Wednesday, 18 November 2026

(9.30 am)

SIR ADRIAN FULFORD: Could you stay standing just for a moment.

A. Certainly.

MR ANDREW JAMES BREEZE (affirmed)

SIR ADRIAN FULFORD: Thank you very much, please have a seat. Mr Moss, just before you start, Mr Temkin and Mr Chapman, I just want to say thank you to both of you for having made alterations, as I understand it, to your diaries to make today possible. This has been of enormous assistance to the Inquiry, thank you both very much indeed. Yes, Mr Moss.

Questions by MR MOSS

MR MOSS: Thank you, sir. Just start by giving us your full name, if you would please.

A. It is Andrew James Breeze.

Q. Thank you Mr Breeze. If we could have on screen, please, OFC000088. We see your first statement to the Inquiry and if we could go, please, to page 65 OFC000088_0065. We see that it is dated 14 August, you have signed it, we have redacted your signature. Can you just confirm that the contents of that, your first statement, are true to the best of your knowledge and belief?

A. Yes.

Q. Thank you. If we go to OFC000094, this is a second statement to the Inquiry. As we will explore during the course of today, it has been a busy time with several further reports. Very helpfully, you have provided this updating statement. It is dated 9 November. If we could just go to page 12 OFC000094_0012.

Again, could you just confirm that that statement is true to the best of your knowledge and belief?

A. Yes.

Q. Thank you. Let's go back to your first statement then please, your main statement and if we just have page 1 OFC000088_0001, paragraph 1.

A. Sorry, would you mind if I just made a statement in respect of the families before?

Q. Of course.

A. I just wanted to extend my deepest condolences to the victims of this tragedy, on behalf of myself and everyone at Ofcom. Truly a horrendous thing to occur and so we wanted to just mark that at the start of the witness evidence.

SIR ADRIAN FULFORD: Thank you very much.

MR MOSS: Thank you.

We see, Mr Breeze, you explain your role as the director of technology policy in Ofcom's Online Safety

Group and I think you have held that position, or you have been working in online safety regulation at least, for three years, is that right?

A. That's correct.

Q. Just tell us a little bit about your career before you were working in that area, just give us a thumbnail?

A. Certainly. So I trained as a solicitor at a city firm from 2010 to 2012. I subsequently moved in-house, on qualification, to Ofgem, where I worked as a legal adviser and then I helped legal advisers at BT and HSBC until 2019.

In 2019, I moved to Australia and worked for the Australian Competition and Consumer Commission for two years. Then I joined Ofcom in 2021, first in the enforcement team for two years, where I gradually moved my portfolio of work more towards the then active, video-sharing platform regime and the nascent online safety regime and then three years ago I moved to this role. So I'm no longer a practising lawyer.

Q. Thank you. So A decade and a half in the legal and regulatory sphere, would that be a fair summary?

A. Correct.

Q. Thank you very much.

You will be aware -- we don't need to turn it up and I may not go to it very much -- but let's just note it

for the record, that we have a statement of Phase 1 from Ofcom from Dr Higham. Sir, for your note, that's OFC000002 and it is dated 9 September.

SIR ADRIAN FULFORD: Thank you very much.

MR MOSS: So our first substantive topic, I would like your help, Mr Breeze, just with an introduction to the role of Ofcom and you start dealing with that in paragraph 2 of your statement, paragraph 2 and paragraph 3. You say that:

"Ofcom is a statutory corporation, established by the [2002] Office of Communications Act ... an independent regulator for the UK communication industries, including post, telecommunications, network security, broadcasting, on-demand programme services, radio spectrum and online services."

Then in paragraph 3, its:

"... principal duty [under] section 3 of the Communications Act 2003, is to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition."

Now, prior to the Online Safety Act 2023, anybody interested in this area will have a broad understanding of the nature of Ofcom's work, the areas in which it worked, and you have summarised it in paragraph 2. Can

you help us to understand how much of a change, how much addition was brought by Ofcom having responsibilities under the OSA?

A. Certainly. So, just in sort of headcount terms, I believe it increased our headcount by around a third. So I don't have these numbers exactly but around 1,000 before the Online Safety Act and the formation of the online safety group where I work and it is now somewhere around 1,500 people.

Q. So quite a radical change in terms of additional responsibilities, would that be fair?

A. Yes.

Q. Thank you. If we look at page 2 OFC000088_0002 of your statement and paragraph 8. You explain there, in straightforward terms, that:

"... Ofcom does not have any specific role or remit in connection with [Violence Fixated Individuals] ..."

And you point out, again the obvious but important fact, that there is no such concept within the OSA, is that right?

A. That's correct.

Q. I'm not going to go into the issues of definitions of VFIs with you, as we have done with other witnesses. But, does the team working in Ofcom, in these areas, particularly in relation to violent material and safety,

does it have some other phrase by which that cohort is known or some working way of referring to them?

A. Not that I'm personally aware of. I think we have spoken generally about groups who are -- for example, in our register of risks, we talk about some of the risks like financially-motivated sexual extortion; the temptation to, or the tendency of some people in those groups to seek to illicit kind of violent material from, for example, children. I'm not aware that we have a catchall term for those individuals.

Q. We don't need to turn it up, but within your statement you refer to Com networks as being an area where you have worked on. So clearly, that is something you are aware of and know by that nomenclature?

A. Yes and I would also add that we, as I also say in my statement, have worked in relation to gore services, which would be internet services with a specific focus on violent content and I think because of the nature of the Act, which is primarily about services rather than users, I think perhaps that's where our focus has tended to be, more on the services that those users would go to.

Q. I follow, thank you. If we could look at page 3 OFC000088_0003, paragraph 11. I'm going to come back to deal in more detail with issues about the limits of

Ofcom's roles and to some extent, the limits of the OSA as well. But you set out here some issues that are not part of Ofcom's role. So, not your role to adjudicate on complaints from individuals and not your role to instruct regulated services to remove particular pieces of content. Is that right?

A. That's correct.

Q. "... or require regulated services to abide by particular technical standards."

In general terms -- we will come onto some of the detail of this -- but what is the nature of the requirements that are enforced, if they are not particular technical standards?

A. Yes, so I think the core of the duties the Act places on services is around them having adequate systems and processes to deal with the risks of certain content that is available on their -- or that may be available on their services. And that broadly breaks down into illegal content and content that may be harmful to children. In respect of technical standards, we have a role to recommend how they meet those duties and in some cases we may, you know, recommend that they use particular technologies or particular standards. But it is not our duty to require standards, as a general rule.

Q. Thank you. So at a very high level of generality, the

requirements are to have appropriate systems and processes in place, yes?

A. Yes.

Q. And Ofcom can look at the outputs, what's happening, by various means and if those systems and processes aren't working, can then take action but it can't specify: you must do it by this technical route or that technical route, would that be right?

A. Correct.

Q. And so, again, we will come to some of the detail of this, but we have been exploring with the platforms, guidance in relation to highly effective age assurance, where I think some suggestions are made as to what may work well, but you have to be careful to say that's not an exhaustive list, is that a fair summary?

A. That's correct. Sorry, I would also just add that to some degree, that is also a choice to make a non-exhaustive list. We can obviously come to that later, but I think we are constantly thinking as regulators about this sort of dynamic between being very prescriptive or being more principles-based and so to some extent, it may not be that there is a hard, legal stop on us doing some of these things in relation to age assurance, it may be that is more of a policy choice we have made to make it as flexible as possible, to ensure

that the variety of services we regulate have options.
Q. So there may be some places where you could say: this is our guidance and if you are not complying with it, and be more prescriptive. There are some areas where you could go further in relation to that?
A. I think so.
Q. Thank you. Importantly, for our purposes -- and you may come back in your answers later on and remind me of this I'm sure, but you say that:
"The OSA is not a regime that provides powers to tackle harmful individuals or respond to safeguarding concerns relating to particular individuals."
That is not the regulatory landscape with which Ofcom is concerned?
A. Correct.
Q. Thank you. If we could look next, please, at page 31 OFC000088_0031, paragraph 63. You deal, in your statement, with Ofcom's liaison and relationships with other parts of Government. You explain -- I just wanted to draw it out:
"... Ofcom is independent from Government."
Obviously important. And to perform the role effectively, you need to engage openly and constructively with both the UK and the devolved governments. You then reference the framework agreement

in relation to that. Can we just have a look at that, at OFC000003.
We see that it is dated June 2016. We see that it is a framework between the Department for Culture, Media and Sport and the Office for Communications. I think, bizarrely, that is almost still accurate, isn't it, because it would have gone to DSIT but now it has come back to DCMS?
A. Yes, I think Digital, Culture, Media and Sport now.
Q. Yes. If we just go over the page OFC000003_0002, I'm not going to read sections of this out but I just want to give the learned Chair the opportunity, perhaps just on full-page view -- if we just go over the next page OFC000003_0003, just to have a sense of it. So it sets out governance and accountability in section 2. If we can just go over the page OFC000003_0004.
It talks about the duties under the 2002 Act at 2.2. And over the page again OFC000003_0005. The principal duties there set out under the 2003 Act, 2.4. Again, just to get the flavour of this document. Then 2.7, it starts going into the Secretary of State's responsibilities and over the page again OFC000003_0006.
Accounting officer responsibilities are set out and over the page again OFC000003_0007. Ofcom Chair and accounting officer responsibilities. Over the page

again OFC000003_0008.
Those duties, as accounting officer, are set out and over the page again OFC000003_0009. The duty of the board is then set out.
So you get the flavour of this sort of document. Now, accepting it is a framework document, it is a decade old now and doesn't seem to have been updated to take into account the radical change of the OSA. Is work in train to update that framework or is it that the framework actually still applies and the OSA responsibilities haven't made a difference, at a framework level?
A. I'm afraid, I don't know the answer to that question.
Q. There may be a number of points on which we would ask you to come back. It would be useful just to know, given the importance of the OSA responsibilities, whether that is going to be looked at, but I understand it may not be your precise area. Thank you.
If we can go back to your statement, please, and could we look at page 32 OFC000088_0032, paragraph 65. We note that:
"On 2 July ... the Government designated their Statement of Strategic Priorities ... for online safety under section 172 of the [Act] ..."
In fairness to you and Ofcom, the starting position

in relation to this is the strategic priorities set by Government and I want to come onto Ofcom's response in a moment. But if we can look at that, it is OFC000071. This I think was the first statement of strategic priorities for online safety, is that right?
A. I believe so.
Q. Thank you. And if we can look, please, at page 8 OFC000071_0008, the strategic priorities:
"Safety by design ...
"Transparency and accountability ...
"Agile regulation ...
"Inclusivity and resilience ...
"Technology and innovation ..."
If we then go to page 11 OFC000071_0011. We see details sort of set out. So under "Safety by design", if we can just look at the last paragraph under that heading, please:
"While protections should be strongest for our children, all users should have better protections online and feel supported to make choices about what they see. We know that 93% of adults are 'very concerned' about harms they might experience online, including hateful, offensive, discriminatory content ..., content promoting self-harm ... and misogynistic content ... The government is particularly

concerned about the amount of abuse women and girls receive online, with Ofcom's annual Online Nation report finding that women are more likely to encounter misogynistic content or content relating to negative body image and are more likely to be negatively affected by harmful content they encounter."

Then a reference to fraud online.

If we then go to page 12 OFC000071_0012, please. We see that it says:

"Following the Southport tragedy ... we also saw how the proliferation of hateful content online fuelled violence and civil unrest across the UK."

A reference to the violent attacks that followed, which I don't need to read out in full. It then says:

"It is essential that we learn from these events and hold platforms to account for their part in securing the UK online information environment and safeguarding the UK from future crises."

If we look at the bottom of page 12 next, please. We see that emphasis is given to effective deployment of age assurance technology, emphasising:

"Services should take advantage of the technologies that are already available to identify child users ..."

Then over to page 13 OFC000071_0013, please, taking it as briefly as I can. It is right to recognise that

strategic priority is also giving to:

"Deploying effective and accessible additional protections for adult users, particularly vulnerable users."

Then on page 14 OFC000071_0014, if we can just go to the whole page on page 14, please, and just to that bullet point list at the bottom:

"The government is also clear that it expects platforms to take proactive steps to reduce the risks their services are used to carry out the most harmful illegal activity."

Then the list that follows. So:

"Terrorism;

"Child sexual abuse and exploitation;

"Illegal suicide and self-harm content;

"Illegal activity which disproportionately affects women and girls ...

"Illegal disinformation ..."

Material in relation to immigration:

"... foreign interference ...

"Illegal fraud;

"Other priority offences."

So I have taken that as quickly as I can while trying to capture fairly what it deals with. Now, it is obviously right that within those areas -- one can see

age assurance, for example -- ways in which those priorities would have a benefit in restricting violent material, graphic material, gore and matters of that kind. But would you agree that it is also right that violent material as a form of priority content, as we will come onto, isn't specifically recognised as a Government priority; it doesn't get separate attention?

A. Yes, based on that tour of the document.

Q. And if we go back to page 12 OFC000071_0012, and the top of the page, nobody could properly criticise a focus on the rioting, disorder and disinformation that followed the Southport attack as being unimportant; clearly, that is an area. But even in referring to the Southport tragedy, the Government's statement of strategic priorities doesn't pick up, in relation to Southport, the other important aspect, which was the way in which online graphic violence was something which AR had consumed.

A. Correct.

Q. Does that seem, on reflection, an unfortunate omission?

A. It is hard for me, from the independent regulator, to comment too strongly on what the Government chooses to put in its priorities or not. I suppose, one observation I would have is the list of things you have

taken me through in the document is already quite long and so I think this is one of the core challenges in online safety regulation, as we find it, which is the Act covers a vast amount of ground.

I mean, I would note that that list of priority offences that you read out has a kind of sweep-up provision at the bottom which is "other priority offences". So I think, without wishing to kind of speak for Government here, it may be illustrative of the challenge of prioritising within these areas, but certainly from the perspective of, you know, what this Inquiry is set up to look at and from the perspective of how terrible that attack was, I can see why you would say that it might be an unfortunate omission.

Q. Thank you. And accepting that if you focus on everything, in a sense you focus on nothing.

Again, one sees that the emphasis on violence against women and girls, I don't want to be misunderstood, that is both terribly important and may also have side impacts on our area, but would you agree, at least, that that is a potential weakness in the strategic priorities, the absence of particular focus on violent material?

A. Yes.

Q. And the reason why I wanted to go to the Government

priorities first is, if we then look at the Ofcom response, OFC000072, and if we could just look at the top half of the page to get the flavour for it. So this is 25 July to Ms Rowland, from whom we will be hearing next week. So Ofcom's response to the Department, setting out the response to this.

We see that there are headings -- I'm not going to go through the totality of this, but we see there are headings, if we just go to the whole page, please:

"Ofcom's progress on Online Safety Act implementation and action to date."

Then over the page OFC000072_0002, just looking at the headings:

"Highly effective age checks to protect children from harm ..."

Again, please understand I'm entirely accepting that that is important in relation to violent material. But:

"Tackling child sexual abuse material ...

"Effective and properly resourced content moderation to tackle illegal material ...

"A big change in what children see and experience online ..."

And that, of course, is a cover-all, but references the need to demonstrate tangible improvements in children's online experience. And obviously that would

include violent material. If we go over the page OFC000072_0003. Then further detail is given in relation to each of the headings. Now, I'm not going to go through the document to prove the negative, but because it is responding to the Government's list of priorities, I think you would agree that there isn't a section which particularly alights on violent material as one part of priority content, as needing particular attention?

A. Yes.

Q. Thank you. If we can look, please, back in your statement at page 32 OFC000088_0032, we see in paragraph 66 -- forgive me for dealing with it in this way -- but you set out what would be expected, that Ofcom has good working relationships with vital parts of Government that include, in this context, the NCA, Counter Terrorism Policing, and the National Police Chiefs' Council. So those are all important networks that you would be expected to have and you tell us that you do.

You also, though, in paragraph 68, say that you:

"... are not aware of any recent invitation to participate in the proposed cross-government VFI Analysis Working Group ..."

And then you say:

"... Ofcom has in the past attended taskforces and working groups chaired by the NCA focussing on the threat from Com [networks]."

If we just go back to the previous page. Has Ofcom been involved in the NIEV Taskforce?

A. Not that I am aware of, that is outside my personal knowledge, but we can look into it.

Q. Thank you. One of the reasons why I ask about that is in paragraph 68, you are talking about not participating in a particular subgroup in relation to that. If we can just flick back up to paragraph 66. Please don't think that I'm raising any issue about proprietaries of how statements are worked up, we understand that there is a previous statement. But if you just take a moment to reflect on how 66 is set out and if we then could have OFC000002, so this is one occasion where I do want to go to Dr Higham's statement for Phase 1.

OFC000002. Page 4 OFC000002_0004. Paragraph 15. The nature of the statement is similar --

A. Yes.

Q. -- and there's no reason why it shouldn't be because it is setting out the working relationships. So it may be that the wording is identical. As I say, if it is, I don't raise a criticism at all in that respect. But if you then focus, Mr Breeze, on the last third of

paragraph 15. What Dr Higham was telling us in Phase 1 is:

"Ofcom is also working with the Violent Fixated Individuals ... unit in the Home Office to understand the online pathways and enablers around VFIs. Through this, we are keen to understand the role played by in scope services in relation to a number of harm areas (including illegal content relating to hate speech, child sexual abuse and violence) and identify opportunities to drive down this harm through the online safety regime."

So at the time when there was what was called the "VFI unit" in the Home Office, Dr Higham was saying that Ofcom was working with it. But that's dropped out from your statement and you have said you are not aware of work with one of the NIEV Taskforce subgroups. I'm sensing that it may be out of your area altogether. Would you take that away as a point to come back to us on in writing, just to understand what links there are with the NIEV Taskforce?

A. Certainly.

Q. Thank you.

SIR ADRIAN FULFORD: And what happened; if there was a change, why?

A. Yes.

MR MOSS: Thank you. Can we move now, please, to our next substantive topic, which is Ofcom's own understanding of and assessment of online harms, particularly in the field of violent content. So if we can go back to your statement please and if we can pick it up at page 36 OFC000088_0036, paragraph 81.

You say there that:

"Ofcom research has found that recommender systems were generally stated as the main way in which children encountered violent content without seeking it out, largely from users they did not already have a connection with."

What's the significance of that, in particular?

A. Well, I think that in all of our research with children -- not only violent content but content harmful to children generally -- we find that recommender systems are the main route to harm. I think that one of the features of recommenders is that they rank and deliver content to you based on how likely you are to be interested in it, based on your own engagement patterns and engagement patterns of other users like you and what that means is very often you will get content from users you don't know. So, by contrast with the kind of early days of social media, where typically you would only see content from people you were already connected with, the

move has been more towards content coming from people you are not necessarily connected to.

Q. Thank you. Then you say that the:

"... Children's Online Experiences Report showed that a quarter of UK children aged 11-17 were exposed to violence/injury content in the four weeks prior to [the] fieldwork ..."

The research being carried out and:

"... UK children were most likely to be exposed to harmful content when scrolling on their feed, such as a 'For You' or 'Explore' page."

Is that correct?

A. Yes.

Q. So, the reference there to Ofcom research in the first line, if we just bring that up, that's OFC000076 and this is 2024 research. So the "Qualitative Research Report March 2024". If we just go, within that, to page 5 OFC000076_0005, please.

There is a lot of detail in this but I just want to take the opportunity, because of its significance, to draw on some of the main findings. So I can take it from the headings, so:

"Children described encountering violent content as 'unavoidable'.

"Children had first seen violent content in primary

school, and the content described by older children was markedly more violent."

So starting very young and getting worse, is that right?

A. Yes, correct.

Q. Thank you:

"Children had seen a wide range of violent content, which was mostly via social media, video sharing and messaging services."

And then, under "Pathways to violent content online":

"Many children were encountering violent content without seeking it out."

So that's the problem of it being pushed rather than being actively sought out, yes?

A. Yes.

Q. And over the page OFC000076_0006:

"A minority of children were also actively seeking out violent content."

So, previous heading, it is being pushed on the majority. But there is a minority who are seeking it out, but the concern is able to do so, presumably, is that right?

A. Yes, I mean, that's the finding and I think it would be reasonable to say that's a concern.

Q. "There were strong motivations for children to share violent content, which creates a cycle in which other children are then more likely to be exposed to it."

So that's the peer pressure element, which common sense and common experience obviously tells us about, and then:

"The impact of encountering violent content online":

"Encountering violent content had a range of psychological impacts on children."

And details are given there. Sir, if you will forgive me, I won't read it out.

SIR ADRIAN FULFORD: Certainly.

MR MOSS: "Exposure to violent content can lead to avoidant behaviours in children."

And then, if we just look at the bottom of page 6, if that can be highlighted, please:

"Professionals believed there are certain characteristics that may make some children more vulnerable to engaging with and being impacted by violent content online."

This, I will read to you, because it speaks to other evidence the Inquiry has heard. So:

"From their experience, professionals highlighted [that] several groups of children who they thought could be more at risk from violent content. These included:

children with a lack of parental oversight or those who may be experiencing instability at home; children from disadvantaged background; children with pre-existing mental health issues or trauma; [and] children who are neurodivergent."

I assume from your general involvement in the Inquiry, that you will have some familiarity with what the Inquiry has been looking at in terms of those and other factors as risk factors and vulnerabilities for VFIs, yes?

A. Yes.

Q. Thank you. Then just over the page briefly, please, to page 7 OFC000076_0007:

"Reporting functionalities were understood yet unused by many children."

I think that is the point that they knew that they could report inappropriate content but didn't tend to use it, is that correct?

A. Yes.

Q. "... behavioural and attitudinal barriers to reporting, particularly relating to 'snitch culture' and peer pressure to engage with violent content."

Speaks for itself:

"Children were cautious about using safety measures they thought would restrict their online experience, but

still had suggestions for improvements."

What's said there is:

"Children thought they should be able to report violent content without being identified, and wanted the process to be easier and simpler. They suggested having a single reporting button that was clearly visible across ... platforms."

I think that's something that's, to some extent, been taken forward and then:

"Professionals and children think platforms have a responsibility to protect children from violent content."

So, again, I have taken that report, which is a significant one, as briefly as I may. But those, I think, were the key findings that were being outlined in that report, is that right?

A. In relation -- I'm not personally that familiar with this report but, yes, in relation to violence, yes.

Q. Thank you. Then, obviously there have been other reports in the interim but if we go your second witness statement please, OFC000094. And page 2 OFC000094_0002, paragraph 6. So that was some of the key early work on this and then if we go to page 2, paragraph 6, you will see that part of the busy, recent publication strand has been the 22 October, when you published your first

report on content harmful to children under section 63 of the OSA.

Now, that is an important report, is it not? That is the one that you have to publish every three years, or not longer than three years?

A. Correct.

Q. And that is a major review on content harmful to children. So, if we just note the importance of that and the reference for it at the moment, without turning it up, so it is ILT000373 and I'm going to come back to that later in a different context. But if we look at page 3 OFC000094_0003 of this, your second statement, paragraph 10 please, you say:

"In our review, in relation to the incidence of violent content, we found that Ofcom data shows that children's reported exposure to violent content on user-to-user services did not change significantly over the first nine months after the children's safety duties in the Act came into force in July 2025."

Yes?

A. Yes.

Q. If we just go over the page OFC000094_0004, just to get the flavour of this. Paragraph 11:

"Data from service providers shows that violent content, together with abuse and hate content and

bullying content, continues to account for a substantial share of actions taken by most sites ..."

So the material is still going up, even if it is removed. Paragraph 12:

"We found boys, [and] older children, children with additional needs and children from minority ethnic groups are more likely than their counterparts to encounter violent content."

So that resonates with the 2024 research, that it is still having a negative impact on particular groups:

"... severity of harm [from] violent content ... exposure to violent content continues to negatively impact children's wellbeing in a way that had not materially changed since ..."

The Children's Register was published, and paragraph 14:

"... girls are more likely than boys to report that encountering violent content upsets them or make them feel angry, while children from minority ethnic groups are more likely than white children to say they feel worried after being exposed to violent content. Boys and younger teens are more likely than girls or older teens to say that violent content does not really bother them. Children in disadvantaged circumstances can be more severely impacted by violent content."

Now, the boys and younger teens who are more likely than girls or older teens to say that violent content does not really bother them, is a concern in itself because of the issue of desensitisation, would you agree?

A. I agree.

Q. So, all of that paints a highly concerning picture, would you agree?

A. I agree.

Q. In terms of the coming into force of the Act and despite all of the copious detail in the registers that we might touch upon, the guidance that we will touch upon, there has been no signs of any significant improvement or reduction in this sort of harmful material?

A. Correct, within the first nine months.

Q. Thank you. In terms of the risks and the impact of that in the area with which this Inquiry is concerned, would you agree that the continuation of exposure to violent material is of substantive concern in terms of how it could be driving violence fixation and the risk of mass casualty attacks?

A. So I think it is certainly a concern. I note that, in evidence from people much more expert than me that you have heard already, there is a question around the extent to which it is causative, which is sort of

outside my area of expertise, but I have noted that in my reading of the evidence. But I would certainly agree that it is a major concern.

Q. Thank you, and you are rightly predicting, to some extent, where I'm going in relation to this and I will come back to what you say about it in your second statement. But if we look at Ms Rowland's statement on behalf of DCMS, first of all. It is DSIT000086 please.

And it is page 9 DSIT000086_0009. Can we start at paragraph 30. So:

"Following the attack in Southport ..."

I'm going to read in "DCMS" for "DSIT", for reasons you'll understand?

A. Yes.

Q. "Following the attack in Southport, in 2025 [DCMS] conducted an internal review of available evidence on children's exposure to violent content online and the impact it has on children, to assist the department in understanding whether additional policy interventions are needed. Although [DCMS] are not the overall policy leads for violence online or VFIs, the department conducted this piece of work because it was focused on child safety online ..."

Which was then a DSIT lead, now DCMS:

"... and specific protections under the Online

Safety Act. This review was based on publicly available research ..."

And she gives some detail, and Ofcom's own research. And again, she gives some detail:

"... as well as internal government evidence from partners such as the NCA and the Government Office for Science."

Paragraph 31:

"[The] review found that there was a wide range of violent content online, including gore content, to which children can be exposed ... [But] much of [it] predates the implementation of ..."

OSA. Then, in paragraph 32, please, which was the principal reason for going to this:

"One conclusion from this review was that there is a lack of clear causal evidence linking engagement with violent content online, and offline action."

Pausing there, that is the point I think you raised a moment ago?

A. Yes, correct.

Q. "This is in part due to the fact that engagement with online content is usually only one aspect of violent offenders' lives."

Then, she says this:

"However, the current evidence for both individual

case studies and survey evidence suggests that exposure to violent content, while not necessarily a direct cause of violent action, is a risk factor for offline violence, including for older adolescents. This impact can be mitigated through person-based factors such as family environment. This is evidenced by both individual case studies and survey evidence, which both suggest older adolescents can be influenced by violent content to perpetrate offline violence."

Do you see that DCMS is, yes, flagging lack of evidence on direct causation but saying that such evidence as there is from case studies, suggests that exposure to violent content is a risk factor for offline violence?

A. Yes.

Q. And without turning it up, our expert cadre, having looked at six case studies, said -- sir, the reference is ILT000344, paragraph 9.1 of their report:

"The digital environment formed a significant part of the downward trajectories of several of the young people. Its significance was not only the amount of time they spent online or their exposure to harmful material. Across the case studies, digital activity provided information about violent interests, relationships and influences, communications concerning

suicidal harm to others and, in some cases, actively potentially relevant to intent or preparation for serious violence."

So, there's no doubts being expressed there as to the significance of the risk of extremely violent material and young people's immersion in it online, do you follow?

A. I do.

Q. In relation to that, as you say, you have made an observation about this in your second statement, OFC000094 please. Now, it is page 5 OFC000094_0005, it is paragraph 17. Just check with me that I have got the passage that you had in mind:

"We noted that there is some evidence of perpetrators of violent offline attacks engaging with graphic, extremely violent content directly before carrying out these attacks, such as the perpetrator of the Southport attack. However, we also considered that, as noted in a recent meeting note of a UK Government roundtable, it is challenging to establish the extent to which consumption of violent content contributes to acts of offline violence compared to other factors, including for acts of violence committed by violence-fixated individuals."

So first of all, that's what you had in mind,

I think, in relation to the lack of causative --

A. Yes.

Q. We will come back to the context in which you are referring to it later on because this is really about Ofcom not having recommended promoting -- my words -- violent material from "priority content" to "primary priority content". But, has that lack of evidence of causation been a material factor that's been taken into account in deciding not to upgrade that?

A. Not that I'm aware of.

Q. Why then were you referencing that in your statement as something that you note --

A. Sorry.

Q. -- in this context?

A. So when we say we noted -- sorry, this is a reference to what we said in our report?

Q. Yes, the most recent report.

A. Then sorry, yes, then I think we have.

Q. Because I'm going to suggest that very little weight could and should have been placed on the lack of evidence of direct cause and effect because you are very unlikely to get empirical evidence of that because it would be unethical to research it. Have you followed the Inquiry's evidence in relation to that?

A. I'm aware of the ethics of doing research in that way is

almost impossible.

Q. Is impossible because you can't expose a group of teenagers to disgusting gore and extreme violent material and have a placebo group for whom you don't and then see the different outcomes.

Do you think, on reflection, that that is a weakness of the rationale in relation to this and that the emphasis should have been on what case studies show, which is that mass casualty attackers do have a tendency to have been immersed in violence online and that does seem to be a risk factor, even though you will never prove direct causation?

A. So, I would say it is not the whole of the rationale, but I would agree that, in light of the findings of your expert cadre, it does look like a weakness.

Q. Thank you. In terms of Com networks, the Inquiry has heard a lot of evidence about Com networks. We have heard from the NCA in relation to the dangerous that they pose. Before I come to some of the critiques in relation to that, could you give us just an outline of what the work of your team has been on that, the liaison that you have had and what has been derived from it?

A. So I don't have personal knowledge of the teams' detailed work. I understand that, as part of our overall partnerships and our work with the Home Office

and law enforcement, we have been engaged in the working groups and taskforces on Com groups. So I would say a significant part of the work is understanding more about how they present, the risks that they cause and the kinds of systems and processes that can be used to disrupt their activities and to mitigate the risk of harm to their victims.

I think, in terms of the sort of direct work that we have done to our regulatory products, it typically hasn't been labelled as such but we have taken account of the fact that grooming presents as a primary kind of technique by which these groups operate and so we have sought to introduce measures that mitigate the risk of grooming online.

Q. Thank you. If we could have on screen please MRF000008. This is part of the statement of Mr Burrows of the Molly Rose Foundation. It is right that I should give Ofcom an opportunity to respond to this. So if we look at page 14 MRF000008_0014, paragraph 19. If could we just go to the bottom of that page, please. Can we have the whole page up. Could we just navigate to paragraph 19, I'm sorry, it may be a false reference. So try earlier on for paragraph 19 MRF000008_0004.

Thank you. Forgive me, it is a false reference. So:

"In my experience, there is an uneven understanding of the risks posed by violence fixated individuals amongst the governmental and regulatory agencies with which we work. There is a clear and well-developed understanding of the threat posed by [VFIs] within the Home Office, National Crime Agency, and other law enforcement agencies, ie those parts of governments with primary responsibility for illegal behaviour and upholding public safety.

"However, in both the Department for Science, Innovation and Technology (DSIT) and Ofcom, awareness of the threat has been much weaker. I remain deeply concerned that Ofcom seems unable to grasp the magnitude of the threat posed by violence fixated individuals and the groups they join. In my opinion, the legislative and regulatory response to these threats remains poorly targeted and substantially insufficient."

Before I ask for Ofcom's response to that, I should just add, without bringing it up, that in his oral evidence, Mr Burrows said there was: an extended period where Ofcom, frankly, seemed to be asleep at the wheel, in terms of this as a new and emerging threat.

What do you say about that?

A. I think it is certainly true that certain stakeholders like Molly Rose Foundation were quicker to this than we

were. I think that's part of why we seek to work with civil society through our partnerships work and we see them as an incredibly important stakeholder and input to the work we do. And so, you know, we welcome that work that they do and I think it is undeniable that they were among the quickest to this issue, of anyone really.

I think in his witness statement, Mr Burrows says that Molly Rose Foundation sort of raised this in around February 2024. I think we, again, not labelled as such but as I said, in our register of risks that we published in December 2024, we referred to the risks of financially-motivated sexual extortion and other kind of elements of what people refer to as the "tradecraft" of Coms groups. And I think he recognised in his witness statement that that had been added to our register of risks. So I would certainly say that relative to Molly Rose Foundation, we certainly weren't as quick to this as they were.

Q. Thank you. Is there any risk, in relation to this, that that may be reflective of a wider problem that Ofcom, in the early stages of the coming into force in the Act and indeed in the build up to it, had a heavy focus on headline, and in very important areas, such as restricting access to pornography, and the vital work in relation to some of the particularly nasty sites

involving suicide where we see that firm action has been taken. All of that, of course, important, but do you think that there was a slower response more generally to violent material, Com networks and their intersection?

A. Yes. I would say this comes back to the issue that we touched on kind of earlier this morning around the challenge of prioritising within the sort of very ambitious scope of this piece of regulation. We have set out our priorities clearly and we have targeted some particularly egregious harms, as you have identified. I would also add our work on file-sharing services in relation to child sexual abuse material, our work on hate and terror on certain platforms. You know, there is a range of specific harms that we have chosen to prioritise and I accept that that's a deliberate choice and when with you prioritise something, you don't prioritise something else.

I would say that thinking about this regime on a kind of plotted across a dimension of time, we have started by laying the foundations of our recommended measures. Some of them, where we have seen it appropriate and where we have prioritised it, are very focused on a particular harm. So I would say, for example, our work on hash-matching technology in relation to child sexual abuse material. Some of them

are more cross-cutting and I think that reflects the fact that, when you are dealing with such a proliferation of kinds of harms, sometimes you are trying to put building blocks in place which can deal with cross-cutting harms and you may not end up prioritising a specific harm kind of above the line, in the way that we have with the certain kind of headline issues.

Q. Thank you.

I want to -- that can come down from the screen -- just look at recommender systems, please, just briefly at this stage. So if we can go back in your witness statement, please.

Page 36 OFC000088_0036, paragraph 80. You say:

"We recognise that services which deploy content recommender systems could be at a higher risk for suggesting violent content to children, particularly when combined with auto-play functions which have also been identified as increasing the risk of accidental exposure to violent content."

It is an obvious point but the problem with auto-play is, if what you have is a still and you have the option to click on it to play it, that gives you some filtering opportunity but some of these recommenders, I think, you just scroll and the next one

starts playing automatically?
A. That's right and in some cases, you don't scroll at all, it just feeds you another video.
Q. Then higher up on the same page, having looked at the bottom line conclusion, you give some details about "filter bubbles" and the "rabbit holes". Do you want to just explain what you mean by those terms?
A. Yes. Sorry, I can't see it on the screen. We are not turning that one up?
Q. It should be on your screen. It should be at the top of the page, "filter bubbles" and "rabbit holes". Start with filter bubbles?
A. Yes, certainly. So "filter bubbles" is something we can all recognise, the tendency of the internet to drive you towards a particular type of content that you are interested in. To the extent that that's harmful content, you know, there is a risk that you end up seeing a very large amount of that content and really nothing else. So it becomes a major part of your online diet, if you like.
Q. Then the knock-on risk of desensitisation?
A. Yes, exactly.
Q. And "rabbit holes"?
A. Yes, I think rabbit holes are another dimension of that where, in addition to sort of only seeing this

homogeneous kind of content, whatever it may be, you are encouraged to encourage more of that content and as you go further into the metaphorical rabbit hole, that content gets more extreme.
Q. Thank you. Is it clear to Ofcom, particularly thinking about violent material but not just violent material, that those recommender systems have the potential to be very harmful, particularly for children?
A. Yes.
Q. I want to touch on anonymity next, please. Can we look, still within your statement, at page 40 OFC000088_0040, paragraph 92. You say that:

"In the context of the OSA, anonymity has two potential elements: a user may be anonymous to the provider, in that the user does not have an account so the provider does not know of the user's offline or real-world identity (or indeed any other online identities), or a user may be anonymous to other users."

Then you say:

"The latter may also be referred to as being 'pseudonymous' where the user is known by a username that doesn't correspond to their offline/legal name, but this may be known to the provider. For users, interacting with pseudonymous or anonymous users can feel the same. Users may also feel anonymous even when

they are identifiable (or potentially identifiable) by a provider."

So you give that slight breakdown of the concepts here.

Has Ofcom assessed whether verification known only to the provider, leaving the user pseudonymous to others, helps deter the sharing of violent content while keeping the benefits of a level of anonymity? So, we are talking about the situation in which you have to give your real identity to the online platform, but then you can have a username, effectively, to those you are communicating with. Have you assessed whether that has an impact on violent content being shared?
A. And would that be in the sense that you would then expect the service to actually verify that person's identity?
Q. Yes, in the sense of, if you were required to make your true identity known to the online platform, even if you then go by a username or some other tag when you are interacting with other users, the fact that you know that your social media platform of choice knows who you are, does that have an effect on limiting the type of violent material that someone may be prepared to share?
A. I think it could. My understanding of the evidence here is that it is relatively mixed. So I think there is

an indication of what I refer to in my witness statement as "the disinhibition effect", where people may be incentivised to behave in more extreme ways online, where either they are anonymous or they are pseudonymous.

My understanding is, however, that there is evidence to suggest that, for example, in respect of sharing hate content, there are people who will -- there is a significant proportion of people who will share that kind of content whether they are pseudonymous or not.
Q. Thank you. So, you deal, in paragraph 93, with some of the risks. So:

"... anonymity can give rise to ... illegal harms ... [can] increase children's risk of exposure ... Anonymous user profiles are a risk factor ..."

That are in the register of risks, you say, and the "disinhibition effect" you highlighted a moment ago you refer to there.

I think if we look at page 41 OFC000088_0041, paragraph 97 over the page. Having discussed this further in your statement, the ultimate position, I think, is this, is it not, is that:

"... Ofcom has not ... recommended measures relating to identity verification in [its] Illegal Content or Protection of Children Codes of Practice."

So you are not requiring identity verification at the moment, as opposed to age verification?
A. That's right.
Q. Why have you come down on that side of the argument on that issue?
A. So I think this comes to the -- one of the challenges with online safety regulation, which is that in -- you are constantly trying to optimise between maximal safety versus the fundamental human rights that the Act also suggests that we should consider and have regard to. One of those is the right to user privacy. And the other is the right to freedom of expression, which I think a number of people would say those two are mutually supportive in some ways.
So the requirement for all providers to ID verify, to effectively do a "know your customer" for everyone that uses social media would be a major intrusion on those fundamental rights and so I think, in balancing those, particularly given, as I said, the evidence picture is mixed, we decided not to go ahead with a mandatory, universal identity verification.
Q. Is that something which is being kept under review because if that is a balance -- one understands that privacy rights that are involved. But, if the evidence picture moves in the direction of suggesting that

anonymity does make people feel disinhibited and more inclined and that having to provide your real name does have a deterrent effect, then it might be worth further thought. So even if that's the assessment at the moment, is that something that's periodically formally reviewed?
A. So I'm not aware that we have reviewed it or that we are reviewing it. But you are right, you know, we are led by the evidence and so it is something we could look at again.
Q. Do you not think, given the risks of the anonymity with social media, that that should be periodically formally reviewed, whether every three years or something of that kind, to see where the evidence is at?
A. I mean, we certainly could consider it. It is subject one aspect of our portfolio of work and so I would be hesitant to commit to a formal review of it but I completely take the point that if the evidence moves, we should move our policy.
Q. Thank you. One of the questions that the victims and survivors teams have asked is whether Ofcom has considered going further even than that and requiring verification of a user's address in the UK. Has that been thought about?
A. So, I believe in our draft guidance on identity

verification for the purposes of the additional duties, which I think we have in the bundle, we have considered what attributes you could use in an identification verification scheme and one of those would be place of residence. At this stage, I do not think we have suggested that that should be -- I'm not sure we have the power to mandate that, but it is certainly one of the attributes that if you were to introduce an identity verification scheme, you would consider including as a recommended one.
Q. Thank you. In terms of some of the documents that evidence assessment of risks, so if we just identify some of the key materials without going through them in copious detail, so page 9 OFC000088_0009, please, of your statement first. Paragraph 25(a), you explain that:
"The OSA requires Ofcom to publish a number of regulatory documents to assist providers ..."
That's at the top of 25(a) and the first of those that you flag is "The Illegal Harms Register of Risks".
If we could just briefly have a look at that, it is OFC000033, partly just for the learned Chair's note and so that we have it. But if we could just look at page 8 OFC000033_0008 and the bottom third of the screen. We don't have time to go through the totality of this but

in terms of the identification of functionalities that stand out as posing particular risks because of the prominent role they appear to play in the spread of illegal content and the commission and facilitation of offences, we have: "end-to-end encryption"; "pseudonymity and anonymity"; "livestreaming"; and then, over the page OFC000033_0009 "Content recommender systems".
So, at the high level register of risks for illegal harms, I think those functionalities are particularly emphasised, is that right?
A. Correct.
Q. Thank you. Then, back in your statement, please. So that was the illegal harms register of risks; page 15 OFC000088_0015, paragraph 32(c), we have got it on screen. We have got "the Children's Register of Risks", which you explain that:
"... like the Illegal Harms Register of Risks, the Children's Register of Risks is our assessment of the causes and impacts of harms to children online, where and how they manifest, and the characteristics of services that are relevant to the risks of harm. It is structured around the types of content harmful to children as defined in the [Act]. We expect services to refer to the Children's Register when carrying out their

own children's risk assessments."

So that's the helpful introduction to what it is. And if we could just have it on screen at OFC000039. So it is, I think in total, over 300 pages, so forgive me for not attempting a summary. But if we go to page 169 OFC000039_0169, we will have the -- importantly, the "Violent content" section, so that with which perhaps we are most concerned.

I will just pause for a moment to allow you and the learned Chair just to refresh your memory of the nature of the summary.

Then, without attempting to go through all of the detail, but just to give a fair flavour of it, if we go to page 184 OFC000039_0184, we will see "Risk factors: functionalities ..."

As we saw in the illegal harms register, are there set out and we see some particular aspects, for example:

"User profiles", 7.64:

"Several studies report violent content being shared on purpose-built user accounts, created specifically to disseminate violent content ..."

We see also of note -- if we can just go over the page and over the page again OFC000039_0186 -- 7.74 is picking up the point about the risks from live-streaming and page 187 OFC000039_0187, at 7.82, "Encrypted

messaging" as being a particular risk. And page 189 OFC000039_0189.

A. Sorry, I had "Ephemeral messaging" highlighted on my screen then. Was it encrypted messaging?

Q. "Encrypted messaging". Could we go back to that, please. So page 187 OFC000039_0187, 7.82, "Encrypted messaging".

A. Yes.

Q. I think I was just drawing out -- let's just look at it:

"... violent content is being shared in encrypted messages due to the perception that this route offers protection against enforcement or moderation."

Do you see that there?

A. I do.

Q. Thank you. Then if we could look, please, over at page 189 OFC000039_01898, 7.89 under "Content tagging":

"Content tagging can make violent content easily accessible to children who seek it. Ofcom research found that children were using content tags warning users of inappropriate content in order to search for violent content."

So that's the counter-intuitive effect, that if you put a tag on to give a warning, on some systems, children who want to seek that material out, will actually search for that type of warning tag to find

more material of that kind, yes?

A. Yes.

Q. Thank you. Over the page, please OFC000039_0190. Again, without going through the detail, we see the emphasis being given to a whole section on recommender systems, again, in the children's risk register.

So those aspects which you have touched on already are flagged up in the high-level document and it is this that the platforms are meant to look to, to see: right, Ofcom has identified these areas of risk, we now need to look at how our systems perform against those risks. Is that a fair high-level summary of what this seeks to achieve?

A. I think that is right and I think it is also relevant to them in how they categorise themselves, whether their platform is high, medium or low risk, for a particular kind of harm, which has then a kind of consequential effect on certain codes' measures are segmented by the risk level of the platform.

SIR ADRIAN FULFORD: Mr Moss, I am conscious that we have been going for an hour and a quarter now.

MR MOSS: I have got one more question and then I was going to break, if I may. It was simply whether there was anything else in the two risk registers that you particularly wished to highlight. They are lengthy

documents, but is there anything else in those that you particularly wanted to highlight?

A. I don't think so.

SIR ADRIAN FULFORD: How long?

MR MOSS: Shall we take until 10.55, if that's convenient to you, sir?

SIR ADRIAN FULFORD: We will take a break.

(10.45 am)

(A short break)

(10.55 am)

SIR ADRIAN FULFORD: Thank you very much, do have a seat. Yes, Mr Moss.

MR MOSS: Thank you, sir. I want to turn next to the Online Safety Act itself, please. If we could start at page 3 OFC000088_0003, paragraph 9 of your statement. You helpfully set out that:

"The general purpose of the OSA is making the use of regulated internet services safer for individuals in the United Kingdom."

There is a whole series of footnotes throughout your statement which usefully give source references, which I won't go to. But you also explain, that:

"The duties imposed on providers by the OSA seek to secure (among other things) that regulated services are safe by design and designed and operated in such a way

that a higher standard of protection is provided for children than for adults, [also that] users' rights to freedom of expression and privacy are protected, and transparency and accountability are provided in relation to those services."

Can I ask you about that concept of "safe by design"? What is Ofcom's understanding of what "safe by design" actually means?

A. It is a very good question and I would say that, as you have probably seen from the evidence in this Inquiry and other commentary around the Act, I think it is a contested term in terms of exactly what it means. I think that the focus of the Act, as I said before, is on systems and processes, to make them safer for people and at the centre of the Act is this idea of risk-assessing a platform and then mitigating those risks. So, I think certainly my interpretation of "safe by design", in respect of the Act as currently drafted, is about understanding the risks on your platform and then designing in systems and processes that mitigate those risks.

Q. Because to the interested outside observer, "safe by design" might mean that inappropriate, let alone illegal, material should never, by design, be able to be uploaded to the platforms at all. That's what somebody

may reasonably understand that concept to mean, would you agree?

A. I would agree and as I said, I think this is a contested term but I think some people do understand it as that.

Q. Whereas, in fact, certainly as the evidence to this Inquiry by the platforms is concerned, they would say: that's not feasible in the way things are designed at the moment, but what we do do is put a lot of effort and research and tech into automatic moderation, to try to ensure that the very large majority of such material is automatically moderated and either never shows on the systems or is removed very quickly.

Again, that is probably my layperson's superficial explanation but would you agree with that, in broad terms, that that's what the focus actually is in relation to, for example, violent material?

A. In terms of what platforms are doing?

Q. Yes.

A. Yes.

Q. Thank you. You also set out, in paragraph 9, the distinction between "illegal content" and content that is "legal but harmful" and in relation to the latter, material that is legal but harmful, the duties rest in relation to protecting children not adults, in general terms, yes?

A. Correct.

Q. Thank you. Then, if we go to page 44 OFC000088_0044, paragraph 104. You turn to deal with that issue of harmful but lawful content in more detail. And you set out there that the Act:

"... does not require providers of regulated services to take preventative steps to assess risks relating to legal but harmful content and restrict UK adults' access to legal but harmful content, or remove it from their services once they identify it."

The only requirements in that regard are in relation to children. I appreciate that this was not a decision of Ofcom's, but you are the regulator, so help us with what, as the regulator, you have as the understanding of why that delineation was made?

A. Yes, certainly. I can sort of narrate the events as I understand them, which is that on its passage through Parliament, the Online Safety Bill, as it was, contained provisions in relation to legal but harmful material for adults and for children. And that relatively late in its passage, a decision was taken -- and I put that in the passive tense, advisedly, because I could not say exactly by whom -- that the Act should not include hard restrictions on legal but harmful content. I think we will probably come on to talk about some of the

additional duties that go to that.

So the Act ended up focusing only on illegal content for adults and then legal but harmful content, but only as it related to children.

Q. Thank you. So violent material, which falls -- as we will come onto, as part of priority content -- in looking at how that should be prioritised, even in relation to -- well, in terms of how that should be prioritised generally, it would be legitimate, would it not, to have some regard to the fact that there was an original intention to protect even adults from that material, not to ban their access to it?

A. Legitimate in the sense that we should do something about it, as the regulator?

Q. Yes, as to how important it was. It was something that was originally intended, at bill stage, to be protected but for whatever reason, no doubt in relation to free speech and the balance, but that's significant as part of the historical background, wouldn't you say?

A. Certainly.

Q. Because -- and your statement deals with some activity, and we may come to it, that's taken place in relation to gore websites that Ofcom has had a liaison with, to try to reduce the risk there. I think that's been on a website level. It has led to some age gating,

I think, of those websites --
A. So I think in some cases, age gating and in some cases, geo-blocking.
Q. Yes, and the geo-blocking is helpful for adults too?
A. It would have an impact on adults, yes.
Q. But obviously you will be aware, from the research and the materials that you are involved in, particularly violent content and children, that no one could suggest that there's no potential for risk for violent, unpleasant gore material for adults?
A. I would agree with that.
Q. And in particular, the risks that we looked at earlier on in relation to children, can, in no way, be said to switch off on a youngster's 18th birthday and that's not just a facetious observation by me, our experts cadre were keen to impress that young people don't become fully neurodeveloped until about the age of 25. So still have those additional susceptibilities, would you agree?
A. Yes.
Q. And just in general terms, in terms of where legislation is likely to be moving, would you agree that, as the OSA is currently articulated, that is one reason why it is particularly important to consider how the new concept of making extreme violent material unlawful is defined

and applied, because unless extreme violent material is made unlawful, the OSA can't limit its reach and risk to adults?
A. Yes. Without making a change in relation to either legal but harmful, more generally for adults, or importing some sort of concept around vulnerable adult, which we have in our regulatory regimes, I would agree, that would be the significance of making extreme content illegal.
Q. But even with the settlement, if I can use that phrase, of how the OSA is framed, that would be a very significant change, the indication given in the King's speech to have a new criminal offence, because suddenly in relation to adults, just like material that, for example, encourages suicide, it falls within the illegal harm section of the Act, or it will do?
A. Yes, I think it will be a major change, both in terms of what online services have to do and in terms of users who post that kind of content.
Q. Thank you. If we can go back now just to look at some important highlights, at the high level of the scope of the OSA. We can deal with these relatively briefly, but page 4 OFC000088_0004, paragraph 15 of your statement.
Three kinds of internet service that fall within scope, so:

"User-to-user services ... services on which users can upload or share content with other users of the service (user-generated content) ... Social media services, video-sharing services, messaging services and online forums, online marketplace, gaming ... dating services, among[st] others;"
And then:
"Search services ... services that are, or include, search engines which enable users to search more than one website or database ..."
And thirdly:
"Online services on which the provider of the service publishes or displace pornographic content ..."
Which is important but we are obviously less concern with. And the big companies, is this right, can have services and platforms that fall within more than one category, so we looked at Alphabet for example, who has both YouTube but also has search services in Google?
A. Yes, so I think there are two dimensions to this. You could have a corporate group, like Alphabet that has both kinds of service, or you could have a service that is more than one kind of functionality and they are captured by the concept of "combined services" in the Act.
Q. Thank you. Then, paragraph 16:

"To be in scope of the OSA a user to user or search service must also have 'links with the UK'."
So these are important limitations, not a criticism of anyone, but they are statutory provisions that we must have in mind. So:
" ... a service must ... have a significant number of UK users; or ... have the UK as a target market ... or be capable of being used in the UK by individuals and the content present on the service must present a material risk of significant harm to individuals in the UK."
So that's what we may think of as the "link to the UK" provisions, is that right?
A. Correct.
Q. Then, also in paragraph 17 OFC000088_0005, certain types of service are exempt. So "direct communication", if it is only in relation to:
"... email, SMS, MMS or one-to-one live aural communication;
"Services with limited user-interaction functionality ..."
And then there is provision for some "business services", some services "by public bodies" and "education or childcare providers", is that right?
A. Correct.

Q. So all the time, when we are looking at some of these aspects, these limitations have to borne in mind. Then paragraph 18 -- we will come back to this -- but:

"Not all Generative AI services are in scope of the OSA, but Generative AI is increasingly being deployed by services in scope of the OSA."

So if we may, I would just ask that we note that for the moment and I will come back to it later on.

A. Yes, and I would just add to that, in addition to being deployed by services that are in scope, new services may be creating business models that fall into scope. So Generative AI service might have a search functionality which might bring it into scope.

Q. Thank you. As I say, I will come back to some of those features. So if we can look next at page 6 OFC000088_0006, please. Paragraph 20. Again, I appreciate there is a lot of detail in this and it is all set out in your statement, but these are important parts of the framework which we need to have an understanding of and be on our record.

So you say that:

"The OSA imposes additional duties on certain online services, known as 'categorised services', which differ depending on what category these services fall into ..."

And:

"Categorised services are those that Ofcom assesses to meet certain threshold conditions set out in secondary legislation ..."

We do not need to go to it, but the first register is at OFC000031 which we note but, as I say, without turning it up. You then set out the categories. So:

"Category 1 services are regulated user-to-user services which, in respect of the user-to-user part of that service, have an average number of monthly active UK users that exceeds 34 million, and use a content recommender system, or which have an average number of monthly active UK users that exceeds 7 million, use a content recommender system, and provide a functionality for users to forward or share regulated user-generated content on the service with other users of that service."

So there is a certain amount of technical definition involved in that but we see that it is a combination between the number of users and the use of recommender systems, algorithms, put shortly. Is that a fair high-level summary?

A. Correct.

Q. Then:

"Category 2A services are regulated search services or combined services where the search engine has

an average number of monthly active UK users that exceeds 7 million, and it is not a search engine which only enables a user to search selected websites or databases in relation to a specific topic, theme or genre of search content, and is facilitated by means of a relevant arrangement."

You give the list of those currently, so "designated", with many familiar names.

Then OFC000088_0007:

"Category 2B services are regulated user-to-user services which, in respect of the user-to-user part of that service, have an average number of monthly active UK users that exceeds 3 million, and provide a functionality for users to send direct messages to other users of the same service which is designed so that messages cannot be encountered by any other users of that service unless further action is taken by the user who sent the message or a user who received the message."

A bit of a mouthful but helpfully, you set out the definition. Can I ask you this, Telegram was one of the platforms who gave evidence to this Inquiry and I asked of their witness, Witness A -- we are not using their name -- why it was that Telegram was not a Category 2B service because he indicated that their platform

estimates that they have 6.9 million users and, at least to the Inquiry's understanding, which will be a lot less developed than yours, they, at least, seem to meet the Category 2B requirements. Can you help with that?

A. To an extent. As I know you are aware, we are subject to certain kind of disclosure restrictions in our governing statutes that limit our ability to kind of refer to what's going on with particular services, in essence.

Q. Yes.

A. I can say though that the categorisation register is a living document, that we will be continuing to work on.

Q. Thank you. Let's look then at duties under the Act, with those categorisations in mind. If we look at page 8 OFC000088_0008, paragraph 24, I want to turn, first of all, to the duties on providers in relation to illegal harms. So we see the heading above your paragraph 24.

I don't need to go through every aspect of this, but (a) is:

"Duties for both user-to-user and search services to assess the risk of illegal content on the service ..."

(b) is:

"Duties for both user-to-user and search services to

put in place proportionate systems and processes to reduce the risk of individuals encountering types of illegal content defined in the OSA as priority illegal content ..."

And we note those words, and:

"... to effectively mitigate and manage the risks identified in the illegal harms risk assessment;"

Then (c):

"A duty for user-to-user services to have proportionate systems and processes to take any illegal content down swiftly when the service provider becomes aware of it."

So that, I think, is your summary. For priority offences, we need to go back, I think, to paragraph 21. So we saw how that was referred to, priority illegal content. Page 7 OFC000088_0007:

"The range of illegal harms which the OSA covers is broad. [But the Act] defines well over 100 offences as 'priority offences', which include content of a type may be of interest to VFIs. Among the priority offences, those of relevance may include:

"Terrorism;

"Child Sexual exploitation and Abuse ...

"Encouraging or assisting suicide, or attempted suicide;"

And we think in mind of the Com networks there, but then also:

"Hate, harassment, stalking, threats and abuse;

"Firearms, knives and other weapons;"

Again, with one exception, I'm not going to go through the footnotes, let alone the 100 offences, but you have a very useful indication, by the detailed footnotes that have been provided, of where that's to be found in the schedules to the Act.

A. That's right.

Q. Thank you.

A. And I think just worth noting this is a subset of the priority offences and the harms which we have drawn out for the Inquiry, rather than being a comprehensive --

Q. There is a lot of detail, if one sought to go through that all, but there is a helpful distillation, if I may say so, of those that are relevant to VFIs. I said that there was an exception and if we just look at footnote 19 at the bottom of the page.

We see that for firearms, knives and other weapons, the offences specified in paragraphs 14-22 are Schedule 7 of the Act. Praying that my references will deliver us to the right page, could we have a look at ILT000377 at page 331 ILT000377_0331.

Thank you. Do you see paragraph 19 there, which is

within that list of paragraphs of Schedule 7?

A. Yes.

Q. That included within the priority offences, are:

"An offence under any of the following provisions of the Knives Act 1997 ..."

Including, importantly for our purposes:

"... (unlawful marketing of knives);"

Now, the Inquiry, in Topic 4 and to an extent also in our first Phase, was looking at whether the Knives Act provisions are sufficiently well known and sufficiently enforced. I'm not going to go through the Knives Act schedules, but take it from me for the moment that an important element of that is to make unlawful marketing of knives which suggest that knives -- which, for these purposes, would include swords -- or suitable for combat. Is that something which is on Ofcom's radar?

A. I can't speak to the exact provision and whether that's on our radar. I know that in the past we have certainly done work on weapons and sale of weapons online. Certainly guns, but I couldn't tell you for certain knives. It is certainly something we could pick up and come back to you on though.

Q. Thank you. Could I just place then this marker down as to an area of the Inquiry's concerns, if the learned

Chair will forgive me putting it in that way --

SIR ADRIAN FULFORD: Please do.

MR MOSS: -- which is that the Inquiry is aware that there is a plethora of material on social media -- and I took YouTube to this -- of knives and swords being marketed by, for example, decapitating pigs' carcasses and slicing up the head of a mannequin, with fake blood coming out, which is both readily available and, in some cases, there may be concerns that it is not even age-gated.

Given that the Act, by Schedule 7, does give prominence to certain type of offending and that the Knives Act, "unlawful marketing of knives", marketing of knives suggesting it is suitable for combat is included within that; could you at least take that away as an area for further thought as to whether that needs to be further examined?

A. Certainly, and I'm grateful to you for drawing it to our attention.

Q. Thank you. That can come down and if we could go back, please, to page 10 OFC000088_0010, paragraph 27. You say that:

"The Codes of Practice that Ofcom issues under the OSA act as a safe harbour for regulated services. That is to say, if providers follow the steps set out in our

Codes, they are deemed to be compliant with the applicable duties under the OSA."

So I will come back later to some criticisms of the "safe harbour" approach and again, I appreciate that this may not, in the first instance, be an Ofcom responsibility because you are reflecting the statutory settlement but why, to your understanding, was the safe harbour approach originally adopted?

A. So, again, this is somewhat my interpretation as someone who works with it every day, but my understanding is this, related to a desire for regulatory certainty, recognising that a kind of completely unlimited risk assessment and risk mitigation duty might be challenging to meet, from the perspective of services that needs something that is sort of adequately prescribed by law in order to follow. So my understanding is that it is intended to sort of place those obligations within certain bounds of regulatory certainty.

Q. Thank you. If we can just look over the page at page 11 OFC000088_0011, please.

You go on to describe, in a helpful summary, the code measures in relation to illegal harms. Could we just have paragraph 28 at full screen. Sir, I'm not going to read the totality of that out but if I may just give you a moment to digest the overall nature of it.

SIR ADRIAN FULFORD: Yes.

MR MOSS: In the paragraph 28 list.

A. And again, I would highlight that that's a subset that we have drawn to your attention.

Q. Thank you.

(Pause).

SIR ADRIAN FULFORD: Yes.

MR MOSS: Then just over the page, please, OFC000088_0012. And it continues just at the top. Turning then -- having looked at illegal harms -- to material harmful to children. If we look, as we have got on screen at the moment, paragraph 29. You say, looking at some fundamental concepts that we have already touched on, the Act:

"... designates a number of kinds of content as content harmful to children ..."

And you have the "primary priority content" and again, footnotes give the full detail, but:

"... as comprising pornographic content and suicide, self-harm and eating disorder content."

Yes?

A. Yes.

Q. May I just make clear that nobody should draw, from my questioning about the importance of violent material, any suggestion that the existing primary priority

content is not extremely important because there is a risk of that when I'm concentrating on other issues. Of course, those issues are all extremely important.

But priority content, at (b), is:

"... defined in the OSA as comprising abuse and hate content relating to people with specified characteristics ..."

And we know that those would include, effectively, racial, discriminatory and other minorities:

"... bullying content; violent content; dangerous stunts or challenges content; and harmful substances content."

Now, obviously, dangerous stunts and harmful substances I won't be focusing on but abuse and hate material, bullying content and violent content are of concern to the Inquiry but particularly violent content material.

Do you know what the background is as to why violent content material reaching a particular threshold was not originally in the "primary priority content" bracket?

A. I don't.

Q. Thank you. We will pick that up with our witness next week. On page 13 OFC000088_0013, paragraph 31 -- actually before we do that, we ought perhaps to look just at the statutory provisions, forgive me. Could we

have ILT000377, please. Thank you very much and page 72 ILT000377_0072. Again, just to ground this in the Act itself.

So, bottom third of the page please, Section 61. There is the definition of "Primary priority content that is harmful to children". I needn't go through it but one can see the detail to which your footnote referred us.

Then, if we look at page 73 ILT000377_0073, please. Could we have the whole of Section 62. So the definition of "Priority content that is harmful to children". One just notes, in relation to this, that in relation to (2), you get the full list of the abusive provisions, so:

"(a) race;

"(b) religion;

"(c) sex;

"(d) sexual orientation;

"(e) disability, or ...

"(f) gender reassignment.

"(3) Content which incites hatred against people.

"(a) of a particular race, religion, sex or sexual orientation;

"(b) who have a disability, or ...

"(c) who have the characteristic of gender

reassignment."

Then:

"(4) Content which encourages, promotes or provides instructions for an act of serious violence against a person."

(5) is the bullying content. And then these provisions are important because they define the violent content aspects. So (6):

"Content which ...

"(a) depicts real or realistic serious violence against a person;"

Or:

"(b) depicts the real or realistic serious injury of a person in graphic detail."

Then (7), content which:

"(a) depicts real or realistic serious violence against an animal;

"(b) depicts the real or realistic serious injury of an animal in graphic detail;"

Or:

"(c) realistically depicts serious violence against a fictional creature or the serious injury of a fictional creature in graphic detail."

So, I won't deal with the others because those are in the other areas that are important but less

significant for the Inquiry. So I think those are the key provisions. So when one is talking about "violent content" in shorthand, that is the statutory definition?

A. Yes.

Q. Thank you. So, back in your witness statement, please, at page 13 OFC000088_0013, paragraph 31. You summarise there, for us, the key duties in relation to content harmful to children. And you set out, first of all:

"Duties for all user-to-user services and search services to carry out 'children's access assessments' to establish whether a service is 'likely to be accessed by children'."

If it is likely to be accessed by children, then the protection of children duties will apply:

"The children's access assessment should determine whether it is possible for children to access the service or part of the service ..."

Just dealing with that. Is that a fairly low threshold, so they may have protections that are designed to avoid that, but they have to look at whether, nevertheless, it's possible?

A. Yes, I think, as I said at the end of that sub-paragraph, we anticipate most services who aren't using highly effective age assurance, they are effectively gating their platform, are likely to be

accessed by children. So more often than not, the outcome of that assessment should be that they are likely to be accessed by children.

Q. Thank you. Then:

"Duties for both user-to-user and search services to assess the risk of children encountering content that is harmful to them by means of the service."

Then (c):

"Duties for both user-to-user and search services to put in place ..."

Then these are the key phrases, I think:

"... proportionate systems and processes to effectively mitigate and manage the risks identified in the children's risk assessment and mitigate the impact to children presented by harmful content."

That's a lower duty, I think you would agree, than primary priority content?

A. So, are we on (c)?

Q. (c).

A. So I think this is about mitigating the impact from any harmful content but you are right, that there is a distinction between the requirement in the Act under what you have to do for primary priority and priority content. I'm not sure it comes out in this paragraph but that is exactly right.

Q. Thank you, and then over the page OFC000088_0014, please. (d):

"A duty for user-to-user services to put in place proportionate systems and processes designed to prevent children of any age from encountering primary priority content."

So there it is, that in relation to primary priority content --

A. Yes.

Q. "... to put in place proportionate systems and processes designed to prevent children of any age from encountering primary priority content."

So that's the systems duty, to prevent children from encountering that higher risk category, yes?

A. Correct.

Q. And then, at (e):

"A duty for user-to-user services to put in place proportionate systems and processes designed to protect children in age groups judged to be at risk of harm from other content that is harmful to children from encountering it by means of the service."

I think that that applies across the board?

A. Correct.

Q. Thank you. Then (f):

"A duty for search services to put in place

proportionate systems and processes designed to minimise the risk of children of any age encountering primary priority content and in age groups judged to be at risk of harm from encountering other content that is harmful to children."

And (g):

"Duties for user-to-user and search services to have processes to enable reporting to content harmful to children and to operate a complaints procedure ..."

Then (h):

"A duty, when deciding on, and implementing, safety measures and policies relating to content harmful to children and as required under (c) to (g) above, to have particular regard to the importance of protecting users' right to freedom of expression and protecting users from a breach of any statutory provision ..."

So even here, that balancing is required?

A. Correct.

Q. Thank you.

A. Sorry, I suppose I would just draw out of that, that one of the things we have to think about in terms of protecting children and that balance of rights, is that also engages the right of adult users who may be on the service where children are allowed.

Q. Yes, so their rights to see that material and have their

privacy. Thank you.

Then page 16 OFC000088_0016, paragraph 33. You say that:

"In addition, as required under the OSA, we have issued the Protection of Children Codes of Practice for user-to-user and search services ..."

So we will just note the reference to that, at this stage, OFC000024 and OFC000025. I won't go to them. And for the moment, could we just note -- I'm going to come back to one aspect of this, or a couple of aspects of this, but could we just note, under paragraph 34, that you give a summary of code measures as set out in the Protection of Children Codes of Practice and, again, I think you are seeking, very helpfully, to distil those that are most relevant to our areas of work, is that right?

A. Correct.

Q. So again, if we could just note that and we will come back to some aspects of that under another topic. So far as age assurance is concerned, if we could just have a look at OFC000029, please.

If you will forgive me, I'm going to take this quite briefly because we have actually been looking at this with the platforms but I think you can confirm that this is the guidance on those highly effective age assurance

requirements, yes?

A. Yes.

Q. And at page 8 OFC000029_0008, we see -- you touched on it earlier -- the non-exhaustive list of kinds of age assurance that are capable of being highly effective: open banking; photo ID; facial age estimation; mobile network age checks; and credit card checks.

Over the page OFC000029_0009, "Email-based age estimation" and "Digital Identity Services".

Are these kept under review as the technology changes?

A. Yes, absolutely.

Q. Thank you. Then, at the foot of the page, we see:

"Kinds of age assurance that are not capable of being highly effective."

So that's the other end of the scale:

"Self-declaration of age."

Stands to reason:

"Age verification through online payment methods which do not require a user to be over the age of 18.

"General contractual restrictions on the use of regulated services by children."

Over the page.

Fine. If we go back to page 9, we see that not in either list is the age inference type software that we

know that some platforms are relying on. Is that deliberate?

A. Yes.

Q. Can you explain why?

A. Well, so I think at the time that this guidance was written, we -- based on the evidence we had, we had a clear-cut list of methods we thought were definitively capable and a clear-cut list of those we thought were definitively not, self-declaration being a prime example. Age inference falls between those two categories and so I don't think, at that point, we were in a position to rule out the age inference, depending on the solution -- because it is a broad category of kind of machine learning and AI-based technologies -- we weren't in a position to rule out that it could be capable of being highly effective but we also didn't have the evidence to say that it definitely was.

Q. Thank you. In terms of risk assessments next, please. If we could go back to your statement and look, please, at page 37 OFC000088_0037, paragraph 82. You say that:

"Service providers are ... required to mitigate and manage the risks identified in their illegal harms risk assessments."

And you say:

"As set out [earlier in your statement] services

likely to be accessed by children are also required to assess the risk of children encountering content harmful to them, and put in place proportionate systems and processes to mitigate and manage the risks identified in the children's risk assessment."

Sir, just for your note -- and I think, Mr Breeze, you can confirm -- that you have issued guidance for risk assessments by the service providers, which we have at our OFC000034, but we don't need to bring it up. But there is published guidance on the risk assessments?

A. Yes, separate for illegal harms and protection of children.

Q. Thank you. Can I ask for your response in relation to this, Mr Comerford of the ISD, the Institute for Strategic Dialogue, in his seminar 4 -- we don't need to bring up the transcript -- said that there is very little indication that the risk assessments are thorough enough or comprehensive enough, especially regarding the sort of harmful content that he was alerting to and he noted how Category 1 and Category 2A services were to give Ofcom their risk assessments under the Act.

What do you say about that indication, that there's very little indication that the risk assessments that are being done are thorough enough or comprehensive enough?

A. Yes, so I think this is one of those challenges as a regulator around how much transparency you are able to give in relation to matters that are confidential to services. And we definitely hear and recognise the frustration, particularly of members of civil society and researchers who would like more access to them. I can tell you that what we did last year was we requested 104 risk assessments from services: 72 for illegal harms risk assessments and then 32 children's risk assessments. We set up a programme to analyse those and we reported on it in our year 1 report on risk assessments. So that is an element of us attempting to give transparency about what we saw.

We then took that forwards in relation to a subset of those services where we felt that the risk assessments weren't in the right place. And we engaged with them on how to kind of bring those into compliance. And I can say that we are carrying that exercise out again, possibly not in the identical form but substantially similar form, this year for year 2.

I think it is worth noting, for categorised services as well, they will be under a duty now the register has been published to publish summaries of their risk assessments, which may help to improve the kind of transparency.

Q. Well, you rightly identify an aspect that I want to come onto. Presumably, that duty to publish -- and this is only for some categorised services, which we may look at in a moment, the duty to publish a summary is deliberate, presumably, because there needs to be much greater detail in the full versions, some of which may be helpful to bad actors if it were published?

A. I think that would be one reason, yes.

Q. When it gets to the stage of the publication of summaries of risk assessments, will Ofcom be checking that those platforms that are required to publish summaries are only excluding materials from their summarises where there is a good reason to do so? Because there might be thought to be otherwise a risk it would be at such a high level that it will be superficial?

A. So I don't know the answer to that question but I agree, that's a very relevant concern.

Q. Is that something, again, that you could take away and come back to us on as to what the provision for that should be?

A. Certainly.

Q. The victims and survivors groups have asked -- or made the point that the Category 1 register includes Reddit, Roblox, TikTok, X and YouTube and they ask if Ofcom has

reviewed those services' children's risk assessments and how they deal with violent content?

A. I believe so, but we can come back and confirm that for sure.

Q. Thank you. Could we look, please, at page 19 OFC000088_0019, paragraph 36. Perhaps if we can start on the previous page 18 OFC000088_0018.

So paragraph 36, you set out some additional duties that are imposed on those who fall within those categories that we looked at earlier on. So:

"All Category 1, 2A and 2B providers are required to comply with the following additional duties:

"Duties relating to the disclosure of information about use of the service by deceased child users."

I'm not going to go into the detail of that:

"Details relating to transparency reporting."

What do Ofcom actually do with the transparency reports from platforms?

A. Yes, so I suppose if I take you through the end-to-end process. We are required to publish -- also send transparency notices to these services, setting out what, in that particular period -- I think it is a year -- we expect them to report on in their transparency reports.

They are then under a duty to publish those

transparency reports because they are primarily for users, investors, whoever it may be in the general public, to be able to read and understand what's going on. There's then a corresponding duty on us to publish our own transparency report, which effectively draws together the findings, from those transparency reports by services, and kind of highlights themes, highlights good practice, that sort of thing.

Q. So, one understands the duty and the benefit of doing that, but does Ofcom have any role in checking what is published in the transparency reporting, again, with the same sort of issues in mind, to check that enough is being put into those reports?

A. I would expect that we would, yes. I think it is an enforceable requirement that they have to publish these, so it would give us the same powers to investigate if we were concerned that they weren't.

Q. Can we zoom out a little bit on screen. That was 36(b). Just go over the page OFC000088_0019. Paragraph 37, you deal with the fact that Category 1 and 2A providers have the following additional duties as well:

"Duties relating to publishing summaries of their illegal content and children's risk assessments in their terms of service ..."

And:

"Duties relating to tackling paid-for fraudulent advertising."

So 37(a) is the more significant for us and I have asked you the question about that, as to whether there is an assessment of the sufficiency of what's been put in the published summary, and you have agreed to take that away.

A. Yes, and I may have misspoke. I may have only said that applied to Category 1, but I also see it applies to 2A.

Q. To 2A, thank you. A point was raised by Dame Rachel de Souza when she gave evidence, again, we don't need to bring it up on screen, but she was saying, in relation to risk assessments, "I can't see them, I have asked for them". Does Ofcom have power to share the full risk assessments with the Children's Commissioner?

A. So my understanding is that they are -- the risk assessments are subject to those disclosure restrictions which I mentioned before. They are set out in Section 393 of the Communications Act 2003. Within that, we have certain statutory disclosure gateways, which is quite normal for a regulator and in particular, those are sort of orientated around specified persons and specified functions and you sort of need a person with a function in order to be able to disclose.

My understanding is that the Children's Commissioner

currently isn't on that list. So the process we would need to go through would be the Children's Commissioner's office would need to formally request it from us and then the only gateway that I think -- that I understand would be relevant, would be the consent of the services. So they would need to ask us, we would then need to go to services and services would need to consent for us to disclose.

Q. But that doesn't -- forgive me, do finish.

A. My understanding is that we have not received a formal request from the Children's Commissioner on that basis and so we have not kind of gone through that consent exercise with services to this point.

Q. But even if you did, you would need to have the consent of the platforms, as you understand it?

A. That's my understanding.

Q. To the outsider, it may not sound an entirely desirable state of affairs, given the role and remit of the Children's Commissioner?

A. I can absolutely see that and I think the question of whether the list, in section -- or the two lists in Section 393 are in the right place. Like all legislation, it is kind of like a live question. So I think it is a valid point to raise.

Q. Thank you. Then paragraph 38, I'm afraid, there is

quite a long list of these, but you explain that:

"... Category 1 providers also have a number of ... additional duties, in relation to which we consulted on a draft code of practice ..."

In July of this year. So, just taking the headings, if I may, to start off with:

"(a) Duties relating to freedom of expression and privacy."

I'm not going to ask any more about that:

"(b) Duties relating to protecting news publisher content."

Important, but I'm not going to ask my more about that. Over the page, please OFC000088_0020:

"(c) Duties relating to protecting content of democratic importance and journalistic content."

Important, but again, I'm not going to ask about that. Then, at (d) we see:

"Duties relating to identity verification. Category 1 service providers must offer all adult users of their service the option to verify their identity, if identity verification is not required to access the service."

Now, more detail is given in relation to this. So should we understand that this provision for the large platforms -- and I think of them as social media

platforms in Category 1, I know there is a lot of technicality behind that -- but is this really a way of empowering adults to be able to be known, on those platforms, as somebody who has verified their identity, so that they can have more choice about only interacting with people who have verified their identities?

A. That's my understanding, yes.

Q. So, without requiring -- this isn't about requiring adults to verify. It is effectively an opt-in provision which presumably, leads to adults having greater confidence that, if they choose only to interact with people whose identities have been verified, they can do so?

A. Yes, and I think you can see it as unlocking some of the user empowerment duties that are set out in the following paragraph. So that ability to filter out and verify users is a way of effectively taking control of your experience a little bit more.

Q. Thank you and, again, you rightly predict that I would want to look at (e) in just a little more detail. So "a number of duties relating to user empowerment" at (e):

"These duties aim to bring about an enhanced level of choice and control for users over their online experience, and empower users to make informed decisions

about how they use online services:"

Now, again, there's a lot of detail that sits behind this.

But if one sees, first of all, could we have the top third of the screen expanded please. Under this, under (i):

"Providers must carry out an assessment of the incidence of and likelihood of adult users encountering suicide or self-harm content; eating disorder content; and abuse and hate content, where this content does not meet the threshold for illegal content."

Now, if one just pauses there, what's notable, it might be thought, about that list, is that's an additional duty into certain types of material and one can see that it has picked out certain elements of it. So "encountering suicide or self-harm content; eating disorder content", so some of these, I think, are taken from the primary priority content list, yes?

A. I agree.

Q. But it then says "abuse and hate content", which we saw was in the priority content list, yes?

A. Agreed.

Q. So some aspects have been taken from the priority content list, for this enhanced provision, but notably, not violent content material, yes?

A. Agreed.

Q. So, although in some case this is a point of detail, the outside observer may say that that is an example of violent content not being treated with the same level of seriousness, in that some aspects of priority content have been uplifted into this provision along with primary priority content but not violent content. Now, are we right in understanding, first of all, that that derives from the statutory provisions, or was that an OSA-type decision?

A. Yes, so I mean, maybe it is helpful just to come back to one of your earlier questions which was around the fate of "legal but harmful". Around the time that the legal but harmful provisions came out of the bill, my understanding is that these additional duties came in. So, effectively recognising the desire to deal with certain types of potentially legal but harmful content for adults, the settlement was effectively, rather than having a hard restriction, you would empower users to be able to sort of filter it out from their experience. So that's the kind of context for this provision.

As to why abuse and hate content, among several elements of priority content, was raised up in this way, I don't know.

Q. Thank you. But that is a statutory basis, not

an Ofcom -- this isn't guidance, this is derived from statute?

A. Correct, that is in statute, that list.

Q. I appreciate that it is difficult for you to comment on statutory provision, but we are a forward-looking phase of the Inquiry, which will need to look at statutory change.

On reflection, does that seem problematic to you?

A. I think you could certainly look again at that decision. For example, in light of the matters the Inquiry needs to consider, and see whether that is still the right decision. I don't have the other elements of priority content off the top of my head. There may be other elements that some stakeholders should say should also be upgraded in the same way but I could definitely see why you would highlight that as a potential problematic feature of the statutory scheme.

Q. Thank you. When will these provisions, the Category 1 additional duties, start to be in force?

A. So, I believe that -- so, having consulted on them this year, I believe that we are aiming to publish our statement in quarter 1 of next year. That would then entail the codes being laid in Parliament and I can't remember, I think it is around 40 days after that, they would come into force. So that would be the point at

which the duties therein would be enforceable by us.
Q. All right, but there's nothing that Ofcom can do in relation to violent content being absent in that list at (i) because it is a statutory basis?
A. Not as far as I'm aware.
Q. Thank you. Just very briefly, we see the others:
"(ii) A duty to include features that adult users may use or apply to increase their control over the specified types of content outlined above."
And (iii):
"A duty to include a feature which UK adult users may use or apply if they wish to filter out the non-verified users ..."
So I think that's the benefit of verified users that we looked at a moment ago, is that right?
A. That is right.
Q. Just zoom out. Thank you, and just go over the page OFC000088_0022, "are consulting on" that and then (f) is:
"Duties relating to terms of service, reporting [or] complaints. Providers must ensure that their terms of service are clear and accessible, and must use proportionate systems and processes to enforce their terms of service consistently."
So I think that's the last of the provisions that

are specifically on the Category 1 services, is that right?
A. That's correct.
MR MOSS: Sir, I am about to turn to a new topic and I wonder if that's an appropriate moment for our second 10-minute break?
SIR ADRIAN FULFORD: I think it is. We will sit again at 12.05 pm.
(11.56 am)
(A short break)
(12.05 pm)
SIR ADRIAN FULFORD: Yes, Mr Moss.
MR MOSS: Thank you, sir. Mr Breeze, I want to turn to detection and enforcement next, please. If we go back to your statement at page 26 OFC000088_0026, paragraph 50, please.
In this section on how Ofcom drives change and compliance, you say:
"In making decisions about where to direct our resources, we need to strike a balance between tackling the most widespread harms, such as fraud, and addressing the less frequent but even more severe harms, like child sexual abuse and grooming."
And you say:
"In 2026-27, as well as continuing to press hard on

the protection of children, we are focusing effort on countering terrorism and illegal hate, and improving women's and girls' safety online."
Now, I appreciate that this resonates with something that I have already raised with you, in terms of the strategic priorities, but one doesn't see there any specific emphasis being given to violent content?
A. Correct.
Q. When will the 2027-2028 priorities be set?
A. I don't know the answer to that question but we can follow up.
Q. In light of the evidence to the Inquiry and the issues being examined, can you give any assurance as to whether the risks from violent material will be given the most careful consideration as a priority for 2027-28?
A. I think I can assure you that we will consider our priorities in the round, including violent content, but I do not think I am in a position to assure you --
Q. No, I could not ask you to predict that.
A. -- predict that.
Q. But you understand why I ask, in light of the apparent absence of that in the current strategic priorities?
A. I do and I would say, you know, I think this is something we have already touched on, both of us this morning, is this regime does put you in this very

difficult position of trying to prioritise the breadth of it but also, as I say in this paragraph, the differential harms. Do you go for high volume, relatively lower harms, recognising that, you know, fraud can also ruin people's lives.
Q. Yes, of course.
A. It does put you in a very difficult position when trying to prioritise, I think.
Q. But the harms from extremely violent material and gore, some of them are likely to be unseen harms, aren't they? I mean, you will have mass casualty attacks that may be influenced by them and they are mercifully rare, although catastrophically awful when they happen. But what the mass consumption may be doing, in terms of children's mental health, may not be as readily seen as the fraudulent cases where people have money taken from their accounts?
A. Agreed.
Q. In paragraph 51, same page as we have on screen, you deal with the information gathering powers and if we just scroll down a little bit, I think you set out the list, which starts over the page OFC000088_0027. We probably only need to go to the headings here, so:
"Power to require information from certain persons by way of a statutory notice ....

"As part of an official notice, Ofcom may require the recipient to generate information."

Then, at (c):

"Power to appoint a skilled person, or to require the provider of a service to appoint a skilled person to provide a report."

Could we have on screen HOM000254, please.

Could we just have the top half, or top third of the page. Just get your bearings on this -- we put this in your evidence proposal, just get the context again. It is the 28 January letter coming from the Counter Terrorism Policing, National Police Chiefs' Council and the NCA to the Home Secretary, in the wake of the conviction and sentencing of AR.

And the victims and survivors draw attention, within this letter, to page 5 HOM000254_0005, paragraph 5 within the annex, in which it is said there:

"Government accelerating the implementation of Online Safety Act enforcement, and ensuring its impact is felt ..."

They say:

"We need to push Ofcom to enforce as firmly as the OSA allows (for example, they have the power to access the tech companies' algorithms but have not yet used it) ..."

And they also say:

"... and for DSIT to consider where new legislation is needed."

Now, I appreciate -- and you must say where your statutory confidentiality bites and I'm not going to ask you about any individual platform -- but has Ofcom yet required, for example, a skilled persons' report to look at providers' algorithms?

A. We haven't.

Q. Is there a reason for that?

A. I think there are sort of two points I would make. One is the sort of -- kind of more fundamental regulatory point, which is I don't think we have had the right case yet to use them. The second would be, I think, this is a really novel -- this isn't a novel power, as other regulators have skilled persons' report powers, but it is quite a novel area and I think there is a real question about who the right skilled persons might be and what the right moment to sort of deploy them should be.

So, in the last couple of months, we have opened a market engagement exercise, with the potential population of skilled persons, to understand what skills are out there, to ensure that, you know, if and when we do this, (1) we don't have to do a massive procurement

exercise every time. So the idea would be to get some sort of panel that we could call on, and (2) to really understand who's out there and what they can do. Because it is not like financial services or audit, where there is a very established industry of skilled persons ready to go. We really need to understand to what extent those skills are actually out there.

Q. Thank you. We may come back to this a little bit later in a different context but the Inquiry should understand, should it, that when Ofcom has written formally raising concerns about ineffective age assurance -- we will come to the detail of this -- and whether the algorithms are sufficiently controlled or exposing children to risk, at the moment, that's being done on the basis of what surveys of children and parents have shown about what is happening, rather than using these powers to actually require technical examination of how the algorithms are actually working?

A. Yes, that's right.

Q. Thank you. That can come down from the screen. In terms of enforcement powers, so we have looked at information gathering powers, page 28 OFC000088_0028, paragraph 52; you set out the approach to enforcement in general terms.

So the powers to initiate investigations and impose

compliance requirements in confirmation decisions, where you are satisfied of breaches. For example, if satisfied there is a failure to comply with age assurance duties, Ofcom would have a power to issue a confirmation decision directing a service to take appropriate steps to implement highly effective age assurance and you give an example of confirmation decision issued following an investigation of a particular company in relation to having -- lacks ability to encounter pornographic material.

So that's the way in which it can be ratcheted up and we will come to some higher-end powers in a moment as well. But, I think beyond those measures, which are really looking at the formal enforcement, is this right, that generally speaking, certainly for the major platforms, you would be starting, before then, in terms of liaison at working level with them?

A. Yes, that's right. So that's what we describe as our supervisory approach.

Q. Thank you. Sir, for your note, the enforcement guidance is OFC000028.

SIR ADRIAN FULFORD: That's very helpful.

MR MOSS: In relation to the supervisory aspects, you come to that a little later in your statement, if we just look at page 29 OFC000088_0029, paragraph 56.

You -- perhaps starting at the end of this paragraph, if I may, so that it is not taken out of context, you say that platforms that are supervised, that doesn't, of itself, mean that the firm is not compliant with the OSA, is that right?

A. Correct.

Q. So how do you choose which platforms to supervise? Is it partly to do with their size and scale?

A. Yes. I would say size and then risk, would be the two primary ways that we would think about it. And much as you might see in financial services, you know, which is the kind of key supervisory analogy, there are some very large services that we would supervise on a one-to-one basis and there are some that we would perhaps group as a grouping of services of concern.

Q. Thank you. So for the -- they are all household names and I'm not going to single any of them out, but in terms of the very large social media companies, it would be standard for them to have one-to-one supervision, not because of any failures of compliance -- which isn't to say there won't be failures of compliance -- but just because of their reach and their scale, it is appropriate to have a one-to-one supervisory relationship, yes?

A. Exactly.

Q. Do you publish those with whom you have that relationship?

A. We don't. I believe we have plans to do so but I am not sure when.

Q. Thank you. If you could keep the Inquiry updated of that. Particularly if there is any decision positively to do so, that would be helpful.

If we look at page 29, paragraph 57, right at the bottom of the page there. You say:

"Supervision enables Ofcom to move beyond a purely reactive and enforcement-led model and to regulate in a way that is effective, proportionate, and responsive to emerging risks -- and can get to outcomes quicker."

Why do you say "can get to outcomes quicker"?

A. I think primarily because enforcement is slow. An enforcement investigation -- certainly in my experience -- in all regulated sectors, typically takes a long time and demands a high degree of resource, particularly when you are talking about the kind of sanctions that we are able to impose under the Online Safety Act, which are potentially very large. We obviously have a duty to respect the Article 6 right to a fair trial in respect of the services we investigate and so typically, you would expect a lot of investigations, particularly into larger and more

complex services, to take some time.

I think what we -- our hypothesis, which I think is being borne out, was that supervision would allow us to secure changes without having to go through such a lengthy and resource-intensive process.

Q. Thank you. I'm going to avoid, in my next question, naming any platforms, deliberately. But you say here that the supervisory relationship enables early responsive action to emerging risks. The Inquiry has seen a significant audit trail of research and commentary from a large body of what might be thought of as responsible community organisations, or researchers in the area of terrorism and violence, flagging that, in relation to Com network risks, an identifiable number of -- an identifiable group of platforms are particularly favoured by those networks.

Has Ofcom taken action in relation to that by taking up supervisory-type conduct with those platforms who have been extensively named as being favoured by Com network to predate on children?

A. We certainly have supervisory relationships with those types of platforms. When and whether we have engaged with them in relation to Com networks specifically, I sort of come back to my previous answer around the sort of grooming risk being the kind of primary MO of

those groups and so that is something we are very focused on with those platforms, where we see a higher risk of grooming.

Q. I'm not going to go to the tripartite division of how the NCA looks at Com networks, but one of those is Com networks exploiting -- sadly, it is often children doing the exploiting -- children or young people around the areas of violence and violence fixation, with a desire to encourage real-world, offline violence.

And you will be familiar with the recent activity in Poland, which may be thought to have some resonance with that, not necessarily of an organised grouping but in terms of the number of schools that had to have disruptive action taken to find knives, without going into more detail as to what may or may not have happened in Poland.

Do you think that there is a strong case for that supervisory relationship not to be focusing just on grooming aspects of that, but to also look at the way in which young people are being brought onto those platforms by invitation and then are involved in closed groups, where violent material may then be shared and may be less open to moderation?

A. Yes, so I suppose I would say two things to that. (1) when I refer to grooming in this context, I am talking

about grooming in the widest possible sense, so not only for child sexual abuse purposes. I think we recognise, in our register of risks, there are other reasons why people may be groomed, one of which is around these egregious harms, in terms of particularly self-harm but violence more generally.

I think what you are -- one thing you are sort of putting your finger on there, which is a real challenge for us in the online safety context, is this cross-platform problem. So the way the Act is set up is around particular services and their duties to protect users on the service and what we see in this activity by Com groups, is a tendency to move people from -- having groomed them, from moving them from one to another.

Q. You go from one of the larger, standard platforms to moving to other platforms that have an ability to have greater levels of secrecy?

A. Yes.

Q. Thank you. But is that something which is being given careful consideration and not just consideration, action -- again, I'm not asking about any platform because of your duties of confidentiality -- but is that being both carefully thought about and then put into action, those risks in relation to violent content and being groomed for offline violence?

A. I couldn't say with certainty what's happening right now. I would say it is something we carefully consider, kind of in the round, but in terms of action, I think we would have to follow up with you afterwards.

Q. Thank you. That would be helpful.

Taking it from your statement. If we look at page 31 OFC000088_0031, paragraph 60 to 62. You have mentioned work that's been done in relation to violent content and gore services. So:

"... a programme of engagement ..."

Paragraph 61:

"... with specific gore services ..."

Please don't mention any of them, I know that you won't:

" ... since October 2025 ... greater compliance with the duties ..."

Has been achieved. You say that you have contacted eight of the gore services most visited by UK users. Five of those now geo-block IP addresses "with no promotion of circumvention measures". So that is the risk that you get geo-blocked and then you have something that says: by the way, if you want to use a VPN?

A. Yes.

Q. "Two services have implemented age assurance, which

[you] consider is likely to be in line with Ofcom's guidance ..."

You said, at the time of your first statement:

"We are still determining appropriate next steps for the final service's compliance ..."

Is there any update on that?

A. I don't have an update on that, no.

Q. Could you provide that in writing?

A. Yes.

Q. And if -- because it is single service, if that's confidential, please let us know that it is confidential. You also say:

"We plan to engage with 7 more services as a priority, to cover the 15 sites most used by UK users."

So, you have taken action on eight, there are seven still to go, is there any update on that?

A. I don't have that update on that.

Q. Again, could you please provide that update in writing?

A. Yes.

Q. Mr Emmett gave evidence about this in terms of, I think, a million UK users in a single month for lead gore sites. The use of these sites is extensive and profoundly concerning, would you agree?

A. Yes.

Q. From your knowledge of it, do you have concerns about their impact on adults, as well as children?

A. Yes.

Q. Presumably, that sort of material should be high on the list, in terms of extreme violent content material that may be made unlawful, in the provisions for the King's speech?

A. I would think so.

Q. Thank you. More broadly, page 30 OFC000088_0030, paragraph 58. I'm not going to go through this all but you have set out some of the compliance headlines of what's been achieved.

And you explain that some of that may be done through warning letters. So we will come to some of the detail of this later on, but you do set out in terms of what's been done to the letter to several platforms, March 2026; the work with X at (b); and a period of compliance for mediation with Snap, and concerns about illegal content risk in lieu of formal investigation, yes?

A. Yes, and I would add an update in relation to Snap, which was our announcement in the last week or so, that they have agreed to take forward some of our recommended anti-grooming measures and put in place highly effective age assurance by the end of the year.

Q. Thank you. There was some challenge to Ofcom's approach and its preparedness to exercise its powers in our seminars. So, without turning up the transcripts, she referred to Ofcom's "constitutional bias against intervention and towards minimum intervention".

She warned about the fact that the service provider is under no obligation to change its behaviour absent that sort of action. And that was in her presentation and when she gave her seminar, she said that, in terms of enforcement, Ofcom's preference is to try to bring people to the table and to get buy-in, rather than to go straight out with a big stick. So this has led to some concern about transparency as to what it is doing and where the results actually are.

What's your response to the Professor's criticisms there?

A. Was that Professor Woods?

Q. Yes.

A. So there are a few points there, so you might, please, come back if I don't answer them all.

I mean, starting with the constitutional bias against intervention. I don't think that's necessarily -- I don't think that is an incorrect categorisation of where we are, as an organisation generally. So it is one of our published regulatory

principles, that we have a bias against intervention but also, that we will act promptly where necessary.

I think it is also set out in the statutory scheme that governs us, in addition to our sort of general free-standing right, in terms of having to comply with human rights law, that we need to act proportionately and I think one of the elements of acting proportionately as a public body is not intervening either where you don't need to or more than you need to.

So, I wouldn't accept though that that means we don't intervene. If the implication is that we don't intervene, I would not say that that's right. In terms of enforcement, I think we have shown that we are very ready to use our powers and have actually undertaken a significant programme of enforcement since the various duties in the Act became live.

So we have had 40 investigations into 100 services. I think where some of the criticism comes out is that, in the early stage of the regime, much of that was focused on the powers as they came live, so there was a certain focus on, for example, age assurance on pornography. I think there is also a kind of practical issue there, which is that that is one of the few real bright-line tests in the Act. So if you are thinking about where do we use the stick, to put it in her terms,

that's an obvious candidate.

I think what you are seeing now, and I think what you are likely to continue to see, is that we are tackling the big services. We have open investigations into X, Telegram, TikTok, and most recently, Meta, in terms of their compliance with their duties under the Act.

So, any kind of implication, which I have certainly heard, that we are not prepared to tackle the bigger services, I would just firmly disagree with that.

I think coming back to that point around -- you know, we have got finite resources. Resources in relation to enforcement investigations are scarce and are quickly kind of -- they quickly dry up if you take a lot of cases. So I say we make no apologies for the fact that if we think we can drive an outcome without resorting to those powers, we will absolutely do it because in the end what we are interested in is outcomes not outputs.

Q. Thank you. It is tolerably facile to ask about resources in the sense of: would you like more resources? Answer: yes.

When you see the scale of what Ofcom is meant to regulate in the OSA, are the resources that you currently have sufficient to render it a fit for purpose

regulator of the OSA or not?

A. It is a good question and one we obviously think about all the time in terms of we have got a finite budget and where should we put that budget. I think, on our side, it comes back to that question of how do we prioritise on this very broad waterfront that we have got and if you try and move that waterfront forwards, across the whole thing, you are going to make very incremental progress, versus focusing your efforts for a period of time on something and trying to make a bigger chunk of progress in that area, which will naturally lead you to having a jagged front of activity rather than a flat one.

In the end, it comes down to a question of political economy for Government who sets our budget, which is: what's the expectation of what this regime is supposed to drive and how many people would you need to drive that? So I think on our side, it comes down to priorities and on the other side, it comes down to what is the expectation of what you want to do and therefore what resources do you need to make that happen.

Q. I follow, and that is a careful answer, in all senses, perhaps, of the word. I mean, do you have a sense, doing the job you do, with your responsibilities, that the current level of resourcing, in some senses, enables

you to scratch the surface but you are worried that you are not able to do more, because resources are not sufficient? Is your internal risk register sounding alarms like that or not?

A. I wouldn't say across the board that risk register is sounding. I think where it is challenging on a day-to-day basis is having to make those hard choices. You know, I said the Government sets our budget but we also propose our Government to budget. So we say: within the bounds of what we are trying to achieve here, here is what we think we need. Undeniably, there are some challenging areas in terms of particular types of expertise. If you think about technologists, in particular, but also lawyers with the specific experience that you need in what, as we have seen this morning, is quite a complicated legal framework, dealing with well-resourced, deep-pocketed companies, I think those are the areas where we found resourcing particularly challenging.

But in the end, as I said, it comes back to a question of economy, which is: based on the resources we have got, we are making the choices we make. But I would not say there is a feeling of kind of hopelessness that we can't possibly drive the changes we want to change -- drive, with the resources we have got.

Q. Thank you. We will note, without going to it at the moment, powers in relation to recommender systems and enforcement on that because we will come back to that as a separate topic. In terms of law enforcement reporting, could we look at page 53 OFC000088_0053 paragraph 134 of your statement, you say:

"Ofcom does not have the power to recommend measures in order to help third parties such as law enforcement to carry out their functions, nor to secure objectives which are solely about a user's offline conduct."

We know, in relation to child sexual abuse material, that there is a reporting requirement for material of that kind. Appreciating that Ofcom doesn't have the power at the moment to recommend that, there are, as we have seen, these priority offences which are given prominence in the statutory framework. So there's already a threshold. Is there potential for reporting requirements, do you think, to be introduced so that the platforms do have obligations to report criminal offending that's taking place on their platforms?

A. In principle I don't see why not. I think the challenges are more likely to be practical and logistical.

Q. So you say, at paragraph 137, that -- thinking about that potential change, you say:

"We do not anticipate that Ofcom would currently be well placed to facilitate a broader information sharing regime between online services and law enforcement ..."

Given that you don't, yourselves, have a specific role in law enforcement or safeguarding.

I just wonder whether that's entirely right because you wouldn't be the vehicle for the reporting itself, would you, you would be looking at whether they have systems in place to do that? So it wouldn't be out of all shape with your current regulatory tasks?

A. No, I think that's a fair comment and an important nuance. I think if you were to see other reporting regimes sort of modelled on the CSCA reporting regime and that were to be an enforceable requirement, then we could certainly be the enforcing authority for that. I think what I was trying to get at in this paragraph is more the sense of: could we become a clearing house to that information?

Q. Yes, and I think the clear answer to the latter is: no.

A. Yes.

Q. The public policy challenge, I suppose, is this. Outside of child sexual abuse material, which nobody could disagree with as a special case, is how much further, how many other offences should that extend to. Is there ongoing debate about that between Ofcom and

DCMS and other -- I hate the phrase -- Government stakeholders, or at the moment is the settlement it's CSAM-type material and we all know why that's a special case; that issue is sealed?

A. As far as I'm aware. We could certainly take that away and see whether we are aware of it. My expectation would be that that conversation would probably be taking place more between law enforcement, Home Office and DCMS, than for us to be involved as the ultimate enforcer of it.

That's why I say it would come back to those practical challenges around not only a CSAM special case, for reasons that are obvious, it is also relatively easy to define and it's quite actionable. So the question of how you define an offence to be reportable and then: what would law enforcement do with it once they have got it? I think are important questions that you would need to address.

Q. Thank you. Just in terms of blocking and de-listing websites, page 57 OFC000088_0057, paragraph 150. You say that your powers of enforcement powers -- that there is a provision for business disruption measures. So this is the aspect where I said that I would come back to the higher-end powers. Have you yet used those business disruption measures powers?

A. We haven't.
Q. Is there a reason for that?
A. Again, I would say ultimately, it comes back to whether we have had the right case to use them. I think we published an update earlier this year on specifically why we hadn't used them, in relation to a case concerning a suicide forum.
Q. Thank you. Just give us the briefest summary of what they would look like in practice if you did use them and how they would -- without having a take-down power, how they would help to limit access to an offending platform?
A. Yes, so that's absolutely right. It's ultimately about access, either I think for users to services, so effectively disrupting the kind of internet pathway that you would go on, whether that's via orders on internet providers and kind of related services, or, as I understand it, ancillary services which would be the access of the service to other services they depend on, for example, payment providers, in order to run their business.
Q. So you would be taking quite direct, combative action to mean that they -- their system of support on the internet would be disrupted?
A. That's right.

Q. I follow. In 151, towards the bottom of the screen, you explain, quite rightly, that these measures would not be designed to block access to internet content for individuals. And you say:

"Given there is only a partial overlap between the duties in the OSA and the kinds of risks posed by, or exacerbated by online activity of, VFIs, or harmful content that [it] might make it more likely an individual becomes a VFI, it is therefore unlikely that these powers could have a significant impact in this area."

That may be right on one level, but if you had a platform who was in persistent breach of its duty to restrict the risk of children accessing violent material, then, the high-level power of BDMs could be useful, couldn't it?
A. Yes.
Q. So one shouldn't see that as being irrelevant, particularly for persistent breaches of violent material obligations?
A. No, certainly and it wasn't my intention to suggest they would be irrelevant. I think it was about the relative degree of impact that it might have.
Q. Thank you. Could I just turn next to some concerns that have been expressed about the robustness and efficacy

and speed of enforcement in this area? So Mr Comerford, in his evidence from the ISD, in relation to whether the problem lies in enforcement rather than gaps in the platforms' policies, he said that, on mainstream platforms, it really is a matter of enforcing these more effectively. So he was pointing to the need to take action in that area, by inference suggesting that it hadn't happened yet, referring to violent material's availability on platforms. What do you say about that?
A. I think as I said before, at a high level, I would certainly push back on the suggestion that we are not using our enforcement powers or that we are somehow shy of using them. I think the evidence is there that we are using them. I think specifically, in relation to violence, I think it is a fair challenge as to whether we have used them in that arena to date.
Q. Thank you. Back to Professor Woods, again, without bringing up the transcripts, partly because you have been put on notice of these, I think. She said, in her seminar, that:

"There is a question about the speed of investigations."

She said Ofcom prides itself on being an evidence-based regulator. She said, in principle, that is a good thing. We don't want people making stuff

up but sometimes it feels like it takes a while for an investigation to come to fruition. There is a stage process set out in the Act, which envisages the start of an investigation, the gathering of information, the giving of an interim notice, the response of a service provider to that notice, some further information gathering before finally, you will get to a decision. And it is only at the point of decision, at the moment, that Ofcom has any enforcement powers. It can tell providers to take steps but only at that end point.

Now, that may, in part, be a criticism of the design rather than of Ofcom's performance but again, what do you say about that, that it is a laborious, staged process that you have to go through, with enforcement powers only at the end?
A. I mean, I think that is a fair criticism of regulatory enforcement generally. If you are looking to optimise for speed, regulatory enforcement is not the way to go. I think I would say that she is right, that we do pride ourselves on being an evidence-based regulator and we also pride ourselves on giving services due process and really looking carefully into the issues before we sort of take them to an enforcement decision and issue a fine.

So I think, depending on your point of view, you can

say that's a feature or a bug. I think that is part of the reason, as I said, that we do have our supervisory approach as well because we recognise that regulatory enforcement, if you are looking for a quick answer, is not usually the way to go.

Now, are we trying to speed our regulatory enforcement up as much as we can? Absolutely, we are.

Q. Thank you. Another aspect of this that's emerged from our evidence was the impact of so-called "lawfare". So Professor Woods said that Ofcom is operating in a very litigious environment. The big companies that have formed in this area, GDPR and Digital Services Act, they are very heavily litigated and Ofcom is already receiving judicial review actions in relation to its use of information gathering powers.

I'm not going to ask you to comment on any live judicial reviews, obviously.

Mr Hadley from Tech Against Terrorism talked about lawfare used by platforms. Without going into any live litigation, is lawfare making Ofcom wary of pursuing enforcement action?

A. I wouldn't -- it sort of depends what you mean by "wary". I certainly don't think it would put us off taking enforcement action. When I think about my time in the telecom space, Ofcom had a reputation --

a deserved reputation for taking cases and for making decisions that were, at that time, very heavily appealed by stakeholders in the industry and I think that is still a really important part of our organisational DNA. Now, the reason I sort of slightly caveat that in terms of wariness is, you know, you don't enter into a decision lightly to do something that you know has the potential to be judicially reviewed. So I think I would say we are prudent but I would not say it is putting us off in any way.

Q. You talked about the need for specialism within your team at Ofcom and sadly, some might think, you talked about the need for lawyers in that context. Is the threat of, or bringing of, these sorts of actions by the big tech companies a heavy call on the team's resources?

A. Yes. It is certainly an opportunity cost to things that they could be doing.

Q. So the lawyers who might perhaps want to be focusing on enforcement cases and investigations and advising on them, instead, are focusing on defending judicial reviews?

A. Absolutely and not just the lawyers but the other resources that they need to call on. As we know, a court case isn't just about lawyers, at the end of the day.

Q. Yes, it is all the staff time that's taken up by it.

Could we have on screen DSIT000141, please. This is a document which we will have to ask DCMS about for further information but it is headed:

"Further advice on stronger enforcement measures by Ofcom."

One sees, it says at the top:

"Issue to solve.

"How can we ensure Ofcom's enforcement of a ban, and of the OSA more widely, is effective and robust?"

The "Policy context" was:

"Ofcom's enforcement of the OSA is an increasing focus across government, parliamentarians and stakeholders, with general dissatisfaction with Ofcom's use of the full range of its enforcement powers and the pace of its investigations."

Driven by three factors:

"Prioritisation. Ofcom must prioritise enforcement activity across a very large set of in-scope services ..."

We have talked about that challenge:

"Cultural challenges including a cautious enforcement posture including issues and with pace and willingness to test the full extent of its enforcement powers."

And:

"Legislative frictions [which] limit Ofcom's ability in some areas to intervene quickly in fast-moving or emerging issues where the harm is acute, but evidence of a breach is still developing."

What do you say about both what's on the page and the inference in what may lie behind them?

A. Well, I don't find it surprising. I think it is very much a live part of the debate around our work and the Online Safety Act, which is this perception that we are cautious and risk averse, particularly as regards enforcement. It is not something I would personally agree with but I recognise that it is a perception that is relatively widespread and is indicated as one of the factors that DCMS has identified here.

Q. Thank you. Then "Options":

"Providing additional resource to scale up Ofcom's enforcement function ..."

Option 2:

"Request Ofcom submit an enforcement strategy to parliament ..."

We have had to apply a redaction to option 3, so we won't go into that, if you will forgive me. But if we go to page 4 DSIT000141_0004, we see the recommendations were to explore options 1 and 2. That is to say extra

funding and measures to increase transparency, with a view to announcing these as part of the 15 June announcement. Do you know what's happened in relation to those recommendations?

A. So, in relation to funding, certainly the 15 June announcement by the Secretary of State acknowledged that -- so, because this is in the context of the social media restrictions, acknowledged that new work meant new funding. So that -- my understanding is that is progressing through the normal channels, as to how new funding is achieved.

Measures to increase transparency; I believe there is a question in the evidence proposal around the operating model review that our new chair was asked to undertake. So my understanding is that this is wrapped into that exercise.

Q. Thank you. Two further areas of concern in this area, please, which are interlinked. Firstly, this. Looking at the totality of the exhibits that Ofcom has very helpfully provided, it may be thought to show that a lot of the work on the violent material risks, in particular, have taken the form of, helpfully, large-scale surveys of children and families, as to how they encounter harms and then the impact of those harms.

I could take you to examples but I don't think

I need to. But we know that that is what has led to the call for action to be taken by platforms in four areas. Do you follow?

A. Yes.

Q. What we struggle to see in Ofcom's research and exhibits is -- and please forgive me for putting it in this way -- we have put a bunch of highly techy people in front of the platforms, we have created false children's accounts legitimately to run the research, and this is what we have found, objectively speaking, about the ease of access to violent material. We have then reported that material to the platforms and this is what we have found about their willingness to take the material down and their speed of doing it.

Is that impression fair, that that sort of work has tended not yet to be done?

A. I wouldn't said that it's not been done but I would certainly accept that, as a proportion of our work, you know, the work on kind of research into outcomes and experiences, you know, to date has been the large proportion of it. I think we are very proud of that work and it is difficult work to do well, because of the challenges in doing research into children, but I think it is fair to say that we have not brought out some of the other activities, like for example, the avatars

research which would be the sort of thing that you are talking about. You know, that is stuff that we are doing and looking to increase doing. But I don't think that we have -- I don't think it comes out as sort of a major plank of our activity, in the same way as the research has.

Q. Because outside observers may say: well, actually, that's the best evidence -- not that surveying of children is unimportant -- but that's the best objective evidence. So Mr Hadley spoke about this in the terrorism context -- I think he also had in mind extreme violent material -- that Tech Against Terrorism were going to devise an index, effectively, of discoverability, which would seek, objectively, to test how quickly you could come across that material. And the difficult question that I have for Ofcom, is: why aren't you doing that?

A. Yes, so I think the answer is that we are doing avatar research and we are doing other innovative forms of research, for example, the work we did on search APIs, I think you picked out in your evidence proposal, where we are looking to marry that research work on outcomes with that more kind of granular investigation of what services are doing and I suppose what the outputs of what they do are. Perhaps it is something we can follow

up with you around kind of trying to flesh that out a bit more.

Q. Does Ofcom, itself, have a sense -- again, I'm deliberately not asking you about any individual platform -- but do the specialists in Ofcom who are regulating this area, do you have a sense of how easy it is, on different platforms -- so a sense of the relative risk -- for a child's account to access inappropriately violent material? Does the work so far allow you to gradate that, to say: it is very easy to do that on platform Abba, but platform Zulu is better?

A. I think only in the sense of drawing that as a conclusion from the outcomes research, in terms of you know, where are children coming across content, not in the sense of setting up dummy accounts, and saying: platform A is significantly worse than platform B, that I'm aware of.

Q. Again, do you think that that is an area that requires radical change, in the sense that that's work that is crying out to be done? I mean, a parent might well want to see -- dare I use the phrase -- a league table. To say: I'm not an expert in this area, I want to see objective evidence of which platforms are the best and the worst for excluding this sort of material for my kid. And a problem is that, at the moment, they can't

do that.
A. I think that would be a fair comment and certainly, a fair -- something that would be fair for parents to want to see.
Q. The linked area in relation to that, again, you have rightly foreshadowed, which is the difficulty for researchers to do that. So if we just look at your witness statement at page 25 OFC000088_0025 and it is paragraph 48, so:
"Other potential future legislative changes ..."
We will come back to (a) later on, but if we just go over the page OFC000088_0026, having noted the way it is introduced:
"A new researcher access regime. Government has power to make regulations to establish new requirements on providers of regulated services to provide information to independent researchers into the carrying out of research into online safety matters. As part of our duties under the OSA, Ofcom published a report in July 2025 looking into the current challenges for UK researchers accessing online safety data and how access could be improved."
So this was something, again, that Mr Hadley touched upon, that for Tech Against Terrorism, it is very, very difficult for them to do the second part of that task,

how quickly do they take it down, because of the API restrictions. So they can't amass an automated study, how quickly material that they have identified is taken down, because effectively the platforms -- to my lay understanding -- think they are a bot and don't let them scrape that information and it is dependent upon the API permissions. Do you recognise that as a problem?
A. Yes, absolutely. And I think what we have seen over time is a trend where platforms have become less willing to make those APIs available.
Q. So it is heading in the wrong direction?
A. Yes, and I think it is part of what we said on our report and I think it is now with Government and it is a matter for Government as to how they bring that forward.
Q. Again, we will pick this up next week, but if we look at that report, it is OFC000062 and page 8 OFC000062_0008 of this, just to introduce it, so the overview:
"Access to high-quality information about the digital ecosystem is vital for empowering people with greater knowledge about online safety matters."
Then page 9 OFC000062_0009:
"Achieving greater researcher access."
And effectively, three options are set out there: "Clarify existing legal rules"; "Create new duties,

enforced by a backstop regulator"; "Enable and manage access via independent intermediary".
I'm not going to go to the detail now, but for action in this area, to tackle when Mr Hadley was talking about.
Could we just navigate, please, to paragraph 7.5. Try page 9, forgive me, I may have a false reference.
Sorry, try page 74 OFC000062_0074. Maybe it was a correct reference. Yes, thank you.
So paragraph 7.5:
"In response to constraints identified through our consultation, we have presented three policy options that could form the basis of a new researcher access regime, should the UK Government decide to establish one through further legislation."
Now, I appreciate that this is statutory action so it is beyond Ofcom's powers and it is for others and we will pick this up with others, but this is, forgive me, quite vague and looking to the future: this is what might happen if Government decides to do this.
A. Yes.
Q. As I have understood your evidence, this sits, at the moment, with others. Is this being prioritised? Because the evidence to the Inquiry is it is a real problem in holding the platforms to account.

A. So, I mean, I can say that we are continuing to talk to Government about it because if you talk about a backstop regulator in this space, the most likely candidate is us and we obviously delivered this report, which I think the Act required us to do, to advise them on what a researcher access regime could look like. Exactly where it sits in Government's priorities, I could not tell you.
MR MOSS: Thank you.
Sir, I note the time and our stenographer has been tolerant yet again. Could we break there for lunch and could I suggest 1.50 pm, if that's convenient?
SIR ADRIAN FULFORD: It certainly is.
(1.03 pm)
(The short adjournment)
(1.49 pm)
SIR ADRIAN FULFORD: Yes, Mr Moss.
MR MOSS: Thank you, sir. So, Mr Breeze, I said that I would come back to some points about the limits of Ofcom's powers and that's our next topic. Three subtopics within this: proactive technology; the public/private divide; and VPNs.
Can we start with proactive technology and page 48 OFC000088_0048, paragraph 118, right at the bottom of the page. You say that:

"In this section of [your] statement, [you will] use the term 'proactive technology' as defined in section 231 of the [Act]."

You give a helpful summary of that over the page OFC000088_0049. Three features, so:

"Content identification technology: technology, such as algorithms, keyword matching, image matching or image classification ...

"User profiling technology: technology that analyses relevant content, user data or metadata for the purposes of building a profile of a user to assess characteristics such as age ..."

Then:

"Behaviour identification technology: technology that analyses relevant content, user data or metadata to assess a user's online behaviour or patterns of online behaviour (for example, to assess whether a user may be involved in, or be the victim of, illegal activity)."

You refer to the fact that those categories include rules-based software such as hash matching, about which we have heard quite a bit of evidence, but also keyword detection, algorithmic systems like automated content classifiers and signal detection technologies.

Then, in paragraph 120, you say that:

"In [your] Additional Safety Measures Consultation,

[you] noted the important role played by automated technologies in moderating content at scale."

You note that:

"In ... August 2023 to October 2023 ... 61% of content moderation decisions were fully automated by the largest providers."

We have seen the various platforms' graphs in relation to that and I think you will agree, in general terms, the position is probably that that figure would now be very much higher?

A. Yes, I agree.

Q. Thank you. So that's the introduction in your statement. If we can look at the limitations in this area, it is page 50 OFC000088_0050, paragraph 125.

You say that the OSA places limitations:

"... on Ofcom's powers to require or recommend providers make use of proactive technology to fulfil their obligations ..."

Then there is a sentence that reads:

"Insofar as use of proactive technology by providers of regulated services in accordance with duties in the OSA could assist the detection of VFIs or content that may exacerbate risks or harms associated with them, these would constrain Ofcom's power to recommend or require such measures to be taken."

Then in 126, you said:

"Ofcom does have power to recommend in Codes of Practice measures describing the use of proactive technology as a way of complying with duties in the OSA, but only the illegal content and children's safety duties and the fraudulent advertising duties."

So, against that background, can you just tell us what the significance is, as you understand it, on the limitations of proactive technology as set out in the Act?

A. So in terms of what the limitations are?

Q. Yes, and why that's important.

A. Certainly. I think there are probably two main categories and I think they ultimately come back to that same sort of source, of balancing safety versus other objectives like privacy and freedom of expression. So one limitation -- one of the key limitations would be that we can only recommend these technologies where we are satisfied that the technology is sufficiently accurate, effective and free from bias. And so that is, I think, recognising the potential for, for example, a particularly inaccurate piece of technology to throw up a high degree of false positives with potentially negative impacts on a user.

Then I suppose, in a way conceptually linked to

that, is the limitation on our ability to recommend it in relation to private communications. So we can only recommend these in relation to content that is communicated on the sort of -- what the industry would call the public surfaces of their services.

Q. Thank you. So, taking hash matching as an example; even in relation to that and the evils at which it is currently targeted, you have to be satisfied, before you can recommend its use, that it is not going to impact adversely on innocent and appropriate postings in a way that would disproportionately affect freedom of speech?

A. That's right. I suppose, a build on that would be hash matching is relatively easier to satisfy those requirements on the basis that it typically deals with known pieces of content that have already been assessed as being violative, hashed. And that allows you to then do the hash matching, as opposed to a piece of technology that looks for unknown --

Q. Looks for content that may have false hits. I follow, thank you. That leads us then to the public/private distinction. If we could look at page 64 OFC000088_0064, paragraph 177.

You start, in this paragraph, by talking about the tension which we have explored in other contexts. Then you reprise the fact that there are limitations on the

extent to which Ofcom can recommend the use of proactive technology and you say Ofcom can recommend use of proactive technology -- sorry:

"For example, as discussed above at paragraph 128 there are limitations on the extent to which Ofcom can recommend use of proactive technology, particularly that it cannot be recommended to analyse user-generated content that is communicated privately. This means that as the OSA stands, Ofcom could not recommend providers deploy such technology to monitor private communications channels. However, were we to be given power to do this in the future, we would need to carefully weigh up whether such measures would be justified and proportionate, given the significant interference with users' rights to privacy and freedom of expression (and potentially other rights) this could entail."

So, if you were looking at, for example, moderation software that was assessing whether material was inappropriately violent, are you saying that you would have to -- if you were to positively recommend that, you would have to look at its impact on free speech because of false hits?

A. Yes, essentially. I think I sort of mentioned the two key restrictions being the sort of accurate, effective, free from bias and then the public/private limitation.

If you were to remove the public/private limitation, I think we would still, as a public authority, need to consider the impact on human rights and proportionality.

Q. Thank you. So, there are some potentially important issues for the Inquiry here arising from the evidence we have heard in this topic. Could we look at page 51 OFC000088_0051, paragraph 128. You say:

"... Ofcom may not recommend in a Code of Practice the use of proactive technology to analyse user-generated content communicated 'privately', or metadata relating to that content, only 'publicly'."

So again, it is not a criticism, but the same point I think arises in different parts of your statement where you are addressing different matters. But one of the areas of which the Inquiry is concerned is this risk of hostile actors contacting children, in particular, on mainstream platforms and then inviting them into -- I'm going to use the word in inverted commas -- "private" groups, but with settings set to private on other platforms. But in the context that the Inquiry has heard, that those groups could actually be very large. So they can be 1,000 strong. I think Telegram said that their limit was 200,000.

If we look at the underlying document, OFC000083. We just identify the document, first of all. So:

"Protecting people from illegal harms online.

"Guidance on content communicated 'publicly' and 'privately' under the [OSA]."

Could we just go to page 2 OFC000083_0002. It will just be the sub-paragraphs and the contents, and page 3 OFC000083_0003, we get the introduction there, indicating that it is high-level guidance on the concept of content communicated publicly and privately.

If we go to page 13 OFC000083_0013, the way that this guidance works is it gives a number of case studies to give guidance in the area. I want to focus on case study 6. So:

"User F has an account with an online file storage and sharing service to which they upload their content. Access to User F's content is password-protected and they have shared that password via functionality within the service with a small number of friends and family. Those users to whom User F has granted access can, [with] functionality within the service, share User F's content -- but only with other specific users -- by entering known identifying information into the service ...

"User F's content is communicated 'privately'."

Could you explain why that would be so? Can we expand it a little bit so that we can see the paragraph

numbers.

A. So, I mean, I would rely on the explanation in 1.60, which is that this comes down to the fact that a small number of users are able to access it. It is not generally accessible by anyone, noting the requirement for kind of access -- passwords to get past the access restriction. And the fact that it is not freely shareable with any user, it is limited because it is limited to sharing with a closed list of people. So all of those, I think, are being given as indicia in this example that this is private communication.

Q. Could we go to the whole screen, please. Can we look at case study 5. So:

"User E is in a group chat with a very large number of other users on an online messaging service. Settings applied by the service provider mean that content shared within the group chat is only accessible by users who are members of the group chat, with access to a decryption key required to access the content."

Now, if one just looks at those things. It is a group chat but has a very large number of other users on an online messaging service. The settings mean that the content shared within the group is only accessible by users who are members of the group and it even requires a decryption key. But in that case, that is

treated as communicated publicly, yes?
A. Yes.
Q. So, in fact, for these -- I mean, it may depend on scale, but the type of example being given by Telegram, we heard evidence about one group which had been infiltrated by one of the Com groups having 15,000 members, but it was a private chat -- but although it is a private chat and it is an encrypted, it should be treated as public, if it is thousands strong?
A. I mean, it is difficult for me to put a number on it. I think this is one of those tricky areas of regulatory line-drawing, where we are trying to say: if you take these factors in the round, this would tend to indicate it is public and this would tend to indicate it is private. I think you are exactly right that the difference between these two case studies is the scale. Where that number would be, in any given case -- I suppose, the point where it flips from public to private, is difficult to identify, but on a first principles basis, I would say 15,000 feels like a very large number to be considered private.
Q. I'm not going to ask you to comment on the hypotheticals, but it's just to show that this is, on any view, a difficult area --
A. Yes.

Q. -- because in terms of what Ofcom could recommend, in theory, in terms of how technology could be used in these sort of groups, certainly at the higher end -- and I think you are indicating without, I think, in any way binding Ofcom, that 15,000 feels very big --
A. Yes.
Q. -- that this is an area where in fact you could recommend the use of proactive technology, to check that material is not inappropriate, for example inappropriately violent material that children could have access to?
A. Yes. So I think taking this example, you say the hypothetical platform, let's say we have recommended technology to be used on a particular kind of content, we will just say: we recommend that for use by platforms. We might segment which platforms, what risk level or scale, and we would say: we are not recommending this in relation to content communicated privately. We would then expect a platform to look at its groups and say: well, are there groups here that aren't actually private, based on this guidance? And so it would be for the platform to decide.

If we were to look at that in an investigation context, for example, and say: well, why aren't you following our recommendation in relation to this chat

with 100,000 people on it? We wouldn't expect -- we don't think that would be a very reliable defence, to say: well, you didn't recommend it for content communicated privately.
Q. In the market where we know that some platforms weight privacy rights in the balance higher and freedom of speech higher and some say: that's why we were set up, what is to stop those type of platforms from saying: well, do you know what, we give such weight to that, that we consider any restricted, by-invitation chat to be private, even if it is thousands strong? In other words, to place their own interpretation on it because, as I have tried to take you to, at the moment -- we are all familiar with case study-type approaches and one understands how difficult it is, but the contrast -- which is why I was going to case studies 6 and 5 -- it is pointing out in case study 5, well, it is the big group chat that makes the difference, even though it is an encrypted chat. But it is very open to interpretation about which of those is public or private, there is no guidance on: above figure X?
A. That's right and, you know, I think that is regulation. I have worked on both sides of the regulated and regulator fence. If you are a regulated service and you are a legal adviser, you take into account the guidance

and advise your client: well, actually, I think that is probably a public group and that is a private group. They may say: our view on privacy means that we are going to treat it as a private group and then the disciplining effect is the potential for enforcement by the regulator.
Q. Correct me if I'm wrong, but are you aware of any guidance at all on this, including from the courts yet, or is it too new for that?
A. Too new for that.
Q. Thank you. Turning to VPNs. If we look back in your statement, please, page 6 OFC000088_0006, paragraph 19. Could we just have the previous page, just to get the start of 19 OFC000088_0005, please:

"... the OSA is designed to make the use of regulated services safer for people in the UK ... Linked to this, the illegal content and children's safety duties (which we discuss in more detail below) only apply to the design, operation and use of regulated service in the UK or as they affect UK users ... The measures in our Codes of Practice also only apply to the design and operation of services in the UK or as they affect UK users."

Just a bit further down:

"It also means that Ofcom does not have power to

make providers of regulated services to change their services globally ... this gives rise to the risk that people in the UK, including VFIs, may still be able to access non-UK versions of the service by means of VPN or similar technologies that mask their location, and thereby circumvent the safety measures under the OSA."

So, at a starting level, the risk of VPNs -- and we all know they have benefits -- is quite a stark one, isn't it?

A. Yes.

Q. Giving rise to those risks of circumvention?

A. Yes.

Q. If we look at page 53 OFC000088_0053, paragraph 138.

I'm just picking up different comments about VPNs in your statement. You say:

"The [Act] does not place any duties on providers of regulated services to block all traffic from VPNs or other technologies with similar effects -- which are lawful to use in the UK."

That means that for you, as a regulator, I think you have no power to mandate that either, is that right?

A. Correct.

Q. Thank you. Then over the page, please OFC000088_0054. We don't need to turn it up, but you do explain there that in your:

"... Statement on Age Assurance ... [you] recognised the concern of some respondents to [the] consultation about the use of VPNs ..."

In paragraph 140, can we have the whole of that paragraph on the screen, please.

You say that that guidance makes clear:

"... that the robustness criterion means that providers should ensure that they take appropriate steps to mitigate against methods of circumvention that are easily accessible to children or where it is reasonable to assume that they may use them. We also made clear that they should not publish content on their service that directs or encourages UK users to circumvent the age assurance process or the access controls, for example, by providing information about or [linked] to a VPN which may be used by children to circumvent the age assurance process."

So, where does that end up, in terms of the expectation on platforms? Does that mean that they have to take account, when they do age assurance checks, of the risk that children will be using VPNs, disguising their location?

A. Well, I think the clearer piece is around the encouragement to use a VPN. I think we have made it very clear, that doing that would --

Q. If I may take that as read because that is, if I may say so, abundantly clear, both from your statement and from the guidance. But I do want to stick with what the expectation is on platforms, whether -- so you say "providers should ensure they take appropriate steps to mitigate against methods of circumvention that are easily accessible to children". VPNs are relatively accessible to children, are they not?

A. Yes.

Q. And so, are you expecting platforms' age assurance measures to be -- my words -- VPN-proof, or near proof?

A. I don't think, at this point, I would say that the guidance goes as far as to say that they should be VPN-proof. I think the words around mitigating against the methods of circumvention are caveated by the idea that it is easily accessible by children and where it is reasonable to assume they may use them. I think that's where we have left it in that edition of the guidance.

What I will say is I think with the social media restrictions that are due to come into force next year, we have got a strong hypothesis that that will create a higher incentive for children to use VPNs. So it is something we are looking at right now, as we develop policy on that, to what extent we can clarify exactly what our expectations are around detection and then

potential counteraction of VPN use by children.

Q. Thank you. If we could have paragraphs 141 and 142 on the screen. You say in terms of whether it is possible for providers to detect and prevent VPN use, you have not to date determined whether it would be technical, feasible or proportionate to expect providers of regulated services to implement measures to identify UK users accessing the service of a VPN. But then you go on, in 142, to give some nuance about the tech, I think, here. I think you are emphasising that VPNs are not the only means available -- or rather, the location given by an IP address is not the only functionality that is important here. So, you refer to geo-location information that can come from other signals. Is that right?

A. Correct.

Q. And do you have a sense, at the moment, in that area, perhaps from the work that's obviously having to be done intensely for the social media under-16s ban, on how reliable other geo-location signals are, even if a VPN is being used?

A. I think that it is the right way to put it, that it is an emerging picture and I don't think I would be able to say how reliable they are. I think that it somewhat depends, the more signals you get, the more reliable it

is going to be. So if you took the example of a service, let's say a dating service, that requires a GPS signal from your device, because part of the function of the service is to find the other person that you are proposing to go on a date with, a service like that would have much richer information about where you were than, for example, a video-sharing service, which might have access to signals about the time zone that your device is set to, but would not necessarily have as rich a signal as a GPS.

So there is an element of it depends, here. I think one of the things we are thinking about is, what is it reasonable to expect services to look at, recognising also the constraints of privacy law, in terms of how much data gets processed, to achieve this -- what we would say is a legitimate aim.

Q. So if we look at paragraph 146 of your statement, two pages on. It is page 56 OFC000088_0056. One of the aspects that we will pick up with DCMS, in particular, is:

"... that Government considered in its consultation on Growing up in the online world whether restrictions on VPN access for children should be introduced. In its response ... Government decided not to introduce further requirements at this time, citing that respondents were

more likely to favour education-based approaches than restricting children's access to VPNs and that polling from Childnet shows that where children do use VPNs it is more commonly to protect their privacy ..."

Yes?

A. Yes.

Q. And are you aware that that decision was communicated in that paper notwithstanding that the issues for consideration in Phase 2 of this Inquiry included that very issue?

A. I'm not aware of that confluence, no.

Q. So, in other words, that Phase 2 of this Inquiry, in its recommendations, suggested that Phase 2 should look at VPNs and whether they should be age-gated and the Government pre-announced in July that it wasn't intended to do so?

A. Right.

Q. We will come onto the social media ban perhaps briefly later on. But if Government has turned its face away from any concept of age-gating VPNs or restricting their use as a means to get around age assurance, it becomes absolutely vital, doesn't it, to understand how other technology, particularly other geo-location signals, can be used to ensure that age restrictions aren't circumvented?

A. Yes, I would agree with that. One thing I would say is, to the extent that Government has turned its face away from this, it has done so on a kind of explicitly time-limited basis -- well, perhaps "time-limited basis" is not the right word, I do not think they have set a limit, but they've --

Q. Not currently minded?

A. They're not currently minded to, but they have committed to continuing to engage with the VPNs industry. They have asked us to produce research into the extent to which children are using VPNs. So I think there is a degree to which that could come back on the table, depending on how, for example, the social media restrictions come out. But sorry, to answer your question, absolutely, I think in the absence of that and given what I said about our hypothesis being that there's going to be a strong incentive for children to look to circumvent the new restrictions, that is why we are working on the question of what's reasonable to expect a service to do, in terms of the robustness of its solution to circumvention.

Q. If we just look at paragraph 145, the part of it on the previous page OFC000088_0055, we see that in a study that's been done by Ofcom, a relatively small portion of children reported that they use a VPN to access content

intended for adults. There might be a bit of reporting bias?

A. Yes, I think we recognise that -- I think we actually say in the paragraph that we recognise that there is a potential for response bias there. I would say it is quite consistent response bias, if that's what it is, because DCMS also conducted research to inform that statement. The Information Commissioners' Office, as was, and Internet Matters, a civil society group, all did research in this area and found broadly consistent results.

Q. However friendly and casually addressed your official is, asking a teenager: are you using a VPN so that you can see adult material on the internet? Is not highly likely to get lots of them confessing that they do so.

A. Sorry, was that a question?

Q. Yes. That's a fair challenge. Maybe it was an observation, but would you care to comment?

A. I mean, it sounded like an observation, but I will answer it, as an implied question. I think, you know, we obviously have research experts, they try to design these things with a methodology as best they can. We do recognise the perils of response bias and we are open to that and we have said it in the witness statement. So I think, in reality, it is not an official who comes to

talk to you, these are run by research agencies that we do for this. We are absolutely alive to the issue and that's why we are doing the research.

Q. And the serious point that underlies this, is that, as you say, for those who aren't at the moment, the rapidly progressing plans towards the social media ban for under 16s, may push more in that direction?

A. Mm.

Q. Is thought being given to this feature, in terms of working with the VPN industry, that the legitimate use of VPN is to really disguise which particular computer you are on within the UK so that your privacy is not breached. But a VPN which sought to protect exactly where you are but still gave out the signal that you are in the UK, so one of whatever it is -- a high-50s million -- meets the privacy requirements but would still be giving the safety requirement that the user is in the UK, so UK law applies. Is any work being done positively to promote VPNs that give effectively a signal: this user is in the UK, but the IP address within the UK is disguised?

A. So I'm not aware of any work to promote it. I mean, I would say that that technology does exist. My understanding, from publicly available information, is that Apple's private relay functionality, effectively

disguises, on a country-by-country basis, where you might be. So it sort of obfuscates your exact geographical location but doesn't make out that you are in France when you are actually in the UK. So technologies like that do exist. Whether anyone is promoting them I don't know.

As I say, DCMS have said they will continue to engage with the VPNs industry, so that may be a question to ask them. I guess, just the other point I would make is that in our most recent round of research, in addition to asking children about VPNs, we also asked them about proxy servers, which can have the same geographical obfuscation result. I think one of the challenges in this space is that -- and I think I have alluded to it in my witness statement -- this is adversarial and there are kind of less reputable options that you can displace to if you close the loophole on more reputable VPNs.

Q. Yes and in some senses that might be why something like the VPN -- the Apple product, I am sure others do the same thing -- but may be particularly attractive. So -- my shorthand -- but a responsible VPN, that has both the benefit of the privacy but isn't evading UK protection and safety laws, if that could be promoted, even potentially not only the individual product, but if that

could become the requirement in terms of: in order to get the age assurance gate, you can be on a VPN but you need to be on this type of a VPN; that would also avoid the displacement to less reputable types, would you agree?

A. I think it's certainly worth exploring and whether you do that through the sort of user education approach that DCMS has talked about or whether you make it into a regulatory requirement, I think that's the policy choice.

Q. Thank you. Our next topic please, the response of Ofcom to the TikTok posts which involved AR and were flagged by the Inquiry to Ofcom.

You know that we are using a gist to refer to that. So the three batches involving TikTok, was firstly an AI video depicting AR hugging Elsie, Bebe and Alice, with use of highly offensive language. TikTok batch 2, a further posting of the video in batch 1. Four other video posts which glorified AR and the events of 29 July, including AI videos of AR itself and TikTok batch 3 were six posts which glorified AR and the events of 29 July, again, including AI videos of AR.

So if we could have on the screen OFC000089, please.

You will be familiar, I think, with this, Mr Breeze, so this is a letter of 28 August. It is from the

Principal Legal Adviser, Ofcom, to the Inquiry's solicitor and it is the response to the Inquiry informing Ofcom about the TikTok posts. Hence the introduction:

"Thank you for your letter [of] 17 August ..."

It explained, in the second paragraph, that prior to Mr Howarth's letter, Ofcom was not aware of this content: thanks to the Inquiry for drawing it to attention. Ofcom expressed that they shared the Inquiry's concern about the offensive content and that their thoughts were "with the families and others who might be affected for the distress and retraumatisation this may cause them". Ofcom said that they were concerned about the wider effect the dissemination of this kind of content could have.

I think, Mr Breeze, you have had the distressing task of looking at the material yourself?

A. I have.

Q. So you know how bad it is, yes?

A. It is very upsetting.

Q. And you say that:

"On receipt of [the] letter, we have raised this matter with TikTok as a matter of urgency."

Then there is what I hope I will be forgiven for summarising as the operational aspect of the response.

So, TikTok are saying it's being actively investigated by their response team, they have removed the original videos. What they were then doing, in terms of applying hashtags, seeking to understand how individuals were using the material and attempting to circumvent moderation and the further videos that the Inquiry had identified had also been removed.

TikTok was conducting proactive sweeps to identify related content and I challenged them as to why that had taken them so long to do that. And:

"TikTok has informed Ofcom that it intends to provide evidence directly to the Inquiry regarding its response."

There then followed -- if you will forgive me, I'm not going to go through it -- four or five dense paragraphs which really re-stated what Ofcom's role was and the limits of Ofcom's role, which I don't take issue with but to some extent, the Inquiry is already aware of, but included reference to the explanations in your statement.

If we can pick it up at the bottom of page 2 OFC000089_0002, please. After that page and a half of explanation of what Ofcom's role is and isn't, it said this:

"We will continue to work with service providers to

ensure their compliance with the duties under the [OSA], including supervising services to drive compliance and using our enforcement powers where required. Specifically, we will also continue to engage with TikTok regarding the circulation of the types of content identified by the Inquiry. This will include engaging with TikTok about the effectiveness of their content moderation processes, and we will not hesitate to take appropriate further action if we identify compliance concerns."

You then go on to deal with the investigation that had been opened on 16 July into TikTok's compliance, or otherwise, with its duties to protect children under Section 12 of the Act.

So, can I, first of all, ask whether there's any update in relation -- and if you are prevented by confidentiality from answering this, please make that clear -- but are you able to provide any open update on anything after this letter, in terms of what passed between Ofcom and TikTok, about what TikTok said to this Inquiry they accepted were sickening videos that had got through their moderation?

A. So I do not believe we have had any further conversations since then about what they said to the Inquiry.

Q. Why not?

A. I understand it from the supervisory perspective. I think my understanding was that the judgement that the assurance they had given us and the ongoing engagement with the Inquiry about it sort of satisfied us as to this particular content. We then have the ongoing investigation, which is the sort of -- the primary focus of our engagement with TikTok at this point. But I can certainly take that question away.

Q. Obviously the fact that this material may have been visible to children is relevant to the wider issue of whether TikTok is failing in its obligations in terms of highly effective age assurance. But this material was violent in its content because it was glorifying, in the most sickening way, a mass casualty attack and using AI-generated imagery -- without going beyond the gist -- to do that. So it also engages the separate question, although it is related, about the violent content moderation.

If we could just have on screen TIK000002. The first page. This is the Section 21 notice and answer served on TikTok.

Take it from me, for the moment, that what you are seeing on screen is TikTok's answers, through their legal representatives, Fieldfisher, to the UK user who

had re-posted this video, all right? If we look at (g) at the bottom, TikTok said that the only reason why that was restricted and didn't go on to the recommender was that it was flagged as being a re-post. Okay? So the original video, although the details can't be given because it was a US user, TikTok's evidence was: this only got stopped from going on the recommendation feed for others because this post was a duplicate.

So one might draw one's own inferences as to what has happened to the original post, from a US poster. The video was reported four times: first on 26 July; second on 2 August; thirdly, on 7 August; and fourthly, at a later time on 7 August. The first report -- and you know how bad this material was -- it was automatically reviewed and labelled as AI-generated and that's all that happened and if we go over the page TIK000002_0002:

After the fourth report, it was again automatically reviewed and remained on the platform and then it was eventually deleted after what was, in fact, the fifth report, which was when the Inquiry intervened and the action that has been taken by TikTok, effectively, in relation to the user, is nothing. He or she would have got a standard, automated email explaining why it had been taken down: it is in breach in service.

Notwithstanding how egregious a breach of the terms of service this was, TikTok have taken no further action against that user.

We do understand that Ofcom deals with processes and systems, but you can take case studies to illustrate failures in processes and systems. What does this suggest to you, in terms of moderation effectiveness of this type of egregious content?

A. I mean, it is obviously deeply concerning that not only was it not reviewed properly after one report, it actually ended up with four and you know, just from a common sense perspective, you wonder how those four were weighted versus the report made by the Inquiry.

Q. Yes. Can you understand why a more reassuring answer from the UK's regulator to my earlier question about what's happened since this letter, would have been: we have taken this up as an example of concern but because that's being looked at, I can't say anything more about that process; whereas your answer was, in fact, you didn't think anything further has been done?

A. Yes.

Q. Is that something on which Ofcom might reflect?

A. I think so.

Q. Thank you. Can I turn next, please, to concerns about specific platforms as they have arisen during the

evidence heard by the Inquiry and Mr Breeze, as I have said on a number of occasions, you must delineate, I'm afraid, where you can and can't comment, but we understand that there are legitimate areas where you can't comment. So, if you will forgive me, I will ask the questions and when you are in difficulties and if they cause you difficulties, you must say so.

A. Certainly.

Q. So, the overarching point here is illustrative from matters which we have been able to look at because they are Ofcom-generated. So if we could have a look at OFC000067.

We have seen this a number of times but this is the 12 March 2026 publication by Ofcom. So:

"Popular sites and apps must enforce minimum ages, tackle grooming, make feeds safer and test products rigorously.

"Facebook, Instagram, Roblox, Snapchat, TikTok and YouTube have until the end of next month to say what they are doing, with Ofcom to report on this in May.

"Major sites and apps must enforce their minimum age rules with highly-effective age checks, Ofcom warns today, as the online safety regulator examines continued failings by services most popular among children."

So, helpfully in large font, an easy summary. And

the four demands for further action are then set out. So, we can again take it from the headlines, but we see the emphasis being given to this, in that it had a quote piece from your CEO, Dame Melanie. "Effective minimum-age policies", at the bottom of the page and then over the page OFC000067_0003:

"Failsafe grooming protections"; "Safer feeds for children"; "An end to product testing on children".

So, we then go to the events of 21 May and OFC000077.

So this was the "Children's Online Experiences" report which again, we have taken the platforms to, so I'm not going to rehearse it at too much length. But if we just go over the page OFC000077_0003 and once again, just to the executive summary.

We see, under section 1 -- well, let me take it just from the executive summary:

"... exposure to online harm online and safety measures, before and after the Children's Safety Duties came into force ... compares findings from two waves of our Children's Online Safety Tracker ... Wave 1, conducted before [they] came into force ... and Wave 2, conducted after the children's duties came into force ... and references key insights from our Children and Parents Media Use Attitudes research ...

supplemented by [the] data from our Children's Passive Online Measurement Study ..."

We know that what this showed was the high levels of those who are still seeing, in particular, violent content online, yes?

A. Yes.

Q. And the impacts on them. I don't know whether it was deliberate, maybe not, but on the very same day, we then had OFC000078, so a parallel publication, at least in timing:

"Update: tech firms' responses to our call for action to protect children."

So this was the follow-up to the March demand. Again, we have taken this up with the platforms but page 12 OFC000078_0012, we see, in relation to YouTube, in the four areas, set out current measures related to grooming. Not so interested in that, although it is important. But in paragraph 2, on algorithms:

"YouTube provided information related to its current protections ... These include[d] safeguards to reduce repeated recommendations of some content. It did not commit to any new measures."

Also, on 4:

"YouTube provided information about its approach to age-appropriate access, including existing measures to

protect children from harmful content, including YouTube Kids and voluntary Supervised Teens Accounts."

Then, at the bottom of the page, we see TikTok, which seems to have responded to this in a blog post and over the page OFC000078_0013. The most significant are 2 and 4. So it explained how its recommendation systems work and how existing measures protect children, confirmed it is engaging with our RFI relating to TikTok's recommender systems.

And then, on age assurance, at 4:

"... the only service to publish the number of suspected underage accounts it removes globally every quarter."

But set out its current processes.

We know that in relation to this, it was said, in this document, that it was particularly concerning that -- in relation to the algorithms, that particular platforms had refused to give or had declined to give any new assurances, yes?

A. Yes.

Q. Now, against that background, just picking up, in relation to particular platforms and what they have been asked about in this Inquiry, so starting with TikTok, I know that you have been provided with aspects of the transcript, but effectively, they have said that

initially, their age verification is entering a date of birth, then Mr Law accepted that it was child's play to mislead and fake that aspect of it. But it then uses automated measures to look for indications of underage accounts. They have more stringent measures if somebody wants to appeal an age decision, which we put to them showed that they could use that type of technology at first sign-up.

It was put to them that their age verification methods are not listed in your -- Ofcom's -- non-exhaustive list of effective age assurance measures, which they accepted but relied on the fact that it was not exhaustive and they said, effectively, that, notwithstanding Ofcom's investigation that had been opened, TikTok was still, at present, refusing to take any further action.

We know, as regards that investigation, sir, for your note, again, that's OFC000068, the Ofcom announcement of the investigation.

SIR ADRIAN FULFORD: Thank you.

MR MOSS: That you have opened an investigation into whether TikTok has failed to comply with the duties in that regard. Now, I anticipate that, given that there is an open investigation, you may not be able to comment on the current situation in relation to their age assurance

because it is subject to a live investigation. Am I right?

A. Certainly their age assurance to detect whether someone is a child or an adult.

Q. Yes. Are you able to help us --

A. Sorry, just to explain why I say that. I think some of -- my reading of the conversation with TikTok, that it was partly about their age-gate to age 13, which I think as we said in the announcement in March, is not something we have powers over. The Online Safety Act currently bites at 18. So that was the bit that we would be interested in and would be subject to the investigation.

Q. Which is subject to the investigation. Do you know what the timescales for that investigation are, as to when we could expect a result to be published?

A. I don't.

Q. If you are able to update the Inquiry, could you let us know? It is obviously relevant to the issue of the Inquiry's timescales, in terms of when it will publish its report.

What about the recommender systems , though? Because TikTok were tasked on that as well and their response to that seems to have been to say: this is how our recommender systems work, broadly speaking, we are

satisfied with our current methodology. Where is Ofcom at, in relation to that, bearing in mind demand for action and a public indication of the response which, from TikTok on this, seems to have been, "We are happy with what we are doing"?

A. Yes. So, I think, as an overall statement, I would say that some of the responses we got from services to this call for action were very disappointing. And I think you can imagine that the response from TikTok on its recommender systems was one of them. We do have an ongoing programme in relation to four of the services: TikTok, YouTube and then two Meta services, around what they are doing on their recommender systems. But, I would sort of note that in between the sort of March announcement and then -- well, shortly after the May announcement, the Government announced its restrictions on children using social media, which they have said will be explicitly targeted at services with recommender systems.

So as you can imagine, that is a policy development that has been quite impactful in relation to how we are kind of looking at this whole space. So we are currently in a period of trying to assess that and work out what it means for our work on that compliance.

Q. Does that mean, in reality, that there is an element of

that being deprioritised because the movement is towards the social media ban for under 16s in any event?
A. I think in the long-term, unavoidably, if you do end up with children under the age of 16 being removed from services with recommender systems, that will result in that work being deprioritised. At this stage, we are still engaging on a supervisory basis with platforms around what they are doing.
Q. I have raised with you the particularly egregious nature of the posts in batch 1, but also batch 2 and batch 3, as examples of violent content. Is TikTok's compliance with its duty for priority content, in relation to violent material, currently under scrutiny? Are you able to say one way or the other?
A. I don't think I can say because it is subject to the ongoing investigation.
Q. Thank you.
A. Sorry, its compliance with its Section 12 child safety duty subject.
Q. Because violent content ought to be protected by that, it is linked to that in the investigation?
A. Certainly, that safety duty encompasses all of the kinds of primary priority and priority content, so it has the potential to be.
Q. Thank you. So far as Alphabet, and particularly

YouTube, is concerned, again, the report says that it is deeply concerning that YouTube made no new commitments on recommender systems. Where is Ofcom at with them in relation to their algorithms? Is it the same position?
A. The same position.
Q. So a disappointing response, you would say, from them but in terms of what action is being taken, that's all in the difficult area of a lot of policy re-thinking in any event, because of the under-16s ban?
A. Yes, so I suppose just to kind of illustrate the area, we kind of are talking about recommender systems here and what most people think about there is the ranking algorithm. But I think the way that we see it is that content moderation is a kind of key input to that, as is age assurance.

So I think the programme of work that we did to look at safer online feeds for children, although it focused on the output which is what you see in your recommender feeds, it can look at content moderation as well as recommender systems and so we are engaging on a supervisory basis with services in that space. So, I wouldn't say that the forthcoming social media restrictions completely obviates all of that but it does have an impact, in terms of where our policy is going.
Q. So my simplistic way of thinking about it, but if you

have very good and very effective content moderation, that may mean that the recommender algorithms are safer as well because if you exclude inappropriate material through moderation, what you are left with is the duplicative, repeated nature, potentially issues about addictive quality of all of that, but you shouldn't be being fed material that is covered by the OSA, illegal material, harmful to children?
A. Yes, exactly. So in the harmful to children context, if you could, with 100 per cent accuracy, classify all the content and take action on it and with 100 per cent accuracy, classify all the users as either children or adults, you would be doing a lot of the work before it got into the recommender system/ranking system.
Q. There is this distinction that I think you would be hard pressed to spot any significant difference in the May announcement as to the disappointing nature of the response of YouTube and TikTok on age assurance. But an investigation has been opened into TikTok. YouTube effectively said that: these are our current processes; and we are not aware that an investigation has been opened into their age assurance aspects.

They positively relied on that when they gave evidence. They referred to some timing issues, I think, and I think the indication was that there may have been

some developments which the report may not have been able to take account of. They basically said: we are talking to Ofcom but an investigation has not been opened into us. Are you able to say anything more, given the -- how the July -- sorry, the May document flagged up concern and the disappointing nature of the concern? It seems, on the face of it, to have gone quiet.
A. So I suppose it is difficult to talk -- specifically service-by-service. I suppose, what I would say is that there's no sense in which the sort of outcome of an investigation, or no investigation, you know, entirely hinges on the response on our call to action in March. We have to take into account a range of evidence that we have got through the work that we do and then we have to take priority decisions by which cases we will take and which ones we won't. So I would just say that the fact that an investigation has been opened into one platform and not the other, does tell you something but it is difficult to infer with precision exactly why one would have been done and one would not.
Q. Thank you. Is the adequacy of YouTube's age assurance still under active consideration by Ofcom?
A. The age assurance, I'm not sure. I would have to come back to you.

Q. Thank you. Mr Rawle, when I asked him about quite a number of published papers and research, which tended to show that YouTube fared badly, in terms of where children encountered online material -- put forward more straightforwardly, a lot of them saw violent material on YouTube -- repeatedly questioned the methodology of those studies, but also said and I quote:

"50 per cent of viewing on YouTube is now done through connected televisions, so we are a shared device service. So it is not clear whether the young people that are seeing the content here on YouTube may be passive viewers. They could be in the same room as a parent who is watching that content, not directly viewing it through their own accounts."

What's the regulator's response to that sort of an explanation?

A. I mean, I think it is certainly the case that in all of online safety regulation, we are conscious that there are -- there is always the responsibility of device sharing or passive viewing or something like that. I mean, I would not be able to instantly react to whether that is 50 per cent, as a number. I think we would have to take that away and think about it. Yes.

Q. Again, the uninitiated but interested outside observer might start thinking: well, in that case, aren't they

more like a broadcaster? And you get into issues about broadcasting standards and watersheds, if that's really the case, if this material is being viewed on the family home on a television, because YouTube is being watched so much in that way?

A. I mean, I would certainly agree that there are elements of YouTube that are like a broadcasting. You know, you can pay to view films on YouTube, sporting events may be broadcast on YouTube. And I think there is likely to be an increasing convergence between our work in online safety and our work in broadcasting.

I can't, kind of on the fly, do the regulatory analysis on whether Alex Rawle is right in saying that is how they really are. From our perspective, they are a regulated user-to-user service. I would need to give it some more thought about what does it mean when they are being viewed through a particular device.

Q. Presumably Ofcom would have some concerns about a pig's carcass' head being decapitated by a sword being broadcast, possibly at all, and certainly before the watershed?

A. I'm afraid, broadcast regulation is a bit outside my purview, but I can why you would say that.

Q. Thank you. So far as X is concerned, I think, for our purposes, the principal area of concern is really the --

bringing together several aspects of transcript, is the relatively high threshold that X applies in relation to violent content, which is well illustrated by the Bishop Mar Mari stabbing attack, which I think singularly, or relatively singularly, they refused to take down, unlike other platforms. So they continue to have online, albeit age-gated, the actual moment of the attack, which, as you know, was live-streamed, showing the stabbing of the Bishop and praying in aid in relation to that, that it is newsworthy material and that it is therefore justified.

So they appear, it might be thought, to place a particularly high threshold, in terms of violent content, on newsworthiness as an exception. And there are a number of examples of that.

Just in relation to that aspect, bearing in mind the priority content requirements, although that particular aspect was age gated, is that feature of X, as a platform, on Ofcom's radar?

A. So, the sense in which they have a high bar for taking violent content down?

Q. Yes, particularly where it is associated with news comment, or newsworthiness, but also if it is social commentary? So violent attacks on the streets, but if it is being said that it may relate to a rise in

immigration, political comment, free speech?

A. Well, I think it is certainly on a radar from the perspective of protection of children. To the extent that we are talking about adults and it is not age gated, then I think it would go back to the question of ultimately, is it legal or is it not legal.

Q. Thank you. The other aspect, which you may say is beyond Ofcom's current powers, but I should raise it, is that even if there is an exigent emergency involving a danger of death or serious physical injury to a person, X will not proactively report it. And in that respect, while other platforms had a high threshold for action of immediate risk of harm or very serious injury, X seemed to not recognise that duty at all. Is that something that Ofcom is able to comment on or not?

A. Well, I suppose my comment on that would be, in a way, it is a sort of a microcosm of online safety regulation before the Act, which is, you know, you have a market of providers. Some of them have chosen, where there is no legal requirement on them to do something, and others will say: well, unless it is the law, I'm not going to do it. Now, whether that should be made a legal requirement, such that a service wouldn't have the option to not report it, and effectively, you are using regulation to bring the market into line to a standard

that you think is not being provided by the market, ultimately, that is a matter for Government. But that would be my observation on that as a dynamic.

Q. Thank you. In relation to Telegram and Discord, for the moment taking them together, they were both taken to the plethora of materials that suggested that they were platforms that were used by Com networks in particular, in the way that I have already raised with you.

And there is a lot of evidence from various sources, as you will be aware, in relation to that. Is there -- are the implications of that -- in terms of compliance with the priority content duty for violent material, is that something which is on Ofcom's radar? I don't mean in terms of an open investigation because I think that we would know, but is that being actively considered?

A. I would have to ask the relevant supervision teams and come back to you.

Q. Could you, please, do that. And, again, accepting that we are just one public Inquiry, and that it needs to be about the processes, I did put to Witness A of Telegram the risks involved in the large-scale group chats, in which he effectively accepted -- he didn't accept that the moderation was light touch -- but if it was a group chat that was private, he accepted that their moderation software is not run on those chats at all. So there is

no attempt to establish if the material is violent, or otherwise inappropriate.

The moderation that they do have is limited to: has a member of that group complained; and has something that they have uploaded hit a hash match?

Otherwise, they are reliant on other signals about the user but they are not moderating those, even where they are thousands strong. And I put it to him that, in the situation in which children may be drawn into those sort of groups from other platforms, he said, in reply to me -- I'm summarising: well, they will be able to report matters of concern. And I put it to him that's not good enough because if they are a child, in particular, they may be fixated or interested in this material, they may find it titillating or exciting, so they may not want to report it but they shouldn't be exposed to it at all because they are children. And I put it to him that that is a risk to child safety and a risk to public safety, where violence fixation is concerned. And as the representative of Telegram, he said, "Yes, I would agree".

So, in taking that to your supervisory teams, could you at least see if that evidence can be part of what is considered?

A. Certainly and so, just to clarify, he said that they are

running some proactive technology if those groups, in the form of hash matching?

Q. Hash matching but nothing else. So all of their other moderation technology is not run for fear, firstly, of breach of privacy and what they promise but secondly, because their systems are not set up in that way.

A. Yes.

Q. Thank you.

SIR ADRIAN FULFORD: Pick a moment, Mr Moss.

MR MOSS: Thank you, sir. Just in relation to Roblox, if I can just finish on this. In relation to Roblox, obviously it is a gaming platform but also with social media aspects to it. Evidence was taken up with them as recently as the February 2026 Guardian article, that a mole-shooting game was on Roblox, featuring the Tumbler Ridge -- after the Tumbler Ridge attack, so the gamification of violence, a game in which you could move through a shopping centre and shoot members of the public. And also in terms of AR, in relation to the Southport attack, a game that had been created in which avatars would dress themselves as AR, including expending virtual currency to equip those avatars with a knife.

Are those risks, in terms of Roblox, games which get through their moderation and have those very clear

connotations with real-life mass casualty attacks, on Ofcom's radar?

A. I don't know the answer to that question but we can come back to you.

Q. Thank you, and if, in relation to that, you could take account of the evidence heard by the Inquiry. And I think, similarly in relation to Reddit, although we heard evidence from them about the years of a progress of improvement from Reddit, they were tasked about a very large proportion of users of a gore site who effectively had started on a Reddit subgroup and 14 per cent of one website -- sorry, one website received 14 per cent of its traffic from social media platforms, with 95 per cent of that coming from Reddit. So Reddit being used as a stop-off point to gore sites.

Is that something, do you know, that is under consideration?

A. So in the sense that the Reddit community would be a kind of feeder for people?

Q. Yes.

A. Again, I'm not --

Q. Extreme violence --

A. -- I'm not personally aware of whether that's on our radar, but we can take it away.

Q. Again, if you could look at the evidence in relation to

that. I think all we can do, in relation to that is flag to you, as the regulator, that the evidence of the Inquiry, such as it is.

The global point in relation to that is that the Inquiry, by a combination of some of its own research but also looking at published articles and hearing from experts in the area, has, in a relatively small space of time, amassed a degree of evidence about quite significant compliance concerns, it might be thought, about violent material. Does that not all underline the importance of the matter I put to you earlier on, about Ofcom being more involved in avatar testing, to test for itself how accessible this material is and assessing for itself how quickly the platforms take it down?

A. I think certainly it's a good illustration of the potential value of things like avatar research which, as I said, is something that we are exploring doing more, of to get that kind of first-hand impression of how services are dealing with these things.

MR MOSS: Thank you. Would that be a convenient moment, sir?

SIR ADRIAN FULFORD: It would. We will sit again at 3.20 pm.

MR MOSS: Thank you, sir.

(3.07 pm)

(A short break)

(3.20 pm)

SIR ADRIAN FULFORD: Yes, Mr Moss.

MR MOSS: Thank you, sir. Mr Breeze, could I take us to our next -- and a discrete topic, please, the "Additional Safety Measures Statement". So if we could have that on the screen. ILT000410.

This is part of the busy activity in the lead up to your evidence because we see that this is very, very recent. So published just on 16 November 2026. Do you want to explain, in brief terms, what this report is, or what this statement is and its background, just in headline terms?

A. Yes, so we have always said that we would take an iterative approach to the codes. You know, each update on the codes is quite a significant undertaking, or has been to date. We were required to publish Codes of Practice in relation to illegal content and then the protection of children, by statute. Which we did.

And then we subsequently decided that, in order to iterate and strengthen both of those codes, we would run this consultation on additional safety measures.

Q. Thank you. Now, there is a lot of detail in it and I'm, by no means, going to cover it all, nor am I going to attempt, I'm afraid, a summary. But I do want to pick

up a few aspects of it. So could we start with livestreaming, please, and can we go to page 13 ILT000410_0013.

Under the heading "What decisions have we made?" If that could be expanded, please, the text under that, we see:

"We have decided that livestreaming services should provide users with a mechanism to report livestreams depicting an imminent risk of physical harm, including of animal cruelty."

So there is a new requirement mechanism. If we drop down to the box below -- remaining where we are on screen, but if we take our eyes to "ICU D17", the recommended measure, which I think is new, is:

"Livestreaming reporting mechanism for imminent physical harm.

"Providers of user-to-user services that:

"Have one-to-many livestreaming; and ...

"Are at medium or high risk of one or more specified kinds of illegal harm."

So that does what it says on the tin; a mechanism to allow for those who are consuming live streams to report in that way. But what we also see is, under "What decisions have we made?" The reference:

"We have decided not to proceed with our proposal

that services should ensure human moderators are available whenever users can livestream; we have also decided to suspend work on our proposal to restrict certain functionalities during children's livestreams."

So why no human moderation and why the suspension of work on restriction of certain functionalities of livestreaming? Because to the outside observer, livestreaming may be thought to have particular risks, including in relation to violence?

A. Yes, certainly and that's why we consulted on these measures because we are mindful of the risk. In terms of the human moderation measure, I'm not close to this. I would probably rely on the paragraph below for explaining why we made that decision, in relation to the fact that we already have a suite of content moderation measures within our Codes of Practice and that gives a flexible basis for ensuring moderation resourcing is appropriate. I'm not sure I can go beyond what's sort of in the document there.

Q. But isn't livestreaming, by its nature, more difficult to assess for whether it is inappropriate, more difficult to do in an automated way and hence, the value of human moderation of livestreaming?

A. Yes, I would agree with that. But as I said, I'm not close to this. I'm not sure whether what we're saying

here is that the existing content moderation is only about automated moderation. Yes, I'm afraid, this particular measure is somewhat outside my area of knowledge.

Q. All right. We have seen, despite how recent this is, that the forcefulness of the reaction to this -- so if we could have on screen MRF000009. We can see that this is a letter from the Molly Rose Foundation to the Rt Hon Lisa Nandy, the Secretary of State for the Department for Digital, Culture, Media and Sport. And if we go over the page MRF000009_0002, we see that it is from Mr Burrows who gave evidence to us.

If we go to the first page again MRF000009_0001, we see, three paragraphs from the bottom, he says:

"Last week, I gave evidence to the Southport Inquiry ..."

Then penultimate paragraph:

"I want to be clear that Ofcom's livestreaming proposals were already wholly insufficient, and that if anything, we needed to see a significant strengthening of what had already been proposed. It is frankly inconceivable that instead of seeing such strengthening Ofcom has in fact decided to abandon these proposals altogether.

"Ofcom's decision compounds two years of virtual

inaction in the face of the Com group threat. As a minimum, this will leave 16- and 17-year-olds wholly exposed to an inherently preventable and rapidly growing set of risks."

Then, over the page MRF000009_0002:

"This is a mess, and it may very well go on to cost young lives. The message being sent to industry today could not be clearer -- Ofcom no longer feels emboldened to enforce, never mind strengthen the Children's Codes that remain in effect."

Now, that is going to the Secretary of State. But can you understand why, given livestream risks to children, somebody from Mr Burrows' experience might have that strong sense of concern about Ofcom stepping back from more interventionist guidance in this area?

A. Yes.

Q. Do you know why, nevertheless, those decisions were taken?

A. As I said I'm not close to the moderation -- the decision around the moderation measure, beyond what it says on the face of that document. My understanding -- and noting the sort of references to the social media restrictions in Australia in this document, my understanding is the codes measure, in our proposed illegal content codes, on restricting children's ability

to use livestreams, that has been suspended pending the outcome of Government's consultation on banning livestreaming altogether for under-16s and turning it off by default for 16 and 17-year-olds.

Q. You are familiar -- forgive me, not you, but Ofcom is familiar, one assumes, with cases in which fatal attacks potentially involving violence fixation risks have been livestreamed on platforms?

A. Yes.

Q. User sanctions, ILT000410 at page 36 ILT000410_0036, please. So back in the statement and it's page 36. So this is dealing, as we understand it, with what platforms need to have in place with their users who breach rules. So, ILT000410.

At page 36. So, if we can have the section from the heading "What decisions have we made?" down -- so:

"We have decided that providers of user-to-user services should ban users who generate, upload, share or receive and view child sexual exploitation and abuse content, including child sexual abuse material ... Providers should prevent banned users from returning to a service, but we are not prescriptive about the technical methods used to do so."

Now, no one, I think, could question that:

"... adult users ... expectation ... a permanent

ban, except in extremely limited and exceptional circumstances.

"... treat children ... in a more nuanced way."

So that's what's being done about that category of material.

Under "User sanctions policy", what's said is:

"We have decided that providers should prepare and apply a sanctions policy in respect of UK users who generate, upload or share illegal content or content harmful to children which is prohibited on the service. We are not prescriptive about the sanctions they apply, and how they apply them, as long as they have regard to the factors set out in our measures: the severity of potential harm, whether the user has previously generated, shared or uploaded relevant content, and the potential impact of the sanction on the user.

"We have made a number of other amendments to existing code measures to complement [those]."

So the emphasis that seems to be given there, is (1) you have to have a sanctions policy. We are not going to be prescriptive about outcomes, provided that you take relevant considerations into account. Is that a fair summary?

A. I think that's right.

Q. In relation to the UK-based user who posted those

abhorrent -- the abhorrent material in relation to AR, if that had been in relation to a terrorist attack, an ideological-driven terrorist attack, it would have been glorifying and supporting terrorism?
A. Yes.
Q. It was only not that criminal offence, although whether it was a different criminal offence would be for others to judge, because AR's attack was not terrorist. But the severity and the abhorrence of the post, would you agree, is no different?
A. I mean, yes, I would agree.
Q. As counsel to the Inquiry, I pressed TikTok really quite hard on the decision that was made not to ban that UK user given the gravity of the breach. They would still be permitted -- can I put it this blunt way -- to get away with that under this sanctions policy because it wouldn't require an outcome, even for the most abhorrent of material, glorifying a mass casualty attacker?
A. That's right. I mean I would say it doesn't require banning for any illegal content or content harmful to children because we have carved that out for CSEA only.
Q. Yes. Why?
A. I'm not close to this policy. My understanding is that this is one of those areas where we are balancing rights of users and I understand that that is not a very

palatable thing for me to say. I'm just saying it in the abstract that this is around the question of, you know, if you are not generating CSEA, which is a kind of -- almost like a strict liability offence, then we are allowing a certain amount of latitude for services to decide how they should sanction users. But I can certainly see, particularly in view of that abhorrent content, why you would say surely that person should also be banned.
Q. Yes and of course for any victims in any event -- and it doesn't need to be as catastrophic as Southport -- you should say: surely in this case, surely in this case, but given the proximity of non-ideological mass casualty attacks to terrorism and their equal devastation for the victims, couldn't the sanctions policy have done more, at least to flag up that this is an extremely serious category, where there might, for example, be a presumption, even for a first offence? If you glorify terrorists or you glorify mass casualty attackers, there should be a very strong presumption that the user will be banned even for a first offence?
A. I mean it certainly could have done. I don't know if that's something we considered or consulted on because again, I'm not close to this policy but I can absolutely see why you are saying that.

Q. Thank you. In relation to age assurance, page 113 ILT000410_0113, please. Under the -- so this is "Highly effective age assurance" and if we have the section under "What decisions have we made?":
"We have decided to proceed with the proposed measures. Our final Code measures are summarised in the table below:"
Could you just help us to understand what is new in these aspects because, on first view, it seems to be -- I don't know whether it is reiterating the importance of existing measures, but it is phrased in terms of: proceed with the measures below.
A. So, I think -- but we may need to come back to you on this because I'm not 100 per cent confident -- the key difference here is that this is something we are now recommending in our Illegal Content Code of Practice, whereas previously, we have only recommended it in relation to our Protection of Children Codes of Practice. And the reason I think that we are doing that is because there is a heavy emphasis on anti-grooming in these additional safety measures and in order to facilitate those anti-grooming measures, you need to know who a child is. So where that age assurance previously had emphasis in terms of protecting children, in the protection of children safety duties, I think

this is bringing that concept into a legal context in order to facilitate that work on anti-grooming. Let me come back to you just to make sure that's absolutely right.
Q. Thank you. So "ICU D15" and "ICU D16", the appeals processes, I'm not denigrating their importance but they are of less interest to the Inquiry, but if there is anything that's new in that, other than the explanation that you have given, if you could let us know because otherwise, it seems to be re-emphasising, perhaps in a way, matters that ought to be there already.
A. Yes and I think the appeals process is simply to support the fact that you now have to have a process and if you have a process --
Q. Yes, we are, in a non-pejorative sense, less interested in that. Page 221 ILT000410_0221, please. Hash matching.
So, we see "Hash matching for terror content" and "Hash matching for CSAM", "What decisions have we made?":
"We have decided to proceed with both measures. In our terror hash matching measure, we have made several amendments to improve clarity. Our final Code measures are summarised in the table below:
"Services in scope should use hash matching

technology to detect terrorism content."

So that seems to be giving a clearer requirement. Obviously, a number of platforms have said they were doing it already but that seems to now be a requirement. Would you agree?

A. Well, it is a recommendation.

Q. Or a recommendation of what a good system should look like. Thank you. That's more accurate.

We see, if we just scroll down to the next page, ILT000410_0222, that there is this distinction that in relation to child sexual abuse material, it is perceptual hash matching, which I'm not going to go into the detail of the difference.

What one doesn't see there is anything in relation to hash matching for other types of material. And again, one gets into the difficulty -- and I'm not denigrating its use for terrorism material, the importance is self-evident -- but you could have hash matching for extremely violent material, gore material, because some of that material is duplicated time and again, I am sure you would agree, on the internet. So particularly gory or particularly violent imagery, which, on any view, would be priority content but in some cases would be unlawful.

Is hash matching for extremely violent and gore

material lagging behind child abuse and terrorism?

A. So I think the challenge here it often comes back to: is there a hash database to use? So, the hash database -- well, particularly for CSAM, the very first hash matching measure, is based on a historically very well-established set of hashes, that are known and used by industry. Same for terrorism. That has -- I think Tech Against Terrorism, who you spoke to, have a -- or possibly it is GIFCT -- have a hash database.

Q. I think they both do.

A. And our other hash measure that we've previously brought in is on non-consensual image abuse. So very often, the existence of a good hashing technology is based on the availability of hash data -- database. So to that extent, it may be lagging behind.

Q. So there is no technological reason -- the appetite may be a different matter -- why hash databases shouldn't start to be created in relation to extremely violent material but which is non-ideological, so it is not technically terrorism material?

A. Technically, not that I'm aware of. I think you can more or less hash anything. There are limitations to that. If something is changed, it may evade the hash, or certain types of hash. I think the challenge here may be one of definition as well, which is historically

one of the challenges with terrorism, hashing is it is very contextual in some cases. So I think that might be -- it may be more that that would be the challenge to overcome than a purely technical one.

Q. But one, looking ahead to changes in the law, has to have in mind the King's speech and the new criminal offence. Details are obviously to be confirmed, but that is going to make extreme violent material unlawful, with all of the stronger duties in terms of removing that material.

And it might be thought that, in order to gear up for that change, it would be highly desirable for minds to be being applied now to the creation of a hash matching database for that type of material. Some of it will be illegal even now, but more will be caught by the new offence.

Is there a team at Ofcom that is starting to think about that? Is thought being given to how going to create the database? Because one sees that in terrorism, it is actually civil organisations rather than central Government, but this is going to be a UK offence.

A. Yes. Not that I'm aware of. Yes, I was going to say, I think within of the reasons, for example, that CSAM kind of led the pack is that, well (1) it is absolutely

a horrendous offence, it is recognised worldwide, but it is also not contextual. You know, it is the same around the world. Terrorism faced this challenge, which is in different cultures, different countries, different groups, for example, will be proscribed or not proscribed. For violence, whether you would need a kind of UK-based hash database I think would be an interesting question to look into. Whether there's anyone doing work on that at Ofcom right now, I could not tell you.

Q. We know that there were developments, that the Five Eyes group met, I think, in Australia for non-ideological driven violence. It might be thought desirable for the UK not to be doing this alone, if there are like-minded countries who are also on the lookout for the same material.

Does this seem right to you, for work in that context, with other countries as well? It is something we can pick up with the Home Office when Mr Emmett returns.

A. I think it would certainly be worth exploring with them because I suppose where we come in is, the platforms, the services we deal with, are typically cross-border and so, to the extent that you can get a kind of international solution to something, that would be

better than a UK-only solution.
Q. Yes, not least because for the Five Eyes countries who may take the same approach to extremely violent but non-ideological material, one would want the benefit of their identification of this material being shared with the UK because it would make the UK's identification stronger?
A. That seems right to me.
Q. Thank you. On recommender systems, page 258 ILT000410_0258, I think the last aspect of this that I will draw out. So:
"What decisions have we made?
"In response to stakeholder feedback, we have amended our measure to target children's recommender feeds rather than all feeds. We have also decided not to apply the measure to foreign interference offences."
So, ICU E3, recommended measure:
"Content recommender systems: excluding potential relevant illegal content."
And "Who should implement this", and a list is given. Again, it may be the same answer, that it is in relation to which code it appears in front of, but what we are slightly struggling is as to what's new about that. Because we were working on the basis that illegal content should already be prohibited from recommender

systems?
A. Yes. So, I don't think it was previously prohibited from recommender systems, in the illegal context. So previously, the exclusion of content from recommender systems was only in our Protection of Children's Codes and what that meant was you had the slightly odd outcome, that children would be protected from content harmful to children, but not to illegal content. So this is effectively --
Q. That's duplicating -- so where the Inquiry has seen, that is in the Children's Code?
A. Yes.
Q. But it is ensuring that that is in the Illegal Harms Code as well?
A. Exactly.
Q. So it is not new in that sense but it is ensuring that it is in the other code as well?
A. Correct.
Q. Thank you. I said, in this context, that I would return to your very helpful summary at paragraph 34 of your statement. Can we do that now please. It is at page 16 OFC000088_0016, back in your statement.
Can we just pick up the context again. You were helping us with what the code measures were for the Protection of Children Codes of Practice and you

emphasised that this was not explaining them all, it was picking up those that were most directly relevant.
So we can take most of this from the headlines, so:
"For all user-to-user services, providers should have content moderation processes in place."
You give detail:
"(b) For all search services, providers should have search moderation systems and processes to review, assess and take appropriate action on content that is harmful to children."
Over the page OFC000088_0017:
"(c) For large and multi-risk user-to-user and search services, providers should prepare and apply a policy in respect of the prioritisation of content present on the service for review."
(d):
"For user-to-user services, the use of highly effective services for:"
And then there are certain categories. (e):
"For all user-to-user and search services, providers should have in place systems and processes enabling prospective complainants to make complaints ..."
Then I want to focus on (f) and (g), so (f):
"Providers of user-to-user services that operate recommender systems and are medium or high risk for

content harmful to children should ..."
And note the words:
"... exclude in children's recommender feeds primary priority content [material]."
If you just pause there. That would seem to be self-evidently important, that you shouldn't be able to recommend content that is primary priority content that's meant to be excluded. But then, in (g), it says:
"Providers of user-to-user services that operate recommender systems and are at medium or high risk of one or more specific kinds of priority content, other than bullying content ..."
So there is a carve-out for bullying content:
"... or identified kinds of non-designated content, should exclude [fine] or give a low degree of prominence to other content that is harmful to children."
So, it takes a little while to get one's head around that but you must correct me if I'm wrong, what that seems to be saying is that in relation to priority content, other than bullying content, platforms are allowed to give a low degree of prominence to content that is harmful to children?
A. That's right.
Q. And the key aspect of that, for our purposes, is violent content. How can it possibly be right that social media

platforms are permitted, by this approach, to give a low degree of prominence, but some prominence, on algorithmic feeds of violent content that can stretch right up to material that is just below the threshold for what is unlawful?

A. So I think that the sort of technical answer to that, why are the two things different, comes back to the statutory scheme. Because Section 12 requires services to prevent access to primary priority content and to protect children from encountering priority content.

And so I think -- my understanding is that the rationale for the difference in this measure is to reflect that different priority and that different obligation with the Act, the difference between "prevent" and "protect".

Q. But there is a carve-out for bullying content but not for violent material?

A. So I think the carve-out for bullying content is a little bit different because I don't think that that means it is included in (f), I think it is excluded altogether. And I think the rationale for that -- and I will come back to you if I have got this wrong -- is that bullying content is not typically something that is pushed via recommending system, it is something that is produced by people engaging directly with each other in

messaging services.

So the reason that that doesn't appear in this measure is that it is about the For You feed, which, as we discussed right at the beginning this morning, is usually something that gives you stuff from people who you are not connected to. So I think that's why -- the bullying carve-out is a different carve-out.

Q. All right, but this is talking about those platforms that already have a medium or high risk of priority content, so they are already in those risk categories. But it is then -- and one appreciates that they will have adult users, but what appears to be being said is: you can include violent material that will be harmful to children, algorithmically, you can feed more of it on your platforms, so long as you tone down the prominence that's given to it compared to other recommendations. Why is that desirable to have that sort of material algorithmically pushed at all?

A. Well, I think this would come down to what we mean by "low degree of prominence" here. I completely take the point, on -- looking at it on first principles, you say: well, why, if this is content harmful for children, should it be in the feeds at all? As I said, I think it is intended to reflect the difference in the statutory scheme, which is we are not requiring people to

completely remove it from their ranking systems altogether and when they see that it is going towards a child, they should be either excluding it -- which I think would be the ideal case -- or giving it a low degree of prominence. But I recognise that it does like look a strange outcome.

Q. If one looks at (h):

"Providers of user-to-user services at medium or high risk of bullying, eating disorder, self-harm or suicide ... should signpost users who report, post, or search for such content to appropriate support as quickly as possible ..."

Yet again, who could argue with that. But what one sees there is that bullying has been uplifted, from the priority content, as an example of where off-ramping, as it is sometimes referred to, or signposting to support should be given, but the same hasn't been done for violent material. Do you know why that is?

A. I don't know. I mean, I think from a policy perspective, I would guess that at the time, there was a view that these were the particular harms where appropriate support would be a particularly helpful intervention. In the same way pornographic content, which is a primary priority content, doesn't appear on this list at all. So it's effectively been downgraded.

But I think I take the point you are driving at, which is should, in fact, violent content also be something that would cause someone to be offered support.

Q. So, a member of the public, whether they are a 17-year-old, or an 18-year-old, or a 19 year old, plugs into a social media platform "extreme gore", and there's no requirement at all for signposting to positive material or support?

A. I think that's right.

Q. But somebody who puts in "bullying" would?

A. Yes. I mean, I would have to look back at the consultation materials to understand whether violence was considered and ruled out. But you are right, in terms of the outcome, that's where we are.

Q. And that too, may I suggest, is a strange outcome?

A. Yes.

Q. Thank you.

Leave the statement up. Can we turn then to potential reforms to the OSA. And you, entirely understandably, at page 62 OFC000088_0062, paragraph 169, give yourself an immediate life-raft:

"It is a matter for Government and Parliament to decide what legislative changes could and should be made to strengthen the OSA ..."

And I ask these questions not overlooking that. But

because Ofcom is at the coalface of the regulation, I do want to look at some aspects with you. And in particular, because in one important area, Ofcom, as we will look at, has been involved in the making and recommendation, or rather recommending that something is not done.

So can we go to that straightaway and it is the question of whether there should be a change to the priority -- primary priority content list.

So if we just look at the paragraph above, 168:

"... Government has power under the OSA to amend the list of primary priority content or priority content through secondary legislation, and it could, for example, consider whether there are categories of extreme violent content, which should be made primary priority content, rather than priority content, and therefore subject to stricter requirements on services, particularly on user-to-user services, which have a duty to prevent all children from encountering primary priority content ..."

So anyone who is interested in this area knows how long the passage of the OSA, through Parliament, was and it may be very early to have changes to the primary legislation but I think what you are flagging at 168 is that this can be changed by secondary legislation, yes?

A. Correct.

Q. The question then is: should extreme violent content, which is already primary content, be promoted to primary priority content?

If we go to OFC00094, your second statement, at page 2 OFC000094_0002, paragraph 6. You explain that, really quite recently, on 22 October of this year, you published the first report on content harmful to children and this is the report that's required on a statutory basis and do you remember, I took you to some aspects of this when we were looking at what's the current assessment of the harms.

Now I want to look at it in terms of the significance of this as a recommendation for change, or rather a recommendation not for change. So if we can go to the report itself. It is ILT000373. If we can go to page 3 ILT000373_0003. If we could just have a look at the box in the middle:

"Our recommendations and review in brief."

So:

"... appropriate to add body stigma content and depression content, currently identified by Ofcom as kinds of non-designated content, to the category of priority content that is harmful to children."

So that's an upgrading from what we looked at

earlier as the third category into the second category. So that will bring body stigma content and depression content in line with other forms of priority content, including violent material, yes?

A. Yes.

Q. But then, importantly, second bullet point:

"At this time, we do not recommend any other change to the categories of primary priority or priority content that is harmful to children in the Act."

Is that right?

A. Correct.

Q. If we could look, please, at page 18 ILT000373_0018. And if we could start by looking at paragraph 3.29. This is on the section of "Graphic, extremely violent content":

"There is evidence of children encountering graphic, extremely violent content on regulated services ... [which] could include gore content and graphic footage of real life violence. An example of this is the footage of the death of Charlie Kirk, which children reported encountering and being affected by."

So, no doubt that this type of material is being fed to children and adversely affecting them. I think the killing of Charlie Kirk being cited as a particular recent example of that?

A. Yes.

Q. At paragraph 3.30:

"... there is evidence to indicate that engaging with violent content has been associated with children's exposure to real world violence, including committing acts of violence ... Some evidence of perpetrators of violent offline attacks engaging with graphic, extremely violent content directly before carrying out these attacks ..."

It can't be said that this was said ignorant of these events because:

"... such as the perpetrator of the Southport attack. However, as noted in a [research] meeting of a UK Government roundtable, it is challenging to establish the extent to which consumption of violent content contributes to acts of offline violence compared to other factors, including for acts of violence committed by violent-fixated individuals."

So I just remind you there, without reprising the detail of it, of my challenge to you earlier, that you can't really expect to see hard evidence of that connection, but it seems to have been relied upon?

A. I mean, it is certainly something that we mentioned in the report, in this section. I can see that it is sort of at the top, rather than in amongst our rationale for

not deciding to upgrade it, but yes, I take the point.

Q. Then over the page, please ILT000373_0019, 3.31 sets out the current law. 3.32:

"Violent content is a broad category that encompasses many kinds of content, some of which may be illegal in some circumstances. We provide examples of where violent content may be illegal in ..."

And you give the paragraph reference to the guidance on content harmful to children:

"In our consideration of whether, in Ofcom's opinion, it is appropriate to make changes to sections 61 or 62 ... we note in particular ... the following kinds of content may be illegal."

Then you give some examples of that. Then, in paragraph 3.33, you say:

"... we have identified some content that may depict graphic, extremely violent content but in some contexts might not reach the threshold of an offence and therefore service providers would not be required to remove it. Instead, this content would fall within the categories of [priority content] that is harmful to children. Therefore, regulated user-to-user services would not be required to prevent children of all ages content as they would be for a kind of [primary priority content], and regulated search services would only be

required to minimise the risk of children in age groups judged to be at risk of harm from encountering the content rather than minimising the risk for all children."

So that's what's said about the groupings. Then if we go to same page as we have now ILT000373_0020, 3.36. We see just ahead of that, 3.35, we don't consider it appropriate. Then it says this:

"This is partly because, as discussed in paragraph 3.32 ..."

Which is why I have taken you to it:

"... we expect most graphic, extremely violent content is likely to be illegal content and therefore service providers will be subject to the illegal content safety duties ..."

What was the evidential basis for concluding that most graphic, extremely violent content was illegal?

A. Could we look at footnote 74?

Q. Yes.

A. So that is just referring back to the Act. Besides -- whatever we say in 3.32, I don't know what the evidential basis was.

Q. No. If you step back and think about it, that, in some ways, would be curious because why bring in a new offence?

A. I agree. And I think, you know, in reviewing this for my evidence, I did note that earlier in the document we say "some" graphic violent content and here, we say "most". So I think there is a certain amount of inconsistency within the report itself.

Q. So, that's really quite concerning, in terms of reliance on that, for a recommendation not to upgrade violent material to primary priority content, isn't it? A sort of seeming assertion without any stated evidential basis, that most of it is illegal already.

A. I agree and I think it does sit strangely with 3.38, where we do talk about the introduction of the new offences.

Q. Thank you. That's very helpful.

So 3.38, you note the UK Government "has indicated that it intends to introduce new legislation in this area".

And reference to the National Security Bill. Then, over the page ILT000373_0021, 3.39:

"We also note that additional protections apply in relation to news publisher content ... as well as journalistic content and content of democratic importance in relation to Category 1 services ..."

So that, of course, must be right, but that could be provided for, surely, in relation to a carve-out for

legitimate journalistic reporting?

A. I think that's probably right.

Q. Thank you. If we could go to your statement, please. This also refers to this Inquiry but I'm going to come back to that. So going back to your second witness statement, please, OFC000094. If we could go to page 4 OFC000094_0004, paragraph 10.

That's very helpful to have it like that, thank you Amanda.

So we have looked at this before in outline but you will recall that when we went through it previously, what we established, from your second statement, was that the review in relation to the incidence of violent content, was to find effectively no change. So:

"... we found that Ofcom data shows that children's reported exposure to violent content ... did not change significantly over the first nine months after the children's safety duties in the Act came into force ..."

Yes?

A. Yes.

Q. They continued to report encountering violent content, they continued to report that it affects them, yes?

A. Yes.

Q. If we look please at page 7 OFC000094_0007, paragraph 24, at the top of the page, you are dealing --

perhaps we could take it from paragraph 23, forgive me, it is my fault OFC000094_0006.

You refer there to the fact that the published document states that the other public policy issue is that this Inquiry is sitting and considering these issues and you say, in paragraph 23:

"We appreciate that the Inquiry has stated that they would not wish its ongoing work to delay or discourage any regulatory or policy measures that Ofcom considers appropriate and justified on the basis of the evidence currently available, and there is no need for Ofcom to await the publication of the Inquiry's final report before taking steps which they independently consider necessary to protect children."

I think you can confirm that the Inquiry wrote to Ofcom to make that clear?

A. Yes.

Q. Then you said:

"It was not Ofcom's intention to suggest that the ongoing Southport Inquiry was the reason Ofcom did not recommend changes in respect of graphic, extremely violent content at this time, and we regret if that is how this might have been perceived. Ofcom's advice was based on a number of factors, as outlined above, including the evidence of harm to children which had not

materially changed over the review period."

Now, just pausing there. The logic for this is curious, isn't it? Because you have that early research that we looked at that, that was suggesting a bad picture of how easily accessible violent material is, and the subsequent findings looking at how it has been more recently, saying there has been no significant change.

But all that's happened in between is that the Act has come into force, with its duties for providers to mitigate the risks of children coming across priority content. So, what you would have expected to happen is for the position to have got better because there's a statutory duty which should have been mitigating that risk. Do you follow?

A. Yes.

Q. So the fact that the pattern of risk and exposure has remained the same, should only have been a rational motivator towards doing more, because the existing measures haven't reduced the risk?

A. Certainly, they haven't reduced the risk yet.

Q. So, surely that should have been pressing hard on the side of the scales, to say: maybe the time has come to put extremely violent material into primary priority content. Whereas, throughout your second statement, the

lack of change seems to be put forward -- I don't criticise the statement, it is in the report too -- the lack of change of the risk profile seems to be saying: the status quo is okay. That's curious logic, if not irrational, I would suggest?

A. So I think the logic of it, as I understand it, is that the exercise we are undertaking based on the statutory scheme is to look at the incidence and severity of violent content, for example, and decide whether that should be upgraded. And what we found was that the incidence and severity of violent content in the round, in our view, had not materially changed within nine months of Parliament deciding that that should be priority content. And on the basis of that, we did not recommend that it should be upgraded.

We then identified a subset of that, which was extremely graphic violent content, which we have flagged in the report as something we gave additional consideration to. My understanding was that the decision to recommend that it be upgraded or not was finely balanced and debated internally, but in the end, the decision was taken not to recommend it.

But I can see where you are coming from, which is that sort of pure exercise of: has incidence or severity changed, can be read in light of an external change,

which is the introduction of the Act. And I can completely see where you are coming from.

Q. Thank you. Media reporting, at least, is not full of reports of social media posters being convicted of offences for posting graphic violent material, are they?

A. I'm not aware of any.

Q. No. The reliance on the suggestion that the majority of violent material would be illegal, isn't borne out by action being taken for criminality for posts on social media, for the most part?

A. Well, I mean, I think that's a different question, which is whether the CPS is taking action on something, is not necessarily indicative of whether it is happening.

Q. If we just scroll down and look at paragraph 27 on the same page. One of the reasons why this may be of particular concern is that you indicate, in paragraph 27, that:

"Ofcom's next report on content harmful to children must be published no later than three years from the date of this first report."

You do go on to say:

"However, should we consider that our review should be carried out sooner, we may choose to do so."

But because this is every three years, it is highly significant and that is a long time to wait --

appreciating you could do it sooner -- to make this significant "non-recommendation" not to upgrade graphic violent content, yes?
A. Yes.
Q. The decision, I think, in relation to this -- this is a recommendation, but sits with the Secretary of State and the advice following the recommendation, presumably, with DCMS?
A. Correct.
Q. If, on reflection, Ofcom has grounds to reflect on whether its reliance on the majority of violent content being illegal was a sound assumption, there would be a case for potentially revisiting this or at least an addendum?
A. Yes.
Q. If there is any action falling out of that, could you please, with the Chairman's permission for me to put it this way, ensure that the Inquiry is kept carefully informed?
A. Certainly.
Q. This report was an opportunity to stand up against violent conduct online and to press the case for it being put into the higher bracket.
A. Yes.
Q. And if it were to be suggested to you that Ofcom had

missed that opportunity, what would you say?
A. I would say it is certainly true that we haven't done it.
Q. Thank you. So that's that report. Another aspect in relation to the OSA is the safe harbour approach. I said I would come back to that in terms of criticism. Can we do that by reference again to Mr Burrows' evidence and the Molly Rose Foundation. It is MRF00008. And it is page 12. Forgive me, if we just start the previous page, page 11 MRF000008_0011, right at the bottom of the page.

Just pick up the context. So:

"Regulation remains the most powerful means available to tackle the risks posed by social media ..."

And so on, and then, at 59 MRF000008_0012, he says:

"Ofcom's enforcement approach has highlighted deep structural issues in the Act's design, while in the Foundation's assessment the regulator has proven risk averse to the point that it has actively 'baked in' the status quo rather than delivering meaningful change. Ofcom has chosen to adopt a deeply cautious approach when it comes to the development and implementation of its regulatory scheme."

If we could just look at paragraph 64, which I think may be at the foot of the page:

"The current application of the 'safe harbour' provisions is effectively having a chilling effect on safety-by-design innovation. Taken together with the constraints around Codes of Practice, this means that regulation currently acts as a ceiling, not a floor, for addressing online safety threats."

So it is strong language, but one understands where he is coming from and the challenge that he poses, that if you say, to online platforms: if you follow our guidance you will be in the safe harbour, that is not likely to lead platforms to press harder on actually making their platforms safe by design?
A. Yes, I can see why he says that.
Q. Again, appreciating that, to some extent -- I'm not going to say above your pay scale or Ofcom's, because this is -- it follows the statutory scheme, but is Ofcom involved in discussions about whether the safe harbour approach is appropriate or is that too still soon after the coming into force of the Act?
A. I mean, certainly it is something we have spoken to Government about on a number of occasions since the Act came into force. It is a structural feature of the Act that creates challenges around, you know, both in terms of what it requires us to do as a regulator, in effectively being a kind of all-purpose expert for

safety for a population of 100,000 services. And then also in terms of what incentives it puts on platforms as regards their safety measures and how they mitigate the risks that they identify.
MR MOSS: Thank you.

Sir, I know that Mr Breeze, very kindly, has made arrangements to, himself, be available for a slightly later finish. I'm conscious of our stenographer, it has been a very long day. I'm going to suggest that we take a 10-minute break, which will take us to 4.30 pm. I will then constrain my remaining questions to not very much longer. I have got a few matters I need to cover. I know that there will be some questions from the families, but I think, rather than pressing on straight to 5.00 pm or 4.50 pm, that might be more effective.

SIR ADRIAN FULFORD: 4.30 pm.
(4.20 pm)
(A short break)
(4.29 pm)
SIR ADRIAN FULFORD: Last stretch, Mr Breeze. Yes, Mr Moss.
MR MOSS: Thank you, sir. Just a few more matters under the heading of reform please. The first is the regulation of generative AI and AI chatbots. Can we have your first statement on the screen, please. It is page 5 OFC000088_0005, paragraph 18.

You set out a good degree of detail there in introducing this topic in your first statement and I think that there is, at a high level of generality, a bit of a patchwork of the way in which AI is and is not currently in scope, would that be fair?

A. Yes.

Q. But, outside of the areas where it is covered by the OSA, it is not subject to other regulation; there isn't other safety regulation outside the OSA for AI chatbots, for example?

A. Not in terms of the kind of harms that we are interested in, in the Online Safety Act, no.

Q. Thank you. So you will know, in relation to evidence that this Inquiry has heard, that there has been evidence of significant concern in this area, really for two reasons. That AI chatbots, if asked questions about mass casualty attacks and risk in that area, pose two problems. One is that there is a concerningly high response rate. So, the bots will comply with that request and there is a league table that has been provided with those that are better and worse. But a certain element of re-framing the question will make even more chatbots answer that.

Summarising quite a bit of evidence, the second area of concern is the additionality. It is the level of

detail that those chatbots will return, in relation to those sort of queries, that goes above what could easily be achieved by a more traditional online search engine. So I'm sure you will be familiar with those concerns.

Taking this shortly because we are now short of time, if we look at page 25 OFC000088_0025 of your statement. What you flagged as one of the areas for potential further legislative change is in paragraph 48(a). So:

"New regulatory requirements for AI services in relation to illegal content. Government has power to make regulations to bring unregulated AI services into scope of the OSA and to subject them to duties to minimise or mitigate the risks of harm to UK users from illegal AI generated content and from the use of AI services for the commission of or facilitation of priority offences."

So, in light of the concerns about additionality and how chatbots are responding to that, that might be thought to make that an area of a need for urgent action. Are you, or Ofcom, aware of what the plans are in relation to that, to bring more AI services into scope of the Act? Which again, I think can be done by secondary legislation.

A. That's right. I mean, I understand that Government is

planning to use the power in the Crime and Policing Act of 2026, which allows them to extend the Act to other services.

Q. In this area of AI and AI chatbots?

A. Yes.

Q. Thank you. Do you think -- are DCMS likely to be better sighted on the timings in relation to that?

A. Yes.

Q. Thank you. We will take that up with them. Secondly, if we could just have on screen, please, page 61 OFC000088_0061 of your statement, paragraph 165.

In passing, in your first statement, you said, in the second half of this -- the precise context for this matter doesn't matter -- you said:

"To achieve this, we will align our different specialist staff in research, supervision, enforcement, technologists, lawyers and analysts to drive the improvements we set out to achieve. We are also undertaking a wide-ranging review of Ofcom's online safety work to understand how we can go further to drive impact and outcomes for children, families and citizens. This review will conclude in the early autumn and will be delivered to our CEO and Chair."

Now, can you just give us an estimation as to when that finalised report will be published?

A. So I think this is a reference to -- the output of this will be the Chair's review of our operating model, which I understand should be polished in the next few weeks.

Q. Thank you, so that's imminent?

A. Yes.

Q. Yes, thank you. Then finally, the social media ban for under-16s.

So if we could just look back in your second statement, OFC000094_0008 at page 8.

So the second statement, page 8, paragraph 30. We know that the Secretary of State tasked Ofcom to undertake this rapid assessment of what highly effective age assurance looks like for determining whether someone is 16 or over.

And that what was published -- again, it is part of the large suite of documents that have come in quite recently -- 29 October 2026. So ILT000378.

So "Rapid assessment of highly effective age assurance at 16".

Now, that treads new ground because previously, for other purposes, currently under the OSA, it is at 18, yes?

A. Correct.

Q. If we go to page 3 ILT000378_0003, we see a summary of key findings. And I will limit myself, if I may, just

to a couple of matters arising from this. Could we just have the fourth paragraph expanded, it is the one that begins:

"Our assessment has identified four age assurance methods capable of being highly effective at determining whether someone is 16 or over: photo ID matching, digital identity services, banking-based checks and facial age estimation. This means there is currently less choice of highly effective methods at 16 than 18 ..."

Can you just briefly explain why that's the case?

A. Yes, certainly. It is because there are certain methods that rely on someone being 18. So, for example, we mentioned credit cards earlier and you can only have a credit card at 18. That knocks that out, in practice, for 16-year-olds. Same with the email estimation, where you can link it to reliable sort of activities that you would do, which you would have to be over 18 to do, such as gambling or taking out a mortgage, is my understanding. So it's simply that 18, because it is the age of majority, has a lot more markers that you can use.

Q. Has more, and then also, it says:

"... and our rapid assessment has not surfaced emerging methods that would be ready before the ban

comes into force."

Looking through the slight element of management speak in relation to that, "not surfaced emerging methods" --

A. We haven't found any.

Q. There's nothing new?

A. Yes.

Q. All right, thank you. Then page 4 ILT000378_0004, significant to aspects we have been looking at in terms of OSA, the top headline:

"Current age inference methods cannot act as an age gate."

Now, we know that there are some major platforms who are relying on those age inferences but I think the emphasis here is that because these models rely on user activities for a period of time, they are not suitable as the mean way to prevent new, under-16 users from accessing services in scope of the ban, is that right? So you want to have -- your principal age gating wants to be an at-the-start restriction, not something that's looked at over a period of time?

A. Correct.

Q. We will not go to it, but I think that within -- the detail of this document is indicating that may still have a purpose, as a secondary check for those who get

through initially. So it may still have a purpose but it shouldn't be the primary means relied upon; is that a fair summary?

A. Yes, so we refer to here as a possible anti-circumvention method. So, you know, we were talking about circumvention before. If you manage to get through the age gate, you could potentially use it as a way of getting signals that someone might be under the age. I think it is worth saying we are currently developing our policy on its status for existing users. Because this is a rapid assessment, we didn't consult on it, we will need to consult on guidance for 16-year-olds and so this will come out in that.

Q. Thank you. Sir, may I just provide for your note, the fact that you will find, at pages 27, 28 and 29, relevant information about the circumvention methods, including VPNs, the risks in relation to those and the suggested mitigations. But I think, bearing in mind the time, I won't go to those or ask questions about them.

SIR ADRIAN FULFORD: Thank you very much indeed, Mr Moss.

MR MOSS: Bearing in mind the sort of difficulties that we have been exploring with TikTok and YouTube in relation to their reliance on current age inference, is the reality of the social media ban for the under-16s, that it is going to have to be done in a quite prescriptive

way, so requiring the assessment of age to be done by a definitive list rather than non-exhaustive? Is that, do you think, the reality?

A. I wouldn't go that far and I wouldn't want to pre-empt where we get to in our consultation. But certainly, we have expressed over the years, and including in our age assurance report in July, that we do have -- we don't see the evidence for age inference currently being highly effective.

Q. Thank you. Final matter, but on the same topic. The Inquiry has heard some evidence, Mr Ahmed from CCDH was an example of this, where he said that the use of social media has gone up among young people in Australia because the ban didn't have sufficient teeth. We have also heard concerns about the fact that Discord, Roblox and Telegram were excluded from the ban. So those commenting critically on the practical effect in Australia.

Other than the very obvious point that Ofcom and DCMS, no doubt, will want to learn from that, does Ofcom have a view at the moment on the key lessons to be learned from the Australian experience?

A. Yes, so I'm not sure it is right that social media use has gone up but I think most studies will say it has not significantly gone down. My understanding is that a key

driver of that is Australia introduced a reasonable steps standard for its age assurance, rather than highly effective and the Government has said that the standard will be highly effective and that is why it is a kind of Australia-plus model.

In respect of the platforms you have mentioned who are not in scope of the Australia ban, I think it is worth saying that there are two big pieces of the children's regulations. One is the sort of Australia model social media ban, which I think Government has signalled you can expect to look pretty similar to the Australia one and the list, you could expect to look pretty similar. Let's see where that turns out.

But there are also the restrictions on risky functionalities around livestreaming, which we mentioned earlier, and also communication from strangers. And they have signalled that will apply to a wider group of services, including gaming services.

Q. So ILT000409. This is open-source media, reporting that:

"UK social media ban expansion for under-16s could cover YouTube Kids.

"A substantial expansion of the social media ban for under-16s could inadvertently lead to a ban on YouTube Kids and other sites that had been thought

exempt, sources briefed on the government's proposals have said.

"One source close to the talks said the regulations now under consideration meant up to 150 platforms, including games platforms such as Lego Play, could be covered by the ban, which is set to come into force in March."

Our focus is not so much, as you'll understand, on Lego Play, but on platforms that have been raised as areas of concern for this Inquiry and I have named some of them not being included in Australia.

Can you assist with the updated position any further or is it all a matter of policy under development?

A. So it is a matter of policy under development. I think we will have a better idea once Government lays the regulations, which I believe is due to happen before Christmas. But I wouldn't want to sort of pre-empt what they are going to say to Parliament on that.

MR MOSS: Mr Breeze, those are my questions. Thank you for your patience with me. I will just turn to my left.

MR CHAPMAN: I will be very brief, if I may?

SIR ADRIAN FULFORD: Yes, Mr Chapman, of course.

Questions by MR CHAPMAN

MR CHAPMAN: So, Mr Breeze, I ask questions on behalf of the bereaved families and the associated Core Participant

groups.

Could I start with this question: is a VPN provider a regulated service at all?

A. Not under the Online Safety Act.

Q. What about elsewhere?

A. Well, I mean, effectively all companies are regulated under the data protection rules and so they would be regulated in that sense but I'm not aware that they are subject to sector-specific regulation.

Q. So if that's right, it must follow that nobody but Parliament could require a VPN provider to check a user's age, for example?

A. I think that's right.

Q. Could we just bring up the reference I passed to the team earlier. This is the view of the Children's Commissioner and it is paragraph -- it doesn't look like that's the right reference, I am sorry. *(Pause)*.

Three lines on the bottom, it should be, on my note. CCE000017.

Forgive me, I think I may have got it wrong. Let me read out what I have got and we will check it. The Commissioners' view, from my copy, says that:

"... if a child is able to bypass an HEAA",

meaning --

SIR ADRIAN FULFORD: It is the middle of 96 CCE000017_0096,

five or six lines down, halfway through the line.

MR CHAPMAN: Thank you very much. It will save me reading it, but I'm happy to carry on.

A. Yes, I have read it.

Q. So, in other words, that -- there is a disconnect, isn't there, between the term "highly effective" and what you can actually do when VPNs can bypass age assurance, do you see there? Do you see the point she's making?

A. I do.

Q. Do you agree with it?

A. I don't. And the reason for that is that in our guidance, when -- we discussed this with counsel to the Inquiry earlier -- we set out the four criteria that we say would make an age assurance solution highly effective and one of those is robustness. So I think that's where this question comes in, of whether you can say that your solution is robust if you haven't mitigated the risks of people circumventing it, using things that they are reasonably likely to do so.

So I think I would agree, if you would say that it is clearly circumventable by VPN and you haven't put in solutions to deal with that problem. Assuming that's reasonably likely by a child, then I would say that is likely to fail the robustness criteria and then you could enforce against it.

Q. Let me press you a little bit on that. Something that doesn't work because you can easily get round it just isn't highly effective?
A. Well, I think that presupposes that people are doing it and that services aren't taking countermeasures.
Q. Well, isn't the point that it is very difficult for them to take countermeasures?
A. I think it certainly is difficult and as I said, I think in our next phase of policy development on HEAA, given our hypothesis that children will be incentivised in a social media restrictions world to do that, that is something we are going to be very closely looking at.
Q. Has Ofcom opened any investigation or taken any enforcement step on the basis that a service's age assurance was circumvented by a VPN?
A. Not that I am aware of.
Q. Do you know why that would be?
A. Not across all of the cases that we have taken in relation to age assurance, we have taken a lot.
Q. Mr Moss gave you one potential solution, this idea of a VPN which reveals that you are in the UK but not where in the UK. Can I suggest another one -- it is not my idea but one I think proposed by the NCA and NPCC -- and this is a re-verification wherever a platform detects that you have apparently changed country. Is that

something that you have considered at Ofcom?
A. Not that I'm aware of.
Q. Is that something Ofcom will be looking into?
A. Potentially.
Q. There's nothing in the codes about it now --
A. No.
Q. -- suggesting this might be a reasonable step, to require re-verification when you have apparently changed country?
A. I don't think so.
Q. I want to say that of course the Act, from our point of view as a family, has raised the floor for children generally and we accept that, but for somebody like AR and violence-fixated individuals, is there anything that would stop him acting in the same way, using a VPN to access gore material and content, which, in the words of the Chair, I think, were fostering and enabling his malign intent?
A. So as a child, or as an adult?
Q. Well, he was 17 at the time.
A. Yes. So I think this comes back to the question of the robustness of an age assurance solution and whether there are things that we can do to strengthen the expectation that that should be dealt with. I think for adults, it is more challenging.

Q. But he wasn't an adult, that's my point.
A. No.
Q. So is there anything, because of this VPN problem -- what I'm suggesting is this VPN problem, if it can't be fixed, leaves a gaping hole in your powers to regulate the online world for children and to protect the safety of the public. Do you accept that?
A. Well, I think there are -- what do I think? I think if everyone used a VPN and there were no countermeasures being taken, then clearly, you would have the potential for everyone to walk around the Online Safety Act, as it is currently constituted. As I said, the data we currently is that certainly for children, recognising the question around response bias, that is not happening at scale. So, as with any policy intervention, there is a question about: what does the evidence show you and is it enough to then take action?

As I said, I think it is something we are looking very closely at, which is what kind of countermeasures should we be expecting services to take in relation to someone that they suspect may be using a VPN to circumvent the protections in the Act for children.
Q. Mr Moss made the point, and I think you accepted it, about reporting bias?
A. Absolutely.

Q. May I also suggest another reason why it may appear that they're not used very much, which is that age restrictions are currently very weak?
A. I think that is right and I think that one of the issues we have seen from the reporting in Australia is that VPN usage among children there also hasn't tended to increase and that is partly because the age assurance there is a reasonable steps standard, not a highly effective standard. And that is why I said our strong hypothesis is that incentive is likely to increase and you may well see children turn to VPNs more in a social media restrictions world.
Q. Do you also accept the point that the biggest concern for this Inquiry, perhaps, is VFIs and the determined evader, if I can put it that way, do you accept that?
A. Yes, I do.
MR CHAPMAN: Thank you, sir.
SIR ADRIAN FULFORD: Thank you very much, Mr Chapman. Mr Breeze, it has been a very long day for you. May I thank you for some extremely careful and candid evidence that you have given and for the evident effort that's gone into preparing your statement.
A. Thank you.
SIR ADRIAN FULFORD: I'm very grateful to you.

So that ends this week, I think, Mr Moss.

MR MOSS: Sir, it does and we are 10.00 am, with your permission, on Monday.

SIR ADRIAN FULFORD: Right. Then I shall rise until 10.00 am Monday next week. Thank you all very much.

(4.53 pm)

(The Inquiry adjourned until 10.00 am on Monday, 23rd November 2026)

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