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**TRANSCRIPT OF PROCEEDINGS**

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O/N H-919887

**THE HONOURABLE K. HAYNE AC QC, Commissioner**

**IN THE MATTER OF A ROYAL COMMISSION  
INTO MISCONDUCT IN THE BANKING, SUPERANNUATION  
AND FINANCIAL SERVICES INDUSTRY**

**MELBOURNE**

**9.30 AM, TUESDAY, 18 SEPTEMBER 2018**

**Continued from 17.9.18**

**DAY 56**

**MS R. ORR QC appears with MR M. COSTELLO as Counsel Assisting with MR M. HOSKING and MS S. ZELEZNIKOW**

**MR J. LOCKHART SC appears with MR G. MEHIGAN and MR T. WARNER for Allianz**

**MR J. STOLJAR SC appears with MR D. MACKAY for IAG**

THE COMMISSIONER: Mr Lockhart.

MR LOCKHART: Thank you, Commissioner. Commissioner, Mr Winter wishes to clarify his evidence concerning the origins of the document behind tab 11 of the exhibit to his 24 August statement. He has reviewed overnight some documents and he has signed a short witness statement which exhibits those documents.

THE COMMISSIONER: Yes.

MR LOCKHART: And through that means he seeks to demonstrate that the tab 11 document was created on the date of the ARICO meeting in May 2016 and not by lawyers assisting for the purposes of the giving of evidence in the Royal Commission and nor is there an extract from other documents. In the short statement he has signed, he identifies the errors he made in the giving of his evidence yesterday. What I would like to do is, if Mr Winter can go back into the witness box.

THE COMMISSIONER: Yes.

MR LOCKHART: And I will show him his statement and proceed from there if that's suitable - - -

THE COMMISSIONER: Yes, Mr Winter would you come back, please.

MR LOCKHART: - - - to the Commission.

**<MICHAEL DEAN WINTER, ON FORMER OATH [9.31 am]**

**<RE-EXAMINATION BY MR LOCKHART**

MR LOCKHART: Mr Winter, you recall you were asked some questions yesterday about the origin of the document behind tab 11 of the exhibit to your 24 August statement?---Yes.

And you gave some evidence yesterday that it was not contemporaneous with the 2016 – May 2016 ARICO meeting but was created by lawyers as part of the preparation for your giving of evidence?---Yes.

You also gave some evidence that you understood that it might have represented an extract from certain other documents. Do you recall giving that evidence?---Yes, I do.

Have you had a chance overnight to review some further documents and reflect on the origins of the document behind tab 11 in the exhibit to your statement?---Yes.

And have you made a further statement seeking to correct the evidence that you gave yesterday about those matters?---Yes.

5 Mr Winter, do you have that statement with you, that being a statement dated 17 September '18?---Yes.

Are the contents of that statement true and correct to the best of your knowledge and belief?---Yes.

10 I tender that statement and the exhibit accompanying the statement.

THE COMMISSIONER: The further statement of Mr Winter, dated 17 September '18 and its exhibits becomes exhibit six – I am not sure whether we're up to 282 or 283. 6.282.

15

**EXHIBIT #6.282 FURTHER STATEMENT OF MR WINTER DATED 17/09/2018 AND ITS EXHIBITS (WIT.001.0168.0001)**

20

MR LOCKHART: The witness – the document number is WIT.001.0168.0001.

THE COMMISSIONER: Yes. Thank you.

25 MR LOCKHART: Those are the only further questions I have for Mr Winter, Commissioner.

THE COMMISSIONER: Yes. And no re-examination otherwise, Mr Lockhart.

30 MR LOCKHART: No re-examination otherwise.

THE COMMISSIONER: Yes, thank you.

MS ORR: Nothing further, Commissioner.

35

THE COMMISSIONER: Thank you very much. Mr Winter, you may step down?---Thank you, Commissioner.

40 <THE WITNESS WITHDREW

[9.33 am]

THE COMMISSIONER: Yes, Ms Orr.

45 MS ORR: Commissioner, the next witness is Ms Lori Callahan.

<LORI MARGARET CALLAHAN, AFFIRMED

[9.33 am]

<EXAMINATION-IN-CHIEF BY MR LOCKHART

5

THE COMMISSIONER: Thank you very much. Do sit down. Yes, Mr Lockhart.

10 MR LOCKHART: Ms Callahan, is your full name Lori Margaret Callahan?---It is.

And is your business address 2 Market Street, Sydney?---It is.

Is your current position chief risk officer of Allianz Australia Limited?---Yes.

15 Ms Callahan, you're here to give evidence in response to a summons issued to you.  
Is that correct?---Yes.

Do you have the summons with you today?---I do.

20 I tender the summons.

THE COMMISSIONER: Exhibit 6.283, the summons to Ms Callahan.

25 **EXHIBIT #6.283 SUMMONS TO MS CALLAHAN**

MR LOCKHART: In respect of Rubric 6-63 you've made a statement dated 24  
30 August 2018. Is that correct?---That is correct.

And do you have that statement with you?---I do.

And are the contents of that statement true and correct to the best of your knowledge  
and belief?---Yes.

35

I tender that statement and the accompanying exhibit.

THE COMMISSIONER: Statement of Ms Callahan relating to Rubric 6-63 of 24  
40 August '18 and its exhibits becomes exhibit 6.284.

**EXHIBIT #6.284 STATEMENT OF MS CALLAHAN RELATING TO  
RUBRIC 6-63 DATED 24/08/2018 AND ITS EXHIBITS**

45

MR LOCKHART: Thank you, Commissioner.

THE COMMISSIONER: Yes. Ms Orr.

**<CROSS-EXAMINATION BY MS ORR**

**[9.35 am]**

5

MS ORR: Ms Callahan, you've been the chief risk officer of Allianz Australia Limited since December last year?---That's correct. December 17.

10 Yes. And you say in your statement that in your role as chief risk officer you are responsible for the risk, compliance and customer advocacy division of the business?---That is correct.

And that includes Allianz Australia Insurance Limited?---Correct.

15

Which issues general insurance products?---Correct.

Now, you've been put forward by Allianz to give evidence about Allianz's compliance processes?---Yes.

20

Can you tell us a bit more about your role as chief risk officer. What is a chief risk officer responsible for?---A chief risk officer is responsible for the risk management framework in the organisation, setting that framework, and then as the function along with corporate compliance, it is to challenge and review the business.

25

To challenge and review the business in which ways?---The – as to their utilisation of the risk management and compliance frameworks that are set by risk management and by corporate compliance.

30 So Ms Callahan, what qualities do you think a good chief risk officer should have?---The ability to have an independent view of the business, the knowledge of the laws and ability to take advice, and sufficient seniority in the organisation to be given an appropriate level of respect and consideration.

35 And what are the skills that you think it's important for a chief risk officer to have?---An understanding of the key aspects of how you set frameworks for risk management and corporate compliance, and I also think it is helpful to have an understanding of the law so that an appropriate respect for the law is taken in, but advice should be taken from legal, not necessarily set by the chief risk officer themselves.

40

And are there qualifications or a particular background that someone who is a chief risk officer of a large organisation should have?---I think qualifications traditionally have been around financial risks. And more recently, that those qualifications have moved on to be more of what is called non-financial risks of the organisation. And so the ability to understand those and understand how they work within the organisation becomes an appropriate skill.

45

And what are your qualifications for the role, Ms Callahan?---I obtained my juris doctorate in 1983. I then practised law in the United States where I provided advice to insurance companies. I was then a general counsel for a professional indemnity insurer. Upon arriving in Australia, I practised law with two different law firms providing advice for insurance companies. I obtained my active practising certificate in New South Wales. I then went to work for Allianz 16 years ago, and during that time spent the majority of my time as the head of claims, the general manager of claims, and in that role I had to understand key laws and secondary laws that applied to the business, and how they would be applied in the day-to-day operations of the business.

And do you think there's a particular type of attitude or temperament that a chief risk officer should have?---Yes, I do.

Could you explain what that is?---I think the temperament should be one where they are willing to consider all sides, understanding the law. So a level of intellectual rigour. And I think the willingness to challenge becomes a key aspect of what the chief risk officer does.

So I think you said in that answer they need to be willing to consider all sides. You mentioned intellectual rigour and a willingness to challenge?---Yes.

They were the themes of that answer?---Yes.

And what kind of relationship should a chief risk officer have with the board?---The chief risk officer should have regular consultation with the board. They should understand the board's risk appetite, what the board's strategy is, and they should be in a position to advise the board if there are any aspects that – where that risk appetite is not being achieved by the organisation.

And what about the relationship the chief risk officer should have with the rest of the business. Do you have views about that?---Yes. I think that there should be a level of distance so that the challenge can occur. However, I think that they should be in forums where risk issues are being considered so that they have the opportunity to exercise that.

Now, before you were the chief risk officer, your role within Allianz immediately prior to that was the acting chief market manager?---It was.

And can you explain your responsibilities in that role?---Yes. In that role, the marketing strategy, the data of the organisation, and communications – internal communications were all part of the chief market manager's role.

Now, we heard that before that you held different management roles in relation to the claims part of the business?---Correct.

You've been the chief risk officer for just under a year now?---Correct.

Is that right? Do you think that you've been an effective chief risk officer?---I do.

5 And why do you say that?---I was brought in in an more senior role giving more seniority, and with that authority one could say – with that seniority came authority as well. So the chief risk officer was made to be a chief general manager. During that time, we have – we have had an incredible program of change, primarily around corporate compliance, but also around risk maturity.

10 And what has your role been in that incredible program of change?---My role has been to help identify what was required, to help champion the investment that was required to fund that change, to articulate and gain the support of the board and the managing director for that change program and then to commence implementation of that change program.

15 And did you have any particular experience in risk or compliance before the role?---I did in that my job as both a lawyer was understanding the law, and advising insurers on the application of the law. Compliance commences with the law, and then compliance is how the organisation complies with those laws. So as a lawyer, I had experience in that regard. And then as a general manager in claims, I had day-to-day  
20 understanding of the operations of how compliance with the laws was achieved.

As well as a chief risk officer, Allianz has a head of compliance. Is that right?---Correct.

25 And what's the relationship between the chief risk officer and the head of compliance?---The head of compliance reports to me.

And the current head of compliance is Jennifer Davidson?---It is.

30 Now, she started in that role around the same time that you started in your role?---She did.

In October last year?---Correct. She started 23 October, and I started in December, but I was in transition at that time into the role.

35 Now, has there been a high turnover of risk and compliance personnel at Allianz in recent years?---There has not been a high turnover of risk staff. The chief risk officer retired after a number of years in that role, and in fact had been the only chief risk officer that Allianz had ever had. So she retired at the end of November. In  
40 compliance, there had been turnover in that role of the head of compliance, as well as the individuals in the corporate compliance roles.

And why do you think that was?---I don't know.

45 Is that something that you've looked into in your role?---I've looked at what are the capabilities that we need and the number of resources that we need. And now having recruited that capability that we need, how do you retain those qualified people.

You're also responsible for the customer advocacy division within Allianz. Can you explain the role of that division?---Yes. So customer advocacy is a new function to Allianz. When we brought together risk – so risk had previously reported to the chief financial officer – compliance had previously reported to the general counsel  
5 who reported to the chief financial officer. Those two areas were brought together. And then customer advocacy was added to that so that the division became risk, compliance and customer advocacy. Customer advocacy was the managing director and the board believing that there was a need to have frameworks in place so that  
10 decisions made by Allianz came through the lens of the customer and not just the customers' experience but through any other aspect that might be important to the customer.

So when was that decision made within Allianz, that it was important to start making decisions through the lens of the customer?---I – this is what was reported to me  
15 when the division was created and I was being asked to take the role. So I don't know when that decision was made.

When did the customer advocacy division commence?---It commenced in December when I commenced in the role. So in December of 2017, that's when I commenced  
20 as the chief general manager of the division, but with my title being chief risk officer.

And does Allianz have a customer advocate?---No, we do not. The goal was to begin to create what did that role mean, rather than creating one individual who would be  
25 the customer advocate.

Does Allianz think that in the future it will appoint an independent customer advocate?---We have created a new division where conduct and culture will be a line  
30 one function, so a business function, and that will be one of the considerations for the board and that new division.

Did you know that since 2016 IAG has had a consumer advisory board with representatives of consumer advocacy groups?---I was aware of that.

And does Allianz have anything like that?---We do not.  
35

And will you consider having anything like that?---What – I – what I would say is we want to make sure that there is a proper framework in place in the first instance, and then advice with regard to the operation of that framework is always helpful.  
40 How that would play out, those decisions have not yet been made.

So I take it from the answers you've given so far that you accept that prior to these changes, these recent changes made towards the end of last year, Allianz did not have a proper framework for making its decisions in a way that viewed them through  
45 the lens of the customer?---I – I would disagree with that in this way: customer is a component of risk and it is a component of compliance. So it would have always been a part of those frameworks. In addition, customer and creating customer centricity has been a long-running objective of Allianz.

Do you think that Allianz has in the past placed enough weight on the interests of its customers in its decision-making?---I – I don't know. I haven't considered about the past. I've thought about the current situation. So I don't know.

5 You heard the evidence of Mr Winter yesterday?---I did not listen to Mr Winter's evidence yesterday. I have heard some reports about that evidence, including in the press.

Have you read Mr Winter's statement?---I did.

10

All right. Having read his statement, what did the matters that Mr Winter deposed to in his statement say to you about whether Allianz has, in the past, placed enough weight on the interests of its customers in its decision-making?---I think that there have been compliance incidents, including breaches, that are highlighted in that statement which show there was not sufficient consideration of customer in those situations.

15

Do you think in the past that Allianz has devoted adequate resources to compliance?---No.

20

And do you think that senior management at Allianz have understood – and I'm talking about in the past now – have understood the importance of compliance and taking it seriously?---In my experience, in my time, I was not – I was a general manager. I was not a chief general manager. So we wouldn't say a senior manager. I took it quite seriously and my area took it quite seriously. If there are areas that didn't take it seriously, I would not be specifically aware of those.

25

Well, what does Mr Winter's statement say to you about whether senior management at Allianz have understood the importance of compliance and taken it seriously?---I – the issue that relates to the false and misleading information on the website indicates a lack of understanding of the urgency and need for the impact to customers.

30

By senior management?---I – I don't know that it was by senior management.

35 What level do you take that up to in the organisation?---I - - -

The lack of understanding of the urgency?---I have looked at exhibits with regard to Mr Winter's statement, and the discussion was at a level below what I would call senior management.

40

What level below?---Below the general manager level.

So a management level?---Yes.

45 Yes. But you say not a senior management level?---Correct. If we will – if we are defining senior management as chief general managers and general managers, it was below that level.

Were the chief general managers or managers made aware of the matters that are the subject of Mr Winter's evidence?---They have been made aware most recently. So in my time, they have been made aware.

5 But not prior to that, is that your evidence?---I don't know.

You don't know?---I don't know.

10 Okay. Now, I want to come to the evidence of Mr Winter about the website and the misleading, deceptive and incorrect information that was on the website. You accept that that material appeared on the travel section of the website for more than six years?---That is my understanding, yes.

15 And do you think that's acceptable?---No.

Do you have any observations about how that situation was permitted to occur within Allianz?---No. We're doing an investigation of that but at this point I do not.

20 Do you think it's acceptable that after an external law firm identified issues with the proposed wording to go on the website in November 2015, to describe the benefits under particular policies, Allianz went ahead and used that information on the website?---I'm sorry, what was the question related to?

25 Are you aware that in the third quarter of 2015, an external law firm gave some advice about the proposed new content for the website?---I am now aware of that, yes.

30 Yes. And are you aware that Allianz went ahead, over the concerns of the external law firm, to use that content on the website?---I – I am aware that the website was not applied in the way that the law firm had advised, yes.

And do you have any observations about why that occurred?---No. There is an investigation ongoing but that has not yet drawn to closure.

35 Do you think it's acceptable that after Allianz discovered that the issues on the website also affected the partner websites, no steps were taken to rectify the content on those websites?---In 2018 actions were taken to rectify the partner websites.

40 Well, let's take this bit by bit?---Okay.

There was the external law firm advice in the third quarter of 2015, which was not followed. You understand that?---I am aware of that, yes, from Mr Winter's statement, yes.

45 Then there was the detection in December and the early part of 2016 of problems with the website and numerous incorrect or misleading statements on the website?---Yes.

And you're aware that the website remained accessible after those matters were detected?---Yes.

5 Do you have any observations from a compliance point of view to make about that?---I would say that I was not involved at that particular time, so I am not aware of what the situation was, but there is an investigation that is going on which will help reveal those issues.

10 But do you have any observations to make, based on the fact that you are the current chief risk officer, of that conduct?---If there is legal advice that there is false and misleading information, that legal advice should be followed, and content should be removed.

15 And it was not?---I – my understanding is it was not, and that's what my understanding was at – in 2018.

You understand that in 2018 Allianz discovered that the issue also affected the partner websites?---I do understand that.

20 And that no steps were taken to take down the partner websites at that time?---In 2018 action was taken and has been taken with regard to the partner websites. My understanding is that prior to that, action was not taken.

25 And do you think action was taken quickly enough in 2018?---In 2018 it has required considerable investigation to determine all of the various partner websites, and I've been advised of those, that there are hundreds of websites, and that with the use of an external law firm, that those websites are being reviewed, and if any content is found, it is being taken down.

30 Okay. So the situation is that there were incorrect, misleading and deceptive statements on the Allianz website, including the travel insurance part of the website, for many years?---The false and misleading information for non-travel first occurred in December of '15, and then was rectified over 2016.

35 Yes?---So it would not be correct to say a number of years with regard to - - -

To that?---That content.

40 All right?---With regard to the travel content, it did extend from that period until it was detected in May of 2018.

Well, it wasn't detected in May of 2018, was it, Ms Callahan?---No, it was escalated in May of 2018.

45 So the content was on the website mostly from July 2012?---Yes.

Concerns were expressed in the third quarter of 2015?---It – in - - -

By the external law firm?---Yes.

Law firm?---Yes.

5 Prior to the new content being uploaded?---Yes.

After the new content is uploaded, further problems are identified over the course of 2016?---That's – that's my understanding from reading the documents.

10 Yes?---I was not a part of the discussions at the time.

But what I want to understand from you, Ms Callahan, as someone who wasn't involved in these events but has the role that you have, the chief risk officer role, I want to understand from you how this situation could occur?---I – there are multiple  
15 aspects of my view of what occurred. One was there was not a sufficient oversight by corporate compliance. So effective corporate compliance is explicit standards and strong structures. I don't think those were in place. So there was not the oversight and proper challenge by corporate compliance to do several things: (1) what is  
20 of customers and then the strengthening of the controls to prevent it from happening again.

So those are matters that you've characterised as involving insufficient oversight by corporate compliance?---Yes.

25

Is that right? Are there any other contributors to this conduct?---Yes. I think we had an insufficient adherence to the document compliance sign-off process. And I think that we did not have a sufficient understanding within the business of what the failure to meet false and misleading meant for a customer.

30

I'm sorry, of what – could you just say that again?---What false and – if there was false and misleading content, what that might mean for a customer.

I see. So do you mean by that an insufficient appreciation of the consequences  
35 - - -?---Yes.

- - - for a customer of false and misleading information being on your website?---Yes.

40 Were there any other causes of the conduct in your view, Ms Callahan?---We called out in the breach review committee in May about six different aspects but they relate also to the failure to supervise and monitor – so supervise and monitor as I described by corporate compliance, but supervision and monitoring of AWP, arising from a poorly understood relationship with regard to Allianz and AWP that resulted in poor  
45 supervision.

Any other causes that you would identify, Ms Callahan?---I could have my recollection refreshed when we – if we were to go to the breach review committee minutes, but those are the – really, the primary ones that are most prominent in my mind.

5

So can I summarise those?---If you would.

Yes. Insufficient oversight by corporate compliance?---Yes.

10 And you expanded on that in some detail. Insufficient adherence to the DCSO process?---Yes.

And insufficient appreciation of the consequences for customers of false and misleading content on the website. And inadequate monitoring and supervision of AWP?---Correct.

15

Okay. Now, can I put some propositions to you and see if these are propositions that you would accept. Do you accept that for many years Allianz has had inadequate processes for monitoring the content of its website and the websites of other companies that distribute its products?---I'm sorry, was the question inadequate?

20

Inadequate processes?---Inadequate processes.

- - - for monitoring the content of its website and the content of websites of other companies that sell Allianz products?---Yes.

25

And do you accept that for many years Allianz has had an inadequate process for monitoring and responding to identified compliance incidents?---I would not say that holistically. In taking over the role, I've had an opportunity to review prior processes, practices, and some of them are quite rigorous. Others are not and required significant change.

30

So do I take from that that you accept that there have been some inadequacies - - -?---Yes.

35

- - - over recent years in Allianz's processes for monitoring and responding to identified compliance incidents?---Inadequacies as in not sufficient, in my mind, to deliver the compliance results that one would want. I would not want to say that they were inadequate to perhaps a legal standard, because I have not evaluated that.

40

But inadequate in terms of delivering the desired response to the identification of the compliance incident?---For – for – I am seeing instances of that, and this particular instance is one of those that does show me that. While I do see other situations which were handled quite capably.

45

And do you accept that for many years Allianz has had inadequate oversight of the underwriting agencies, including AWP, and the other entities that are responsible for

distributing Allianz's products?---It was identified in 2016 via an internal audit report that our monitoring and control of underwriting agencies was not sufficient. And as a result, in commencing in early 2017, significant frameworks were put in place to correct that. However, AWP, partly because of its unique relationship to Allianz, was not picked up in that framework and governance.

And it should have been?---It should have been. And it has now been.

Now, can I ask, finally, if you accept that for many years Allianz's management have not considered risk and compliance as a priority. And I want to be a bit more specific about this. Allianz has not provided adequate resources to its compliance function?---Yes.

Allianz has focused on technical or legal compliance rather than encouraging a culture that has really looked to improve Allianz's processes?---So in answering both that last question and this question – because we haven't timeframed those – my answer to that would be that in my time as chief risk officer, and leading up to that with the changes that we put in place, I would not agree with that. Prior to that, I would agree.

So in the years prior to that, you would agree that there was a focus on technical compliance rather than encouraging a culture that really looked at what improvements needed to be made to Allianz's processes?---I have seen instances of that.

And when challenged about the adequacy of compliance processes, do you agree that in recent years Allianz has adopted a defensive rather than a constructive attitude?---I – I am not sure about – about that, I have to say. I don't really know. I do know that, obviously, as I previously said, with the change of the organisation and me coming into the role, that changed significantly, but I have not analysed that particular aspect and I really can't speak to that.

The global proposition that I put to you before those specific propositions was that Allianz's management, in the past, in recent years, have not considered compliance to be a priority?---Again, I see instances where that is correct, that AWP, false and misleading information is an example of that.

All right. Now, can I start by asking you some questions about Allianz's processes for monitoring website content?---Yes.

In previous years. You've accepted, I think, that there were failings in that respect?---Yes.

We know that the incorrect, misleading and false content that I dealt with with Mr Winter yesterday, which is the subject of his statement, was not the first time that there had been incorrect or misleading content on Allianz's website or on the websites of its distributors?---Correct.

Now, when you and Mr Winter wrote to ASIC about this incident on 12 June this year, you told Allianz – I'm sorry, you told ASIC that Allianz had identified seven previous matters that were similar to this one. Do you recall that?---I do.

5 Now, you've given information about those seven matters in your statement. Is that right?---I have.

And perhaps if we could turn to the relevant part of your statement at ALZ.0001.0091.0001. And we need to go to 0015. This is paragraph 82 of your statement, Ms Callahan?---Thank you.

10 You've provided in paragraph 82 a table providing information about the previous seven similar matters?---Yes.

15 Now, in the first row of that table, we can see that in December 2011 misleading statements were identified on Auto Clubs' websites?---Yes.

What was the relationship between Allianz and Auto Clubs?---I am not sure that I know.

20 Was Auto Clubs likely a distributor of Allianz products?---Yes. I would assume that but I don't know. I would assume that.

Okay. Then in the second row of the table which continues over the page, we see that in March 2013, ASIC wrote to Allianz with concerns about representations made on 1Cover's website. That was another distributor. Is that right?---Correct.

Was 1Cover an authorised representative - - -?---I - - -

30 - - - of AWP?---I am not sure. I would – I – I would assume but I don't know.

We see that here from the text in the table, if you look to the third sentence there?---Yes. Yes.

35 You can see 1Cover was an authorised representative - - -?---Yes.

- - - of AWP?---Yes.

40 Now, over the page, in the third row we can see that in June 2013, misleading disclaimers were identified on Auswide Bank's website?---Correct.

And then in the fourth row, there's a reference to misleading statements on the website of Bananacoast Community Credit Union Limited in July 2013?---Yes.

45 Now, I just want to give you an opportunity to consider the date in the final column for that entry. The customer remediation was completed in July 2018?---Yes.

Is that date correct. The July - - -?---It is the date of the final confirmation of the final payments that were made.

5 Yes. I think it may be the date in the middle column, July 2013, that may need to be considered, because it's unclear to me whether the conduct was in 2017 or 2013?---You are right. And I have not detected that, because the content of the incident in the first column says July of 2017.

10 That's right. But it's unclear to me whether it was a discovery in July - - -?---I - - -  
- - - 2017 of conduct in July 2013?---That is correct.

That's right?---It was conduct in 2013 but discovered in July of '17.

15 I see. Thank you. Now, in the fifth row, which is at the bottom of this page and continuing over to the following pages, we see that in March 2015, ASIC raised concerns with Allianz again, this time about statements on the website of Petplan?---Yes.

20 Do you see that?---Yes.

And we see, if we go over the page to 0017 – I'm sorry, we will need the previous page. I apologise. What I want to direct your attention to is the reference to this conduct affecting 740 customers. Do you see that at 0016?---Yes.

25 And leading to remediation totalling \$231,575?---Yes.

Now, Petplan was another agent of Allianz distributing pet insurance?---They were.

30 And then if we go back to 0017, in the next row there's a reference to misleading information on the AWP travel insurance website?---Yes.

So that was identified in December last year?---It was.

35 And it's now being treated as part of the same travel insurance incident that Mr Winter's statement deals with?---It is.

So just to be clear, Allianz identified an issue with incorrect or misleading travel insurance content on AWP's website in December 2017?---It did.

40 But it still took until May this year for anyone at Allianz to realise that AWP hadn't made any of the changes to the Allianz website that Allianz asked it to make in November 2016?---That is correct.

45 Do you have any observations to make about that, Ms Callahan?---That we would need to have firmer identification processes, but one of the things we are doing is reviewing incidents to determine where that might be necessary.

Is it identification processes you say that need to be improved? These issues were identified but not acted on?---Yes.

You accept that?---Yes.

5

All right. And in the final row of this table we see that in March this year, an error in stating a magazine subscription price appeared on the Club Marine website?---Yes.

10 Now, these are the seven previous incidents that you and Mr Winter referred to in the letter to ASIC?---Yes.

15 How many of these incidents were disclosed by Allianz to the Commission in its submissions earlier this year about misconduct or conduct that fell below community standards and expectations?---I have not done the cross-reference, but if we look at the items themselves, we indicate when they were included in our submission to the Royal Commission.

20 I want to put to you that only three of these matters were identified in the submissions to the Commission earlier this year?---Yes.

Okay. You accept that?---Yes.

25 Yes. And are you able to explain why the other incidents that had been reported to ASIC were not identified in the submission to the Commission?---I am.

30 Can you explain that?---Yes. The standard that we used in the submission was whether something had been deemed to be significant and, therefore, reportable under the requirements of reporting to ASIC. The items that were not included in the submission had had a previous consideration that they did not meet the reportability standard and, therefore, they were not included. However, they were referenced in the letter to ASIC because ASIC asked in its questions under the guidance 78, one of those is similar situations, and it does not relate to whether those were reported or not reported. It merely talks about the number and frequency of similar situations.

35 So Allianz interpreted the Commission's request to identify any misconduct or conduct that fell below community standards and expectations as being limited to a request for information about matters that had been reported to ASIC as a significant breach?---We indicated in our submission that we had used a materiality threshold and that that was the threshold that we had applied.

40

45 Now, these weren't the only similar incidents at the time that you and Mr Winter wrote your letter to ASIC, were they?---I would disagree with that. Now, the reason for that being the use of the term "similar". At the breach review committee, we had other items that were noted but they were not false and misleading. So the ones we noted to ASIC were ones that related to false and misleading content.

And which ones did you eliminate? What was wrong – what went wrong in the incidents that you did not report?---In the incidents that we did not report, they were things such as not applying a discount because the pricing mechanism had not been adjusted. And they were things also related to the link on a website going to the wrong PDS. And – so those were deemed not to be similar because they weren't deemed to be false and misleading.

Weren't they similar, Ms Callahan, in that they involved failures in oversight of what was published on the website?---Similarity with regard to root cause, probably is there. Yes, I would agree with that.

But you elected not to notify ASIC of those matters?---No, we used similarity as what also had been deemed to be false and misleading.

And do you stand by that interpretation?---I – I don't know. I – that's an interesting point and I would need to take legal advice on that. I don't think in any way when I signed the letter to ASIC I intended to withhold information. We were trying to disclose that there had been other situations where things were false and misleading. And it did not stand in the way, of course, of us reporting to ASIC. So meeting the other requirements for reporting as well.

Well, it did not stand in the way of reporting to ASIC at that point in June 2018. Do you accept that a report to ASIC ought to have been made much, much sooner than June this year?---I do.

Yes. And do you accept that more information should have been given to ASIC about similar previous breaches?---I – I took advice at that time about the term "similarity", and, again, not wanting to withhold information, but wanting to be, I guess, correct and show that there were these incidents of false and misleading information. I – I was thinking more about disclosing than withholding.

But you accept that these matters, the seven matters that are dealt with in your statement, were not disclosed to ASIC? I'm sorry, the seven matters were disclosed, I'm sorry?---These seven matters were disclosed. There were other matters - - -

I'm sorry?--- - - - which were raised at the breach review committee that were not.

I'm sorry. I should have put the question that way. You accept that those matters were not disclosed?---Correct.

Now - - -?---I just want to correct that, because I think one of them - - -

The 1Cover?---Yes, 1Cover was, yes.

Can I just ask you to look at that memo that was prepared prior to the breach review meeting. It's ALZ.0001.0071.9029. I think you will recall this memo prepared by corporate compliance - - -?---I do.

- - - Ms Callahan. Now, if we turn to 9031, we see a table setting out what corporate compliance regarded as similar matters that had been reported to ASIC previously. These are the matters I've just asked you questions about?---I – yes.

5 Yes?---I – I would correct that in that the document says:

*Similar matter reported.*

10 Yes?---But we were still doing an investigation on where were there similar matters or not, because we hadn't detected yet the seven that we ultimately related to ASIC. So the escalation of the issue came on a Tuesday, and we were wanting to have the breach review committee, the breach review committee memo was prepared on Sunday so we could have the meeting on Monday. And then work continued after that to identify whether things were similar or not similar.

15

I see. Now, could I ask that you look at 9033 in this table – in this document, where we see the heading Similar Matters Not Reported. Do you see that?---Yes.

Now, we see underneath that:

20

*From 20 November 2012 to 26 March 2018 there have been 46 website-related incidents raised in Tickit which either may not have been assessed for reportability or have been assessed and deemed not reportable.*

25 ?---Yes.

Now, 46 other incidents, therefore, were raised in your internal compliance system?---Correct.

30 These weren't referred to in your letter to ASIC?---No.

35 And why not?---They used a word search. We went through Tickit utilising word search and we utilised the word "website". In looking at website then in that period between when we were preparing the memo and then preparing the letter to ASIC, we were then looking at things which were related to false and misleading content.

I see. And you answered the letter – you wrote the letter to ASIC with that interpretation of what you were required to disclose?---Yes.

40 Now, the memo says that some of these incidents might never have been assessed to determine whether they should have been reported to ASIC, and did it concern you when you got this memo that some of these incidents might not have been assessed for reportability?---At about that time we identified that we needed to go backwards in time and look at all breaches. We were already looking at all open incidents and  
45 reassessing them. And we said that we needed to go backwards and look historically at reportability, and we brought in external resources and that activity continues.

So did you take steps to work out how many of the 46 incidents had not been assessed to determine whether Allianz had a statutory obligation to report them to ASIC?---We are going through that process now.

5 That has not yet been done?---It is being done but it has not yet been completed.

Okay. Now - - -

10 THE COMMISSIONER: When did it start?---It started at about that time, Commissioner, because we realised that we were not able, as corporate compliance, to assure ourselves that the 912D reportability requirements had been applied to all prior breaches, and we wanted to have our own confirmation of that.

15 You've now had four months to do it?---And we have been working through that – those. There are hundreds of those. There are currently 150-some open matters and so historically there are hundreds but we are working through those.

20 MS ORR: I just want to understand that evidence, Ms Callahan. There are about 150 open matters. What is an open matter?---It just means an – something has occurred and it needs to be assessed for whether it is a breach.

So a compliance incident?---It – a compliance incident.

25 So 150 open compliance incidents that have not yet been assessed for - - -?---No, I didn't mean to say that.

30 Would you clarify?---Yes. They have – those are open incidents and they are being assessed. So that might mean something that was just reported last week would be a part of that number but it would be a part of our assessment process. So let me just - - -

35 So can I – can I ask how many of those open matters, those 150 open matters, are yet to be assessed for whether or not there is a statutory obligation to report them to ASIC?---So since May, we have completed a review of all open matters, and we have increased the number of breach reports that we have made to ASIC.

40 And how many breach reports have you made to ASIC as a result of that review of the open matters?---I wouldn't say it is solely because of the review of open matters. Other matters have come into place as well, but seven matters have been reported to ASIC in 2018.

As opposed to how many matters that were reported to ASIC in 2017?---Either zero or one in prior years.

45 In how many of the prior years?---I – there was one year where there were four, but on the whole the average would have been one.

One per year?---Yes.

But so far in 2018 you've reported seven?---Correct.

5 All right. And that includes the matter that was the subject of Mr Winter's evidence?---It is.

10 Now, how many historical compliance incidents are still to be assessed for whether or not there is a statutory obligation to report to ASIC?---I don't have that number at hand but I don't want to imply that reportability was not appropriately considered. It's just that under my leadership we want to go through and look at all historical matters to determine if something needs to be reported.

15 But you're doing that, aren't you, because of a concern that some of those matters ought to have been reported to ASIC and were not?---I would say that the AWP situation is an example of something where there would have been reportability assessed differently under our new processes.

20 Have you told ASIC that you are in the process of assessing these historical matters as to whether or not they ought to have been reported to ASIC as significant breaches?---Yes.

25 Are you aware that a failure to report significant breaches to ASIC is regarded by ASIC as itself a breach - - -?---Yes.

- - - of the obligations imposed by section 912D?---I am well aware of that, yes.

30 Yes. So can you summarise where things sit now with the number of matters that you are not yet satisfied have been appropriately assessed for reportability to ASIC?---The number of matters that we are currently – that are currently open – and I have to be careful because something might have been reported yesterday and has not yet been assessed for reportability, because everyday matters are reported so – if you understand - - -

35 Do you mean reported into your internal compliance system?---I mean reported into our compliance system, I'm sorry, yes.

Yes. Yes?---So something might have come in to the Tickit system - - -

40 THE COMMISSIONER: Yes, well, let's take it at the end of last week, shall we, Ms Callahan?---Yes.

45 As at the end of last week?---So I don't know what the numbers are exactly at this particular moment.

MS ORR: Well, you mentioned hundreds in your answer to the Commissioner before. What were you referring to when you referred to hundreds?---That

historically over time since 2012 when the Tickit system went into place there would always be, so over that six-year period, there would be incidents. Many of them would have been deemed to not be breaches at all so would not even have been considered for reportability.

5

I'm sorry, but I still don't understand the answer to the question about how many matters there are that you are not satisfied have been appropriately assessed for reportability to ASIC as of the end of last week?---I cannot give you a number sitting right here now.

10

Is it a number in the hundreds?---I don't want to speculate but – I would – I should not speculate.

You're not able to assist the Commission to understand in any way the approximate number of incidents, compliance incidents at Allianz that you are not satisfied have been assessed for reportability to ASIC?---What I can say is that we have been through all open matters up until a period of time, be that the last several weeks, and during that we have identified that there were seven matters that should be reported and those matters were reported.

20

And that is not the end, is it? You are continuing to assess for reportability?---Closed matters, noting that there was previously a process for reportability. Now, we have not yet identified any matter in that process that should be. The matters that we have been reporting have all been open matters.

25

When you say that they would have been assessed for reportability, we see from the document on the screen that 46 website-related incidents were identified in May this year which no one could say had been assessed for reportability?---It says that some have been – either may not have been assessed for reportability, or have been assessed and deemed not reportable. So it is not accurate that they were not assessed. Some were assessed and some were not assessed.

30

So does that cause you, as chief risk officer, concern that some of those 46 website-related incidents had not been assessed for reportability to ASIC?---Yes.

35

And is that the cause of the review that you've given evidence about, to assess how many other compliance incidents there are that have not been assessed for reportability or have incorrectly been assessed for reportability to ASIC?---Yes.

40

But you are unable to say how many incidents that review will cover?---Yes.

THE COMMISSIONER: You can't give me any indication of the size of the task?---No, because to go back to 2012, which is our intention, at that point we were a much smaller and simpler business. So the number of incidents has grown as – over the particular years into more recent years, Commissioner.

45

I am a little surprised that you cannot give me any indication of the size of the task?---We have retained an external resource to assist us in that, and that resource is helping us right now to identify the methodology that is needed to go through those.

5 MS ORR: All right, Ms Callahan, I want to turn to Allianz's document compliance sign-off process, the DCSO process that you made acknowledgements about earlier in your evidence. Is it fair to say that there was a failure in that system with respect to the website content that was uploaded in December 2015?---Yes.

10 And with the incorrect or misleading content that was uploaded before that time following the review by external lawyers?---Yes.

Was there a failure in that system with respect to the seven similar website incidents that were referred to in your 12 June letter to ASIC?---Some of them were related to  
15 the document compliance sign-off process and others had other root causes.

I see. Now, on 21 May this year after the memo that's on the screen was prepared  
-- -?---Yes.

20 -- - you had the breach review committee meeting to consider the memo?---Yes.

You're a member of the committee?---I am.

You were at that meeting?---I was.  
25

As was Mr Winter?---Yes.

And Ms Davidson -- -?---Yes.

30 -- - the head of compliance. Now, you haven't exhibited the minutes of that meeting to your statement, but Mr Winter annexed them to his, and I will ask you to look at them. They're ALZ.0001.0071.8620. And I will just -- to assist the Commissioner -- explain that the document on the screen was tendered through Mr Winter's evidence yesterday. Now, have you seen these minutes before, Ms Callahan?---I have.  
35

And if we turn to 8622, we see a reference on that page to issues with Allianz's compliance arrangements?---Yes.

40 Do you see that?---Yes.

About a third of the way down?---Yes.

Continuing:

45 *It was agreed that a number of factors relating to this breach may indicate issues with compliance arrangements, including the original web content was not subject to the end-to-end DCSO process prior to being launched.*

You see that?---Yes.

Now, there are other matters referred to there that I want to come back to, but sticking at the moment with the DCSO process - - -?---Yes.

5

- - - if we turn to 8623 in the document, we can see that the travel insurance content wasn't the only breach that was considered by the breach review committee that day?---Correct.

10 And the second breach that the committee considered related to hyperlinks that directed customers to the wrong PDS?---Correct.

And we see, up the top of the page, under the heading Breach Description:

15 *DG advised that corporate legal identified that hyperlinks on a number of financial institution partner websites were linked to the wrong PDS, or alternatively there was no PDS and the customer was referred to the Allianz website which offers direct products.*

20 You see that?---Yes.

And further down, two paragraphs down:

25 *DJ commented that there was a risk that a customer may have made a decision to purchase the policy based on the PDS provided via the link on the financial institution partner's website, and this incorrect PDS may have had more beneficial cover than what they actually purchased.*

?---Yes.

30

Now, the committee decided to report this breach to ASIC?---Yes.

Now, corporate compliance also prepared a memorandum in relation to this breach ahead of the meeting. Do you recall that?---Yes.

35

And I will take you to that. ALZ.0001.0071.9346. Now, you received this memo, Ms Callahan?---Yes.

40 And we see on the first page it begins with a description of the breach. And if we move to the second and third pages, 9347 and 9348, we see a table setting out the different partner websites that were affected by the breach?---Yes.

And that carries over on to 9349?---Yes.

45 And on 9349 we see a discussion of the root cause for this particular breach?---Yes.

There are three points listed there. Do you see that?---Yes.

And the second relates to the DCSO process?---Yes, it does.

And what we see there is that corporate compliance said:

5           *All of our financial institution partners' web pages that contain information  
and content about our insurance products are required to be submitted through  
the DCSO process. This involves the content being reviewed by different  
stakeholders before the final approval being completed by corporate legal. The  
signed off content is then provided to our financial institution partners to use  
10           on their website. As the submission is a word document that contains screen  
shots of the content, no validation can be performed that ensures the people  
reviewing the task in DCSO can confirm what PDS will be linked on the  
website. This means if the account manager provides the wrong PDS link and  
the link isn't tested by them, it won't get detected until monitoring is performed.*

15

You see that?---I do.

So the DCSO process had been identified as flawed back in 2015 following the new  
content being uploaded to the website?---Yes.

20

But by May 2018, the date of this document, there were still significant problems  
with the DCSO process?---Yes.

Which it still only required a review of screenshots of the content?---Yes.

25

So no one could then check the hyperlinks, as we see here?---That's right.

Now, Ms Callahan, when will Allianz get its DCSO process right?---The ability to  
check the PDS link has now been put in place. What was required was something

30

---

If we could just pause for a minute?---Yes.

When was that put in place?---Some time after this breach review committee  
meeting. It's putting in place a staging site.

35

I see. Carry on?---And so the staging site has been implemented.

And I interrupted you. You were saying that the inability to check the PDS had been  
rectified. You were going to go on and say something else?---That – that it was the  
rectification is by way of putting in place a staging site.

40

I see. Well, there has been a recent internal audit which has considered the DCSO  
process, hasn't there?---Yes.

45

And that was conducted in August this year?---Yes.

So very recently?---Yes.

And if we turn to that report, I will tender this document first.

5 THE COMMISSIONER: Memorandum of corporate compliance, 18 May '18 concerning incident breach report wrong links to PDS, ALZ.0001.0071.9346, exhibit 6.285.

10 **EXHIBIT #6.285 MEMORANDUM OF CORPORATE COMPLIANCE, 18 MAY '18 CONCERNING INCIDENT BREACH REPORT WRONG LINKS TO PDS (ALZ.0001.0071.9346)**

15 MS ORR: Now, the internal audit which considered the DCSO process is exhibit 28 to your statement, ALZ.0001.0077.0519. We see this is the report of the audit?---Yes.

20 And if we move to 0520 and 0521, we see the executive summary of the audit report which sets out the key findings and recommendations?---Yes.

And the second of those on page 0521 relates to the document compliance sign-off process?---It does.

25 And we see that the audit found that the execution of the DCSO process is ineffective in ensuring adherence with legislative and internal requirements?---It does.

And three recommendations were made in response to that finding?---Yes.

30 They were:

35 *To review the DCSO process, to implement a DCSO awareness program, review and update the training manual, and roll out training to relevant stakeholders, and to design and implement appropriate monitoring controls over the DCSO process.*

?---Yes.

40 And if we turn to 0524, we see the more detailed findings in relation to the DCSO process. We see on the left-hand side, second paragraph:

*Internal audit reviewed the DCSO process and observed the following.*

45 One of the observations there, the second one, was that:

*Six identified cases of DCSO breaches or incidents, ranging from website content and PDS being published without legal sign-off to the PDS wording or policy schedule updates not being approved via the DCSO sign-off process.*

5 Do you see that?---Yes.

And below the dot points we see:

10 *This is due to the lack of governance controls, including monitoring of compliance with the DCSO process and delegation for PDS final sign-off, as well as a general lack of awareness by Allianz staff and some distribution partners of the DCSO process. We noted the PDS and website content for a new product was launched by AWP in December 2017 and was not subject to the document compliance sign-off and not reported to ASIC.*

15

Do you see those findings?---I do.

Do you agree with those findings, Ms Callahan?---I do.

20 All right. Then on page 527 we see that the report dealt with monitoring against legislative and regulatory requirements. Do you see that?---Yes.

And we see that the audit found that:

25 *The compliance plans for laws, legislation and regulation impacting product and related processes are out of date and compliance monitoring is not taking place. Whilst the review noted there is a process to receive new regulatory updates and requirements and to perform a business impact analysis within the technical division, the process to update and maintain the compliance plans and mitigate and monitor compliance with all relevant laws and regulations is unclear.*

30

?---Yes.

35 Do you agree with these findings?---I do and it's – I do. It's one of the reasons we've implemented some changes in the compliance transformation program. I agree with this.

So this is August 2018?---Yes.

40

This is within the last few weeks. And the audit report tells us that compliance monitoring is not taking place?---Yes.

45 And as chief risk officer, that concerns you?---It is why in that same month we had implemented a legislative change forum. So it had been my view that we didn't have a sufficient entity-wide process for identifying laws, changes of laws, and how

business units were responding to those and having documented plans for compliance. So we put in place the forum to rectify that. So I agree with this.

5 Have you fixed this problem, Ms Callahan?---The regulatory and legislative change forum will have, as its basis, the ability to address this problem, coupled with individual business unit compliance plans which are also part of the transformation program which we are documenting right now with the help of external assistance.

10 So I take it from that answer you haven't fixed this problem; you are still trying to fix this problem?---I think we have put in place the foundation so that the problem is now fixed. And – but this has identified an issue of which we were aware, and something that we were already putting in place because we had been having discussions with these relevant stakeholders about this issue.

15 When did you become aware of these problems?---I had had a question about DCSO for some time. The documented process - - -

20 How long had you had that concern, Ms Callahan?---Through – through my period as chief risk officer. I cannot put a specific date on it. But certainly at the time that the new chief technical officer was commencing at Allianz, I had a discussion with her about my concerns about the DCSO process, and as a result she initiated this audit review.

25 Yes. Which confirmed your concerns?---It did.

Did it take the concerns beyond the concerns that you originally had?---I don't – no. No.

30 The situation is just as bad as you thought it was?---It is. The situation is such, it is as I thought it was.

And you're still trying to fix that situation?---Well, we had put in place the framework to do that. So the forum has commenced.

35 Yes. And you've emphasised that a number of times that you've put in place a framework or a foundation?---Yes.

40 But there's a difference between putting in a framework or a foundation and seeing that the problem has been fixed, because the framework or the foundation are operating to fix it. Do you agree with that?---I agree completely. You have to start with it, you have to implement it, and then you have to check to make sure that it is effective. And if it is not, you have to continue to be self-critical and you have to continue to fix these things.

45 THE COMMISSIONER: Whereabouts in that process is Allianz at the moment?---We have implemented, Mr Commissioner, the legislative change forum. We've held two of those now, and we have taken up all of the key laws, brought all

of the key stakeholders, which includes the general managers who have to implement these changes.

5 I interpret your answer – and you will correct me if I’m wrong – as amounting to an answer that you are at the start of the process?---Thank you, Mr Commissioner. I would agree with that. We are at the start.

10 And how long will the process take?---The process itself will only conclude when we are able, as corporate compliance, to do an assurance assessment on whether the laws that have been identified are being appropriately applied. So there – there have been systems in the past, but this is a system that will allow us to identify as corporate compliance the laws, and then check that they are being complied with, if that makes sense. It’s commencing now.

15 Yes.

MS ORR: Now, can I move to another topic, Ms Callahan - - -

20 THE COMMISSIONER: Before you depart that topic, Ms Orr.

MS ORR: Yes.

25 THE COMMISSIONER: It no doubt is something you would have come back to anyway, but Ms Callahan, I just want to be sure about this because one of the obligations of any licence holder is to have adequate risk management systems?---Yes.

30 Am I to take the burden of the evidence you have just given as an acknowledgement that Allianz does not now have adequate risk management systems?---I would not agree with that. What I would say is we have had systems – Tickit is a system which identifies the laws which must be complied with, and asks business units if they have complied with those laws in very specific ways. What has happened is when there are changes to those laws, there has not been an sufficient process to ensure that those businesses take up those changes.

35 Again, so that you may have an opportunity to deal with it quite directly, on the screen you will see under B1, the first paragraph in column one:

40 *The compliance plans –*

Etcetera –

*are out of date and compliance monitoring is not taking place.*

45 ?---I – it - - -

Do you see that?---I do see that.

And do you accept that finding? I had understood that you had accepted that was an accurate finding by internal audit?---Yes.

Yes. Go on, Ms Orr.

5

MS ORR: Now, Ms Callahan, I wanted to turn to Allianz's process for monitoring and responding to compliance incidents?---Yes.

10 And you accepted earlier in your evidence that there were inadequacies in the processes for monitoring compliance incidents in that they did not deliver good compliance outcomes. Do you recall that?---Yes.

Now, the corporate compliance officer who prepared the memorandum prior to the breach review committee meeting on 20 May 2018 - - -?---Yes.

15

- - - took the view that part of the reason why the incorrect or misleading travel insurance content remained on the website for so long was the inadequate processes at Allianz for monitoring and responding to compliance incidents?---Yes.

20 You recall that?---I do.

And that was also the conclusion that the breach review committee reached?---Yes.

25 Now, if I could take you back to the minutes of the breach review committee meeting?---Yes.

ALZ.0001.0071.8620. Now, if we turn to the second page, 8621 under the heading Current Status, we can see towards the bottom of that section that:

30 *There was discussion in regard to how the issue was overlooked for such a lengthy period of time.*

Do you see that?---Yes. Yes.

35 Continuing:

40 *It was noted there was a key failure in oversight of the compliance incidents raised in Tickit. It also appears that once the legal risk assessment document was provided to AWP, there was no follow-up with them to progress the matter. Also, both the lawyer who prepared the assessment and the head of corporate compliance who appeared to be overseeing the original breach report, both left Allianz in early 2017 and it appears that this matter was not adequately and appropriately handed over.*

45 Do you agree with what's recorded there, Ms Callahan?---I do.

And as we saw earlier, on the following page, 8622, there was agreement at the committee as to a number of factors relating to the breach that indicate issues with compliance arrangements. And I took you to the first of those - - -?---Yes.

5 - - - which related to the DCSO process. But the other items on the list were:

10 *The delay in acting on the legal risk assessment completed in 2016 with a sense of urgency; failure by Allianz to follow up action required with AWP; failure for line 2 to monitor the progress and remediation of the compliance incident; and failure for timely ongoing revised consideration of the significance of the breach.*

15 Do you agree with that assessment, Ms Callahan?---I do.

Now, Mr Winter, in his evidence, talked about the process that was followed to remove or amend the incorrect, misleading and deceptive statements on the website that were identified in November 2015. Have you seen in his statement the evidence about the process that was followed?---Yes.

20 Who was responsible for monitoring the process to deal with this compliance incident?---At the time it would have been the risk and compliance officer.

25 And how would the risk and compliance officer have monitored it?---By engaging with the relevant business as to assessing the progress or lack thereof.

Now, there was a policy at this time that dealt with the monitoring of compliance incidents, wasn't there?---There was.

30 And you've annexed that to your witness statement?---I have.

It explained how incidents were to be monitored?---Yes.

35 And the remedial action for the compliance incident was required by that policy to be given a timetable?---Yes.

And the risk and compliance officer was to ensure that the remedial action was completed by any dates that were advised to the regulator?---Yes.

40 But nothing was said about how compliance incidents that were not reported to the regulator were to be monitored or within what period of time they were to be dealt with?---Mmm.

45 Do you agree with that?---Yes.

So that captured this compliance incident because it wasn't reported to ASIC until June 2018?---Correct.

So monitoring the response to this compliance incident was left to the discretion of the risk and compliance officer?---The policy would say that was the process, yes.

5 And what are the responsibilities of risk and compliance officers?---Their responsibility is to work with the chief general manager. They report directly to the chief general manager. And to advise on risk and compliance within the division, and how to achieve that. In the past, the responsibilities have been to do more of the work itself. More recently, we have moved that away from risk and compliance officers and on to the business itself.

10 More of what work?---Remediation, rectification and control strengthening.

In response to the compliance incident?---Yes. Yes.

15 So previously that was dealt with by the risk and compliance officer?---Yes.

And now it's dealt with by?---The business.

20 Okay. By the business unit?---Yes.

Is that right? And what qualifications are risk and compliance officers required to have?---Now they are required to have risk and compliance experience.

25 And what were they required to have at the time that this incident was being monitored?---I don't know what the requirements were at that particular time.

Were they required to have any particular qualifications to your knowledge?---I don't know that they were.

30 Were they required to have any particular risk or compliance experience?---I don't know that they were.

How many risk and compliance officers are there now at Allianz?---There is one lead for each division.

35 One – I'm sorry, I missed that?---One – one lead - - -

Yes?---One senior for each division. And then several divisions have teams that sit under that particular lead.

40 So how many in total does that give us, roughly?---I – I can't – I – I – I can't remember exactly. We have eight divisions and the teams are several within each of those. I can't – I can't remember.

45 You are the chief risk officer?---I am.

Ms Callahan?---I am.

You don't know how many risk and compliance officers you have at Allianz?---We have one risk and compliance officer for each division. So we have eight. Underneath those risk and compliance officers, however, they have teams of people that sit underneath them that are risk and compliance individuals.

5 And now they are required to have some qualifications?---They are required to have risk and compliance experience.

10 And when was that change made?---That was changed in early 2017.

And why was that change made?---I don't know.

15 Was it because of a recognition that your risk and compliance officers, given the responsibilities they had, were not adequately qualified for the role?---I would be speculating because I was not a part of the decision to make that change.

You don't know?---I don't know.

20 All right. Now, the remedial action for this compliance incident was the subject of reports to the Allianz risk committee, wasn't it?---This particular one?

Yes?---Yes.

25 Yes. Now, could I ask that you look at ALZ.1000.0012.0886. I will just give that number again. ALZ.1000.0012.0886. There we go. All right. So this is a report from Mathew Kaley to the risk committee at Allianz dated 6 May 2016. Have you seen this document before, Ms Callahan?---I have.

30 Now, Mr Kaley was the general counsel at this time?---Yes.

And if we turn to 0892 we see under the heading Compliance Breaches the start of a list of Allianz's key compliance breaches as at this time?---Yes.

35 Do you see that?---Yes.

And over the page at 0893, one of those compliance breaches relates to the misleading content on the website?---Yes.

40 The subject of Mr Winter's evidence?---Yes.

And under – next to Root Cause for that incident, we see:

*DCP was not complied with, with content approved through DCP not exactly mirroring the version which went live on the website.*

45 Do you see that?---I do.

And DCP is a reference to the document compliance sign-off process?---It is.

And then a plan for remediation is set out. And underneath that it records, next to Regulator:

5                   *The current position is that none of those raise breaches which are reportable to ASIC.*

So that was the position at the time of this document in May 2016?---Yes.

10                   And at the top of the box we can see the status is indicated by a yellow dot?---Yes.

And if we turn back to the first page, 0886, we see that there was a traffic light system, with green for satisfactory, yellow for a matter of concern, and red for a material issue?---Yes.

15                   You see that?---Yes.

Now, what was that a measure of? Was it a measure of how close the issue was to being resolved?---I don't know.

20                   You don't know?---No. It doesn't say. So – and I don't know.

Is the traffic light system still used in the reports to the risk committee?---We use a different traffic light system now.

25                   But you can't explain what this traffic light system meant in 2016?---No. I don't know what the concern – what that is related to, a concern to whom.

30                   We can see that it's a matter of concern because it had the yellow dot?---Yes.

But you're unable to explain any more what that means?---Is it a concern to management, is it a concern to corporate compliance. I – I don't know to whom the concern is directed.

35                   Do you think those who received this report on the risk committee understood what the traffic light system indicated?---I was not a participant in the discussion so I don't know the extent to which it was explained.

40                   But you, as the current chief risk officer, are unable to explain it?---I – I am.

Now, there were six compliance breaches referred to in this report?---Mmm.

45                   And was there any indication in the report of how serious each of the compliance breaches were? Was there anything to tell the risk committee how serious each one was?---Can we look - - -

Perhaps if we go back to the website incident?---Yes, thank you.

At 0893. And you can have a look at that one?---Yes. Thank you. With regard to your question as to the extent to which it indicates seriousness for the reader, I – this  
5 – the status is amber. So it’s indicating that it is a matter of concern but as we discussed, what that concern means exactly is not clear to me and I don’t know if it was described. I’m looking at the other. Seeing that the words “potentially significant” was used but then customer detriment for three matters is described as low. There was a remediation approach outlined.

10 So can you see anything, Ms Callahan, that demonstrates to the risk committee how serious this compliance breach was?---No.

15 Would you expect to see that in a report to the risk committee?---Yes.

Can you see anything about the degree of urgency in fixing the breach?---No. It has – does not provide, under the remediation category, the timeline for the - - -

20 No timeline?--- - - - remediation.

Do you think that was important information for the risk committee to have, the seriousness of the breach and the urgency with which the breach needed to be fixed?---Yes. And I – I do just want to be clear that I wasn’t in attendance, so I don’t know what was said with regard to this.

25 No. You weren’t at the meeting?---No.

But this is the report that was provided to the risk committee?---Yes.

30 And the report did not contain that information?---That’s right.

I will tender that risk committee report, Commissioner.

35 THE COMMISSIONER: Risk committee report by Mathew Kaley, 6 May ’16 concerning corporate compliance, ALZ.1000.0012.0886, exhibit 6.286.

40 **EXHIBIT #6.286 RISK COMMITTEE REPORT BY MATHEW KALEY, 6 MAY ’16 CONCERNING CORPORATE COMPLIANCE (ALZ.1000.0012.0886)**

45 MS ORR: Now, that risk report was from May 2016. Could I take you to the September 2016 risk committee report, which is ALZ.0001.0067.2110. So another report by Mr Kaley to the risk committee. September 2016. The website issue is referred to at 2118. And we see here that by September 2016, the compliance incident is now rated as satisfactory with a green dot?---Yes.

This compliance incident had not been satisfactorily dealt with at this time in September 2016, had it, Ms Callahan?---No.

We see highlighted in grey:

5

*Remediation of the breach is now substantially complete.*

Was that correct?---The remediation – I – the remediation of some aspects had been complete at that time.

10

Yes?---But the remediation of the travel certainly had not been.

Well, in September 2016, the review of the travel insurance content was still ongoing, wasn't it?---I – I believe that it was.

15

And Allianz hadn't yet provided the list of issues requiring rectification to AWP?---I – I'm not quite sure about that particular timing.

The evidence of Mr Winter was that that occurred in November - - -?---Okay.

20

- - - 2016?---Okay.

And we see here, underneath the reference to remediation being substantially complete, there are three dot points, and the third is:

25

*All material errors on the website have been corrected.*

Was that correct?---With regard to the travel, no, it was not.

30

All material errors were far from being corrected in September 2016, weren't they?---With – with regard to the travel.

Well, this is about the misleading content on the website?---Yes. Yes.

35

At this point, the misleading content was still being identified because the review was still ongoing - - -?---That's right.

- - - wasn't it?---Yes. For the other categories, it had been corrected at this point.

40

But where do we see that this compliance incident, as reported to the risk committee, is limited to those other categories of content?---That is not called out.

Because that is not the way this was described to the risk committee, was it?---That's correct.

45

This minimised both the severity and the need for a response to this compliance incident, didn't it?---It did.

Yes. I tender that document, Commissioner.

THE COMMISSIONER: Risk committee report of Mathew Kaley, September 2016, concerning compliance update, ALZ.0001.0067.2110, exhibit 6.287.

5

**EXHIBIT #6.287 RISK COMMITTEE REPORT OF MATHEW KALEY,  
SEPTEMBER 2016, CONCERNING COMPLIANCE UPDATE  
(ALZ.0001.0067.2110)**

10

MS ORR: Now, Ms Callahan, you've seen the November risk committee report. That's one of the documents that we asked to be drawn to your attention?---Yes.

15 And you know that by November the website incident had been removed - - -?---Yes.

- - - from the regular risk committee reports?---Yes.

As a compliance breach?---Yes.

20

Allianz's processes for monitoring the response to compliance incidents like this was deficient, wasn't it?---Yes.

And it had been for some time?---I – I would think yes.

25

And when did Allianz first identify problems with its processes for monitoring the response to compliance incidents?---I identified it during my time. I don't know if it was previously identified.

30 Well, let's look at one of the exhibits to your statement?---Okay.

Exhibit 12, ALZ.0001.0078.0177. This is an internal audit report - - -?---Yes.

- - - from September 2015?---Yes.

35

You've seen this document before - - -?---Yes.

- - - have you, Ms Callahan?---I have.

40 Now – sorry. Now, we see that this is a report of an internal audit conducted in about September 2015?---Yes.

And I assume you didn't receive a copy of the report at the time?---No.

45 But on the first page we see there's an executive summary. That's at 0178. And you've now, I assume, read this document?---I have.

Including the executive summary?---I have.

We see that this page sets out a summary of the audit results from September 2015. And we can see that it says, in relation to C:

5

*Measuring, monitoring and reporting.*

That significant improvement is needed. That's what we see from the orange dot next to that item?---Yes.

10

And if we turn to 0202 in the document, we see the more detailed findings in relation to the handling of compliance breaches. And under the heading Remedial Actions, we see:

15

*For all breaches reported to corporate compliance, any remedial action required is determined by the RCO –*

That's the risk and compliance officer?---Correct.

20

Continuing:

*... in conjunction with corporate compliance. Agreed remedial actions are monitored by corporate compliance for timely remediation and closure. However, we noted for breaches not deemed reportable to a regulator there is no defined standard process for monitoring (by either first or second line of defence) of remedial actions to minimise the risk of future compliance breaches.*

25

Further down:

30

*There is no standard process to monitor and confirm that remedial actions have been implemented prior to closing reported incidents.*

And:

35

*Verification that remedial action has been taken was limited to –*

If we go over the page:

40

*...obtaining evidence of implementation rather than obtaining evidence to assess the design and operating effectiveness of actions to prevent future breaches.*

You see that?---Yes.

45

And if we bring the previous page back up, we can see that this issue was listed as a low priority?---Yes.

And we see the audit report included recommendations?---Yes.

And in the fifth column, we see management's response to those recommendations?---Yes.

5

And the first item there is:

10 *Compliance has taken immediate steps to comply with its current obligations under the compliance incidents and breaches handling procedure and will monitor its compliance with those obligations through regular reviews.*

?---Yes.

15 So Allianz's compliance department had to be told via this audit report to comply with its own procedures?---Yes.

20 How could anyone take the compliance department seriously, Ms Callahan, if they didn't know to comply with their own procedures?---I cannot answer that. I think that it is one of the reasons why elevating the seniority of corporate compliance becomes important. It has to be taken seriously.

25 What does all of this say to you, Ms Callahan, about how seriously Allianz was taking its compliance obligations at this time?---The internal audit report is quite critical of the process.

It's very critical - - -?---Yes.

- - - is it not, Ms Callahan?---Yes. Yes.

30 And if we consider further management's response to these matters, if we turn to 0204, we see that in item 5 of management's response we see:

*Develop appropriate monitoring checks to ensure that the requirements –*

35 Of that particular policy that I have referred to:

40 *... are being met in practice, including in relation to the timeliness of investigations, legal reviews, adherence to regulatory reporting requirements, and recording of information into the compliance incident database.*

You see that?---Yes.

And item 6, which continues over the page is:

45 *Compliance will complete, prior to closure of a compliance incident, a summary of the incident's status and if there are any outstanding aspects of remediation, details of those and of responsibilities for their completion.*

?---Yes.

Continuing:

5           ...so as to ensure that no aspects are left incomplete.

?---Yes.

10          Now, these management actions that we see are assigned next to the characterisation of this issue as low?---Yes.

15          What does that say to you, the characterisation of this – of this set of problems as a low priority?---I would have to go back to the guide in the audit. The simple layman’s terms, without doing that, would tell me that it was not given sufficient seriousness that one would expect. Now, whether there was some sort of categorisation which was different than that, I actually haven’t reflected on.

20          Well, it appears to have related to a maturity spectrum of the lines of defence model?---Mmm.

If we bring up 0179 you will see the spectrum from low to high. Do you see that?---Yes.

25          Is that what you understand this relates to?---Yes.

30          So what do we interpret the assignment of “low” to these actions to mean?---To me in – if I was to take off my chief risk officer hat and just apply a layperson’s terms, it would mean that it was deemed to be not serious. When I reflect on the framework that is provided here with the maturity spectrum, it’s different than that.

I see. It’s different?---But one – I think that may be a little pedantic. Might the reader reflect back on those when they’re reading the word “low” is a question.

35          So you read it as not indicating seriousness for these problems?---It was that audit rated it as not serious - - -

Not warranting immediate attention. Is that how we should read that?---I – I – not sufficiently serious to be delivering inappropriate outcomes to the organisation.

40          I see?---And that’s how I would read it with the more technical lens.

45          And would you agree with that assessment?---I – we’ve made significant changes to the incident and breach reporting process. I think the way that it sits now is a much more appropriate approach. This approach that was being assessed – this is the audit of 2015, isn’t it – we were not in any way, at that point, along a spectrum as to where we are now. I don’t know if that is responsive to your question.

- What I want to suggest to you is that this audit report shows that at this time Allianz was not taking its compliance obligations seriously, particularly in relation to remedial action that was necessary after a compliance incident had been identified?---I think one could read that that way.
- 5 Would you agree with that assessment?---I think that – I – this tells me that it was rated low and I would not have rated it low.
- And what about the problems – let’s leave the rating of them for the moment?---Yes.
- 10 The problems were very serious problems, were they not?---The AWP incident, the website refresh incident, those were very serious issues, which warranted close consideration and oversight. And they were not given that.
- 15 And the audit report was not just about that incident. It was about the treatment of compliance incidents more generally, wasn’t it?---Yes.
- And numerous deficiencies were identified?---Yes.
- 20 I took you to parts of the management response to that. Were the management actions implemented?---There were changes made to the procedure and I can see that afterwards. Although I think the changes that have been made this year are more sufficiently significant as to make the change that are – changes that are required.
- 25 So any changes that were made in response to this audit report in September 2015 were not adequate to fix the problems?---I – they – they didn’t fix the AWP problem. They did not fix the website.
- They didn’t fix the broader problems with the way Allianz responded to an identified compliance incident, did they?---That’s – that’s right.
- 30 All right. I will tender that document, Commissioner. I’m sorry, I apologise, Commissioner. My mistake. This is an exhibit to Ms Callahan’s statement. I want to take you to one more document and then it might be a good time to have a brief break for both you and me, Ms Callahan. Can I take you to exhibit 13 of your statement, which is the next internal audit report from just over a year later in November - - -?---Yes.
- 35 - - - 2016. Now, as part of this audit – we will see that on the screen in a minute – the audit team reported on the status of the management actions from the 2015 audit report?---Yes.
- 40 And when it comes up - - -
- 45 THE COMMISSIONER: Have you got a doc ID, Ms Orr?

MS ORR: I'm sorry, ALZ – I apologise – ALZ.0001.0078.0146. This is the November '16 audit report. Now, if we go to 0172, we see the report about the management actions from the 2015 report?---Yes.

5 And if we look at the sixth item, we see that:

*Due to the timing of the 2016 audit, implementation and operating effectiveness could not be tested.*

10 Do you see that?---Yes.

But the audit team recorded the status of this item as:

*Closed based on design effectiveness.*

15

?---Yes.

20 What does that mean?---It means – it means that the documented process is acceptable to audit. It is the operation then of the process by the business which is left untested.

Which hasn't been assessed?---Yes.

25 So this is the item – the management response item that said before a compliance incident was closed there needed to be a summary prepared to ensure that no aspects of the remediation were incomplete?---Yes.

30 And this report was prepared in November 2016. So by that time, a process had been put in place for that to occur?---Yes.

30

But no one had assessed whether the process was effective?---Internal audit hadn't checked that, yes.

35 Yes. Now, this is just two months after the compliance breach for the website content was closed on the basis that remediation of the breach was substantially complete. Do you recall that from the September 2016 risk committee report?---It was closed off on reporting. The incident itself remained open.

40 So it was closed from reporting but open for some other purpose?---Yes.

40

Can you explain that?---No.

Do I take from that that you don't understand why that would be the case?---Yes.

45 That was in accordance or not in accordance with your processes at that time?---It was acceptable for it to be closed off in reporting to the board if the standards for which the board received information, but there could be items that still needed to be

documented, and those items had not yet been completed with regard to the breach, therefore, allowing the breach to be closed.

5 So it should not have been closed off from reporting?---I – I – I don't know because I don't know what the standard was for reporting to the board.

All right. Ms Callahan, has Allianz improved its systems for monitoring remedial action in response to compliance breaches?---Yes.

10 How?---We have done two things: (1) we have put in place something called an incident management committee. That committee will oversight all incidents, whether reportable or not, and will identify what is the rectification of the immediate issue, what is the remediation status for customers, what is the strengthening of the controls that have happened within the business. In doing that, we have identified  
15 that it is not the risk and compliance officer who is responsible. We have identified a role and documented a role called the accountable business owner. It makes the general manager have to attend the meeting and report on the status of these activities in order to embed ownership with the business owner from where the breach itself occurred.

20 Now, when were those changes made?---Those have just been implemented as a part of the compliance transformation program.

25 So when?---It would have been in August, although I might – August, I think, was our first one.

So within the last few weeks?---We have had two. So they're fortnightly. So, yes, that would be right.

30 And there was a second matter?---Yes. So the breach review committee itself. So previously, the breach process for reportability was a – described as a discussion between the risk and compliance officer and corporate compliance. The relevant – relevant chief general manager and other particular stakeholders. Now, all of those people attend a meeting, the breach review committee meeting. So it is headed by,  
35 chaired by, the head of compliance, attended by the chief risk officer of the relevant CGM, the general counsel, the instructing solicitor within legal who has been helping to do the legal consideration, and then a senior compliance officer who is the note-taker. At that session, it is determined – it is considered what is the root – root cause and what will be done for remediation. So that's early on, so we're deciding  
40 reportability, but then that information flows on into the incident management committee. So breach review committee was implemented in May. Incident management committee - - -

45 May this year?---Excuse me, May of 2018. And the incident management committee would have been in August of 2018.

5 Why were those changes made, Ms Callahan?---When we made – when we created a new division, when we identified that there was a need for change within corporate compliance and significant change, it was identified that there needed to be structures which were corporate compliance led, not business led in order for corporate compliance to meet its obligation to challenge and review.

If that's a convenient time, Commissioner, perhaps if we could take a brief break.

10 THE COMMISSIONER: How long do you suggest, Ms Orr? If I come back at quarter to, or - - -

MS ORR: Yes, thank you, Commissioner.

15 THE COMMISSIONER: Yes. Adjourn until quarter to midday.

**ADJOURNED** [11.36 am]

20 **RESUMED** [11.45 am]

THE COMMISSIONER: Yes, Ms Orr.

25 MS ORR: Thank you, Commissioner. Ms Callahan, could I turn to a different topic, which is your acceptance earlier in your evidence that issues have been identified with Allianz's oversight of underwriting agencies?---Yes.

30 And that those issues were not fixed in relation to AWP until quite recently?---That is correct.

And do you say those issues were fixed by the very recent underwriting agreement that Allianz has entered into with AWP in July of this year?---I do.

35 And so you accept that under the prior version of that underwriting agreement, Allianz had far less oversight of AWP?---Yes.

40 And over the time that that agreement was in force, Allianz was aware that there were issues with AWP's compliance with its legal obligations?---Yes.

When did Allianz first become aware of that?---I – I don't know.

45 You don't know when those issues emerged?---But when we – when – when we were first aware of that. I know that there were comments in board reports going back to reference to 2012 and an action plan that was developed - - -

Yes?--- - - - with regard to compliance.

- Yes. So in the latter part of 2012, an action plan was created for AWP to improve its compliance?---Yes.
- 5 Now, the compliance issues that AWP was demonstrating to Allianz included – well, let me put it this way: did AWP not prioritise requests from Allianz to improve its compliance systems?---Yes.
- 10 Did it not undertake reviews to ensure that it was complying with legal requirements at Allianz’s request?---Yes.
- 15 Did all of that indicate to you that AWP did not take compliance seriously?---I am – I have read the board reports and I don’t know if there was another reason for the delay in actioning, but one could draw that conclusion.
- 20 Do you accept that under the prior version of the underwriting agreement with AWP, Allianz’s oversight of AWP was inadequate?---Yes.
- 25 Do you accept that AWP regarded compliance as a lower priority than other aspects of its business?---I – I would say, from reading the reports, my view is yes.
- 30 And AWP’s conduct created a risk that Allianz would breach its own legal obligations, didn’t it?---Yes.
- 35 So Allianz needed to put stronger systems in place to ensure that AWP did what was necessary to ensure that Allianz complied with its legal obligations?---Yes.
- 40 So given that those issues with AWP’s attitude to compliance were identified as early as 2012, why did it take until July 2018 for Allianz to enter into a new arrangement with AWP which gave it greater oversight of those matters?---Yes. I – I – here I am referencing board reports and not my personal experience.
- 45 Yes?---When I read the board reports there was the action plan that had been agreed in September of 2012 - - -
- 50 Yes?--- - - - late 2012. It then, for two years thereafter, updates are provided on that but with delay in the actions being taken.
- 55 Yes?---The final item that is in the board report before it is no longer reported is that the actions by AWP have been completed. So not independently knowing if those were completed, that’s what the report had said. So it appears there was a time at which Allianz became comfortable that AWP had put in place proper compliance processes and at that point there would have been then this break in the thinking with regard to AWP.
- 60 And did that appear to be around the end of 2014 to you, from your review of the reports?---Yes.

Yes. So it took a period of about two years for AWP to implement the action that it agreed with Allianz it would take in September 2012?---That is certainly what the board reports say.

5 But AWP's prioritisation of compliance was still problematic after November 2014. Do you accept that?---Because of what I have read about the website - - -

Yes?--- - - - incident, I would say that there were insufficient processes to prioritise those things, yes.

10

Within AWP?---Yes, within AWP.

And insufficient oversight of that by Allianz?---Yes.

15 And do you accept that that contributed to the incorrect, misleading and deceptive content being on the website for close to six years?---Yes.

There was a failure by Allianz to oversee AWP?---Yes.

20 And that wasn't, I want to put to you, the only way in which Allianz failed to oversee its agents. Do you accept that there were other ways in which Allianz failed to oversee its agents?---So - - -

25 Leaving AWP to one side?---Prior to 2017, in 2016 there had been an internal audit which identified failings in the oversight of underwriting agencies. As a result of that, resources were allocated to that, a governance process was put in place, a sign-off and risk process was put in place. A fairly structured process was put in place in 2017. But AWP was not made a part of that.

30 Yes. So those changes were made last year?---Yes.

But equivalent changes were not made in relation to AWP until July this year?---Correct.

35 Now, could I ask that you look at the submission that Allianz provided to the Commission in January this year. That's RCD.0001.0012.0003. You've seen this document before, Ms Callahan?---I have.

40 Were you involved in the creation of this document?---I was part of the committee where I had oversight of it. I didn't write the document myself.

Okay. But you had oversight of the content of the document?---Yes, I did.

45 Now, if we turn to 0039, we see in section 4, which dealt with areas that related to community standards and expectations – do you see that?---Yes.

Allianz referred, towards the bottom of the page, to its conduct with respect to car dealer add-on insurance products?---Yes.

5 Does Allianz acknowledge that its conduct in relation to dealer add-on insurance products described in the submission fell below community standards and expectations?---Yes, it does.

10 Now, over the page at 0040, we can see in the first full paragraph, part way through, that:

*Allianz has agreed with ASIC that there are groups of dealer customers which may have obtained Allianz insurance products through this general advice model which are not suited to their individual circumstances and that a level of remediation is called for.*

15 Do you see that?---Yes.

Continuing:

20 *And while Allianz did not accept that it was legally responsible for choices made by customers, it accepted that some customer outcomes may not have met community standards and expectations.*

25 ?---Yes.

And those included that:

30 *Some customers purchased both gap insurance and comprehensive motor insurance from Allianz on a new vehicle where the comprehensive motor insurance included an element of replacement cover which could reduce the need for gap insurance.*

?---Yes.

35 Continuing:

*Some customers purchased gap insurance with no finance gap at the point of sale and so were unlikely to have needed the product.*

40 Do you see that?---Yes.

Continuing:

*Some customers purchased a higher level of gap - - -*

45 ?---Could we – I’m sorry to interrupt - - -

THE COMMISSIONER: The pop up is too large at the moment.

MS ORR: Sorry.

5 THE COMMISSIONER: We need to come down.

THE WITNESS: Thank you.

10 MS ORR: Do you see now I'm at the third dot point:

*Some customers purchased a higher level of gap or tyre and rim insurance than they needed.*

?---Yes.

15

Continuing:

*Some customers who paid their loans off early did not seek nor receive a refund of premium under their gap insurance.*

20

?---Yes.

Continuing:

25

*Some customers who purchased consumer credit insurance were, due to their own circumstances, unlikely to have needed the product or unlikely to have been eligible to claim on part of the cover, and some customers who purchased tyre and rim insurance or an extended warranty product were unlikely to have been eligible to claim on the cover.*

30

?---Yes.

Now, below this we see a discussion of the cause of these problems and one of the causes is identified as systems for monitoring authorised representatives?---Yes.

35

So there was a failure on the part of Allianz in its systems for monitoring the car dealers who were Allianz's authorised representatives?---Yes.

40 And underneath that we see that Allianz agreed with ASIC to carry out a remediation program in relation to these matters?---Yes.

And on the next page, 0041, we see that Allianz reported in January this year that it expected that the remediation program would involve payments totalling \$45.6 million?---Yes.

45

So do you accept, Ms Callahan, that Allianz has had much broader problems with its systems for monitoring and supervising third party distributors of its products that go

far beyond AWP and the car dealers?---I would – I – to respond, we had issues with regard to underwriting agencies, issues with regard to AWP, and then, yes, motor dealers and then financial institutions.

5 Yes?---And so yes, if the question is did we have failings in that regard, yes.

Well, broader problems with your systems for monitoring and supervising your third party distributors?---Yes.

10 Which went beyond AWP?---Yes.

And went beyond the car dealers?---Yes.

15 You acknowledge they went to the financial institutions who were selling your products as well?---Yes.

And to other distributors?---Not to other distributors, because brokers are other distributors and brokers have their own obligations with regard - - -

20 Sorry, I mean - - -?--- - - - to the customer.

25 Other underwriting agencies. Is that right? The others that you dealt with in 2017?---Yes. So other underwriting agencies, yes, and motor dealers and financial institutions. So programs have had to be put in place for both of those. You are correct.

30 Do you accept that Allianz needs to invest more in its compliance systems and its risk management systems to improve its supervision and monitoring of third party distributors?---If you're asking the question do they need to, that investment has occurred. That investment is happening now.

35 But this is another thing that you've started?---Some of that I started. Others were started as a part of the engagement around the add-on products throughout 2017 and the arrangements that were put in place to supervise and monitor authorised representatives arising out of that particular project.

So some changes were started some time ago?---Yes.

40 You started further changes?---My changes are to oversight, whether those are effective, because of that review that line 2 is to do. But line 1, the business, put in place significant – they have put in place changes to the monitoring and supervision – supervision of motor dealers and financial institutions.

45 Have you got to a point yet where you feel satisfied that you have effective supervision and monitoring of third party distributors of Allianz's products?---I believe we do but there is one more thing I want us to do.

What is that, Ms Callahan?---I want to move all manual controls to system controls. And that is the firmest and strongest type of control that can occur. But in the first instance, you have to test whether the manual control is even the right control before you can automate it, so I accept that.

5

So is that a further step that you intend to take?---Yes.

And when will that happen?---The manual controls are in place right now.

10 Yes?---And the manual controls are being assessed in a variety of ways to determine if they are effective. If they are effective, then you would automate them.

Yes. I see. But you don't yet know whether they are effective?---They appear that they are.

15

But you don't know. Is that right?---I – I have not yet provided my final sign-off on anything that they are, but from what I see, I see structures in place, monitoring in place that has the effect of the outcomes that we have wanted to achieve.

20 And once you are satisfied of their effectiveness, you will then move to automation of those controls. Is that right?---Yes, Automation of any control is always the strongest control.

I see. All right. Could I tender the Allianz submission, Commissioner.

25

THE COMMISSIONER: Allianz submission to the Royal Commission, 29 January '18, RCD.0001.0012.0003, exhibit 6.288.

30 **EXHIBIT #6.288 ALLIANZ SUBMISSION TO THE ROYAL COMMISSION, 29 JANUARY '18 (RCD.0001.0012.0003)**

35 MS ORR: And could I turn now, Ms Callahan, to another matter that I raised with you early on in your evidence, which is Allianz's management's attitude to risk and compliance?---Yes.

Do you recall I asked you some questions about that?---Yes.

40 And you accepted that Allianz has not provided adequate resources to its risk and compliance function in previous years?---In previous years. In 2018 that has been rectified.

45 And you accepted that there were instances when Allianz focused on technical legal compliance rather than encouraging a culture that really looked to improve its processes?---That was my view, yes, in prior years, yes.

5 Yes. And you accepted that there were instances where Allianz's management did not consider risk and compliance to be a priority?---That is – that is the area where I didn't agree completely because I said that I have now seen instances of very good approaches with regard to risk and compliance, but then I have seen others where there are failings and significant change needs to occur. The AWP website situation is one of those that I see as one of those failings.

10 You said that you weren't sure, I think, whether Allianz had adopted a defensive attitude when challenged about risk and compliance matters?---Yes. I – I don't know – and the problem, of course, here is I'm speculating before my time based upon reading a variety of different documents, some which indicate things were well in hand, others which indicate that they were not.

15 Well, I want to take you to some documents that deal with matters both shortly prior to your time and within your time?---Yes.

In recent years, Allianz has commissioned a number of external reports to consider its risk and compliance systems?---Yes.

20 Now, in 2017, Allianz commissioned Ernst & Young to conduct an assessment of both its risk management framework and its compliance framework?---Yes, two separate reports.

25 Yes. Now, that was the first time that an external review of the Allianz risk management framework and the compliance framework had been conducted. Is that right?---In external review, that is correct.

So Allianz engaged EY to do that in about September last year?---Correct.

30 And in that month, EY interviewed a range of Allianz employees?---Yes.

And reviewed documents that were provided to it by Allianz?---Yes.

35 And towards the end of September last year, EY produced a draft report on Allianz's compliance framework?---Correct.

And you've exhibited a copy of that draft report to your statement?---Yes.

40 If we go to exhibit 15, ALZ.0001.0078.0120. We see that the draft report is dated 25 September last year?---Correct.

And if we turn to 0123, we see a summary of EYs objectives, scope and approach?---Yes.

45 Under The Objectives, we see that:

*EY has been engaged to undertake a review of the compliance framework of Allianz Australia Limited and its associated insurance entities.*

?---Correct.

5

And under The Scope:

*The objective of this review is to gain an independent and comprehensive assessment of the design and effectiveness of the compliance framework.*

10

?---Yes.

Then under Approach we see that:

15 *As part of the engagement, EY assessed each insurer's compliance framework against the key elements of the Maturity Model Assessment.*

Do you see that?---Yes.

20 Continuing:

*The primary procedures for the review involved a combination of desktop review of compliance documentation.*

25 ?---Yes.

Continuing:

30 *... including key policies, procedures, frameworks, and interviews of 31 staff, management, executives and board participants across insurance entities, business units and the three lines of defence framework.*

?---Yes.

35 Now, you were one of the 31 people interviewed as part of EY's assessment of the compliance framework?---I was.

As was Noeline Woof?---Yes.

40 The chief risk officer at the time?---Yes.

As was Mathew Kaley, the group general counsel?---Yes.

And others, including your chairman?---Yes.

45

The chair of the board risk committee?---Mmm.

The managing director?---Yes.

And the national compliance manager?---Correct.

5 On the next page, 0124, we see the maturity model assessment scorecard that was used by EY?---Yes.

And EY scored Allianz's compliance framework as evolving - - -?---Correct.

10 - - -?---in six areas?---Yes.

Do you see that?---Yes.

15 And they assessed the compliance framework as "established" in four areas?---Correct.

Now, EY set out their key findings in this draft at 0126. Under the heading Compliance Framework, Policies and Procedures, we see towards the end of that first paragraph:

20

*Line 2 personnel are responsible for drafting compliance related documents which line 1 personnel are then responsible for implementing. The top-down approach utilised to determine compliance obligations results in individual interpretation and inconsistency in approach across business units.*

25

?---Yes.

And then if we go to the third paragraph under that heading:

30 *Overall, we were unable to identify an overarching compliance framework which delivered a clear and comprehensive guide to navigating compliance obligations, reporting requirements and/or monitoring and controls.*

?---Yes.

35

Then under the heading Resourcing EY said:

40 *Our investigations and following interviews reveal an overarching sentiment of under-resourcing for compliance personnel across both the first and second line. As a by-product, day-to-day activities are dominated by reactionary work such as remediation and responses to incurred incidents and breaches. As a result the operation of the compliance function is reactive in nature instead of proactive and there is currently limited focus on emerging compliance risks.*

45 ?---Yes.

Continuing:

*Further, delays in updates to policies and procedures is also an indicator of under-resourcing.*

And then under Clarity of Approach and Reporting Lines, we see that:

5

*The group compliance function had been operating separately from the group risk function. We have not been able to identify any clear direction as to which issues should be escalated to compliance and which issues should be escalated to risk by risk and compliance officers who are required to operate using both risk and compliance approaches. So at times, issues or breaches have gone unreported to the correct department which has flow-on effects for focus areas and reporting requirements.*

10

And finally, under Learning and Education, we see that EY said that:

15

*Learning, training and education opportunities for compliance personnel were evolving. Compliance training is undertaken during the induction period, and once every three years following the initial session. Interviews suggested that minimal professional development opportunities are offered to line 1 compliance personnel. Interviews suggest an issue with lack of transparency within the compliance function, which in turn affects learning and development. For example, we are advised that management are reluctant to divulge all information about regulator meetings and contact. The lack of transparency hinders line 1 personnel's ability to identify emerging risks or focus areas within their business units. This lack of investment in training and education extends to regular and consistent industry updates for compliance personnel. Conducting regular updates is especially significant given the current regulatory environment.*

20

25

30 These were the findings in the draft report from EY?---Yes.

And could I take you, just finally, over the page to Monitoring and Controls, and what EY had to say about that:

35

*Overall, throughout document review and interviews conducted, we were unable to establish a framework and process for compliance controls and/or the monitoring of such controls. The lack of a consistent controls testing process diminishes the ability to undertake compliance assurance and monitoring from a testing perspective.*

40

And down the bottom:

*A quality assurance process is reportedly undertaken bi-annually in some (but not all) business units which assists in testing whether compliance requirements are adhered to.*

45

Now, Ms Callahan, you weren't the chief risk officer at the time EY provided this report?---Correct.

5 It was provided to Noeline Woof, who was the chief risk officer at the time?---No, this report would have been provided to Mathew Kaley.

The general counsel?---The general counsel because corporate compliance did not report through risk at the time.

10 Well, if we turn to 0121, we see that the letter provided by EY - - -?---I did see that. - - - was directed?---When I looked at it, yes.

15 You see it was directed to Ms Woof?---It was.

The chief risk officer?---Yes. And I'm not sure why that was because in fact she didn't have any responsibility for corporate compliance. And I don't know why.

20 You don't know why - - -?---No. - - - it was provided to her?---No.

25 Did you receive a copy of it at the time?---At some point I received a copy of the report but I received a copy of the final report. It was - so after this - - -

There was another version?--- - - - there was another version.

30 Do you recall receiving this version?---I don't recall receiving this version. I recall receiving the - the - the other version.

Okay. So at this time you weren't the chief risk officer. Ms Davidson, who's the current head of compliance, was not the head of compliance?---Correct.

35 There was an acting head of compliance?---Correct. That was Kathryn Scott-Mackenzie?---Correct.

40 Now, is it fair to say that once this draft report was received, Allianz was not pleased with EY's assessment of its compliance framework?---I - I - if I am Allianz - - -

You are Allianz - - -?---Quite the opposite - - -

45 - - - Ms Callahan?--- - - - then. I would not say, because I didn't - I wasn't aware of the draft until recently.

But - but - sorry?---Upon receiving the EY report itself, along with other issues that were happening at - at the time, it became the reason for change, although it -

change was already in place because they had already elevated compliance, created the new division, and - - -

5 At the time that this report was received on 25 September?---That – I wasn't in place in the role at the time but it had already – arrangements had already been made that I would become - - -

Yes?--- - - - then the head of the division in December.

10 But those key changes that you have told us about, the compliance transformation program - - -?---Yes.

- - - and things of that nature happened after this time?---They did. They did.

15 Now, the report in this draft form was given to Allianz we see from this letter on 25 September?---Yes.

And on 27 September there was a meeting to discuss it?---I have now – I am now aware of a series of meetings that occurred, yes.

20 Were you at that meeting - - -?---No.

- - - on 27 September?---I was not.

25 Do you know who attended that meeting?---I don't know but certainly if there's a document that shows, I would defer to that.

30 Well, perhaps if I could show you EYA.0003.0001.1116. Now, if we could bring up both pages of this document on the screen. We can see the whole of the email that starts at the bottom of the left-hand side. That's an email from James Brigham to Petar Andric and Charlotte O'Sullivan?---Yes.

They're all EY staff who were involved in this review?---Mmm.

35 And that first email at the bottom of the page was sent on 6 October 2017. Now – you see that?---Can we make it be smaller, sorry, so I can look at the whole of the - - -

40 You would like to see it - - -?---Yes.

- - - in its context?---Yes. Thank you.

Yes?---Now, sorry, what was your question?

45 I was just pointing out that the email was sent on 6 October 2017?---Yes.

And we see that Mr Brigham says:

*Hi team, the meeting this afternoon went well. Much more civil than last week's. Evidently, Noeline had either run out of steam or got it all out of her system.*

5 Now, Noeline is Ms Woof, the chief risk officer?---Yes.

And we see from this that Mr Brigham characterised the meeting the previous week, following the delivery of the draft report, as a meeting that was not civil?---Yes.  
10 Now, that meeting, if I can just clarify, this is not a meeting about the compliance report.

What was it a meeting about?---It was a meeting about the risk report. So - - -

15 So the other piece of work provided by EY?---Yes, which was done by a separate team - - -

So - - -?--- - - - led by Andrew – I can't – yes.

20 So the meeting about the risk report was not civil?---That is the report of EY.  
Yes?---Yes.

25 But we see that characterisation by EY of their meeting with Allianz about that report?---Yes.

So Allianz had been provided by EY with a draft report of EYs independent risk review?---Yes.

30 But the chief risk officer's reaction was to get upset with EY about that report?---It appears here, yes.

And did EY agree to do another version of that report?---Now, I am not aware that there were changes to the risk report.

35 EY did another version of the compliance report, didn't they?---They did. They did.

40 And why did they do that?---My understanding is that Kathryn Scott-Mackenzie identified factual items that she thought were not properly taken up in the draft report.

She identified factual items that were not properly taken up in the draft compliance report?---Right.

45 Is that right?---Yes.

All right. Before we leave this email we see Mr Brigham said on the second page:

*Andrew is keen to meet with Lori.*

That's you?---Yes.

5           ...without Noeline or Karen present.

Karen was Karen Wong the head of risk management at the time?---Yes.

10           And who was Andrew?---Was the partner who led the risk side and the risk report for EY.

15           And did you end up meeting with him without Ms Woof or Ms Wong present?---I've now met with him on multiple occasions and I can't quite remember at that time if I did, but because the chief risk officer was retiring from the business and leaving the business, my focus was on risk at that time.

This was Noeline who was retiring?---Yes, Noeline, yes.

20           Noeline who was at the meeting which was described as not being civil?---That's correct, because the general counsel and Ms Mackenzie would still be at the organisation, so I would be able to still access them. I was very keen to be across the risk issues at this point.

25           All right. Well, I want to take you to the events after this meeting that occurred after the compliance report was provided in draft form, and it appears the risk report was also provided in draft form?---Okay.

So I will tender this email chain.

30           THE COMMISSIONER: Emails concerning latest CPS 220 meeting with Allianz, 6 and 9 October '17, EYA.0003.0001.1116, exhibit 6.289.

35           **EXHIBIT #6.289 EMAILS CONCERNING LATEST CPS 220 MEETING WITH ALLIANZ, 6 AND 9 OCTOBER '17 (EYA.0003.0001.1116)**

40           MS ORR: Now, could I ask that you look at EYA.0003.0001.2262. And do you see that the first email on this page is an email from Mr Andric to Ms O'Sullivan and Mr Brigham. Do you see that?---Yes.

Within EY?---Yes.

45           It was sent on 28 September, the day after the meeting that Mr Brigham described as not civil?---Yes.

And Mr Andric said:

*As an FYI I had a quick chat to Karen and her broad feedback is similar to Kathryn's.*

?---Mmm.

5

So that's Karen Wong, the head of risk management?---Yes.

And Kathryn Scott-Mackenzie, the acting head of compliance?---Mmm.

10 So were they providing feedback, one of them on the risk report and the other on the compliance report?---Yes.

And it was described in this email as being similar in broad terms?---Yes.

15 Neither of them were happy with the reports that had been provided by EY, were they?---It's interesting, because when you read this, it's the second sentence:

*She also thought a lot of the report was based on interviews, especially the RCO ones.*

20

So it – it looks, on one hand, that there are the interviews they felt were inconsistent with documents that showed otherwise.

25 Well, what was wrong with EY basing the draft report on its interviews with the 31 people, including very senior management?---I don't think there is anything. I – I don't find anything wrong with that.

30 Well, wouldn't those people be in the best position to understand the compliance and risk arrangements in the business?---I think that documents are one thing but how the process is lived in the organisation comes through in the interview process.

35 But we see from this email that EY's impression was that Karen and Kathryn were expressing some concern about the extent to which the reports were based on the interviews?---Yes. Yes, they did. I don't agree with that.

All right. Well, I tender that email chain.

40 THE COMMISSIONER: Emails concerning Andrew not attending CPS 220 meeting tomorrow, 28 September '17, EYA.0003.0001.2262, exhibit 6.290.

**EXHIBIT #6.290 EMAILS CONCERNING ANDREW NOT ATTENDING  
CPS 220 MEETING TOMORROW, 28 SEPTEMBER '17  
(EYA.0003.0001.2262)**

45

MS ORR: Now, after these discussions, Allianz sent EY information for it to consider in redrafting its report?---I think they sent it and also it was provided maybe in meetings that Ms Mackenzie had with them. I'm not quite sure the logistics, but information was provided.

5

Yes. For EY to consider in redrafting the compliance report?---Yes.

Do you agree with that?---Yes.

10 And did Allianz provide material that proved that the things EY said had gone wrong – sorry, let me put that differently. Did Allianz provide evidence that demonstrated the things that it said EY had got wrong in the draft version of the compliance report?---Is that what was provided? Is that the question? The things that were –  
15 yes. So my reading is that Ms Mackenzie identified that there were things that were misstated of a factual nature. She wanted to correct that and was providing documents to correct that.

20 So did she provide material that proved that EY had got it wrong?---I would say in some instance yes but in other instances no, because now that I have looked at these documents quite recently, I see that there are places where she made suggestions and they were not taken up.

25 I see?---So she made comments and they did not – things were not changed as a result.

Well, let's look at EYA.0003.0001.2882. We see here an email on 16 October last year from another EY employee, Roberto Fitzgerald - - -?---Yes.

30 - - - to Mr Brigham who we've seen in the previous emails. Mr Fitzgerald said:

*Hi. Let's find a way to thematically deal with the "were we advised" stuff, ie, Allianz could not demonstrate – maybe an upfront observation theme that it's high trust and not written down?*

35 Now, were there things that Allianz simply asked EY to accept when it redrafted its report without providing evidence to prove those things?---My reading of the final report shows that there are things where EY has said that it was said by Allianz that this occurred but we cannot find documents to prove that.

40 Yes. So does that suggest to you that there were things that Allianz simply asked EY to accept when it redrafted its report without providing evidence to prove those things?---I – I think "accept" is an incorrect term because they called out that Allianz said this happened but we saw no evidence of it. So I don't think that was necessarily accepting, but it certainly cannot be said that they ignored it completely  
45 and didn't put the comments in. They did put the comment in. Allianz has said this occurs.

But they took those matters into account but made sure to qualify the way they would use them. Do you accept that?---That's probably – yes. Yes.

Now, I tender this email, Commissioner.

5

THE COMMISSIONER: Email Fitzgerald to Brigham concerning “were we advised”, EYA.0003.0001.2882. The email is dated 16 October '17. That document becomes exhibit 6.291.

10

**EXHIBIT #6.291 EMAIL DATED 16/10/2017 FITZGERALD TO BRIGHAM CONCERNING “WERE WE ADVISED” (EYA.0003.0001.2882)**

15 MS ORR: In mid-October, EY sent Allianz a new draft of the compliance report, didn't it?---Yes.

And you didn't exhibit that further draft to your statement?---No. I was not aware of that until recently. Yes.

20

You weren't aware of the - - -?---No.

- - - intervening draft?---No.

25 Well, let's look at ALZ.0001.0097.2370. If we look at the email that starts partway down the page, which is dated 18 October, we see that Ms O'Sullivan of EY sent Ms Scott-Mackenzie of Allianz a further draft of the report?---Yes.

Do you see that?---Yes.

30

And then if we look at the email above, we see that Ms Scott-Mackenzie, then the acting head of compliance, emailed you and Mathew Kaley who was the general counsel?---Yes.

35 And she said to you both:

*I have received the next draft of the compliance review framework (attached below) from EY. They have made positive changes to the overall assessment which is good. The ratings have been changed to seven established –*

40

You will recall the evolving and established characterisation from the draft:

*The ratings have been changed to seven established up from four and three evolving, down from six. I am still not happy with some of the representations and will pull together some further feedback for them. In my opinion, the detailed section has not been updated sufficiently. I feel there is still a significant focus on line 2 versus line 1 rather than the compliance risk or*

45

*community. For this, I will refer to my original comments and incorporate into the feedback. Once you have had time to review, please let me know if there is any specific feedback you would like me to pass on.*

5 Do you see that?---Yes.

So as a result of the feedback that Allianz gave on the draft report, EY revised its assessments in Allianz's favour?---It did.

10 But Ms Scott-Mackenzie was still not happy with the report?---Yes.

She decided to give EY more feedback?---Yes.

15 To try to get them to make their assessment of Allianz's compliance system more positive?---It would seem from this email that was the intent.

Yes. I will tender that email chain, Commissioner.

20 THE COMMISSIONER: Emails concerning draft compliance framework assessment 18

October '17 to Callahan and others, ALZ.0001.0097.2370, exhibit 6.292.

25 **EXHIBIT #6.292 EMAILS CONCERNING DRAFT COMPLIANCE FRAMEWORK ASSESSMENT DATED 18/10/2017 TO CALLAHAN AND OTHERS (ALZ.0001.0097.2370)**

30 MS ORR: And if we turn to ALZ.0001.0097.3170. We see an email from Ms Scott-Mackenzie to Mr Andric at EY on 24 October 2017 at about 8 am?---Yes.

35 So this is six days after – I'm sorry, six days after the email I took you to before, 18 October?---Yes.

And we see that attached to this email Ms Scott-Mackenzie provided a marked-up copy of the compliance review report with extensive comments. Have you seen - - -?---I have recently seen that, yes.

40 Do you accept that there are extensive comments throughout the draft report?---I do.

That were provided by Allianz to EY?---Yes.

45 Again, to try to get them to make their assessment of Allianz's compliance system more positive?---I think that that appears to be the intention.

Can I take you to that marked-up draft, ALZ.0001.0152.0001. Now, Commissioner, could I tender both the email and the attachment to that email.

THE COMMISSIONER: Email Scott-Mackenzie to - - -

5

MS ORR: Mr Andric.

THE COMMISSIONER: Andric of EY, 24 October '17 concerning CPS 220 and compliance reports, ALZ.0001.0097.3170 together with attached marked-up draft compliance framework assessment, ALZ.0001.0152.0001, exhibit 6.293.

10

**EXHIBIT #6.293 EMAIL SCOTT-MACKENZIE TO ANDRIC OF EY DATED 24/10/2017 CONCERNING CPS 220 AND COMPLIANCE REPORTS, (ALZ.0001.0097.3170) TOGETHER WITH ATTACHED MARKED-UP DRAFT COMPLIANCE FRAMEWORK ASSESSMENT (ALZ.0001.0152.0001)**

15

MS ORR: And could I ask you now, Ms Callahan, to look at EYA.0003.0001.2839. You will recall that the email I've just taken you to was from 24 October last year?---Yes, thank you.

20

Now, when this email comes up on the screen, you will see an email partway down the page from the day before, 23 October 2017?---Yes.

25

Sent the previous afternoon from Ms Wong at Allianz to Mr Andric at EY. Do you see that there? I'm sorry, you don't have the footer but you can – and the redaction has removed - - -?---Okay.

30

- - - the name of the sender unfortunately?---Okay.

If I bring up the subsequent page, 2840, you will see that it's an email from Karen Wong?---Okay. Thank you.

35

Head of risk management?---All right.

Do you see that?---Thank you, yes.

Now, if we turn back to the first page, attached to this email was a marked-up copy of the other report that EY had been commissioned to provide, the report about the risk framework?---Yes.

40

And above that we can see that Mr Andric at EY forwarded this email to Mr Brigham at EY?---Yes.

45

Just before noon on 24 October?---Yes.

That's after Ms Scott-Mackenzie had sent Mr Andric the marked-up compliance report - - ?---Yes.

--- at about 8 o'clock that morning?---Yes.

5

And we see that Mr Andric said to Mr Brigham:

*I think we need to figure out how to put a line under this. This feedback process is never-ending and we don't have an unlimited budget (nor the resources) to keep going round in circles on this.*

10

?---Yes.

So Allianz's insistence on challenging EYs independent views of its compliance framework and its risk framework was starting to wear down EYs patience?---Yes.

15

I tender that email chain, Commissioner.

THE COMMISSIONER: Emails concerning CPS 220 and compliance reports of 23 and 24 October '17, EYA.0003.0001.2839, exhibit 6.294.

20

**EXHIBIT #6.294 EMAILS CONCERNING CPS 220 AND COMPLIANCE REPORTS OF 23 AND 24 OCTOBER '17 (EYA.0003.0001.2839)**

25

MS ORR: Now, if we turn to ALZ.0001.0060.0162. Partway down this page we see that on 30 October, EY sent through a further version of the compliance report?---Yes.

30

And above that, we see that Ms Scott-Mackenzie forwarded the email to others within Allianz, including you?---Yes.

And Ms Davidson?---Yes.

35

She expressed disappointment that there had been no rating changes since the last draft?---Mmm.

Do you see that?---Yes.

40

EY had already increased a number of the ratings from evolving to established in the previous draft?---They had.

But Ms Scott-Mackenzie appeared to have been hoping for even better ratings in this next version of the report?---I would say that's what the email seems to reflect.

45

Yes. I tender that email, Commissioner.

THE COMMISSIONER: Emails concerning compliance assessment framework, 30 October '17, ALZ.0001.0060.0162, exhibit 6.295.

5 **EXHIBIT #6.295 EMAILS CONCERNING COMPLIANCE ASSESSMENT FRAMEWORK, 30 OCTOBER '17 (ALZ.0001.0060.0162)**

10 MS ORR: Now, you've exhibited a copy of the final version of EY's report to your statement - - -?---I have.

- - - Ms Callahan. It's exhibit 14, ALZ.0001.0078.0069?---Yes.

15 It's dated 2 November last year?---Yes.

And on the first page we see that EY at 0070 thanks Allianz for engaging it:

*... to carry out an independent compliance framework assessment.*

20 ?---Yes.

And if we look at 0072, we see that the objectives, scope and approach are much the same as in the earlier drafts?---Yes.

25 Except that under Approach, the final report now says, partway through the paragraph under the dot points:

30 *Where Allianz has been unable or did not provide documentary evidence of certain projects, processes or plans, we have relied on the veracity of information provided to us by Allianz.*

?---Yes.

35 So the information that had not been proved by Allianz to EY was accepted by EY to be correct for the purposes of the report?---Was unable to provide, we've relied on the veracity of information. Yes, that is what that says. Yes. Yes.

And then if we turn to 0075, we see the ratings that EY assigned?---Yes.

40 Now, could we bring up, side by side with this page, ALZ.0001.0078.0120 at 0124. We can see that the ratings changed quite significantly between the first and final versions of the reports?---Yes, four went up and one went down. Is that correct.

45 Well, what started as six evolving categories - - -?---Yes.

- - - and four established categories became three evolving categories – half the original number – and seven established categories?---Yes.

Did it occur to anyone at Allianz that a better way to improve its ratings might be to improve its compliance systems rather than pushing back on the findings of external reports?---For me, I commenced a program of change not based solely on these findings. So to the extent some individuals at Allianz thought that was appropriate, I think it is more appropriate to rely on that as one input. It was interesting to me that the number of recommendations had increased from 27 to 35 and they had become more directive. When I looked at the definitions of these standards, I have continuously – not continuously – I didn’t do it every day – but on a regular basis I have considered my own view of these, and I think that is important. So an independent report should be an independent report. If there are factual changes, facts should be changed but if it’s something other than that, it should not be - - -

Do you think that Allianz permitted EY to do what it needed to do to provide a truly independent report about your compliance framework?---I think we did not properly supervise people so that that appears as though that occurred.

As though what occurred, Ms Callahan?---That there were changes in ratings and it is unclear to me if the changes in the ratings were purely based on the facts. I’ve looked at the marked-up document with the comments on it, and I’ve compared it to the final version, and I see that very few of those were taken up but the ratings themselves were changed from that very first version to the last. So it – it’s an independent report.

But do you accept from me - - -?---The consultant should be acting independently. I’m sorry to interrupt.

Do you accept that you made it difficult for EY to act independently in providing this report?---I think that if there are factual changes they should be made but when I read these emails presented it appears that your – the way that you have described it, that that is true and their reaction in their email indicates that.

You accept that there were Allianz staff who did all that they could to push for the ratings to be improved across the various drafts of the report?---It does appear that that has occurred, yes.

And was that appropriate - - -?---No.

- - - Ms Callahan?---Absolutely not.

And what does it say about Allianz’s willingness to engage with external assessments of its compliance systems?---External assessments of compliance is a important input, as well as other inputs itself. What it says I – I don’t know. Did I rely on it solely for what we were going to do for the transformation program? I would say that the ratings were not as important to me. What was important to me were the recommendations that were made.

You prepared the management response to this report, didn’t you?---I did.

And management generally agreed with the observations and recommendations made by EY?---We accepted all of their findings.

5 And indicated that there would be an action plan to address the areas that were noted for improvement?---Correct.

And towards the end of November last year, the board resolved to accept the recommendations and adopt the action plan?---They did.

10 And you say in your statement that this was the first in a series of actions that resulted in the adoption of what you've already referred to as the compliance transformation program?--- Yes.

15 Now, Allianz appointed another external consultant, Deloitte, to assist it in implementing the compliance transformation program. Is that right?---It did. It has also appointed other external experts as well, so lawyers had been engaged as well.

20 Now, in June you decided to commission Deloitte to undertake a review of Allianz's compliance arrangements in light of incidents that had been identified by the breach review committee - - -?---For – yes.

- - - as warranting a report to ASIC. Is that right?---I identified five breaches, yes. And they had all been reportable breaches to ASIC, yes.

25 So part of the compliance transformation program was a review of the open compliance incidents?---Yes.

And that led to five incidents being reported to ASIC in late May and early June?---Yes.

30 And those five incidents included the travel insurance incident?---It did. It did.

35 So you commissioned Deloitte to undertake a review of your compliance arrangements in light of those incidents. Is that right?---I – they commissioned the review to do three things. (1), to look at what were the control failures. So we were doing a comprehensive root cause analysis on the individual ones, but as you looked at them, were there any things that Deloitte might find with regard to the control failures. The second was, all right, we're in a transformation process. We're about to have a board meeting. Are we doing enough? And then the third aspect was if 40 we're not doing enough, what more should we be doing.

You asked for Deloitte to do a short, sharp, independent review of compliance?---I did.

45 Is that right?---I did.

You - - -?---Of those three aspects, yes, not of compliance as a whole.

You wanted them to identify what had led to the recent control failures and compliance incidents?---Correct.

5 Now, you wanted them to prepare a draft report or outline of findings by 9 July?---Yes.

And you asked them to do this on 19 June?---Yes.

10 Now, as part of their work, Deloitte interviewed Allianz staff members?---Yes.

Now, I want to go to the notes of one of the interviews with an Allianz staff member. If we could go to DTT.0001.0001.0205. Now, these are notes of an interview by Deloitte with Jennifer Davidson who by this time was the head of compliance at Allianz?---Correct.

15 You've seen this document before, Ms Callahan?---I have.

20 Now, if we turn to the first page, 0206 we can see some observations that are relevant to one of the matters that I've asked you questions about already. We can see that Ms Davidson is recorded as saying, just below halfway down the page:

*Allianz appoints all FI as agents.*

25 Do you see that?---Yes.

MR LOCKHART: I object. I object.

THE COMMISSIONER: Yes.

30 MR LOCKHART: It's not clear from the notes as to whether that was Ms Davidson reporting something or whether - - -

35 THE WITNESS: Yes, thank you. I see it on the page. But I don't know that that was what Ms Davidson was reporting.

MS ORR: I see. So we don't know whether that's something that Deloitte said to Ms Davidson or Ms Davidson said to Deloitte?---I don't know if it's a question that they had, I don't know if it's a statement she made, or whether it is a note by Deloitte of something they wanted to check on.

40 Well, you accept, having read this document, that it appears to be a note of an interview with Ms Davidson?---It does.

45 And do you accept that the content appears to generally be a record of things said by Ms Davidson to Deloitte in that interview?---My problem with that is - - -

MR LOCKHART: .....

THE COMMISSIONER: Just a moment?---Okay.

Sorry, what do you want to say?

5 MR LOCKHART: I object, Commissioner. It's the same basis for the objection.

THE COMMISSIONER: Namely.

10 MR LOCKHART: The witness is no position to answer that question.

THE COMMISSIONER: Well - - -

MR LOCKHART: Beyond speculation.

15 THE COMMISSIONER: The witness can be asked the question. The witness can make the answer she feels fit, I think, Mr Lockhart, and she is not unable to deal with these matters. Go on, Ms Orr.

20 MS ORR: Ms Callahan, you've read the document?---I have.

Does it appear to you to be notes of things said by Ms Davidson in an interview conducted by Deloitte as part of the work that you commissioned?---My problem with answering yes to that is this: is that my own practice is when I am making notes, I make notes in a meeting about things that I think of that I want to check on, that may not be related to the meeting itself. So I cannot affirmatively say these are things that Jennifer said to Deloitte. I don't know. I would be speculating.

Can I put it to you this way: do you accept that the statements in this document are either statements made by Ms Davidson or statements or views held by Deloitte as a result of their work at this point?---They – they would either be statements by Jennifer, they would be notes that Deloitte would be making either about what they were hearing or something else that had been going on in their program of works for us, or perhaps something else again that they needed to check on and look at. And, again, I say that because that is my own practice.

35 Yes. I understand. So let's look at the record on this page that says:

*Allianz appoints all FI as agents.*

40 Do you assume that FI is financial institution in the same way it is within Allianz documents?---I would think FI would be financial institutions.

And we see an arrow under that:

45 *DD not done on them first.*

What do you interpret that to mean, Ms Callahan?---I – I would be speculating here.

I want to put to you that that is:

*Due diligence not done on the financial institutions appointed by Allianz as agents.*

5

?---On them first 100 per cent full stop. That could be - - -

No, I interpret the 100 per cent as belonging with what follows it. Let me put it to you this way?---Because the full stop comes after the 100 per cent.

10

Let me put it to you this way, Ms Callahan: does Allianz do sufficient due diligence on the financial institutions that it appoints as agents?---I believe that we do, yes.

15

And does this document indicate to you that either Deloitte or Ms Davidson had a concern about whether that was correct?---If Jennifer had a concern about that, she is the head of compliance and it would have been raised, and I'm not aware that it has been raised.

20

Well, that's why these notes are very important, isn't it, Ms Callahan, because this is an interview with your head of compliance?---Yes.

Now, can I take you to another part in the notes. If we go to 0212, a few pages on, in the middle of the page we see the words – do you see:

25

*Overly legalistic approach to technical defensibility versus practical good compliance outcomes.*

?---Yes.

30

Do you understand this to be Ms Davidson's view of the situation at Allianz?---So not knowing these particular notes, Jennifer and I have had that discussion that she has had that view.

35

So that is a view that Ms Davidson holds about - - -?---Held. Held. I want to be careful about that because it was one of the reasons we put in place the breach review committee.

Well, this is 4 July this year?---Yes.

40

That your head of compliance held these views, Ms Callahan?---Well, I don't know that that is a contemporaneous view that she held or if that was the view as to why we put in place the program of works, recruited her - - -

45

When did Ms Davidson express these concerns to you?---When we were talking about the formation of the breach review committee, and the importance of having the breach review committee, it was the formulation of that, puts in place a process where you don't have an overly legalistic view, you have a more practical view.

Was it Ms Davidson's view that there was an overly legalistic approach at Allianz to technical defensibility versus practical good compliance outcomes?---That had been her view and it was one of the reasons for the changes.

5 And next to that comment there's an arrow pointing to another comment, and the note says:

*GC backs this approach –*

10 I'm sorry, we're going to need to just go a bit further down on the page so you can see that. We need to expose just above that section:

*GC backs this approach plus chair of board.*

15 And underneath that:

*I want to know exactly what the legal position is.*

20 What do you interpret that to mean, Ms Callahan?---That the general counsel - - -

Yes?--- - - - referenced what legal compliance requirements were. And that was his point of reference.

25 That the general counsel - - -?---I want to know exactly - - -

The general counsel backed the overly legalistic approach to technical defensibility versus practical good compliance outcomes?---I am speculating here.

30 No, I want to understand whether you think that is what the general counsel does?---I – I don't have a view that the general counsel does that.

35 Well - - -?---But my view is that if there is that view held, that you have to have processes that overcome that. You have to put in place structures then that don't allow an overly legalistic view.

40 It would be very troubling if your general counsel had an overly legalistic approach to technical defensibility versus practical good compliance outcomes, wouldn't it?---I – I would agree. And that's why I cannot confirm or otherwise, but what I would say is that was a view and the approach to that was put in place a breach review committee because that overcomes that.

And what about the chair of your board:

*I want to know exactly what the legal position is.*

45 ?---The chairman is a lawyer and he is always interested in what the legal view is. I wouldn't say that he has an overly legalistic view of things, though. I think he is

quite challenging on the need for compliance to be quite broad and to deliver appropriate business outcomes.

5 So he is always interested to know what the legal position is?---I wouldn't – not – I –  
I would not say that he is always interested. There have been times when he has asked, "What does the law require?"

10 Does he adopt an overly legalistic approach to technical defensibility versus practical good compliance outcomes?---No.

So you don't know why these comments appear in this document?---No, I – no, I don't.

15 Now, over the page at 0214, we see a reference to:

*Audits don't get finalised, push back from management on findings.*

Do you see that towards the middle of the page?---Yes.

20 Do you agree with that comment or assessment?---That was true in July. We've put in place a process to overcome that.

25 So you agree that as at July management pushed back on the findings from audits?---I – I want to be clear that there was the view that there had been pushback. So there was a process put in place so that that pushback could not occur. And in doing that, the independence of internal audit was reinforced by the managing director.

30 Was there a view that there had been pushback from management, or was there in fact pushback from management on audit findings?---I think there had been a view by some. I did not have the evidence on that. My understanding was on audits where there was a late delivery, there were – there were actual issues which were still under consideration. In particular, during this time, internal audit was having a change of its staff, and so some audits were late in their delivery, but that that was  
35 known and understood by the audit committee.

Do you see underneath this the words:

40 *Compliance not viewed as a counterweight.*

And under that:

*Why are you being so hysterical?*

45 THE COMMISSIONER: I confess I would read it as compliance not valued.

MS ORR: Not valued as a counterweight. Well, I will ask you whether you think that word is valued. I think the Commissioner is right, valued rather than viewed as a counterweight. Do you see then:

5           *Why are you being so hysterical?*

In connection with that comment?---Yes.

10           What do you think that means, Ms Callahan?---There was a great sense of urgency across our whole division to get a lot done in a very short period of time, and we were pushing to get things done. And perhaps someone expressed a view that we were being perhaps a bit hysterical. I don't know about that comment. But I know we - - -

15           Hysterical about what? What do you interpret that as being a reference to, Ms Callahan?---All right. I'm going to completely speculate here because I do not know. But we were pushing through a considerable program of change. We were putting in new processes, we were putting in a variety of different forums, and perhaps someone thought we were being hysterical in what we were doing.

20           I - - -?---But I would say that we had complete support of the board and the managing director on that.

25           I want to put an entirely different interpretation to you to consider, Ms Callahan, which is that people who were raising compliance concerns such as Ms Davidson felt that compliance concerns were not valued and the response to those concerns was:

*Why are you being so hysterical?*

30           What do you say to that interpretation of this part of the Jennifer Davidson Deloitte notes, Ms Callahan?---I would find that to be inconsistent with what I know to be true in 2018 at Allianz.

35           The notes of this interview with your head of compliance in July this year, I want to put to you, indicate that senior management at Allianz did not take compliance seriously and that that is a matter that your head of compliance raised with Deloitte as part of their program of work?---I would completely disagree that senior management does not take compliance seriously. If that had happened in the past – in 2018 I have had significant support for pushing through a major program of change. In addition, we've put significant investment in – in this year, and I've had nothing but support for that. So I would disagree with that.

40           So you can't explain these references in this document?---No.

45           I tender those notes, Commissioner.

THE COMMISSIONER: Notes of interview Jennifer Davidson, 4 July '18,  
DTT.0001.0001.0205, exhibit 6.296.

5 **EXHIBIT #6.296 NOTES OF INTERVIEW JENNIFER DAVIDSON, 4 JULY  
'18 (DTT.0001.0001.0205)**

10 MS ORR: And Commissioner, I see the time.

THE COMMISSIONER: Yes. 2 pm.

MS ORR: Thank you, Commissioner.

15 THE COMMISSIONER: If you would be good enough to be back in time to begin  
at 2 pm and we will adjourn until then.

20 **ADJOURNED** **[1.01 pm]**

**RESUMED** **[2.00 pm]**

25 THE COMMISSIONER: Yes, Ms Orr.

MS ORR: Now, Ms Callahan, I had been asking you some questions about the work  
that you commissioned Deloitte to do this year?---Yes.

30 And I had last taken you to the notes of the interview that Deloitte conducted with  
your head of compliance, Jennifer Davidson?---Yes.

Now, as well as interviewing staff, Deloitte also reviewed documents - - -?---Yes.

35 - - - as part of its work. Could I ask that you look at DTT.0001.0003.0142. We see  
that this is an email sent by Jennifer Davidson to Deborah Latimer at Deloitte on 5  
July this year providing Deloitte with documents for the purpose of its task?---This  
was for the purpose of workshops that were being provided. It wasn't for the  
specific task.

40 So Deborah Latimer was from Deloitte. Is that right?---Yes, and she was conducting  
the task but this is with regard to the series of workshops that we are doing that we  
commenced that will run through December. And it was the preparation for those  
workshops that this refers to.

45 Right. But Deborah Latimer was also the person completing the work on behalf of  
Deloitte?---Exactly.

That you commissioned in June 2017?---Absolutely.

Sorry, June 2018?---I'm sorry.

5 My mistake?---Yes, you are right.

And in the period where that work was being undertaken, she was provided with this email by Jennifer Davidson?---Yes.

10 Is that right?---Yes.

And Jennifer Davidson annexed some documents to this email, one of which was the EY report from November 2017?---Yes.

15 And the other was the minutes of a compliance risk management workshop that had been conducted in March 2018?---Correct. So this was a workshop that Deloitte was helping us conduct with the risk and compliance officers. There had been one workshop in March and then we were conducting - - -

20 The second one?---It was.

And we see that Ms Davidson says:

*Secondly, for the workshop on Friday –*

25

You see she says:

*...I was thinking we need to kick the workshop off by saying that we've heard all of the issues with the current state, and no one would disagree that there has been under investment in the function –*

30

That's the risk and compliance function?---Yes.

Continuing:

35

*...for the past several years. We acknowledge that there is still residual legacy issues but the purpose of the workshop is to establish the go-forward operating environment.*

40 ?---Yes.

Now, you agree with that assessment - - -?---I do.

- - - of the under-investment in the function for the past several years?---I do.

45

Could I ask you to look at the second attachment to this email. Perhaps if I tender the email first, Commissioner, or I'm in your hands. I can go to the email and they can be tendered as a bundle.

5 THE COMMISSIONER: I think as a bundle.

MS ORR: Thank you. So the attachment is DTT.0001.0003.0182. This is the minutes of the workshop that was held on 21 March this year?---It was. So it was the workshop with the risk and compliance officers.

10

So it was facilitated by Deborah Latimer from Deloitte?---It was – it was co-facilitated with Deb Latimer and Jennifer.

Jennifer Davidson?---Yes.

15

The head of compliance?---Right.

So she also attended?---Yes.

20 As did Kathryn Scott-Mackenzie, who we heard was the acting head of compliance last year?---Yes.

Who were the other attendees?---These were risk and compliance officers. So if I run down the list of attendees, each of those people down to Andrew McKay, those are all risk and compliance officers. And a reminder that risk and compliance officers are the compliance officers in the business unit. So they're not a part of the second line, they're a part of the first line, the business.

25

That's the structure now?---That – the three lines of defence had been the structure, but just to clarify, risk and compliance officers sit within the business unit.

30

Okay?---They don't sit in – in risk and compliance. They're not - - -

Okay?---They don't report through to me.

35

Okay?---Andrew McKay is in my division. Jennifer we've talked about. Bo sits within our division. So she's a – she's in corporate compliance. Then on the other side of the page, all of those people down to Kathryn are all risk and compliance officers. So the lead for risk and compliance within the business. And then Marisa is as well a risk and compliance officer. Kathryn, of course, as we've talked about was corporate compliance. After Jennifer started, she became a senior compliance officer. Jessica who is an apology was a risk and compliance officer and then it lists Deb Latimer as the facilitator.

40

45 So all the attendees were involved in risk and compliance work at Allianz?---Yes.

Now, we can see some of the views expressed by the attendees at the workshop. Did you want to say something, Ms Callahan?---Sorry, I just need to correct that one of the people Ming Lee is not a risk and compliance officer. He is in my division as well. Apologies.

5

So also a person who works in risk and compliance?---They are all – it is correct that they are all risk and compliance people.

Yes?---Some are in the first line, some are in the second line.

10

I understand. Now, if we look at the views expressed by the attendees at the workshop as expressed in the minutes we see under the heading Gaps on this page:

15

*No reporting or monitoring of compliance. There is no end-to-end obligations management. Structure and resourcing is inadequate. The tools are not fit for purpose. Poor compliance culture across the business (RCOs are “dumped on”), there is a very black letter legalistic approach to compliance, not risk –*

We will see over the page:

20

*...based. Breaches and incidents are handled in a Band-Aid fashion with tactical remediation only. There is no education on the framework, there should be a compliance 101 for all staff, and training also for compliance staff in particular.*

25

These were some of the views expressed by the attendees at this meeting?---Yes.

And then we see further down under the heading What We Would Like to See, we see partway down there:

30

*Bonus is linked to sales targets. If there is no compliance component, we won't change anything.*

Do you see that?---I do.

35

And further down:

40

*How can we “sell” compliance? Training is just seen as having to “cascade crap to others”. For the RCOs, how do you get funding for compliance training if all the funding goes to the operational activity of the business (eg. sales training).*

So were you aware that these were the views held by compliance personnel working at Allianz in March this year?---I was.

45

Do you agree with those views?---Some of them I do agree with. Some I felt were not correct. And I can call those out. And then others have subsequently been

5 addressed, so sitting here today I don't agree with. But if we go back to 21 March, I did agree. One of the ones that I didn't agree with is – it says there's no compliance reporting. And, in fact, there was compliance reporting. Whether it was sufficiently rigorous is another question. But we had already implemented by February enhanced reporting, and then that has continued on so that there is further enhanced reporting.

10 It's concerning, though, isn't it, that your compliance people said in this workshop that there was no reporting or monitoring of compliance?---I don't – I – I can't imagine that they meant no reporting, because they see the papers and they contribute – they actually help contribute to the reports that go to the Allianz risk committee and to the board risk committee. So I think that was made as a generalisation but knowing that there are reports but maybe what they meant was not sufficient. And I would agree. And it's why we put in place further enhanced reporting.

15 So these were the kinds of views that were expressed to Deloitte as it conducted its work?---It – they were expressed – this was not to Deloitte. This was, really, to line 2, because at this point what we were trying to do was to fix certain things. So I just want – there's this timeframe in early 2018 where we're putting in place roles and 20 responsibilities for risk and compliance officers versus the second line, because we were drafting the compliance policy. And so this was to be a part of that compliance policy.

25 I understand. But this workshop was facilitated, co-facilitated, you say, by Deborah Latimer?---Yes.

Who was leading the work at Deloitte?---Yes. Absolutely.

30 So these were views that she was aware of as part of that work?---Yes. I do not – I don't disagree with that.

I will tender those – the email and the attachments, Commissioner.

35 THE COMMISSIONER: The date of the email?

MS ORR: The email is dated 5 July 2018.

40 THE COMMISSIONER: Thank you. Email Davidson to Latimer, 5 July '18, DTT.0001.0003.0142 together with its attachment, compliance risk management workshop minutes, 21 March '18, DTT.0001.0003.0182 together become exhibit 6.297.

45 **EXHIBIT #6.297 EMAIL DAVIDSON TO LATIMER, 5 JULY '18, (DTT.0001.0003.0142) TOGETHER WITH ITS ATTACHMENT, COMPLIANCE RISK MANAGEMENT WORKSHOP MINUTES, 21 MARCH '18, (DTT.0001.0003.0182)**

MS ORR: Now, on 9 July this year Deloitte delivered the product of its review. And you've annexed that to your statement. It was a draft indicative outline?---Yes.

And it's exhibit 23 to your statement?---It is.

5

ALZ.0001.0078.0280?---Yes.

Now, when that document comes up, we will see that it's headed Indicative Outline: Compliance and Control Failures?---Yes.

10

It made some fairly damning preliminary findings about Allianz's compliance systems, didn't it - - -?---Yes.

- - - Ms Callahan?---Yes.

15

Now, before we come to those, I want to take you to 0287 within the document, which sets out the incidents that you asked Deloitte to consider in preparing the report?---Yes.

20

We see here the five identified control failures and repeat incidents that you asked Deloitte to consider?---Yes.

They included the false and misleading information on the website?---Correct.

25

And four other compliance incidents involving giving no or incorrect product disclosure statements, the sale of insurance to persons who were ineligible to claim benefits, overcharging premiums, and ongoing premium charging to customers who were ineligible to claim benefits?---Correct.

30

Now, they were each incidents that were reported to ASIC in June of this year?---Yes. I – they were reported to ASIC. I would need to reflect on the dates, but they were certainly reported to ASIC after May.

Yes. Thank you?---Yes.

35

Now, on the next page, 0288, we see Deloitte's summary of indicative themes arising?---Yes.

And they were:

40

*A failure to recognise the value of compliance for integrity, competence, resilience and good business outcomes.*

?---Yes.

45

Continuing:

*A failure to invest in adequate compliance infrastructure.*

?---Yes.

5 Continuing:

*A failure to formulate a compliance strategy.*

?---Correct.

10

Continuing:

*Adoption of a predominantly legalistic approach to compliance incidents asking “can we” instead of “should we”.*

15

?---Yes.

Continuing:

20 *A failure to adequately take account of compliance goals balanced against competing goals when making critical business decisions.*

?---Yes.

25 Continuing:

*A failure to monitor and supervise significant intermediaries including the authorised representatives, the appointed agents, and material outsource providers of Allianz.*

30

?---Correct.

Continuing:

35 *A failure to properly investigate and remediate incidents and breaches to address root causes and instil a positive compliance culture.*

?---Yes.

40 And:

*A failure to track the compliance performance of the Allianz business and to manage accountabilities and consequences relating to poor compliance outcomes delivered by management.*

45

?---Yes.

And next to that list of themes there's a chart referring to AWP, the 2000 authorised representatives who were the car dealers, and financial institution partners?---Correct.

5 And you've already given evidence accepting a lack of oversight on the part of Allianz for those entities?---Yes, I have.

Now, a few pages on at 0293, we see a page headed Compliance Functional Arrangements: Indications and Change Actions. And we see the indications in  
10 summary from Deloitte were:

*The compliance function has no formal or recognised authority. The compliance function is significantly under-resourced. Minimum capability requirements have not been formulated or applied, and the capability of the  
15 compliance function is questionable. The compliance framework has been refreshed in 2018 but is yet to be fully implemented. The scope of compliance risk management systems is inadequate for Allianz's business and there has been no systematic identification of obligations and control treatments for the  
20 enterprise. And assurance reporting is not reporting on the compliance performance and compliance outcomes of the Allianz business.*

?---Yes.

Now, what was your reaction to receiving this document with these findings, Ms  
25 Callahan?---When I looked at the document, I reflected on one of the key aspects of it. And that was that many of the change actions suggested in that column changes from page to page are things that we had already done, including that Deloitte had helped us implement, and I reflected on one of the requests for the report was to tell us have we done enough, and if not, what else should we be doing. So when I looked  
30 at it and I thought they're telling us to do things that we have already done, that was my initial reaction. I felt they had not fulfilled their brief.

Well, what are the things you had already done? You still had significantly under-resourced compliance function?---At that point we had already added to the  
35 compliance function by July.

Do you accept that it was still significantly under-resourced?---No, I do not.

You don't?---No.  
40

And what about the compliance function having no formal or recognised authority?---No. I disagree with that. We had put in place a compliance policy, and in that policy we had stated that the compliance function had both independence, because that had not previously been secured in our policy, the prior charter – the  
45 compliance charter did not give corporate compliance independence from management, and it did not preserve the direct access of corporate compliance into the board risk committee and into the managing director, which we had put in place

via an in-camera session with the board. And these were things that Deloitte knew that had been done because they helped us prepare all of those things.

5 But you knew, didn't you, that Deloitte had reached these findings, these conclusions, based on its interviews with your staff and review of your documents?---I – I – I disagreed that in July these were things that needed to be done. And I – the document was to help inform us on go forward, what more do we need to do. And so I – I disagreed with it.

10 So you didn't feel this is what you had asked for?---What I felt like was I didn't need to be told to do things that had already been done.

You received it on 8 July?---I did.

15 And the next day you called Ms Latimer at Deloitte?---I did.

And you left her a voicemail message?---I did.

20 What did you say in that voicemail message?---I said that I didn't think that it was responsive and that I wanted her to withdraw the document.

You wanted her to withdraw the document?---Yes.

25 Why did you want her to withdraw the document?---Because I felt it was inaccurate in that I didn't agree that she should be listing for future actions things that had already been completed.

30 So we see before lunch that engaging with – in engaging with EY Allianz provided EY with feedback on multiple occasions with a view to persuading EY to alter its original conclusions. And we now see, when you receive this report from Deloitte, that you asked Deloitte to withdraw it?---I will say that that was not my finest moment but what I did do then was immediately provide Deloitte's report to the managing director. I told him that I thought there were things in it that were not correct, and that I would prepare a responsive document. He provided it to the board and by the end of that particular week, we had selected Deloitte to assist us in a board-led exercise about governance, culture and accountability, and we fed both this document and my response into that official process.

40 I want to just move through those events?---Okay.

45 But before I do that, you say that this wasn't your finest moment. What do you mean by that?---I – what I – when I made the call, I felt like there was a report that was important that I wanted to know about. Where were we up to? And what I should have done was call and said, "Let's meet straightaway." And instead, I thought what they should do is withdraw it, take the things that are in those suggested actions that had been completed, and move them over into completed actions, and then truly reflect on the things what's left for us to do.

But you didn't do that?---No.

You asked them to retract the report, didn't you?---I did.

5 All right. We have Ms Latimer's note of the voicemail message she received from you that day. If we could go to DTT.0001.0001.0195. This is Ms Latimer's note of that voicemail message. And if we turn to the second page, we see that her note records the view that:

10 *The document expresses broad statements and judgments which may conflict with other materials, including potentially what Allianz has told regulators.*

?---Yes.

15 Continuing:

*Eg. regarding breach status.*

?---Yes.

20 Was that something you said to Ms Latimer in the voicemail message?---Yes. When I saw this document, I had the recollection that I had said that to her, and I can explain, if you would like.

25 So you said to her that the Deloitte document expressed broad statements and judgments which might conflict with other materials, including potentially what Allianz has told regulators?---Yes.

30 For example, regarding breach status. Now, could you explain what you meant by that?---Yes. When I looked at the document, because I had asked her – excuse me – I had asked her to look at those five particular breaches that we had reported. In looking at those, on the one for AWP where there is the column where we have “when did it first occur”, and we had put in the breach notice with ASIC on 4 June without that information, because we were trying to determine when did that  
35 information first occur. So if we can reflect back, the question was did it first occur in December of '15 when the website refresh happened, or might it be that it was earlier than that. And when we gave the breach review notice between the 4<sup>th</sup> and the 12<sup>th</sup>, we had done an investigation to determine when, in fact, did it first occur. And we had reported based upon our investigation that, in fact, it had been 15 December.  
40 As we now know, in fact, it had been earlier than that, but at that time that's what we knew. And I couldn't understand – she said something along the lines of investigation – I don't know what but it said that there hadn't been a date. And I – there had been a date. We had determined it was December '15 although the  
45 investigation was ongoing as we've talked about.

So you were concerned that the content of the Deloitte document contradicted information that you had given ASIC about the internet - - -?---Yes.

- - - breach incident?---The AWP incident, yes, for the false and misleading information. Yes.

5 And was that a reason, if not the reason, you asked Deloitte to withdraw the document?---It was not that. What – the reason I asked her to withdraw it had to do with her listing the things that needed to be done which had already been done. And what I wanted was their assessment of what more needs to be done. So it didn't fulfil what I wanted to know, and that is were we doing enough.

10 Well, where do we see that in this file note of your voicemail message to Ms Latimer? We see that what you told her in the voicemail message was that you had a concern that it included potentially conflicting information with what you had told the regulator?---It also says that "I was instructed to retract it", it was comprehensive. So yes, you are right.

15 You didn't say that to Ms Latimer?---I – I did. I thought that I had said that. I – because what I said to her was it wasn't responsive, because I had asked her to consider what did we need to do, what were we doing enough, was it sufficient, and then the third, if not what more needed to be done. So the listing of what more  
20 needed to be done, as things that had been done - - -

Well, can I just ask you about the things that you say had been done. You've  
- - -?---Yes.

25 - - - made that point a number of times?---Sorry, yes.

By July, by the time of the Deloitte report, you had put in place frameworks and committees to start dealing with these things, but you had not yet been able to assess the effectiveness of the action taken. Do you agree with that?---No, not – not  
30 entirely. And the reason is some of those things, like the breach review committee that was put in place in May - - -

Yes?--- - - - that is the thing that Deloitte lists in July as something to be done. They had been implemented in May. What is the effectiveness of them? That can be  
35 assessed straightaway. So that – the policy which had the independence of the head of compliance, so the in-camera sessions with the board – yes, things like that, over time, you can assess the effectiveness of. But it's – it's not – I – I did not feel it was accurate to list them as things to be done.

40 So we see here from this file note that Ms Latimer records that she has sent a retract email and will await further instructions?---Yes.

I will tender that file note, Commissioner.

45 THE COMMISSIONER: Latimer file note of 9 July '18, DTT.0001.0001.0195, exhibit 6.298.

**EXHIBIT #6.298 LATIMER FILE NOTE OF 9 JULY '18  
(DTT.0001.0001.0195)**

5 MS ORR: And that was what happened. Deloitte retracted the report and waited for further instructions from you?---They – I think they officially retracted it via an email.

10 Yes?---But I went ahead and presented it within – straightaway to the managing director.

But you asked them to officially retract it?---I did.

15 And they did?---I did and they did.

So you received this draft report from an external consultant that you've explained you disagreed with?---Yes.

20 And your first reaction was to call Deloitte and ask for it to be retracted?---Yes.

What effect did you think that would have? You had still received the draft report, hadn't you?---Yes.

25 You were still aware of the things - - -?---Yes.

- - - contained within the draft report?---Yes.

30 This was Deloitte's view based on the people that they had spoken to and the documents they had reviewed?---What I expected to happen was a phone call or a meeting where the things that had been listed as "to be done" would move – would be moved over as done and then there would be good insights for me as to what more needed to be done.

35 In the end, you prepared a very lengthy response to the draft report, didn't you?---I did.

And Allianz decided to ask Deloitte not to proceed with the review in the form that you had originally asked for?---Just to clarify, not in the form - - -

40 Yes?--- - - - because we took it into the much larger official - - -

Yes, I want to ask about that?---Yes.

45 So in the form you had asked for you told them not to proceed?---That's right.

You instead said that you would use the work to assist you in responding to a request received from APRA in June?---Correct.

To undertake a risk governance written assessment?---Yes.

Now - - -?---But just to clarify, because in that question Deloitte is working with us on that exercise as well.

5

Yes?---Yes.

Now, can I take you to that letter from APRA, which is exhibit 26 to your statement?---Yes.

10

ALZ.0001.0078.0267. This was a letter that Allianz received on 4 June this year?---Yes.

15 And we see in the first paragraph that APRA told you that on 1 May this year it had released the final report of the prudential inquiry into the Commonwealth Bank. And as noted in its press release:

20 *Given the nature of the issues identified in the report, all regulated financial institutions will benefit from conducting a self-assessment to gauge whether similar issues might exist in their institutions.*

?---Yes.

And we see below that that:

25

*For the largest financial institutions, including Allianz, APRA is seeking board endorsed written assessments. The assessments are expected to be group-wide, incorporating material cross-industry operations in Australia.*

30 ?---Yes.

And if we go over the page to 0268, we see that Allianz has been told to submit that written assessment to APRA by 30 November this year?---Yes.

35 So is work underway at Allianz on this risk governance written assessment?---It is.

40 And what do you understand the nature of the task to be that APRA has given to you to complete by 30 November?---Looking at the CBA report – so the – this asks for an analysis of culture, accountability and governance. And it asks how well established are they and how embedded are they within the organisation. And so the task is to assess those, and it's a – because of the 30 November, it's a large scale task. It's continuing. It commenced with the use of Deloitte's. And will be delivered by 30 November.

45 And do you understand that all of the largest financial institutions have been asked by APRA to undertake this task?---I do.

Yes. All right. Now, since the date of the report from Deloitte - - -?---Yes.

5 - - - in July, the report that was retracted, Allianz has continued to have issues with the resourcing of its compliance function. Do you accept that?---No – well, we’ve continued to add to our resourcing, so that a learning and development manager to address the training issues that we talked about earlier, that person commenced two weeks ago, and another person has just commenced a week ago. We – so with that, we then are now fully staffed for where we – what we want to achieve.

10 You’re fully staffed for what you want to achieve. Is that your evidence?---For – yes, it is. We have a program of works right now underway that the transformation program continues into March of 2019 when we will do a pause and do a reassessment of where we are up to. There is one additional component which will add additional staff but we’re not ready to kick that component off yet. We will do  
15 that in the third quarter of this year. And that is to put in place a more resourced assurance function. So when the reports call out monitoring, that is the assurance function.

20 Were you fully resourced in the middle of May this year?---No.

Were you fully resourced in the middle of July this year?---No, because we were still recruiting for our training person and this additional senior staff member and analyst who has just started.

25 So when did you get to that point where you’re satisfied that you have appropriate resources for your compliance function?---With the latest addition of the analyst who started a week ago.

30 A week ago. Thank you. Now, could I ask that you look at exhibit 29 to your statement, ALZ.0001.0071.8404. That’s the draft minutes of the risk committee meeting of 11 July this year. You attended that meeting, Ms Callahan?---I did.

As did Ms Davidson, the head of compliance?---Yes.

35 And if we go to the second page, 8475, we see that Ms Davidson gave a compliance update. Do you see that?---Yes.

And she told the committee – the risk committee at that point that:

40 *...compliance resources are currently strained as a result of the need to address compliance incidents while also building improved compliance systems.*

?---Yes.

45 That was the position at this time?---That’s right. And so that was the addition of external help on incident reviews, as well as these additional resources which we added with regard to the training and the analytics.

Now, if we turn to 8410 in this document, we see that later in the meeting there was an in-camera session between Ms Davidson and the committee – the risk committee?---Yes.

5 And after that in-camera session, the minutes record that Ms Davidson identified certain executives at Allianz as not having shown sufficient responsiveness to addressing compliance concerns?---Yes.

10 Now, you were present for that part of the meeting?---No, I wasn't. The minutes will be corrected. I was not in the in-camera session. And that is a critical part of the policy we put in place, is that the independence of the head of compliance allows for an in-camera session without me present and I was not present. I had my separate in-camera session with the board immediately after that.

15 Do you know which executives Ms Davidson identified to the risk committee?---I do not.

You don't know if Mr Winter was one of them?---No, I do not.

20 Or Mr Dalzell from AWP?---I do not.

You've annexed to your statement an example of an email that was sent to the executives identified by Ms Davidson in this meeting. Is that right?---I have annexed an email that was provided to all executives.

25 I see?---And then it was – so the board gave a direction - - -

Yes?--- - - - that there should be complete support for compliance.

30 Yes?---And at mid-year performance reviews, each executive was instructed, and I know that because I was personally instructed, that we were all to be supportive of compliance.

We see that the committee asked Mr Feledy?--- Feledy, yes.

35 Mr Feledy who was the managing director - - -?---Correct.

Continuing:

40 *...to advise those executives who were identified by Ms Davidson that part of their performance-based incentives would be forfeited if their approach did not change. He was asked to report to the next meeting of the committee on the outcomes of his discussions and on the subsequent performance of the executives concerned.*

45 Has there been a subsequent meeting, Ms Callahan?---No, there has not.

Are you aware of the outcomes of those discussions and the impact on the performance of the executives concerned?---I am not.

You can't assist the Commission with that?---I'm sorry, no, I cannot.

5

We see from this set of minutes that you also had an in-camera discussion with the risk committee at this meeting?---I did.

10 And what did you discuss with the risk committee in that session?---I talked about how the compliance transformation program was continuing, that we were adding additional funding for the activities. We had a significant piece of work and that that funding would be coming through in our planning for management expenses which was happening in the following weeks.

15 All right. Now, can I ask you a few final questions about breach reporting - - -?---Yes.

20 - - - Ms Callahan. You've accepted, I think, that the procedures were inadequate to ensure that your obligation under section 912D of the Corporations Act was complied with in terms of timely reporting of significant breaches?---I – I wouldn't want to say that as a broad statement across all because, as I said, I have sighted many situations where we did comply. But what I would say is this: it was not sufficient from my perspective with regard to the consideration of the four reporting criteria and how that is done. It should not be done as individual discussions but the relevant stakeholders should come together and have a discussion, that the paperwork that goes with those should include what we've commenced this memo which outlines the issues, and then there should be minutes coming out of that which assesses each of the criteria.

30 So I want to put to you again: does that suggest that the processes to ensure compliance with the statutory obligation in section 912D to report significant breaches to ASIC were inadequate?---I cannot say they were inadequate. They were not sufficient to my view of what we should do, what I would like to have us do, but I cannot say that they were inadequate to meet our compliance requirement under the law.

40 Why not, Ms Callahan? If you think they were not sufficient, why the distinction?---Because I wasn't – I – I wasn't in the role prior to that. What I'm looking at is what do we need to do now. And what we need to do is - - -

I understand that's your focus, Ms Callahan, but you're here to give evidence in the Royal Commission not just about your objectives moving forward but about the systems that have been in place at Allianz in previous years?---Yes.

45 I've asked you a number of questions and I've taken you to a number of documents. I want to ask you to reflect on the evidence that you've given in response to those questions and having seen those documents. And I want to ask you again: do you

accept that the processes at Allianz have been inadequate to ensure that Allianz is complying with its obligation under section 912D of the Corporations Act to report significant breaches in a timely fashion?---I cannot agree with the wholesale affirmation of that question. However, if I look at the AWP situation, it was a failure of the process and I absolutely agree with that. But I cannot say that across the board in all instances that there was wholesale failure of Allianz in that regard.

I'm asking you whether your processes were adequate to ensure compliance, and we've seen multiple instances of your processes failing to ensure compliance?---We -- we have seen that we have reported breaches, and that those breaches indicate that there have been breaches of the law. But I cannot say, now or before, that there was complete failure of the organisation to meet its requirements. I can say that there are key instances of this failure but those key instances don't tell me that we failed to meet wholesale our obligations. I -- that -- that is just - - -

That's not the question I've asked you, Ms Callahan?---Okay.

I don't want to labour the point but I've asked you to consider whether your processes are adequate to ensure compliance?---I think our processes were.

Were adequate?---They were adequate. The documented process was. Whether people adhered to the documented process is perhaps then the other issue.

Are you sure that that's the evidence you want to give, Ms Callahan, when you've explained to us that you've made such significant changes since the end of last year, including establishing for the first time in May this year a breach review committee?---I think a breach review committee is a much more modern way to approach breach discussions, but it doesn't mean that there was a failure to comply with the law previously. It's just not as modern an approach.

You know that there were failures to comply with the law previously, don't you, Ms Callahan?---I -- I do. And I do not disagree with that at all.

But you don't want to accept that those failures to comply with the law were a consequence of inadequate processes within Allianz?---I think the processes were adequate. Whether the adherence to those processes is where I think the failing has occurred.

Can I ask you to look at ALZ.0001.0071.7716, which is a risk committee report from July this year. Now, this is a compliance update from you to the risk committee in July this year?---It is.

And if we go to 7725, we can see a table. And the introductory text at the top says:

*The table below contains information on incidents reported to regulators and high-rated matters not yet assessed for significance that were open at the time of this report.*

You see that?---Yes.

5 Now, is Allianz now reporting significant breaches to ASIC within the 10 business day period required under the Act?---Within 10 or as soon as practicable if it is less than 10.

You say you're complying with that obligation?---Yes.

10 Now, if we look at the first page of the table, we can see the travel insurance incident - - -?---Yes.

- - - that we've been discussing two rows down?---Yes.

15 And it has an asterisk next to it?---Yes.

And underneath the table we see that the asterisk says - - -?---Yes.

Continuing:

20 *Reported outside the reporting period.*

?---Yes, you are correct.

25 So that breach was not reported to ASIC within the 10 day period?---That is correct.

It took years, we've heard, to report that breach?---It did.

And the next item is:

30 *Financial institution partner websites linking to incorrect PDS.*

We – I asked you some questions about that earlier. It also has an asterisk next to it?---Yes.

35 So that's another breach that was not reported to ASIC within the 10 day period required by section 912D of the Corporations Act?---Yes.

And the next item is:

40 *Bank Australia, continuous credit assurance.*

?---Yes.

45 It also has an asterisk next to it?---Yes.

Allianz accepts that that breach wasn't reported to ASIC within the 10 day period?---Yes.

Over the page the next item is:

*Alive – terrorism charged on commercial motorists.*

5 What was that breach about, Ms Callahan?---That has to do with you cannot – there are certain exemptions for the terrorism levy on certain commercial risks. And it was being applied incorrectly to some of those commercial risks.

10 And that breach has an asterisk next to it?---It does.

So Allianz accepts that that one was also not reported to ASIC within the 10 day period?---That is correct.

15 Then there's an item we see underneath that reported in April. Do you see that?---Yes.

And then under that, three items that are listed as "under assessment"?---Yes.

20 And then over the page at 7727 there are another three items all listed as under assessment?---Yes.

Now, have any of those items since been notified to ASIC?---Yes, they have.

25 Which of those items?---The bottom item 3229 has been. The locum one. And I would have to look at my notes with regards to the others. I don't know.

30 Was the incident in the bottom row, you described as the 3229 one, notified within the 10 day period?---I believe it was but I would have to review the breach review memo.

You don't know?---No.

35 Now, the table doesn't include the incorrect or misleading content on partner websites connected with the subject of Mr Winter's evidence?---Yes, that is part and parcel of the 1491 which is the AWP travel breach.

What do you mean - - -?---Which is on the prior page.

40 - - - it's part and parcel. Have you reported that to ASIC?---We have updated them that they are partner websites and that we're having to make our way through the partner websites.

45 When you say you've updated them do you mean you've provided information in response to a compulsory notice that discloses that?---That is correct. And that is at 7 September.

But you have not made a breach notification in relation to that matter, have you?---We have not made a separate breach notification, no.

5 Are you planning to do that?---I hadn't considered that it was a separate breach.

Well, it is a separate breach, isn't it, because it relates to your partner websites?---If -- I will have to consider that, yes.

10 The letters that you wrote to ASIC were not about your partner websites, were they?---The breach notification -- you are correct. The breach notification was about our website. I stand corrected. That is correct.

All right. Could I tender the risk committee report dated July 2018.

15 THE COMMISSIONER: That document ALZ.0001.0071.7716 becomes exhibit 6.299.

20 **EXHIBIT #6.299 RISK COMMITTEE REPORT DATED JULY 2018  
(ALZ.0001.0071.7716)**

MS ORR: Now, finally, Ms Callahan, Allianz is authorised to carry on its general insurance business under the Insurance Act. Is that right?---Correct.

25 And that Act is administered by APRA?---Correct.

And under section 32 of that Act, APRA has the power to determine certain prudential standards?---Yes.

30 And under section 35 of that Act, Allianz is obliged to comply with those prudential standards?---Yes.

Now, one of those prudential standards is CPS 220?---Correct.

35 Could I ask that you look at the version of CPS 220 that was in place from 2015, RCD.0014.0050.0001. Now, we see this is the version from January 2015. Do you see that, Ms Callahan?---Yes, I do.

40 You're familiar with this document?---Yes.

And can I ask you -- firstly, this would be the version that was in place at the time that the website incident was detected?---Yes.

45 Now, could I ask that you look at 0010 in this document?---Yes.

And we see that the prudential standard says in paragraph 44:

5            *An APRA-regulated institution must have a designated compliance function that assists senior management in effectively managing compliance risks. The compliance function must be adequately staffed by appropriately trained and competent persons who have sufficient authority to perform their role effectively, and have a reporting line independent from business lines.*

You're familiar with that obligation?---I am.

10           I want to put to you, based on the evidence that you and Mr Winter have given, that Allianz did not comply with paragraph 44 of this Prudential Standard?---I would agree with that.

15           You agree with that. Now, can I ask you to also look to – I will take you to the 2017 version to ask this question. Could I tender the 2015 version, Commissioner.

THE COMMISSIONER: CPS 220 with effect from January 2015, RCD.0014.0050.0001, exhibit 6.300.

20           **EXHIBIT #6.300 CPS 220 WITH EFFECT FROM JANUARY 2015 (RCD.0014.0050.0001)**

25           MS ORR: Could I ask that you look at RCD.0014.0050.0014. Now, that's the July 2017 version of Prudential Standard CPS 220. You're familiar with this - - -?---I am.

30           - - - document as well, Ms Callahan? And could I ask you to turn to 0023. We see there the equivalent paragraph is paragraph 43 to the one I took you to in the 2015 version?---Yes.

And could we bring up the next page as well so that I can show you paragraphs 44 and 45, which deal with review of the risk management framework. Do you see that paragraph 44 imposes an obligation to ensure that:

35           *Compliance with and the effectiveness of the risk management framework of the institution is subject to review by internal and/or external audit at least annually.*

40           ?---Yes.

That's the requirement of paragraph 44?---Yes.

And then paragraph 45:

45           *An APRA-regulated institution must, in addition to paragraph 44, ensure that the appropriateness, effectiveness and adequacy of the institution's risk management framework are subject to a comprehensive review by*

*operationally independent, appropriately trained and competent persons (this may include external consultants) at least every three years. The results of this review must be reported to the institution's board risk committee, the senior officer outside Australia, or compliance committee, as relevant.*

5

?---Yes.

Do you see that?---Yes.

10 And the scope of the comprehensive review we see from paragraph 46:

*Must have regard to the size, business mix and complexity of the institution, the extent of any change to its operations or risk appetite and any changes to the external environment in which the institution operates.*

15

?---Correct.

20 Now, I've taken you to two external reports. I've taken you to the report produced by EY, and the report produced by Deloitte. Were either of those reports produced in compliance with your obligation under paragraph 45?---One was.

Which was?---The EY report which was the risk management report in November of 2017.

25 So the second of the two reports that EY was asked to produce, the risk report?---The risk report.

Was produced in compliance with your obligation under paragraph 45?---Correct.

30 For provision to APRA?---Correct.

All right. Now, could I ask, do you accept that the process that Allianz engaged in with EY in relation to the compliance report, which I took you through - - -?---Yes.

35 - - - which involved feedback being provided on multiple occasions with a view to altering the conclusions in the EY report, was also the process that was engaged in in relation to the risk report?---No. I would not agree with that. It was different individuals involved, and in addition, no ratings were changed on the risk report.

40 All right. I want to show you a document but if I could first tender the July 2017 version of CPS 220.

THE COMMISSIONER: CPS 220 with effect July '17, RCD.0014.0050.0014 becomes exhibit 6.301.

45

**EXHIBIT #6.301 CPS 220 WITH EFFECT JULY '17 (RCD.0014.0050.0014 )**

MS ORR: Could I ask that you be shown ALZ.0001.0097.1974. We see that this is an email chain between Karen Wong and Kathryn Scott-Mackenzie?---Yes.

5 Now, this relates – I want you to read this and see if you agree with my proposition that this relates to the risk report?---Yes.

And we see that Kathryn Scott-Mackenzie says, at the bottom of the page on 29 September to Karen Wong:

10 *How did the meeting with EY go?*

?---Yes.

And Karen Wong replies, on 29 September:

15

*Went okay. They are going to rewrite with a more balanced view. We didn't get to finish the whole report, though. Noeline tried to ask for a mature rating for some elements but didn't think it worked. Have fun in Singapore.*

20 So do you accept, based on this email, that Allianz attempted to persuade EY to alter its report, a report that was being produced in compliance with your obligations as an APRA-regulated entity under CPS 220?---I was not privy to that discussion. The “more balanced view” leads me to think that something more was going on, as you have inferred. Was it that facts were being provided that had been - - -

25

THE COMMISSIONER: I'm not sure that you're grappling with the question at all?---Okay.

Put the question again, please, Ms Orr?---Thank you.

30

MS ORR: Well, I want you to consider whether this email demonstrates that Allianz was trying to influence and alter the content of the EY report, a report that you are required to produce under CPS 220?---Yes.

35 And provide to APRA?---Yes. And I would say “a more balanced view” makes me say yes.

40 You accept that there was an attempt by Allianz to manipulate the content of the external report for provision to APRA?---I accept that we asked for a more balanced view and that is not appropriate.

You accept that that was an attempt to manipulate the content of the external consultant's independent report?---I think that inference can be drawn.

45 Is there any other inference we can draw from this email, Ms Callahan?---Yes, because I wasn't privy – what I don't know is are these facts that were being

provided – I – I simply don't know. I do know that the ratings themselves were not changed. So I'm not quite sure what was going on here.

5 But we do know, don't we, from this email that Noeline tried to get one of the ratings to change. She was just unsuccessful?---Yes.

All right. I tender that email chain, Commissioner.

10 THE COMMISSIONER: Emails concerning risk report of 29 July '17, ALZ.0001.0097.1974, exhibit 6.302.

**EXHIBIT #6.302 EMAILS CONCERNING RISK REPORT OF 29 JULY '17  
(ALZ.0001.0097.1974)**

15

MS ORR: I have no more questions for the witness, Commissioner.

20 THE COMMISSIONER: Ms Callahan, might I take you back to a subject with which Counsel Assisting has dealt and take you back particularly to the letter from APRA, which is tab 26 to your report – to your statement?---Yes.

The APRA request is dated 4 June?---Yes, it is.

25 Is that right? Deloitte were retained to do some work on what date?---They were – they had been working, Mr Commissioner, early in the year, but then we had a formal retention letter, because we were doing the most significant piece of work, and that would have been around June. I think maybe around 22 June.

30 And when APRA – when Deloitte produced a draft of their document you asked for it to be retracted on 9 July?---I did.

Is that right?---I did.

35 The letter from APRA at tab 26 speaks of the board of the entity being expected to determine an approach to the assessment, that is, the assessment required by APRA?---Yes.

40 Which will provide it with confidence in the embedment and effectiveness of governance, culture and accountability across Allianz?---Correct.

Is that right?---Yes.

45 The matters that were raised by Deloitte in their draft report, if true, were matters that touched upon questions of governance, culture and accountability?---Yes.

Yet you asked for that document to be withdrawn?---I did.

And it was?---It was.

5 And are those matters that will be taken to account in the report that ultimately goes to APRA in response to the request of 4 June '18?---I think it must. It's an indication of governance and culture.

10 Both the tendering of the document to you and its demand for withdrawal goes centrally, do they not, to questions of governance, culture and accountability. Do you agree?---I think they do.

10 Yes. Ms Orr, is there anything arising out of that?

MS ORR: No, thank you, Commissioner.

15 THE COMMISSIONER: Mr Lockhart.

MR LOCKHART: No re-examination, Commissioner.

20 THE COMMISSIONER: Yes, thank you, Ms Callahan, you may step down.

**<THE WITNESS WITHDREW [3.04 pm]**

25 MS ORR: Thank you, Commissioner. If we could perhaps have a brief break before the next case study which involves a different entity.

THE COMMISSIONER: 10 past 3.

30 MS ORR: Thank you, Commissioner.

**ADJOURNED [3.04 pm]**

35 **RESUMED [3.10 pm]**

40 THE COMMISSIONER: Yes, Mr Costello.

MR COSTELLO: Commissioner, the next case study concerns IAG. The witness is Mr Bessell.

45 **<BENJAMIN JAMES BESSELL, AFFIRMED [3.11 pm]**

**<EXAMINATION-IN-CHIEF BY MR STOLJAR**

5 THE COMMISSIONER: Thank you very much. Do sit down. Yes, Mr Stoljar.

MR STOLJAR: Your name is Benjamin James Bessell?---Yes, it is.

10 And your business address is level 13, Tower 2, Darling Park, 201 Sussex Street, Sydney?---Yes.

And you're the executive general manager, business distribution and group executive within the Australia division at IAG?---Yes.

15 Now, you're attending today pursuant to a summons served by the Commission on you?---Yes.

Do you have that summons with you in the witness box?---I do.

20 I tender the summons to Mr Bessell.

THE COMMISSIONER: The summons to Mr Bessell becomes exhibit 6.303.

25 **EXHIBIT #6.303 SUMMONS TO MR BESSELL**

MR STOLJAR: And you've also prepared a witness statement dated 27 August 2018 in respect of Rubric 6-68?---Yes.

30 And that has doc ID WIT.001.0127.0001. Is the content of that witness statement true and correct to the best of your knowledge and belief?---Yes, it is.

I tender Mr Bessell's statement dated 27 August 2018 together with its exhibits.

35 THE COMMISSIONER: That statement and its exhibits together become exhibit 6.304.

40 **EXHIBIT #6.304 STATEMENT OF MR BESSELL IN RESPECT OF RUBRIC 6-68 DATED 27/08/2018 AND ITS EXHIBITS (WIT.001.0127.0001)**

MR STOLJAR: And Mr Bessell, Counsel Assisting may have some questions.

45 THE COMMISSIONER: Yes. Yes, Mr Costello.

MR COSTELLO: Thank you, Commissioner.

5 MR COSTELLO: Mr Bessell you've worked at IAG for around 25 years?---Yes, that's right.

And in July of last year you were appointed executive general manager, business distribution?---That's right.

10 And a group executive within Australia division?---Yes.

Before that you were the acting chief executive of commercial insurance between May 2015 and December 2015?---Yes, that's right.

15 And the chief executive Australia business division from December 2015 to July 2017?---Yes.

Thank you. You're a member of the IAG group leadership team?---Yes, I am.

20 How long have you been a member of that team?---Since May of 2015.

And the group leadership team largely comprises those who report directly to Mr Peter Harmer?---That's right.

25 And he's the managing director and chief executive officer of IAG?---Yes, he is.

And IAG was formed from the demutualisation of NRMA. Is that correct?---Yes.

30 And IAG is not a brand that's used for the selling of insurance products?---No, it's not. It's not a retail brand.

It's not a retail brand. It's the owner of a suite of retail brands?---Yes.

35 And IAG Limited is the parent company of CGU insurance?---Yes.

And it acquired that company in 2003?---That's right.

And Swann Insurance was owned by CGU?---Yes.

40 And became owned by IAG as part of that acquisition?---Correct.

And you've been responsible for Swann since May 2015?---That's right, yes.

45 CGU – did CGU operate under a devolved business model?---Yes, it did.

Did Swann operate under a devolved business model?---Yes, it did.

We will come to what that means a little later. IAG has had oversight and monitored risk within Swann since 2015?---Yes.

5 Thank you. Now, the purpose of the Rubric that was sent to IAG that you've answered was to address questions concerning add-on insurance?---Yes, that's right.

And add-on insurance is a term used to describe an insurance product that is added on to the sale of another product?---Yes.

10 And in the case of Swann, the insurance was added on to the purchase of a car or motorcycle?---That's right, yes.

And did Swann sell any other types of add-on insurance other than those that attached to the purchase of a car or a motorcycle?---No.

15 And the add-on insurance was usually added on to vehicle finance as well?---That's right. Typically, yes.

And was the premium paid from the vehicle finance amount?---Yes, on most occasions.

20 Thank you. And the sale occurs at the motor vehicle dealership?---Yes, it does.

And do you agree that because of the circumstances in which add-on insurance is sold, the primary product, being the vehicle, is typically the main focus of the consumer at that point in time?---Yes.

25 And the add-on product is not actively sought by the consumer?---I – I don't – I don't know.

30 Would you agree with me that the add-on products are products that are sold to rather than bought by consumers?---Yes.

35 Thank you. Do you agree that in many circumstances the consumer's decision about whether or not to buy an add-on insurance product is a third order consideration after choosing the vehicle and agreeing on the finance amount and terms?---Yes, I accept that, yes.

40 Thank you. And for that reason alone, the consumer's selection of the add-on insurance product might receive less attention than it otherwise would?---Yes.

45 Now, I just want to make sure that I understand the regime that this was operating in at the time that Swann was in this market. There are two important features of the regulatory regime I think that permitted add-on insurance to be sold in the way that it was. The first was the point of sale exception in the regulations to the National Consumer and Credit Protection Act. You're aware of that?---I think I am, yes.

That's an exception that's relevant to the sale of consumer credit insurance products?---That's right, Yes.

5 The second is the ability of the AFSL holder, in this case Swann, to authorise representatives to provide general advice?---That's correct, yes.

Did Swann only authorise representatives to provide general advice or did it also authorise representatives to provide personal advice?---General advice.

10 Thank you. And those two things in combination, those two features of the regulatory regime in combination are important to the add-on insurance market?---That's right.

15 Thank you. Did Swann sell products other than add-on insurance?---Perhaps I should clarify what – what those products may mean in this context.

What add-on might mean?---Yes.

20 Well, I will come do that in a moment. Perhaps I can put it to you in a different way. Did it sell comprehensive insurance?---Yes, it did.

All right. Did it sell any other form of insurance other than the products that's in a remediation program for now?---No, not outside comprehensive.

25 Thank you. So add-on insurance was a very significant part – if I – if I excise from the understanding of add-on insurance comprehensive insurance?---Yes.

30 When we speak of what Swann sold everything other than comprehensive insurance was what you would describe as add-on?---Yes.

Thank you. So add-on insurance was a very significant part of Swann's business then?---Yes, it was.

35 And are you aware of how many different types of add-on insurance Swann sold through dealerships?---Approximately five products.

40 All right. Well, perhaps we can just go through them. I think you list eight in your statement but in fairness to you, some may have replaced others?---I think there were some variations or replacements, yes.

The first is loan protection insurance?---Yes.

That's an insurance designed to cover loan repayments in the event of death?---Yes.

45 Or perhaps some other events?---Yes, there are some other events attached to those policies, yes.

What typically are the other events?---Involuntary unemployment.

Thank you?---That would be the other one, yes.

5 Walk away insurance was another?---Yes.

What was that insurance for?---That was insurance where a policyholder could take a vehicle back to a dealer and claim the difference between the price of the vehicle and the outstanding loan amount, if – if policy conditions did apply.

10

All right. And then protection plus insurance?---Yes, that – that is what walk away turned into in approximately February of 2015. There was a name change to the policy and some variations were made to that policy type.

15 And the first three policy types that we've just spoken about, they're all forms of consumer credit insurance?---Consumer credit insurance, yes.

Guaranteed asset protection or gap insurance was another?---Yes, it was.

20 What was that insurance for?---So that's insurance to insure effectively the gap between the value of a motor vehicle should the vehicle be written off in an accident and the difference between that value as determined by an insurer and the loan – loan – the outstanding amount on the loan.

25 Thank you. There was then purchase price protection insurance?---Purchase price protection insurance, that's right.

30 Is that a form of gap or is it different to - - -?---It's different. It is a policy of insurance that a policyholder can purchase that insures the difference between the purchase price of the vehicle and the amount the – the value – determined of the vehicle should the vehicle be written off.

35 So the difference between the two is that the gap insurance is the – is insuring the gap between the amount paid out under a comprehensive policy of insurance?---Yes.

And the amount outstanding under the loan?---Loan, yes.

And with purchase price insurance it's similar to gap insurance?---Yes.

40 But it's the difference between the market price of the vehicle and the amount paid to the financier?---Purchase price of the vehicle.

The purchase price of the vehicle?---Yes.

45 Thank you. There's another type of insurance which is mechanical breakdown insurance?---Yes.

And that was sold for both cars and for motorcycles - - -?---Yes, that's - - -  
- - - on a different policy?---Yes, that's right.

5 Am I right that that was an extended warranty insurance that covered parts and labour required to repair or replace defective components?---Yes, that's right.

Thank you. And then there was tyre and rim insurance?---Yes.

10 And what was that insurance for?---That was to insure damage to tyres and/or the rims of vehicles.

And why wouldn't that typically be covered by a comprehensive policy?---Many comprehensive policies exclude particular damage to that – those parts of the vehicle.

15 All right?---Yes.

20 And could a consumer be offered each of those products after buying a car?---Yes, they could, except in the consumer credit insurance example only one of those products could be offered.

Only – only one of the loan protection insurance, the walk away insurance - - -?---Yes.

25 - - - or the protection plus insurance?---But other – other products could be – could be bundled, if you like, at a point of sale, yes.

And some of those products had multiple options of cover?---Yes, they do.

30 And that presented a further complication to the consumer?---It – it may have, yes.

35 So do you think it's fair to say that the number and complexity of the products presented to the consumer in the various options that each product or at least some of them may have had made having a proper understanding of the key terms or key terms and exclusions of each product difficult?---Yes, I think that's fair, yes.

Thank you. Now, did Swann have a large share of the add-on insurance market?---It did.

40 And it participated in that market through authorised representatives?---Yes.

And those authorised representatives were motor vehicle or motorcycle dealers?---And – and some finance brokers as well and fleet – fleet management companies.

45 THE COMMISSIONER: Sorry and the last?---Finance brokers and the fleet management.

MR COSTELLO: Were the finance brokers embedded in a dealership?---No.

5 Right. You've exhibited a report to your witness statement – I won't take you to it unless you want me to, but from June 2014 that speaks about Swann's market share?---Yes.

And where it's deriving its GWP, which I think is gross written premium?---Gross written premium, yes.

10 And that document states that – this is – sorry, you haven't exhibited it to your statement. Perhaps I should take you to it it's IAG.508.006.0073. Are you familiar with this document?---Yes, I am.

15 If we could go to 0077. So this is a part of the document headed Channel Overview?---Yes.

And after setting out some general information about Swann in the second paragraph there it says:

20 *The GWP – the gross written premium – forecast result for financial year 2014 is 227 million.*

?---Yes.

25 And then "LYR". What's LYR?---That might be last year's result.

Right. Thank you?---I think, yes.

Continuing:

30 *211 million. Swann has a tradition of delivering strong financial performance consistently exceeding return on risk based capital targets.*

?---Yes.

35 If that could come down please and the next paragraph could go up. In that financial year, the dealer sales and distribution delivered 71 per cent of Swann's GWP. So where would the balance have come from?---That would have come from the finance brokers, I would – I would think.

40 And the fleet dealers?---Yes, that's right, yes.

Thank you. It says there:

45 *The remaining 29 per cent resulted from the direct channel.*

Are finance brokers and fleet dealers in the direct channel?---Sorry, okay. So – so that would mean literally direct outside of a distribution partnership. And it – and it appears that the finance brokers would also – would be included in the 71 per cent, I'm sorry.

5

Thank you?---Yes.

That paragraph can come down. Then you can see in the first pie chart there underneath the 71 per cent dealer sales and distribution. And there's a breakdown of that amount. And 49 per cent of it comes from motor dealers?---Yes, that's right. Yes.

10

And it looks as though – what's that seven per cent of it comes from finance brokers?---Yes.

15

Where would fleet dealers sit within this?---I believe it would be vehicle salary packaging as defined here.

20

Vehicle salary packaging?---I believe that's where it would be, yes.

Thank you. Commissioner, I tender that document.

25

THE COMMISSIONER: Swann channel strategy business plan, financial year 2014 to financial year '17, IAG.508.006.0073, exhibit 6.305.

**EXHIBIT #6.305 SWANN CHANNEL STRATEGY BUSINESS PLAN,  
FINANCIAL YEAR 2014 TO FINANCIAL YEAR '17 (IAG.508.006.0073)**

30

MR COSTELLO: Thank you, Commissioner. Mr Bessell, would you agree that during the period 2013 to 2016, at least, Swann had a focus on maintaining its market share in this segment of the insurance market?---Yes, I do. Yes.

35

And you've set out some tables at the end of your witness statement. They don't have totals in them but I'm just going to put the totals to you and you can tell me if you think they - - -?---Okay.

40

- - - sound right. They're for a 10-year period. And it looks to me, at least, that the number of policies sold through car dealerships over the period was about 846,000 policies?---I would have to have a look at the statement.

All right?---But I will – yes.

45

I will take – I will take you to it if we need to. A figure that you might be more familiar with is the amount of premiums received?---Yes.

Now, this is over the 10 year period?---Yes.

\$1.07 billion sound right?---Sounds about – yes.

5 And the amount paid out under those policies was almost exactly 10 per cent?---Yes.

About \$107 million. The number of claims on the policies was about 80,000 and it looks to me, at least, as though about 78 per cent of the claims were accepted. Does that sound like an acceptance rate that would be right to you?---I thought it might be  
10 a little higher than that but – but I think around 80 per cent would be correct.

If I've got it wrong, no doubt I will be told in closing submissions?---Sure.

And it won't be the first time. I want to talk to you now about commissions and  
15 incentives?---Yes.

The primary way that these types of policies were sold was by authorised  
representatives?---Yes, that's right.

20 And while there were finance brokers and fleet dealers we've seen from the pie chart that I just took you to that the bulk of them were car and motorcycle dealers. And did Swann have a stronger market share in motorcycles as opposed to cars?---Yes, for a period of time Swann was the dominant motorcycle dealer insurer. Yes. And it was a higher proportion of market share than in – than in motor vehicles.

25 All right. And you engaged authorised representatives by an authorised representative agreement, typically?---That's right.

And I will take you to an example of one of those agreements. It's  
30 IAG.500.029.8741. This looks like a compliance-like front page, perhaps, is it?---It's an administration checklist, yes.

All right. If we go to the second page then, you will see what's the real front of the  
35 agreement. Can I take you now to 8746 of that document. You can see there in clause 2.1 – this is where Swann authorises the dealer to be its representative?---Yes.

And the authorisation is relevantly in respect of the authorised services, and that's a  
40 definition we will come to later in the document. I will take you to that definition now. It's at 8770 of that document. You see there schedule A, authorised services schedule and authorised notice. Underneath that authorised services:

*The intermediary is authorised by the licensee to carry out advice.*

?---Yes.

45

Continuing:

*Provide financial product advice, provide general financial product advice only.*

- ?---Yes.
- 5 Do you know, those two boxes there, are they alternatives? I think you might have said to me earlier that you only ever authorise people to provide - - -?---That's correct.
- 10 - - - general product advice?---That's right. That's my understanding, yes.
- Thank you. You could have authorised them to deal in a financial product?---Yes.
- And then there's the types of dealings set out?---Yes.
- 15 And then there are additional authorities?---Yes.
- Were these typically given or were they only given on occasion, do you know?---I – I don't know.
- 20 All right. And then there are restrictions on authorised services at the end?---Yes.
- And the first one is provide any personal financial product advice?---Yes.
- 25 And is it your understanding that that was always the case, there was always that restriction?---Yes, that's right, yes.
- Thank you. If we could go back then to – sorry, go forward to 8773. You will be able to see at the page, when it comes up, the approved products that the – this particular authorised representative was approved to deal in?---Yes.
- 30 And at least from the list that you and I just went through, that looks like maybe that's not all of the products but is the reason that not all of the products because some were only replacements of products over time?---Yes, or in some – some occasions an authorised representative wouldn't sell all products.
- 35 Right. Thank you. Could we go back to 8750 in that document, please. It will come up on the screen in a minute, Mr Bessell. And what I'm going to show you here is clause 6.1 which is the first clause in the remuneration and performance section of the agreement?---Yes.
- 40 And you can see that the obligation there is that the licensee will pay the intermediary commission or other benefits as set out in this agreement?---Yes.
- 45 For insurance policies arranged by the intermediary on the licensee's behalf under the agreement in accordance with the rates in the matter set out in the products and commission schedule. And this clause 6?---Yes.

- Were Swann's dealers paid exclusively by commission?---Under this agreement they were, yes.
- 5 There might have been another agreement where they were paid in a different way or they received funds at least for a different reason?---Yes.
- All right. But under this agreement it's entirely - - -?---Under this agreement.
- 10 - - - commission-based?---Commission.
- Thank you. If we could go to 8773 of that document, you will see the products are set out and the relevant rates of commission. This is the page that I took you to the top part of earlier?---Yes.
- 15 And then under the Products and Commissions table there are the commissions for each product?---Yes.
- And the commissions vary from product to product?---Yes.
- 20 And for gap insurance there are five options – sorry, four options?---Yes.
- And that's the only type of add-on insurance where there was an option except for the tyre and rim insurance which depended on additional benefits?---Yes. In accordance with this agreement, yes.
- 25 And was it Swann's ordinary practice to have more than one commission rate for gap insurance?---Yes.
- And did it ordinarily have more than one commission rate for other types of insurance?---No.
- 30 Did it sometimes have additional commission rates for other types of insurance?---Yes.
- 35 Thank you. And why did it have four options for gap insurance at this point in time?---The options to which this agreement refers would be an option within the policy.
- 40 Within the policy?---Yes, within the policy. So there would be options within a policy and each option attracted a different level of commission.
- And does that mean each option came with a different level of cover for the insured?---Yes.
- 45 All right?---So the option typically – the option related to cover – the range of cover. The extent of cover?---Yes.

Does that mean – and it might be hard for you to answer this, if you can't don't answer it, but does that mean that under option 2 here you would expect there to be a higher level of cover?---Yes.

5 And that's why the dealer gets a higher level of commission?---Yes.

All right. And there's quite a degree of variability there between the commissions payable for the gap insurance?---Yes.

10 From 40 per cent the lowest option up to 51 per cent?---Yes.

And there are variable rates for the other types of commission?---Yes.

15 What within the market were the relevant factors that set the rates of commission for the different products?---So the consumer credit insurance personal use was capped at 20 per cent in accordance with the appropriate regulations. The other forms of insurance commission as listed here were typically variable based on market conditions.

20 Thank you. If we could go to 8748 of that document. Could we go to 8748, please. Can you see there, Mr Bessell, clause 5 is headed Intermediary Obligations?---Yes.

And there's a requirement in clause 5.2 for:

25 *The intermediary to comply with applicable laws.*

?---Yes.

30 And then what those laws are are set out underneath in the subparagraphs and includes the Corporations Act, the ASIC Act, the Insurance Contracts Act, the General Insurance Code of Practice?---Yes.

Underneath that there was an obligation for the intermediary to exercise reasonable care and skill?---Yes.

35 In performing its duties. And then underneath that an obligation for the intermediary to engage in conduct honestly, fairly and efficiently?---Yes.

40 And then there was a clause 5.5, Procedures and Directions From the Licensee. And if the next page could be brought up, please. This clause required – sorry, by this clause the intermediary agreed to comply with all policies, procedures, guidelines and any reasonable requirements or directions given to it by Swann?---Yes.

45 Including in relation to the provision of the authorised services by the intermediary. So that is the sale of the add-on insurance products?---Yes.

Thank you. Then if we could go to 8759. Do you see clause 22 there, the licensee's right of entry?---Yes.

And this required the intermediary to allow Swann:

5

*... to enter and inspect any place of business of the intermediary during business hours and other reasonable times to take copies or extracts of any documents that relate to this agreement.*

10 ?---Yes.

And then in (b):

15 *With reasonable notice, allow the licensee to conduct an audit of the information.*

?---Yes.

And in (c):

20

*To cooperate with and provide the licensee and any regulatory body, including ASIC or APRA with any information that the licensee considers may relate to this agreement or the provision –*

25 And it goes over the page:

*...of the authorised services.*

?---Yes.

30

Thank you. Are you aware of that clause ever being enforced by – or the rights under that clause ever being exercised by Swann?---In the – in the normal course of business representatives would attend – Swann employees, representatives, would attend the premises of the dealers to meet and discuss with them operational matters.

35

Right?---I – I'm not aware of – of the specific nature of these clauses being invoked but premise visits were regular and information was regularly obtained.

Thank you. Commissioner, I tender that document.

40

THE COMMISSIONER: Corporate authorised representative agreement of 1 August 2015, IAG.500.029.8741, exhibit 6.306.

45 **EXHIBIT #6.306 CORPORATE AUTHORISED REPRESENTATIVE AGREEMENT OF 1 AUGUST 2015 (IAG.500.029.8741)**

MR COSTELLO: I will take you to another document now, Mr Bessell. It's IAG.500.051.9107. This is an incentive scheme agreement?---Yes.

5 And does this look, to you at least, like a common form of incentive scheme agreement?---Yes.

Thank you. This one is from July 2013?---Yes.

10 And it sets out the basis upon which the – a dealer would be entitled to additional payments, payments in – payments above amounts that it would be entitled to under the authorised representative agreement we've just been to?---I – I think so, yes. I mean, I – I've seen – I think I've seen this document that provides more details about what that is later on in the document.

15 Yes?---But – yes.

Thank you. If we go to the second page, 9108, there's a heading Incentives. Can you see at the end of the first paragraph under heading 2 it says:

20 *Swann has pleasure in offering the company the following.*

?---Yes.

25 And then there's reference to a marketing subsidy of \$150,000 inclusive of GST?---Yes.

And that's based on the agreed gross written premiums of \$1.2 million to be written by the dealer during the 2013/2014 financial year?---Yes, that's right.

30 And the attainment of a group product mix level of no less than 30 per cent in target period 1?---Yes.

35 Ignoring target period 1 for now, what's a group product mix level?---So that would be reference to a mixture of difference insurance products that would make up the total premium value for that year.

You don't want your dealers just selling one type of insurance, you want them selling a mix of products?---That – that's right. That's what that's referring to, yes.

40 And is the idea that the dealer would be selling a bundle of products to consumers. Is that - - -?---Yes.

- - - the idea behind the mixed product?---That's right.

45 All right. So most people – the dealer is at least incentivised to sell more than one product to the customer?---Yes.

Thank you. And then that marketing subsidy is repeated for the following two financial years beneath that. And then if we go over the page to 9109, you can see in subclause (d) there, there is a performance bonus commission?---Yes.

5 Continuing:

*Calculated and payable annually in arrears in accordance with the relevant table in schedule A based on the GWP written by the companies during each target period.*

10

?---Yes.

So that's an additional amount not related to the marketing amount that we've just seen?---Yes.

15

But a bonus on top of the commission that's payable under the authorised representative agreement?---Yes. That's right.

20 Thank you. And then underneath that in subclause (e) there's a product mixed bonus?---Yes.

And that's based on:

25 *The gross written premiums written over the duration of the target period for the combination of consumer credit insurance and tyre and rim insurance expressed as a percentage of the total premium written by the companies.*

?---Yes.

30 Why tyre and rim insurance?---I can only – I don't know because I – I don't know the – the basis behind the document but I would – I would presume that that was a desired product at that point in time that the business felt that it could grow with that particular dealer.

35 Yes?---And wanted to incentivise them accordingly.

Speaking generally, was tyre and rim insurance a harder sell?---Yes, I would say so.

40 And so this is incentivising the dealer to do better at selling the harder product?---Yes.

The consumer credit insurance products might have been a little more easy to get a sale of. Would that be fair?---I could – I could say so, yes.

45 Thank you?---I don't know but I think that's fair, yes.

Thank you?---Yes.

Under clause 3 – that box can come down – there’s the eligible products listed?---Yes.

5 And then if we could move to 9112 of that document, please. And perhaps it could come up with 9113 as well. So this is the schedule that sets out the basis for calculating the performance bonus commission?---Yes.

And the product mix commission?---Yes.

10 Have you seen this sort of a table before?---I have.

And this was a common arrangement?---Not – not – so the corporate authorised representative agreement was a minimum standard agreement, if you like, for authorised representatives. Not every authorised representative was issued with an  
15 incentive agreement.

Right?---But for those that were, this was a common form of – of arrangement.

20 Thank you. Do you have any idea of the percentage of dealers that would have come under a performance incentive agreement?---I don’t, but I – I do know, though, of the percentage of total payments made.

To dealers?---Relative to a standard commission versus the other commissions that are outlined here but I don’t know a percentage of dealers.

25 Do you know – I want to make sure I understand you?---Yes.

Do you know of the payments made by Swann to dealers, what percentage of the payments were made under the standard commission arrangement and what  
30 percentage were made under an incentive arrangement?---I know of the percentage, yes.

Yes. And what was the percentage?---It was approximately 70 per cent of payments made to dealers would fall under the standard corporate authorised representative agreement which was the agreement we went through earlier with those commission  
35 tables. And approximately 30 per cent would come from agreements such as this.

Thank you. And what was the basis upon which somebody would be offered an incentive agreement?---My understanding was that these were offered to – to dealers  
40 that we felt could grow, were possibly a new client of the business. So there was an incentive there for them to – to grow and be incentivised for growing with Swann. And I also think there was a – an element of market forces here where in a competitive market these types of agreements were not uncommon, and if we were to keep a – keep a – a business or an authorised representative or obtain one, these are –  
45 these agreements would need to be put in place.

I see. Now, in terms of the two tables here, the first one offers a percentage of gross written premium in excess of \$1 million in the target period?---Yes.

And differential bonuses depending on the extent of the selling?---Yes.

5

And the second table, again differential bonuses based on the extent of the selling, but in set sums?---Yes.

10 And that was the standard form that was used by Swann for these incentive agreements?---The – the agreements may vary in type but – but it would be laid out on a format such as this but there may be variance as to product, for example, depending on the arrangements with the particular authorised representative.

Thank you. Commissioner, I tender that document.

15

THE COMMISSIONER: Letter of 2 July '13 – incentive scheme agreement IAG.500.051.9107, exhibit 6.307.

20 **EXHIBIT #6.307 LETTER OF 2 JULY '13 – INCENTIVE SCHEME AGREEMENT (IAG.500.051.9107)**

25 MR COSTELLO: Could we now please go to IAG.500.117.6772. While that's coming up, Mr Bessell, the – because such a heavy percentage of Swann's sales was conducted through authorised representatives Swann was heavily reliant on the performance of its dealers to maintain its market share?---Yes.

Do you agree with that?---Yes.

30

And that's one of the reasons why Swann would incentivise some of its dealers?---Yes.

35 Now, this document is entitled Swann Risk Profile. And it has been conducted as at 13 October 2014. Have you seen this type of document before?---I have.

And if we could move to – perhaps to 6776 of the document. I asked you earlier whether or not in the period 2013 to 2016 Swann was keen to maintain its market share, and you agreed with me, I think - - -?---Yes.

40

- - - that it was. And we can see here that in this – in this risk profile there is a risk described in the first column on the left as being:

45 *...a risk that competitors or new entrants successfully attack our dealer/intermediated market for strategic or profit reasons resulting in reduced market share.*

?---Yes.

That was seen to be a risk?---Yes.

5 And the inherent impact or likelihood of the risk was – got a red rating, major, almost certain, extreme?---Yes.

10 And then there's some of the context set out there in the first column, which is somebody dreaming up ways that this could come to be?---I am not sure if they were dreaming them up but there would be some fact basis.

That's right. Considering ways that this risk might manifest itself in a real form?---Yes.

15 And they – whoever did this document, then points to existing controls - - -?---Yes.

- - - to try to prevent that happening. And the first control was commission arrangements?---Yes.

20 The second was leveraging Swann network and IAG buying power. And the third was the ignition incentive program to provide more benefits?---Yes.

Reviewed and reinvigorated?---Yes.

25 The fourth was:

*Continued focus to improve our value proposition to distributors through introduction of additional products and services and the development of strong relationships.*

30

?---Yes.

And then I will just let you read the next - - -?---Yes.

35 - - - bullet points in that column?---Yes.

There's nothing in that column that is focused upon the consumer, is there?---No, there's not.

40 And part of the reason for that is that Swann viewed its customer, in effect, as being the dealer?---Effectively, yes, that – that's right.

Was the dealer that was – the dealer was the person that insurance companies were competing for?---Yes.

45

Because that was the distribution channel for the product?---That's right.

And the dealers then had customers which were the people they were selling cars to?---Yes.

5 And add-on insurance, but Swann's focus was on maintaining its dealer network and keeping its dealers happy because that was how it maintained its market share?---That's right.

10 And there's reference here to the ignition incentive program which I will take you to soon but was that a program that had been running within Swann for some time at the date of this document? This is October 2014?---I – I don't know how long that program was running for, but I – I'm aware it was running for a number of years, but I don't know how long – for how long it was running.

15 Now - - -?---And – and for context, I started looking after this business from May of 2015 - - -

Yes, No, I appreciate that?--- - - - so I am somewhat limited in my knowledge there but I have seen documents related to the ignition program.

20 Thank you. If we can go over the page to 6777, please. There's another risk identified there, number 3, political legislative regulatory risks, eg, CCI – that's consumer credit insurance?---Yes.

25 Add-on insurance, intermediated distribution methods?---

That's the risk, the potential causes for the risk are regulator government reviews?---Yes.

30 Changes to legal interpretation by legal industry or – sorry, by legal or industry body?---Yes.

Ongoing CCI review by ASIC. ASIC is currently reviewing the way financiers sell CCI insurance?---Yes.

35 Continuing:

*Lack of distinction between ASIC and ACCC.*

40 Do you understand what that means?---I don't understand what that means.

Thank you. And then:

*Tyre and rim add on products review by ASIC.*

45 ?---Yes.

So whoever prepared this document was aware that there were risks emerging from the regulator, at least?---Yes.

5 And had rated the impact of that as major, likely, critical, but then put underneath that a question mark “to discuss”?---Yes.

And that came to be accurate in that this risk did manifest - - -?---Yes.

10 - - - in that the regulator continued to pay attention to this part of the market - - -?---Yes.

- - - in an even more considered and intense way than it had to this point in 2014. Do you agree with that?---Yes, it did.

15 Thank you?---And – yes.

Commissioner, I tender that document.

20 THE COMMISSIONER: Swann risk profile conducted 13 October 2014, IAG.500.117.6772, exhibit 6.308.

**EXHIBIT #6.308 SWANN RISK PROFILE CONDUCTED 13 OCTOBER 2014 (IAG.500.117.6772)**

25

MR COSTELLO: Mr Bessell, I said I would take you to the Swann ignition program, which I might do now. Can I take you, please, to IAG.500.051.5739. This is a manual for the program?---Yes.

30

It’s titled an Administrators Manual. Who’s the administrator of the program?---Swann Insurance.

35 Right. This is an internal Swann document. It’s not a document for the dealers?---No, it’s an internal document.

40 All right. Could I take you, please, to .5744. While that’s coming up, could you just explain in general terms what the ignition program was?---Yes. So it was a program for employees of authorised representatives that effectively provided an employee a – a point system on the successful sale of an insurance policy.

45 And that might draw out a distinction that I hadn’t drawn from you before. The authorised representative agreements, are they typically with the principal of the dealer group, in effect?---Yes, the corporate entity.

And the commission payable is payable to the corporate entity?---Yes.

And this ignition program is a way of incentivising the employees of the authorised representative?---That's right.

5 And we can see here under the heading Understanding the Ignition Incentive Program, it says – it's an online incentive program. How was it online?---Sorry, where - - -

Sorry, underneath the heading Understanding the Ignition - - -?---Yes. Yes.

10 The Ignition Incentive Program?---Yes. Okay. Thank you.

15 It says it's an online incentive program?---Yes. So I think this document outlines the program. So effectively, an employee of an authorised representative could, once they were certified to provide general advice and sell these products, would be eligible to participate in a – in this program. Upon the sale of a policy they would be rewarded points, and those points could be redeemed via access – well, through a website and then a catalogue of goods could be selected from – through which they could redeem their points.

20 All right. And it says there in bold:

*One ignition –*

25 Sorry:

*On ignition, one point equals \$1.*

?---Yes.

30 And what would happen under the program is that a number of points would be attributable to the sale of a particular product?---Yes.

35 And then each one of those points was a dollar, and that dollar was redeemable for – for a selection of products that was available on the ignition website that Swann operated?---Yes, to an equivalent value.

Yes?---Yes.

40 Thank you. And this program was still running when you took charge of Swann?---Yes, it was.

45 And if that box could just come down for a moment, or if we could zoom back out, I asked you earlier how long the program had been running for and you weren't quite sure?---Yes.

I think you said for some time. You will see that - - -?---Yes.

- - - in the very first line of that document, 2004?---2004, yes.

Does that sound right to you?---Yes.

5 Thank you. Was this the central way that Swann incentivised employees of dealer groups?---Yes.

10 Was there any other way that it did it?---There would be – this is the – this would be the – I would say this was the most commonly used incentive system throughout the network of ARs, authorised representatives, I’m sorry. From time to time we were – the Swann business would hold events, for example, corporate hospitality, for example, but in a – in a formalised basis, this is the – this was the incentive arrangement that was employed with the authorised representative staff, yes.

15 Thank you. Commissioner, I tender that document.

THE COMMISSIONER: Ignition incentive program administrators manual, version 4, December ’14, IAG.500.051.5739, exhibit 6.309.

20

**EXHIBIT #6.309 IGNITION INCENTIVE PROGRAM ADMINISTRATORS MANUAL, VERSION 4, DECEMBER ’14 (IAG.500.051.5739)**

25 MR COSTELLO: Mr Bessell could I now take you to another document IAG.500.051.5697. While that’s coming up, does Swann, to the extent – did Swann, to the extent it was able to, seek to understand what incentive programs its competitors ran?---I believe so, yes.

30 Do you know whether or not Swann – some of Swann’s competitors had similar incentive programs for the staff of authorised representatives?---I – I – I can’t say that I do. I’m aware of similar – I’m aware of incentive programs in the market generally speaking but I – I can’t say that I know the details of those programs.

35 Are you aware of incentive programs in the market generally for the employees of dealers?---Yes. Yes. But I don’t know what they are, but - - -

Right. But Swann wasn’t to your – to your knowledge, Swann wasn’t the only entity that was seeking to incentivise the employees of dealers?---No, I don’t believe so.

40

Thank you. Have you seen this document before?---I have.

And is this a document that came out in a similar form reasonably regularly from Swann?---Yes, it did.

45

And correct me if I’m wrong, it seems to me, at least, that this document is a short-term bonus within the ignition program?---Yes, it is.

To try and give an additional incentive over the ordinary ignition incentive to the dealer group staff?---Yes, for – for an agreed period of time, yes.

5 Yes. And could you just explain how this particular program worked?---Yes. So this is a short-term incentive that appears to have been issued – I’m not sure if it was issued to a particular dealer group or just in general. But it’s for a period of time, 3 February to Wednesday, 30 April 2014. And it’s effectively providing more – more points than would normally be the case under the ignition program for a salesperson should they obtain a – it’s referred to here as three products written in a single  
10 transaction.

This is if you sell a bundle of three products you get an additional 50 points?---Yes.

15 That’s on top of the points that you would have got?---Yes.

And if you manage to get four in a bundle, you get 75 points?---Yes, I’m sorry, yes.

An additional 75?---I’m sorry, yes, yes, yes.

20 And then there’s an explanation in the box underneath that about how that might work?---Yes.

And these ignition points, like the ones we’ve just seen from the manual I took you to, were worth the equivalent of a dollar?---Yes.

25 Thank you. And how often would this type of multi policy incentive be run?---I don’t know. I don’t know the frequency. I – I can’t say.

30 Do you know whether they were typically run just for a specific dealer, or whether they were run more generally than that?---I don’t know.

All right. Are you aware of whether Swann ran these sorts of multi policy incentives during your time in charge of Swann - - -?---Yes.

35 - - - after May 2015?---Yes, I believe they did, yes.

Who would authorise them in that case – that period of time, rather?---So my understanding would be that the sales manager would authorise – and typically something of this nature would need to get approved, depending on the – the dollar  
40 value or the potential dollar value of the – of the program.

Approved by?---Approved by the general manager of that business.

45 Would that have relevantly been you at that point?---No.

No. Somebody that reported to you?---Or someone – or reported to someone who reported to me, I’m sorry.

Thank you?---Yes.

1 I won't take you to it, but – unless you want me to but there's another one of these documents in the court book that's for the period 24 May 2016 to 30 June 2016. And  
5 that would have been in the period where you had ultimate responsibility - - -?---Yes, that's right.

- - - for Swann?---Yes.

10 Thank you. I tender that document, Commissioner.

THE COMMISSIONER: Ignition super-charged multi-policy incentive, February to April to 14, IAG.500.051.5697, exhibit 6.310.

15

**EXHIBIT #6.310 IGNITION SUPER-CHARGED MULTI-POLICY INCENTIVE, FEBRUARY TO APRIL TO 14 (IAG.500.051.5697)**

20 MR COSTELLO: Mr Bessell, are you aware that at all relevant times Swann was obliged to have in place adequate arrangements for the management of conflicts of interest that may arise from the sale of its products?---Yes.

25 And am I right in saying that one process Swann had in place to manage potential conflicts of interest was the training program that it put its authorised representatives through?---Yes.

30 And could you tell us something about that training program? Was it necessary for the authorised dealer to be trained before entering into the agreement?---That's correct.

And was it necessary for the authorised dealer's staff to be trained?---Yes. So – yes, that's right. Yes.

35 And once the training had happened, is it also the case that dealers and perhaps their employees were sometimes required to complete an electronic questionnaire?---Yes, that's right.

40 And how often did that need to be undertaken?---So the general insurance training was a prerequisite for a salesperson to have access to be able to sell the product. So that was – that was general insurance. And that – that – that training package was – was registered with ASIC. There would also be some privacy and complaints handling and so on packaged up with that. Minimum training requirement. And that was – that had to be completed by the salesperson before they could sell the product.  
45 After that, there was the electronic management questionnaire that I think you were referring to.

Yes, thank you?---And that would be sent to dealers on a regular basis. I'm not sure of the frequency of – of that. And that would be an electronic format that would be overseen by the risk and compliance team within Swann.

5 And were they the two processes that Swann had in place to manage potential conflicts of interest?---They – they would be – I would say yes, yes.

10 Was there any other process in place that you can think of?---There was the ability for – if a – if a conflict of interest had been observed by a staff member or a member of an authorised representative, they could lodge or log a – it was referred to as a compliance mail box. So matters could be referred and logged into that compliance mail box and that would be reviewed also by the compliance manager within the Swann business.

15 Thank you. Do you agree that Swann's remuneration and incentive arrangements, including in the documents I've taken you to now which are representative, I think, of what was going on at the relevant time period that we're talking about, do you agree that those arrangements incentivised sales alone?---I would say – I wouldn't say alone, I would say the predominant motivation or incentive was sales.

20 It was exclusively the motivation, wasn't it?---Sales incentive programs, yes, but - - -

The entire point of them was to – was to incentivise sales?---Yes, that's – that's true, yes.

25 And there was no intention of incentivising any other conduct?---No, that's right.

Thank you?---That's right.

30 They didn't seek to incentivise compliance with the law?---No, not on an incentive basis. My view would be that would be inherent, though, with a – with a corporate authorised representative agreement.

35 The agreement – some of the clauses that I took you to before imposed an obligation on the dealer to comply with the law?---That's right, yes.

That was an obligation that sat there from the moment they signed the agreement?---That's right.

40 And is it your evidence that there was an expectation that that would be – those obligations would be met?---Yes.

45 And do you think that there was any tension between the type of incentive arrangements that Swann was offering and compliance with the law generally?---I don't believe there was tension between compliance with the law. But I – I think in a sales environment where – where high incentives are evident it's an environment that needs to be – needs to be considered.

Do you think that these incentive programs incentivised sales that were inappropriate?---On occasions that did occur, yes.

5 Are you – are you aware that most new car dealerships have very thin margins on their car sales?---Yes.

And for that reason they rely heavily on sales of other products for their profitability?---Yes, that's right.

10 One of the other products might be parts and servicing?---Yes.

And another is add-on insurance products?---That's right.

15 Do you think that heavily incentivising a business that is heavily reliant on the income from a particular product line, is likely to result – more likely to result in inappropriate sales?---I think – I think we've seen evidence of that and if I look back on what I've observed and also what we have since agreed with ASIC in the form of a resolution program, I – yes, we have seen examples of that.

20 You accept that Swann's authorised representatives engaged in sales practices where consumers were sold products that were not appropriate to the consumer?---On occasions, yes, that did occur.

25 Thank you. Commissioner, I see the time.

THE COMMISSIONER: Yes. How long do you expect to need with Mr Bessell?

MR COSTELLO: I expect at least an hour.

30 THE COMMISSIONER: Right. I'm sorry, Mr Bessell. We will need to bring you back tomorrow. At what time, Mr Costello?

MR COSTELLO: Commissioner, 9.30 if we can.

35 THE COMMISSIONER: 9.30 it is, then. If you would be good enough, Mr Bessell, to be back in time to begin at 9.30 tomorrow morning. We will adjourn until that time.

40 <THE WITNESS WITHDREW

[4.14 pm]

**MATTER ADJOURNED at 4.14 pm UNTIL  
WEDNESDAY, 19 SEPTEMBER 2018**

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