



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

DEPUTY PRESIDENT GRAYSON

C2023/6435

s.739 - Application to deal with a dispute

**Mr Stuart Rowe
and
4b Media T/A 4b Media Pty Ltd
(C2023/6435)**

Broadcasting, Recorded Entertainment and Cinemas Award 2020

Sydney

10.30 AM, WEDNESDAY, 28 FEBRUARY 2024

Continued from 27/11/2023

PN1

THE ASSOCIATE: The Fair Work Commission is now in session in matter C2023/6435, Mr Stuart Rowe v 4B Media, trading as 4B Media Pty Ltd, for hearing.

PN2

THE DEPUTY PRESIDENT: Good morning. I'll take the appearances, thank you. So, Mr Rowe, you're appearing for yourself today?

PN3

MR S ROWE: That is correct.

PN4

THE DEPUTY PRESIDENT: All right. Very good.

PN5

MR H PARARAJASINGHAM: May it please the Commission, Pararajasingham, initial H, I'm instructed by Ms Barratt, initial K.

PN6

THE DEPUTY PRESIDENT: All right. Very good. What I propose to do this morning is just to talk about how the matter will proceed today. Obviously, Mr Rowe, I understand that you're not represented so I have some things in mind, in terms of the way the day will be conducted and that might be helpful for you to understand. Obviously the respondent is represented, so nothing I say will probably be surprising to them.

PN7

But the way that I propose to proceed this morning is to have both parties make a short opening statement about their case and, effectively, why I should answer the questions that have been agreed today in a particular way. The benefit of that is that you, Mr Rowe, will understand what the respondent's case is and the respondent will have an understanding of your case.

PN8

This is, effectively, a dispute which requires me to interpret the award and reach an answer on two questions, which have been agreed. Both parties have filed documents and submissions, which I'm grateful for.

PN9

The way that we will deal with those is that what I will do is to put you, at some point, Mr Rowe, into the witness box and I will talk to you about the documents that you have filed and probably ask you to confirm that that is the evidence that you intend to rely upon, that it is correct, and then I will mark it. The same process will be engaged in, later in the day, for the respondent.

PN10

When you're in the witness box you will be asked to swear an oath, which I think my associate has spoken to you about. We'll take you through the video and ask you questions and I'd like you to talk to me about what you're doing when you're

using the video, by reference to the award. So you might talk to me about the duties or the skills or the processes that you are performing when you are working on that video.

PN11

We'll record that, for the benefit of all the parties. We will mark that as an exhibit and that will be available if further submissions are required after today, having had the benefit of that video.

PN12

So that is the process. So I might have some questions of you, so might counsel for the respondent, so they will be asked of you and you just answer honestly and freely and then, of course, you will sit down and then we will move to the respondent's case and we will, similarly, go through their evidence.

PN13

So does that make sense? Finally, what we'll close with is some submissions by both parties, unless, of course, some further time is required. I'm conscious that for both parties using the video process today might lead to some questions or need for further submissions, so I'm open to further time for submissions, if that's necessary.

PN14

So, Mr Rowe, any questions on that process of how the day will unfold?

PN15

MR ROWE: So I guess just like after the - - -

PN16

THE DEPUTY PRESIDENT: Just stand when you're talking to me.

PN17

MR ROWE: Sorry. Is that better.

PN18

THE DEPUTY PRESIDENT: That's okay. That's not a problem at all.

PN19

MR ROWE: Sure. After the - at the end of the day like is the decision made or is it later on?

PN20

THE DEPUTY PRESIDENT: Yes. So the decision will be reserved.

PN21

MR ROWE: Okay.

PN22

THE DEPUTY PRESIDENT: So I go away and then consider all of the evidence that has been filed, the submissions that have been made and then I'll issue a written decision which the parties will get notice of. It will then be published on

the Fair Work Commission website as well. So it will be sent via email to your inbox and then published on the Fair Work Commission's website.

PN23

MR ROWE: Okay. Thank you.

PN24

THE DEPUTY PRESIDENT: Okay. So no decision today. Too complicated for that, unfortunately. All right. Any questions in terms of the process I have in mind for today?

PN25

MR PARARAJASINGHAM: Deputy President, I think that process is sensible. Could I make one inquiry, please?

PN26

THE DEPUTY PRESIDENT: Yes.

PN27

MR PARARAJASINGHAM: With regard to the demonstration that Mr Rowe is going to provide today, as you'll note, in the courtroom we have our two witnesses, Ms Holmes, who is instructing my instructing solicitor, and Mr Gower, who's an employee of 4B Media. Could I please request, Deputy President, that Mr Gower is permitted to remain in the room to observe the demonstration? Perhaps, subsequent to the demonstration he can then depart the room.

PN28

The reason for that, Deputy President, I think it would perhaps be a bit more of an efficient process if he's able to observe that and then perhaps, in evidence-in-chief, I could simply raise with him, 'Can you provide your observations on the demonstration', as opposed to, perhaps, me trying to put to him my recollection or understanding of it. It just may help sort of streamline today's process.

PN29

THE DEPUTY PRESIDENT: Yes, I had considered that something like that might come up. I'm certainly comfortable with that approach.

PN30

Mr Rowe, it is normal, when a witness is giving evidence and the other witnesses haven't given evidence, so Mr Gower, in this circumstance, that he would be out of the room while you're giving evidence. But in this matter, because, effectively, the evidence is being pulled from you as you look at the screen and you show us how you do things, if Mr Gower isn't in the room he can't provide instructions to counsel for the respondent and, instead, perhaps they would have to go away and have a look at the video and then perhaps put on some more evidence. So his suggestion, which I think is sensible, is just that he's allowed in the room just while you're working through the video with me and with the others, rather than having him outside the court and kind of shutting backwards and forwards. So I'm comfortable with that situation today, I think that's sensible, just for the video content of your evidence. Are you comfortable with that, Mr Rowe?

PN31

MR ROWE: Yes, that's fine. Thank you.

PN32

THE DEPUTY PRESIDENT: Okay. Very good. All right. Well, we'll do that. Okay. So were there any other housekeeping matters?

PN33

MR PARARAJASINGHAM: Nothing for the respondent, Deputy President.

PN34

THE DEPUTY PRESIDENT: All right. And can I confirm that everybody has access to a court book today?

PN35

MR PARARAJASINGHAM: Yes, Deputy President. I think we can also provide one in the witness box, as required, for, particularly, the respondent's witnesses.

PN36

THE DEPUTY PRESIDENT: Excellent. So, Mr Rowe, the court book that was sent around earlier this week has red numbers on it, at the bottom of the pages, or sometimes on the side of the page, depending upon the orientation. So the respondent has a copy here, which you can have in front of you in the witness box when you're giving your evidence, because it might be that I have questions for you about things that are in there. Similarly, counsel for the respondent might as well. You can refer to that at any point in time, if something comes up. All right, we'll I'm grateful for the benefit of the hard copy, so thank you.

PN37

All right. Well, what I might have you do is some into the witness box now, Mr Rowe. My associate will just point you in the direction of that and you can bring that folder with you and anything you need to do the video presentation.

PN38

MR ROWE: Okay.

PN39

THE DEPUTY PRESIDENT: That's okay. And there is absolutely no rush.

PN40

MR ROWE: Okay.

PN41

THE DEPUTY PRESIDENT: My associate is happy to assist you with that, Mr Rowe. While you're setting up, what order are you anticipating calling your witnesses today?

PN42

MR PARARAJASINGHAM: Deputy President, we'll be calling Mr Gower first and then Ms Holmes. It perhaps will even be of assistance if I note, Deputy President, as you rightly touched on, this is really a technical exercise, this dispute, and I suspect that Mr Rowe and Mr Gower are perhaps going to be best

placed to provide assistance for the Commission, with Ms Holmes as our secondary witness. Hopefully that sort of significant base of the issues have been addressed by Mr Rowe and Mr Gower, at that stage and I'd envisage we'd be quite brief, subject, of course, to Mr Rowe's views, with Ms Holmes, ultimately.

PN43

THE DEPUTY PRESIDENT: Thank you.

PN44

THE ASSOCIATE: Please state your full name and address?

PN45

MR ROWE: Stuart David Rowe. Address is (address supplied).

<STUART DAVID ROWE, SWORN [10.48 AM]

EXAMINATION-IN-CHIEF BY THE DEPUTY PRESIDENT [10.48 AM]

PN46

THE DEPUTY PRESIDENT: Thank you, Mr Rowe. You can sit down and stay seated while you're giving your evidence.

PN47

So just before we move through the video presentation, some of the things that we'll deal with are the evidence that you have filed already. So I might just ask you some questions about that. So you filed - you've got the court book there, I think, in front of you. So you filed two documents, yes, and using the hard copy if fine for the purposes of now. So you filed two documents, I think are at pages 18 to 42 of the court book. Just have a quick look at those and remind yourself about those documents. So do you remember filing them?---Yes, I - - -

PN48

Please stay seated, that's perfectly fine. While you're in the witness box it's fine to stay seated. Okay. So have you had a chance to have a re-look at those before today?---I've got them here. Like I'm sort of familiar with them, having written them all. So, yes - - -

PN49

That's okay?---So do you want me to go through all of this and show it all in the video?

PN50

In a second. I'll talk to you about the video in a second?---Yes, okay.

PN51

But just for the purposes of now, would you like me to accept these documents as your evidence in these proceedings? That is, your witness evidence?---Yes.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN52

Okay. And they're true and correct, to the best of your recollection and understanding?---Yes, to the best of my recollection it's all true and correct, yes.

PN53

And there are no amendments you need to make to them, off the top of your head?---No. No.

PN54

All right. Very good. Well, they do contain a mix of what might be characterised as evidence and submissions, but I'm sure I can know my way through that?---Okay.

PN55

Is there any objection to them being marked?

PN56

MR PARARAJASINGHAM: No objection, Deputy President.

PN57

THE DEPUTY PRESIDENT: All right. Well, what I'm going to do, Mr Rowe, is I'm going to mark the two documents, so that is the entirety of pages 18 to 43 of the court book, as exhibit ROWE1.

EXHIBIT #ROWE1 APPLICANT'S DOCUMENTS (PAGES 18 TO 43 OF COURT BOOK)

PN58

Mr Pararajasingham might ask you some questions about that a little bit later and he might refer you to exhibit ROWE1, so that's the terminology that he will use in doing that. Okay?---Okay.

PN59

So that becomes part of your case. It's been clearly marked as your case in these proceedings, and your evidence, and I will make my decision, in part, based upon the written documents that you've filed and what you say today. And, of course, the same for the respondent. Okay?---Okay.

PN60

Now, I think there were two other documents. There is a contract, would you like me to also mark that as part of your evidence in the case? I think that's from page 44 to page 53?---There is a contract on page - it goes a bit further than - - -

PN61

Well, there's two contracts so I'm just dealing with the first one now, which, as I understand it, is the one that goes from page 44 to 53, which is your 2019 contract. So would you like me to mark that as an exhibit, part of your evidence in these proceedings?---Yes, that is correct. Yes. Thank you.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN62

Okay. Thank you, Mr Rowe. So we'll mark that as exhibit ROWE2. No objections?

PN63

MR PARARAJASINGHAM: No objection.

EXHIBIT #ROWE2 APPLICANT'S CONTRACT (PAGE 44 TO 53 OF COURT BOOK)

PN64

THE DEPUTY PRESIDENT: I intend to take the same approach with your next contract, Mr Rowe, which is the one that I think sits between pages 54 and 80 of the court book. Just let me know if you're content with that as well?---Yes, that's fine. Thank you.

PN65

Okay. Right, we'll mark that as exhibit ROWE3, and I understand there are no objections from counsel for the respondent.

EXHIBIT #ROWE3 SECOND CONTRACT (PAGES 54 TO 80 OF COURT BOOK)

PN66

I think the final document that you filed, Mr Rowe, is the one that sits between pages 81 and 82 of the court book, which is, effectively, a reply statement to submissions. So just have a read of that, Mr Rowe, and just confirm whether the contents of that are true and correct?---I will. Thank you.

PN67

No problem?---Yes, so I agree with the things I've written here as a reply. Yes.

PN68

Okay. So no amendments that need to be made, Mr Rowe?---No amendments.

PN69

All right. You'd like me to accept that as your evidence in these proceedings?---Yes.

PN70

All right. Any objections?

PN71

MR PARARAJASINGHAM: No objection.

PN72

THE DEPUTY PRESIDENT: Okay. We'll mark them as exhibit ROWE4.

EXHIBIT #ROWE4 REPLY SUBMISSIONS (PAGES 81 TO 82 OF COURT BOOK)

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN73

So, Mr Rowe, what I would like to do from here is, effectively, that's all of the evidence that you filed. In addition to that what you're going to do today is to assist the court and the respondent with a sense of what you do, by reference to your video. So I guess we'll get you to work through that in a minute, and demonstrate some of the things that, for example, you've put into your evidence about the editing and all of the other things that you talk about, the switching, the effects. I think that would be helpful, certainly for myself, to see it in person. It's a bit hard on a static page to have a sense of it?---Sure.

PN74

But if you could, you know, perhaps show us on the screen, you know, 'These are the audio tracks, these are the video tracks. This is the point where I edit'?---Okay.

PN75

I think one of the things I'm interested in understanding is how this worksheet process that is described by Mr Gower also works. So how you go about making the decisions that you're making on the video. So these are some of the things that I think if you can help us by narrating what you're doing, so that we have an understanding, 'Here I'm doing a switch out. Here I'm doing a - here I've got to do the', I can't remember what you called it, and the summary that you do in the beginning and the end?---Yes.

PN76

So describe what you are doing and particularly have in mind the terms of the award clause about the allowance?---Okay.

PN77

You're welcome to have that in front of you if you like, at the same time, so you might say, 'Here I'm doing this switching, the audio switching. Here I'm doing - and this is how I do it', and describe to us how you do it?---Sure. Okay.

PN78

That will then form part of your evidence and that will really be the final evidence in your case today?---Okay.

PN79

Does that make sense, in terms of what I'm asking you to do?---Yes, that makes sense.

PN80

Okay?---Thank you.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN81

Is what you're doing today, for the benefit of all of us, what you would do kind of every day? This process that you're about to show us, is it pretty symptomatic of the work that you would normally perform, the duties that you would perform?---Yes, I would say I would perform these duties almost every day, if not every day.

PN82

Okay. And these are the duties that you say give rise to these two allowances?---That's what - I believe so.

PN83

I understand, yes. And if you think that something is relevant to one of the allowances, as opposed to the other, if you could bring that to my attention and the attention of Mr Pararajasingham, that would also be helpful as well, so we kind of know why we're getting this particular part of the presentation. As I said, this will then be marked as an exhibit, which will be available to everyone to consider and put submissions on about, if they think that would be helpful?---Okay.

PN84

Okay. Any questions before we have you embark on this?---Sure. Yes, I have two questions. So the evidence that I'm showing today, the main sort of, I guess, I'm going to be showing you the things in relation to the points of the award and how they fit in to that, is my understanding of that correct?

PN85

If that's what you think would benefit your case. That's certainly what I would like to see?---Yes. Okay. My other question is, can I leave the witness box for one minute, I just want to get a drink from my bag.

PN86

There is water there that you - if you need to leave the witness box for a minute, I have no objection to do that. Do you want to do that?---Okay. I'll be back in 30 seconds.

PN87

That's fine. No problem?---Thank you.

PN88

That might allow Ms Holmes to leave the room now, is that right?

PN89

MR PARARAJASINGHAM: Deputy President, Ms Holmes is instructing Ms Barratt.

PN90

THE DEPUTY PRESIDENT: I thought that's why you wanted Mr Gower.

PN91

MR PARARAJASINGHAM: Mr Gower, for the purposes of addressing the demonstration. Look, we're happy to be guided by you. If you're of the view that Ms Holmes should step out, that's - - -

PN92

THE DEPUTY PRESIDENT: I think that would be proper, especially given you have Mr Gower.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN93

THE WITNESS: I'm ready to being.

PN94

THE DEPUTY PRESIDENT: All right. If you could, first of all, just tell us what we're looking at here, Mr Rowe, that would be helpful?---Sure. Okay. So this is Adobe Premiere Pro. This is the software we use to edit the programs of Joseph Prince, at \$B Media. So this is the software in itself. How it works is down in this window, in the bottom here, you've got, it's called a timeline and on the timeline is everything that you will see and hear in the program. So this thing that I'm moving is called a playhead, and you can see up here there are time codes. So currently, in this timeline out over here, three minutes into the program and zero seconds and 18 frames, this number here, 'frames' there are 25 frames per second. So, basically, the time code is just where you're at in the time of the program. Yes, over here you will see we have these video tracks, V1, V2, V3, V4 and over here we have audio tracks. So - and these rectangles are assets that are in the program. When you see a rectangle up the top there's video, when you see a rectangle down below, there's audio that goes with that video.

PN95

So when you say 'these rectangles' you're referring to, for example, the one that says, 'Bars and tone 1K audio', that's the rectangle that you're referring to?---Yes.

PN96

And that's a video asset, is that right?---Yes, that is correct. This is a technical asset here that it doesn't actually go to air when it's played, so it's just like a test tone and for, I guess, people in broadcast can adjust their monitors for colour. So it's just for setting up. But, yes, so this is the actual program and there's a job sheet that goes with this program that I will make reference to.

PN97

Sorry, when you say 'this is the actual program', are you referring to the pink line, or something else?---Yes. So we have bars and tone and then we have here, which is 10 seconds of black, which I can just play, so it will play for 10 seconds. There's no sound, you can see there's no sound below it.

PN98

Yes?---There's no - there's no sound being represented here. This is an audio wave form so you can see the audio levels here, when there's sound. After the 10 seconds of black you have this information here, called a slate. And all of this information on the slate and in the program corresponds to a job sheet. So this here is the job sheet, that's just some additional information for the editors and the people checking the program.

PN99

And this is like the document that was annexed to Mr Gower's statement?---Sorry, could you repeat that?

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN100

This job sheet, I'll get you to explain to me in a minute how you use that, but that's similar to the one that was annexed to Mr Gower's statement. That was a document that sat right behind and was incorporated into his statement, have I understood that correctly?---Yes. Yes.

PN101

If you want to remind yourself you can actually have a look at it Mr Rowe, don't answer a question if you're not comfortable, you can take a minute or satisfy yourself?---Okay. Just one moment. Thank you.

PN102

Yes. I think that was at page 253 of the court book?---Yes. So the information here, on page 253 of the court book, yes, this is an example here of a job sheet.

PN103

Is it the same type of thing that you're now taking us to?---Yes, the same type of thing that I'm showing here, that is correct.

PN104

All right. And the one that you've got shared on screen is the one that was given to you, in relation to this particular BRMA, is that right?---Yes. I've taken this job sheet from our work. Yes.

PN105

Okay. Thank you?---Yes. So this particular - so the particular project that I have open here corresponds with information on this job sheet. So you can see here, as we saw at the beginning we had bars and tone, duration is one minutes 30 seconds. So if I go here and go to where it ends you can see one minute 30, okay. Just a - - -

PN106

Is that how this video file comes to you, what you're currently showing me?---So what I'm currently showing you here, so let me just - so on this timeline I'm just going to zoom out so you can see everything there.

PN107

Sure?---So the program ends here, 30 minutes 45 seconds. So we work from like a template document. So when I open up, say, a program template, it will look a bit like this. There will be other assets stacked on top and what we do is we go to the job sheet, for example. So let's have a look here. So this asset here is the GLB Testimony CTA4 and I'm looking here at part 1. So if I go to part 1 on the job sheet you'll see here there's the CTA - well, what was scheduled here is a CTA5, but it has actually been swapped. So that's been marked on the job sheet, it's been noted, sorry, here, that it was crossed out and then down here in the notes it will say the asset's been removed and - - -

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN108

And somebody else will have done that before it gets to you, Mr Rowe, or do you do that?---That - so I do these kinds of things at work, I will swap an asset and then I will write down which one was removed and which one was added in its

place. So you can see here the number 5 was removed, as we saw further up on the job sheet, number 4 has been added in its place.

PN109

I see. So sometimes it will come to you with that having already been done, or you will always do that kind of swap out, if it says it on a worksheet?---I will do the swap out if there's some issue with the program timing. So there's an issue with starting and ending the program at different parts. I can explain that a bit further so you understand.

PN110

Sure?---So I'm going to go to - so this is - let's call this a program sequence, it hasn't been completely edited. So I'm going to go to a different sequence that I've created here. Now, there's a lot of things on here but everything here that I've just highlighted these are kind of measuring rods that different programs - that I would have - we would have created. So let me explain. I'll just start over here. So this whole sequence, the full screen thing that you're looking at now, this is sort of just like an area in the program where we work out like how everything's going to fit together, okay. So this particular program is three parts long. So I'll start here with the V1. So this is the actual reel that we get given. So it's here, let me just show it in it's entirety. You can see here, I'll just play. There's a few seconds of nothing and then he starts talking there. So we'll start right at the beginning, so part 1 will start here, right at the very beginning. Then for when we're working out our timing, let's just say this is a US edit. So what we're just going to focus on at the moment is this, okay. I will explain these green things and then I will explain these yellow bars, just to keep this a bit further understanding. Then I can talk about these other bars later. So basically how that ties in with the swapping of the assets is that when we're setting up our project template here, and I'm going down and I'm saying, 'Which asset does this need?'. Okay, it needed the CTA5. Okay. I'll just keep going. So after the slate there's a countdown timer and then this is where the actual program starts here, at two minutes. This is what the audience will see on the television. So bear with me. Yes. So at two minutes it will start here. Okay. So these assets are already in the template, they're already timed. Sorry. I don't need to really touch any of these, except for this slate information. This slate information gets changed with the title, the sermon number, the part number, the tape number. This information is used to make sure that the - it's like an index of the program. It's used across the board, everywhere we send it everyone checks the tape number to make sure it's correct, that this is the program that matches. So this is like an identifier. So - yes. Then each program - okay, so most of the programs we do, in fact all of them, yes, that I'm aware, all the programs that I edit all have a 'today with' and this is like a preview, so this is blank. This will be in the job sheets here, let me just scroll down. 'Today's sermon'. It says there that this is 20 seconds. This is more of an estimate as the timing of this changes.

PN111

So it might be typed down if the links - if the whole product is too long, it might be expended if you've got some filler to add in, okay?---Yes, that's right.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN112

Do you decide kind of - you're effectively told - tell me if I'm understanding what you had already filed, you might decide what goes into that 15 to 20 seconds, normally 20 seconds, the summary of today's sermon, effectively. Is that the highlights. Is that what you do, or does somebody else do that?---That is something I do, yes. And so the length of that and deciding on if this asset - you know, if any assets from the template need to be swapped, that it something like an editor, something I would do, decide that, based off the information here. So these - as I said, the whole reel here, this is a whole reel, with the bit at the start, the silence at the start and then there's a little bit of silence at the end. So we don't need that so I just trim that off. But this whole reel, we break it into three parts and the editor will decide, 'Okay, where will each part start and end?' Some programs are four parts long so there will be four of these rectangles, because this reel will be even longer. Some of them are three. Some of them are two. We have had five part ones, but they're usually three or four parts. So deciding how long each part is, is sort of - it's the editor finds a good point at when to - he should finish talking that makes sense for the audience and we'll kind of end the point he's talking on. The editor will think of things like, 'Is he ending on a positive note?', and just make sure it's kind of succinct. So let's say, if you didn't see part 1 but you started watching here at part 2, and you watched all the way through, you'd be able to kind of make - as a viewer, make sense, 'Okay, I'm picking it up here but I feel like I haven't missed anything or I've come in halfway through'. So, yes, the editor will always be looking for each part where the start and end will be.

PN113

So you just have a look at the content of what's being said and whether it's sensible as a discrete statement or - - -?---Yes, just going through the content and, you know, like listening to it, seeing does he make reference to end. So these are the different parts. You can see that there's overlap. So part 1 here, part 2 will overlap a little bit. In this instance there's no overlap in part 3. Yes, so the editor has decided, 'Okay, this is actually great because he ends a point and then starts a new one here and it makes sense'.

PN114

So that's a decision that you would make, as part of your editing process, it is? You might decide to finish that at 38.20, 38.38.20 because that met the criteria that you just described. Is that right, that you would decide these kind of levels of overlap or no overlap?---Yes, that is right. And as part of the process another editor will watch it through and check it - - -

PN115

Okay?--- - - - and, you know, give their input, what they think.

PN116

So might that be you for somebody else and somebody else for you? That's a process of colleagues kind of peer review of the product, is it?---Yes, that is correct. Yes.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN117

Okay?---Okay. So - - -

PN118

And while you're going through this, which is very helpful for me, so thank you?---Sure.

PN119

Is this describing vision switching functions in the videotape post production layout? So is this something else, for my benefit?---So this is more of, I suppose, an overview.

PN120

Okay. Yes, no worries?---Yes, I can definitely jump into those.

PN121

There's no rush, Mr Rowe, it's just so that I understood. No, please keep going, this is very helpful, I think probably for all of us?---Okay, sure. Okay. So, yes, so the editor has decided on these parts and I don't know if you can hear the audio, but you'll see here this is where part 2 will end, bang, right there, and then part 3 will pick up.

PN122

When you say 'the editor', it could be you?---Yes. Yes, that is correct.

PN123

It's not like it's come to you, I just wanted to make sure that I'm understanding your correctly?---Yes. Yes, that is correct. Okay. So, yes, there are three parts. Just some - just coming back to this, this is just like a work area, just to work out how the parts are going to fit together. Over here, this layer here is called a program lower third. When there are no Bible verses on screen we have the program lower third appear. Now, either the edit - sometimes it's the editor will put these red markers every time a program lower third - I should say, a Bible verse will appear or disappear. So some Bible verses here are full screen, so they cover the person talking, some of them, we just had one before. I'll see if I can find one, I think there was one there. Some of them just appear - - -

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN124

There's one, yes?---Yes, just over there. Yes, at the lower portion of the screen. Now - my keyboard has stopped working. Just one moment. Okay, it's back. So, yes, as I said, this rectangle here that's on the V2, this is called a bug, and so, yes, these are the Bible verses - sorry, these are the - this area, this stuff here, the lower third, this is a US program that I'm preparing here, so this will be all throughout the part 1, part 2, part 3, when there's nothing else on screen. You will notice here that there is this little rectangle here, called a cross dissolve. This fades the lower third on the screen like that. So the Bible verse, which I'll just remind you, the Bible verse is built into the reel here, that will fade out and then the editor will position this to fade back in here. As you can see, this particular program has a lot of Bible verses, yes. Okay, so what I would do is after I've put -

worked out my timing for each part, based off the job sheet, so the information in the job sheet and based off the content in the entire reel, and the editor, myself, would go through and listen to all of this and work out all the Bible - where all the Bible verses are, where each part is.

PN125

That's those red dots?---Yes. Yes. Sometimes there are no red markers, so the editor will put them in. And the editor will go through and cut all of this, so normally it would look like this, okay. So it would look like that and the editor will go through and put cuts in and, yes, delete them and things like that. So that's what it would normally look like, but I'll go back to this one where it's all done. Then the editor will go, 'Okay, right, I'm going to put this into part 1'. So the editor will grab that and they'll, you know, copy it over. I'm just going to copy one from here. Okay. Then what they will do is they will paste this in, specifically, I think it's here. As you can see here, there is a - okay. So this asset here is where like the - after they've played the 'Today with Joseph Prince', the preview, which the editor will have filled out already, they'll play this asset as per the schedule, which we know got swapped for timing, which I'll be getting to. So, yes, and then what happens, you can see there's a video fade, that is in the template already on this asset, so it's already been placed there so the editor, as I said, they just copy that from their work area over here, or this is how I would edit the program, and then paste it in here and then just make the adjustment because there is a video fade, make sure the video is covered, starts exactly where the fade is. So this is how - let me start it back, this is how the program will start, up here. Just bear with me. And you can see it fades. Now, this is a sermon banner. There are a few assets here that I couldn't get, that are offline, normally there's some books there but still, for the purpose of this, you can see that there is a banner that comes on screen, which I'll get to. So, yes, the editor will paste that in there and sometimes the program, where the editor is selected, 'Okay, this is the best end point that is closest to the program length', sometimes it will come out here and then it's, 'Okay, so it's a bit too long'. If there's no - or, you know, maybe it's very short. Let's say it's very short. The way we make time for that is we change the duration of this, the 'Today with Joseph Prince', the information, the little preview of the show. Also if, let's say, that - let's say, for example, that - so, as I said, the editor here has swapped some assets. Now, this is because, in this particular program, there's no vision switching to crouch, so I can show you that in another program later. But because there's less options, the editor has - all they can do with this program is change the duration of the 'Today with' and 'Next on', and choose good clips to put in here. Then to get back to (indistinct). I'm not sure, there's no fall back on (indistinct).

PN126

Just wait one minute, Mr Rowe, we'll just see what's going on. Thank you to my associate for figuring that out. So, Mr Rowe, I'll get you to check in a second that that's working?---Hello, one-two, one-two.

PN127

Very good?---I can hear myself.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN128

Very professional. Thank you?---Okay.

PN129

Is this for the purposes of - are these edit points that you're kind of going through with us now, just for my understanding?---Yes. So just sort of touching base, what I'm doing now, I'm just sort of giving you an overall like showing you the overall program and sort of how it's put together. We do edit different formats of the program and the formats are very similar, they're minor changes, and what I have been talking about, selecting different parts, I would use - say that those are edit points that I have been talking about, yes.

PN130

Okay. Very good. And one more question for me, before I get you to keep going. I think you've talked about the 'Today with' and then 'Next on', my understanding from your evidence filed was that the 'Today with' is kind of a brief summary or set of images at the beginning and then the 'Next on' is kind of a similar thing, that is, that's how you wrap up the show and signpost the next show. Is that right? Are they basically bookends of the same video?---Yes. So the content here in the, in this instance, the 'Today with', yes, it's highlights of the show, to get someone to get interested and to keep watching. The editor will be looking for particular content that is positive content. They'll be looking for content that is going to, I guess, make the viewer feel good and uplifted. So they will be, as they're watching through the program, they will be looking for points of content for the 'Today with' and 'Next on' and selecting areas. In my work area here, that I work on the program here, I have sort of like a marker set up scheme there I put a yellow marker here. So just reminding you, this is like the entire reel here, so I watch it through and I put these yellow markers, this is content that I think could be used for a 'Today with' or a 'Next on'. The green markers are just sort of ideas for where I could end it. I have the ending, you know, very precise, so when he's finished talking it will be ended there. So, yes, I've done that for the whole reel. If there's any content I would think is particularly very good, I mark it with a long yellow area, so that is me going through and deciding on content and then I will be cutting those bits up and putting them into the parts, so long as they fit the timing and the duration. Because when you're editing for television you have to edit to the frame. So this program is 30 minutes 45 seconds, zero frames. Everything has to be exact length so that everything in television goes on a schedule and it's all scheduled exactly, yes, to the frame. So, yes, it just help them with their scheduling. Yes.

PN131

Thank you, Mr Rowe, that's helpful?---Sure. So here is - so this is an example program - so, yes. As I said, like here is a 'Today with' portion of the program. So you'll see here on V3 we have this asset here, which is a fading up from black. This appears in the template. So this lower third appears in the template. As you can see the lower third here, it animates - it animates on as it plays.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN132

Is the lower third the green line, blue line?---Yes. When I say 'lower third' or 'PLT', which is 'program lower third', I mean the information that appears here. It could be a Bible verse, it could be any information that appears here. In this instance I'm referring to the animation of the line, the words that are appearing on screen. This is a premade asset. The thing the editor does with this asset is that they will adjust the timing. So, for example, let's say that the 'Today with', as you can see if finishes over here at - over here it finishes. If the editor had to - the program's too long, so if the editor had to make it shorter, for example, they would pull everything back. So the editor would shorten that, shorten that. They would select everything in the program and they would bring it all back to adjust for the timing of the program to make sure it finishes at exactly 30 minutes 45 seconds 00 frames, for a USD edit. So, yes, when an editor is selecting content for the 'Today with', they're not only selecting content that's positive and affirming of the viewer and those types of things, or informational, that they're also considering, 'Okay, do I have enough time to fit this in? Okay, what if there isn't enough time, can I make further edits to this?' I can chop out maybe some silence, or I could chop out - like remove something that he has said, for example remove an 'Amen' or something like that and make it shorter so that it can fit exactly within the time. So the editor is always battling the time constraints of the program while they're also trying to create an engaging preview of the program, as well as at the end of the program, this is a 'Next on', to get the audience engaged for the next program. So just going further into the program, once the actual information sermon starts, according to the job sheet, the job sheet will have the banners. These are the banners that appear without the bugs, so the bug's not there, so the bug hasn't started yet, so we have the banner here. The editor - these are all premade, the editor will make adjustments, say, for the timing, the length of the banners. So this example of the banner, it's a 'Today's sermon' banner. It's actually a special one in this instance. Let me go back to the job sheet. Here, you've got the sermon banner here, as per the template. You will see we have markers already set up. This is ideally where you want the sermon banner to start, exactly here, for the first sermon banner. So as it's just fading up on Joseph Prince, so this asset here is fading down, okay, and below it - so just so you understand, these are already in the template, you've got a fade here. So as this asset is fading down you can see what's below it and we can see that this man here, Joseph Prince, below it. Okay. Then starts the animation of the banner here, as per the schedule. Then the banner will animate. The editor may change the timing of the banner, they may shorten it or lengthen it, according to like a shot change. Now, this shot change here appears in the reel. So just to keep the edit neat and tidy, the editor will end the banner on the shot change so that the bug, this lower third here, will fade up. It just makes the program look neat and tidy. Then going through the rest of this program you can see, on this layer here, V3, we have different banners that appear, in accordance with the job sheet. The job sheet will give an estimate as to where the timing is. This one, for example, is at 13 minutes zero seconds and 00 frames. So at exactly 13 minutes the editor will make the choice - let's say - let's go to exactly 13 minutes into the program here. Okay. Let's see - okay, so the editor has started it a bit earlier and there's a few different reasons for that. Maybe the edit - it's always good to start on a shot change, so when they change the camera angle, start a new banner. Sometimes the banner will need to be moved because the speaker here will be moving his hands and sometimes his hands will move down. Then if his hands move down

behind the moving down of the animation, it looks like of magical, like his hands have interacted with the banner, pushing it down and animating. That is something, as an editor of the program, we want to avoid, so we will move the banner slightly off the 13 minutes.

PN133

And something like that is being done by an editor like yourself, in this situation?---Yes. In this situation, like looking at it, it looks like, like I can show you. So there's - so let me try and just make an example of the magic hands.

PN134

That's okay. No, I understand?---You understand? Okay.

PN135

Yes?---So, yes, it will be moved. Also if there's - I'll show you, in another sermon soon, there's crowd shots that appear in the sermons. This sermon does not have crown shots, this particular sermon is an unusual one because normally the speaker is in like a massive auditorium, he's not today.

PN136

So just so I understand on this, so whilst the job sheet might say that this should commence at 13.00.00, there's discretion for you to decide you'll start earlier or later to avoid things like what you've just described?---Yes.

PN137

So the job sheet might say something, but you're happy to make a decision about an alternative edit point, is that what you're saying?---Yes, that is what I'm saying. That is correct. So, yes, those are some of the things we consider. Another thing is, if there's - some of the - well, I would say an overwhelming majority of the sermons would have, when he's in the auditorium, they have a very wide shot, very far away shot, of the person speaking and you can see the audience and the crowd. In this - I'll bring up an example. Here we go, I'll see if I can bring up an example. Yes, if this is covering his face, or something like that, it would need to be moved as well. Yes. I mean the editor also like - the editor will also, as I would try, if there's a shot like this near where the banner needs to go, I will put it here because it's not covering him at all and it's just over the crowd. Yes.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN138

That will be kind of spliced in from some other footage, or whatever, will it? From some of the video channel that you've got?---Are you - so are you talking about the banner or the footage? So this is in the template, the editor just opens up the template and removes the banners. Like - I'm trying to just, because I don't have an example of the template here, but what I can show you is basically a template will look like this, okay, and see these banners? These banners will have all the different alternative ones and they'll be coloured differently. So there could be a stack of like, you know, five or six, you know, or four different banners. These little ad things here, there can be a huge stack of different ones and the editor will go, 'Okay, which one does the job sheet say? Okay, it's this

one', so we go back here and the editor will, you know, for example, I'm just copying this. The editor will go, 'Delete that one, delete that one, this is the one that is in the program'.

PN139

Did I understand, from your evidence, that that was a special effect? Is that what is considered to be a special effect?---That is - - -

PN140

That's something different?---Yes. That is something different. I'm just sort of doing like an overview of the program. I'm happy just to - like I can keep going through the - I've almost finished the overview but other than that, I can go through each point in - - -

PN141

Finish your - it's a matter for you, Mr Rowe, so you decide what evidence you think the Commission should have, in order to make a decision?---Okay. Sure. Okay. So, as I mentioned, the template will sort of look like this; no sermon, no reel in there, no part 1, part 2, part 3. Like the editor goes in and decides where each start and end of the part 1, part 2, part 3. But, yes, basically the template will look something like this, with lots of different assets and just they go in and delete each one that's not on the schedule. Okay. Then, yes, as I said, like, for example, at the end of the sermon content, so more of these lower thirds, as I remind you, these are all in the reel. At the end here the editor will go through and so the editor has decided, in this part, that it ends here. This asset here is in the template so the editor times it with - has chosen where the sermon portion ends. So it ends there and then it goes on to the next ad, which is in the template. This particular ad I don't have the asset here online, but you can see sort of like the shell of it here, if I did have the asset on the laptop it would be playing the ad, but you can see the timing of it. Then, according to the schedule there's another ad. Just reminding you, in the template there will be many different ads, the editor will go through and remove the ones that are not needed for that particular part. Then after this ad then begins the - going into the 'Next on', so the preview of the next program. So these two clips here, the editor has put a flash between these two clips, to communicate that this is not just him talking all the way through, there's been a cut that has been in the edit. So we use these flashes at the end of his sentence. So he will end a sentence or a point here and this flash will indicate time passing and then another point being made here. In this instance, for the 'Next on', there is a number of flashes being used. This is quite a long 'Next on', and you will see here it's quite long, it's one - you can see it's roughly a minute, it's just over a minute in length.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN142

And might that have been because you needed to get to your 38.45 and because of other cuts or whatever, that you've made, you needed to kind of have a longer one, or type of decision?---That's correct. Yes, that's correct. Because these assets that the editor gets from the template, according to the schedule, they're different lengths. So these will all be - usually, not all the time, but usually they're different lengths, so the editor is always accommodating, 'Okay, this is at this length, this is

at a different lengthy'. The sermon portion, so for example, here's like an empty one, so the editor will go, 'Okay, so this is 30.45 and I've put all these assets here'. Let's just build that, because it's just an example. So, all these assets here are in the program, okay. 'So this is the length of my sermon content that I need'. Okay, so I will copy that, there's like a ruler and go to my work area here and I will, you know, kind of paste it in here and go, 'Okay, so this is the exact length with ideal length for the 'Today with' and 'Next on'. The editor here has, 'Okay, this is a good place to end it here', for example. So the duration of this rectangle will be, it says here, 16 seconds 22 frames. So in this example that length will need to be added to the 'Today with' or the 'Next on' to make sure the program ends at 30 minutes 45 seconds. So that is an overview of the program and that shows sort of like the format and the editing of the program. I'd like to go a bit further into the things that relate to the award and things like that. So for one of the examples that I submitted in my evidence, I said that this is a complex program, it's complex equipment. The only thing I can really say, in addition to this, is that the program, in itself, is very complex. There's so many different things and aspects to the program. But the things that I'm showing you here, they wouldn't show you everything that the program can do but, yes, other than that I can say the thing is very complex. You can play around with the colours and get all these readings on the scopes and things like that. Yes, so - - -

PN143

So is that all these drop downs that you're showing me?---Yes, drop down menus for all different things. Like over here like I can show you, you've got the different - if I go to here, down here you have the effects window. You've got all these different drop downs with all these different effects you can play with; audio effects. There's video effects over here. And you can put these on - like we wouldn't use these in the editing, but you could put that on there, like an effect on there and, you know, play around with it. I'm not really sure what this one is going to do, because I don't need to use it. But, yes, there's all different kinds of effects. Yes, so, yes, you can do things like that. Just lots of effects and things like that. I think I've said everything relating to the complexity of the software in the links that I provided in the - in my evidence, that this is a very well known industry standard program with lots of complexity. Enough for it to be used in the industry?

PN144

And what do you mean by 'used in the industry'?---Yes, like it's used in television production. I'm sure there are films that have used it. But in terms of the - like my understanding here, it says that it's complex, computer editing equipment. The equipment is complex, is what I'm saying here.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN145

Thank you?---Okay. Okay, so the next thing - okay. So I wanted to call up - so now that you have sort of an understanding of the overview of the edit, what the editor does to the program, I just wanted to go into some of the specific things. Here, which says, 'vision switching functions', let me just have a look at this project here. I'm just closing off some of my windows that I'm not needing to use. This is an example of a program that we edit here. So this is an international

daily program. The format is a bit different to the US programs, there'll be bars and tone, some black here. This is all very similar. US programs will have more ads and things. So after the slate you have the countdown and then we go into the program opener and then into the - on a US it's a 'Today with', international will show you some of the previous program, unless you're doing part 1. If you're looking at part 1 then you're looking at what's ahead. Every other part will, at the start, show you - look back and show you what you've missed.

PN146

And your worksheet will tell you those things?---Yes. So I will bring up the worksheet for this. So I'm having a look at the job number and it says 694 international. Okay. Yes, so this is the job sheet. This portion here is the broadcast schedule, it just shows you, okay, this example has got four parts. This is sort of like a bird's eye view of everything in the programs. You know, you've got the opening, the closing the different things that are in there, different assets. But when you go into detail you've got these four parts here. So the one that I'm looking at here, this is part 4, and I'm going to zoom this out a little bit. Okay, yes, so this is part 4. As you can see, we've got, you know, the bars the black, the slate, which the editor has put the information, based off the information in the job sheet here. Yes, and then here, the 'Previously on'. Just like the other program, this is at 20 seconds. The editor will adjust this, based off the start and end points of the sermon and the timing. International programs always go for exactly 31 minutes, as you can see on the bottom left corner here. It's a 31 minutes, that's the time code. I know all this time code information is very similar to tape-based editing, as tapes work off time codes as well. As I sort of mentioned, everything here, you've got the - your video tracks and audio tracks here, which is very similar to like a video tape. When I've made reference to a 'reel', my understanding is a reel is similar to a tape, a tape is a reel. But I understand these are digital, digital assets, but I've referred to these as a reel. So I just want to get back to what I was saying, so this is an example of vision switching that I thought - believe is an example of switching vision. Yes, so 'Previously on' so it's a preview that the editor has put together of the previous program, and you can see here that this is roughly - you know, it's a minute and 13, roughly, so it's over a minute and the vision switching that I want to show you here is this part here. So the speaker is speaking here and then he will cut to a crowd shot there and then come back to the speaker and, as you can see, we'll just keep going, and then he will go to another crowd shot here, which has been cut, and they're nodding. Then he'll close out and that's the end of the 'Previously on'. This example here, these crowd shots are in a separate reel, a crowd shot reel. The editor has selected the crowd shot and chosen the part where they're nodding, you know, in agreement, those kind of things. So the editor has chosen that. What I'd like to bring to your attention here is I believe it's this point here. So there's been a cut here. Now, the editor will make a cut in the audio. Usually it's just - the cut will be for time constraints. That's the only reason I can see why you'd do it otherwise, because we're always constrained by time. In this example we always try and just cut where there's silence, so as to not cut out anything he's saying. There are some times when we have cut parts of what he is saying out. I'm just trying to see if this is one of them.

STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN147

And, again, when you're referring to the editor, that might be you?---Yes, when I'm referring to the editor, that might be me, that would be something I would do, yes. So I don't know if you can hear this or what you can hear is in the recording, but this is the audio here that you're looking at, those ups and downs. When he's kind of speaking loud it's going up and then, you know, maybe when he's finished a word it will go down. So this is like a cut the editor has made. They've cut some silence out. Actually, so what I'm trying to say, this is how it appears in the edit. This here is actually how it appears in the reel. So what you can see here is that the editor has actually cut some of his words out, he's cut this part out here, okay. So, yes, the editor has made that decision. As you can see, it picks up back here, because they - just bear with me.

PN148

Why would an editor cut out words?---Yes. If what the - for timing. So if - let's just hear what - I wonder if we can hear it here. I don't know. Okay. So that, I'll just remove it myself. So what we just saw there was the editor has made a cut and put a crowd shot to hide the cut. So in answer to your question, 'Why would the editor make a cut - cut out some of his words?'. Sometimes a speaker will be making a really great point, really interesting and really positive, but then he might change to something kind of negative for a few seconds, or he'll say an 'Amen', and we'll just chop off the 'Amen' for timing. But if something is a bit negative but overall it's really great content, the editor has decided, you know, 'This is great', and it's not changing anything that he's saying, we're not changing his point or what he's saying', then we, as editors, we have decided in these instances it is allowable to make small, minor changes to what he has said in the program. So let me go in here to see what has been kind of removed. So what I'm going to do is, I'm going to - bear with me. Okay. So you're only going to be hearing this track, this is how it appears in the reel itself. So let's just play from here. Okay so here he's trying to make a joke, or something like that and the editor has deemed this not great content, so what they've done is they've picked it up over here, with him saying - okay. So, yes, they've picked it up there and - I just want to just to be able to show you where he's picked it up. So in the reel it starts at 52 minutes 39 seconds 11 frames. So if I go down here - okay. So over here 52 minutes 28 seconds is where this - where this starts. Okay, this part here ends 52 minutes - sorry, bear with me. So 52 minutes 16 seconds is about where this ends, this portion. The cut's been made and you can see here, it's jumped to 36 seconds. So there's been a good, what's that, about 20 seconds, 20 seconds of content removed there and it's been hidden under a crowd shot, which the editor has decided - - -

PN149

And that's the vision switching that you talk about?---Yes, that's the vision switching that I've made reference to, with the use of crown shots here.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN150

Are there any other forms of vision switching that you do, as part of your role?---Yes, there is. So I can show you some other examples of vision switching. Let me just call them up here. Here is another example of vision

switching. So here you have the speaker talking, there's been a cut in the audio here, there's a crowd shot, switch to the crowd shot. Then here, as you - what it looks like is we go back to the speaker, which is right. But in this example, this is actually a different reel. The original reel, which I will show you, so the audio from the original reel that we used in the program is here, so I'll just put the original reel back in, to show you the difference. Okay. So the original reel will have this, so the crowd shot - the original reel will pick up here, where you can see the speaker. You will notice here, there's a shot change right at the end of the
- - -

PN151

To the distance shot?---Yes, to the distance. And because it's quite quick when it ends, so it happens here and it's a bit jarring, the editor has swapped the reel to, we have another reel, which is an isolated camera, an isolated camera which is this one, to get rid of that kind of jarring shot there. So that's another example.

PN152

You can probably just tell us about those Mr Rowe. We might not need to see them, unless you think that's important, but tell us other ways in which you might - - -?---Okay. Another example would be - okay - would be - okay, so for this program, it's an international daily, with vision switching we could possibly this one. So here we have a Bible verse on screen. We deliver clean versions of the program and what that means is it goes to an international audience to they will put their own translation, you know, different language information here, instead of the English. So something that we do is we swap out, we switch the vision from the reel that has the Bible verse to one that does not have the Bible verse in there, and I will show you that now.

PN153

No, that's - - -?---That's fine, you understand?

PN154

I think so. It's a matter for you if you really want to do that, but I think I understand what you're getting at. Would the job sheet tell you to do that, or is that just the type of thing that you know you have to do because it's going to an international audience?---Sure. The job sheet here starts off with the English, you know, edit, the editor and then the second person checking it, and this is all done in English, the final approval. And then there's a mixed version, which is slightly different again. It's very similar to the English but with a few things removed and then there's the clean. So, yes, it does say, on the job sheet, that we go into the project and do the clean version by changing that. I have - I do believe that I showed pictures of this in the evidence that I submitted.

PN155

It makes much more sense, actually, seeing it in the live version, Mr Rowe, so thank you?---Okay. Yes, sure. Yes. So there will be no Bible verse so the editor will go here and go find the reel, which is here, and there, it's gone. So, yes, this is what a clean version, you can see all of the Bible verses are just these portions.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN156

So you've pulled a clean one out of a separate asset?---Yes. And I'm not - yes. Yes, so what has been - what I just did then, I've swapped out the V1 and the A1 portion of the sermon. Yes. This - when you do this, it actually swaps this out. It's exactly the same, it's just there's no Bible verses. So what I'm trying - another point I'd like to make is that there is an audio switch that goes on here. The audio is actually switched as well and the reason that this is significant is that when we are doing English programs and when we are doing clean versions, because they are being switched and they're separate reels, the clean audio is actually treated slightly differently. Not by the editor, it's just that the reels that are given to us, the clean audio is slightly different than the English. So the audio does need to be switched as well in this instance.

PN157

Is that for a whole kind of episode, or just like before, where it might be just for discrete parts?---That is for a whole type of episode. So once the English is edited, the mixed is made and the mixed is very similar, it just takes out these - I'll show you here. It takes out this, 'Today with Pastor Prince', that is removed for the mix and the clean and then - - -

PN158

So we're talking about the audio at the minute, are we?---Yes. So, yes, we're talking about the audio - the audio. So, yes, that gets removed after the mix and then the clean is made. But, as I was saying about the audio, the audio needs to be switched.

PN159

Are there some circumstances where it might just be part of an episode that is audio switched, or is it always a whole episode?---There have been some circumstances where it's just the audio. It happened - like, from time to time this has happened, but it's not an every day thing. An example of that is if there's no - if it's very difficult to find positive 'Today with' and 'Next on' content, the editor's really struggling. Let's say, for example, it's a part 4, 'Today with Joseph Prince'. Now, at the end of the final part there's music played underneath. So there'll be like this - around this portion, around here, there's music played underneath what he's saying and sometimes he's talking about something, or he'll go into a prayer. If the editor cannot find any content that's very - like that's good enough, sometimes there is an option to get this portion given to us, without the music. If there is deemed, 'There's some good content here that could be used', but there's music already built into the reel underneath, then that has been an option, but it is very unusual and I've only used that a few times. So that goes - - -

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN160

So the audio switching is usually a whole episode, rather than a discrete part of it, is what you're saying in the last - - -?---That is correct. The only other time that we would make, for audio switching, I mean, yes, that is correct. The only other time that I have adjusted the audio, like outside of what is in the reel, is, say, I needed some more - if I've made a cut with what the speaker is saying, in the 'Today with', and there is like an applause behind what he's saying, sometimes I

will grab an applause part, at a slightly different area, and sort of blend it in together, to get him to say 'Amen', or something. Like I'll put - so with the 'Today with' and 'Next on' sometimes we will put an 'Amen' under a crowd shot. So, for example, I'm just going to make an example here. Let's say that there's a shot change, or something that happens here and he's finished speaking but we need like one more second of audio, because of the timing, what we will do is we will - one solution is, we can put a crowd shot over the top, so we will cut to a crowd shot and say let's pretend he's finished speaking here, we can cut to a crowd shot so then we just see the audience nodding and then we'll just get him saying 'Amen' from a different portion of the sermon. So this is an example of where the visual, the vision has been switched to one reel and the audio has been taken from another part of the reel. Yes. I believe that's all I have to say on the vision switching. As I mentioned, previously, with like - and we used those isolated shots, if there's a crowd shot, if there's - sorry, if there's a shot change that's jarring, right at the end of what he's saying, sometimes we will, yes, use an isolated shot to remove that. If the editor has found content that is useable, but there's a Bible verse over the top of the content, the editor will also use an isolated shot in this instance, but it's not their first preference but it has been done a number of times where there's been a Bible verse on screen but they've switched to the isolated shot and the Bible verse is gone and he's just talking. So that would be another example of switching. That would be vision switching.

PN161

We've covered off on the audio switching in that discussion that we've just had as well, Mr Rowe?---That is correct.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN162

Okay?---Okay. I'd just like to move into - just go back, just for one - just to highlight one more thing. When I was talking about, I guess, the complex computer equipment, I said, in my notes here, that this software, in particular, uses XML files. So basically an XML is for the purpose that can be used for saving edit decisions by an editor and saving - saving it into a file that can be imported and used in other video editor programs, so long as they're compatible with those files. So, for example, if I was to put different edits and things here, I could then - basically it's like I could then file export, and export this as an XML and there's a number of video editors that can take that information and bring the cuts that you've made in this program into another one. My understanding is that, yes, there's a lot of softwares that don't use this but, yes, Adobe Premiere does. I'd now like to move into the portion of talking about the special effects. So with the - there are some instances that we may need to apply an effect in the editing process. I'm going to bring up a project here. Okay. So this program looks a little bit different to other ones. This is a - it's called an international Taiwan. Now, this program has commercial breaks in it. So the reel is - mine is saying it's about 43 minutes long and the editor has, according with the job sheet, made breaks in the program. There's three breaks here in the program, for the Taiwans, and the editor has, you know, decided on the start and end points of the Taiwan. Anyway, so what I wanted to show here is when we go to a break here - when we go to a break here, I'll just show you - all right. So this example, this is a great time the editor selected to go to a break. There's a crowd shot here. Now,

usually, we'll just switch out to the ISA reel, so that it's an isolated shot of him, and it doesn't go to the crowd shot that's already in the reel. There have been times when there is no isolated shot for that reel.

PN163

And so what would happen here is that the editor would – a solution an editor can do is – let's say – I'll bring this back. So for example, let's say that there's no isolated shot. Sometimes there'll be – over here, there'll be a shot change in the reel, and there's ISA. What an editor can do is make a hold frame. So they can freeze the frame there. And that's been a solution that we've used. In this one, you can see the camera is sort of moving across a bit. So it wouldn't be a go-to solution, but often, the camera is not moving, and it'll fix that shot change.

PN164

And you say that's a special effect?---I would say that it's a special effect, because it's – well, it's not in the reel. So it's adding an effect to it. You get into definitions of 'special'. But I have one other one to show you. All right. So what I was just looking for is, this happens with all the reels. It doesn't happen every day. It doesn't happen very often, but there is some times where, in the today with or next on content, they'll cut to a crowd shot. And when they've cut to a crowd shot, this particular crowd shot, sometimes a crowd shot – a person's face will be covered by this line or these words. And I was just trying to find a crowd shot that did that. But basically, the editor has a few solutions. They either get some new content, and a solution would be, if it's covering the person's face, the editor would go and flip the shot, the crowd shot around.

PN165

So if I go to – I'm just trying to find the effects window. And they would apply a horizontal flip to the crowd shot, and that would flip it around horizontally. And so if the person's face was kind of here, and kind of being covered by the line, it would now be over here. So it's more of a composition thing. But that would be an example of, I can see a special effect. It says 'Video effects' here. I'd like to move on to the next part, which is – I think I've already spoken enough of the exercise of judgment in the selection of edit points. I've shown you the reels, each different part of the reel, the start and end for each part the editor selects; the time constraints of the program, and having to cut down what the speaker is saying in the today with and next on portions of the program.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN166

In regards to controlling other vision sources, from what I can see, the other vision sources, the editor is sort of controlling things that you can, is I guess the bug, cutting the bug. This thing over here. And then just the position of these – what I've spoken of, these (indistinct) assets here, and fitting them in with the program. And then again, the isolated shots and the selection of putting crowd shots in the today with and next on, which I've already shown. I'm just seeing if there's anything else I need to look at. I guess I can illustrate here, you can see that I've got different projects opened simultaneously, and I can switch between them. I had listed that along with – that was under the use of complex computer editing. From time to time we'll have – we may be working on a project, and then

something needs to be done on another project that doesn't take very long, so you'll open up that project and just make the change, and then close it off. So now I'm going to look at the other information in the other allowance.

PN167

All right. Sounds good?---So looking at here:

PN168

Performs the work of compilation of program material, which requires the use of an external edit controller, controlling three or more video tape machines, and/or exercises video tape editing techniques and skills accepted by the employer as equivalent to those required in the paragraph immediately above.

PN169

Perhaps before you take us through what you do, critical to this seems to be what does an external edit controller controlling three or more video tape machines do. Have you used an external edit controller which controls three or more – I'll just talk about that in short – one that meets that criteria, previous – what's your understanding, if you like, of what that machine does, and how do you have that knowledge?---Sure. My understanding is that it's a controller that can control different video tape machines.

PN170

So it's a piece of equipment? When you say a controller, it's a particular – outside of what it currently is, it's a piece of equipment that can do this?---I've used video tape machines in the past, and all of the controllers are I guess external on the machine. But I guess my understanding is that when – if you're doing video tape editing, you've got a few different machines that you need to control. So you have a record machine, which is like the tape – the machine with the tape in it that you're recording your edit to. And then you have another machine, which has a different tape, and this is more of a playback machine. So you'll have, like, where the reel that you've put, you've got in there, that you're playing back, you're going to put a portion of that onto your record tape. So that would be two machines. There may be a third machine, that would have another reel in it, that might have a B roll or something like that. So you've got your first machine, with, say, someone talking. And then the other one you may switch to with some nodding shots or something, of a person listening. And then, as I said, the first one is the record. So that would be my understanding of using the three or more machines.

PN171

And the controller allows for all of those machines to talk to each other, or work together? Have I understood - - -?---In the way this is written here, I don't think it's clear if the external edit controller controls all three of the machines through the one controller, that it can switch between them, or if they're being controlled – because I don't work in the sort of video tapes. I just sort of took my understanding, what I know about video tape editing, and looked at sort of what I was doing. Because I'm working with electronic – on a computer, so I just thought mouse and keyboard is external. So what I just wanted to show here is I guess that, in this particular project, here - - -

PN172

Sorry, just before you show me what you're – so you haven't worked personally with that kind of controller – well, it sounds like it's perhaps a bit more old school type set up, yourself?---Are you talking about, in the role that I do now, or just - -

PN173

No, at all. So I'm trying to understand what this external edit controller, controlling three or more video tapes is, and how you have that knowledge that you do?---I've worked with video tape machines, controlling just on the – externally, outside the machine. My knowledge of the three or more was from what I've looked at on the internet, and how people would do video tape editing using tape machines. Also I had prior knowledge to that, when I was at university, and how video tape editing was done, and the way the machines are kind of set up. But in terms of having a controller that controls all three of them, I have seen – I think I saw on a video that someone was controlling the video tape machines with a controller. I'm not sure if they could switch between them or not, but I thought I saw – because they have a job wheel and things like that. Does that answer your questions?

PN174

Yes. I understand what you're saying. And it kind of uses all three, potentially, to come to a finalised product, is what I think you're suggesting. All right. And what was your role – I think Ms Holmes said you had some sort of an editing role before you started with 4B. Is that right?---Yes. I had worked in – doing instant replay editing, doing the NRL games for the NRL app. Watching the game – sometimes I'd watch two games at once, and whenever there was a try or a conversion, I'd cut that up, and so the people that subscribe to the app could get it on their phone within a couple of minutes of it happening live. So I'd done that. I've done some wedding editing, and also worked in a TV station, at Channel 9, working in sort of video tapes. And then, when they sort of – it was called triage, but it was, all the things got sent to us, we recorded it on video tapes, and then it got either played out from the video tape onto a server – played out from the video, or it got could recorded onto a server, and then I worked in that. And then I also worked, when they transitioned from a video tape player to when it was all server-based. So I saw it going from – I believe it's called digital intermediate. So it was sort of video tape, half digital, to when it was – everything went completely digital.

PN175

And you mentioned your university studies, and kind of some relevance to this. What were your university studies?---Yes. So I have a degree – so I haven't been asked this for a long time. I did digital television production, yes, and I got a bachelor degree in – the course was digital television production. A degree in creative technology, that's it. I also study in digital media at TAFE as well.

PN176

Thanks, Mr Rowe. Happy for you to take us through that now?---All right. Sure. So I guess I sort of read what was written there, and having my understanding of how video tape editing is done, and the limitations of video tape – video tape editing is linear-based editing. And so what that means is, for example, when you're editing on video tape, you put your shot in and the audio in, and you put the one next after that, and then you put the next one in, in order. But just like an example, if this was – my understanding is, if you were to put something like this on video tape, and then realise, 'You know what, I need to move all of this stuff that I've edited, and move it all back here', that would take a lot longer to do, whereas when you're working on digital, you can sort of just grab everything and move it back.

PN177

And it's done a lot quicker, because – this is called non-linear editing. We can jump around and move things around. But on a video tape editing system, it would be a lot more work to do that. So I guess where I'm sort of going with this, and how this fits in, I just looked at this and I just looked at, I guess, what a video tape is. It's one video track, with two audio tracks. So what I looked at is, if a video tape I guess is limited to one video track, in this example here, in a program, aside – all of this would have come from a template, except for this content here that the editors put in. But you can see here we've got – at this point here you've got things on the video track. One, two, three, four – there's five things I can show you.

PN178

So this is the program opener. So that's kind of the fade thing. If I turn that off, you can see it's gone. So I'm disabling that video track. This part here, the coming up – this part here, if I hide that, you can see that text is gone. This part here, this is a gradient that has been – well, this particular gradient isn't used in this program, but you've got this bug in the top-left corner. If I disable that, that's gone. So you've got all these elements that are on different video tracks. That's some content there. And then you've got also these elements which connect with the audio here, different parts of the audio tracks here. So you can see one, two, three in this example.

PN179

So you've got the music for the today with, you've got the feeding out of the opener. An then you've got – well, the sermon music starts here. Sorry, Joseph Prince talking starts here. So that's all I wanted to say about that. I mean, I think I've – let me just check my notes. I don't think there's much else to say. Yes, so just my thoughts, just doing this on video tape machines, you'd have to record one at a time. My understanding – yes, on each layer at a time. So if you had all these machines connected, you might be able to do it once, but on different video tape machines, but I can't really speak to that, because I'm not really sure about that.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN180

So you say that you're exercising editing techniques and skills which are equivalent to those used where there's this compilation of program material, requiring the use of an external editing controller?---I think it could be equivalent,

but just the way it's worded here, and – yes, it's not really clear. I'm just looking at it from a point of the limitations of video tape editing, and what I do for editing here, compared to doing that on a video tape machine, and the number of video tape machines that – yes. Just because there's different video tracks, and I know video tapes are limited – my understanding is, video tapes are limited to one video track, but we have quite a few here. So that was my understanding more of the equivalent. I think in terms of the program editing and what the editor does, I think that's – I've gone through everything that I've wanted to. So I'm happy with that.

PN181

All right. So the techniques and the skills that are equivalent, can you just explain to me exactly what you say they are?---Sure. For the - - -

PN182

For the video tape editing allowance?---All right. I would say that for these video layers, we – I guess in summary, it's just the output of the work that's done I can see here would require a number of video tapes. But controlling three or more video tape machines – to do this on video tapes, to go in and delete this, it seems equivalent to – you could do this – I think you could do this on two video tape – sorry, you could do this on maybe three video tape machines, or two. I'm not sure if you could do it on two. But it would just take a lot longer time to what sort of we're working with here. But as I said, I mostly can just speak to the limitations of video tape.

PN183

That's probably all we need, in terms of the video tape analysis. I've got a couple of quick questions, and then what will happen is that counsel for the respondent will move into cross-examining you, Mr Rowe. So I might just ask you those questions, and then we might have a shortened lunch break, to see if we can still get through the remainder of the evidence today, and then you could be cross-examined after lunch. So just a couple of quick ones. If I could take you to page 76 of the court book, which I think is your contract. I think this your current contract, as I understand it?---Yes.

PN184

The specific duties in 1; can you see that, at the top of the page?---Yes, I can.

PN185

Just let me know, do they reflect the duties that you perform? I think Ms Holmes says that you don't check and approve raw videos, but if you could confirm whether that's right or wrong. So probably that's the first question, and then whether the remainder of duties there reflect your duties?---We do final approvals of wild reels. A wild reel is the entire sermon content, all in one reel. But they've had audio adjustments and things that have been applied to it. There may be – all of the Bible verses on this reel may have been replaced with – taken away, and just empty ones, empty slides and things. So I approve those things. But to say if it's raw, my understanding – approving of raw videos is – videos just out of the camera. I'm just trying to understand - - -

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN186

That's all right. If you don't know what a raw video is, that's perfectly fine. I will ask the same question of Ms Holmes?---All right.

PN187

Otherwise, do those duties reflect - - -?---Yes. Other than that, that word, 'raw', which I'm not sure if I do or not 100 per cent. I would say it does, yes.

PN188

All right. And I don't think it's contended by the respondent that your role or duties have changed since your commencement. I think the program changed within about a month or so of your commencement, but I don't believe it's contended that your role or duties have changed, and I've got a nod from the Bar table. Would you say the same thing?---Yes. My role and duties haven't changed. Just, as you mentioned, the software we're using changed, but that's it.

PN189

And would you say that the skills and techniques that you have used that might give rise to your claim for the second allowance, which – they all sound the same right about now. Have they changed at all during your employment?---The second allowance.

PN190

Yes, which is the - - -?---Yes. They may have changed. If we're talking about the number of video tracks that have been stacked on, ones like that, may have changed since I've been there, because – yes. So that might have changed, but I'm not really sure.

PN191

All right. And just two more questions. I think you've read the evidence of Ms Holmes and Mr Gower?---I read the portions of them. I haven't read them in full.

PN192

I'm not sure whether you're aware, there's this discussion – I think you are aware, from the response to the submissions, the discussion about whether you're involved in post-production or production, or something else. It's not clear to me actually what post-production or production is, and whether there's some fine line. What's your position on that?---Sure. My position is that I'm doing post-production. Post-production is work that's done after the filming and everything is done. So after production, the filming, and all of that, the things that are done for recording it.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN193

And then post-production is after that editing, the film or the videos, effects and things like that, putting it together as a package after the filming. Pre-production is the planning and everything, getting everything ready, planning everything for the filming process. When I worked in the TV station, I worked using video tape machines, and my understanding is, that was production, because next door was production tapes. But we were recording news updates and things live, so I guess

hitting record was part of the production. But, yes, we didn't do any post-production editing, which is what I understand we're doing here.

PN194

All right. That's helpful. The last question that I have is, Mr Holmes says that you are not performing certain duties. I think it's paragraph 25 of her statement. I just want to get a sense from you as to whether that's your position or not. So let me just take you to that paragraph, paragraph 25 of Ms Holmes' – which is at page 260, and then over page, to 261. I'd just like you to let me know whether you agree that you do or don't perform these roles, parts of this particular classification. You can deal with it one by one if you'd like, Mr Rowe?---Yes. So I'm on page 260.

PN195

Yes. Very bottom sentence, and then over the page?---All right. So did you want me to comment on each one, is that right?

PN196

Anything you disagree with. So Ms Holmes says that you don't do the things in (a) through (e) on page 261?---Sure.

PN197

So just tell me if there's any of that that you disagree with, and say you do do?---I mean, in terms of preparing reports on specific tasks or assignments, when I do an edit, I do reports on – well, I report any assets that were swapped or taken out of the program. I write up a thing saying that assets – under asset changes. And so this was taken out; what was the reason for it being taken out. In editing, sometimes we'll – when the editor has chosen a start point, let's say part 2, and there's a shot change or something like that, and we use an ISA shot to cover it, we have to report that, and write up, 'The actual sermon content has been changed'. And then we have to show a video of what it looked like before and after. And then admin of how – the timing, how long everything takes. I guess that fits in with the admin portion. But they're the only things I could think of, with reporting those things, writing them up. I guess for letter (c), this language is very familiar to me, with the - - -

PN198

Well, we've kind of run through all of that today, so I think we understand your position on that?---Yes. So I guess the wording there is complex.

PN199

In (c), are you referring to?---Sorry.

PN200

I think you've already dealt with (c) throughout your evidence today, Mr Rowe, so (indistinct) (e)?---All right. Yes, I've already talked about (c). I think everything else, I agree with, apart from those ones that I've mentioned.

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

PN201

All right. So you agree that you don't do (b), (d) or (e), but you consider that you meet the criteria in (a) and (c). All right?---Did you say I agree with (b)?

PN202

I thought that you had said – maybe I've missed - - -?---Wait, this says 'productions' – my understanding is, I'm post-production. But post-production is part of the production, and it's talking about performing complex operations at a senior role. I mean, I don't fully agree with (b). I think that all of the things we look at, and try to weigh everything together with the editing, it's quite complex, because there's so many different tiny things in there that you've got to look out for. It's very complex and detailed. I don't fully agree with (b), as a senior role.

PN203

Do you say you hold a senior role?---I have worked on this job enough years to – I'm very fluent with the work that's being done and how to do it. I think I would be senior at it. I think that's everything. I'm just reading over (c) and (d), just to make sure – yes, I've already talked about (c). All right. Yes.

PN204

All right. Well, what I'm proposing is that we adjourn until 2. And at that time you'll have questions from Mr Pararajasingham under cross-examination, Mr Rowe. And then we'll move into the evidence of the respondent this afternoon?---All right.

PN205

So that's the path that this afternoon will take. So while we have the luncheon adjournment, you should know that you're still sworn to give evidence, so you shouldn't discuss your evidence with anyone over that luncheon adjournment. But you are free to go and have some lunch and a bite to eat. Now, is there anything before I adjourn at all that needs dealing with?

PN206

MR PARARAJASINGHAM: Nothing from the respondent, Deputy President.

PN207

THE WITNESS: Can I just say one more sentence. I refer to a template for editing. On screen, this is the – I found one. This is a template. So I was just sort of showing, the editor would go in, find out what – for each part, what they don't need, and delete it. So that's the template. But other than that, that's everything. Thank you.

PN208

THE DEPUTY PRESIDENT: Well, I will see you all at 2.

<THE WITNESS WITHDREW [1.25 PM]

LUNCHEON ADJOURNMENT [1.25 PM]

RESUMED [2.13 PM]

*** STUART DAVID ROWE

XN THE DEPUTY PRESIDENT

<STUART DAVID ROWE, RECALLED

[2.13 PM]

CROSS-EXAMINATION BY MR PARARAJASINGHAM

[2.14 PM]

PN209

THE DEPUTY PRESIDENT: All right. Over to you, Mr Pararajasingham.

PN210

MR PARARAJASINGHAM: Thank you, Deputy President. Mr Rowe, if you can have the court book in front of you. I'm going to briefly take you to a few documents. I'll let you know which page it is. I won't be taking you to anything in the video production, so you can feel free to turn that off, or whatever's comfortable?---Sure. Yes.

PN211

Mr Rowe, my first set of questions are going to deal with the first allowance that you've advanced in your application, the post-production allowance. So these questions are going to be centred on that. If you require any clarification from what I'm putting to you, please let me know. Now, just to start, Mr Rowe, the asset or the product that is provided to 4B Media is a broadcast-ready media asset, isn't it?---There's one bit of technical information regarding broadcast media asset in the editing timeline. Are you talking about the reels? Sorry.

PN212

I'm going to use the word 'product' just to describe what you are editing, or what you're working on. That's a BRMA, isn't it?---I'm not sure on that, because one of the things in the timeline, the editing timeline, there's like a pink bar that goes across the top. That has like a filter on it that puts everything within – there's a technical thing called an IRE100, and I think someone explained it to me. It just puts all of the assets that we edit, so that it's in some broadcast range, so in case anything is outside of that, but it has to go on all assets that we edit. I don't know if everything is broadcast-ready, in the sense – because we're doing the editing as well, cutting the things.

PN213

Let me advance the question in another way. The product that you're working on, when it comes to you, in either that primary editor role, or, you informed the Deputy President that at times perhaps one of your colleagues is undertaking the initial edit, and then you're perhaps looking over that work. But when you're doing your first form of editing, the material, the product that comes to you, that has already been worked on or treated by the client itself, hasn't it?---All of the assets that we get have been – they have been worked on by either the client, or, I think, 4B Media, with the wild reels. There has been some work done to them, in all of them, yes, some work.

PN214

Before it comes into your domain?---Yes, that's right, yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN215

And is some of the work that would have been to it a colour adjustment?---A colour adjustment. Possibly. I'm not entirely sure. But it's possible, yes, I think so.

PN216

And it's possible than an audio adjustment has also been undertaken to that product?---Yes.

PN217

And you'd agree that the fundamental content selection, that has already been predetermined, perhaps by way of the worksheet that's provided to you?---No, it's not been predetermined. The editor determines that.

PN218

But you do have your worksheet, which is providing you with a guide of essentially what the finalised product, after 4B Media has attended to it, is ultimately going to look like?---Yes. It's like a format layout of the – what parts go where, one after the other, yes.

PN219

What I want to suggest to you, Mr Rowe, is that before you, in your particular role, commence work on a product – and again, remember, I'm just using that term broadly, to describe what's coming into your domain – that particular product is already in an advanced or developed form?---And you're just speaking to the work that I do, is that right? Yes. Sure. I understand.

PN220

So I'm asking you, before you commence work on it, the product itself is in quite an advanced or developed form, and then you have a specific set of duties to attend to that product?---I would say that the products have been – I guess they've been treated. They're near-final – well, in terms of – if we're talking about the colour or the audio, they're near-final, yes.

PN221

And what I want to suggest - - -

PN222

THE DEPUTY PRESIDENT: Sorry, when you get them?---When I get them?

PN223

I think that's the question. If you're not clear on the question that's being asked of you, you can just say that, and it can be re-asked, or maybe broken down into parts?---All right. Sure.

PN224

MR PARARAJASINGHAM: So I'm asking you, the product that comes – what's done to it before it comes to you, as an individual – I'm not talking - - -?---Yes, all right. As an individual. Can you just rephrase the question? Thank you.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN225

So what I'm suggesting to you is that by the time the product comes to you personally, and you're about to discharge duties or work on it, it is in an advanced or near-final form?---The product – you mean the assets? When you say 'the product', are you talking about the assets?

PN226

Yes. I'm talking about the overall - - -?---The individual assets that make up the job sheets.

PN227

Yes?---The parts – yes.

PN228

And so what I want to suggest to you, Mr Rowe, is that then your particular function is to compile or finalise the asset for publication?---Is that a statement, or
- - -

PN229

I'm saying to you, is it the case that your role, your specific role is really about compiling and finalising the asset for ultimate publication?---I'm not sure if compiling would – if the editing, with all of the content selection, if that fits into the compiling part.

PN230

All right. Let me re-put the question to you. Your particular role is about finalising the asset before its ultimate production. So ignore the word 'compiling', but just finalising the asset ultimately before publication?---Further editing the asset before we publish it? Yes.

PN231

Now, Mr Rowe, you provided evidence to the Commission about the capacity of which you could deviate from the worksheet. Do you remember explaining to Deputy President Grayson about what the worksheet entails, and then perhaps what licence you have to move outside that? Do you remember giving that evidence?---Yes.

PN232

Now, could I just confirm with you, Mr Rowe, that that licence – when I talk about licence, I'm basically talking about your ability to move outside the worksheet – would perhaps be limited to you making a decision about two things. The first one is whether or not you would have a slide or a scene at the commencement and end of a production, talking about, as previously shown, and coming up next on. So you have a licence to do that?---Yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN233

And then you have a licence to fix up anything that – I think the term you used was 'jarring', anything that you would describe as jarring; for instance, if there's a lull in audio for an extended period of time, and you decided to remove that, in order to keep within the time confines. So the question I'm asking, Mr Rowe, is, your licence to deviate from the worksheet limited to those two functions: (1)

putting a screen at the start and end of a production, and (2) making adjustments for anything you deem jarring?---So two things. And if I'm understanding your question correct, there is – to go outside of the worksheet, there is an edit we do, a TVD edit, and the content that has to go into the edit, if it exceeds – like, with ads, if all the ads exceed three and a half minutes, we have to remove them, because it – when there's something in the contact, you can't have more than three and a half minutes of ads. So that would be another reason why we would remove some assets in those edits. The other thing was – sorry, could you rephrase the question?

PN234

So I was just asking about the two means by which you would deviate from the worksheet?---Yes.

PN235

You've explained to the Commission why you would fix up the timing of the frame. And is it the case that the other way you would deviate from a worksheet is having that sort of before and after scene for these productions, talking about what had previously been shown on a sermon, and what is coming up?---So we would only deviate from the worksheet – as I said, for that particular edit, the content is too long, the ads, there's too many ads, the – I'm just trying to think of any other times we would deviate, other than – with the today with and next on, if we do cuts in there, that's not deviating from the worksheet, because the worksheet doesn't specify where the cuts should be. I don't think there's any other – so we would deviate from the worksheet if – let's say the end of the sermon, we have to bring it out further, because he doesn't finish his point. And there's no other way to get around it. We have to extend it. And otherwise, he's not going to finish his point, and the viewer will be confused. Then we would say, this is the best out point for the edit we could find. We would say, we propose that we remove a particular asset, to get it to fit the timing. Does that answer your question?

PN236

Yes, it does. I want to suggest to you, Mr Rowe, that your duties are primarily – other than the aspects you've just mentioned, they are primarily governed or driven by whatever's in the worksheet. I'll put it another way. The worksheet really guides the entirety of your role, but for some of the elements that you've just mentioned?---Yes, that sounds – well, entirety of my role, I would say, yes. But I think a lot of my work is working on those today withs and next ons. But, yes, I'd say yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN237

Now, Mr Rowe, you gave evidence about the use of Adobe Premiere Pro, and so my next series of questions are going to be directed towards that. Now, it's the case, isn't it, Mr Rowe, that Adobe Premiere Pro has various modes, in the sense that it can be used in quite a basic way, but it can also be used in a very advanced way. Would you agree with that summary? I'm not asking about 4B Media, I'm not asking about you personally. I'm saying, generally speaking, this program has the capacity to be used in quite a basic mode, and the capacity to be used in a very

advanced mode?---There's lots of functions in Premiere. Using it in a basic mode
- - -

PN238

Perhaps I'll put it another way. If you can go to page 19 of the court book?---Yes.

PN239

So this is an extract that you provided in your evidence, summarising promotional material on Adobe Premiere Pro. I want to take you to the bottom of page 19. Do you see the heading, What is Premiere Pro?---Yes.

PN240

And it states there:

PN241

Premiere Pro is a powerful, customisable, non-linear video editor that lets you edit your way. Import and combine virtually any type of media, from video shot on a phone to raw 5K and higher resolution footage.

PN242

So what I'm suggesting to you, Mr Rowe, is that by the account you've provided, Premiere Pro has a wide accessibility, for both individuals who are using it in a basic mode, and then those who are using it in a very advanced mode?---When I read that, it says to me that you can – from all kinds of recording devices, you can put them all together, whether it's shot on a phone or 5K footage, and edit them together, without wasting time. I don't know if that speaks to basic or advanced.

PN243

Let me ask you this, then. Do you agree that Adobe Premiere Pro is known for its user-friendly interface?---I think that's a bit subjective, because I don't think so.

PN244

Do you accept that it's used to make content on accessible platforms like Facebook or Instagram, or other social media portals?---Sorry, could you say that again, please?

PN245

Do you accept that the program can and is used to create productions that are used on social media platforms like Facebook or Instagram or YouTube?---Yes, you can use it for those purposes.

PN246

Now, during the course of your evidence, Mr Rowe, you indicated to the Deputy President – you might recall you showed us, under one of the tabs at the top, the various types of effects that one can do on Adobe Premiere Pro. Do you remember giving that evidence?---Yes. Yes, I remember showing it on the screen.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN247

Yes. What I want to suggest to you is that whilst Adobe Premiere Pro obviously can do that, as you clearly indicated, for the purposes of your role, however, you

do not access that wide breadth of possibilities or capacities that Adobe Premiere Pro has?---I understand what you said. There's a lot of – we don't use every function in there. There's a lot. It's a very deep program, Adobe Premiere Pro is. But, yes, just because when I read the award, I think it says 'The use of complex editing equipment', so I sort of took that to mean the use of complex editing equipment. I didn't read into that to say that it's how it's being used.

PN248

What I want to suggest to you, Mr Rowe, is that in circumstances whereby you personally – so this is about you and your role at 4B Media – are dealing with an asset that has already been treated, and also you are then working on that asset within a limited functionality of Adobe Premiere Pro. Because of those two points, your work, for the purposes of the clause in the award, is not described as use of complex computer editing. So I'll just put that again to you, Mr Rowe. The two reasons I'm suggesting to you that your work is not – you are not making use of complex computer editing is because (1) when you commence work the asset, it has been treated, and (2) the range of functionalities you use on Adobe Premiere Pro is limited?---I mean, Adobe keep adding more and more things to their software all the time, with a subscription model. I understand what you're saying, that it's not – what we do may not be complex enough, because we don't use enough of the things that are in there, the options.

PN249

THE DEPUTY PRESIDENT: Just so I understand, I think you're just saying you understand the question. I'm not sure whether you've actually answered the question.

PN250

MR PARARAJASINGHAM: So when I'm asking you about Adobe Premiere Pro, Mr Rowe, I'm asking about your use of it?---Yes.

PN251

I think the Commission understands, and the respondent accepts that the program generally can be used in a complicated and high functionality way. That is accepted. But I'm asking about your particular use of the program?---Yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN252

So the question I said to you, or the proposition I put to you is, because, when you first start work on an asset, it's been treated, and because you are using limited functions on Adobe Premiere Pro in your role, because of those two arguments, I'm suggesting to you you are not using Adobe Premiere Pro in the form of a complex computer editing equipment?---I mean, since I started editing, we've been using more and more features or functions of Adobe Premiere Pro, like the transcribe feature that transcribes everything you're saying, for different things, being able to edit quicker. I think the editing we do is complex, in that we're going through all the material, trying to take statements of what he says, and making sure the viewer has enough context and everything. We have to give enough thought – but if you're just talking about the functions or the features, we don't use every single thing in Premiere Pro, not every single function or

feature. Is that what you're saying, in terms of how we're using the software? Is that what you're saying?

PN253

That was the basis of - - -?---Yes. I mean, I don't have a list of all the functions that we use, but I'd have to write down and generate a list of all the things that we do use.

PN254

Mr Rowe, I'm going to ask you a series of questions now on the notion of vision switching functions?---All right.

PN255

What I want to suggest to you first, Mr Rowe, is that in the media and broadcasting industry, the term 'vision switching function' is customarily use to refer to live broadcasts. So for instance, a situation whereby the production is in real time, and live, moving from, hypothetically, Channel 9 studio to its reporter, who is providing a live cross from a scene. I want to suggest to you that that is the industry-accepted use of the phrase 'vision switching functions'?---Right.

PN256

Now, do you agree with that assertion?---I've heard the term 'video switch' – a video switcher is someone that's – it may not be live. It may just be, they're switching video to tape from different – well, it's not being broadcast live, but it could go to tape. But I have heard it used in live, but also, Premiere has a multicam – we don't use this function, but it has a multicam sort of option, which is just like vision switching. It's just that you've got your different cameras in different squares, and you click on the vision you want to switch to. We are switching the vision, but in terms – if you're talking about the term 'vision switching', then – I have heard it used, people talking about live vision switching, to tape or to hard drive, or live, not live broadcast.

PN257

Mr Rowe, can I suggest this to you, then. Let's put aside the proposition I advanced about vision switching function meaning a live broadcast. Put that aside. Am I correct in understanding what your evidence was, for example, that vision switching occurs when, in the course of editing, you have one shot of the sermon, and then the next shot goes to the crowd? I'm correct, aren't I? That was what you were suggesting a vision switching function illustrates, correct?---I guess switching what the audio can see on the screen, from a crowd, back to the speaker, also sometimes - - -

PN258

Sorry to cut you off. You advanced that as your evidence about what a vision switching function is, going from one image to another image, so going from the sermon to the audience. That's all I'm asking you. Is that what you say a vision switching function is?---That, and, on occasion, if it ever comes up in an edit, switching from a Bible verse to just the screen of the speaker. Like, changing the angle or something like that, yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN259

Right. What I want to suggest to you, Mr Rowe, is that by that definition or characterisation of vision switching function, then presumably every single production which has more than one still shot is engaging in vision switching. So by that, what I mean, if someone was to film me, and then turn the camera to you when you're responding, by your characterisation, that would be a vision switching function. Is that a fair assessment?---Are you talking about turning the camera to another person? Is that what you mean?

PN260

Either that, or one camera is focused on me, another camera is focused on you, and in the production, it goes from me to you, to me, to you, for instance?---Yes.

PN261

Would that be a vision switching function, as you understand it?---My understanding is, this relates to the post-production allowance. So is this something that's inside of just the post-production? I'm a bit confused. If it's the post-production allowance, where it talks about vision switching – vision – that sounds like something you do during the production. That's what I'm confused about.

PN262

I want to suggest two things to you, Mr Rowe. Firstly, I want to suggest to you that this term in the industry relates solely to live productions. I want to firstly suggest that?---Solely. All right.

PN263

That's the first point I'm putting to you?---All right.

PN264

THE DEPUTY PRESIDENT: Do you agree with that or not, that it relates solely to production?

PN265

MR PARARAJASINGHAM: So to put it another way, Mr Rowe, it could not apply to anything other than a live production, i.e. a news broadcast or a live sport game, or something akin to that?---Well, the term 'vision switching', yes, I don't think I've heard someone use it in a post-production sense, other than a multicam edit, which looks the same as vision switching, but we don't do that anyway. So, yes, it's always while you're recording through the cameras, I think.

PN266

The second proposition I want to put to you is that is the Commission was to adopt your definition of vision switching function, that would essentially mean that any production ever created which contains more than one still shot, or is focused on more than one scene, would be deemed to have a vision switching presentation.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN267

THE DEPUTY PRESIDENT: I think there's just a bit of an issue in this question, Mr Pararajasingham, in that this allowance is solely directed to post-production work, and you are – I think just in fairness to the witness, you are describing what I understand to be more of a production phase. So I just think it can be confusing.

PN268

MR PARARAJASINGHAM: Yes. I might re-word that.

PN269

THE DEPUTY PRESIDENT: I think it might be confusing to the witness.

PN270

MR PARARAJASINGHAM: Yes. I'll put that second proposition again, Mr Rowe. What I'm suggesting to you is that in the post-production stage, by your definition, all post-production which involves more than one still image would be deemed a vision switching function?---I guess if the editor is switching between them, changing between the image and something else, then that makes sense to me, in post – yes. But I understand what you're saying, is that – sorry.

PN271

What I want to suggest to you, Mr Rowe, is that in circumstances whereby this is an allowance, the video tape post-production allowance is meant to be – I'll take a step back. I want to suggest to you that an allowance in this award is only engaged if particular duties are being discharged. Do you agree with that general proposition?---Yes. That's what it says on here, they have those duties.

PN272

And I want to suggest to you that it would make no sense for this allowance to be payable if – sorry, I withdraw that. If the definition of vision switching function that you have advanced is accepted, then I want to suggest to you that this allowance would have to be payable to, as I mentioned, any post production that involves more than one image?---Well, yes, if you're switching from one to another, then yes, yes.

PN273

Just so you understand completely what our position is, I want to suggest to you that that is not a workable definition - - -?---Okay.

PN274

- - - for this particular clause. That's the respondent's position?---Okay. So - okay, yes, like I understand what you're saying. I mean, I have done - like when I was - I'm just going to recall from something I did just like when I was doing the videotapes for the TV network. We wouldn't switch the vision, we would just mark the in and the out point and that - yes. Anyway, yes, I think I get what you're saying, yes.

PN275

Just finally on this vision switching function, Mr Rowe?---Yes, sure.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN276

And I appreciate that it might be difficult to estimate generously, but it may be of assistance. Could you identify to the Commission, in a 30-minute production - sorry, let me withdraw that?---Yes, yes.

PN277

You would accept that most of the post production assets that you put together are around 30 minutes, give or take?---Yes, so - yes, about 30 minutes for each part, yes, part 1, 30, part 2, part 3, yes.

PN278

So in each part, on how many occasions do you say you would be discharging the vision switching function, as you understand it?---Sorry, could you say the question again.

PN279

On how many occasions in one of these 30 minutes do you say you are exercising the vision switching function?---Yes, like it varies. It could be, you know, like on one part where everything kind of fits nicely, we wouldn't be switching the vision, but it could be anywhere, you know, maybe three or four times, yes, three or four times, I think.

PN280

Is your evidence, Mr Rowe, just so I understand and the Deputy President understands, that three or four times would be on average how many times you would use that function, or would that be an outlier? Would three or four times be only in exceptional circumstances and you'd generally use less, or would you say three to four times is around the average of using this function?---It's hard to say, but, like, I guess - yes, I mean, like, let's say, like, in like a 30-minute program, if you've switched, say, like five or six times like that, it's a lot. Average, you know, might be two or three, yes.

PN281

What I want to suggest to you as well, Mr Rowe, is that, for the purpose of this allowance, this allowance only applies when the vision switching function is used more frequently than two to three times. Just so you understand my question, Mr Rowe, what I am suggesting to you is that this allowance only applies in circumstances where the vision switching function is used more frequently than what you use it?---Okay. If you - if you're, like, in a - like I understand what you're saying. Like the work that I do, probably, like about - it feels like maybe about half of the work or, you know, is working on those - a lot of the work is working on those today was the next ones and the start and end points and, you know, we are cutting up parts of the reel and putting them in there, but in terms of what you - as we have defined, we've talked about vision switching, and, you know, cutting off from a Bible verse, or cutting to a crowd shot, yes. So you're saying that it's for, like, people that are working and doing that a lot more? Is that what you're saying?

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN282

That's what I'm suggesting?---Okay, okay. Yes, like I'm - I'm not entirely sure. I mean, like when I was working videotapes, you know, we were doing video - we weren't doing vision, like cutting to different bits of vision, but we were, you know, marking our in points, marking our out points, you know, for stuff that goes to air. So, you know, when I came to this job, this was a lot more involved in the post production and cutting up different things and changing things around. I thought that, like, the things I was doing when I was working videotapes, they were completely finished products, they were completely finished. Everything was completely done. We didn't have to make any minor adjustments like we've had to do in, like, this post production, where we're listening to what's being said and trying to find the best content and trying to get everything to fit for the program. But, yes, sorry if I travelled off there.

PN283

Just finally on this allowance, Mr Rowe, I also want to suggest to you that the reference to audio switching equipment is also a reference to - or that term, that phrase 'audio switching equipment', similar to vision switching functions in the industry, is referable to live production, i.e. if you were to, let's just say, have a radio broadcast on 702, for instance?---Right, yes, yes.

PN284

You have the reporter again crossing directly to a reporter who's on the scene, or something akin to that?---Okay. So you're saying it's like - like physical equipment, is what you're saying?

PN285

Yes, or it's referable to equipment that is being used in a live broadcast?---A live, yes, okay. Yes, I'm not - yes, like I'm not sure on that.

PN286

THE DEPUTY PRESIDENT: That's fine, Mr Rowe, if you're not sure, you just say?---Yes, yes.

PN287

MR PARARAJASINGHAM: Mr Rowe, I'm going to ask you now a series of questions relating to the videotape editing allowance, the second allowance. In relation to this allowance, of course, Mr Rowe, you accept that you do not actually use an external edit controller that controls three or more videotape machines. Sorry, I will withdraw that. It might be of assistance, Mr Rowe, if you can just go to page 89. I am only taking you to that page, Mr Rowe, because, at paragraph 14, it has the relevant clause?---Mm.

PN288

Could I just confirm, Mr Rowe, your position, or you are claiming that you are owed this allowance because of the second dot point, i.e. that you exercise videotape editing techniques and skills accepted by the employer as equivalent?---My understanding is that my employer doesn't accept those to be equivalent.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN289

No, I understand that, but perhaps I'll take a step back. In relation to this clause, you see there are three dot points?---Mm.

PN290

Let's ignore the third one. Well, actually, you accept that you don't perform the work of editing videotape material for a news bulletin; correct?---Yes.

PN291

So if we remove that, this allowance is payable because of one of the first two dot points. I'm just asking you which one of those two dot points do you rely on, or do you rely on both, for example?---Yes. So yes, it would be - the one I was asking about, it would be the second one, exercise videotape editing techniques and skills, yes.

PN292

Just with regard to the notion of an external edit controller which controls three or more videotape machines, what I want to suggest to you is that, again pursuant to the way that phrase is used in the industry, what we're referencing when we talk about three or more videotape machines, we're talking about three different source points, so, for instance a cloud drive, a hard drive and a storage drive. Do you accept that when their reference is to an external edit controller which controls three or more videotape machines, that is what the reference would be to, this notion of when we talk about three or more videotape machines, we're talking about three types of source points, such as, for instance, a cloud drive, a hard drive or a storage drive?---You've just - you're referencing the first point there; is that right?

PN293

Yes. I will restart the question?---Yes, okay. No, I understand the question.

PN294

Yes.

PN295

THE DEPUTY PRESIDENT: I don't. Would you mind repeating.

PN296

MR PARARAJASINGHAM: No, it was poorly put. Apologies, Deputy President.

PN297

What I want to suggest to you, Mr Rowe, is as follows. You have noted that you rely on the second dot point, which would require you to exercise videotape editing techniques referred to in the paragraph above; okay?---Yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN298

In order to obtain this allowance, putting aside that issue about the employer accepting, which I will come to in a moment, but putting that aside, do you accept that what you are required to do to get this allowance is be exercising techniques

equivalent to those referred to above, i.e. techniques equivalent to using an edit controller which has three or more machines; correct? That's what you need to prove?---Yes, equivalent, yes, equivalent.

PN299

What I want to suggest to you is that the only way that you would be equivalent to an edit controller which uses three or more videotape machines would be if you were using three different source points in your work, so you would be using, for instance, a cloud drive, a hard drive and a storage drive. That would be what the equivalent in your work is to the concept in the first dot point?---I don't know because it doesn't use that language, like - - -

PN300

But you - sorry, continue?---I don't have anything else to say. It's like the language used, like it doesn't say anything about a, like, cloud drive or different things like that.

PN301

I accept that, Mr Rowe. What I'm suggesting to you is that, of course, with the second dot point, we need to identify what is equivalent to the first dot point?---Mm.

PN302

What I'm suggesting to you is that the only concept that could be equivalent for your purposes would be if you were engaging with three distinct type of source points, such as three different types of drives?---I'm not sure about that. I mean we use different reels. We've got the original sermon reel, we have crowd shot reels, we use the ISO reel. I mean - do you know what I mean - we have different reels. I don't see how the location of where those reels are or drives they sit on has, I guess, any bearing on those things and all the other things that are stacked on top. I don't know, yes.

PN303

What I want to suggest to you, Mr Rowe, is that the reason why we say those three distinct form of drives would be the only equivalent is because the first dot point talks about - you accept it's talking about three distinct machines, isn't it, that it references three or more videotape machines? So you accept that the first dot point is talking about three distinct objects?---Controlling three videotape machines. Yes, objects, yes.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN304

What I want to suggest to you is that, if that is the essence of the first dot point, to be equivalent to that in your role, you would be needing to engage with essentially three or more different objects, and those objects, I'm suggesting to you, would be drives, like a cloud drive or a hard drive or a storage drive?---Well, like, I'm not really clear on external edit controller, whether that's just like one controller that controls different, you know, like tape machines, or like - because a tape - like a tape machine has a videotape in it and a videotape is limited to one video source,

which is why I kind of brought in the fact that we have all these different video stacks in the edit. Yes, I'm not sure, like, yes, yes.

PN305

Do you accept, Mr Rowe, that you, and 4B generally, just uses one singular storage area network?---Yes, they have it on like this big server machine with everything. There's also another one, but we don't - yes, the stuff that I do isn't on that one, so, yes, it's just on this one server, and it's also backed up on there as well, I understand.

PN306

So you use a singular drive for your work?---Yes, I think it's networked, it goes through the network, and it's like connected to that, yes.

PN307

What I want to suggest to you, Mr Rowe, is that the mere fact that when you are undertaking your tasks, you are dealing with, I think you describe them as different tracks, such as vision of the crowd, vision of the sermon, and perhaps another type of vision, that is not the equivalent of an edit controller controlling three distinct objects?---I understand where you're - like they're different files, they're different reels, but I, like I understand what you're saying. Okay, so, yes, was that a question, or, like, I understand - because it sounded like a statement?

PN308

Yes, but I think it's clear that you disagree with that?---I'm just not really - like I don't - I'm not really sure. Like it's - I don't think it's clear. That's all. Like I don't want to - yes, I just - I don't really fully understand.

PN309

Mr Rowe, with that second dot point, you accept - I withdraw that. With that second dot point, you agree that 4B has not accepted that what you do is equivalent?---Yes, they've said that - - -

PN310

You understand they've objected?--- - - - or it's written down somewhere. Yes, I understand, yes.

PN311

Sorry, Deputy President, can I just have a moment?

PN312

THE DEPUTY PRESIDENT: Absolutely.

PN313

MR PARARAJASINGHAM: Deputy President, that's the cross-examination.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN314

THE DEPUTY PRESIDENT: All right, very good. I think we have to mark the video recording as well, which we haven't done as yet, so we will mark that as

Rowe 5, exhibit Rowe 5, unless I'm told I've got my numbering wrong. Very good.

EXHIBIT #ROWE5 VIDEO RECORDING

PN315

Mr Rowe, you are now excused from giving evidence. I don't have any more questions?---Okay.

PN316

So now what happens is that you'll go back to the Bar table and you can set yourself up and take a couple of minutes, and then what will happen is that Mr Pararajasingham will then start the opposition case, the respondent's case in opposition to your application. Okay?---Okay.

PN317

Thank you for your evidence today?---Sure. So do I leave, or I come back later?

PN318

No, no, so you go back to the Bar table?---Yes, the Bar table.

PN319

Which is just here where you started off?---Okay.

PN320

You start back there?---All right, thank you.

PN321

So what's going to happen now - just take a moment?---Yes.

<THE WITNESS WITHDREW

[3.10 PM]

PN322

THE DEPUTY PRESIDENT: So what's going to happen now is that the respondent will now start their case.

PN323

MR ROWE: Okay.

PN324

THE DEPUTY PRESIDENT: So you need to be listening to their case and thinking about the case that they're running.

PN325

MR ROWE: Okay, sure.

PN326

THE DEPUTY PRESIDENT: Because the next thing that will happen is that you get to cross-examine the respondent's witnesses.

*** STUART DAVID ROWE

XXN MR PARARAJASINGHAM

PN327

MR ROWE: Okay, sure. Okay.

PN328

THE DEPUTY PRESIDENT: So if there are things that you disagree with in their evidence, then this is your opportunity to put those matters to them, just as has happened with you this afternoon.

PN329

MR ROWE: Okay.

PN330

THE DEPUTY PRESIDENT: Okay?

PN331

MR ROWE: Thank you.

PN332

THE DEPUTY PRESIDENT: Now I think you said Mr Gower first, didn't you?

PN333

MR PARARAJASINGHAM: Yes.

PN334

THE DEPUTY PRESIDENT: Yes, very good. Mr Rowe, are you happy if we move forward to get Mr Gower in the box? Are you ready for that as well?

PN335

MR ROWE: Yes.

PN336

THE ASSOCIATE: Please state your full name and address.

PN337

MR GOWER: Craig Steven Gower, (address supplied).

<CRAIG STEVEN GOWER, SWORN [3.14 PM]

EXAMINATION-IN-CHIEF BY MR PARARAJASINGHAM [3.14 PM]

PN338

Mr Gower, could you please restate your name and business address for the record?---My name is Craig Steven Gower. My business address is 79 Mann Street, Gosford, New South Wales 2250.

PN339

Mr Gower, could you please just restate what your title is with 4B Media?---I am currently employed as the post production manager at 4B Media.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN340

Mr Gower, for the purpose of these proceedings, you have prepared a witness statement dated 5 February 2024?---Yes, I have.

PN341

Deputy President, can I please just hand up a clean copy of the court book?

PN342

THE DEPUTY PRESIDENT: Yes. Thank you.

PN343

MR PARARAJASINGHAM: Mr Gower, if you could please go to that statement. It commences on page 247?---Yes.

PN344

Mr Gower, can you confirm if that statement is true and correct to the best of your knowledge and understanding?---Yes.

PN345

Deputy President, we tender that statement of Mr Gower dated 5 February 2024.

PN346

THE DEPUTY PRESIDENT: All right. There has been a little bit of opinion evidence probably slip into that statement. My approach is probably just to accept it into evidence and give it the appropriate weight.

PN347

MR PARARAJASINGHAM: Yes, Deputy President, I think I readily admit that, on review of the statements, I think they are, in large part, a sort of merging of fact and submission because of the nature of the endeavour we're undertaking.

PN348

THE DEPUTY PRESIDENT: Yes.

PN349

MR PARARAJASINGHAM: So I'm happy to be directed by the due weight being given as required.

PN350

THE DEPUTY PRESIDENT: All right. Mr Rowe, are you comfortable with that approach?

PN351

MR ROWE: Yes.

PN352

THE DEPUTY PRESIDENT: Okay. I think we will take that approach in relation to all the statements, unless Mr Rowe says something different. All right, so we will mark that exhibit 4B1.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

**EXHIBIT #4B1 WITNESS STATEMENT OF CRAIG GOWER
DATED 05/04/2024**

PN353

MR PARARAJASINGHAM: Thank you, Deputy President.

PN354

Mr Gower, before Mr Rowe asks you a series of questions, you will recall that, earlier today, you observed the demonstration by Mr Rowe of his duties on the screen?---Yes, I did.

PN355

Mr Gower, can you please inform the court - sorry, I withdraw that. Could you please inform the court if there was anything in Mr Rowe's demonstration or explanation that you disagree with?---I thought the demonstration was consistent with the processes involved in the compilation editing of the programs of what the editors are tasked. I did notice one thing, which was included in my witness statement, was the explanation of XML files, which are actually not a sanctioned practice at 4B Media. They are currently under trial and they haven't been confirmed as an approved practice for their use in the compilation editing of programs.

PN356

So if XML is not being used, what format do you use at 4B Media?---We presently don't use anything that contains and holds metadata of that fashion for any future work involving programs of the same or similar sermon series.

PN357

Mr Gower, can you please explain to the Deputy President your understanding of the notion of vision switching functions?---Yes. Vision switching is a process whereby a number of media sources, whether they be video or audio, are made available to one remote desktop system, which the user would be able to then employ their knowledge in being able to change from one image to another to one audio channel to another. It is a practice which has been widely used in the arena of broadcast television for many decades and is something that in all, you know, areas and purposes is not really something that follows on from what broadcast television stations do. So to clarify that, vision switching is the area of working with assets in a linear function, that is, as it goes to air, for example.

PN358

For example, I was watching a morning television program and a lower third comes onto the screen, but I see that it's been misspelled. That's a live function and that error has gone to air as it stands, so there hasn't been any time to vet or review anything that has been put through the control system.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN359

MR PARARAJASINGHAM: Mr Gower, could you please explain to the Commission your understanding of the degree by which editors interact with worksheets and, in particular, the degree of any licence they have to deviate or

differ from the worksheet?---Yes, of course. The worksheets are prepared in consultation and by the direction of the client, instructing what particular assets they would like included in the program, and the worksheet actually identifies these elements, along with an approximated time code of where that information would be shown in the course of viewing the program.

PN360

Editors are provided some licence in the arena of being able to manage around those time insistences truly because sometimes there may be something on the screen obscuring the information of what is wanting to be represented. For example, like we've spoken about Bible verses that are on the screen, so we wouldn't be able to include a scheduled lower third at the same time code of which that information would presently be shown on the screen. So the editor has some discretion to be able to work around that time code. But it is very much a practice where we encourage that that is not done, say, within 30 seconds or 40 seconds of what the time code has been requested from the client.

PN361

Finally, Mr Gower, as part of these proceedings, as you are aware, Mr Rowe is seeking to obtain the videotape editing allowance. Mr Rowe's evidence is that he does editing and demonstrates skills and techniques which are the equivalent of an external edit controller controlling three or more videotape machines. To be clear, Mr Rowe is not contending that he actually uses an external edit controller controlling three or more videotape machines, but rather saying that he exercises techniques and skills equivalent to that. Now can you explain to the Commission what your understanding of an external edit controller controlling three or more videotape machines is?---It's an interesting one to dissect, but, for all wants and purposes, by having the separate sources of video, I think it's the actual - it's the naming of it as a tape in itself because it is one of those language terms which has evolved. So to use multiple sources in the compilation editing, and we are talking about, you know, like assets that have already been vetted, that is really sort of more the essence of what the editors do, but the controlling element of it would actually be the graphic user interface or the program itself that accomplishes the task that used to be done by a series of videotape machines.

PN362

So in that regard, what do you say would be the equivalent to using an external edit controller controlling three or more machines?---At 4B Media we use software applications.

PN363

Can you explain?---So we currently use Premiere Pro, which is a platform that enables us to be able to draw from multiple sources to be able to compile editing in a non-linear fashion so that we can then prepare the program for its final review and clearance by the company.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN364

You mentioned there draw together sources. How many sources does 4B Media have?---Well, everything is sourced from the one space and we actually - it's a

thing called a storage area network, and what it is, it is a combined 60 terabyte drive which actually houses all of the assets that are required to compile the program for the editor to use. So it all actually comes from the one place. The fact that each source asset is individual in its own respect, I can appreciate; however, it all comes from the one area. We don't have multiple storage area networks that are able to have individual sources drawn from each one separately. Everything is housed into the one place.

PN365

THE DEPUTY PRESIDENT: Just if I could get an understanding of all of that and break that down, if you don't mind, Mr Gower. (Indistinct) of familiarity with what you are describing. I think what you were saying is that this edit controller, videotape edit controller, that used to exist, was that kind of one machine or something else? I think you were saying the software is the current equivalent. What was it before?---Before it was actually - it was a series of separated tape machines.

PN366

Right?---And they were generally housed in a rack unit.

PN367

Right?---And then they were all connected by way of a controller, in which you could actually do what we call jogging or shuttling through various different tape mediums to determine what was required, and then there would be a point where you could punch in that information and then punch it out.

PN368

Would you do that by using the controller?---Yes.

PN369

Right?---So the actual interface that would be in front of the user or the editor would actually have that function, like they would be able - there would be a series of things where you could go to, you know, machine 1, 2, 3, et cetera, so that they could then, you know, gain the information. The challenge with it was, by having it all combined together, as I've said earlier, everything was linear, so any kind of amendments or changes had to be done in a linear fashion, so it actually made the process much longer.

PN370

Yes?---With the advent of software application which is able to do similar, not the same, it provides a non-linear function to be able to achieve - - -

PN371

(Indistinct) the assets?---Yes, to achieve, you know, a similar or same result.

PN372

So it's the software that performs that kind of same function, but it sounds like in a more comprehensive way, from what you're describing, a more flexible way than just this linear way?---That is - yes.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN373

What is the equivalent of kind of - so each of the video machines that you had before stacked up kind of had one different video on each, so is that the equivalent of the kind of different lines of video that you might be, or an editor might be, working on, you know, within the interface? You know, is it - I'm trying to think of an equivalent, but, you know, perhaps sermon footage, crowd footage - I don't know the third type - from a distance of sermon footage, like is that the equivalent of what you would have had on those kind of three machines, those three lines that we were looking at earlier on the screen?---Yes, it is. That is correct.

PN374

And so you'd chop and change between them in a different way using the interface?---Yes.

PN375

That's kind of the equivalent?---Yes, that is correct, but, as I've said, it is done in a non-linear fashion.

PN376

Yes, on the interface, because it can be?---Exactly, yes. It actually provides much more scope for the editors to be able to, you know, prepare and polish the work so that it's the finest that it can be.

PN377

There's this mention of butt editing, which actually we didn't go into, but is that the same thing as this linear editing that you're talking about, or is that different?---It is different. Butt editing is where you actually have two completely separate assets, or it might be the same assets, but it's been hardly - it's been chopped and then put one right against the other. Now in the demonstration that I viewed earlier today, there were some instances of something similar to that. However, with the use of additional footage, that particular butt editing was smoothed over to provide it. So, in a fashion, it's not necessarily what you would call butt editing; it is something which actually provides more content and scope, but if you wanted to, you could loosely term it as butt editing, but it is not a common function.

PN378

Thank you. That's helpful.

PN379

MR PARARAJASINGHAM: That's the evidence-in-chief, Deputy President.

PN380

THE DEPUTY PRESIDENT: All right. Just a couple of questions from me. There's this question for me about what is production work and post production work, what is compilation, which seems to be kind of a live issue in the proceedings and people have different perspectives on it, which is not very helpful for me, but anyway?---Right.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN381

Can you explain to me - you did go into that in brief, I think, in your statement - can you just explain to me what is production work just generally and within the industry. It's kind of one of the ways that counsel has approached this. If you could just explain what's production and what's post production, what's this other thing?---Yes, I understand, you know, the ambiguity around the definition of terms for this. The challenge has been that, at 4B Media, we are quite a unique area of a production house.

PN382

Yes?---The common function of what we do at 4B Media in the term of production, we have put that under the umbrella of the actual compilation edit process. Now I know that doesn't line up with what the industry term may call it.

PN383

Yes?---But for the nature and for the purposes of our workflow processes at 4B Media, it allows us the ability to be able to create these lanes of traffic for work so that we're able to determine the best way to accomplish what's been requested by the client. So post production in itself, and in working in the industry, one of the things that I see in post production is where we are doing the final polishing of what we have termed as the broadcast media ready assets - broadcast-ready media assets - I apologise. So those BRMAs have been prepared in terms of colour adjustment, audio adjustment, so that they all maintain a continuity throughout the compilation editing of the program. It wouldn't work for one of the BRMAs to not have its audio adjusted because it would poke out in the scope of the production arena that I've been discussing. So, ideally, the area of preparation of those final broadcast-ready media assets is done before the editors receive them.

PN384

Is that the client that does that or is that when it first comes to 4B that it becomes the BRMA?---So it is actually a combination of both. The client, they hold the proprietary parent asset, you know, which comes from them, and what they will do is they will vet it for primary content, some things that they would not want included in the program. There are other things as well, so there are particular audience shots that are removed by intention of the client, and then what happens is we receive those at 4B Media, where we then continue to polish and prepare them so that they actually meet what we term as broadcast compliant.

PN385

With audio, the broadcast compliance has to be within a certain area, as does the visual aspects of it. So you can't have something that is too dark or it has too much exposure, so all of those things are treated and adjusted, you know, in our preparation of those broadcast-ready media assets.

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN386

THE DEPUTY PRESIDENT: Yes?---The second tier of that is where the client will task us with the preparation of resource packages - for want and purposes, we can call them advertisements - inside the scope of their program, as well as any lower third information that may be provided that has to go on the screen, again at

the discretion of the editor looking at the worksheet, which actually has all the guidelines and time compliances attached to it, and those are prepared on site at 4B, which are sent to the client for review and clearance prior to us actually putting them into the pool for compilation editing.

PN387

That's all very helpful. Within the industry, would the work that is kind of being done at 4B by people like Mr Rowe be considered to be post production, or would that be considered to be production? I always had a very different idea of what production was, which was kind of a live process?---I understand.

PN388

What would the industry describe?---The industry would describe it - all of the things that are done in a compilation editing point, they would class it as an arena of post production. However, I would also include the fact that it is the tail end of that entire process.

PN389

Yes?---Which is not to diminish the importance of what these editors are tasked with. You know, they are there to champion the work that they have been provided with, you know, and our aim is to provide them with the best assets that they can then build their programs with, using, as has been previously stated, their discretion and their work experience and knowledge to be able to complete the tasks that are assigned to them, both in the job sheet and also in the project template which has been done.

PN390

All right. I think that answers most of my questions, so thank you.

PN391

Mr Rowe, this is now your opportunity to cross-examine Mr Gower, and that's just not in relation to what he's just said, but, of course, in relation to anything that is within his statement that you've already received, and received several weeks ago. So if there is anything that you disagree with, you should be putting those propositions and asking him questions about those things. Think about the way that Mr Pararajasingham did. That should be done now. This is your opportunity to ensure that you ask appropriate questions coming out of the evidence of Mr Gower if you disagree with any of the things that he has said, so just take a moment because, if you do, you are obligated to put those matters to him.

PN392

MR ROWE: Yes, I have some questions.

PN393

THE DEPUTY PRESIDENT: Okay. So if you just stand up and respectfully put them to Mr Gower. Mr Rowe, would you like to lean on the lectern? Would that be easier for you?

*** CRAIG STEVEN GOWER

XN MR PARARAJASINGHAM

PN394

MR ROWE: Yes, thank you.

PN395

I have a question regarding the - on all of the projects we added, except for YouTube, there's an adjustment layer that goes across all of the assets that sets the IRE level to 100. My understanding of this is it's something to do with the black and the white levels, making sure that they're all in range for broadcast. So I'm just wondering if the broadcasts - if these assets are all for broadcasts, like why do we need that, or it just - yes, if they're broadcast-ready assets - yes?---What it does is it provides a continuity for all of the various assets that are provided in the scope of the program. So, for example, it's like with the demonstration you provided this morning, we could actually see as many as 20 or 30 various different things that are on screen at any one time throughout the course of the program. What that filter, for all want and purposes, does is it helps to realign all of the assets to the one point. It is not to say that the broadcast-ready media assets are not already compliant, but what this does is it allows further continuity for the program itself so that there's no rejection at the television station or network that it is sent to.

PN396

Would a rejection from the television station, would that mean it's not broadcast-ready if there was a rejection?---It could be, yes.

PN397

So if we didn't have that filter on it, on the edits, this could be rejected? Am I understanding you correctly?---It's possible, yes.

PN398

It's possible?---It's dependent on the actual, you know, broadcast network station, once they vet it, to ensure that it meets compliance.

PN399

Okay. So that makes sense to me. So I understand that we need this across - that goes across all assets to make sure that they are compliant with all of the broadcast networks so that they're ready for broadcast?---Yes, and I may add that this has been a practice that has been in place at 4B Media since my inception as an editor in late 2013.

PN400

THE DEPUTY PRESIDENT: Is it something that the editors take care of?---No, it is included in the template at the time of the program compilation.

PN401

MR ROWE: I can only ask questions; is that right?

PN402

THE DEPUTY PRESIDENT: You can ask a question about that.

*** CRAIG STEVEN GOWER

XXN MR ROWE

PN403

MR ROWE: Yes, okay.

PN404

When we did this in Final Cut, the other editing software, was that - we did this in Final Cut with like an adjustment layer?---Yes, we did.

PN405

Okay. I have a question about switching the clean and the English. So when we do that in international programs, we're also switching the audio. Is that audio switching, the way you described it, is that - would you - - -?---When you say 'switching the audio', are you talking about the actual sermon content reel?

PN406

Yes, the sermon content, yes, from the English to the clean (indistinct)?---The sermon content audio is attached to the vision in order, you know, to promote synchronicity, so it is included in there.

PN407

But you wouldn't say it's an audio switch - switching the audio; correct?---I would proffer that neither would be classed as switching.

PN408

Okay?---Mostly because of the nature of the program platform itself. As I stated earlier, switching is a process that is more endeavoured to be used in a live broadcast circumstance as opposed to a broadcast production house.

PN409

THE DEPUTY PRESIDENT: Mr Gower, on that, it's clearly contemplated within this clause, which is just about post production, so it doesn't neatly fit within what you're saying about this being a live - you know, understood in the industry as being a live kind of television issue only issue. So are you saying it doesn't occur in post production whatsoever, because otherwise this clause, which is squarely directed only at post production, it doesn't make sense?---The nature of switching itself is the fact that it happens on the go. In a production house, when we are doing compilation editing, there are options and opportunities for review and clearance, like content packages that are included in the preview packages of the program. Those are vetted by a number of editors before it actually gets to the final clearance of that program. So the program may be seen by as many as five different people before it actually is sent, like, to a downstream partner, or to a production house for review and clearance.

PN410

MR ROWE: That's all my questions.

PN411

THE DEPUTY PRESIDENT: Okay. Thank you, Mr Rowe.

PN412

Mr Gower, you are now excused from giving evidence. Thank you?---Thank you.

<THE WITNESS WITHDREW

[3.44 PM]

*** CRAIG STEVEN GOWER

XXN MR ROWE

PN413

THE DEPUTY PRESIDENT: So we will call Ms Holmes then?

PN414

MR PARARAJASINGHAM: Yes. Deputy President, whilst Ms Holmes is coming, perhaps, just to assist, could I read and tender Mr Roger Beard's statement at this stage?

PN415

THE DEPUTY PRESIDENT: Mr Rowe, what's just happening there is that the respondent relies upon Mr Beard's statement. You said you didn't require him for cross-examination, so I will take it on the same basis as the Gower statement, that is, it is admitted into evidence and I will give things like opinion evidence the appropriate weight. Are you content with that?

PN416

MR ROWE: Yes.

PN417

THE DEPUTY PRESIDENT: All right. I think that is 4B, exhibit 2.

EXHIBIT #4B2 WITNESS STATEMENT OF ROGER BEARD

PN418

THE ASSOCIATE: Please state your full name and business address.

PN419

MS HOLMES: Margaret Ann Holmes, 79 Mann Street, Gosford 2250.

<MARGARET ANN HOLMES, SWORN [3.45 PM]

EXAMINATION-IN-CHIEF BY MR PARARAJASINGHAM [3.45 PM]

PN420

THE DEPUTY PRESIDENT: Thank you, Ms Holmes, please sit down.

PN421

MR PARARAJASINGHAM: Thank you, Deputy President.

PN422

Ms Holmes, could you please restate your name and business address for the record?---My name's Margaret Ann Holmes and our business address is 79 Mann Street, Gosford.

PN423

Ms Holmes, could you please inform the Deputy President about the title that you currently hold at 4B Media?---General manager.

*** MARGARET ANN HOLMES

XN MR PARARAJASINGHAM

PN424

Ms Holmes, for the purpose of these proceedings - sorry, Ms Holmes, do you have a folder in front of you?---I do.

PN425

Ms Holmes, could I take you to page 256 of that folder?---Yes.

PN426

For the purpose of these proceedings, you have prepared this witness statement dated 5 February 2024?---I have.

PN427

Could you please confirm, Ms Holmes, that that statement is true and correct to the best of your knowledge and understanding?---It is.

PN428

Deputy President, I tender that statement.

PN429

THE DEPUTY PRESIDENT: All right, I will take that on the same basis. That is exhibit 4B3.

EXHIBIT #4B3 WITNESS STATEMENT OF MARGARET ANN HOLMES DATED 05/02/2024

PN430

MR PARARAJASINGHAM: Deputy President, no further examination-in-chief.

PN431

THE DEPUTY PRESIDENT: I might just ask you a couple of questions, Ms Holmes, just some things that are kind of playing on my mind. There's this question about post production and production work, which seems to be kind of between the parties as to whether this is post production work that Mr Rowe performs. Would you just give me your perspective on that, if you don't mind?---My understanding of post production is that it relates to things that you do after, as far as like applying special effects, doing voice-overs, those kind of final touches.

PN432

I see. So production is what?---Production is creating or compiling, in our case, a program or - yes.

PN433

I am unclear - I think it's paragraph 24 of your statement where you run through the things that - sorry, that might not be the right one. It's the one where you say that Mr Rowe doesn't work on raw footage. It's paragraph 13 at page 258?---Mm-hm.

*** MARGARET ANN HOLMES

XN MR PARARAJASINGHAM

PN434

Can you, for my benefit, tell me what raw videos are?---Well, raw videos would be if we were shooting - like if we were recording vision ourselves that hadn't had any kind of editing or treatment or review, yes, it's just the footage in its raw state.

PN435

All right. That's helpful for me, thank you. I think there was only one more question. I think you say that - you say at 24 - this is page 260 of your statement - that you increased Mr Rowe's pay - sorry, you changed his classification, and there's an email which attends to that which you have annexed to your statement, but you say that wasn't because there had been any change in his role or responsibilities, and you then go on to say that he should be classified as a production videotape operator B under the award.

PN436

It was my understanding from your evidence that you pay above the award anyway; is that correct?---Not routinely. Obviously we can and, in some cases, we do, and in some cases, we pay at the award.

PN437

But I think your evidence at 22 was that you paid Mr Rowe - before this classification increase, you paid him above the award; is that correct?---We did, yes.

PN438

So why was there then a need to change his classification instead of just giving him a further increase above the award?---I think it's to have a sense of progression, I suppose. Because the work, the actual work, and the role doesn't change, or hasn't changed, you know, there can be a feeling of the 'not me', I suppose, or, you know, and the type of work that we do isn't - doesn't change, or hasn't, as long as we've had this client. So, yes, it was really just to have a structured progression, I suppose, by looking at the different classifications and their pay, and so, rather than just picking a number, you know, based on his current salary, it was to go to a level that had some sort of structure to it, I suppose.

PN439

Did you think that it recognised his skills or the duties he was performing or not?---As I say there in my statement, I don't - his duties hadn't changed, so it wasn't a representation of that, or that he had taken on extra responsibility, yes, and I've outlined there in my statement the reasons why I don't believe the classification applies as far as the points that I list there.

*** MARGARET ANN HOLMES

XN MR PARARAJASINGHAM

PN440

I think you say that a different classification applies, which is production videotape operator B, and I think that's what his contract refers to, but you refer to him as an editor, which seems to be a different classification under the award, so I'm a bit confused about the various classifications. Why wouldn't he be an editor if he wasn't what you've currently got him categorised as?---Well, that category encompasses everything. I think there's a couple of titles within the classifications

that have the word 'editor', but the breakdown of what that classification is does encompass editing, and I guess we refer to them as editors, regardless of what the particular classification is.

PN441

At paragraph 35, you talk about Premiere Pro and say it is straightforward to use and is not characterised as complex computer-based editing equipment. What's your source of knowledge for that statement? Do you use it?---I don't use Premiere Pro for editing. Other people in our organisation, who aren't involved in editing, use aspects of it, like Photoshop or Illustrator, like it has, I suppose more graphic design components to it as well, and I also know that, from interviewing work experience people that come to 4B, and also different applicants, that a lot of home editors already come to us with some experience in that program.

PN442

When you say it's not characterised as complex computer-based editing equipment, not characterised by who?---Well, I mean schools offer it, you know. As far as people choosing to use it at home to develop their editing skills, people that put videos on YouTube, or anything like that, can use this program and, you know, there's a lot of availability online for doing your own, you know, lessons and how to use it.

PN443

Just in relation to 37(c) - I think this is really an expression of opinion - but have you used an external edit controller before?---No.

PN444

What's your source of awareness about what an external edit controller is?---Well, in becoming familiar with the award, and particularly these allowances, I've had to look into what type of equipment used to be used and what an external controller would do, I suppose, in that linear editing process.

PN445

So you have an understanding of what that is?---Mm-hm.

PN446

And what is that? What is that process that you are describing?---Linear?

PN447

Well, the whole thing. What is the process by which someone would use an external controller? What would they be doing?---Well, they would be getting multiple sources of, whether it's footage or material, and to control or combine, I suppose, the various sources, they would have to use a separate piece of equipment that would help them do that function.

*** MARGARET ANN HOLMES

XN MR PARARAJASINGHAM

PN448

Then how did you assess, or, sorry, did you assess that the skills or techniques that Mr Rowe were using were not equivalent? Was that you who formed that view? I understood, from your communication, it was you?---Well, in

consultation with our program - our production manager and our post production manager, and in reviewing with legal opinion.

PN449

And what made you form the view that it wasn't equivalent to the skills or techniques that Mr Rowe was using compared to - - -?---Well, it says they're controlling three or more videotape machines, which, you know, now that we're not using videotape machines currently, to find what would be the equivalent to that would be, you know, different sources that contained files or material.

PN450

So different sources, such as - what do you mean by that?---Well, we use a server, or a hard drive, you know, cloud-based storage, off your phone - I mean, it could be anything that you're sourcing footage from.

PN451

Right, so it's not - so before there were three videotapes, each on a different videotape machine, is how the clause reads?---Mm-hm.

PN452

So each would have had videotape, and you say the distinction between that and what Mr Rowe does is the different sources, that he doesn't use different sources?---Well, it's all put into one place for him to access, yes.

PN453

I see. And you don't think that each of these video files that he's pulling things from is the equivalent to each of the old videotapes?---No, I don't.

PN454

Why is that?---Well, to get, like, the operation of videotape machines, it is obviously - well, sorry, not obviously - is much more complex.

PN455

Right?---You were working multiple machines, you know, physical machines, whereas now it's a file, essentially.

PN456

Okay. All right, that's very helpful, thank you.

PN457

All right, Mr Rowe, now is your opportunity, in the same way as you had with Mr Gower, and, indeed, it's really incumbent upon you, if you don't agree with things that have been said by Ms Holmes, either in her filed statement or here today, that you put those to her and ask her any questions that might arise. Do you want to take a couple of minutes to double-check that?

PN458

Ms Holmes, have you got a fresh water bottle?---I think it is.

*** MARGARET ANN HOLMES

XN MR PARARAJASINGHAM

PN459

Okay, good. While Mr Rowe is having a look, Mr Pararajasingham, we're at 4 o'clock. What are your thoughts - and I will ask the same question, obviously, of Mr Rowe - you won't be omitted, Mr Rowe - what are your thoughts on how we should proceed today?

PN460

MR PARARAJASINGHAM: Deputy President, we are, of course, in your hands. I have actually just sought instructions from Ms Barratt. My understanding is that my client is amenable to - cognisant of the time, and there is some detail, I would imagine, that we would need to be going to in relation to our submissions - if it would be of assistance, to furnish you with a further brief written submission, perhaps in a very similar format to what I have provided, without repeating that, and really focusing in on the two allowances and what has emanated today, with a view to then perhaps returning before you for a short defined period of time. I mean, I wouldn't imagine, subject to any further assertions made by Mr Rowe in submissions, I wouldn't imagine myself being more than, sort of, half an hour, subject to any queries from the Bench. So we are content to proceed that way.

PN461

THE DEPUTY PRESIDENT: I think that's very sensible. We will check with Mr Rowe and see if he's got the same view, and we can have a look at calendars and the like before you leave to make sure that that all aligns up, but I think that's probably a sensible course.

PN462

Are you ready to ask some questions?

PN463

MR ROWE: Yes, I'm ready.

PN464

THE DEPUTY PRESIDENT: All right. So just approach the lectern. All right.

PN465

Ms Holmes, Mr Rowe might just ask you a couple of questions about matters that have come out of both your written statement - so have that in front of you - and anything that you have said today.

CROSS-EXAMINATION BY MR ROWE

[4.01 PM]

PN466

When I started, I was under the production videotape operator B award; is that correct?---Yes.

PN467

In that award, the editing - you mentioned when you were just talking just now that there was some editing in there. It says, 'Simple compilation/butt editing.' Is that the editing you were referring to?---The compilation editing, yes.

*** MARGARET ANN HOLMES

XXN MR ROWE

PN468

I have a question. If I ask a question and it's not reasonable, you will tell me?

PN469

THE DEPUTY PRESIDENT: It's a matter for you to consider what questions, but if you don't agree with what Ms Holmes has said - - -

PN470

MR ROWE: Okay.

PN471

THE DEPUTY PRESIDENT: - - - you can ask her - yes, you can put it to her. Think about what Mr Pararajasingham did with you.

PN472

MR ROWE: Sure.

PN473

THE DEPUTY PRESIDENT: Where he said, 'I put it to you that' - and you had to then consider what the correct response was.

PN474

MR ROWE: Okay.

PN475

THE DEPUTY PRESIDENT: As long as it's arising out of her evidence, or answers to questions.

PN476

MR ROWE: Okay.

PN477

Some of the information I heard you say regarding the increase of my pay this year, you gave some information about the reason behind, like for that, having worked for a number of years, you know, as a way of, like, progression. I understand that there might be other people in the organisation that may have been there like a shorter time and had the same pay increase. Can you comment on that?---I don't think it's appropriate for me to comment on what other people are paid. I'm not sure, but - - -

PN478

Okay. That's all my questions.

PN479

THE DEPUTY PRESIDENT: It's probably not hugely relevant, Mr Rowe, in terms of the things I need to consider.

PN480

MR ROWE: Okay, thank you.

*** MARGARET ANN HOLMES

XXN MR ROWE

PN481

THE DEPUTY PRESIDENT: No other questions?

PN482

MR ROWE: No, that's it, thank you.

PN483

THE DEPUTY PRESIDENT: All right, very good.

PN484

You are excused. Thank you for your evidence today, Ms Holmes?---Thank you.

PN485

You are welcome to stay in the court now if you would like to.

<THE WITNESS WITHDREW

[4.04 PM]

PN486

THE DEPUTY PRESIDENT: Mr Rowe, the question - and I appreciate you were probably not focused on this, and I was taking the opportunity for using your thinking time to ask the question of Mr Pararajasingham about how to proceed. My inclination is to - there are a couple of ways that we can proceed. You can deliver closing oral submissions right now, having heard the evidence today, and you can tell me what you think I should find and why you think I should find it, or, as is my inclination, you can have a week or two - and we can discuss that - for you to think about everything that is in writing, so the statements and the submissions that have already been filed, and then you can put on your written submissions which summarise your case and why you think I should answer the questions in a particular way, so that's by regard to the evidence you've filed, the submissions you've made, and the same for the respondent, and then they would have an opportunity to do the same thing in writing, and then you would come back for a short - and I do think it would be short, I agree - hearing in front of me again where you can speak to those things.

PN487

Indeed, if you didn't want to say any more, that's fine. You can expect counsel for the respondent probably would - he has indicated he might need half an hour or so. I will likely have questions, so I would appreciate the benefit of people being here as opposed to just some submissions in writing.

PN488

I think it would be preferable for everybody to be able to contemplate. There was a huge amount of evidence that came out of today that was very helpful for me, so it would be helpful, I think, for you all to have that time to think about what the evidence was and to put that in writing.

PN489

Are you comfortable, rather than just closing out today, having some time to put on your written submissions?

*** MARGARET ANN HOLMES

XXN MR ROWE

PN490

MR ROWE: Yes, I am.

PN491

THE DEPUTY PRESIDENT: Yes, all right. Do you think one week, two weeks? Do you have something in mind?

PN492

MR PARARAJASINGHAM: I think two weeks.

PN493

THE DEPUTY PRESIDENT: I think that's sensible. Would you be happy with the same period of time?

PN494

MR ROWE: Yes, thank you.

PN495

THE DEPUTY PRESIDENT: All right, so if that takes us to four weeks - I'm just going to grab my calendar and let's see if we can find a time. Whilst I don't think we will be two hours, I will set aside two hours, just to be on the safe side, I think. So I've got reasonable availability in the week starting 8 April. I might just start with counsel first because I often find, Mr Rowe, that their availability is a little bit more limited.

PN496

MR PARARAJASINGHAM: Apologies, Deputy President, I'm at a hearing commencing that week for two weeks.

PN497

THE DEPUTY PRESIDENT: For two weeks? Well, maybe we could do it - so, Mr Rowe, if you filed on the 13th and the respondent files on the 27th, do you have availability on 3 April?

PN498

MR PARARAJASINGHAM: Apologies, Deputy President, I'm in a hearing that week as well.

PN499

THE DEPUTY PRESIDENT: Okay. I think there might be Easter just before that as well. It's not showing up in my diary, but I suspect it probably is. What about 28 March?

PN500

MR PARARAJASINGHAM: Apologies, Deputy President, I'm in a hearing at the back end of March. Deputy, could I - you have noted that - - -

PN501

THE DEPUTY PRESIDENT: We are probably looking at towards the end of April then, I suspect.

PN502

MR PARARAJASINGHAM: Could I just have a moment, Deputy President?

PN503

THE DEPUTY PRESIDENT: Yes, of course. The alternative is we can sit, you know, late, as another alternative, that is, start at 4 or something.

PN504

MR PARARAJASINGHAM: Deputy President, could I enquire if, in the week of 18 March, either 18, 19 or the 20th is suitable on your end? If so, if we were then to slightly tinker with the submission time frames - I wouldn't want to deprive Mr Rowe of the two weeks - even if we brought his date forward from even the 13th to possibly the 11th, a week is sufficient for the respondent's purposes, on the notion that we would file, perhaps, prior to whatever the hearing date would be.

PN505

THE DEPUTY PRESIDENT: Mr Rowe, do you think you could get your submissions done by close of business on 11 March? It's a short month, so that would be - that would give you all of this week, all of next week and then the close of business on the Monday.

PN506

MR ROWE: When would the hearing be?

PN507

THE DEPUTY PRESIDENT: I would be looking at 20 March, which is my next question about whether you can do that date.

PN508

MR ROWE: Yes, that's fine.

PN509

THE DEPUTY PRESIDENT: So if I list it on 20 March, and I will just get my associate to confirm my understanding that that's okay in my diary - it looks fine at my end - and so that would have you filing your closing submissions on 11 March and the respondent doing it on the 18th, and that would give you just one day to have a look at those respondent's submissions, Mr Rowe, before the hearing.

PN510

MR ROWE: Sorry, when do they file - the respondent would file on - - -

PN511

THE DEPUTY PRESIDENT: The 18th.

PN512

MR ROWE: The 18th.

PN513

THE DEPUTY PRESIDENT: So you would file on the 11th, so you've got the benefit of a little bit more time, and then the respondent would just have a week until the 18th.

PN514

MR ROWE: Yes.

PN515

THE DEPUTY PRESIDENT: And then you would have the opportunity, on the 19th, to review those submissions, so you could come prepared to the hearing on the 20th.

PN516

MR ROWE: I just would like some more time to review - - -

PN517

THE DEPUTY PRESIDENT: Those submissions?

PN518

MR ROWE: Yes.

PN519

THE DEPUTY PRESIDENT: The alternative is really looking, I think, towards the end of April for a hearing date, which is fine at my end, provided that it's fine with you, particularly, Mr Rowe.

PN520

MR ROWE: Yes.

PN521

THE DEPUTY PRESIDENT: So just in respect of your availability - - -

PN522

MR PARARAJASINGHAM: Your Honour, I think it sounds like it may be - - -

PN523

THE DEPUTY PRESIDENT: Let's do that. I don't want anybody to feel at all pressured in the process.

PN524

MR PARARAJASINGHAM: Yes. Apologies, Deputy President, I was just cognisant that we are dealing with a dispute of sort of an ongoing employment relationship, so that sort of also factored into my instructions about, obviously, seeking resolution sooner rather than later, but I appreciate the reality of - - -

PN525

THE DEPUTY PRESIDENT: And I appreciate that position, but I think, given Mr Rowe's concern, and obviously being unrepresented and wanting more than a day to review the submissions, I think it's not inappropriate, so do we - just remind me - I've lost track. The last week of April?

PN526

MR PARARAJASINGHAM: I believe so, Deputy President. We were looking at the week commencing 29 April.

PN527

THE DEPUTY PRESIDENT: And that's okay in my diary.

PN528

MR PARARAJASINGHAM: And that's suitable for me.

PN529

THE DEPUTY PRESIDENT: I think it's entirely clear in mine, which is unheard of, unless that's the appeals week, which we will just check.

PN530

Mr Rowe, are there any problems with your availability in the week starting 29 April?

PN531

MR ROWE: I have no foreseeable issues with availability for that week.

PN532

THE DEPUTY PRESIDENT: Okay. I'm just checking the appeals list. Yes, I can set it down that week. So why don't we aim for the Tuesday at 10 am?

PN533

MR PARARAJASINGHAM: That's suitable for the respondent.

PN534

THE DEPUTY PRESIDENT: Okay. Mr Rowe?

PN535

MR ROWE: That's fine.

PN536

THE DEPUTY PRESIDENT: All right. Well, in those circumstances - well, we have plenty of time for submissions, so do you want two weeks and two weeks, and you would then have, I think, another four weeks, Mr Rowe, to consider the submissions, or would you like a bit more time to put yours on?

PN537

MR ROWE: Did you say four weeks?

PN538

THE DEPUTY PRESIDENT: Well, if you wanted to have three weeks to put your submissions on, that would be 20 March.

PN539

MR ROWE: Yes.

PN540

THE DEPUTY PRESIDENT: And then the respondent would have, I think, until 10 April, and you would still have just over two weeks then to consider the submissions that were made.

PN541

MR ROWE: That sounds fine, thank you.

PN542

THE DEPUTY PRESIDENT: Are you happy with that?

PN543

MR ROWE: Yes, thank you.

PN544

THE DEPUTY PRESIDENT: All right, very good. We will issue some directions and we'll just send them via email, to make it easy, and I will see you all again at the end of April.

PN545

MR PARARAJASINGHAM: Deputy President, can I make one final enquiry? Just with regards to the transcript for today, is that something that we would seek to facilitate directly through your chambers?

PN546

THE DEPUTY PRESIDENT: I think you need to apply through Epiq.

PN547

MR PARARAJASINGHAM: Yes, understood.

PN548

THE DEPUTY PRESIDENT: Yes, to seek a copy of that. All right, anything further?

PN549

MR PARARAJASINGHAM: Nothing further.

PN550

THE DEPUTY PRESIDENT: All right, very good, I will adjourn.

ADJOURNED INDEFINITELY

[4.15 PM]

LIST OF WITNESSES, EXHIBITS AND MFIs

STUART DAVID ROWE, SWORN	PN45
EXAMINATION-IN-CHIEF BY THE DEPUTY PRESIDENT	PN45
EXHIBIT #ROWE1 APPLICANT'S DOCUMENTS (PAGES 18 TO 43 OF COURT BOOK).....	PN57
EXHIBIT #ROWE2 APPLICANT'S CONTRACT (PAGE 44 TO 53 OF COURT BOOK).....	PN63
EXHIBIT #ROWE3 SECOND CONTRACT (PAGES 54 TO 80 OF COURT BOOK)	PN65
EXHIBIT #ROWE4 REPLY SUBMISSIONS (PAGES 81 TO 82 OF COURT BOOK).....	PN72
THE WITNESS WITHDREW	PN208
STUART DAVID ROWE, RECALLED	PN208
CROSS-EXAMINATION BY MR PARARAJASINGHAM	PN208
EXHIBIT #ROWE5 VIDEO RECORDING.....	PN314
THE WITNESS WITHDREW	PN321
CRAIG STEVEN GOWER, SWORN	PN337
EXAMINATION-IN-CHIEF BY MR PARARAJASINGHAM	PN337
EXHIBIT #4B1 WITNESS STATEMENT OF CRAIG GOWER DATED 05/04/2024	PN352
CROSS-EXAMINATION BY MR ROWE	PN394
THE WITNESS WITHDREW	PN412
EXHIBIT #4B2 WITNESS STATEMENT OF ROGER BEARD	PN417
MARGARET ANN HOLMES, SWORN	PN419
EXAMINATION-IN-CHIEF BY MR PARARAJASINGHAM	PN419
EXHIBIT #4B3 WITNESS STATEMENT OF MARGARET ANN HOLMES DATED 05/02/2024	PN429
CROSS-EXAMINATION BY MR ROWE	PN465
THE WITNESS WITHDREW	PN485

