

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

Case No. 1279/1/12/17

Victoria House,  
Bloomsbury Place,  
London WC1A 2EB

10 May 2018-25 May 2018

Before:

**MR ANDREW LENON QC**  
(Chairman)

(Sitting as a Tribunal in England and Wales)

BETWEEN:

**PING EUROPE LIMITED**

Appellant

- and -

**COMPETITION AND MARKETS AUTHORITY**

Respondent

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**MR ROBERT O'DONOGHUE QC** (Instructed by **K&L Gates LLP**) appeared on behalf of the Appellant

**MS MARIE DEMETRIOU QC** appeared on behalf of the Respondent

1 Tuesday, 15 May 2018

2 (10.30 am)

3 MR PAUL HEDGES (continued)

4 Cross-examination by MS DEMETRIOU (continued)

5 MS DEMETRIOU: Good morning, Mr Hedges.

6 A. Good morning.

7 Q. Yesterday I was asking you some questions about  
8 paragraph 14 of your first witness statement. Do you  
9 want to turn that up so that you have it in front of  
10 you? Paragraph 14 is on page 3.

11 A. Yes.

12 Q. We had established yesterday that the 50 to 70 per cent  
13 was an estimate across your members in relation to  
14 on-course sales across all brands. That is where we had  
15 got to.

16 Now, we see from paragraph 14 that these figures  
17 relate to on-course sales and so, by definition, these  
18 figures relate to purchases by customers who have made  
19 their purchase in a bricks and mortar shop.

20 A. Correct.

21 Q. So it follows that they are not customers who have been  
22 lost to online retailers?

23 A. In the simplest terms, yes -- for a particular sale,  
24 yes.

25 Q. For any particular sale.

1           Now, let's take a hypothetical example of a customer  
2           that might come into a shop of one of your members. So  
3           a customer comes into a store and wants to buy a set of  
4           golf clubs -- Mr Hedges, this is a very pedantic point  
5           but when you nod, do you mind saying "Yes" because then  
6           the transcript will pick it up.

7   A. When I get a question, I will.

8   Q. If you could say "Yes" if you agree with each of these  
9           stages -- well, not agree, because at the moment I'm  
10          just positing an example, but if you understand what it  
11          is I am positing.

12  A. Okay.

13  Q. Thank you. So a customer comes into the store and wants  
14          to buy a set of golf clubs, and he goes into the  
15          on-course shop of one of your members and he ends up --  
16          so this particular customer ends up buying a set of  
17          Titleist clubs but does not have a custom fitting and he  
18          buys a set off the shelf. Now, that customer would fall  
19          into your 30 to 50 per cent percentage of customers who  
20          have bought in-store but have not had a custom fitting;  
21          is that right?

22  A. Correct.

23  Q. Now one reason that such a customer might not have had  
24          a custom fitting -- one reason might be that  
25          the retailer has not persuaded him that it is an

1 important thing?

2 A. Correct.

3 Q. Or another reason might be -- I think this is a point  
4 you made yesterday -- that Titleist are more relaxed  
5 about allowing retailers to sell their off-the-shelf  
6 stock or indeed put pressure on them to do so?

7 A. That could be correct.

8 Q. It might be -- and this is something we heard from  
9 Mr Clark yesterday -- that the retailer in question does  
10 not have the Titleist club heads to carry out the  
11 custom fitting?

12 A. He may not be equipped and he can't have the custom  
13 fitting facilities across multiple brands, yes, that is  
14 correct.

15 Q. So I think we agree that these are all plausible reasons  
16 why in any particular case somebody might fall within  
17 the 30 to 50 per cent bracket?

18 A. They are all plausible reasons, however I do not believe  
19 they are the main reasons. If I may offer some  
20 alternatives?

21 Q. Please do, yes.

22 A. First of all, the qualified PGA professional can't be  
23 available seven days of the week in a shop, so often  
24 it is staffed by junior staff, people who are not as  
25 skilled, as qualified, who are not able therefore to

1 take over control of that sale and persuade, to use your  
2 word, people to buy custom fitting. Also, of course,  
3 not all golfers have been exposed yet to the benefits of  
4 that so are not aware to ask for it, so there is a kind  
5 of you don't know what you don't know. So a lot of  
6 those sales are taken away from custom fit simply  
7 because the relationship between the junior staff and  
8 the customer is not good enough to affect that sale.

9 Q. That is helpful. So those are also plausible reasons  
10 why somebody might fall within the 30 to 50 per cent  
11 bracket?

12 A. Absolutely. And one other thing for clarity, just to  
13 make everybody aware of, that the Foremost relationship  
14 with its members are that they are independent  
15 retailers. We educate, encourage, try to direct them  
16 towards what we would call "best practice", but at the  
17 end of the day they are independent and therefore  
18 we can't force people into policies and so on and their  
19 individual pressures may actually require that they have  
20 to do things slightly differently from what we would  
21 consider to be best.

22 So in a best practice situation, we would always  
23 educate the PGA professional to bring the conversation  
24 to custom fitting and remembering also that if you are  
25 going to do the job well of selling golf clubs, it is

1 a more holistic approach because you need to assess the  
2 golfer. So if I was the golf professional and a customer  
3 came in and asked me to buy golf clubs, my first  
4 question would be to establish what they are looking  
5 for, their current situation, how they are playing, what  
6 clubs they have currently. So it is an exercise that  
7 takes you through that and may involve even advice on  
8 them and their game prior to fitting.

9 So I am trying to give you the context of the wider  
10 issue.

11 Q. That is very helpful on that point, since you mention  
12 it, and advice on their game. I think you would say  
13 that that is one way in which your members who focus on  
14 an individualised service are able to compete with other  
15 retailers who perhaps don't offer that individualised  
16 service.

17 A. Absolutely, but, again, what we have to understand,  
18 I believe, in the PGA professional context is this is  
19 a complete package. So a typical relationship between  
20 a golf professional and his club is that he provides  
21 a range of services and individually each of those  
22 services probably is not enough for him to make a living  
23 from.

24 It is an interesting thing that golf is perceived to  
25 be a wealthy industry played by wealthy people with lots

1 of money being made by all sorts of people, and  
2 yesterday, when there was a discussion around  
3 the relevance of Ping's income to the smaller retailers,  
4 it is something that -- I was sat there thinking "I want  
5 to talk about that because it is misconstrued". Only  
6 this morning --

7 Q. Can I pause there? I do want to take you through my  
8 questions, if that's okay. Maybe that is something  
9 we can come back to at an appropriate time.

10 A. Fine. If I may come back to that, yes.

11 Q. I want to go back to my hypothetical example of  
12 the purchaser who has come into the store, wants to buy  
13 a set of golf clubs there and then, has not had a custom  
14 fitting and ends up buying Titleist clubs off the shelf.

15 We went through a range of reasons that you agreed  
16 would be plausible and then you gave me some additional  
17 reasons why the custom fitting might not have taken  
18 place. But I think we can agree, can't we, as a matter  
19 of logic that one reason that is not relevant to whether  
20 or not a custom fitting has taken place is the fact that  
21 Titleist clubs are available elsewhere online because  
22 this particular consumer has come in wanting to buy from  
23 this shop?

24 A. I am not sure that that is a direct correlation, but  
25 yes.

1 Q. So you agree that the fact that other retailers may be  
2 selling Titleist clubs online is unlikely to determine  
3 whether or not this purchaser in this shop has a custom  
4 fitting?

5 A. I would not say it is unlikely. It would be  
6 a contributing factor.

7 Q. But much less important than the direct contributing  
8 factors that we have spoken about?

9 The reality is, isn't it, Mr Hedges, that a golfer  
10 coming into a shop who has decided to buy golf clubs  
11 there and then is not thinking, "I will not have  
12 a custom fitting because these clubs are available  
13 online" because he intends to buy and does buy the clubs  
14 from the shop?

15 A. Again, we need to look at the wider context --

16 Q. Before we get on the wider context, can you agree  
17 whether that is likely or unlikely?

18 A. Well, buying a set of golf clubs is not impulse. It's  
19 not like a shirt. People don't come in and say, "Oh,  
20 I'm going to buy a set of golf clubs" and spend £2,000.  
21 This is a considered purchase --

22 Q. Yes, of course.

23 A. -- so there will be a lot of thoughts going through that  
24 person's mind before they make that decision. They have  
25 probably already researched it. They may already



1 accidentally have been fitted by some other version. So  
2 they are now coming into make the final part of the  
3 purchase and at that point, yes, you are right,  
4 the relevance of the internet is probably less.

5 Q. Can I just take a second hypothetical customer? So this  
6 is a customer who has come in store, wants to buy a set  
7 of golf clubs -- so, so far the same situation -- and  
8 this customer ends up buying Ping golf clubs and this  
9 customer does have a custom fitting.

10 Can we agree that the plausible reasons for that  
11 might include, first of all, the fact that Ping, we know  
12 from Mr Clark, has provided a lot of Ping-specific  
13 equipment for custom fitting down the retail chain?  
14 Would that be a plausible reason?

15 A. Yes, absolutely, it is part of it.

16 Q. Then might another reason be that Ping retailers are  
17 required contractually to actively promote custom  
18 fitting? Might that have an effect?

19 A. Well, again one assumes that the consumer, when they  
20 come in, already identified that this is a Ping stockist  
21 and a Ping fitting centre.

22 Q. Well, they may or may not have done. So presumably some  
23 consumers come in and they are open-minded as to what  
24 brand they are going to buy?

25 A. But unless that retailer has the Ping fitting

1 facilities, he can't extend that service to them anyway.  
2 So if they're talking about buying a set of Ping clubs,  
3 by definition it would have to be a Ping account.

4 Q. Yes, of course. I am talking about Ping accounts, but  
5 Ping accounts that offer other brands too, which most of  
6 them do.

7 So take the customer that has comes in, wants to buy  
8 a set of golf clubs on that day from that shop, buys  
9 a set of Ping golf clubs and has had a custom fitting.  
10 We have agreed that one of the reasons they may have had  
11 a custom fitting is because that retailer has  
12 Ping-specific equipment and is equipped to carry it out.  
13 Another reason might be that Ping requires contractually  
14 its retailers to actively promote custom fitting to  
15 customers. So that would have an impact, wouldn't it?

16 A. It would.

17 Q. Another contributing factor might be the fact that  
18 we have heard that Ping does not encourage its retailers  
19 to sell off-the-shelf clubs, and that is a distinction  
20 between it and other manufacturers that you mentioned  
21 yesterday.

22 A. That is correct.

23 Q. Similarly, the fact that this customer has had a custom  
24 fitting is unlikely to have much to do with whether or  
25 not Ping operates an online ban, is it, because this

1 customer has chosen to buy in-store?

2 A. Can you say that again? I'm not quite following that.

3 Q. So we have gone through the contributing factors that  
4 may have led a custom fitting to take place. But what  
5 I am putting to you is that, similarly to the Titleist  
6 consumer, given that this is a customer who has bought  
7 in-store, the question of whether or not Ping also sells  
8 online is not likely to be a very relevant factor behind  
9 the fact that this person has had a custom fitting.

10 A. I would have thought it was completely relevant because  
11 the reality is the only place they will be able to buy  
12 the Ping golf clubs is somewhere that custom fitting is  
13 available.

14 Q. But we are talking here about somebody who has come  
15 in-store and wants to buy in-store, ends up buying  
16 a Ping set of golf clubs and may or may not have  
17 a custom fitting in the lead-up to that purchase.

18 We know from Mr Clark that a proportion of between  
19 10 and 20 per cent of Ping customers do buy in-store  
20 without a custom fitting, so whether or not this  
21 customer falls within the 20 per cent or not is unlikely  
22 to be a function of the online sales ban, isn't it?

23 A. I still disagree. I go back to the point I was trying  
24 to make a moment ago, that when you are spending £2,000,  
25 this is not an impulse buy. Typically from a retail

1 point of view, there will be a six-week buying cycle for  
2 a customer before they make that purchase. Lots of  
3 influencing factors will have decided their question  
4 before they even come into the shop about buying Ping  
5 golf clubs. They may inadvertently have been fitted in  
6 the sense that they have lots of friends and colleagues  
7 and associates that they play with, that they borrow  
8 clubs, that they have had Ping clubs previously. There  
9 may be lots of reasons why they have the confidence to  
10 buy those Ping clubs without necessarily custom fitting.

11 Q. Pausing there, Mr Hedges, some customers may fall into  
12 that category of having decided what golf clubs or what  
13 brand to buy in advance, but others may be more  
14 open-minded about brand; isn't that right? So when they  
15 come in, one of the factors that they will be discussing  
16 with the fitter is, "What brand might suit me"?

17 A. They may, but actually it's interesting in golf how  
18 powerful the brand loyalty is and in fact -- you know,  
19 we are talking or I heard you talking yesterday about  
20 surveys and we carry out probably the largest golf  
21 survey in the UK, and Ping's brand loyalty is almost  
22 double that of its nearest competitor. So the reality  
23 is that a big percentage of people that buy Ping will  
24 stay with Ping and want to use Ping and know the Ping  
25 philosophy.

1 Q. Do you also say, Mr Hedges, that as part of that  
2 six-week consideration period or typically six-week  
3 consideration period, that somebody, a customer, will,  
4 during the course of that, not only give thought to what  
5 brand they want, but also whether or not they want  
6 a custom fitting?

7 A. Absolutely.

8 Q. So I think by parity of reasoning -- so you are saying  
9 that they have cogitated about brand for six weeks,  
10 so they'll come in effectively having made up their mind  
11 that they want something -- some of them will.

12 A. Often, yes.

13 Q. So by parity of reasoning, if somebody has thought very  
14 hard about having a custom fitting, then they will also  
15 come in determined to have a custom fitting?

16 A. I think if they are custom fitting converts, if they  
17 have already understood the benefits of it, then,  
18 absolutely, they would expect that.

19 Q. Okay. You say at paragraph 17 of your first statement  
20 that custom fitting is not something that can be done  
21 online and in a sense I think that is common ground  
22 between everyone. So the CMA accepts that technically,  
23 at the moment, it is not possible to carry out  
24 face-to-face dynamic fitting on the internet.

25 A. Or ever will be.

1 Q. But what the CMA has said is that a customer can be  
2 custom fit for a golf club in a shop and then use those  
3 specifications by the fitter if they are provided to  
4 purchase other golf clubs online.

5 You then made a second witness statement which  
6 addresses that issue. That is behind tab 5 of the same  
7 bundle. Can we turn to what you say at paragraphs 3  
8 and 4? So at paragraph 3 you set out the CMA's view  
9 that I have just summarised and then you say at 4 that  
10 specifications which are provided are brand- and  
11 model-specific.

12 A. Yes.

13 Q. So you say that a customer would not be able to shop  
14 around between different brands using their  
15 specification?

16 A. That is correct.

17 Q. You say that equally they would not be able to shop  
18 around between different models within the same brand?

19 A. Yes.

20 Q. But you do accept, I think in principle, that a customer  
21 who had been custom fit and who had their specifications  
22 could shop around in principle for the model they had  
23 been recommended?

24 A. Yes, in principle.

25 Q. Now, you go on to say at paragraph 5 that your key

1 concern about this is that no party would take  
2 responsibility for ensuring that the clubs were properly  
3 fitted, but if a customer had had a custom fitting, then  
4 in principle this should have ensured that the clubs fit  
5 the customer properly, shouldn't it?

6 A. We have to remember that there is a dynamic element to  
7 this, which is the person on the end of the golf club.  
8 So from one day to the next those golfers can change and  
9 they can be influenced by outside experiences and  
10 attitudes. It is not uncommon that, despite all  
11 the best efforts and all the measurements that those  
12 clubs aren't performing as we hope they should do. We,  
13 as a policy, for instance, have a method where we do an  
14 after-sales check to make sure that everything is right.  
15 So although we would hope for 100 per cent accuracy,  
16 the reality is that there has to be an opportunity for  
17 the golfer to come back when and if that is not  
18 performing as they would expect it to.

19 Q. As you say, you hope for 100 per cent accuracy, and  
20 actually the incidents of people who have been properly  
21 custom fit coming back and complaining are relatively  
22 small, aren't they?

23 A. They are small, but nonetheless very important and  
24 we can't prejudice people who fall into that small  
25 category.

1 Q. Okay. Now going back to your first statement please at  
2 paragraph 15, so you say there -- so you predict that  
3 allowing online sale of Ping's clubs would result in  
4 significant damage to the Ping brand that could last for  
5 a generation. Your basis for saying this is that if  
6 a golfer ends up with a bad club, he is likely to blame  
7 the brand. That is essentially your point?

8 A. Yes.

9 Q. So, with reference back to the previous question I asked  
10 you, to the extent that customers are able to purchase  
11 properly fitted clubs online using their specifications,  
12 that issue is likely to be small, I think you said.

13 A. Well, my issue with that is I am still not sure how you  
14 police 'properly fitted' online.

15 Q. That is a separate question. I am asking you about it in  
16 principle. So in principle, Mr Hedges, if somebody were  
17 able to use their specifications to buy the precise  
18 recommended club online, do you accept in principle that  
19 would be a properly fitted club?

20 A. In principle, and if you think what the online business  
21 is doing it is not actually anything to do with custom fit,  
22 it is just an ordering process, so you might as well  
23 have emailed them the specs. You don't need an  
24 elaborate online site. So the reality is, yes,  
25 providing the right specs are provided, then you would



1 expect them to ...

2 Q. Okay. We know, of course, that all of the other leading  
3 manufacturers sell custom fit clubs and all of them  
4 allow their clubs to be sold online, all of the main  
5 competitors of Ping, but we know also from what you say  
6 that the demand for custom fitting has generally been  
7 increasing in recent years.

8 My question or the point I want to put to you is  
9 that it is not the case, is it, that any of those  
10 manufacturers' reputations have suffered as a result or  
11 been ruined as a result of permitting online sales; on  
12 the contrary, their sales of custom fit products have  
13 increased?

14 A. It is absolutely right that you could not argue that  
15 their reputation has been ruined, but again we need to  
16 separate facts from a context. The context is that Ping  
17 have come from a position of 100 per cent custom fitting  
18 from day one. Most of the brands we are talking about  
19 in comparison sold standard equipment and had that  
20 policy in place online before they got heavily involved  
21 in custom fit. So they had no choice. Now, if they  
22 could re-invent the wheel, I expect they would invent it  
23 in the way that Ping are doing it.

24 Q. You say Ping have come from a position of 100 per cent  
25 custom fit clubs, but we know that's not correct.

1 A. As an intent.

2 Q. As an intent.

3 Your final concern at paragraph 24 of your statement  
4 is that if Ping's clubs -- I think you deal with this at  
5 paragraph 24 and paragraph 30. I will take you through  
6 it, but your final concern in a nutshell is if Ping's  
7 clubs became available online, many of your members  
8 would suffer and may go out of business.

9 A. Correct.

10 Q. I want to look at precisely what your concern is and  
11 then I will ask you some questions about it.

12 If you look at paragraph 24 of your first statement,  
13 you express the concern that "if sales of golf clubs did  
14 become primarily online" -- and this is the last  
15 sentence -- "... a few online retailers might do very  
16 well, but many of our [...] members would suffer and may go  
17 out of business". That is one point you make.

18 Then, at paragraph 30, you say that you are  
19 concerned about "... the possibility of a few large  
20 internet retailers (who often have one token bricks and  
21 mortar store) putting smaller [...] independent golf  
22 professionals out of business. Such a trend would be  
23 extremely detrimental to many of our members".

24 Then for completeness, before I ask you the  
25 questions, in your second statement at paragraph 6 you

1 say that to your mind "... the only parties that would  
2 benefit from this 'order form' model" -- and that is what  
3 we have just been discussing, "... are the few large online  
4 retailers who are looking to make quick sales without  
5 taking responsibility for ensuring the clubs sold to  
6 the consumer are correct for them, whilst those that  
7 suffer are the large majority of smaller golfing  
8 retailers who invest time and money into fitting  
9 equipment and into developing a relationship with  
10 the consumer". So those are the points you make.

11 A. Correct.

12 Q. Those points assume, don't they, that if Ping's online  
13 sales ban were removed -- so if they had to sell  
14 online -- large online retailers such as this, such as  
15 the ones that you are positing, who are not committed to  
16 custom fitting, would be allowed to sell Ping's  
17 products. So you are working on that basis?

18 A. From what I understand, we are talking about those  
19 online people being able to provide a platform from  
20 which an order can be placed.

21 Q. What if Ping only permitted account-holders to sell  
22 online if they could demonstrate a commitment to custom  
23 fitting? In that situation, then this particular  
24 concern would be much less likely to materialise,  
25 wouldn't it?

1 A. I cannot see how anyone can manage an online retailer to  
2 that commitment.

3 Q. Let's assume that is possible. Let's assume that Ping  
4 lays down as a requirement that the retailer has to show  
5 a commitment to custom fitting --

6 MR O'DONOGHUE: Can the witness be explained what  
7 "commitment" means? It was put in an abstract term,  
8 which is unhelpful.

9 MS DEMETRIOU: I would like to ask the questions as I want  
10 to ask them, and if Mr O'Donoghue has a point, he can  
11 deal with it in re-examination.

12 So can we please assume that Ping, if this ban were  
13 lifted, required account-holders to show a commitment to  
14 custom fitting in the way that it currently requires  
15 them to show a commitment to custom fitting and that it  
16 carefully selected the online retailers that it allowed  
17 to be part of its selective distribution network and  
18 that the result of that -- let's assume that the result  
19 of that is to exclude some of the large or all of the  
20 large online retailers who are not really interested in  
21 selling from a store, do you accept that your concerns,  
22 these risks, are much less likely to materialise?

23 A. Well, I am following a number of ifs and sequences there  
24 and, without wishing to sound like a parrot, I am not  
25 sure what the commitment ever would be.

1 Q. Let me be more precise. Let's assume that Ping required  
2 an online retailer to have a bricks and mortar store and  
3 to comply with all of its current contractual  
4 obligations to commit to custom fitting and required it  
5 to demonstrate online that it had a commitment to custom  
6 fitting, and that may include, for example, allowing all  
7 of the custom fit specifications to be available online.  
8 Let's also assume -- this is now getting long-winded  
9 because Mr O'Donoghue has asked me to be more precise --  
10 that this resulted in lots of the big online retailers  
11 being excluded from the selective distribution network,  
12 would you then agree that as a matter of logic these  
13 risks are much less likely to materialise?

14 A. Again, "No" is the answer, and I'm still -- I am  
15 slightly confused at right at the start of the  
16 assumptions, because if an online retailer has a bricks  
17 and mortar store and if we have all agreed that you  
18 can't possibly be custom fit online, all you are doing  
19 online is taking an order, then one assumes that  
20 the customer at some point has to be involved in  
21 the bricks and mortar store. Why would they then go  
22 back to the online retailer?

23 Q. Well, I am not here to answer the questions. But let's  
24 stop you there --

25 MR O'DONOGHUE: Let him finish.

1 MS DEMETRIOU: Can Mr O'Donoghue please stop interrupting?

2 Stopping you there, you say, "Why would a customer  
3 want to do that?" Let's say a customer goes into  
4 a bricks and mortar store and obtains a custom fitting  
5 specification and then wants to shop outside or online  
6 to get a better price --

7 A. I think one of the effects of this decision, if it goes  
8 that way, is that the independent retailers will no  
9 longer provide consumers with the fitting facilities.

10 Q. I know that that is what you say the consequence is. At  
11 the moment I am not asking you to speculate about the  
12 consequences. I am asking you to accept a simple point  
13 as a matter of logic. Let me put it in a different way.

14 Let's say that Ping carefully selected its online  
15 retailers if the ban were lifted and let's imagine that  
16 that excluded lots of the "pile them high, sell them  
17 quickly" large-volume online retailers, do you then  
18 agree, as a matter of logic, that this risk that you  
19 talk about, that you speak of, of your members going out  
20 of business, is less likely to materialise?

21 A. If all of the things which you have just described,  
22 which I think are extremely unlikely -- but if they all  
23 applied, then yes, your logic would work.

24 Q. We have discussed how all of the other leading  
25 manufacturers do allow their clubs to be sold online and

1           some of them presumably allow them to be sold online  
2           through large retailers who are not terribly committed  
3           to custom fitting.

4   A.   Yes, that is a fact.  I would love to be able to give  
5       you some more examples of why.

6   Q.   We have seen that Foremost Golf itself sells those  
7       brands on its website; yes?

8   A.   Yes, we advertise them on the website.

9   Q.   You have already told us that you have a number of  
10       members -- a small proportion, but a number of members  
11       who sell these clubs online.

12  A.   Yes.

13  Q.   But there is no evidence, is there, that the  
14       availability of these other brands online has had any  
15       adverse effect on significant numbers of your members or  
16       caused a significant number of them to exit the market?  
17       We have not seen any evidence of that, have we,  
18       Mr Hedges?

19  A.   It has had an impact.  Whether it has had enough impact  
20       for them to go out of business -- and the question here  
21       with the Ping situation is whether this may be the straw  
22       that breaks the camel's back in the sense of that.

23  Q.   Can I hand up two articles?  One of them, Mr Hedges, is  
24       an interview with you.  I will hand them to the Tribunal  
25       as well.  So can we look at this one first, which says

1 "Paul Hedges Q&A: 30th anniversary of Foremost Golf".  
2 We see that that is an interview that you gave to Golf  
3 Business News on 21 October 2014.

4 We see from the headline there that Foremost Golf  
5 was celebrating, at that point, its best trading figures  
6 it had achieved for years; yes?

7 A. Yes.

8 Q. Further down we see reference to you helping -- I think  
9 it is over the page. So over the page we see reference  
10 to the fact that you have been helping members with  
11 their websites, which is something you told us about  
12 earlier.

13 A. Yes.

14 Q. Now, have a look at the heading, "How has the internet  
15 influenced the way Foremost operates?"

16 What you say there is this:

17 "About ten years ago some of us saw the internet as  
18 a massive threat. We thought that online retailers  
19 might seriously damage the on course business, but it  
20 hasn't happened that way. Indeed, it is the high street  
21 retailer whose business was based on price and choice  
22 that has struggled. I'm a great believer in the phrase  
23 'necessity is the mother of invention', so instead of  
24 steering clear of the internet we have embraced it and  
25 learned how we can utilise the digital world to our best



1 advantage. There is no doubt the internet has had  
2 a detrimental effect on margins but it has also offered  
3 us an effective way to communicate our unique value  
4 proposition to a wider audience. I would argue that  
5 with the right focus today's PGA professionals have an  
6 advantage over the high street and online retailers.  
7 Our unique business model with three different sources  
8 of income -- from retailing, teaching and club services,  
9 combined with our low overheads allow us to deliver  
10 fantastic value to golfers and clubs -- whereas the high  
11 street and online retailers are totally dependent on  
12 retail sales at a time when the market is sluggish and  
13 margins are under threat more than ever before. They  
14 are stuck in what I would describe as  
15 the Tesco Syndrome. Many have expensive sites. They  
16 have overheads but are being forced into cost cutting in  
17 order to keep their rivals at bay. They are often  
18 chasing turnover which in a challenging market is not  
19 a very comfortable position to be in."

20 That is what you say there.

21 Let me take you to the other article here, which is  
22 an article from September 2016. This is an interview  
23 with Andy Martin. He is the managing director at  
24 Foremost Golf, isn't he?

25 A. He is.

1 Q. Are you both on the board?

2 A. Yes.

3 Q. You work closely with him?

4 A. Yes.

5 Q. Do you discuss the business with him?

6 A. Of course.

7 Q. Do you remember this coming out in the press at the  
8 time?

9 A. I do.

10 Q. Do you remember discussing it with Andrew Martin?

11 A. I do.

12 Q. Let's look at the interview. In the third paragraph of  
13 the interview, this says that:

14 "Golf has struggled with falling participation  
15 figures over the last few years -- although the numbers  
16 now seem to have stabilised -- but when I met up with  
17 Andy Martin, Company Director at Foremost, he tells me  
18 that members have actually experienced growth for  
19 a number of years."

20 Then he explains some of the reasons for this  
21 further down and we see that some of the reasons are  
22 that one of the company's many initiatives last year was  
23 the complete equipment solution.

24 "... every customer who purchases a set of irons  
25 from their pro will receive a free lesson. As Martin

1       says, they are not just selling golf clubs; they are  
2       selling better golf. This focus on the point of  
3       different [sic] for the golf pro -- what they can offer  
4       that online retailers can't -- is clearly a major area  
5       for the team."

6             Then he says:

7             "'That is a big reason why our iron sales are  
8       increasing.'"

9             Further down:

10            "Martin says that almost all of the company's  
11       members are doing well with hardware and rejects the  
12       idea that pros would be better concentrating on other  
13       areas. He says there was a difficult period ten to  
14       15 years ago when online sales took off and pros weren't  
15       marketing their expertise well enough, but that is not  
16       the case anymore."

17            We then see in the penultimate -- so, just going on:

18            "'In the past we did see racks of irons just sitting  
19       in a shop from brands A to F. The customer would ask  
20       for a certain set and know what they could get it for  
21       online and then the pro was exposed."

22            Presumably he means for a cheaper price online.

23            "Now they have a unique proposition; he's not just  
24       selling the product, he's selling the exact  
25       specification. Fitting is where the improvement is

1 coming and this is where the consumers can see real  
2 improvements. Two people that are both exactly the same  
3 size will have vastly different swings and need  
4 different set-ups."

5 Now, Mr Hedges, the picture that all of this paints  
6 is that the increase in custom fitting has worked to  
7 your members' advantage and that is despite online  
8 sales; correct? That is the picture painted in these  
9 articles and these interviews.

10 A. Yes.

11 Q. In fact there is no evidence, is there, that lifting  
12 Ping's online sales ban would result in your members  
13 going out of business because, if that were going to  
14 happen, it would have happened already, wouldn't it?

15 A. No, I think contrary, it says exactly the opposite,  
16 which is that it's the very fact that we have been able  
17 to drive custom fit and sales and not have the online  
18 competition that has allowed us to regain that position.  
19 So anything that reduces that and increases  
20 the likelihood of online sales is going to weaken our  
21 position. May I address --

22 Q. You can, but I will ask you another question first and  
23 then you can address that. What you say here is that --  
24 you and Mr Martin both say that online retail was  
25 a threat and you say that in a context where all

1 the other brands were offering their clubs online;  
2 correct?

3 A. Yes.

4 Q. You say:

5 "Even though we feared ten or 15 years ago that  
6 it was a threat, in fact that has not proved to be  
7 the case."

8 You say that the reason for that is that your  
9 smaller golf professionals have competed by offering  
10 something, different custom fitting, and that is now  
11 what consumers want. That is what you say in these  
12 articles. Do you accept that that is true?

13 A. Yes.

14 Q. The question I am putting to you is that it is highly  
15 unlikely, isn't it, that in circumstances where that is  
16 true, where all the other brands sell online, suddenly  
17 the picture is going to be entirely reversed because one  
18 brand starts selling online?

19 A. Well, I think we have to understand Ping's position in  
20 the market place. It's not just one brand. It's a  
21 significant brand with a major market share, so it has  
22 a big influence. The other point I would like to, if  
23 I may, address, because obviously these quotes have been  
24 used, is that the success of Foremost Golf is as  
25 a company itself, not necessarily -- so the record

1 profits are Foremost Golf Limited as a company, not  
2 the individual professionals.

3 In custom fitting, what we have been driving -- and  
4 you mentioned the complete equipment solution in  
5 the phraseology there -- that complete equipment  
6 solution is actually a pre-sale custom fit that we offer  
7 free of charge, then the sale and then the after-sales,  
8 to touch on the comment we made earlier, that there is  
9 a requirement to make sure that, having been fitted,  
10 those clubs still work for the customer. Now, those  
11 things have a cost to them. We have to provide  
12 the fitting equipment, the technology, all those  
13 things --

14 Q. Mr Hedges, I am coming on to free riding --

15 THE CHAIR: Can you let him finish?

16 A. The relevance of it is, of course, that small individual  
17 retailers, they've had to invest a huge amount of  
18 energy, money and finance and facilities into providing  
19 this service and that is at threat if those sales are  
20 then taken away from them online.

21 Q. Okay --

22 A. Sorry -- the very last point -- when we saw the internet  
23 as a threat, it is still a threat from a retailing  
24 potential. What the internet gave us the opportunity to  
25 do was communicate to golfers, to educate them on the

1 alternatives. Prior to the internet, the only way  
2 we could communicate to our customers was through  
3 the post or with magazines, which is very expensive. So  
4 the internet gave us the ability to digitally  
5 communicate cost-effectively and to preach the gospel  
6 according to custom fitting. So we have been able to  
7 influence the customer and make them aware, prior to  
8 which they probably weren't. That is why the trend of  
9 custom fitting is growing, because people are  
10 becoming educated.

11 Q. I understand. Mr Hedges, you agree, do you, that what  
12 you told the journalist and what Mr Martin told  
13 the journalist reflects your view? You told the truth.

14 A. Within Foremost Golf, yes, because, without being  
15 arrogant, we are doing very well and bucking the trends.

16 Q. I want to move on to free riding. You say at  
17 paragraph 27 of your first statement that:

18 "Many Foremost Golf members invest large sums of  
19 money in custom fitting, equipment and training...", and  
20 so on.

21 You say that, for those retailers, allowing  
22 consumers to get fitted in their shop and then walk away  
23 and buy clubs elsewhere is not a viable option. But of  
24 course that is a risk they already face, isn't it, with  
25 the other brands? Do you accept that?

1 A. Yes.

2 Q. There is no evidence, is there, or you are not producing  
3 evidence to show that members are viable as a result?

4 A. Not viable, but I am not saying they are not affected.

5 Q. No, but on the contrary these articles show that in  
6 general your members are going strong.

7 A. Those that are following our initiatives are doing  
8 better than the marketplace, yes.

9 Q. Turning to paragraph 7 of your first statement, you say  
10 that -- maybe it is the second statement. Let me find  
11 the reference. It is the second statement.

12 So at paragraph 7 of your second statement you say  
13 there that in your experience around 85 per cent of  
14 custom fittings result in a sale to the customer. So  
15 you are there estimating your members' rates,  
16 presumably, the conversion rates of custom fitting to  
17 sale.

18 A. I am.

19 Q. So for the remaining 15 per cent, that must mean  
20 logically either they that don't make a purchase at all  
21 or secondly that they go elsewhere to make their  
22 purchase?

23 A. Yes.

24 Q. Yet your members have found viable ways of accommodating  
25 the fact that 15 per cent of custom fits will not result



1 in sales?

2 A. Yes, I am -- the reality is why the 15 per cent, because  
3 again, if you take this as holistic, when a customer  
4 comes for a custom fitting, it is quite regularly  
5 the case that you actually suggest to them they are not  
6 ready to have the clubs fitted, that there is something  
7 more obvious in terms of their technique or swing or  
8 attitude or something, so it is wrong to assume that it  
9 has not been a successful custom fitting. It's actually  
10 because the outcome may not be in their best interest.

11 Q. So that fits into my first category, that they may not  
12 make a purchase at all at that stage?

13 A. Yes.

14 Q. And yet, the point I am putting to you is that despite  
15 this 15 per cent of non-conversion rates, custom fitting  
16 to purchase, your members have found viable ways of  
17 accommodating that loss?

18 A. The other thing we have to remember is 85 per cent of  
19 the people have had the privilege of custom fitting. If  
20 the number of people that come to custom fit is reduced  
21 because of the availability of online golf equipment --  
22 so we are talking about the effectiveness of a custom  
23 fit sale. What we are not talking about is the impact  
24 that there will be less people per-se that come for  
25 custom fitting because they can buy it online.

- 1 Q. Mr Hedges, I think you are trying to think ahead to  
2 questions that I may ask next. Can we just stick to  
3 the questions I am asking. We will come to that point.  
4 I will ask you a question about that.
- 5 A. I apologise.
- 6 Q. So my question at the moment is I think one we can agree  
7 on, which is that 15 per cent -- you mentioned this  
8 15 per cent rate which represents a loss to your members  
9 because it is investment that does not result in a sale  
10 or might be.
- 11 A. Yes.
- 12 Q. But my question is that it appears that your members  
13 have found viable ways of accommodating that loss.
- 14 A. They are not going out of business because of the  
15 15 per cent, yes.
- 16 Q. What you have not analysed, I think to be fair to you,  
17 is you have not analysed what the incremental effect of  
18 lifting the Ping ban would be on your members.
- 19 A. No.
- 20 Q. Now you say that charging for custom fitting isn't  
21 standard practice, and I think you have said that even  
22 small charges can deter consumers from being custom  
23 fitted, but the decision finds -- and I can take you to  
24 it, but you may know -- that in fact a reasonably  
25 significant proportion of Ping's account-holders already

1 charge for a custom fitting; were you aware of that?

2 A. I was, but it is actually not relevant to the fitting.

3 Mr Clark yesterday mentioned a fee of £20 to £30 for

4 a 60-minute or a 90-minute session. Clearly that is not

5 in any way relevant to the fitting. It is

6 a cancellation fee to stop people from wasting time.

7 That is what our fitting charges are. They are not

8 commensurate with the work and effort that is required

9 to provide the custom fitting.

10 Q. I understand that and you have made that point very

11 clearly in your statement, but you don't say, do you,

12 that there has been any adverse impact on custom fitting

13 rates because of that upfront charge; it is not

14 something you have analysed?

15 A. I cannot measure that, no.

16 Q. In their decision, the CMA identified a number of

17 alternative measures by which Ping could sell its clubs

18 online while promoting custom fitting. You comment on

19 a number of them in your statement. If we go to your

20 first statement at paragraph 25, you say that first of

21 all any warning as to the importance of custom fitting

22 would be ineffective. Do you see that?

23 A. I do.

24 Q. But we have already seen from the Foremost Golf website

25 that you do in fact have a warning on your own website,

1 don't you? You say, "We strongly advise that to get the best  
2 from this product, you are custom fitted", and you give  
3 a phone number. Presumably you do that because you  
4 think it might have some effect, don't you?

5 A. Absolutely. We work really hard not to sell golf clubs  
6 online.

7 Q. You also say in your first statement -- and we see this  
8 from paragraph 26 -- that you don't think that a live  
9 chat facility would be a substitute for the ban in terms  
10 of promoting custom fitting and you didn't at that stage  
11 mention that Foremost does provide such a facility on  
12 its website, but then, when that was pointed out, you  
13 went on to deal with that in your second statement. If  
14 we turn that up, at paragraphs 12 and 13, you say that  
15 the Foremost Golf live chat facility would never be used  
16 to offer custom fitting advice. By that, do you mean  
17 advice on which custom fit club the customer should buy?

18 A. Yes, the chat facility online is primarily for fairly  
19 mundane questions, "Have you got the product in stock?",  
20 "How long is it going to take to get here?", "Have you  
21 got a blue one instead of a green one?", that sort of  
22 thing. That is the kind of instant gratification that  
23 online customers actually want, but you cannot possibly  
24 offer advice on custom fitting online by phone or any  
25 other method.

1 Q. But I think you accept, don't you, at paragraph 13  
2 that -- yes -- you can use and in fact you do use  
3 the Foremost Golf live chat facility to suggest or  
4 recommend to consumers that they do go and get a custom  
5 fit.

6 A. They go to a professional to be fitted, yes.

7 Q. Okay. If you just bear with me for a moment.

8 I do not have any more questions for you. Thank you  
9 very much.

10 MR O'DONOGHUE: Nothing in re-examination.

11 Questions from THE TRIBUNAL

12 PROFESSOR BEATH: I have very little voice at the moment,  
13 but I will try to shout to you.

14 Yesterday, in your answer to Ms Demetriou -- it's to  
15 do with paragraph 14 of your first report -- you stated  
16 that the secular rise in custom fitting has been  
17 demand-driven, the idea being, I presume, that  
18 customers/consumers are becoming more and more aware of  
19 this thing and it has a life of its own.

20 A. Yes.

21 PROFESSOR BEATH: So presumably the most recent trends are  
22 not supply-led, not driven by what the producers are  
23 doing, but it is just innate in the process that people  
24 more and more want to be custom fitting. Does that mean  
25 that the promotion or might an implication of that be

1           that the promotion of custom fitting by manufacturers is  
2           going to become less and less important in this process  
3           of getting people custom fit?

4    A.   No -- I think first of all the answer to the question is  
5           yes, we, and Foremost Golf particularly, have probably  
6           been pioneers in the driving of custom fitting, with  
7           the communication, and I mentioned the fact that  
8           the internet has given us the opportunity to do that.  
9           But of course the cycle of buying golf clubs is quite  
10          a slow one.  If we are talking of full sets, my view is  
11          it is five years.  So there is always new golfers,  
12          different people, so I think we have to always assume  
13          that we have to keep re-educating and make people  
14          aware --

15   PROFESSOR BEATH:  Right, so for the new population you  
16          always have to be prompting them.

17   A.   Yes, and I think, if I may, the comment that I was  
18          wanting to make earlier is just how critical custom  
19          fitting is to the golfing community and to the PGA  
20          professionals.  It was suggested yesterday -- there was  
21          a phrase that frustrated me about the relevance of the  
22          Ping business to the independent retailer.  I think  
23          the figures were quoted that it was 92 per cent of  
24          Ping's account were 30,000 or less in terms of  
25          purchases.  If you put that in context, our, 1000 golf

1 professionals, their average retail business is £130,000  
2 to £150,000 per year excluding VAT. About 40 per cent  
3 of that is hardware. If you put that into context,  
4 the Ping business is actually very significant to them.  
5 Despite things like, in this morning's BBC News, that  
6 Rory McIlroy of Northern Ireland is now the highest  
7 under-30-year-old sports earner at £110 million -- good  
8 luck to him -- that is nothing to do with the golf  
9 business. In our business, the 5,000 golf pros that  
10 make a living in the UK have an average salary of less  
11 than 30,000. So a £5,000 loss of income from not being  
12 able to sell Ping golf clubs is very material to them.  
13 Lastly, the point is there that their job -- PGA  
14 professionals are employed to inspire and engage with  
15 golfers, to teach them how to play. It is a very  
16 difficult game. What is unique in golf is you have  
17 2,500 facilities where golfers can be receiving that  
18 information. If those golf professionals are -- their  
19 businesses are threatened and aren't able to provide  
20 that, it is damaging for the whole industry.

21 PROFESSOR BEATH: Thank you.

22 MR DORAN: I have one question, Mr Hedges. You mentioned, in  
23 one of your remarks about the context that you mentioned  
24 a couple of times during your evidence, the difference  
25 between the trajectory -- let me use my word for

1 a second -- of the different manufacturers and their  
2 brands. To summarise, you said that Ping had had an  
3 emphasis on custom fitting all the while; the other  
4 brands had in the main, as I understand what you said,  
5 moved from standard-fit clubs and moved towards custom  
6 fitting and now are much more wholly on board with  
7 custom fitting.

8 I wanted to pick up -- I think it is a theme from  
9 what you have been saying to Professor Beath -- does  
10 that mean that actually the importance of the sales of  
11 non-Ping clubs is rather less important in the life of  
12 the businesses whom you represent and the small  
13 businesses round the country merely because they have  
14 had a greater presence online since the beginning of  
15 online sales and they have just been in a different  
16 position, so emphatically the emphasis has been on Ping  
17 as a sustaining part of the business?

18 A. Yes, absolutely. It is not a coincidence. We have  
19 a survey amongst our 1,000 members every year and for  
20 nine years Ping have won that award as the most  
21 important supplier to them. It is critical to their  
22 business and it is the heart of what they do.

23 I think again, if you look at those other major  
24 brands, they have commercial reasons why sometimes they  
25 make decisions. I know Mr Clark mentioned about



1 the different ethos, but it is even more simple than  
2 that. That is if they had done a significant business  
3 with a major retailer with standard equipment, that is  
4 a relationship they are struggling to move away from, so  
5 they would like to accelerate, I think, more in terms of  
6 the custom fitting, but have got some challenges in  
7 doing that.

8 MR DORAN: So they are where they are and Ping is where  
9 it is -- sorry, I do not want to put words into your  
10 mouth --

11 A. No, you are right, you are right.

12 MR DORAN: It is just to understand the movement of these  
13 brands.

14 A. Yes.

15 MR DORAN: That is very helpful. Thank you.

16 MR O'DONOGHUE: We are going to call Mr Challis. I wonder  
17 whether it is a convenient point to break now or whether  
18 to crack on.

19 THE CHAIR: Let's crack on for a bit.

20 MR O'DONOGHUE: Ping calls Robert Challis.

21 MR ROBERT CHALLIS (sworn)

22 Examination-in-chief by MR O'DONOGHUE

23 MR O'DONOGHUE: Mr Challis, good morning. You should have  
24 in your orbit bundle B2. If you can turn first to tab 8  
25 of this bundle, if you go to the last page of tab 8,

1 internal page 4, is that your signature at the top of  
2 the page?

3 A. It certainly is.

4 Q. Is this your first witness statement in these  
5 proceedings?

6 A. It is.

7 Q. Are the contents of this first statement true to  
8 the best of your knowledge and belief?

9 A. Yes.

10 Q. If you now turn to the next tab, tab 9, again last page,  
11 internal page 3, the top of the page, is that your  
12 signature?

13 A. It is.

14 Q. Is this your second statement in these proceedings?

15 A. It is.

16 Q. Can you confirm the contents of the second statement are  
17 true to the best of your knowledge and belief?

18 A. They are.

19 MR O'DONOGHUE: If you wait there.

20 Cross-examination by MS DEMETRIOU

21 MS DEMETRIOU: Hello, Mr Challis.

22 A. Good morning.

23 Q. You sell golf clubs online, don't you?

24 A. We have in the last few months offered a website that  
25 we have developed but at the current time I have made

1 one online sale in three months.

2 Q. When did you start doing sales online?

3 A. I think it was February when we started, but we are  
4 still putting product on now.

5 Q. Let's look at your website. So if we can bring up  
6 the website, that shows, for example, that you can buy  
7 this Mizuno club online. You can select a limited  
8 number of options and there is a number of other clubs  
9 that you can buy online; that's right, isn't it?

10 A. That is correct.

11 Q. You have been doing that since February. Now let's go  
12 to your first statement at tab 8. At paragraph 4 you  
13 say:

14 "John Reay has a website for marketing purposes and  
15 for custom fit bookings but does not make internet sales,  
16 including via eBay."

17 A. That was correct at the time.

18 Q. Yes, then at paragraphs 5 to 9 you say how important  
19 custom fitting is to you.

20 A. It is.

21 Q. And at 9 you say how important it is to have a ban on  
22 internet sales -- for Ping to have its ban on internet  
23 sales; yes?

24 A. I wouldn't say to have a ban.

25 Q. How important Ping's ban is. I am just going through

1           your statement. Let's leave 9. At 11 you say that  
2           it is a concern for you that internet sales can lead to  
3           poorly fit clubs; yes?

4   A. I agree, yes.

5   Q. If we go to your second statement at paragraph 9, you  
6           say that you are currently developing a website in order  
7           to use as a marketing tool for the goods that John Reay  
8           sells, so there is no mention there of any  
9           intention to sell online.

10  A. At that point, no, but can I give you the reason for  
11           wanting to do what I'm doing?

12  Q. Now, Mr Challis, didn't you think that it would be  
13           important, given that you had started selling online  
14           since February and that this is a case all about  
15           internet selling, to give a corrective statement to  
16           the Tribunal?

17  A. Well, what was the date? Was it the 3rd or the 13th?  
18           Our online site is mainly to advertise what prices we  
19           are because, when we look at our traffic -- I spend no  
20           money on advertising on Google or anything like that --

21  Q. No, but, Mr Challis, let's look at this website. If  
22           we go to "Golf equipment", there is a whole range of  
23           different clubs. Let's go to "Irons" --

24  A. They have been put on there --

25  Q. "Available online".

- 1 A. They have been on there since probably April/beginning  
2 of May. Our guys are putting them on. We have no other  
3 ways of communicating with customers online.
- 4 Q. No, but you sell these online, so if somebody --
- 5 A. Well, we haven't sold any. They are available.
- 6 Q. We bought an iron yesterday from your website.
- 7 A. What did you buy yesterday?
- 8 Q. A Cobra golf club.
- 9 A. You didn't. I have not had an order through.
- 10 Q. We have a receipt here right here. So we did buy  
11 a Cobra golf club online.
- 12 A. Thank you for that.
- 13 Q. You're welcome.
- 14 A. I appreciate that. That has helped towards us making  
15 a bit of money anyway. Thank you.
- 16 Q. The point I am putting to you is that when Mr O'Donoghue  
17 asked you if your statement was true and you said,  
18 "Yes", why didn't you say to the Tribunal, "In fact  
19 there has been an important change because we now sell  
20 online"?
- 21 A. I could have answered that, and to be honest with you,  
22 I will answer -- I have nothing to hide -- but I only  
23 understand my business and how the golf business is.  
24 The other thing to understand after 30 years is how  
25 I can make golfers enjoy the game more. We are getting

1 battered, left, right and centre by price, just price,  
2 so I advertise that we offer a good price, but --

3 Q. And you sell, Mr Challis? You sell?

4 A. Can I answer that? Selling one club -- you can look at  
5 all my records in three months and it will probably be  
6 the same in the next six months unless I invest  
7 £250,000, which we cannot afford, to get to the top of  
8 the search engines.

9 So as a small shop as such or a shop, on its own an  
10 independent, I do not have the resources. Our turnover  
11 has dropped from £1.4 million to £800,000 because of  
12 price.

13 MS DEMOTRIOU: We will come to that --

14 THE CHAIR: Can you let him finish?

15 A. As a golfer, I will tell you -- I think it is really  
16 from a -- a seller is -- the important thing is, if you  
17 come to us to buy a golf club -- I fitted yesterday  
18 a gentleman of 70 who had come into the shop and he was  
19 playing the complete wrong club which he had bought  
20 online, and then I took him up the driving range,  
21 I spent an hour with him, not only advising on the right  
22 club, but actually helping his technique. That  
23 gentleman has walked out of our business with a golf  
24 club that is going to make him play the game better and  
25 enjoy it more and that's what golf is about -- not just

1 selling, "I'm going to be the cheapest", because if that  
2 happens, we are all in a mess.

3 MS DEMETRIOU: Mr Challis, did anybody explain to you when  
4 you were drafting your statement that it was important  
5 not to mislead the Tribunal. Did anybody have that  
6 conversation with you?

7 A. I don't mislead. I was just asked today -- I have never  
8 misled anybody in my life.

9 Q. Mr Challis, can you just answer the question? Did  
10 anyone explain that to you when you were drafting  
11 the statement?

12 A. I would presume they told me at the time -- when I made  
13 this statement, that was my thoughts at the present  
14 time, at that time.

15 Q. If I had not raised this, then you would have been here,  
16 sitting here, giving evidence today, about how online  
17 sales are bad --

18 A. No, I would not. I would have brought that up because  
19 I think that's as it is at the minute -- I would have  
20 brought up on another statement is how our business  
21 needs to -- listen, it would make no difference to me if  
22 I did not have a shopping cart. If you had not bought  
23 that yesterday -- if I put it that it is just  
24 advertising the price we offer to show that we are  
25 competitive, it would be ideal. To be honest with

1           you -- you can buy it online. We are just building  
2           a website to try it. I would rather not sell online.

3   Q. But Mr Challis, can I pause there? The whole thrust of  
4           your statement is that online sales are a bad thing --

5   A. They are. I agree.

6   Q. -- that you focus on custom fitting. Don't you think  
7           you ought to have made a corrective statement to tell  
8           the Tribunal that in fact you have now started making  
9           online sales and you have been doing since February?

10  A. Well, it is as it is today and you are probably one of  
11           my first, so I can only thank you for making the sale.

12  Q. When were you approached to give evidence in this case?

13  A. To be honest, I cannot answer that question.

14  Q. Do you remember who it was who approached you to give  
15           evidence?

16  A. I think it was the team from the solicitors. That is  
17           who asked me to give evidence.

18  Q. Has anyone offered you any benefit for giving evidence?

19  A. Not one bit -- not at all.

20  Q. Now, let's go back to the beginning of your first  
21           statement. We see there that you are the manager and  
22           head golf professional at the John Reay Golf Centre and  
23           you have held that position for 28 years --

24  A. It is 30 years -- not always as manager, but I have been  
25           there for the last 20. I was at another -- working



1 under John Reay Golf Centre, but working at another  
2 site.

3 Q. You are familiar with the business?

4 A. I understand the golf business and I understand people  
5 playing golf.

6 Q. You give evidence at paragraph 3 and paragraph 12 about  
7 the turnover of the business. Where do you get those  
8 figures from? Are those figures that you have taken  
9 from -- you say -- for example at paragraph 12 you give  
10 turnover decline figures and then you give a breakdown  
11 at 3 of your turnover. Are those figures that you have  
12 taken from a set of accounts or from sales data or are  
13 they estimates?

14 A. Yes, the driving range -- 200,000 -- the shop -- it was  
15 approximately a million that has dropped in the last  
16 financial year. It is pretty much, yes.

17 Q. So are those figures that you have taken from records  
18 that you keep or are they estimates?

19 A. They are just an estimate, but I think the food one  
20 probably is a little bit less this year -- food and  
21 drink.

22 Q. You say at paragraph 6 of your statement that you custom  
23 fit approximately 98 per cent of your customers and that  
24 this is fairly consistent across brands. Again, did you  
25 have a look at your documents before you came up with

1           that?

2    A.  No, but I have worked the business -- I have worked on  
3       the shop floor for as long as ... our philosophy is, if  
4       somebody comes in and says to me -- if you come to me  
5       and say, "Rob, I would like to buy that club", our  
6       staff -- the idea would be in-store is to say, "Can  
7       we take you up onto the driving range to make sure  
8       everything is okay for you?" Now, we are not charging  
9       for that. That is just to ensure that hopefully that  
10      customer -- if he's hitting it good, that he'll -- if  
11      we can help him improve his game at the point there, so  
12      be it. That is what we are here to do.

13   Q.  Then at paragraphs 7 and 8 you explain why Ping is  
14      particularly good at custom fittings; you say that Ping  
15      were a pioneer. Then at 9 you say that Ping's internet  
16      policy is a key element in its success with custom  
17      fittings. That is what you say at 9; yes?

18   A.  Can I just read that? Okay.

19   Q.  Of course.

20   A.  I think -- well, my thing there is that Ping's internet  
21      policy encourages the customer to come into our store or  
22      other stores and actually give them the opportunity to  
23      actually play better golf. A slight change in  
24      a characteristic of a golf club will have masses of  
25      effect. So is that not the right way of doing it?

1 Q. But you custom fit 98 per cent of all your customers --  
2 right? -- across brands; is that right? That is what  
3 you said at --

4 A. I think, if you look at custom fitting -- in a way we  
5 are PGA professionals. We have the knowledge not only  
6 from a technical point of view, but also from a coaching  
7 point of view. If I took a member of the public up to  
8 the driving range -- it depends what you call "custom  
9 fitting", but you can take them up to the driving range,  
10 they could be swinging the club and the numbers on the  
11 FlightScope -- the FlightScope, that is what gives us  
12 data back to say what it is doing -- but a slight change  
13 of technique could make a massive effect on that as  
14 well. So it is not only just specifications. It is my  
15 knowledge and my team's knowledge and every PGA's  
16 professional's knowledge that a slight tweak can make  
17 such a big difference -- this is technique -- which in  
18 turn will make that golfer enjoy his golf club.

19 It is not just about looking at a machine and  
20 saying, "That does this and that does that". It is  
21 different. It is completely different. I would say if  
22 somebody comes to me for a custom fit, they are not only  
23 having a custom fit, they are having the benefit of my  
24 knowledge -- the same as your company has the benefit of  
25 your knowledge -- and I can make them a better player.

1           That is a PGA professional's role, not just the custom  
2           fit. It is the overall experience of slight tweaks that  
3           can actually make that club perform exceptionally well.

4   Q.   That is something that you can do a lot better than an  
5           online retailer that does not have face-to-face  
6           contact --

7   A.   Completely, absolutely. 100 per cent. I would tell you  
8           now, if you bought a club online and you bought that  
9           Cobra one -- I would love now to see someone in your  
10          office or somebody to come and hit that golf club, hit  
11          it poorly. They will come to us. But what you are  
12          saying is: is that wrong? It probably is, but I have no  
13          choice. Our business is being battered by online  
14          retailers that only sell -- a lot of the time -- not all  
15          of them -- but a lot of the time sell on price.

16   Q.   Mr Challis, you custom fit 98 per cent of all your  
17          customers approximately --

18   A.   Custom fitting is different. It is all about advice, so  
19          custom fit and advice.

20   Q.   I understand that. Let's take that as read, that that  
21          includes advice and going out onto the golf range with  
22          them --

23   A.   If that what a fitting -- it's what a fitting is, yes.  
24          It's not just standing in front of a machine.

25   Q.   And you do that in relation to all of the brands you

1 sell?

2 A. We do that -- and my philosophy -- our feeling is "We  
3 will get the best club that is best for you". So it  
4 could be the fact that we take five different companies  
5 out there, not just one. But custom fitting can only be  
6 done with me or my team or a PGA helping. That is when  
7 you get the best.

8 Q. A customer might come in and say, "Let's go and try  
9 Callaway, Titleist, Ping, Mizuno", and you carry all of  
10 those brands?

11 A. We carry most of the top brands, I would like to think,  
12 yes.

13 Q. The other brands of course don't have a ban of internet  
14 sales and we see that you're in fact offering to sell  
15 them yourself.

16 A. Well, that's recently, even though probably you've been  
17 my only customer, which I have thanked you for.

18 Q. The fact that the other brands don't have a ban and that  
19 they are sold online by other people, that has not  
20 stopped you custom fitting 98 per cent of your  
21 customers --

22 A. Yes, but we don't have as many customers as we did  
23 before.

24 Q. Let me take up your second statement at paragraph 3.  
25 There you say that when, under your current custom

1 fitting model, you provide -- you say that in situations  
2 where the consumer decides not to purchase from you  
3 following a fitting -- and we can see that that is  
4 a really small percentage of people, so you do very well  
5 in terms of --

6 A. The reason we do so well is that we give a good service  
7 when they come, but numbers of footfall is down. From  
8 me, I would expect, if I took you onto the driving  
9 range -- I do not know whether you play golf -- but with  
10 mine and my team's experience that hopefully you would buy  
11 from us, but that is not how it always works.

12 Q. You have carried on -- you have invested in custom  
13 fitting, you have said that in your statement --

14 A. We have been custom fitting from -- we have a driving  
15 range, we have a big shop and the investment there is  
16 the overheads that we carry with my PGA staff, with  
17 everything else. We have big overheads. So, yes,  
18 we have invested and our next stage -- just to give you  
19 an insight into the actual business, we are at the stage  
20 now where within the next 12 months we are hoping to  
21 re-develop where we build a real nice custom fit centre.

22 Q. How much would that cost?

23 A. In the region -- I would imagine off the top of my head  
24 between -- it could be up to £200,000, a re-development.

25 Q. Presumably you are doing that because there is a demand

1 for custom fitting and that is what lot of customers  
2 want?

3 A. I am doing it to try and -- it is to keep up and -- it's  
4 not just about the custom fit. It's about bringing  
5 people into the actual site to use the driving range, to  
6 use the restaurant. We have a lot of staff that need  
7 their mortgages paying and, if I do not get people  
8 coming through the gate, their mortgages are not going  
9 paid, as it is on the high street at the minute.

10 Q. So when are you going to open this new custom fitting  
11 centre?

12 A. As soon as we have the funds available to push it  
13 through. Obviously it is an expensive exercise and  
14 Mr Reay himself, he's the guy that's going to make  
15 the decision on the spend. That is out of my hands,  
16 unfortunately. I know what I would like, but  
17 unfortunately it is out of my hands, that one.

18 Q. Going back to paragraph 3 of your second statement, you  
19 say that you provide customers with their specifications  
20 from the custom fitting. You say there that you provide  
21 it if they decide not to purchase from you. Presumably  
22 you do it as well if they purchase from you, if they ask  
23 for them, do you?

24 A. Say that again, sorry. If they have a fitting -- what  
25 are you asking me? If they have a fitting and then they

1 don't buy from us, they will be given the specs?

2 Q. Yes.

3 A. We will give them the specifications, but generally, if  
4 they have a fitting, which I have said, they will buy  
5 from us because of the relationship that I have with  
6 them. They are dealing with a real person.

7 Q. If that customer who buys from you then says, "Can  
8 I have a copy of my specifications?" --

9 A. If he wants a copy? Yes, I will write it on the order  
10 for him, absolutely no problem. But we have taken  
11 the order.

12 Q. Let's take an example of a customer that makes  
13 a purchase and buys, say, five irons --

14 A. What sort of irons in terms of five irons?

15 Q. Let's say five irons rather than eight irons.

16 A. It depends on what the irons they are.

17 Q. It doesn't matter. Let's say they don't want to buy  
18 a full set of irons on that occasion --

19 A. Sorry, I'm a bit lost with this full set and five irons.  
20 It depends on, you know --

21 Q. How many irons would normally -- if you have a set --

22 A. It depends on the actual person's -- because  
23 sometimes -- you may come to me and I would say,  
24 "Actually, you don't need to purchase a nine-iron set",  
25 which is three to --



1 Q. Yes.

2 A. Now, you would only know that by coming with me and me  
3 actually saying, "Do you know what? You have actually  
4 hit those two clubs the same distance" -- which is  
5 common -- "Let's drop one and save a little bit of money  
6 on that". So it is not all about -- we can actually  
7 save money through having not so many clubs.

8 Q. Let's take that example. Might it be the case that  
9 somebody comes in and you recommend that they buy, say,  
10 seven irons? That might happen; yes.

11 A. If that is what is required --

12 Q. Assume that is what is required. It might happen that  
13 the customer says, "Well, that is a bit expensive so of  
14 those seven, can I just buy five at the moment? Which  
15 five shall I go for?" Is that a conversation you might  
16 have?

17 A. To be honest with you, I cannot answer that.  
18 Occasionally, probably, but we are actually --  
19 we would -- when you say you can buy seven or five, not  
20 many people do that. They have what is right for them.

21 Q. Let's take a different example. Let's say they buy what  
22 is right for them and then they go away and they lose or  
23 break one of their clubs, if they have their  
24 specifications, they will be able to come back to you  
25 and say, "Can I have a replacement?"

1 A. Can I answer that in truth?

2 Q. Please.

3 A. So this is where Ping are unique. I have had a customer  
4 recently that bought a set of clubs off Ping 12 years  
5 ago or 15 years ago. Each Ping club has a serial number  
6 which is unique. That customer comes back into us,  
7 whenever it was, and he will say, "I have lost this  
8 club. Can you get me another one?" Now, if the club is  
9 ten or 15 -- it may be even longer than that. I'm not  
10 100 per cent sure now where we are -- you can actually  
11 still get that club from Ping. No other manufacturer  
12 offers that. That is why the relationship between us as  
13 a retailer and Ping is a special relationship, because  
14 they do put the customer first where others just say,  
15 "I am sorry, you will have to buy a new set".

16 Q. So just pausing there, I understand the point you make  
17 about the serial number on the club which is unique to  
18 Ping, but let's say you fit a set of Callaway golf clubs  
19 to someone because that would be the right thing and  
20 there was then a set of specifications which you could  
21 give to them --

22 A. If they have placed the order, but, as I say, hopefully  
23 we get the order.

24 Q. Say they lose the whole set of golf clubs the next day,  
25 so they're very unlucky --

1 A. All of them?

2 Q. Yes. Let's say they are very unlucky and lose them all,  
3 they could come in the next day and you would have  
4 the specifications there --

5 A. We keep them on our system, yes.

6 Q. -- and so you would be able to re-order the clubs from  
7 the specifications?

8 A. We could do, but the problem is that insurance companies  
9 now insist that they go through an online retailer to  
10 save money. So, again, if it was stolen, they don't  
11 come back to us because all insurance companies now try  
12 to save as much money as they can and the clubs get  
13 posted to them and it could be the wrong spec totally.

14 Q. But in that situation -- let's take that situation where  
15 an insurance company says, "You have to go through an  
16 online retailer to get your replacement", if there were  
17 an online retailer that offered all the specs for  
18 a particular model, then in principle that customer  
19 could use their specifications to get the order online?

20 A. They could use the specifications that have used my  
21 knowledge and my team's knowledge to give them and  
22 that --

23 Q. Yes, but they could do it?

24 A. Exactly, but it is no different to anything else in  
25 life. You pinch everybody's brains and then use it --

1 Q. I am going to ask you a few more questions, but I think  
2 we are going to take a short break for the stenographers  
3 now and then we will resume.

4 ( 11.48 am)

5 (A short break)

6 (11.56 am)

7 MS DEMETRIOU: We were on your second witness statement at  
8 paragraph 5. You say that John Reay charges £25 for  
9 a fitting when the customer does not make a purchase at  
10 the end of the fitting and you say that is insufficient  
11 to cover the costs of the fitting, which is a point you  
12 made earlier and you say:

13 "From my experience of providing a fitting service,  
14 I do not think you could charge any more than this  
15 without acting as a serious deterrent for customers to  
16 have a custom fitting."

17 If we call up your website again, we see -- it  
18 should come up in a moment --

19 A. Can I take you back? If you click on the "John Reay"  
20 bit, if you are going to bring up about the fitting --

21 Q. Thank you.

22 A. If you go on "Custom fitting" --

23 Q. Thank you very much. We see at the top that £25 is the  
24 fee for a 30-minute wood fitting, but you charge £30 for  
25 a 45-minute iron fitting and for a one-hour fitting

1           it is £50.

2   A.   Yes.

3   Q.   So presumably you don't think that those charges are  
4       a serious deterrent to customers?

5   A.   Yes, they do deter people.   So we try to deter  
6       the time-wasters for that.   So if they buy the clubs off  
7       us, we don't actually charge that fee.

8   Q.   Oh.   So let me pause there.   If you go back to  
9       paragraph 5 of your statement, what you say is:

10           "I do not think we could charge any more than this  
11       without acting as a serious deterrent for customers to  
12       have a custom fitting."

13           So what you are saying is, "I do not think we can  
14       charge more", but in fact you are charging more, aren't  
15       you?

16   A.   Well, that is for an hour, but we class a fitting as  
17       half an hour.

18   Q.   But again, Mr Challis, in circumstances where you are  
19       trying to give the Tribunal an idea of what the maximum  
20       charge is that the market will bear, don't you think it  
21       would have been important to clarify that you do --

22   A.   No, because that is an iron and wood fitting --

23   Q.   Can I just ask my question?

24   A.   Well, I'm just going to answer it.   It's an iron and  
25       wood fitting, so that is two.

1 Q. But in your statement you are talking about a fitting  
2 service --

3 A. It's two products.

4 Q. Let me finish the question. The sentence in your  
5 statement says:

6 "I do not think we could charge any more than this  
7 without acting as a serious deterrent for customers to  
8 have a custom fitting."

9 So there do you see that the impression that gives  
10 is if you charged any more than £25, that would be an  
11 uncommercial thing to do?

12 A. What you have to understand, which I do not think you  
13 quite understand at the minute, is that an iron and  
14 a wood are completely different, so it is two fittings.  
15 You fit for a set of irons and woods are completely  
16 different, so that is two fittings for £50. Now, if  
17 somebody wants to buy a set of irons -- not many people  
18 will come in and buy a set of irons and woods together.  
19 It is either a set of irons or a driver.

20 Now, if you wanted a wood fitting, it is £25. To be  
21 honest with you, I cannot --

22 Q. Let's talk about irons then. That is £30.

23 A. For 45 minutes.

24 Q. Yes. But what I am asking you to consider is that in  
25 this statement you are telling the Tribunal that £25 is

1 the maximum figure that you could charge without  
2 seriously putting people off.

3 A. That is for half an hour, which --

4 Q. But hold on, you don't say that in your statement, do  
5 you? You don't qualify your statement. So do you now  
6 accept that, if you were giving a fuller and proper  
7 picture to the Tribunal, you should have explained  
8 the context in which that £25 charge is made? You  
9 should have explained --

10 A. Possibly, but I can explain perfectly well now. Even  
11 for a 25 -- if you say to customers at the point of  
12 sale, "It is £25 for a fitting", it can actually put  
13 them off. So it is very rare we actually charge.  
14 We try to work on the goodwill factor and build  
15 a relationship up.

16 But £25 is for a wood fitting and then the irons  
17 which take a little bit longer -- I could have put for  
18 half an hour in that, but a fitting is -- I should have  
19 put in half an hour -- per half an hour.

20 Q. Did you draft that bit of your statement or did somebody  
21 else draft that for you?

22 A. I cannot remember how that was done, to be honest.  
23 I can't answer that.

24 Q. Do you remember what happened in relation to the whole  
25 statement?

- 1 A. Our fitting charge might have just altered in that --  
2 I think we were always £25 up to that point. But when  
3 it is 45 minutes -- it is just that £5 for 45 minutes.  
4 Now £30 for 45 minutes can still put people off.
- 5 Q. Leaving that aside, do you remember who drafted your  
6 statement? Was it you or somebody else?
- 7 A. What do you mean by "drafted"?
- 8 Q. Who wrote your statement? Did you write this part of  
9 your statement?
- 10 A. I answered the questions and this statement was put to  
11 me and I signed it, yes.
- 12 Q. The fact is that you have said in your statement that  
13 you have a 98 per cent custom fitting to purchase  
14 conversion rate; yes -- sorry, not 98 per cent. You  
15 have a 98 per cent custom fitting rate.
- 16 A. I will answer that as it is. If we take somebody up on  
17 the driving range and they have had a fitting with us,  
18 we more than definitely get that sale --
- 19 Q. So very few people -- let's just stick -- it is my  
20 mistake. Let's get away from the conversion rate and go  
21 back to the custom fitting rate, which you say is  
22 98 per cent. So only approximately 2 per cent of people  
23 come in and don't have a custom fitting?
- 24 A. What we do -- like I said to you before previously,  
25 the fitting is not just about being on the driving



1 range. It is taking them up there. If somebody comes  
2 into our driving range, the conversion rate of a custom  
3 fit would be, as I understand it, 100 per cent. But  
4 people do come in -- the most common -- so I can give  
5 you a clear picture of how our industry works is that  
6 you could, as a golfer, look online and see a club at  
7 £100. How would you know if it is right for you? So  
8 what customers do is they walk into our store and say,  
9 "Can I try this particular club?", and I say, "Yes,  
10 okay". So we tape it up and they go up there and they  
11 try it and they will come in and they'll say, "Thank you  
12 very much". The amount of times that then we see that  
13 what they have done is they are just using us, using our  
14 store, our demo equipment, just to actually hit it and  
15 then go and buy it online. It is fantastic how it is --  
16 I mean -- but that's how it happens. You are on about  
17 custom fitting. It is completely different to people  
18 trying the clubs.

19 So the internet as it is, is used as just -- we are  
20 the guinea pigs. Thank you very much. We have trained  
21 staff, massive overheads and we are the guinea pigs and  
22 people say, "Let's just go and buy online".

23 Q. Mr Challis, can we just establish this? You say you  
24 have a 98 per cent custom fitting rate across all brands  
25 and you say on your website that you impose these

1 charges for custom fitting. So the fact --

2 A. Only if they have not purchased. So if they have not  
3 purchased, they're paying and then we will give them  
4 the specifications, but that does not cover our costs.

5 Q. But the fact is that this has not proved to be a serious  
6 deterrent to customers --

7 A. Oh, it has, yes. We are fitting, but the deterrent is  
8 our footfall through the stores is down.

9 Q. Let me come back to that. In terms of the golf clubs  
10 you sell and the different brands, is Callaway your  
11 biggest seller?

12 A. No, Ping.

13 Q. Ping is your biggest seller?

14 A. Yes.

15 Q. Which brand earns you the best margins?

16 A. I couldn't answer that question. I do not have those  
17 figures in front of me. I have no idea.

18 Q. One of the other witnesses in this case says Ping's  
19 margins are lower.

20 A. They probably are. When I look at it, yes, they  
21 probably are. There are other brands that offer  
22 enhanced margins, but I am not there to sell the wrong  
23 club for profit. I am a PGA pro who wants to sell  
24 the right club for the customers. That is the whole  
25 idea. I do not want to sell for the profit. Leave that

1 to the people that can sit with no experience and just  
2 ship boxes.

3 Q. At the moment one of the things that you do to try to  
4 attract customers is you offer a free golf lesson to any  
5 customer that purchases certain clubs from you; is that  
6 right?

7 A. That comes through Foremost as one of our sign-ups to  
8 the promotion there, yes.

9 Q. That's what Mr Hedges referred to as the "complete  
10 equipment solution"?

11 A. Yes, we opt in to do that.

12 Q. The aim of this is to encourage the customer to purchase  
13 with you?

14 A. The aim is not only to get them having the right club,  
15 but also to actually get the benefit of somebody like  
16 our staff and actually know what we are doing, the same  
17 as any industry. I can make a massive difference to  
18 a golfer not only by fitting him for the right clubs,  
19 but actually giving him the right advice. All we are  
20 there for is to sell the dream that they can actually  
21 hit the ball better. That is what sport is about.  
22 It is about reaching your best possible performance.  
23 It is achieving that. And that is our job as a PGA pro.  
24 That is what I signed up for.

25 Q. Following on from that, you see your skill as helping

1 customers be better at golf?

2 A. Exactly. That is what it is about.

3 Q. And also what you want to do is to build a personal  
4 relationship with customers over time --

5 A. Correct, which we have done.

6 Q. Yes. That is an advantage, isn't it? That is something  
7 that you can offer that an online retailer will not be  
8 able to offer necessarily?

9 A. Exactly, but a lot of people still buy on price.

10 Q. You say at paragraph 11 of your first statement, if  
11 we go to that, that this is increasingly a concern for  
12 you, the idea that people are buying online, and you say  
13 that you may not be able to continue to invest in custom  
14 fitting as a result. But we know, don't we, that  
15 the other golf club manufacturers don't have a ban on  
16 internet selling. They do sell online. That's right,  
17 isn't it?

18 A. They do. That is their choice, yes.

19 Q. But you have in fact carried on investing in custom  
20 fittings --

21 A. Not at the rate I would love to do. The only reason  
22 that we are looking at investing is that there is -- and  
23 I'll be honest with you -- is that Mr Reay might be  
24 coming into quite a lot of money through the sale of  
25 some land, which his intention is to build

1 a state-of-the-art custom fit centre to hopefully give  
2 the loyal staff that we have had over all these years  
3 a future in the golf trade. So if we had to do it now,  
4 without this land, we would not be able to do it because  
5 we don't make enough profit.

6 Q. But commercially the reason that you are investing in  
7 custom fitting and continuing to invest is because there  
8 is a demand for it; that is what customers want?

9 A. There is a demand, but also you have to have the right  
10 facilities. Now, until we get the right facilities,  
11 I cannot see -- if this land sale were not going to come  
12 off, we would be -- we are swimming in treacle.  
13 The golf trade has never been more difficult as what  
14 it is.

15 Q. So your custom fitting rates now are very high --

16 A. No, the conversion rates. That's what that is, not  
17 custom fitting rates by the way.

18 Q. I understand. Now I am going back to the custom fitting  
19 rate which you say is 98 per cent?

20 A. Conversion -- oh, do you mean -- yes, but that might be  
21 on -- if we had ten people, ten years ago, we might have  
22 had 100. So it is not the numbers. The footfall  
23 through the business is down. That is why the turnover  
24 is down.

25 Q. Let's have a look at that. This is something you

1 address at paragraph 12 and you say that this issue --  
2 so this is the issue about footfall -- has caused  
3 a decline in your stores' revenue from £3 million  
4 to £1 million --

5 A. £1.3 -- it is down even more now after the latest  
6 figures, yes.

7 Q. So are you saying that you are now doing -- I think you  
8 are saying that you are now doing fewer custom fittings  
9 than you used to be doing.

10 A. We are doing fewer. The sales in the shop -- I cannot  
11 answer 100 per cent, but the sales in the shop are down  
12 because more people are purchasing online.

13 Q. But that is a slightly different question. Are you  
14 doing fewer --

15 A. I do not have the numbers.

16 Q. You don't know?

17 A. I would imagine it is slightly lower because  
18 the footfall is down through actually other things.

19 Q. So do you know how many custom fittings you do per day  
20 approximately?

21 A. No, I cannot give you that information at the moment.

22 Q. Around --

23 A. I have no idea. I do not have that information in front  
24 of me so I cannot give you that. I could come back to  
25 you with it, but I have not got it. After the current

1 winter -- we have had with six months of torrential  
2 rain -- it is way down.

3 Q. Would it be five custom fittings per day?

4 A. We don't do that many.

5 Q. Like two or three?

6 A. I do not know. I can't give you the answer. So you are  
7 asking me to speculate, but I can't answer you. So, I'm  
8 sorry, but I can't give that answer. You are trying to  
9 push me for an answer and I cannot give it to you.

10 Q. I want to get an idea. You say less than five?

11 A. I do not know. I haven't said anything. I cannot give  
12 you those figures. I could tell you how many sets of  
13 clubs if you let me get onto a computer, but I cannot  
14 give you those figures at the minute.

15 Q. So you can't tell us that this decline of 300,000 or  
16 perhaps more is due to a decrease in the number of  
17 custom fittings? You can't tell us that?

18 A. Yes, it would be. I can give you an answer -- if you  
19 look at it, I will give you the answer as it is. Can  
20 I answer the question honestly?

21 As the same as most retail businesses, the problem  
22 nowadays is that the internet has made a massive,  
23 massive difference to high street shops or independents  
24 like us because it is now all about -- you know, a lot  
25 of the time it is so easily accessible, they are not

1 getting that one-to-one. So our turnover has gone down  
2 because of the internet, and retail would be a wonderful  
3 place if we didn't have the internet in hindsight  
4 because you would have thriving high street stores all  
5 through the country, rather than boarded-up windows.  
6 That could be the same with the PGA pro.

7 Q. One thing -- I just want to be clear about what you are  
8 saying here at 11 and 12 because it is an important  
9 point. So you are saying that a concern for you is when  
10 you have customers that you fitted and they go online,  
11 that represents a cost to the business, so --

12 A. Of course it does. They use us as a guinea pig.

13 Q. Then you say that this has led to a decline in  
14 the store's revenue. Let's look at paragraph 14. At  
15 paragraph 14, you say that you make around £100 on a set  
16 of clubs; yes?

17 A. It depends on what we have to match on the internet  
18 price, to be honest. Sometimes we are making £10 per  
19 set because we offer the price promise to try to still  
20 encourage people to come to us.

21 Q. You say typically the margin on a set of clubs --

22 A. It depends. Typically it could be £100 if it was  
23 a set -- you know, it's 20 per cent or whatever it is.

24 Q. This is the only figure you have given, so let's take  
25 £100.



1 A. Okay.

2 Q. If it is right that the £300,000 in lost revenue related  
3 to fewer customers coming in the door and having custom  
4 fittings, then what I calculate is that you would need  
5 to be doing about ten fewer custom fittings per day, so  
6 you would need to be doing 3,000 fewer custom fittings  
7 per year, which is about ten a day.

8 A. No --

9 Q. Can I just finish?

10 A. Of course you can.

11 Q. So what I am saying to you is mathematically that is how  
12 it would work. You would need to be doing ten fewer  
13 custom fittings per day and in fact I think you told us  
14 that you probably do in the region of five a day in  
15 total --

16 A. That is what you said.

17 Q. -- so the point I am putting to you is that you can't  
18 tell the Tribunal, can you, that this 300,000 is all to  
19 do with a reduction in the number of people coming in  
20 and having custom fittings?

21 A. When people come through a shop -- this is how the real  
22 world works. People come in and they will come in for  
23 a fit and to try golf clubs and they will look at our  
24 shop -- and we have a shop window full of lovely  
25 clothes. We have shoes. So then hopefully the sale of

1 the golf club will lead to a sale in something else.  
2 Now, if we don't have people coming through the door,  
3 all the other sales won't be there so it has a knock-on  
4 effect.

5 The way that a business survives is through footfall  
6 and that is why the high street is in a mess as it is,  
7 through footfall, because everything is driven through  
8 the internet. You are going to have the same situation  
9 for the golf pro if everything is sold via the internet  
10 or less is sold in-store because all the other products  
11 will not be sold alongside it.

12 If I had to survive on custom fitting, I would not  
13 survive, but custom fitting brings people through  
14 the door to hopefully buy something else.

15 Q. Now, you say at paragraph 15 of your first statement  
16 that you wouldn't consider offering a website and using  
17 online chat features.

18 "In my view, this is not a responsible way to sell  
19 golf clubs because custom fitting cannot happen online."

20 Can we take it by the fact that you now do sell  
21 clubs online that your view on that has changed --

22 A. No, not at all.

23 Q. You still think --

24 A. The way that the website works -- I am trying it and we  
25 have made -- and I think probably your sale and probably

1           one other. That's it. It sells a few vouchers --  
2           because we are not at the top of search engines. It is  
3           mainly for my customers locally to have a look and to  
4           just see what price we sell. The reason that we  
5           don't -- to be honest with you, we have to be at the top  
6           of Google and I cannot afford that or the business can't  
7           afford it.

8   MS DEMETRIOU: I do not have any further questions for you,  
9           Mr Challis. Thank you very much.

10                           Re-examination by MR O'DONOGHUE

11   MR O'DONOGHUE: Mr Challis, can you go to paragraph 16 of  
12           your first statement? You say:

13                   "We see a number of customers (about two a week)  
14           coming into the store who have bought the wrong clubs  
15           online."

16                   Is that a trend that has increased or decreased in  
17           recent times?

18   A. I think it has increased because, as I walk up and down  
19           our driving range on a daily basis, the amount of people  
20           that are hitting poor golf shots because the clubs don't  
21           suit is tremendous.

22   MS DEMETRIOU: This does not arise out of cross-examination  
23           at all. I did not ask Mr Challis any questions about  
24           this at all so I am puzzled as to how it can arise out  
25           of what we discussed.

1 MR O'DONOGHUE: Well, he was cross-examined in some detail  
2 on online retailing. This is a direct function of  
3 online retailing.

4 MS DEMETRIOU: Sir, we had this yesterday and I sat through  
5 the lengthy re-examination of Mr Clark without saying  
6 anything. It is not an opportunity to ask the witness  
7 to pontificate more generally about what is in their  
8 statement. I did not ask about this particular issue  
9 and I could have done, and had I done and had the  
10 witness answered questions, I no doubt would have had  
11 more questions. I do not think this is an acceptable  
12 form of re-examination.

13 MR O'DONOGHUE: The witness gave considerable testimony on  
14 the dangers of online selling and this is directly  
15 related to that point.

16 THE CHAIR: You may ask the question.

17 MR O'DONOGHUE: Thank you.

18 Can you continue, please, Mr Challis?

19 A. Yes. When I walk up and down our driving ranges, you  
20 see people hitting golf clubs and you think, "Do you  
21 know what? They have made the wrong purchase". We have  
22 people coming in all the time saying, "I am not hitting  
23 this well", and I say, "Where did you buy it?",  
24 "I bought it off eBay", "Okay, right, let's have a  
25 look", and it's the wrong club so they end up trading it

1 in with us and changing -- which is -- that has an  
2 advantage, but how many don't we get?

3 Look, a golf club -- when you buy a golf club, our  
4 passion, our expertise, can make the difference. It is  
5 the right way to do it. The right way is to take  
6 the right advice and if all manufacturers go down  
7 the route of getting the right advice, there would be  
8 a lot more happy golfers in the world.

9 Q. Are you aware if any of these people who complained had  
10 tried to custom fit online?

11 A. It is just a purchase off online so, you know -- I would  
12 imagine it is -- not to my knowledge, no.

13 Q. The final question: at the end of 16 you talk about the  
14 brand loses. Can you elaborate on that?

15 A. Yes, of course I can. It is like anything. If golfers,  
16 workmen, they always blame their tools -- the amount of  
17 people who come in and say, I do not want to buy a set  
18 of those particular brand, I have had them before and  
19 I cannot hit them well" -- right, okay. It is the same  
20 as -- any purchase that you make of any brand, if you  
21 don't get on with it -- it is human nature -- you don't  
22 blame yourself.

23 In sport, you don't blame yourself even though  
24 technically it probably -- technically it is -- or  
25 the way the club is set up is wrong, but you don't blame

1       yourself. So they would say, I have had a set of Ping  
2       before and they are rubbish, I cannot hit them, I cannot  
3       hit them". And if I turn round and say, "Can I can take  
4       you up the driving range and show you how to hit it and  
5       help you and set it up a little bit different?", that  
6       can make a massive difference.

7             Like Ping is -- I have played golf since I was five  
8       years of age and for 35 years I have never gone off  
9       Ping. The engineering -- everything about them is  
10      right. I feel right that I buy that particular club  
11      because I know it is going to help improve me as  
12      a golfer and I know what I am getting and that is what  
13      it should be. It does not matter what you purchase.  
14      You want to get the best out of it. It is not the same  
15      as just purchasing something pretty. You are actually  
16      using this.

17            It is like buying a pen and if it keeps running out  
18      of ink and not working right, you never buy that brand  
19      again. That is how golfers work. It works great.  
20      The relationship we have as professionals with Ping is  
21      good and if they are not right -- and you know, they can  
22      come back and get them checked, we can send them back to  
23      Ping and make adjustments if their swing changes, or  
24      even if they have physical changes we can send them back  
25      to Ping and they will make the alterations to again get

1 the golfer enjoying his golf. It is enjoying -- getting  
2 out on the fairways and enjoying your golf.

3 That is what I came into the game for, to get people  
4 playing better by fitting and teaching. That is how  
5 I do it.

6 MR O'DONOGHUE: Thank you very much.

7 THE CHAIR: Ms Demetriou, do you have any further questions  
8 arising out of that re-examination?

9 MS DEMETRIOU: No.

Questions by THE TRIBUNAL

10 PROFESSOR BEATH: I have one question. It is to do with  
11 paragraph 8. I think it is, of your first witness  
12 statement.

13 You are talking about your fitters, the five fitters  
14 that you have. They have all been to Gainsborough to go  
15 through the full Ping process of learning?

16 A. My fitters -- if we change pros, they will in turn be  
17 going up to Ping to get the latest training on the  
18 latest products, yes.

19 PROFESSOR BEATH: They all have skill in the Ping process?

20 A. Exactly, that is a must, that we have to know exactly  
21 what a Ping club does.

22 PROFESSOR BEATH: You have obviously put a lot of investment  
23 into that because you give them how many days off it is  
24 to go and get trained and so on. You then refer at the  
25 end in the last sentence about:

1            "This is not an investment that we make for other  
2            brands. Rather, our fitters receive more limited  
3            training in-store."

4            So presumably these other brands, there are fitting  
5            processes for these?

6            A. Yes.

7            PROFESSOR BEATH: I wanted to ask you, suppose I came to  
8            your store and I wanted to buy a set of Callaway clubs,  
9            let's say, would your fitters take me through the Ping  
10           process or would they take me through some other  
11           process?

12           A. The process would be the training that they get through  
13           Ping or through us, through the PGA -- because we all  
14           have to study --

15           PROFESSOR BEATH: The PGA professionals.

16           A. The knowledge they have gained from Ping will certainly  
17           help when they are doing the Callaway. At the end of  
18           the day, we are actually receiving knowledge. All  
19           the time we are getting knowledge of the Ping brand.  
20           But, yes, it carries over to other brands. It does,  
21           yes. To be honest with you, if somebody comes in fitted  
22           for a Ping and we don't feel that that club is right for  
23           them and we feel that one of the other manufacturers  
24           would better suit, we would advise them to do that. We  
25           are completely open --



1 PROFESSOR BEATH: You would advise them that, but would  
2 the specification that you would use for this  
3 alternative set of clubs -- would that be that one that  
4 had --

5 A. No, it could change because the lofts are different and  
6 our shafts are, so it could change. The knowledge from  
7 when we see them swinging it, it would not be generic.  
8 Sometimes it is not generic because manufacturers' specs  
9 are different. So the length of, say, a 7-iron in  
10 Callaway or TaylorMade could be a different length to  
11 what Ping is or Mizuno. So it is not all industry  
12 standard lengths. They all change. Characteristics of  
13 a golfer are very complicated so it does change.

14 PROFESSOR BEATH: Yes, as a golfer I am aware of that.

15 Thank you.

16 MR DORAN: Can I ask you one question? It is a combination  
17 of both of your statements. Perhaps I can read it to  
18 you. At paragraph 14 of your first statement, you talk  
19 about making a sale in 90 per cent of cases after custom  
20 fitting. In your second statement, you talk about  
21 the sales -- and this is aside from the footfall point  
22 which I understand, about bringing people in in  
23 the first place:

24 "If my sale of clubs following custom fitting were  
25 to fall ..."

1           And I wondered about the sensitivity of the numbers.  
2           So if you didn't make a sale in 90 per cent of cases but  
3           made it in 80 per cent of cases, would this make  
4           a material different to your business?

5    A.   We are struggling to make ends meet with the overheads  
6           we have. We are seriously struggling. This is where  
7           the life-line will be thrown is to hopefully -- with  
8           Mr Reay, if he can re-invest in our business -- because  
9           the profits that the business makes, we don't have it to  
10          re-invest and get what we want to. So to take us to  
11          another level, we have to invest. If the circumstances  
12          were not different, we may not be here in 12 months.  
13          It is tough. It is a tough, tough business.

14  MR DORAN:  If I can ask one question about the footfall.  
15          The relationship between the custom fitting and  
16          the footfall through your store that you attribute to  
17          the online sales ban in your mind is vital to that  
18          footfall?

19  A.   If it was across all brands, it would make a massive  
20          difference to the PGA pro. If we couldn't buy on the  
21          internet from anybody, footfall would increase through  
22          all stores in my opinion.

23          So the more that -- the internet, a lot of it is all  
24          on price. It is obvious. That is why you have price  
25          comparison sites and everything else like that. So

1 the younger generation coming into the game, who are  
2 very computer savvy, rather than the senior generation,  
3 if you like, which are our core base at the minute, is  
4 that -- all it is is the click of a phone, you can tell  
5 the price. That is the reason that we have now put our  
6 prices on -- we have never done it. We have never gone  
7 online. It is costly -- it is ridiculously expensive to  
8 be online. I do not have the resources to do it, but  
9 I said to the lads, "We will put our prices online to  
10 try to show that we can still be competitive and  
11 hopefully reverse that trend". But it is tough.  
12 The golf business is tough.

13 MR DORAN: Without putting words in your mouth, as I have  
14 understood it, then, the fact that people can't buy Ping  
15 online --

16 A. Helps.

17 MR DORAN: -- drives people through your business?

18 A. Yes.

19 MR DORAN: The custom fitting for at least some of them and  
20 the conversion after that into club sales, that element  
21 is important, so that they don't go back and buy online,  
22 as also is the sale of other things that they might --

23 A. Like I said before -- and if everybody is really deeply  
24 honest that is in retail, if the internet was not there,  
25 there would be more employment and more shops doing

1 better -- high street and everything. It is  
2 the internet that is causing the problem because a lot  
3 of the time the majority is sold on price.

4 Now you know, it is not right. It is not right --  
5 from selling golf clubs is that -- I could sell golf  
6 clubs out of my garage, have no staff and just ship  
7 boxes. Is that right? Is that what golf is about?  
8 Golf is about enjoying and improving, but I could open  
9 up a shop or a garage -- I can just ship from my garage,  
10 have no overheads, and if I make £10 on a set of clubs,  
11 that is great.

12 But at our store is -- we have guys, we have  
13 salaries, we have light, we have rates, we have  
14 everything. But actually, if you open up a garage,  
15 a website, put it on eBay, there is your platform, sell  
16 golf clubs with no staff.

17

18 MR DORAN: Thank you very much. That is very helpful.

19 A. Thank you.

20 THE CHAIR: Thank you very much, Mr Challis.

21 A. Thank you very much.

22 MR O'DONOGHUE: Ping calls Dave Clarke.

23 MR DAVID CLARKE (sworn)

24 Examination-in-chief by MR O'DONOGHUE

25 MR O'DONOGHUE: Mr Clarke, have a seat and relax. You

1           should have in front of you bundle B2 please.  If you  
2           can turn to tab 7 of that bundle --

3   A.  Yes.

4   Q.  -- you see a five-page document.  Before we go to  
5           the final page, is there anything that you would like to  
6           amplify or clarify in your statement?

7   A.  Yes.  We don't have as many shops now as we had then.  
8           We closed one in Scotland and we closed one local to my  
9           main shop.

10  Q.  Is that paragraph 3?

11  A.  Yes.

12  Q.  Thank you.  Subject to that clarification, are  
13           the contents of this statement true to the best of your  
14           knowledge and belief?

15  A.  Yes, I would say to the best of my knowledge, yes.

16  MR O'DONOGHUE:  Thank you.  If you wait there, Ms Demetriou  
17           will have some questions.

18                           Cross-examination by MS DEMETRIOU

19  MS DEMETRIOU:  Hello, Mr Clarke.  You explain at paragraph 3  
20           of your witness statement that Clarkes Golf has some  
21           shops -- I think you have just said you now have four  
22           shops because two have closed -- and a driving range and  
23           a nine-hole academy.  You describe yourself as the owner  
24           and managing director of the holding company.  We see  
25           that from paragraph 1.

- 1 A. Yes.
- 2 Q. Are you the sole owner?
- 3 A. I think so.
- 4 Q. Okay. It is not a trick question.
- 5 A. I realise that. It is so long since I saw the articles.
- 6 My wife might have some percentage as the company
- 7 secretary. If you are going to get exact here, I do not
- 8 know the answer.
- 9 Q. There are not a large number of owners?
- 10 A. No.
- 11 Q. How long have you been in the business for?
- 12 A. Since 1976.
- 13 Q. I think you explain in your statement that you launched
- 14 a website last year.
- 15 A. Yes.
- 16 Q. You give your annual turnover from the stores at
- 17 paragraph 3 as £2.6 million, with the website generating
- 18 another £100,000 in sales, including in sales from
- 19 clubs.
- 20 A. Yes.
- 21 Q. Now do you sell all of the major brands of golf clubs in
- 22 your shops?
- 23 A. Yes.
- 24 Q. And is Ping your biggest seller?
- 25 A. It is close. There are three brands that we do an awful

1 lot of business with. One of the companies, Titleist,  
2 it is a bit difficult to measure because they are a big  
3 golf ball seller, so I might sell £80,000 or £100,000  
4 worth of their golf balls per year. As regards overall  
5 figures, it is a bit hard to compare apples with apples.  
6 If we are talking about golf clubs alone, I would say  
7 we sell a very similar amount of Ping and very similar  
8 to TaylorMade.

9 Q. Okay. And a lot to Titleist, but a lot of that might be  
10 balls?

11 A. Balls, bags. Titleist also invoice from the same  
12 company a range of shoes called FootJoy and we probably  
13 spend £60,000 or £80,000 per year on those.

14 Q. Okay. That is very helpful.

15 One of the other retailers giving evidence in this  
16 case says that he does not generate the best margins  
17 from Ping; his margins with Ping are lower than for some  
18 of the other brands. Is that a similar picture for you?

19 A. I probably would not concur with that. I think our  
20 margin with Ping is comparable with anyone else's.

21 Q. All right. It is right, isn't it, that you also sell  
22 the other major brands, obviously apart from Ping, on  
23 your website?

24 A. Yes.

25 Q. Presumably you decided to invest in your website because

1       you identified that there was some demand for online  
2       sales?

3     A.   That is not an easy one to answer because -- we invested  
4       in the website because I have a 34-year-old son who  
5       works with me, so at 62 years of age I can get to the  
6       finishing line without a website, but I am not sure that  
7       he can.  So what is important to me is to protect  
8       the business, the business' longevity, rather than where  
9       we are today.  If you were to ask me, "Do I want  
10      a website today?", the answer is "No".

11    Q.   But I think it is implicit, at least in what you are  
12      saying, that your son at least thought it was a good  
13      idea and that you are looking in the long term so you  
14      think a website is probably necessary in the very  
15      long term?

16    A.   In terms of protection of the status quo, rather than --  
17      certainly for where we are right now as a money-making  
18      scheme, it is the stupidest thing I have ever done.

19    Q.   Now, you say at paragraph 7 of your witness statement  
20      that custom fitting is key to your business.  You also  
21      say there that your custom fitting rates for Ping are  
22      the highest without a doubt.  At paragraph 11 you say  
23      that when Foremost Golf, of which you are a member,  
24      carries out its retailer surveys, Ping usually places as  
25      number 1, but then at paragraph 12 you say that



1 the other brands are starting to catch up.

2 Now, in the years since 1976 that you have been in  
3 the business, you have generally seen custom fitting  
4 become much more popular with customers, haven't you?

5 A. Yes.

6 Q. So there is generally more awareness of it and a greater  
7 proportion of customers ask for it?

8 A. Yes, I would say probably "Yes". The -- yes.

9 Q. Where you carry out a custom fitting -- and we see that  
10 generally your custom fitting rates are high. We see  
11 that from paragraph 7 -- where you do carry out a custom  
12 fitting, do you know what proportion of your custom  
13 fittings result in a sale?

14 A. 80/90 per cent. It is very difficult to quote  
15 statistics because, of course -- if I could speak for  
16 the other witnesses as well, we are sitting here giving  
17 out percentages when we have never collected those  
18 percentages before, so we are all picking numbers out of  
19 the sky, particularly Rob and myself.

20 Q. That is very fair that you are acknowledging that, but  
21 what you are giving the Tribunal is your best estimates;  
22 you are doing the best you can?

23 A. Yes.

24 Q. We see at paragraph 19 that you say that you want to  
25 continue to effectively promote custom fitting and that

1 one of the things you have done is to invest in a new  
2 launch monitor and that you also employ experienced and  
3 highly trained fitters and that you devote space in your  
4 shops to custom fitting. When did you invest in  
5 the launch monitor? Is that a recent thing?

6 A. No. We have upgraded it recently. When I say  
7 "recently", we upgraded it about two years ago, but  
8 we bought our first one about eight years ago.

9 Q. The reason, I take it, that you invest in custom fitting  
10 and you continue to invest, so you have upgraded your  
11 launch monitor, for example, is because demand for  
12 custom fitting amongst customers has grown, as you have  
13 said already?

14 A. I think demand has grown, but I think also  
15 the discerning golfer, of which all golfers are not --  
16 the discerning golfer expects to get the latest  
17 information. FlightScope in particular has been  
18 upgraded over the years that we have had them. So to  
19 stay with the technology, we felt the need to upgrade.  
20 We actually have three of these things --

21 Q. You have three monitors?

22 A. We have three FlightScopes, which are about £12,000  
23 each. It is not an insignificant investment, you know.

24 Q. No. How many trained fitters do you employ in your  
25 shop?

1 A. Five.

2 Q. Now, the three launch monitors, they are in three  
3 separate shops, are they?

4 A. No.

5 Q. They are in the same shop?

6 A. Two of them are in one shop and one of them is at the  
7 other driving range.

8 Q. FlightScope is the manufacturer, is it?

9 A. Yes, that is the one we use. There are three  
10 fundamental types. There is FlightScope, GC2 and  
11 TrackMan.

12 Q. Let's stick with FlightScope. That can be used, I think  
13 we have heard from other witnesses, to custom fit all of  
14 the main brands?

15 A. I think -- yes, that is consistent with them all. They  
16 are not brand-specific. They track the golf ball, which  
17 is an essential element of custom fitting. If you can't  
18 track the golf ball -- I have always looked at it as  
19 this is a mathematical problem. We know the answer, we  
20 know what we want the golf ball to do, the question is:  
21 can we find the golf club to make the golf ball do that?

22 Q. I understand. Now at paragraph 7 of your statement you  
23 say that your custom fitting rate for Ping is very high  
24 and you give the confidential figure there, which I will  
25 not read out. You then say that your custom fitting

1 rates for non-Ping rates are about 80 per cent. Now,  
2 those, I think you have already said, are estimates  
3 because --

4 A. I am happy to explain that if you like.

5 Q. Yes, please. Yes.

6 A. Ping is the only company right now that does not force  
7 equipment onto a retailer. At the start of each season  
8 all the other manufacturers that I can think of --  
9 certainly Titleist do that and certainly TaylorMade do  
10 that -- Mizuno, yes, Cobra, yes -- they force an amount  
11 of equipment on you --

12 Q. Do you mean an amount of golf clubs --

13 A. Yes.

14 Q. -- to sell?

15 A. We call them "wallpaper" because they are very expensive  
16 wallpaper that sit on racks on the wall. They are  
17 standard specifications, unless we specify otherwise, at  
18 the start of the season. So at some point in the year  
19 I have to turn those golf clubs into cash and, in a way,  
20 that is what makes me think Ping are the only company  
21 that are so dedicated to custom fit because all of those  
22 companies that are forcing those sets of golf clubs onto  
23 me, they must know that at some point I have to sell  
24 those. I might have £30,000 or £40,000 sat in those at  
25 the end of the season. They have been sat on a rack for

1       six or seven or eight months. It is quite ridiculous,  
2       really. So I think to say that each supplier has  
3       the same commitment to custom fitting as Ping just isn't  
4       so, I am afraid.

5   Q. I understand. That is helpful to understand.

6       So where you are saying that your custom fitting  
7       rates for non-Ping clubs are about 80 per cent, I think  
8       you have just explained a major reason why that is so,  
9       which is that the other manufacturers are requiring you  
10      to sell these big quantities of standard-fit clubs and  
11      so, as a result, you can't custom fit 100 per cent of  
12      them because you have to shift this stock.

13  A. Yes, but I think what that does demonstrate that they  
14      are not as committed to custom fit and I think that is  
15      a very important point to make. You know, it is vital.

16  Q. Let's take the around 80 per cent. Presumably I take it  
17      that that is an average estimate across the other brands  
18      and so it is possible that some of those other brands  
19      might be lower and some might be higher than  
20      80 per cent?

21  A. Well, when you have a shop -- touch wood -- that is as  
22      busy as ours, we have a lot of golf clubs, starter sets  
23      that come in a package, and they can't be custom fitted  
24      because -- again, I do not want to ramble here, but Ping  
25      is the only company where the golf clubs can be altered.

1           So we can alter or send back to the factory -- we can  
2           actually do them in-house.

3   Q.   Do you mean with the starter pack?

4   A.   We cannot alter a starter pack because the starter packs  
5           are all made of cast material which, if you try to bend  
6           them, they will just snap. TaylorMade will be the same,  
7           some Mizuno models will be the same and some Titleist,  
8           whereas the Ping models, they can all be altered.  
9           I think that is very important.

10  Q.   I understand.

11  A.   So in terms of the 80 per cent, we are selling an awful  
12           lot of golf clubs that cannot be altered, that cannot  
13           be. That is really where a lot of the differential is.

14  Q.   That is very helpful to understand. Within  
15           the 80 per cent, you have said that that is an average  
16           figure across brands. Might it be the case that some of  
17           the other brands are higher than 80 per cent and some  
18           are lower, so might Mizuno have a higher custom fitting  
19           rate than 80 per cent in your shop?

20  A.   Yes.

21  MS DEMOTRIOU: Now, can we take up the supplementary survey  
22           that Ping conducted?

23           Can someone give the witness bundle B1? It is tab 1U.  
24           I think the witness has an extract from this survey  
25           because it is a confidential document. I want to take

1           him to his responses.

2   THE CHAIR:   Where do we find it?

3   MS DEMETRIOU:  It is bundle B1, tab 1U.

4           For everybody else's benefit, there are a number of  
5   entries representing different shops and Mr Clarke's  
6   entries are on pages 4 and 5.  Does the Tribunal have  
7   it?

8           If you take page 4 and look about a fifth of the way  
9   down, there is in blue the first blue highlighted name,  
10   "David Clarke", and then we see the next one is again in  
11   blue, not the immediate next blue but the one after  
12   that, 6975, "David Clarke Golf Shop".  Then towards  
13   the bottom of the page, six up, "David Clarke Golf Shop"  
14   again.  So that is three of them.

15           Then on the next page, there are three more, which  
16   are all in the bottom third of the page.  They don't  
17   have figures in the columns.  Now, I am not going to  
18   focus on those.  I am going to focus on the three on  
19   page 4.  Can you help us with this, Mr Clarke?

20           Of the three that I have asked you to look at, David  
21   Clarke Golf Shop number 2615, do you know what shop that  
22   relates to?

23   A.  Yes, I think I do.

24   Q.  I want to find out whether these shops are still open.

25   A.  I do not know if those are the shops that are still open

1 or not.

2 Q. I think it is difficult to tell. But do you see in  
3 the next column, you have a rate for your estimate of  
4 the proportion of Ping clubs that are custom fit.

5 If we go through --

6 A. Is that the first column? Is what you are referring to  
7 in the first column or the fifth column?

8 Q. There is a column that says Paul Bucknall, then there is  
9 a number and then there is a column with the name of the  
10 shops and then there is the percentages.

11 A. I do not have a column with any names of shops.

12 Q. Ah. (Pause). I am here, where it says the account  
13 holder, not the name of the shop. You are quite right.

14 A. No problem.

15 Q. You see next to the account holder, there is  
16 a percentage. For the first one, it is 70 per cent then  
17 we have 85 per cent, your next entry, then 80 per cent.  
18 Do you see those figures?

19 A. Yes.

20 Q. That is the estimate that was given at the time of this  
21 retailer survey for the custom fitting rates for Ping  
22 and those are obviously different to the estimate that  
23 you give in your witness statement, which is higher.  
24 Now is that because, as you say, you don't keep detailed  
25 records and this is a matter of general impression?



1 A. I think so and I think also I actually don't know that  
2 I am answering the same question here which is, you  
3 know, this survey -- do you mean the survey that was  
4 carried out by Foremost?

5 Q. No. This is a survey; your Ping rep would have called  
6 up. When we see the person who answered, it was  
7 Chris Clarke. Who is Chris Clarke?

8 A. My son.

9 Q. This is a survey where the Ping rep would have called up  
10 to ask what proportion of sales are for Ping clubs that  
11 are custom fit, and your proportion of non-Ping clubs  
12 that are custom fit.

13 What we see here is that what your son estimated is  
14 something lower than the estimate that you put in your  
15 statement because in your statement you have given this  
16 very high figure and here, the estimates for the shops  
17 are 70 per cent, 85 per cent, and 80 per cent which is  
18 obviously lower than the figure in your witness  
19 statement. I just want to understand why you think that  
20 might be.

21 The point I am putting to you is: is this  
22 essentially because you don't keep detailed records and  
23 it is a question of general impression?

24 A. I think to answer the second part of your question  
25 first, it is a general impression. And without wanting

1 to seem a bit dim, I would like you to ask me the first  
2 part of the question again. I am not altogether  
3 sure what you are trying to infer.

4 Q. It was a long question. I am sorry.

5 A. Go really slow.

6 Q. When your son answered the question that was put to him  
7 here --

8 A. He has arrived at a different answer to me.

9 Q. He has. I want to ask you why you think that might be.  
10 One possible reason might be that you don't hold  
11 detailed records in your shops about custom fitting  
12 rates; it is an impressionistic question and that is why  
13 one person's view might reasonably differ from another.  
14 Would that be correct, to say that?

15 A. I am not sure that it would be, really. I cannot answer  
16 about my son because he is not here. If we are breaking  
17 for lunch, I will phone him up and ask him. I do not  
18 know why he has given a different answer to  
19 the question. I am happy to stand on the answer I have  
20 given.

21 All I can assume is he has either -- in a way, I was  
22 answering the question if a man walked through the shop  
23 door and wants to buy a set of Pings, will he buy a set  
24 of Pings in the end further to a custom fit? I think  
25 that was the point I was making with my 100 per cent, or

1           nearly 100 per cent.

2   Q.   Yes.

3   A.   I am not sure Chris is answering that same question.

4   Q.   Well, it may be, I think, that we probably can't take  
5       that any further with you because you don't know what  
6       was in his mind when he was answering that question.  So  
7       I do not think it would be fair.

8   A.   I think, yes, I am amazed at Christopher's answer to  
9       that quite frankly.  Either that means that he has  
10      decided that at our busiest shop which it is, well  
11      the busiest shop, that 70 per cent of the people who  
12      asked for Ping bought Ping and 30 per cent of the people  
13      bought something else.

14  Q.   No.  Let's be clear.

15  A.   I want to be clear too.  Is that not what he is saying?

16  Q.   No.  What he is answering is a slightly different  
17      question: for every 100 customers that come in and buy  
18      Ping clubs in your stores, what proportion of those 100  
19      purchases was preceded by custom fitting?

20           It is not asking whether people coming in wanting  
21      Ping end up buying something else.

22  A.   I am happy to answer that question.  I think an awful  
23      lot.  We will sell £150,000 worth of second-hand golf  
24      clubs per year.  We will sell £50,000 to £60,000 worth  
25      of starter sets that I alluded to before, that have no

1 custom fitting facility. Then we have the eBay sales.

2 I think we are comparing apples with oranges here.

3 I cannot say yes to that.

4 Q. Let's move away from the question that your son answered  
5 because that is obviously not something that you can  
6 directly give evidence about. I want to clarify what  
7 you mean when you talk about this very high rate in  
8 paragraph 7 for Ping.

9 Are you answering the question: how many people come  
10 in wanting Ping and end up buying Ping? Is that  
11 the question you are answering?

12 A. I think that is the point I --

13 Q. Just to go back, I will let you turn that up in your  
14 statement at paragraph 7. Do you see there you have two  
15 rates, one for Ping and one for other brands and you are  
16 comparing them. The Ping one is higher.

17 What I want to clarify in light of the discussion  
18 that we have just had is whether there you are saying  
19 that this high percentage of Ping relates to the number  
20 of people that come in wanting Ping and end up buying  
21 Ping.

22 A. I think that is what I am saying there.

23 Q. You think that is what you are saying?

24 A. If I have chosen the wording carelessly, I apologise.

25 Q. Okay. Now, when a customer comes into one of your shops

1           wanting to buy golf clubs, then because you are  
2           committed to custom fitting, presumably you or your  
3           staff will try to persuade them to have a custom fitting  
4           before they buy?

5    A.   Yes.  Even the answer to that is a little varied in as  
6           much as if they are just going to buy a single golf  
7           club, say a rescue wood or something like that, they  
8           would still encourage the person to have a fitting but  
9           we probably wouldn't charge for that fitting even though  
10          I pay my staff.  We as a firm are very committed.  
11          We see it as glue, to cement between us and  
12          the customer, is giving a fitting.  It is an opportunity  
13          to demonstrate our staff's knowledge, et cetera.  So  
14          we try very much to push, if that is not the wrong word,  
15          custom fitting.

16                 So I will pay my staff to do a custom fit for you  
17                 for a single golf club but you won't pay for that.  
18                 I pay them and you don't.

19    Q.   That is a cost you bear.

20    A.   I just bear that.

21    Q.   Now, some of customers when they come in will know what  
22           brand they want at the outset.  They will have a fixed  
23           idea and others will not be so sure.

24    A.   That would be accurate.

25    Q.   Those that are not so sure might try a different brand

1 during the course of the custom fitting?

2 A. Yes.

3 Q. So either way, whether they come with a fixed idea or  
4 not, your philosophy is nearly always to suggest  
5 a custom fitting?

6 A. Always. In fact, in many respects, when that person  
7 comes in and they are a little bit uncertain about what  
8 brand to buy, we are more inclined to persuade them to  
9 have a fitting.

10 MS DEMETRIOU: I see.

11 Sir, I am conscious that we are coming up to  
12 one o'clock. I am about to embark on a series of  
13 questions and I wonder if it is a convenient moment to  
14 break?

15 THE CHAIR: It is.

16 Mr Clarke, you should not discuss your evidence  
17 during the lunch break with anybody.

18 (1.00 pm)

19 (The short adjournment)

20 (2.00 pm)

21 MS DEMOTRIOU: Mr Clarke, before lunch I think you mentioned  
22 that amongst the golf clubs you sell are second-hand  
23 golf clubs. Is that for all the brands?

24 A. Probably, yes.

25 Q. So including Ping?

1 A. Yes.

2 Q. At paragraph 15 of your statement -- do you have that in  
3 front of you?

4 A. "In my view ..."?

5 Q. Yes, that is the one. You say it is not possible to buy  
6 custom fit clubs online because you need a face-to-face  
7 assessment. I think that we can all agree with that.

8 But if a customer has a face-to-face custom fitting and is  
9 then given their specifications, do you accept that in  
10 principle we can use those specifications to buy that  
11 club online?

12 A. In principle.

13 Q. Do you give customers their specifications when they  
14 come for a custom fitting at one of your stores?

15 A. Well, we charge, so, yes, we do.

16 Q. Now, you say at paragraph 19 that you don't want your  
17 online sales from your website to affect the  
18 face-to-face aspect of your business.

19 A. Yes.

20 Q. That is because you say you want to continue to  
21 effectively promote custom fitting?

22 A. Yes.

23 Q. And you are confident that you can do that, can you? So  
24 just looking at your business, you sell online on the  
25 one hand and you custom fit on the other hand. You are

1 confident that within your business those two things can  
2 co-exist?

3 A. I suppose the answer you are trying to get me to say is  
4 "Yes". What I would say is, you know, they shouldn't  
5 co-exist. In my view, the rest of the industry should  
6 change to Ping's philosophy, not Ping change to the rest  
7 of the industry.

8 Q. Okay, but we are where we are --

9 A. We are where we are.

10 Q. -- in terms of the other manufacturers not having online  
11 bans. What you are striving to do, as I understand it,  
12 is, on the one hand, sell some clubs online but, on the  
13 other hand, promote custom fitting.

14 A. Well, again, the answer to that is probably "Yes", but  
15 there is a caveat attached to that, which is we are in  
16 the online business not because we want to be.

17 Q. I understand.

18 A. We are in the online business because, if we don't, we  
19 will get swallowed up by them or we would anticipate  
20 that we will get swallowed up by them.

21 Q. Now, at both paragraph 16 and paragraph 19 you express  
22 concerns about high-volume internet retailers who don't  
23 invest in custom fittings being able to sell Ping clubs.  
24 Now, I think you were probably in the room when I put  
25 this question to other witnesses, but let's assume that



1 if the ban were lifted, Ping didn't allow high-volume  
2 online retailers to sell its clubs, but continued to  
3 require the online retailers that it selected --  
4 invested and promoted custom fitting. Do you accept  
5 that there would then be less risk to businesses such as  
6 yours?

7 A. I would probably have to say "Yes" to that. There would  
8 be less risk, but there would still be a significant  
9 risk. The important thing that I think one of the other  
10 people alluded to was -- you know, we have to be careful  
11 here. I hope I am not straying off the point. But  
12 Amazon, for example, is category killing on a wholesale  
13 basis and they are doing that because the purchasing  
14 public are not comparing apples with apples. Ping have  
15 not put this ban, if you want to call it that -- I am  
16 not sure it is a ban actually. It is a steer. They  
17 have not put that in place on T-shirts, for examples, or  
18 trousers. They have done it purely on golf clubs and  
19 I think that differentiation needs to be made.

20 Q. Okay.

21 A. Ping aren't, I would say, against internet providers.  
22 I think they are against internet providers providing  
23 custom fit golf clubs when they cannot possibly do it.

24 Q. Now you go on in your statement -- so if we look at  
25 page 4, there is a heading, "Free riding". What do you

1 understand "free riding" to mean?

2 A. We have noticed in the last -- certainly the last three  
3 years or so -- and I have no specific date when  
4 we introduced our charge, but it is certainly in  
5 the last two or three years -- that when we have demo  
6 days, each manufacturer, Ping included, comes to our  
7 ranges and has demo days. Mizuno do -- the reality of  
8 it is that we can do those demo days in-house, but  
9 we don't. The big manufacturers provide them. We have  
10 definitely noticed a decline in the conversion rate on  
11 those demo days and in my opinion that is because of  
12 free riding.

13 Q. So I think what you say at paragraph 21 is what you are  
14 concerned about is customers who get custom fit in one  
15 of your shops and then going online to buy the club.  
16 And, of course, what you have to do is try to persuade  
17 those customers to complete the purchase with you.

18 A. Yes.

19 Q. You explain in your statement that you charge, at  
20 paragraph 22, currently £40 for a fitting and that that  
21 is fully refunded if the customer purchases his clubs  
22 with you. So that offer of a refund on the fitting fee  
23 represents one of the ways you try to persuade  
24 the customer to complete the purchase, doesn't it?

25 A. Yes.

1 Q. Another way that you try to attract customers and complete  
2 purchases is by building a personal relationship with  
3 customers?

4 A. Yes.

5 Q. Now, on your website you offer a price match. I think  
6 by this what you are hoping to do is persuade customers  
7 who have had a custom fitting but who wish to purchase  
8 online to purchase from your website rather than  
9 somebody else's; is that right? Or, rather, let's --

10 A. No, that is probably not so. The reality of it is  
11 a person who has had a fitting will order those golf  
12 clubs in the shop. He would not go home and press those  
13 buttons and order them on the website. He would order  
14 them as likely as not with the person who has carried  
15 out his fitting.

16 Q. Do you offer the price match in-store as well?

17 A. Yes.

18 Q. So what that aims to do presumably is to dissuade  
19 a customer who has had a custom fitting with you going  
20 off and buying their clubs elsewhere because you say,  
21 "If you find a cheaper price, we will match it"?

22 A. Yes.

23 Q. Now, going back to paragraph 19 -- we have gone to that  
24 already, but that is where you say that you want to  
25 continue to promote custom fitting and we have discussed

1 the recent investments you have made. So as things  
2 stand, your commitment to custom fitting remains strong?

3 A. Total.

4 Q. Now one further small point, Mr Clarke, and this follows  
5 from paragraph 24. I just want to explore that with  
6 you. Another concern that you express is that you say  
7 that if this were common -- so I am going to paraphrase  
8 a little bit -- if this phenomenon were common, you  
9 would be concerned that consumers would suffer because  
10 the fitters might not be so thorough in their assessment  
11 and so that might result in a less good custom fitting.

12 A. I would -- yes.

13 Q. But that is not really very realistic, is it, Mr Clarke,  
14 because a consumer is not going to indicate at the start  
15 of a custom fitting that they will go elsewhere --

16 A. They actually do.

17 Q. They do?

18 A. Mm-hmm.

19 Q. But in the large majority of cases, I assume that is not  
20 what happens, so somebody comes in --

21 A. No, in the large majority of cases that is not what  
22 happens.

23 Q. So they come in and say, "I want to a custom fitting but  
24 I am not going to buy my clubs from you"?

25 A. Yes.

1 Q. But you still manage to achieve a 80 to 90 per cent  
2 conversion rate?

3 A. It is a question of context, that. I think the people  
4 who are leaving, I am probably not counting those in  
5 the mathematics.

6 Q. Well, a conversion rate -- by "conversion rate", I think  
7 we can agree we are talking about the proportion of  
8 custom fits that result in a sale and I think you said  
9 earlier that that was in the region of 80 to  
10 90 per cent. That is your evidence, it is 80 to  
11 90 per cent.

12 A. Yes. I stand by that.

13 MS DEMOTRIOU: I do not have any further questions. Thank  
14 you very much, Mr Clarke.

15 Re-examination by MR O'DONOGHUE

16 MR O'DONOGHUE: Mr Clarke, you mentioned the wallpaper.

17 Just to be clear, for the Tribunal's assistance, what is  
18 the returns policy on what you call the "wallpaper"?

19 A. There isn't one. I cannot return those golf clubs to  
20 Mizuno or TaylorMade in any circumstances.

21 Q. Thank you. Then you were taken to paragraph 19 of your  
22 statement.

23 A. Yes.

24 Q. There you talk about the investments.

25 A. Yes.

- 1 Q. Can you assist the Tribunal across your four stores in  
2 giving some detail on the investments? So you  
3 mentioned, for example, equipment, launch monitor,  
4 trained fitters. Can you give an indication of the  
5 kinds of costs involved across your four stores?
- 6 A. Well, the launch monitors are about £10,000 to £12,000  
7 each --
- 8 Q. How many of those would you have?
- 9 A. Three. We are about to buy probably two more.
- 10 Q. The staff costs?
- 11 A. Staff training costs, are we talking about here?
- 12 Q. Yes.
- 13 A. I would say, in terms of time as against wages, against,  
14 you know, not being on the shop floor, probably £5,000  
15 per year.
- 16 Q. In total or per person?
- 17 A. No, in total, to be fair.
- 18 Q. Salaries?
- 19 A. That is salary payments, yes.
- 20 Q. On a pro rata basis?
- 21 A. Yes.
- 22 Q. You obviously need more space for custom fitting --
- 23 A. Yes, we have a room.
- 24 Q. Do you take that into account?
- 25 A. We have a room there that is approximately 400 square

1 feet. We are about to expand that to about 1,200 square  
2 feet and that is devoted to nothing but a fitting bay.

3 Additionally I think what needs to be considered is  
4 the cost of retailing against the web companies.  
5 We have a very big store. We are doing better than  
6 most -- I have to say that -- but I think that is more  
7 because of the scale of how we do it, rather than  
8 anything else, apart from the custom fitting.

9 The shop fittings alone for that store were  
10 £100,000. The carpet is going to need to be replaced  
11 quite soon and that is between £5,000 and £6,000. You  
12 know, these are not costs that can be compared to  
13 someone being on an industrial estate and just lifting  
14 up a box and sending them out.

15 Q. Finally, you set out at paragraph 3 your total turnover.  
16 Have you been able to calculate to what level that would  
17 have to drop for you to no longer break even?

18 A. Our break-even in business is about £1.8 million. I have  
19 not personally. It is a figure I monitor very closely,  
20 as you can imagine. That is -- before I have earned  
21 a single pound out of the business, we need about  
22 £1.8 million turnover. So, you know, that is excluding  
23 investment, excluding everything else. That is just  
24 costs to run the business so it is very significant  
25 indeed.

1 MR O'DONOGHUE: Thank you.

2 THE CHAIR: Thank you very much, Mr Clarke.

3 MR O'DONOGHUE: The final Ping witness is Mr Terry Sims.

4 MR TERRY SIMS (sworn)

5 Examination in-chief by MR O'DONOGHUE

6 MR O'DONOGHUE: Mr Sims, you are about to be handed  
7 bundle B2. Can you turn to tab 6 of that bundle please?  
8 You will see a six-page document. Can you turn to  
9 the last page of the tab, please? Is that your  
10 signature on the last page?

11 A. It is, yes.

12 Q. Is this your witness statement in these proceedings?

13 A. It is, yes.

14 Q. Are the contents of this statement true to the best of  
15 your knowledge and belief?

16 A. It is, yes.

17 MR O'DONOGHUE: If you wait there, Ms Demetriou will have  
18 some questions.

19 Cross-examination by MS DEMETRIOU

20 MS DEMETRIOU: Mr Sims, good afternoon.

21 A. Good afternoon.

22 Q. Do you have your witness statement in front of you?

23 A. I do, yes.

24 Q. I just want to start off by looking at paragraph 1,  
25 which sets out your position. You say you are managing



1 director of three companies, Doug McClelland Golf Stores  
2 Limited, which is the main retail store based at  
3 Silvermere Golf Club, which is in Surrey, as  
4 I understand it --

5 A. That's correct.

6 Q. -- Left-Handed Golf Limited, which, as its name  
7 suggests, sells golf equipment to left-handed players  
8 and Internet Golf Store Limited selling soft goods, but  
9 not golf clubs. The Doug McClelland Golf Stores company  
10 has an online shop.

11 A. It does, yes.

12 Q. How long have you been involved in these companies?

13 A. Left-Handed Golf I started in 2004. That was my  
14 company. Internet Golf Store I started in 2010. That  
15 was also my company. In 2013, the owners of Doug  
16 McClelland Golf Stores and Silvermere purchased those  
17 companies and merged them into one company and I took  
18 over -- we formed a holding company, Golf Retail Group,  
19 that owns the three limited companies. I now run all  
20 three businesses at Silvermere. Internet Golf Store had  
21 a high street store and we closed it, and that actually  
22 just -- all that does is runs a concession with  
23 House of Fraser now.

24 Q. Thank you.

25 At paragraph 6 of your statement you say that custom

1 fitting is a key focus of your business, especially in  
2 the past few years, and that you personally believe very  
3 strongly that it is important for golfers to be  
4 custom fit before they buy their clubs.

5 A. Yes.

6 Q. When you say that it has been especially important in  
7 the past few years, we have heard a number of witnesses  
8 say that. You would agree, would you, that custom  
9 fitting generally has increased over the past few years?

10 A. Yes.

11 Q. There is more demand for it from consumers?

12 A. Yes.

13 Q. You say that Silvermere's custom fitting rates -- so  
14 the proportion of sales which are custom fit sales --  
15 have been increasing over the past few years across all  
16 brands.

17 A. Yes, we invested a significant amount of money in 2014,  
18 £2.5 million in a new driving range, £150,000 in four  
19 custom fit suites and a lot of extra staff and we have  
20 been pursuing a custom process from there, so yes.

21 Q. Are you continuing to invest?

22 A. Yes.

23 Q. That is because you recognise that there is demand for  
24 it and it is the way to grow your business?

25 A. If you want to sell hardware properly, custom fitting is

1 the proper and the best way to (a) service the customer  
2 and (b) for longevity, to bring the customer back to buy  
3 other products off us and more golf clubs and then tell  
4 their friends and tell their friends and tell their  
5 friends.

6 So, you know, guys play golf in four-balls, so if  
7 one guy has a great custom fit, he will play in  
8 a four-ball and he will go and explain to his three guys  
9 that he has been to Silvermere and he's had a great fit.  
10 "Blimey, what you have got?"; "I have got this and I saw  
11 Jamie". All my guys -- we have ten or 11 fitters and  
12 all our guys are encouraged to give their own personal  
13 card as well. So, actually, they get a lot of inquiries  
14 direct into their own phones -- never mind my site -- to  
15 actually go, "Oh, Jim had a fit with you and he said you  
16 did a really good job", so we have by accident a kind of  
17 personal process going as well.

18 Q. I guess you must encourage your ten fitters to develop  
19 those kinds of personal relationships because it brings  
20 the customers back in --

21 A. Of course, yes.

22 Q. In terms of the fitting equipment, I think everyone --  
23 other witnesses before you have all confirmed, but is it  
24 also true for Silvermere that the same bays and launch  
25 monitors are used across all brands?

1 A. Yes.

2 Q. Effectively the process is the same, even though there  
3 will be different club heads and so on for each brand,  
4 but what you are doing is measuring the same kind of  
5 thing?

6 A. The overall -- the process is not entirely the same.  
7 For example Mizuno will ask to take you through a DNA  
8 stick test, which will ask you to do a process of DNA  
9 testing, which is -- you know, they make their own club  
10 and it will give a software shaft guide; Ping have  
11 a colour-coding system that is unique to everybody else  
12 and at times changes; and you have different brands  
13 doing things like graduated length, which is also a new  
14 thing, where actually the long irons, the gap gets  
15 bigger. So there is a lot of -- what is the best way of  
16 describing it? It is not the same, but the foundations  
17 are the same. But outside of that, there is a lot of  
18 quirks. I think I actually worked out that Callaway do,  
19 I think, make eight different ranges of irons and they  
20 have four different lengths for a 4- iron within those  
21 eight sets of irons. So you need to be able to portray  
22 that and understand that and demonstrate that and our  
23 staff demonstrate that or else sometimes what the guy  
24 has got five years ago is not necessarily -- if he  
25 thinks he can just transfer that process, because

1 a graduated length didn't exist --

2 Q. So in the course of any one custom fitting -- so let's  
3 take a customer who does not come with a fixed idea  
4 about which brand they want -- then a fitter may be  
5 testing, during the course of the fitting more than  
6 one -- a variety of different brands with an individual  
7 customer?

8 A. Correct.

9 Q. Now turning to your website, you say at paragraph 16 of  
10 your statement that online sales are a small proportion  
11 of your business. We see that you say that is reflected  
12 in your sales figures, with less than 1 per cent of your  
13 total sales originating online.

14 Then at 23 you say that you are currently investing  
15 in the re-development of your website.

16 A. That is correct.

17 Q. You say there that it is important for a website to have  
18 a lot of functionality due to the large variety of  
19 different options that you can have for clubs.

20 I think it would be helpful to bring up your website  
21 so that the Tribunal can see what it looks like.

22 We see on the first page --

23 A. That is not actually our retail site.

24 Q. We need to go to that. It is there. Does that page  
25 scroll down?

1 A. It should do, yes.

2 Q. We see there what is on sale. If we scroll down  
3 further -- and then --

4 A. What you notice with this site, as I explained in  
5 the statement, we are a destination store, we are  
6 a experiential store. We basically rebuilt that site.  
7 So the background to our internet process, obviously in  
8 paragraph 6, was that when I went to Silvermere  
9 the business was doing £4.2 million per year. It had no  
10 digital representation. I use that phrase differently  
11 to retail. It had no digital representation. It was  
12 poorly represented. So if you want to encourage people  
13 to come to your place -- digital is here to stay -- you  
14 need to digitally represent.

15 So I built a site to digitally make the consumer  
16 understand how we are modern, we are here because we  
17 were looking very un-modern, very poor. So we built  
18 that quickly to start that journey of re-investment.  
19 We then built the driving range the following year.  
20 This we then really concluded actually. The previous  
21 site became very poor, very defunct. We call this  
22 ourselves -- it is not a pun on a golf club, but we  
23 actually call it a "hybrid site". So if you actually  
24 look at that website, there is not one product for sale  
25 on the front page. If you go to any other website, they

1 are all trying to drive products on the front page.

2 So we are talking about experiential, about -- you  
3 know, when you dive in a bit deeper, but that's -- we  
4 spent a long time doing that, which is what I was trying  
5 to explain in that statement was that actually we are  
6 talking about experiential and actually, "Hey, come  
7 here". We will take £9.1 million this year, so we have  
8 gone from £4.2 million to £9.1 million by creating  
9 an experiential process.

10 Q. When you talk about a "hybrid site", I think what you  
11 mean -- you don't use that term in your statement, but  
12 I think I understand you correctly in saying that what  
13 you mean is you are trying to do is strike a balance  
14 between having an online presence but retain your  
15 commitment to custom fitting in store?

16 A. Correct. The issue with -- if the industry -- let's  
17 say -- if every piece of competition has drop-down  
18 boxes, information, if you don't have that and you don't  
19 show a price and you don't show that you offer those  
20 digitally, they will not come to you at all. So you  
21 have to represent digitally -- even Ping we represent  
22 digitally. We represent digitally boxes. We just don't  
23 go to basket; okay? So we represent digitally that  
24 image, that look, to try to get people to come here and  
25 obviously like -- we enjoy selling golf bags and golf

1 shoes and ...

2 Q. Is it fair to say, because we see the small percentage  
3 of your sales figures that stem from online sales -- so  
4 would it be a fair description to say that, whilst you  
5 are selling golf clubs online, effectively your focus  
6 and commitment is to custom fitting in-store?

7 A. Absolutely, yes.

8 Q. So if we click on "Custom fitting" then -- I think what  
9 we need to do is click on that box, "Custom fitting", in  
10 the middle.

11 So I think what you have here, if you scroll down,  
12 is effectively information about custom fitting and why  
13 it is important to get custom fitting and then you  
14 explain what your charges are. So that is an  
15 informational page.

16 You see at the bottom of the page with the charges  
17 that -- you say somewhere, I think -- I think this is  
18 correct -- that these charges that you set out are  
19 refunded at least in part if the purchase is made.

20 A. Correct.

21 Q. Do you know what your conversion rate is between custom  
22 fit and sale? Do you manage to convert most of your  
23 custom fit and sales?

24 A. Currently, as of yesterday, our current rolling  
25 financial year is 83 per cent.



1 Q. That is in part presumably because the purchasers,  
2 the customers, are incentivised to complete the sale by  
3 the refund on the custom fitting charge? That helps?

4 A. Yes.

5 Q. And partly for all the other reasons you gave, which is  
6 that you seek to build up a personal relationship with  
7 the customers?

8 A. Yes, correct. And we are very good -- well, I would  
9 like to think that we are good at what we do and we have  
10 invested a lot of money and a lot of time. If you  
11 haven't been there, it is quite unique in its -- we are  
12 a public, paying place. We are a very welcoming  
13 facility. There are no dress code issues or the old  
14 stuff of golf equipment. We are a very welcoming  
15 facility. We have lots of golfers with kids but  
16 we have a large store and we are an inviting -- we do  
17 get people drive two to three hours now for a custom fit  
18 there. The Left-Handed business, we will have people  
19 fly for a custom fit. So we have people fly from  
20 Jersey, Dubai, Scotland, Ireland --

21 Q. Because very few people specialise in left-handed custom  
22 fits?

23 A. But they were always coming to us because even at that  
24 stage, we would have the option as a drop-down, but they  
25 wouldn't buy them because they don't understand what

1           they are buying or different gram weight shafts.  
2           You have 90-gram shaft, 100-gram shaft, 110, 120, 130;  
3           different kick points, different weights. So that  
4           process is --

5   Q. Not straightforward.

6   A. Yes.

7   Q. In fact the opposite, it is very complicated.

8   A. Yes.

9   Q. Now, if we go to "Golf clubs" on your store, so can  
10          we go back to the golf store and if we scroll down,  
11          we go to "Golf clubs" and then to -- once we go through  
12          to the "Golf clubs", if we go to "Irons". Then if  
13          we first of all click "Ping" -- is this the Ping page?  
14          So if we go down and pick Ping G700 steel irons, if  
15          we scroll down -- I think we have that somewhere. So  
16          we see there a price that you have advertised, but if  
17          we scroll down you say there -- or, rather, it is a bit  
18          further up:

19                 "Ping's online retail policy does not permit any  
20                 retailer to sell their golf equipment online. We are an  
21                 authorised Ping custom fit centre and have custom fit  
22                 demo carts available for trial upon request. We advise  
23                 you to contact us [and you give a number] for the best  
24                 professional advice on custom fitting equipment. We can  
25                 then process your order by phone or in store."

1           If someone calls up or rings that number, then  
2           presumably the person on the other end of the phone will  
3           try to persuade them to come in and have a custom  
4           fitting?

5    A.   If they get transferred to the club department from  
6           where that number takes you because 325 is the club  
7           department. So they should go into menu and then "Go to  
8           golf store", "To clubs", and they would have  
9           a conversation with those people. They will make every  
10          attempt -- well, they will listen to the consumer.

11          We do a profiling process on the phone as well. So  
12          if the guy starts asking about clubs, we will ask  
13          questions and then we will decipher from him. He might  
14          be after one single stick, a 52-degree wedge, and we  
15          talk to him about that 52-degree wedge. If he's  
16          describing what he likes -- I mean, I can remember  
17          a time when some guy phoned me up and wanted Ping irons  
18          and he described that he was on the phone -- he was  
19          6 foot 3.5 and he wanted half an inch longer than  
20          standard purple code, but purple code is flat, we know,  
21          and half inch long is tall --

22    Q.   It does not match.

23    A.   It doesn't match, no. So the purpose of that phone call  
24          was, "Are you sure? That doesn't feel right to me". So  
25          he went -- and I said, "Did your wife measure your first

1 crease of wrist to the floor? Did you look down to  
2 the ground when she did it? Your right shoulder will  
3 drop ...", and he went away and he measured the  
4 following day, and that purchase was done on the phone,  
5 as per the rules, but we did a good job in preventing  
6 him ordering half-long purple code.

7 Q. That is the purpose of the phone conversation, to help  
8 the clients?

9 A. Correct.

10 Q. Let's take another hypothetical example. If you have  
11 someone ring you up and say, "Well, I came to Silvermere  
12 last week and do you remember you custom fitted me for  
13 these Ping clubs? I have lost one of them or broken one  
14 of them", presumably that is just an order you can  
15 process on the phone without the need for the person to  
16 come into the store again?

17 A. We should have the data of his fit -- well, we do have  
18 his data of his fit unless something catastrophic has  
19 happened in our back room. We have two systems, so you  
20 can either search by name or date order, and then we  
21 will find that spec. and hopefully contact that company  
22 and hopefully order that lost iron.

23 Q. Do you give the customers their specs?

24 A. Yes.

25 Q. If we go back to the previous page where we have all

1 the different irons, and if we scroll down to "Callaway  
2 rogue steel irons" -- so it is that one in the middle.  
3 Yes, that one -- you have a page that brings up the club  
4 and you have standard and custom build as two options  
5 for the consumer; yes?

6 A. Yes.

7 Q. Now, if we click on "Custom build", what we see are many  
8 more options than you would have as standard. If  
9 we look at some of those, so, "Shaft" -- you have a huge  
10 number of different options for shaft and then if we go  
11 back and look at "Length", again a range of different  
12 lengths. Then if we keep doing that ... so you have the  
13 various lie angles and then "Grip", again a huge number  
14 of different grips, and then "Wrap", which relates to  
15 the grip, you have those there.

16 A. "Thickness", yes.

17 Q. If a customer already knows their custom fit  
18 specifications and the specifications recommend this  
19 model club, then in principle they would be able to come  
20 onto your site, wouldn't they, and pick their custom fit  
21 options that accord to their specifications and buy  
22 the club?

23 A. As long as he has been fitted correctly and got  
24 the specs and understands what he is doing, of course.  
25 There is nothing to stop him doing that.

- 1 Q. No. Now take, on the other hand, a customer -- I think  
2 this is the point you were just making, which is a very  
3 fair point. So take a customer that does not know their  
4 custom fit specifications and they were looking  
5 online -- if we go back to "Shaft", for example, if they  
6 looked at "Shaft", they wouldn't have a clue, would  
7 they, unless they had been custom fit before, which of  
8 these to plump for?
- 9 A. Unless --
- 10 Q. -- a professional golfer or a member of Callaway's board  
11 or something.
- 12 A. There is a lot of information online unfortunately --  
13 I would say probably unfortunately also during fits you  
14 get presented with consumers who -- we hopefully align  
15 them in the right direction -- but obviously do a lot of  
16 groundwork, homework themselves. There is a lot of  
17 digital information out there. They can also  
18 misunderstand "flex" and "lie angle" or, as I mentioned,  
19 not understand the graduated length or within one  
20 company's offerings there are lots of different lengths.
- 21 Q. If you had not been custom fit and you were looking at  
22 this list, it would be a bit difficult to decide which  
23 one and that is why you have, isn't it, the standard fit  
24 option, which makes it simpler and which offers you  
25 the most common specifications for the particular club?

1 A. Mm-hmm.

2 Q. Now, we have heard and you have explained very clearly  
3 and you have done in your statement as well that you are  
4 committed to custom fitting and that you have been  
5 investing significantly in custom fitting.

6 A. Yes.

7 Q. But there are online retailers who are not interested in  
8 custom fitting and who are much more interested in  
9 selling in bulk.

10 A. I am not really an active online retailer, so, yes, I am  
11 assuming there are significant retailers doing good  
12 millions of turnovers in selling bulk items, yes.

13 Q. But one of the ways in which you're competing is by  
14 offering a more personalised service, including by  
15 offering custom fitting?

16 A. Yes.

17 Q. Now, have you always, since you have been involved in  
18 this business, sold all the main brands?

19 A. Yes.

20 Q. You say that your custom fitting rates have increased  
21 over the years. Is that true of all the brands?

22 A. Our custom fit appointments that we book obviously have  
23 increased. So we were just over 2,600 in 2015, just  
24 over 3,000 in 2016, 3,600 in 2017 and we will be around  
25 4,000 custom fits in this rolling -- in our financial

1 year.

2 Q. So we understand, is the number of appointments that you  
3 have booked a pretty good guide to the number of custom  
4 fits you carry out because most of them are by  
5 appointment?

6 A. Yes.

7 Q. So we can take it, can we, that the pattern is  
8 reasonably similar amongst all brands, so that increase  
9 would be true of all of the main brands?

10 A. Yes, because that is an appointment that then we -- as  
11 I think one of the other gentlemen suggested, we own  
12 four site GC2 quads, we just ordered a TrackMan 4 last  
13 week, which is another £16,000 or £17,000-odd --  
14 the other ones are £15,000/£16,000 each -- so, yes, our  
15 priority is we offer all the brands, we book an  
16 appointment. We only fit with PGA pros. There is  
17 a reason why we only fit with PGA pros, because they  
18 understand that it is not just a golf club that makes  
19 a ball go in the air and left and right. It's obviously  
20 your technique, out to in, in to out, descending,  
21 ascending, angles of attack, loss. So actually a ball  
22 flight is created by the combination of the two,  
23 the technique of the people and obviously the equipment  
24 around it, the flex of shaft. So there we have  
25 a rule -- it is our rule. That's what probably --



1            hopefully that is part of the 150 reasons why we have  
2            grown from £4.2 million to £9.2 million, the fact that  
3            we insist on this PGA pro thing because you will fit  
4            best -- in my opinion. It doesn't make everyone agree  
5            with this in the golf industry, but in my opinion you  
6            will fit best if you know how to teach as well at the  
7            same time because then you can interpret data better  
8            because you understand that a slice is not just created  
9            by a golf club, but it is also created by the golf  
10           swing. So therefore you put those two together and you  
11           normally come up with a better answer, I would say.

12        [REDACTED]

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Q. Okay. You say in your statement -- I am looking at paragraph 8 now:

"We have seen a significant increase in custom fitting rates over the past few years, including for Ping clubs. This year we have consistently carried out between 10 and 15 per cent more custom fits than the previous year."

That is consistent with what you have been telling us about how footfall has been going up.

This 10 to 15 per cent increase, I take it, is an average increase, is it, across brands?

A. Sorry, do you mean in sales by value or custom fits --

Q. What you are saying is that you have seen a significant increase in custom fitting rates.

[redacted] at paragraph 8 you have given an indication of how custom fitting rates have increased

1           and you have said they have increased by 10 to  
2           15 per cent. I just want to understand whether that  
3           figure is an average figure across all brands. I think  
4           it must be because you don't refer to particular brands.

5        A. Yes. I think the thing, just to -- what I was trying to  
6           explain earlier is obviously we have made a significant  
7           investment of £2.5 million to £3 million in a driving  
8           range total, including £150,000 on custom fit  
9           equipment, replenishing launch monitors and lots of  
10          staff. Our staff probably earn double what they used to  
11          earn three or four years ago and a few would happily  
12          stand here under oath and tell you that they earn double  
13          what they used to earn because we have ...

14                 That investment -- "commission" is the wrong word --  
15                 that sales incentive, that pulled commission, that --  
16                 when you invest in 2014, that money, you don't invest  
17                 for one year. You are investing for five, six, seven,  
18                 eight years. You are going -- so we have a £2.5 million  
19                 driving range with top tracer on the range, which is  
20                 basically each bay has screens telling you how far you  
21                 have hit the ball, never mind if you are being fitted.

22                 So I am very pleased that we have increased our  
23                 fitting rates by 10 to 15 per cent and we are now at --  
24                 believe me I am actually relieved that we are not at  
25                 43 per cent, which is the figure, because we would

1           probably be bust if we were still at 43 per cent now.

2           Q.   Because you have to compete because lots of people want  
3           custom fitting so that's the --

4           A.   Yes, and we have spent a lot of money at it, but not  
5           just in things, in people and experiential -- an  
6           experience.

7           Q.   The 10 to 15 per cent, is that an estimate or is that  
8           based on the data you keep in your system?

9           A.   Sorry?

10          Q.   The 10 to 15 per cent increase, is that an estimate or  
11          is it based on data that you keep in your system?

12          A.   That is a circa, around the system.  So I think I pulled  
13          a number -- later on there are -- you have got by value  
14          and by fit, so there are two different things.  I think  
15          I explained in another document, when we have a custom  
16          fit, a guy will come in the store -- he might walk.  We  
17          are at 83 per cent completion for the minute,  
18          17 per cent will walk.  So I think I have mentioned here  
19          at number 7 where we are on the value of conversion.  
20          Basically, when someone orders a custom fit, after  
21          a custom fit they order something they are going to  
22          collect in two weeks' time.  It's done under a purchase  
23          order, under their name, and it creates a Z code.  This  
24          is how our system works.

25                 So if someone says to me, "What did you sell from

1 custom fit appointments?", I can pull all the Z codes  
2 and get a number. That is where the 66 per cent and  
3 £2.3 million of our hardware sales in the previous year  
4 came from. But we also have people who will get fitted,  
5 do the full two-and-a-half-hour full-bag fit, pay a fee,  
6 and they may be 5 foot 9 and be standard -- but standard  
7 is not the same in all brands so wouldn't be standard  
8 in -- he might not be standard within the same company  
9 nowadays because things are different. Even in Ping,  
10 iBlades and I200s are shorter than G400s and G700s, so  
11 even within Ping they are not the same length within  
12 their own category as a standard.

13 Q. So when you talk about pulling these codes off  
14 the system --

15 A. That is how we get the numbers.

16 Q. -- is that how you got the 10 to 15 per cent?

17 A. Yes.

18 Q. Is there any reason why you didn't produce an up-to-date  
19 set of figures for the Tribunal,

20 [REDACTED] Is there any  
21 particular reason why you didn't reproduce that data and  
22 pull that data off your system for this witness  
23 statement?

24 A. No idea. As in number 7, we get a weekly report for  
25 custom fit which basically is the one that I mentioned

1 earlier at 83 per cent. That is our current status.  
2 That shows what was created from the Z code, which is  
3 what you get from a custom fit, and that is why it  
4 states there "66 per cent by value" because we then got  
5 a value from those appointments. We know how much  
6 we sold, total clubs, because we can pull data.

7 By searching "All clubs", it brings us the data and  
8 then you subtract one from the other and come up with  
9 a percentage.

10 Q. But you could in principle have produced the kind of  
11 granular sales detail that you produced for the CMA; you  
12 could have produced that for this hearing because you  
13 have it on your system.

14 A. Circa. Circa.

15 Q. Okay.

16 A. Unfortunately the Z code is a slightly flawed process.  
17 It is a circa because it does not account for anyone  
18 with any brand who got fitted who was 5 foot 10 and  
19 actually just loved that standard shaft, didn't want  
20 a grip change and was happy to buy. So it leaves  
21 some --

22 Q. Some room for error?

23 A. Yes, some.

24 Q. In December 2016, Ping conducted a telephone survey of  
25 its retailers. Do you remember that?



1 A. I don't. I do not remember whether I did that or  
2 somebody else did.

3 Q. Okay. The survey result, shall we have a look at it and  
4 we will see if you responded or not. If you didn't,  
5 I will not ask you any further questions because I don't  
6 think you will be able to help us.

7 A. I will have a look. If it required a lot of detail, it  
8 would have been Ian. He is the guy who knows the system  
9 and even on the CMA report, he dragged all the  
10 information off the system.

11 Q. It is B1, tab 1Q. It is page 5 for everybody else's.  
12 I think you have the same version.

13 Do you see at the bottom of the page, if you work  
14 upwards, you see Left-Handed Golf is about 15 up from  
15 the bottom. Kingswood Golf and Country Club and  
16 DM McClelland?

17 A. Kingswood is an account we own. It has a small pro  
18 shop.

19 Q. If we go to the very final column, you have percentage  
20 figures. So there is 60 per cent, 80 per cent and  
21 60 per cent. Let's focus on McClelland. That is said  
22 to be 60 per cent. That 60 per cent figure is  
23 the estimate for the percentage of Ping custom fittings.  
24 Do you remember whether you gave that estimate over  
25 the phone, or would it have been someone else?

1 A. It was a couple of years ago. I do not recall doing it.  
2 If it needed to get information from a system, I would  
3 not have done it but I cannot recall whether I did or  
4 didn't do that survey.

5 Q. These estimates are all higher of course, significantly  
6 higher -- this was December 2016 -- than the 28 per cent  
7 recorded in your data for 2015 for the CMA.

8 A. Yes.

9 Q. If you increase 28 per cent by 15 per cent, you get to  
10 32 per cent so they are also higher than that. So  
11 it seems like the estimates are higher than your raw  
12 data would suggest; the estimates given are higher than  
13 your raw data would suggest. Yes?

14 A. Just explain that again?

15 Q. The data you gave the CMA in 2015 indicated a Ping  
16 custom fitting rate of 28 per cent and in your statement  
17 you say that that has increased by 10 to 15 per cent.  
18 So if you increase 28 per cent by 10 to 15 per cent you  
19 get to 32 per cent?

20 A. Or is that 10 to 15 per cent of 100? It could have been  
21 to 43 and it could have been 10 per cent per annum  
22 because I have explained obviously that we have done  
23 2,000 fits in 2014, 2,600 fits in 2015, 3,000 fits in  
24 2017, 3,600 fits -- so therefore that is investment in  
25 a business, isn't it; yes?

1 Q. But we are talking about one year here, aren't we,  
2 because we are talking about the difference between 2015  
3 and 2016. This survey was in 2016. So even if it were  
4 15 percentage points, that would take you up to  
5 43 per cent. You are still estimating a higher  
6 percentage in this table.

7 A. In this table here?

8 Q. Yes, in the table there.

9 A. But over that lies -- that is a very similar percentage  
10 to the -- over the number that I have given you in 2017  
11 which shows 66 per cent by value in point 7 of  
12 the statement, which is a statement of fact because  
13 I pulled that from the system.

14 Q. All right. Well, in 2017, Ping conducted a second  
15 telephone survey. Do you remember that?

16 A. I am very unlikely to.

17 Q. Let's have a look at that. Let's see if you remember.  
18 We will look at the Silvermere results. They are on  
19 page 7.

20 A. Which is B1/IU?

21 Q. Yes B1, tab 1U. It is a spreadsheet. If you go a few  
22 pages in to page 7, about two-thirds of the way down you  
23 have McClelland Golf Centres, Kingswood Golf and Country  
24 and Left-Handed Golf. Let's stick with McClelland as  
25 that is your main one.

1           You see there 65 per cent is the rate. In fact  
2 we see that it was you that picked up the phone because  
3 the next column has the person that was contacted.

4           And then, if you go across, "same". I think what  
5 that says is your results for Ping are the same as for  
6 non-Ping clubs. That is what you are estimating, that  
7 your custom fitting rates are the same for Ping clubs  
8 and non-Ping clubs. Again, we have a 65 per cent  
9 estimate in 2017.

10           At the end of paragraph 13 of your statement, if  
11 we go back to that, you address custom fitting rates for  
12 irons in particular.

13       A. Which one, there?

14       Q. Paragraph 13 of your statement. You make the point  
15 about 10 to 15 per cent across all brands following your  
16 substantial investment. Then you go on:

17           "In particular, we custom fit approximately [and  
18 there is a confidential number] of Ping irons. Fitting  
19 rates for woods are lower but still materially above  
20 [that number]. The percentage of custom fitted irons  
21 we sell for other brands is lower than for Ping. For  
22 example for TaylorMade and Callaway it is about [and  
23 there is a percentage figurer] lower."

24           [REDACTED]

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7 Q. Now going back to your witness statement, you mentioned  
8 the custom fitting rates for irons for TaylorMade and  
9 Callaway but you have not in fact mentioned what  
10 the custom fitting rates are for the two manufacturers  
11 that I have identified there that had very high custom  
12 fitting rates at that time. Do you know what they are?

13 A. Sorry? Which?

14 Q. Going back to paragraph 13, you make the point that for  
15 irons, Ping had the highest custom fitting rates and you  
16 say that for TaylorMade and Callaway it is about X  
17 percentage lower. But what you have not done is given  
18 us a comparison between Ping and the other two  
19 manufacturers that I have just taken you to, the one  
20 that is third from the top and the one that is at the  
21 bottom, which at that stage had significantly higher  
22 custom fitting rates for irons than Ping did.

23 Do you know what the figures for them would be now?  
24 Are they very close to Ping's figures?

25 A. I do not have them all to hand. I know that Ping, when

1 I pulled Ping last week, was at 74.8. This is irons  
2 because woods are slightly different. That is on a Z  
3 code orders.

4 Q. 74.8? Where does the figure that is highlighted,  
5 the confidential figure in 13 come from, because that is  
6 more than 10 percentage points higher?

7 A. I do not understand, sorry.

8 Q. You have just said that for Ping the rate for irons is  
9 74 per cent but here in your statement you have said  
10 it is actually higher than that?

11 A. Which statement, sorry?

12 Q. In your statement here --

13 A. I say 85 per cent, yes.

14 Q. Is that because your statement is from October last year  
15 and it has gone down?

16 A. No. There is always this 10 per cent which you  
17 mentioned at the bottom of the thing.

18 Q. I see, so you have not factored in that 10 per cent?

19 A. 74.8 per cent is very, very close to where we are.

20 Q. Do you know what the rates are for the two manufacturers  
21 that I have mentioned?

22 A. No.

23 Q. But they are likely to be very close to Ping's, aren't  
24 they?

25 A. [redacted] are quite an intense custom fit brand. All our



1 numbers are -- all our custom fit numbers are  
2 significantly higher. This is the thing about looking  
3 at a two -- we are a bit of a -- not a one-off. Well,  
4 for the golf industry we are a one-off. We have  
5 spent -- we have completely recharged our business,  
6 completely. So unfortunately what was the status quo in  
7 2014 has no -- I think 66 custom fits between Christmas  
8 and New Year and literally before we got the driving  
9 range, we did three.

10 So clearly our custom fit numbers are going to  
11 absolutely vault because we have gone from -- we had one  
12 leaking one-tier one-bay cold, leaking driving range and  
13 now we have a 52-bay, four fitting suites, £2.5 million  
14 investment and thanks, yes, we have done a great job  
15 with it.

16 Q. Can you go back to the table? I am looking at  
17 the coloured table at the bottom row. The third  
18 manufacturer down, okay?

19 What I am telling you about that manufacturer is  
20 that at that stage, back in 2015, their custom fitting  
21 rate for irons was 71 per cent, okay. You have just  
22 said that they are a serious custom fitting brand and  
23 that your custom fitting rates have gone up. So  
24 71 per cent plus the 10 per cent is 81 per cent. So can  
25 we assume that their custom fitting rate today is

1           81 per cent. It is unlikely to have gone down, isn't  
2           it?

3           A. It depends how good their equipment is.

4           Q. I am asking your view. Do you think it has gone down,  
5           because you have been looking at this data?

6           A. With [redacted], I do not have [redacted] number. Yesterday  
7           or last week to come here I got Ping's numbers which is  
8           why I have it but I don't have [redacted]. I can't tell  
9           you what [redacted] number is.

10          Q. When you say they are a serious custom fitting band;  
11          they take it seriously, they promote it, they want you  
12          to custom fit their clubs?

13          A. Yes.

14          Q. I think we can put the numbers away now, Mr Sims.

15                 You say at paragraph 15 of your statement that a ban  
16                 on internet sales is the most effective measure  
17                 a manufacturer can use in an online world to assume that  
18                 custom fitting of its clubs takes place face-to-face?

19          A. Where is this, sorry?

20          Q. I am looking at paragraph 15 of your statement, about  
21          halfway down:

22                 "As discussed further in paragraph 17 below, the  
23                 internet policy operated by Ping is the most effective  
24                 measure a manufacturer can use in an online world to  
25                 ensure that the custom fitting of it clubs takes place

1 face-to-face."

2 A. I think you just used the word "ban". I have not used  
3 the word "ban".

4 Q. No. I am paraphrasing. They prohibit --

5 A. I do not use the word "ban", which I have mentioned in  
6 the previous -- I mentioned it later on. I do not see  
7 Ping's online policy as a ban. I have said it in  
8 the previous statement. It is a guide. It is  
9 a warning.

10 I call it a traffic light system. You have red,  
11 amber, green. Red is ban: don't do anything, don't  
12 touch. Amber is: here is all the information, here is  
13 the price, here is the specs, here is the colours, here  
14 is an understanding of code, okay?

15 Q. Yes.

16 A. But I just do not want you to go in the basket because  
17 I would just like you to speak to somebody first or  
18 visit in store or have a fit. Green is go, order --

19 Q. Mr Sims, I think we are all talking about the same thing  
20 so I do not want to use a word that you are not happy  
21 with.

22 A. I have not put "ban" in it.

23 Q. No, so I won't use that word. We are talking about  
24 the prohibition by Ping on the sale of its clubs online.

25 A. The click-to-basket. Yes.

1 Q. The sale. You cannot buy a club online.

2 A. Correct.

3 Q. That is what I am talking about.

4 Now, that is the only leading manufacturer that  
5 applies an internet ban, isn't it?

6 A. Yes.

7 Q. We have seen when we were looking at your custom fitting  
8 data and the estimates here that you have given us based  
9 on your systems that generally custom fitting rates have  
10 gone up and that these other brands are also achieving  
11 high custom fitting rates. That is right, isn't it?

12 A. Yes.

13 Q. And so other brands have evidently, together with  
14 retailers, found ways of promoting the custom fitting  
15 whilst still selling online. And you do yourself, don't  
16 you, because you sell online but as you described  
17 earlier, you are at the same time very devoted to custom  
18 fitting?

19 A. I certainly have it all listed online but, as you said  
20 yourself, it is a pretty tough call to pull all that  
21 information from there and literally -- I would not say  
22 we have never sold but I would be lucky if I have sold  
23 one or two sets of actually true custom online on  
24 anything on clubs. On our online site, gift vouchers is  
25 the biggest product that we sell on our website. Gift

1 vouchers is to come to store. We don't have an  
2 online --

3 Q. But you are able to satisfy on this website demand for  
4 online sales, because people can in principle --

5 A. Yes, if you wanted to. It is very important, I think so  
6 and I think the numbers have proved, the growth has  
7 proved it. The digital expression is what we do. So  
8 we have worked incredibly hard at digitally  
9 representing.

10 If you want to compete with an online retailer --  
11 and they do a very good job in whatever they do and  
12 I have no issue with it as such -- you have to show  
13 the same. You have to show the same and then it is  
14 about how the site drags people to the store. Whether  
15 there is some incentive, giving good information, making  
16 sure people -- explaining, not making on our website  
17 the front page "Buy! Buy! Buy!". Our front page has  
18 nothing on it to buy.

19 Q. On your front page, what you have done is demonstrated  
20 your commitment to custom fitting because you explain in  
21 great detail why custom fitting is important, how you  
22 can go about having custom fitting and you give contact  
23 details so people can organise a custom fitting but you  
24 still allow online sales and have all of these  
25 customisable options --

1       A. Yes, because I do not want to be worse than my  
2       opposition. Also actually, one which I have not  
3       mentioned before, our staff find that quite helpful. If  
4       I have 10 or 11 fitters, you need to be a magician to  
5       remember nine or we have ten significant brands. You  
6       need to be really, really good at remembering every drop  
7       down option, every size, every upcharge so therefore  
8       it is quite handy for a fitter.

9                We have a decamp room. So when you have a fit in a  
10       room, we then take them to another room and we sit with  
11       a PC in front. We map out what they are going to order.  
12       We print the order, we handwrite it and the point is,  
13       it is handy for the fitter because I do not want to see  
14       a margin falling to 15 points because my fitter has not  
15       charged an upcharge for a grip where there is an  
16       upcharge or not charged a shaft upcharge. So it is  
17       there for our own staff's use but it portrays -- but,  
18       yes, if somebody wants to buy, we will buy.

19       Q. In terms about your own staff's use, I can see that.  
20       But equally you could achieve the same thing by having  
21       an internal system with all of these options without  
22       permitting online sales, in principle. You don't have  
23       to have a website to tell your staff about the sales  
24       options?

25       A. No, you can have both.

1 Q. Ultimately, what you are saying is, yes, you do permit  
2 online sales but your commitment to custom fitting and  
3 your investment in custom fitting is undiminished.

4 A. Yes, that is our commitment but?

5 Q. Is that correct? I want to see if you agree with this.

6 I think you may describe yourself as follows: yes,  
7 you do allow online sales but your commitment to custom  
8 fitting and your investment in custom fitting remains  
9 undiminished?

10 A. Yes.

11 MS DEMETRIOU: I do not have any further questions.

12 Thank you very much, Mr Sims.

13 MR O'DONOGHUE: Sir, I have nothing by way of  
14 re-examination.

15 THE CHAIR: No further questions. You can go, thank you  
16 very much.

17 MS DEMETRIOU: Sir, the CMA witnesses are not available this  
18 afternoon. We are running slightly ahead of  
19 the timetable, which is a good thing. We were not due  
20 to get on to them until tomorrow afternoon.

21 We are hoping that there may be a saving in  
22 the timetable and that we may be able to finish sooner  
23 with the evidence in general. I spoke to Mr O'Donoghue  
24 yesterday. Obviously it depends how he gets on but  
25 we are hoping that the fact that I have finished earlier

1           may result in a saving going forward this week, which  
2           would allow us potentially to rise a little bit earlier  
3           at the end of the week and then resume the timetable as  
4           determined next week.

5       THE CHAIR: Very well. Thank you. So we will call it a day  
6           today.

7       MS DEMETRIOU: Yes.

8       THE CHAIR: Thank you very much.

9       (3.20 pm)

10                       (The hearing was adjourned until 10.30 am  
11                               on Wednesday, 16 May 2018)

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