IN THE HIGH COURT OF JUSTICE **CLAIM NUMBER: KB-2022-003244**

KING'S BENCH DIVISION

MEDIA AND COMMUNICATIONS LIST

BETWEEN:

MOHAMED AMERSI

CLAIMANT

and

BRITISH BROADCASTING CORPORATION

DEFENDANT

DEFENCE

In this Defence, references to paragraph numbers are references to the Amended Particulars of Claim dated 24 April 2024 unless otherwise stated. Headings are for ease of reference only.

Summary in accordance with CPR PD16 paragraph 1.3 and paragraph 5.23 of the King's Bench Division Guide 2024

The Defendant denies the claims for libel arising out of the publication of the Article and the Programme (as defined in this Defence). The Defendant:

a. admits that the statements complained of in the Article and the Programme ("**the statements complained of**") are defamatory of the Claimant at common law in the meaning determined by the Court but denies that the publication of the statements has caused or is likely to cause serious harm to the Claimant's reputation for the purpose of s.1(1) of the Defamation Act 2013 ("**the 2013 Act**");

b. avers that the imputation conveyed by the statements complained of is substantially true pursuant to s.2 of the 2013 Act;

c. avers that the statements complained of were or formed part of a statement on a matter of public interest and the Defendant reasonably believed and, in relation to continuing publication, continues to believe, that publishing the statements complained of was and is in the public interest pursuant to s.4 of the 2013 Act; and

d. denies that the Claimant is entitled to any relief, including damages, an injunction or an order under s.12 of the 2013 Act.

The parties

1. No admissions are made in respect of paragraph 1, save that it is admitted that the Claimant is (i) a businessman and (ii) the founder and chairman of the eponymous Amersi Foundation.

2. Paragraph 2 is admitted.

The publications

3. It is admitted that the Defendant published the article referred to in paragraph 3, in the form attached at Annex 1, (the "**Article**") and that the Article remains accessible at the pleaded URL. It is admitted that the Defendant broadcast and published the programme referred to in paragraph 5 (the "**Programme**"). Together the Article and Programme are referred to hereafter as the "**Publications**". Save for some immaterial inaccuracies, it is admitted that the transcript of the Programme at Annex 2 is accurate. The Defendant will rely on the whole of the Article and Programme respectively to put the words complained of into their proper context. It is admitted that the Programme was broadcast to a substantial number of viewers on BBC One and it remained available to view free of charge within the jurisdiction on the "iPlayer" streaming service until 9 October 2022.

Meaning

4. On 9 April 2024 the Court ruled that (i) the words complained of in the Article meant that there are strong grounds for suspecting that, during his work for Telia, the Claimant had been involved in deals on its behalf which he knew or should have known were corrupt, or involved corrupt payments and (ii) that this meaning was defamatory of the Claimant at common law.

5. On 9 April 2024 the Court ruled that (i) the words complained of in the Programme meant that there are strong grounds for suspecting that, during his work for Telia, the Claimant had been involved in deals on its behalf which he knew or should have known were corrupt, or involved corrupt payments and (ii) that this meaning was defamatory of the Claimant at common law.

Serious harm

6. It is denied that the publication of the statements complained of in the Article or Programme has caused, or is likely to cause, serious harm to the Claimant's reputation as required by s.1(1) of the 2013 Act, whether as pleaded at paragraph 7 or otherwise. In this regard:

6.1. The Claimant's case on serious harm fails to distinguish between any alleged serious harm caused by the publication of the Article and the publication of the Programme.

6.2. It is noted that the Claimant has not pleaded any particulars of actual harm caused or likely to have been caused to his reputation by publication of the statements complained of by the Defendant. The Claimant will be put to strict proof of his case on serious harm.

6.3. As to paragraph 7(1), it is admitted that the Article and Programme contained serious allegations about the Claimant. It is denied that they included allegations of dishonesty and corruption against the Claimant save that the meaning found by the Court was of strong grounds to suspect actual or constructive knowledge of corruption on the Claimant's part. Otherwise, no admissions are made.

6.4. Paragraphs 7(2) and 7(3) are admitted, save that no admissions are made about the precise extent of the readership of the Article or the viewing figures of the Programme within the court's jurisdiction. It is admitted however that such figures would be likely to be very substantial.

6.5. As to paragraph 7(4), it is admitted that it was likely that other media would report on and thereby republish selected aspects of the Article and/or Programme. It is however not admitted that the words complained of about the Claimant in the meanings found by the Court would be republished by others (noting that in the Programme, the Claimant was but one of several individual donors featured, and in both Publications the overarching context was the *Pandora Papers*). The Claimant will be put to proof of his case on republication. In particular, the Claimant will be required to prove that any republication was as a result of the Article and/or the Programme, as opposed to an article published by *The Guardian* on 4 October 2021 at 06:00 BST under the headline *"Major Tory donor advised on Uzbekistan deal later found to be $220m bribe"* (the "**Guardian Article**"). The Guardian Article contained the same, or substantially the same,

allegation as that which the Claimant complains of in these proceedings, but the Claimant has not made any legal claim in respect of the Guardian Article. Without prejudice to this, in relation to sub-paragraphs 7(4)(a)-(d), it is averred that the articles in *The Independent, The Times* and *The Guardian* referred to at 7(4)(a) – (c) were published prior to the publication of the Programme.

6.6. As to paragraph 7(5), it is admitted that at approximately 06:03 on 4 October 2021 the Defendant posted a tweet from its BBC News UK Twitter (now X) account which had a link to the Article embedded in it (the "**Tweet**"). No admissions are made as to how many Twitter/X users opened the Article through the Tweet and read it. It is admitted that the Tweet had a substantial number of impressions, including retweets.

6.7. As to paragraph 7(6), it is denied that the Claimant has an established reputation as an anti-corruption campaigner or that the same is seriously undermined and damaged by the Publications or, if he has such a reputation, that it is deserved. The particulars to paragraph 7 below are repeated.

6.8. It is denied that the facts and matters pleaded at paragraph 7(7) support the Claimant's case in respect of serious harm arising out of the publication of the Article (let alone the Programme). They purport to concern reactions to the Tweet of which no complaint is made and do not suggest or imply that any of the authors read the Article as opposed to the Tweet.

6.9. As to paragraph 7(8), it is admitted that the Article has remained online. However, the Defendant has not made the Programme available through iPlayer since 9 October 2022. The legal basis for the main contention that the Publications have created a "*highly damaging false and permanent 'digital footprint' about the Claimant which is beyond his control*" and which is likely to cause him serious reputational harm in future is not understood in the context of a defamation claim. It is in any event denied. The allegations complained of are substantially true and were, or formed part of, statements on a matter of public interest (as is pleaded below). Moreover, if (which is not admitted) the Claimant has such a "*digital footprint*", this has been caused by the availability online of the totality of publications about the Claimant (including the Guardian Article, of which the Claimant has not complained), not just the Publications.

6.10. The Claimant has continued to take a prominent and active role in public life and discourse, seemingly unaffected by the alleged or likely serious harm caused to his reputation by the Publications. For example, in June 2023 he was elected to the Foreign Policy Research Institute's Board of Trustees who praised the "*exceptional experience*" of the Claimant. The Claimant also remains a member of the Conservative Party and in April 2024 received what on its face appeared to be a congratulatory message on his birthday from the Prime Minister, which the Claimant published on his personal Twitter/X account.

6.11. Further or alternatively, if the publication of the statements complained of had caused or was likely to cause the alleged serious harm, the Claimant would have commenced these proceedings promptly after first publication instead of waiting until the end of the relevant limitation periods. In this respect:

6.11.1. The Claimant did not issue the Claim Form until 3 October 2022, the penultimate day of the one year limitation period for libel claims.

6.11.2. The Claimant then delayed further, waiting until 28 November 2022, almost 14 months after the Article and the Programme were first published, to send a letter of claim. The Claimant then served the Claim Form and Particulars of Claim on 31 January 2023, at the end of the period for which the Claim Form was valid.

6.11.3. The Claimant's delay in issuing and advancing his claim came despite instructing his solicitors to state, in their pre-publication correspondence with the Defendant, that (i) the Claimant *"will bring proceedings for libel"* in the event that the BBC published any imputation that the Claimant *"knew, suspected, or should have known that Telia's relationship with Takilant was in fact an arrangement with Ms Karimova used to corruptly benefit Telia"* (in the Claimant's solicitors' letter of 30 September 2021) and (ii) the Claimant's solicitors already had *"instructions to issue proceedings for libel"* against the Defendant (and *The Guardian)* if either published the *"allegations foreshadowed in [the] correspondence*", including "*a claim for exemplary damages"* (in the Claimant's solicitors letter of 1 October 2021). The Claimant was therefore at all times able to advance, and had provided instructions to his solicitors to advance, a libel claim in respect of the Programme and/or the Article.

6.11.4. Rather than bringing the claims which he had instructed his solicitors to bring, the Claimant instead instructed his solicitors to send intimidating letters to contributors to the Programme and Article, namely Andrew Mitchell KC and Michaela Ahlberg.

6.11.5. The Claimant only instituted these proceedings after Ofcom had indicated on 30 August 2022 that its provisional view was to reject the Claimant's complaint which he had made to Ofcom in late October and early November 2021 and determine that the Programme complied with the Ofcom Broadcasting Code's requirements for fairness, as set out at paragraph 8.49.6 below. The complaint did not conclude because the Claimant initiated these proceedings.

Truth

7. Further or alternatively, the imputation conveyed by the statements complained of in the Publications, as set out in paragraphs 4 and 5 above, is true or substantially true for the purpose of s.2 of the 2013 Act.

Part 1: The telecoms sector in Eurasian emerging and frontier markets and indicators of corruption risk

7.1. Following the break-up of the Soviet Union in the 1990s, the newly found relative independence of the former Soviet states led to the opening up of their markets to outside, including western, investment in certain sectors, in common with other Eurasian emerging and frontier markets. These states typically had relatively weaker and less well-developed political, financial, regulatory and legal systems and institutions than those in western countries. Initial optimism by western businesses that these new states would embrace market reform gradually diminished in the 2000s as many became autocratic regimes marked by pervasive corruption.

7.2. One of the sectors which opened up to western investment was telecommunications (hereafter "**telecoms**"). Operating a telecoms company, in particular a mobile telephone telecoms company, in any country is a regulated activity which requires licences from state entities, either a sector regulator or a relevant government ministry. These licences include both (i) an operating licence providing a general right to provide specified telecoms services ("**operating licence**") and (ii) licences to use specific radio spectrum frequencies to deliver

those services ("**radio spectrum frequency licences**"). Radio spectrum frequencies, and hence radio spectrum frequency licences, are scarce and ostensibly valuable resources.

7.3. At all material times there were a number of common features of the approach in emerging and frontier markets, including in particular ex-Soviet and Eurasian states, to the issuance of mobile telephone telecoms licences:

7.3.1. The granting of radio spectrum frequency licences had increasingly become a major source of revenue for such states, both from charges levied on the initial grant of such licences and taxes subsequently charged on the usage of such networks by end-users.

7.3.2. The granting of radio spectrum frequency licences was often associated with furthering important policy objectives of the state, for example, extending the geographical coverage provided by a telecoms operator to more remote communities or generating substantial hard currency revenues from investment.

7.3.3. The granting of licences raised issues of national security which could affect the operations of telecoms providers and decisions on the procurement of network equipment.

7.4. As a result, in such emerging and frontier markets (and in autocratic regimes generally) the issuance of operating and radio spectrum frequency licences was tightly controlled by the state. Radio spectrum frequency licences were usually non-transferable or only transferable with the express permission of the sector regulator or relevant ministry.

7.5. As a result of its strategic value, including its high revenue generation potential and the interrelationship between the private and public sector, the telecoms industry in these states was, and was known to be, particularly vulnerable to corruption. This had become particularly apparent by the mid-2000s.

7.6. It was often a state requirement for international telecoms operators seeking to operate in such markets to partner with a local entity and, even where it was not mandatory, it could be seen as advantageous to the foreign entity as a means to obtain local knowledge and connections. However, in jurisdictions where there were high levels of corruption and opaqueness of decision-making, local partners

could provide opportunity for corrupt payments and influence. Accordingly, there was a responsibility on outside investors and their advisors to ensure a high level of transparency in respect of, and close scrutiny of, such local partners so that corrupt payments or decisions were not made.

7.7. The following features could be (individually or collectively) indicators (or "red flags") of potential corruption and improper political influence in such markets:

7.7.1. Opaque or capricious regulatory decisions, including apparently disproportionate decisions to rescind or suspend operating or radio spectrum frequency licences.

7.7.2. Business agreements lacking a reasonable commercial or strategic rationale.

7.7.3. Business agreements which were unnecessarily complex.

7.7.4. Stakes held in telecoms operators or suppliers by influential political persons or entities, including where ownership was held through an offshore entity concealing the identity of the ultimate beneficial owner. Such political persons or entities could include high-level members of government, as well as those individuals' family members.

7.7.5. The use or presence of well-connected "middlemen" to provide assistance or benefits to the outside investor setting up a deal to invest in a telecoms company, including by providing access to political persons or authorities in control of the sector or the distribution of licences, including radio spectrum frequency licences. The middleman could be a local partner, and acknowledged to be so as part of the deal, or could be covert. He or she would have to be paid compensation by the investor for their assistance.

Part 2: The prevailing situation in Uzbekistan and the role of Gulnara Karimova

7.8. At all relevant times, including in particular the period 2005 to 2010, the former Soviet state of Uzbekistan was subject to an autocratic regime. Political power and the central economy were controlled by a small formerly-Soviet elite, principally President Islam Karimov ("**Karimov**"), his family and close associates.

7.9. Such was the control exerted by Karimov, his family and close associates that, from the 2000s, the political-economic system of Uzbekistan was, to a significant extent, based on patron-client relationships and rent-seeking – i.e. a kleptocracy where corruption of state officials and institutions was common.

7.10. Karimov's eldest daughter, Gulnara Karimova ("**Karimova**"), featured prominently in this system of patronage and rent-seeking. For example, as at 2007 she held a 26% shareholding in Uzdonrobita, the largest Uzbek mobile telecoms company. This was not a secret and had been publicly admitted by Karimova by at least January 2004 as reported in, for example, *The Independent* newspaper. Karimova was also a key "gatekeeper" to important strategic sectors of the Uzbek economy for businesses, in particular foreign ones, which were seeking to make substantial investments in Uzbekistan, including in its telecoms sector. By the term "gatekeeper" the Defendant means that Karimova had the power to (a) permit or exclude entrants into the Uzbek telecoms market and/or (b) make and/or affect decisions which could materially adversely affect the interests, including the viability and competitiveness, of existing participants in the market. In this role, Karimova corruptly assisted companies entering and operating in the Uzbek market in exchange for payments and valuable equity interests for her benefit.

7.11. This prevailing environment was at all material times well known in diplomatic and business circles with interests in the central Eurasian states. Karimova's specific gatekeeper role and undue influence over the Uzbek economy was also increasingly apparent by 2005-2006. In support of its case that Uzbekistan was, and was notorious as, a state with pervasive corruption the Defendant will further rely on the following:

7.11.1. Between 2006 and 2010, Uzbekistan ranked as one of the poorest performing countries for corruption in Transparency International's Corruption Perception Index. For example, in 2006 Uzbekistan ranked joint 151st out of 163 countries on this index. By 2010 Uzbekistan ranked joint 172nd out of 178 countries.

7.11.2. In reports published by Freedom House in 2009 and 2010, Uzbekistan was described as one of the nine worst countries in the world for political rights and civil liberties, and it was said that Karimov and the executive

branch *"dominate the legislature and judiciary"*, corruption was "*widespread*" and *"pervasive"* and the state-controlled media outlets.

7.11.3. A report in March 2007 by Svante E. Cornell of John Hopkins University, Washington D.C. (the **"Cornell Report**") concluded that the prevailing political situation in Uzbekistan was more inimical to business than even Afghanistan or Tajikistan. The report referred to the need to ensure that any investment was with the approval of the highest echelons of the state, specifically citing Karimova's influence on the telecoms sector and the consequent temptation to work through her even though she would be a direct competitor because of her shareholding in Uzdonrobita. The Cornell Report was prepared for Fintur Holdings B.V. ("**Fintur**"), a joint venture between the Swedish-Finnish telecoms company TeliaSonera ("**Telia**")[1] and Turkcell, when Telia was considering entering the Uzbek telecoms market in 2006. The Defendant will refer to the whole report.

Part 3: The Claimant's professional background and knowledge of corruption

7.12. At all material times, the Claimant was a qualified non-practising solicitor and businessman who, according to his description of himself, had substantial experience in major commercial deal-making in emerging and frontier markets including in particular ex-Soviet and Eurasian telecoms sectors. According to the Claimant, by 2007 his experience in these sectors was "*formidable*" (as he told the journalist Tom Burgis in June 2021) and he was "*one of, if not the premier,* [mergers & acquisitions] *advisors in the emerging markets telecommunications space*" (as stated in his solicitors' letter to the Defendant and *The Guardian* dated 30 September 2021).

7.13. In 2002, the Claimant founded Emergent Telecoms Ventures Limited ("**ETV**") and thereafter acted as an advisor to major telecoms businesses around the world, including Etisalat (headquartered in the United Arab Emirates), Q-Tel (now Ooredoo, headquartered in Qatar), Zain (headquartered in Kuwait), Turkcell (headquartered in Turkey), Alfa Telecom Limited (through its subsidiary known as Altimo, headquartered in Russia), OJSC Megafon ("**Megafon**") (one of the largest Russian telecoms operators) and Telia. Of the markets in which ETV operated, it

[1] References to "Telia" in this Defence are, unless otherwise stated, to the relevant company within the wider TeliaSonera corporate group. For drafting and clarity purposes only, unless specifically stated, this Defence does not distinguish between the precise company within the TeliaSonera group, and simply refers to "Telia".

held itself out as having a particular expertise in Russia and the former Soviet states.

7.14. The Claimant had extensive global business contacts, including in Russia, Eurasia, North Africa and the Middle East, which were important to the Claimant's role as an expert advisor on deals in the telecoms sector in those markets.

7.15. The Claimant, as he has himself admitted, had at all material times extensive experience in working in jurisdictions where corruption was present or a concern and was generally familiar with indicators of corruption in the business context. In support of this averment the Defendant will refer (among other things pleaded in this Defence) to the Claimant's statements at a book launch on the subject of corruption held at the Blavatnik School of Government at the University of Oxford on 8 March 2017 (the "**Blavatnik School Book Launch**"). During that discussion, on which the Defendant will rely in full, the Claimant (correctly) identified the following features as being important potential indicators of corruption:

7.15.1. the ability of the government to "*sell something, that's when the problem happens, whether it is mining rights, whether it is telecom licences, and a number of other things*";

7.15.2. the importance of "*the culture in the country in question*" and the reality that there are many jurisdictions where it is culturally expected that there is a system of enrichment at the expense of the state;

7.15.3. the role of a local partner being a licence for problems and in particular for public officials to make money, with individuals acting as fronts and using fronting structures for people in power;

7.15.4. the absence of free and fair elections; and

7.15.5. the use of trusts and corporate structures to hide the ultimate beneficial ownership of assets.

7.16. Despite (a) the personal commitment to combatting corruption implicit in the Claimant's said statements (and his appearance at the Blavatnik School Book Launch) and (b) his knowledge, as a qualified corporate solicitor and professional advisor, of the legal and regulatory obligations imposed by laws aimed at preventing corruption (such as the United States Foreign Corrupt Practices Act

1977 (the "**FCPA**") and the Bribery Act 2010), at all material times the Claimant had a casual and complacent attitude to deal making in emerging and frontier markets. He evidently believed that it was acceptable to turn a blind eye to the risk or existence of corruption because, according to him, it was impossible or unrealistic to try to make money from deals in these jurisdictions in an entirely honest, transparent and "clean" way. In support of this averment the Defendant will refer to (a) the following statements by the Claimant about his own practice and attitude which he made during conversations with the journalist, Tom Burgis (published in the latter's book, *Cuckooland: Where the Rich Own the Truth* ("***Cuckooland***")) and (b) the facts and matters pleaded in paragraphs 7.37 - 7.42, 7.56 – 7.77, 7.81 – 7.94 below:

7.16.1. The Claimant considered jurisdictions such as Russia, Uzbekistan, Kazakhstan and Nepal to be inherently corrupt and this was *"their system, that is their way of doing business, that's a way of living. You're not going to change them."*

7.16.2. That "*in any emerging market transaction, any local person will never tick every single box of honesty, transparency, cleanliness. It just does not exist. You have to make value judgments on whether this is reputationally harming or this is what you would expect anyway in a country like this, when you diligence how people make their money".*

7.16.3. The Claimant made clear he was only willing to desist from working with individuals or companies who were strongly suspected of being corrupt fronts for elements of the ruling elites or state, if there was, "*100 per cent categorical proof of corruption"* such as a perpetrator's signature on a document revealing expressly the corrupt nature of the transaction or information from a bank account showing the corrupt source of funds.

7.16.4. The Claimant acknowledged that in most of the Eurasian countries in which he operated there was "*an understanding*" that what he described as "*trusted interlocutors*" were authorised by relevant controlling individuals or authorities to operate in the telecoms sector. This was the Claimant's way of describing the middlemen referred to in paragraph 7.7.5 above.

7.17. The Defendant reserves the right to rely on any other statements by the Claimant to the same or like effect.

The Claimant's business experience of telecoms in Uzbekistan prior to Telia's deal in January 2010

7.18. As at 2005-2006, Uzbekistan was one of the potentially most valuable telecoms markets in Eurasia, given its comparatively sizeable consumer base, lack of market penetration and associated scope for economic growth.

7.19. Before he began his work for Telia in Eurasia in 2007 (as pleaded in paragraphs 7.23 - 7.24 below), the Claimant had developed a good understanding of the business environment in Uzbekistan, its telecoms market and the gatekeeper role of Karimova, as pleaded below.

ETV bid for Bakrie Uzbekistan Telecom LLC

7.19.1. In December 2005, the Claimant, through ETV, was invited to bid, and did bid (unsuccessfully), as part of a consortium, for Bakrie Uzbekistan Telecom LLC ("**Buztel**"), one of the smallest mobile telecoms operators in Uzbekistan. The Claimant would not have made a bid for Buztel, and sought to enter into the Uzbek telecoms market, without an appropriate professional level of knowledge and understanding of the Uzbek telecoms market, its main operators and the opportunities and risks associated with that market. It is therefore to be inferred that when the Claimant, through ETV, bid for Buztel it was with the knowledge that Karimova was a gatekeeper to the Uzbek telecoms market given (a) her increasing prominence in that role at this time, as pleaded above, (b) the fact that the successful purchaser of Buztel, VimpelCom Ltd, knew when purchasing Buztel that it was their "*ticket*" into the Uzbek telecoms market because Karimova held an indirect interest in Buztel and its purchase would ensure her support and (c) the Claimant's own statements just four months later at a meeting with MCT Corp. ("**MCT**") which demonstrated that he knew of Karimova's gatekeeper role (as pleaded at paragraph 7.10 above).

ETV, Etisalat, Istithmar bid for MCT

7.19.2. In March-April 2006, the Claimant, acting through ETV as part of a consortium with Etisalat and Istithmar (a UAE Sovereign Wealth Fund), sought to purchase MCT, a large United States telecoms company.

7.19.3. MCT had entered into the Russian and Eurasian telecoms markets in the mid-1990s. MCT was the owner of Coscom LLC ("**Coscom**") which, by 2006, was the third largest mobile operator in Uzbekistan. In the first half of 2006, MCT (including Coscom) was being marketed for sale as a result of a decision of MCT's major shareholders to realise liquidity in their respective investments in Eurasia. MCT instructed the investment bank Lazard to conduct the sale process.

7.19.4. As part of the sale process Lazard produced an Information Memorandum on MCT which was provided under a confidentiality agreement to prospective purchasers (the **"MCT Information Memorandum**"). The Claimant received and read a copy of the MCT Information Memorandum, as he admitted in his solicitors' letter to the Defendant dated 14 March 2023. The MCT Information Memorandum gave an overview of the Uzbekistan mobile telecoms market which expressly referred to affiliates of Karimova being believed to own 26% in Uzdonrobita.

7.19.5. As part of this sale process, in early April 2006, the Claimant along with Istithmar and Etisalat attended a meeting in Dubai with the then CEO of MCT, Richard Seney ("**Seney**"), and Lazard. Seney had substantial experience of operating in telecoms in the ex-Soviet states and was in charge of running the sale process for MCT. During the meeting the Claimant, who attended although he had not actually been invited by MCT, made it clear that in his experience MCT could face problems from the Uzbek authorities, and specifically Karimova, in the sale of MCT/Coscom. The impression that Seney took from this was that such "problems" would involve MCT having to deal with Karimova and getting her to go along with the sale.

7.19.6. It is clear from the Claimant's comments at the meeting that, as at April 2006, the Claimant knew of Karimova's role as gatekeeper to the Uzbek telecoms market as pleaded above and the need to deal with her and that

this could entail having to bribe her. The Claimant's comment at the meeting was consistent with his subsequent statements in or about late June 2021, to Tom Burgis, then of the *Financial Times*, that there was *"racketeering"* in Uzbekistan *"where the frequencies were sold to all operators after paying a toll"* and to Richard Bilton, the Defendant's journalist, ("**Bilton**") on 11 September 2021, that Karimova in effect operated a "*racketeering organisation*".

7.19.7. As a result of the Claimant's (i) comments at this meeting and (ii) position on the board of the Russian company Megafon (see paragraphs 7.19.11 and 7.19.12 below), MCT was sufficiently concerned about the propriety of the Claimant's conduct that it decided he should play no further role in negotiations for the purchase of MCT, as he was subsequently informed.

Q-Tel's and Zain's attempt to acquire MCT/Coscom

7.19.8. In 2006 and/or early 2007, the Claimant also advised the Kuwaiti company Mobile Telecommunications Company (later rebranded as Zain). In addition, he has claimed to have advised Q-Tel on the potential purchase of MCT in the same period. Q-Tel's accepted bid for MCT was ultimately thwarted after interventions by the Uzbek authorities which made it clear to MCT that it should not sell to Q-Tel, instead ostensibly encouraging a sale to a Russian or European telecoms company. This interference increased in the second half of 2006 and significantly escalated at the start of February 2007, with a disproportionate and capricious 10-day suspension of Coscom's operating licence by the Uzbek regulator.

7.19.9. The interference from the state authorities subsequently continued, with Coscom encountering further difficulties in reconnecting to the network after its suspension had ended. This had a disastrous impact on Coscom's subscriber numbers and net worth, and left it, in late February 2007, weeks away from being substantially financially worthless.

7.19.10. In late January 2007, immediately before the escalation referred to at paragraph 7.19.8 above, the Claimant contacted Nick Dent, who was leading Q-Tel's bid, in an apparent effort to offer his services to resolve the Uzbek government's block on the Q-Tel bid. Given that the Claimant had, in the MCT/Lazard meeting in early April 2006 pleaded above,

anticipated possible problems with Karimova in the MCT/Coscom sale, it is to be inferred that when the Claimant stepped forward again at this delicate point in the Q-Tel negotiation, apparently to offer his assistance in resolving the blockage, the Claimant was once again referring to, and drawing on his understanding of, the need to deal with Karimova, in her role as gatekeeper.

Alfa and Megafon

7.19.11. In 2006 and 2007, the Claimant was a board director of Megafon, having been appointed by the Russian based Alfa Group.

7.19.12. Megafon itself, along with other major Russian mobile operators, had a reputation for engaging in aggressive and unethical tactics in negotiations to undermine the value of any target with the aim of securing the purchase at a cheaper price. In 2006, Megafon conducted a detailed analysis of Coscom and the Uzbek telecoms market which would have led to knowledge of Karimova's gatekeeper role in that market on the part of the board, including the Claimant (if, which is not admitted, that knowledge was not already held by the Claimant and the board at that point in time in 2006). This detailed analysis led in 2006 and early 2007 to Megafon attempting to enter into negotiations to purchase MCT (including Coscom). MCT did not proactively engage with these approaches because of (a) MCT's experience of Megafon's aggressive and unethical approach to such purchases and (b) MCT's concern about the Claimant's comments at the meeting with MCT in early April 2006 as pleaded at paragraph 7.19.5 above.

7.20. In the premises, at all material times the Claimant knew, as someone holding himself out as a competent professional, let alone leading expert, advisor in the ex-Soviet and Eurasian markets (a) of the prevailing political control and corruption in such states including Uzbekistan, (b) of Karimova's role as gatekeeper as pleaded above and (c) that to obtain Karimova's assistance as gatekeeper to Uzbekistan's telecoms sector any deal to enter or exit the Uzbek telecoms market would have to involve obtaining her support, including through the making of a corrupt payment or offering of some other interest of value for her benefit.

Part 4: Overview of the Claimant's role as Telia's expert advisor in Eurasian emerging and frontier markets between 2007 and 2013

7.21. Telia is an international telecoms company formed in 2002 following a merger between two telecoms companies: the Swedish Telia and Finnish Sonera. At all material times, Telia was an issuer entity pursuant to 15 US Code §78dd-1 and accordingly subject to the FCPA in respect of its activities in all jurisdictions.

7.22. Telia had entered the Uzbek telecoms market in 2007 after Q-Tel's bid for MCT/Coscom was unsuccessful in the controversial circumstances pleaded above, and Telia's subsequent bid was successful. The corrupt circumstances in which Telia entered into the Uzbek market are pleaded at paragraphs 7.27 – 7.33 below. In 2007, Telia's Chief Executive was Lars Nyberg ("Nyberg"), the President of Telia's Eurasian division was Tero Kivisaari ("Kivisaari"), its Eurasia Lead was Esko Rytkönen ("Rytkönen") and its General Counsel for Eurasia was Olli Tuohimaa ("Tuohimaa").

7.23. By at the latest September 2007, having previously advised some of Telia's competitors, the Claimant had been appointed as a senior advisor to Telia. As a self-described specialist on acquisition strategy in emerging and frontier markets, the main focus of the Claimant's work for Telia was the Eurasian telecoms markets, including Uzbekistan, Kazakhstan and Nepal, all states notorious for the centralised control and pervasive corruption pleaded above. In his capacity as senior advisor, the Claimant directly reported to and worked closely with Nyberg, Kivisaari, Rytkönen and Tuohimaa. In this capacity, the Claimant was an agent of Telia and therefore himself subject to the anti-bribery provisions of the FCPA.

7.24. In this role, between 2007 and 2013, the Claimant:

7.24.1. managed and developed Telia's existing joint venture relationships;

7.24.2. provided senior Telia executives with his insights into different jurisdictions as a result of his extensive connections;

7.24.3. advised Telia on its plans to enter new markets and to scope opportunity in Eurasia, the Middle East and Africa;

7.24.4. advised on and devised its strategy for important acquisitions in these jurisdictions;

7.24.5. provided operational advice;

7.24.6. served as a director of various of Telia's local subsidiaries;

7.24.7. worked with local partners and middlemen on behalf of Telia;

7.24.8. engaged in relationship management with local partners, middlemen, authorities and senior political figures in the jurisdictions in which Telia had interests or sought to acquire interests, including arranging lavish corporate entertainment costing hundreds of thousands of dollars;

7.24.9. assisted and advised on the acquisition of radio spectrum frequency licences by Telia in various jurisdictions;

7.24.10. offered to act as a conduit for payments (including in connection with the grant of frequencies) and broker back-to-back arrangements with third parties;

7.24.11. protected Telia's assets from attacks by the state authorities; and

7.24.12. negotiated tax settlements with tax authorities on behalf of Telia.

7.25. The Claimant (through ETV) received very substantial remuneration for his work for Telia. Between 2007 and 2013 ETV was paid approximately US$65M, of which approximately US$57M were fees together with substantial expenses reimbursements. A large proportion of the remuneration comprised success fees. The Defendant reserves the right to plead further as to such remuneration following disclosure.

Part 5: Telia's entry into the Uzbek telecoms market in 2007

The sale of MCT/Coscom to Telia and Telia's corrupt arrangement with Karimova in 2007

7.26. The interference by the state authorities in MCT/Coscom's proposed sale to Q-Tel in 2006 to 2007 pleaded above was widely known within the Russian and Eurasian telecoms markets at the time and was reported internationally at the time. It was known by the Claimant who would have recognised that the hostile targeting of MCT was a feature of capricious and probably corrupt behaviour by the state regulator: paragraph 7.19 above is repeated.

7.27. As a result of this interference, MCT was forced to seek alternative purchasers to Q-Tel. In 2007, MCT/Coscom was ultimately purchased by Telia after Telia entered into five agreements (collectively "**the 2007 Agreements**"). The purpose of the 2007 Agreements was to allow Telia to enter into the Uzbek telecoms market by purchasing Coscom, having corruptly obtained Karimova's agreement and support for that purchase. The 2007 Agreements comprised:

7.27.1. First, a partnership agreement dated 4 July 2007, in which Telia entered into an agreement with "The Uzbek Partner" (named as Bekhzod Akhmedov ("**Akhmedov**")) (the "**Partnership Agreement**"). The Partnership Agreement addressed the principal terms on which Akhmedov, as the local partner, would work with Telia in anticipation of Telia's acquisition of Coscom and govern their subsequent cooperation. At all material times Akhmedov was, and was publicly known in Uzbekistan and the Eurasian telecoms sector to be, the CEO of Uzdonrobita, a major competitor of Coscom. Akhmedov was known in Uzbek political and business circles to work for Karimova, and this was also known by the senior Telia executives negotiating the Partnership Agreement at the time.

7.27.2. Second, an agreement with MCT entered into on or about 6 July 2007 (the "**Sale Agreement"**) by which Telia purchased MCT and therefore Coscom. The Sale Agreement resulted in Telia, substantially through its subsidiary TeliaSonera Uzbek Telecom Holding B.V ("**Telia Uzbek**"), acquiring 99.97% of Coscom (the remaining 0.03% being acquired by another Telia subsidiary) by 16 July 2007.

7.27.3. Third, an agreement between Telia and Takilant Limited ("**Takilant**") on 24 December 2007 (the "**Teleson Repudiation Agreement**"). Takilant was an off-shore company registered in Gibraltar. Whereas Karimova was Takilant's ultimate beneficial owner, its sole registered director was Gayane Avakyan ("**Avakyan**"), a young woman in her mid-20s in 2007, who had no connection with the telecoms industry but who worked for Karimova, as had been publicly reported in 2006. The Teleson Repudiation Agreement was entered into so that Coscom could acquire radio spectrum frequency licences and mobile numbers from Takilant. Under the terms of the Teleson Repudiation Agreement, Telia agreed to pay Takilant US$80M if Takilant's Uzbek subsidiary, Teleson, sent a

waiver letter to the Uzbek Agency for Communications and Information ("**UzACI**") repudiating its rights to use certain radio spectrum frequency licences and a numbering block. The payment of US$80M was partially contingent on UzACI reissuing Teleson's repudiated rights to Coscom.

7.27.4. Fourth, an agreement between Telia and Takilant dated 24 December 2007 (the "**Share Sale Agreement**"). The Share Sale Agreement provided for Telia to sell Takilant 26% of Telia Uzbek in return for US$50M. This was contingent on the terms of the Telia Repudiation Agreement being fulfilled by Takilant and UzACI.

7.27.5. Fifth, a shareholders' agreement between Telia and Takilant dated 24 December 2007 (the **"Shareholders Agreement**"). The Shareholders Agreement governed the relationship between Telia and Takilant in their ownership of Telia Uzbek, and through it, Coscom. The Shareholders Agreement contained an option agreement which guaranteed a very generous profit for Takilant after an unusually short lock-in period (the "**2007 Option Agreement**"). The 2007 Option Agreement provided that on a date after 31 December 2009 (i.e. only a little more than two years after the Share Sale Agreement) Takilant was able to sell its 26% shareholding in Telia Uzbek to Telia in return for either (a) specified prices depending on the number of active subscribers, if the option was exercised in 2010 (those prices being vastly in excess of the valuation of Coscom in 2007) or (b) if exercised after 2010, either fair market value if the number of Coscom's active subscribers was less than 2.5 million or if greater, the higher of either US$150M or fair market value. Any fair market value determination was to be made by an expert nominated solely by Takilant.

7.28. On or about 27 December 2007, a few days after the Teleson Repudiation Agreement, the Share Sale Agreement and the Shareholders Agreement were executed and Teleson's licence frequencies and number block were reassigned to Coscom by UzACI. Also on or about 27 December 2007, Telia paid Takilant US$80M for the acquisition of these frequencies and numbers. On or about 28 December 2007, Takilant paid Telia US$50M to purchase 26% of Telia Uzbek. Teleson itself was only registered as a legal entity on 10 September 2007 and had acquired the relevant radio spectrum frequency licences and number blocks shortly thereafter. The Teleson Repudiation Agreement was designed to

circumvent Uzbek law, which prohibited the direct transfer of radio spectrum frequency licences, and to avoid a competitive bidding process or competing applications for the same radio spectrum frequency licences.

7.29. The ostensible role of Takilant following the execution and fulfilment of the terms of the 2007 Agreements was to act as Telia's local partner in the running of Telia Uzbek's operations in Uzbekistan. However, in reality, Takilant was principally a vehicle for bribes to be paid to Karimova. At all material times, senior Telia executives within Telia's Eurasian operations with responsibility for negotiating and concluding the 2007 Agreements, namely Kivisaari, Tuohimaa and Rytkönen, knew that Karimova was the ultimate beneficial owner of Takilant and a gatekeeper with whom it was necessary to partner if Telia wished to enter into the Uzbek telecoms market.

7.30. About ten years later, after an international criminal and regulatory investigation, Telia and Coscom were made the subject of criminal proceedings in the United States for violation of the FCPA in respect of the Teleson Repudiation Agreement, the Share Sale Agreement and the Shareholders Agreement. In September 2017, Telia entered into a Deferred Prosecution Agreement ("**DPA**") with the US Department of Justice (the "**DoJ**"). In the DPA, Telia admitted that it had paid bribes to Karimova (including in her capacity as ultimate beneficial owner of Takilant) under the terms of the three agreements referred to above. The admitted bribes were in the sum of US$331M, of which the US$220M paid under the terms of the January 2010 Agreement which the Claimant worked on (as pleaded below) was the single most substantial bribe. The Defendant will rely on the whole of the DPA, including all the facts set out in the Statement of Facts attached thereto.

7.31. Also in September 2017, in tandem with the DPA, Coscom (at all times acting as a subsidiary of Telia) pleaded guilty to one count of violating the anti-bribery provisions of the FCPA (the **"Plea Agreement**"), and admitted materially the same facts as those admitted by Telia in the DPA. The Defendant will rely on these admitted facts in full.

7.32. Simultaneously, in September 2017 Telia also entered into a parallel settlement with the Dutch Public Prosecution Service (the **"DPPS**") as a result of its admitted bribery of Karimova in its dealings in Uzbekistan. Telia was fined by the Dutch authorities and paid a disgorgement of its profits in Uzbekistan, with the DPPS

concluding that all of its earnings in the country were illegally obtained profits. The Defendant will rely on Telia's admissions therein in full.

7.33. Telia and Coscom agreed to pay a combined total penalty of more than US$965M in respect of their admitted bribery in the DoJ and DPPS proceedings. The penalty was one of the largest ever levied against a foreign telecoms company by the DoJ and DPPS under anti-bribery laws. Telia publicly acknowledged at the time that the DoJ and DPPS had concluded that corrupt payments of approximately US$330M were paid by it, further stating that Telia had terminated all individuals involved "*in the misconduct*" and had introduced robust anti-corruption compliance measures within the company.

7.34. Further, the Defendant will rely on the Claimant's own description of Telia's dealings in Uzbekistan at the Blavatnik School Book Launch, where he described them as his "*favourite*" case study of corruption. The Claimant described them as such even before the DoJ agreements with Telia and Coscom had been made public (in September 2017).

Part 6: Telia's US$220M bribe of Karimova in 2010 and the Claimant's involvement in the deal

The corrupt deal in 2010

7.35. On 25 January 2010, Telia entered into a further corrupt agreement with Takilant for the benefit of Karimova (the "**January 2010 Agreement**"). Under the terms of the January 2010 Agreement, Telia agreed to pay Takilant US$220M in return for 20% of its (26%) minority shareholding in Telia Uzbek and its assistance in the procurement of specific extra services, including in particular (a) renewal of Telia's radio spectrum frequency licences, (b) the issuance to Coscom of a 4G/LTE licence, and (c) currency convertibility (the "**Extra Services**"). The January 2010 Agreement also included terms which permitted Takilant to dispose of its residual 6% shareholding in Telia Uzbek at fair market value or not less than US$50M, whichever was greater.

7.36. On or about 2 February 2010, as Telia admitted in the DPA, Telia authorised a payment on its behalf of US$220M to Takilant's bank account in Hong Kong, through transactions into and out of bank accounts at financial institutions in New York. Coscom and Telia accepted, as part of their agreements with the DoJ in

September 2017, that the payment to Takilant (and thereby to Karimova as ultimate beneficial owner) was a "*$220 million bribe*".

The Claimant's involvement in the January 2010 Agreement and the red flags for corruption in the deal

7.37. By December 2009, the Claimant was regarded as a key trusted advisor to Telia's senior management in Eurasia. In that capacity, the Claimant was asked to be a member of the small core team which worked for Telia on and negotiated the January 2010 Agreement between Telia and Takilant (the "**Deal Team**"). In respect of the January 2010 Agreement:

7.37.1. the Deal Team was tasked in the last week of December 2009 with urgently assisting in the negotiation of this new agreement between Telia and Takilant because Telia's *"partner"* needed US$250M by the end of January 2010. The Deal Team included individuals who had been involved in the 2007 Agreements with Takilant, including the senior executives Kivisaari and Tuohimaa who knew that Akhmedov was a middleman who worked for Karimova and that Karimova was behind Takilant;

7.37.2. the Claimant was sufficiently trusted that he was asked by Kivisaari to lead negotiations with Akhmedov, who was fronting negotiations for Takilant, to conclude the January 2010 Agreement. The Claimant felt sufficiently competent and able to agree to fulfil this role and did agree to fulfil the role for Telia;

7.37.3. the Claimant advised on both the structure and value of the January 2010 Agreement and was one of the few individuals working on behalf of Telia on the draft contract in January 2010;

7.37.4. the Claimant drafted correspondence about the proposed structuring of the January 2010 Agreement for Telia to send to Akhmedov; and

7.37.5. the Claimant was copied into substantive correspondence relating to the January 2010 Agreement, including the highly confidential and market sensitive deal memorandum which was sent to Telia's Board of Directors for approval on 19 January 2010 (the **"Board Memo**").

7.38. The Claimant's contribution to Telia's negotiations was regarded as sufficiently significant for ETV to be paid a success fee of US$500,000 for less than four weeks' work by the Claimant in relation to the January 2010 Agreement.

7.39. As at January 2010 (a) the Claimant was aware that Akhmedov represented Takilant, the "local partner", in the negotiation with Telia in respect of the January 2010 Agreement (and had done so also in respect of the 2007 Agreements) and (b) it is to be inferred that the Claimant knew that in that role Akhmedov represented Karimova. In support of these contentions the Defendant relies on the following:

7.39.1. The whole Deal Team including the Claimant understood that Akhmedov represented Takilant in the January 2010 Agreement negotiations and that Takilant was the "local partner" under the terms of the 2007 Agreements and the January 2010 Agreement. This was also clear from the multiple emails, agreements and draft agreements in circulation as part of the negotiations.

7.39.2. As at January 2010 the Claimant had knowledge and experience of the telecoms market in Uzbekistan and the prevailing centralised control and corruption therein and knew of Karimova's gatekeeper role and undue influence over the economy including that she had held a 26% stake in Uzdonrobita, the largest mobile telecoms provider in Uzbekistan: paragraphs 7.19 and 7.20 above are repeated.

7.39.3. The Claimant knew that Akhmedov was the Chief Executive Officer ("**CEO**") of Uzdonrobita and that Uzdonrobita was a major commercial rival of Coscom. In light of the Claimant's experience of telecoms deals, he would have appreciated that for Telia to be negotiating commercially sensitive terms with its local partner, when the partner was CEO of a major rival, was obviously contrary to all fundamental business norms and commercial confidentiality. For example, the spectrum elements of the January 2010 Agreement would have had major competitive and commercial consequences for Uzdonrobita. Given this blatant conflict of interest, as well as the fact that Karimova had formerly held a major share in Uzdonrobita and was a gatekeeper to the telecoms market, it was an obvious inference that Akhmedov was "Karimova's man", a middleman acting on her behalf in the negotiations for the January 2010 Agreement.

7.39.4. In this regard, the Claimant has claimed, in his solicitors' letter dated 14 March 2023, that he was aware that Akhmedov had given assurances to "*divest*" himself from any management role he held in Telia's competitors, and that he had been told by Kivisaari that he had in fact done so, so that the obvious threatened conflict of interest would not materialise. Even if this were the case, which is not admitted, the fact of that conversation between Kivisaari and the Claimant showed that (a) the Claimant knew of Akhmedov's role at Uzdonrobita and (b) Akhmedov's representation of Takilant was exceptionally unusual and therefore suspicious given the obvious conflict of interest it presented. Moreover, as the Claimant would have known, assurances of future divestment did not address the actual conflict of interest which existed immediately at the time of the negotiations and the signing of the January 2010 Agreement.

7.39.5. The Claimant knew that Akhmedov had rejected the proposed structure of the deal after having reflected on it with his *"partners"* (with quotation marks used in the original email dated 6 January 2010 from Kivisaari to the Deal Team). In context, this term was plainly deliberately used, and would have been understood by the recipients of the email (including the Claimant), as a euphemism for those with controlling interests behind Takilant. In addition, the same email explained that those partners had been helpful in Coscom's value creation since they had *"protected"* Coscom. This reference to protection was, and would have been understood at the time by the Claimant to have been, clearly synonymous with the "*racketeering*" scheme which Karimova was operating in Uzbekistan, as the Claimant himself subsequently described it as pleaded at paragraph 7.19.6 above.

7.39.6. The Claimant also knew that, although Takilant was supposed to be the local partner in Uzbekistan, it was in fact registered in an off-shore jurisdiction, Gibraltar. The Claimant was at all material times aware that a primary purpose of using offshore jurisdictions is to conceal the ultimate beneficial owner of a company.

7.39.7. The ultimate beneficial owner of Takilant was also concealed by the use of an ostensible sole director with no connection with, or reputation in, the telecoms industry, namely Avakyan: paragraph 7.27.3 above is repeated.

In light of his expertise and experience, the Claimant would and should have known that Avakyan was a front for the true owner.

7.39.8. In addition, there had been widespread press coverage in Sweden in 2008 about Telia's partner in the 2007 Agreements (Takilant) being owned by the Karimov family, leading to a major shareholder, Banco Fonder ("**BF**"), divesting itself of its shares in Telia. Since these articles were all published at a time when the Claimant was Telia's expert advisor on its emerging market strategy, and was leading their initiatives in Eurasian markets, it is to be inferred that the Claimant would have been well aware of them, and of the concerns raised by BF, since they would naturally have been the subject of discussion by Telia executives with whom the Claimant worked. For example:

(i) The multiple articles published in the Swedish press in February, March and April 2008, including in articles headlined *"Telia doing business with a dictator"* and *"Dictator making billions from Telia*" (both published on 11 February 2008).

(ii) The Swedish press coverage in March and April 2008 was caused in substantial part by public concerns raised by BF as to how Telia could safely *"comply with its ethics policy in one of the most corrupt countries in the world where everything is controlled by the president and his family".* BF raised its concerns at Telia's AGM on 31 March 2008 and divested itself of Telia's shares as a result of the scandal.

7.40. The knowledge that Akhmedov was acting for Karimova and the facts and matters pleaded in paragraph 7.39 above were powerful indicators (or "red flags"), including to the Claimant, that the January 2010 Agreement was corrupt.

7.41. The Claimant was also aware from his work on the deal of the following further powerful indicators or red flags that the January 2010 Agreement was corrupt, but nonetheless he continued to act for Telia on the deal. In particular, the Claimant:

7.41.1. knew that Telia senior executives for Eurasia considered that "*good political connections"* was a primary reason why Telia's continued

partnership with Takilant was considered important and that Telia's objective was to *"maintain a good relationship with Takilant and extend the period they stay as a shareholder as long as possible"* (as the executives informed the Telia board);

7.41.2. knew that it was important to preserve a partnership with Takilant as part of Telia's operations in Uzbekistan. The Claimant specifically advised the Deal Team to structure the January 2010 Agreement to avoid Takilant selling all of its interest in Coscom. The Claimant did this because, as he told Bilton on 11 September 2021, the local partner otherwise had no "*skin in the game…and then you were exposed"*. However, the January 2010 Agreement gave Takilant guaranteed minimum further returns over such a short period of time that they did not have "*skin in the game"* in a normal commercial sense as any competent professional, let alone leading expert, advisor in telecoms deals would and should have known. Rather, the structure which the Claimant advised in favour of embedded core elements of the 2007 Agreements. This was therefore likely to lead to the same or similar issues in respect of the undue commercial advantage given to Takilant in the future as Telia had previously faced with the 2007 Option Agreement;

7.41.3. knew that the 2007 Option Agreement contained terms and conditions which indicated that Takilant had unusually significant leverage for a local partner in its negotiations with Telia. It provided Takilant with the ability to (a) secure a complete exit from Telia Uzbek after no more than two years and one week, which was a highly unusual and short lock-in period for a local partner in an emerging or frontier telecoms market, (b) achieve that exit at a very significant guaranteed return on the original investment, and (c) achieve those premiums in 2010 based solely on the number of mobile subscribers, a metric which is a poor indicator of value creation and with thresholds which were likely to be easily achieved;

7.41.4. knew that Takilant had demanded the payment by Telia of US$250M by the end of January 2010. As had been widely publicised in English language press in 2007 this was precisely the same amount that MTS, a leading Russian telecoms operator which had owned 74% of Uzdonrobita, had paid for buying out the 26% share of its minority partner (the "**MTS Purchase**"). The minority partner publicly identified in English

language press coverage in 2004 was Karimova, as the Claimant had also been informed in the MCT Information Memorandum which he had read in 2006. Moreover, US$250M was far in excess of the floor of US$37.7M publicly stated in English language press reports in 2004 to have been agreed to purchase the minority shareholding in Uzdonrobita. Comparables are fundamental for valuations for telecoms companies and as such the MTS Purchase was identified as one of two comparable Uzbek telecoms deals in Renaissance Capital's valuation assessment of Telia Uzbek, which was sent to the Claimant on 26 December 2009. Accordingly and in light of the Claimant's knowledge of the Uzbek telecoms market as pleaded above, it is to be inferred that the Claimant knew that Takilant's US$250M demand of Telia mirrored precisely the amount that Karimova had obtained for her minority shareholding in Uzdonrobita in 2007, and that in all these circumstances this could not merely be a coincidence but rather was a further indicator of a corrupt scheme;

7.41.5. did not advise Telia to seek an alternative local partner to Takilant if Takilant wished to sell the entirety of its shareholding in Telia Uzbek;

7.41.6. knew (and rightly should have known as someone holding himself out as a competent professional, let alone leading expert, advisor in such telecoms deals) that the delivery of the regulatory authorisations and permissions included in the Extra Services could only be provided by a state entity;

7.41.7. knew (and rightly should have known as someone holding himself out as a competent professional, let alone leading expert, advisor in such telecoms deals) that any value which Telia was applying to the Extra Services as part of its deal with Takilant necessarily required confidence in Takilant's ability to influence the decisions relating to the Extra Services to validate the amount of that value to Telia;

7.41.8. knew that the Board Memo ascribed US$24M in value to the Extra Services and represented to the Telia board that Takilant had the ability to assist Coscom and Telia in the provision of the Extra Services;

7.41.9. knew that Telia believed that Takilant might be able to procure a free 4G/LTE frequency licence. A 4G/LTE licence would not normally be awarded for free by a state regulator as it represented a highly valuable and potentially profitable state resource. The potential for Takilant to procure a free 4G/LTE frequency licence was therefore highly unusual, particularly in the context of it being offered to Coscom alone, as the Claimant knew (and rightly should have known as someone holding himself out as a competent professional, let alone leading expert, advisor in such telecoms deals);

7.41.10. knew (and rightly should have known as a qualified corporate solicitor and trusted senior advisor to Telia) that the Telia board required to be given correct and accurate information on which to base its decision whether to approve the January 2010 Agreement. Notwithstanding, the Claimant knew that the Board Memo misrepresented material aspects of the proposed agreement with Takilant. In particular, by 19 January 2010, key elements of the deal were in dispute in negotiations between the senior executives on the Deal Team and Akhmedov. Despite this, the Board Memo did not make this clear and instead:

(i) falsely stated that the contemplated transaction with Takilant would include amendments to the 2007 Option Agreement which would give Takilant a right to sell the remaining shares at a price corresponding to fair market value, potentially with a certain discount – whereas Takilant had in fact previously rejected the possibility of any discount being given on any amended put option;

(ii) falsely stated that the contemplated transaction might give Telia a right to purchase Takilant's remaining shares at a price corresponding to fair market value (and potentially with a certain premium) without making clear that Takilant, through Akhmedov, was actually seeking at that time a floor of US$60M for any such option; and

(iii) falsely stated that Takilant would assist Coscom in being awarded a 4G/LTE licence at no cost, when in fact this had been rejected by Takilant during the negotiations.

7.41.11. The Claimant failed to take any action to correct or challenge the false representations being made in the Board Memo to Telia's board in spite of the serious ethical and governance failings inherent in those misrepresentations.

7.42. It is to be inferred from the facts and matters pleaded at paragraph 7.41 above that it would have been apparent to the Claimant, as someone holding himself out as a competent professional, let alone leading expert, advisor in such telecoms deals, that Telia was under huge pressure from Takilant to complete the January 2010 Agreement in a short period of time and that Takilant held disproportionate power in their relationship. In the context of the telecoms sector and the corrupt kleptocratic nature of Uzbekistan this would have been a further obvious "red flag" that the January 2010 Agreement was corrupt.

Pre-Publication statements by the Claimant

7.43. Prior to publication of the Article and Programme the Claimant made false and/or misleading statements relating to his involvement in advising bidders for MCT in 2006 and 2007 and the circumstances in which he claimed those bids were unsuccessful. The Claimant evidently made these statements to create the misleading impression that he had not known of the prevailing corrupt environment in Uzbekistan and Karimova's role as a gatekeeper to the telecoms industry:

7.43.1. In a telephone call with Bilton on 11 September 2021, and also in an email to Bilton on 14 September 2021, the Claimant asserted that he advised Q-Tel on its bid to buy MCT but that Q-Tel's bid was unsuccessful because its bid was too low. In fact, as the Claimant knew, Q-Tel's bid had been accepted by MCT in 2006 and was scuppered by the overt hostile state actions against MCT to force it not to sell to Q-Tel (as to which see paragraphs 7.19.8 and 7.19.9 above).

7.43.2. In the telephone call with Bilton on 11 September 2021, the Claimant stated he advised Etisalat who did not bid for MCT. In fact, as the Claimant knew, Etisalat (with Istithmar) did bid for MCT in July 2006, but only after the Claimant and ETV had been specifically excluded from their bid as a result of MCT's refusal to work with the Claimant in light of his statements

at the meeting in April 2006 and his connections with Megafon, as pleaded at paragraphs 7.19.5, 7.19.7, 7.19.11 and 7.19.12 above.

7.43.3. In a telephone call with *The Guardian* on 16 September 2021, the Claimant stated that he advised Etisalat and Q-Tel who both pulled out of bidding for MCT, and that ultimately Telia put up its bid and won the auction. These assertions were false, as to which paragraphs 7.19.8, 7.19.10, 7.26 and 7.27 are repeated. As the Claimant knew, Telia did not put in a higher bid for MCT but was only successful in purchasing MCT because of the hostile targeting of MCT when it was intending to sell to Q-Tel.

7.44. In addition, prior to publication of the Article and Programme the Claimant made false and/or misleading statements intended to distance himself from Telia's admitted corruption and to minimise his evident knowledge of the terms and effect of the January 2010 Agreement and his involvement in the negotiations related to it. The statements referred to below were made to *The Guardian* on 16 September 2021 unless otherwise stated:

7.44.1. That the Claimant's involvement in the January 2010 Agreement was limited to "*some valuation work…and by that I mean validation work rather than origination work, the deal was cut by the original deal and by the management team and then they ask me to validate the validation work and that was my only sole involvement*". This was not true, as the Claimant knew. The Claimant's involvement was more central to the formulation of the January 2010 Agreement. Paragraphs 7.37 and 7.38 above is repeated.

7.44.2. That the Claimant had not been asked to negotiate the January 2010 Agreement with Akhmedov. This was untrue, as the Claimant knew. The Claimant was asked to negotiate with Akhmedov and agreed to do so: paragraph 7.37.2 above is repeated.

7.44.3. The Claimant denied to *The Guardian* that he was involved in drafting correspondence with Takilant's representative. This was false, as the Claimant knew. The Claimant did draft such correspondence. Paragraph 7.37.4 above is repeated.

7.44.4. The Claimant denied to *The Guardian* that he knew that the January 2010 Agreement was with Takilant. This was false, as the Claimant knew. Paragraphs 7.39 and 7.41 above are repeated.

7.44.5. The Claimant denied that he saw the Board Memo. This was not true, as he knew. The Claimant was sent a copy of the Board Memo on 19 January 2010, the same day it was sent to Telia's board, and must have read it then or soon after.

7.44.6. On 17 September 2021, the Claimant's solicitors stated to *The Guardian* on his behalf that he was not involved in the "*shareholding arrangements entered into*" with Telia's local partner. This was not true, as the Claimant knew. The January 2010 Agreement, which he advised on, was principally concerned with Takilant's shareholding in Telia Uzbek. Paragraphs 7.35, 7.37 and 7.41 above are repeated.

7.44.7. In the same letter the Claimant's solicitors stated that he *"did not participate in any negotiations with [Telia's] partners or others"* This was untrue, as he knew. Paragraphs 7.37.3 and 7.37.4 above is repeated.

7.45. In pre-publication correspondence with the Defendant, the Claimant also sought to distance himself from Telia's admitted corruption in the January 2010 Agreement by contending that he had relied on, and been entitled to rely on, Telia's in-house team and other professional advisors for conducting due diligence in respect of the deal (and the 2007 Agreements) and for ensuring that relevant anti-corruption laws were complied with. The implication of this was that the Claimant himself had no responsibility for guarding against corruption or the risk of corruption in his dealings on behalf of Telia. This is an untenable contention in light of (a) the Claimant's admitted knowledge of red flags for corruption in telecoms deals and the legal and ethical obligations present, as pleaded in paragraphs 7.15 and 7.16 above, (b) the clear indicators of corruption in the January 2010 deal as pleaded in paragraphs 7.39 to 7.42 above and (c) the Claimant's own professional and legal obligations as a self-confessed leading expert advisor in telecoms in Eurasian markets, his experience as a former corporate solicitor and his role as agent of Telia under the terms of the FCPA as pleaded above.

7.46. In all the premises, there are strong grounds for suspecting that, during his work for Telia related to Uzbekistan, the Claimant had been involved in a deal on its behalf which he knew or should have known was corrupt or involved corrupt payments. In further support of this the Defendant will rely on the facts and matters pleaded below as to the Claimant's activities in relation to deals by Telia in Kazakhstan and Nepal.

Part 7: The Claimant's work for Telia in Kazakhstan

The prevailing political and business environment in Kazakhstan

7.47. As well as working for Telia in Uzbekistan as aforesaid, between 2008 and 2013 the Claimant worked on telecoms deals for Telia in Kazakhstan, another former Soviet state. Paragraphs 7.23 – 7.25 above are repeated. He worked with many of the same senior management team as in Uzbekistan, in particular Kivisaari.

7.48. Like Uzbekistan, at all material times Kazakhstan was subject to an autocratic regime with political power and the central economy under the control of a small elite, principally President Nazarbayev ("**Nazarbayev**"), his family and close associates. The Kazakh telecoms sector shared the characteristics of such a state, namely pervasive corruption, opaque decision-making and interference from the state or regulators in deals involving western investors such as Telia.

7.49. A key means of state control over the telecoms sector in Kazakhstan was a restriction on majority ownership of fixed telecoms networks, including the fibre networks necessary for the operation of mobile networks, and a requirement on foreign telecoms companies to partner with local entities and achieve the desired control through shareholder agreements with the local partner.

7.50. As with Uzbekistan, at all material times this prevailing difficult environment was notorious and in particular well known in diplomatic and business circles with interests in the central Eurasian states. In this regard the Defendant will refer to Transparency International's Corruption Perception Index and reports published by Freedom House for the relevant period and a July 2010 report by Global Witness ("*Risky Business: Kazakhstan, Kazakhmys plc and the London Stock Exchange*") which stated that the "*power of the Nazarbayev family and its associates in Kazakhstan is absolute*."

7.51. Just as Karimova was a primary exponent of the patronage system in Uzbekistan as pleaded above, Karim Massimov ("**Massimov**"), a close associate of Nazarbayev who at material times held powerful political positions including prime minister from 2007 to 2012 and 2014 to 2016, was one of the primary exponents of the corrupt system in Kazakhstan. Massimov favoured the system which was prevalent in Kazakhstan, of arranging for trusted representatives or proxies to nominally own assets – including telecoms assets - to conceal the true owner (i.e. in his case, Massimov).

7.52. One prominent trusted proxy of Massimov was the businesswoman Aigul Nuriyeva ("**Nuriyeva**"), described by the Claimant to Tom Burgis in *Cuckooland* as *"one of the trusted interlocutors in Kazakhstan"* and *"friends for a very long time"* with Massimov. In 2012, *Forbes Kazakhstan* ranked Nuriyeva as the 9th richest business person in the country with an estimated fortune worth US$720M. Nuriyeva was in a direct and close client-patron relationship with Massimov including in relation to shareholdings in telecoms companies. It was widely understood within business circles in Kazakhstan that she played this role for Massimov and, as is clear from the *Cuckooland* quotations above, the Claimant also knew this.

Telia's operations in Kazakhstan and the Claimant's involvement

7.53. From 2000, Telia, through its subsidiary Fintur, held a 51% majority shareholding in GSM Kazakhstan Kazakhtelecom OJSC LLP ("**GSM Kazakhstan**"). GSM Kazakhstan operated the country's most popular mobile telephone network and operator under the brand KCell ("**KCell**"). The majority state-owned Kazakhtelecom JSC ("**Kazakhtelecom**") held a minority (49%) stake in GSM Kazakhstan.

7.54. During its operations in Kazakhstan, Telia management and the Claimant were aware of the problems encountered in operating under a regime with such central control. Paragraphs 7.7, 7.15 and 7.16 above are repeated. They were specifically aware of the need to take steps to protect Telia as a foreign investor from capricious or hostile state actions designed to interfere in its business. This knowledge in part came from knowledge of the interference by the state in Uzbekistan prior to Telia's acquisition of MCT/Coscom in 2007, as pleaded in paragraphs 7.19.10 and 7.26 above.

7.55. In fact, starting in 2008, KCell was the subject of a series of hostile actions by the Kazakh state which ultimately threatened Telia's controlling rights in KCell. These actions included:

7.55.1. In 2009, KCell being subjected, over a very short period of time, to an unplanned tax audit, raids by the Kazakh labour department and migration police, and a visit from the fire department.

7.55.2. In 2010, KCell being subject to a number of investigations by various government authorities aimed at reducing its roaming tariffs and the elimination of its roaming threshold, leading to litigation.

7.56. In an attempt to counter this hostile environment Telia entered into a series of lucrative consultancy agreements with the Claimant created specifically to assist its operations in Kazakhstan and, as advised by the Claimant, resulting in a strategy intended to meet the following needs ("**the hostile environment strategy**"): (a) to have a local partner who was politically connected and in a position to assist Telia to avoid such hostile interference and/or provide advantages otherwise not available, (b) to engage in active relationship management with local partners, including politically connected or influential persons, and/or their middlemen (together, "**PEPs**") and (c) to be motivated to enter into deals not necessarily out of operational need but to incentivise such PEPs so that Telia would achieve the goals referred to in (a) above. The potential for Telia to be required to make corrupt payments to make the hostile environment strategy a success was self-evident and it is to be inferred that the Claimant knew this based on his experience of emerging and frontier markets and the red flags for corruption pleaded above in paragraphs 7.7 and 7.12 – 7.16.

7.57. After entering into the consultancy agreements the Claimant played a leading role in Telia's activities in Kazakhstan during the period 2008 to 2013, in particular leading their mergers and acquisitions strategy and the hostile environment strategy. He reported principally to Kivisaari in this role. Most of the Claimant's multi-million US dollar remuneration for Telia (as pleaded in paragraph 7.25 above) was for his work in Kazakhstan.

7.58. The Defendant relies on the following matters as instances of the Claimant's involvement in the hostile environment strategy or in Telia deals sought and agreed as part of it: (i) his liaison over and participation in lavish entertainment of

PEPs, (ii) the use by Telia and the Claimant of "*back-to-back*" contracts for payments to third parties in Telia deals and (iii) Telia entering into deals, led and/or devised by the Claimant, which were not out of operational need and/or were to incentivise PEPs.

Relationship management of PEPs

7.59. The Claimant's and Telia's strategy of active relationship management with local partners and middlemen went beyond acceptable or conventional lobbying. It included lavish corporate entertainment of PEPs in Kazakhstan which the Claimant set up and/or participated in. Between about 2008 and 2012 the cost of this entertainment exceeded US$1M. The Claimant did not provide Telia with receipts, or at least not after 2010, and claimed reimbursement of expenses in round figures, usually on a monthly basis, and for between US$100,000 and US$200,000.

7.60. In a letter dated 18 March 2022 from the Claimant's solicitors to Norton Rose Fulbright LLP's Chief Risk and Regulatory Officer (EMEA), the Claimant admitted that he knew he was putting on entertainment for PEPs, stating that "*Telecoms is a business such as banking and legal services where on occasions dealing with PEPs is unavoidable."*

7.61. This assertion ignored the fact that corporate relationships with PEPs, especially in Eurasian emerging and frontier market states prone to corruption, were at all material times treated under the laws of developed countries as being red flags for potential corruption. In the United Kingdom and the European Union, Commission Directive 2005/60/EC (the **"EU Directive**") laid down requirements for enhanced due diligence of transactions involving PEPs due to the risk of corruption in such dealings. As someone holding himself out as a competent professional advisor with specialist expertise in telecoms in the region, and also as a qualified corporate solicitor, the Claimant knew or should have known the law in this area and that dealing with, let alone lavish entertainment of, PEPs presented a risk and perception of corruption including as to the company paying for any entertainment or other benefits. Senior executives at Telia also knew or should have known this. At all material times, Telia and the Claimant were also subject to the provisions of the FCPA, as to which paragraphs 7.21 and 7.23 above is repeated. In addition, the Bribery Act 2010 came into force in the United Kingdom on 1 July 2011, which as a UK national, also applied to the Claimant's

work after this date, irrespective of where he was working around the world. The Bribery Act 2010 contained, inter alia, offences in relation to the bribing of foreign officials or bribing another person, the risk of which could be created by entertainment of PEPs.

7.62. In the context of (a) the anti-corruption laws referred to above, (b) the targeting of PEPs being part of the hostile environment strategy as pleaded above, and (c) the very substantial cost of the payments made for the purpose of such entertainment it is to be inferred that the payments made by Telia for entertaining PEPs were corrupt and there are strong grounds to suspect the Claimant knew or should have known this.

Back-to-back contracts

7.63. The Claimant's work for Telia also involved ETV entering into (and the Claimant discussing entering into) "back-to-back" contracts with Telia whereby Telia would pay money to ETV and ETV would enter into a separate agreement for the same amount with third parties, who were the ultimate intended recipients of monies paid by Telia. These arrangements occurred on at least four occasions during the Claimant's work for Telia and totalled at least US$4.2M. One such payment concerned the grant of radio spectrum frequency licences to Telia in Kazakhstan, for which ETV was paid US$135,000 in advance. For this work the Claimant provided a *"special"* invoice for *"frequency fees"*, leading Telia to ask him to reissue it in *"more neutral"* terms.

7.64. There was no proper basis for structuring payments in this way and the Claimant has not suggested one. It is denied that the Claimant's justification in correspondence – that the payments were made through him for "*sensitive security and other reasons*" including "*oversight and accountability*" – withstands scrutiny. Had oversight and accountability been the genuine objective, these transactions would have been paid directly by Telia, rather than through the Claimant as an intermediary.

7.65. In these circumstances, (a) it is to be inferred that the reason for the Claimant and Telia structuring payments in this way was to conceal the payment by Telia of monies to the end recipient and, (b) there being no proper or innocent reason to do this, it is to be inferred the payments were corrupt and there are strong

grounds to suspect that the Claimant knew or should have known that these payments were corrupt.

Telia deals that were not out of operational need and/or were to incentivise PEPs

7.66. A central component of Telia's hostile environment strategy was a series of interlinked deals in 2011 and 2012 known within Telia as Project KitKat, Project Triple and Project Ortus. The Claimant was an architect of these deals and the lead negotiator in relation to them on behalf of Telia. The purported rationale for Projects Triple and Ortus was to support KCell's development and growth, in particular after it ceased its partnership with Kazakhtelecom following the completion of Project KitKat. As pleaded further at paragraph 7.76.8 below, the completion of Project Triple was itself conditional upon the completion of Telia's purchase of a key element in Project Ortus.

7.67. The Defendant will contend that these deals served no proper or minimal operational need for Telia and/or were structured to incentivise PEPs, whom it is inferred were Nuriyeva and/or Massimov, to use their influence to protect and support Telia's business in Kazakhstan. Accordingly, and in the circumstances pleaded below, it is to be inferred this was a corrupt purpose. Some of the Claimant's negotiations were conducted with Nuriyeva as she was a substantial shareholder in companies involved in all three deals. In this regard, the Defendant will also rely on the Claimant's statement to Tom Burgis that the negotiation of these deals lasted eighteen months and this included negotiating with *"the political establishment"*.

(i) Project KitKat

7.68. Project KitKat concerned two related agreements: (i) Telia's purchase of Kazakhtelecom's minority 49% stake in KCell (the "**KCell Buy Out**") and (ii) a subsequent Initial Public Offering (the "**IPO**") of 25% of Telia's total shareholding in KCell after the KCell Buy Out. On 22 December 2011, Telia announced publicly that it had entered agreements for the KCell Buy Out and subsequently the IPO.

7.69. Telia paid US$1.519B for the KCell Buy Out (the "**Purchase Price**"). The KCell Buy Out received regulatory approval on 1 February 2012 and completed the following day. The Purchase Price was 50% higher than the IPO listing price

when listing took place in December 2012. Nuriyeva (or it is to be inferred Massimov) was a substantial beneficiary of the KCell Buy Out as follows.

7.70. At all material times prior to 2012, the second-largest holding in Kazakhtelecom was held by Bodam B.V ("**Bodam**"). Between 2007 and December 2011 Bodam held approximately 16.9% of Kazakhtelecom. Nuriyeva nominally controlled Bodam and was its director. As a result of Bodam's shareholding, Nuriyeva also held a seat on the board of Kazakhtelecom. Massimov was the sole shareholder in Midas Investments Holdings Pte Ltd ("**Midas Holdings**"), which owned the shares in Bodam prior to 2009. By 2009, Bodam's shares had been transferred from Midas Holdings to Ermalito Holdings B.V. ("**Ermalito**"). Ermalito was in turn owned by Lavita Holdings B.V. ("**Lavita**"). Lavita was owned by Nuriyeva between December 2008 and 22 December 2011. Having regard to the role Nuriyeva played for Massimov as pleaded above, it is to be inferred that Nuriyeva owned Lavita as a trusted advisor or proxy for, and on behalf of, Massimov.

7.71. The Defendant admits that part of the commercial rationale of Project KitKat on the part of Telia and the Claimant was to minimise the risk of state interference in KCell by buying out its state-owned minority party. However, having regard to Nuriyeva's, and it is to be inferred Massimov's, interest in Kazakhtelecom, the Defendant contends that the KCell Buy Out also had the purpose of incentivising these PEPs.

(ii) Projects Triple and Ortus

7.72. Project Triple concerned the acquisition by Telia (not KCell) of WiMax radio spectrum frequency licences through the purchase of 100% of TOO KazNet Media ("**KazNet Media**"), a company owned by Nuriyeva, for US$170M. Project Triple was publicly announced by Telia in August 2012 and completed on 11 January 2013.

7.73. Shortly prior to its purchase by Telia, KazNet Media had acquired two limited liability partnerships in Kazakhstan, Aksoran LLP ("**Aksoran**") and Instaphone LLP ("**Instaphone**"), each of which held WiMax radio spectrum frequency licences. The radio spectrum frequency licences which were acquired were in the 2.5GHz and 2.6GHz band. The purported rationale for the acquisition of these two companies by Telia was that the radio spectrum frequency licences they held could be re-farmed for deployment of valuable 4G/LTE services.

7.74. KazNet Media was owned by Midas Telecoms LLP ("**Midas Telecoms**"). Midas Telecoms was nominally owned by Nuriyeva, as was known to the Claimant and Telia when they negotiated and completed the purchase of KazNet Media. In further support of its case that the ultimate beneficial owner of Midas Telecoms was Massimov, the Defendant will rely on the obvious inference that there was a direct ownership link between Midas Telecoms, nominally owned by Nuriyeva, and Midas Holdings, owned by Massimov (see paragraph 7.70 above). Accordingly, in all the circumstances, it is to be inferred that the ultimate beneficiary of Telia's purchase of KazNet Media was Massimov.

7.75. Project Ortus concerned the acquisition by Telia (not KCell) of a substantial shareholding in Rodnik LLP ("**Rodnik**"), the holding company of KazTransCom JSC ("**KTC**") together with associated option interests. Telia paid US$35M for this shareholding and option interests. KTC operated a regional fibre optic network, primarily in western Kazakhstan. As parts of Telia's acquisition of interests in KTC and Rodnik in 2012/13, Telia made a payment of US$15M to Esentai B.V. ("**Esentai**") a company which it knew was owned by Nuriyeva. Through a complex series of special purpose vehicles, holding companies, and call options, in 2012, Telia acquired (i) a 25% shareholding in Rodnik which gave it a 20.425% interest in KTC and (ii) call options to acquire a 100% holding in Rodnik which effectively allowed Telia to assume a controlling holding of up to 81.7% in KTC. The proposed acquisition of its interests in KTC was announced at the same time as the proposed acquisition of KazNet Media on 14 August 2012 and the deals both completed on the same date, 11 January 2013.

7.76. The Defendant will contend that Projects Triple and Ortus were not deals entered into out of Telia's operational need and/or were structured to incentivise Nuriyeva and/or Massimov to use their influence to protect and support Telia's business in Kazakhstan. In support of this the Defendant relies on the following facts and matters:

7.76.1. Instaphone was a shell company holding warehoused radio spectrum frequency licences. As the Claimant knew, as a leading expert in the telecoms sector, radio spectrum frequency is a scarce resource and there was no valid reason for such a company to be awarded such licences and then to hold them without substantive use of or commitments to use this scarce resource. This approach to warehousing spectrum in vehicles

controlled by members of the ruling elite was also used by Karimova in Uzbekistan in respect of Teleson: paragraph 7.28 above is repeated.

7.76.2. While the overall cost to Telia of the purchase of KazNet Media was publicly stated to be US$170M, this was structured in a complex manner with payments being made to a variety of companies associated with Nuriyeva:

7.76.2.1. In February 2012, Telia paid a non-refundable deposit of USD$20M to Mymari Holding BV ("**Mymari**"). Mymari was a Swiss company which was indirectly owned by UNA S.C.A ("**UNA**"), a Luxembourg company whose general partner and sole manager was controlled in part by Nuriyeva.

7.76.2.2. On 11 January 2013, Telia paid US$90M directly to Midas Telecom LLP, of which Nuriyeva was, on paper, the sole beneficiary.

7.76.2.3. Also on 11 January 2013, Telia paid US$63.8M to KazNet Media itself, which on the same day then transferred (i) 0.8B Kazakh tenge (approximately then worth US$5.3M) to Nuriyeva's Midas Telecom and (ii) 8.8B Kazakh tenge (approximately then worth US$58M) to Alem Communications Holding LLP, a company also controlled by Nuriyeva through Midas Telecom and Mymari. The purported basis for these payments was repayment of debt to the "*sellers' [sic] company group*".

7.76.3. In support of its case that there was no operational need for the purchase of KazNet Media and its WiMax radio spectrum frequency licences, the Defendant relies on the following facts and matters which it is to be inferred the Claimant was aware of given his expertise in the Eurasia telecoms sector:

7.76.3.1. WiMax had previously been considered a potentially promising technology which could support high speed data connections (albeit not mobile) and was seen as an alternative technology to fixed line, particularly in emerging markets. By 2012, however, interest in WiMax technology had

waned and it was seen as a technology with limited potential. Accordingly, there was no rationale for its acquisition by Telia at such a high price in 2012.

7.76.3.2. Previously, in 2007 and 2008 KCell itself had acquired two dormant companies for US$27.5M, AR-Telecom (which had 3.5 GHz spectrum) and KT-Telecom (which had 2.5 GHz spectrum) which held licenses for WiMax radio spectrum frequencies. The stated purpose of these acquisitions was for KCell to acquire access to these frequencies. However, by 2012, KCell was only making limited use of this spectrum due to the limited allocation of frequencies and the limited availability of equipment to support those spectrums. It was therefore illogical and made no commercial sense for Telia to purchase more WiMax radio spectrum frequency licences by purchasing KazNet Media when it did so, since it was Telia's intention that KCell use those licences.

7.76.3.3. The radio spectrum frequency licences held by KazNet Media were in the 2.5GHz and 2.6GHz spectrum bands which were not favoured for 4G/LTE deployment.

7.76.4. Although the stated rationale for, and associated valuation of, the purchase of KazNet Media was an assumption that receipt of a 4G/LTE licence was an imminent prospect, no such 4G/LTE licence ever materialised. In due course, in 2016, KCell would have to pay a further approximately US$75M to acquire 4G/LTE and other frequencies.

7.76.5. The purchase price of US$170M was an exceptionally high price to pay for KazNet Media and its WiMax radio spectrum frequency licences. As the Claimant must have known given his expertise in the Eurasian telecoms sector, the price lacked any reasonable commercial rationale in light of the limited use to which the WiMax radio spectrum frequency licences could be put. In this regard:

7.76.5.1. Paragraph 7.76.3.1 to 7.76.4 above is repeated as to the nature and value of those assets.

7.76.5.2. The purchase price was far in excess of the US$33M which Altel, the wholly owned mobile operator of Kazakhtelecom had itself purchased a 4G/LTE licence from the government in December 2012.

7.76.5.3. The purchase price was far in excess of the approximately US$80M which KCell itself paid in 2016 for a 4G/LTE licence.

7.76.5.4. The price far exceeded what KCell itself had paid in 2008 and 2010 for paired 1800 Mhz spectrum, which was the spectrum band of choice for refarming GSM services to 4G/LTE. KCell also purchased addition 2 x 10 Mhz in the 1800Mhz band for approximately US$12M in 2016.

7.76.5.5. The accounting of this acquisition attributed almost all of the purchase price (SEK 704M) to intangible assets (primarily spectrum) with the remainder being attributed to goodwill associated with future further cash flows from the acquired business. The value attributed to the spectrum was far in excess of any valid comparables.

7.76.6. KazNet Media's WiMax radio spectrum frequency licences were in effect worthless. By the end of 2013, and less than a year after Telia had completed its purchase of KazNet Media, with new Telia management in place following the unmasking of the corruption scandal in Uzbekistan, Telia attributed a US$75M impairment charge to these assets. By the end of 2014, Telia had almost entirely written off the goodwill and value of the remaining fixed assets *"due to continued lack of a 4G licence and to reflect the operational performance in the WiMax business."* In May 2016, Telia sold its interest in KazNet Media to KCell for US$1. The asset for which Telia had paid US$170M in 2012 and 2013 was only three years later an asset for KCell with an economic value of US$1 and a book value of US$3M.

7.76.7. Telia's writing-off of the value of KazNet Media purportedly in part due to the lack of a 4G/LTE licence by the end of 2014 was all the more unusual and suspicious since (a) one of the purported conditions precedent for the purchase of KazNet Media (and the associated KTC purchase) was

the Kazakh government announcing the timing, conditions and criteria for the implementation of the 4G/LTE rollout programme in Kazakhstan, (b) Telia had stated in its press release dated 28 December 2012 that the *"formal conditions to complete"* the transactions had been met and (c) KCell itself had stated in 2012 that it did not expect commercial deployment of 4G/LTE during 2013. This factor had been central to the purported commercial objective for the purchase of KazNet Media.

7.76.8. Further, as the Claimant knew when he arranged and negotiated the deals on its behalf, Telia's acquisition of KazNet Media was expressly conditional upon Telia and an entirely separate group – Visor Capital JSC ("**Visor**") – each purchasing a 25% participatory interest in Rodnik. This was Project Ortus, a deal devised by the Claimant which was characterised by excessive complexity. The acquisition of this interest in Rodnik was part of an ostensibly separate agreement by which Telia would acquire control over KTC. There was no valid commercial reason why KazNet Media's owner (Nuriyeva) would have agreed such a condition precedent in respect of deals with Rodnik's ostensibly separate shareholders, Alatau LLP and Almaty Engineering Company ("**AEC**") unless in substance, they were effectively controlled by the same person(s). Indeed, Esentai, which granted a call option to Telia in respect of the 50% stake of Rodnik owned by AEC in return for US$15M, was nominally owned by Nuriyeva. There was no transparency in respect of, or logical commercial rationale for, Esentai being able to grant a valid option over AEC's stake in Rodnik, or as to why it was worth Telia spending US$15M for such an option from Esentai, or as to why Telia did not obtain the call option directly from AEC and make payment directly to it.

7.76.9. As was the case with KazNet Media, (i) the price paid by Telia for KTC was a substantial overvaluation for the assets being purchased; by August 2015, KCell's bankers estimated it was only worth between US$15-US$21m, (ii) KTC's assets were of limited real value because KTC did not even hold proper title to the overwhelming amount of the fibre networks it purportedly controlled and (iii) the value of Telia's interest in KTC was substantially written off by Telia by 2017 as the asset was no longer deemed as having any recoverable value.

7.76.10. In support of its case that there was common ownership by Nuriyeva in respect of KTC, and that Massimov was ultimately behind Nuriyeva's ownership of this asset, the Defendant will rely on the public admission by Daniyar Zhanbekov that he had represented his *"friends Karim Massimov and Aigul Nuriyeva"* on KTC's board of directors between 2007 and 2010. Zhanbekov was a prominent Kazakh businessman with close links to the ruling elite.

7.77. In all the premises, there are strong grounds for suspecting that, during his work for Telia related to Kazakhstan, the Claimant had been involved in deals on its behalf which he knew or should have known were corrupt or involved corrupt payments. In further support of this the Defendant will rely on the facts and matters pleaded respectively above and below as to the Claimant's activities in relation to deals by Telia in Uzbekistan and Nepal.

Part 8: The Claimant's work for Telia in Nepal

Background to Telia's operations in Nepal

7.78. In September 2008 Telia acquired a controlling interest in Spice Nepal Private Limited (**"Spice Nepal**") which was subsequently renamed Ncell in March 2010. The acquisition was made through Telia purchasing a 51% interest in TeliaSonera Asia Holding BV ("**Telia Asia**") which in turn owned 80% of Spice Nepal. The remaining 49% of Telia Asia was owned by part of the Visor group, which also operated in Kazakhstan as pleaded at paragraph 7.76.8 above. The Claimant was a facilitator of Telia's entry into the Nepali telecoms market, acting both as Telia's own emerging markets expert advisor on acquisitions and on behalf of Visor. In December 2010, Telia increased its stake in Telia Asia to 75.45%, raising its indirect holding in Spice Nepal to 60.4%.

7.79. Like Uzbekistan and Kazakhstan, at all material times corruption was pervasive in Nepal and widely known to be in international diplomatic and business circles at all relevant times, including in particular between 2008 and 2012. The Defendant will refer to Nepal's poor rankings in Transparency International's Corruption Perceptions Index. Following a civil war which ended in 2006, Maoist rebels led by Pushpa Kamal Dahal, more commonly known as "Prachanda", entered into parliament. Prachanda became Prime Minister in 2008. As a telecoms specialist in emerging and frontier markets in Eurasia including Nepal

it is to be inferred that at all material times the Claimant was familiar with this prevailing environment.

The strategy and deals of the Claimant and Telia in Nepal between 2011 to 2013

7.80. As in Kazakhstan, the Claimant guided Telia's strategy in Nepal, the details of the transactions which it entered into and engaged in relationship management on its behalf consisting of close liaison with local partners, the authorities and state figures on its behalf.

7.81. As part of his work for Telia in Nepal, the Claimant facilitated the settlement of a potential tax liability for Telia in excess of US$80M for just over US$5.45M. The Claimant was paid US$875,000 for having facilitated the settlement (in addition to his monthly retainer for his work for Telia in Nepal). As in Kazakhstan (as to which see paragraph 7.63 above), the Claimant entered into a back-to-back agreement with Telia, whereby, in relation to "Nepal tax", Telia made an up front payment to ETV of US$1M which ETV then paid on to unspecified third parties. As with Kazakhstan, as pleaded above, the Claimant claimed this was structured in this way for reasons of *"sensitive security and others reasons…including oversight and accountability"*. As with the similar arrangement in Kazakhstan, it is denied that there was any proper basis for structuring the payment in this way.

7.82. In and around 2011, Nepal state authorities began hostile targeting of Ncell. Following a similar hostile environment strategy as used by them in Kazakhstan at about the same time, as pleaded in paragraph 7.56 above, Telia and the Claimant began working closely with Ajeya Sumargi ("**Sumargi**"), widely known to be closely linked to the ruling elite in Nepal and who was one of the "trusted interlocutors" whom the Claimant knew to operate in countries such as Nepal. The association between Sumargi and Prachanda had been widely reported, including in August 2010 in the *Nepali Times*. At all material times, the Claimant was aware of such allegations concerning Sumargi, as he admitted in interview with Tom Burgis for his book *Cuckooland*. As part of this hostile environment strategy, the substantial expenses for which the Claimant was repaid by Telia (as pleaded at paragraphs 7.25 and 7.59 above) included expenses for lavish corporate entertainment in Nepal, including it is to be inferred of PEPs.

Nepal Satellite and Telia's use of Sumargi

7.83. Following the state targeting of Ncell, and it is to be inferred as a consequence of it, in 2011 Telia agreed to buy Nepal Satellite Telecom ("**Nepal Satellite**"), a company owned by Sumargi and which had been launched in 2009, with Prachanda's support, using the brand "Hello Nepal". Telia's decision to buy Nepal Satellite directly followed and was consequential to a meeting which the Claimant and a senior Telia executive attended with Prachanda and followed Prachanda's direct encouragement to Telia to agree to the deal.

7.84. The Telia lead on the purchase of Nepal Satellite was Kivisaari, who also led on the corrupt Takilant deals in Uzbekistan pleaded above, with the Claimant also centrally involved in the decision to buy Nepal Satellite and in Telia's dealings with Sumargi. In this regard, in June 2011 the Claimant and Sumargi were both appointed director of Airbell Services Limited (Cyprus) ("**Airbell**") which was the holding company of Nepal Satellite, after Telia had purchased an initial stake in Airbell. The Claimant also played a central role in working with Sumargi to obtain Sumargi's assistance in procuring benefits for Telia from the state, as pleaded further at paragraph 7.87 below.

7.85. At all material times, the Claimant and senior Telia executives including Kivisaari knew of the close connections between Sumargi and the Maoist regime and these connections were sought after by Telia and the Claimant. The Claimant himself advocated the benefits to Telia of purchasing Nepal Satellite because it would lead to Sumargi's support, including of his political connections which could protect Ncell from further state interference and guard against the risk that Sumargi would start "*lobbying*" against Telia. This demonstrated that the Claimant at all material times knew of the benefits which came with working with "*trusted interlocutors*" and PEPs such as Sumargi in a country with pervasive corruption such as Nepal and the benefits it could bring Telia's operations in that country. It also followed the pattern of the Claimant's activities for Telia in Kazakhstan in relation to the deals entered into to purchase Nuriyeva's company KazNet Media (as to which see paragraphs 7.66 – 7.67, 7.72 – 7.74 and 7.76 - 7.76.8 above) and with his advocating that Telia maintain relations with Takilant in the January 2010 Agreement in order to ensure they had "*skin in the game*" (as pleaded in paragraph 7.41.2 above).

7.86. In these circumstances Telia agreed in June 2011 to purchase a controlling stake in Nepal Satellite in order to win Sumargi's support as part of its hostile environment strategy in Nepal. A key feature of the deal was what Kivisaari described as Sumargi's *"immediate need of [US]$30m."* The deal was conducted with only light legal and financial due diligence. As was the case with Takilant in Uzbekistan, and KazNet Media and KTC in Kazakhstan, the price paid to acquire a controlling interest in Nepal Satellite was significantly in excess of any reasonable commercial value. In this regard, although a Telia-commissioned fairness opinion from the bank UBS in 2013 valued Nepal Satellite at no more than US$60M:

7.86.1. Between June 2011 and April 2012, Telia paid approximately US$75M to Zhodar Investment Limited ("**Zhodar**"), a BVI company owned by Sumargi, in order to acquire ownership of Airbell by April 2012, and therefore 75% of Nepal Satellite.

7.86.2. In addition, in April 2012, Telia agreed to pay Sumargi (or companies which he owned) at least US$80M to acquire the remaining 25% of Nepal Satellite.

7.86.3. If all the stages of the transaction were completed, the total value of the transaction, which Telia were paying Sumargi for, was US$270M.

7.87. An important feature of the deal for Nepal Satellite, which was understood at all times by the key players (the Claimant, Telia and Sumargi), was that Sumargi would provide assistance to Telia by using his political connections to procure advantages for Ncell (not Nepal Satellite) from the state. These were a key aspect of the benefits which the Claimant and Telia knew would accrue to Ncell as a result of this partnership. These benefits were agreed to include Sumargi obtaining the agreement from the Nepali authorities to renew Ncell's licence, spread the fee for this licence interest free over several years and provide Telia with a 3G licence. The benefits were estimated to be worth approximately US$198M to Telia. These "services" could only be procured from state authorities and there was no legitimate way in which Sumargi, who held no official role in government, could procure them for Telia. However, due to his political connections, specifically it is to be inferred with Prachanda, Sumargi did in fact procure these commercial advantages for Telia and Ncell and, in these

circumstances, the only reasonable explanation for the procurement was that it was corrupt.

7.88. In 2011, the Public Accounts Committee of the Nepal Parliament published a report into the telecoms sector in Nepal in which the committee members expressed concern about, and criticised, the way in which telecoms licences had been handed out by the state authorities. This included specific criticism of the award to Ncell of a 3G licence which Telia was paying Sumargi to procure, and which was awarded before the correct Nepal Telecommunications Authority paperwork had been completed. Given its concern about the propriety of the award of this licence, the committee called for a further investigation although it is not known if this was instigated.

Norton Rose Fulbright review and the fallout from the Nepal scandal

7.89. After the scandal of Telia's corrupt dealings in Uzbekistan had become international news in 2012 and led to the resignation of Nyberg, Norton Rose Fulbright LLP ("**NRF**") were commissioned by new Telia management to conduct a review of Telia's operations in its other Eurasian businesses. NRF recommended that Telia reverse its deal with Sumargi, including not completing the purchase of the remaining 25% stake in Nepal Satellite from Sumargi.

7.90. In the first half of 2013, the Claimant opposed NRF's recommendation and by email strongly counselled Telia against it. In so doing he further demonstrated his knowledge of the workings of corrupt, autocratic regimes such as Nepal and the adverse business consequences which could befall a company that did not engage appropriately with the corrupt state actors by warning Telia against failing to complete the buyout of Nepal Satellite from Sumargi. The Claimant stressed to Telia management that falling out with a "*trusted interlocutor*" such as Sumargi could lead to further state interference in Telia's operations including problems with *"customs, strikes, demonstrations, Central Bank blocks on money transfers."* Sumargi was a private citizen and had no legitimate way to procure such action on the part of the state.

7.91. The Defendant relies on the Claimant's belief that Sumargi could procure such hostile (or indeed advantageous) interventions by the state against Telia to infer that the Claimant knew that at all material times Sumargi was acting as a

middleman on behalf of Prachanda and/or other senior members of the ruling elite in Nepal.

7.92. The knowledge and anxiety within Telia management of the prospect of another corruption scandal involving Telia emerging in relation to the Nepal Satellite deal was such that Christian Luiga, Telia's Chief Financial Officer, expressly warned the Claimant on 15 January 2013 not to commit his comments about Sumargi and the deal to writing, as he had done to a wider Telia group, but to telephone instead.

7.93. Following the Claimant's urging, threats of litigation from Sumargi, and threats of interference from the Nepali state, Telia agreed in September 2013 to sell back its stake in Airbell (and through it, Nepal Satellite). The result was that Telia made an overall loss on the deal of approximately US$60M.

7.94. In all the premises, there are strong grounds for suspecting that, during his work for Telia related to Nepal, the Claimant had been involved in a deal on its behalf which he knew or should have known was corrupt or involved corrupt payments. In further support of this the Defendant will rely on the facts and matters pleaded above as to the Claimant's activities in relation to deals by Telia in Uzbekistan and Kazakhstan.

Part 9: Termination of the Claimant's relationship with Telia

7.95. NRF's review made serious criticisms of Telia's use of the Claimant and the Claimant's work for Telia in Kazakhstan and Nepal. NRF recommended as a result that Telia terminate its relationship with the Claimant, such was the reputational risk that his work posed to the company.

7.96. Following this recommendation, Telia's management did terminate the Claimant's consultancy arrangements with Telia (either by non-renewal of existing agreements or otherwise). Telia's Board Chair informed Telia's Annual General Meeting of this on 2 April 2014, when she stated, in specific reference to the Claimant, that *"we have terminated agreements with an external advisor who since 2007 worked closely with the former Management regarding certain transactions in Eurasia."*

7.97. It is averred that the Claimant did continue to consult on an ad-hoc basis for Telia in 2013 after his main consultancy arrangements had been terminated. This was

because Telia still needed the Claimant's close contacts with PEPs such as Sumargi and Nuriyeva for its plan to extricate itself from the business deals in Kazakhstan and Nepal which the Claimant had devised, and to do so in a way which minimised financial exposure to Telia. In this regard, for example, the Claimant was part of a Telia delegation which met with Sumargi in London in July 2013 to negotiate its exit from its shareholding in Nepal Satellite.

Part 10: Conclusion

7.98. In all the premises, there are strong grounds for suspecting that, during his work for Telia, the Claimant had been involved in deals on its behalf which he knew or should have known were corrupt, or involved corrupt payments.

7.99. If and to the extent necessary, the Defendant will rely on s.2(3) of the 2013 Act.

Publication on a matter of public interest

8. Further or alternatively, the statements complained of respectively in the Article and the Programme were, or formed part of, a statement on a matter of public interest, and the Defendant reasonably believed, and continues to believe, that publishing the statements was and is in the public interest, pursuant to s.4(1) of the 2013 Act.

Public Interest

8.1. The matter of public interest on which the statements complained of were made was whether the rules governing political donations were fit for purpose having regard to the absence under English law of a requirement for full transparency as to the sources of donors' wealth and the need to ensure that money obtained through corruption, or suspected corruption, is not used to fund British political parties.

The Defendant's belief

8.2. The Defendant believed, and, in the case of the Article continues to believe, that publication of the statements complained of was and is in the public interest, in the circumstances and for the reasons set out below. References to the Defendant's belief are to the collective belief of the *Panorama* team who worked on the investigation leading to the Publications and on the Publications

themselves ("**the Team**")[2], unless otherwise stated. The Defendant's belief must be assessed in the context of the whole Programme and the contextual backdrop identified in the Article, concerning the important public interest issue identified above.

8.3. For the avoidance of doubt, this is a summary of the Defendant's investigation and the primary relevant product of its research and grounds for belief. The full detail in support of its section 4 defence will be set out, as proportionate, in the Defendant's witness statements in due course.

Reasonableness of the Defendant's belief

The Team

8.4. The Defendant's investigation leading to the Publications was:

8.4.1. overseen by Karen Wightman, editor of *Panorama,* and Andrew Head, executive producer, both at the Defendant;

8.4.2. led by James Oliver, a producer at the Defendant; and

8.4.3. aided primarily by principal researcher Rory Tinman, an assistant producer for the Programme.

8.5. Mr Oliver and Mr Tinman are, and were at all material times, producers for the Defendant's award-winning, flagship current affairs programme '*Panorama*'.

The genesis of the Publications

8.6. The genesis of the Defendant's investigation was its involvement in the *Pandora Papers* project. The *Pandora Papers* were obtained by the International Consortium of Investigative Journalists (the "**ICIJ**"). They comprised leaked data emanating from multiple offshore service providers. The ICIJ made the *Pandora Papers* available to selected partner organisations and journalists as a resource for a coordinated and collaborative investigation into the use of corporate structures in offshore tax jurisdictions, including for the purposes of concealing corrupt activities, tax avoidance and tax evasion.

[2] Defined terms are started afresh in this section of the Defendant's Defence.

8.7. In this jurisdiction, the Defendant and *The Guardian* newspaper were the ICIJ's primary journalistic partners. As is generally the case with ICIJ projects, participating journalists collaborated and shared information from their research with each other.

8.8. The Defendant first started working on the *Pandora Papers* project in November 2020. In late April 2021, the Team became aware that the Claimant featured in the *Pandora Papers* following research by *The Guardian.* Over the course of late April, May and early June 2021, the Team learned through its participation in the project that the Claimant, among other matters:

8.8.1. had been a substantial donor to the Conservative Party;

8.8.2. had donated to the 2019 Conservative Party leadership campaigns of the Rt Hon Boris Johnson MP, the Rt Hon Jeremy Hunt MP and the Rt Hon Michael Gove MP;

8.8.3. had established a company in the UK, the Conservative Friends of the Middle East and North Africa Ltd, and was seeking to gain control of a separate organisation, the Conservative Middle East Council;

8.8.4. used offshore vehicles for the purposes of owning property in the UK;

8.8.5. appeared to have had shared commercial interests with a Belarussian businessman, Mr Romeo Abdo, who had been linked to a major scandal in Nepal involving allegations of tax evasion and money laundering against mobile network operator Ncell, of which Mr Abdo had been chair and in which the Swedish-Finnish telecoms company, TeliaSonera ("**Telia**") had invested;

8.8.6. had reportedly been a senior adviser to Telia and been involved in Telia's dealings with Ncell, in circumstances where Telia was also implicated in the Ncell scandal; and

8.8.7. was connected to activities involving Telia in Uzbekistan which had given rise to a criminal investigation.

8.9. The Team considered, on the basis of its participation in the *Pandora Papers* project and its investigation leading to the Publications, that the Claimant was seeking to play an increasingly influential role in British public life.

Deeper investigation into the Claimant and Telia

8.10. From around early June 2021 onwards, the Team began to learn more about Telia's activities and the Claimant's role in Uzbekistan. In particular, in June 2021 and at various stages over the months that followed they accessed and/or considered information from:

8.10.1. court records from a 2016-2017 United States Department of Justice ("**DoJ**") investigation and prosecution under the Foreign Corrupt Practices Act 1977 ("**FCPA**") related to payments by Telia and its Uzbek subsidiary, Coscom LLC ("**Coscom**"), as part of telecoms deals with Gulnara Karimova ("**Karimova**") (collectively referred to below as the "**DoJ Documents**"); and

8.10.2. documents and translations of documents arising from criminal proceedings in Sweden brought against Telia executives relating to the same deals (the "**Swedish Prosecution Documents**").

8.11. Taken together, the Team understood from their initial consideration of the information available to them from the DoJ Documents and the Swedish Prosecution Documents that the Claimant had been involved in a deal in Uzbekistan on behalf of Telia which the DoJ had concluded – and Telia had admitted – had involved bribery and corruption. The Team therefore decided, particularly in view of his involvement in British public life, as pleaded in paragraph 8.8.1 - 8.8.3 above, that they should further investigate the Claimant's involvement in Telia's dealings in Uzbekistan, including the extent of any knowledge he might have had regarding the corrupt nature of those activities. A summary of what the Team ultimately learned from the DoJ Documents and the Swedish Prosecution Documents prior to publication is set out at paragraphs 8.15 and 8.17 – 8.19 below.

8.12. On the basis of pitching by the Team in early June 2021, which reflected, in respect of the Claimant, among other matters the Team's initial consideration of information arising from the DoJ Documents and the Swedish Prosecution Documents, the Programme was commissioned by Ms Wightman on 4 June 2021.

The DoJ Documents

8.13. The DoJ Documents considered by the Team prior to publication included:

8.13.1. a DoJ Deferred Prosecution Agreement with Telia dated from September 2017 (the "**DPA**");

8.13.2. an Information dated 21 September 2017 setting out the DoJ's criminal charges against Telia (the "**Telia Information**");

8.13.3. the DoJ's Indictment of Karimova and her close associate Bekhzod Akhmedov ("**Akhmedov**") filed on 7 March 2019 (the **"Karimova Indictment**"); and

8.13.4. the DoJ's Verified Complaint seeking asset freezing orders against bank accounts held by Lombard Odier in Switzerland for companies associated with Karimova (the "**Lombard Odier Complaint**").

8.14. The DPA contained a statement of admitted facts by Telia, including that it had paid corrupt bribes to Karimova.

8.15. The Team considered the DoJ Documents to be a self-evidently reliable and accurate source of information, given that they were official, public, DoJ records. Prior to publication of the Programme and the Article, the Team understood the documents to show that:

8.15.1. Telia had entered into the DPA on the basis of Telia's admission that it had, through Coscom, systematically paid more than US$331M in bribes between 2007 and 2010 to an Uzbek government official identified as "the Foreign Official", whom the Team knew and understood, including from the Karimova Indictment, to be Karimova, the daughter of the President of Uzbekistan. Telia admitted that the payments were made to expand its and Coscom's share of the Uzbek telecoms market.

8.15.2. Telia had paid a record penalty of US$965M.

8.15.3. Telia admitted that it had systematically bribed the Foreign Official (Karimova) through two associates, referred to as Associate A (whom the Team knew and understood from their investigations to be Gayane

Avakyan ("**Avakyan**")) and Associate B (whom the Team knew and understood to be Akhmedov).

8.15.4. Telia executives, including certain management figures, had from the very outset of Telia's operations in Uzbekistan in 2007 known that they would have to regularly pay Karimova millions of dollars to enter the Uzbek telecoms market in 2007 and subsequently to continue to operate there. This corrupt relationship: (a) required a partnership with Akhmedov, who represented Karimova; (b) began with transactions in 2007; and (c) continued with further bribes, including a bribe of US$9.2M in 2008 to acquire number series and network codes, as well as to allow Telia to continue to conduct business.

8.15.5. The largest bribe took place pursuant to a deal reached in January 2010, whereby Telia management authorised a US$220M bribe to Karimova as part of an agreement by which a shell company sold 20% of its 26% interest in Coscom back to Telia (the "**January 2010 Agreement**"). The Team knew, including from public reporting, that the shell company was Takilant Limited ("**Takilant**").

8.15.6. In April and May 2010, Telia paid US$15M to assume a debt owed by a company beneficially owned by Karimova. Telia forgave the debt shortly afterwards. In return for this bribe, Karimova enabled Coscom to obtain 4G/LTE frequencies and continue to do business in Uzbekistan.

8.15.7. Despite there being, in 2012, publicly known investigations and allegations of corruption against Telia and Karimova, Telia did not immediately sever ties with Takilant. It maintained them, and considered entering into a further US$20M bribe arrangement in or around October 2012.

The Swedish Prosecution Documents

8.16. The Swedish Prosecution Documents related to the negotiation of the January 2010 Agreement. A criminal prosecution of three senior Telia executives involved in the Telia/Coscom deals with Takilant in 2007 and 2010 had led to documents being made public in Sweden, including the Swedish Prosecution Documents, which were a subset of those documents and were available to the Team prior to publication.

8.17. Prior to publication, the Team read the Swedish Prosecution Documents which were in English and obtained assistance in understanding those documents which were in Swedish. They considered them significant, as they consisted of contemporaneous documents such as emails and memoranda which showed that the Claimant had played a central role in the negotiation of the January 2010 Agreement publicly accepted by Telia, in the DoJ proceedings, to have amounted to a US$220M bribe.

8.18. In particular, the Swedish Prosecution Documents, combined with what the Team had learned from the DoJ Documents, indicated that the Claimant:

8.18.1. was one of a small group of individuals within Telia who were asked in the final week of December 2009 urgently to assist in the negotiation of an agreement with Takilant, Telia's local partner in Uzbekistan, because Telia's *"partner"* needed US$250M by the end of January 2010;

8.18.2. knew that Takilant was based in Gibraltar, an offshore jurisdiction, and that its director was a woman identified as Avakyan;

8.18.3. knew that Telia senior executives considered that for Telia, "*good political connections*" were a prime reason why Telia's continued partnership with Takilant was important, and that Telia's objective was to "*maintain a good relationship with Takilant and extend the period they stay as a shareholder as long as possible.*";

8.18.4. knew that negotiations with the supposed "*partner*" were being conducted through Akhmedov and that Telia, in an email dated 6 January 2010 from the President of its Eurasian business, Tero Kivisaari ("**Kivisaari**"), had employed the term "*partners*" using quotation marks, indicating that term was a euphemism;

8.18.5. was sufficiently trusted by senior Telia executive Kivisaari to be asked to lead negotiations with Akhmedov to conclude the January 2010 Agreement and that the Claimant had been willing to and did agree to fulfil this role for Telia;

8.18.6. advised on the structure and value of the January 2010 Agreement, and was one of two individuals working on Telia's behalf on the terms of and draft contract for that agreement in January 2010;

8.18.7. drafted correspondence for Telia to send to Akhmedov concerning the proposed structuring of the January 2010 Agreement;

8.18.8. knew that, as part of the deal, Takilant would provide, or would seek to assist in providing, specific extra services, namely the renewal of frequency licences, the issuance to Coscom of a 4G/LTE licence, and currency convertibility;

8.18.9. was copied into much of the correspondence relating to the January 2010 Agreement, including a memorandum seeking approval for the January 2010 Agreement sent to Telia's Board of Directors on 19 January 2010 (the "**Board Memo**"); and

8.18.10. was paid, through his company, Emergent Telecoms Ventures (**"ETV**"), US$500,000 for his five weeks' work on the January 2010 Agreement, pursuant to an invoice marked *"Project Uzbekistan/Takilant Success Fees as per Agreement"*.

8.19. In addition to showing the Claimant's substantial involvement in the January 2010 Agreement, the Team also considered the following facts and matters in the Swedish Prosecution Documents to have been significant:

8.19.1. The Claimant knew that the deal was negotiated with Akhmedov, the CEO (or equivalent) for Uzdonrobita. This made no commercial sense, because Uzdonrobita was the leading mobile telecoms provider in Uzbekistan at the time and therefore a major competitor of Coscom and Telia. The Team considered that the Claimant was, as a telecoms expert, likely to have known that Akhmedov held this role with Uzdonrobita, and would have been aware of how highly unusual negotiating with a competitor was.

8.19.2. The email of 6 January 2010 (pleaded at paragraph 8.18.4 above) indicated that it was apparent to the email's recipients, including the Claimant, that Akhmedov was likely a front or representative for other, third parties.

8.19.3. Takilant was a shell company, based in Gibraltar, represented by Avakyan. The Team had been told by a Swedish journalist, and understood from

online research, that Avakyan was aged in her 20s and had no apparent telecoms experience.

8.19.4. The Board Memo placed great emphasis on Takilant providing, or assisting in providing, services available only from the state. Further, the valuation reached for the shareholding that Telia was buying from Takilant was only explicable if Telia could ensure that the state would in fact provide those services. This feature was accentuated by the emphasis on Takilant's good political connections and on the importance of Telia's maintaining a relationship with it. The Team considered that if the Claimant was, during the negotiations, actually to understand the value to be attributed to those services, he would likely have needed to understand Takilant's ability to procure them from the state.

Other product of research into Telia and the Claimant

8.20. From mid- to late June until early August 2021, the Team encountered and/or read the further information set out below. This also influenced the Team's understanding of the Claimant's role at Telia, and the Team's thinking as to whether the Claimant was himself aware, or ought to have been aware, of the bribery to which Telia had admitted. The following represents a summary of what the Defendant considered, selected for proportionality reasons:

8.20.1. A Swedish television programme, '*TeliaSonera and the Dictator's Daughter*', first broadcast in 2012, which provided further background on Telia's practices in Uzbekistan and was consistent with Telia's admissions in the DPA.

8.20.2. An English language summary of a report by Mannheimer Swartling, a Swedish law firm commissioned by Telia to examine its Uzbekistan operations and which reported its conclusions in early 2013 (the "**MS Report**"). The Team were aware that the Claimant had been interviewed for the MS Report. According to the summary in the MS Report, it found that: (a) on the information available to it, it could not conclude that, as a matter of Swedish law, Telia's deals in Uzbekistan had involved bribery or money laundering; but (b) such suspicions could not be dismissed. The summary also set out evidence that Fintur, Telia's Eurasian subsidiary, knew prior to Telia's entry into the Uzbek market that they were entering

into an agreement with Karimova, and referred to internal documentation in which Akhmedov was described as the "*Chief Executive for Goulnara Karimova's investment group*".

8.20.3. The Team considered that the absence of any bribery or money laundering finding in the MS Report had been superseded by Telia's admissions in the DPA.

8.20.4. Statements concerning the Claimant by Kivisaari and Olli Tuohimaa in interviews with prosecutors during the Swedish proceedings identified at paragraph 8.16 above, including that the Claimant had: (a) received US$500,000 for advising on the January 2010 Agreement; (b) been hired to assist Telia's move into Central Asia and Asia more widely; and (c) beyond Uzbekistan, been particularly active on Telia's behalf in Nepal and Kazakhstan.

8.20.5. Information, read in translation by the Team, contained in a book authored by a Swedish journalist, Patricia Hedelius, entitled (in translation) "*Telia: the Government and corruption*" which was published in 2015. It suggested that the Claimant had played an important role in Telia's dealings in Eurasia; that he had received large budgets for work with advisors and clients; and that his activities had "*got stuck*" in (possibly "*got caught by*" in idiomatic English) a review by a law firm, Norton Rose Fulbright LLP ("**NRF**").

8.20.6. A report entitled *A Dance with The Cobra: Confronting Grand Corruption in Uzbekistan,* published in 2017 (the **"Dance with the Cobra Report**"). Authored by academic experts on the region, it explained the pervasive extent of corruption in Uzbekistan between 2005 and 2013 and provided important context on Karimova's role as a gatekeeper to key sectors of the economy, including, in particular, telecoms.

8.20.7. Reports published in July 2014 and May 2015 by the Organised Crime and Corruption Reporting Project on Telia's activities in Azerbaijan and Kazakhstan. These suggested to the Team that Telia's corrupt practices might have extended beyond Uzbekistan. The May 2015 report explained how Telia's CEO and board of directors were replaced promptly following

the MS Report, and how Telia's new board had commissioned a review by NRF into Telia's most important deals in Eurasia (the "**NRF Review**").

8.20.8. A speech by Marie Ehrling (**"Ehrling**"), Telia's replacement chair, delivered at Telia's AGM on 2 April 2014. The speech revealed that the NRF Review had concluded that Telia was guilty of unethical, if not criminal, practices in Azerbaijan, Kazakhstan, Georgia, Nepal and Tajikistan. The Team considered the speech important because it stated that the NRF Review had identified a pattern of "*deficient*" transactions by Telia which: (a) had been repeatedly carried out; (b) could not be ruled out as having been illegal; and (c) had been conducted in a manner inconsistent with sound business practice and ethical requirements. The speech stated that this pattern of behaviour included: (a) substantial payments to advisors and intermediaries for, among other things, lobbying activities; (b) lack of control of business partners; and (c) inadequate handling of warning signs. The speech also referred to questionable lobbying activities being conducted by *"people outside the company but on behalf of TeliaSonera and without adequate oversight, control and follow-up by the company"*. It further explained that based on the NRF Review, Telia had "*terminated agreements with an external advisor who since 2007 worked closely with the former Management regarding certain transactions in Eurasia."* Upon first reading the speech, based on the information they had amassed to date, the Team considered that these latter two references were likely to be to the Claimant.

8.20.9. The Claimant's C.V., which the Team located online. It described his "*long involvement*" in telecoms ventures and his having, in terms redolent to the Team of Ehrling's comments regarding "*an external advisor*", been *"a senior advisor to the TeliaSonera Group and led their M&A and strategic initiatives including the IPO of Kcell and Megafon"* from 2008 to 2013.

8.20.10. An online video of the Claimant's appearance at a seminar on corruption on 8 March 2017 at the Blavatnik School of Government, University of Oxford. The Team considered the Claimant's remarks at this event to show that he had a detailed knowledge and understanding of the issues of corruption and potential "red flags" (warning indicators) of corruption, including as to how the requirement in certain countries for local partner involvement was a "*licence for problems*". The Team also noted that he

himself was stating that he had extensive experience of working in corrupt countries around the world. The Team considered the Claimant's omission, during comments by him regarding Telia's dealings in Uzbekistan, of any reference to his role in those same dealings to indicate a notable lack of frankness and transparency in his accounts of his involvement in those events.

8.20.11. Further information revealing the Claimant's proximity to influential individuals and institutions in British and international public life, including HRH Prince Charles, the Prince of Wales (as he then was) and his charities, and the Commonwealth Enterprise and Investment Council. This information, when later considered alongside the articles published in *The Financial Times* on or around 7 July 2021 identified at paragraph 8.20.12 below and in *The Sunday Times* on 31 July 2021 identified at paragraph 8.35 below, indicated to the Team that the Claimant was aware of the value and significance of establishing and maintaining close political connections, and of how money could be used to obtain and maintain those connections.

8.20.12. An article about the Claimant published on or around 7 July 2021 in *The Financial Times* under the headline *"The donor, the Russian deals and the Conservative money machine"*. It explained how the Claimant had, in 2005, played an important role in a deal involving the purchase of a Russia-based telecoms company, in circumstances where the ultimate beneficial owner's identity was concealed. The Team considered that the information in the article indicated that the Claimant had experience of operating in the former Soviet Union and was familiar with issues of corruption in such environments. The Team also noted that, as reported, the Claimant rejected any suggestion that it was for him to consider who might ultimately own companies for whom he was brokering arrangements.

8.20.13. A High Court judgment dated 5 December 2002, with neutral citation number [2002] EWHC 2616 (Ch), in commercial proceedings between Ayoub-Farid and Fadi Michel Saab (as claimants) and Jones Day Reavis & Pogue and the Claimant (as defendants). In his judgment, which followed a trial of various preliminary issues in the proceedings, The Honourable Peter Smith: (a) held that the Claimant, in his capacity as a

practising solicitor, had breached duties owed to the claimants; (b) rejected evidence given by the Claimant as "*incredible*", "*unreliable*", "*unconvincing*" and "*unsatisfactory*"; (c) described the Claimant as having a "*casual attitude to the duties of a solicitor*" and a "*cavalier approach to his duties as a solicitor and a lawyer*"; and (d) found the Claimant's "*recollection of the discussion of meetings to be selective being highly detailed when it suited him but conveniently lacking in detail when it did not suit him*". The Team considered that the fact that a High Court Judge had reached these conclusions about the Claimant to be significant in terms of the overall credibility of any statements made by him.

8.20.14. An article about the Claimant published on or around 2 August 2021 in *The Financial Times* under the headline "*New claims raise questions over Tory donor's Russian business links*". The article concerned a payment by a Luxembourg company, First National Holding, of US$4M to the Claimant in 2005. It explained how three people reportedly with direct knowledge of the Claimant's business dealings alleged that he had at the time known that the company was secretly owned by Leonid Reiman, then-Minister of Communications and Information Technologies of the Russian Federation under President Vladimir Putin. Notwithstanding the Claimant's denials in the article of any such knowledge, the Team considered that the article and the allegations were further evidence of the Claimant's proximity to and involvement with individuals who operated as fronts for allegedly corrupt people in the telecommunications sector. The Team considered that the information in the article, when considered alongside (a) the experience in telecoms ventures in Russia and Kazakhstan set out in the Claimant's C.V., (b) the Claimant's remarks at the Blavatnik School of Government, and (c) the article about the Claimant on or around 7 July 2021 in the *Financial Times* (as pleaded above at paragraphs 8.20.9, 8.20.10 and 8.20.12 respectively) indicated that the Claimant had substantial experience of operating in the former Soviet Union and was familiar with issues of corruption in such environments.

Enquiries with leading specialists and inside sources

8.21. In mid-June and again later in August 2021, the Team obtained guidance from a senior barrister, Gavin Millar KC ("**Millar**"), an expert on the law relating to political

donations. Among other matters, Millar stated that the current system was inadequate because it placed no obligation on political parties to undertake checks or investigations as to a donor's background or wealth.

8.22. In late June 2021, the Team spoke with Professor Kristian Lasslett ("**Lasslett**"), the author of the Dance with the Cobra Report, regarding the business environment in Uzbekistan at the relevant time, and invited his opinion on its investigation. Lasslett advised that: (a) Karimova's role in the Uzbek economy was notorious; (b) anyone doing business in Uzbekistan at the time would likely know what a corrupt jurisdiction it was; and (c) a person of Avakyan's standing was, in the context of Telia's activities there, likely a front.

8.23. In late June 2021, the Team spoke with a confidential source with knowledge of the DoJ's investigation into Telia and Coscom. They explained that Telia knew how corrupt Uzbekistan was when they went into business there, and that there were substantial communications demonstrating that Telia knew Karimova needed to be bribed. They further explained that while the DoJ had been aware of the Claimant's role in Uzbekistan for Telia, the DoJ had considered him tangential, and had ultimately deferred to the Swedish authorities on who should be prosecuted.

8.24. In mid-July 2021, the Team interviewed Andrew Mitchell KC ("**Mitchell**"), a senior barrister specialising in financial crime, bribery and corruption. The purpose of this interview was to secure commentary by an eminent expert in this field, so as to enable it to clearly tell the story to the end-audience. Mitchell considered that the Claimant should have been concerned over Takilant's obvious status as a front company, and should have made more detailed inquiries about the January 2010 Agreement in light of its obviously unusual commercial features, which would have been evident to the Claimant.

8.25. In mid-July 2021, having noted the reference to Kazakhstan in Ehrling's 2 April 2014 speech at the Telia AGM, the Team spoke with Thomas Mayne ("**Mayne**"), an academic at Exeter University at the relevant time and a specialist in Eurasia including Kazakhstan, as well as the lead author of a report on corruption in Kazakh telecoms entitled *"Bad Connection: Corruption in Kazakh Telecoms"* published in 2021. The report, which the Team read, analysed Telia deals in Kazakhstan between 2007 and 2013. Mayne advised the Team that experts and commentators on Kazakhstan generally viewed Aigul Nuriyeva ("**Nuriyeva**"), with

whom Telia had done business, as a front for a senior political figure, Karim Massimov ("**Massimov**"). Mayne also explained that the Visor Group, linked to Timur Kulibayev, son-in-law of the then-President of Kazakhstan, had been involved in some of Telia's major dealings in Kazakhstan in 2012 and in its previous dealings in Nepal.

8.26. In the second half of August and in late September 2021 the Team spoke with four individuals with knowledge of the Claimant's work for Telia. They provided information on a confidential basis, and were regarded by the Team as credible and reliable sources. Between them, they provided the following information:

8.26.1. The Claimant was the "*external advisor*" mentioned by Ehrling during her 2014 AGM speech.

8.26.2. The Claimant had a very significant contact network in Eurasia, and was familiar with how business was done there.

8.26.3. Telia needed access to licences in Eurasia. The Claimant assisted on this, by providing access to influential people who could help obtain them.

8.26.4. The Claimant played a key role in devising and developing Telia's strategy for establishing and growing its operations in Eurasia.

8.26.5. The NRF Review had identified strange payments from a Netherlands-based Telia subsidiary to the Claimant. There were many unspecified payments which appeared typical of payments made for *"greasing the wheels"* of corrupt systems and gaining the right contacts.

8.26.6. The Claimant's contract and payments raised red flags for corruption, including the amount he was himself being paid.

8.26.7. The deals which the Claimant had worked on for Telia in Kazakhstan and Nepal raised red flags of corruption.

8.26.8. The Claimant had incurred exceptionally high expenses while working for Telia and had made substantial payments, in particular for ski trips and hotels.

8.26.9. The business arrangements which Telia had entered into in Eurasia were so problematic from an ethical and legal perspective that Telia had been

forced to withdraw from the region, notwithstanding Telia's substantial investments there, and to do so at a considerable financial cost to the company.

8.26.10. Telia terminated the Claimant's role over the NRF Review's findings.

8.27. The most significant of the above pieces of information for the Team was the confirmation of their suspicion that the Claimant was the "*external advisor*" mentioned by Ehrling during her 2014 AGM speech. This revealed to them that Telia had, based on the findings of the NRF Review into the company's most important deals in Eurasia, terminated its agreements with the Claimant.

The NRF Review

8.28. In early September 2021, the Team read part of the findings of the NRF Review. The Team believed that the NRF Review's findings were likely to be reliable and that they had led to the Telia board taking significant action in response to its findings, including terminating the Claimant's engagement with Telia and withdrawing from many of its Eurasian markets.

8.29. The NRF Review's findings corroborated the information from the four individuals who provided information to the Team on a confidential basis in the second half of August and in late September 2021, and which is summarised at paragraph 8.26 above. They also provided further information about an individual referred to as "*Mr XY*". As set out at paragraph 8.32 below, the Team subsequently learned from Michaela Ahlberg ("**Ahlberg**"), a former senior Telia compliance executive, that references in the NRF Review's findings to "*Mr XY*" were references to the Claimant; this was also communicated to the Team prior to publication by sources who provided information on a confidential basis.

8.30. On this basis, the Team considered the following findings in the NRF Review to be relevant, important and/or suspicious:

8.30.1. The Claimant had received more than US$65M in remuneration over six years for his services to Telia, an amount which the Team understood from their investigations to be unusually high in this context.

8.30.2. The nature of the services and relationships provided and offered by the Claimant, through his company, was not transparent, and often deliberately so. His services appeared to include arranging introductions

to and contacts with politically exposed persons. His expenses, for which claims were significant, often made in round figure sums, and not evidenced by copies of receipts (ostensibly not being requested by Telia), included lavish corporate entertainment of individuals known at the time of the NRF Review to be politically exposed. The Team considered these matters to be unusual and potentially suspicious.

8.30.3. Some consultancy agreements entered into and/or discussed between Telia and the Claimant were back-to-back arrangements which, the NRF Review findings indicated, had the effect of concealing either the source or the ultimate destination of those funds. The Team considered these matters unusual and potentially suspicious.

8.30.4. The Claimant's work in Nepal and Kazakhstan had involved "*relationship management*". This was described, in the Nepal context, as acting as a liaison with local partners, the authorities and senior political figures. In Kazakhstan, it involved the Claimant being appointed to engage in activities *"beyond acceptable or conventional lobbying"*. For the Team, in addition to indicating the nature of the Claimant's work in Nepal and Kazakhstan, and revealing that the NRF Review had concluded that his "*relationship management*" activities in Kazakhstan were unacceptable and unconventional, this showed that the Claimant understood the importance of proximity and access to influential individuals in corruption-prone countries, and raised suspicions about how he had cultivated and managed the relevant relationships.

8.30.5. In the Kazakhstan context, NRF considered that some fees and/or expenses paid to the Claimant might have been utilised (and might have been known by individuals within Telia to have been utilised) to improperly acquire regulatory benefits and/or secure the go-ahead for transactions. The Team considered these matters, which suggested potential corruption, to be highly suspicious.

8.30.6. NRF recommended that Telia terminate its consultancy with the Claimant. This was consistent with the Team's understanding of Ehrling's remarks regarding the "*external advisor"* in her 2014 AGM speech.

8.31. In addition to the significance of these points in their own right, the Team also considered their inclusion in the NRF Review findings to be itself weighty and important.

Michaela Ahlberg

8.32. In early September 2021, Ahlberg, a former senior Telia compliance executive whom the Team understood was recruited in 2013 as part of Telia's new management culture and team, provided the Team with an interview for inclusion in any publication by the Defendant. During the interview, Ahlberg stated that references in the NRF Review's findings to "*Mr XY*" were references to the Claimant. She also stated that:

8.32.1. the Claimant's activities in Eurasia for Telia had, in her view, raised a number of "*red flags*" within Telia of potential corruption or improper conduct;

8.32.2. the Claimant was the "*external advisor"* referred to in Ehrling's 2014 AGM speech;

8.32.3. Telia's new management had terminated the Claimant's contracts due to the risks his activities entailed for the company; and

8.32.4. although she could not say that the Claimant had engaged in corrupt behaviour, there was a very high risk that there had been some level of corruption in dealings undertaken through him.

8.33. The interview provided the Team with commentary for the Publications which enabled them to situate, for the end-audience, the Claimant's involvement in the January 2010 Agreement in the wider context of the Telia corruption scandal in Uzbekistan.

Telia's email of 17 September 2021

8.34. On 17 September 2021, Telia responded to an email sent the previous day by *The Guardian* on behalf of *The Guardian* and the Defendant. *The Guardian* email offered Telia an opportunity to reply to various pre-publication enquiries. It also informed Telia: (a) that *The Guardian* and Defendant journalists had seen an extract from the NRF Review's findings, which summarised the Review's findings concerning a "*Mr XY*"; and (b) "*Mr XY*" had been identified to the journalists as

the Claimant. The Team did not consider that Telia's response undermined any of their main conclusions.

Further public comments by the Claimant

8.35. In early August 2021, the Team read and took account of the Claimant's comments in an article published in *The Sunday Times* on 31 July 2021 entitled *"Access capitalism scandal: A dinner with Prince Charles, then the begging letter arrived".* In this article, the Claimant stated *"You call it pay-to-play, I call it access capitalism. It's the same point. You get access, you get invitations, you get privileged relationships, if you are part of the set-up, and where you are financially making a contribution to be a part of that set up. Absolutely."* These comments, when considered alongside the earlier information identified above at paragraphs 8.8.1 - 8.8.3 and 8.20.11, reinforced the Team's impression that the Claimant knew the importance of, and was prepared to use, money for the purposes of obtaining access to influential individuals.

Communications with the Claimant / Right of Reply

8.36. Prior to publication, the Claimant considered the following communications with, by, and on behalf of the Claimant:

8.36.1. A telephone conversation between Richard Bilton, a journalist for the Defendant, and the Claimant on 11 September 2021;

8.36.2. A telephone conversation between a journalist for *The Guardian* and the Claimant on 16 September 2021;

8.36.3. A letter from the Claimant's solicitors sent to *The Guardian* on 17 September 2021;

8.36.4. A letter from the Claimant's solicitors sent to the Defendant on 30 September 2021. This was in response to a letter sent by the Defendant of 20 September 2021 which provided the Claimant with a detailed account of the Defendant's findings, set out the allegations the Defendant was considering including in its publications, and invited the Claimant to identify any items he disputed (the "**Right of Reply Letter**");

8.36.5. A letter from the Claimant's solicitors sent to the Defendant and *The Guardian* on 1 October 2021, in response to additional correspondence from *The Guardian* (on which the Defendant had been copied).

8.37. On 1 October 2021, journalists from the Defendant and *The Guardian* attended the Claimant's solicitors' offices to review documentation identified by the Claimant as relevant.

8.38. The Defendant considered it notable, in particular, that during the communications identified at paragraphs 8.36.1 – 8.36.3 above, the Claimant:

8.38.1. appeared keen to downplay his involvement in the January 2010 Agreement;

8.38.2. admitted to Mr Bilton that he had, during the negotiations of the January 2010 Agreement, advised Telia not to eliminate the role of the local partner, as doing so would leave them without "*skin in the game*" and thereby leave Telia exposed; and

8.38.3. denied having:

8.38.3.1. seen the Board Memo;

8.38.3.2. known that the January 2010 Agreement was with a Gibraltar-based company called Takilant;

8.38.3.3. been asked to negotiate with and be involved in drafting correspondence to Karimova's representative;

8.38.3.4. been involved in the "*shareholding arrangements entered into"* with Takilant; and

8.38.3.5. participated in any negotiations with "*[Telia's] partners or others*".

8.39. The Team considered the denials by the Claimant of the matters set out at paragraph 8.38.3 above to be false and/or misleading as they were contradicted by the contemporaneous evidence considered by the Team.

8.40. As to the Right of Reply Letter, the Defendant will say that the Team provided the Claimant with sufficient time to respond, and afforded the Claimant a fair and

reasonable right of reply opportunity to the allegations it was considering including in the Programme and the Article, including so as to further inform its understanding of his position.

8.41. Regarding the Claimant's response of 30 September 2021, the Team noted in particular that it:

8.41.1. failed to address several key issues raised in the Right of Reply Letter, including:

8.41.1.1. Avakyan being a front for Karimova;

8.41.1.2. Akhmedov having been publicly linked to Karimova several years prior to the January 2010 Agreement;

8.41.1.3. the "*good political connections*" reference in the Board Memo; and

8.41.1.4. the Board Memo's reference to Takilant assisting in providing services normally provided through the State;

8.41.2. described the Claimant as being, prior to commencing work for Telia, "*one of, if not the premier, M&A advisors in the emerging markets telecommunications space*"; and

8.41.3. confirmed that the Claimant had received approximately US$65M from Telia, thereby reinforcing the Defendant's strong belief that he was the "Mr XY" identified in the NRF Review findings.

8.42. In respect of the above communications, the Claimant's solicitors' description of his having been "*one of, if not the premier, M&A advisors in the emerging markets telecommunications space*" prior to commencing work for Telia, and what appeared to the Team to be efforts by the Claimant to evade discussion of, downplay or mislead as to his involvement in the January 2010 Agreement, reinforced the Team in its belief that it was likely that the Claimant knew, or ought to have known, that that agreement was corrupt.

The Programme and the Article

8.43. Prior to the publication of the Programme and the Article, the Team considered all of the available evidence, including the Claimant's communications and

responses as set out above, and made such checks as were reasonable in all the circumstances.

8.44. The Programme:

8.44.1. was serious and measured in its tone;

8.44.2. situated, from the very beginning, the allegations against the Claimant in the wider context of (a) concerns around the absence of any legal requirement on political parties to return donations in circumstances where the provenance of a donor's money gives rise to serious concerns, and (b) attendant concerns, in circumstances where political donations could and can secure political access and influence, regarding the wider implications of that absence for the UK political system and British democracy generally;

8.44.3. in respect of the Claimant, who was one of several political donors featured in the Programme, set out what the Defendant considered to be a reasonable precis of the matters it had ascertained from its investigation;

8.44.4. included a reasonable summary of the relevant responses made on the Claimant's behalf to the allegations presented to him during the right of reply process;

8.44.5. was the product of the Defendant's taking reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to the Claimant;

8.44.6. was, in light of paragraph 8.40 above, not unfair to the Claimant;

8.44.7. was intended to convey the meaning that there were good grounds to suspect that the Claimant knew or ought to have known that the January 2010 Agreement amounted to a bribe to Karimova and that this was reinforced by the NRF findings in relation to the other countries where the Claimant had worked for Telia.

8.45. The Article:

8.45.1. emanated as a news write-off from the Programme, and was the product of a separate process involving the BBC News team and the Team;

8.45.2. was written and edited by members of the BBC News team, with input from Mr Oliver, Mr Head and Ms Wightman;

8.45.3. set out what the Defendant considered to be a reasonable precis of the matters it had ascertained from its investigation;

8.45.4. was serious and measured in its tone;

8.45.5. included a reasonable summary of the relevant responses made on the Claimant's behalf to the allegations presented to him during the right of reply process;

8.45.6. was the product of the Defendant taking reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to the Claimant;

8.45.7. was, in light of paragraph 8.40 above, not unfair to the Claimant;

8.45.8. clearly and directly set out the Claimant's denial of any wrongdoing in its fourth paragraph;

8.45.9. situated the allegations against the Claimant in the wider context of concerns around the absence of any legal requirement on political parties to return donations in circumstances where the provenance of a donor's money gave rise to serious concerns;

8.45.10. identified the key documents and information on which the allegations against the Claimant were based; and

8.45.11. was intended to convey the meaning that there were good grounds to suspect that the Claimant knew or ought to have known that the January 2010 Agreement amounted to a bribe to Karimova, and that there were good grounds to suspect that substantial payments from Telia to the Claimant were used by him to improperly acquire commercial advantages for the company, which ultimately led to his relationship with Telia being terminated.

Compliance with relevant privacy codes

8.46. The right of reply process afforded to the Claimant prior to publication (as pleaded at paragraph 8.36.4 and 8.40 above) complied with the relevant BBC Editorial Guidelines, namely those at 6.3.38 – 6.3.40, and the requirements of fairness under the Ofcom Broadcasting Code (the **"Broadcasting Code**").

8.47. Additionally, the content of the Article complied with the BBC Editorial Guidelines, and the content of the Programme complied with the BBC Editorial Guidelines and the Broadcasting Code. The BBC Editorial Guidelines and the Broadcasting Code are relevant privacy codes for the purpose of s.12(4)(b) of the Human Rights Act 1998.

8.48. In support of its contention that the Programme complied with the requirements of fairness under the Broadcasting Code, the Defendant will also rely on the findings expressed in Ofcom's Preliminary View dated 30 August 2022 (the "**Preliminary View**"), which rejected the Claimant's complaint under the Broadcasting Code. The Preliminary View followed detailed submissions made by solicitors for the Claimant and the Defendant.

Continuing belief that publication in the public interest

8.49. In so far as the Claimant complains of publication of the Programme from when it was first published on 4 October 2021 until it ceased to be available on the BBC iPlayer, and thereby ceased to be published, on 4 October 2022 (or 9 October 2022 for the signed version), the Defendant relies on the following further matters:

8.49.1. the contents of the Claimant's complaints to Ofcom, which the Team reasonably believes do not provide an adequate or candid explanation of his involvement in Telia's dealings in Uzbekistan;

8.49.2. the mutually irreconcilable explanations provided by the Claimant regarding his work for Telia in Kazakhstan in his solicitors' letter to the Defendant and *The Guardian* dated 30 September 2021 and his solicitors' letter to NRF dated 18 March 2022. In this regard:

8.49.2.1. on 30 September 2021, the Claimant's solicitors stated on behalf of the Claimant that "*the $30 million fee paid by Telia was not, as you suggest, a payment for our client to "counter" the "hostile environment" in Kazakhstan*…"; and

8.49.2.2. on 18 March 2022, the Claimant told NRF that "*In 2012, after working for five years trying to protect Kcell from attacks (as Telia's controlling rights were at risk of being transferred to Kazakh Telecom), our client was paid a $30 million success fee for this work.*"

8.49.3. the Team's belief that the Claimant has, since 4 September 2021, failed to provide any meaningful, let alone adequate, explanation for why he did not consider the involvement of Akhmedov in the January 2010 Agreement negotiations to be a major indicator of highly suspicious conduct. The Claimant knew Akhmedov to be the CEO of Telia's main rival in Uzbekistan and that such commercially sensitive discussions with such a figure would be considered highly irregular by experienced telecoms experts;

8.49.4. the Team's belief that the Claimant has, in communications with the Defendant dated 11 and 14 September 2021 and with *The Guardian* dated 16 September 2021, falsely asserted that Q-Tel's attempt to purchase MCT, on which he claimed to have advised, did not proceed because the bid was too low for the vendors. In fact, as the Claimant evidently knew, the Q-Tel bid proceeded all the way to closing, but was ultimately thwarted by hostile political interference;

8.49.5. the fact that, as the Team learned through the Claimant's Ofcom complaint process, the Claimant's solicitors on 18 March 2022 sent a letter to NRF in which the Claimant effectively admitted that he was the *"Mr XY*" referred to in the NRF Review findings; and

8.49.6. the Preliminary View expressed by Ofcom that the Programme complied with the Broadcasting Code's requirements of fairness towards the Claimant.

8.50. In so far as the Claimant complains of continuing publication since the first publication of the Article on 4 October 2021, the Defendant relies on the following further matters:

8.50.1. the matters identified above at paragraphs 8.49.1 – 8.49.6;

8.50.2. the Defendant's update to the Article following receipt of the Claimant's letter of claim dated 28 November 2022, to indicate that the Article was the subject of a legal complaint from the Claimant who asserted that its contents were false and defamatory of him;

8.50.3. the Team's learning, in September 2023, that the Claimant had in early April 2006 attended a meeting in Dubai with: Richard Seney, then-CEO of a telecoms company, MCT Corp. ("**MCT**"), which then owned Coscom; the investment bank Lazard; Etisalat, a major telecoms company; and Istithmar, a UAE Sovereign Wealth Fund. The source of this information was Mr Seney, who told the Team that during the meeting, the Claimant had made it clear that in his experience MCT could face problems from the Uzbek authorities and specifically Karimova in the sale of MCT / Coscom. The impression that Mr Seney took from this was that such "problems" would involve MCT having to deal with Karimova and getting her to go along with the sale. Based on Mr Seney's account, the Team: (a) understand the Claimant to have been referring to Karimova; and (b) believe the Claimant to have been revealing his knowledge of Karimova's role as a gatekeeper to the Uzbek telecoms market who needed to be engaged, including, potentially, through bribes;

8.50.4. information coming to the Team's attention in 2023 as to Telia's use of complex corporate deal structuring in other jurisdictions such as Kazakhstan and Nepal and on which the Claimant advised Telia; and

8.50.5. the Team learning, in late February 2024, of statements made by the Claimant to, and published in the book *Cuckooland: Where the Rich Own the Truth* by the journalist Tom Burgis, to the effect that (among other things): (a) the Claimant considered jurisdictions such as Russia, Uzbekistan, Kazakhstan and Nepal to be inherently corrupt; (b) wholly honest and transparent local interlocutors in emerging market transactions did not exist, thereby necessitating the making of "*value judgments on whether this is reputationally harming or… what you would expect anyway in a country like this…*"; and (c) the Claimant would only desist from working with suspectedly corrupt individuals or companies if there was "*100 per cent categorical proof of corruption*".

Damages and Relief

9. Save that it is admitted that the Defendant has continued to publish the Article following receipt of a legal complaint from the Claimant on 28 November 2022 (albeit in amended form, as to which see paragraph 8.50.2 above) and that the Defendant has not offered any form of apology or retraction to the Claimant, paragraphs 8, 9 and 10 are denied. It is denied that the Claimant is entitled to damages or any relief whether as alleged or at all.

10. Without prejudice to the generality of the foregoing:

10.1. As to paragraphs 9(1) and 9(2), paragraph 6 above is repeated.

10.2. As to paragraph 9(3), the Defendant did not make false claims that the Claimant's name appeared in the Pandora Papers. Save that paragraphs 8.6 to 8.8 above are repeated, it would not be proportionate for this issue to be tried.

10.3. As to paragraph 9(4)(a), the Defendant did not engage in an unjustifiable delay or obstructive conduct in dealing with the Claimant's complaint about the Programme to the Defendant or Ofcom. In fact, the Defendant provided detailed and constructive engagement with the Claimant's complaint to Ofcom, which led to Ofcom reaching the Provisional View that the Programme complied with the Broadcasting Code's requirements of fairness to the Claimant.

10.4. As to paragraph 9(4)(c), the Defendant did not continue to publish the Programme after it received a legal complaint from the Claimant. The Claimant only made a legal complaint to the Defendant about the Programme after it ceased to be made available on iPlayer. There was no legal or editorial obligation on the Defendant to remove the Programme from continuing availability following an Ofcom complaint from the Claimant, even more so since the Provisional View of Ofcom was that the complaint was unmerited. Indeed, were the Defendant to have removed the Programme from continued availability simply on the basis of an editorial complaint from the Claimant, that would have represented an unjustified and unwarranted infringement of its own Article 10 ECHR rights and the Article 10 ECHR rights of its audience.

10.5. As to paragraph 9(4)(d), this amounts to a bare plea of malice without any supporting particulars. It is accordingly embarrassing and liable to be struck out if not withdrawn by the Claimant. The Defendant therefore declines to plea to it,

save to deny it and to aver that the assertion that the Defendant failed to provide the Claimant with the information necessary to enable him to respond in an informed manner prior to publication is unsustainable in light of (i) the facts and matters set out at paragraphs 8.36.4 and 8.40 above and (ii) Ofcom's conclusions on this very issue in the Provisional View.

10.6. Paragraph 6.5 above is repeated in respect of any republication of the words complained of.

11. Further, if and in so far as may be necessary, the Defendant will rely in mitigation of damages on the following facts and matters:

11.1. such of the facts and matters pleaded at paragraph 7 above as are proved at trial;

11.2. the Claimant's inordinate delay in bringing these proceedings. Paragraph 6.11 above is repeated.

12. By reason of the matters pleaded above, it is denied that the Claimant is entitled to the relief sought and/or that it would be necessary and proportionate to grant the relief sought against the Defendant.

CATRIN EVANS KC
JONATHAN SCHERBEL-BALL
LUKE BROWNE

STATEMENT OF TRUTH

The Defendant believes that the facts stated in this statement of case are true. I understand that proceedings for contempt of court may be brought against anyone who makes, or causes to be made, a false statement in a document verified by a statement of truth without an honest belief in its truth.

Jim Gray, Deputy Head of Current Affairs, British Broadcasting Corporation
Date: 22 May 2024