



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

**INQUIRY INTO AUSTRALIA'S GAMBLING INDUSTRIES
(SUPPLEMENTARY PUBLIC HEARING)**

**MR G.R. BANKS, Chairman
MR R. FITZGERALD, Associate Commissioner**

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON TUESDAY, 30 MARCH 1999, AT 1.14 PM

Continued from 14/12/98 in Hobart

MR BANKS: Welcome, ladies and gentlemen, to this supplementary public hearing for the commission's inquiry into Australia's gambling industries. My name is Gary Banks, I'm the presiding commissioner on the inquiry, and my colleague is Robert Fitzgerald who is associate commissioner.

I think we signalled at the end of last year, at the conclusion of our hearings at that time, that when the industry's submission came in we would look at the opportunity of having a further hearing to discuss that submission. Indeed, we have received two submissions, numbers 155 and 156, which are both substantial submissions and useful to the commission, and we thought it would be a good opportunity to discuss those with participants. So what we have this afternoon is ACIL appearing first, and then members of the industry after that. We have allotted half an hour each for them, which may be a tad optimistic, so Robert and I have adjusted our flight schedules in anticipation, but we'll do the best we can to get through that. There are lots of interesting issues to discuss.

There will also be an opportunity for others, who may want to comment on those submissions, to do so in further submissions of their own. While we're busily working away on the draft report we continue to receive other submissions, so people who want to do that are welcome to do so and some have already signalled that they will. I think with those introductory remarks I would like to welcome ACIL as the first participant. I will ask you to give your names and the capacity in which you're here today, please.

MR CAMPBELL: Rob Campbell, ACIL Consulting.

MR RAE: Jeffrey Rae, ACIL Consulting.

MR CUTBUSH: Greg Cutbush, ACIL Consulting.

MR BANKS: Thanks for coming today and also for the submission. As I said, it has been a useful submission to us and it's quite a detailed one and we both have a few issues to discuss, but we'll give you the opportunity to perhaps summarise the key points.

MR RAE: Thank you very much, commissioner. At the outset, I would certainly like to thank you and your fellow commissioner for the opportunity to present our submission to the inquiry. I think it's fair to say the inquiry is historically significant. It's the first time the commission or any of its many predecessors has actually looked into the issue of gambling. It's probably also pretty accurate to say that this is the first time that gambling has been looked at from an economic and national point of view, so I think it is historical on those counts. Certainly my own view is if we had had this inquiry earlier, I think public policy on gambling would be in a much healthier state than it is.

The submission that we have put before you attempts to achieve three objectives. We have tried to bring together what we believe is the factual information on gambling and the industry; we have explored what we think are the

key policy issues that gambling raise and confront the industry; and finally we attempt to pinpoint those areas where we think policy could usefully be changed in the public interest. The submission itself has been funded by six gambling companies, but it is an independent analysis by ourselves, and indeed as you said at the beginning, five of the six are going to appear subsequently and they will express their own views on the submission.

We have taken as our jumping-off point for the submission six principles which we believe are important for policy. These principles have been, over a long period of time, both championed and applied by the commission and its various predecessors. I would just like to run through those quickly because I think they are kind of critical. First of all, we believe individuals are generally in the best position to determine which economic activities they engage in and the extent of their involvement. Having said that, certainly we admit as well that some people may be judged by the community as not being capable to exercise a free choice in those sort of issues. Minimal interference in markets, we believe, generally ensures that consumers and suppliers are able to make the decisions that are in their own best interests.

Free choice may not deliver socially optimal outcomes because we do admit that markets are capable of failing. However, on the other side of that, intervention to correct market failure we know always has costs and doesn't always produce benefits that are more than the costs. So we believe those principles haven't in the past been applied to gambling and this is an historical opportunity to actually apply them to gambling for the first time. We have attempted to show why the application of these principles, if applied to the industry, will make an important contribution to the community as a whole.

Contrary to popular impression gambling already makes a significant contribution to the economy. Each year the nearly 7000 businesses in the industry produce services that are valued at around about \$10 billion, and in doing so they contribute around about \$5 and a half billion to our gross domestic products. So Australians as a whole are better off to the tune of 5 and a half billion, at the very least in a material sense, from having the industry, and in the process of doing so, the industry provides for over 135,000 people. To put it in context, the size of the contribution to the economy is on a par with other industries that have been important participants in policy debates with the commission, such as the Clothing, Textile and Footwear industry.

I think we're all aware that in recent years the industry has expanded considerably, and in fact in the seven years to June 97 the value of the industry's output has more than doubled. This represents a growth rate of 10 per cent and most of this growth, though, has been due to a relaxation of the regulatory restrictions on the industry. I think it's interesting because in other industries these sort of numbers would be the stuff of politician's dreams, but when it comes to gambling, public policy in Australia has been characterised by schizophrenia, I think, rather than enthusiasm: encouraging one minute, discouraging the next. I guess the taxation and regulatory regimes that address gambling illustrate this point.

Currently gambling is subject to very high and very discriminatory taxes. Tax rates on gambling are generally between 60 and 70 per cent of the industry's value added. In contrast most competing services, entertainment being the critical one, are not taxed at all, and the proposed goods and services tax will only reduce the extent of this discrimination to a relatively small degree, so that after the imposition of the GST competing entertainment services will still only be paying 10 to 15 per cent of the tax that will be borne by gambling.

As well as being heavily taxed, gambling is highly regulated. Each jurisdiction applies rules to gambling that are characterised by being extremely detailed, very prescriptive and largely discriminatory. In some cases they even duplicate the rules in other areas of government. The regulatory rules cover every imaginable facet of gambling. Gambling operators have to be licensed, there are limits on the type, size, number and distribution of gambling outlets, there are controls on the kind of gambling individual operators may offer, there are caps on individual kinds of gambling, like electronic gaming machines and gambling tables that operators may provide. Advertising is restricted. There are rules on who the gambling operators may employ, and finally there is stringent day-to-day supervision of gambling operations.

I guess a good illustration would be with electronic gaming machines in Victoria, that perhaps brings this into the sharpest relief. There are only three operators that are licensed to operate the machines. There is an overall limit on the number of machines that may be operated in Victoria. The numbers of machines outside the casino have to be split between two operators; each of these must distribute the machines equally between hotels and clubs; they must not have more than 80 per cent of their machines in the Melbourne metropolitan area. Needless to say, it would only be by the greatest coincidence that this maze actually represented the allocation of machines that provides the greatest benefits to the consumers who use them.

The nature and the extent of the regulation of gambling makes it hard to avoid the conclusion that it mostly serves another purpose rather than satisfying the needs of gamblers or indeed the community as a whole. The most obvious conclusion that one is forced to reach is that regulation exists to maximise the tax take by government. Governments use strong regulatory powers to create large economic rents and then simply appropriate as much of them as they can through heavy taxation. This approach may yield a fiscal bonanza for the public sector but it is hard to see it promoting the economic interests of the community as a whole.

Our submission argues that the community interests would be better served by lighter and less intrusive tax and regulatory measures. In short, we propose that the best safeguard of the economic interest of the community is a competitive gambling sector that is taxed commensurately with other economic activities. The economic benefits of lighter and less intrusive tax and regulation are considerable. We have estimated that for every percentage point increase in gambling services that would be brought about by moving in this direction would add around \$300 million to our

gross domestic product. That can buy a lot of services in other areas.

Our proposed approach would not prevent governments from correcting any market failures that may be demonstrated to be associated with gambling, provided they can actually improve on market outcomes. Our proposed approach would, however, require an acknowledgment that in the past government failure has been as much of a challenge as market failure.

Much has been said in the submission about the importance of free choice and its corollary, competition, to the achievement and protection of the economic interests of the community. I would like to emphasise that free choice is equally critical in the search for solutions to ethical and social issues that confront the community in relation to gambling. On most of the great ethical issues that confront us in daily life there is generally a broad consensus in the community that legislative prohibitions can make sense. Gambling is not one of these. There is undoubtedly a small minority of people who see betting for material gain as morally wrong. Some would go so far as to argue that gambling should simply be eliminated from our society and, in doing so, they are quite entitled, it seems to me, to encourage others to refrain from gambling voluntarily. However, it is inescapable that there are ethical dilemmas in allowing those of this disposition to use the coercive powers of the state to achieve the goals they believe are appropriate.

The ethical basis of denying everyone - believers as well as non-believers - access to gambling when it causes no harm to others is highly dubious. Whose ethical standards are to be chosen? Why should one set be preferred to others? These dilemmas would be reduced, but they would not necessarily be resolved, if the ban in question represented the will of the majority; those who are in the minority have rights too. Some Christian commentators have even argued that removing the need for the individual to make ethical choices actually diminishes the redemptive power of the ethically correct choice. Not all of us are Christians, but I think it's clear that that means there is no one view in terms of the ethics of gambling from those who believe that those sort of issues are important.

For their part, economists have attempted to contribute to the debate by pointing out that competition has a role to play in the development of evolution of ideas that are similar to its role in producing an efficient provision of goods and services for the community. Open competition for adherence to an idea or ethical standard is generally seen by economists as being a better environment for developing, testing and refining such ideas and standards than the imposition of one view. I believe this applies to a range of ethical, moral and religious issues where pronounced differences in the community are apparent.

For others, the fundamental issue and public policy is a more prosaic one; it's not one of morality, but it's one of economics. They would argue that free choice should be constrained where it is associated with non-gamblers having to bear some of the cost of gambling involuntarily. Such so-called external costs require a direct link to be demonstrated between the wellbeing of those affected and the conduct of the activity in question. The classic example from the economic textbooks is

industrial pollution of, say, a river catchment where effluent will impose uncompensated costs on downstream users in certain circumstances, while those upstream are able to ignore some or all the costs that they impose on others.

We, however, have been unable to identify any such external costs that gamblers impose on non-gamblers. The impacts of gambling are purely financial and they are confined to the gamblers and their families. No-one else is materially affected. Some may feel ethically offended but that is another issue. We do not deny that some gamblers and their families suffer financial stress - some clearly do - and the financial losses can have profound personal effects on the family and the individuals. Neither do we deny that gambling can be a contributing factor in such financial stress - it clearly can, and gambling does not have to have been due to compulsive behaviour to have those kind of impacts. It could simply be the result of poor judgment or the like. However, we need to appreciate that gambling is not necessarily the only contributing factor to financial stress in a household. I appreciate that there are some in the community who feel strongly that compulsive gambling is in fact the underlying issue but the problem is: what is compulsive behaviour in the eye of the beholder? It's in the eye of the beholder, it's subjective.

There's considerable room for argument over both its definition and its measurement. Even medical experts can't agree on if it's a medical problem. If we accept, say, the South Oaks Gambling Screen - and that is a big if - only 1 to 3 per cent of the Australian population are affected; so that severely restricting the access of the 99 per cent of the population to a service they see as beneficial to themselves and their families, because 1 per cent are made worse off by the experience, looks dubious at best. However, it's not even clear that the 1 per cent are actually worse off by restricting access.

Gary Becker, the Nobel laureate in economics, and others have shown that compulsory denial of compulsive behaviour does not necessarily improve a gambler's estimation of his or her wellbeing. If we don't let the gambler determine this, who is to do it and what way do we have of knowing that it has been done properly, let alone done well? I would argue that the fundamental public policy issue in such cases has little to do with gambling or with compulsive behaviour; rather the real policy issues are about things like the adequacy and efficiency of community support in the long and the short term. They are also about ensuring that family members meet their explicit and implicit obligations to those who depend upon them.

It seems to me it would be an opportunity lost if the commission were not to look seriously at these wider issues as part of this inquiry. Thank you, commissioners, I perhaps will leave it there and I'd be more than happy to answer your questions.

MR BANKS: Thanks very much for that. Perhaps one place to start might be that in these hearings we've heard a lot about the costs of gambling, and problem gambling in particular. Your submission addresses the benefits side of that, which I think is useful to us, and sets out some considerations there and also some empirical work on that. Would you care to just highlight in your terms what you see as the key

benefits that need to be taken into account?

MR RAE: I think the key benefits are the benefits to the individual of being able to determine how he best spends his or her income. At the moment access to gambling is severely restricted, so consumers are being encouraged to, if you like, make choices elsewhere and not to gamble when it would actually be in their interest to do so. By a combination of tax and regulation we're discouraging people from making greater use of that. So if we were to move in the direction that we have proposed, it seems to me the benefits would be felt in two areas: (1) people would be able to determine their own consumption bundles - to use the terminology - that best suits them, and that would be a larger benefit to them than what they are currently doing;(2) there would be an expansion of the industry in all likelihood, particularly if the suggestions that we've made are followed, and that would lead to a more competitive and productive industry.

So the industry would be encouraged to be producing the services that it's producing to become more productive and more competitive, and we believe that there's some evidence to suggest that this has already happened to a degree. The increase in gambling opportunities that has occurred has undoubtedly led to a greater number of operators and products in the marketplace. The anecdotal evidence that we're aware of certainly suggests that individual operators have considerably increased the efficiency and productivity of their own operation, so we could expect to see a benefit from that score.

MR FITZGERALD: Just taking that point, is it therefore a conclusion you can come to that you're saying almost unlimited access would in fact create a benefit? Is there any limit at all to this accessibility which creates the individual's benefit? Because it strikes me that in fact the industry doesn't necessarily argue for unlimited access but if you take the view that the individual's benefit would be increased by having access virtually at any time and at any point, then in fact that's the logical conclusion.

MR RAE: There are always going to be limits for reasons of congestion - good policy in other areas why access won't be unlimited. We have planning laws and I'm not suggesting that planning laws, for example, be abolished in relation to gambling. What I am suggesting is that laws such as those that apply in other areas be applied to the gambling industry. The gambling industry doesn't need any more or any less restrictions on it than other industries have, so if there's a case for planning law to restrict access to particular locations and that's justified in the public interest, it seems to me that the gambling industry should have to adhere to that and those restrictions should be applied to it.

MR FITZGERALD: Then the provision of duopoly and exclusive licences and restrictions that currently exist across all gambling forms, taken to that point, would in fact be poor public policy other than for the gaining of economic rent or other benefits to the government.

MR RAE: As I said, the only conclusion that one can come to is that the

governments have attempted to create the rents for themselves to harvest, so they've offered restricted access by operators in the industry to the marketplace. Those operators in good faith have paid for that and so I don't think we would suggest that that should simply be swept away without consideration. But I think in all cases those licences are limited in time and when those licences come to an end it would be appropriate to open up the industry to greater competition.

MR FITZGERALD: I'll come back to that later.

MR BANKS: Okay. You've provided us a service by commissioning some economy-wide modelling to show what the benefits of expansion of the industry could be, and that's quite useful. Obviously we've got some questions about it. It's not the ideal environment here to go into them in any detail, so I don't intend to do that but just a couple of general things that came out for me that you may care to respond to: initially could you tell us who did the modelling?

MR CUTBUSH: Yes, we had it done by Economic Insights, a firm in Brisbane with access to a model known as a state model, a variety of model like Orani.

MR RAE: We believe the commission is familiar with Orani.

MR BANKS: Yes.

MR CUTBUSH: The state model has got some ability to track fiscal developments at state level, which is very useful for this kind of exercise.

MR BANKS: As you would be aware, the question of understanding the demand responsiveness, or the responsiveness in relation to price changes of gambling, is very hard because you don't have the kind of unfettered market that will allow you to observe demand changing with price, so one of the things that has preoccupied us is how to get some sensible price elasticities, to use the jargon. I noticed in the modelling here the elasticity used is quite low. It's minus 0.3 basically.

MR CUTBUSH: Yes.

MR BANKS: Would you care to comment on why that was chosen? I might just mention that some of the other submissions, including the one by the Centre for International Economics with which you might be familiar, provided a range which went significantly higher than, that but in the Access Economics submission they made, they seemed to be saying that, if anything, one would imagine the price elasticity to be increasing as substitutes increasingly become available and so on. So I'm just interested in that.

MR CUTBUSH: Let me answer that one. We felt the same way about the elasticities that you've indicated others have thought. To our mind the elasticity is increasing all the time and for that reason we ran a series of experiments with double the elasticity at minus 0.6, which approaches the mid-point of the range that I think the Centre for International Economics tried with its Aristocrat submission. We had

a limited amount of time and resources to do this exercise and we would liked to take this matter a bit further but we discovered that for the kind of framework we'd put the gambling industry in in this model, the elasticity story didn't seem to make much difference for the kind of results that we were getting. That's the important insight for us.

In the limited range of things we were able to try, it didn't seem like it was an important issue, and so for the purposes of this exercise we didn't see any need to inquire much further into the true value of the elasticity. The elasticity of minus 0.3 is clearly that one that would have been appropriate to an earlier age, and that fits the sort of data we had, so perhaps there were some consistency reasons for keeping to that - for the meantime anyway.

MR BANKS: Okay.

MR RAE: I guess the other point to make about the elasticities is in terms of the simulations that we were running, was that it was more conservative to assume a lower more inelastic response. If we had assumed a higher response we would have got much larger magnitudes in terms of gains from the industry expanding or contracting from first principle. So it seemed to us it was a more conservative assumption to adopt the lower bound, but either way it's important to test it and we've tested it and we believe it doesn't look that sensitive to the sort of simulations we were doing. It would be interesting to test with other modelling frameworks, such as the Murphy one, whether or not the same sort of results would come out of that kind of test.

MR BANKS: One interesting aspect of the modelling I think is how the gains are derived in terms of relaxing entry restrictions and modelling that. I think what you're saying here, given that elasticity and so on and what you're working through, is you're basically finding that there's rent there, which is taken as inefficiency, I suppose, in the industry and that therefore competition will drive costs down and there's a gain there. I think there's a sort of logic to that, although whether the industry would regard itself as inefficient currently and earning super profits - or earning super profits would be interesting to hear.

The other is whether that sort of logic applies to the government sector and that's where I'm a bit puzzled as to whether you could expect great efficiency gains in the government sector through the kind of liberalisation that you're proposing.

MR CUTBUSH: My feeling is that obviously first of all the two magnitudes we've chosen for both those effects are arbitrary and easily you could argue that they're too large. Our estimation or our demonstration of the point, in other words, has been based on fairly polar assumptions about the likelihood of certain things happening. On the other hand there are some examples of segments of the private sector which must have rents approaching that sort of 50 per cent magnitude - or 50 per cent of the tax rate, that is - and certainly if one set one's mind to it I think one could accumulate a lot of information about overlap and duplication in the government sector which would be likely to be rationalised in a more competitive world. There are any

amount of examples concerning the security aspects and financial supervision aspects of gambling institutions in particular which we nominate in our submission that one can example.

MR BANKS: The only other thing I was just going to flag that we'd be looking at is - I think, as Jeff was saying, you focus rightly on issues to do with consumer benefits and you use the jargon "consumer surplus". The CIA and others have addressed that concept as well, but you also talk about "producer surplus", which is in some ways a slightly more ambiguous concept and, in your submission, equate with value-added by the industry. That doesn't accord with my memory of how the economics goes. For me I'd see the value added as simply representing the contribution of the industry in GDPs - or just the extent of its size in a sense, real size - which isn't the same thing as producer surplus. Do you want to comment at all on that or is that starting to get too arcane?

MR CUTBUSH: No. I'll be brief. You're right; to the extent that GDP is dominated by one great big block of taxation - it's possible to make some rough and ready estimations here, I think, and that's the spirit in which this was offered. The return to fixed factors, which is known as "producer surplus", is that it forms part of GDP, in terms of the theory of GDP in any case, because it too is supposed to be a representation of a return to fixed factors used in the production process.

The difference is that GDP includes returns to some additional factors that are not traditionally included in producer surplus, and that's the difference. The question is: does it matter much? Is it a very large magnitude? In our submission we include a paragraph or two about what an approximation it is, and we don't pretend for a second that it's precise in algebraic terms. But if you're talking in billions and half-billions and trying to get a round figure look at this size of this industry, we think it's fair enough.

MR BANKS: I'll let that stand and maybe it's an issue that we might get back to you on at some stage as we work it through ourselves.

MR RAE: We're happy to take up any questions that you have of a more technical nature in the modelling subsequently.

MR BANKS: Good. I'm conscious of the time flying by and we've talked about the benefits, perhaps if we go back to the costs: you've raised some issues there in your submission which inevitably will be controversial and I suspect we'll get some more submissions - - -

MR RAE: I can't imagine why.

MR BANKS: - - - commenting on them and perhaps rational addiction is one of those. Rob, did you want to - - -

MR FITZGERALD: I just need to understand that. Basically, you have taken one academic and actually indicated a preference for that view - that is, of a rational

addict, one that fully takes into account all of the consequences of their action, including the problems that stem from it and family breakdown, when they make the choice to play.

MR RAE: Correct.

MR FITZGERALD: That, I have to say, doesn't accord with anything that we have heard from the problem gamblers themselves and, certainly, if you ask the question of the problem gamblers, they would always answer to the question, "Would you do it again?" "No."

MR RAE: Yes.

MR FITZGERALD: It does not seem logical that you would say that that person took all of those factors into account at the time of commencement of gambling but, subsequently, when you actually ask them the question, "Would you do it again?" and the answer is, "No" - they didn't benefit from it; they were actually damaged - so it strikes me as very difficult that the proposition you're putting, on which you very much diminish the need for governments to intervene, is based on that theory.

MR RAE: Let's start with the last part.

MR FITZGERALD: Yes.

MR RAE: I didn't say that. Okay? What I tried to say is that the basis for intervention is somewhere else. I mean, it is wrong to characterise it as saying that there is no problem in the broader sense of the word. There clearly is a problem if people end up - if families end up - being unable to support themselves, if children are left without support.

MR FITZGERALD: Sure.

MR RAE: No-one is going to assert that that is not a problem. In terms of the debate in the profession there are clearly two camps. There is a camp that says the way we explain things like addictive behaviour and compulsive behaviour is that preferences are unstable - they shift around - and this explains it. There is another camp, more, if you like, in the mainstream of the profession in the sense of preferring fewer assertions to get to the conclusion, who have shown that without changing the basis on which the economic model is based, they can nevertheless explain addictive and compulsive behaviour.

I guess the reason why we prefer the second to the first is Occam's razor: fewer assumptions are better; a complex model is to be rejected if you have got a less complex one that will produce answers that are as consistent with what you observed. That is not to say that one is right and one is wrong. It is merely to say that on the basis of what we know now we have got more grounds for being comfortable with going that way than we have to go the other way.

MR CUTBUSH: Moreover, it is a model which is applied elsewhere in relation to the behaviour of consumers and is predictive. It has been shown over a hundred years of empirical economics to be quite a powerful predictor of human behaviour, so it seems to us the simplicity thing can be supplemented with the additional characteristic that it is a model that has worked elsewhere, as well. Our general starting point was, "Why would we want to treat this industry differently anyway?" So that's why we tried that.

MR FITZGERALD: And why do we? Why is it that no-one in this industry has indicated, for example, that in fact there should be open access to gambling to minors - - -

MR RAE: No-one is arguing with that.

MR FITZGERALD: Why therefore, if that is the case, if it is a rational behaviour entered into by people that make free choice, taking into account the consequences, albeit for their families and that - what is it that actually guides us in public policy to say that there should be any restrictions at all, apart from criminal or probity issues?

MR CUTBUSH: We are not persuaded that there is much of a case for restrictions other than those ordinarily applied to activities across the economy. Presumably you would readily accept restrictions on access by children to activities such as this, just as you would to the roads or anything else.

MR FITZGERALD: But why? Why?

MR RAE: Because parents don't consider the children are yet at a stage where they can make that choice.

MR FITZGERALD: Or are there some dangers or risks associated with the product or goods?

MR RAE: That's saying the same thing another way.

MR FITZGERALD: So there is a risk associated with the gambling?

MR RAE: There's a financial risk. There is no question there is a financial risk associated with gambling.

MR FITZGERALD: And is there any acknowledgment at all that that risk can lead to problems?

MR RAE: Sure.

MR FITZGERALD: Fine, so we acknowledge therefore that if the good or service has a risk which is capable of generating problems then it would be good public policy to take into account the extent of those problems and the connectiveness with the risk attached to the good or service.

MR CUTBUSH: Not necessarily, not necessarily. It's the existence of problems for people afterwards. It's not necessarily a public policy matter. It's a matter that individuals themselves would need to be concerned about when they entered into the business - entered the activity.

MR FITZGERALD: Except to say that if a problem gambler gets to a point of having substantial problems - and ignoring how we want to call it - pathological, compulsive or whatever - - -

MR RAE: Sure.

MR FITZGERALD: - - - then what we do know is that that impacts on a number of significant others, including families, although it also impacts on employers through lost productivity, time out and so on, which is not put into the submission, so it is not actually just the gambler him or herself that is affected. I surely don't think there is any doubt that there is a range of significant others affected, so in this case the harm caused to an individual may be one issue, the harm caused by the individual's behaviour affects others, including more broadly than the family.

MR RAE: I think I said at the beginning that it is quite clear that the financial impacts of gambling can be quite devastating, but what we're arguing about is whether there are more than just financial impacts.

MR FITZGERALD: Yes.

MR RAE: This is the nub of the issue. Are there impacts that are more than financial? If it is just a matter of rearranging the financial deckchairs, you might go one way.

MR FITZGERALD: Yes.

MR RAE: What the other side, if you like, is arguing is that the process of gambling somehow alters people. Right? It somehow alters their behaviour, and that is what we don't know. That is the nub of the issue, and what we're saying, I think, is from our side we would like to see the hard evidence and proof of that link before public policy should go off and deal with that. Now, that is not to say that it shouldn't be dealing with the first consequence, which is the financial one, so that if there are families who are in financial straits, obviously there may be a need for emergency assistance; there may be a need for welfare support. That is not the issue.

Equally it is not an issue that if one member of a family has run off and taken the family savings and blown it, you know - and it doesn't matter whether it has blown it on gambling or anything else, I would argue - if the result of that has been that the implicit or explicit relationships or contracts in the family have been denied by that, well, that is clearly an issue for public policy. We have a series of laws, statute and common, that deal with those issues, rightly. Okay?

MR FITZGERALD: Yes.

MR RAE: But that is not what we are arguing about, I don't think. The argument is whether over here, in this other box, there is a transformation that takes place by virtue of simply playing a game.

MR FITZGERALD: Tell me this: where does your submission stand in relation to community awareness campaigns in the same way that we treat other public health issues? You make a comment in here - and correct me if I am wrong - that to advertise health services may in fact actually lead to an increase in either those fronting with problems or problem gambling itself. If we use that would you also be against the advertising of the product itself? If you have concerns about advertising in relation to the service available for all those that have problems, would you also be concerned about allowing advertising of the product or service itself in isolation of some sort of community awareness program?

MR CUTBUSH: I think the reference which you are alluding to there is to a particular style of advertising.

MR FITZGERALD: Right, yes.

MR CUTBUSH: Reference was made by way of example to a statement that the Victorian government had put out - or one of the departments of the Victorian government - concerning the availability of services to nurture and protect people who had fallen on hard times, and the wording used was of a type which suggested, "Don't worry any more. The government is looking after this matter from here on."

MR FITZGERALD: Sure.

MR CUTBUSH: Now, that seems to me to be a very particular sort of an advertisement. It is just not advertising in general. That's advertising which suggests that those of you who previously might have felt as family members or as spouses or as community help groups that this was a problem, don't worry.

MR FITZGERALD: Yes.

MR CUTBUSH: Here it is; government steps in. Now, that is the kind of advertising we were feeling could generate as many problems as it solved because it would nurture the view that people need not take the responsibilities they had previously taken and that is definitely not the way we see public policy.

MR FITZGERALD: So you are not in opposition to community awareness programs; you're saying it's the style?

MR CUTBUSH: It's the style.

MR RAE: I think the issue - - -

MR FITZGERALD: Can I just make a point?

MR RAE: Sorry.

MR FITZGERALD: You make this comment, which is why I raise it, so strongly: you say, "We believe governments are not entitled to treat compulsive gamblers as insane people whose habits warrant paternalistic intervention to force them to desist."

MR RAE: Yes.

MR FITZGERALD: Which is very strong, yet in another part of the paper you talk about problem gamblers with deep-seated personality disorders. So you recognise in one part of the paper that there are disorders but, somehow or another, we have got to be careful not to treat them, so do you actually see it as a mental health issue - sorry, a public health issue or a community health issue or is that, in your mind, barking up the wrong tree entirely?

MR CUTBUSH: In fairness, again the "deep-seated personality disorder" reference is to a potential, isn't it, that might exist, that is wider than any problem that is observed in gambling or other pursuits? We don't concede that compulsive consumption of anything is necessarily evidence of a deep psychological disorder. Our view of it is that it is readily explained by the application of the standard economic model of consumer behaviour and that, moreover, people needn't have to pass the test of full knowledge to be deemed rational to enter something that is risky, so it seems to us the sanity statement is about a class of problems at another level than simply the things one observes of a compulsive gambler. I would have thought insanity is about the creation of dangers to others and all that sort of thing.

MR FITZGERALD: Sure.

MR RAE: The issue, I think, commissioner, is about - the word "forced" is important in that statement that you read out and which you felt was perhaps strong.

MR FITZGERALD: Right.

MR RAE: If a person comes to her family or his family and says, "Look, I believe I have a problem in the sense that I am not making the correct decisions for myself and the family and I need help," I don't have a problem with that. It seems to me that that should be responded to, both by the family and, to the extent that there is a public interest in it, by the public as well. Okay? The issue is whether forcing people who have compulsions to deny their compulsions - this is not whether people who have compulsions and who wish to change, for whatever reason, are not entitled to seek help to change.

I mean, we are not saying the second. We are saying the basis for denying the compulsion is problematical because we can't prove we will actually improve the welfare of the person who has the compulsion, for a start, and whose preferences count in deciding whether they have or not. I mean, we get in a very difficult

situation there. Someone has to then put themselves in loco parentis, to use an older term, effectively to make the decision for them, and when you take that decision outside of the family I think that becomes very problematical and it is not something to be entered into lightly, it seems to me. In other words, I would like to see there being a strong demonstrated basis for that rather than a problem which is hard to define, hard to measure, as being the basis for it. I mean, if you like, it is another form of risk management. There is a risk in public policy getting it wrong if the basis for it is so difficult to establish in the first place.

MR FITZGERALD: Okay.

MR BANKS: If I could follow through what you're saying, I think what you're saying accords with what a lot of people in the hearings - even those who see things more from the perspective of the problem gambler - would say, and that is that the prohibition or draconian regulation isn't the way to deal with it, and they would talk more about harm minimisation and the suite of more targeted measures. I mean, does that reconcile some of the things in your own submission? You do acknowledge and endorse, I think, the role of harm minimisation strategies that your clients have adopted.

MR RAE: It seems to me that if individual gamblers and gambling providers and not-for-profit groups are able to between them, individually or collectively, provide services of that kind, that is to be encouraged in a broad sense. The problem I think comes when it is backed up by forms of compulsion. I think at that point we change fundamentally the test that has to be passed to determine whether or not we are talking about good public policy or not.

I have no problem with any of those, even on the basis of evidence which I personally may not find persuasive. It seems to me there's a case for people taking action, simply because it makes sense on the balance of probabilities in their view to take action. The problem comes when we require public policy to actually use strong regulatory means to back that up, with the possibility that it will deny people who have no problem, the 99 per cent of people who demonstrably do not have a problem with the product, access to it or on terms which would be beneficial to them. That's the problem. Now, if we can find another way to skin the lemon that doesn't restrict the 99 per cent but better identifies the 1 per cent who they believe need help and assistance, I think that's a challenge for you.

MR FITZGERALD: Just one final issue about that: correct me if I'm wrong, but your submission takes the view, does it not, that increased competition by and large - and we'll come back to competition later in more specific terms - actually favours the reduction of problem gambling. Can you explain why that is? The reason I raise that is, if the evidence is shown through the surveys that we're currently doing that a very small percentage of people with problems represents a very large percentage of the take, particularly in EGMs, would you still be of that view?

In other words, there seems to be growing evidence - which is part of the commission's work - to say that a small percentage of gamblers with problems

represent a fairly significant percentage - not a majority, but a significant percentage of the gambling take, particularly through EGMs and other activities. That would indicate that, as competition has grown, we haven't necessarily seen that actually lead to a reduction in problem gambling, although it is still too early in many states to actually see the full consequences, and we acknowledge that.

MR RAE: I will be surprised, to be perfectly honest, if your survey will enable you to conclude that. You are doing a snapshot in time. All you'll be able to look at is what happens at a particular point in time. You won't be able to disentangle what has happened over time and to be able to determine what's driving that. So I'd be cautious in suggesting that the hypothesis you have in mind will be tested by what, I understand, you're doing. Certainly I think there's a sound case for looking more carefully at what can be done to identify people who wish to be helped, and defining effective ways of helping them.

Now, whether or not those people that you believe are in the one or whatever percentage are contributing all the profits of the gambling providers, I don't know the answer to that. I doubt very much whether that would be so; just the basic arithmetic suggests to me that that's unlikely because if these people are people who are at the bottom of the income distribution, even if they were to lose it all - and you can work out very quickly - it's not going to produce enough. If you're talking about \$10 billion, I don't think you're going to get \$10 billion out of 1 per cent of the population.

It seems to me that there is a skew in the distribution, but you're looking at the wrong end of the distribution for the explanation. I think you'll find that there are a large number of wealthy people who gamble inordinately - in fact they probably wouldn't pass the SOGS test if you applied it to them; I suspect we have a prominent member of the media community in this country who would have trouble passing that test. We don't think he has a problem because he's got so much wherewithal that no-one believes he needs help. If he loses several large ones at the tables, no-one is going to be concerned about that.

MR BANKS: Your other point - and I guess it's one of the central thrusts of the submission - is that competition would generate an incentive environment that would facilitate a duty of care essentially on the part of the providers of gambling services. Now, other people have said to us just the contrary to that: they've said that in a situation of competitive pressure, that providers of gambling services are more likely to turn a blind eye to the people who are generating significant revenue for them through the EGMs.

MR RAE: Sure.

MR BANKS: An issue obviously will be how much that is, and it will clearly vary among modes. But would you care to respond to that?

MR RAE: I respond in two ways: you look at the incentives and what they have at stake, and then look what has happened in other jurisdictions. In the United States, I

think it's generally agreed that a place like Las Vegas which did have a problem in relation to criminal elements being involved - and it has been largely cleaned up because the people involved in the gaming industry there are actually public companies listed on the stock exchange who have quite significant obligations in terms of disclosure and have quite significant reputations at stake in the marketplace.

Now, it's certainly true that you can posit a set of examples where a firm that's facing failure or a small operator with not much of a reputation would not be concerned about some of those issues that we've spoken of. But I think it's quite clear that when you've got, certainly the environment that's been created in relation to gambling - and that is that there's a strong element of antagonism towards part of the industry from sections of the community - if you're a gambling service provider, you've got a lot at stake. You've got a lot of capital in the marketplace, you've got shareholders who want to return. If you were to do anything that was to prejudice your ability to earn profits in a way which didn't attract the ire of the community or of government, you know, you're taking a considerable risk upon yourself.

That's not to say it won't happen, but I think it is to say that there are strong incentives on the part of particularly publicly listed companies who are involved in the industry to be very careful about how they approach the issues of problem gambling; I would say, even to the point of being quite prepared to spend a significant amount of money, where they're not personally convinced on the wisdom of that, but because they believe they have to be seen as corporations, as being responsible with the way they approach their clients and the community on the treatment of some of these issues, and I think that makes commercial sense.

MR BANKS: Would you see any scope here for regulation directed to duty of care to be applied to the gambling industry as a mechanism that would, in a sense, create an incentive environment subsequently to that?

MR CUTBUSH: You have in mind a statute for that?

MR BANKS: Well, I'm asking Jeff who I know has some experience in these matters relating to duty of care in other areas.

MR CUTBUSH: I know.

MR RAE: I thought, chairman, at the beginning you said I wasn't to use any inside knowledge gained in the commission. I think - and I'm speaking as an individual here and certainly we haven't looked at this issue - there is a strong case for a completely different approach to the way we approach regulation of gambling, and a duty of care, carefully and properly designed, might well be part of a solution that could be looked at there. I know I'm certainly persuaded that in other areas it's made a big contribution. Having said that, there are also examples of where it's been poorly implemented as well.

So I wouldn't want to give you an unqualified yes to that, but I'd certainly encourage you to look at that as an area which could at least move us considerably

forward than where we are. The big advantage potentially of it is that it would do away with a lot of the very detailed, very prescriptive, very intrusive forms of regulation, and would adopt a more strategic holistic approach to regulation and, I think, with certain provisos that would have to be a positive move on the part of the approach to the industry.

MR CUTBUSH: Could I say in addition that on the spectre of alternatives that are considered, it seems to me that an uncluttered legislative environment which rested more squarely on common law solutions or remedies, as they say, would also be something to consider. I don't think Jeff and I have discussed this in another context entirely.

MR BANKS: Is there some dissent within the team?

MR CUTBUSH: No, not at all. On this question we remain interested researchers.

MR BANKS: Right. We're all searching for the truth.

MR CUTBUSH: But you'll understand the point I'm making.

MR BANKS: Good.

MR FITZGERALD: We've moved on to regulation. I'm conscious of time, but we're going to run over. As we go through this, the regulatory regime, one of the things that I was concerned about in the submission was that it led me to a great crescendo that you were about to give me a chapter that said "Here's the answer" in terms of regulatory regime, and it didn't quite do that, which was a great disappointment to me. But I didn't get a feeling at the end of it of what is an appropriate regulatory regime for this industry.

Now, obviously we're talking to the participants later and they all come from different backgrounds and different perspectives, but I still am left at the end of the day with a lack of clarity about what we would define as an ideal regime in this area. Perhaps you can't come up with one and the submission certainly doesn't do that, although it does give us help in terms of analysing issues. But is there an overriding guiding policy that comes out of this submission that you should leave with the commission in terms of advising governments on a more appropriate regulatory regime across gambling, or is that impossible?

MR RAE: No, I don't think that's impossible. Just to answer the first part of it, we I suppose cheekily didn't come up with the solution for you, in part because we felt that having done such a good job for you, you had to earn your keep some way. But, seriously, we felt that the first issue in getting a fundamental change in public policy is creating an analysis which suggests that the status quo is a poor status quo and we have to move on. We believe we've done that, and I grant you we haven't given you the blueprint of how to move forward.

I think, however, we've given you some clear directions, and that is it's quite

clear that both the level and style of taxation and regulation in this industry is far too intrusive, far too detailed and doesn't have a big picture feel about it. So I would suggest you've got to fall back to the principles and then proceed forward - is the way I would suggest for you; to test every element of the two regimes against the principles that you're going to apply in your framework, which I believe are the principles that we've laid out; in other words, there's got to be a demonstrable case for every rule that you want to put in place. Every rule has to be justified and to pass the test.

The presumption would be that taxation of this industry would be no different to any other industry and the onus of proof would be on proving why it has to be different. So if you start with that approach, I think you'll be led forward. That's not to say that it will answer all the issues directly because, no doubt, you'll come up with others that will need to be looked at further, further research done, material put together, an analysis conducted - all that sort of thing - but I think if you go back to first principles and start with a clean sheet of paper, is really what I think we think is necessary to make progress.

That's to devise, if you like, the destination that you'd like to get to, and of course as the Irish will tell you, if I was going there, I wouldn't start from here, but unfortunately you have to. So the other thing I guess you then have to do is to work back from there and work out, well, how do we get to that point, because it won't be obvious that you can simply throw it all out and start again, as much as we might like to. But I think you, first of all, have to work out what you think the final shape of the two regimes would look like and then say, "Well, okay. Now we know where we want to go. How do we get there, and how do we present the arguments to government and to the public to support their moving in that direction?"

MR BANKS: Okay. One thing that occurred to me as you were giving some illustrations: you talked about tax and why should it be different and think about the reasons for that, and that's good, and you've got material on that and I think the next submission has as well. I was reflecting when we were talking about those low price elasticities that if they're as low as that, then maybe on Ramsey pricing principles you would have a very high tax in this area, and certainly the so-called "sin taxes" - that's an ambiguous way of putting it - have been based somewhat on that premise.

MR RAE: Yes. I think you've made a perfectly correct point. We certainly debated internally, if you like, the benchmark of Ramsey pricing. The problem of Ramsey pricing is it's fine in theory but, you know, making it work in practice. What we believe is now being resolved domestically in terms of a new approach to taxation is, there's an emerging consensus that a broadly based tax levied on a wide range of goods and services at a single rate is the best trade-off between simplicity, efficiency and the dynamic gains that we believe are important in tax reform, and I'd certainly add gambling to that group; that I can see no reason why gambling should be treated any differently.

But we have set the test up in a way that, if you were to find that there's a case for a slightly or considerably higher taxation rate for the industry, it would emerge

out of the framework that we've argued for. In other words, if there was a demonstrable market failure, if taxation was the best solution to that, and if we had the information and ensured that we got the correct or the right rate of tax on it, there would be an argument for doing precisely that. But at the moment we don't have, I believe, a case in principle or in practice to do that, so I would suggest the default position applies which is: what you do for the rest of the economy you do here.

There are inelastic goods. Food is one. Food is probably no more inelastic than gambling. That hasn't stopped quite strong arguments being put forward as to why food should be exempt. Now, others are trying to suggest that in fact that's not even good from a distributional point of view and that there are good distributional reasons why a single rate across everything, including food, at the end of the day will produce a better outcome on distributional grounds in the area of food. I think the same is true in the area of gambling.

MR BANKS: What you are saying is gambling is an essential service?

MR RAE: Gambling is no more essential than most food is.

MR BANKS: That's all right.

MR RAE: Most food in fact is not essential, as we know.

MR FITZGERALD: We won't go to the Senate committee yet. In one sense of course the gambling industry has flourished in Australia with fairly heavy regulation.

MR RAE: Absolutely.

MR FITZGERALD: In a sense with the use of caps and exclusive arrangements and so on. So if you remove these areas of regulation, where are we actually heading with this? It's not an industry that any objective analysis would have seen to be constrained particularly in relation to the rate of growth of gambling activities. That's because it was prohibited and we kept freeing it up. It's deliberalisation. Your end point, in terms of regulatory liberalisation, is where?

MR RAE: In terms of regulation?

MR FITZGERALD: Yes.

MR RAE: I think there are some areas where some specific regulation may be appropriate because there are some differences between gambling and other industries. Gambling handles large amounts of cash. There are issues of probity that do enter the equation but having - - -

MR CUTBUSH: In a weights and measures sense, isn't it?

MR RAE: In a weights and measures sense, that's - - -

MR FITZGERALD: That you are interested in - - -

MR RAE: That's right - ensuring that what the operators say you get out of the experience is what you get out of it. So there may well be a case for measures that reflect the differences in the gambling area compared to other goods and services, but of course we've already got extensive measures directed against money laundering in the AUSTRAC legislation. It seems to us that there's a classic case of duplication when essentially you're applying two sets of provisions to address the same issue. All that's doing, it seems to me, is using up scarce community resources: pick the best one of the two and apply that, so you don't need two sets of money laundering provisions to apply to the industry. One set would be enough.

So that may get rid of some, but in the area of probity you may need to have some form of licensing - but what else do you need? There's a question. You may need something that addresses the issue of consumer information. I'm not sure that you do. As we've said in the report, in a number of areas the odds of the game are widely available. In others, where they're not, it's technically difficult to provide numerically accurate odds, but even in those areas most people have an idea of what the broad payout is, so what are you going to gain from having detailed odds for individual elements of the game? You know, you may not get much at all but nevertheless you'd want to be certain that consumers are informed about the choices they're making, so you'd want to make sure that, whatever system of general and specific law exists, it's delivering the public benefits that may be associated with that.

MR FITZGERALD: Given that you want to reduce the complexity and, as you would see it, overlapping of regulations and so on, does your submission - I don't think it does - actually recommend any sort of national framework for regulation? You haven't taken the next step. I'm curious by this because you then later talk about - or some of your clients talk later about broadening competition interstate and the opening up of competition by itself would indicate that you would end up with a more competitive environment across the states. I would have thought if you were moving in that direction, then in fact there needs to be a greater coordination of regulation throughout the states and/or a greater role for a national regulatory framework.

The second thing related to that is, whilst you argue for that, you actually argue against interstate advertising of the TABs. They're probably unrelated, although in theory they're not unrelated in my mind, so I just want a clarification about your policies in relation to interstate trade and commerce, the competition, and how you deal with the regulatory environment on that.

MR CUTBUSH: First of all, as for the possibility of an inconsistency there, I think you will see that the - or at least what we meant to say in relation to the restriction on advertising that the different states have had for their TAB business, related to mainstream media as I understand it - it relates still to that in an informal sense although it's being undermined by the Internet. It was more in the context of a curiosity and a thing to be addressed that we raised it than in terms of any endorsement. It seems to us it's an anachronism probably and that we can expect

pressures to lead to its reform in the next decade one way or the other because it's not a set of law that can be maintained for any decent purpose, given that there are other means of undermining it. So that disposes of that matter. The other issue was related to what?

MR RAE: This issue of the national framework that I think you raised - - -

MR FITZGERALD: Yes, interstate competition and the framework that you would need if you went down that track.

MR CUTBUSH: As a general matter of principle one can be a federalist and an economist at once, it seems to me.

MR BANKS: Especially if you're an American.

MR CUTBUSH: In particular we gain in this country a great deal from competition amongst jurisdictions for getting the rules right, as it were. At least we would have if there was genuine competition amongst them for business. It doesn't seem to me to - or any of us here in fact, and we've discussed this - it doesn't seem to require a unification of jurisdictions to get yourself a level playing field for competition amongst them. I think that's what you need to focus on in this area. It's quite appropriate for fire stations and rivers and all sorts of things to be run by state jurisdictions, it seems to me, because that's the natural size of the effects that need to be considered by the state sector in relation to those items. So it is with gambling. It seems to me - - -

MR FITZGERALD: Sorry, you're saying that there is a logic in maintaining state jurisdiction in relation to gambling?

MR CUTBUSH: In the same way as there is for fire stations, rivers and land use generally.

MR FITZGERALD: Except to say this: if you are arguing the case that you want a simplification of regulation in order to increase simply the economic efficiencies of the industry broadly speaking - ignore all the other stuff - would it not be a logical conclusion that you would end up with one single regulatory framework if you've now got a position where service providers are in fact trading across states with the same product, if that were to eventuate?

MR RAE: No, I don't think you are led logically to that. I agree that some people would like to have that kind of outcome. I don't see that as being a logical consequence of what we're asked. There are two aspects to it: there's a taxation aspect and there's the regulatory aspect. At the moment they're not unrelated. On that taxation aspect, to my way of thinking, if the Commonwealth were to, for whatever reason, assume control over gambling taxes, it would simply exacerbate the problem that we have at the moment with what's called, as a mouthful, vertical fiscal integration, which is - - -

MR CUTBUSH: Imbalance.

MR RAE: Imbalance, sorry - which is the imbalance between spending and taxing powers. I don't see that's a sensible solution. So the taxation - it would seem to me the natural argument would be to leave it where it is and let the states work at it and it could indeed be, even in the transition, an area of competition between them, but that would be reduced over time as the rates were generally reduced.

On the regulatory regimes, one of the things that I would see as being a natural consequence of what we've argued is that some of the provisions of the Trade Practices Act would of course come into play. There are provisions in the Trade Practices Act - for example, against deceptive and misleading behaviour in advertising - that we have to ask ourselves the question, "Why do we need more than that?" If we don't need more than that we don't need a state rule to cover that so, in effect, the Trade Practices Act would be the relevant piece of legislation and the ACCC would be the relevant regulatory body as it is for most other businesses. But no doubt I think you would end up with still a core of issues. Let's say probity was considered an issue; you still needed licensing, which I would think would be the likely outcome. I would think that there is no particular reason for assuming the Commonwealth could do it better than the states, to be perfectly honest.

I'm not aware of any compelling evidence to suggest that the Commonwealth is actually a more efficient delivery of those sort of outcomes than the states are. At least with having nine jurisdictions we have the capacity to learn, experiment, to try different approaches, which after all is the reason the market is actually better than government in a lot of things. It does a lot more experiments than government. The government is very poor in experimentation. So at least if you have more governments involved in the regime - the management and design of it - you've got a chance for a little bit more experimentation than you otherwise have.

In some areas, like national defence, you can't do that. To suggest that we could have it in money or defence is, I think, drawing the bow too far, but in the area of regulation of gambling, I don't see any reason, as Greg said, why a number of other industries that are largely locationally specific - it couldn't continue to be exercised at the state level.

MR FITZGERALD: We only want to go for a couple of more minutes otherwise we are going to be badly out of time. If I can just go to the Internet issue, and we basically got the thrust of your approach. The issue of taxation in relation to Internet, however, is interesting. Do you have a view about what is the right rate of tax? I don't mean you to put a percentage figure on it precisely - -

MR RAE: Okay.

MR FITZGERALD: - - - but I'd like some direction, because if you actually take the competitive argument so far, if Australia is competing with taxfree zones, which we are already in relation to Internet gambling, then you end up with a zero rate. Obviously we would have some difficulty in saying that's the appropriate rate,

although I'm sure there are some people in the audience that probably think, "You beaut," but where do you actually set the right rate of tax for a relatively new gambling product which we know is competing against zero-rated countries? How do you handle that issue from a public policy point of view?

MR RAE: I think the Internet is one of the great lessons in life that come along regularly in government, and that is: it limits the government. I think you have to ask yourself the question: in the long run are we likely to have any alternative than a zero rate? You may be able to borrow, buy time, you may be able to buy a considerable time. We don't actually know at this stage how competitive Internet gambling is going to be with traditional forms of gambling, in part because it looks as though the social aspect of the gambling experience is actually part of what turns most consumers on and that therefore interactive gambling is likely to be a different product in some senses. It's catering to a different set of experiences. That's not to say it should be taxed any differently but it is to say that we simply don't know what's going to happen in terms of the competition between the two forms.

If the bullish prognostication of Internet commerce generally is true, then it is clear that we are going to have to think reasonably quickly as a nation about the appropriate implications for taxation, and particularly taxing goods and services. If goods and services can be delivered seamlessly over the Internet and not to be able to be traced back to their source, we may have to change the focus of taxation from taxing the producer to taxing the consumer or we may have to adopt an entirely different approach to taxation. We may have to look at those things which can't be easily moved geographically and tax them more and, those things which can move or which can be provided over the Internet, tax them less.

My fear is that if you assume that you can tax it and then you end up finding you can't, you're likely to be in a lot more trouble than if you go through at least the experiment of saying, "Well, if we have to give it all away, where would we go?" I think your inquiry in a sense is an opportunity for government to start the difficult process of working out what this means on a larger canvass. This is not just about gambling taxation at all, this is a much much larger issue.

MR CAMPBELL: I was just going to add to that: if you think about Australia and the rise of gambling in Australia - it's just starting to kick off now - what it does say is that the whole taxation regime the states have in place may need to be reviewed very carefully because, with other competition, the tax base might not grow too much, and tax rates might have to come down. Now, we can't do anything about overseas providers - that's a fact of life - but certainly in Australia it may put into question the whole taxation regime that the state governments have.

MR BANKS: Would you care to comment on the state/federal dimension here in terms of taxation in an international context.

MR RAE: Like whether we should have the Commonwealth involved in taxes at all?

MR BANKS: Yes - who should be making the taxation decisions? I mean, is it the fact that the states are the ones who are taxing the industry, is that likely - is the interstate tax competition likely to be a complicating factor in terms of driving away the tax base, in a sense, in this area or not? The draft code or model or whatever it's called is really about creating avoiding incentives to do that, I suppose, by redistributing the tax back to the jurisdiction of origin- - -

MR CAMPBELL: That's correct.

MR BANKS: - - - but do you have any comments on that?

MR CAMPBELL: Just one quick comment. That draft code of course is now fact. Several states have passed legislation which mirrors that draft code. So those source of income issues have been addressed.

MR RAE: It does complicate it. There's no doubt.

MR CAMPBELL: Yes.

MR RAE: But it seems to me that governments, state and federal, have to kind of fundamentally review what scope they have for taxing in an Internet world because it's changing the ground rules so quickly. I think the principles are the same: you tax the things that can move least easily. The problem is, the things we used to assume couldn't move now can. Capital is becoming far more mobile. A lot of labour is more mobile, and increasingly becoming so, and now we're finding goods and services - at least in terms of service provision - are becoming much more open and, what's more, we don't have a simple way of tracing them which we used to have in days of yore.

So I think the solution in one sense is easy - find the things that don't move, and tax them - but in practical terms it's much, much harder. Both levels of government are going to need some tax powers, clearly, to fund the services that they're going to be expected to provide, so there's no glib answer about giving it all to one or to the other. They both have to have taxation opportunities that are commensurate with their expenditure responsibilities.

MR CUTBUSH: To take that a step further, it's reasonable to say for those reasons that vertical fiscal imbalance which restrains or restricts the sweep of instruments which particularly the states have at their disposal for taxation will become more expensive as time passes because of the importance with the developments in the mobility of capital that result in the need to reach in to tune and refine taxation on a continual basis amongst a range of instruments all the time. The states are denied this at the minute and can't tax efficiently in this environment.

Now, we take our lead in our thinking about the importance of vertical fiscal imbalance to gambling and to the mismanagement of gambling, as we see it, from the Industry Commission's treatment of federal-state tax issues in its 1993-94 annual report. We would support those principles which were discussed in that annual

report, and our own thinking about the importance of vertical fiscal imbalance draws principally on that analysis that was contained in that earlier IC report, and in many of the writings of the tax theorists around Australia over the last three or four years.

MR FITZGERALD: One very last question about the Internet. You have taken the approach of obviously trying to not ban it but to deal with it and regulate it. One of the issues I just want your comment on is, on licensed providers, I gather your report is supportive of the notion that you would license providers of gambling services. What do you do with those that are unlicensed? In other words, is that an appropriate area where one ought seek to prohibit their entry, despite the difficulties that that imposes, or do you simply let them play in the marketplace and let the consumer decide?

MR CAMPBELL: You can't stop them, basically, and if people are operating sites out of the West Indies or somewhere, which they do now, that won't change. I suppose that in one sense operating in Australia - whether it's a casino or a TAB or a sports betting operation - has one big advantage, and that is that they can trade on their reputation and brand name, which an overseas operator may not. In a sense, there's a quality inference on the good on offer. One might say there's a higher quality good on offer from Australian operators. I guess when it comes down to the market, those operators who are licensed in Australia will have to compete with those overseas operators. If they can't, they'll just go by the wayside. Think trying to ban them really is quite a silly thing to do.

MR FITZGERALD: Yet under the legislation passed by Queensland and others, they have that as well - they've taken that dual approach.

MR CAMPBELL: Yes.

MR FITZGERALD: But you're not frightened or concerned about the notion of unlicensed providers not even being, even in some tacit way, prohibited from entry into Australia, competing with licensed operators?

MR CAMPBELL: I think from memory the legislation in the various states prohibits the advertising of unlicensed operators.

MR FITZGERALD: And also charges the consumer.

MR CAMPBELL: Yes - which is very hard to actually enforce, to be quite honest.

MR FITZGERALD: Yes.

MR CAMPBELL: But in a sense, while we can stop public advertising of an overseas operator through the media, you can't stop them from advertising on the Internet and you simply cannot physically track down every user of Internet services and indeed who's providing them. It's just impossible.

MR FITZGERALD: Yes.

MR CAMPBELL: So again it's really going to be a question of whether Australian operators can compete in the market for those services and indeed whether consumers are prepared to gamble on a site in the West Indies or on a site in Australia. That's part of the choice.

MR FITZGERALD: Given our propensity to gamble illegally before it became legal, it may well be they will. So it's an issue for - -

MR CAMPBELL: Well, the fact is, it's almost certainly happening now, as we sit here.

MR FITZGERALD: Yes.

MR BANKS: And what's interesting is there's a double gamble, really, isn't there?

MR CAMPBELL: Exactly.

MR BANKS: The second gamble is whether you get your money back even if you win.

MR CAMPBELL: Exactly. It's real gambling - the ultimate gambling experience.

MR BANKS: Yes. It's been very useful, gentlemen. Thank you very much for taking the time to discuss it with us. We will break for five minutes now before our next participants.

MR BANKS: We will get started again, ladies and gentlemen. Our next participant today is TAB Ltd. Welcome to the hearings. Could I ask you please to give your names and your positions.

MR WINDROSS: Allen Windross, managing director.

MR FLETCHER: Peter Fletcher, manager, wagering services and liaison.

MR BANKS: Thank you. Thank you for taking the trouble to appear today. We also had the benefit of a meeting with you earlier on and we are trying to get our minds around this difficult inquiry. As we discussed, perhaps you might like to make some introductory remarks and we can see where that leads us in terms of further questions.

MR WINDROSS: Thank you, commissioner. I would like to speak to this statement, if I may, if I could - - -

MR BANKS: Thank you. This is a public document, obviously, what you have given us here?

MR WINDROSS: Yes.

MR BANKS: Okay. Good.

MR WINDROSS: As a preamble I would clearly establish that I've set out my own opinions in this statement and they do not necessarily reflect the views of my company. However, the main reason for that was I was unable to reach all the members of my board before today, but I believe they would support the views that are expressed here. The form I have adopted is to list some questions which I believe are the major issues of concern to the commission - I hope I've read the situation correctly - and provide a brief answer to each of those questions.

I think the first question is, why do Australians gamble? I am strongly of the view - and it's a view that's been formed over more than 34 years in the industry - that the great majority do so for the entertainment value. It can be the viewing or the hearing of a race, or the spin of a wheel, and the thrill of selecting correctly. It can be the "What if I win?" musing which follows the purchase of a lottery ticket. It would seem to my observation that around 1 per cent of Australians have a gamble because they have a problem - and I would like to come back to that again - or they seek to earn their income from gambling - ie, they're professional gamblers.

Are there subsidiary motives for gambling? We've found that many lonely people, especially the elderly, use the daily visit to the TAB or a call to its account betting centre as a means of social interaction. I'd offer the comment here that this is not unlike the phenomena found by Meals on Wheels volunteers; the arrival of the meal is secondary to the opportunity to converse with the volunteer.

What is the minimum cost to gamble? A wager on a horse or greyhound race

can cost as little as 50 cents. I think this is the lowest cost of any form of gambling in Australia. The comment on that is that gambling is almost certainly the cheapest form of commercial entertainment.

Who gambles in Australia? Well, just about everybody, but a lot of people won't acknowledge that fact. They don't regard buying shares as gambling. But if we want to look at a more precise description of gambling, we believe that about 80 per cent of the adult population gamble. Our research and statistics suggest that up to 70 per cent of adults place a wager with us on Melbourne Cup Day and a number in excess of 2 million adults visit or call TABLtd on that day.

What is the age distribution of gamblers? Our research shows our customer base closely correlates with the age distribution in the adult community. Where do gamblers live? Again, our sales statistics show a close correlation with population and income levels across the state, except for parts of the Sydney metropolitan area. Ordered by TAB sales, the highest 10 residential area postcode districts for Sydney show us with five western suburbs, three eastern suburbs, one southern suburb and one inner western suburb.

The absence of entries from north of the harbour is obvious yet many of these suburbs parallel the eastern suburbs in income levels and other socioeconomic measures. I have my theories as to why this occurs, but I don't have any firm conclusion on it.

Do males and females gamble equally? A look in any gambling outlet in Australia will lead one to the conclusion that more males than females gamble. Certainly this is true for TAB Ltd outlets. But it would seem from anecdotal evidence that many females ask males to place wagers for them. Further, in our telephone betting area, with 120,000 account holders, the numbers of males and females is almost equal.

Where does gambling take place? 50 years ago the list of illegal gambling places exceeded the list of legal gambling places. You could gamble in 1949 at racecourses, via the post with a bookmaker or through to the lottery office, you could gamble at newsagencies by taking lottery tickets, or you could go to the lottery offices themselves. There were lots of illegal places. There were casinos and card rooms, social clubs. In 1949 the first slot machines, or nowadays electronic gaming machines, were coming into play. You could gamble in hotels, two-up centres and places where SP betting was taking place. Today in 1999 the list of legal places far exceeds the illegal. Today in Sydney I think we would only find card rooms and SP places as anywhere near a number of illegal places to gamble. Obviously 50 years on there is a greater availability of legal and thus regulated gambling.

When does gambling take place? You can construct a list similar to the one I've just gone through in relation to illegal and legal. In 1949 very few would have had the opportunity to gamble for any extended period but, of course, today we have 24-hour casinos, hotels and clubs which operate for the whole of the period.

Now an issue that is receiving a great deal of prominence in recent months: how should Internet gambling be controlled and regulated? I would strongly put the view that the Internet is simply another form of telephony. It is just as interactive as a telephone handset. We introduced interactive wagering to the home via telephone betting in 1965. From June 1997 we enhanced this service to provide Internet access. It's called IBET and that facility has encountered no problems or criticism in the almost two years of its operation. We have some 6000 account holders, or 5 per cent of all account holders regularly using the Internet. It seems to me that to suggest that the Internet requires special controls and regulations - there is no point to that.

What amounts do people gamble in Australia? I'm very fond of recounting this particular story, commissioner. A few years ago I wandered through the streets of Copenhagen and I came upon the statue of Hans Christian Andersen and on the pedestal of the statue are listed his works. I read it very carefully and I was astounded to find that I did not locate the Tasmanian Gaming Commission's statistics. I've no wish to be rude to the people who compile those statistics.

MR BANKS: I think it's too late.

MR WINDROSS: The point I'm trying to make is that firstly they will publish - and it's picked up by the media - comparisons of turnover across Australia, and it's totally meaningless to compare various forms of gambling, the different products, and the amount of turnover generated. This is because of the variance in take-out rates and other factors which I'll come to.

The better informed will immediately say, "Well, you ignore the turnover rates and what you do is look at the revenue levels. You count the take-out or the gross revenue or the drop." But this is just as invalid as comparing the turnovers. By all means compare turnovers year by year for one product, or revenue year by year for one product, but don't attempt to compare or put into a single pie chart the various types of gambling products.

For example, a person gambling in a venue which offers with low take-out rates - a casino or a racecourse - may start a gambling session with \$100. After say three hours it's not improbable that that person would have turned over, by winning and restaking, \$1000. So we've got turnover recorded as \$1000. If we take a 10 per cent take-out the person has lost \$100. But, again, it's not improbable that that person has \$100 and walks out at the end of the session saying, "I'm all square." Yet we attempt to measure those numbers. That person lost nothing. If you took a slice in time at any part of the session, they could have been a long way behind or a long way in front. The only way, in my view, to measure the real amount of gambling is to record new money.

At opposite ends of the scale would be - and I don't wish to insult any particular product here either - electronic gaming machines and lotteries. Yet on the way they're measured, it would appear that vastly more sums are gambled on gaming machines than on lotteries, yet the amount of new money that's required to create each lottery pool is significantly more than that required to keep a gaming machine

rolling over. This is because the amount of money gambled, which is retained by the operator and the first prize winner, gobbles up most of the pool. Yet we won't get that out of the measures that I'm talking about, and this comes back to, in my view, those statistics which we all rely on, we look upon as a Bible, are in fact invalid.

Tax rates: are tax rates on gambling in Australia logical and consistent? They are absolutely not. They've obviously been set for political considerations and we have variations introduced like price control. This applies to TAB Ltd. We have got maximum take-outs on gambling products. All of that is further confused because of the difficulties in measuring the extent of gambling, which I've already mentioned.

If I was controversial earlier, I'll be more controversial now. Do problem gamblers exist? I am yet to be convinced of this. I, however, am absolutely convinced that there are people who gamble who have problems. Every case that I've encountered in my over 34 years in the industry has seen a person that has a problem. They are likely to have other dependencies as well as gambling to be measured amongst their problems. I'm also concerned on this issue that we're seeing in Australia the emergence of a professional problem gambling lobby. This is an industry which is creating itself. It's an industry which is taking over from the religious and social groups operating from moral and ethical values which have been there for many, many years.

What does TAB Ltd do about people with a problem who gamble? In July 1988 we became the first operator in the state of New South Wales to display gambling self-help signs and we gave the numbers for Lifeline in Sydney. From 1 April 1998 these signs were varied at the request of the government to display the G-Line service number. We show those signs on every race meeting which has an odd number of races. Because of the way we display that happens to give us a blank sheet of paper. There are many race meetings, of course, with seven and nine and 11 races so we display that sign on many occasions on every day in TAB Ltd outlets.

We have been strenuous in our endeavours to avoid the possibility of people betting on credit. We have mandatory instructions, guidelines which warn of dismissal of employment or the termination of the agency deed if this is breached, and we have consistently applied those procedures. Many people have been dismissed for allowing a person to bet on credit. Finally, we've also now decided to develop a formal code of practice to issue to our venues in relation to issues of people with a problem who gamble.

Finally the question: how can the Productivity Commission assist Australia's gambling industry? In my view the commission should find that state and any Commonwealth taxes applied to gambling should be harmonised between products and jurisdictions. Taxation rates on revenue should be equal. Gambling should be taxed at the same rate as other products in the leisure and entertainment sector of the economy. Price-fixing in relation to gambling products should be abolished - ie market forces should determine the take-out rates. The current excessive regulation of gambling should be reduced and - returning to a point which I obviously relish - research should be conducted in order to determine the true amount

of gambling in Australia. Thank you, commissioner.

MR BANKS: All right, thanks very much. That's a challenge for us. If we don't solve that one I feel we'll have failed. We'll make sure that we've taken your views on board and may well get back to because there are aspects of some of those comments that I'm not sure I properly understand. Could I perhaps just start by giving you the opportunity to comment in relation to the submission that ACIL prepared on behalf of the group of companies: are there things in that submission that you would disagree with? Are there any things that come to mind that you would like to mention in that respect?

MR WINDROSS: I'll labour the point and note that there are many examples in the Tasmanian Gaming Commission statistics through the document, but apart from those measures I think the only point that we would emphasise a divergence of view - though not necessary - but to make the point that we were to free up the industry completely so that monopolies were removed, then we would be concerned as a company to get back all of the money that we paid for our monopoly licences. That was a considerable sum of money and I think our shareholders might be quite anxious that we did that.

MR BANKS: I think that's a reasonable position to put.

MR WINDROSS: I'm sorry, we were very proud to have our name associated with the ACIL submission. We thought it was very professionally done and very thorough.

MR BANKS: I might be straying into Robert's territory here, but you have talked about gamblers with a problem rather than problem gamblers as such. Is that just a semantic point? If it's not, and if these are people whose behaviour is problematic no matter what they do in life, then why bother doing anything in terms of harm minimisation in gambling? Why did you go to the trouble to be the first institution in New South Wales to do the things you talked about?

MR WINDROSS: I don't think necessarily that all people with a problem in the community come to the attention of those that might be able to help them. Many can go for a long period of their life, or indeed the whole of their life, without receiving assistance. I see it as a socially responsible thing to do; to draw attention in our outlets to the availability of assistance for people who have got a problem.

MR BANKS: Okay. What you're saying in a way is your gambling activity, particularly the one that you're most familiar with, is not causing this problem in any sense; it's something that people bring with them to the track rather than something that happens at the track.

MR WINDROSS: I am relying on my personal observations, the fact that I managed for a number of years TAB outlets and so came in very close obvious contact with our customers, and from discussions with our agents and managers over many years. It seems to me that all of the anecdotal evidence that has been presented

to me in that way suggests that the people who have a problem with gambling have a problem.

MR FITZGERALD: If you took that further though, you could also say the same with drink, couldn't you? That most people who have a problem with drink could in fact have other problems: loneliness, dysfunctionality in their family life. But as a society we've actually said no, that whilst we accept that might be the case, we say there is a responsible drinking program. We still haven't as of yet increased the accessibility of alcohol, wine or beer, beyond licensed premises and so on. So even if you accept that people have problems, who end up being problem gamblers - and that's a contestable point obviously - where do you see - and your organisation, you indicate, actually does have or tries to have a responsible gambling approach. Where is the conflict in terms of public policy of this? Would TAB Ltd be a better organisation or a worse-off organisation but for the development of, as you say, the problem gambling industry? I'm not quite understanding. Do you see the rise of the problem gambling issue as an inhibitor to business, or is it something that you can more than adequately live with?

MR WINDROSS: I think it manifests itself in the excessive regulation of the industry and the levels of taxation which apply by governments who are seen to be - who are anxious to be seen to be responding to this concern within the community that gambling is a major problem. They are reaching this conclusion because of - I would say in many cases - a quite irresponsible attitude being adopted by these professional problem gambling industry lobbyists. For example, I have a transcript in my office of a television interview that was broadcast in Sydney a fortnight ago by a problem gambling counsellor who was called in as an expert, and this counsellor said, to my knowledge totally without foundation, that TAB outlets, ie TAB Ltd outlets, regularly allowed persons under 18 years of age to gamble. We have very strict rules on that. We have in the past dismissed people in the same way as allowing credit betting. There were no examples given, there was just a sweeping statement. The journalist interviewing him allowed him to get away with that sweeping statement.

MR FITZGERALD: But just tell me this - I don't understand this. Take the TAB around Australia, but particularly New South Wales. Let's assume the commission said, "All of the submissions we've received in problem gambling in fact had very little validity" - just assume that, and we made recommendations which dismissed all of those. How would TAB change its current operations in light of that? Would you, for example, suddenly introduce credit betting, or is there a reason why you would not do that?

MR WINDROSS: I don't see the connection between credit betting and problem gambling. If a person has a problem and they are gambling excessively, they will find a way to get the funds to do that, whether by directly gambling on credit with the venue or by finding other ways to get the credit in order to gamble with the venue.

MR FITZGERALD: So to explore that a step further, are you saying that if it wasn't for the pressure being applied in relation to problem gambling, that would be

an area in which TAB could change? I'm not asking for a definitive answer given that we're talking in terms of possibilities here. But what I'm trying to understand is: this so-called public pressure that is being applied by problem gambling groups and other interested parties, how would your industry be different but for that, or would it continue on in the same way with the same level of guidelines that exist at the present time?

MR WINDROSS: I'd answer that by saying that there was an attempt during the very recent New South Wales state election campaign to draw TAB in as a particular issue. The issue which was raised was that TAB was rolling out an EFTPOS service through its outlets. We were rolling it out through our high street agencies, of which there are about 400 of a total of about 1500 outlets. The other 1100 outlets are in hotels and clubs which all provide EFTPOS services, and yet there was a total lack of logic in this, trying to make an issue of it, that TAB was somehow doing this dreadful thing of providing an EFTPOS service.

We find that whenever we get new customers coming through the door, particularly on Melbourne Cup Day, invariably they produce a piece of plastic when they get to the window, because wherever else they go in the commercial world they produce a piece of plastic, but of course we don't accept it. You need cash in order to bet. What is wrong with the EFTPOS service? It has got other particular benefits for our organisation and our staff and agents. Of course it reduces the amount of cash on hand and thus makes us less likely to be the target for a hold-up. So there are some positive benefits on that side for us. With EFTPOS the opportunity to hand cash out, people take it away, reduces again the opportunity for a hold-up or the likelihood of a hold-up.

MR BANKS: So that's one thing, that's EFTPOS, which is presumably people getting access to money that they have, just that it's in a different place, they haven't got it in their pocket. But your view on credit presumably reflects a concern that people would spend more than they could at that time afford, or not? Is there a distinction there that you have in mind?

MR WINDROSS: The distinction is that we have never provided credit. In fact credit betting is prohibited by our legislation. But we are in a situation where our competition provides credit. Bookmakers provide credit and have always done so. It's possible to ring on the phone to a bookmaker, and without using EFTPOS, ATMs or any other regulated facility, to say, "I'll have a thousand dollars each way on the favourite in the next," and it's written in a book. That's absolutely and completely betting on credit.

MR FITZGERALD: So there is the issue about the inconsistency between the codes that is of concern to you, but there's an underlying view that you question the fundamental notion that restricting credit is in fact a legitimate issue that should be regulated. I'm not specific about just credit, although that, I must say, comes up a great deal generally in all the submissions, but there are other issues as well.

MR WINDROSS: The opportunity for people to gain ready access to their funds

should be allowed. There should not be prohibitions on it because what we're doing there is we're interfering in the banking industry in Australia by making those prohibitions because you don't do that with other forms of product purchase. But the actual step of saying, "Yes, you can have a bet for a thousand dollars and we'll talk sometime later about how that is to be settled," is not a measure that I would like to see adopted.

MR FITZGERALD: Okay. Can I just move on a little bit: just on your Internet comment, I understand the longevity of TAB's involvement with telephone betting, and more recently with Internet betting, and I take on face value that you haven't encountered any problems with that. But I want to understand your position a little bit more fully. Are you suggesting that there should not be no regulation at all of Internet in totality or do you draw a distinction between Internet where there is betting on an actual event, a sporting event, racing or so on, and say virtual casinos or poker machines? Do you draw a distinction or do you have no view as to that distinction?

MR WINDROSS: No, I don't draw a distinction. I believe that what we need to do in the form of legislation is to simply say that to gamble on the Internet with other than a licensed provider, either in New South Wales or Australia, is illegal, and to publicise that piece of legislation. The great bulk of Australian citizens will respect the legislation.

MR FITZGERALD: In terms of that issue, one of the proponents of those that have actually said to us that Internet gambling can be appropriately regulated rather than banned has been in fact that you can put in place more steps to prevent people having easy access in terms of the way in which they have to be identified, the lack of credit betting and so on and so forth in that. Do you have a particular view about the level of regulation for licensed providers of Internet that you think we should take account of? You may want to come back to us on that.

MR WINDROSS: No, I'd say that the steps that we have used - and I point again to my view that we've had absolutely no problems using the Internet for almost two years, and we have within that not only the normal firewall provisions of security for access into our system out of the Internet, but once you're in there you have to establish who you are. You've got to give your account number, you've got to give your PIN number and you've got to give your code word in order to get access. I believe certainly, yes, that's another form of regulation that could be implemented on licensed gambling providers.

MR BANKS: I have a question on a different matter. Just at the end there where you assisted us by telling us what we should find, the first one where you talk about, "State and any Commonwealth taxes that apply to gambling should be harmonised between products and jurisdiction," are you talking about a uniform tax rate across the sector, across jurisdictions? On what base, given your comments earlier about the difficulty of comparing turnover, revenue, and so on between the different modes - have you thought that through?

MR WINDROSS: I don't think that we should have any problem with taxing revenue. I've got a problem with using revenue as a measure of the extent of gambling, but when I described our gambler that staked a thousand dollars in a three-hour session there is no doubt that a hundred dollars at a 10 per cent take-out rate became revenue from that. I see no difficulty in taxing that revenue at a uniform rate across all products.

MR FITZGERALD: I need to understand. You're talking about revenue being turnover.

MR BANKS: No, gross revenue.

MR FITZGERALD: Gross revenue, right.

MR FLETCHER: Moneys lost.

MR FITZGERALD: No, that's fine, moneys lost to spend. Fine, that's okay. I'll never understand all the distinctions. It doesn't matter, but I must say ACIL's chart was very helpful.

MR BANKS: The other point about price fixing in relation to gambling products should be abolished; market forces should determine takeout rates - what do you think would happen there? In some areas we observe that the threshold set by regulation is actually exceeded in terms of returns to gambler. For example, in EGMs you often see that the average return actually is higher than the stipulated regulatory amount. Do you think these regulations are really biting at the moment?

MR WINDROSS: They are, particularly in our industry. The electronic gaming machines are taxed at a much lower rate than wagering on racing, so therefore they have the opportunity to move their take-out rates and then they lower the tax as they do it; whereas the cost of running a wagering service is significantly more than putting a bank of EGMs against the back wall. So we have fundamental costs that we have to meet and yet our price is fixed by government by setting a maximum per product and a maximum overall.

MR FITZGERALD: Just on the issue of competition, and we may have discussed this previously in our earlier meetings, what is your view about interstate competition? I know it's a vexed question and you have paid a very substantial amount for a licence, as many others in this room have done with their own, but I get the growing feeling that most people seem to believe that at some stage interstate competition in a very active way may be the way to go, but I'd like your views on that. I refer back to the ACIL submission where in fact there are two points: one is there needs to be a re-examination of the linkage between TABs and the race industry; the second is in relation to the prohibition of advertising across states in relation to other TAB operators. I become a bit confused about where the industry actually wants to go in terms of competitive positions long term.

MR WINDROSS: Long term, if we assume that the excessive regulation is

removed, if we get a harmonisation of tax rates, then I don't see a difficulty in removing the boundaries and allowing the various providers to compete across state borders, but of course they already do. People do buy lottery tickets across state borders via the post; they've done so for many decades. We know, based on our cursory examination of our postcode list, that we have many customers that live outside the borders of New South Wales, and conversely I'm sure that if I was allowed access to Tabcorp's list I would find something similar applied.

MR FITZGERALD: So can I just push it then. Why would we therefore restrict advertising? Why are we playing this game, and I don't use that term in any judgmental term, about restricting advertising if Australians are already choosing to go across border?

MR WINDROSS: We're doing that because of the fact that some of the smaller jurisdictions, particularly the territories, have encouraged the establishment of particularly bookmaking services in their territories operating on extraordinarily low tax rates as measured by world standards, have encouraged them to establish themselves there and take custom from out of other jurisdictions where the operator, TAB Ltd, has paid an extraordinary amount of money for a licence to provide that service.

This comes back to harmonising the tax rates. For whatever particular purpose the Northern Territory, who started this and has subsequently been followed by the Australian Capital Territory, encouraging not only Australian entrepreneurs to do this but now encouraging - we're seeing a huge movement of sports bookmakers from Las Vegas into Canberra. All the best-known names now associate themselves with the ACT rather than Nevada.

MR FLETCHER: Following on from that, there's a peculiar situation which relates to the racing industries in each state, wagering and more specifically, the TABs, support a secondary industry in each state, being the racing industry, the races and the animals that are supported, that are ultimately the product for betting. The problem you've got is with the smaller jurisdictions, as Alan points out, which have relied very heavily on out-of-state product - for example, Northern Territory would conduct very little of its business on races held within that state and rely quite heavily on race meetings held elsewhere in the other major states. There needs to be some system for the profits or revenues from that betting to be realised in terms of the costs of supporting those racing industries. That's a peculiar problem to racing which is perhaps not evident for gaming.

MR BANKS: In fact, I think from my memory of Centrebet's operation that a proportion of their revenue goes to the racing industry in the Northern Territory, and whether that's related to their general activities or just that it's based in the Northern Territory, I'm not sure. I think it's more general than that. I don't have any further questions. Do you have any further remarks to make?

MR WINDROSS: Thank you for hearing us, commissioner.

MR BANKS: We'll just break now for a couple of minutes before our next participant, thanks.

MR BANKS: Thank you ladies and gentlemen, we'll start again now. Our next participant is Tabcorp. Welcome to the hearings. Again, could I ask you please each to give your names for the record and the capacity in which you're here.

MR GOODFELLOW: Alan Goodfellow, executive general manager, gaming, at Tabcorp Ltd.

MS WUNSCH: Tricia Wunsch, general manager, corporate affairs.

MR RAE: Jeffrey Rae, ACIL consultant.

MR BANKS: Thank you for participating today. As we discussed, perhaps you might like to comment briefly on the issues as you see them, perhaps in relation partly to the joint submission, and then we can take it from there.

MR GOODFELLOW: Thank you for the opportunity. I think, just for the record, most people know that Tabcorp is one of the top 50 public companies within Australia and therefore has to withstand all public scrutiny. Tabcorp, as one of the top 50 public companies, has to abide by all senses of probity, aside from any probity requirements of the particular industry that we're in.

Tabcorp was formed from the privatisation of the original Victorian government TAB and we have been through substantial changes in culture of the organisation as we have gone through that privatisation process. At the commencement of the privatisation process in the gaming industry we had approximately 35, 36 per cent market share; we have now come to the point where market share is relatively equal between the two participants who have an equal issue of gaming machines in the Victorian market.

Our general philosophy is that we see gambling as part of the entertainment industry. We are out there competing openly for the discretionary spend in that entertainment sector. We're competing against theatres, the football, anything that's there as a form of entertainment for the community. At times we perceive that we're incorrectly labelled as being specifically gambling and that gambling is seen by certain minority groups in the community as an ill. We're there, it's entertainment. We're charging a dollar cost on our machines per hour for people to use that entertainment facility, and our entertainment cost per hour isn't dissimilar to going to the movies or something like that.

Gambling - part of the Australian culture. Gambling has been here before it was legalised and we have a great history in Australia of back laneway gambling. It's there and we've got to be very careful that we don't overregulate the industry in some way where we have a regeneration of illegal forms of gambling. I think we have a very open structure of gambling now and it is very good if it we can keep that going forth. When gambling came to a sense of strength or was more openly legalised within Victoria, particularly in the gaming machine industry, we had extremely weak, run-down hotels and clubs, and in fact a number of the hotel operators were in grave financial difficulty and most of the facilities were very run-down. The introduction

of gaming has allowed them to actually have a substantial cash flow to regenerate their facilities and improve those facilities, and we are seeing an extensive range of renovations. In fact, this financial year we will have 42 of Tabcorp's venues in this state which will be renovated and that compares to approximately 40 last year, so there is a constant renovation program going on.

Those facilities aren't just renovation of the gaming facilities, it's renovation of the total facilities, including bistros, sports bars, cabaret rooms, anything within the facilities. In fact, today we've been at the opening of the new ALH or Fosters Brewing Group facility at the Village Green, which is an exceptional facility where they've just spent \$12million on the construction, aside from the land value of that venue. That was a 30 to 40-year-old hotel that needed substantial renovation and it is actually a superb venue now providing something actually within the community.

We within our network would have a number of venues that have been substantially renovated. Ones of note would be the Kealba Hotel at St Albans, Village Green at Mulgrave, Seaford Hotel, Pakenham Racing Club, getting into the outer suburbs as a club venue. So these are all venues that are adding something into the community as far as facilities go, and in some cases they are substantial club facilities; not private entrepreneur's facilities, but club facilities adding something within the community. We know that our competitor has similar facilities, whether they be football clubs at Pakenham or something else, where they have been substantially improved over time for the benefit of the communities.

We would actually welcome you to visit any of these venues and we'd encourage you to do so, and the ones that I've listed I think would be a good starting point and we're willing to provide somebody to take you to the facilities so you can see how much is expended capitalwise in this industry, but what we have brought along for you in case you don't get the opportunity to get out, is on the back page we've got a venue which hasn't been renovated which none of us are impressed with, and then we have photographs of a number of the venues that have just been recently renovated, so we'll leave that with you.

MR BANKS: Thank you.

MR GOODFELLOW: We're actually quite proud of some of the things that have been done in those venues, if you haven't got the message.

MR BANKS: It is probably 20 years since I have been to the Village Green. It was quite nice then.

MR GOODFELLOW: Did you go to Monash University or something?

MR BANKS: Yes. You have taken over the Nottinghill, have you, as well?

MR GOODFELLOW: No; in fact, I have decided that is very much a student hotel and not really suitable for gaming.

MR BANKS: That's right.

MR GOODFELLOW: However, you might be interested to know that the Monash Hotel, which is another one of those student establishments, has just been renovated and I think it is the first coat of paint that it has had since I went to university there 30 years ago. It will probably open as a gaming venue on about the 9th of next month, if it gets approved by the government authority.

Renovations are done because it pushes competition or because it is pushed by competition. If a venue renovates then the neighbouring venue is probably pushed to renovate and what we're finding is that there are substantial renovations going on. The renovation improves food service and gaming; it is not just there for improving the gaming offer. Tabcorp monitors the service provision in the venues and we drive all of these venues for improved levels of service in all areas of the business. We actually assist them with their renovations through our computer CAD systems and help to design them and we are regularly out there monitoring that all of these facilities are at a leading edge.

Employment: we think that our operators actually are providing new employment, particularly for young people and, in a lot of cases, in regional areas in Victoria. There is a lack of youth employment in our community and people entering the service industry quite often find this is either their first employment or their second employment. In fact, there is a strong situation of young people working for McDonalds and then their next step, once they turn 18, is coming into the hotel and club industry, and so it is a good employment benefit. The industry provides benefits to the community through its taxes, through its community support fund, through employment and through the construction industry.

Research shows that in excess of 85 per cent of people in Australia annually participate in gambling, so what we're saying is that only 15 per cent of the population - or less than 15 per cent of the population - don't gamble, so we are really beginning to say we have got to be careful that we don't do something for the minority to the detriment of the majority, being 85 per cent plus.

Competition could be increased in Victoria by an increase in the cap. We have an originally legislated limit of 45,000 machines. The government has not yet increased that level above the current 27,000-odd and we would suggest that it should be increased to 35,000 as soon as the Victorian government sees their way free. That would increase competition at the venue level, which would in turn increase the revenue totally across the network and government tax-take by increasing those machine numbers.

We regularly go out and check our venues against performance and, in that performance, we check that they meet our code of conduct. As well as our organisation checking that our 279 venues meet the code of conduct we also get feedback from their competitors, so that if one venue - and I might add, in the last year have only had one case that I'm aware of where a venue overstepped the advertising guidelines and within an hour I had a three phone calls and we took

action against that venue and that ad did not run a second time. So we are quite forceful about it and competitive pressure ensures that the code of conduct is met very, very quickly and rapidly. I think they like to do their competitors in very quickly.

It has regularly been inferred that we put machines into the poorer areas; we put machines where the market requires them and the market uses them. However, it should be noted that our best venue is in Caulfield, which is one of the highest socioeconomic groups in Melbourne. We have our best hotel in Caulfield. We have a couple of our best clubs in Caulfield, as well. People say, "Why don't we put more machines in Caulfield?" There is a lack of licensed premises in Caulfield. Unfortunately they pick on Caulfield, but we are not specifically targeting to put our machines into poorer areas. We put them where people want the machines.

Keep in mind that some of these areas that people argue are poor areas are in fact quite often relatively high household income areas because you have multiple members of the family who are working, or there are tradesmen, or there are self-employed people. Quite often these people have cash income and so the gaming industry is one areas where that money is taken from them with a voluntary tax regime, I see. One thing we would like to see, if it can occur at some stage in the future, is that if we had common probity across states - because each executive who works in this industry finds that if you move to another state you have got to go through the horrors of a large paper trail - if you can meet the probity requirements in Victoria, why can't you immediately or automatically have probity in Queensland, New South Wales, South Australia or somewhere else?

I would see that there would be a good advantage for Australia if we had common technology across the states rather than the market dimension of any of our machinery suppliers being restricted by the technology differences. You can't take a machine from Victoria and operate it in New South Wales, Queensland or, I think, Tasmania, either. They all need modification to meet the requirements of individual states. That really covers what we would like to say and we would be willing to cover any questions that you might have.

MR BANKS: Good. I will just ask you this again so that we understand where each of the firms stand in relation to the submission, and give you the opportunity - if you had any differences with the submission or points you would want to highlight or disagree with.

MR GOODFELLOW: We are obviously all party to the submission. We see that any increase in competition would need to be by increase in the numbers of machines, certainly not by increasing the number of operators because, in most cases, the operators have paid dearly for their licences. We find that the operators are large companies and do meet the probity requirements and have financial strength. In some states, such as Queensland where it is a more open availability of licences, where in fact Tabcorp was the eighth licence holder, I would doubt whether any of the eight licence holders are making substantial money out of being an operator and monitoring the systems in Queensland. Each person only paid a quarter of a million

dollars for their licence and so it has got a low barrier to entry and I don't think anybody is really happy in Queensland at this point in time. I can't speak for the whole industry but that would be my observation.

MR BANKS: Are you suggesting also that the government is deriving this revenue from the industry because of the way it has organised the operating environment? In some ways people mightn't worry that the operators weren't making a lot of money as long as either the venues were doing okay and the government was getting its take.

MR GOODFELLOW: I think an observation of Queensland would be that it is not running as well as New South Wales or Victoria.

MR BANKS: Which themselves are quite different in their regimes.

MR GOODFELLOW: Yes, they are. It is just a matter of the different states operating differently and Queensland would be one of the lacklustre ones.

MS WUNSCH: The other point I was going to make is where we differ substantially from the submission is in terms of Internet gaming and/or Internet gambling. I suppose we do differentiate between Internet gaming and the provision of the opportunity to bet, wagering basically. You had this discussion with the last group - - -

MR FITZGERALD: Can we just explore your difference there? What is your position?

MS WUNSCH: I suppose if you look at wagering and gaming, the notion of virtual gaming - in-home gaming, I suppose - there is no precedent for it whereas there is a precedent for, from your home, placing a bet on a product, a sport, or a horse race that you can actually view from your home. That's why we differentiate between the two. In terms of virtual gaming, I suppose we see a couple of issues with that: first of all, probity would be quite difficult in managing the problem; gambling could potentially be difficult and, again, there is no precedent for it whereas there is on the wagering side.

MR BANKS: Implicit in what you're saying is that there is the problem gambler dimension that is driving your position on the Internet.

MS WUNSCH: Yes. There is that aspect of it. There is the fact also that there isn't particularly any proven demand for it. I suppose from a purely company standpoint we're not sure that it is necessarily a product that is in demand either.

MR BANKS: I could say the same thing about EGMs - and indeed the demand in Victoria was probably heavily underestimated when the regime was set up there.

MS WUNSCH: That could well be the case. But the studies we have done so far have shown that there isn't particularly a high demand for Internet gaming.

MR BANKS: Just on the second point: you mentioned that problem gambling was part of the rationale for your position as a company on Internet gambling, but I think the ACIL submission is quite sceptical about problem gambling as a concept. Is it another area where you might differ with the ACIL submission?

MS WUNSCH: I suppose as a company our focus with the problem gambling issue has been that you can debate whether it is a compulsion, you can debate exactly what the definition is and you can debate what the magnitude of the problem is. I think if this inquiry has shown anything it is that there is very little agreement about that, except in actual fact it isn't a substantial - I think there is agreement that there aren't a substantial number of people that are affected by it. But, as a company, we have focused instead on simply doing our part and we believe that it is a shared responsibility to people with gambling problems, and to do our part, which is to ensure that the information about problem gambling services is available, and to ensure that there is adherence to the codes of conduct and the codes of practice.

MR GOODFELLOW: But we do believe it is a very low percentage of the population, the percentage of the gamblers that have a problem. It is not markedly different from any other form of problem that somebody in the community might have with financial institutions, excessive debt, alcohol, tobacco, drugs or anything like this. We don't see that it is a substantial problem but certainly we and our venue operators have a very, very strong view that where we can identify it we will do something about it and we will make all information available to members of the community who might be affected by it.

MR FITZGERALD: We had the chance, when we were down here in Melbourne last time, to have Tricia present, so we have asked questions of you before - for those who are not aware - but I just want to pick up a couple of issues: one is just about competition and it is a recurring theme. You currently have a duopoly licence and we understand that that has got some time to run.

MR GOODFELLOW: Yes.

MR FITZGERALD: But I want to explore some things. You are talking about increasing the number of gaming machines in Victoria. Is there not some view that you could put that, in fact, any increase in EGMs could in fact provide opportunities for either clubs or hotels to own their own machines, or for a third player to come in?

I understand the rationale of the duopolies. We went through that and were subject to a large number of submissions in the last round, but in the move towards competition, if we are talking about increased EGMs and we are talking about industry that is promoting competition strongly in all of its submissions, are there not breakpoints - and this might be one of them? If I just then add this question: we heard when we were here in Melbourne last time - and no doubt Tattersalls would have a view about this as well - that the duopoly creates a pressure in relation to the hotel and club operators which doesn't exist in other states simply because they can own or licence or lease their own equipment. That, of course, is not able to be done here. I just want to explore the notion of where you see competition increasing. You

said it is through increased machines but you see that through increased machines still controlled through the duopoly.

MR GOODFELLOW: Through the duopoly because you must keep in mind that both of us have - through two separate ways, I might add - paid for our licences. We have paid a lump sum up-front and the number of machines to be available to those two licence holders was going to be 42,500, to be split. We would see it as a requirement that yes, we should get our half share of that, except for the fact that the government has the right to decide that they will be issued over a period of time. Most of the issue that people have, saying we need to free up machines, is really, "Let's get the machines out there." They get upset with ourselves and our competition because we take machines off them to reissue them somewhere else. If we had availability of machines under our cap, we wouldn't have that issue; we wouldn't have that aggravation. We would be able to freely issue the machines into the marketplace. We're not, through capital restrictions, unwilling to buy those machines and put them into the marketplace; it's a false limitation.

MR BANKS: What's your view on the venue caps then as well?

MR GOODFELLOW: What, the 100 machines or 105 machines in a venue?

MR BANKS: Yes, and the allocation between clubs and hotels.

MR GOODFELLOW: It's difficult at times to get new clubs up. That takes a lot longer. If I get a proposed hotelier into my office to talk about a new hotel and say, "I'll give you machines," he immediately picks up the phone on the desk and rings his architects, his town-planner, his builder and his lawyer, and says, "I've got them. Get under way. I want the plans tomorrow." If we deal with a club - fortunately there will be some club people who will probably talk to me later - they'll say, "Oh, we'll take that back to the committee," and they'll go to the next monthly committee meeting and they'll go through the process. Two years later - no, actually a year later we get to where the committee is ready to make a decision and the committee changes; you start again.

So it is frustrating in time but we agree that yes, it is fair that there is an even spread between hotels and clubs, and we at this point in time are running where we are within about 100 machines of our cap limit, and so we have equal numbers in hotels and clubs. It's just a matter of it's a time-frame, so if the cap increases, yes, we'll get extra machines into hotels quickly and there will be a greater gestation period on getting them into clubs.

MR FITZGERALD: But notwithstanding the fact that you paid a large amount of money for the licence - and again I do understand the history of it - just in terms of broader terms you control the market - a duopoly controls this market in a way that is not so anywhere else in Australia. I'm just wondering, when the licence expires, would it be the natural assumption that in fact that should be opened up to broader competition? If you're looking at long-term public policy, eventually is that where we're heading? Or is there any legitimate argument that a duopoly in a state should

continue to exist between the term of their licence for which they've paid a considerable economic rent?

MS WUNSCH: Just to toss in a comment, I think that we need to go back to the reasons that that system was put in place to begin with, and that was probity was part of it, ease of monitoring as well as ease of ensuring the tax revenues for the government, so those are certainly the things that need to be considered; that that situation is still the case, that that's still the benefit of the dual operator system.

MR FITZGERALD: If we were there to look at the costs to operators across Australia, would it be true to say that Victoria would come out as more expensive to the operator because of the various intermediaries than, say, New South Wales or others? And is that a cause of concern or not?

MR GOODFELLOW: Come out as a higher cost to the venue operator. Obviously there is a differential in the share of income, but keep in mind that we are taking on a lot of capital costs of providing the systems and the computers for monitoring when in actual fact we have the capital cost of the gaming machines, and in fact this year we are spending \$100million of capital which, if it was a different market scenario as New South Wales, the clubs would be paying for. It is the larger clubs who can afford to do it and our Queensland experience is it is the larger clubs who can afford to pay for it, the smaller clubs who can't, and the large gets larger and the small get into trouble.

MR FITZGERALD: So you'd say basically there are offsets against - -

MR GOODFELLOW: You can argue in favour of both systems. I might say, as an observer who's a relative newcomer to this industry, I find the Victorian system operates with the greatest degree of probity that I've encountered anywhere in the world and operates extremely efficiently. The level of competition at venue level is extreme and the level of competition between Tattersalls and Tabcorp is extreme as well, and I don't think that you can really open it up much more to competition unless you increase the number of gaming machines.

MR FITZGERALD: If I can just then raise the last issue about competition - is the same as we were talking to TAB Ltd. Do you have a particular view about where wagering itself should go in terms of competition into the long term?

MR GOODFELLOW: I could say to Allen that I can establish wagering with just a desk at the wall there and a wire into a phone, and gaming machines do cost a little bit more to put on the back wall. Wagering certainly has a way forward. We are seeing that wagering, whether it be by way of wagering on the racing industry or by sports bet, is growing. By the privatisation wagering has a great future in our community. As a community we all like to gamble.

MR FITZGERALD: Yes, but where is it going in terms of competition between the various TAB operators long term? Or where do you think it should go?

MR GOODFELLOW: It's up to government regulation really.

MS WUNSCH: There is currently competition. As I think Allen Windross pointed out, there is a substantial amount of wagering on the Internet and of course there is the competition that there is with - as with gaming, there is competition with other forms of entertainment. Again I suppose all we can point out is that there were substantial fees paid for the exclusive licences.

MR GOODFELLOW: I think it's important to also understand that a number of the wagering operators are setting up pools across states to allow them to get the critical mass necessary for better volumes of wagering dollars.

MR FITZGERALD: My last comment is that in the ACIL submission you've called for a review of the tax treatment - I will just rephrase that. In relation to the preferential or concessional treatment given to clubs in the document, do you as a company have a particular view about that, given that they're your clients?

MS WUNSCH: No, I didn't frankly see any reason that that should be in the submission.

MR FITZGERALD: So Tabcorp's position is, in relation to club taxes - you have a position that's different from ACIL?

MS WUNSCH: No.

MR FITZGERALD: Or you don't have one?

MS WUNSCH: It's not an issue which is our issue.

MR GOODFELLOW: We're not pushing that issue either way.

MR FITZGERALD: Okay. I just wanted to find out because there are different views about that.

MR GOODFELLOW: On the issue of club taxation there is one very live and current issue, which is on income tax treatment of clubs whereby sporting clubs have a relative exemption. Some sporting clubs which hadn't applied before a point in time are not treated as fairly under the income tax regime and that is one issue which, if this body can make recommendations on that, should be addressed because it is not fair across the different club structures.

MR FITZGERALD: This is the mutuality issue?

MR GOODFELLOW: That's correct.

MR FITZGERALD: Yes, we are aware of it. But, as I understand it, that hasn't been finally resolved.

MR GOODFELLOW: I believe that the clubs actually have received a decision in Victoria from the Tax Office and they will need to appeal against that but it is something that probably stands out as only being rectified by Commonwealth government tax law changes to ensure that there is fairness.

MR FITZGERALD: Yes, but we're aware of that issue.

MR BANKS: Just for the sake of the transcript, we did have the benefit of discussion with Tabcorp once before on the public record. Thanks very much.

MS WUNSCH: Thanks.

MR BANKS: Again I'll just break for a few minutes while our next participants come forward, thanks.

MR BANKS: Moving right along, as they say, our next participant is Crown Casino. Welcome to the hearings. Could I ask you please to give your names and positions.

MR COURTNEY: David Courtney, executive general manager of finance.

MR O'NEILL: Gary O'Neill, general manager of government and media relations.

MR HORMAN: Bill Horman, general manager, community affairs.

MR BANKS: Thank you again for participating. As we discussed, perhaps you might like to make some introductory remarks and then we can have some discussion after that.

MR O'NEILL: Just very briefly, commissioner, obviously we want to thank you for the opportunity to be here today. We associate ourselves very strongly, obviously, with the ACIL report. Like the others in that process, we participated in the compilation of the ACIL report and, as is noted in the front though, there are some minor areas of disagreement which we'll address later - nothing substantial at all from our point of view. Basically I would just at the outset want to make this point: that while there are other casinos involved in the ACIL report, Crown is here today simply responding to your invitation to appear as Crown. We don't seek to speak on behalf of the other two or three casinos involved in the ACIL report, nor do we seek to be a spokesman for the general casino industry. I know you've probably had contact with the Australian Casinos Association, so you have access to that particular group for an industry opinion about these matters.

Just very briefly, I would like to say that it's well known in Victoria: Crown is a very substantial business. It is not just a casino. It runs an enormous entertainment complex on the south bank of the Yarra River. We are the biggest single-site employer in Victoria by a substantial margin. We run one of the biggest hospitality industry training schools in Australia. We provide employment for between 6 and a half and 7 thousand people at Crown, and for the associated tenancies at Crown you can add another 2000 people to that.

Since opening this particular venue we have paid into state revenue more than a billion dollars in taxes and levies. We also contribute to the Community Benefits Scheme, which is slightly different to the other operators, and funding out of that particular scheme goes towards building a number of substantial sites in and around Melbourne. For example, if you take a look out of the right window you'll see the new museum building which is funded out of the money from the casino. There has also been the exhibition centre, the massive renovations to the Sydney Myer Music Bowl and a number of other initiatives which go to make a substantial injection into the state's economy by various ways.

As I say, we associate ourselves closely with the ACIL report. We would be welcoming your questions on a variety of issues. One of the issues that we might want to expand on at the beginning - two, I'd say - one I'll just pick up in passing, the

comment made by Tabcorp: it appears that in Tabcorp's view Internet gaming is not any good but Internet gambling is, and the basis of that is apparently Internet gaming is without precedent. I would simply like to point out that the Internet itself is without precedent, and there are a number of issues to be addressed in that particular point of view.

More generally I think Crown, because of its size and outlook within the industry in Australia, has an international focus that is very substantial and significant as far as we're concerned. It is an attitude that relates to a couple of other casinos in Australia but not all of them. To that extent I think what we might like to do at this stage of the proceedings in our opening remarks is to expand on the section dealing with taxation in the ACIL report, given that the international nature of Crown's business and its taxation regime was not addressed in any substantial way, and we have a point of view to make on that. So I might invite David Courtney at this stage to expand on the additional information as far as the taxation regime is concerned.

MR BANKS: Good, thank you.

MR COURTNEY: The ACIL report recommends a simpler and more consistent taxation system which we would certainly agree with, and also a lower taxation system which we also support. If I could just draw a point or two out of that section, they have also recommended that before changes would be considered, there would need to be some thoughtful analysis of the interaction between the tax regime and the licensed fee arrangements, and I think that is very important for a lot of those licensed fee arrangements were established based on certain tax arrangements and the structure of the industry.

Also we would just like to make the point that on the international front we're facing really, I guess, changed circumstances. We have had substantial changes in Asia which have reduced the size of the international market and we have had the opening of very large casinos and competitors offshore in other jurisdictions. So there has been an increase in supply at the same time as a decrease in the demand for other product on the international scene. That creates pressures on us to be very, very competitive; the market is increasing in its competitiveness.

Our tax rates in Australia for the international market are out of line with our main competitors. Our main competitors in Vegas, for instance, are at rates of 6 and a quarter per cent, and we are at rates of 10 and 11 per cent in Australia. So that creates some enormous difficulties for us in competing in the international markets for what is export income for Australia, and the margins are very, very fine for us, as they are, and that has caused us to make a number of submissions and put our position forward at the state level; that we believe in order to remain competitive and compete in that market, there needs to be some adjustment to the tax rates. I just make those two points.

MR BANKS: Those comparisons you've made, are they on a equivalent basis? As you said, I mean, licence fees and all sorts of things come into it, or was that just the

nominal tax rate on income?

MR COURTNEY: They're the casino tax rates on international casino revenue, in Vegas, which is 6.25 per cent, and when we make the equivalent calculation here it's 10 per cent. Because of the competitive nature and the cost structures which involve commissions going back to players, it just reduces our ability to match what's on offer in Vegas through either product or pricing.

MR O'NEILL: We have only ever sought to compare apples with apples in that situation about revenue being derived from international customers in various casinos around the world. I mean, the domestic taxation rate in the United States is vastly different from here, as you well know, and we haven't sought to address that issue.

MR BANKS: Okay. Again, perhaps just a tidy way to start to get you - if you had any other views about the ACIL submission, any differences you wanted to mention now would be a good time, just again so we can get a sense of how the industry sees some of these issues.

MR O'NEILL: No, I think one of our major areas of concern has been addressed by the ACIL submission and others previously. That is the area of regulation. While we are, compared to other industries, very heavily regulated in Australia and in Victoria, we operate within that regulatory framework quite efficiently to a certain extent. There are areas where of course we would want to see changes in regulation, and that would primarily revolve around, in our instance, the ability to vary our product mix to meet the sort of demand that we are getting at Crown from time to time. At the moment all of the regulatory framework which needs to be in place, dealing with probity and all of that sort of stuff, we obviously have no problem with. The regulatory environment which affects our day-to-day business, from the point of view of product mix, etcetera, we do have a problem with. But that is not a substantially different attitude than the one adopted by ACIL. I am not seeking here to make huge differences. As I said right at the beginning, we enthusiastically embrace most of the ACIL points and we don't have a great deal of substantial difference.

MR BANKS: When you say "product mix", is it in particular the ability to increase the number of EGMs that you have got in mind?

MR O'NEILL: That would be the practical outcome of it, but essentially what happens in the United States is that the various venues are assessed on their number of gaming points, and that is EGMs and tables are seen as: seven gaming points, for example; seven chairs around a gaming table of whatever type. Within that number of gaming tables or gaming spots that they're allowed to have, they can change the mix of machines and tables to suit the sort of demand that they have. We are limited to 350 tables and 2500 machines. At various times during the week there are too many places and people wanting to use those machines than there are machines, and what we would seek to do is to be able to have the ability to change the product mix to more accurately reflect where the demand is. To pick up your point, the demand seems to be coming not only in Crown but elsewhere, including overseas, more

towards electronic gaming than necessarily more table gaming.

MR FITZGERALD: Just on that, does Crown have a particular view about the issue of caps and what have you that exists within the state of Victoria in terms of EGMs, or does it have any particular view about the way in which EGMs compete against you? Apart from wanting to be able to have a change in your product mix, do you have a view beyond that, about the way in which EGMs should be handled in this state?

MR O'NEILL: Basically the number of EGMs - I'm not trying to be cute here, but the number of EGMs in the state is dictated by government regulation. What I mean by that is there is a prevailing view in Victoria at the moment that it is unlikely, certainly in the near future or the foreseeable future, that there will be an extension of that cap. What we have argued is within Crown - again I don't want to speak even more broadly than that; I don't have a view about whether Tabcorp should have more machines or Tattersalls should have more machines. What we have said - and it's now public knowledge - in our submission to the government dealing with Crown is that as part of our proposal to be allowed to alter our product mix, we would be obviously willing to surrender table positions in exchange for electronic gaming machines.

MR FITZGERALD: Okay. Just in relation to your point about table games versus EGMs, it's something we've seen on the ground in other venues, in other casinos. But I just want to come to this issue about probity and the regulations. Is Crown's view that the regulations that apply to it, with the exception of the product mix - just put that on the side - are appropriate and should be extended to other gaming venues, or is it the view of Crown that in fact the current regulations are inappropriate for it? Everyone talks about a greater simplification of regulation, a greater parity between venues but I was just wondering whether your position is that the probity and other standards have to be raised to your level or is it the reverse, or are we accepting that casinos and other gaming venues should operate with different regulatory environments to a certain degree? Can you say what your position is?

MR O'NEILL: I don't know if we have to necessarily give up that last one. Basically our view is - I mean, I think from our previous discussions you are aware that on any given day - it's a 24-hour day business, seven days a week - we have not only a very extensive security and surveillance system in place at Crown which is entirely funded by ourselves and is part of the regulatory requirements that we have to meet, but in addition to that we have on site a number of government inspectors from the VCGA who perform a number of roles prescribed under the legislation, and on top of that again we have a unit of the Victorian police force which is also present 24 hours a day. They have a surveillance and security role, etcetera, which I'll get Bill to expand on in a minute.

That degree of surveillance and security allows us to put into place a number of issues - or we're required to put in some and we put in some on our own initiative - which deals with things like the enforcement of exclusion - the exclusion regimes for example, both voluntary and involuntary. It also deals with matters of being able to

refer people to the Crown assistance program, for example, when people identify themselves - they want help immediately, etcetera, etcetera.

We believe that the VCGA should be encouraged to look at number of those types of issues in a more industry-wide way. While Crown doesn't seek to make statements on behalf of other venues in Australia, we also clearly don't want to be seen as some sort of experimental farm in which "We'll try this out on Crown and see if it works." We would prefer to believe that others in the industry - and I think they are showing signs of it themselves - are willing to participate in a process of not only self-regulation but elsewhere in a more industry-wide way. I think the industry is generally looking at itself more as an industry than isolated pockets. So I think to answer your question shortly, I would rather see standards lifted to come up to Crown's than anything else.

MR FITZGERALD: Just related to that, if you were to shift from table games more into EGMs, does the nature of the regulation, the supervisory mechanisms, also shift and change? If I could just explain that more clearly. If you go to one of the casinos where there is a huge dominance of EGMs compared to table games just south of here in Tasmania, is there a shift in terms of the oversighting that is required as you make the shift away from table games? So what I'm really saying, is it the table games themselves that call for such enormous amounts of enforcement and oversighting or is it beyond just table games?

MR O'NEILL: Again I'll get Bill to expand on this. But the security and surveillance system is throughout the whole of the casino and it is meant to monitor play on machines as well as on table games. As far as the other matter is concerned, you would know again that Crown is a participant in the electronic gaming industry regulations, we were one of the initiators of that, and that carries with it a degree of responsibility. Perhaps Bill could expand on our participation in that regime?

MR HORMAN: I think, Mr Chairman, you may have already had provided to you the self-regulatory codes of practice. As you know, under that the participants were the AHA, the licensed clubs, Tabcorp, Tattersalls and Crown. The working group of each of those components meets very regularly and addresses a lot of the issues that are raised under the codes of practice. We have been quite pleased with - and again I think you have been briefed on the complaints resolution process that we set up. We fund all of these things that the industry does, including a full-time secretary. Again the manager's role in facilitating the codes is going very well. We have introduced through that self-regulatory process in relation to venues, the venue self-exclusion process, which is an agreement between the person seeking to be self-excluded and the venue management. Again Crown is somewhat different from that because of the Casino Control Act, section 72, which permits both exclusion and self-exclusion matters.

But the industry through that particular working group and the codes is in fact certainly committed to lifting standards. Additionally we carried out a review and evaluation, and again I believe you have been provided with a copy of the review and evaluation report. You'll note in there that there were four recommendations, and

those recommendations are now being addressed, which includes - you made reference earlier to a community awareness program and it's certainly one of the issues.

One of the other changes that we've been introducing through the industry and again at Crown as well, is the introduction of training our staff in what we call responsible serving of game. Again the Australian Hotels Association and Licensed Clubs has seen fit to include that as a component in their industry licence. So certainly there is a commitment and a willingness around that table to address the issues in a self-regulatory way. It's about lifting standards. It's about, as far as we're concerned, being more responsible in the delivery of the service of our product and our code has in fact now been a model for other jurisdictions to follow.

MR FITZGERALD: In relation to the Internet, can I just explore that a bit further, your position as Crown in relation to Internet is to see yourself as an international player generally and possibly in relation to the provision of Internet gambling. Would that be something for consideration?

MR O'NEILL: Yes, that's correct.

MR FITZGERALD: So again - and you heard some of the discussion today - where do you see the appropriate level in relation to Internet regulation? Where is the balance to be drawn? For example, unlicensed service providers of gambling - how should we handle those? Let's assume you wish to obtain a licence to operate. How do we handle unlicensed operators? Do we seek to ban them, prohibit them, or do we simply compete against them or do you have no view on that?

MR O'NEILL: I can't see why you wouldn't seek to ban them or prohibit them. If they are unlicensed, my initial response to that would be, well, why would they be any different from a provider of an unlicensed service in any other area? In the past, when gaming wasn't legal, why would it be different from a person who was an SP bookie or whatever, or running an illegal gaming house in the back of Fitzroy Street or something? I would think that if we are to go forward with Internet gaming to provide the sort of secure accountable and transparent service that I think can be provided, then I think certainly licensing is a prerequisite, probity is a prerequisite, and people who don't meet those standards are not only not included in the industry but have actively got out of the industry.

MR BANKS: I suppose the difference that crops up here is that when you're dealing with cyberspace it's not so easy to jump over the back fence in Fitzroy Street and confront the person.

MR O'NEILL: I agree entirely but I still think - I don't want to belabour the point - but I'd go back to the Tabcorp view that Internet gaming shouldn't be allowed because it's unprecedented. I think that sort of attitude simply means that you throw up your hands and say, "Well, there's nothing we can do about it. Let's stick it in the too-hard basket." There is clearly a demand for it. It's certainly not driven by Crown. We're not players in Internet gaming at the moment but many other people

are. There's a demand for it. I would see our viewpoint being: if there is to be such an industry in which Australia is participating, then we should have perhaps some of the strongest regulatory environments that we could possibly have.

MR FITZGERALD: Just to explore this a bit further: interstate competition we've talked about. You have an exclusive licence as Crown for a particular period of time, as do most other operators, but I was just wondering, does Crown have a particular view as to where competition in the gambling sector should go? In one sense the gambling industry is very pro-competition, and we've mentioned that all throughout the afternoon, but everyone's view about what that means is very different. For example, in the Internet, would it be your view that you would have the exclusive rights to Internet gambling through Victoria and all those sorts of things? I am just trying to get a feel for where people see competition between these sectors and within the states - across the states. You may have no view on it at all but I am just keen to see what the industry feels - - -

MR O'NEILL: As far as Internet gaming is concerned, the view has been put in fact by the VCGA in the first instance that, given the exclusivity of Crown's licence in regard to gaming, that that would apply to Internet gaming. That's the view, as I understand it, that was put by the VCGA in response to questions from journalists. We would share that view obviously in the first instance.

As far as monopoly players are concerned, I would think that, as you say, our monopoly will disappear after a period of time and there is a provision to have additional licences in Victoria. That doesn't seem to be the way that the industry is trending. I thought that there was actually more pressure on the number of casinos that there are in Australia now than talking about a huge number or increasing the number of casinos that are here already. I mean, Adelaide was just saved from going under, as was Cairns. I think that you would normally have to meet the levels of probity and everything else that we were required to do if you had another operator in Victoria. I think David would have a slightly different view than that. Do you have a view on the economics of another gaming casino in Melbourne or Victoria?

MR COURTNEY: No.

MR O'NEILL: That's really our view. Basically we operate under the legislation that we're presented with. When our licence disappears I would be personally surprised - I'm not saying that it's not going to happen. I'd be personally surprised if there is another substantial casino - certainly nothing of the dimension of Crown - being built in Victoria.

MR FITZGERALD: That's a safe bet.

MR O'NEILL: Yes.

MR FITZGERALD: Okay. Just on the taxes, I just want to clarify something. When you were talking about the international competition - we're talking about the commission players particularly that travel the globe. With Internet we've talked

about the problem with - we know automatically that competitors in some countries pay no tax, you know, in one sense. Do you have a particular view - maybe David has - about how we handle this particular international competitive area of taxation, including the Internet?

MR O'NEILL: Yes, I invite David to respond to that. Can I just make this point by way of background. I think that one of the things that I'm involved with in Crown is developing international business and that's not necessarily just our high roller business. With the style of the property that we have, it is in fact an international tourist destination now. One of the reasons that we want to address the issue of international taxation rates is not simply - well, not exclusively for the benefit of getting more international high rollers into Crown but into the property itself and the sort of benefits that these people can bring with them. That flows through to a lot of other things in the Victorian economy, not only hotels but restaurants and the obvious ones.

It also is affecting things like international airline scheduling, the use of Tullamarine Airport, etcetera, etcetera. These people are very cash wealthy. They bring a lot of money into the state, they inject it into the state through Crown hopefully, but there are other elements to it rather than just sort of saying, "Well, if we had a different taxation regime, we could get more people out here to stay at Crown Towers." I will ask David to expand on that.

MR COURTNEY: Well, your question is what rate of tax - - -

MR FITZGERALD: Basically how - yes, how do governments determine how to deal with the issue of taxation in relation to the Internet, given that we already know that some of the competitors against which you would compete pay almost no tax at all. So have you got a view about how one develops a sensible and robust tax regime to deal with those issues?

MR COURTNEY: Only in the general principle that the tax structure needs to be one in Australia that enables Australian businesses to compete. If we're at a disadvantage and we're then uncompetitive, we won't have a business, we won't have an industry. Maybe the focus ought to be taxing profits rather than taxing revenues and we have got a corporate tax system in place to do that and, if there's any ability to lift those tax rates, really it comes down to a structure that enables the industry to be competitive in the markets it's competing in. But tax on profits is I think perhaps a starting point rather than tax on revenue.

MR BANKS: A couple of things that came up that I would take the opportunity of just mentioning to you to see how you respond, and they were in the hearings earlier. One is that some people have made the point to us that the casinos, in a sense, were positioned to something and they've become something else and they were positioned to something which was kind of a glamorous form of gambling that was catering to an international clientele of James Bond types in dinner suits and so on and, in the end, what's it become actually is something that's essentially catering to a domestic market and predominantly a market that would be middle to lower socioeconomic

people. How would you respond to that and has it something to do with the tax regime as well? That's what made me think of it again.

MR O'NEILL: Maybe Crown is slightly different from everywhere else, I don't know, but I mean I'll make this point to you, that we do have and did have a rapidly expanding business of sort of dinner-suited James Bond types - you know, people coming down - and I would probably buy and sell James Bond before brekkie - most of these people - extremely wealthy people, international visitors, who probably had 400 dinner suits in their suit collection.

I will go on to say that at Crown we have the Palladium ballroom which is one of the biggest in Australia and increasingly used for functions. The reason that I make that point is again you will see a whole lot of very well-dressed dinner-suited type of people down in the Mahogany Room, in the Monte Carlo Room, in the Oak Room, in the Teak Room and then we have the main gaming floor, but that might reflect what you would describe as the grind market or the domestic market. The real answer to your question is that all of the research that we have done shows that customers to Crown come from all socioeconomic groups, including the super wealthy right down to others who are less well off or substantially less well off. They also represent the ethnic mix in the community. They probably represent the religious mix in the community. I don't know. We don't particularly poll for that.

MR BANKS: You don't do any surveys on the mix of your market. I would have thought - - -

MR O'NEILL: No, what I was saying is we don't ask people their religion. We certainly know what their ethnic background is, if they choose to answer that question. We certainly know what their socioeconomic background is. We certainly know what their general sort of - where they come from in Victoria. We know how they respond to various things; various issues affecting the whole area. I don't know the precise point that you were trying to make before but let me say this: overwhelmingly, since we started polling, the one response that we have from all of our customers throughout the property is that the reason they come to the casino is because they see it as a safe and secure environment in which to spend time, to socialise with friends and/or colleagues or whatever and that there are a variety of services there which they enjoy.

That's not a bad starting point. Whether they were supposed to do something beforehand and have ended up here, I don't know the point that critics are trying to make. Maybe it's bigger than people might have thought in the first instance but what we are saying is that we run probably the best facility of its type in the world, and I say that even including new additions like Bellagio and others, given the sort security, surveillance and regulatory regime we have in Victoria. I'm saying when you take the whole mix together it is the best of its type in the world. I don't know what it was supposed to be beforehand but what we've got now we are very proud of.

MR BANKS: Just one last question. I give the opportunity because people have made these comments and you need to be aware of them. The other one - and again

this one depends on how you view gambling as an activity - if you see it as a normal activity, fine; if you see it as a problematic activity, you have a different view. What some have criticised Crown for is their approach to marketing and in particular targeting particular segments of the market, either ethnic communities or clubs of elderly people or whatnot, and in the way it's been expressed to us in colourful terms - you know, bussing them in to Crown - and that this is inappropriate and so on. Again I just give you the opportunity on the record to respond to that kind of criticism.

MR O'NEILL: I'll ask Bill to deal with it in more substance if you want the definitive answer to that, but I will make the opening observation about this. I've heard those sort of criticisms before. Like any person selling a product in the Victorian market, we target all of the Victorian market. We don't particularly run any specific ongoing campaign targeted at one section of the community.

We have a number of customers who reflect the multicultural nature of Victoria and of Melbourne in particular. We have various signage in the casino for the benefit of people who don't have English as a first language, for example, but we don't run ads on television in any language other than English. We don't run ads on radio. What we do do from time to time - if this is supposed to be a cardinal sin - is run advertisements in the ethnic print media in the language of that particular print media, along with whole lots of ads for lots of other different products in other languages. But I think it's a bit of a furphy, to tell you the truth. It's a particular soapbox that people like to stand on. It's nothing that I think really at all has any basis in reality.

The second one about the elderly citizens is that we did start the bussing program, mainly at the request of a number of social and other sorts of clubs in Melbourne. It has become very, very successful and it's part of, I guess, what I was referring to before. When we do our polling people say that it is a safe and secure environment where they like to come to blah blah blah. That obviously and consistently applies to the sorts of people who would be part of the bussing program. The bussing program of course directly then has benefits back to the club itself as a fundraising thing that they do. If Bill wants to expand on our relationship with those groups - - -

MR HORMAN: I think Gary has covered it pretty well unless you have a particular point you want to make.

MR FITZGERALD: No, I think we are well out of time.

MR BANKS: Thank you very much for that. We do appreciate you participating.

MR FITZGERALD: We should just say that we have met with Crown previously, so we've had opportunity to talk in more detail about some of those issues.

MR BANKS: Thanks a lot.

MR BANKS: Our final participants today are Tattersalls, appearing in two batches, I think. Welcome to the hearings. Could you please just tell us your names and again the capacities in which you're here today.

MR HARRIS: John Harris, manager, corporate affairs, Tattersalls.

MR BARNETT: David Barnett, general manager of gaming, Tattersalls.

MR RAE: Jeffrey Rae, ACIL consultant.

MR BANKS: Again, thank you for participating as you have right through. I'll give you the opportunity to make particular points you might like to make in the context of the ACIL submission and we can take it from there.

MR BARNETT: Yes, I'll make a brief opening statement if I may. We are grateful for the opportunity to speak today. We were one of the major sponsors of the ACIL submission and we believe that it was carried out to a very high standard, very professionally. Briefly, Tattersalls, as you know, has been around for over a hundred years in Australia. We have an active role particularly in the state of Victoria but also in many other areas of Australia and in the Pacific Islands. The subject matter is very important to us and we do take it quite seriously.

We would say that the overall purpose of the submission was to put together a comprehensive and objective review of the industry and to demystify some of the issues around it. We believe a lot of those issues have been addressed but there is still work in some areas. It does set out the size and scope of the industry, and previous participants in Victoria have covered some of the points in relation to the role of gaming. We would stand by the premise that the consumer is best placed to be the judge of his or her choice of spending a dollar. In fact in the general point of competition, which I'll come to, Tattersalls I should say welcomes competition. We believe we thrive in that environment.

We would say that some of the reasons put forward for further restrictions on gaming in relation to problem gambling may appear to be excessive, although I would say that in terms of the efforts within the industry we are fully committed to trying to identify and eliminate people who are problem gamblers. We do not build our business on problem gambling, nor do we want to.

Concerning the regulation, I'll leave this to Jeff really to argue the issues of taxation but generally we support the view that taxation levels are very high in our business in relation to gaming in Victoria. We would say in terms of regulation, and specifically competition, we think for the period of the licence that the ground rules were set by the umpire, if you like, and we entered into and established the industry in Victoria along those guidelines. A lot of the risks and rewards of course weren't known when the industry started here, and we would say that the operator system has delivered a very high standard and superior industry in the state of Victoria. We think in terms of probity, in terms of the ability to bring new product quickly into the market, in the area of revenue, in relation to Victoria's revenue-raising compared to,

say, a comparable state like Queensland - which was raised before - we think in the short space of time that both markets have been roughly open which is about the same space of time - Victoria has generated a lot higher returns and generally a lot higher standard of gaming than, say, Queensland. Although there are comparable clubs, or larger clubs there, generally gaming in Victoria, we would say, is of higher standard to the consumer.

I should say that in terms of a couple of the points that were specifically made in relation to club taxation, we saw that point mainly relating to New South Wales, so we don't have a view in relation to arguing against our clubs. In fact I must say the RSL is one of our major customers, representing about 25 per cent of our gaming machines, and we would argue that they're a very key and essential participant in the industry. We obviously would support them, as we do clubs generally.

I would like to say something about Tattersalls. Our positioning of our business is still as local, friendly, good value and fun, and that kind of sums up the values that we have about gaming in this state. We are local. We are not big and bold like Crown. We try to be friendly and in the neighbourhood of where our customers are. That means also a safe and secure environment for patrons. The standard of support programs and training given to venues reinforces that. In terms of good value, one of our measures is our bistros in terms of the veal parmigiana price, for example. If it goes too high, your customers don't come back. So we're looking at a total venue experience and, fun: we put a lot of effort into trying to promote people coming to venues to enjoy themselves. That's the cornerstone of our product offer. I think that's all I want to say in the opening remarks. Thank you.

MR FITZGERALD: Can I just ask a broad question. Do you actually think that the current system operated between Tattersalls and Tabcorp is actually a fair system, vis-a-vis the venue operator?

MR BARNETT: Fair to - - -

MR FITZGERALD: Fair to them in the way that it's structured - and I use that term deliberately because, as you would be aware, in our last set of hearings in Melbourne, the duopoly arrangements, you know, which are unique to this state - the issue that I raised with Tabcorp, and now with yourself, to gain a response is that it allows two operators to move the machines to manipulate the market, which has other flow-on effects. One is the denial of revenue to certain operators if they don't meet certain criteria, or the other view would be to actually create pressure on those operators to act in a way that might maximise sales but not necessarily maximise the interests of their consumers. So your view about that.

MR BARNETT: I think in terms of the fairness - I think in terms of the returns to venue operators, they have been very high in this state. I think that is recognised and they have done well out of the system. Those that don't have gaming, it is an issue for those venues. The pressure to move machines - I would say that's really a function today of the cap. In a state like New South Wales there are approximately three times the number of EGMs compared to Victoria. That is placing pressures on

being able to meet market demand in this state. I don't think we should rush out - or our view is Tattersalls is not to flood the market with EGMs. It should be managed carefully and released in the overall interest. We probably will need some more EGMs just to meet the demands from growing suburbs and clubs and other areas that want to reinvest and provide better facilities.

In terms of fairness, we think we've delivered a very high standard of return to the venue operator and a service to the playing public. In a state that didn't have gaming and suddenly went from, you know, stop to full gaming overnight, we would say we stack up very well compared to the other states. There are groups who would like to have free access to machines but, with it, Victoria has the lowest probity problems according to the surveys of the VCGA. They look at the structure in this state, I think, that it has benefited in a lot of other ways other than straight economics in terms of the standard training, investment, new games, the roll-out of product, etcetera. The capital cost was the other thing which was mentioned earlier: Tattersalls bears a lot of the cost obviously of providing a service and a behind-the-scenes cost that would not be there in an open environment.

MR HARRIS: If I could just add. It's good to reflect, I suppose, on the genesis of the operator system and the reasons why it was put into place. I think that something that's an undercurrent of a lot of the discussion this afternoon is the reputation of the provider of the service and the importance that both the service provider places on their own reputation to get it right, ie we don't want problem gamblers; ie we want to run a fair reasonable system; ie we want to make sure that the games we provide are benchmarked in the most appropriate way.

The duopoly, as it's called, I think is a bit of a misnomer because it tends to say that competition is just between the two of us. I think that competitively speaking we're in the entertainment market. We're up against the cinemas, we're up against a whole range of disposable dollar options for people, and I think the third thing that needs to be put into perspective as far as the operator system is concerned is it's undoubted efficiency and effectiveness in terms of tax. The operator system in Victoria has provided the state government of Victoria with sensational tax returns.

So for those three reasons - I mean, the tax to the public benefit of the state, for the reputation and the management of the industry and also for the provision of the sorts of services, it's a very very good way of running this particular industry.

MR FITZGERALD: If you take the Access report, can I just move to the - you made a comment then, David, that you wouldn't want to rush out to put EGMs everywhere, but I want to understand why that might not be the case. Just assuming for a moment that the caps were removed, were not in issue. Are there any public policy grounds which would say to a government, "You should be careful about extending EGMs to many more venues?" Is there anything at all, in your view, that deserves that consideration or are we in a position where in fact open access through clubs and hotels, be it through your own operations or in other states in different ways - I suppose what I'm raising is the issue about whether there are grounds why you would not want to extend it to everywhere?

MR BARNETT: Economic grounds, probably not, but in relation to the comments you made earlier about all the submissions previously which are concerned about gaming - I mean we have to recognise that as well - so we see a responsible approach is a steady introduction. You asked the question before about a third operator - - -

MR FITZGERALD: An open market.

MR BARNETT: Or an open market. We would see eventually that - as this licence period comes to an end, there is a review period prior to that - most likely other parties will seek to bid or enter the market. We would say let the best team win at that stage. We don't know whether that would mean more operators or total abolishment of operators and independent venues controlling their own destiny. We would argue now though that the system has worked well and the government has released machines as people have been able to plan for the support to go with them. That is probably the major point I would argue. It's not an economic one. It's really the management of a new industry that if people have made investments based on a certain set of goalposts, not just the operators but also venues who borrowed money, etcetera, if the flood gates of machines were opened and we rocketed to New South Wales level overnight, for example, I think it would be chaotic. It's not an economic principle. I think it's just the practicality.

MR HARRIS: I think you'd also want to look at the question of community sentiment in terms of public policy. Community sentiment in terms of public policy I think is also an issue. I think it's true that there's pentup demand. I think some of the reason why the focus on this industry has been so intense has been the velocity of change in relation to the introduction, the deregulation of the market and so on and so forth. That has brought the focus together. When David is talking about this issue, I think it's a case of any industry, whether it's the gambling industry or the motor vehicle industry or the mining industry, they must be aware of the community sentiment around that industry because at the end of the day that in turn affects the way in which that industry operates and the revenue that can be generated. It's an interlocking process. I think that's a fairly important point.

MR BANKS: How would you interpret what might seem like a paradox, that there is that community sentiment that you indicate and it comes through in surveys and yet, as other participants today have indicated, up to 80 per cent of the population gambles and a significant number use your products. How do you reconcile those two phenomena?

MR RAE: In the same way that you reconcile the maintenance of the tariff for so long. I mean, the tariff has been maintained in this country to its detriment for a very long period of time and it has something to do, I think, with the concentration of people who are opposed to it and the spread of the people who benefit. The benefits in gambling, as they are with the tariff reform, were spread very thinly. The people who were strongly opposed to it seem to be able to concentrate and focus their efforts. So you've got an asymmetry in the political process in relation to the size of the actual cost and benefits and it's not surprising that these sort of things can be

sustained for a long period of time without some change.

I think in the area of tariff, the ideas have moved on and what we are arguing here is that it's time to reflect a changed view of the industry and what the industry is about and its contribution and have a debate, from the community point of view, on that, because a lot of the community views need to recognise the contemporary reality of the industry. The industry is no longer a sleepy group of largely government agencies running a taxation service. It's now a group of increasingly sophisticated entertainment service providers in the public sector listed on the stock exchange that have got demands from their shareholders to raise their performance, productivity and service levels and are doing so.

So the nature of the industry is being transformed, as it has been in a number of western countries. In the United States we've seen a similar transformation and the transformation has been, I think, for the good of the industry. These companies are paid very very large amounts for their licence fees. One of them was paid nearly \$600 million in a lump sum before it will earn a single dollar of profit. It's not surprising that they feel a bit sensitive about changing the rules of the game on them midstream. So that's why I think we argued in our submission that a public policy solution to this has to involve a comprehensive look at everything - taxation, regulation - because that's the only way you will get the kind of mix of changes that are likely to be broadly supported by the industry and the community and being able to maximise the benefits from such changes.

MR BANKS: The political autonomy point should appeal to me, except that the point I was making was a lot of the surveys of the community generally are finding that sort of relatively high disapproval rating in a way. It may be this a transition or a carryover from earlier times where people think a particular way but actually act differently.

MR BARNETT: I believe it could be ignorance. I think a lot of the venues - if we go to our venues, the typical patron, in fact just about all the patrons, appear to be doing something freely and which they enjoy. In fact, you see people arriving at venues striking up conversations with other players who maybe they haven't met before, particularly in a club environment but also in hotels. People on the outside tend to always perceive that they're sort of forced or locked in there and there's no time for communication and things like that; that they're somehow coerced into doing it. I think it is partly ignorance. That's my own view.

MR FITZGERALD: Yet one of the issues that always arises in relation to EGMs particularly is whether it's demand driven or supply driven, and you would have heard these arguments. For example, Western Australia does not have any EGMs and there's actually no demand for it other than from the potential providers. Here, or in every other state, when we actually introduced it, there's a very large increase in consumption. One of the issues about this is whether it's demand or supply driven and that's a very difficult issue to actually ascertain. If you go to WA, there is nobody crying out for EGMs other than the potential providers. So it's a very difficult issue and in that state, and here as well, the surveys show basically the same; that's

there a lack of trust in gambling itself. It's actually something that seems to exist. Either when gambling exists or it doesn't exist, there's that perception problem with it.

I suppose I want to move on a little bit from that. In terms of the placement of machines in Victoria, and we've heard it before in terms of low socioeconomic areas, the industry here has maintained that it is not an active campaign to put it into low socioeconomic areas but I am just wondering whether or not you could just elaborate Tattersall's position in relation to that. We've heard from Tabcorp but your own position about placement - - -

MR BARNETT: No, it's certainly not. I think it is basically where the demand for the product is that it is placed. It so happens that under a capped environment and when you look at it within segment performance of various venues, there is really no way that you can artificially - I don't believe over a time - skew people playing poker machines, unless people are all prepared to travel from one part of Melbourne to another. We have evidence to show that some of our best players - or researchers show some of our best players are well-off tradespeople, often with double incomes or with high cash disposable income, that enjoy going down and playing poker machines. Some of our biggest venues - the Caulfield example was used. I mean our nearest venue is just down the road from there or just across Dandenong Road.

Certainly from a perspective of our marketing or our business management, we do not target machines at lower socioeconomic groups. Our players are anything but just lower socioeconomic players.

MR RAE: Yes, the commercial incentives are to maximise the value of the facility to the operator. Providing you don't want to make the assumption that low socioeconomic areas only have poor people, the fact that a hotel is located in a particular area doesn't mean that only poor people use it. It might be that people in that area who use it are people who work in that area and that it's the area of their employment that determines a lot of this rather than the area where they live. On the other hand, in some cases it would be the area where they live.

It's undoubtedly true that there's a variation across income levels with different gambling products. It doesn't appear to be true that it's the same pattern for all gambling products. They do seem to vary. You have to be careful of the numbers because you're relying on household expenditure surveys and we don't have a lot of them to look at. So I think characterisations can be potentially very misleading. It's like a characterisation of what the average spend of Australians is. Given that the frequency is skewed, the median and the average are going to be significantly different, and that tells you something about demand and usage as well. So I think it's a little bit more complex than it appears to be at first blush.

MR BARNETT: Historically there were more licensed premises in certain parts of Melbourne, and that is also a factor. When gaming started, they in a sense had a head start.

MR HARRIS: It's the 6 o'clock closing. Historically most of the working suburbs - manufacturing, all those areas - were in particular suburbs. There was a thing called 6 o'clock closing. You couldn't catch the train and go across to Caulfield or Ivanhoe or one of those places and get a drink. You actually left work, had a drink and then got the train home.

MR RAE: If you could find it!

MR BARNETT: Camberwell is a dry area, too.

MR FITZGERALD: If we assume that the ACIL report in relation to the issue of problem gambling was as stated, or we take the position that was put to us by Allen Windross from TAB Ltd that he questions whether they're in fact problem gamblers but only people with problems who gamble - any of those assumptions - why would we be concerned about where the machines are located in terms of restricting them to hotels or clubs? Would you have a view as a provider of gaming machines as to whether or not it should be extended into TABs or into other venues other than the current two types of venues? It seems to me we've heard no submissions from the industry, who has a vested interest in promoting more machines or more consumption, that it should be extended, and yet I'm not understanding why you wouldn't, so I'm just wanting to flesh that point out.

MR BARNETT: Well, a personal view: I think the system has served us well in terms of providing for a licensed environment within the liquor licensing regulations. I have heard the opposition put a view that someone took the view that all the bad things should be combined together, being liquor and gambling. I mean, it is this question of perception by the community which John made. If people perceive that gaming is something to be cautious of, then we would obviously reinforce an environment that reflected that but also allow people to engage in it if they wish to. But to then put an argument that, no, EGMs should be all over shopping centres or freely available wouldn't seem appropriate commercially. I don't know if that answers the question.

MR FITZGERALD: It wouldn't seem appropriate commercially. Could I just explore why would it not be appropriate commercially to have it in other venues from your point of view, David?

MR BARNETT: From the perception point only.

MR FITZGERALD: Right.

MR BARNETT: If we can debunk the argument about problem gambling and therefore there's a freer distribution availability of EGMs, I would support it, but at the moment, where you have that perception, I think we have to recognise that from a commercial viewpoint.

MR FITZGERALD: Just on that, from your submission and what you're saying, you collectively as an industry don't believe there's a correlation between greater

access and greater problem gambling, or do you? Could you just explore that.

MR HARRIS: No, we would agree with that. There isn't a correlation. But I think it also goes back to the point that you raised before, and that is that the industry works within the real world and the perceived world as well. Now, the real world is sitting here in ACIL. That's the real world in a sense. There are also the perceptions that operate within the community, and we have to preserve our reputation as an organisation, so we must also take into account the perceptions. Whether they're true or false, those perceptions are important to us as well and therefore we will exceed what we know to be logical, factual. We will go that one step further and say, "Okay, yes, we have a number of measures in place" - for example, the Tattersalls "Have fun but play it safe" program, in relation to enforcing positive gambling behaviour, enforcing behaviour that is acceptable.

That's our task in a sense, because we guard our reputation fiercely. We've been in the business for a hundred years, we've seen governments come and go, we've seen regulations come and go. Tattersalls has been moved from state to state to state because governments have closed them down and they have moved on. So it's important to us that we deal both with the perceptions, the community sentiment. Whether that sentiment is based on fact or fiction we can't control, but what we can control is the way in which we go about our business to manage both the reality and that perception.

MR BANKS: You say that the ACIL submission is the real world, and Jeff must enjoy hearing you say that, but we will no doubt have people making submissions saying to us that that's not the real world, that we don't have a world of rational addicts who calculate that, for example, advertisements telling them about help services would, you know, make it easier to get into trouble and make rational decisions in that way. I mean, there are views about, or models, to do with problem gambling that come out, sort of psychological models and others that will be competing with that, so we will have to look at all of that. But could I also offer another explanation.

I think possibly one explanation for the reason why these broadbased community surveys are getting sort of negative perceptions at the same time as we're seeing fairly extensive participation in gambling by the same people is that many of them may well know people in their extended family, or acquaintances or whatever, who have got a significant problem with it and that that in some ways influences their thinking. Your view of the world is obviously one from a supplier's point of view and that's fair enough, but we have also had a lot of people come to us whose view of the world is almost exclusively to do with the people who are having problems. They have quite a different view and, again, it's up to us to try to reconcile those two sides.

But as I say, it could well be that that accounts for that sort of paradox, the sort of questionable pleasure dimension, that people know that while it's not a problem for them they know somebody who is having big problems. We probably all know someone who has big problems, because in this inquiry I tend to talk to taxi drivers

about this rather than taxi licence plates and whatnot, and things come up all the time. I think that is a reality actually with which government has to deal. It's not necessarily just a perception. Anyway, that's what we are trying to grapple with ourselves.

MR RAE: But I guess the critical thing is - let's say there is a defined problem. If you don't focus policy on something that can make a difference and you haven't got a means of making a difference, we're just kidding ourselves. There will be plenty of wheel spin, there will be an ability to cut the cord at the presentation ceremony and claim victory and that no child will live in poverty, but we actually won't deliver anything. It seemed to me that if there is a doubt that a policy can't deliver, it's important that we actually promote a debate on those issues.

MR FITZGERALD: But take the doubt. If we were to say that there is a doubt, but - - -

MR RAE: There's significant doubt and trivial doubt.

MR FITZGERALD: No, I'm serious about it. Am I correct in saying that Tattersalls, for example, in this instance is comfortably able to live within a regulatory environment that assumes a level of problem gambling? You've got a responsible gambling process. You see it as part of your competitive edge, and I'm sure Tabcorp and others and the venue operators have the same. It strikes me that in fact the industry itself is growing to accommodate through their own activities those concerns without having a dramatic impact on the bottom line, or am I missing something in this? Is that fair? As John has rightly said right at the beginning, you as Tattersalls pride yourself on not only living in a real world but the perception and the reputation. Would it be true to say that Tattersalls can live within a regulatory environment that recognises those sorts of issues or, if you can't, what are the key things that need to be removed, apart from taxation?

MR HARRIS: Jeff can comment on this further, but I am not sure that the ACIL report in any shape, size or form denied that there weren't people who had problems.

MR FITZGERALD: No, it recognises that.

MR HARRIS: That's important though, to actually factor that in. The second thing also would be that I don't think that the industry accommodates. I think that that's the wrong word. I think that the industry recognises, as it says in the ACIL report, that there is a small percentage, 1 per cent, of people recognised under a process which has got its question marks over it who would exhibit problem gambling symptoms. Okay, let's accept the fact that there may be others involved in that within the family, but that 1 per cent - is it a fairly blunt instrument to actually then enforce regulation across the vast majority of gamblers who actually have no problem with this at all? As Jeff just said, in public policy terms you have to apply something that is going to make the punishment fit the crime, as it were. You're going to actually have to sort of sit down and say, "Is this going to provide the outcome?" and I'm not sure that the sorts of things that I've heard and read in the submissions that have been before this

commission in previous hearings actually go to that mark.

I think the industry itself would welcome that sort of approach because, as David Barnett quite rightly said, we don't want problem gamblers in our venues. They are not the sort of people we want to encourage. It strikes me that, no, the industry does not in that way accommodate problem gambling. What it must deal with is the way in which appropriate public policy instruments are put in place that effectively go to the nub of the issue, and the nub of the issue is actually problem gamblers or people who have problems that are exhibited symptomatically through a gambling issue, and I think that's a different issue altogether.

MR FITZGERALD: So in terms of the current regulatory regime, from Tattersall's point of view which would be the key issues that you see as problematic at the moment in terms of running your business that inhibit it, apart from obviously tax, which we have heard about, which I'm sure we've already mentioned, and the cap? Are there other - - -

MR BARNETT: They would be my two.

MR FITZGERALD: They would be your two. So it's really in that area. It's the capping of the machines and the taxation rates rather than any of the other regulations that currently exist?

MR BARNETT: We have regulations from go to whoa in our business.

MR FITZGERALD: Yes, I know.

MR BARNETT: In every sphere. Even surveillance, which was talked about for Crown. I mean, we have regulations there as well, and it affects jackpot amounts, a whole heap of things. To answer that question succinctly, I'd have to really think about an answer. The competition issue in regulation was the one that has been highlighted most and I think Jeff answered that to an extent most recently. We would like to see sort of a planned environment, I suppose, to compete in. An unplanned one makes it very hard to make decisions and people have made decisions based on certain rules of the road, if you like, which other states - you can enter those states, as we have, on those rules.

MR BANKS: Good. I'm conscious there's a part 2 and we'll get on to talk more about the lottery business, so perhaps we could conclude there. Thank you.

MR BANKS: We will resume still with Tattersalls, this time with a change of personnel, and just ask the new people to give their names and their positions, please, or the capacity in which they're here.

MS BYERS: Jan Byers. I'm the general manager of lotteries at Tattersall.

MR CHESSELL: David Chessell, director, Access Economics.

MR HAWKINS: Bob Hawkins, director, Access Economics.

MR BANKS: Good, thank you. Thanks, all of you, again for appearing and for waiting so patiently too, but since we all have to go on the same plane back to Canberra I think you're pretty safe! I'll give you the opportunity again perhaps if you wanted to make any remarks in relation to this submission, the one that Access has provided, which we've read with interest. It's a useful submission. We'll give you the opportunity to address it briefly and then we can have some discussion about it.

MS BYERS: David Chessell was going to make an opening comment on behalf of the Access part.

MR BANKS: Good, thanks.

MR CHESSELL: Thanks, Gary. The focus of our submission is primarily on lotteries, and of the many issues covered in our submission there are four points that I would like to emphasise in the time available. These relate to taxation, patterns of lotto expenditure, the ownership structure of Tattersalls, and regulation.

First, no-one previously has given much thought to the structure of gambling taxation in Australia. Gambling is a major source of revenue for state governments, yet little effort has been made to determine scientifically, subject to the limitations of the social sciences, whether state governments would raise more revenue if they increased the rate of tax on gambling and, if so, how much more revenue, or would state governments raise less revenue if they increased the rate of tax on gambling? The answers to those questions depend on the availability and the quality of the data and the analysis is subject to estimation uncertainty.

However, we can measure accurately the rates of taxation that are applied to gambling. There are several major forms of gambling in Australia and each is subject to different taxation treatment. Rates of tax vary among the states, seemingly without rhyme or reason: for example, casinos are taxed more heavily than racing in South Australia, whereas racing is taxed more heavily than casinos in Victoria; EGMs are taxed more heavily than racing in the Northern Territory, whereas racing is taxed more heavily than EGMs in New South Wales.

One constant, however, is that all states tax lotteries and lotto more heavily than any other form of gambling and by a substantial margin. For Australia as a whole government revenue represents almost 83 per cent of expenditure on lottos and lotteries. This is almost two and a half times the rate of tax on all forms of gambling,

including lotteries and lotto. Expressed as a share of turnover government revenue is almost eight times greater for lotteries and lotto than for all forms of gambling.

Is the heavy taxation of lotto sensible from a public policy point of view? The conclusion from our work is that government would collect more revenue by lowering the rate of tax on Saturday night lotto turnover by about 20 per cent - that is, lowering it from the current rate of 35 and a half to 28 and a half per cent. At the revenue maximising tax rate of 28 and a half per cent revenue from Saturday night lotto would increase by \$34 million per annum. A tax reduction that raises more revenue is good news for everyone, is good news for consumers. In addition to the \$34 million in revenue consumers would be better off by \$72 million. If government were content with the current level of revenue from Saturday night lotto then it could lower the tax rate to 20.8 per cent and maintain revenue while making consumers better off to the tune of \$174 million per annum.

I'll move to the second point. Using the Access Economics micro model our work provides fresh insights into patterns of gambling expenditure in Australia. There are limitations with the household expenditure survey data collected by the ABS both in coverage and timeliness. The data on gambling participation and expenditure on lotteries and lotto are consistent with data from other sources. Total expenditure on EGMs, racing and casinos, appear to be substantially underreported. However, even for the forms of gambling where expenditure is underreported the spend patterns by demographic and socioeconomic profiles of the community appear to be inherently plausible. We are confident that our modelling makes the best use of the most authoritative and comprehensive official source of data available to us.

An important inference that can be drawn from our micromodelling, is that of the various forms of gambling, lotto is clearly the most popular with a participation rate of 39 per cent. Moreover, the popularity of lotto is well above the participation rate for all other forms of gambling for males and females, for people of all ages, income levels and family situations. One of the remarkable results of the micromodelling is that of those who play lotto the amount spent per week on lotto is relatively constant across income deciles. This means that relative to total expenditure lotto is three times more important for those in the lower income deciles than those in the higher income deciles. Because the tax rate on lotto is the same irrespective of income it follows that the taxation of lotto is regressive. This does not seem to make sense to us.

Third, Tattersall's structure, Tattersalls plays a unique role in the gambling industry in Australia, and possibly internationally. The main distinguishing feature of Tattersalls is its ownership structure: it is neither a company nor a public authority. Tattersalls trust structure, which frees it from the day-to-day single-minded pursuit of maximising shareholder returns is totally compatible with the socially responsible provision of gambling services. Tattersalls has the longest involvement of any provider in the industry in Australia. Tattersalls has proven that it can afford to take the long term into account in setting its business strategies and relationship with the communities it serves - for example, through its active engagement in philanthropic activities. Public confidence in the integrity of gaming

is one of the necessary conditions for a viable industry. Tattersalls has a well-established record of working cooperatively with industry regulators. It has an unrivalled track record for honesty and fairness in the conduct of lotto and lotteries and now EGMs.

Tattersall's ownership structure has not only delivered socially responsible gambling services but has also delivered them most efficiently. Tattersalls bears the downside if there is any blow-out in costs and gains the benefit from cost savings within its gross margin of 4 per cent on turnover on lotto in excess of \$600 million. Tattersalls therefore has a strong incentive to perform efficiently. This is reinforced through the terms of the will of the late George Adams which provides for 10 per cent of profits to be shared by the staff. It is no surprise, therefore, that Tattersalls has the lowest ratio of expenses to turnover of any lottery operator in Australia and well below those operating in the US. If in 1996-97 the public authority providers of lotteries in all jurisdictions in Australia had achieved the same level of costs as Tattersall's Victorian operations, total costs Australiawide would have been some \$150 million less than actually observed.

Fourth, and finally, some comments on regulation - the cost disparity between Tattersalls and lottery providers in other states reflects the lack of competition between service providers across state borders. Those barriers also - - -

MR BANKS: I'm sorry, I'm just having trouble hearing because we don't have amplification. Yes, okay, go ahead.

MR CHESSELL: Those barriers also prevent the unlocking of the benefits of economies of scale on the demand side of the lotteries market. In the future these barriers to competition are likely to prove ineffectual and competition is likely to come from new forms of service delivery across international borders. It's essential to the future viability of the Australian industry that governments allow Australian lottery providers to anticipate that competition by removing the regulatory barriers that currently prevent lottery providers from competing across state borders.

The approach to regulation of EGMs is fragmented across states, probably reflecting different historical experiences with EGMs in the different states and different attitudes towards the clubs industry. There has been a trend towards greater centralisation of regulatory structures with the Victorian gaming operator arrangements being the most centralised at present. These arrangements offer a number of advantages, including that it is easier to police the system for probity issues; the licence renewal process keeps the two operators focused on being successful long-term players; it enables network economies of scale, and enables the operators to obtain better terms when dealing with suppliers.

There is much to recommend the Victorian system of regulation of EGMs, which has achieved the desired objectives of probity and the promotion of public confidence and has allowed the orderly introduction of EGMs into Victorian hotels and clubs. We would be happy to respond to any questions you have.

MR BANKS: Good, thank you. I might start at the end and work back, if Robert doesn't mind. You talked about regulation and competition. We've already had a fair discussion about the operator framework in Victoria, but I was just going to ask you a little bit more about competition in relation to the lottery business and what some of the effects of that might be. We heard, particularly in other states I think, great emphasis was placed on economies of scale in lotteries and I think this submission itself has some evidence there which suggests that Tattersalls hasn't yet got to the point of reaping all those potential economies. How does competition bear on that? How do you achieve more competition and, by implication, more players - or potentially more players - and how does that square off against the economies of scale consideration, because I think what we heard, particularly in WA - they won't mind me mentioning them - they saw that as something that would reduce efficiency and, if anything, raise costs.

MR CHESSELL: They would say that, wouldn't they, because WA is one of the most inefficient providers of lotto services. So if there were competition the current provider of lottery services in WA would be in serious jeopardy. There's two sides to it. As I alluded to in my opening remarks, we believe that competition would have a powerful effect in terms of reducing costs on the supply side. Where the argument for centralisation, if you like, comes in on the demand side, yes, there is a point. However, to a significant extent economies of scale have been reached by the formation of the Australian lotto block, which groups together all states, bar New South Wales. Further economies of scale would be achieved were a single market to be created, or New South Wales to join the Australian lotto block or whatever.

However, I suppose the likelihood seems to us to be that this problem - your dilemma will be solved over time by the market and through the entry of international competition, and hence from an Australian point of view the sense of allowing operators to operate unfettered across all states at the moment.

MS BYERS: I think that's the most critical issue, is the likely introduction of international players into this marketplace. We as an organisation have already had to go through various tender processes in 1982 in Victoria and as late as 1997 in Northern Territory. We've had to be subjected to tenders. Now, there is a likelihood in the future those competitors that are coming into this market will not necessarily be the types of entities that currently operate here, so there is an argument for defending our position, and defending our position can only come from critical means.

MR FITZGERALD: So the likely outcome of that would be larger but less Australian operators of lotteries and an increase in the number of foreign lottery operators into the marketplace. If we project it through only a few years, that would be the end result?

MR CHESSELL: I suspect so, Robert.

MS BYERS: Yes, I would expect so.

MR HAWKINS: There is also the competition between lotteries and other forms of gambling which one would need to take into account if you actually wanted to make a genuine projection. If you leave aside that sort of issue - I mean, clearly it's like motor vehicles or any other industry where there are economies of scale. You get larger but very intensive competitors. That's what I think would happen.

MS BYERS: But if you look at the model at the moment, each of the states that operate independently - we have a block, as you know, but basically we operate within our own borders. It's getting to the point where we've got 40 per cent penetration of the adult market. In WA, for instance, they've got 75 per cent penetration of the adult market. There's a point where, "How much further can you grow?" and certainly in other states - New South Wales and Queensland who have corporatised are looking at avenues to grow their business.

They either grow within their state and that requires investment in terms of product innovation and product development - more investing in advertising and promoting because you're trying to access more market share - or you try to access new markets, markets that are outside your current jurisdiction. They can either be within a domestic way or internationally and that also requires money. It also requires capital investment which is inherent to risk. What we're saying is, as an organisation, as a private organisation, we are willing to take those risks because we are in the business of trying to grow our business but in fact other states are quick to be able to absorb and take those risks and it's not efficient.

MR BANKS: I'd just like to go on from that - David you mentioned, and it's well stated or laid out with some numbers in the submission - that Tattersalls is a low cost supplier. You've just made a comment about WA that they will enjoy, but what accounts for the difference? I didn't pick it up properly in your remarks just earlier. Why do you think Tattersalls is such an efficient producer?

MR CHESSELL: I think Tattersalls is subject to appropriate incentive, so Tattersalls has a gross margin. If Tattersalls maintains and manages its costs, it keeps the benefit of that. If it allows its cost to blow out, then it gets all the downside of that. So it has an incentive to operate as efficiently as possible compared to the - and also the staff arrangements are such, with the 10 per cent profit-sharing arrangement, to motivate the staff to operate efficiently. I suppose it's competing with publicly owned authorities that are operating in the other states that don't have similar disciplines.

MR HAWKINS: The other point which is made in our submission is that business is actually contestable in the sense that the licence is for a fixed term and they have had to compete in the past. They had to tender and they won it. So they are very well aware that in the future they will have to contest again.

MR BANKS: That's been a difference, are you saying, for Tattersalls and for the other players?

MR CHESSELL: The other operators don't face a similar situation at all.

MR HAWKINS: It depends on the jurisdiction.

MR FITZGERALD: If you go to this broader competitive model, the jurisdiction disappears in a sense. How does that interplay with this notion? Does the state government continue to have the right to license and operate within that state or does that start to disappear itself - the whole notion that lotteries are state-based jurisdictions disappears with this notion of broader competition? What are the regulatory facts there?

MR CHESSELL: Yes, it is an interesting area to think about. I don't think it necessarily entails the demise of state-based regulation but it does, I suppose, call into question the rationale for having a state-based regulation or regulatory system. It could, for example, encompass different rates of tax in different states, so if one- - -

MR FITZGERALD: So apart from the tax issue, which is an issue separate, as operators of lotteries is there any rationale for keeping state-based jurisdictions for lotteries other than the collection of revenue?

MR HARRIS: I think there's probably not an economic one, if one wanted to say that, but I think there's a political one. As I said before, there are a number of exigencies riding on any industry, one of which is the economics, one of which is the political, one of which is social, and they interact. I think change and open market in terms of the lotteries business will probably be a gradual process whereby governments become accustomed to - example - in terms of corporatising their own lotteries. It may be that they may float their own lotteries. It may be that other people share in those lotteries. It will be a gradual process. 10 years down the track there probably will be more open competition. We're prepared for that. We've gone through it in a tender process in previous lives, I suppose, but it's not going to be an overnight sensation, as it were. It will be a process governed by economic, social and political realities, I suppose.

MR FITZGERALD: But even in that answer, John, you haven't put forward any reasons other than political - why we keep state jurisdictions- - -

MR HARRIS: Yes, but political is pretty persuasive.

MR FITZGERALD: I think we understand that very well - now you convince us.

MR HAWKINS: You dismissed the taxation issue- - -

MR FITZGERALD: No, I was just saying- - -

MR HAWKINS: - - - but I do think it is very important in relation to jurisdiction.

MR FITZGERALD: I wasn't dismissing the tax issue. I was very keen to talk about but I was just trying to see if there were any other reasons why the state jurisdiction might stay, because I'm sure that - taking WA but also take some of the

other states - they might be able to give us their view as to why it should remain state based. I was just wondering whether you, from a service provider point of view or provider, could say.

MR CHESSELL: I think from an economist point of view you'd say that lotteries were not a local good that had to be provided that had a geographic dimension to it. I think quite to the contrary.

MR FITZGERALD: Just on that, if I could explore that: is it so that lotteries by and large across Australia, consumers respond in fairly similar manners? Just to take that point a bit - there are not huge local variations in the way in which consumers respond to the product, given the nature of the product?

MS BYERS: There is very little difference. We know that by the fact that we actually have a block and a lot of our decision-making in terms of where are we going to take the game into the future is based on the cumulative discussions that we have in respect to what goes on at the consumer interface. There's very little to actually suggest that there are major variances in the way in which people react to the marketing of the products and the way in which they behave and- - -

MR HAWKINS: There are some market differences in the statistics. Penetration is higher in the west where there are no EGMs. For some reason, from recollection, instant lotteries are more popular in Queensland. I don't know the reasons for these things and they've no doubt got historic reasons as much as anything but I wouldn't say, as an analyst, that there are no differences between the jurisdictions. They as much relate to competing products as they do to the lotteries themselves.

MR CHESSELL: The other point in our submission on the tax - the tax submission which is accompanying the submission to the Productivity Commission is that when we broke down the demand equations by state, they basically conformed with international demand and function. So it would seem to suggest that the same motivations are at work in all the states.

MR BANKS: You've talked about taxation and one of the contributions of your submission I think is to do what you've done on pages 53 and 54 and, in a sense, to answer that question about the responsiveness of tax revenue and indeed consumer benefits to changes in the tax rate. I take it that's based on a more detailed bit of work that you've made available?

MR CHESSELL: Yes, that's right, chairman.

MR BANKS: That's what you are talking about there - okay.

MR CHESSELL: Yes.

MR BANKS: I think we'd probably want to go through that and you offered earlier, I think, the opportunity for us to come back and talk to you about it. Just at a quick look, there are a couple of things there - well, the old hoary question of elasticities,

for example, was one. Then, to what extent the results you got could be replicated if you were looking at some of those other lower elasticity calculations. I think you would get quite a different result and so the reason why you chose what you chose to get the results on page 54 - - -

MR CHESSELL: No, I don't believe that's correct, chairman. It's probably a bit unfair if you haven't read this other submission but what we did is we tested different functional forms for demand curves and we found similar results for all of them. There was one particular demand curve which explained the data better than - I should go back and say that this is all based on a seven-year run of weekly results for three games. There's a Saturday night Tattslotto, the Powerball and Oz Lotto, which were provided to us by Tattersalls, and we were able to explain a large percentage of the variation in demand through a simple model that was based on price. We've got an explanation of how the price was derived in this other paper.

We could have chosen results and in fact would have had a different result in terms of the increase in estimated revenue from a reduction in the tax rate, but it was broadly robust with respect to the choice of the functional form of the demand curve and whether it was done over different periods of times or it was broken into sub-periods - we looked at it by states and all these things tended to confirm that currently for Saturday night Tattslotto, the rate of tax, in terms of the local curve, is over the other side of the hill but it was not the case for Powerball and Oz Lotto so we got different results for those games and we found estimates, very large estimates, of the increase in consumer surplus that could be gained from the community if there were this reduction in the tax rate. As I say, there are two ways of looking at it: one is to look at the revenue maximising tax rate, which would roughly bring it down from 35 and a half to 28 and a half per cent, but if you took, as the condition, that you were trying to work to that the government should raise exactly the same amount of revenue as it does today, then all the benefit of that would go to the consumers and, in the case of that one game, Saturday night Tattslotto, the benefit is very substantial - \$174 million.

MR BANKS: We'll look forward to looking at the more detailed paper.

MR CHESSELL: Certainly.

MR BANKS: But otherwise those really low elasticities, to me, I just can't understand why you would get something as low as that - like .03 for example for Powerball on low turnover. I suppose I was going from that to thinking, well, if you had such low elasticities you'd get away with quite high tax rates.

MR CHESSELL: Yes, well, in those games it does, yes, quite correct.

MR BANKS: Right.

MR CHESSELL: One of the difficulties in this is getting a series of observations of price and quantity.

MR BANKS: Yes.

MR CHESSELL: The way that we've been able to do that is with the data that Tattersalls have provided. The structure of the game is such that the probability of winning is affected by the number of people who go in, so it's a paramutual game. So in a sense it's like a freerider: the more people who go in - and that's what generates the economies of scale - although it reduces your probability of winning slightly it increases the pool and that has a bigger effect, and so with Saturday night Tattsлото we in a sense have a situation where for eight or nine weeks in a row Tattersalls - the payout ratio to players is set at 55 per cent, and then those 5 per cent, because the minimum payout is 60 per cent, on the ninth or the tenth week all those 5 per cents are gathered up and there's a superdraw. So that gives you an observation on a much lower price; the odds of going in on a superdraw week are much more attractive.

We then have a series of these two observations, the one on the norm and the one on the lower, and that allows us to fit the curve, but it's not unfortunately a situation where you've got a number of situations evenly spaced out, and hence it can be consistent with the number of different functional forms.

MR BANKS: We won't get into quadratic functions right now. Thanks for that. We all look forward to looking at that.

MR FITZGERALD: Just a couple of things, in the paper you also mentioned about the Internet, so I thought it might be appropriate in this section if we actually asked your view about Internet. You have taken the view that many others have, that is, that it's no use banning it and one should actually take a regulatory approach. But I'd be keen to know what you mean by that; in other words, what do you regulate and what don't you? In other words, how far does regulation of the Internet go?

MS BYERS: I think regulation goes as far as it needs to go in respect to probity and in respect to the element of security in respect to the customer interacting with you as an operator on the Internet. I think that's important because a lot of the research that's already been done indicates the consumer's appetite for wanting to actually play on the Internet is driven in terms of - in gambling terms is based on those two very important things. We take the line that there's no point in banning it and that we're quite happy for it to be in an open-market environment, because at the end of the day the consumer makes the decision as to who they want to play with and where they feel comfortable about placing their money.

I think one of the things that the Internet and the understanding of the Internet, where it is failing, is the education of people in respect to what the Internet actually means and what it actually does encompass in respect to a high level of regulation already. We're going through a process of getting a licence and a regulation that's imposed on us in terms of what we have to do; it's quite severe, and we're quite happy for that to be the case.

MR FITZGERALD: So you're going through the licence for - just your current

activity or your Internet activity?

MS BYERS: Internet activity.

MR FITZGERALD: Just to clarify: is your understanding in Victoria the same as the understanding of the Crown Casino, that they will control the rights to most of the Internet virtual gaming?

MS BYERS: Not at all.

MR FITZGERALD: Do you have a different view on this position?

MS BYERS: Quite a different view, because I don't think that will ever work.

MR FITZGERALD: Do you want to expand on that?

MS BYERS: You might have Crown Casino having the only licence to operate, so you're going to ban everybody else from being involved. Sure, you can ban anyone from Australia in terms of us as an organisation being able to operate here, but you're never going to be able to ban everybody else coming in from outside operating.

MR FITZGERALD: So your view in terms of who should be entitled to operate in Australia is what? What do you say there, that it should be much more open or it shouldn't?

MS BYERS: I think that it's going to be a much more open environment anyway. I don't think we're ever going to be able to prohibit that.

MR HARRIS: I think also that we would seek to have providers of Internet gambling in Australia licensed by the appropriate bodies.

MS BYERS: People that are operating as bona fides here I think certainly - - -

MR HARRIS: I think the interesting thing about this interactive gaming area is that it really challenges the whole concept of jurisprudential thinking in terms of what is a property and what is not a property; that's fascinating in itself. But the key things that seem to stem from what literature is coming out of the States are the two issues that seem to drive it in terms of customers: the privacy and security issues - providing the customer with security in the transaction and the privacy as far as the transaction is concerned. They are important regulatory issues to be dealt with irrespective of what the jurisdiction is. Now, if in Australia there is the appropriate licensing structure that goes to those two issues, then I think we're a long way ahead of a lot of other countries in the world as far as this is concerned.

MR HAWKINS: Can I draw your attention to one point, the part of this submission which tries to draw some lessons from history about how you should control gambling, or what's sensible or not. One of the points it makes there, and I would be not an expert on the Internet, so that I don't know that it applies, is it's damn

difficult or impossible to control cross-border trade in gambling unless you've got the cooperation of all the jurisdictions involved. Now, I'm not sure what the moral of that is as far as the Internet is concerned but I think a dose of realism is probably needed.

MR FITZGERALD: One of the issues that does arise is where is the appropriate regulatory regime located in relation to the Internet, which is an issue. But whilst you're here, have you got a particular view, which I've asked all afternoon I think, about the taxing of the Internet? I'll just preface it in the same way that I have previously. Given that some of the international competitors, if they remain competitors, have a zero tax base, the argument from the industry that we have to meet internationally competitive tax rates means we end up with zero. So how do we handle the issue of taxing the Internet, or have you given any consideration to that as an organisation?

MS BYERS: I must say I haven't considered it. Have you?

MR CHESSELL: We haven't given it great consideration either.

MR HAWKINS: If I could chance my arm or mouth, basically it depends on whether or not you can tax the consumer. If you can tax the consumer and his spend, then you can tax international transactions on the Internet. If you can't tax the consumer, then you can't.

MR BANKS: We know the answer to that, don't we?

MR HAWKINS: That's where I reach my limit, in the sense that I'm aware that technologically people are trying to do just that via international agreements and so on. Now, I don't know whether that's going to succeed or not. Obviously a place like Australia has a strong vested interest in seeing it happen, so does the US. So whether it will happen or not, I don't know. In that seems to lie the answer as to whether or not you can compete with zero tax regimes in the long run.

MR BANKS: Are you hinting that there's an international equivalent of the code that we've got domestically where each jurisdiction in a sense repatriates the tax revenue to the jurisdiction of origin of the gambler?

MR HAWKINS: Yes, and if that can happen then I think you can still have national taxation regimes, which I believe the US is aiming for, but if it's more like heroin - the more you tax it, the more it disappears out of the system - then it won't work.

MS BYERS: I think it's a long time coming.

MR FITZGERALD: I know we're well over time, but I just want one extra question about the Internet. Do you have a particular view about the provision of virtual EGMs, given that you're in the EGM market, you're in the lotteries market? It's not actually the virtual casino but it's part of it. We've already seen models of it,

by the way. Given that you have a substantially vested interest in EGMs, do you have a view on that?

MS BYERS: I think that it's inevitable. I think that the virtual EGM is inevitable. We've taken the Internet - we've taken the approach that it's an opportunity and a threat: an opportunity inasmuch as that we believe that it will be the medium of the future and that other people are going to participate in it and that we need to, because we need to make sure that we are providing an offer to our customers and trying to provide them with at least an ability to be able to transact with some level of security and trust; of course the threat, the threat that there will be more competition and there will be leakage, and there will be leakage out of the market; there will be leakage out of our own business. We are beholden to ensure that we are protected.

MR FITZGERALD: Do you have a view, just finally - you may have no view on this - about Internet gambling being available in other venues? Everyone talks about the home, but of course we've already seen evidence of cafes and coffee shops and that which have Internet. Would you have a view at this early stage - and I know it's early - as to whether or not one should be concerned about coffee shops having half a dozen Internet which access the casinos, the virtual casinos? It may be an issue you might think about, because at the moment everyone talks about Internets in the home, but the reality is Internet is now being accessible in other venues.

MR HARRIS: I think from our point of view, just a couple of comments. George is the brain, I suppose. If we want to market particular services across that brain, so be it. Yes, there are risks in terms of some cannibalisation, but I suppose it's the same company. We see it, as Jan says, as an opportunity. The other thing is it's not quite certain yet as to whether or not the sorts of people who would use interactive gaming are the sorts of people who go to venues because, as David said in the previous submission: local, friendly, and fun. This is a social activity just as much as it is a gambling activity.

Now, does that translate directly into people who are actually going to play on the virtual EGM on the screen? I don't know, but indications are that it may be a slightly different market. You may in the future get to the point where you actually have games on the Internet that are participatory, where a number of people may be able to play together on the screen on the one game, but that's something down the track.

MS BYERS: I think the other point also to make is the registration process of players. People that want to play are going to have to go through a fairly rigorous process in respect to identifying who they are, where they live, how old they are. That is a far more secure environment in terms of understanding who the people are that actually are playing your game and therefore being able to put restrictions on the types of people that are playing your game, as opposed to people that actually walk into a lotto environment who are maybe under 18 and buying a scratchie which we don't know about, or going into a pokie environment where we don't know who they are and how old they are and whether in fact they actually fulfil those legal requirements. So the interactive environment can be rather - and is in terms of what

we're going through - a fairly rigorous one in respect to actually understanding and knowing who that person is that's playing.

MR FITZGERALD: My very last question is: the changing nature of lotteries, where they've now become much more frequent - some people have said to us that lotteries were almost benign when they were once a week and that was okay. They have put to us that as the nature of the lottery game changes and more and more opportunities arise, then they are concerned that difficulties and problems will start to emerge. Do you have a particular view about that?

MS BYERS: I must say I haven't actually heard or seen - and we actually make contact with G-Line as an organisation, and talking to a couple of G-Line people about a year or so ago they actually have said to me that there has never been a situation where anyone has actually called in to say, "I've got a problem with lotteries in terms of addiction."

I'd have to say that in terms of competition lotteries, in respect of participation, has actually diminished over time. So as much as we may have more products in the market, our market share has diminished, as our participation has. We were at 10 years ago around 50 per cent participation. That's falling, and the only reason why our dollars are still up is because we actually lifted our price a number of years ago, and in terms of superdraws and jackpots, we have encouraged people to maybe spend a little bit more, but to actually try to put some sort of - try and draw a correlation between the amount or the number of lottery games and whether in fact that's increased the participation, there was certainly no correlation there.

MR HAWKINS: May I draw your attention to figure 3.1 on page 36 of the main report, which essentially shows that in constant dollars the total level of spending on all forms of lottery is falling. Now, sure, they're changing the way they do it, but they're not gaining market share as a result.

MR FITZGERALD: Fair comment.

MR CHESSELL: The other point is that the percentage of players who spend a large percentage of their income on lotteries is lower than for other forms of gambling; substantially so. So it doesn't appear to have pushed - -

MR BANKS: Again, we've got particular stories in WA, but you could say that market is different in a sense that the lottery segment looms a lot larger.

MS BYERS: And they have 75 per cent penetration of the adult market.

MR BANKS: Yes.

MS BYERS: Because they don't have any other forms of gambling.

MR CHESSELL: Indeed, in the other states the lottery share may have halved roughly when EGMs - went from 20 to 10.

MR BANKS: That's right. I think we can leave it there. Thank you very much again, and thank you, John, for doing double-duty there, spending even longer. We appreciate that. That draws this day of supplementary hearings to a close. We're continuing to receive submissions, including from people who want to respond to the most recent submissions we've got from the industry. That has had some implications for our draft report, apart from the national surveys that we're conducting, but rest assured that people will get a good five to six weeks' notice, or time to provide submissions to us on the draft report, but we're looking towards May-June I think at this stage for the issuing of that draft report.

We'll then have a round of public hearings again, which will respond to demand for those, and then we'll push on to produce our final report after that. So thanks very much to those who participated today and that concludes this round of hearings.

AT 6.12 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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