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15 September 2015

By Fax and Post

Our ref SCB/THRE/MIT/111850.00038

Dear Sirs

NOT FOR BROADCAST

Panorama - Post Office Limited

We write in connection with the Panorama programme, "Trouble at the Post Office", broadcast at 7:30pm on 17 August 2015 (the "Programme"). As stated in previous correspondence, we act for Post Office Limited ("our client" or "Post Office").

Background

Prior to the broadcast of the Programme, there were extensive communications between our client and the BBC (both at editorial and legal level), including a detailed on-the-record briefing meeting between Post Office and the BBC. As stated in our letter to BBC Programme Legal Advice on 10 August 2015 (copy attached), our client had significant concerns regarding the manner in which the Programme had been prepared, the content of the proposed programme and its purpose. Indeed, our client was extremely concerned that you were likely to be broadcasting highly damaging allegations about Post Office that would not be adequately supported by any evidence and without our client's right of reply being fairly reflected in the Programme. Having now seen the Programme, it would appear that our client's concerns were well founded.

The Programme presented a very one-sided view of this issue and crucially featured a number of untrue allegations that are likely to cause our client significant financial damage.

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We do not repeat all of the points raised in our letter of 10 August but incorporate them in this complaint by reference. As clearly set out in that letter, in producing the Programme, the BBC has not only broadcast untrue and damaging allegations regarding Post Office but has failed on several occasions to comply with the BBC Editorial Guidelines. In particular, and despite repeated requests, our client was never provided with sufficient information about the allegations to be made against it, nor was it provided with relevant details of the evidence upon which the BBC was basing such allegations. This runs contrary to paragraph 6.4.1 of the BBC Editorial Guidelines. Furthermore, this meant that, contrary to paragraph 6.4.25 of the BBC Editorial Guidelines, our client was not provided with an adequate opportunity (or ability) to respond to the allegations raised in the Programme, resulting in a broadcast containing some very serious and highly damaging allegations that did not fairly reflect our client's position nor provide a duly balanced view of the issues raised. Moreover, in a number of significant respects, Post Office's response to those allegations which were provided was not fairly and accurately included in the Programme.

We note from the broadcast that the journalist Nick Wallis is listed as the producer of the Programme and Matt Bardo as producer and director, although the website simply identifies Matt Bardo as the producer. We are also somewhat surprised that, as the producer, Nick Wallis was not included in any of the emails, nor the lengthy on-the-record briefing meeting between Post Office and the BBC. Mr Wallis' views on these matters are clear, not only from previous broadcasts, but from his blog, Facebook page and Twitter account. Our client has had cause to challenge previous comments made by Mr Wallis in his personal blog and our client has significant concerns that his journalism has, at times, strayed beyond impartial reporting. The BBC's failure to disclose his involvement suggests a lack of transparency on the part of the BBC and, furthermore, Mr Wallis' declared views may have had an impact on the BBC's impartiality in relation to the Programme.

Allegations made

The Programme states on more than one occasion that Post Office pursued theft charges against postmasters where there was "*no direct evidence of theft*" or "*no evidence of theft*". The allegation is further made that our client included theft charges, despite a lack of evidence, to put pressure on postmasters to plead guilty to false accounting and to assist with financial recovery. These allegations are untrue, highly damaging and are likely to cause our client serious financial harm. Our client has repeatedly made clear that it follows the Code for Crown Prosecutors issued by the Director of Public Prosecutions, such that charges would only be brought where it had received legal advice that there is sufficient evidence to give rise to a realistic prospect of conviction in respect of any charge. Furthermore, the internal documents relied upon, in particular in relation to the allegation as to the issue of Post Office's financial recovery, have been taken out of context; it is simply untrue that the charges were brought for the purposes of Post Office's own financial recovery.

The Programme further states by reference to statements made by Richard Roll who had worked at Fujitsu, that financial records were sometimes changed remotely without the postmaster knowing. Mr Sweeney goes on to state that "*Post Office has always said that simply can't happen*" and invites the conclusion that what Post Office has said in relation to remote access is "untrue", a particularly damaging allegation. This is not an accurate or fair reporting of Post Office's formal statement to Panorama. As made clear in the statement, Post Office can correct errors in and/or update a branch's accounts by inputting a new transaction (not editing or removing any previous transactions). It is also possible to update the software remotely. However, any such changes would be shown transparently in branch transaction records. Although Mr Sweeney included Post Office's statement that it is not possible to edit the transactions as recorded by branches, in the context of the other statements made and, in particular, the conclusion that what Post Office was saying in this respect was "untrue", Post Office's response was not fairly represented in the Programme. Had Post Office's response been fairly represented, this would have provided appropriate context for the comments made by Mr Sweeney and Mr Roll.

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Contributions

The Programme includes contributions from various purported experts, whose opinions and contributions were misleading and unfairly portrayed as providing informed criticism with regard to the approach adopted by Post Office.

By way of example, Charles McLachan was asked the following questions by Mr Sweeney: "*So when you've got a computer system this complicated and this big, is it possible that things can go wrong*?". The response, "*Any computer system can go wrong. What's important is the way that you deal with things when they do go wrong*", suggests that Post Office has failed to investigate the Horizon system or to deal with problems as they arise in the system. This is incorrect. Not only, as stated in our letter of 10 August 2015, has Post Office conducted detailed investigations and an independent review to assess whether computer errors have caused cash to go missing in this small number of branches, but such investigations have demonstrated that the system operates and operated as it should and Post Office has seen nothing to suggest that any branch has been held responsible for a loss that was caused by a fault in the Horizon system.

Post Office does not claim that Horizon is perfect. However, there is a considerable difference between minor bugs which have been rectified and alleged major faults which would result in a postmaster wrongly being held responsible for a loss. Implying that a major fault of that nature is probable simply because of the existence of other minor faults is neither logical nor fair to our client. Your Programme presents no evidence to support the allegation that a fault in the Horizon system was responsible for a loss for which any postmaster has been prosecuted.

Similarly, the allegation is made by Mr Ian Henderson that there has been a "*failure to investigate properly and in detail cases where [IT] problems occurred. It is almost like institutional blindness.*". It is untrue that there was a failure to investigate the individual cases properly and in detail. Indeed, the first task for the Post Office investigators is to establish what happened in the branch. However, where there has been deliberate falsification of the accounts, the investigators will not able to identify the transactions which may have caused discrepancies and losses. Furthermore, the presentation of Mr Henderson's contribution, followed by the references to the investigations and private prosecutions, clearly suggested that Mr Henderson was in a position to comment on the adequacy of the investigation and evidence for the prosecutions. Mr Henderson does not have sufficient knowledge of the individual criminal cases to make such a broad and serious accusation. Despite this, this allegation is presented, in essence, as fact, suggesting that Mr Henderson has the requisite knowledge to be capable of making such an assessment. In the context of claims of "institutional blindness", it is also remarkable that no detail was provided in the Programme to the Complaint Review and Mediation Scheme set up and funded by Post Office, the work of the Scheme's working group more generally and the involvement of the Centre for Effective Dispute Resolution. All of these matters were discussed in detail during the on the record briefing provided to the BBC by Post Office.

Professor Mark Button is presented in the Programme as a relevant legal expert. However, Professor Button does not have, and has not had, any involvement in or knowledge of the three cases presented in the Programme. Indeed, this has been acknowledged by him in an email to Post Office dated 18 August 2015. Nonetheless, his contribution was presented in a manner which suggested that he had some knowledge of the specific cases. This is a concern that was raised in our letter of 10 August but which has clearly been ignored. Professor Button stated during the Programme that private prosecutions "*create potential risks of miscarriages of justice*". This statement is entirely meaningless when robbed of the context of the specific cases. The manner in which this contribution is presented suggests that this supports the argument that there have been miscarriages of justice in the three cases featured in the Programme. This is not the case, it is simply a general remark.

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In the context of a section of the Programme considering Seema Misra's case, Professor Button further opines that "*there have been lots of cases in the past where inadequate disclosure by the prosecution has led to the collapse of prosecutions...*". Again, in the absence of any knowledge of Ms Misra's case, this general statement by Professor Button is wholly irrelevant. By inserting this comment at this point of the Programme, the viewer is left with the misleading impression that Professor Button is speaking expressly in the context of Ms Misra's case. This is a false impression which is highly damaging to our client.

Although Post Office had explained that it was unable to make any comment on individual cases in light of confidentiality assurances given to those involved and while any criminal case review is ongoing, much of the relevant material in relation to Ms Misra's case (and others) is in the public domain. The BBC could easily, and should have, carried out research so as to check and verify the facts so as to achieve due accuracy and to corroborate the evidence of Ms Misra, in accordance with paragraph 3.4.2 of the BBC Editorial Guidelines. This would have shown that the scope and extent of disclosure given in Ms Misra's case was in fact overseen and sanctioned by the court.

It is also notable that the Programme contains a contribution from Richard Roll as an alleged "*whistleblower*". Despite repeated requests to be told the identity of the various contributors, our client was not notified of Mr Roll's identity, simply that there was a former Fujitsu employee who was a "*whistleblower*" who had worked with Fujitsu "*prior to 2010*". It was therefore surprising that no attempt was made in the Programme to conceal Mr Roll's identity or appearance. Evidently his identity was not a secret. There is therefore no justification for the BBC to refuse to disclose his identity, contrary to paragraph 6.4.1 of the BBC Editorial Guidelines.

If Post Office had been provided with details of Mr Roll's identity, it would have been position to comment on the role actually performed by Mr Roll while at Fujitsu and his capacity to provide meaningful evidence on these matters. Indeed, it is notable that Mr Roll left Fujitsu's employment and, indeed, ceased working in IT in 2004, well before 2010 and before many of the reported losses were recorded by the postmasters featured in the Programme. It is difficult to understand how he can therefore opine on the operational status of the Horizon system at a time when he was no longer employed by Fujitsu, nor even working in the IT sector. No reference was made in the Programme to these limitations with regard to Mr Roll's experience of the Horizon system. To the contrary, his contribution was presented in such a way as to suggest that it was contemporaneous with the events being addressed in the Programme.

Moreover, the Panorama team themselves declined the offer by Post Office of a demonstration of the Horizon system on the basis that the manner in which the system operated today is irrelevant to the issue of how it operated at the time of the purported losses. It is difficult to understand therefore why the BBC considers that evidence of how the system operated prior to the purported losses is relevant either. To present Mr Roll's contribution in such a manner that suggested that he had first-hand experience of the Horizon system at the relevant time is therefore highly misleading for viewers and unfair on Post Office.

Mr Sweeney further asks Mr Roll the highly leading question: "*It is possible that suffering could have been caused because there are problems in the Horizon system?*". Mr Roll states that this is possible. However, again, no evidence is presented by Mr Roll or during the Programme to suggest that any problem with the Horizon system has resulted in a loss for which any postmaster was prosecuted. Nonetheless, the manner in which Mr Roll's contribution is presented is intended to mislead viewers into believing that he has a greater degree of knowledge of individual cases than is accurate. This is a contravention of paragraph 3.2.3 of the BBC Editorial Guidelines.

Not only did the Programme include these misleading contributions from purported experts, but the BBC failed to include any contribution from, or reference to the views of, for example, the National Federation of SubPostmasters (NFSP), the independent membership body which supports and represents some 5,000 postmasters across the UK. NFSP is an independent membership organisation. It is telling that the

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Programme omitted any reference to the NFSP on this issue, as a neutral body, which would have helped put the criticisms of the three postmasters featured in the Programme in a proper context.

Reflection of right to reply

Our client provided the BBC with a detailed statement to be used on the Programme. In light of the fact that our client was provided with very limited information regarding the allegations being levelled against it and the evidence upon which such allegations were founded, it was extremely difficult for our client to provide a suitably comprehensive statement.

Nonetheless, and despite the provision of a detailed statement, the BBC saw fit, during the Programme, to 'cherry pick' from our client's statement preferring to use short sound bites rather than to reflect our client's statement in full. This inevitably meant that the force of much of what was being said by Post Office was lost and was not fully, fairly or accurately represented in the Programme (contrary to paragraph 6.4.26 of the BBC Editorial Guidelines). Many comments which were included, were then followed by reporting which was designed to negate the impact of the Post Office's comments and therefore meant that Post Office's statement was not reflected fairly in the Programme. Furthermore, significant elements of the statement were omitted altogether. For example:

- The Programme includes reference to the involvement of the Criminal Cases Review Commission ("CCRC"). However, no mention is made of the fact that, in addition to complying with its statutory obligations, Post Office is voluntarily providing the CCRC with any assistance it requires. Nor is it made clear, that the CCRC will have details of all of the relevant documents which are available, including privileged and confidential materials, meaning that the CCRC will be far better equipped to reach a conclusion regarding any potential miscarriage of justice than the BBC (or, indeed, anyone else) would be.

- Despite being set out in our client's statement, the limited role for which Second Sight was appointed and, furthermore, its lack of expertise in respect of criminal law and procedure is not made clear in the Programme. This is highly relevant and frames the weight that should be given to any contribution provided by Second Sight.

- As stated above, Post Office's statement regarding remote access to the Horizon system was not accurately reflected in the Programme. In particular, it is notable that Mr Roll is asked whether "*what the Post Office is saying is untrue*" and yet at no point is it made clear what statement has actually been put before Mr Roll. If it is the statement that changes to the system made remotely "simply can't happen", then this is an inaccurate reflection of Post Office's position and results in a highly misleading and damaging sound bite, essentially alleging that Post Office is lying. This is completely untrue and such a statement, implied or otherwise, is likely to cause serious financial harm to our client.

- The Programme states that Post Office "*doesn't have to go through the police or the Crown Prosecution Service*". The inference from this section of the Programme is that the Post Office is operating outside of the restrictions of the usual legal process. No mention is made of the fact that Post Office follows the Code for Crown Prosecutors issued by the Director of Public Prosecutions. Nor is any mention made in the Programme of the fact, as stated in our client's statement, that "*every person charged with a criminal offence is entitled to their own independent legal advice and representation, and reaches their own decision on how to plead based on that advice*". We would also point out that Post Office does not conduct private prosecutions in Northern Ireland or in Scotland.

- The Programme states that "*some are now calling for Paula Vennells to resign*". The inference being made in this statement is that Ms Vennells is in some way personally implicated in any alleged miscarriage of justice, and that there is a call for her to resign. In fact, as your reporters

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will have been well aware, Ms Vennells was not CEO at the time the decision was made to bring these prosecutions. Your Programme also failed to include reference to the fact that Ms Vennells initiated the independent inquiry and committed to a series of actions, including providing funding to help people obtain professional advice to bring forward complaints against the company.

Taken together, these omissions and misrepresentations mean that, in contravention of paragraphs 3.2.1 and 6.4.26 of the BBC Editorial Guidelines, the BBC has failed to ensure that the response relevant to the allegations broadcast has been reflected fairly and accurately.

Offer to meet

The key allegations in the Programme are founded on documents which purportedly show that Post Office brought a charge of theft against Ms Hamilton, and also against Mr Thomas, in the absence of any supporting evidence and further that Post Office used such a charge to put pressure on Ms Hamilton and Mr Thomas to plead guilty to false accounting. The documents upon which the BBC seeks to rely, and which purportedly evidence the allegation made, have been taken entirely out of context.

On 12 August 2015, following extensive communications between Post Office and the BBC, our client provided the BBC with an opportunity to review documents that would place these documents in context and which would answer the allegations being levelled against Post Office. In particular, Post Office invited the BBC to discuss a suitable arrangement whereby the confidentiality of such documents could be maintained while also enabling the BBC to verify the information it was proposing to broadcast and to check the highly damaging allegations being made about Post Office by a number of individuals who could fairly be described as having an axe to grind with our client. Despite this entirely reasonable offer, and despite the fact that paragraph 3.4.2 of the BBC Editorial Guidelines states that the BBC must "*check and verify information, facts and documents, where required to achieve due accuracy*", this offer was refused by the BBC.

It is notable that if Post Office had been allowed to demonstrate to the Panorama team that these allegations were false, then the BBC would inevitably have removed such allegations and, as a consequence, would have been left with little material to broadcast. In this respect, it is perhaps unsurprising that the Panorama team preferred to decline Post Office's offer, preferring instead to 'bury its head in the sand' and deny the inconvenient truth that Post Office has evidence to demonstrate that the allegations being broadcast were untrue.

It should also be noted that the fact that such documents could only be shown to the BBC on a confidential basis, is not a valid reason for declining to take the necessary steps to verify or debunk the allegations being put forward by third parties. There was no valid reason for declining our client's offer.

Furthermore, the decision to decline the offer to have sight of these documents will not provide the BBC with any potential defence to a claim for defamation.

In this respect, we note that the BBC did agree to meet with Post Office, but only after broadcast of the Programme. At this meeting we are instructed that the BBC stated that the appropriate course of action, in the light of Post Office's concerns with regard to its treatment in the Programme, would be to bring a complaint.

Next Steps

We request that this complaint be dealt under the BBC's formal complaints procedure.

In the meantime, we are discussing with our client its options in respect of more formal action, including a potential complaint to Ofcom and an action against the BBC for defamation. The manner in which this complaint is handled and responded to is likely to have a bearing on the further actions that Post Office may take in respect of the Programme and on our client's decision over what steps to take against the BBC.

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For the avoidance of doubt, if the BBC chooses to ignore this complaint or to deny that there is any valid basis upon which to found such a complaint, then we will be recommending to our client that it takes more formal steps with regard to this matter.

In the circumstances, and to reduce the likely damage being caused to Post Office by the continuing broadcast of the programme during the complaints process, we would request that the programme be removed from BBC iPlayer. Please also correct the damaging summary included on the web page, which repeats the most damaging claim that Post Office charged some postmasters with theft when "*the evidence didn't stack up*". This is, as we have made clear, incorrect and cannot be substantiated.

In the meantime, all our client's rights are reserved.

Yours faithfully

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10 August 2015

By Fax and Post

Our ref SCB/THRE/MIT/111850.00038

Dear Sirs

NOT FOR BROADCAST

Panorama - Post Office Limited

We write in connection with the programme that we understand BBC Panorama is intending to broadcast on 17 August 2015 in relation to our client, Post Office Limited ("Post Office").

Summary

As has been repeatedly highlighted to the BBC Panorama team in direct correspondence, our client has serious concerns regarding the manner in which this programme has been prepared, the content of the proposed programme and its purpose. These are set out in more detail below but, in brief, it is evident that the BBC is proposing to make a number of very serious and potentially significantly damaging allegations about Post Office and, in particular, its conduct in relation the prosecution of a number of postmasters. Despite this, Post Office has not been provided with sufficient detail of these allegations, nor has it been provided with sufficient information as to the evidence upon which such allegations are based to enable an informed response.

With all this in mind, it cannot be said that Post Office has been given a fair opportunity to respond, nor is it likely that Post Office's position will be fairly and accurately presented in the programme.

There is therefore a significant risk that that the programme will contain material which is unsubstantiated, untrue and likely to cause serious financial harm to our client.

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Allegations being made

Our client is entitled to be given a fair opportunity to respond to any allegations of wrongdoing, iniquity or incompetence, or any strong or damaging critique.

By email of 12 June 2015, Matthew Bardo provided some limited information regarding the allegations that the Panorama programme is planning on making.

The email of 12 June 2015 stated:

> *"Our evidence suggests that the Post Office may have unfairly used theft charges to put pressure on sub-postmasters to plead guilty to false accounting and/or repay apparent losses identified by the Horizon computer system. The evidence also suggests that the Post Office failed to consider or investigate the possibility that Horizon could be the cause of some of the losses. As you know, it has been suggested that these failings may have led to miscarriages of justice in some cases."*

Such allegations clearly form a key element of your programme, as evidenced by the text provided to TV listings providers, such as Radio Times, which states:

> *"Reporter John Sweeney meets a whistle-blower who says there were problems with the computer system. And he investigates claims that the Post Office charged some postmasters with theft even when the evidence didn't stack up."*

These serious and potentially damaging allegations are strongly denied by Post Office and our client maintains that there is no basis for making such claims in any broadcast or otherwise.

Without the provision of any further supporting evidence or information as to the basis for the claims which would allow Post Office to provide a proper response, the list of allegations against Post Office was further expanded in a letter from Matthew Bardo dated 22 July. This letter included the additional, particularly damaging (and baseless) claims that Paula Vennells (our client's CEO) was personally "*implicated in miscarriages of justice and should resign*" and that Post Office is "*a bullying organisation that has abused its power*". These particular allegations are discussed in more detail below.

Our client has repeatedly requested that the BBC provide details of the evidence upon which it seeks to rely to substantiate these, or indeed any other, allegations. We refer to Mark Davies' emails of 12 June, 16 June, 19 June and 23 June 2015. The matter then rested with Panorama for some time until further correspondence was sent by the Panorama team on 22 July. Mark Davies' requests for evidence were repeated in a letter dated 24 July 2015.

By response dated 27 July, Karen Wightman of the BBC stated that "*the BBC does not normally share the evidence upon which allegations are based…I am confident that you have been given sufficient detail in order to respond*". It is therefore evident that the BBC does not intend to provide our client with any further detail beyond the vague list of bald assertions contained in Mr Bardo's letter of 22 July 2015.

It is difficult to understand how our client is supposed to respond to such serious allegations when there is no supporting evidence for them, nor, in many cases, any indication as to the basis upon which those allegations are being made. Our client is, in effect, being asked to defend itself from a position for which there is no support and to prove its 'innocence' in respect of allegations raised by individuals who clearly have an axe to grind with our client.

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Matthew Bardo's email of 17 June refers to "*information obtained as a result of [the BBC's] investigation*" and the letter of 22 July 2015 suggests that the new allegations have arisen out of continued analysis of "*information and material*". However, in many cases, no further information has been provided to our client, nor any indication as to what the evidence supporting some of these allegations might be. Unless our client is provided with proper details of the evidence upon which all of the allegations are based, then our client cannot be said to have been granted a fair opportunity to respond.

Karen Wightman's email of 27 July 2015 suggests that some of these allegations are statements made by contributors and do not necessarily represent the view of the BBC. This, however, offers little comfort to our client. By airing such damaging comments, the BBC would clearly be adding its own authority to such a view and giving it credence. The absence of evidence may not be appreciated by the viewing public who are likely to assume, as stated in paragraphs 3.4.1 and 3.4.2 of the BBC Editorial Guidelines, that the BBC has taken some steps to corroborate such evidence and that the BBC has taken steps to "*check and verify information, facts and documents, where required to achieve due accuracy*". We would remind you that contributors who express contentious and challenged views should be rigorously tested. Broadcasting any such statements will mislead the public.

Furthermore, to broadcast individual allegations in the absence of supporting evidence, and in the face of the wealth of evidence and information provided to the BBC by our client, including at an on-the-record briefing, is to give undue weight to a minority view contrary to paragraph 4.4.2 of the BBC Editorial Guidelines. We would remind the BBC that, in this particular case, many of the contributors cannot be described as impartial.

Allegation against Ms Vennells and the allegation that Post Office is a "bullying organisation"

These two new allegations are particularly concerning and, furthermore, are highly defamatory.

We note that these allegations are apparently statements made by an individual (or individuals). We would repeat the comments made above in respect to these statements being made by individuals who are not being impartial. We would also wish to make clear that these allegations are entirely without any basis and the BBC has provided no supporting evidence. Our client strongly denies these allegations.

Post Office's reputation with its postmasters, its customers and the businesses with which it has a commercial relationship is of the utmost importance to the business and has an immeasurable financial value. The broadcast of any such baseless allegations would damage this reputation and cause serious financial harm to our client.

Similarly, Ms Vennells' professional reputation is likely to be damaged by the broadcast of any allegation which personally accuses her of wrongdoing. In the event of the broadcast of such a statement, we will be advising Ms Vennells to seek advice regarding a defamation claim against the BBC.

Horizon

The list of allegations provided by Matthew Bardo on 22 July includes various allegations regarding our client's Horizon system, including allegations that the Horizon system has or had technical issues which are likely to have led to errors in the accounting at various branches. The Panorama team, despite our client's requests, have not provided any evidence to support such an allegation nor have they accepted our client's offer of a demonstration of the system. The allegation is untrue and without basis. The Horizon

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system is used to process six million transactions every day and, over its lifetime, has had some 500,000 users. The number of users alleging faults is miniscule in this context. Nonetheless, Post Office has conducted detailed investigations and an independent review to assess whether computer errors have caused cash to go missing in a small number of branches. Such investigations have demonstrated that the system operates and operated as it should and Post Office has seen nothing to suggest that any branch has been held responsible for a loss that was caused by a fault in the Horizon system.

As stated in an email from Mark Davies of Post Office to Karen Wightman on 4 August 2015, the Horizon system is independently audited and meets or exceeds industry accreditations. In particular: Ernst & Young produce an annual ISAE3402 service auditor report over the Horizon processing environment; each year Bureau Veritas perform ISO27001 certification; and Information Risk Management (IRM) accredit Horizon to Payment Card Industry Data Security Standards on an annual basis.

Furthermore, there is some suggestion in Mr Bardo's letter that an allegation will be made that it is possible to access the Horizon system remotely and that data may have been altered causing branch losses. This is an extremely serious allegation, effectively alleging some form of fraud offence, and it is strongly denied. It is not possible for Post Office or Fujitsu to remotely edit transactions as they were recorded by branches. Horizon is and has been subject to extensive independent audits, checks and balances. There is no evidence that branch data has been inappropriately accessed or edited remotely. Any allegation to this effect is untrue and highly damaging.

We note that an employee of Fujitsu is due to contribute to the programme. However, our client has not been provided with any information regarding this individual or of the nature of this contribution. We repeat that Post Office has seen nothing to suggest that any branch has been held responsible for a loss that was caused by a fault in the Horizon system.

Contributors

In his letter of 22 July 2015, Matthew Bardo has provided a list of contributors.

As you will be aware, paragraph 6.4.1 of the BBC Editorial Guidelines (the "Guidelines") states that "*contributors should normally know: ...the context of the content [and] the nature of their involvement*". Furthermore, the BBC "*should tell [contributors] in advance about the range of views being represented in the specific content to which they are contributing and, wherever possible, the names of the other likely contributors*". Similar provisions are, of course, also contained in the Ofcom Broadcasting Code.

While our client has been provided with the names of the other contributors, the nature of their contribution has not been made clear.

In the case of the "legal expert", Professor Mark Button, our client has not been provided with any information as to his proposed contribution and no detail of Professor Button's expertise nor the basis upon which he is qualified to speak about these individual cases. Indeed, Professor Button does not appear to be a qualified lawyer, nor does he appear to have practical experience of criminal law and procedure, let alone experience of the individual cases featured in our programme. We have written to you previously regarding a piece broadcast during the One Show where a barrister, Mr Patel QC, was asked to contribute on similar issues. In that particular instance, the contribution provided by Mr Patel QC was heavily caveated and it was evident that Mr Patel QC was speaking with little background knowledge. Nevertheless, the manner in which such a contribution was made implied that Mr Patel QC

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has some genuine insight into the legal cases. We are concerned that similarly damaging remarks will be given by Professor Button and broadcast in respect of the Panorama programme. Viewers will inevitably assume that such an "expert" has an in-depth knowledge of each of the individual cases referred to. This does not appear to be true in respect of Professor Button. It should be noted that although Post Office wrote to Mr Patel QC after the broadcast of the One Show requesting the disclosure of any evidence relied upon to assist Post Office in complying with its disclosure duties, no response was ever received. A similar letter has been sent to Professor Button. Again, our client has received no response.

We also note that the BBC is intending to include a contribution from Ian Henderson of Second Sight Support Services Limited. We would refer you to our letter of 19 June 2015 and remind you that Second Sight is under certain duties of confidence. Equally, our client has made you aware that certain materials provided to the BBC by third parties are confidential (including those protected by our client's legal privilege). The BBC is under a similar duty of confidence in respect of confidential material it has received from third parties. The BBC should be aware of these duties of confidence and similarly be aware of the risk that the broadcast of confidential material may constitute a breach of confidence.

It would also appear that much of your investigation is based upon information contained in Second Sight's report. As our client has made you aware, Second Sight's review was not a criminal case review. It is important to recognise that Second Sight are accountants, not experts in criminal law or procedure. This should be made clear in your programme. To do otherwise would potentially be misleading to viewers and, of course, damaging to Post Office.

Constraints on our client / Individual cases

As you are aware, legal investigations are currently ongoing in relation to individual postmasters' cases by the CCRC. In addition, as the BBC has previously been advised, each applicant to the case review and mediation scheme was given an assurance that they would be afforded absolute confidentiality. A similar agreement was reached with the Justice for Subpostmasters Alliance, Second Sight Support Services Limited and others involved in the establishment of the scheme. Our client intends to honour that promise and is therefore unable to provide any comment for broadcast on individual cases. Our client's position in this respect should be accurately reflected in any programme and not portrayed in any way as a "refusal" to comment. No adverse inference should be drawn in relation to our client's inability to comment in the broadcast programme. To do so would mislead viewers and be unfair and seriously damaging to our client.

Matthew Bardo's letter of 22 July 2015 suggests that the BBC is intending to refer to the individual cases of Seema Misra, Jo Hamilton and Noel Thomas and contains various allegations purportedly arising from investigation of these cases. Notwithstanding the point raised above regarding individual cases, our client maintains that the appropriate procedures were followed in all of these cases. None of these individuals has chosen to appeal their convictions, an option that remains open to them. These cases have been referred to the CCRC. Post Office maintains that this is the appropriate forum in which to deal with any allegations of a miscarriage of justice.

We do not consider that there is any useful or legitimate purpose in subjecting these cases to trial by television, particularly in circumstances in which our client is not being provided with full information as to the allegations being made and/or the basis of the allegations, in circumstances where our client is unable to provide comment and where the BBC clearly is not in possession of all the necessary

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information (in contrast to the CCRC). In the circumstances of your proposed broadcast, there is also clearly no urgency in broadcasting these allegations. None of the featured postmasters is serving a custodial sentence and there is no reason for this programme to not to await the CCRC's conclusions. Indeed, there is every reason that the BBC should await its outcome.

Our client's contribution

As you will be aware, our client has declined to put forward a representative for interview. While our client was initially willing to provide an interviewee, in light of the manner that Panorama has conducted itself to date, our client had deep concerns regarding the manner in which any such interview is likely to be conducted.

By way of example, on 9 June 2015, as mentioned above, our client provided Panorama with a detailed on the record briefing aimed at providing further information and putting forward Post Office's position on the allegations/concerns that the BBC wished to raise. Despite having this opportunity, it is now evident, having read the BBC's email of 12 June and letter of 22 July 2015, that the programme is intending to make other serious allegations against Post Office which were not raised at the briefing. One can only assume that, rather than seeking to present a balanced assessment of this matter, the BBC is seeking to delay allegations until an interview in the hope that this will provide it with a more sensational story. This is clearly demonstrated by Matt Bardo's email of 17 June 2015 at 12:05pm which was apparently sent to Mark Davies of Post Office in error. This states "*The central point for discussion is how much information it is appropriate to give in advance of an interview in this case*". The only real inference that can be drawn from this email is that the Panorama team wish to withhold certain requested information from Post Office prior to the interview.

To be clear, in declining the interview, our client is not waiving its right to comment on the allegations being raised against it, nor is Post Office saying that it will not agree to an interview in the future. In fact, to the contrary, it is vital that our client's position on each allegation is fairly and accurately reported in the BBC's programme as required by paragraph 6.4.26 of the Editorial Guidelines.

Our client has already provided some detailed comments on the allegations that it has been made aware of, including detailed comments provided at the on the record briefing on 9 June 2015. It is important that the points put forward during that briefing are accurately and fairly reflected in any programme. In addition, our client has provided a detailed statement which reflects its position and which should be fully referenced in your programme. As stated above, the correspondence to date suggests that the BBC proposes to make some serious allegations of wrongdoing, iniquity or incompetence against Post Office. Our client must therefore be given a fair opportunity to respond.

Previous correspondence with the BBC

We would additionally note that the subject of the Panorama programme is a topic which has been covered on a number of occasions by the BBC. We refer by way of example to the One Show broadcast on 17 December 2014 and the coverage on a number of BBC outlets on 20 April 2015. It would appear, based on the limited information that our client has been provided, that the issues and allegations being raised in the current programme are neither new, nor, despite suggestion to the contrary, does it appear that the BBC is presenting any new evidence to support such allegations.

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The fact that the BBC repeatedly makes these allegations without any actual evidence to substantiate them and, on many occasions, without accurately reflecting Post Office's position is extremely damaging to our client. As you will appreciate, the more serious the allegation, the more the public will be misinformed and the more the subject of the allegations will be harmed, if the allegation is not true.

The allegations which we understand are to be raised are extremely serious and are untrue and are therefore likely to cause serious harm to the reputation of our client.

As the BBC should be aware from previous correspondence, some six million different transactions are conducted through the Horizon system every day, by some 78,000 users without major incident. Furthermore, Post Office delivers products and services for a wide variety of third party organisations using the Horizon system and has major franchise partnerships with several big retailers which use the Horizon system.

Any programme broadcasting the serious allegations that to date the BBC Panorama team have made would be highly damaging to Post Office's business and would be likely to cause our client serious financial loss.

We would request that you notify our client immediately in the event of any changes to the programme or its broadcast.

In the meantime, all our client's rights are reserved.

Yours faithfully

GRO

CMS Cameron McKenna LLP

cc: BBC Panorama, Zone D, 4th Floor, BBC Broadcasting House, Portland Place, London, UK, W1A 1AA.