

Digital, Culture, Media and Sport Committee

Oral evidence: Fake News, HC 363

Tuesday 15 May 2018

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Members present: Damian Collins (Chair); Julie Elliott; Paul Farrelly; Simon Hart; Julian Knight; Ian C. Lucas; Christian Matheson; Jo Stevens.

Questions 2617-2760

Witnesses

I: Claire Bassett, Chief Executive, Electoral Commission, Louise Edwards, Head of Regulations, Electoral Commission, and Bob Posner, Director of Political Finance and Regulation and Legal Counsel, Electoral Commission.

Written evidence from witnesses:

- [Electoral Commission](#)

Examination of witnesses

Witnesses: Claire Bassett, Louise Edwards and Bob Posner.

Q2617 Chair: Welcome to this further evidence session of the Department for Digital, Culture, Media and Sport Select Committee in our inquiry into disinformation and fake news. I am pleased to welcome the Electoral Commission to the inquiry, and particularly to have the opportunity to question you as your work continues, and following your recent report into Leave.EU—I will have questions on that, as well as on other matters.

There has been a lot of concern, and speculation in general, over the last year or so about whether our electoral law is fit for purpose for the digital age, and whether it needs to be amended to reflect new techniques and technologies that people have at their disposal. What are your views on that? Do you feel constrained by the powers that you have, and does there need to be a general review of the way electoral law works following these investigations?



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Claire Bassett: First, thank you for the opportunity to come and talk to you today. It has been useful for us to be able to hear from you, as well as to share our thinking with you.

In terms of the law, it is no great secret that our electoral law is old and fragmented. It has developed over the years, and we struggle with the complexity created by that right across the work that we do. However, I would not go so far as to say that it is not fit for purpose. There is a lot of opportunity to modernise it, and I will share some thoughts on that shortly. We do have an established regime: the vast majority of people manage to comply with it, and the feedback is that the public does have confidence in what happens in our electoral system. We should not lose sight of that.

In terms of how we might improve it, the first thing—to provide context—is that, perhaps, we should learn from the past. If we are going to modernise electoral law, we should do it as a whole and not have piecemeal modernisation, which makes the interaction of the different bits much more complicated. That is one of the features of our current rules.

In terms of what we might like to see improved, this comes under three different areas. There are the specifics around campaign regulation itself. We have robust rules around this, particularly around our role as a financial regulator on that side of it. However, there are opportunities for improvement to that. Many of those are recommendations made by us a number of times—some going back nearly 15 years. I suspect that some of them will not be any great surprise to you. These include imprints, in sending from hard copy to digital: we would like to see that looked at, and we welcome the Government's consideration of consulting on that.

Then there are the issues of how spending is controlled. We are a financial regulator at the end of the day, so we regulate by looking at how campaigners and parties receive income, and how they spend that. There are some opportunities for improving that regime, particularly around how spending is reported to us. At the moment, there are some areas where staff costs are not included, and we think that, in a digital age, that becomes more important and should be included. Again, we have been recommending that change since 2013.

We would like to see a review and revision of the categories against which spending is reported to us, so that they reflect more modern types of spending that take place in an election. At the moment, they reflect more old-fashioned campaigning types. The transparency is there, because we publish the invoices and the information behind it, but it would be much easier if the categories were clearer and more detailed.

There are also some slightly more technical areas, including some of the requirements about permissibility of companies and whether they ought to be carrying out business when they do not have the turnover in this country, so we would like to see that change.

Another topic that might come up later is the rules about working together. Again, we would like to see those clarified and strengthened, and we support Lord Hodgson's review of the non-party campaign awards. Those are some of the things that are already in place.

Alongside that, we are carrying out inquiries at the moment, and we are giving a lot of thought to broader areas that might need to be considered. I would like to share some of our thinking on that. This is still developing and likely to be in the report, but we are still listening to what other people have to say. One is to do with thinking about the length of the regulated periods, particularly referendums. One of the challenges we have as regulator is that we are a financial regulator, and we regulate the parties and campaigners, usually during just that regulated period or the extended period that is set out. That does create challenges in a referendum setting. We think there is value in looking at those campaign regulated periods and thinking about how they work. There is also a risk if you make that longer, but I think it is something we should look at. Indeed, there was some debate about it before the last referendum.

We think that there is also a challenge around issues-based campaigning and definitions of campaigning, and what falls within scope for us. Again, that is something that we would like to see looked at.

A really obvious answer, from our point of view, around increasing the speed at which we do things would be the time taken for spending returns to be returned to us. For larger spending campaigners, that is usually six months. That means it is six months before we can look at that data. That is, again, perhaps something we can think about.

We would be particularly interested in looking at that in the context of campaigner designation in the referendums, to perhaps think about whether we could add some requirements to that that would improve transparency, in terms both of the funding available to them as they seek designation and of thinking about how we could move towards real-time reporting of financial information.

I am sorry that I have gone into a lot of detail, but that is the campaign side. There is then a separate side, which are the specific powers that we would like to see the commission have. Shall I go on into that?

Q2618 Chair: Why not?

Claire Bassett: Yes, I'm on a roll. One of the things that we have repeatedly said is that we feel that our maximum fine, which is £20,000, is too low. It has been described as the cost of doing business. That is something we would like to see increased, particularly in line with other regulators, who can make much more significant fines.

Q2619 Chair: What level of fine do you think would be appropriate?

Claire Bassett: It is a difficult question. The Information Commissioner can fine as a percentage of turnover. Others have hundreds of thousands of pounds of capacity. We have discussed this ourselves. Our view is that

it is for Parliament to decide, but we would like there to be a debate about that and for Parliament to set that appropriately.

The next area where we would like to see some improvements is around our ability to enforce the rules—in particular the ability to compel those we do not regulate to provide information, particularly outside of campaign periods. For example, at the moment, outside of the campaign period we cannot compel social media companies to share information with us, and that is a real challenge.

Linked to that—we have not had particular problems in this area, but it is likely to become more of an issue—is thinking about the ability to have no-notice inspections of site and to seek to take away documents.

Q2620 Chair: Could I just ask about that? Obviously that is a power that the Information Commissioner has requested and has now been given. What are your restrictions in terms of notice period?

Claire Bassett: We are in a better position than the Information Commissioner was. Bob, do you want to explain?

Bob Posner: Parliament in 2010 gave us a range of investigatory powers. That is a pretty good toolbox, and probably better than the Information Commissioner had to start from. We do have the ability to require documentation; we do have the ability to visit premises, to get warrants and so forth. As Claire said, we have not had difficulties in obtaining documents, either voluntarily or by acquiring or seizing them. We have been able to do that.

However, having said that, and having seen the experience of the Information Commissioner and the recent events, I think there is something to be said for enhancing those powers. There is something about immediacy of obtaining documents that does seem more pertinent than ever—as Claire says, not just directly, maybe, to the campaigners, but to other bodies around campaigners as well, who may have relevant documents.

Q2621 Chair: Earlier you mentioned permissible companies. By that, do you mean companies that work on political campaigns in this country, and whether they should be UK companies or international companies with a UK presence?

Claire Bassett: No. Those are companies that donate—give donations.

Q2622 Chair: Okay, fine. That is rather than companies that—

Claire Bassett: As distinct from suppliers.

Q2623 Chair: So, you don't have a concern with suppliers being out of the UK—only with donations?

Claire Bassett: There is a challenge that we are coming up against in terms of obtaining information. We need to ensure we have the regime that allows us to go to the campaigners, and then from the campaigners to their suppliers, to seek information. In this global age, we have to be

careful about assuming that we could just have blanket bans on overseas providers.

Q2624 **Chair:** Obviously, Vote Leave went to an overseas supplier to run all their advertising for them, which probably meant they did not have to pay VAT on the invoices and things like that. There are some ethical questions about why it is that a service that could easily be delivered by a UK company is delivered by an overseas one, and whether that gives the organisation a particular advantage.

Claire Bassett: From our point of view, we have to regulate within the rules we have. Essentially, in those circumstances, we are looking to establish what services were bought and whether they were reported correctly, and we were able to do that from the campaigners' records.

Q2625 **Chair:** When do you expect to conclude your current investigations into the referendum, in particular?

Louise Edwards: The investigations—particularly the investigation into Vote Leave and another investigation into a company called Better for the Country—are progressing well. I would say they are well advanced, but I do not want to give you a particular deadline, because I feel if I do, I might be setting myself up for a hostage to fortune.

Q2626 **Chair:** Sure, but do you think it will be this year, or this summer?

Louise Edwards: Definitely this year; hopefully this summer.

Q2627 **Chair:** That is a useful guideline. Regarding your investigation into Leave.EU, do you feel it was exhaustive? Were there any areas where you were unable to investigate, or was there information that was not available to you?

Claire Bassett: There were some areas where Leave.EU were unable to provide evidence that we asked for—particularly, for example, about the apportionment and how money was spent both before and during the campaign period. But perhaps the inability to provide that information was evidence in itself that the systems were not there, which is where we found the failing.

Q2628 **Chair:** Do you feel that, in terms of your investigation, you have the power to request everything—as long as the information exists and is available—that you might find to be of interest to your investigation? There are no areas where you are not able to request information?

Louise Edwards: No. Particularly in the case of Leave.EU, we needed to exercise compulsion powers to obtain information in that investigation, but we obtained the information. There is also the possibility of going to court to get a disclosure order if we had needed to. We did not need to in the instance of Leave.EU, but there is that back-up if there is any concern about people not giving us the information we ask for.

Q2629 **Paul Farrelly:** Before we go into Leave.EU and everything else, I wanted to follow up with a general question on your role. I hope you will look at fixed-term Parliaments and the lessons of the last fixed-term Parliament,



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at the distinctions between short and long campaigns and, particularly at the distinction between what counts as national and local spending, which is a joke at the moment. You produce reams and reams of invaluable guidance, and your templates are used now by lots of local authorities and returning officers. You provide all that information, which people rely on, but do you feel it might make people confused about the extent of your role? You are not there to enforce at the local parliamentary candidate level, are you?

Claire Bassett: That is something that we have recommended should be reviewed. It causes confusion, not just for those people, but for others who are trying to look at this field, to have candidate spending reported in one way and party spending in another. It is also a very onerous process. That is something we have made recommendations on in the past and encouraged Government to have a look at. On the party/candidate spend split, we recognise the challenge. What we have just started to do is to develop codes of practice, which have a slightly stronger stance than our guidance. We are developing those and will be consulting on them shortly, and then they go to Government. We are trying to improve that, but I agree that, as a whole, that area could benefit from simplification.

Q2630 **Paul Farrelly:** I am sure you must get complaints coming to you because people are confused about your role, which you then divert to local returning officers, who either do something or do nothing.

Claire Bassett: Yes.

Q2631 **Paul Farrelly:** I like to think that, in my spending returns, I give too much information, which annoys some people, but some returns are statements of notional expenditure, which you would just compare against your guidance, and none of it is followed.

Bob Posner: Perhaps I could comment. We look at all candidate returns—some in more detail than others, obviously. Notional expenditure is an interesting area, because there is not the level of transparency that we would want there. As Claire said, it is odd to have the two regimes, with us looking at the parties and having powers over that, but not the candidates. We have recommended that that should be brought together and that we should be able to look at the candidate returns to identify if things are not quite right and, if things are very wrong, to work with the police on criminal offences. Broadly, I would say that, although the candidate regime has flaws, most people do comply with it. The division between party and candidate spending is not clear. One can see genuine difficulties with candidates and parties there.

Claire refers to codes. We are drafting statutory codes, which we will consult on. The purpose of those is to clarify where the dividing line is between candidate and party spending in a better way than has ever been done before. We will then submit them to Government, who we hope will submit them to Parliament for approval. We hope that by the time we get to the next schedule of major elections, there will be a much clearer regime in place.



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Q2632 Paul Farrelly: I am sure if you looked at the candidate returns you would be shaking your head as much as many people would if they took the time to do so. That begs my final question before we go on: to what extent do you rely on people to make complaints to you before starting investigations at whatever level? Or, to what extent have you been proactive in starting your own? Can you give us a few examples of when you have been proactive? That would be useful.

Claire Bassett: I am very happy to. It is important to understand how we approach this. As I mentioned earlier, we have six months for the biggest spending returns to be sent in to us. The first thing we do with those is prepare them and then publish them. We put those spending returns and all the information behind them in the public domain, usually within weeks of having them back to us. At exactly the same time, we start to do our assessment of those, which may or may not lead to investigations.

It is very common for our internal investigation or assessment process to be going along very similar lines to journalists or other researchers who are also looking at that information. We do that very deliberately, because we want to champion transparency and we want people to be able to see that information.

However, it sometimes leads to the impression that because we don't publish even that we are doing assessments—that is something that we only put in the public domain once they move to an investigatory phase—that we have not done anything until perhaps somebody says something in a newspaper and then we have acted. I think that can be quite misleading. In some of the most recent examples, probably if we use the one that is now in the public domain with Leave.EU, those strands of investigation were clear from the outset but then developed as we came across further information and as our analysis of both those spending returns and the evidence that was provided to us showed up that further offences may have been and were committed.

Q2633 Chair: With regard to your investigation into Leave.EU, Liz Bilney is now facing charges. Do you think she will be the only person from Leave.EU who will face charges as chief executive, or could it apply to other people who were associated with it?

Claire Bassett: I cannot answer that. We refer an individual, as the responsible officer for a particular offence, to the police. It is then a matter for the police to look at that and investigate it and decide whether any other offences have also been committed by anyone else. It is not something that I am able to comment on.

Q2634 Chair: You found in your report that there were three transactions from Arron Banks totalling £6 million that Leave.EU received, so Liz Bilney may face some sanctions because of that. In your view, is that a matter of Leave.EU failing to report that correctly and therefore it is their responsibility rather than whether Mr Banks personally had any responsibility to ensure those payments were declared?

Claire Bassett: The investigation that we concluded on Friday was specifically about Leave.EU and the offences that Leave.EU or their responsible person committed. That is what we have reported on there. We have a separate investigation that Louise mentioned earlier into Better for the Country Ltd which is ongoing and we cannot comment on that.

Q2635 **Chair:** You also said that Leave.EU failed to include a minimum of £77,380 in spending returns, but you think it may be much higher than that. Can you tell us a little more about that?

Louise Edwards: There are two areas where we think it might be higher, but we could not put a number on it or in one instance even be satisfied beyond reasonable doubt. The first relates to the apportionment of certain items that were paid for before the 10-week campaign that led up to the referendum, but were then used in part during it. Leave.EU took a very black and white approach to apportioning those payments, simply taking the number of days between buying them and the poll and then apportioning for the 10 weeks.

That did not really look at what these various things were actually used for. If you take the example of T-shirts, you could buy 100 T-shirts two months out from the campaign and use them all in the last two weeks, or you could use them equally over the entire time. Leave.EU could not tell us when they actually used these things. We think it likely that a lot of the campaigning that they did really ramped up in the last few weeks of the referendum, so we think it is likely that some of those services should have been apportioned with a greater weight towards the regulated period and therefore reported to us.

The other area where we are satisfied that they have not reported properly are services that they took from the American firm Goddard Gunster. In that instance we know that Better for the Country, on behalf of Leave.EU. and also another campaigner, paid about £250,000 to Goddard Gunster before the 10-week campaign started. It is quite clear from the evidence that we have seen that a lot of the benefit of the advice that Leave.EU got from Goddard Gunster was used during the campaign itself.

When I say "quite clear", I mean that you can see email chains where senior people within Leave.EU are discussing this advice and then discussing putting it into action, and then you can see it being put into action, so it is very clear that some of the benefit of that advice was being used during the campaign itself.

We cannot put a figure on how much of that £250-odd thousand should have been reported because Leave.EU did not really keep very good records of how they used the advice that Goddard Gunster gave them. That is quite frustrating but it means we cannot put a figure on it. What we can say is that it was wrong for them not to report anything on Goddard Gunster.

Chair: That leads us very neatly on. Mr Lucas has brought his copy of

“The Bad Boys of Brexit” and I know he wants to ask about this subject.

Q2636 **Ian C. Lucas:** You just mentioned £250,000 in respect of Goddard Gunster. Is there an invoice relating to that?

Louise Edwards: A series of invoices. That was money that was paid by Better for the Country on behalf of Leave.EU, out of the misreported loans that were given to Better for the Country on behalf of Leave.EU, and it was supported by invoices for each separate payment.

Q2637 **Ian C. Lucas:** Over what period were those payments made? Are there invoices relating to them?

Louise Edwards: There are invoices. I cannot remember the start date but they ended in April 2016.

Ian C. Lucas: How convenient.

Louise Edwards: I think they started at the beginning or the end of 2015. I know it is in our report somewhere—yes, September 2015 to April 2016.

Q2638 **Ian C. Lucas:** So, how did you come to see those invoices?

Louise Edwards: They were given to us by Leave.EU following a request made to them in a separate investigation.

Q2639 **Ian C. Lucas:** You clearly then concluded that some of the work done by Goddard Gunster was done in the regulated period after April. That is what your inquiry last week concluded.

Louise Edwards: The inquiry says not that the work was paid for or done during the regulated period but that it was used during the regulated period. They have this amount of strategic advice given to them before the 10-week period has started. They then look at that strategic advice and put it into action during the campaign. That is what then triggers the provision in law that that amount that was used during the campaign should be reported as if it was spent then.

Q2640 **Ian C. Lucas:** But Mr Gunster was actually on the scene and providing advice during the regulated period to the Leave.EU campaign, wasn't he?

Louise Edwards: He has said so. I would say that one of things that our investigation has uncovered is that what people connected to Leave.EU said happened during their campaign and what actually happened are two different things. What we have seen in the evidence is that he was continuing to give them advice that was paid for right up to the regulated period starting.

Q2641 **Ian C. Lucas:** But Mr Arron Banks says that Mr Gunster was giving him advice during that regulated period.

Louise Edwards: He does, in his book. I would not like to comment on exactly how accurate certain statements in that book are, but what we had to go on was the evidence that we saw of how the advice was used.



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Q2642 **Ian C. Lucas:** I am just struggling to understand why you are not saying that Mr Gunster was providing advice when it seems to me there is overwhelming evidence that he was providing advice during the regulated period.

Louise Edwards: What we found in our investigation was that the evidence of advice being provided to Leave.EU actually did cease in April 2016. Of course, it was then used by Leave.EU afterwards. We did not see evidence in the documentation that we saw that he was providing advice to Leave.EU during that regulated period.

Bob Posner: One of the things for us as a regulator—for any regulator—is that you are investigating whether certain offences have occurred. When you get to the point where you have reached that threshold and are satisfied beyond reasonable doubt that those offences are made out, and that you are going to impose maximum fines, there may be further information to be found, but there is a question about whether you carry on investigating or bring your investigation to a conclusion.

That investigation, which we announced in the last few days, we brought to a conclusion. We were satisfied that offences were made and there were maximum fines to be imposed. One can always carry on looking, and in a sense if new evidence comes to us as a regulator on any matter we will always look again and look further, but I think part of this is really about how far one goes on these things once, as a regulator, we've done the job that we are meant to by Parliament, which is to find whether or not there were offences. We've reached that stage.

I think that is partly an answer to your question. I know that may not be wholly satisfactory, but—

Q2643 **Ian C. Lucas:** So there are no invoices relating to the regulated period from Goddard Gunster. Is that correct?

Louise Edwards: Yes.

Q2644 **Ian C. Lucas:** Is that the basis on which you are reaching the conclusion that there were no services rendered during that period?

Louise Edwards: That is part of the evidence, yes, but we also asked for quite wide-ranging documentary evidence from Leave.EU. That showed the advice being provided before the regulated period.

Q2645 **Ian C. Lucas:** Can I now move to Cambridge Analytica? Cambridge Analytica was on the scene in the pre-regulated period. For example, we know that there was, I think, a press conference in the autumn of 2015. Brittany Kaiser was on the panel, I think with Mr Gunster, for a Leave.EU event. What is the basis for reaching a different conclusion in respect of Cambridge Analytica than that which you reached with Goddard Gunster?

Louise Edwards: What we are looking at, very particularly, is regulated campaign activity. That is defined, to summarise, broadly in law as activity that is intended to promote or procure a particular outcome in the



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referendum—to get voters to vote in a particular way—during that 10-week period. That is what we are looking at.

We know that Leave.EU had an existence long before the regulated period, and we know that for much of that existence they were of the opinion that they would have a spending limit of £7 million, because they were of the opinion that they would become the lead designated campaigner. We know that they did a lot and spent a lot of money running up to that regulated period.

With Cambridge Analytica and Goddard Gunster, we are looking at whether any of that then becomes campaign activity used during the regulated period. I have explained that with Goddard Gunster there is very clear evidence that it did. With Cambridge Analytica, the facts are different. You do have engagement up to the point, pretty much, where Leave.EU did not become the designated lead campaigner. You do not have a contract signed; you do not have any money going to Cambridge Analytica. There is no evidence that any of the advice that Cambridge Analytica gave was used by Leave.EU during the campaign itself.

There is undoubtedly a relationship between the two of them leading up to that point, but unlike Goddard Gunster what you do not then see is that translating into campaign activity during that 10-week period.

Q2646 Ian C. Lucas: Is there a signed contract between Goddard Gunster and Leave.EU?

Louise Edwards: Yes.

Q2647 Ian C. Lucas: Can you remember when that was signed?

Louise Edwards: September 2015.

Q2648 Ian C. Lucas: Right. And there is no such signed contract relating to Cambridge Analytica?

Louise Edwards: Not that we have seen, no.

Q2649 Ian C. Lucas: Have you requested documents—invoices—from Leave.EU concerning Cambridge Analytica in the same way that you did with Goddard Gunster?

Louise Edwards: Yes.

Q2650 Ian C. Lucas: And they have said that there aren't any?

Louise Edwards: Absolutely.

Q2651 Ian C. Lucas: So that is the basis upon which you have concluded—

Louise Edwards: They have said there are no invoices. What we have seen is quite extensive correspondence between the two of them. We also obtained evidence from Cambridge Analytica itself. It is not a question of simply taking Leave.EU's word for it, if you like. We have seen an awful lot of communications between the two organisations.



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Claire Bassett: The other part that feeds into this evidentially is that, for the Goddard Gunster side, one of the things that we have seen is evidence in minutes of meetings, of email exchanges, and of that advice actually in action. We have seen things ticked off and discussion about doing this and that side of it. We have not just accepted it *prima facie*; we have also looked for evidence of how they ran their campaign and their approach to the campaign. They have provided us with information and we have obtained information around that. The difference on the Cambridge Analytica side is that we are not seeing that train through of that activity in practice there as well. We are not just looking at invoices and contracts.

Q2652 **Ian C. Lucas:** On a slightly different point that you touched on earlier, how do we make sure that political campaigning in the UK is not paid for by overseas donors?

Claire Bassett: We have very clear rules about the permissibility of donors. Bob can talk through those in more detail if you would like.

Q2653 **Ian C. Lucas:** I know we have rules. What I want to know is how we make sure people abide by those rules. One of the main concerns of this inquiry, as you will know, is the possible involvement of overseas actors in elections. One of the issues I raised with Facebook in February was the fact that overseas actors have been paying for political advertisements in the UK—we have seen evidence of that over the weekend. We did not know about that until Facebook told us about it and, as I pointed out to Facebook in February, that is illegal. At the moment, you are saying, “We have rules,” but it does not seem to me that we have any way of investigating spend from outside the UK on political adverts in the UK.

Claire Bassett: There are different strands to that. What I opened with supports that. We have established campaign rules, and we need to differentiate between registered campaigners and others. Registered campaigners have quite strict requirements for pre-poll reporting and for reporting during the poll and afterward. Indeed, we regularly conduct investigations around the permissibility and that side of it, and there are some small improvements we would like to see on that, but that is one side of it.

The other side, which you are alluding to, is essentially unregistered campaigners. The non-party campaigner rules, which are more recent, have helped with that. We have to be absolutely clear. If those people seeking to interfere in our elections are based abroad and acting abroad, that is beyond the remit we have as a UK-based regulator, and something that is a real challenge for us all.

Q2654 **Ian C. Lucas:** Surely it is not beyond your remit; it is beyond your powers.

Claire Bassett: Our remit is as a UK-based organisation. We do not have—

Q2655 **Ian C. Lucas:** Your remit concerns elections in the UK. It is clearly relevant to your remit if outside actors are advertising in connection with



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elections in the UK.

Claire Bassett: Sorry; I am giving you the wrong impression. We take that very seriously. That is why we are doing the work we are. You are right, the problem is that we have no powers to either intervene or to stop someone acting if they are outside the UK.

Q2656 **Ian C. Lucas:** One of my concerns with Facebook adverts in particular is that when we put this to Facebook in February, they essentially said, "It's not our responsibility: it's the responsibility of the people to record the donations in accordance with the electoral law in the jurisdiction," which in this case is the UK. Do you agree with me that we need to establish responsibility for organisations such as Facebook, which are the conduits of this possible illegal activity?

Claire Bassett: The short answer is yes but, to put a bit of detail on it, we need to have the different strands working together. We should not absolve the campaigners of responsibility. We need to have those rules there and ensure that we have the regime to challenge that. In terms of how we deal with this, it is really important that we have transparency, so that people can see where political messaging is coming from and who is targeting them. The extension of imprint rules is a very obvious way of starting to do that, but we would also like to see, and are pleased to see, the work that social media companies are beginning to do on increasing that transparency. It is something that needs to be thought about.

Transparency of the internet and how that is regulated is a bigger issue that goes beyond elections. We need to be quite cautious about seeking to drive one way, if actually there is a broader agenda around internet regulation.

Q2657 **Ian C. Lucas:** I think you are being kinder to the social media companies than I would be. I have here a list of advertisements that were on Facebook, which I found out about last Thursday, like everybody else, because the United States Congress published them. We have heard evidence in two long sessions from Facebook specifically on this issue, but this is the first time we have seen this information. My concern is that organisations such as Facebook have not volunteered this information to this Committee, despite two sessions. We have to rely on their good will under the present system to actually get the information.

Claire Bassett: One of the things that I said we would like to have is the power to compel organisations to provide information to us for our investigations and enforcement work. I do not think the solution to this is all about a regulatory body seeking to enforce things on social media companies. The best solution to this is social media companies exercising an element of self-regulation and having practices in place, with an element of enforcement as well. By doing that together, we can end up with the most effective regime.

To add to that, one of the important things going forward is that if we are going to have this, we need transparency in real time. We need people immediately to be able to see where messaging has come from, to be able



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to look at and understand that. We need things taken down very quickly if they are wrong. If we have a regime that just looks at it afterwards and punishes, we will not achieve that, so we do need to work together.

Ian C. Lucas: What we need is for you to have the power as the Electoral Commission to require, for example, Facebook to disclose advertisements that have been paid for from overseas in our electoral period. At the moment we don't have that power.

Bob Posner: I very much agree with that. Obviously, we have been in dialogue with Facebook, as you have been as a Committee. They have found it difficult. There are no two ways about that. Initially they took quite a narrow approach and they worked hard at it. It is good to see their proposals now for the mid-term American elections. It is good to see their proposals for Ireland. We can all learn from the experience of things that have been proposed on transparency. But it is not just about us seeing it; it should be there immediately for everyone to see. There should be absolute transparent in real time.

When one sees a political adverts, one should be able to see what targeting is going on. We should have the ability, over and above that, to require information from them immediately and quickly. That might be about information that should not be there, such as those adverts without imprints, where it is not clear where the source of funding is and where it is overseas-funded and it shouldn't be. We should have the ability to require that to be taken down immediately as well.

As Claire says there is a bit of regulation needed on top of what they might do and how they structure themselves. There is no doubt—I think we would all agree and they would as well—that they have not structured themselves to attend to this at all, so far. But we are beginning to see that now and there will be a learning from that.

Ian C. Lucas: The problem is that it is a bit late now.

Q2658 **Christian Matheson:** Listening to the evidence you have given to Mr Lucas, it strikes me that if you are an organisation that does not keep stuff from email, is deliberately disorganised and doesn't put many invoices out, you can get away with breaking the regulations a lot more easily than if you play by the rules.

Louise Edwards: What evidence becomes relevant in a particular investigation will obviously depend on what evidence is out there for us to find. Invoices, documentary evidence and email chains are all very helpful, where they exist. They are black and white, and we can require campaigners or others to give them to us. But they are not the only way that we conduct investigations. There are powers that we have to compel people to appear in front of us and answer questions. We have powers to get information, not just from the campaigners or parties that we are talking to, but from others who may hold that information. We can request organisations such as Facebook voluntarily to give us information, but it is voluntarily at the moment. We don't always just rely on documentary



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evidence in conducting our investigations. In order to find an offence, we have to be satisfied beyond reasonable doubt that an offence has been committed. That requires a high level of evidence. Whether it is hearsay, corroborated communications or whatever, it is a high bar, and we will only find an offence if we are satisfied we have met that bar.

Q2659 **Christian Matheson:** What if, instead of an invoice and a financial transaction, it was a donation of services? For example, if Cambridge Analytica had donated services to Leave.EU, it would not necessarily have been invoiced.

Louise Edwards: No, but there would be evidence of services being used during the campaign that we would be able to see.

Claire Bassett: To add to that, one of the things we do during a campaign is monitor what campaigners are up to. These are big campaigners trying to have a big impact. We monitor that—we use tools to monitor that on social media, and we monitor activity. We take that monitoring and compare that back to the spending returns. So we also use the actual experience of what is going on to challenge that.

Q2660 **Simon Hart:** In this particular instance, what investigations have you carried out to ascertain whether any of the Cambridge Analytica work was actually donated to Leave.EU? Where did you get to with that? The invoices, therefore, become rather irrelevant, but how deeply did you probe into that relationship?

Louise Edwards: We did seek documentary evidence, just in order to make sure that we had covered that, as you would as a first investigatory step, to see whether it exists. The primary way that we have looked at this is, what did Cambridge Analytica actually do for Leave.EU in the period running up to the campaign? We know that and have seen that from the documentary evidence. And then, what did Leave.EU actually do during campaign? Can you see it cross over into that 10-week campaign and be used? In the case of Cambridge Analytica, you cannot. In the case of Goddard Gunster you can.

If we had seen that being translated into the 10-week campaign for a supplier like Cambridge Analytica, where no money had changed hands, that is when you start to talk about a donation. In this instance, based on the evidence we have seen, that is not where we are. But, I would say that information about Cambridge Analytica continues to come to light. As Bob mentioned earlier, we keep matters under review, and if something comes to light that we think we need to look at going forward, we would.

Q2661 **Simon Hart:** Do you think, during the process of the court case coming up, that either Cambridge Analytica or Leave.EU will, in a sense, go further than you have gone, and be asked to state under oath whether there was any activity in lieu of payment during that regulated period or any activity which might have had some value during the regulated period? Do you think that is a legitimate line of questioning?



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Claire Bassett: It would be impossible for us to say. It would not be our court case. We would be the respondent to the review if one was brought, and we have not seen that yet. With these things, it just depends what line is put forward. We would provide the evidence of what we had done, and one would assume that might give rise to certain lines of questioning. We cannot influence what happens in a court case like this, because it is not our hearing. It is an appeal or a judicial review of what we have done. It is not a process that—

Q2662 **Simon Hart:** I just assumed the legal team would have extensive conversations.

Claire Bassett: We would run our defence depending on what we were accused of.

Q2663 **Julie Elliott:** Before I go into what I want to ask, I am a little concerned with what you are saying. We have been looking at this for months and months, and everything we have heard, and the more we have heard, makes me of the view that Cambridge Analytica, or one of its other named subsidiaries or feelers that go everywhere, has had a huge impact on the referendum and the campaign in the referendum. I am very taken aback that you can sit there and say you have seen no evidence of this, when, if you have listened to what has come out in this Committee over the months, there are very clear links.

Claire Bassett: Just to be clear, we are discussing this entirely in the context of our Leave.EU investigation. There is an ongoing investigation into Vote Leave, and it would be inappropriate for me to comment on that.

Q2664 **Julie Elliott:** That is surprising. I want to move on to Vote Leave. When do you view a campaign group as a campaign group, and when do you view it as somebody who is just an interested individual in a campaign? How do you differentiate that?

Claire Bassett: There is a clear prescribed process for someone to be a registered campaigner.

Bob Posner: Yes. There is a broad definition of campaigning—influencing, basically. Because we are a financial regulator, it is about spending money on campaigning, and the legislation has a fairly low threshold. In the referendum, if someone spent £10,000 or more, under the legislation they became a campaigner and came under our remit to be regulated. Basically, you could spend up to £10,000 in the referendum and not be a formal campaigner regulated by us, but once you go above that, you are regulated by us, you have to register—it is an offence not to register—and you become subject to all the rules. That is the core definition.

Q2665 **Julie Elliott:** Do laws apply differently to individuals, as opposed to groups, or is the £10,000 the same?

Bob Posner: No, you could be an individual spending money campaigning, or you could be a group.

Q2666 **Julie Elliott:** Given some of the things we have been talking about this



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morning, if somebody is not a UK company or a UK elector, it is quite clear that, if their money has come from somewhere else, that is not within the law for referendums or other elections in this country. It has to be money from this country.

Bob Posner: There is donating money to a campaigner. To do that, you either have to be an individual on the UK electoral register, or you have to be a business carrying out business in the UK. The rules on companies are a bit weak, and we have got views on that. Obviously, with a network of companies, one can feed money in, so that needs to be tightened up. That is to donate money in.

Perhaps differently from elections, where you generally have existing political parties to which money is flowing in all the time, and which are continuously regulated, in referendums groups get formed. They may get formed for the referendum with funding. The source of that funding doesn't currently have to be declared, so people might come into a referendum as a campaigner with money, and the source of that money may not be clear. Parliament may want to think about whether that is right or wrong in the future. As far as our regulation is concerned, it is about becoming a campaigner and the donations you receive while you are a campaigner.

Q2667 **Julie Elliott:** Do you think, in relation to referendums in particular, that this kind of area needs tightening up?

Claire Bassett: Yes. That was on my wish list earlier. One of the things we would like to see—particularly around designated lead campaigners, but you could also do it for other campaigners—is a requirement for transparency on where funding has come from, as you become a campaigner or the designated lead campaigner.

Q2668 **Julie Elliott:** There has been a bit of conversation about the difference between money spent on goods and money spent on services. Why do you need to know that the money is spent separately? Why do you not just need to know that it is money spent?

Bob Posner: The reporting regime for elections and referendums breaks down spending into certain categories. Part of the intention was that one could interrogate and understand that. One needs all the invoices behind that. Some invoices can be very high level and not give you detail, and some do give you detail. It is a question of transparency. One could have a very simple system of straight spending, or one could have lots of categories at the other end of the spectrum to understand the nature of the spending. I would say that the UK system at the moment has categories of spending, but we would suggest that they seem a bit dated. A more detailed category of spending would be helpful to understand what is spent on services, advertising, leaflets, posters or whatever it might be, so anyone can interrogate and question it.

Q2669 **Julie Elliott:** At the moment, are people required to declare money that is spent on using online services? Is that a required declaration?



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Bob Posner: There is not a category for digital spending. One can understand why: the legislation pre-dated that. That means that digital spending has to be reported, but we find it reported under two or three different categories. It is not always easy for anyone—journalists, academics—to see it to work out what the digital spend is. Sometimes it is obvious, because you can see the invoices; other times, it is not obvious at all. We are calling for that to be much clearer.

Q2670 **Julie Elliott:** Let me move on to shared resources and funding, which particularly affects referendums more than other elections. What rules are there around shared resources and shared funding? Do you think they are clear enough?

Bob Posner: If we are going to the area of working together and joint spending, and I think we are, the starting point is that there is nothing wrong with that. You would expect campaigners on one side of an argument to speak to each other. That is a healthy thing. When one looks at the designation of the leave campaign, part of the criteria of the lead campaigner is that you represent other campaigners. That is part of the nature of a lead campaigner: that you can represent that side of the argument broadly. It has to be right that there is communication between campaigners.

What the joint spend working together rules do is say that if you begin to work with another campaigner, then it is not an offence, but you have to account for that money as part of your spending. If you are working with a designated lead campaigner—so a campaigner is working with a designated lead campaigner—and there is joint spending in a co-ordinated, common, planned way, then that all counts against the spending limit of the lead campaigner. If you have campaigners working together, but not involvement as the lead campaigner, then you are effectively campaigning, and the spending all has to be reported, but it is all split out, as it were, and has to be reported against the spending limits.

The rules are trying to recognise that there will be communication and that joint spending in itself is not an offence—there has been misreporting about that, but there is nothing wrong with it—but it has to be accounted for, and it has to count against spending limits so that there is a broadly level playing field and fairness. What we have said about these joint spending and working together rules—the joint funding rules, which are relatively new—is that there is a broad, high-level approach to this in the legislation, and, therefore, it is not easy to define where things have crossed over. Sometimes it might be very obvious where people are spending together, and sometimes not. When you get into the middle areas, then the question is whether it triggers the rules. It is not clear. We recommended to Parliament that it needs to be looked at. In our view, if anything can be done in the legislation to make it clear, it would help everyone.

Q2671 **Julie Elliott:** But the Government are not saying that. They are saying it should be given through guidance.



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Bob Posner: We are a little bit disappointed by that reaction. We would say that, of course, we can do guidance on joint working, and we do. That is fine, and we are happy to do that. The other option is that, instead of guidance, we are given the power to be able to make a statutory code. We could set out a statutory code for Parliament to approve. It has to be clear, and it has to have authority. Our guidance is fine, but it does not give absolute clarity and authority. We would end up in court arguing about it. That may be fine, and the courts would rule on it, but we think it is better either to have it in primary legislation or to give us the power to make a statutory code and to get Parliament to approve that.

Q2672 **Chair:** Can I ask a couple of questions on that? In the evidence session in the Canadian House of Commons, Aggregate IQ said that they had bills for BeLeave for work that they did for them during the referendum campaign that were paid by Vote Leave. Does that constitute co-ordination, or is that separate?

Claire Bassett: It would be inappropriate for us to comment, given that we have an ongoing investigation into Vote Leave.

Chair: It is a matter of public record.

Claire Bassett: It would be difficult for us to answer that without straying into a difficult territory.

Q2673 **Chair:** Can I ask a hypothetical question? Given that Aggregate IQ worked for numerous different campaigns during the Vote Leave referendum, if all those campaigns used the same dataset for advertising targeting, would that be a breach of the rules?

Bob Posner: It certainly is very relevant. It would be relevant evidence, and very material evidence.

Q2674 **Chair:** Just to give that context, in any campaign, if you have separate campaign groups using the same datasets for targeting, should all that spending be declared against the lead campaign, or is that acceptable within the rules?

Claire Bassett: I think it would come down to the facts. If you have—this is utterly hypothetical—a service provider who created and owned a database because they anticipated a referendum and they thought this could make them a lot of money, and then they sell it to a number of campaigners, that is one scenario. If you have a number of campaigners contributing to that database, you have another scenario. It would very much depend on the material facts.

Q2675 **Chair:** So if a number of different organisations are contributing to a common database that they share, then that would effectively be co-ordination between the campaigns, and therefore the spend should be declared by the lead campaign on behalf of all of them.

Bob Posner: I can't draw conclusions, but the sorts of areas you identify are just the sorts of areas that we would be considering in any

investigation to come to a conclusion as to whether an offence is beyond reasonable doubt.

Chair: I think that was a yes.

Q2676 **Ian C. Lucas:** The database has a value, doesn't it?

Claire Bassett: Yes.

Q2677 **Ian C. Lucas:** Therefore, if a campaign uses the database and does not pay for it, that would be a donation in kind.

Bob Posner: Yes.

Claire Bassett: Yes.

Q2678 **Ian C. Lucas:** And, therefore, it is something that should be recorded.

Claire Bassett: Absolutely. This is a key issue of the apportionment that we talked about earlier. If that is received earlier and then used in the campaign, it should also be reported.

Q2679 **Ian C. Lucas:** On donations in kind, if Cambridge Analytica donated services in the unregulated period that were then applied and used within the regulated period for the campaign, that would be a donation in kind, too.

Claire Bassett: It would need to be reported, yes.

Q2680 **Jo Stevens:** Following up on Mr Lucas's point, and going back to the Cambridge Analytica thing, we had evidence from Brittany Kaiser, which I assume you have seen. She showed us a document that she had produced for Leave.EU, which was a scoping document—a proposal, a briefing document. Her evidence to us was that, although Cambridge Analytica was not paid directly for that work, Leave.EU used that document and what was in it anyway during the campaign. Did you consider that proposal document as part of your investigation?

Louise Edwards: We did.

Q2681 **Jo Stevens:** And you came to the conclusion, as you have said, that you could not see evidence of it being used in the regulated period. What evidence were you looking at to come to that conclusion?

Louise Edwards: We were looking at the details of what Leave.EU actually did during its campaign: how it ran its campaign, which was primarily an online campaign, how it targeted and how it actually did the activities that it did. That is why we could see the follow-through on Goddard Gunster, but we could not see it on Cambridge Analytica.

Q2682 **Jo Stevens:** So you saw no correlation between what Brittany Kaiser and Cambridge Analytica had said—that this would be a good way of doing things—and what was subsequently done?

Louise Edwards: We didn't see evidence that that was used during the regulated period.

Jo Stevens: Right. I'm struggling to understand that, because—

Claire Bassett: As Bob said, we have to look for clear evidence that that plan was actually used.

Q2683 **Jo Stevens:** Can you give me an example of what you would be looking for?

Claire Bassett: That might be, for example, an email exchange where specific reference is made, detail of previous plans is used and its application is discussed, and we can see its clear application. It might be minutes where you can see the implementation of the strategy being worked through and put there, and then the actual actions themselves. That is what we did not see.

Q2684 **Jo Stevens:** So did you look at whether there were actions themselves that matched what was in that document? I know you say there is no documentary evidence showing a chain of causation in between, but if you have a start of a race and an end of a race, and the conclusion at the end of the race is what was in the start, do you need that bit in between?

Louise Edwards: We did look at that, and whether we would need that bit in the middle would very much depend on the facts of the situation. What we are talking about here is needing to be satisfied beyond reasonable doubt. If you think about the balance of probabilities, for example, that is not what we are looking at. We are not considering that it is more likely than not that Cambridge Analytica services were used. We are looking at whether we can be satisfied beyond reasonable doubt that services were used, and we could not.

Bob Posner: Just to add to my other comments, the Leave.EU investigation had a number of strands, and there was a 30-page report on it. A number of those strands came to a level where offences were being proved beyond reasonable doubt, in our view. The offences we are talking about, whether by Cambridge Analytica, Goddard Gunster or whoever it is, are the same offences. They are about proper, full reporting and, very significantly, about where there has been overspend on the spending limit.

Once we reach that threshold, there is a decision to be taken about whether one carries on investigating or whether one has actually found the offences and therefore should reach one's findings. I understand the points you are making. As we have said, evidence continues to come out in a number of areas, and we will keep the matter under review, but that Leave.EU investigation found those offences, and it seemed right and proper to us that we should therefore conclude the investigation on that.

I described those offences as serious offences to the media, because of the overspend on the spending limit. It is also because, throughout the investigation and subsequently, we have not seen Leave.EU recognise that in any way at all or understand that, which I think is of great concern.

Q2685 **Jo Stevens:** Bearing in mind what you said about the veracity of Mr Banks's evidence, there could be anything that you have not been given



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or have not seen yet, which could presumably lead you into further investigations if evidence comes to light.

Claire Bassett: Yes. We would consider anything that came to light.

Q2686 **Jo Stevens:** My final point on this was just to ask: did you find any evidence of any link between Goddard Gunster and Cambridge Analytica?

Louise Edwards: No, not that we were looking at in our investigation. Again, we were looking at campaign activity, so we would look at whether there were any links between service providers only in respect of how that might be reported by Leave.EU. No, we did not see anything that took us down that route.

Q2687 **Chair:** You said that Goddard Gunster were providing strategic consultancy advice. What was the nature of that advice? What subject matter did it cover?

Louise Edwards: It covered a variety. A lot of it was about how to run a targeted campaign and how to understand what different sections of society to target, however you need to do it. For example, there was one phase called something like "Persuading the unpersuadables", or that sort of thing. A lot of what we saw was about how to conduct an online targeted campaign.

Q2688 **Chair:** And about how to use different data sets?

Louise Edwards: That was touched on in it as well.

Q2689 **Chair:** What range of data sets did that include?

Louise Edwards: I don't think I know that off the top of my head, I am afraid.

Q2690 **Chair:** Given the advice from Goddard Gunster would seem to be a continuation of the scoping work done by Cambridge Analytica, to what extent do you see there was no value in the initial scoping work Cambridge Analytica did?

Louise Edwards: We did not see that Goddard Gunster was a continuation of Cambridge Analytica in the correspondence that we saw. There were two different sets of communications going on there, and the advice that Goddard Gunster appears to be giving is based on their expertise. I am not sure that what we saw bore out that scenario.

Q2691 **Chair:** But I think we could largely say that the expertise of Cambridge Analytica and Goddard Gunster is one and the same thing.

Louise Edwards: But in terms of their reporting they would be two different suppliers, so we would have to consider them on that basis.

Q2692 **Chair:** Have you considered them on that basis—that effectively Goddard Gunster is a continuation of Cambridge Analytica? It is a slightly different structure, but it is largely the same people giving the same advice.

Louise Edwards: What we looked at it on was the terms of the individual entities that were being suppliers to Leave.EU. We have to look at it on

that basis, because that is their reporting requirement; they have to report that particular supplier. What might be behind that supplier is a separate matter. We have to look at it in terms of their reporting obligations.

Q2693 Chair: Sure. I think that is understood. I am just trying to bottom out this area of questioning. What you have said is quite clear, but some people might ask whether the work Goddard Gunster was doing continued from some scoping work that Cambridge Analytica did, which they were not paid for and which was not part of the campaign, and whether Goddard Gunster, in the advice they were giving, were benefiting from a knowledge of the work that had already been done by Cambridge Analytica?

Louise Edwards: I'm not sure I can answer that question. All I can really say is that it was down to the reporting obligations, and where Goddard Gunster provided services that were used during the campaign, that is what we would have expected to see reported.

Q2694 Ian C. Lucas: We know that Cambridge Analytica invoiced UKIP for services. There is a thread of connection between those different organisations, and of course the link to the ultimate campaign in the referendum. Did you take into account that fact when making those judgments?

Louise Edwards: We did.

Q2695 Ian C. Lucas: Did it have any relevance from your point of view?

Louise Edwards: It was a relevant piece of evidence that we looked at. We found out about that quite early on in our investigation, from a couple of different sources. On that one, as we have seen the evidence, I believe there was a UKIP membership database that was passed to Cambridge Analytica for some analysis. It was analysed; there are differing views in the evidence we have seen over whether the report on that analysis was ever provided to UKIP, but even putting that to one side, what you then come back to is, "Is there any evidence that this was used as campaign activity during that 10-week regulated period?" Again, that is where it went for us. We could not see any evidence that it was used as campaign activity by UKIP or, indeed, any of the other campaigners within that group.

Q2696 Paul Farrelly: I want to talk about the background, not the substance, of your current investigations. You wrote to Darren Grimes on 4 October 2016, saying effectively that you were not going to take any matters further. You appear to have accepted the truth of evidence that he had given to you. Could you tell us a little bit about what prompted you to look at Mr Grimes in the first place? Were complaints made by people independently?

Claire Bassett: To put it in context, this comes back to the overall point that, when we get information, the first thing we do is an assessment process internally. We look at it and decide whether we have sufficient evidence to warrant taking an investigation forward. In this case, things



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emerged as we went through the assessment process and, indeed, as we then did other investigations that supported our deciding to open a full investigation. I will let Louise or Bob give you the detail.

Louise Edwards: Just on the detail of that particular question, because this was the first investigation that we had ever conducted into this, we had not determined facts or found the truth or otherwise of the matter previously. Back in 2016, there was an article—I believe it was a BuzzFeed article—that talked about money being given to Mr Grimes.

Q2697 **Paul Farrelly:** The fashion student article, yes.

Louise Edwards: Yes, that's right. That was the initial prompt for us to write to Vote Leave and to Mr Grimes to try to establish what happened. But at that point, neither campaigner had delivered their spending return for the referendum—as we have mentioned, as large spenders, they had six months to deliver that return—so we said, "There's only so far we can take this at this point, because the offences that we'd be looking at would be reporting offences and they haven't reported yet. We have to put it on hold and wait and see what happens." Indeed, that is exactly what happened: we got those spending returns in and we looked at them, and we then went and conducted an assessment in the early part of 2017.

Q2698 **Paul Farrelly:** He was a registered campaigner, was he?

Louise Edwards: He was, yes.

Q2699 **Paul Farrelly:** And his organisation—or purported organisation—BeLeave was a registered campaign organisation, was it?

Louise Edwards: That was not registered in its own capacity.

Q2700 **Paul Farrelly:** So it was him?

Louise Edwards: Yes.

Q2701 **Paul Farrelly:** That explains why, in the announcement of 20 November 2017, you named him personally but two other organisations.

Louise Edwards: Yes.

Q2702 **Paul Farrelly:** I will not dwell on some of the wording that has been reported, because whether he told you the truth originally no doubt will be part of your current investigation.

Claire Bassett: Yes.

Q2703 **Paul Farrelly:** What remedies do you have if people do not tell you the truth when you are conducting an investigation? What are the sanctions for people misleading you, taking you up the garden path or telling plain, out-and-out porkies?

Louise Edwards: There is not a specific offence of lying to us, unfortunately. Where we have compelled people to provide information—so we have exercised our statutory powers—there are specific offences around providing misleading or false statements to us in that situation. If



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somebody deliberately lied to us in answer to a statutory notice, that could well be a criminal offence, but outside that, there is not an offence in its own right of taking us down the garden path.

Q2704 Paul Farrelly: It is a relevant question, because all sorts of people are jumping up to the ramparts now, making claims here and putting people in the dock there, and you do not know until you have had a proper investigation who is telling the truth and who is potentially being falsely accused. The name Victoria Woodcock has come up regarding deletion, or alleged deletion, of names on potentially incriminating documents. Whether that is true or not, we don't know.

Claire Bassett: This aside—totally not in the context of that particular investigation, but in more general terms—it is worth saying that these are offences that we might find. Where we refer a responsible person to the police, it is then open to the police to look at allegations of conspiracy and at people's actions. They then have the full gambit of criminal law to apply to that. I think that is how it would work.

Q2705 Paul Farrelly: You can ask for information and ask people to come to see you, and you can take further steps if they do not, but it stops there, doesn't it? Do you have intrusive powers such as the power to examine computers to see evidence of deletions?

Claire Bassett: We could potentially get a warrant to do that.

Bob Posner: We can do that. What I would say about our powers, as was referred to earlier, is that I think they could be enhanced—I will use that word—to make them clearer and easier to use. That is similar to some of the stuff the Information Commissioner has said to you. It is about the usability of some of these powers.

Q2706 Paul Farrelly: The same issues?

Bob Posner: Yes.

Q2707 Paul Farrelly: You then get to the limits of your expertise and your competence and you have to get the right people in, so it is a question of resources. Do you have the resources to take investigations where they lead you?

Claire Bassett: We do at the moment. It is something we keep constantly under review. We have had support from the Speaker's Committee—that is how our funding flows—in this. You need to look at the resources you alluded to in two ways. Have we got the modern specialist skills that we need to do that, which is something we have been developing and have bought in where we needed to over the course of these investigations. Then there is the volume of ability to do that.

Louise and her team are established and really capable in what they are doing. We are quite keen to make sure that we maintain that robustness, and we bring in additional resources to support that core team where we need to. For this year we have built in a contingency in our budget

specifically for this, which the Speaker's Committee has agreed, so we will be able to pull that down should we need it.

We are, however, conscious that as we come to budgets for next year we will probably have concluded quite a significant number of investigations and we will also have an idea of what is going forward and what investigations are like. To a certain extent the demand is linked to electoral events. That is something we will be carrying out a review of ourselves. We have also changed our approach to resourcing within the commission to make sure we retain key skills and that we have a core staff with the skills that we need rather than just staffing up for major events.

Q2708 Paul Farrelly: Just over a year after writing to Mr Grimes, you announced that you were opening an investigation into Vote Leave, Mr Grimes and an organisation called Veterans for Britain as to whether, among other things, they may have breached campaign finance rules. What changed in the meantime?

Claire Bassett: The decision to launch an investigation is based on whether we have sufficient cause and evidence to think that. In the course of other investigations, further information came to light that led us to believe there was cause for an investigation. Bob, do you want to say anything?

Bob Posner: That is absolutely right. As we were doing other investigations and analysing information received on the spending returns, other information came to light and we reached the threshold where we decided to open an investigation.

Q2709 Paul Farrelly: And more and more information, as these inquiries are going on, is coming to light. I am not going to try and get you to prejudice anything you are doing, but it might be reasonable or common sense to expect that other organisations might also come under the ambit of an investigation.

Claire Bassett: We do keep that under review. We are, as we said earlier, quite well developed on this particular investigation at the moment, but, should something else come to light that included an organisation that was not part of that investigation, then absolutely we would extend it.

Q2710 Paul Farrelly: When do you expect to conclude this investigation and produce a report?

Claire Bassett: As we said earlier, definitely this year and hopefully by the summer.

Q2711 Paul Farrelly: And summers last till mid-September.

Claire Bassett: Sometimes. At the moment it is progressing well. What is important to remember is that part of our enforcement policy is about giving the person we are investigating an opportunity—a period of time—to look at our findings and make representations on those. That very last bit of our process depends on how much representation we get back.



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Q2712 **Paul Farrelly:** Within the scope of your responsibilities, the powers that you have and the complicated framework of designated campaigners, and bearing in mind there might be another referendum and that there is a great big open door called Northern Ireland, a hole in the regime, does that need addressing?

Claire Bassett: Are you talking about transparency rules?

Q2713 **Paul Farrelly:** The difference in spending rules.

Claire Bassett: Obviously we welcomed the recent changes to increase the transparency of funding of political parties in Northern Ireland, and we continue to stand by our view that that should be backdated beyond when it has been—

Q2714 **Chair:** Backdated to include the referendum period.

Claire Bassett: I can't remember the date now. 2014 or 2015.

Bob Posner: 2014.

Q2715 **Jo Stevens:** Can I go on to your current digital campaigning investigation? I know you have not concluded it yet; I just want to ask how it is going. How is it progressing and what are you looking into at the moment?

Claire Bassett: The approach we are taking is to seek evidence from a whole range of sources and to then develop our thinking around that. A number of the strands that we were picking up then about the challenges of doing these investigations will be a key part of that. A really important part of this work is going to be thinking about this in the round, so it is how we work with people like the ICO. We are developing our thinking where, at the moment, we have the improvements that the GDPR rules will bring in and the changes to data; then we have our regime around transparency of the money. Then there is the bit we were talking about earlier about how we make sure that what voters and the general public see on social media is clear and transparent and how that works together in terms of actions by the social media companies, but also rules and the ability to enforce that—for example, specific powers that we might like, and how that fits with broader changes to the internet regulation. Again, this needs to balance enforcement with real-time activities. That is very broad brush.

Q2716 **Jo Stevens:** At the moment, how do you police electoral law with online campaigning and digital use?

Claire Bassett: We do a number of things. First, during a campaign itself we do real-time monitoring. We do that by using particular tools to gather data. We also get quite a lot of information shared with us. I think that is one of the really positive things about this. People who are concerned about an advert they receive will send it to us and raise that with us. We really welcome that and use that wherever possible. Similarly, where researchers or campaigners provide us with information, we will feed that in in real time.

Q2717 Jo Stevens: Sorry to interrupt you. On that point, I was interested that people are reporting stuff to you. How much does get reported to you? Do you think generally the public know about what your responsibilities are and what you can do?

Claire Bassett: No, this is one of the things that we know is going to be an action for ourselves out of the inquiry. We have just conducted some public opinion research looking at what they think of digital campaigning. One of the strongest messages that came out of that was that people think it should be regulated and there should be a regulator. We realise that we need to be doing more to raise our profile and the profile of what we are doing. That is something that we are going to be focusing on going forward. We have already started to make sure that we can be found, if you go looking for us. Now we need to raise that awareness and do that.

On the campaign side, we record the information we receive. Wherever possible, we seek to achieve compliance. Our approach is not to catch everyone doing it wrong and then come in afterwards and fine them. What we want to do is to achieve compliance.

A really good example where we did that during the referendum was where some campaigners or individual organisations or newspapers started to decide that they were going to do something, like a wraparound poster around a newspaper which we knew would make them a campaigner spending over £10,000 so they would fall within the regime. If they did that without registering, they would be breaking the law.

Where we became aware of that on a number of occasions, we contacted those organisations, explained the requirement to them and what the law was and sought to get them to comply by registering with us before they did that. Wherever we can, we seek to engage compliance. But we do capture this data and get this information and we then use that to interrogate the spending returns and to understand if someone was talking about doing a certain thing, did that take place.

Social media plays an important part of that. If you have a campaigner tweeting about whether they are going to have a concert on this date, we will then follow through: did the concert happen, what was done for that, for example, and then look to see where that is in the spending returns. We use that in real time and have that ongoing work.

Q2718 Jo Stevens: It must be a pretty difficult task to keep track of all of it?

Claire Bassett: Absolutely, and we are absolutely upfront when we take a risk-led approach. That approach changes depending on the electoral event. We will look at it at the outset, decide what we think we should be focusing on and focus our resources accordingly.

Q2719 Jo Stevens: You gave the example about the newspaper wraparound and the proactive approach you took to that. What specific help have social media companies provided to you and what more do you need from them in order to be able to police current legislation more effectively?

Claire Bassett: We have had instances where they have been positively engaged with us, for example where there were some attempts at misleading information, for example, that one side should have voted on a different date, and having interventions to stop that. We have had a really positive response to that.

In terms of the investigations themselves and seeking information, that is an ongoing task. Where we have asked specific questions we have had answers.

Bob Posner: I was just thinking about our current dialogue with them. Louise might have explained it, but part of our current dialogue is to get them thinking in a UK context. One of the things I think they had not quite thought about was that we are the registrar for political parties and campaigners, so we have a database of all political parties and campaigners. If they are going to be looking for campaigning, and trying to identify through their staff an algorithm and so forth, their starting base at some point needs to be that database. What are they looking for? I think that is really positive and helpful, and we have pointed in that direction. Those are the sorts of ongoing discussions we are having with them now, so it is more positive news for them.

Q2720 **Jo Stevens:** Good, because certainly when we took evidence from the big platforms in February in Washington, it was apparent to us that they were either deliberately ignoring what the law was, or they did not know the law and had never bothered to find out. If you are getting a better reception than we did to our questions, I am pleased to hear it.

Claire Bassett: We probably owe thanks to you for raising their awareness and interest.

Q2721 **Jo Stevens:** Facebook, for example, has announced some changes, and I think Google did in relation to the Irish referendum over the last week, but do you think they have made enough changes or plans for changes? Would you like to see them do more now, rather than waiting for whatever comes out of your investigation?

Claire Bassett: In the UK context, we would like to see changes made so that they impact the 2019 elections. That is the sort of timeline we are working to. In terms of the plans that they have recently put in place for the US mid-terms or for Ireland, we would really like to test and see those in action. That is something that we will do.

It is important that we get this right, because there is another risk. There is a risk of campaigning that should not be happening, and illegal campaigning, but there is also a risk that we suppress dialogue around elections. It is really important that we recognise the role that social media has played in engaging people in elections, and in registering to vote and being interested.

Some of the very extreme reactions we are seeing of banning everything could have a very negative effect, because one of the things I also get a lot of complaints about is the lack of available information about elections.



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For example, at the recent local elections there were a number of complaints that people did not have information, or could not find out more about the people being elected locally. What we need to do is engage, so that this happens in a constructive way, and we manage the risks on all sides. That is what we are trying to do.

Q2722 **Jo Stevens:** Do you think it will need compulsion, by legislators or whoever, to make social media companies understand the toxicity and the level of risk out there, and the impact, if they are careless, naive, or negligent, that that has on democracies in countries all around the world?

Claire Bassett: Do I think it is needed to make them aware? I am not sure. Will it be needed to make sure that we get the right remedies and the right enforcement? Possibly.

Q2723 **Jo Stevens:** Is there anything you think the Government could do now to make digital campaigning more transparent?

Claire Bassett: I won't run through my list again. I think there were about eight or nine things on there.

Q2724 **Jo Stevens:** But if there was one thing that they could do now that is easy to do, what would it be?

Claire Bassett: I think imprints.

Bob Posner: I think imprints is very doable. They have not yet said they are going to consult. I hope when they consult, they consult with it in mind to do it. That would be good to see, and we would be delighted to discuss it with them. As I said, it has been trialled in the Scottish referendum. More needs to be done. That did not work perfectly, but we all learned from that, and I think it is very doable. It would be great if that were in place for 2019.

Q2725 **Chair:** At the moment, if during an election period someone ran a load of newspaper adverts without an imprint on, with a clear insinuation that people seeing those adverts should support a particular political party, would you investigate that?

Claire Bassett: Yes, absolutely.

Q2726 **Chair:** And you would go, presumably, to the media owners and ask who placed the ad.

Claire Bassett: Yes, and we would then find the campaigner that did, which we have done repeatedly.

Q2727 **Chair:** With the online environment you could do the same thing, but the trouble is that in the online world it is harder to see it.

Claire Bassett: Which is why you need the information from the social media companies about who is placing that advert.

Q2728 **Chair:** We are solving where the problems are. There are no obligations on the social media companies to disclose suspicious activity. If, for example, someone started spending a lot of advertising money on



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Facebook but they were not a registered political party, Facebook would be under no obligation to notify you that this had happened. If these, say, were dark ads that were not widely seen, it might be very difficult to pick up that this activity was going on.

Bob Posner: I think it is a challenge; I think that is right. There is also that difference between something that is clearly a political advert, however targeted it is, and something issues based that is influencing an election period, which is more difficult to identify.

Q2729 **Chair:** In your experience, is it much easier to get answers out of traditional media companies than out of social media companies? If you went to a newspaper group and said, "Who is paying for these ads?", would they tell you, or would it be difficult to get answers out of them?

Bob Posner: We liaise with media publishers and remind them of the rules at elections. Their advertising teams are aware of that, so they are very co-operative in that sense.

Q2730 **Chair:** From what you are saying, it sounds as if the relationship with social media companies is not as easy.

Claire Bassett: The rules are different, so they have not had to develop the ability to do that. That is something we are keen to do—again, we always try to come at this by encouraging compliance, and get them into a similar position. Certainly, changes to the imprint rules would help that.

Q2731 **Chair:** Then at least you have a clear offence. If ads are being run without imprints on, that is something to investigate.

Claire Bassett: Exactly.

Q2732 **Simon Hart:** On that point, where do you set the bar in deciding that a breach is so significant that it might have unduly altered the outcome of the election and that that election should be rerun?

Claire Bassett: That isn't a bar that we set. We have a specific role, set out within PPERA, which says we look at how finances and campaign finances were done, and who complied, or did not, with those rules. We have no influence in calling against a referendum, and we would consider that significant.

Q2733 **Simon Hart:** Not necessarily a referendum—it could be any election. I was not being specific about that.

Claire Bassett: We would consider that a matter for Parliament. We provide the information, and we then think that there needs to be a public debate, and Parliament should decide on it.

Q2734 **Simon Hart:** So if there was an incident where an individual candidate at an election was deemed to have been unfairly prejudiced as a result of one of the breaches we have been discussing, the ultimate sanction—presumably we have these rules in the first place to ensure a full and fair contest—does not rest with you. It actually rests with Parliament, so we would have to decide—



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Claire Bassett: Sorry, I have missed out a link—the really arcane bit of the law is the petitioning law. If you had an individual elected—the most recent significant example of this was in Tower Hamlets, where the mayoral election in 2015 was won by someone who was then found to have broken the rules. A petition was brought, which then meant that he was removed as mayor and the election was rerun. The problem with petitions is that it is an archaic bit of law, and it has to be brought by an individual. The Electoral Commission cannot bring a petition; only an individual can bring a petition.

Q2735 **Simon Hart:** Are you suggesting that that bit of law needs to be changed?

Claire Bassett: Absolutely—categorically. How that can be changed is set out in the Law Commission.

Q2736 **Simon Hart:** I am intrigued. All these things are all very well, but actually you do not possess the ultimate sanction anyway. It seems to me that you can't actually say, "Well look, this was an unfair election or referendum, and it should be rerun".

Claire Bassett: No, and we would not.

Q2737 **Simon Hart:** But you are the regulator. Surely that is the one thing that you should be able to say.

Claire Bassett: The regime is built the way it is, and as it stands we can comment on the behaviour of an individual. The other problem we have is the interaction with criminal law, and criminal investigations that also take place alongside very significant occurrences like that. The petitioning rule is a challenge.

Q2738 **Simon Hart:** I am conscious that we may be stretching the patience of the Chair a bit, but when you look at some of these things—let's say in the context of the referendum—where there have been a number of suggestions of failure to declare, or advertisements that might not have been in keeping with current regulations, what assessment do you make about whether that had a material impact on the outcome?

Claire Bassett: We don't. Our remit is to look at the rules on spending and how they were abided by. We see our role as providing evidence of what was done, wrong or right, and the offences that were committed.

Q2739 **Simon Hart:** So there are no circumstances—I am sorry to labour the point, but I want to understand this—in which you would say, loud and clear, that you believe that an election process, whether in Tower Hamlets or the EU referendum, has been so infected by bad practice that the outcome is somehow worthy of revisiting. You can't and you wouldn't.

Claire Bassett: No, there are not circumstances at the moment in which we can do that. I think the whole petition is an archaic way of bringing about change. If that were to be brought into the more modern world, one area that the Law Commission has considered in its recommendations is



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whether we ought to have that right to bring a challenge if we think someone was elected unfairly.

Bob Posner: So that we could go to the courts and get some sort of declaration or ruling. The Law Commission recommendations on reform of electoral law—there is a whole batch of them—are that the offences and petitions are incredibly dated and need updating. As part of that, the Law Commission recommended that we would have some ability to go to the courts, which we do not have currently. As the UK system currently stands, it is for the courts and Parliament to rule about an election or referendum.

Q2740 **Chair:** I just want to be clear on that. So, if another party to an election—a losing candidate in a mayoral race, say—said that there has been an Electoral Commission investigation that found that the campaign that won broke the rules, can they go to court and say they want a court order on that?

Claire Bassett: The problem is that there is a 28-day time limit.

Q2741 **Simon Hart:** In the case of a former colleague in Clwyd, south or west—Mr Lucas will know—where there was an investigation and report to the Electoral Commission about a wraparound to a local newspaper that did not include an imprint, that went on for several months. I am not even sure that it has been resolved now but there were certainly nine months of no response from the Electoral Commission. He could not even wait for the outcome of your report because the 28-day limit expired, and I am not even sure your report has come out.

Claire Bassett: It is very difficult. Even if you have out and out criminal behaviour, it is very unlikely that the police will conclude anything in 28 days either. It is an absolute weakness in the system.

Simon Hart: So that is another change in the law we need.

Q2742 **Chair:** So, do you think there should be a 28-day window after the completion of an investigation?

Claire Bassett: This is what I meant earlier when I talked about how we should not reform things in isolation. The Law Commission did this piece of work in 2016 that looked at everything except the campaign rules essentially. That did include offences. To bring that change about at the same time as improvements for campaign rules would actually bring that all up to date in one place.

Q2743 **Christian Matheson:** The suggestion you make about imprints is one solution. One of the problems, of course, is that we could have players setting up overseas. For example, if I set up in the American state of Delaware where there is a lot of corporate privacy, and got £10 million and decent dataset, I could start sending out adverts to people and I would not need to put an imprint on them, because they would be fairly untraceable anyway. Is there that danger that, even with imprints, there would still be the possibility of malign external influences?



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Claire Bassett: Imprints is the easy, straightforward first step to do. Beyond that there are other changes we need to think about. There is a challenge where you have overseas actors acting overseas to influence in this country. Where it is hitting this country you need to have that action. That comes down to social media companies being able to identify and either prevent those adverts or have rules in place that allow us to enforce that.

Q2744 **Christian Matheson:** I suggested to Mike Schroepfer of Facebook that they put a banner on the bottom of every video to say who had uploaded it. Would that kind of thing help as well?

Bob Posner: It would bring a little transparency; one could understand the source better. There is a debate about overseas funding of advertisements on digital and online. I have seen people question that as well. If it is not UK-funded, should it be allowed? That is a live debate, isn't it?

Q2745 **Christian Matheson:** There is this continuing problem of dark ads. Can I be clear that you do not regulate the content of any advertising?

Claire Bassett: No.

Q2746 **Christian Matheson:** There is no regulation there. Your focus, I think you mentioned to Mr Hart and Mr Farrelly, was about how much had been spent on the adverts. When it comes to dark adverts that have been paid for by whoever, you won't necessarily know who has paid for them or how much they paid.

Claire Bassett: No. There are two issues there. There is content. You are absolutely right that we do not regulate content. Then there is unknown adverts or campaign activity coming in that is being funded from overseas and created from overseas. We have no magic wand for that. We do not have remit outside of the UK or powers outside of the UK. It is something that we take seriously. We have interactions with the security services and we work with them to make sure we are sharing information we have that might be useful to them. We also make sure that they are aware of the risk and the threats, but it comes back to what we can do, and I think that is about trying to prevent those ads from getting airtime, for want of a better word.

Q2747 **Christian Matheson:** The Institute of Practitioners in Advertising called for a moratorium on micro-targeted political advertising. Did you follow that?

Claire Bassett: Yes. First, we really welcome the institute's input into this. I think it is really good that advertisers are seeing this as an issue that needs to be thought about and dealt with. We really welcome that. Micro-targeting is an interesting thing to think about. It is not illegal in this country, and it is a tool that is used across a whole range of campaign activities. It being done overtly and in a way that is honest is one thing, but the challenge is where it is being misused and abused, and I think we need to ensure we differentiate that. There is value in micro-targeting. For example, people who live three streets from the hospital that they are

particularly interested in will want to know about plans to close that hospital or suchlike. We need to differentiate clearly what is meant.

Q2748 Christian Matheson: If I do a video on Facebook, and I say I want it to be seen by Facebook users that live within five miles of Chester, and I don't want it to go across the border into my next-door neighbour's constituency of Wrexham, is that considered micro-targeting?

Claire Bassett: I honestly do not know. From our point of view, we have not set about trying to define these terms. We are regulating spend. Spending on micro-targeting or targeting is still spending from our point of view. There is nothing wrong with micro-targeting, so we have not put our focus into that. I do think that this is an interesting challenge. It is again one of these things that is about the broader internet, rather than just elections.

Q2749 Christian Matheson: Do you want to increase your remit? It is perhaps a bit of an obvious question to ask a regulator, but would you like to increase your remit to include content?

Claire Bassett: No, we think there would be real challenges in doing that, particularly around how you regulate content, and particularly when it is about the future. When content is about predictions, there are some real challenges in trying to regulate that content. We are concerned about the impact that would have on our ability to do the other regulatory work that we do in elections. We do, however, take it seriously.

We convened a roundtable with a number of other regulators and people who are interested, such as the UK Statistics Authority—one of its concerns is about how national statistics are used. Others included the Advertising Standards Authority, media companies and that sort of thing—different elements—to try to look at this. I think the conclusion we came to is that this is difficult and not something that anyone was readily able to just take on and do.

There are some small things that we could do that would help. For example, should we have another referendum, we could look at the designation rules and think about what requirements there are on designated lead campaigners around content. We do struggle with trying to be—I do not think we can be a truth commission, as some people describe it.

Q2750 Julian Knight: Further to that point, we have teams of experts who are going through a lot of the data that has been presented to us through the course of this very extensive inquiry. I was just wondering about your levels of expertise and the fact that referendums are just so enormous. Are you effectively swamped by a referendum? Is it too big to control?

Claire Bassett: They have their unique challenges, and we have touched on some of those today. What we try to keep in mind is what we are aiming to achieve and what we want from that. We have not undertaken extensive analysis of activity in different social media, but we have worked with researchers and experts who are doing work in that field, much as



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you have. I think that, as we said earlier, we have to take a risk-based approach. Again, there are some clear improvements that we could see that would help that and support that, but I do not think we are swamped. As you have seen here, we have been able to undertake a number of investigations that provide learning for all of us. There is always something to learn from these events in times which are fast-changing. But I think we are managing that.

Q2751 Julian Knight: So you think you have done these investigations in a timely manner?

Claire Bassett: I think we have done them in the time that it has taken.

Q2752 Julian Knight: That's not quite the same, is it?

Claire Bassett: There is a six-month time period in which we cannot do anything until we receive the spending returns. Then we have the period of assessment, and then we begin the investigations. That has been approximately a year. There have been some delays, which are annoying and regrettable. Most of those delays have been where we have been waiting for information or we have been forced to seek notices in order to achieve information.

As the person responsible for how money is spent in this area and what we do, I am mindful of how long we are taking and what we are doing with our resource. For example, I have seen a very detailed timeline of all the correspondence for the Leave.EU investigation, and I am pretty confident that if we had thrown any more investigation into it, it would have taken about the same amount of time, because there were months in there where we were having exchanges and seeking information. Some of the powers we have talked about—being able to compel information from our sources—might help with that. But in these circumstances, with the powers that we have, I think that is what it has taken.

Q2753 Julian Knight: In your heart of hearts, are there any lines of inquiry or investigations that you were not able to do due to lack of resource or expertise? Are you perfectly happy that everyone has come to you and you have sifted the wheat from the chaff?

Claire Bassett: Yes. It's Louise's team.

Louise Edwards: I would say that some of these big investigations—Leave.EU is the easiest one to speak about, because it is in the public domain—are multi-issue, potentially multi-offence, complex investigations where we have to seek evidence from a variety of different sources. Remember, we don't investigate in order to find an offence; we investigate in order to establish what happened. If what happened was that an offence was committed, we say that. If an offence was not committed, we say that as well. But that requires us to ensure that we are absolutely satisfied, beyond reasonable doubt, that we have followed all reasonable lines of inquiry before we come to that conclusion. That will take the time that it does. Sometimes that is very quick. Some of our much less complex investigations can take weeks. But the key for us is that we have



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to be satisfied that we have established the facts on the evidence, before we can say, "Okay, we have concluded this now. Let's make it public."

Q2754 Julian Knight: Is it fair to say that the focus in investigations tends to look at the winning side? If so, is that right?

Claire Bassett: Not at all. We have concluded 35 investigations now for the referendum, and they spread across both sides.

Q2755 Julian Knight: What is the proportion?

Claire Bassett: There are more on the leave side than on the remain side.

Bob Posner: But not by much.

Claire Bassett: We are really conscious of people accusing us of bias, and I am really proud of the fact that we approached this in a very transparent way that looks at those spending returns and at the evidence, and that has the prescribed assessment process, and then the enforcement process follows. We follow that in elections as well; we find a whole range of campaigners and parties in elections as well. Our track record speaks for us.

Q2756 Julian Knight: There was a letter sent to you, Ms Edwards, by Priti Patel, the Member for Witham, on 29 December, where she claimed that Britain Stronger in Europe exceeded its spending limits by up to £7.5 million. Did you investigate that?

Louise Edwards: That one did not get to a full investigation, because there was not enough evidence to take us beyond our threshold for doing that. We looked very closely at what she sent us. We looked at the information we held in the various financial returns from the various campaigners, and we were satisfied that what she was setting out to us was not borne out by the facts that we saw, so we wrote to her explaining that and why we took that decision.

Q2757 Julian Knight: Does that count as one of the 35?

Louise Edwards: No.

Julian Knight: Okay, so it didn't make it past the first fence.

Claire Bassett: The 35 are the ones that have passed the threshold to investigation.

Q2758 Julian Knight: I'm really interested to get your perspective on this. When we started this whole inquiry to do with fake news, we asked a question, which we soon dismissed as perhaps a little bit too simplistic, about the likes of Facebook being a publisher or a platform. Those were the days—very simplistic, obviously. From your perspective, in terms of the integrity of our electoral system, what is the best regulatory approach for social media? What is most likely to ensure our elections are safe?



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Claire Bassett: We are tackling that broader point ourselves. I will let Bob share his views, but, for me, the way we keep our elections safe is by having transparency and understanding, so people know who is targeting them and can apply judgment to that information and where it came from. We need a regulatory regime that has real-time regulation and ensures we can effect change very quickly. We also need clear rules to support that, and there must be consequences if people fail to follow the rules.

Bob Posner: I don't have anything to add to that. That is absolutely right. They have a social responsibility—that is becoming more apparent. There is a level of self-regulation. I am a regulator, and I would say that there needs to be some regulation and rules on top of that.

Q2759 **Julian Knight:** What form should that regulation take? Should we use the German model? What do you think? What's your feeling?

Claire Bassett: I think it's very difficult. As I said earlier, there is an ongoing, much broader debate about internet regulation and some of the really big challenges we have with social media and the internet, be it child sexual images or extremism. From my experience as a regulator, I think we need to make sure that that works as a whole and keep it simple wherever possible, because simple is easy to comply with. We need to make sure it joins up. We have had conversations about whether the financial regulatory regime we operate is still the best one when you think about costs moving and changing. At the moment, we think it is. We would be open to conversations and debate about whether there is an alternative. We are not sure we have readily identified an alternative.

Q2760 **Paul Farrelly:** Very quickly—I am going to try to be even-handed, like Julian, to give us some balance—the Chair had an email from Arron Banks, in which he uses this sentence about your approach to your investigation: “The Electoral Commission effectively fired an arrow into the wall and then painted the target around it.” Do you think that frame of mind is a solid basis on which to mount a legal challenge against your findings?

Claire Bassett: I wouldn't dream of giving Mr Banks legal advice. We have written a 30-page report that clearly sets out our findings and why we found them. We are all here because of the integrity of elections and referendums. People knowing where information comes from, where money comes from and how it is spent is a fundamental part of our democracy. To treat that in a sneering way, or to diminish it, is just not helpful or appropriate.

Chair: Thank you. I think that concludes the questions we have this morning. Thank you very much for your evidence.