it not?
 8 A. Yes.
 9 Q. Okay, if you have a look then on the next page, question
 10 18 of Ofcom's request. {OR-F/140/5}. If we can
 11 enlarge, thank you.
 12 There Ofcom says:
 13 "In a meeting between BT and Ofcom at BT's offices
 14 on 4 April 2017, we discussed possible ways in which BT
 15 could allocate its retail costs to different services,
 16 specifically to Fixed Voice Services, and possibly to
 17 Standalone Fixed Voice services. Please provide the
 18 following in Excel spreadsheet form:"
 19 Then you will see subparagraph (a). I am just going
 20 to read the first part and then ask you to look at the
 21 specific items (i) to (viii), but the first part says:
 22 "Please provide the following in Excel spreadsheet
 23 form:
 24 "A breakdown of BT's Consumer's retail costs
 25 (provided separately for both operating costs and

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1 depreciation costs) for the 2015/16 and 2016/17
 2 financial years along with granular cost categories,
 3 including but not limited to the following cost types.
 4 Within this breakdown, where specific costs can be
 5 directly associated with fixed Voice, Standalone Fixed
 6 Voice, mobile, TV or sport services, please identify
 7 them, for example, specific marketing campaigns related
 8 only to broadband, TV or sport."
 9 Then there are a number of subcategories. Again, if
 10 you look for BT's response to that, it is at the bottom
 11 of that page under the heading "Limitations and
 12 Assumptions".
 13 BT says:
 14 "Other than CoS ..."
 15 That is cost of sales, is it?
 16 A. Yes.
 17 Q. "... and marketing noted below we do not allocate
 18 specific costs directly to fixed Voice, Standalone Fixed
 19 Voice, mobile, TV or sport services."
 20 It continues:
 21 "Previous correspondence with Ofcom noted allocation
 22 methods; however this methodology has not been developed
 23 further."
 24 In 2017 that is the correct position, is it not?
 25 A. Yes, I believe so.

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1 Q. Now, question 18(a) says "other than cost of sales and
2 marketing", I wanted to ask you whether you are sure
3 that is correct that, for marketing, specific costs are
4 allocated to the various elements making up BT Consumer?
5 A. Could you repeat the question?
6 Q. Yes, of course. Is it correct that marketing costs are
7 specifically allocated to these services?
8 A. Again, I am not sure I can answer that. I am not sure
9 I can answer that.
10 Q. That is fair because I will show you a letter shortly
11 that suggests -- a letter from BT's solicitors that
12 suggests that marketing was not and is not separately
13 allocated but if you do not have a particular knowledge
14 of that ...
15 A. All I can say is certainly in my time we did not -- we
16 have not allocated marketing by product and I do not
17 think it is something that we would particularly do.
18 Q. That is helpful, thank you.
19 Then over the page, {OR-F/140/6} turning to
20 a different aspect of Ofcom's enquiry, well different
21 but related. If you look at question 19. There Ofcom
22 says:
23 "On 15 March 2017 you presented a slide to us
24 indicating that incorporating retail reporting for
25 Standalone Fixed Voice in your regulatory accounting

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1 system (called REFINE) could require systems development
2 and additional headcount."
3 Do you see that?
4 A. Mm--hm.
5 Q. Then in subparagraph (a):
6 "Please explain what (i) systems development work
7 and (ii) operational headcount would be required to
8 include retail reporting on Standalone Fixed Voice in
9 REFINE."
10 If you read the answer briefly to yourself under
11 "BT's response" I am not going to ask you about the
12 detail of it, so if you just have a quick read of it.
13 (Pause).
14 What BT are setting out there is what would be
15 required to provide retail reporting on Standalone Fixed
16 Voice; is that correct?
17 A. Yes.
18 Q. Retail reporting would concern the allocation of retail
19 costs to SFV services that Ofcom was asking about, as we
20 saw in question 18?
21 A. That seems to be the case, yes.
22 Q. It is that which BT was not then able to provide, as we
23 have seen, yes?
24 A. That is what the correspondence appears to suggest, yes.
25 Q. If you look at the last paragraph on page 6 of this

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1 document, BT says:
2 "It should be noted that if implementation was
3 required for the 2017/18 regulatory financial
4 statements ... there would be a considerable opportunity
5 cost ..."
6 Do you see that?
7 A. Yes.
8 Q. So here BT is concerned, is it not, that Ofcom may
9 require it to produce regulatory financial statements
10 for 2017/18 containing this information?
11 A. I mean, I think you have interpreted its concern, but
12 they certainly seem to suggest they want to do that,
13 yes.
14 Q. They say there would be a considerable opportunity cost
15 to doing so?
16 A. Yes.
17 Q. It looks from the document, but you will let me know if
18 you feel you cannot answer it, that Ofcom might require
19 BT to implement retail reporting for standalone fixed
20 costs in its regulatory accounting system?
21 A. Again, I am not sure I am qualified to answer that.
22 Q. That is fine.
23 Then turning to question 19(b) of the document.
24 There Ofcom asks:
25 "Please provide any quantitative estimates that you

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1 have prepared to support your answer to question 1(a)
2 including for example, estimates of ..."
3 There are three that are: time required to
4 development REFINE; amount of resource required, and
5 cost.
6 Do you see that?
7 A. I do, yes.
8 Q. I am summarising BT's response below but effectively
9 what BT says is that it will take approximately
10 two months for systems development work at a cost of
11 120k. You will see that in subparagraph (i)?
12 A. Yes.
13 Q. An operational headcount of three personnel for
14 three months at a cost of 60,000. That is in
15 subparagraph (ii)?
16 A. Mm--hm.
17 Q. A further Finance manager, 80,000 per annum. That is in
18 subparagraph (iii)?
19 A. Mm--hm.
20 Q. Now, if we can turn to {H/8/1}. This is a letter from
21 BT's solicitors, Simmons & Simmons, to Mishcon de Reya
22 dated 30 November 2022. I simply would like to
23 highlight, if you turn to page {H/8/4} we can blow up
24 paragraph 2.3 SG&A and D&A where BT solicitor says:
25 "As previously explained, BT does not allocate

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1 non-wholesale costs (including SG&A and D&A) across each
2 segment or service of BT Consumer, nor does it record
3 retail costs per line or disaggregate retail costs
4 between access and calls. BT records total retail costs
5 across BT Consumer as a whole only."

6 So that is the position in November 2022; is that
7 correct?

8 A. Yes.

9 Q. Under paragraph 2.4, you will recall that I asked you
10 about the reference to marketing in BT's response to the
11 Ofcom request?

12 A. Yes.

13 Q. Here BT solicitors say:

14 "BT allocates SG&A by activity (e.g. marketing) but
15 does not allocate SG&A across each segment of
16 BT Consumer."

17 I think that your evidence was that you do not
18 allocate marketing separately to specific services
19 within BT Consumer?

20 A. That is correct, yes.

21 Q. Thank you. Just the last paragraph to look at in this
22 letter which is just underneath the one we looked at:

23 "The SG&A calculations represent the total of all
24 BT Consumer's direct SG&A costs plus an allocation of
25 fixed overhead costs, or recharges, from other BT cost

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1 centres, such as the Technology Service Office ..."

2 That is all correct?

3 A. It is.

4 Q. Then briefly, if you turn to {H/9/1}, a further letter
5 from BT's solicitors dated 27 January 2023. Again, just
6 to highlight under paragraph 1. It is really the same
7 point. If you read the paragraph beginning "As set out
8 in the F28 response ..." to yourself. (Pause).

9 Just to confirm that that is correct?

10 A. It is.

11 Q. If you turn to paragraph 27 of your witness statement
12 which is {D/6/6}. There you say, you tell us what SG&A
13 costs stand for, Selling, General & Administrative
14 expenses, yes?

15 A. Yes.

16 Q. You go on to explain that SG&A includes everything from
17 head office staffing costs, IT equipment, travel, and
18 marketing to frontline customer-facing staff in call
19 centres and retail stores, correct?

20 A. That is correct.

21 Q. Then if you look at paragraph 30 of your witness
22 statement, the second sentence {D/6/7} if we can have
23 that enlarged. You say:

24 "Given the difficulties in attempting to attribute
25 costs, and the fact that these costs are not managed by

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1 individual divisions, we do not attempt to attribute
2 these costs when creating the MTP and budget. Instead
3 we consider and manage these on a Consumer-wide basis as
4 explained above."

5 A. Yes.

6 Q. Save for the point we discussed briefly about marketing,
7 this is consistent with BT's responses to the Ofcom
8 questionnaire that we started with?

9 A. It is.

10 Q. With the two letters that we had a look at a moment ago?

11 A. It is.

12 Q. Next, if you turn to a letter from BT's solicitors to
13 Mishcon de Reya dated 13 September 2023. This is
14 {H/20.2/1}. This one is more recent, this is from
15 September 2023. Let me give you a moment just to have
16 a look at the subject matter of the letter and then
17 there are one or two questions to ask you about this.
18 (Pause).

19 A. Okay.

20 Q. So here, if you look at the second paragraph, you will
21 see that a team within BT Group Finance has begun
22 a project seeking to determine whether it is possible to
23 develop a model which allocates forecasted revenue,
24 costs and assets across BT Group to the relevant
25 business units and to the main product categories.

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1 This is referred to, is it not, as the modelling
2 project or MP?

3 A. Okay.

4 Q. The modelling project, the letter carries on:

5 "... is not created specifically for, nor does it
6 focus specifically on, BT Consumer, but rather the
7 BT Group as a whole ..."

8 Are you aware of whether this model would have
9 been -- would have encompassed the allocation of costs
10 within BT Consumer?

11 A. I do not know anything about it, unfortunately.

12 Q. You do not. Okay. Are you familiar at all with the
13 modelling project?

14 A. I am aware of its existence and that is unfortunately
15 all. I have no -- not had any involvement, nor any
16 discussions about it. All I know is that there are
17 a group of guys working on it, but that is all I know,
18 unfortunately.

19 Q. Okay. I will not ask you anything further then on the
20 modelling project.

21 Just to round this point out, if I could show you
22 what BT -- what the Class Representative's economist,
23 Mr Duckworth, has to say about the allocation of costs,
24 just to confirm that there is no daylight between BT and
25 Mr Duckworth on the question of the allocation of these

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1 costs.
 2 If you look at {IR-E/6/14} at paragraph 2.12. There
 3 Mr Duckworth says:
 4 "BT Consumer provides SFV services and SFV access
 5 alongside a range of other services. As a result, costs
 6 are often recorded at a level of aggregation that is
 7 broader than SFV services (and therefore also SFV
 8 access)."
 9 That is correct, is it not?
 10 A. Yes.
 11 Q. He continues, and I am looking at subparagraph (b):
 12 "The indirect costs (e.g. SG&A and D&A costs)
 13 recorded in BT Consumer's accounts reflect the cost of
 14 providing all services to all BT Consumer customers
 15 (i.e. BT Consumer does not break down total SG&A or D&A
 16 costs by product)."
 17 That is all correct?
 18 A. It is.
 19 Q. Finally, on this point, again, Mr Duckworth at
 20 paragraph 144 of his first report, that is {OR-A/13/47}.
 21 Apologies, that is a reference to the skeleton argument.
 22 I first want to just show you Duckworth 1,
 23 paragraph 5.51, and the reference is {OR-E/6/62}.
 24 I think it starts on the previous page at the bottom of
 25 page 61. Paragraph 5.50. I will not read it out but if

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1 you just read it to yourself. He particularly refers to
 2 the evidence that emerges in your witness statement.
 3 {OR-E/6/61}. (Pause).
 4 That is correct too, is it not?
 5 A. Yes.
 6 Q. Right, turning then to ---
 7 THE CHAIRMAN: Before you turn to anything else, we need to
 8 give the transcriber a break so we will do that now.
 9 You will know, Mr Cackett, do not discuss the case
 10 or the evidence you are giving until you are finished.
 11 Thank you.
 12 (3.16 pm)
 13 (A short break)
 14 (3.30 pm)
 15 THE CHAIRMAN: Yes, Mr Spitz.
 16 MR SPITZ: Thank you, sir.
 17 Mr Cackett, then if we turn to paragraph 30 of your
 18 witness statement {D/6/7}. There you distinguish
 19 between costs which are directly attributable to a
 20 particular division or type of product, and indirect
 21 costs which you say are recorded at the BT Consumer
 22 level, yes?
 23 A. Yes.
 24 Q. So I think you agree that direct costs are those that
 25 are directly related to a given product?

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1 A. Yes.
 2 Q. Or costs that are directly related to a particular
 3 customer type?
 4 A. Product rather than customer type.
 5 Q. Then there are indirect costs, and about these you say
 6 there are difficulties in attempting to attribute costs?
 7 A. Mm-hm.
 8 Q. I think your point is that it is difficult to work out
 9 the relationship between those indirect costs and
 10 a particular product or service; is that right?
 11 A. I think that is inherently the case, probably, yes.
 12 Q. Let us look at a few of the examples that you provide.
 13 The first is at paragraph 29 and it is about call centre
 14 staffing. {D/6/7}.
 15 It is correct, is it not, that call centre staffing
 16 costs can be managed by forecasting how many customers
 17 will call into the centres over the year?
 18 A. Yes. Not just that, I hasten to add, but that is one of
 19 the components of it, yes.
 20 Q. Call centre staffing is an example of an indirect cost?
 21 A. It is, yes.
 22 Q. The service calls element of the calls centre is an
 23 aspect of customer care, correct?
 24 A. It is.
 25 Q. It is fair to say that there are a number of factors to

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1 take into account in deciding on the level of call
 2 centre staffing costs?
 3 A. Yes.
 4 Q. But the level of call centre staffing costs will vary
 5 with the number of customers using those call centres,
 6 correct?
 7 A. Yes.
 8 Q. BT could, if it put its mind to it, trace back most of
 9 the costs of call centre staffing to individual
 10 customers and the products they buy, could it not?
 11 A. Yes, it could.
 12 Q. BT would have to analyse the customers making use of the
 13 call centres and the products they call about, yes?
 14 A. That is not how I would do it, but that is one way,
 15 certainly.
 16 Q. It would be feasible to do this sort of analysis, would
 17 it not?
 18 A. Yes.
 19 Q. I suggested to you that call centre costs can also vary
 20 by the type of customer BT is dealing with, and what
 21 I meant, for example, is that customers with more
 22 complex needs might require more call centre staff to
 23 serve them; is that correct?
 24 A. Sorry, customers with?
 25 Q. Customers with more complex needs might require more

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1 call centre staff to serve them?
 2 A. I mean, I guess so, yes.
 3 Q. That could lead to greater costs?
 4 A. Yes.
 5 Q. Equally, if BT promoted self-care where customers could
 6 use internet based tools rather than call centres, that
 7 could have an impact on call centre costs too?
 8 A. Absolutely, yes.
 9 Q. So the level of costs for call centres, at least for
 10 responding to customer calls, varies with demand for the
 11 service, correct?
 12 A. Yes, albeit it is not a direct variation, I would not
 13 suggest.
 14 Q. If the call centre is used not only to service existing
 15 customers who call in but also to sell services to
 16 existing or new customers, those costs would also vary?
 17 A. Again, I would categorise it as sort of semi-fixed
 18 costs. The labour laws in this country mean it is not
 19 quite a one-to-one relationship between calls and — but
 20 we have to forecast what we think is going to come in,
 21 how long we think the call is going to last, you know,
 22 what we think with things like shrinkages, that is
 23 breaks, and things like that.
 24 So it does not vary with demand in the sort — in
 25 a way that direct costs of Openreach do in that way. As

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1 I say, I would characterise it as semi-fixed rather than
 2 entirely variable.
 3 Q. But there is an element which is variable with demand,
 4 I think?
 5 A. Over time. But, again, I think the labour law will
 6 suggest that takes longer than sort of the short period
 7 of time that you would call something as truly variable.
 8 Q. If we think about advertising campaigns, there would be
 9 some advertising campaigns that are directed towards
 10 encouraging the take-up of broadband, BT Broadband, yes?
 11 A. Yes.
 12 Q. Plus other advertising campaigns directed towards
 13 encouraging take-up of BT Sport?
 14 A. Yes.
 15 Q. Still others directed towards promoting BT Television?
 16 A. Yes.
 17 Q. Then others at promoting BT bundles?
 18 A. Yes.
 19 Q. These costs are not common to all products and services,
 20 are they?
 21 A. No, sorry, I disagree with that. I think they are, yes.
 22 Q. They are not common to SFV services, clearly?
 23 A. Sorry, I think marketing — I think marketing is
 24 a brand-led thing, right? So we may well talk about
 25 a specific product, but it has a halo effect on the

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1 brand and on the customers who think about us, not just
 2 for the service that we are. So I think, you know, if
 3 you were to look at how marketing — we would measure
 4 marketing, we would do it in a number of ways. We would
 5 look at the direct calls. We have direct call to
 6 actions on some of those pieces of marketing: go to this
 7 URL or ring this number. But we can also see, you know,
 8 that we do them we get a halo effect, and we get people
 9 calling us about the products we are not advertising.
 10 So I think, you know, for example, an advert for
 11 BT Broadband or for BT TV or Sport cannot just be seen
 12 as in service of that one product.
 13 Q. So you would —
 14 A. That is sort of the point of marketing, right, is to
 15 create a brand feeling which goes across the entire
 16 range of services. It has to work like that.
 17 Q. So you have an advertising campaign that is devoted
 18 towards promoting BT Sport, and you would say the cost
 19 of that advertising campaign is a common cost with SFV
 20 services —
 21 A. I think it certainly can be, yes.
 22 Q. You would say that that is because of the halo effect?
 23 A. Absolutely.
 24 Q. So any advertising that is related to BT is a common
 25 cost with SFV services. That is your evidence?

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1 A. Yes, but I think to different extents, right? I think
 2 there are some things that you would think are sort of
 3 more direct and some things that are more common, but
 4 I think, in general, I think advertising is something
 5 that is in service of the entire base, and whilst we
 6 talk about different things at different times of the
 7 year, it is really about creating a sort of brand
 8 feeling across BT as a brand, rather than, you know,
 9 just specifically for the product that it can talk
 10 about.
 11 Q. Let us talk briefly about product management. There
 12 will be costs directed towards dealing with the
 13 management of particular products, would there not, such
 14 as the provision of television?
 15 A. Mm—hm.
 16 Q. There would be other costs directed towards dealing with
 17 the management of broadband access, would there not?
 18 A. Mm—hm.
 19 Q. These costs are not common to all products and services,
 20 are they?
 21 A. I think generically product management is a common cost,
 22 albeit there will be components that relate to TV,
 23 Voice, etc., etc..
 24 Q. Well, yes, if it is a question of labels, if it is the
 25 definition, management costs, at that level, perhaps.

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1 But at the disaggregated level of the management of the
 2 provision of television, your evidence is that that is
 3 a cost for SFV services, is it?
 4 A. No, no, I am saying product management, which was the
 5 category of job that you just referenced, is a common
 6 cost, and there are people who do product management
 7 across a variety of products. Clearly people who are TV
 8 product managers is not a common cost with SFV, but
 9 clearly there will be people who, in terms of fixed line
 10 services, who will be a common cost for SFV.
 11 Q. If you then turn to paragraph 30 of your witness
 12 statement again {D/6/7}, you say there:
 13 "These indirect costs are recorded at Consumer level
 14 as they are not directly attributable to any particular
 15 division or type of product and are common to all
 16 products and services."
 17 That is what you say. I want to suggest to you that
 18 the suggestion in this sentence in your statement,
 19 namely that indirect costs are common to all products
 20 and services, is not as precisely expressed as it could
 21 have been, yes?
 22 A. I mean, I think — in general I think there are common
 23 costs that do not relate to one particular product, but
 24 of course there will be individuals within that who do
 25 relate to those things.

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1 Q. Because what you intended to convey here is simply that
 2 there are indirect costs relating to all products, not
 3 that every single cost incurred is common to all
 4 products, correct?
 5 A. Yes.
 6 Q. That is why I suggested to you that your statement in
 7 your witness statement was not as clearly expressed as
 8 it might have been. That is what you intended to
 9 convey, what I have just suggested?
 10 A. I mean, I intended to convey, for example, that the cost
 11 of the Finance team is a common cost, that the cost of
 12 product management is a common cost, and, you know, we
 13 can allocate them how we like, but roughly it is
 14 a common cost. That is what I was intending to convey
 15 and that is what I believe to be true.
 16 Q. Because if you were saying that all indirect costs are
 17 common to all products, I would suggest that would be
 18 implausible?
 19 A. I think I have just said that is not what I am saying.
 20 Q. Indeed, it is not what you are saying. If it were, it
 21 would be an extreme position to be adopting, yes?
 22 A. Yes. I mean, I guess the point of allocating common
 23 costs is in order to make that distinction.
 24 Q. If you turn then to paragraph 28 of your witness
 25 statement {D/6/7}, here you deal with the costs of staff

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1 in BT's head office, and you say, for example, that
 2 BT Consumer might estimate that you need 20 individuals
 3 in a particular year.
 4 It is the third sentence of paragraph 28.
 5 A. Yes.
 6 Q. You might not end up getting all of that number, but you
 7 estimate the number of head office staff that you need?
 8 A. Mm—hm.
 9 Q. Those head office staff are there to deal with
 10 BT Consumer issues alone?
 11 A. Yes. In that example I think that is correct, yes.
 12 Q. As you suggest in paragraph 28, the number of head
 13 office staff could go up and down from year to year,
 14 depending on the requirements of BT Consumer from time
 15 to time. If you had more products in BT Consumer, that
 16 could mean that you need more head office staff?
 17 A. Mm—hm.
 18 Q. If the products were increasingly complex, that could
 19 also mean that you needed more staff in the head office?
 20 A. Mm—hm.
 21 Q. I just want to check that the transcript is recording
 22 your assent as a "yes".
 23 A. Sorry, I will say "yes" in the future.
 24 Q. If you launched an entirely new product in BT Consumer,
 25 that could mean that you needed more people in BT head

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1 office to deal with?
 2 A. Yes.
 3 Q. So if you introduced BT Sport into a suite of products
 4 that BT Consumer offers, that could require additional
 5 head office staff to manage, correct?
 6 A. Yes.
 7 Q. In paragraph 27 of your witness statement, you describe
 8 some of the group wide costs that are outside the
 9 customer-facing units. If we just call up 27 {D/6/6}.
 10 If we go on to the next page, {D/6/7} and enlarge.
 11 You mention, for example, the costs of networks and
 12 digital teams. Do you see that?
 13 A. I do, yes.
 14 Q. Some of the people employed in these digital and
 15 networking teams would be dedicated, for example,
 16 specifically to maintaining BT Broadband networks —
 17 A. They may be, yes.
 18 Q. — and others to maintaining BT television services?
 19 A. Yes.
 20 Q. Those central costs would not be related to providing
 21 Voice services, would they?
 22 A. Again, there will be some crossover, but there will be
 23 some people who are specific, absolutely.
 24 Q. Absolutely.
 25 Turning then to a different topic that I will deal

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1 with quite briefly . If you look at paragraph 29 of your
 2 witness statement again, you see there that in
 3 considering call centre staff, you describe how you
 4 might try to reduce the cost of staff by transforming
 5 the way call centres operate?
 6 A. Yes.
 7 Q. You mention how introducing a new IT system might reduce
 8 call handling times?
 9 A. Yes.
 10 Q. This would reduce the staff costs, but there would be
 11 costs incurred, as you say, in introducing the new
 12 system?
 13 A. Yes.
 14 Q. Then paragraph 38, {D/6/9}. Just read that paragraph to
 15 yourself. (Pause). In this paragraph you discuss your
 16 views on pricing proposals and you talk about how, if
 17 there is a gap between pricing proposals and your
 18 budget, you would have to try and close that gap,
 19 correct?
 20 A. Yes.
 21 Q. One of the ways to close the gap would be by cutting
 22 costs?
 23 A. Yes.
 24 Q. It is fair to say, is it not, that BT Consumer were
 25 always looking for ways to reduce the cost of delivering

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1 its services?
 2 A. Absolutely.
 3 Q. Yes. There is only one document that was shown to you
 4 in the course of preparing your witness statement, as we
 5 discussed, and that is at {OR-F/733/1}, if you could
 6 turn that up. Bear with me while I do the same.
 7 (Pause).
 8 This is the document that Mr Beard rightly said is
 9 a confidential document, and you will see that most of
 10 it is highlighted in yellow. It is BT's "Consumer
 11 [Medium Term Plan]", dated 9 March 2020. If you look at
 12 slide 6 {OR-F/733/6} of that document, you will see the
 13 heading there, and in the table on the left-hand side
 14 you will see the type of costs that are being dealt with
 15 in that box.
 16 I think I can read out the heading. It is the
 17 "Consumer direct SG&A" costs, yes?
 18 A. Yes.
 19 Q. What you do here is you forecast from the year 2019/20
 20 over the next five years --
 21 A. Yes.
 22 Q. -- what is going to happen with Consumer direct SG&A
 23 costs, yes?
 24 A. Yes.
 25 Q. I will not read out the percentage there, but you can

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1 see that the direction is that these costs are forecast
 2 to decline --
 3 A. Yes.
 4 Q. -- by the amount that you have forecast?
 5 A. Yes.
 6 Q. Then if you look at the next slide {OR-F/733/7}, this is
 7 "Consumer Labour Trends", and this reflects your
 8 forecast about what is going to be happening with labour
 9 costs, does it not?
 10 A. Yes.
 11 Q. Over the same five year period?
 12 A. Yes.
 13 Q. So the anticipation is that BT's labour trends will move
 14 in the same direction by a particular percentage over
 15 the same five year period?
 16 A. Yes.
 17 Q. Then slide {OR-F/733/8}, a similar trend in relation to
 18 BT "Consumer service costs", "Consumer marketing costs",
 19 "Consumer direct SG&A ..."?
 20 A. Yes.
 21 Q. The trend, as I say, is in the same direction.
 22 A. Mm-hm.
 23 Q. Then slide 9 {OR-F/733/9} shows this deals with BT's
 24 customer base, is that correct?
 25 A. Yes.

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1 Q. For various different products that BT offers.
 2 A. Yes.
 3 Q. There, this slide shows BT's customer base moving in the
 4 opposite direction across the various services. In
 5 other words, the customer base is forecast to increase?
 6 A. Yes.
 7 Q. Across TV?
 8 A. Yes.
 9 Q. Across mobile?
 10 A. Yes.
 11 Q. Across connected services?
 12 A. Yes.
 13 Q. Also across the converged base; what is the converged
 14 base?
 15 A. That will be customers who take broadband and mobile.
 16 THE CHAIRMAN: Sorry?
 17 A. That will be customers who take broadband and mobile,
 18 and they will be -- so that base will be a subset of the
 19 broadband base and the mobile base.
 20 THE CHAIRMAN: I see.
 21 MR SPITZ: Also across broadband net adds, what are net
 22 adds?
 23 A. Net additions. That is acquisitions, and then net off
 24 with churn, so it is the change in the customer base on
 25 an annual basis.

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1 Q. So the number of customers over the period is forecast
2 to increase?
3 A. Yes.
4 Q. At the same time, the costs are forecast to decrease?
5 A. Yes.
6 Q. The forecast reduction in costs is not because
7 BT Consumer expected to serve fewer customers?
8 A. No.
9 Q. So it is fair to say on the basis of this MTP that
10 BT Consumer expects to make significant efficiency gains
11 each year, does it not?
12 A. Yes.
13 MR SPITZ: Thank you very much, Mr Cackett. I have no
14 further questions. The Tribunal may have, and then
15 Mr Beard may have some redirect.
16 THE CHAIRMAN: Thank you. We will go to Mr Beard first for
17 any re-examination.
18 Re-examination by MR BEARD
19 MR BEARD: Mr Cackett, I only have a couple of brief
20 questions for you, I think.
21 You were taken to various documents that I think you
22 said you had not seen that were responses to Ofcom.
23 I am going to spare you going back to those.
24 A. Yes.
25 Q. Are you aware that there was a consultation on financial

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1 reporting launched by Ofcom around 2017?
2 A. No.
3 Q. I will not ask you any further questions on that.
4 Can I then just turn to your witness statement. At
5 paragraph 27 you talk about group wide costs {D/6/6}.
6 I am going to fix on the first one you come to, which is
7 obviously very close to home, legal costs. When you
8 think about legal costs, do you think about your
9 internal and external legal costs or is this just
10 internal legal costs?
11 A. Both. Yes, both.
12 Q. When you are thinking about the internal legal costs,
13 your lawyers that you employ, are they allocated to
14 specific products, as Mr Spitz was saying?
15 A. No, they are not.
16 Q. So how would you characterise those legal costs, then,
17 in broad terms?
18 A. They are common across all the products. They sort of
19 move and change where the work goes, send me to the
20 Finance team and many other areas where we work across
21 multiple products.
22 Q. The other costs that you are referring to there, do they
23 fall into similar categories?
24 A. They do, yes.
25 Q. Can I just go down the page to paragraph 30. This is

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1 just a nutshell explanation. You have got it in your
2 footnote, Mr Spitz did not ask you about it, but can you
3 just explain the notion of unit economics. You have
4 a footnote there, but just for our benefit.
5 A. Yes. So what we periodically try to do, not around
6 budgets at times, not for auditable purposes and not in
7 systems. I think that is quite important to say all of
8 those things. What we often do is we try and allocate
9 our common costs in an appropriate way, so we will do
10 things not dissimilar to what Mr Spitz said, around we
11 will look at the product management team --
12 THE CHAIRMAN: Can you go a little bit slower for the
13 transcriber.
14 You try to allocate common costs ...?
15 A. We try and allocate common costs across -- into the
16 individual products. We will look at, for example,
17 Product Management teams, and we will look at how many
18 are dedicated to TV, and will allocate the sort of
19 headcount for that to TV, to Voice, to broadband, etc.,
20 etc., and we will try and come up with a -- largely down
21 to EBITDA, we rarely do it with D&A in there, but we
22 often do it down to EBITDA, of profitability with all of
23 the common costs allocated, and, you know, where we
24 think we can allocate them properly, i.e. people work
25 specifically on something, we will try and allocate them

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1 then to that.
2 Happily, you have actually seen an example of this
3 at the end of Ms Blight's testimony when you showed her
4 that piece for Ofcom. It is roughly that piece where I
5 was -- unitary economics, where it -- the slide where it
6 talked about profitability for -- profitability falling,
7 and you saw all the way down to EBITDA for Voice,
8 because it was a BT and Ofcom document. That is
9 effectively a way that we would have done that.
10 That is really what I mean by unitary economic. It
11 is the cost, it is the end-to-end cost of one product.
12 So we do it on an ad hoc basis, sometimes because Ofcom
13 asks for something, sometimes because we want to look at
14 the wider businesses, so that is what it is. But it is
15 not auditable, it is not systemised, all those type of
16 things.
17 MR BEARD: I am just going to check whether I have the right
18 reference, because you have gone far too fast for me.
19 A. Sorry.
20 Q. Can we go to {F/576/6}. Is this what you are talking
21 about?
22 A. Not this slide. There was a slide that said something
23 about profitability, a debate about profitability. It
24 had a table of numbers.
25 THE CHAIRMAN: Yes.

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1 MR BEARD: I think that might be {F/505/7}.

2 A. That is the one.

3 Q. Right, thank you.

4 A. This is an example of where we would have tried to have

5 done that.

6 THE CHAIRMAN: Sorry, just to ...

7 MR BEARD: No, please.

8 THE CHAIRMAN: So we have got here, under "Other Costs",

9 SG&A.

10 A. Mm—hm.

11 THE CHAIRMAN: That is some form of allocation of all of

12 your SG&A costs?

13 A. Yes.

14 THE CHAIRMAN: So just to take up the point you mentioned

15 earlier about legal costs, where do we find those in

16 here?

17 A. So legal would fit into "TLC" for our internal legal

18 team, and "Other internal/external spend", and things

19 like — or even "Miscellaneous ... costs" for any

20 external legal spend would generally be where they would

21 fit.

22 THE CHAIRMAN: Thank you.

23 MR BEARD: I am sure we are all delighted to be seen as

24 miscellaneous in these circumstances.

25 That is allocating costs effectively per consumer

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1 and margin per consumer?

2 A. That is per product rather than consumer, but, yes.

3 Q. Per product. But then the margins at the bottom are

4 margins per consumer per month?

5 A. So what you can see here is the revenues and the margins

6 by line, effectively, or by product, as opposed to ...

7 So a consumer may have more on one of these products or

8 two or three different products, so you might have two

9 or three. But this is very specific, this is unit

10 economics for a specific product.

11 Q. Okay. So can I just test another document that was

12 actually shown to Ms Blight, {F/576/1}. Yes. I guessed

13 wrongly with the first slide I thought you might be

14 referring to, but if we could go to slide {F/576/8},

15 this was all about gives. I do not know if you heard

16 this bit of Ms Blight's evidence, but she was talking

17 about gives, and she was questioned about this, the

18 costs here.

19 So I think, here, would you consider this to be

20 a sort of form of unit economics in relation to —

21 A. Right.

22 Q. Here, you have "Effective annual cost per Voice Only

23 Customer", and there was a debate about the fact that

24 this is actually for all customers but then labelled in

25 this way.

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1 A. Yes.

2 Q. Right. But it is using customers as the allocation,

3 yes?

4 A. Yes.

5 Q. So can I just go back to the medium term plan which

6 I think is {F/733/1}. If we could just go to slide

7 {F/733/6}. I am not going to take you through all of

8 it, but if you could go to slide 6. I am sorry, on the

9 screen can we go to the OR version. I think it is fine,

10 Mr Cackett has it, but ... {OR—F/733/6}.

11 I am not going to go into numbers, but I just wanted

12 to ask you about the table on the right—hand side which

13 is headed "Payments to Group". I do not want to get

14 into any numbers or anything of that sort, but can you

15 just explain what "Fixed recharges" and "Consumer to

16 Openreach" are here?

17 A. Yes, so I will start with "Consumer to Openreach.

18 "Consumer to Openreach" is where we pay for landlines,

19 broadband connections on a per unit basis. So WLR,

20 FTTC, broadband products or landline products

21 predominantly.

22 Then "Fixed re—charges" is where we get re—charged

23 for common costs through the group, and they may be

24 audit costs, group Finance, technology, networks, IT.

25 Functions that sit outside of the Consumer business, and

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1 we are allocated our share of them. That is what those

2 costs are.

3 Q. Thank you. You referred to, as all businesses do,

4 trying to make efficiency gains and trying to forecast

5 efficiency gains. I think I probably know the answer to

6 this question, but does BT Consumer always make the

7 efficiency gains that it forecasts?

8 A. No, unfortunately not.

9 MR BEARD: I do not have any other questions for you,

10 Mr Cackett. The Tribunal may have some.

11 Questions by THE TRIBUNAL

12 MR RIDYARD: Mr Cackett, you will have to go gently with me

13 on this.

14 A. That is okay.

15 MR RIDYARD: When you were talking about the unit economics

16 and the common costs, I was a bit confused, I will be

17 honest, because my understanding of a common cost is

18 something which is common and therefore cannot be

19 allocated. So when you were talking about allocating

20 common costs, would it be more accurate to say that you

21 are actually allocating costs which are not common?

22 They are overhead costs by all means, but you are

23 saying, or estimating anyway in this exercise, which

24 I understand is not audited, etc., etc.. But in that

25 exercise you are trying to identify some of these head

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1 office costs or overall costs which are caused by one
 2 business or another, and therefore they are not common
 3 costs. Is that right or have I got that wrong?
 4 A. It is both, unfortunately. So if I just ... So there
 5 will be head office costs. I think there are a bunch of
 6 head office costs that as a function -- product
 7 management is the example Mr Spitz gave -- is a generic
 8 cost, and there will be some people in there who work on
 9 multiple products. But there will be people who are not
 10 common and do just work on TV, but in the course of
 11 business we do not have the systems, the capability, the
 12 capacity to spend time allocating all those people out.
 13 So generally what we do with unit economics is where we
 14 think we can allocate them, because they are not really
 15 common, there is a common function but a specific role,
 16 we do that as properly as we can. Then in other costs
 17 that truly are common, the audit fee, for example, we
 18 have to have an audit to run the business so it is
 19 a common cost, we will allocate that on a basis, and
 20 that might be on volume, it might be on revenue. We
 21 will find a metric that we think is the most appropriate
 22 with which to allocate that cost out there.
 23 MR RIDYARD: Okay, you can think of rules of doing it. But
 24 if those are truly common costs, like the audit cost,
 25 which you will have to incur whether or not you have SFV

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1 customers, for example, then they are not caused in any
 2 sense by any one customer group, they are just a common
 3 cost across the business.
 4 A. Yes.
 5 MR RIDYARD: Whereas the other ones, you can allocate them.
 6 They are caused by -- for example, an individual
 7 employed as a TV manager in head office is only employed
 8 in that job because the TV service exists, and if it did
 9 not exist then he or she would not be employed,
 10 presumably.
 11 A. Yes.
 12 MR RIDYARD: So there is quite a logical distinction between
 13 these two scenarios, is there not?
 14 A. There is. As I say, we -- when we do those unit
 15 economics we treat them differently in terms of how we
 16 work out what they are, i.e. if we think we are not
 17 really common and we can allocate them then we will try
 18 and do that in the most precise way possible. But we do
 19 allocate out all the common costs in that example,
 20 because clearly many of those were costs of running the
 21 business and needed to be attributed to -- across the
 22 wider -- the whole of the group, in many ways, to get
 23 a sort of end-to-end profitability of each of our
 24 products, if that makes sense.
 25 MR RIDYARD: Yes, but I understand --

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1 A. But I agree with the distinction .
 2 MR RIDYARD: I understand that eventually, if you want to
 3 stay solvent, you need to cover all of those costs, so
 4 you need to make a contribution towards those costs, and
 5 so the aggregate of all the contributions adds up to
 6 your total costs. I get that point.
 7 But do you have any prior views about -- with a true
 8 common cost, which really cannot be allocated, other
 9 than through just an arbitrary rule, do you have any
 10 views about how those common costs should be recovered
 11 across the various parts of BT Consumer, for example?
 12 A. I think you have to -- I think there are a couple of
 13 ways you can do it, right, and I think there are merits
 14 to all of them. You can take your profitability down to
 15 a contribution margin, and then does all the
 16 contribution margin recover the true common costs? Or
 17 you can allocate them out on an arbitrary basis of
 18 volume and revenue.
 19 I think generally when we do things like unit
 20 economics we will generally tend to allocate them out,
 21 largely because we may not look at the end-to-end beast.
 22 We might be doing something for a specific product, like
 23 Voice, or we might be doing it for broadband or
 24 something else. So we might not -- so we might take an
 25 allocation because we are not doing that overall

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1 contribution margin, if that makes sense.
 2 MR RIDYARD: Yes --
 3 A. So hence why we may well allocate them in the way
 4 I described them. So that is -- it is an art, not
 5 a science, right, and I think that is -- we could spend
 6 many days debating the right ways -- volume and revenue
 7 usually are pretty standard ways of doing it across the
 8 industry. Actually, I think, if you worked at Vodafone
 9 and Cable and Wireless, they have a relatively similar
 10 way of doing it in that way, so I think they are
 11 relatively sensible ways of doing it.
 12 MR RIDYARD: When you do the unit economics for the
 13 individual bits of BT Consumer, you talked about
 14 products, but when you say "a product", what do you
 15 mean? Do you mean Voice versus broadband, or would you
 16 take ... It seems like, in one of the documents we were
 17 just taken to, the one that was raised in Ms Cheek's
 18 evidence, that was looking specifically at SFV customers
 19 as a "product".
 20 A. Yes, so I would say in general we would use products and
 21 the macro. So Voice as a category would not generally
 22 distinguish between VOC and Voice, potentially even
 23 Voice as separate to broadband, if that makes sense.
 24 So generally we think about Voice, and there will be
 25 scenarios where we have specific requests, sort of such

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1 as that where we will do it on a product and end
 2 customer, if that makes sense. Voice and then a sliver
 3 of those Voice customers. But generally we would do it
 4 at a slightly more macro level, so all Voice
 5 customers — or Voice as a product and broadband as
 6 a product rather than down to that level. But as I say,
 7 generally we will over time, that was obviously done in
 8 response to Ofcom, we will do it, we will do it if ...
 9 As I say, I am clear about the pitfalls and the
 10 assumptions that you need to make to do that, but, you
 11 know, it is sort of probably directionally pretty good,
 12 I think.

13 MR RIDYARD: Okay, thank you.

14 One other question on the efficiency question.

15 Mr Beard asked you whether BT always hits its efficiency
 16 targets, and you said not always. But in the — I have
 17 not looked, but over a run of years would it be easy to
 18 gets hold of measures of the efficiency of BT Consumer
 19 as a business in terms of customers served per employee,
 20 or whatever the measures are — the sort of measures
 21 that we saw in those projections there, so we could go
 22 back a number of years and see what BT actually achieved
 23 as opposed to what you were hoping to achieve.

24 A. Yes, we would generally only forecast measures that we
 25 could report the actuals of, so yes is the answer.

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1 MR RIDYARD: So if we look through enough spreadsheets, we
 2 will find a run of actual performance across the period
 3 that we are interested in?

4 A. That is right.

5 MR RIDYARD: Thank you.

6 THE CHAIRMAN: A similar sort of question, but going back to
 7 this question of allocation of common costs. Are there
 8 any common costs, and I think you may have referred to
 9 D&A, that you do not try to allocate to particular
 10 products in your unit economics exercise?

11 A. Yes, as a rule, Consumer as a division, we really work
 12 to EBITDA, so we rarely allocate D&A on a product basis.

13 I mean, I cannot think of a time when we would have done
 14 that, to be frank.

15 THE CHAIRMAN: Yes, before depreciation and amortisation.

16 A. Yes. So we always manage those units generally down to
 17 before depreciation. Again, it is probably not beyond
 18 the wit of man, but it is not something — and, you
 19 know, in some ways D&A is a historic — there is some
 20 cost. So, again, what we generally try and do is drive
 21 action and drive behaviours and make changes, and
 22 clearly allocating that D&A, while sort of interesting
 23 about profitability, is never going to drive any action,
 24 so we do not in general do that at a divisional level.

25 THE CHAIRMAN: Right. Now, we know, and it is a matter of

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1 dispute between the experts here, that there was some —
 2 perhaps I could describe it as a more formal allocation
 3 of common costs, at least across Voice, as distinct from
 4 Consumer division as a whole, for the purposes of Ofcom
 5 in 2009.

6 A. Yes.

7 THE CHAIRMAN: Now, what I am learning from you today is
 8 that although not in such a formal form, there have
 9 been, there are, regular allocations of common costs all
 10 the time, effectively.

11 A. Yes, periodically is how I would describe it.

12 THE CHAIRMAN: Yes, and documents no doubt reflecting that
 13 allocation.

14 A. I presume there are some, yes.

15 THE CHAIRMAN: Yes. As I think you have explained, that
 16 allocation really consists of two elements: those where
 17 you think you can establish some kind of causal
 18 connection, the number of staff that is devoted to phone
 19 lines as opposed to broadband, and then for the balance
 20 you still allocate it, but then you get down to these
 21 different methods, revenue or volume and things like
 22 that. So that exercise will have been done for the
 23 Voice element within Consumer division but not
 24 necessarily for SFV bits on it?

25 A. Yes, almost certainly not, other than in that particular

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1 example where presumably Ofcom had asked for it. But in
 2 the course of business we would not really think of —
 3 from a unit — from an allocation of cost version, SFV,
 4 VOC, versus Voice generically, if that makes sense.

5 THE CHAIRMAN: Right. So that really answers why on the one
 6 hand you say there are some costs which, as a matter of
 7 concept or analysis, are genuinely common costs, but
 8 nonetheless they have been subject to an allocation
 9 exercise.

10 Does that typically change over the years that you
 11 have been there, or did it tend to be the same?

12 A. In what sense, sorry?

13 THE CHAIRMAN: For example, whether you allocate the true
 14 common costs by volume or by revenue, is there
 15 a particular working rule on that, from memory, do you
 16 know?

17 A. It will depend on the — well, a couple of things it
 18 will depend on. It will depend on what we are doing it
 19 for. There may well be a particular reason that we are
 20 doing it. But generally we would do it on revenue,
 21 would be my sort of working way of doing it.

22 THE CHAIRMAN: Right. So really this, if I have got this
 23 correct, is the context in which you, BT — there was
 24 a response, we will look at those questions, question
 25 18, question 19, you were not responsible for those

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1 responses but you were commenting on it.
 2 A. Yes.
 3 THE CHAIRMAN: It would cost us a lot of money if we were
 4 going to drill right down into all of that exercise of
 5 attributing costs, but there was a sentence there which
 6 said there was an allocation but it has not been
 7 developed further. So the sort of allocation you are
 8 talking about is the sort of undeveloped --
 9 A. Yes, I mean, what Ofcom -- from those documents what
 10 Ofcom were really asking was for regulated and audited
 11 answers, which clearly costs money because you have to
 12 do it both in a standard way, documented, regular,
 13 potentially systemised, and they talk about regulated
 14 financial statements, which obviously we do not do. We
 15 obviously have an overall group financial statement, but
 16 we do not do --
 17 THE CHAIRMAN: You do not go down to that level.
 18 A. -- regulated statements that historically we have done.
 19 So I think the distinction I would make between
 20 that, the answer to that is systemised, regulated,
 21 audited, auditable, versus ad hoc, informative
 22 methodology to sort of inform how we run the business
 23 and decisions that we make. You know, they are sort of
 24 different objectives and they are different things,
 25 I think.

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1 THE CHAIRMAN: That is helpful. I do not suppose you know
 2 what happened on those questions, because you were
 3 ending up saying, look, that is going to be very
 4 expensive, and if we are to do it at all we would like
 5 to have another year in which to do it. But presumably
 6 it did not happen?
 7 A. I do not believe we have ever published any regulated
 8 financial statements post 2008/2009, and therefore I
 9 presume it did not happen, but I would not know.
 10 THE CHAIRMAN: Right.
 11 Just give me one moment, please. I want to ask ...
 12 oh, and when you were shown those other slides, where
 13 one of the costs was direct costs and then the other one
 14 was payment to group re-charges, is that more of the
 15 administrative costs being --
 16 A. So that will be attributed costs to the Consumer
 17 division from functions that sit outside of Consumer, so
 18 that will include group Finance, the Technology team,
 19 the IT team, some of the Regulatory team, things like
 20 that, so there will be lots of sort of functions that do
 21 not sit within ...
 22 THE CHAIRMAN: But that is separate from the other common
 23 costs that you are allocating?
 24 A. We allocate them as well. So we get a chunk of those
 25 allocated to Consumer and then we will allocate them

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1 again.
 2 THE CHAIRMAN: You mean within Consumer how you would
 3 allocate them?
 4 A. They allocate to us, and then we allocate them out when
 5 we do that with that methodology.
 6 THE CHAIRMAN: That is very helpful.
 7 Now, I want to just ask a question on something
 8 else, which is we have heard a lot about the budgets,
 9 and the budgets within Consumer division for Voice,
 10 which is separate budgets within that.
 11 A. Yes.
 12 THE CHAIRMAN: I just want to ask you a question about
 13 decision-making in relation to the budgets and
 14 Line Rental increases. You may not be one of the people
 15 that can answer this, but the evidence of Mr Bunt, and
 16 perhaps in the same vein, although perhaps not as
 17 emphatic with Ms Blight -- did you hear all of their
 18 evidence --
 19 A. Not all of it.
 20 THE CHAIRMAN: -- in the last couple of days? Right. Was
 21 that in practice the £1 a year increase in Line Rental
 22 was pretty much a given, or a starting point, perhaps
 23 not in absolute terms, but Mr Bunt said that -- the view
 24 that he expressed, for example, once about maybe
 25 changing the way you do it or reducing the costs was

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1 effectively overridden by those who have the ultimate
 2 say.
 3 Do you have any perspective on this question of
 4 Line Rental increase each year as a kind of given and
 5 you do not touch it?
 6 A. Yes, I do.
 7 THE CHAIRMAN: Right.
 8 A. I do not think it was a given. There was a lot of
 9 debate. There is a lot of -- I think the way I would
 10 categorise -- characterise how it might happen. So the
 11 Voice team, which would be Mr Bunt or Ms Blight, would
 12 come up with their recommendations, they would give them
 13 to people like me and people that I supported, and we
 14 would look at those across Voice but also broadband,
 15 sport, TV, everything, and we would generally spend
 16 a lot of time thinking about what the right answer would
 17 be and what the best answer would be for all concerned,
 18 whether it be customers, shareholders, etc., etc.. We
 19 would make a decision on that basis, on the back and
 20 forth that we would have with Jonny or Meg, but also
 21 their counterparts in other products and divisions
 22 within Consumer.
 23 So I do not think it was a given. It was always
 24 very well considered in terms of whoever did it. But,
 25 again, I think their point that we would start thinking

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1 about the current year by what we did in the prior year
 2 is pretty accurate. You know, what is the reason to do
 3 something different to what was historically done. But
 4 we would consider all of the arguments that Jonny and
 5 Meg and people like that would make over time before we
 6 made any decisions about what we were going to do.
 7 THE CHAIRMAN: But it is the case, as it so happens, that
 8 year—on—year from the relevant period this was happening
 9 even though there was — in the period that we are
 10 concerned about here, perhaps from about 2009 onwards,
 11 even though there was a fairly significant drop in
 12 customers each year, and I wondered to what extent that
 13 was factored into your decision making.
 14 A. So again, I think —
 15 THE CHAIRMAN: If you were dealing with it at that sort of
 16 level.
 17 A. Yes. I was involved from 2013 to 2016, I think, if
 18 memory serves me correctly, in this, before the last —
 19 being involved now for sort of five or six years.
 20 Again, I think we would think about a home customer
 21 rather than a Voice customer or a broadband customer,
 22 right? So we really wanted, and we spent, I think many
 23 people will have said this, a lot of time trying to get
 24 customers from Voice to broadband, or to broadband and
 25 Voice, right? From solus to bundles.

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1 I think we would have had — we start generally
 2 forecasting with our idea of what we think the market
 3 size is, so how big we think that market is and what is
 4 going to happen to it, and are we going to outperform or
 5 underperform it, right? So what I do not think we ever
 6 think about doing is sort of trying to buck the trend of
 7 the sort of — whether it be the ethnographic trend of
 8 the market or the — or whatever it is.
 9 So I think we think about market size, how the
 10 market is developing, and where we play within that, and
 11 that we want to outperform the market, but, you know, we
 12 also know that we probably will not be able to
 13 outperform it significantly.
 14 THE CHAIRMAN: But nonetheless, you are starting from
 15 a revenue target.
 16 A. We certainly —
 17 THE CHAIRMAN: It is sort of top—down. I am not saying
 18 there is anything wrong, I am just trying to analyse the
 19 process here.
 20 A. Yes, and I would say — but I would also say we would
 21 care more about EBITDA than we would revenue, and
 22 I think that is — right, so revenue is ... Meg said,
 23 you know, she would have a revenue target, a gross
 24 margin target. I think as a company we care more about
 25 EBITDA and cash than we do particularly about a revenue

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1 measure per se, albeit it is important, I understand.
 2 THE CHAIRMAN: Yes, I follow.
 3 I am just going to finish on these questions,
 4 because there was quite clear evidence in respect of
 5 this question of Line Rental, and I just want ...
 6 While you were there, would it be fair or unfair to
 7 say that there was a kind of tension between the people
 8 in Voice thinking about whether they needed to increase
 9 the prices and people on your side saying, no, you
 10 should not touch that?
 11 A. Yes, there was a tension. I mean, there almost always
 12 is. There would be a similar tension with the guys
 13 running the broadband P&L, or the TV or the sport P&L as
 14 well, I would suggest. So yes, there was a tension.
 15 I think we were always pretty rounded in our
 16 decision—making. I am trying to make ... you know.
 17 But, yes, there was always a tension, and we spent a lot
 18 of time with those guys sort of kicking around what the
 19 right thing to do was. It is not a ... Because of what
 20 we decided to do, it looks like it was a sort of fait
 21 accompli, but I think it was probably significantly more
 22 nuanced than that.
 23 THE CHAIRMAN: That is very helpful.
 24 MR RIDYARD: Just one follow up, if I may. On this question
 25 of the incentive that BT had to encourage people to go

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1 from solus to bundles, I just want to see how that plays
 2 against what you said about the importance of EBITDA,
 3 because — and I have not got completely on to the
 4 numbers, but it seems to me the gross margins on Voice
 5 are quite high compared to the gross margins on bundles,
 6 so if you are talking about, you know do you want to
 7 switch this consumer from a Voice Only consumer to
 8 buying a bundle, and you are interested in the net
 9 profit, I mean, the logic of wanting this person to
 10 switch to a bundle is because you make a bigger cash
 11 margin out of them in the bundle than in Voice Only, but
 12 when you start to allocate in the overhead costs, I am
 13 just wondering whether that calculation might flip over
 14 and you might find that, in net profit terms, you are
 15 worse off by getting this person to switch from a high
 16 margin product to a lower margin product because,
 17 although you get more revenue, you might not get more
 18 net profit.
 19 A. Yes, it is a great question. I think strategically
 20 running — at that period of time, running a business
 21 trying to stem the flow of customers away from
 22 broadband, there was a — it would be a strategically
 23 bad idea. Clearly the future was in connectivity, not
 24 in landlines, as is borne out by the market size and the
 25 decline in that market.

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1 So I think we would have been — we would not have
 2 been planning for the long-term, and the long-term
 3 EBITDA and health of the company — when I say we care
 4 more about EBITDA, we care more about EBITDA over
 5 a period of time, right? So we might want to make short
 6 term investments, such as potentially a lower net
 7 profit, by switching customers to bundles for a longer
 8 term pay-off where they are more loyal, probably the
 9 customer lifetime was probably greater over a period of
 10 years, and the likelihood is that they are going to be
 11 more sticky as well and stay with us for longer.
 12 So I think strategically, you know, it was always
 13 the right thing to move customers to broadband both for
 14 long-term EBITDA and for the health of the business. So
 15 I think we were, you know, I think it was — we would
 16 never have thought about it in terms of the short term
 17 profitability because it was — strategically it would
 18 have been — it would not have been sensible to do
 19 anything else, I do not think.
 20 MR RIDYARD: Thank you.
 21 THE CHAIRMAN: Mr Armitage, anything? Mr Spitz, I am sorry.
 22 MR SPITZ: No, nothing further.
 23 THE CHAIRMAN: Mr Beard?
 24 MR BEARD: No.
 25 THE CHAIRMAN: Thank you. Just give me one minute. (Pause)

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1 We are just going to take a little break for a few
 2 minutes. I know we have to come back and deal with this
 3 expert question of Mr Parker, and there is just
 4 something else we just need to consider, but we will
 5 just take five minutes.
 6 MR BEARD: Of course.
 7 THE CHAIRMAN: We will not be very long.
 8 Thank you very much indeed, Mr Cackett.
 9 A. Thank you.
 10 THE CHAIRMAN: Your evidence is finished.
 11 (The witness withdrew)
 12 (4.26 pm)
 13 (A short break)
 14 (4.31 pm)
 15 Procedural discussion
 16 THE CHAIRMAN: We have not looked at the document produced
 17 by Mr Parker. We have looked at the covering letter.
 18 MR BEARD: Yes, understood.
 19 THE CHAIRMAN: So we do not know what is in there. But
 20 I wanted to first of all — now, who is going to deal
 21 with this on behalf of the Class Representative?
 22 MR SPITZ: I will.
 23 THE CHAIRMAN: Let me ask for a clarification first from
 24 Mr Spitz, so do sit down for a moment, Mr Beard.
 25 MR BEARD: Thank you.

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1 THE CHAIRMAN: Mr Spitz, it says here:
 2 "Mr Parker has provided his responses to
 3 Mr Ridyard's queries. He provides this now rather than
 4 simply referring to the materials and analysis in oral
 5 discussion so he can consider it in advance."
 6 But does that mean that his answer — if he were
 7 just in the middle of a hot tub now, and he was asked
 8 this question, he will answer it by reference to the
 9 existing expert materials?
 10 MR SPITZ: He will answer it by reference to what is in this
 11 document.
 12 THE CHAIRMAN: That does not quite help me because we have
 13 not seen it. But what I am trying to get at is the
 14 impression we have got from the letter from Mishcon is
 15 that this is all being provided in advance as a matter
 16 of convenience and that that just saves a bit of time,
 17 but that if he was asked the question in oral evidence
 18 he would give whatever answer he is going to give, and
 19 if there were materials in the existing expert materials
 20 that he wanted to refer to, he would refer to it.
 21 So what I am asking you effectively is: is that
 22 right, or is there something new here?
 23 MR SPITZ: There is new material in this document.
 24 THE CHAIRMAN: Right.
 25 MR SPITZ: What he has done is he has addressed the

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1 questions that Mr Ridyard raised during the course of
 2 the week and he has referred to some new economic
 3 articles on the subject. They are — one of the
 4 articles is an article to which Dr Jenkins is
 5 a co-author, another is a textbook to which he is signed
 6 on, and one is the US Merger Guidelines. There is new
 7 material there, sir.
 8 THE CHAIRMAN: Okay, an article co-authored by Dr Jenkins;
 9 a book, you said, which he made a contribution to, did
 10 you say?
 11 MR SPITZ: Indeed. We have annexed the chapter.
 12 THE CHAIRMAN: Then US ...?
 13 MR SPITZ: US Merger Guidelines.
 14 THE CHAIRMAN: Are those the things which make the 250-page
 15 exhibit?
 16 MR SPITZ: Indeed, sir. I can give you — it is a 218-page
 17 annex. Dr Jenkins' work is 72 pages, the US Merger
 18 Guidelines are 87 pages, and the report itself is
 19 23 pages long.
 20 THE CHAIRMAN: Let us take this in stages.
 21 MR BEARD: Might I be able to comment on this?
 22 THE CHAIRMAN: Yes, all right.
 23 Thank you, Mr Spitz.
 24 MR BEARD: I am sorry, this is just disingenuous. The two
 25 questions that — we have not seen the instructions,

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1 they have not been provided, but the two questions that
 2 this report deals with are:
 3 "The appropriate test for market definition in
 4 a situation where BT provides multiple products."
 5 That is the first of them.
 6 The second:
 7 "Whether the analysis of the differential between
 8 prices paid by Split Purchase Customers and dual play
 9 customers would be altered by the inclusion of calls."
 10 Now, the first of those questions is: do you do
 11 a different market definition exercise if BT is
 12 a multiple product company? It is not news that BT is
 13 a multiple product company. That has been true forever.
 14 That is not something that a new report should be being
 15 provided on in relation to these proceedings at this
 16 date.
 17 The second is if I include calls in my price
 18 differential analysis, how does that work? Now, again,
 19 it has been absolutely clear throughout that the focal
 20 product that was being discussed was of course calls and
 21 access. So now to be putting in a report answering this
 22 question, it is not really in response to Mr Ridyard's
 23 questions.
 24 THE CHAIRMAN: The first question is certainly in our hot
 25 tub questions, I am pretty sure. Are both of them in

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1 the hot tub questions?
 2 MR BEARD: The appropriate test for market definition is
 3 certainly in the hot tub questions. We are not
 4 disputing it. The point we are making here is that in
 5 the joint expert statement, what was said and what was
 6 agreed was that it was the hypothetical monopolist test
 7 that was the appropriate way forward.
 8 What this report is saying is if you have
 9 a multi-product firm you should do something completely
 10 different if there is a recapture incentive. If you
 11 recall it, that is to do with whether or not, if you
 12 control the focal product but also you are a company
 13 that, in this case, provides broadband, which people
 14 would switch away from, you think about these things
 15 differently.
 16 I am not saying those questions are not relevant
 17 here, but they have been relevant for a very, very long
 18 time. It has been clear since the reply reports, it is
 19 a matter which is dealt with in the joint expert
 20 reports, there is agreement that the HMT is the way
 21 forward, and Mr Parker is now putting forward
 22 a different account "if" there is a recapture incentive.
 23 It has also been clear since the reply reports that the
 24 analysis involved consideration of a recapture
 25 incentive, and that is why this is inappropriate to come

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1 forward at this point.
 2 Now, I understand the difficulty the Tribunal has,
 3 which is, well, we are going to be faced by Mr Parker on
 4 Monday coming up with this story, and he is referring to
 5 hundreds of pages of material, some of it has been
 6 contributed to by Dr Jenkins, but it is a completely
 7 different topic, and the central article in relation to
 8 this case is a technical article about merger control
 9 and market definition in relation to merger control.
 10 Now, I think, on first reading, as a non-economist,
 11 this creates massive problems for Mr Parker, but that is
 12 not the point here. The point is, it is Thursday, we
 13 got this at 1 o'clock, we are going into a hot tub on
 14 Monday on all of this in relation to material where we
 15 had a whole expert process that raised all these issues
 16 months ago. That is why it is inappropriate.
 17 THE CHAIRMAN: I just want to check on this because
 18 obviously we have asked a lot of questions in relation
 19 to the hot tub, and the experts are going — we may not
 20 deal with every single one, but one question may then
 21 answer another question. But we have asked questions of
 22 the experts, and insofar as what this deals with is
 23 a question we have asked of the experts, they are
 24 certainly going to be entitled to answer it within the
 25 hot tub.

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1 MR BEARD: Of course. I am not denying that at all.
 2 This is much more a question of the process.
 3 Because if Mr Parker had said: "no, no, no, actually
 4 when I said at the beginning of the market definition
 5 section I think it is the hypothetical monopolist test,
 6 except if there is a recapture incentive, then you would
 7 use some other test". Which we do not think works here
 8 at all, or I certainly do not see how it works but I may
 9 be naive in the ways of these things. But if he had
 10 said that at the time, of course then you have a process
 11 by which Dr Jenkins has a proper opportunity to discuss
 12 it and actually you can work out where they may or may
 13 not agree about this material.
 14 THE CHAIRMAN: I follow that. But on the basis that the two
 15 questions — obviously it seems to me that Mr Parker and
 16 the Class Representative, as will be true of your side,
 17 have looked at our questions and have started to think
 18 about them.
 19 MR BEARD: Yes.
 20 THE CHAIRMAN: Obviously Mr Parker has as well. Insofar as
 21 the questions he addresses are questions that either
 22 were raised initially by Mr Ridyard or, in any event,
 23 are in our set of questions, he is going to be entitled
 24 to answer them.
 25 MR BEARD: Of course.

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1 THE CHAIRMAN: He will be entitled to give whatever answer
 2 he thinks is appropriate, and Dr Jenkins will not have
 3 advance notice of it, and the same will be true if
 4 Dr Jenkins answers a point.
 5 MR BEARD: Both of those propositions are unimpeachable.
 6 The difficulty is when you are coming forward with
 7 a whole new way of doing the test at this stage — now,
 8 to be fair to Mr Parker, he says: "oh, no, no, there is
 9 no recapture incentive here". But let us leave that to
 10 one side. Let us assume there is, because you have to
 11 test it on that basis, this is a new way of looking at
 12 these issues.
 13 THE CHAIRMAN: Yes. But all I am saying is he can say that.
 14 MR BEARD: Yes, of course he can say that.
 15 THE CHAIRMAN: He could be saying that in the course of the
 16 hot tub —
 17 MR BEARD: Yes.
 18 THE CHAIRMAN: — and nobody can object to him saying it
 19 then.
 20 MR BEARD: No, agreed.
 21 THE CHAIRMAN: So if that is the case, and he is saying in
 22 this report something that he is going to say that he is
 23 entitled to say in the hot tub, what is the problem with
 24 you being given advance notice of what he is going to
 25 say?

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1 MR BEARD: Well, it is the process, because actually if we
 2 now go back to the joint expert statement — it is
 3 literally a question of the timing of all of this. We
 4 are not trying to preclude Mr Parker from engaging in
 5 whatever creative referencing he wants to engage in, but
 6 this Tribunal laid down a very careful and clear
 7 process, and both of the issues here — they may have
 8 been picked up in the questions that the Tribunal is
 9 asking, but the two questions I have identified, they
 10 are not novel. The idea that —
 11 THE CHAIRMAN: No, I understand that.
 12 MR BEARD: — these things could only be dealt with now,
 13 after you have seen the list of questions, that is just
 14 not true.
 15 THE CHAIRMAN: The difficulty we have at the moment is that
 16 of course we have not read it so.
 17 MR BEARD: I think, look, let us take a step back. You are
 18 going to have to have a look at it, we accept that.
 19 I am grateful that you did not do it beforehand, because
 20 I wanted to make the point about the process here. You
 21 are going to have to look at it. We are going to have
 22 to deal with it. It may be that once our experts have
 23 looked at it overnight, actually what we have to do is
 24 change perhaps some of the ordering in which we deal
 25 with some of the issues in the hot tub. It may not be

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1 necessary. It may be that other supplementary material
 2 needs to be admitted in the course of this in response
 3 to it. I am not sure there is a better way of doing it.
 4 But if a degree of righteous indignation needs to be
 5 registered in relation to this process, please allow us
 6 to register that.
 7 THE CHAIRMAN: It is perfectly fair for you to make these
 8 points, and I think that the best way forward
 9 practically, on the basis it is now quarter to five and
 10 we are not sitting tomorrow, at least not at the moment,
 11 is let us at least read it and see where it goes —
 12 MR BEARD: Of course, yes.
 13 THE CHAIRMAN: — without making any ruling about it today.
 14 MR BEARD: Of course.
 15 THE CHAIRMAN: We can also consider, having regard to what
 16 he is saying, do we think that is within the scope of
 17 the questions that we have asked in any event. Because
 18 that is quite an important consideration, and then your
 19 side look at it.
 20 MR BEARD: That is fine.
 21 THE CHAIRMAN: It may or may not be necessary to have some
 22 communications in the course of tomorrow, we will just
 23 see where we go, but we are not making an order today
 24 simply admitting it without more.
 25 MR BEARD: I am absolutely content with that.

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1 THE CHAIRMAN: Is that fair enough?
 2 MR BEARD: That is absolutely fair. As I say, we are not
 3 concerned about, as far as — I need to consult with my
 4 experts, but we are not concerned about substance but we
 5 are concerned very much about process.
 6 THE CHAIRMAN: We entirely take that point.
 7 MR BEARD: I think the only other thing may be that it may
 8 be necessary for there to be a written response given
 9 the density of material —
 10 THE CHAIRMAN: Of course.
 11 MR BEARD: — if it is going to be admitted.
 12 THE CHAIRMAN: Let us leave that for consideration at the
 13 moment and it is not a bad thing that in the event we
 14 have allowed the whole of next week —
 15 MR BEARD: I was going to say —
 16 THE CHAIRMAN: — for this topic.
 17 MR BEARD: — it is very prescient on the part of the
 18 Tribunal.
 19 THE CHAIRMAN: Yes, we are very prescient. Is there
 20 anything else you wanted to raise?
 21 MR BEARD: No, I did have some observations that I did want
 22 to make about the witness process. I will leave it.
 23 The only thing I will say is that there were various
 24 criticisms about the content of witness statements and
 25 documents. I would just refer the Tribunal to the

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1 Practice Direction of this Tribunal to 2021 about the
 2 extent to which it is supposed to be concise and not
 3 just running through every document in the bundle.
 4 THE CHAIRMAN: I take that point.
 5 MR BEARD: The guidance, the Tribunal guide at 7.58–7.62 —
 6 we will come back to the issues in due course — about
 7 actually the limits of the challenges to the evidence
 8 that were put forward, because we did not hear any
 9 challenges essentially in relation to any of the pricing
 10 discussions from 2020 onwards. Indeed, challenges to
 11 the truth of any of the evidence were very, very limited
 12 indeed. They were dealt with but of course that is an
 13 important issue in all of this.
 14 Sir, you raised it at one point. If you are going
 15 to suggest someone is misleading or untrue you have to
 16 put it to the witness.
 17 THE CHAIRMAN: That is fair enough.
 18 MR BEARD: I will not go further at this point given the
 19 time.
 20 THE CHAIRMAN: Thank you. I have to raise one matter but
 21 Mr Spitz, is there anything you want to raise?
 22 MR SPITZ: I know you do not want to hear more than is
 23 absolutely necessary about this. The only points to
 24 make are these: this is exactly what Mr Parker intends
 25 to say in the hot tub, as you correctly suggested.

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1 The other point is as far as the length of the
 2 annexes are concerned, we included the full chapter for
 3 completeness but the actual references, as Mr Beard will
 4 see, are far more limited than that.
 5 MR BEARD: I am delighted to hear it.
 6 THE CHAIRMAN: Fine, I understand that point. Thank you.
 7 Now, we have got a matter that we want to raise
 8 which we think is potentially of some significance. As
 9 we understand it, in relation to the question is
 10 actually of excessive pricing, so it is not directly for
 11 next week, where the experts, their primary position is
 12 that when it comes to the allocation of common costs,
 13 some of which are genuinely incremental, if I can put it
 14 in that way and the others are not, and they genuinely
 15 are common costs, Mr Duckworth's position is based, he
 16 says, on what he was informed, which is that a more
 17 specific allocation of those costs which was done in
 18 2009 could not be done afterwards, and he says that is
 19 the reason why he did not try a starting point which
 20 goes from common costs spread right across the Consumer
 21 division. That is his position and he says the best you
 22 can do is 2009 with increments, annual increments.
 23 Dr Jenkins takes a different approach and says he
 24 should not have just ignored all of that but she takes
 25 an approach which is based on the actual data but again

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1 taking the common costs across the whole of Consumer
 2 division and then she has adopted a methodology for
 3 allocation to Voice.
 4 It is true that in the joint expert reports she has
 5 also used Mr Duckworth's methodology but she has
 6 allocated the incremental and the common costs in
 7 a different way. I hope I have not summarised that
 8 incorrectly.
 9 MR BEARD: Yes, I mean, to be clear, Mr Duckworth does not
 10 have any methodology for actual costs of course but we
 11 will leave that for another day.
 12 THE CHAIRMAN: Leave that for another day, but broadly
 13 speaking that is where the battle lines are drawn.
 14 Now, having heard Mr Cackett today, it appeared to
 15 be the case, that it was the case, that actually BT did
 16 allocate common costs to the Voice Division, not in an
 17 audited fashion, not on the basis that there was
 18 a regulatory requirement to make a statement
 19 specifically in respect of Voice, but for their own
 20 purposes in the context of their business they did it.
 21 They did it on the basis that (a) some of those
 22 common costs could be allocated on a causal basis, there
 23 really were 10 people dealing with Voice as opposed to
 24 broadband, and then otherwise on a basis which he said
 25 was principally done by reference to revenue.

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1 Now, we had not realised that that had been done.
 2 We had two concerns. First of all, Mr Parker says that
 3 he was told it could not be done but apparently it has
 4 been done. Secondly, on the face of Dr Jenkins' report,
 5 she has done it using actual data but actual data spread
 6 across the Consumer division as a whole and so it would
 7 appear she has not been told that this was actually done
 8 because we do not read anything from her reports
 9 suggesting she has been guided by the sort of allocation
 10 of common costs that was actually done. Just give me
 11 one minute. (Pause).
 12 Before I leave the summary and indicate our concern,
 13 Mr Ridyard wants to add something.
 14 MR RIDYARD: It is just the use of the word common cost.
 15 Maybe I am a bit of a pedant but I think it is important
 16 to be pedantic about it. We are talking about the
 17 overhead costs. Dr Jenkins has had a go at allocating
 18 overhead costs between the different products.
 19 THE CHAIRMAN: We are just a bit concerned because could
 20 it — I am not asking for anything today about it, but
 21 could it not be the case that using what BT actually did
 22 in terms of allocating overheads, whatever you want to
 23 call them, over the successive years of this claim is
 24 not relevant?
 25 MR BEARD: Sorry, I think we need to be careful that we are

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1 not -- I need to go back and look at the transcript
 2 because I am not sure that Mr Cackett was saying that
 3 there was any sort of systematic process. He was shown
 4 one -- he -- I asked him about unit economics. He said
 5 he saw something like that earlier. He was picking on
 6 one model that was done for Ofcom. I will go back and
 7 look at what he said but I think we want to be careful
 8 that we are not assuming that actually there was some
 9 sort of systematic process because his witness statement
 10 does not say that.
 11 THE CHAIRMAN: I know, but his witness statement does say
 12 there was some allocation and that is what I was asking
 13 him about. As I say, maybe we are reading too much into
 14 this.
 15 MR BEARD: Yes.
 16 THE CHAIRMAN: But we all felt a little surprised that there
 17 had been some kind of allocation exercise. We had just
 18 rather assumed there was not anything at all.
 19 MR BEARD: I think that is what he was referring to with
 20 unit economics and that is what I was concerned that the
 21 Tribunal understood which is why although he was not
 22 actually cross-examined on it I thought it was important
 23 that the Tribunal understood that BT for certain
 24 purposes like the Ofcom review for instance had done
 25 something like this. The idea that it was sort of

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1 conceptually impossible is not correct. But the idea
 2 that there is some sort of broad approach that is being
 3 done in relation to this, I do not think is remotely
 4 correct.
 5 But I think the best thing I can do is in the light
 6 of this indication just go back and double check the
 7 position.
 8 THE CHAIRMAN: Exactly. We felt that it is important that
 9 we are not proceeding on an incorrect data basis, and we
 10 thought it was best to throw this up now rather than in
 11 the questions in the hot tub. As it happens it is on
 12 limb 1.
 13 MR BEARD: It is a limb 1 issue undoubtedly.
 14 THE CHAIRMAN: So we have time to think about it.
 15 MR BEARD: I think the best thing to do is say understood,
 16 we will look at the transcript. We will check the
 17 position but I do not think you are going to -- I think
 18 all of these things have been checked and the disclosure
 19 categories I think were covering all these sorts of
 20 heads of data, and then in those circumstances
 21 unfortunately I do not think you are going to find the
 22 magic data crock of gold here.
 23 THE CHAIRMAN: No, quite. But we thought it right to raise
 24 it now.
 25 MR BEARD: Of course.

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1 THE CHAIRMAN: So we will adjourn now until Monday at 10.30.
 2 If there is anything that you want to raise with the
 3 Tribunal, either party, in the context of what we were
 4 talking about before, Mr Parker's new offering, then by
 5 all means get in touch with CAT and then they will come
 6 back to us.
 7 MR BEARD: I think we will get in touch one way or another
 8 tomorrow because otherwise things will be left uncertain
 9 for Monday. It is just very unfortunate that we only
 10 heard about this new report at 1 o'clock today.
 11 THE CHAIRMAN: We have taken note of that.
 12 Right, otherwise, 10.30 on Monday, please.
 13 (4.54 pm)
 14 (The hearing adjourned until Monday, 12 February at
 15 10.30 am)

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