

[1] absolutely no reason why I should have asked for a
 [2] letter about which I knew nothing.
 [3] **Q:** It is just a coincidence, is it, that, on
 [4] 28th October, you had written a strong recommendation
 [5] to Watson and that, two days later, to your own
 [6] knowledge, he had adopted that proposal and written to
 [7] Sainsburys, and just a coincidence, as I suggest to you,
 [8] that Mr Donovan has contended throughout, as you know,
 [9] that you had the letter on 24th November? That is a
 [10] coincidence, is it?
 [11] **A:** I have explained why the Sainsburys briefing document
 [12] and letter were made by me at the end of October. It
 [13] was seizing what we perceived as a marketing
 [14] opportunity, I think. Because Sainsburys - either we
 [15] had suddenly become aware of them -
 [16] **Q:** I am not asking that question. Forgive me -
 [17] **A:** I am trying to explain why we were talking to
 [18] Sainsburys. We were talking to Sainsburys for the
 [19] reasons I have explained earlier; because we became
 [20] aware of them through Comic Relief and/or Air Miles.
 [21] I mentioned it to David, David asked me to write a
 [22] strategy document. This was all completely
 [23] correspondence between David Watson and myself. Whether
 [24] or not, in a completely unprompted telephone call which
 [25] Mr Donovan must have made to me some time prior to

[1] the Concept Four on 4th June?
 [2] **A:** On 26th May or beforehand, yes. I mean, we have been
 [3] through all of this.
 [4] **Q:** Exactly. You have no recollection at all, is the point,
 [5] is it not?
 [6] **A:** About Concept Four and about the Sainsburys letter, no.
 [7] **Q:** No. You see, I want to understand, if I may, exactly
 [8] what you are saying about 24th November.
 [9] (4.00 pm)
 [10] Page 15 of your witness statement, paragraph 30;
 [11] "On 24th November I had a meeting with
 [12] John Donovan."
 [13] You omit any reference to Mr Sotherton. Do you
 [14] accept that Mr Sotherton was present?
 [15] **A:** I do.
 [16] **Q:** "At this meeting we discussed two new promotions that he
 [17] put forward; Hollywood Collection and Make Merry. As
 [18] usual, I made a note of this meeting. I understand from
 [19] Mr Donovan's Statement of Claim that he alleges he left
 [20] me a copy of a July 1990 letter he had written to
 [21] Sainsburys at this meeting. I have no recollection of
 [22] ever requesting, discussing or seeing that letter."
 [23] **First proposition:** is that correct? You have no
 [24] recollection of requesting, discussing or seeing that
 [25] letter?

[1] 24th November, he mentioned a letter or mentioned
 [2] Sainsburys, I cannot remember what was discussed at that
 [3] telephone call. I had hundreds of calls every week.
 [4] But I never knew about this Sainsburys letter.
 [5] **Q:** Mr Donovan could never have known that Mr Watson had
 [6] written to Sainsburys, could he?
 [7] **A:** No.
 [8] **Q:** He could never have known that, on the 28th, you had
 [9] recommended to Watson such an approach to Sainsburys,
 [10] could he?
 [11] **A:** I do not think there is any way he could, no.
 [12] **Q:** No. But he has, as you know, asserted throughout this
 [13] entire proceeding that you asked him to bring a copy of
 [14] a Sainsburys letter to the meeting on 24th November. He
 [15] has always asserted that; you know that, do you not?
 [16] **A:** I do know that.
 [17] **Q:** You cannot recollect that conversation on the telephone?
 [18] **A:** I have no recollection of it at all.
 [19] **Q:** No. Indeed, it is right to say that you have no
 [20] recollection of the conversation on 12th May about this
 [21] multibrand loyalty concept?
 [22] **A:** No. But, as we ascertained earlier on, clearly
 [23] something was mentioned at some stage. Probably in
 [24] passing.
 [25] **Q:** No recollection of any discussion about the receipt of

[1] **A:** Correct. I have never seen it.
 [2] **Q:** That is different from saying "I have no recollection of
 [3] it". Which is it?
 [4] **A:** If you compare the Concept Four and the Sainsburys
 [5] letter, having now poured over Concept Four for some
 [6] months in preparation for this trial, it seems to jog
 [7] memories. Nothing more than that. It seems to come
 [8] back to me that it may have been mentioned in passing.
 [9] But that is only after pouring over it in the last few
 [10] months. Nothing has jogged any memories about the
 [11] Sainsburys letter or even any discussion at all with
 [12] Mr Donovan about Sainsburys or anything.
 [13] **Q:** Forgive me, did you have the recollection, dimly
 [14] stirring, of seeing Concept Four when you made your
 [15] witness statement?
 [16] **A:** I do not think I did. It was some months ago when we
 [17] had to file these. It is only a dim recollection and,
 [18] as I say, if you look at it, it is a collection of
 [19] generic concepts or ideas.
 [20] **Q:** We will come to that. You have no recollection of
 [21] requesting or seeing the letter?
 [22] **A:** No.
 [23] **Q:** Do you say that you did not see the letter, or that you
 [24] just have no recollection of it?
 [25] **A:** I did not see the letter. I am quite sure of that.