



**COMMISSION OF INQUIRY INTO THE CFMEU AND MISCONDUCT IN
THE CONSTRUCTION INDUSTRY**

**COMMISSIONED UNDER THE PROVISIONS OF THE
COMMISSIONS OF INQUIRY ACT 1950**

**PUBLIC HEARING
BRISBANE MAGISTRATES COURT**

**THURSDAY, 18 JUNE 2026
AT 9.00 AM**

DAY 34

APPEARANCES

**Mr S Wood AM KC - Commissioner
Mr A Meagher KC - Counsel Assisting
Mr J Donnelly - Counsel Assisting
Mr D de Jersey KC - Counsel for the State of Queensland
Ms M Brooks - Counsel for the State of Queensland
Mr C O'Grady KC - Counsel for the CFMEU Administration
Ms F Fox - Counsel for the CFMEU Administration
Mr H Clift - Counsel for the CEPU, ETUQ, PGEUQ
Mr Federico Varese - Witness
Mr Paolo Campana - Witness**

<THE HEARING RESUMED AT 9.00 AM

COMMISSIONER: The appearances are the same as yesterday, except that Mr Massy's not here for Mr Ravbar and Mr Lowth. Otherwise, they're the same. Mr Meagher.

MR MEAGHER: Thank you, Commissioner. You should have had provided to you this morning a supplementary bundle of authorities, which is brief, and you'll also have some witness bundles and some further bundles called report references for those witness bundles. And I can tender them through the witnesses or I can do it now, subject to your preference.

COMMISSIONER: I've got the authorities. What was the other thing?

MR MEAGHER: The first is the witness bundle of Professor Federico Varese.

COMMISSIONER: And you want to tender them in the absence of the witness or through the witness?

MR MEAGHER: Unless there's any objection, if I can just tender them now, because it will make it easier.

COMMISSIONER: Any objection to that course? No?

MR O'GRADY: No, Commissioner.

COMMISSIONER: Very well.

MR MEAGHER: So if it's convenient, Commissioner, if we can start with the witness bundle of Professor Federico Varese dated 18 June 2026, being a bundle of 1,762 pages. I tender that.

COMMISSIONER: What is it? It's an opinion of 11 June, and how many attachments?

MR MEAGHER: 32. And they include the documents the expert was briefed with, including the letter of instructions, a supplementary letter of instruction, and in addition the witness's curriculum vitae.

COMMISSIONER: Expert opinion of Professor Federico Varese, 11 June 2026, 22 pages, and an additional 1740 pages in 32 attachments, will be exhibit FM-6.

<EXHIBIT FM-6 EXPERT OPINION OF PROFESSOR FEDERICO VARESE, 11/6/2026, 22 PAGES, AND AN ADDITIONAL 1740 PAGES IN 32 ATTACHMENTS

5 **MR MEAGHER:** Then with - the next one goes with that. It's called Report References Witness Bundle Professor Federico Varese, 18 June 2026. That's a document of 652 pages, containing journal articles, reports, books, government documents, case law and media articles that Professor Varese has referred to in his opinion.

COMMISSIONER: What's it called, sorry?

10 **MR MEAGHER:** That's called Report References - Professor Federico Varese, I think would be the easiest description.

15 **COMMISSIONER:** I don't seem to have a folder with that name. I'm told I don't have a folder that's labelled in that way because I don't have a printed copy of that exhibit. So tell me what it is.

MR MEAGHER: It's report references to Professor Federico Varese's opinion of 652 pages, and it contains secondary sources that the professor has referred to in providing his opinion.

20 **COMMISSIONER:** And it's up on the screen now?

MR MEAGHER: Yes.

25 **COMMISSIONER:** Have the other parties been given a copy of this document?

MR MEAGHER: Yes.

30 **COMMISSIONER:** Is there any objection to the tender? Bundle of report references to Professor Federico Varese's expert opinion, comprising - how many?

MR MEAGHER: 652.

COMMISSIONER: How many reports?

35 **MR MEAGHER:** 19.

COMMISSIONER: Comprising 19 reports over 652 pages will be exhibit FM-7.

40 **<EXHIBIT FM-7 BUNDLE OF REPORT REFERENCES TO PROFESSOR FEDERICO VARESE'S EXPERT OPINION COMPRISING 19 REPORTS OVER 652 PAGES**

45 **MR MEAGHER:** Yes. Next is a folder which is titled Witness Bundle - Professor Paolo Campana. This contains the opinion of Professor Campana, and 31 documents, being the documents that Professor Campana was briefed with, along with a letter of instructions and supplementary letter of instructions, and the bundle is 1,775 pages long. And the report, I should say, is dated 13 June 2026.

COMMISSIONER: 31 attachments, did you say?

MR MEAGHER: Yes.

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COMMISSIONER: Is there any objection to the tender of Professor Campana's report?

MR O'GRADY: No, Commissioner.

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COMMISSIONER: Independent expert report of Professor Paolo Campana, 13 June 2026, comprising 25-page report with 31 attachments, stretching over an additional 1150 pages, will be exhibit FM-8.

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<EXHIBIT FM-8 INDEPENDENT EXPERT REPORT OF PROFESSOR PAOLO CAMPANA, 13/6/2026, COMPRISING 25-PAGE REPORT WITH 31 ATTACHMENTS, STRETCHING OVER AN ADDITIONAL 1150 PAGES

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MR MEAGHER: And then electronically, I believe you should have, Commissioner, the report references to that opinion. Mr Operator, could I ask you to bring that up. This is a document of a bundle of 1,808 pages, and if you go to the index, Mr Operator, you can see here, Commissioner, there are secondary sources that are relied on in the opinion of Professor Campana, and there are 37 of them, and I tender that.

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COMMISSIONER: There's no objection? 37 references stretching over 1,108 pages to the -

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MR MEAGHER: The page number is 1,808, Commissioner.

COMMISSIONER: Stretching over 1,808 pages to the independent expert report of Professor Paolo Campana will be exhibit FM-9.

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<EXHIBIT FM-9 37 REFERENCES STRETCHING OVER 1,108 PAGES TO INDEPENDENT EXPERT REPORT OF PROFESSOR PAOLO CAMPANA

COMMISSIONER: Thank you.

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MR MEAGHER: Thank you, Commissioner. By way of very brief introduction before I call the experts, the purpose of today and the reason that you are going to hear this evidence is because it relates to two matters relevant to the financial misconduct inquiries. The first is it's relevant to the purpose for which the CFMEU gathered moneys, and that's a matter that goes to the heart of whether or not the CFM should properly have paid tax. And just to give one example of that, Mr Operator, could you bring up the supplementary authorities bundle at page 37. This is the

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Income Tax Assessment Act 1997, section 50-15, and could I ask you to enlarge that section, please, Mr Operator, and it goes over the page.

You see here at item 3.1, Commissioner, there's an exemption for an employee association or employer association, and on the right-hand side, under Special Conditions, the special conditions are set out. And most particularly, in item 3.2, over the page, "trade union", you see the requirements under special conditions, and I draw your attention to (c), that is, the exemption only applies if the trade union applies its income and assets solely for the purpose for which the trade union is established. Now, the relevance of the evidence you're going to hear today is to - it's useful in illuminating by analysis -

COMMISSIONER: I think it's actually 3.1. I think the organisations we are concerned with are employee associations, not trade unions. I think a trade union is defined as something that's not registered under the Fair Work - no, the trade union would be the state registered union, and the federally registered union would be an employee association. It doesn't really matter, because they -

MR MEAGHER: They work the same way.

COMMISSIONER: - they work the same way.

MR MEAGHER: So 3.1(d) and 3.2, relevant to the state registered body.

COMMISSIONER: Yes.

MR MEAGHER: The relevance of this evidence is that it provides a theoretical framework, grounded in study of actual events over decades by pre-eminent experts in the world as to what an organisation such as this, with the circumstances that we know about, is actually doing, namely, it provides an analytical framework to identify what the purpose of gathering moneys by the CFMEU executive was. Now, there of course might be more than one purpose, but if I could ask for FM-4 to be displayed on page -

COMMISSIONER: I've never heard of this argument before, Mr Meagher. There have been arguments made for decades that trade unions and employer organisations should be subject to the income tax regime for reasons of fairness, that they have moved beyond the charitable status which they were originally given when they were starting out and have become substantial businesses in their own right, but I don't think I've ever heard this argument that the exemptions - that is, the exemptions should be removed completely. I don't ever think I've heard the argument that the exemption should remain, but in a particular example, there is evidence that a trade union has not applied its income and assets solely for the purpose for which the association is established. I might be wrong, but has that argument ever been raised before to your knowledge?

MR MEAGHER: Not that I'm aware of, but that's what we're interested in inquiring into in part. It also goes to other provisions, which I'll come to in a moment. I'm not going to take you to them; I'll just describe them broadly so that it's clear why we're

calling this evidence today. If FM-4 could be displayed on the screen. It's the aide-mémoire, the diagram from yesterday. And this is the diagram by way of aide-mémoire demonstrating in approximate terms annual recurring revenue realised by the CFMEU in the 2025 year predominantly. And in this structure, we identified
5 yesterday various corporations and trusts, charitable trusts, and those entities are controlled by, in several cases, officers of the executive of the union.

Now, that means that those entities have the knowledge, as a matter of law, of those officers, and that becomes relevant in trust law, in corporations law and in
10 competition law when one looks to the purpose for which these entities were distributing moneys. So I don't want to -

COMMISSIONER: You'll just have to explain that to me. You're saying because of the overlapping directorships -

15 **MR MEAGHER:** Yes.

COMMISSIONER: - the knowledge of - I'll just use an example - Mr Ravbar and Mr Ingham can be attributed to the - to who? To the union?

20 **MR MEAGHER:** To the entities depicted there. So, for example, if one of those officers is also an officer of one of the entities that is distributing to the union, so if you took, for example, the BERT entities or Future Skills, wherever there's a correlation in officeholdings, the knowledge of those officers as a matter of law is attributed to them. And that becomes relevant because, for example, a charity can
25 only distribute in accordance with its objects for charitable purposes, but if in truth the charity knew the purpose was not charitable, it would become taxable. It might also be a breach of other laws, and I just mention in passing corporations law, competition law and trust law, but I don't want to descend into the detail, because I
30 would like to call the experts.

The second reason for calling this evidence from the experts is a pragmatic one. They have practical experience, most particularly Professor Campana, in advising the metropolitan police in London, successfully, how to come up with a diagnostic tool
35 that overcame the problem created by the fear of reprisals with people not giving evidence and not informing. And we'll come to this, but the tool that primarily Professor Campana, along with Professor Varese and another scholar, designed identified 67 gangs operating in London that until that time were not -

40 **COMMISSIONER:** Gains or gangs?

MR MEAGHER: Gangs. But they were organised gangs. Now, that's a different context, admittedly, but the point is fear of reprisal was relevant in that context, and fear of reprisal is known in this Commission and in previous Commissions to be a
45 problem with obtaining evidence. So those are the two purposes, and with that in mind, if I can call, first of all, Professor Campana, who's on the screen.

<PAOLO CAMPANA, AFFIRMED

COMMISSIONER: Thank you, Professor. Mr Meagher will ask you some questions now.

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MR MEAGHER: I'm going to call the other expert at the same time, Commissioner, if you're content with that, because I think it will be better if I can do it in that way.

COMMISSIONER: Can our IT system handle this?

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MR MEAGHER: Yes. So I call Professor Federico Varese.

<FEDERICO VARESE, AFFIRMED

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<EXAMINATION BY MR MEAGHER

MR MEAGHER: Professor Varese, do you have your opinion in front of you?

PROF VARESE: Yes, I do.

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MR MEAGHER: And could you go to page 1 of that opinion, which is on page 5 of FM-6 for the Commission.

PROF VARESE: Yes.

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MR MEAGHER: And Professor Varese, here, you set out your expertise, and it's correct, is it not, that you're currently a professor of sociology at Sciences Po in Paris and you were formerly a professor of criminology at the University of Oxford?

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PROF VARESE: Yes, it's correct.

MR MEAGHER: And indeed, it's correct, isn't it, that you're the director of the Extra-legal Governance Institute?

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PROF VARESE: Yes.

MR MEAGHER: And you have taught and researched organised crime, corruption and criminal governance for more than three decades?

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PROF VARESE: Yes.

MR MEAGHER: And, indeed, you're the principal investigator on a European Research Council Advanced Grant for the study of criminal governance?

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PROF VARESE: Yes, it's correct.

MR MEAGHER: And, indeed, you have published over 80 peer-reviewed articles and book chapters and books, including on the Russian Mafia; *Mafias on the Move: How Organised Crime Conquered New Territories*, published by Princeton University Press; and *Mafia Life*, published by Oxford University Press?

5

PROF VARESE: Yes, it's correct.

MR MEAGHER: And indeed, you've also edited various journals such as *Organised Crime*, *Global Crime* and the *British Journal of Criminology*?

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PROF VARESE: So I edited a full volume reference collection called *Organised Crime*, and also I'm a former editor of *Global Crime* and served as editorial committee of *British Journal of Criminology*. That's correct.

15 **MR MEAGHER:** Yes. You have a doctorate from Oxford University, a master of philosophy from Cambridge University, and a laureate from Bologna University?

PROF VARESE: Yeah, that's correct.

20 **MR MEAGHER:** And you've been a visiting professor at Yale University and the University of Milan?

PROF VARESE: Yes.

25 **MR MEAGHER:** And, indeed, you've provided expert evidence to the Italian Parliamentary Anti-Mafia Commission and your work has been cited by the European Court of Human Rights?

PROF VARESE: Yes, that's correct.

30

MR MEAGHER: Thank you. In paragraph 16 and 17 of your report, you make clear that you're relying on the matters you were instructed with, and in providing your opinion you are not making any comment that what is alleged in newspaper articles and materials you've been provided with is true, but for the -

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PROF VARESE: Yes, it's true.

MR MEAGHER: But for the purpose of providing your opinion, you effectively assume that those allegations may be true?

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PROF VARESE: Yes, these allegations may be true, but I don't know.

MR MEAGHER: Yes. Very well. And I'm just going to do the same exercise with Professor Campana, Commissioner, so the Commission understands the qualities of the witnesses it's hearing from.

45

PROF CAMPANA: Yes.

MR MEAGHER: Could Professor Campana's FM-8 be displayed, please. And Professor Campana, if you have your report in front of you, could you just -

5 **PROF CAMPANA:** Yes.

MR MEAGHER: Thank you. And that commences on page 4 or 5 of that bundle. And Professor Campana, it's correct, isn't it, that you're a professor at Cambridge University in the Institute of Criminology?

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PROF CAMPANA: Yes, that's correct.

MR MEAGHER: And you're the director of the Violence Research Centre at Cambridge University?

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PROF CAMPANA: Yes, that's correct. Institute of Criminology, Cambridge University, correct.

MR MEAGHER: And you've researched organised crime, criminal governance, illegal markets and violence for more than 20 years?

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PROF CAMPANA: Yeah, that's correct.

MR MEAGHER: You've authored over 30 academic papers, eight book chapters, 12 non-peer reviewed publications, including policy reports and practitioners' briefs?

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COMMISSIONER: I think it would be useful, Mr Meagher, to tell the operator where to go to, so we can just follow this.

MR MEAGHER: Could you go to paragraph 2.1, please, Mr Operator, on page 6. And it goes over the page. And your work has been translated into various other languages, including Chinese, French and Italian?

30

PROF CAMPANA: Yes, that's correct.

35

MR MEAGHER: You are the current editor of the Clarendon Studies in Criminology, published By Oxford University Press, and you sit on the editorial board of Criminology and the British Journal of Criminology?

PROF CAMPANA: Yes, that's correct.

40

MR MEAGHER: You have also acted as an external expert for a number of international organisations, including the Council of Europe and the United Nations Office on Drugs and Crime?

45

PROF CAMPANA: Yes, that's correct.

MR MEAGHER: You've served on research and ethics committees, and more generally you've advised the Metropolitan Police of London?

5 **PROF CAMPANA:** I serve on the Research and Ethics Committee of the Metropolitan Police. I - I didn't have a formal advisory - this is an advisory role in a sense, but it's as part of this Research and Ethics Committee of the Metropolitan Police London.

10 **MR MEAGHER:** Yes. And Mr Operator, could you go to paragraph 1.1 on page 6, please. And you also effectively advised the Metropolitan Police of London in respect of the matters reflected in this article, did you not, the criminal -

15 **PROF CAMPANA:** Well, this article is an academic article, is an academic paper, so it was done independently of the Metropolitan Police.

MR MEAGHER: I see.

20 **PROF CAMPANA:** It was not commissioned by the Metropolitan Police. It was independently carried out by the research team, myself, Professor Varese and Dr Meneghini.

MR MEAGHER: Yes.

25 **PROF CAMPANA:** So it's our findings and our approach.

MR MEAGHER: Yes. But the implementation of the study occurred with the use of the Metropolitan Police, did it not?

30 **PROF CAMPANA:** Yes. So the study collected data through a survey that was administered to police officers with the Metropolitan Police. That's correct.

35 **MR MEAGHER:** And then, Mr Operator, if you can just show a normal view of that page. In paragraph 1.3 of your report, Professor Campana, you also make it clear that you're not making - you're not offering any opinion as to the truth of the allegations contained in the materials that you've been briefed with, but you do rely on them to provide an opinion. That's correct?

PROF CAMPANA: That is correct.

40 **MR MEAGHER:** Very well. Mr Operator, could you go back to FM-6, please, Professor Varese's report. And could you on page 7 of the bundle, so looking at paragraph 19 of your report, Professor Varese.

45 **PROF VARESE:** Yes.

MR MEAGHER: Here, we asked you a question about an article you wrote, Introduction to Special Issue, Production Trade and Governance: A New Definition

of Organised Crime, published in 2025, and you discuss in that article "governance-organised crime business models". They're our words, not yours, but that's a fair description?

5 **PROF VARESE:** Yes, yes, I discussed that topic in my article.

MR MEAGHER: And then in paragraph 20 we provided our understanding of what governance organised criminals - what you mean by the use of that expression. And then, Mr Operator, can I ask you to go to the next page, being page 8 of the bundle,
10 and if you show question 1, and you'll see this just above paragraph 22 of your report, Professor Varese. We asked you in question 1:

"Please describe and explain what governance organised criminals are, and specifically how they establish themselves and operate in respect of labour
15 racketeering alone and labour racketeering and dispute settlement, protection against competition, intimidation of lawful right holders, debt recovery and the enforcement of cartel agreements."

And I'd like now you to ask you to speak to your report, bearing in mind that the
20 audience that's listening to it can't necessarily see your report, so if there's some particular paragraph that you would like to draw attention to, please mention it and the operator will bring it up on the screen.

PROF VARESE: So you want me to summarise my answer, right?
25

MR MEAGHER: Yes.

PROF VARESE: Yes. Well, thank you for the question. So my work has been devoted to trying to give some substance to the concept of organised crime, which I
30 find too vague and too broad. So in the answer that you kindly cited, I distinguish between three types of activities that organised criminal groups that operate consistently over a long period of time do. So these kinds of activities are production of illegal goods and services; trading, so moving goods from one place to another; and governance.
35

COMMISSIONER: Professor Varese, I just wonder if you could slow down a bit. It might be our IT system, but it's just a bit hard to follow you. Perhaps you just go a bit more slowly. You said three types of activities?

40 **PROF VARESE:** Okay. Yes. I - I understand. I will go slowly. Yes. I tried to distinguish, within the realm of organised crime, three types of activities. One activity is the production of goods and services, the illegal production of foods and services. A second activity, which is usually done by different groups, is to move the goods from one place to another, which I called trade. The third activity, which is the
45 most relevant for today's discussion, is governance. So governance is, as I say in the report, not just about production or trade, but is an attempt to govern territory of the market, and this is what mafias traditionally do, this is what some gangs also do, and

5 this is the work that I co-authored with Professor Campana in the journal article you mentioned before, about London. So also other organisations may be involved in trying to control a market or a territory through illegal means. My academic contribution is for me to distinguish these three activities, which I find it's a very important intellectual exercise to do so.

MR MEAGHER: In paragraph 23 of your report, Professor Varese -

10 **PROF VARESE:** Yes.

MR MEAGHER: - you speak to indicators of criminal governance, and can you explain that to the Commission, please.

15 **PROF VARESE:** Yes. Professor Campana and I have worked on an instrument which is a survey instrument that we have submitted to officials in the London Met, and we have asked them to identify whether a gang was involved in, and I quote from paragraph 23, was involved in generating fear, coercing legitimate businesses, influencing public officials, controlling markets and involvement in community affairs. So in our work, we conclude that when these elements are present, we can
20 say that such an organisation - it may be a mafia, it may be a gang, it may be another organisation - is exercising a governance function in a particular context, in a market or in a territory.

25 **MR MEAGHER:** And Mr Operator, can you go back to paragraph 22. And in the second half of it, or about a third of the way down, Professor Campana, you say "unlike production-orientated organised criminals", and then you go on to describe what governance organised criminal performs by way of functions and can you please explain that to the Commission?

30 **PROF CAMPANA:** Is that -

PROF VARESE: It's Professor Varese, yes.

35 **MR MEAGHER:** Professor Varese, sorry.

PROF VARESE: Yes. No, I do. So what I write in my report is that what governance is about is performing functions that are similar to those of a state. So ultimately, this entity decides who may enter in a market, decides who can be the contractor, decides how disputes are settled in the market, decides who can operate,
40 so who can trade. It also recovers debts and how various arrangements are enforced. So a distinctive ability of this group is to have the access to violence. So you cannot control a market, you can not exercise a governance function if somewhere along the line you cannot access violence, which is what I go on and discuss.

45 I also mention that violence is not the only instrument, it's not the only resource that these groups need. They also need to be able to collect information, and also they are usually getting in touch with officials in the local and national administration and the

police. As I conclude the paragraph, I mention the cases of traditional mafias, which I have discussed and studied in my book *Mafia Blind*, published in 2018, and also the article I published with Professor Campana about gangs. So I hope it was clear, governance is a very special function, it's actually not easy to do it, and it's about
5 controlling access by people who want to operate in a given context, in a given market. Hence, there is a quasi state function attached to governance.

MR MEAGHER: Mr Operator, can you please show Professor Varese paragraph 24 of his report. And can you speak to this, please, Professor Varese?

PROF VARESE: Yes. So in this paragraph, I actually distinguish two types of situation. So labour racketeering involving formally employed workers: organised crime of a government type exercise this function normally through capturing or influencing a trade union, union officials, shop stewards or other institutions that
15 control access to labour. Now, a classic example for those of us who study this topic is, of course, the ability of the Italian American Mafia, known as Cosa Nostra, to penetrate many trade unions in New York City in particular. This has been studied by several authors, such as the late James Jacobs, who was a professor at NYU. I also mention that there is another case, which is probably less relevant in this context
20 today, when workers operate in the formal economy, usually labour racketeering is done through gangmasters that bypass the union. I hope that was clear.

MR MEAGHER: Yes. And then can Professor Varese please be shown paragraphs 25 and 26 of his report, and can you please speak to these, Professor Varese.

PROF VARESE: Yes. Let me say first that the construction business or the market for construction is a typical market that is at great risk of being controlled by organised crime. Traditionally, it's happened in many, many places around the world. The reason is because construction is particularly vulnerable to the presence and the
30 penetration of governance-type organised crime. There are usually many firms that produce relatively undifferentiated products. The demand is inelastic, so it means that the price goes up a lot, the demand doesn't go down as much, that's what it means, inelastic product. They rely on labour intensive products, and it's characterised by low barrier to enter.

Also, paragraph 26 makes an additional point, which is very important, namely, a construction site is a physical place. It cannot move. So if there is an attempt to extort or intimidate workers on a construction site, the workers obviously cannot move to another site, because that's where the construction is. And that's very
40 specific to some businesses and not others.

MR MEAGHER: Now, can Professor Varese be shown paragraph 27, and here you discuss why unions are particularly attractive to organised criminals for this purpose, and can you please speak to paragraph 27.

PROF VARESE: Yes. So once the criminal group is embedded, it can use a union as a lawful-looking instrument through which to exercise this coercive power. The

union is a very useful instrument for organised crime, because it looks legitimate, and what the union can do, through the union, organised crime can basically bring the market to a standstill. It can threaten strikes, slowdowns, picketing, exclusion from work, or disrupt the supply in the subcontracts. So the unions also are at great risk of being penetrated, because they are particularly effective in making the work of governance-type organised crime effective. And the purpose of these activities by organised crime of a governance type is to exclude others from the market. And that, to me, is the key point, that what these groups are doing is to reduce competition, exclude the competitors and, of course, extract payments from employees.

MR MEAGHER: Now, towards the bottom of paragraph 27, you have a sentence that starts "Over time, the criminal groups" -

PROF VARESE: Yes.

MR MEAGHER: Can you speak to that sentence, please.

PROF VARESE: Yes. So what I say in that sentence is that as the penetration becomes long term, the risk is that the practice that is done by such a group becomes normalised, and so then the people adapt to the new situation, which becomes in a sense the new normal, that firms learn that labour peace is obtained only by accepting the conditions put by this group through the union, which are conditions that help avoid disruption for the construction site. But they are against competition law and against the rule of law in general.

MR MEAGHER: Now, can Professor Varese be shown paragraph 29 of his report, please. And this goes over the page. This concept you address here, Professor Varese, that the activity of labour racketeering should be understood in a broad sense, can you explain that to the Commission?

PROF VARESE: Yes. With pleasure. So the point of labour racketeering is to ensure employment only for those who are supported by the union. So they protect the workers against competitions from non-unionised workers or workers that belong to a different union. So that is what labour racketeering does in a particular segment of the construction market or any market where there is labour. But then, of course, a governance-type organised crime group goes beyond labour racketeering and is involved in bid rigging and creating cartels agreement.

So bid rigging is a way to make sure that companies who are competing do not compete for the bid, and only one person or one company wins the bid, as I explain later in the paragraph, and cartel agreements is a way to ensure that these companies get together and make sure that there is no competition in any other aspect of the market, not just the bid, from a public conduct. And so these two elements - bid riggings, cartel agreements - help to control the entire aspects of the market, every element of it.

MR MEAGHER: Can Professor Varese be shown paragraph 30 of his report, please. And Professor Varese, can you speak to this, please.

5 **PROF VARESE:** Yes. So once labour racketeering has been established, the union can become the institutional foundation of a broader system of criminal governance. So the same organisation that controls access to labour and decides who can work ultimately, it can also do quasi state functions, such as settling disputes, recovering debts and exclude competition, competitors, intimidate lawful right holders, enforce the bid rigging and cartel agreements. So the union who acts as a governance-type
10 institution then grows out of just being involved in labour racketeering to control the entire market, and that of course is extremely negative.

MR MEAGHER: And can Professor Varese be shown paragraph 31, please. In this paragraph, you arrive - or towards the bottom, you've arrived at the conclusion:

15 "In such cases, the union ceases to be merely a representative organisation and becomes an instrument through which the governance-organised crime regulates economic activity."

20 To explain that, do you need to add to what you've already said, or have you already effectively explained it?

PROF VARESE: I suppose what I may add is that these activities that I've been describing constitute individual crimes, but the broader aspect which concerns me
25 and my work is that criminal governance goes beyond individual criminal crimes and refers to the control of the entire market, which now becomes under the control of organised crime and outside control of legitimate entities. So beside the individual crimes, there is also collective outcome, which is very negative for society.

30 **MR MEAGHER:** Now, Mr Operator, can you just show page 12 of the report, please. And here, Professor, you say at the commencement of paragraph 32 that it's worth clarifying there are at least three types of situations where an institution may engage in significant forms of illegality, but not all lead to criminal governance. And then you give three types or three situations in which that may occur, and could you
35 explain that to the Commission, please.

PROF VARESE: Yes, with pleasure. So as I was writing the report, I thought it was helpful to clarify that there are at least three types of situation that have been put in front of the court in the history of this market. So one traditional situation is what
40 happened in New York City, for instance, with the traditional mafia, which is a very strong organised crime group, independent and outside the union, that infiltrates a union, such as the teamsters, and controls the union, but the deciding power remains within Cosa Nostra, in the Italian-American Mafia. So this is one type of penetration of a trade union, which is a very traditional type and well known.

45 Then courts have also been faced with situations in which there is a lot of corruption inside a union. Now, this is a case in which the union is not trying to control the

market; it's simply led by corrupt officials. So that is a different kind of crime. The third scenario that I describe in case C, in paragraph 32, is one in which the criminal governance is supported, yes, by muscles, by external enforcers, but it's not that there is a mafia from the outside that penetrates the union. Ultimately, the union leadership
5 decides on its own, or elements within it, to exercise governance-type functions. And they might recruit thugs or muscle to do so, but it's not a wholesale penetration from the outside by an established well-known organised crime group. I hope it was clear.

MR MEAGHER: Yes. And Mr Operator, could you just expand case C, which runs
10 over the page. And in discussing - if you just enlarge case C, if that's possible. In discussing case C, Professor, you give an example from the United States where high-ranking officials, including a deputy chief of police, was arrested and charged with participating in a protection racket, and one of the points you make about that is that the relationship between police officers and traffickers had become
15 institutionalised rather than episodic, and you go on to explain why that is noteworthy, and this is in the context of your opinion that this perhaps might be relevant to the CFMEU, that this inquiry is looking into. And could you explain why that is of relevance?

PROF VARESE: Yes. So the case that I discuss, case C, with the example from the United States, from the Key West Police department case, is, in effect, a case in which this particular police department had become itself a mafia or an organised crime group. Without being penetrated by Cosa Nostra, they decided on their own to exercise protection activities towards a particular market, which happened to be drug
25 trafficking. So I think that's a case that explains the scenario C, namely, the organisation is corrupted, but it is not only corrupted, it also exercised governance functions within a particular market, and that is the case that might be relevant for today.

MR MEAGHER: And the very last sentence of that explanation, you say:

"From a governance perspective, the case illustrates how public institutions can themselves become vehicles for criminal governance."

MR MEAGHER: Do you mean by that that they are under the influence of the body, that is, in truth, exercising the governance function, or do you mean by that that they are choosing to do so because it's convenient for them?

PROF VARESE: Yes, they are choosing to do so because it's convenient for them. So they're not forced to do it by an external force. They independently choose to do so because it's convenient for them. That is the point I was trying to make here.

MR MEAGHER: And then just to conclude this discussion, can Professor Varese be shown paragraph 33, please. And can you speak to this, please, Professor.

PROF VARESE: So in a sense, this paragraph summarises the key point, that when we are faced with criminal governance of a market or a territory, we're not simply

5 talking about individual illegal activities. We're not simply talking about corruption or receiving illicit payments. What we're talking about is an entity that tries to exercise regulatory authority over a market or a community through the use of violence, ultimately, and of course in an unlawful way. And I think the Key West example that I cited speaks to that. So to me, that is the heart of the matter.

10 **MR MEAGHER:** Well, thank you. Now I'm going to go to Professor Campana on the same topic, but not in the same detail, Commissioner. So could Professor Campana be shown his report, please, commencing at paragraph 3.1, but I want to take Professor Campana to paragraph 3.3. That's on page 7. Sorry, Mr Operator. And Professor Campana, you were asked to provide an opinion on what criminal governance meant, and because we've heard from Professor Varese, I'm just going to focus on some additional matters that you identify, because it's correct, isn't it, that broadly you agree with Professor Varese in respect of his definition?

15 **PROF CAMPANA:** Yes, I do agree with Professor Varese's definition.

20 **MR MEAGHER:** So in paragraph 3.3, one of the things you identify is that unlawful regulation by these groups can extend beyond what might be thought to be crimes and involve social and political matters, and can you just expand upon that and explain to the Commission what you mean?

25 **PROF CAMPANA:** Yes. So we have an economic view of criminal governance, which is basically restricted to regulation - unlawful regulation and control of production and trade of goods and services in illegal markets. But in certain cases, certain instances, criminal governance organisation, criminal organisation involved in criminal governance, extend their reach beyond markets and include aspects of communities' social and political life, for instance by influencing decisions of public officials, influencing decision of elected politicians, the allocation of resources and access to services provided by legitimate authorities, as well as providing an alternative system of dispute resolution and enforcing a parallel system of justice. This is what we can describe as broader view of the domain of criminal governance.

35 **MR MEAGHER:** And is it correct to understand that their purpose in doing that is to obtain goodwill from the community, or does that misunderstand what you've said?

40 **PROF CAMPANA:** So in certain cases, these criminal organisations needs to establish themselves and be seen as legitimate organisations. So they would administer a parallel system of justice, also in order to - and in order to obtain goodwill from the community. In certain cases, criminal organisations might even provide certain goods and services. Once again, if I can expand on what is in this text, for instance, in cases, recent cases in France, we have seen criminal organisation providing books, pen and pencils to students in deprived areas in a city called Orange, which is halfway between Lyon and Marseille, exactly for this purpose: to build a reputation and to gain credit and support and legitimacy among the population.

MR MEAGHER: Can Professor Campana be shown paragraph 3.4 of his report, please. Here, Professor, you cite Thomas Schelling in respect of the Italian-American Mafia, and you provide some citations from his work where he said:

"It does not merely extend itself broadly but brooks no competition. It seeks not merely influence but exclusive influence."

Can you just expand upon the point that you've cited this to make?

PROF CAMPANA: Yes. So the economist Thomas Schelling, Nobel Prize winner, sat on a committee that examined the activities of the Italian-American Mafia. And in disagreement with other committee members, Thomas Schelling pointed out what I believe is an important contribution to the understanding of the Italian-American Mafia and mafia more generally. The contribution is the following: Thomas Schelling pointed out that what the Italian-American Mafia was doing was not just trading in illegal goods and services; it was trying to govern the markets in which the Italian-American Mafia was - the illegal markets which they were operating. So Thomas Schelling points out that the Italian-American Mafia was trying to acquire governing authority in the underworld.

Now, from this it follows that the Italian-American Mafia wanted to be the only governing authority of the underworld. Hence, they could not accept competition. They didn't want just to influence the activities; they wanted to set the rules. They wanted to have exclusive influence, meaning they wanted to be the only organisations that could set the rules about how certain illegal markets would work.

MR MEAGHER: Can Professor Campana be shown paragraph 3.5 and 3.6. And here you identify the sorts of activities that fall within the domain of criminal governance, and at the bottom of 3.6, you say there are two matters of particular relevance: the restriction of competition and labour racketeering. Can you just explain that to the Commission?

PROF CAMPANA: Yes. So criminal governance can take multiple forms, as Professor Varese has also pointed out. And in the paper that Professor Varese and myself have co-authored, based on the literature on organised crime and criminal governance, we have compiled a list - it is not exclusive - a list of forms in which criminal governance can manifest itself. You will see it in 3.5: protection against competition, enforcement of cartel agreements, settlement of disputes, labour racketeering, intimidation of workers and trade unionist, intimidation of lawful right-holders, protection against theft and police harassment, protection in relation to informally obtained credit and debt recovery, protection against extortion.

Now, 3.6 - in 3.6, I point out that, first of all, not all governance - not all organised crime groups that are involved in governance are involved in every one of these activities. So for an organised crime group to be a governance-organised crime group, it is not necessary that they have to be involved in all the activities. They can

be involved in some of these activities, and the mix varies across groups and across places, contexts.

5 The second point I make is that in the context of this inquiry, two types of governance are of particular interest. The first is the restriction of competition and the imposition of, for instance, suppliers and enforcing rules that keep certain companies out from the market, and the second is labour racketeering, understood in a broad sense, that includes labour racketeering, as Professor Varese described in the case of the Italian-American Mafia in the US, as well as intimidation of workers and
10 trade unionists.

MR MEAGHER: Thank you. Now, in paragraph 3.8, which goes over the page, you discuss a -

15 **COMMISSIONER:** Just go to 3.7, if you could.

MR MEAGHER: Sorry, Commissioner.

20 **COMMISSIONER:** This reference to - is it Professor Landesco, looking into organised crime in Chicago in the 20s?

PROF CAMPANA: Yes, that's correct. That is a seminal work on the organised crime in Chicago in the 1920s.

25 **COMMISSIONER:** Is that where this academic discipline stems from? Is it really from - is it Professor Landesco's work in the 20s in Chicago and everything's based on that?

30 **PROF CAMPANA:** It is fair to say that that work was seminal, and in that work, we can trace already many of the phenomena that we can see over the following decades. So the language might have changed - so we might use the term criminal governance now, which was not used back then - but it is an incredibly insightful and seminal work that has been - I would regard it as one of the main pillars of this stream of the literature.

35 **COMMISSIONER:** So this academic discipline that you and Professor Varese are specialists in stretches back about a hundred years or so?

40 **PROF CAMPANA:** That's correct, yes.

COMMISSIONER: Thank you.

45 **MR MEAGHER:** In paragraph 3.8, at the end of that paragraph, having given several examples globally from various parts of the world, you say the material is of particular significance for present purposes and it documents three distinct forms of control over the labour market, and then you give those three examples. Can you just explain those three examples?

PROF CAMPANA: Yes. So if we - so here there are three different ways in which the unlawful regulation of the labour market can materialise. In the first scenario, we have a Mafia organisation, a Mafia group, that directly intimidates workers and trade unionists and regulate the access to jobs. Now, there are various cases in the literature of this kind, from Sicily - Cosa Nostra in Sicily - to the Triads in Hong Kong, but I also specifically give in-depth evidence from a work that I did as part of my PhD on the Neapolitan Camorra group that was based in the outskirts of Naples. Now, in this specific scenario, we see a criminal group that intervened, for instance, when a trade union sought to negotiate improved working conditions and a wage increase in a concrete-supply firm, threatening industrial action.

So basically what happened in this case, the owner of the firm turned to the Mafia and asked the criminal group to intervene to resolve the problem with the union, and the way the problem was solved first was by sending a threatening message to the union member, and second, and after, the official, the union official, was shot in the legs, in a typical Mafia intimidation style. And these facts are established by court, so they are in the court judgment that was passed in 2005. According to the court judgment, the same Mafia boss intervened in several occasions when trade union protests had brought deliveries to a house. The same group intervened in hiring and firing employees in legitimate firms, as well as regulating access to jobs, and by this I mean decide who could be hired. This is the first scenario. Yes.

MR MEAGHER: All right. And then we'll come to a second scenario. So in paragraph 3.9 - I will just describe this generally, because my question relates to a later paragraph, but in paragraph 3.9, you say a labour market can be unlawfully regulated, and you set out an alternative form, and that is where the union is used as the institutional vehicle to achieve that end.

And that, I think, is in agreement with what Professor Varese described in that respect, and the subparagraph set out the principal forms by which that is done, namely, the extortion of employers, the control of hiring and the labour market, the broader market regulation, ie, the use of the union's reach across firms in an industry to enforce the imposition of designated subcontractors and suppliers. And then, lastly, theft from the membership, ie, the misappropriation of union assets, dues, pension and welfare funds, training and benefit funds, by union officials or by external criminal actors who have come to exercise influence over the union, and you rely on Professors Jacobs and Peters' work in that respect.

And then if Professor Campana can be shown paragraph 3.10. Here, you discuss the three possible configurations, again, broadly consistently with Professor Varese's work, his examples (a), (b) and (c), and here you set out the same broad categories in which this can occur, and the third one is where the union is not controlled by an organised crime group but itself operates as governance-organised crime unlawfully regulating the labour market and coercing the other actors, either through the threat or use of violence by its own members or by engaging external enforcers, and you say you're going to return to that in question 3.

And I am coming to the question, but just to frame it, in paragraph 3.11, you make the point that violence, intimidation and coercion, whether actual or threatened, are not merely features of criminal governance but they're constitutive elements of it, and you make the point that such a system of governance requires enforcement, and that has to be a credible threat, and that is a distinctive resource of criminal governance actors. And you make the point that it's the threat of violence, as much as its actual use, that underpins criminal control over markets and exchanges.

Now, that then comes through to paragraph 3.12, and can Professor Campana be shown that, please. And here, you make the point that criminal governance is not confined to contexts traditionally associated with Mafia organisations and it has been documented in countries possessing precisely the structural features that might be thought to preclude it.

COMMISSIONER: A long run-up to this question, Mr Meagher.

MR MEAGHER: Yes. Well, it's because the opinions are similar, but it's necessary to outline it for the Commission. A strong rule of law, an independent judiciary, effective law enforcement and well-developed public institutions. Can you just explain this, how it is that criminal governance flourishes in countries which have those elements which we would say Australia has, and most particularly the State of Queensland?

PROF CAMPANA: Yes. So the point that I'm making here is that we often tend to associate criminal governance and Mafias to countries and places where either we have - we don't have a strong rule of law, strong institutions, high level of corruption, or where institutions are going through transitions: Southern Italy, Russia, but also criminal governance in Latin American countries or Central American countries, etcetera. In fact, my work and the work of Professor Varese and others, in fact, in 3.13, there is an example from Sweden, and the example from France that I just mentioned and is not mentioned in the report shows that instances of criminal governance can happen also in countries that have overall a strong rule of law, an effective independent judiciary, law enforcement and well-developed public institutions, as is the case for the United Kingdom, France, Sweden.

We document examples from Salford, near Manchester, in the United Kingdom. Professor Varese and Zeng document a case from Nottingham in England, that is the case of the London gang. And in the following paragraph there is an official document from the National Council for Crime Prevention, actually several documents from the National Council for Crime Prevention in Sweden that explicitly talk about criminal governance in certain neighbourhoods provided by criminal organisations. They even have a term that translates from Sweden as "parallel structures", parallel to the state.

MR MEAGHER: Very well. Now, can Professor Varese be shown question 1 in paragraph 4.1 of his Professor.

COMMISSIONER: Professor Varese or Professor Campana?

5 **MR MEAGHER:** Sorry, Professor Campana. And in this, you address the criminal governance survey, an analytical tool that you've already referred to today, and we've asked you to explain it, and the purpose of asking you to explain it is then to look at whether or not something of that nature would be of use to identifying criminal governance in our context. So can you just explain it with that purpose in mind?

10 **PROF CAMPANA:** Yes. So this tool was a tool that Professor Varese and I have developed together, exactly with the idea in mind, the purpose in mind, of capturing and quantifying instances of criminal governance, also in settings that are not the traditional settings. By traditional settings, I mean settings where the traditional
15 Mafia organisations operate. We wanted to have a tool that operationalises the idea and the concept of criminal governance, a tool that could be applied to any context anywhere in the world, and a tool that will give us a sense of whether entities, organisations, and in the specific London case, gangs, but doesn't have to be gangs, whether there are entities that are involved in criminal governance.

20 To do so, we have identified five key dimensions of criminal governance, and you see those dimensions here: the ability of a group to generate fear in a community, the ability of a group to coerce legal businesses, the ability of a group to influence public officials, the ability of a group to control the market in which a group operates, and the group involvement in legitimate community activities. So we created this tool,
25 survey instrument, that was administered in the second iteration to police officers with the London Police, but there was also first iteration where we had a shorter version with only three items, and this was administered to police officers with Derbyshire Police in England.

30 **MR MEAGHER:** Can Professor Campana be shown paragraphs 4.6 and 4.7 and 4.8 of his report, please. And here, Professor, you set out how this survey could usefully be applied in our context, and can you just explain that to the Commission, please.

35 **PROF CAMPANA:** Yes. So the criminal governance survey was developed in the context of entities that are wholly or entirely illegal, so criminal groups or gangs. However, the conceptual foundations, as I explained earlier, lies in this idea of criminal governance. So the survey instrument is an analytical activity-based instrument that makes no assumption about the nature of the legal status of the entity that provides - that is involved in criminal governance. So, really, it is an
40 activity-based survey, which means that this survey can be used, in this version or in an amended version, to try to scrutinise activities through the lenses of criminal governance, and this can give us a sense of whether activities that are observed in a specific setting, in a specific market, in a specific city, can be qualified as criminal governance or not.

45 **COMMISSIONER:** What does it achieve? I mean, for example, we know that there are roughly 20,000 - that figure is not precise, but about 20,000 members of the

Queensland/Northern Territory branch of the CFMEU. We could possibly get from the QBCC a list of every builder that's licensed to work in Queensland. What questions would we ask the 20,000 members of the union and what questions would we ask the builders and to what end? What does this achieve?

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PROF CAMPANA: Yes. So in 4.7, I suggest that the criminal governance survey can be amended, based on the specific activities that are relevant to the market in question, and in particular, I suggest that questions are more granular on restriction of competition, imposition of designated suppliers, the extent to which there is a controlled labour supply, whether there are instances related to labour racketeering, intimidation of lawful right holders, intimidation of workers, intimidation of trade unionists. So these are the type of questions that I would put to the members of the union, to other unions, to regulators, police officers and stakeholders, to try to understand whether what we analytically consider criminal governance, and the specific type of criminal governance, actually manifests itself in the context of interest to this inquiry.

COMMISSIONER: But what if we surveyed 20,000 members and 20,000 of them said, "Yes, the CFMEU does control the subcontractors who are employed. Yes, it does seek to" - I'm just picking up 4.1" - generate fear. Yes, it does coerce legal businesses. Yes, it does attempt to influence public officials." What's the use of that to us? What does that tell you? I mean, it tells you that there might be organised - what's your phrase? What's the phrase? Governance-organised crime? What is it?

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PROF CAMPANA: Yeah. Yeah. The pillars that are involved in this governance type of activities, and the type of activity that you mention, I will say, some of them are unlawful. I mean, it would be of course a matter for the Commission.

COMMISSIONER: What do you do with that? Once you've identified that it's this type of organised crime, governance - the third category you described -

PROF CAMPANA: Yes. Also -

COMMISSIONER: - what do you do with that label? Where do you go from there?

PROF CAMPANA: For me, these activities, including coercion of legal businesses, influencing public officials and controlling markets, these activities are of a level of severity that is important, because it undermines institutions, and by "institutions", I mean the trade unions. It undermines the labour market. It undermines health and safety regulations. It undermines the legitimate and lawful activity of regulators. It might undermine other institutions, and it might generate opportunities for corruptive agreements.

So, in a sense, knowing that this happens and knowing the extent it happens, and knowing where it happens within Queensland, or indeed, other federal states, it is very important. It's very important because then - and we might get to this in

question 5 - the remedies and policies and the way we tackle these activities changes depending on the nature of the activity. So knowing the nature of this activity, knowing where it happens, and the extent to which it happens I think changes our response.

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I also believe that this is a diagnostic instrument that can be applied to other contexts. It can also be applied to understand whether this specific type of criminal governance activity is strengthening and is also extending the geographical reach and the market reach. So I think that is another important element, to know whether this is constrained to certain sites, certain markets, certain specific type of construction, or it extends to different markets, different sites, different type of construction works. This is how I would use this diagnostic tool, in my view.

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COMMISSIONER: Was it useful in Derbyshire?

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PROF CAMPANA: It was useful in Derbyshire. So the feedback we got from the police - and I must say, we had a very long - very close cooperation with the police - for them, it was - they told us that it was very useful in informing their response and the way they look at criminal organisations. So as Professor Varese also mentioned at the very beginning, the starting point is the concept of organised crime in the UK, which is very similar to the concept of organised crime that I understand you have in Queensland, which covers a range of activity that is incredibly heterogenous, at least in principle.

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So to be able to put different groups in different categories and then to use different approaches, that was very helpful. It was also helpful in Nottingham. Professor Varese has written a paper on it, and I also had many meetings with Nottinghamshire Police around this topic, and I spoke to a conference of theirs. They had an operation which I think was called Reacher, which basically identified areas of the city where there were governance type of groups and then had a specific response in these specific areas. So, yes, I do believe that knowing the type of activity, it is important to then tailor our response.

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MR MEAGHER: Can I ask that Professor Varese be shown paragraph - so switching to the other witness, and this is in response to the same question, but there's just one further point that Professor Varese addresses in paragraph 37 of his report on page 14. So, Commissioner, just if it's convenient to say, he was asked the same question, and there's some similarity in the response, but this is different. And Professor Varese, could I ask you to speak to this, please.

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PROF VARESE: Yes. Yes. So I want to say that I fully agree with Professor Campana on what he said, and especially this instrument is a scale, so you can understand the extent of not just whether it's a "yes" or "no" to the answer. But coming to your question, I put in my report that next to this instrument that we have just been talking about, we should also add two additional elements. One is the one discussed in point 37, namely, a competition monitoring system.

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So I would recommend that once you have done a survey of the kind that Professor Campana just discussed, you set up a monitoring system, an independent competition monitoring mechanism, that somehow makes sure that markets are competitive, because ultimately, what governance, criminal governance, does is the opposite of competition. So you need to gather all this information into a system that monitors how competitive a market is. It could be done through some of the questions we discussed, but I think that, to me, is absolutely crucial.

MR MEAGHER: Well, now I'm going to go to a different question, Commissioner.

COMMISSIONER: But how do you do that in circumstances where people won't talk? I mean, how does a competition authority work out whether someone's been excluded because of violence or the threat of violence where people don't come forward and tell you that?

PROF VARESE: That's a very - a very good question. I - I think there are ways in economics to decide whether a market is competitive or it's oligopolistic or monopolistic, and that itself is not a positive thing. Usually also if there is exclusion from the market, there is a trace of violence because somebody's being pushed out of the market. So there will be indirect indicators. And then intelligence from the police might also help. I do not want to minimise the fact that we are dealing with a very difficult area of research and policy, of course, and so we ourselves find it hard to study this phenomenon. But, for instance, the police responding to our survey has been very helpful in identifying precisely the existence or not of governance-type organisations. But yes, I take the point it's not easy to do it.

MR MEAGHER: Could Professor Varese be shown paragraph 36 of his report, because I think this might assist, Commissioner, in answering your question. But as I understand what you've said here, Professor Varese, part of the utility in a survey is to overcome this problem of the fear of reprisals. And what you say here, and then in paragraph 38, if you could be shown that, is that the survey should be coupled with the competition monitoring mechanism you've referred to, amongst other measures. Is that accurate as to those are the sorts of methods you would advise?

PROF VARESE: Yes. What I - what I say in paragraph 36 is that there is not just the issue of competition in the market; there is also the issue of how the union is organised and managed internally. So are there regular elections? Do people can compete in elections, or elections never take place? Is the management transparent? So what I recommend in section 36 is an additional survey of members of the union, anonymously of course, in which they can answer questions on how the union is managed, as I say, in reference to the internal transparency of the management of the union. I think that is also part of the overall picture that one would like to have.

MR MEAGHER: Did you have further questions, Commissioner, on that subject matter?

COMMISSIONER: No. Thank you, Mr Meagher.

MR MEAGHER: I was going to go to questions now in respect specifically of this union, and I was just going to proceed, Commissioner, but presumably you'll mention if you want me to just stop and take a break.

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COMMISSIONER: I think we should have a break for a little while. What time is it in the UK at the moment?

MR MEAGHER: 1.30.

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COMMISSIONER: 1.30 in the morning?

PROF VARESE: 1.30 in the morning.

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COMMISSIONER: All right. We might just have a five-minute break, then.

MR MEAGHER: Thank you, Commissioner.

COMMISSIONER: We'll resume at 10.38.

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<THE HEARING ADJOURNED AT 10.33 AM

<THE HEARING RESUMED AT 10.39 AM

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MR MEAGHER: Thank you, Commissioner. The next series of questions concern the application of these -

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COMMISSIONER: Just before you move off that, no doubt you'll do this, but you might want to consider raising with Mr Gisonda whether this Commission should, fairly promptly, carry out a survey of the type that Professor Varese and Professor Campana suggest. You might have already done that; I don't know.

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MR MEAGHER: Thank you, Commissioner. I was going to move to a series of questions the experts were asked about the application of this body of knowledge to the particular circumstances of this union, and if I can start with Professor Varese and his report at question 3, paragraph 39, which is page 15 of that bundle, Mr Operator. You're asked here this question - in fact, it was asked of both experts - and Professor Varese, if the professor could be shown paragraph 40 of his report. And Professor Varese, you see there you say you consider it likely that the union had both the opportunity to establish itself as a governance-organised crime group and in some respects may have operated as one. And then if Professor Varese can be shown paragraphs 42 and 43, and I'll ask the professor to speak to them.

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PROF VARESE: 42 and 43?

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MR MEAGHER: Yes.

PROF VARESE: Yes, thank you. So as I said in my answer - and of course, these are allegations and based on what I have read - the unions appear to be doing exactly what we have been discussing so far, and they used violence to intimidate a rival union, blocked access to rival union officials who couldn't enter the site, as far as I
5 read, and also pressured contractors and workers. There was allegations that contractors had to hire workers from this union in order to operate and to have peace on the site. And the material that you supplied to me, which I discuss in point 43 at some length, it shows that, for instance, union officials were excluded. The material further suggests that the objective was not merely to represent workers but to have
10 illegitimate industrial control of the market. There was pressure, coercion.

I cite evidence that says allegedly contractors and builders were extorted. They would be threatened with industrial disruption. The union controlled the awarding of the enterprise bargaining agreements to companies that wanted to work on
15 government projects. Again, there's a citation. And some workers on that particular project had to pay union delegates or organisers upfront in cash to get the job. So while this could be taken as single crimes or single unlawful behaviour, taken together, and in light of what we have discussed so far, they paint a picture of an entity that tries to control a market and excludes competitors, be it a competing union
20 or some contractors who do not hire workers from this union. So that is my - the points I make on 42 and 43.

MR MEAGHER: Then can Professor Varese be shown page 18 of the bundle, which is paragraphs 46, 47 and 48, Professor. And here, you address influence over
25 public officials and regulatory institutions. And can you just explain how this fits in with the concept of governance?

PROF VARESE: Yes. So not only the evidence allegedly says that the union appears to control workers and contractors; it also appears to have influence over the
30 regulatory bodies that regulate health and safety on site. And so that is paragraph 46, where I discuss allegations of influence over public officials. So criminal governance, as we said before, is not just about one aspect, but it extends beyond the site, or the construction site, to other bodies. So these are obviously a highly significant aspect, because it shows the ramification of this activity.

35 Now, paragraph 47 is even more significant, I think, what it says there, because the body that allegedly seems to have come to an agreement with the union was actually the police, and so allegedly there was a memorandum of understanding involving the police that they would not show up at certain sites. According to the evidence,
40 builders who believed the union officials were unlawfully present on a site would call the police, and the police would not be arriving. So this, if established, would be a very serious aspect that really goes to the heart of what criminal governance is. Criminal governance operates within a context of existing lawful institutions, such as the police or the work and health entity, but these institutions leave the criminal
45 organisation to govern the territory. And that is very significant, I think.

MR MEAGHER: And then at page 19 of the bundle, it's correct, isn't it, in paragraph 49 that you identify the association with violent actors as consistent with criminal governance as well?

5 **PROF VARESE:** Yes, yes. In paragraph 49, I discuss the allegations that what we could call muscle, ie, outlaw motorcycle gang members or convicted offenders who have been cited in the evidence, and other intimidating figures were embedded in the union and used to threaten others, other workers, other contractors. So, again, if established, the presence of these actors would have increased the capacity of this
10 union to intimidate rivals and, broadly speaking, to increase its ability to govern the market where they operated.

MR MEAGHER: And then in paragraphs 51 and - you point to the absence of elections, although I think the evidence is the absence of contested elections, and can
15 you just explain what you say there and why that's consistent with a governance-organised crime operation?

PROF VARESE: Yes, what I discuss in point 50 and 51 is that the allegation that funds that were supposed to be transferred to the national chapter of the union - as far
20 as I understand; hopefully I didn't misunderstand - were not sent on but were diverted and kept locally. That would be another example of this chapter wanting to become autonomous and having control over this money. So the absence of contested elections and the money, these funds, also speak to an element of autonomy, power of the union, and no oversight of it.

25 **MR MEAGHER:** Thank you. I just have a couple of questions of Professor Campana on the same question, which commences on 16 of his witness bundle, FM-8. And Professor Campana, you were asked the same question, and you point to the restriction of competition and the imposition of designated suppliers as the first
30 criteria, and you give examples by referring to allegations made in respect of the Cross River Rail project and the Mackay Hospital. Can you just explain these matters and why you say they fall within the ambit of governance-organised crime activities?

COMMISSIONER: I think the operator will have to show all of page 12 and 13.
35

MR MEAGHER: So it's FM-8, page 16 and 17. And so can you see, it's paragraph 4.9, Professor Campana, and (i) and (ii) is what I was directing you to.

40 **PROF CAMPANA:** Yes. So I - I basically scrutinised the evidence that was provided to me, and these are open-source evidence, particularly evidence from the hearings of this Commission. So I will just caveat what I wrote and what I'm saying, that I take this evidence at face value, and I didn't - of course, these are allegations, and I didn't carry out any findings of fact or whether this is actually true. But based
45 on the evidence that I was given, I applied our criminal governance tools, and I look at whether there were evidence, there was any evidence of attempts by the union to regulate and govern the construction service market, particularly the selection of the

contractors, subcontractors, suppliers, as well as, when it comes to the labour market, particular engagement of labour-hire providers.

5 Now, the hearings, previous hearings of this Commission, during these hearings, witnesses discussed evidence of alleged influence over the selection of contractors and subcontractors on projects, including the Cross River Rail project, the Mackay Hospital project. The union was reportedly presented as a requirement for subcontractors seeking tenders for work, and there are also other cases where the union appeared to have that influence restricting competition and allegedly imposed
10 designated suppliers in the constructor market. Some evidence comes from former officials with the Workplace Health and Safety Queensland, and a handful of witnesses have talked about preferred providers on projects that were imposed on companies.

15 Then, when it comes to the regulation of labour market, similar evidence - again, I'm basing here on hearings, what was said as part of this Commission's work - allegedly union officials imposed or directed companies to hire workers from specific designated firms.

20 **COMMISSIONER:** I think we're on to the next - the witness is moving on to his next page.

PROF CAMPANA: Yes. Point B, regulation of the labour market and supply of labour. And the point C, as I mention, the materials provided and evidence presented
25 to this Commission appear to show that the arrangement of the labour market and the restriction of competition and imposition of suppliers were imposed on reluctant counterparties, in particular using intimidation tactics and coercion.

MR MEAGHER: And all of these things, as I understand it, these bits of evidence
30 that have been heard by this Commission, are the matters you point to to say, well, that's all consistent with a governance-organised crime operation?

PROF CAMPANA: That is correct. That is correct. So what I did, I scrutinised the evidence presented to this Commission exactly as I would have done with the survey,
35 the difference being that instead of asking people whether these forms of criminal governance actually happened, I look at pieces of evidence, at events, and then I classify them and I ask myself, well, would this speak to this specific type of activity? Would this relate to this specific type of activity? Would this relate to this specific type of activity? So, in a sense, I have applied my systematic - the analytical
40 tool to the evidence that was already presented to this Commission, and the answer is yes, so it's consistent with this dimension of governance function.

MR MEAGHER: Well, now I'm just going to move to a different question the experts were asked, Commissioner. So at the bottom of page 19 of this bundle,
45 question 3 was asked of -

5 **COMMISSIONER:** I might have asked this question before, or hinted at it, but let's say all these allegations are made good at the end. They're only allegations at the moment. They haven't been tested. There hasn't been evidence called. Some of the witnesses haven't been cross-examined. Let's say all the allegations are proved, and looking through the lens of - well, starting with Professor Landesco a hundred years ago in Chicago and now Professor Campana and Professor Varese, you submit that these behaviours are consistent with and should be labelled as an exercise in governance by organised crime. In a sense, I mean, so what? I mean, where does that get us to?

10 I mean, you can say it's the same as - the behaviours are the same as Professor Landesco discovered in Chicago a hundred years ago and it's an exercise in governance-organised crime, so you use the income tax regime to prosecute people? Is that - what's the thing that -

15 **MR MEAGHER:** It's the purpose.

COMMISSIONER: - derives from - what's the -

20 **MR MEAGHER:** It's the purpose, and that affects whether or not various exemptions in various statutes and laws operate. That's with respect to existing laws. The second point is it's useful to identify effectively the business model in operation, because it informs, to the extent that the law doesn't effectively regulate it at the moment, what reforms might be considered necessary to stop it, because one point
25 that is made, and it might all seem very obvious, that well, there's some corruption here, there's some intimidation there, but when one - if it is capable of being recognised as a particular form of an operation, it can be effectively destroyed financially. And if wrongdoers cannot make money out of it, they will not do it.

30 **COMMISSIONER:** So, what, it's just a different prism to look at -

MR MEAGHER: Correct.

35 **COMMISSIONER:** - the behaviours?

MR MEAGHER: It's to destroy a business model.

COMMISSIONER: Right.

40 **MR MEAGHER:** And that may be capable with existing laws, but it may require law reform. Part of the purpose of this evidence, in addition to that, is to direct our inquiries. And just taking the survey as an example, that mapping exercise, understanding the extent of the fear generated, would be very useful. So we might not get anything from it -

45 **COMMISSIONER:** That's my question. I mean, yes, okay, you get a survey, but how is it useful?

MR MEAGHER: Because at the moment, what is known is limited by incidents that can be recognised, so, for example, with violence, known incidents of violence. But one of the points that these eminent professors make is that what is actually far more effective for a business model of this sort is just the credible threat of violence, and the reason for that is there's a lower cost associated with it for the business.

COMMISSIONER: Right.

MR MEAGHER: In other words, if you exercise violence, the person who exercises it may be expendable to the organisation, but they can still be lost to it by being put in jail. It's the threat of it that does far more damage, and what you can't measure in the absence of crimes being committed or alleged is the extent of that threat.

COMMISSIONER: Okay, so you get your survey and it shows that everyone in the construction industry is living in fear. Where do you go from there?

MR MEAGHER: It allows you then to expand your inquiries to then say, okay, well, if these circumstances existed in this geographic location that we were not familiar with, we can conduct inquiries to look more broadly at the actors involved in that and to question them. Now, most of them will be lawful people, but they may well be people who, when questioned, say, "Well, yes, I was leant on."

COMMISSIONER: I think my question is even broader than that. Say you finish all that and you come - you come up with your conclusions and all these allegations are proved and more allegations that come out of the survey are then proved. You've said it may lead to - you're looking at it through the lens of organised crime, and it might lead to more reform. Has your thinking gone any further on that, or we just have to wait?

MR MEAGHER: Yes, so I can give some examples. So, for example, the provision of the Income Tax Assessment Act that I took you to this morning, as I think you noticed by a question that you asked to me, respectfully, it uses the word "solely". Now, I know this is a state-based commission, but you have it well within your powers to make recommendations about federal law reform as well, and they might not be accepted, but that word "solely" is one that should be carefully considered for reform, because if the effect of that exemption is that an executive gains control of a union, say, for example, and misuses it for some purposes but also uses it for its lawful purposes, that exemption doesn't have the effect that it's intended to have. So those are the sorts of reforms that might entertain your mind.

COMMISSIONER: And there might be lots of reforms that come from competition law, from corporations law.

MR MEAGHER: Correct, because if you take the recent High Court case of *ACCC v Hutchinson* from last year, the effect of that decision is it is almost impossible for an understanding to be proved between a union and an employer. And, I mean, with

respect to the High Court, I think in that judgment they were very candid with the difficulties that that poses. But they're obliged, of course, to apply the law, and that is the law. So those sorts of reforms are matters that might entertain your mind, because a state, for competition law, can only regulate natural persons, not organisations.

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So, necessarily, to prevent - in a sense, you could say, well, there are administrators in charge of the union, and there's nothing to suggest that those people are anything other than law-abiding people, but - and so if, you know, what has happened has effectively stopped the problem, then why do we feed further reforms? But the answer is because this conduct has to get to a point where it is so bad that it's recognised that it's being in the public interest to appoint administrators. And by that point in time, so much harm has been done. We need -

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COMMISSIONER: Arguably. I mean, these are all allegations. These are just statements made. I don't mean that dismissively, but statements made in the Parliament to support a bill, statements made - sorry, led as constitutional facts in the High Court case.

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MR MEAGHER: Yes. So I'm making these submissions in the context of accepting that they are only allegations at the moment. But just look at the anti-competitive effect of it. I mean, if a corporation today engaged in this sort of behaviour, take section 45 and the various sections that hang off it in the Competition and Consumer -

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COMMISSIONER: I've probably gone on too long with this. It's getting late in the United Kingdom. I just wanted to know - I understand what you're saying: it gives you a different prism through which to make any recommendations at the end. Instead of looking at this as just a series of industrial relations issues -

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MR MEAGHER: Correct.

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COMMISSIONER: - you look at it through a different lens, and then the reforms that you suggest are different.

MR MEAGHER: Yes. And just to complete that point -

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COMMISSIONER: The professors are nodding.

MR MEAGHER: Just to come back to it, I mean, as of March this year, if a corporation engaged in this sort of activity and it was proved to be true, the fine for each contravention can be up to \$100 million. So that is the severity of the underpinning policy or attributed to these sorts of contraventions in respect of the rest of the community, and the mere fact that the institution used to engage in this sort of activity is a union is not in itself a good justification. If the union's acting lawfully, for proper purposes, of course the exemption should apply.

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COMMISSIONER: I understand.

MR MEAGHER: But that's why it's of utility.

5 **COMMISSIONER:** Professor, you just heard that debate. Is there anything you want to add to that?

PROF VARESE: Do you want to go first, Professor Campana, then I go?

10 **PROF CAMPANA:** You go first, and then I follow.

PROF VARESE: No, I thought the debate was extremely useful. I think what I would like to add is that if we arrest somebody for corruption or a particular unlawful act but we do not change the structure of the market or we don't ensure that the market is open and competitive, then somebody else will come along and the conditions produce another organisation or other behaviour which is the same. So I think, for me, the use of this framework is to say that we want to change or open the structure of the market, not just to arrest individual law-breakers.

20 So that to me is the most useful perspective that this does. And it puts this case into the same box as cases in other countries, most notably in the United States, where the RICO statutes have been used against organised crime and also against other entities such as the police department. And so that to me is also very important because that kind of legislation is useful. And if I may say a final point, the point about the threat of violence is very, very important.

25 **COMMISSIONER:** You were talking about the RICO Act there, in the United States?

30 **PROF VARESE:** Yes.

COMMISSIONER: Yes.

35 **PROF VARESE:** That's the one I have in mind. And, finally, the threat of violence is very important, because in the Italian legislation against the Sicilian Mafia in particular - that's how it started, at least - there is the intuition by Judge Falcone that somebody who belongs to the Mafia and comes to a shop and asks for protection money, their power of intimidation is so strong that the person who is asked just pays. So on the face of it, you do not see any crime; you see somebody asking somebody else to do something, and the person does it, apparently willingly. But underneath this apparent consensus, there is the power of intimidation that comes from the fact that we know the person asking is a member of the Mafia.

40 So I think that is also a third point, very important, which is typical of Mafias and organised crime, and again, allegedly, and based on the evidence that we saw, appears to be very relevant here too.

PROF CAMPANA: Yes. So just to say that I find this discussion incredibly interesting, and I - I would highlight the importance of a mapping exercise to tease out exactly what type of activities are happening where, by whom, and so that we have clarity about the activity, first, and this will then inform our response, whatever means we decide. So it can be criminal law, but it can be civil law, it can be other type of regulation, we will get to this question 5. But I think an analytically informed mapping exercise is of extreme value, in my view.

MR MEAGHER: Thank you. Professor Campana, since you're on the line, I'll stick with you. And in question 3, which is on page 15 of your report and 19 of the bundle, down the very bottom of the page, you were asked about the possibility of one or more third parties interacting with the union. And I don't want to dwell on this too much, because you refer here to the Youth Crew and the Watson Report and so forth, and that's all very useful, but in the course of giving this answer or this opinion, at paragraph 4.17, which is page 18 of your report or 22 of the bundle, and paragraph 4.18 - so 4.17 and 4.18 could be expanded on the screen. Thank you. You address what happens when criminal governance of this kind has the potential to consolidate and expand, and then in 18 you deal with the financial and reputational capital. Can you explain what your opinion is here, in both those paragraphs, to the Commission, please.

PROF CAMPANA: Yes. So the question is - so the point is the following. Things might change. So in a sense, we have to think about criminal organisations or other entities as evolving institutions. So - evolving entities. So what happens if a criminal organisation is left unchecked? Well, it - I wait. Okay. Yes.

So I believe that criminal governance of this kind has the potential to consolidate in certain areas and expand. Why? Well, because - because once an entity, a criminal organisation, has secured the coercive capacity to coerce certain actors in a certain area, but then can expand - can expand the reach of their activities, very importantly and linked to what was said earlier, reputation is very important in this type of activities. So once an entity has established itself, established for itself a reputation for intimidations and use of violence, can leverage that reputation to expand their reach and increase their power.

And the third point, over time, well, more resources, financial resources, reputational capital, intimidation, coercion, that means that lawful actors might decide to quit the market, hence leaving more space to the unlawful actor. But also, that means the unlawful actors tried to - to undermine lawful institutions in a position of strength, day by day. So in a sense, this type of alternative, we have to think of it as an alternative system, alternative to the lawful system of the state. So this alternative system will try to - to gain more space in the legal - in the legitimate system, so facilitate the expansion of violent intimidation, labour racketeering and market control into new domains. And when I say new domains, I mean new markets in the same areas, but I also mean new areas.

Now, I'm saying this from a purely theoretical angle, but it is conceivable that other cities in Queensland might be affected, other neighbourhoods, but it's also conceivable that other states in Australia might be affected.

5 **MR MEAGHER:** In question 5 of your report, which commences at the bottom of page 20 and page 24 of the bundle, you deal with the consequences of such an organisation being unchecked, and at paragraph 4.28 you address the harm to individual workers. Could you just expand on that and explain what that means.

10 **PROF CAMPANA:** Yes. So, here, I discuss a number of harms that are produced at different levels. So the first level are the individual workers. So the individual workers are the first victims, because they might live in fear and intimidation. So the workers that are not members of a specific union might be intimidated, and might live in fear. Also the worker of a specific union that disagreed with how the
15 union - the union act might also be intimidated. So there is a risk of retaliation for reporting wrongdoing, and ultimately, I think there is a chilling effect on the local exercise of rights at work.

So I believe that the harm can extend beyond those directly threatened, to the
20 workforce as a whole, and exactly as for the gang that we studied, when there is a climate of fear in the particular neighbourhood or in the particular market, well, this inevitably affects the worker. So I think the workers are the first victims. This is just the first type of harm.

25 **MR MEAGHER:** And then you list some other factors, including distortion of the labour market, the distortion of competition and of the functioning of legal markets. And in that respect, you refer to the best practice industry conditions in paragraph 4.35. And then at 4.37 you list a fourth consideration, which is the undermining of the institutions designed to protect workers first and foremost, trade unions
30 themselves. And can you just explain what you say here to the Commission.

PROF CAMPANA: Yes. So I believe this is a very important point. I believe the trade unions have a very important function in a democratic society, and they should be protected, and unlawful - so trade unions that potentially operate unlawfully, are
35 involved in criminal governance, they undermine the very notion of a trade union. They undermine the ability of the workers to organise lawfully and collectively in their own interests. But also, I think it discredits the trade union movement in the eyes of the workers and in the eyes of the public. And I think this has an important long-term effect for the trade union movement, and more generally for the workers
40 of Queensland and other states as well. So I think that is an important harm precisely because I believe in the importance of trade union in a democratic society.

MR MEAGHER: And then lastly at paragraphs 4.38, you deal with a fifth problem associated with these organisations, and that's the potential for corrupt practices and
45 broader erosion of democratic institutions. And I'll ask you to explain this paragraph and, in fact, paragraph 4.39, where you cite examples that have been heard by the

Commission in respect of the Workplace Health and Safety Queensland statutory body. And can I just ask you to explain your opinion here, please.

5 **PROF CAMPANA:** Yes. So my point here is that there is a fifth type of harm, which is a more systemic harm, which means harm to the well functioning of democratic legitimate institutions, through potential corruption, through potential influence of practices of the legitimate institutions, etcetera. So based on the evidence that was put in front of me, and I quote senior counsel, that described the conduct of the union as a form of institutional corruption, meaning the fact that the
10 union allegedly captured Workplace Health and Safety Queensland, WHSQ, the statutory body responsible for regulating safety in the construction sector, in the way that it was alleged in the hearings, I guess, that former director had acted as a conduit between the union and the regulator.

15 Now, going beyond the specifics of the events that - again, it's a matter for the Commission and the courts to establish the facts and whether the conduct was unlawful - what is really important here is to highlight the risk that a governance - criminal governance actor poses to the well functioning and integrity of legitimate institutions, and it's not just the health and safety institutions but also
20 potentially other legitimate institutions.

MR MEAGHER: And then is that the point that you're making in paragraph 4.40 of your report, or is that - perhaps you could just explain that.

25 **PROF CAMPANA:** Yes. So the point that I make here is that the actions and the presence of a criminal governance actor produces different type of harms at different level, from the workers to the institutions. And this harm they mutually enforce each other. They mutually reinforce each other because, well, harm specific to workers, then that also undermines the trade union as an institution, and then basically this
30 creates a vicious circle where the harms get amplified at different levels of fear, silenced people might resist, coercion excludes those who might wish to compete lawfully in the market, and then the institutions might fail to regulate for different reasons that I think warrants further scrutiny.

35 So that - I think - so in brief to sum up, I think the harms that can be produced by a criminal governance actor are far-reaching and of different nature, and they work at different level in society. That makes me strongly believe that a criminal governance actor needs to be identified as such, because it generates this palette, this set of various harms at different policies as well. But we haven't discussed that.
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MR MEAGHER: Yes. And I'll just ask Professor Varese some questions, if his report could be brought up at page 22 of the bundle, so question 5. And Professor Varese, you were asked a question here about the most important considerations and factors in preventing a governance operation from being established, in the context
45 of trade unions, and in paragraph 59 you conclude that paragraph by addressing the objective of the policy. And can you just explain your opinion in this paragraph, please.

PROF VARESE: Yes. Thank you very much. So the question is how to prevent the emergence of governance-type organised crime, and so for me it's not just about punishing individuals but ensuring the integrity of market access, market participation, as opposed to market operations through coercion. So I think that is very important. So it's not only to punish criminal conduct but to prevent the emergence of such an entity, and what - I think the case we are discussing appears to be doing that.

MR MEAGHER: At paragraph 61 and 62 you express an opinion that institutional reform is often more effective than criminal punishment alone, which I understand to be the opinion you've just expressed. And then at paragraph 63, you refer to the single most important long-term safeguard being the preservation of open and competitive markets, and you touch upon the point you made earlier that construction is especially vulnerable for the reasons you've already explained, and then you highlight competition policy and the relevance of that in paragraph 64. To the extent that you haven't explained anything in respect of your opinion there already, can you just outline it or explain it for the Commission now?

PROF VARESE: Yes, I suppose my key point is that we need a combination of criminal law, but also civil law and administrative measures. That is the path forged by the United States with RICO, which I discuss in section 61, and I think the RICO measures, and in general the measures to clean up the unions in the United States, has been very successful, and it's not just about arresting law-breakers but also to reform the internal working of the trade union. So court-appointed monitors supervise directions, external oversight, has been very important in cleaning up the trade unions in the case of New York City, which was successful. So I think that is a lesson that we can learn from the American experience.

COMMISSIONER: Can you just tell -

PROF VARESE: And as I said -

COMMISSIONER: Professor, can you just tell me what a court-appointed monitor - is that something similar to what has happened to this union, that is, not a court-appointed administrator but a parliamentary-appointed administrator. Is it the same sort of idea, an independent administrator who sits above the officials and the membership and controls the union, or does he or she simply monitor what the officials are doing?

PROF VARESE: Yes, I think that's what it is, the first, so is appointed by the court or by the government and sits in the union and monitors that all the procedures are followed in terms of elections, in terms of funding being - going in the right place. I think that's what happened with RICO. So it's appointed by an external body and monitors how the union works. In the case of RICO, I think they left the presidents there as well.

COMMISSIONER: Sorry, I missed that. Left what?

PROF VARESE: So they didn't remove the leadership. It was monitoring the leadership after the corrupt leadership had been eliminated.

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COMMISSIONER: And you referred to this idea of a supervised election. How do you have elections, supervised or not, where there's no rival ticket that comes forward, for reasons that might be related to the fact that it is an exercise in governance-organised crime?

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PROF VARESE: Yes, I think the idea is that elections should - should take place regularly, and in a fair way, that the vote is secret, and of course, it would be ideal if it was more than one candidate, but even if there isn't, voters are still allowed not to vote for the single candidate, and so you can still have a majority of people voting down their own candidate. And I think what RICO stipulates is that precisely that elections have to be ensured to be fair, transparent and truly democratic, and that what's happened with the Teamsters, for instance, in which there was fair elections, even though there was one candidate incidentally at some point.

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20 **COMMISSIONER:** A fair election with one candidate?

PROF VARESE: Well, yes. I mean, the one is not ideal. It's a long story. I mean, the reason why there was only one candidate is because the other candidate had been arrested.

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MR MEAGHER: I was going to go to a different question, Commissioner. At the bottom of page 24 of the same bundle, Professor Varese, you were asked about consequences of a governance-organised crime operation being allowed to flourish, which - you say in paragraph 66:

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"The harm is not limited to isolated acts of corruption, intimidation or violence. The governance-organised crime can alter the way an entire market operates."

And then in the following paragraphs you set out reasons for that, and that concludes at paragraph 71. And can you just explain what you say in paragraph 71. And perhaps that could be enlarged on the screen.

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PROF VARESE: Yes. So a point that is actually made in the evidence is that in situations such as the one we are discussing, there is less efficiency, costs are high and efficiency is low, and it was mentioned in the evidence by a person. So if the governance - governance-organised crime is left unchecked, costs are higher, efficiencies lower, delivery is worse and ultimately the citizens and the taxpayers don't get what they pay for. But also, and I think Professor Campana has mentioned it too, there is also the sense that once there is no competition in the market, also there is no confidence in the institutions that should allow people to freely compete. And so there is an undermining of the general opinion of lawful institutions.

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And then I conclude in that paragraph 71 that there is a risk that the union is then used or uses its power for political purposes. Again, Professor Jacobs discusses that at great length in the case of the United States. Unions in the United States became part of the political process, lending votes to particular candidates. And so that, I think, is also a risk of undermining democracy, because obviously the reason why you lend support to a candidate is to favour the union, not because you believe in the ideology of the person. So I think we should prevent a union from having such durable control over labour, market access and regulatory enforcement, because then it also leads to political consequences.

MR MEAGHER: And then just in respect of third parties, if, Mr Operator, you can go to page 20 of the same bundle. And in question 4, you were asked about the likelihood of third parties using or interacting with the union and the likelihood of this occurring if left unchecked, and you give an opinion here from paragraph 53 through to 58, relying on examples of the Youth Crew, allegations that have been the subject of evidence to this inquiry, and allegations that the CFMEU was actively employing criminals that were made in hearings before this inquiry. And can you just explain, in paragraphs 57 and 58, you identify the risk and then an additional worrying development that could occur. Can you just explain your opinions there to the Commission.

PROF VARESE: Yes. So I think what I tried to do in all those paragraphs that you have cited from 53 to 58 is to try to assess the evidence as I've seen it. And you recall I discussed two models of penetration or criminal governance in a union context. One model is that an external crime group, such as the 'Ndrangheta or the Sicilian Mafia penetrates and directs a union from the outside. So then you would see that the enforcers or the muscle used by the union would belong consistently to that organisation. I think the evidence that I've seen and the allegations that I've read actually point to the fact that that was not the case, that the leadership allegedly hired muscle, thugs of a variety of background to carry out its intimidation. So that is my criminological interpretation of the allegations that I have seen.

Now, coming to point 57 that you mentioned, I also discuss, like did Professor Campana earlier, what happens if the union is left unchecked. And I think ultimately what I say is that if this is left unchecked, the situation becomes normalised. People think that's the way things are and should be. And so there is consolidation of this modus operandi, so that is just the way things are done and nobody dares to challenge it any more. That's what I say here: coercive actors become normalised and rivals just leave the market and they are unwilling to challenge the union. Employers accommodate the demands of the union, such as hiring unionised workers from that particular union.

So I find that worrying. So in a sense, the norms, the social norms, the way of thinking also changes. So I think that is my point and the general conclusion that I make is that we don't seem to see in this case an external force controlling the union, but it seems to be self-generated.

MR MEAGHER: Thank you, Professor. I just had a couple more questions for Professor Campana, Commissioner. Can Professor Campana be shown page 22 of the bundle, which is 18 of his report, paragraph 4.19, and this is in respect of third parties. And here, Professor Campana, you address a situation where the external enforcers engaged by, in this case, allegedly, the union, to start with, in fact wind up gaining control of it. And can you just explain that opinion.

PROF CAMPANA: Yes. So I - so, first of all, I share Professor Varese's view that my reading of the evidence, the alleged event, is that there isn't an external organisation, external criminal organisations like the 'Ndrangheta or Cosa Nostra that controls the union, but on the face of the evidence, that the union might have hired some enforcers - again, allegedly. The point I make here in 4.19 again is a point about evolution, so thinking about evolution of an organisation. And what is the role of the enforcers? Now, if proven, of course, that these external enforcers are engaged by a criminal actor - criminal governance actor, I think it's important to understand whether their role and their power, their relative power within the entity, changes.

Now, enforcers might gain more power. They might - because they have a coercive capacity, and a reputation for violence, might, over time, accumulate leverage - financial leverage, reputational leverage and coercive leverage - to reverse the relationship, and assert control over an organisation. And incidentally - and this is not based on the evidence; it's more a theoretical point that we see in organised crime studies - we have to be particularly careful of power vacuums. So if - and this, again, in an example that comes from organised crime, and organised crime groups, when a particular governance - the boss of a governance-type organised crime is arrested or is killed, that creates a vacuum that often leads to more violence.

So mutatis mutandis; everything changes here. The point I want to make is when we think about regulations and our response, we also have to think about - we have to be careful in making sure that transitions into a new status are properly anticipated and monitored so that, for instance, by removing a certain individuals from an organisation, that does not create the vacuum that is then filled by individuals that we do not wish them to fill that vacuum.

MR MEAGHER: And then my last question for Professor Campana is in respect of question 4 of his report, which is on page 23 of the bundle and page 19 of your report, Professor. And here you were asked about the most important considerations and factors preventing it from operating. And you say here in 4.22, you refer to the comparative experience of the RICO statutes in the United States, and then at 4.23 you identify three factors that stand out as central to preventing a criminal governance model from becoming established in the context of trade unions. And then, Mr Operator, if you could show page 24 of the bundle, and just those three factors, Professor Campana, that you set out from paragraphs 4.24, 4.25 and 4.26, could you just explain them to the Commission.

PROF CAMPANA: Yes. So I think this is a very important section. I think how we address this situation is crucial. Now, the comparative evidence, the most relevant

comparative evidence comes, I think, from the United States, as Professor Varese has pointed out already. I think the United States has been broadly successful, and that was the opinion of Professor Jacobs as well, with some exception. And I think there are a number of important lessons that, of course, we don't have time to go into details, but the literature is very rich, because there were many unions that were infiltrated. But if I have to sum it up, I would say, first, the promotion of internal union democracy: contested elections by secret ballot, term limits, financial transparency to members, accessible internal complaint and appeal mechanism -

10 **COMMISSIONER:** I asked that question of Professor Varese. How do you get a competing ticket to come forward and actually put itself up for election if there is a culture of fear that something is going to happen to you? It's all very well to say we need - I mean, this happened in Australia 60 years ago, the idea that there should be transparent elections, that members should be able to conduct election inquiries, that there should be funding for members who want to conduct an election inquiry, that they should have easy access to the courts, they shouldn't have to pay costs. But that assumes you've got a candidate that wants to turn up and contest. If you've got no candidate, how do you get the candidate to turn up and say, "I want to take on the current regime"?

20 **PROF CAMPANA:** Yes. That's a very important point, and I think it really warrants further reflection. If I - based on the experience and the literature from the US, I think in many cases the unions were under judicial and court mentorship and control, in various way. So what they would do, they would say, "Well, the union stays under a court control until we are satisfied that the conditions for fair elections are in place." And these controls, court-imposed controls, might last for years, until, first, a climate of fear was erased, that there was a vetting of the members. So these court-appointed administrators and monitors and trustees, they had the power to expel members. So they even set up internal committees that were tasked with policing the activities internally. They set up codes of conduct (indistinct) the statutes. So the first - the way to work, I give a broad-brush example, but they said, "We do it through civil agreement. You are under our control, court appointed, until this number of conditions are satisfied." So first we clean up the union, then we gradually ease into a full democracy. And I think that is very important, and I think looking at how - it is all documented. So all these actions and the statutes that have been brought in and implemented in the US context are available.

So looking carefully at how it was done there, I think it's incredibly important. It's also very rich, because it was done in multiple places. So we don't just have one example; we have thousands of examples of ways in which this was done, and it was not done in the same way for each chapter in each place and for each union. So they did it based on the type and level of threat in the specific union. That, again, speaks to the importance of a mapping exercise. In some cases, they have a stronger approach, meaning a law-enforcement approach of certain individuals, against certain individuals, and very strong actions for court-appointed administrators that were either former judges or former FBI agents. So they have a very strong touch, if you like, in trying to clean up the chapter.

In most cases, they realised that actually people didn't turn up for voting, so they set up a secret ballot. They also set up a telephone line. It was the time when there was a telephone line where you could report anonymously instances of intimidations. But then, crucially, there was an enforcement arm within the union that was staffed by former FBI members that would pursue these leads and investigate these allegations and try to be very active and proactive and responsive as well, without having to go to court and having to go through a criminal procedure.

So I think there is - again, I fully agree that it's not easy. It's not something that can happen overnight. But I think it's important to try to bring in this sort of safeguarding protection and try to generate a positive climate, a democratic, positive climate within the union, and maybe scrutinising the different ways in which it was done in the US and see what can be transposed in the Queensland context. The second point -

MR MEAGHER: I think the second point is easily comprehended, the combination of civil and criminal tools, but the third point, 4.26 of your report, could you explain this, please.

PROF CAMPANA: Yes. So an interesting - another interesting leverage mechanism is to regulate the market. So the first point is to regulate the union internally. The second point basically says targeting specific individuals and either through criminal procedures or civil tools. The third point is setting up effective market regulations authorities. Now, this can be done in multiple ways, and, again, I think it's important to reflect how this can be done in the context of Queensland, but there is an interesting example - actually, there are multiple examples again in the case of the US.

One example is the New York City Trade Waste Commission that basically had the power to regulate the market. They had the power to ban organised crime-connected firms from the industry, again to decide legally and lawfully who can be in the industry, who cannot, to expel people with criminal connections. They also set a maximum rate to prevent cartel formations and prevent cartels and companies from extracting exorbitant profits. And they can also prohibit certain contractual terms.

So in a sense, they had a pretty strong - well, strong hand in the approach, in regulating the market, and decided to set the frame within which companies could operate. And this is regarded as a very successful example of an authority that managed to regulate a market and expel criminal actors, and the results were striking. Prices fell by between 30 and 40 per cent, and for other clients around 25 per cent, which is - which is actually staggering.

MR MEAGHER: Yes. Thank you, Commissioner. I don't have any further questions.

COMMISSIONER: Do I take it that both of you think that the best place to look for solutions, should these allegations, which are merely allegations, be proved to be

right, would be the United States and particularly the impact of the Racketeer Influenced and Corrupt Organisations Act, as it was enforced over the last - since the 1970 Act, around then - last 50 years, 55 years?

5 **PROF VARESE:** So if I may go first, I do agree. I think that is the best place to look. I think what is extraordinarily important about RICO is that it defines an organisation that need not to be a traditional organised crime group, such as the Sicilian Mafia or the Cosa Nostra in New York, any organisation, even a RICO
10 organisation, such as a police department or a union, can operate, in effect, like a mafia; hence, the RICO applies. And so I think that is very important. And the second most important thing to do is what Professor Campana was just discussing now, namely, an internal reform of the union so that corrupt officials are removed and there is an external control.

15 And I think, overall, what at least I have tried to say today is that what we are looking at here is really a market problem and somehow a market failure, the failure of the market to be open and competitive and the capture of that market by a criminal organisation. And so when I was talking about a market monitoring competition institution, I was referring to that work that should be done by the authorities. So
20 markets, left to their own devices, unfortunately turn into potentially a place where there is violence in order to get ahead. That's why a very strong state monitoring of certain markets in particular, I think it's very important. Thank you.

PROF CAMPANA: Thank you. Yes, I - yes, so I do agree that the RICO experience
25 in the context of the unions in the United States is incredibly important, and it's also important to - to place the RICO into the broader context, as we said, so both civil and criminal proceedings, and particularly they placed a lot of emphasis on the role of commissions. They had multiple commissions of inquiries at different levels, so fact-findings and mapping exercises first, and then they had a coordinated response,
30 Ministry of Justice, the justice system, but not only. And what was really important is to have a long-term view, so to try to bring in new regulations. They realised that the regulations they had in place were not effective, so they needed new regulations, and they did it at different levels, with different legislative tools, including the institutions of trade commissions, which is similar to the competition authority that
35 Professor Varese was referring to.

And also, that experience shows us that we have to think long term. By long term, I mean three to five years. So they said that they had the best results when the court-appointed people could stay for a longer period of time so they could transition
40 into a new phase. So the new regulations were brought in, external regulations, and the union was changed internally at the same time. They also - this might not be relevant in the case of Queensland, but it was relevant in the case of New York, New Jersey and Chicago - they also tried to cut the link between the union and the Mafia group.

45 As both Professor Varese said in his report and I said in my report, we haven't seen any evidence of this happening, but analytically, we also need to think about what is

the relationship between in this specific case, the union and other actors that operate in the same space, so we need to find ways to cut these connections, whatever these might be. Hiring potential organised crime group, motorcycle gangs, or - again, it's not proven in this case, but it was proven in the case of the US, corrupted connections with authorities. So this connection needs to be cut. So it is a comprehensive approach, but it has been done before, and has been tested there, and it can work. It's not easy, but it can work.

MR MEAGHER: I don't have further questions, Commissioner.

COMMISSIONER: There's no cross-examination that's going to - any application will be for some later date?

MR O'GRADY: Yes.

COMMISSIONER: Professor Campana and Professor Varese, thank you very much for your evidence. I appreciate that it must be getting close to - is it 4 am in the United Kingdom at the moment? So I appreciate you staying up through the night to provide this evidence to the Commission. It might be necessary for us to recall you, but if we do, we'll try to do it at a slightly more civilised hour so you don't have to stay up all night. But I really appreciate you making that effort for us this evening in your time.

PROF CAMPANA: Thank you very much. Thank you.

PROF VARESE: Thank you very much.

MR MEAGHER: Now, Commissioner, I just need to deal with - this was a further electronic bundle provided on a USB, and sorry, can the professors be excused?

COMMISSIONER: Yes, of course.

<THE WITNESSES WERE RELEASED

MR MEAGHER: And I referred to this. It's the electronic data from the accounting software, and because of that it hasn't been reproduced physically. There was an objection taken in respect of bank account details being displayed. I'm informed that they cannot be redacted without affecting the metadata, and so the parties have come to an agreement just to have an order as to non-publication and confidentiality in respect of this electronic software data. And the form of order, I believe, has been handed up to you.

COMMISSIONER: And you've got a copy of this order, Mr O'Grady?

MR O'GRADY: Yes, I do, Commissioner.

COMMISSIONER: And these are documents which have come from the - one of the two CFMEU entities?

5 **MR O'GRADY:** Well, I think these are documents that have been recovered from the hard drives, the KordaMentha hard drives, but they ultimately came from one of the two CFMEU entities and the concern was simply, as my learned friend said, that those documents did have on them bank account details, and therefore we took the view that it wasn't appropriate for them to be broadly published. We did seek redaction of, you know, all bar the last four digits as a means of addressing that. That
10 can't be done. This is a work-around which we're comfortable with.

COMMISSIONER: Does anyone else want to be heard on the making of this non-publication confidentiality order?

15 **MR DE JERSEY:** No.

COMMISSIONER: Very well. I'll make the order that's been provided to me, that pursuant to section 16 of the Commissions of Inquiry Act 1950, there be no publication of the documents listed within the exhibit marked FM-6 contained within
20 the folder entitled Excel Spreadsheet Extracts from CFMEU Financial Records Containing Personal Bank Account Numbers. And that's in a written form, and I'll sign that over the luncheon adjournment. I can sign it now and give it to you if you want, Mr Meagher. Do you want me just to sign it and hand it back to you?

25 **MR MEAGHER:** Yes, it's just the exhibit number I was just checking. I know it's written there as FM-6, but it should be FM-10, Commissioner.

COMMISSIONER: All right. Well, I won't sign it. We'll amend the order, and we'll do it after lunch.
30

MR MEAGHER: Yes. But otherwise, Commissioner, that concludes the material that we wish to present in this case study.

COMMISSIONER: All right. And what do you want to do this afternoon?
35

MR MEAGHER: Nothing.

COMMISSIONER: Nothing?

40 **MR MEAGHER:** No.

COMMISSIONER: All right. So we've got an early -

MR MEAGHER: Well, nothing in this forum, I should say.
45

COMMISSIONER: An early finish.

MR MEAGHER: Yes.

COMMISSIONER: All right. Mr O'Grady, have you got anything that you want to raise?

5

MR O'GRADY: No, Commissioner.

COMMISSIONER: Mr de Jersey?

10 **MR DE JERSEY:** Nothing, Commissioner.

COMMISSIONER: Mr Clift?

MR CLIFT: No, thank you, Commissioner.

15

COMMISSIONER: Very well. We will - is there anything else you want to say?

MR MEAGHER: No, there's not, Commissioner.

20 **COMMISSIONER:** We'll adjourn to our next hearing block.

**<THE HEARING ADJOURNED AT 12.04 PM, UNTIL 10.00AM TUESDAY,
14 JULY 2026**