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IN THE COMPETITION
APPEAL TRIBUNAL

Case No: 1284/5/7/18
1290/5/7/18

Salisbury Square House
8 Salisbury Square
London EC4Y 8AP

Friday 6 May 2022

Before:
The Honourable Mr Justice Michael Green
Derek Ridyard
Sir Iain McMillan CBE FRSE DL
(Sitting as a Tribunal in England and Wales)

BETWEEN:

Royal Mail Group Limited
BT Group PLC and Others v DAF Trucks Limited and Others **Claimants**

v

DAF Trucks Limited and Others **Defendants**

A P P E A R A N C E S

Tim Ward QC, Ben Lask and Clíodhna Kelleher (On behalf of RM/BT)
Daniel Beard QC, James Bourke and Daisy Mackersie (On behalf of DAF)

Friday, 6 May 2022

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(10.00 am)

THE CHAIRMAN: Good morning.

MR WARD: Good morning, sir. Our next witness is
Mr Jeavons.

MICHAEL JOHN JEAUVONS (affirmed)

THE CHAIRMAN: Thank you, Mr Jeavons. Please sit down and
make yourself comfortable. There may be a couple of
questions from Mr Ward.

Examination-in-chief by MR WARD

MR WARD: Mr Jeavons, you have given two witness statements
in these proceedings, the second of which clarified
certain matters in the first. Are there any other
changes or clarifications you wish to make?

A. No.

Q. Is your evidence otherwise true to the best of your
knowledge and belief?

A. It is.

MR WARD: Thank you. Please wait there. Mr Beard will have
some questions.

Cross-examination by MR BEARD

MR BEARD: Good morning, Mr Jeavons.

A. Good morning.

Q. So two witness statements. I think you understand you
are here today as a witness of fact, not as an expert.

1 A. Yes.

2 Q. -- in relation to these proceedings. So although in
3 your witness statements you provide opinions on quite
4 a number of things and your views about matters, I am
5 not going to ask you about those because they are going
6 to be dealt with by experts. I want to focus on some
7 factual matters if I may.

8 A. Yes.

9 Q. So just dealing first with your second witness statement
10 {D/7.1} or some points made in it, you explain in your
11 second witness statement that the method through which
12 trucks were procured could affect how they were
13 accounted for within Royal Mail; that is correct, is it
14 not?

15 A. Yes. Yes.

16 Q. So if trucks were purchased outright or under finance
17 leases, you would have expected them to be treated as
18 capex?

19 A. Yes.

20 Q. Yes.

21 If the trucks were procured through operating
22 leases, you would expect them to have been treated as
23 opex, operating expenditure?

24 A. Yes.

25 Q. I am just going to drill down into that a little bit

1 further.

2 A. Yes, sure.

3 Q. So outright purchases and finance leases, capex, so what
4 that means is that the cost of the truck is an asset on
5 the balance sheet; is that right?

6 A. It is, yes.

7 Q. Yes, and that then you have depreciation charges which
8 are accounted for over the estimated useful life of
9 a truck?

10 A. Yes.

11 Q. So the cost on the balance sheet is the initial purchase
12 price; that is right, yes?

13 A. It is, yes.

14 Q. On Royal Mail's case, if there was an overcharge, that
15 cost on the balance sheet would have included that
16 overcharge for any trucks purchased between 1997 and
17 2011; that is right, is it not?

18 A. Yes.

19 Q. In relation to depreciation, that would have been
20 calculated on a straight line basis over the useful life
21 of the vehicle, taking into account the estimated
22 residual value at the end of its economic life; is that
23 right?

24 A. Yes. Yes, I am pretty sure -- I do not honestly
25 recollect the precise accounting policy we were looking

1 at at that time, but that would be in our accounts.

2 THE CHAIRMAN: Could you keep your voice up a little bit
3 because I cannot -- I do not know whether the microphone
4 could be placed a little bit closer because I am
5 difficulty hearing. Thank you.

6 MR BEARD: Sorry, the estimate of the residual value which
7 helps you calculate the depreciation, that estimate is
8 made at the time the truck is acquired, is it not?

9 A. That is a very good question. I am not entirely sure
10 what we did at the time.

11 Q. We can leave that for experts and deal with that.

12 I think my next question I will not go into. You do
13 not know whether or not the depreciation calculation
14 before 2010 was based on a useful life of seven years;
15 you do not recall that?

16 A. No, what I would say is over probably last the 20 years,
17 that expected useful life has got slightly longer over
18 time, so it will have changed over time.

19 Q. Understood.

20 Just so we have got this in clear-ish numbers, if we
21 assume there is a hypothetical truck costing £25,000 in
22 2002 and let us assume for these purposes you are using
23 seven years as your depreciation, and your residual
24 value is £4,000 at the end of that -- sorry, a few
25 numbers.

1 A. Three.

2 Q. You have got it. Thank you. £3,000 is the amount that
3 is recognised in the profit and loss account each year;
4 that is right, is it not?

5 A. Yes.

6 Q. Yes, thank you.

7 So let us just look very briefly at operating
8 leases, you have explained that these would be treated
9 as operating expenditure, so the truck would not be
10 recorded as an asset in the balance sheet. That is
11 correct?

12 A. Not at that time. I mean, IFRS 16 will have changed
13 that recently but ...

14 Q. Understood. I am going to limit my focus to the period
15 of the infringement. I understand that accountancy
16 practices do change.

17 Of course, there would not be any depreciation
18 charge, instead the lease payments would be recorded as
19 operating expenditure; that is correct, is it not?

20 A. That is correct.

21 Q. Now, you very helpfully clarified in your second
22 statement how you now understand the method by which
23 trucks were procured, because of the way in which this
24 affects the accounting treatment. You have said in your
25 second witness statement that you were, when you signed

1 your first, operating under a misapprehension about how
2 Royal Mail procured the trucks at issue in this case.
3 That is correct, is it not?

4 A. Yes.

5 Q. You say that when you prepared your first witness
6 statement, BCLP, the lawyers for Royal Mail, showed you
7 the appendices to the re-re-re-amended particulars of
8 claim?

9 A. Yes.

10 Q. How many amendments there were does not matter for these
11 purposes.

12 You say you looked at the appendices to these
13 pleadings in informing yourself when you provided your
14 first witness statement. I am going to call up the
15 appendices, I will do it on the system which is
16 non-confidential. We do have a confidential version as
17 well, but if we could just have {B/1/50}, please.
18 I just want to look at the appendices that you looked
19 at. I could visit upon you the particular cruelty of
20 handing you the appendices and asking you to find where
21 the references were that you relied on, but I think we
22 can probably find them.

23 So the first appendix is actually a list of
24 contracts, but I am guessing that was not what you were
25 focused on at all, no?

1 A. No.

2 Q. Now, the next appendix begins at page 54, if we could
3 just but put that up {B/1/54}. Great, thank you. That
4 is the Commission decision and I do not think that was
5 what you were referring to either?

6 A. No.

7 Q. If we then go to {B/1/86}, which is the third appendix,
8 this is the "Value of Commerce", and this is the
9 calculation that was being put forward on Royal Mail's
10 behalf as the basis for your claim at that stage. This
11 has all radically changed now. Do you recall this?

12 A. Yes.

13 Q. Then, if we could just go down to the next page
14 {B/1/87}, then we have got notes on that table and there
15 are various notes there. Do you recall these notes at
16 all?

17 A. I have to say I genuinely do not, but I would have
18 looked at them at the time I am sure.

19 Q. You would have looked them at the time. We are in quite
20 obscure territory here, I see that, and it was a little
21 while ago.

22 If we go over the page again {B/1/88}, could this be
23 the note that you were referring to in your first
24 witness statement? Do you just want to read it?

25 A. Yes, please. (Pause).

1 Sorry, I am not sure which paragraph I am referring
2 to in my statement now from this.

3 Q. Certainly I can go back to your witness statement if
4 that is of assistance. It is in your second -- sorry,
5 in your first -- let me see. I have just lost the
6 reference. 3.2 in your second witness statement
7 {D/7.1/3}.

8 THE CHAIRMAN: I think the question you put to him was that
9 his first witness statement referred to the appendices.

10 MR BEARD: Yes, I am so sorry, I have given the wrong
11 reference. It is 3.1 in the second witness statement
12 {D/7.1/3}.

13 THE CHAIRMAN: Second witness statement?

14 MR BEARD: Yes.

15 THE CHAIRMAN: All right.

16 MR BEARD: Only because it is 3.1 that is actually referring
17 to his first.

18 THE CHAIRMAN: Referring back to 7.14.

19 MR BEARD: Yes.

20 A. I see.

21 Q. Yes.

22 A. Yes, I am sure that is the case.

23 Q. This is what I was just asking you about. You said
24 here:

25 "As noted at paragraph 7.14 of my First Witness

1 Statement, when I was preparing [the] statement, BCLP
2 showed me the appendices to RMGL's [the re-re-re-amended
3 particulars of claim] which provides that the value of
4 RMGL's outright purchases of trucks for the financial
5 years ... was as follows."

6 What I wanted to clarify was, you cannot tell
7 anything from those numbers as to how many trucks were
8 purchased outright or leased and I just wanted to
9 understand if you had read the appendices and gone to
10 that note in the appendices in relation to the question
11 of how many trucks were leased?

12 A. No, I do not recall the note to the appendices.

13 Q. Just to be clear, at the time when you made your first
14 statement, you actually had no idea how many trucks were
15 leased or purchased outright?

16 A. No.

17 Q. No.

18 So when you made various comments about what might
19 have been going on with leased or outright purchased
20 trucks, you were essentially just relying on what BCLP
21 had told you about these matters at the time of your
22 first witness statement; is that right?

23 A. Yes, yes.

24 Q. I guess you would have reasonably assumed that the
25 position had been carefully checked before the claim was

1 brought; was that the position?

2 A. Yes.

3 Q. Yes.

4 Nothing you read when you were preparing your first
5 witness statement caused you to question what you had
6 been told by BCLP in relation to those matters?

7 A. No.

8 Q. No.

9 Now, as I say, in your second statement, you are now
10 aware that that was wrong and suggesting that all of the
11 trucks, save for 50, were purchased outright and those
12 figures following was wrong. Are you actually aware how
13 many of Royal Mail's trucks were in fact purchased using
14 operating leases during the period?

15 A. No.

16 Q. No.

17 Do you have any idea at all?

18 A. No.

19 Q. No.

20 So this is from a joint statement by the experts,
21 but they calculate 3,676, so almost half of all the
22 trucks claimed for. You will appreciate, I am sure,
23 that in particular, given the claim for interest that is
24 made here, that makes quite a significant difference.
25 You are an accountant and I am sure you can do the quick

1 maths in relation to these things, but I am sure you
2 understand that it makes a very big difference in
3 relation to these matters. But I just want to be clear
4 that, when you made your first statement, you did not
5 know about numbers of leased trucks, you did not know
6 about the numbers of trucks bought outright and you were
7 dependent on other people directing you to the relevant
8 documents?

9 A. Absolutely.

10 Q. Absolutely.

11 So when you provide factual evidence in your
12 statement on these matters, to some extent you are
13 providing a commentary on the documents that were shown
14 to you?

15 A. That is absolutely correct.

16 Q. Yes.

17 In relation to this, you were told the wrong thing
18 or you were not shown the right documents?

19 A. Yes.

20 Q. Yes.

21 As I say, you have now corrected this because the
22 matter was drawn to your attention by BCLP. When
23 were you first made aware of the issue, Mr Jeavons?

24 A. The date I do not know, a few weeks ago.

25 Q. A few weeks ago, okay. I am not going to ask you for

1 a precise date. That will suffice for these moments.

2 When you were made aware of it, was that by BCLP
3 bringing your attention to the experts' joint leasing
4 model?

5 A. Yes, I think it was, yes.

6 Q. Yes.

7 Were you then directed to the overcharge figures in
8 relation to the joint leasing model? I think it is only
9 fair if I take you back to your witness statement,
10 second witness statement, 3.3 {D/7.1/3}:

11 "BCLP have shown me the 'Overcharge' tab ..."

12 A. Mm-hm, yes.

13 Q. Was that what happened? BCLP said, "Here is the joint
14 leasing model ..."

15 A. Yes.

16 Q. -- "... go to the overcharge tab"?

17 Then it was pointed out that your evidence was not
18 consistent with this; is that right?

19 A. Yes.

20 Q. It was suggested to you you should correct that position
21 in your statement in line with that information; is that
22 what happened then?

23 A. That is, yes.

24 Q. Yes. So you were encouraged to provide the
25 clarifications?

1 A. Yes.

2 Q. Yes.

3 So what you are doing here is simply agreeing with
4 the statements from the experts which they have agreed,
5 having looked at the documents. That is correct?

6 A. That is correct, yes.

7 Q. Sorry, slight torturous question, but yes.

8 A. Yes.

9 Q. I think you have made clear you have no independent
10 recollection or knowledge of these matter?

11 A. No, none at all.

12 Q. Could I just go to the declaration then at the end of
13 your second statement, Mr Jeavons, which is on I think
14 page 8 {D/7.1/8}. I am so sorry, I have lost my
15 reference. It will be D/7.1 and I think it is page 8.
16 In the witness declaration -- I do not know to what
17 extent you read through this, but in the second line, it
18 says:

19 "I understand that it is not my function to argue
20 the case, either generally or on particular points, or
21 to take the Tribunal through the documents in the case.

22 "This witness statement sets out only my personal
23 knowledge and recollection, in my own words."

24 Now, you very fairly, in answer to the questions
25 I have been putting to you, made clear that you do not

1 have any personal knowledge or recollection about these
2 facts and you have in fact been essentially taking the
3 tribunal through documents in your first witness
4 statement, and then, in this witness statement, taking
5 the tribunal through some of the documents that the
6 experts have prepared. That is correct, is it not?

7 A. Yes.

8 Q. Yes.

9 I think you have also answered that you were
10 encouraged to include these observations in your second
11 witness statement, we will go back to the transcript,
12 and you were encouraged by BCLP to do so; that is
13 correct?

14 A. Yes. Well, by my team, yes.

15 Q. Yes.

16 Sorry, BCLP and those working with you on this
17 matter?

18 A. Our internal legal team, yes.

19 Q. Yes, thank you.

20 THE CHAIRMAN: It is right to say and I think he points out
21 in his witness statement that that sort of declaration
22 was not required for the first round.

23 MR BEARD: Absolutely. I am not going to take a point about
24 the operation of the declaration in relation to the
25 first witness statement. I will deal with that in

1 submissions in due course. The role of witness
2 statements simply taking you through documents, even
3 before the change in practice direction, is something
4 that we will make observations on. But we are not
5 suggesting that the first witness statement omitted
6 a relevant witness declaration or anything of that sort,
7 no. That is absolutely clear.

8 THE CHAIRMAN: Yes.

9 MR BEARD: Utility of witness statements that go through
10 documents we will come back to.

11 THE CHAIRMAN: Yes. That is another point but it was not
12 against the rules to do that as such.

13 MR BEARD: No. Absolutely. That is not our point. I think
14 you can see, Mr Chairman --

15 THE CHAIRMAN: Yes. No, I understand.

16 MR BEARD: -- where I am going with this in relation to the
17 second statement.

18 THE CHAIRMAN: Yes.

19 MR BEARD: Thank you.

20 I am going to -- you may be pleased to know -- move
21 away from declarations on witness statements and go to
22 PCR2 and PCR3, but let us just pick up on PCR2 to begin
23 with. I am going to use the terrible acronyms that are
24 the currency of these price controls -- price control
25 review, PCR.

1 Now, in your first witness statement, {D/7.14}, we
2 do not need to go to it, you have made clear you were
3 not actually working in regulatory costing at the point
4 when Royal Mail's forecasts were being prepared. That
5 is correct, is it not?

6 A. The price control 2.

7 Q. Yes, I am sorry. Let me be clear. This line of
8 questions, I will just focus on price control 2. When
9 I am moving to price control 3, I will make it clear for
10 you.

11 Just to be clear, I think you have -- I am sorry,
12 for the transcript, I am going to ask the question
13 again. The answer just did not come out. You were not
14 working in regulatory costing at the time when
15 Royal Mail forecasts for PCR2 were being prepared,
16 were you?

17 A. No.

18 Q. No.

19 So you were not involved at all in putting together
20 the cost forecasts for PCR2?

21 A. No.

22 Q. No.

23 Now, in your first witness statement, you say that
24 you reminded yourself of Postcomm's final proposals for
25 PCR2. Could we just call up document {I3/374}, please?

1 I just wanted to check, was this the document you
2 reminded yourself of? Do you recall?

3 A. I do not recall to be honest but ...

4 Q. No, you do not recall.

5 The reason I ask is because you have actually
6 exhibited it to your first witness statement, but you do
7 not actually recall --

8 A. Sorry, the first witness statement and all the documents
9 that were referenced in that statement, I did the work,
10 whatever, 12 months ago.

11 Q. Yes.

12 A. I have not been back through the loop on all the detail
13 of that in the last week before coming here.

14 Q. Right.

15 When you said you reminded yourself of them, did
16 people direct you to particular passages of those
17 documents to review?

18 A. Well, to the documents and to passages that were
19 relevant, for sure.

20 Q. But you read through those passages before you signed
21 your first witness statement; right?

22 A. (Nods).

23 Q. So let us just look a little bit at what you say in your
24 witness statement about PCR2. Obviously here I am
25 focusing really on your first witness statement {D/IC7}.

1 You say in your first witness statement on PC2

2 {D/IC7/13}:

3 "Postcomm made no allowance for the cost ... of
4 capital assets acquired by [Royal Mail] prior to the
5 start of the price control ..."

6 I just want to look at some of the documents you
7 exhibit to your witness statement to see if we can
8 better understand that statement.

9 THE CHAIRMAN: Sorry, where is that?

10 MR BEARD: 6.3(a), if we may. D/7, page 13. Sorry, it is
11 not fair to ...

12 THE CHAIRMAN: Yes.

13 MR BEARD: So {D/7/13} if we could.

14 You will see there, Mr Jeavons, what I was just,
15 I hope fairly, setting out was what you have essentially
16 said in 6.3(a), particularly at (i) in that paragraph;
17 that is correct, is it not?

18 A. Yes.

19 Q. Yes.

20 So the first document I want to go to is the Atkins
21 report. Now, they were a third party consultant to
22 Ofcom --

23 A. To Postcomm, yes.

24 Q. To Postcomm, thank you very much, yes. To Postcomm
25 during the PC2 consideration. They produced a report

1 about Royal Mail's forecast operating and capital
2 expenditure; that is correct, is it not?

3 A. Yes.

4 Q. Yes.

5 Although you emphasise it in your second report, in
6 fact you exhibited that report to your first witness
7 statement; do you remember that?

8 A. Yes.

9 Q. Yes.

10 Indeed, if we could go to paragraph 7.11, which is
11 at page 17 in this witness statement {D/7/17}, you
12 actually refer to some of the criticisms that were
13 leveled by Atkins at Royal Mail's capex planning, so you
14 specifically refer to that.

15 Now, I am assuming that in preparation for your
16 witness statement you did not read all of the Atkins'
17 report, it is a lengthy document?

18 A. No.

19 Q. So you relied on people to direct you to the relevant
20 passages?

21 A. Yes.

22 Q. Yes.

23 So could we just go to document {I3/370}, please?
24 I should say, Mr Jeavons, I can direct you to hard
25 copies of these documents if at any time you want them,

1 because your lawyers have made them available. But
2 otherwise I am just going to keep going through them
3 electronically.

4 A. No, that is okay, I will ask if I --

5 Q. Thank you.

6 A. -- I want to look at them.

7 Q. So this is the WS Atkins report. Do you remember this
8 being the relevant document?

9 A. Yes, I think so.

10 Q. Yes.

11 This is the version that is exhibited to your
12 witness statement. You can see the heading:

13 "Excised Version of An Efficiency Study of
14 Consignia's Inland Letters Business".

15 Consignia just being the name that Royal Mail had at
16 that time?

17 A. That is right.

18 Q. Yes.

19 Could we go to page 112 in this document, please
20 {I3/370/112}. You will see at the top of here the
21 heading, it is table 5-27:

22 "Inland Letters Projected Operating Expenditure --
23 Consignia's Forecasts".

24 Do you remember seeing this table?

25 A. Yes, I think I do.

1 Q. Yes.

2 In very simple terms, this is setting out
3 Royal Mail's forecast operating expenditure; is that
4 fair?

5 A. Well, in -- of a type, yes.

6 Q. Yes.

7 We see there, there are lots and lots of blank rows
8 because there are all sorts of excised figures there; do
9 you see that?

10 A. Mm-hmm.

11 Q. So we get some figures and then we get gaps. The gaps
12 are simply because this is the excised version of the
13 report.

14 If we could just go down towards the bottom of the
15 table, so could we just scroll down a little more, you
16 will see, under the last subheading before "Total
17 Operating Expenditure", "Charges by Internal Suppliers".
18 Can you see that?

19 A. Yes.

20 Q. Then you have:

21 "Internal Supplier Costs (Corporate Units)", and
22 then you have some numbers for "Internal Supplier Costs
23 (Services Group)". Do you see those?

24 A. Yes.

25 Q. Those internal charges would have included internal

1 charges from the vehicle services group within what was
2 then Consignia, now Royal Mail; is that correct?

3 A. I honestly do not know, but potentially.

4 Q. Let us go through this a little bit more. Could we go
5 to {I3/370/94}, please? This is table 5-18 "Breakdown
6 of Internal Supplier Costs". Do you remember looking at
7 this table at all?

8 A. I do not recall it.

9 Q. No.

10 If you look down --

11 A. Yes, I can see the "Vehicle services".

12 Q. Yes, you can see "Vehicle services", and you can also
13 see that all of the numbers there are excised, but you
14 did not look at the table so you did not note that those
15 numbers were excised?

16 THE CHAIRMAN: Sorry, can I just check, when was it excised?
17 That was at the time?

18 MR BEARD: Yes, I am actually just going to go to the
19 unexcised version because we have both and Royal Mail
20 would have had both so ...

21 THE CHAIRMAN: I think so, yes.

22 MR BEARD: Yes, being it is Royal Mail's figures, yes,
23 exactly.

24 THE CHAIRMAN: But this is what was submitted to Postcomm
25 or --

1 MR BEARD: No. No, the unexcised version would have gone to
2 Postcomm.

3 THE CHAIRMAN: Right.

4 MR BEARD: So, yes, the question why Mr Jeavons was being
5 provided with an excised version is one we will no doubt
6 have to come back to, but I am just going to go to the
7 unexcised version, if I may.

8 If we could go to tab {I1/283/79}, so this is table
9 5-18 again, "Breakdown of Internal Supplier Costs", but
10 here you see that the numbers are then filled in for
11 vehicle services, so there is no gap there anymore; do
12 you see that?

13 A. Yes.

14 Q. Yes.

15 I do not know if you know this, but you understand
16 that vehicle services internal costs would have included
17 what were referred to as secondary vehicle charges,
18 which are described in the evidence of Mr Devine.

19 I think you say in your statement that you are aware of
20 the content of Mr Devine's statement?

21 A. Yes, and I would expect the vehicle services number to
22 be, you know, the costs of fuel and the vehicles within
23 that function.

24 Q. But those vehicle services charges, they would also
25 include the depreciation element on outright truck

1 purchases, would they not?

2 A. Yes. Yes.

3 Q. Yes.

4 They would also include operating lease payments,
5 would they not?

6 A. I think they might -- yes, I think they probably would
7 include operating lease payments, yes.

8 Q. Yes.

9 So what is being included there are calculations of
10 actual vehicle services charges for any -- well, actual
11 vehicle service charges for any year would include
12 depreciation and operating lease payments, would they
13 not?

14 A. The costs in vehicle services would include those costs.
15 The way they charged that to the business, you know,
16 I am not sure how they collated that and then charged
17 that to the business.

18 Q. So I think all I am getting at is that in these
19 forecasts, which are for the coming years of PC2,
20 included in those forecasts are actually those elements
21 of the depreciation calculation that we were touching on
22 at the beginning when I showed you that -- when I gave
23 you that arithmetical model that you reached the
24 conclusion on very, very quickly. So the 3,000s, in my
25 example, would all be included within the forecasts that

1 you would -- we are talking about here?

2 A. Yes, I would expect so, yes.

3 Q. Yes.

4 Equally, if you had leased a truck under an
5 operating lease which has several years, each of the
6 years' lease payments would be baked into those
7 forecasts as well; that is correct, is it not?

8 A. Yes.

9 SIR IAIN MCMILLAN: May I ask a question?

10 MR BEARD: Of course. Please, sir.

11 SIR IAIN MCMILLAN: It is about depreciation. I think
12 earlier, Mr Jeavons, you said that the depreciation of
13 the vehicles had been carried out on a straight line
14 basis?

15 A. Well, I think I said I did not recall what the policy at
16 the time was.

17 SIR IAIN MCMILLAN: Oh, I am sorry. I thought you said that
18 you did not know the value at the end of the period of
19 ownership. I thought you said it was a straight line
20 basis, but ... my question was going to be, if you did
21 not know the value at the end of the period, then how
22 could a straight line basis of depreciation be
23 calculated? It could not.

24 A. No -- (overspeaking) --

25 SIR IAIN MCMILLAN: So -- but -- all right. Thank you.

1 MR BEARD: If it assists, Sir Iain, we can come back to
2 this, but actually Mr Devine clarifies that it is
3 a straight line basis, and we are not challenging that,
4 and it involves the calculation of the end price as
5 well, so you can calculate the --

6 SIR IAIN MCMILLAN: Because it could have been done on
7 a reducing balance basis if you did not know, but
8 a straight line basis, no.

9 MR BEARD: We are not cross-examining Mr Devine because --
10 we do not have an issue with that. I mean, it is
11 factually the case and therefore there is no point in us
12 putting questions to him. So we will come back to it
13 but I think that will explain the use of the --

14 SIR IAIN MCMILLAN: Thank you for that. It is very helpful.

15 MR BEARD: We will try to get the reference to the witness
16 statement and provide it to you.

17 I do not know, given what you have said about your
18 awareness of what existed in relation to these
19 documents, were you directed to the facts in the Atkins
20 report that Atkins accepted all of Royal Mail's forecast
21 vehicle services charges? Do you remember that?

22 A. I do not, but I would not be surprised by that.

23 Q. No. Let us just go to it. It is {I3/370/114}. So this
24 is the critique of the overall forecasts. If we could
25 just go to -- I want to go to paragraph 6.53 but I have

1 got the wrong page number, I am so sorry to the Opus
2 operator. I would imagine it is around 120, is my
3 guess, but I may be wrong. {I3/370/131}. Fabulous,
4 thank you, it was further on, I apologise, I misjudged
5 my page numbers, but thank you very much.

6 So this is under "Vehicle Services", so this is the
7 specific consideration of it. There are some excisions
8 here, but if we can just go over the page to 6.56
9 {IS3/370/132}, thank you. If you just read 6.56.

10 (Pause).

11 A. Yes.

12 Q. So here you could see Atkins considering vehicle costs
13 in relation to the final proposals that were being put
14 to Postcomm and I think you would accept that they are
15 considering those vehicle costs as part of the forecast
16 operating expenditure; you agree?

17 A. Oh, yes, of course, yes, I would.

18 Q. Now, I am going to stay with PC2 for the moment. I am
19 now going to look a little bit at capex forecasts.
20 Could we go to {D/7/18}, please? So this is your
21 statement in relation to -- your first statement,
22 I should be clear, Mr Jeavons, I do not want to confuse
23 you. 7.13:

24 "I have reminded myself of Postcomm's Final
25 Proposals for Price Control 2 and I note that at

1 table 2.3 of the technical annexes to this document,
2 Postcomm states that [Royal Mail] anticipated CAPEX of
3 £75m ... breaking down [into] £15m [over] each of the
4 years ..."

5 You have now reminded yourself of those final
6 proposals and the technical annexes and I think you have
7 corrected the position in relation to this. If we just
8 stay with this statement, at 7.14, you note that this
9 sum was significantly less than the capital expenditure
10 actually incurred on trucks, given that I think you
11 observe that the majority of Royal Mail's vehicle
12 expenditure was actually on vans. Do you recall saying
13 that?

14 A. Sorry, just bear with me a second, please.

15 Q. Yes. Please. (Pause).

16 A. Yes.

17 Q. So, at 7.15 {D/7/19}, having said this, you say that
18 this "illustrates the difficulties", you conclude 7.15.
19 If we can just go down to that so you can read it. This
20 illustrates, you say, "the difficulties I described at
21 paragraph 7.11 above".

22 If we just go up to 7.11 {D/7/17}, this is the
23 paragraph I have already mentioned to you, you are
24 making the point in this paragraph that Royal Mail's
25 vehicles' capex would have been done at a more macro

1 level and often led to round numbers in a plan. So your
2 evidence originally was that this 75 million number in
3 the technical annexes supported your opinion that
4 Royal Mail's forecast capex was macro and involved
5 rounding numbers; that is what you are saying here,
6 is it not?

7 A. Well, partly, I think, yes.

8 Q. Yes.

9 So let us go to the table you refer to here. It is
10 table 2.3 and it is in {I3/373/24}. So this is
11 "Royal Mail's Proposed Future Capital Spend ..." that
12 you were referring to in 7.11. You will see there the
13 entry for "Motor vehicles" and if you go down to
14 "Project Analysis", you see "Vehicles and trailers",
15 just above the gridded line, entry 12. Yes?

16 A. Yes.

17 Q. These were the figures that you were drawing on --

18 A. Yes.

19 Q. -- and you had been directed to presumably?

20 A. Yes.

21 Q. Yes.

22 You say in your second witness statement {D/7.1/4}
23 that in fact BCLP have since drawn to your attention
24 that parts of the Atkins study that show these numbers
25 likely relate to people carriers rather than trucks?

1 A. Yes.

2 Q. That is your evidence now, yes.

3 So let us just go back to the Atkins study. We can
4 refer to the excised one. So could we go to
5 {I3/370/163}? So this is table 11-2, "Future Capital
6 Spend ..." and again, we see the same line 12 that we
7 saw before. But if we now go to page 166 in this
8 document, please {I3/370/166}, you see under the heading
9 "Capex Plan ...", 11.15:

10 "In the next few paragraphs we have summarised some
11 of the descriptive material ... and added some of our
12 own comments. The line numbers refer to references in
13 Table 11.2."

14 11.2 was the table that I have just taken you to.

15 Were you directed to look at this passage? Do you
16 recall it at all?

17 A. I do not recall.

18 Q. No.

19 Could we just go down to page 168 in this document,
20 please {I3/370/168}? Can we just look at 11.23:

21 "Line 12 concerns the purchase of people
22 carriers ..."

23 So I am guessing that you were not directed to this
24 section?

25 A. No. No.

1 Q. No, because it is pretty clear from this, when you look
2 at the explanation to line 12 in that table, that it was
3 about people carriers?

4 A. Yes, it seems pretty clear.

5 Q. Yes, so when you were commenting on those documents
6 previously, it was just an inaccurate comment because
7 actually there had been an explanation of these figures?

8 A. Yes.

9 Q. You understand that now?

10 A. Yes.

11 Q. Yes.

12 I am not going to go to the expert reports where
13 this was spotted. I am so sorry, just give me one
14 moment. (Pause).

15 Now, as I say, you do comment on documents in
16 relation to PC2 in your first and second witness
17 statements, but when we were going through, we could not
18 specifically find you referring to the object of the
19 regulatory regime. Could we go back to the PC2 final
20 proposals? It is one of the exhibits to your witness
21 statement again. It is at {I3/374}. If we could go to
22 page {I3/374/70}, please, and if we could just go down
23 to paragraph 7.44, you will see a statement:

24 "In setting the level of the control, Postcomm has
25 set the allowed revenues so that on Postcomm's central

1 view of volumes, operating, capital and renewals
2 expenditure, Royal Mail will be broadly cash neutral
3 over the price control period."

4 I think you would accept that this was the overall
5 objective that Postcomm was articulating in relation to
6 this price control?

7 A. It was their objective.

8 Q. Yes.

9 Of course, what that means is that it would always
10 be in Royal Mail's interests to ensure that all of its
11 costs were taken into account, because, in principle,
12 given that objective, the higher costs taken into
13 account, the higher level of allowed revenues; that is
14 correct, is it not?

15 A. Well, I mean, you know, the regulatory construct is one
16 that, you know, reviews the information in front of it.
17 I think at the time -- I do not think as
18 a government-owned organisation, that necessarily
19 Royal Mail engaged in regulatory game-playing. I think
20 we --

21 Q. I was not suggesting that.

22 A. I think we -- well, sorry, that is what I took from your
23 question.

24 Q. That was not -- I was not suggesting it was a game.

25 I was suggesting that it was important to ensure that

1 all of your costs were taken into account because of the
2 way that you knew Postcomm was seeking to regulate you;
3 that is correct, is it not?

4 A. That is correct, yes.

5 Q. Yes.

6 I am going to move on to some questions in relation
7 to price control review 3 and price control period 3, is
8 that ...

9 A. Yes.

10 Q. During this period, you were head of regulatory costing
11 for the first part of that period, and then head of
12 planning and reporting and costing; is that correct?

13 A. That is correct.

14 Q. But I think, very fairly, in your second statement, you
15 now do say:

16 "I do not recall forecast vehicle costs included in
17 Royal Mail's regulatory statement [as read]."

18 So are we broadly in the same position in relation
19 to PC3 as we were in relation to PC2? You have been
20 directed to various documents, you have recalled
21 the position --

22 A. Yes, I think I have probably more recollection of some
23 of the documents around PC3, but, yes, I mean ostensibly
24 the details of them I have been directed to, yes.

25 Q. So you explain in your evidence that PC3 was different

1 from PC2 because Postcomm had moved to what is referred
2 to as a regulatory asset value control; correct?

3 A. Correct.

4 Q. Yes.

5 So the way this works is it sets a value for
6 a regulatory asset base, the RAB, and then allows
7 Royal Mail to make a return on the RAB; that is the
8 structure?

9 A. Yes.

10 Q. Yes.

11 So I think we can probably agree that in PC3 there
12 are two ways that vehicle costs, including truck costs,
13 could be taken into account by Postcomm within the RAB
14 itself, so as part of the existing regulatory asset base
15 or forecast capital expenditure; is that correct?

16 A. Yes.

17 Q. Then also as part of forecast operating costs; correct?

18 A. Yes, potentially.

19 Q. Yes.

20 So let me just focus initially on the RAB for
21 a moment. Let me go back to the PC3 initial proposal,
22 so this is {I3/381}. This is "2006 Royal Mail Price and
23 Service Quality Review, Initial Proposals". Do you
24 remember this document?

25 A. Yes.

1 Q. Yes.

2 This is a Postcomm document; yes?

3 A. I think so, yes.

4 Q. Yes.

5 A. Sorry, there is no header on it so ...

6 Q. No.

7 Let us just go down to the next page. You will see
8 from the first line of the summary, this is not
9 a Royal Mail document, this is a Postcomm document?

10 A. Yes.

11 Q. Putting forward proposals and consulting on them.

12 THE CHAIRMAN: This is a public document then, is it?

13 MR BEARD: Yes, this is a public --

14 THE CHAIRMAN: This is what Postcomm puts out?

15 MR BEARD: Yes. This is part of the price control process.

16 It was touched on yesterday that, in these price
17 controls, other people can stand up and shout about what
18 is going on, if they want to.

19 THE CHAIRMAN: Yes.

20 MR BEARD: Obviously there are limits to what goes into
21 these consultation documents in terms of sensitive
22 commercial confidentiality, but in terms of the overall
23 proposals, particularly when the regulator is moving to
24 a new scheme of regulation, it will be set out so people
25 can comment on it.

1 If we can go to page 105, please {I3/381/105}, so
2 this is table 7.1, so this shows:

3 "Royal Mail's estimates of its [historical costs
4 accounting ...]"

5 So this is "HCA":

6 "... and [current costs accounting] values of its
7 tangible assets ..."

8 You recognise that?

9 A. Not in detail, no.

10 Q. No. Understood.

11 But the way this table would have been generated,
12 you understand, is that Royal Mail would have
13 submitted --

14 A. No, of course. Yes, yes. Sorry, I understand that.

15 Q. No, no, I was not clear enough in my question, I am
16 sorry.

17 So these are Royal Mail's estimates of its
18 historical costs accounting and current costs accounting
19 values of tangible assets and, assuming there are not
20 fat finger errors in the numbers entered by Postcomm,
21 those will be Royal Mail numbers; correct?

22 A. Yes.

23 Q. So just in the third row, you see -- sorry, the third
24 row under the headings -- "Vehicles" and these are all
25 values in millions. Historical costs accounting

1 value: 45 million; current cost accounting

2 value: 47 million; and then an explanation of:

3 "Indexed historical cost using asset specific price
4 indices."

5 So to that extent, in carrying out the forecast
6 analysis and the calculation of the RAB that is going on
7 here, you would agree that trucks already purchased by
8 Royal Mail are being included in that assessment;
9 correct?

10 A. Yes.

11 Q. Yes.

12 Now, if we could go down to the ninth row, which is
13 third from bottom, if you just scroll down the page,
14 please, you will also see, three from the bottom, a row
15 saying "Leased vehicles". What this is, is a sum, only
16 on a current costs accounting basis, of 206 million
17 and -- what does "NBV" stand for?

18 A. Net book value.

19 Q. Net book value, thank you, "... of equivalent assets if
20 purchased outright". So what Royal Mail was doing here
21 was submitting figures on the basis it felt that leased
22 vehicle value should be included in the RAB; you
23 understand that?

24 A. Yes.

25 Q. Yes.

1 Now, as you know, LECG were consultants to Postcomm
2 during PC3 or PCR3. You have referred to some of their
3 reports in your first statement, and then in your second
4 statement you refer to a further report from them. The
5 first report I want to go to is at {I3/381}. Sorry,
6 this is LECG's take on it within this document,
7 I apologise, it is not the document itself. I confused
8 my own references.

9 If we can go down to 108 {I3/381/108}.

10 THE CHAIRMAN: So this is the same document?

11 MR BEARD: This is the same document, just further down.

12 I am sorry, what has been done is we have skipped
13 through LECG's separate documents and we have just got
14 here LECG's take that Postcomm are setting out in their
15 own document on that material I have just been taking
16 the witness to.

17 You will see 7.2:

18 "Comparison of Royal Mail's CCA value with LECG's
19 CCA value after adjustments for Royal Mail's tangible
20 assets excluding leased assets for 2003/4".

21 So LECG was suggesting that excluded from the
22 calculation of the RAB should be leased assets. That is
23 what you take from this; correct?

24 A. Yes.

25 Q. We still see the "Vehicles" figure of 47 million that we

1 have seen previously, but the leased figure has come
2 out.

3 I think you are aware that Postcomm accepted that in
4 these initial proposals. Do you recall that?

5 A. Yes.

6 Q. Yes.

7 Let us go now to Postcomm's final proposals. Do you
8 recall that they adopted the same approach there?

9 A. Yes.

10 Q. Yes. Thank you.

11 I will move on slightly then. We have already seen
12 that your evidence in your first witness statement was
13 that forecast capital expenditure for items like
14 vehicles, you said, would be likely done on a macro
15 basis and we have looked at PC2 and the 75 million.
16 Now, in your first statement, you then said in relation
17 to PC3 that capital expenditure forecast was at a high
18 level. I will just turn up the paragraphs. {D/7/19},
19 please. This is the section of your witness statement
20 dealing with "Forecast Vehicle expenditure" starting at
21 7.16, and you note that Royal Mail's forecast
22 expenditure on vehicles is 0.5 billion and it is
23 a rounded number. So your evidence then was that use of
24 0.5 billion shows that forecastings vehicle costs are
25 not granular by Postcomm, but we will leave that for

1 a moment?

2 A. I actually said that it was not clear to me why the
3 numbers were quite so rounded. So my point on our
4 approach on capital on vehicles is it is an element of
5 a capital budget for any year that will often be
6 a moveable feast in trying to balance the whole capital
7 spend for a year, and so there will often be a slight
8 reduction in the amount or a slight increase in the
9 amount available for vehicles, depending on other calls
10 on capital.

11 Q. Understood. So what you would put in in relation to
12 vehicles might well change due to other capital demands
13 that you have; correct?

14 A. Yes.

15 Q. Yes.

16 A. But this appeared to be too rounded.

17 Q. Yes.

18 A. This was what I was saying.

19 Q. Well, in your second statement, you refer to a corrected
20 figure --

21 A. Indeed.

22 Q. -- of 484 million which is significantly less rounded?

23 A. Indeed. Yes.

24 Q. So you anticipated correctly, but you had not been
25 directed to the relevant documents --

1 A. No.

2 Q. -- that indicated that at the time?

3 A. Correct.

4 Q. But, subsequently, you refer in your second statement to
5 BCLP having directed you to an LECG document
6 from February 26 which showed that there is this
7 corrected figure, and you specifically refer to table 85
8 in your second statement. So let us just go to that.
9 That is at {I3/391} and it is page 143. {I3/391/143}.
10 So this is the "Financial impact of vehicle procurement
11 policy -- Royal Mail revised" and this is the source
12 that you were directed to for the less rounded figure?

13 A. Yes.

14 Q. That is correct, is it not?

15 A. Yes.

16 Q. Yes.

17 Can we just scroll up to 9.52, just the paragraph
18 above, please, so:

19 "Royal Mail included in its revised Strategic Plan
20 an initiative relating to its vehicle procurement
21 policy. This initiative shows the effect of a shift to
22 purchasing rather than leasing vehicles, as current
23 vehicle leases expire. Royal Mail stated that it began
24 leasing vehicles in 1999 due to government cash flow
25 restrictions. However, purchasing vehicles outright has

1 recently become more financially attractive ...
2 Royal Mail stated that, although for the purposes of the
3 Strategic Plan it has assumed a full switch to buying
4 vehicles, it will in fact continue to review its
5 buy-vs-lease vehicle procurement decision on
6 a quarter-by-quarter basis."

7 Do you remember reading this paragraph?

8 A. Yes.

9 Q. Yes.

10 Did you ask to see the revised strategic plan that
11 is referred to there?

12 A. No.

13 Q. No.

14 Or the vehicle procurement policy?

15 A. No.

16 Q. No.

17 Well, let us look at it now. If we could go to
18 {I6/233}, so this is the vehicle procurement policy.
19 You will see under the heading, it says: "[pounds] in
20 millions", so this is a document that is rounding
21 figures to the nearest million on that basis, is it not?

22 A. Yes.

23 Q. Yes.

24 If you look on the left-hand side, under the first
25 box, as it were, you see a heading "Capex Required". If

1 you exclude the year 2005/2006, which would not be
2 within PC3, then adding up three times 108 and 160,
3 well, your maths is fast, it is 484.

4 A. Yes.

5 Q. So that is the source. What we see there is the
6 analysis carried out to reach these figures that are
7 rounded to the nearest million. You will see that
8 "Analyses Carried Out To Support Investment".

9 "Assessment of costs:

10 "Gathered recent historical price quotes from
11 leasing panel and procurement.

12 "Gathered historical data on residual values and
13 extraneous charges such as wear and tear."

14 Then you have got "Assessment of obligations",
15 "Evaluation of lease/purchase options", "Estimation of
16 capex and benefits". So what you have there are the
17 figures, but also I think you have got an outline there
18 of the fairly sophisticated analysis that has been
19 carried out in order to gather historical data and reach
20 those figures; is that correct?

21 A. It certainly appears so, yes.

22 Q. Yes.

23 So there was a careful assessment that resulted in
24 this calculation of 484.

25 Just one final point on this document, the planning

1 assumption at the top, you will see in that "Description
2 And Expected Impact":

3 "The current planning assumption agreed by RM
4 Finance is to move to 100% vehicle ownership as
5 historical leasing contracts expire ..."

6 That makes -- we understand from what was said in
7 that previous document why that was the case, because
8 you were perceiving that that was better value for money
9 and it also makes sense because we know that, before
10 this, you leased a lot of trucks; that is correct?

11 A. Yes.

12 Q. But you had not seen this document at the time that you
13 made your first witness statement or indeed the time you
14 made your second witness statement?

15 A. No.

16 Q. No.

17 So I think one document that you would have seen at
18 the time are the final proposals for PC3. Could we go
19 to {I3/113}? So this is the "Final Proposals for
20 Consultation", so this is further through the
21 consultation process. Do you recall that?

22 A. Yes.

23 Q. December 2005. You actually refer to this document at
24 8.6 of your first statement, I can take you to it if you
25 want, {D/7/22}. If we go down to footnote 31, that is

1 in fact the document reference number for this document.

2 A. Okay.

3 Q. Obviously I am not asking you for confirmation of that.

4 A. Thank you.

5 Q. If we could go back to {I3/113}, please, could we go to
6 page {I3/113/123}? Now, you referred in your statement,
7 in the paragraph I have just taken you to, to leased
8 vehicles and you said {D/7/22}:

9 "The main disagreements between [Royal Mail] and
10 Postcomm in respect of the RAB concerned [Royal Mail's]
11 arguments (which were supported by DTI) that the RAB
12 should include: at least £1.2 billion for intangible
13 assets; £174 million in working capital; and
14 £800 million in respect of leased assets including
15 certain leased vehicles."

16 That was when we hit footnote 31.

17 We are not quite clear what you were referring to
18 here, because we have looked at this document and it
19 does not appear to refer to leased vehicles at all. Was
20 that what you actually meant to refer to, these
21 paragraphs 7.13 and 7.14?

22 A. I honestly cannot remember. It may well have been,
23 sorry, looking at the rest of the document.

24 Q. But plainly those two paragraphs are not --

25 A. Well, 800 million for leased assets would include

1 vehicles.

2 Q. They would include vehicles. But it would include
3 leased vehicles?

4 A. It would include leased vehicles, yes.

5 Q. I may come back to that.

6 THE CHAIRMAN: I think if you go back to the witness
7 statement --

8 MR BEARD: Yes.

9 THE CHAIRMAN: -- we will see what he actually says.

10 MR BEARD: Yes, it is the presumption in relation to certain
11 leased vehicles. If we could just go back to 8.6, just
12 higher up --

13 THE CHAIRMAN: I am not sure what you were putting to the
14 witness.

15 MR BEARD: Well, this was a document that of course was
16 included with his first witness statement.

17 THE CHAIRMAN: Yes.

18 MR BEARD: Which, as we have clarified, did not refer to
19 leased vehicles, and so we were trying to work out how
20 he knew --

21 THE CHAIRMAN: Right.

22 MR BEARD: -- that there was an inclusion of these vehicles.

23 THE CHAIRMAN: It refers to leased assets and he has added
24 in "including ... leased vehicles".

25 MR BEARD: Therefore, in his first statement, he has assumed

1 that there are leased vehicles even though elsewhere in
2 the statement we have all this inconsistency about
3 leased vehicles, and what we were trying to identify was
4 how Mr Jeavons, in the circumstances of his first
5 witness statement, knew that these leased assets
6 included leased vehicles when the rest of his witness
7 statement does not include this. But I think he has
8 fairly said, "I assumed that it is included". The
9 extent to which that is ex post rationalisation we will
10 deal with in due course, but I am not sure that I can
11 take that much further.

12 I am conscious of time, we are well ahead of
13 schedule.

14 THE CHAIRMAN: Good.

15 MR BEARD: So I do not know whether now is a good time.

16 I have got a little bit more to do on the price controls
17 and then some questions on financing, but there is no
18 danger that lunch appointments will be missed.

19 THE CHAIRMAN: Very good. We will resume at 11.20.

20 (11.11 am)

21 (A short break)

22 (11.21 am)

23 MR BEARD: Before I go back to questions, just to deal with
24 a point in the exchange, before I forget, with Sir Iain.
25 Ms Mackersie has provided me the reference to

1 Mr Devine's statement that deals with the depreciation
2 issue. It is paragraphs 5.5 to 5.6 in that statement
3 and for the bundle reference, it is {D/IC6/17}. We do
4 not need to call it up, but so it is now in the
5 transcript, so that it is there.

6 SIR IAIN MCMILLAN: Thank you.

7 MR BEARD: I just want to deal with one or two points on PC3
8 and forecast costs, if I may. We have seen, I think,
9 that Postcomm excluded leased vehicles, including leased
10 trucks, from the RAB, but your evidence does not deal --
11 refer to how Postcomm actually dealt with the costs of
12 leased vehicles. Could we just go to {I3/381/106}? So
13 we are back in the Postcomm initial proposals.

14 A. Okay.

15 Q. If we could just scroll down to 7.61, this is a general
16 discussion of leased assets starting at 7.60. I am not
17 going to ask you to read it all, but if we could just go
18 over the page -- sorry, down the page, you will see at
19 the top, it says {I3/381/107}:

20 "Fourth, it can be shown that the policy [that has
21 been referred to] is purely cosmetic and does not impact
22 future prices ..."

23 Then:

24 "Last, including leases in the regulated asset base
25 does not increase the profitability of the business ..."

1 Now, just going through that fourth point more
2 fully:

3 "... it can be shown that the policy [and including
4 leased assets] is purely cosmetic and does not impact
5 future prices because the lease payments would otherwise
6 be treated as operating expenditure. Last, including
7 leases in the regulated asset base does not increase the
8 profitability of the business or increase the return to
9 equity shareholders ..."

10 What is being said here is, effectively, you should
11 not have double-counting because you will include the
12 lease payments in your operating expenditure; that is
13 correct, is it not?

14 A. Yes, I mean, it should be one or the other.

15 Q. Yes, it should be one or the other.

16 So essentially what is being said is that leased
17 costs for PC3 should be put in operating expenditure?

18 A. Yes, but I think, you know, in a RAB WACC control, the
19 WACC return is on the asset base, so it does impact
20 outcomes where -- to which element the cost is treated
21 in.

22 Q. It does affect them, yes.

23 As with PC2, you do not refer to the regulatory
24 objective in relation to PC3. If we could just go back
25 to page 92 in this document {I3/381/92}, 7.7, if we

1 could just scroll down, you will see:

2 "The 'cash' approach can be contrasted with the
3 'regulatory value' approach, that has been used by most
4 other UK economic regulators. In applying the
5 regulatory value approach for this price control,
6 Postcomm has applied the approach over the four years of
7 the control, so the effect is that Postcomm allows the
8 NPV of operating and capital expenditure, plus the
9 opening value of the regulated asset base minus the NPV
10 of the closing value of the regulated asset base."

11 It is not the easiest sentence for non-specialists
12 to read, but I think, Mr Jeavons, you understand what is
13 going on there and I am not going to ask questions about
14 where the net present value is or is not subtracted in
15 the RAB calculation.

16 "The effect of this approach if applied on a single
17 year basis is that the allowed revenues would be set to
18 match the sum of:

19 "Operating expenditure;

20 "An allowance for depreciation ...

21 "An allowance for profit."

22 So that is the regulatory goal that is being used in
23 relation to the price control that is being proposed
24 here; that is correct, is it not?

25 A. Yes, and it is a goal that did not work.

1 Q. Thank you.

2 I am going to move on to the back end of your first
3 statement where you make a few remarks about financing
4 issues. There are fewer questions in relation to this
5 I think. You do not deal with this at substantial
6 length, and, of course, we have again experts dealing
7 with these matters so I will limit myself to questions
8 in relation to facts rather than your opinions. No
9 doubt, as someone with experience in this field, you
10 have all sorts of opinions about it, but that is not
11 what we are dealing with today.

12 Just a couple of very, very basic points to pick up
13 in relation to the distinction between debt and equity.
14 If we could go to {D/7/42}, here you are dealing with
15 questions of equity financing. As I say, the nature and
16 role of equity financing we will deal with with experts,
17 but you say in relation to equity financing, in the last
18 sentence:

19 "A key point of distinction is that with debt,
20 creditors typically expect returns in line with the
21 contractual obligations undertaken by the debtor,
22 whereas the return due to shareholders for their equity
23 investment is not specified in a contract."

24 I think this is debt and equity 101, no criticism of
25 including it on that basis --

1 A. Yes.

2 Q. -- but I think we all understand that equity holders do
3 not have any contractual rights to any returns; that is
4 the position; correct?

5 A. Mm-hm. Yes.

6 Q. Yes.

7 Now, if we could just go down to 19.2, you say here:

8 "Equity financing ... may take the form of either
9 an 'equity injection' or 'retained earnings'."

10 Now, this is a debate that is going to be taken up
11 by the experts and there are differing positions in
12 relation to this, but I just want to ask you some
13 factual matters in relation to these issues rather than
14 the conceptual stuff here.

15 A. Yes.

16 Q. So it is right that, until 2013, the UK Government owned
17 100% of Royal Mail Group Limited, did it not?

18 A. That is right, yes.

19 Q. Yes, and before Royal Mail Group was incorporated in
20 2001, the UK owned 100% of Royal Mail Group's
21 predecessor, the Post Office Corporation; that is
22 correct too, is it not?

23 A. Yes.

24 Q. It is also true, is it not, that the government did not
25 make any equity injections into the Royal Mail Group

1 Limited business during that period 1997 to 2013; that
2 is correct, is it not?

3 A. No. Yes, sorry, it is correct.

4 Q. Yes. Thank you.

5 A. I mean, I should say, other than by way of returned
6 [sic] earnings, you know, so they did not take dividends
7 either.

8 Q. We will come back to that in a moment.

9 Now, you talk about retained earnings and you
10 actually say in 19.2 that retained earnings, you say,
11 are a cost because the investor is:

12 "... sacrificing the opportunity to invest those
13 retained earnings on other opportunities in the
14 expectation of obtaining a return in the future ..."

15 Do you want to read that?

16 A. Sorry, which paragraph am I on? 19.2?

17 Q. It is 19.2, final sentence. I was just reading it out
18 it is ...

19 A. Yes.

20 Q. So it is the investor sacrificing the opportunity, you
21 say there; is that correct?

22 A. Yes, in terms of equity returns.

23 Q. That is right.

24 If this resulted in a significant cost, then you
25 would expect to see any costs that the company incurred

1 in the profit and loss account, would you not? But
2 there is no cost associated with return earnings in
3 Royal Mail's annual report and accounts, is there?

4 A. A cost associated with retained earnings? I do not
5 quite know what your point is.

6 Q. If retained earnings created a cost for the company, you
7 would expect the cost to be included in the annual
8 report and accounts, would you not?

9 A. Yes, I mean, returned -- retained earnings do not have
10 a cost associated with them other than one: an
11 opportunity cost if you are not investing it on
12 alternate opportunities.

13 THE CHAIRMAN: Sorry, to be clear, what he is saying in the
14 witness statement is that it is a cost to the investor.

15 MR BEARD: Yes.

16 THE CHAIRMAN: Yes, not to the company.

17 MR BEARD: That was what I was confirming, sir, yes.

18 THE CHAIRMAN: Right.

19 MR BEARD: Absolutely. It is an important distinction, sir,
20 and it was really -- I mean, I think Mr Jeavons has
21 short-cut a number of further questions I might have had
22 about this in relation to the report and accounts, so
23 that is very helpful.

24 THE CHAIRMAN: Can I just ask a question on that?

25 MR BEARD: Of course, sir.

1 THE CHAIRMAN: Were dividends ever paid to the government?

2 A. I do not think so in this period. There was a mechanism
3 in place where retained or what were considered to be
4 surplus retained earnings were ringfenced into a special
5 reserve called the mails reserve, on the balance sheet,
6 and that was invested in government bonds, gilts, so
7 that they had the cash, and it was ringfenced such that
8 the company did not have access to it without first
9 going to government to seek permission. So that was
10 kind of in lieu of dividends, if you like.

11 THE CHAIRMAN: But it did get a return in some way?

12 A. They had access to the retained earnings through
13 a different mechanism.

14 MR BEARD: Well, sir, you have cut through a lot of
15 questions that I had in relation to this. That is
16 extremely helpful.

17 THE CHAIRMAN: Oh, I am sorry.

18 MR BEARD: No, please, it is very helpful indeed because the
19 next topic I was going to move on to was dividends, but
20 I do not need to move through it in quite the way I was
21 going to because I think we have the answer that no
22 dividends were paid, and in fact it was only payments
23 into the mail reserve.

24 You have made clear, I think, in your answer to the
25 chairman that in fact the payments into the mail reserve

1 were invested in gilt-edged stocks or national loan fund
2 deposits; that is correct, is it not?

3 A. Yes.

4 Q. Yes.

5 Essentially, what was happening was you were being
6 required to invest in particular sorts of instruments?

7 A. Yes, yes --

8 Q. Yes.

9 A. -- but at the same -- sorry, at the same time though,
10 from a company perspective, it was funds that were
11 ringfenced and not available for investment to the
12 company so --

13 Q. Well, let us just deal with this in a little bit more
14 detail then. Just to be clear, these investments in
15 gilt-edged stocks and national loan fund deposits, they
16 did not leave the balance sheet, did they?

17 A. No.

18 Q. No.

19 Of course, in fact, the Post Office Corporation
20 earned returns on these investments in gilt-edged stocks
21 and deposits, did it not? I can take you to the annual
22 reports where these matters are dealt with if that
23 assists.

24 A. Well, from recollection, if this is consistent with what
25 you would point me to, earnings on the reserve were kind

1 of ringfenced and built up in the reserve that was
2 ringfenced, kind of away from access to management, if
3 you like.

4 Q. Well, let us just go to your annual report just to
5 clarify this. It is at {I3/70/1}. Even if you have not
6 read them recently, you will be familiar with ... In
7 broad terms, this is not going to be a test on your
8 recollection of numbers, Mr Jeavons. If we could go to
9 page 25, please {I3/70/25}, if we could just go down the
10 page, please -- I scrolled down too fast, it was 16,
11 I apologise. Yes, "Current financial assets ...", I am
12 so sorry, I read past it.

13 The "current financial assets" and it is
14 "investments". This is: "... gilt-edged securities",
15 "Government short-term deposits (National Loans Fund)"
16 and "Other deposits".

17 What we are referring to here are the investments in
18 gilts primarily that are the instruments that were
19 essentially invested in in relation to any profits that
20 were being made by Royal Mail; is that correct?

21 A. I think it is quite likely. I would look to the balance
22 sheet and the mails reserve which was -- you know, there
23 is potential for us to have investments outside of that
24 mails reserve, which was specifically relevant to your
25 government point I think.

1 Q. Yes. But if we just go down to page 37 {I3/70/37}, you
2 will see this is note 28 to the section we were just in,
3 what you see there is, in relation to financial year
4 ending 2006, in effectively the third row down, you
5 see -- well, you see all of the sums I was referring to,
6 271, 549, but 133 was the gilt investments. Then you
7 see the average effective interest rate of 4.4% being
8 identified there. So this is the returns that you were
9 getting in relation to those investments; that is
10 correct, is it not? The rate of return?

11 A. Yes, I believe so.

12 Q. I just want to pick up something in relation to the
13 accounts in 2000, if I may. I think it simply confirms
14 the answers you have already given, but could we go to
15 {I3/63/1}, please? So this is your accounts, and if we
16 could go down to page 3, please {I3/63/3}, this is
17 actually quite hard to read. It is the fourth heading,
18 "Future dividend". Do you see that? So actually there
19 was a legislative prohibition on you paying any
20 dividends, was there not?

21 A. Yes.

22 Q. Yes.

23 If we could just go across the page, so to the
24 right, as it were, is that possible? Because there is
25 another heading "Future dividend":

1 "By virtue of its constitution, The Post Office ..."

2 Sorry it is the third heading down under "Board
3 Members' Report". So essentially this is your point
4 that you were making, that there was a reservation of
5 monies, but there were no dividends and pay-outs being
6 made.

7 A. Yes.

8 Q. Yes.

9 THE CHAIRMAN: So it was put into the mails reserve?

10 A. Yes.

11 THE CHAIRMAN: What were the terms of that, that it could
12 not be used for --

13 A. Yes, we had to apply to the Secretary of State for any
14 utilisation of it. So over time, from recollection, the
15 time it was agreed for that fund to be used was for
16 things like subsidy to the Post Office, the Post Office
17 network. When state aid approval was given for
18 restructuring that business, it was sourced from the
19 mails reserve or a direction was given to utilise the
20 mails reserve to fund those changes in the Post Office.

21 But, primarily, it was kind of ringfenced.

22 THE CHAIRMAN: It was ringfenced, but to be used for some
23 future purpose within the Post Office?

24 A. Yes, it was a source of funds should government ever
25 want to choose to invest funds to Royal Mail or Post

1 Office.

2 THE CHAIRMAN: Yes, and in the meantime it was invested in
3 gilts?

4 A. That is correct, yes.

5 MR BEARD: Just to be clear, you said I think in your answer
6 there that this was money that went to the mails
7 reserve, are you sure about that?

8 A. No, sorry. On this 151, I honestly cannot --

9 Q. No, because the mails reserve was in fact created in
10 2003; do you remember?

11 A. Yes. Sorry, no, the 151 I have no recollection of.

12 THE CHAIRMAN: Yes. No, sorry I was --

13 MR BEARD: No, no, it is all right. I am just --

14 THE CHAIRMAN: I saw reference to it in the earlier accounts
15 that you showed which were the 2006/2007 accounts.

16 MR BEARD: Yes, because the mails reserve -- I do not want
17 to get into submissions now, but the mails reserve was
18 created in 2003. Prior to that, there was a financing
19 limit that was placed on Royal Mail. It was effectively
20 a profit cap; that is how it worked, was it not?

21 A. Yes, it was a negative financing limit in that we were
22 a government organisation that generated cash, and so,
23 rather than a restriction on how much we could borrow,
24 it was a target to return cash into the business that
25 was set by government.

1 Q. Yes, the target was, as you say, to return cash into the
2 business. I see.

3 A. Yes.

4 Q. Sorry, I am just taking a pause for a moment because
5 I had an awful lot of questions in relation to a range
6 of these issues and a lot of documents to go to which
7 I do not think we need to go to in light of the answers
8 that have very helpfully been given, so I am just trying
9 to excise things. So it will take me a moment, if you
10 do not mind?

11 THE CHAIRMAN: Time well spent it sounds like.

12 MR BEARD: Well, certainly. Thank you.

13 I think we probably just need to pick up a little
14 bit of the history of the mails reserve after 2003
15 because I do not think we have touched on that.

16 It is right that in 2007 the mails reserve was
17 transferred from Royal Mail Group Limited to Royal Mail
18 Holdings; that is correct, is it not?

19 A. Yes.

20 Q. Yes.

21 You do not actually mention that fact, and in your
22 witness statement at 19.8, shall we just call it up,
23 {D/7/45}, you actually say, in 19.8:

24 "... [Royal Mail Group Limited] allocated funds to
25 the Mails Reserve during the period up to the 2013 IPO."

1 But there I think you mean up to 2007; is that
2 correct?

3 A. Yes, I have probably not reflected that transfer within
4 the corporate hierarchy within the business.

5 Q. Yes, I mean, Royal Mail Group Limited did not make any
6 transfers to the mails reserve up to 2007 at all,
7 did it?

8 A. That may be true. I am sorry, I genuinely do not know.

9 Q. Why do we not go to the 2007 accounts? It is in
10 {I3/70/33}. I do not think you are actually disagreeing
11 but I am just going to show you the position.

12 A. No, I am not disagreeing, I am saying I do not know.

13 Q. No. Well, let us leave it then, I think. I think
14 taking you to further documents when you have explained
15 your position I think is not a useful use of time.

16 I think, given your answers so far, that no
17 dividends were being paid and no dividends, in those
18 circumstances, would be paid, whatever the level of any
19 putative overcharge on trucks would be. I think you
20 agree with that, do you not?

21 A. Sorry, could you say the question again, please?

22 Q. I am sorry. You have indicated that no dividends were
23 paid at any point, and I think you would agree that
24 there would be no difference if there had been, in
25 a hypothetical world, an overcharge on trucks, that

1 would not have changed the position, there would still
2 have been no dividends paid?

3 A. It is unlikely to have been remotely material to those
4 decisions.

5 I think it is worth making clear that when we did
6 IPO, the way the kind of mails reserve was captured by
7 government at the point of IPO was essentially they took
8 control of the holding company and listed the business
9 underneath. So the mails reserve at that point left
10 with the group.

11 THE CHAIRMAN: And went where?

12 A. Into government. Into bays(?) somewhere.

13 MR BEARD: So just to be clear, the mails reserve had left
14 the company that is the claimant in these proceedings in
15 2007, and then it left the group overall in 2013?

16 A. Yes.

17 Q. Yes. Understood.

18 In your evidence, just briefly, you actually refer
19 to -- you cross-refer to Ms Bradshaw's evidence.

20 Ms Bradshaw is a witness in the proceedings, as you
21 know, and her role within the group was to appraise
22 investments for Royal Mail; that is correct?

23 A. Yes.

24 Q. Yes.

25 So she says in her witness statement, I think it is

1 probably worth calling it up, {D/2/3}, she mentions
2 that, again, she has been provided with documents by
3 BCLP and directed to certain passages. If we go down
4 the page -- if you see at the top, she says she has been
5 provided with the notes of table 5 to appendix E. She
6 says that it sets out the significance of the WACC. You
7 see the text there that is included. So -- sorry, I do
8 not want to stop you reading. Do you need it scrolled
9 down slightly?

10 A. No, I get the sense. It depends what your question is.

11 Q. Well, the WACC is used by Royal Mail to appraise
12 investments; that is correct, is it not?

13 A. Yes, used for two things. For investment appraisal or
14 to inform the hurdle rate for return seeking
15 investments, and it is used for impairment testing from
16 an accounting perspective, so ...

17 Q. Impairment testing.

18 Can I just go back to your first statement, 4.2,
19 which is {D/7/8}. 4.2, you refer to Richard Barnes'
20 statement and you are referring to Royal Mail Group's
21 business between 1997 and 2001.

22 "In general my sense was that at this time Post
23 Office Limited ('POL') ..."

24 This is the part of the Royal Mail Group that ran
25 actual post offices and post office counters --

1 A. Yes.

2 Q. -- and is going through a somewhat unfortunate inquiry
3 at the moment?

4 A. Yes.

5 Q. That is the entity.

6 "... and Parcelforce were operated on a more
7 commercial basis than [Royal Mail], albeit Parcelforce
8 was loss making ..."

9 We can refer to Mr Cahill's evidence in due course
10 in relation to that.

11 Both Royal Mail and Parcelforce's business was
12 delivery of letters and parcels, albeit that
13 Parcelforce, as the name suggests, was concerned
14 primarily with parcels; correct?

15 A. Express parcels.

16 Q. Yes.

17 Post Office Limited's business was just vastly
18 different from that of Royal Mail and Parcelforce; it
19 had myriad products. That is correct, is it not?

20 A. Yes. I think probably back at this time it probably ran
21 something like 20,000 post office branches and, you
22 know, not only paid benefits to claimants with pension
23 books and whatever at the time, but obviously it also
24 sold services for Royal Mail and worked with bill
25 payments, clients and so on.

1 Q. Yes, I am not going to run through it, but it was
2 savings and insurance and loans and mortgages. That is
3 correct, is it not?

4 A. Yes. Correct.

5 Q. Amongst other things, foreign currency and all sorts?

6 A. Yes.

7 Q. So it was a very different business with very different
8 risks attached to it; that is correct?

9 A. Yes. Yes.

10 Q. You are also aware that Post Office Limited took
11 significant losses during the period 1999 to 2011; that
12 is correct?

13 A. Yes.

14 Q. Yes, and I think Mr Goldring has given evidence in
15 relation to that.

16 May I just have one moment to speak to Mr Bourke?

17 (Pause).

18 I do not have any further questions for Mr Jeavons
19 this morning and I am most grateful for his time. Thank
20 you very much.

21 Mr Jeavons, the tribunal may have some questions or
22 Mr Ward may have some supplemental questions.

23 THE CHAIRMAN: Do you have any re-examination?

24 MR WARD: I do, sir, yes, thank you. Just two very short
25 topics.

1 Re-examination by MR WARD

2 MR WARD: Mr Jeavons, could you please go back to your first
3 witness statement on page 19, which is {D/7/19}. At the
4 top of this page, we see a table which was the forecast
5 capex, this is PC2, Postcomm period 2, "Forecast Capex
6 on Vehicles and Trailers", so we have got 15 million
7 across the line and there was quite a lot of discussion
8 of that earlier. I want to just understand a little bit
9 better what is in that 15 million and whether it is in
10 fact just the trucks in this claim. But before inviting
11 you to answer that, I would like to ask to go back to
12 the previous page, please, 7.14 {D/7/18}, you add some
13 explanation here, which you say, picking up the last
14 four lines:

15 "As is explained in [Royal Mail's] Statement on
16 Goods and Services ... [which is a document in these
17 proceedings], around 70% of [Royal Mail's] vehicle fleet
18 is made up of vans rather than trucks so it might
19 reasonably be assumed that the difference between
20 forecast CAPEX on vehicles and actual CAPEX on vehicles
21 was much greater than the numbers in the table below
22 indicate."

23 Now, that point is somewhat overtaken by your second
24 statement, but I just want to ask you to explain, if you
25 can, what might be involved in that 15 million. Is it

1 just trucks or is it other things?

2 MR BEARD: I am concerned --

3 A. Did we not establish earlier that we thought it was
4 people carriers?

5 MR WARD: I am sorry.

6 THE CHAIRMAN: Well, is that your answer?

7 A. I think that is what I was pointed -- at a document that
8 that is what it said.

9 MR WARD: I am so sorry. You are right and it is
10 a pointless line of questioning. I do apologise.

11 Let me ask you about something completely unrelated
12 that you were asked about which was the regulatory
13 objectives of Postcomm and, just to get back up on the
14 screen, if I may, the document which was at {I3/381/92}.
15 Paragraph 7.7, if you scroll down just a little bit
16 more, please, the point Mr Beard made to you was just
17 picking up at the very end of that, with the bullet
18 points:

19 "The effect of this approach if applied on a single
20 year basis is that the allowed revenues would be set to
21 match the sum of:

22 "Operating expenditure;

23 "... depreciation ...

24 "[and] ... profit."

25 What you said, on the transcript in the live note at

1 least, at page [50], line [25], was "... it is a goal
2 that did not work". Could you explain, please, what you
3 meant by that?

4 A. Well, I think -- yes, of course. I mean, I think there
5 were a variety of things happening through both PC2 and
6 PC3 where I think certainly the perception within the
7 business and from others, and I think summarised really
8 quite well in the Hooper review ultimately, whereby
9 traditional kind of regulatory tools and methods that
10 were deployed by Postcomm as a cash control and then as
11 a RAB back control in price control 3 essentially were
12 shown not to be effective or not to work in an industry
13 that was in decline.

14 So the mechanism that Postcomm pushed, which was to
15 first introduce competition with access operators, which
16 of course still exists now in the likes of UK Mail and
17 Whistl, and also sought to, you know, control the prices
18 in a market which was essentially letters, whereby, in
19 the decade that we are talking about here, was suddenly
20 exposed to huge competition in the terms of
21 e-alternatives. So email -- first the fax machine, then
22 followed by emails and then online digital advertising
23 and so on, which since the mid-noughties has led to the
24 decline of letter volumes whereby they are a small
25 fraction today of where they were at the start of the

1 period being reviewed here.

2 So the regulatory tools that we needed in the
3 noughties were ones of support in a declining business,
4 in a declining industry, and all we had was the standard
5 regulatory tools of restraint, and they failed.

6 Q. Just help us understand better: what do you mean by
7 "they failed"? You have explained that in effect the
8 business, as you said, was in decline so why did that
9 mean the regulatory tools failed?

10 A. I think that by the end of price control 3, you know,
11 I was financial controller at the time, I was at the
12 board every month doing going concern reviews with the
13 board, we were rapidly running out of cash and had
14 a price control restriction that prevented us from doing
15 anything about it.

16 Q. So were the projections that Postcomm made accurate or
17 inaccurate?

18 A. No, to be fair to Postcomm, I think both their
19 projections and our -- and the company's were
20 inaccurate. Theirs were more inaccurate than ours but
21 the decline of letter mail and the speed with which
22 access competition took hold were both, you know, of
23 greater scale and happened more quickly than I think
24 either we or Postcomm thought would be the case.

25 Q. So it is the volume forecasts in particular that were

1 inaccurate?

2 A. Yes, but there were other things too. You know, through
3 the period that we are talking about, we also had an
4 emerging deficit on a pension scheme where we sought or
5 did agree with the trustee that we would pay deficit
6 repair payments of, you know, above £250 million a year.
7 So there were other pressures too that contributed to
8 the financial situation that the company found itself
9 in, but the regulatory construct certainly did not help.

10 Q. So when you said it is a goal that did not work, are we
11 to understand that your evidence is, in other words,
12 that what Postcomm said was going to happen -- allowed
13 revenues would match operating expenditure depreciation
14 and profit -- that is what did not work?

15 A. Well, it certainly did not work in the sense of
16 a company that was healthy and able to invest in the
17 changes that were radically needed as a result of the
18 changes in our market.

19 MR WARD: Thank you. I think Mr Lask may have questions to
20 do with finance.

21 Re-examination by MR LASK

22 MR LASK: Thank you.

23 Mr Jeavons, just two points. Firstly, you, I think,
24 accepted the proposition that was put to you by
25 Mr Beard, that in the period prior to 2013, no dividends

1 were paid out by the company. That is at [draft]
2 page 51 of the transcript. Could I ask you to look at
3 paragraph 19.5 of your statement, please? That is at
4 {D/7/43}. You make reference there to payments under
5 the EFL and allocations to the mails reserve. Is there
6 anything further you wish to say about the nature of
7 those payments and allocations?

8 A. No, not in particular. I mean, they were allocations of
9 essentially surplus profits that were, you know, I guess
10 dividend-like in nature but not specifically dividends.

11 Q. Thank you.

12 Then, just secondly, if you could turn to
13 paragraph 22.5, please, which is {D/7/52}, you are
14 dealing here with the WACC which you explain a couple of
15 pages earlier. You explain by reference to
16 Ms Bradshaw's statement that it was used for investment
17 appraisal purposes. Can you tell us why, from your
18 perspective, the WACC was used for investment appraisal
19 purposes?

20 A. Yes, of course. I mean, over time we have either used
21 the WACC -- we have also used a risk adjusted WACC so
22 a kind of higher expected target return. I mean, we
23 have a view that, you know, if we are going to invest
24 capital, whether it historically was government's
25 capital essentially or, now, our investors' capital,

1 that we should at least meet the returns that are the
2 true costs of spending that money on their behalf. If
3 we cannot deliver equity returns as a part of our
4 funding mix, then, you know, I think our investors would
5 rather have a dividend and invest it themselves because
6 that is the return they want from our business.

7 Q. Thank you.

8 At 22.5, you explain that the WACC represents the
9 cost of equity and the cost of debt. Who are those
10 costs incurred by from your perspective?

11 A. Sorry, I do not quite understand your question. I mean,
12 the costs of debt are clearly incurred by the company,
13 but, you know, they are all costs that the company needs
14 to cover. Otherwise we do not have the right to invest
15 the money that we invest.

16 MR LASK: Thank you.

17 MR WARD: May I have another go at my hopefully unsuccessful
18 first question? I have had the benefit of some backseat
19 driving and have been pulled up for complicating things
20 quite unduly, with apologies to the tribunal and to
21 Mr Jeavons. If I may, sir, it is very simple.

22 Further re-examination by MR WARD

23 MR WARD: Let us try again, Mr Jeavons. If we go back,
24 please, to D/IC7 at page 18 -- sorry, not IC, just D/7,
25 it is just my version is the confidential one, {D/7/18}.

1 Again the sentence I read out, you said, the last four
2 lines:

3 "... [Royal Mail's] Statement on Goods and Services
4 Supplied using Trucks, around 70% of [Royal Mail's]
5 vehicle fleet is made up of vans rather than trucks ..."

6 So are trucks the other 30% or are there other
7 things in there?

8 A. There are -- our fleet will have slightly changed in mix
9 over time but, predominantly, we have vans that do the
10 final mile delivery to customers, that you see on the
11 roads delivering all the time. We then have 7.5-tonne
12 trucks which do kind of distribution to delivery
13 offices. They are not as big as the large articulated
14 lorries. Then we have a fleet of articulated lorries
15 that do the trunking, you know, from different regions
16 of the country.

17 So there is different scales of trucks and, over
18 time, certainly around 2010, we invested quite heavily
19 in our final mile delivery estate, so that will have
20 stepped up the total that we invest on capital. But our
21 kind of need for trucks has been fairly standard and
22 actually growing with the growth of parcels, because
23 parcels have a bigger volumetric that therefore requires
24 more trucks.

25 Q. So when we see figures for capital spend on vehicles,

1 vehicles are not just trucks then?

2 A. No.

3 MR WARD: Thank you. That was the really quite simple point

4 I was groping for.

5 THE CHAIRMAN: We got there in the end.

6 MR WARD: Thank you for your indulgence.

7 THE CHAIRMAN: All right. No problem.

8 Thank you very much, Mr Jeavons.

9 A. Thank you.

10 (The witness withdrew)

11 THE CHAIRMAN: That is the end of the proceedings for today?

12 MR BEARD: It is.

13 THE CHAIRMAN: Can I just ask you in relation to the
14 timetable, we have Mr Ashworth appearing on four
15 different days potentially. That depends on --

16 MR WARD: It is not the intention to ask Mr Ashworth to
17 attend on four different days. I saw that in the
18 timetable myself this morning. It merely reflects the
19 fact that we are not sure how long we will want with the
20 other witnesses. Mr Ashworth we certainly have a lot of
21 questions for and we do not want dead time in the
22 tribunal if there is an opportunity to move forward.

23 THE CHAIRMAN: All right. So it depends how the first
24 couple of witnesses go --

25 MR WARD: Yes.

1 THE CHAIRMAN: -- as to whether we start with Mr Ashworth on
2 next Wednesday.

3 MR WARD: Yes.

4 THE CHAIRMAN: But it could be that we only start on
5 Thursday.

6 MR WARD: Yes. I think it is a distinct possibility we will
7 get to Mr Ashworth on Wednesday.

8 THE CHAIRMAN: All right, which means we might finish him
9 before the following Tuesday?

10 MR WARD: Yes. Of course, if the position becomes clearer,
11 of course as a matter of courtesy we will let DAF know
12 straightaway.

13 THE CHAIRMAN: All right, excellent.

14 All right. Thank you all very much and we will
15 resume -- I assume we can start at the normal time,
16 10.30?

17 MR BEARD: Yes. There is no risk, we think, that we will go
18 over two days. Indeed we anticipate that we are going
19 to finish early on Tuesday effectively at the moment.

20 THE CHAIRMAN: Right. There is no possibility of pushing
21 some of those witnesses into Monday? No?

22 MR BEARD: Might I review the position? Because I think the
23 longest chunk of cross-examination will be in relation
24 to Mr Giles. I am not sure it will be all day, at which
25 point, yes, it may be possible to bring people in. The

1 other --

2 THE CHAIRMAN: It may be simpler just to leave it as it is
3 then.

4 MR BEARD: I will liaise with Mr Ward, if I may, over the
5 weekend but it may well be that we can bring things
6 forward slightly, because I am not sure, in the light of
7 what has happened over the last couple of days, that we
8 are going to need to cross-examine a number of the other
9 witnesses particularly extensively.

10 THE CHAIRMAN: All right. Have a good weekend.

11 MR BEARD: And you. Thank you, sir.

12 (12.07 pm)

13 (The hearing adjourned until
14 Monday, 9 May 2022 at 10.30 am)

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MICHAEL JOHN JEAVONS (affirmed)1

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