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**TRANSCRIPT
OF PROCEEDINGS**

PRODUCTIVITY COMMISSION

INQUIRY INTO GAMBLING

**MR G. BANKS, Chairman
MS L. SYLVAN, Commissioner**

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON THURSDAY, 26 NOVEMBER 2009, AT 9.14 AM

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MR BANKS: Let's get started. Good morning, ladies and gentlemen, welcome to the first day of public hearings for the commission's national inquiry into gambling in Australia. My name's Gary Banks, I'm chairman of the Productivity Commission and I'll be presiding over this inquiry and with me is Louise Sylvan who is a full-time commissioner with the Productivity Commission. Robert Fitzgerald is also serving as a commissioner on this inquiry, as many of you would know, but unfortunately he wasn't able to make it to this hearing.

As you'd be aware, the draft report was released some weeks ago. It has received considerable publicity and has engendered considerable public debate since then and, of course, that's its purpose and we welcome the feedback that we've already been receiving from that draft report. I emphasize that it is only a draft report. The commission is open to making changes to that report where we think that's appropriate in the light of the feedback that we receive and the further research that we do. So we encourage those with views about the findings and recommendations in our draft report to place those on the public record through submissions which will then be available for wider public scrutiny. This is an important part of the Productivity Commission's process.

These public hearings give participants an opportunity to do just that and opportunity for us to have discussion with them about their submissions and this will help the commission identify areas warranting further thought and further information and other considerations that we need to take into account. After these hearings today in Melbourne we'll be holding hearings in Sydney commencing on Tuesday, 1 December. We will then hold further hearings in Melbourne on Monday, 7 December. Hearings have been scheduled for Adelaide on the 8th and in Brisbane on 14 December concluding in Canberra on 15 December. We will then proceed to do the further work needed to refine our analysis and finalise our recommendations to government in a final report that's due by 26 February 2010.

I'd remind participants that while the hearings are conducted as informally as possible, a transcript is made to provide a public record of discussions. There is no formal oath-taking but the Productivity Commission Act does require participants to be truthful in their remarks. Transcripts of the hearings and the submissions themselves are public documents and can be obtained from the commission's web site. Copies can also be purchased and order forms are available from staff here today or by contacting the commission. I should add for the record that participants need not feel constrained to make a single submission. For example, they may wish to make submissions in response to the submissions of others through this process and we will continue to accept submissions after the public hearings, though with a deadline of mid-December.

To comply with the requirements of the Commonwealth Occupational Health

and Safety legislation, I need to advise you that in the unlikely event of an emergency requiring evacuation of the building, exits are located in that direction and staff will be hear to assist you, if necessary, and indeed to help you with any other matter.

With those formalities out of the way, I'd now like to welcome Tabcorp, the first participants in these hearings. Welcome to the hearings. Could I ask you to give your names and positions.

MR FUNKE KUPPER (T): Elmer Funke Kupper, chief executive officer.

MR NASON (T): Robert Nason, managing director of wagering for Tabcorp.

MR BANKS: Thank you very much for attending the hearings this morning and for being first to open the batting. Thank you also for the submissions that you made in the first round before we produced our draft report and also for some helpful discussions that we had at that time and thank you for the outline of your submission that we received this morning. We didn't receive it greatly in advance so we took a bit of extra time just to try to have a look at that but we'll be in your hands really and allow you the opportunity to go through the key points. So over to you.

MR FUNKE KUPPER (T) : Thank you for spending some time with us and thank you for the opportunity to present to you today. I will give you a quick introduction to Tabcorp and to the subject that we'd like to discuss today which centres around wagering and Robert Nason will take you through the more substantive issues that we have with draft chapter 13 which deals with wagering matters. Tabcorp is a unique company, as you can see on slide 2, in that we have very strong positions in three businesses: casinos, wagering and gaming and that gives us a unique perspective on the gaming and wagering and casino markets in this country.

We also have a vital interest in the commission's inquiry into gaming-related matters. Our response to the issues raised and the findings will come through other bodies such as the Australasian Gaming Council and the Australian Casinos Association rather than directly through us. So today we're focusing on chapter 13 wagering. Tabcorp has very diverse wagering interests, as you can see on page 3 of the presentation and that gives us a unique perspective on the issues that the Australian wagering market is facing. Sometimes - and Robert will come back to this - we confuse the TAB and the totalisator which, in our minds, are very different things.

But as a company we have a very strong position across the full spectrum of wagering activities. We operator totalisators in Victoria and New South Wales. We have a fixed odds business that operates nationally under the TAB Sportsbet brand,

as well with Luxbet in the Northern Territory. We operate strongly in three states, Victoria, New South Wales and the Northern Territory and several activities operate nationally. We're also the prime provider of vision in this country through Sky Racing operating again nationally. Those assets also allow us to have strong linkages to the international racing and wagering community and again that gives us a very strong understanding about how other jurisdictions operate and manage their wagering and racing markets.

The result of the partnership that we have with the Australian racing industry is a very successful racing industry in Australia. When we measure the success of Australian racing we look at a number of measures. One measure is prize money and in thoroughbred racing Australia, despite being only a country with a little over 20 million people, ranks third in the world behind the USA and Japan and almost any other measure in terms of participation, horse and dog ownership and participation it is a very large and successful industry. Its success comes from a unique and very strong funding model. Today the Australian racing industry, in our estimate, received about \$850 million from wagering operators. The vast majority of that comes from the totalisators that operate in each state of which we operate two.

The most successful racing industries around the world have a funding model that's not dissimilar from ours. In fact the best funding industries operate totalisators exclusively. That's not the market we're in, we have a highly competitive market. So we do know that the market model in Australia works well and has worked well and we do know that we have a unique perspective which we try to translate in our recommendations to the commission.

The wagering market is evolving very rapidly and on page 4 we try to give a summary of the key issues that are facing us as both a wagering operator and as a racing industry. Traditionally wagering is organised by state with state regulations and state licences governing the operation of wagering operators. Over the last five to 10 years we've seen very rapid growth in Internet betting and the Internet has made state boundaries irrelevant when it comes to the regulation of wagering and therefore increasingly we consider the wagering marketing as a national market rather than state based markets. What this growth of the Internet has highlighted is the lack of alignment in the regulations, fees and taxes applied in each of the states and territories. There are vast differences in the product fees, tax rates and regulations that apply to wagering between the territories. Corporate bookmakers have used these differences to locate themselves in states and territories that have low product fees for the racing industry and low tax rates. The result of this is an arbitrage that bookmakers have exploited to give customers a lower price.

In recent years we have seen strong growth in a product called Tote Odds Betting. Tote Odds Betting where bookmakers copy the prices of the three major

totes in the company and offer the best tote price to their customers over the Internet. Again, bookmakers can offer this product as the result of an arbitrage that results from differences in state taxes and difficult in product fees that are available to the racing industry. Offering tote odds has very little to do with the qualities of the bookmaker itself, innovation, investment in product or the ability to target a customer with the unique offer. It is purely an arbitrage based on price based on the differences in fees and taxes. It is this substitution that deeply concerns us and concerns the racing industry because if this is allowed to continue, it will undermine the totalisator model which in turn will reduce the ability to invest, the ability to innovate and in the long run will reduce consumer choice and industry funding.

So far the mechanisms to prevent free riding for the arbitrage on the industry's product have failed. On the right-hand side of page 4 we print an actual web site from one of the corporate bookmakers, in this case Betezy and it shows how the best tote offer is being presented to customers. It is hard to see that that offer includes any innovation or investment in a product that is different. It is simply an arbitrage. This arbitrage is possible in part because of the differences in racing industry contributions. Totalisators pay between five and six cents of every dollar wagered to the racing industry whereas corporate bookmakers offer between half a cent and one and half cents for every dollar wagered. That's three to four times less than the totalisator offers and yet the product, as you can see, by the copy of the web site is principally identical.

So therefore the solution can only be one of two things when it comes to the funding of the racing industry. Either the totalisator contributions comes down from five to six cents to something that's closer to half a cent to one and a half cents or the contribution from corporate bookmakers goes up. There is no other model that works when products are that comparable. The problem with the model where the contribution with the totalisator goes down is there won't be a racing industry that can be funded and sustained at the level that it has. Therefore the only other alternative is make sure the corporate bookmakers pay a fair price for the products that they wager on.

It is this challenge that we looked at when we put our initial submission into the Productivity Commission. We worked backwards from what it would take to have a sustainable wagering market and racing industry, the amount of money that would take and what market model and governance arrangements would deliver that. That led us to the recommendations that are on page 5 of this presentation. When we made our recommendations we looked at three basic objectives. One is to ensure that we have a highly competitive wagering market and Robert Nason will talk later on about how competitive that market is today.

The second thing we look is to secure industry funding, recognising that

Australia has a unique position with the racing industry being one of the few industries in which Australia truly ranks as a global force. The final objective is that consumers get a fair deal and are protected by the regulation that underlines a gambling product. We make five recommendations that are listed on page 5, including creating a national regime, probably by transferring responsibility to Commonwealth; prohibiting total spending by bookmakers to make sure that the totalisator is a sustainable product. Applying a national wagering tax charging consistent to national product fees based on turnover and developing a national approach to consumer protection.

These recommendations, if implemented, would achieve the three objectives that we outlined. The alternative is to leave the current issues unaddressed or address them incorrectly. Our estimate is that if the current situation is allowed to continue, racing industry funding will reduce by 25 to 30 per cent over time. We currently fear that as the draft report is written in chapter 13 that this is where we'll end up in the long run in Australia. We believe that that is unnecessary and that we can do better.

So you will find it's relatively critical of the chapter that deals with wagering in the draft report. That doesn't mean that we don't support any of the findings from the commission and on page 6 we summarise some of the findings that we believe are a step in the right direction. We do agree that the change in the wagering market necessitates significant changes to funding and regulatory mechanisms as highlighted by the commission. We do agree that we need a national funding model for what is essentially a national industry and a national wagering market. We agree that the fees should be uniformly applied. We agree that they should reduce the administrative and compliance burdens and, of course, we agree that the basis for product fees should be fair to all operators. It's that last point where we have a disagreement with the commission on how fair can be achieved.

So on product fees we agree with the national regime. We have a point of difference when it comes to the practical way it should be applied. On taxation we're closely aligned. Taxes should be harmonised. They should be applied nationally and the rate is likely to be low and lower than it is today in many states. We agree with that finding. We also agree with the commission's finding that harm minimisation measures, consumer protection as we call it, should be consistently applied. For example, betting on credit should either be prohibited for everyone or should be allowed for everyone and it can't be different by state. We agree with those measures.

However, there are quite a few areas where in the detail and in the practical application we have serious points of difference with the findings in chapter 13. I will ask Robert Nason now to run through some of the key areas and highlight why

we believe some of the recommendations and findings should be revised in the final report.

MR NASON (T): Thanks, Elmer. We appreciate the Productivity Commission encouraging and stimulating public debate on what is a very important issue for wagering operators and the racing industry overall. But in stimulating that debate, it's very important that the commission gets it right and its findings are defensible. We are extremely disappointed with the level of errors, the level of analysis, the absence of fact based conclusions and the lack of understanding of the wagering market that is evident in chapter 13 of the report.

The commission seems to paint a picture of the TAB as being created to address a emerging free-riding issue in the 50s. Little has changed since that time, the TAB's extracted monopoly rents, became lazy, non-innovative, provided poor service and then along came the Internet and these new low-cost providers provided better outcome to consumers and they arrested the decline in the interest in the racing industry and in wagering on racing more generally and there has been resistance from some sectors of the racing industry to that by charging high product fees to resist this entry and disturb the pre-existing funding arrangements. That is a complete and utter incorrect summary of the situation and is not factual.

I think it stems from a range of flaws in the commission's understanding of the market and there are two fundamental ones I would like to address first. Firstly, the commission uses the word "TAB" and "totalisator" interchangeably. TAB is our brand name. We use that to go to market, as do all the other TABs in the various states. We believe you have misrepresented our brand throughout chapter 13 of the report. You are really referring to totalisator betting and as a TAB, the TABs provide parimutuel and fixed odds wagering. We operate in retail, Internet and telephone. We offer wagering on sports and novelty events as well as racing, and as a TAB, we are a corporate bookkeeper. I'm not saying Luxbet, our Northern Territory licensed operation, I'm saying as a TAB, we provide a corporate bookmaking service. We employ bookmakers, operate odds, provide odds on sport and racing exactly and identically to a corporate bookmaker, so we are a corporate bookmaker.

We are also an oncourse bookmaker. During the last Melbourne Cup carnival, we operated in the betting ring at Flemington as an oncourse bookmaker, so we are a totalisator, we are a corporate bookmaker and we are an oncourse bookmaker. We're not a TAB versus the others, and comparisons are meaningless and it demonstrates a complete misunderstanding of the commission in that regard.

In terms of the totalisator, it's also very important to look at the consumer benefits of a totalisator versus other forms of gambling and this has not been

addressed by the commission at all. A totalisator has an inherent cost which requires a very extensive regulatory regime that operates with state based regulators that oversee the conduct of the totalisator and provide the integrity on which consumers rely; very expensive compliance costs associated with that, very expensive systems costs in operating a totalisator, collecting and pooling bets, calculating dividends; the pooling arrangements that exist with international and domestic totalisators, quite complex expensive arrangements that totalisators undertake to calculate dividends.

From a customer perspective, totalisators take all bets. Bookmakers do not. So when you're looking at consumers, there are a range of consumers who do not bet with bookmakers because bookmakers do not take their bets. The commission has failed to appreciate that wagering is not the same as other forms of gambling and we have professionals who earn their living wagering and get a return on investment. So everyone who gambles in wagering does not lose. We estimate that there is a market of somewhere between 1 and a half and 2 billion dollars of current turnover where professionals earn on average around a 5 per cent return on their investment in wagering. Bookmakers have none of that business because these customers win and therefore the bookmakers don't make any money out of them, so they do not allow them to bet. The totalisator provides a very important function in providing a service to that market.

The wagering services provided by the totalisator are not just a price for a product. The totalisators fund form guides, they fund radio stations, they fund the delivery of free pay television services on vision, they fund international racing, they fund universal access through a range and variety of mechanisms to access the tote, whether that's phone, Internet or a variety of other services. The value of the totalisator as a bet-back facility for bookmakers also needs to be recognised as a risk mitigation factor that enables bookmakers to operate and is a very important service. Then the importance of totalisator betting to the international import and export of racing: there are only four countries in the world that have bookmakers. All the exchange of export and import of racing occurs between totalisators. If Australia does not have a viable totalisator, it does not have a viable import and export industry in terms of racing. This factor has been completely ignored by the commission.

If I can then go to the history of racing. What's depicted in the report is that a free-riding problem emerged in the 50s and was dealt with by the creation of the TABs. That is a completely incorrect statement. Free riding has existed since the start of racing 200 years ago. There's many characters in racing. John Wren, if you're familiar with him, in the early 1900s, setting up illegal betting shops in Melbourne; major controversies in the 30s concerning SP bookmakers; telephone lines being cut from racetracks in the 40s to deal with illegal SP bookmaking operations. The tote and the TABs were created in the 60s to deal with that issue.

The commission says that fixed free riding. It absolutely did not. The Costigan royal commission of 1984; the report on SP bookmaking in Queensland in 1991; the review of thoroughbred racing in New South Wales in 1995 all referred to a thriving and growing SP bookmaking market, so that that did not fix free riding.

Free riding was fixed by another major reform which the commission has ignored which is the privatisation of the TABs and the access to vision. So in around the year 2000 for the first time in Australia, the SP bookmaking problem was largely dealt with. All of a sudden we get a rise in bookmaker returns which the commission attributes to these innovative offerings from corporate bookmakers; well, it may have just had something to do with the black market disappearing with unrecorded revenue from about that time. So we have an issue that only in the last 10 years have we eradicated illegal bookmaking activity; it still goes on to some extent but it's largely not there. We have a real opportunity right now to regulate a legal market and at the moment, the commission has blown that opportunity in terms of the way it's addressed the wagering market in this section.

MR BANKS: Could I just get you to elaborate a little bit again on the point that you've just made about the elimination of the black market and how the privatisation drove that. I also remind you, as I said at the beginning, that this is a draft report, so I appreciate your imputation - - -

MR NASON (T): No, absolutely.

MR BANKS: - - - of our influence, but it still is only a draft report and we'll happily take into account all the points you're making, particularly if you come back to us with more facts in a proper submission.

MR NASON (T): I do understand that perhaps we should have given you more information than we did and we are very willing to do that between now and our submission in later December. But the critical thing that happened in the 90s was vision started, so the advent of a coordinated vision service, the privatisation of the TABs with considerable investment in retail and getting into the pub and club market, as well as the agency market, pushed the illegal SP operators who were essentially operating out of hotels out of the game because the service that was being offered through proper licensed arrangements eradicated the illegal activity. So what was envisaged to happen in the 60s really didn't happen until the late 90s and that was an important outcome I think of the privatisation of the TABs. In fact I'm sure some respondents will say the offcourse service now is too good and it's keeping people away from racetracks and I have some sympathy for that view, that what is out there and available to consumers now in pubs, clubs, TAB agencies and the home is a service that no other wagering consumer in the world has. We have the best service anywhere in the world provided following the privatisation of the TABs. So

that's an important fundamental.

If I can move on to the value chain because I think this is another very important area where the commission just seems to have left a very important segment out. We provide a very simplistic chart but I think it has two fundamental questions it raises regarding the commission's analysis. Race events are not put on for race clubs and the funding provided by the TABs doesn't go to race clubs. Race clubs are all nonprofit entities, as are racing administrations. The funds generated by wagering end up with owners. Owners own horses and owners have a right in Australia to race their horses wherever they choose, and race clubs and racing bodies aim to attract owners' interests in racing horses. Only 14 per cent of horses owned in Australia return greater than the cost of training, but a key requirement of the racing industry is to look at that constituent group and manage a horse population. Without a horse population you have no racing. There is also a very important export market associated with the breeding industry that provides real value to Australia that's associated with horse ownership.

Frankly, the commission's analysis of why Australia has the number of racetracks it has is embarrassing. It's not because we've got a lot of land; that is just a ridiculous notion. It's totally associated with the economics of horse ownership and the distribution of horse ownership around Australia. So people own horses in different areas. They have racetracks in those areas. They will travel their horses to events to race if the prize money is attractive enough, and the setting of prize money is generally done per race, so the race clubs - and it does vary around Australia but the commissioners ask the question, "Should we distribute money directly to race clubs or to principal racing authorities?" They should be assessing, "How do we distribute wagering returns to owners and what is the right configuration of that?"

The principal racing authorities distribute the return from the TABs and the bookmakers and the betting exchanges to owners by classifying certain types of races. There is quite a complex arrangement that requires thinking through by the racing industry in terms of when those races are done, how often a horse can race. An owner would like to have his horse available for the major races in each state. So you don't want to run all the major race meetings all at the same time against each other, so there's coordination of race days.

From a wagering consumer point of view, someone in New South Wales doesn't care whether the race meeting is at Benalla or Wangaratta, they bet on a country race meeting in Victoria, so allocating in terms of wagering returns is an irrelevant measure. The race meeting is conducted for the owners of horses participating in that race meeting. The commission has lost sight of that element, and also the export market that is a very critical component, a growing component, of the economy in this sector that is vitally dependent on the distributions from the

wagering operators for its existence.

The other distinction I want to make is wagering operators and TABs. TABs and the racing industry are not one and the same. The commission takes a view of linking us together. While we do have, say, a joint venture relationship in Victoria, we're not the same. We have complete autonomy. I think the commission is unnecessarily interfering in what the racing industry might value and regard its price for its product. It acknowledges that there are competing and available products for consumers in the marketplace. If horseracing gets too expensive you can bet on sport. If sport and horseracing are too expensive you can gamble on poker machines or you can gamble at the casino or you can buy a lottery ticket.

In an open market with alternative forms of gambling available, what is the commission saying that the racing industry should charge a below cost price for its product and the wagering operators must offer consumers lower prices. It's nonsensical to me. As a wagering operator we can choose sports betting or racing. We can invest in the promotion of sport. We can invest in the promotion of racing. We'll make those decisions based on the cost of the product. Clearly the popularity of horseracing as it exists now shows that the wagering offer and the level of consumption of wagering on racing, the price is about right. There's no evidence that it's not and if it was it would come down because there are other competing wagering products out there. As a TAB we have a right to do that. We operate in sport, we operate in racing, we operate fixed odds, and we operate parimutuel. We can move our investment and our focus and our marketing depending on the price of the product. The commission is unnecessarily interfering in a lot of these areas where the competitive market is at play and I don't understand that. That value change is important.

MR BANKS: Could you comment a little bit more on the substitutability across gambling modes? You're effectively saying that racing is quite substitutable with other forms of sports betting and poker machines. I mean, is there evidence to back that up?

MR NASON (T): In every one of our TABs, say in Victoria, you can place a fixed odds bet, you can place a parimutuel bet on any horserace. You can bet on any sport, if you like, in the TAB. The vision is available for the sport, the vision is available for the racing, and consumers have a free choice. We don't discriminate. We don't force people to go into a corner and only bet on the races. That doesn't happen. Our Internet service provides novelty bets, we bet on elections, we bet on overseas sport, we bet on local sport. If local racing gets too expensive we can buy imported racing. We can buy racing from Singapore and bet on it. We can buy racing from Hong Kong. We can buy racing from New Zealand. We don't have to buy the local product.

All of this is substitutable and that is just the fact of how it operates. I think the commission is getting carried away with free riders who pay nothing, who want to keep the price as low as possible. You're far too far tilted towards them and trying to develop distortions in the market that just don't exist.

MR BANKS: We didn't see our position as supporting free riders. It would be quite the opposite, requiring them to make a contribution. The national funding role that we have talked about that I think in principle you see value in - although we have differed on the nature of the funding methodology - is precisely designed to do that.

MR NASON (T): I would argue you have legitimised free riding, you haven't dealt with it. You've entrenched it and reinforced it, and allowed operators who aren't paying their way to continue to not pay their way.

MR BANKS: Legitimise more competition might be another way you'd look at it.

MR NASON (T): That's an alternative view. But if we can deal with the issue of exclusivity - because this is another one we find quite curious how the commission has arrived at that because again this simply doesn't make sense to us. The commission has a view that the totalisators do not compete; absolute rubbish. The totalisators in Australia compete very vigorously. The Internet and the account based customer is free to choose from any number of wagering operators. Some totalisators in Australia earn far more money outside of their state than within their state. Tasmania would be an example of that.

The TAB Sportsbet - and again there's confusion that the commission has between TAB and different types of operation - is owned by the TAB. Every TAB competes against each other in the sports betting space. This weekend we are finalising the termination of the final arrangements which we have with Queensland and South Australia. So TAB Sportsbet competes with Player in Western Australia, the various names of the sports betting bodies in each of the states. To actually compete you don't open a TAB Sportsbet account, you open a TAB account in Victoria or New South Wales that gives you the full tote service. It allows you the totalisator service of all racing and all sport.

So we are actively competing in the online space and have done for a number of years with every other TAB. Your notion that some TAB exclusivity should retain is nonsensical and doesn't match what's happening in the market. This is further reinforced by the ACCC's authorisation of pooling. Why did we go to the ACCC and get the pooling agreements with Western Australia, ACT and Tasmania authorised? It's because we're competing in a market and pooling involves a level of

what could be interpreted as price fixing between competitors. We went to the ACCC and got that authorised. It's very important to understand that component of the market.

In terms of pooling, the commission is saying we should be fostering more pooling, but it doesn't explore why the Victorian government currently has the tax exemption for TOTE Tasmania with respect to pooling under review. What's caused that? What are the inhibitors to pooling in a competitive market? The arbitrage that Elmer has talked about, that the commission seems to be ignoring in our submission, is an active reason why these sort of things are under review, and the future of pooling and the future of totalisator betting is under threat from the failure of regulation to deal with that as an issue.

The commission hasn't addressed the integrity issues associated with pool manipulation around tote odds betting. It happens all the time. We've got bookmakers now deliberately manipulating the tote price to affect outcomes to manage - this is beyond bet backs which are a legitimate risk-mitigating factor, but we're having operators in the market, bookmakers or private individuals manipulating tote prices because of - with small pool sizes, investments can be done to do that. Consumers are faced with a loss of the integrity of the totalisator system as a direct result of tote odds betting. That's apparently okay because they get benefits in price. I don't think the commission has properly assessed.

These happen all the time. I have an example here of a race two weeks ago which was a race in New Zealand where UNiTAB New South Wales and SuperTab all offering tote prices. The UNiTAB dividends were just the place dividends. The numbers were 5, 8 and 1: 5 paid \$1.50, 8 paid \$120.60 and 1 paid \$19 for the place. In New South Wales, 5 paid \$5.40, 8 paid \$5.70 and 1 paid \$1.04. So clearly there was a manipulation of the UNiTAB tote price by backing the place, six of the runners. You get a very inflated dividend for numbers 8 and 1, so a difference of \$120 to \$5, and \$19 to \$1. Then you back on tote odds with the bookmaker the best tote price and you clean up. Now, that's all fine and legitimate and no-one is doing anything illegal there, but it's distorting the integrity of the tote and damaging the consumer confidence in the totalisator representing a fair dividend for a customer. This happens all the time and has exploded since the introduction of tote odds betting.

MR FUNKE KUPPER (T): It might be useful, if you step back from it, the commission makes two statements that in our mind are contradictory. The first says total exclusivity is a good thing because totalisators require a pool, so one totalisator can do better than multiple totalisators because you need large pools because it's a pool type betting. We agree with that. The second statement is that tote odds betting by bookmakers should be allowed so they can copy the price and offer the best tote.

The problem with that is, the moment you allow tote odds betting, there really is no exclusivity because for the consumer you can either go to the tote and bet directly in the pool and or you can bet best tote with the bookmaker. You get a better outcome with the bookmaker because of the arbitrage.

But the problem is the idea of regaining totalisator exclusivity in support of large pools, but at the same time allowing tote odds betting, is a contradiction in the sense that the two cannot exist at the same time. They can exist at the same time right now because in many operations the pools are large enough, but Australia has about one and a half million pools a year across all the products and all the totes that we have and all the races that we have, and a lot of them are already too small. Robert just gave an example of pools that are simply too small and can be manipulated.

If you allow tote odds betting and you're counting on the tote to provide integrity in the pools, over time that shift will make it harder and harder, and the quality of the totalisator deliverers gets worse and worse because it can't be sustained on that basis. You can't have a market and have exclusive totalisators and allow tote odds betting because there is no exclusivity the moment you allow tote odds betting.

MR NASON (T): Yes. The only exclusivity you're granting to the totalisator is the exclusive right to pay taxes and product fees at high levels. That's the only exclusivity you're granting. Every hotel in the country can offer tote prices by bookmakers competing with the tote in retail and that's okay, but the totes can't compete against each other. It doesn't make any sense whatsoever.

MR FUNKE KUPPER (T): There's a real contradiction there and I hope that point has come across.

MR BANKS: We can explore that and we will be interested to see what you say in more detail in your submission. But effectively you're saying the only solution to this is a ban. There are no regulatory mechanisms that allow you to deal with the problems that you perceive, short of banning.

MR FUNKE KUPPER (T): In the commission's report is price, and price might go some way towards it because economic stimulus is one way to do it. There's two problems with it: one is that amongst one and a half million pools, a number of pools will always become too small so that will be superior over time; secondly, the commission is recommending product fees based on revenues rather than turnover which don't work because it will always create a material difference. If you accept that it has to be revenues, the commission is saying the fees have to be between 5 and 20 per cent, whereas mathematically it has to be about a third, 33 per cent or 30 per cent. So there are contradictions in the report. If you actually implement it,

what we're doing is legitimising the current practice and a fee as suggested might make a difference at the very, very margin, but it won't actually stop anything and over time it will just go the way it's going today.

We need a much stronger set of actions that either require very high product fees, and the commission is not recommending that, or require a ban on tote odds betting, and the commission is not recommending that either. The problem is you take those statements and put them on one page and the solution can't work because all it's doing is continuing the current trend that we've seen and it doesn't really address the free riding issue. If it doesn't address it, it must legitimise it because otherwise - it can only be one of the two. That's really what we're trying to say.

MR NASON (T): Yes, that's what I'm saying. If you ban it, the other free market in the world, the most free market is the UK, they don't allow tote odds betting and that's completely free. It undermines the concept of a totalisator as a different betting medium, and a very simple change to the interactive Gambling Act would achieve that.

The last point on that slide on exclusivity which we think the commission is reacting to the threats of the bookmakers is that if we don't allow them to pay only what they're prepared to pay and give them all the concessions they want and legitimise all the free riding that's going on, they will go offshore. I think that ignores the very effective regulatory mechanisms which are now available in the marketplace and have been developed by many countries to deal with offshore wagering in particular. The US has introduced some very effective mechanisms that dealt with Internet wagering overnight in terms of their implementation. Other countries, such as Japan and Hong Kong, also have very effective regimes. I think it's a cop-out to just say, "They will go offshore and we won't be able to stop them," there are effective regulatory controls that can be put into place, and the threats of going offshore should be ignored.

In terms of consumers, the commission makes the statement that totalisators' market power has led to bad outcomes for consumers - well, it said TABs. I think you meant totalisators but the notion here is that you have followed the opinions being expressed without fact by a whole range of constituents regarding the benefits to consumers. As I said, no wagering consumer in the world gets the level of service they get in Australia - nowhere - in terms of the availability of retail, the services provided, the competitive nature of the market with bookmakers and totalisators operating together, and now betting exchanges being available in the market. I would argue that there is no evidence that the TABs themselves have any market power. When you consider the advent of technology, every mobile phone now is a betting device.

Anyone can go into any one of our retail outlets and use their mobile phone to ring or place a bet using Mobi technology on their mobile phone with any number of corporate bookmakers or anyone else; free to do so. Outside of the retail environment there is a complete competitive market on the Internet. Anyone can go to any Internet site, wager with any operator they like. They can operate from home, watching Sky channel on the television set and wager with whoever they wish to. When the commission says, "Consumers have bad outcomes," again I would go to that segment. Certainly the high value consumer that wins is certainly not disadvantaged. They're advantaged, and significantly advantaged, and that segment is growing very rapidly because they are advantaged.

Your carnival punter, your once-a-year punter that bets in the Melbourne Cup who has free access to safe, reliable services provided with high levels of integrity, they don't seem to be disadvantaged. They won't open accounts with corporate bookmakers, they're not regular betters. There is a segment which is your high-value losing customer which is the most attractive to the corporate bookmaker market and that's the one who has a level of price sensitivity and we accept that.

But the notion of monopoly rents, I think, is misguided. So you look at a racetrack, you look at the Melbourne Cup carnival, four days at the Melbourne Cup carnival, you have a marketplace where bookmakers such as Robbie Waterhouse and other are all in the bookmakers ring and you have the TAB operating. Now, if there was monopoly rents being extracted on price, everyone would be betting in the bookmakers' ring surely because where the price offered on course is identical to off course. There is no differentiation in the totalisator price, yet during that period of time it's almost fifty-fifty the break-up between the level of betting with bookmakers and betting with the tote on course. That tells me the price is relatively right in comparison with the price being offered by bookmakers.

Again, going back to the misguided history that the commission has developed, it wasn't the case that up until the 50s bookmakers provided the substantial level of funding to the racing industry, the oncourse tote also provided quite a substantial level of funding to the racing industry and all we did is shift the oncourse tote which operated in a perfectly competitive market with the bookmakers, we just gave that access to the offcourse market. There was no change in price. There was no extra take-out that occurred at that time and the take-outs have been relatively consistent. So this notion of monopoly rent I don't think stands up to any scrutiny. There isn't any monopoly rent. The take-out rate by the TAB in Australia is the lowest in the world. There is not a totalisator in the world with a lower commission take-out rate than ours.

You describe corporate bookmakers as low-margin operators. They operate on the same margins we do as a wagering entity, having taken out the contributions to

the racing industry, the taxes we pay and I think it's important to consider that there is a level of utility in a totalisator betting medium that allows you to have a take-out of around that 16 per cent mark because it's valued by consumers and at that level consumers are willing to pay, most consumer segments are willing to pay in terms of receiving the divided from the operator because of the availability of facilities, the provision of service, the access to all those things I described earlier and as a result of that the racing industry can extract funding. Why give it all to the wagering operator? The racing industry can extract a level of funding and government can extract a level of tax. It actually works.

The notion in the report that the racing industry's funding is declining, absolute rubbish. So the 130 members of the self-declared Australian Punters Association might have that view. The four million customers that we have as Tabcorp would have a different view that returns to the racing industry are growing year on year, have grown every year since 1994 with us in Victoria and a similar situation - they even grew during the EI year, year-on-year growth. So there has not been any decline.

MR BANKS: Are you speaking about Victoria or Australia-wide?

MR NASON (T): I'm talking about Tabcorp's business in Victoria and New South Wales, that's all I can talk about. But to say that TABs are declining, our business is not declining. Our business is growing. We think the interest in racing is growing. Sky Channel is the most popular on the whole pay TV network on a Saturday afternoon. There is an inherent interest and growing interest in racing, that those who want to push the new entrant line will say that racing is in decline and certainly attendances at racetracks are an issue because the offcourse service is so good. I do accept that. But we are seeing very strong and growing interest in the wagering product at its current pricing levels.

MR FUNKE KUPPER (T) : So on balance we would encourage the commission, when it comes to consumers on page 10, to benchmark what Australians get compared to other markets. So if you take the UK market which is a market that's actually a representation of the endgame we might get if we follow chapter 13. Consumers are served materially less well than they are here across virtually every part of the value chain, product technology, the service, the retail outlets, the information available, vision and so forth.

The other thing we would encourage the commission to do is think about what consumers value. There is a segment in the market that clearly values price, they are very Internet savvy and, yes, they do a lot of business with the bookmakers. At the very top end customers win and therefore they're quite all right and at the general market level, the large retail market, customers in Australia are very well served for

reasons I outlined and that goes well beyond price. It is about the entertainment value of the racing and it's a growing interest, not a shrinking interest and in fact we are continuing to grow the number of races that we distribute through vision. We are now up to 65,000 races a year on Sky Channel and we're moving to three channels because we're full and there are more demands for it and customers want to see more and want to wager more and we're going to deliver that to them.

So the notion that price is everything and monopoly rents create bad service, there is no evidence for it and in fact it's quite the opposite, the privatised totalisator is doing very well to service customers if you benchmark it across the world.

MR NASON (T): I will try and accelerate. The racing industry issues are more for the racing industry to comment on than ourselves, but we don't agree with the notion that the racing industry should downsize and fit the market. We don't believe it is actually benefiting from any monopoly rents. We believe, as I said earlier, the prices it's charging for its product are being provided to wagering operators who have an opportunity to bet on racing or bet on anything else and if they choose to bet on racing, the racing industry has a right to a return. I think that owners issue I mentioned earlier is very important in that context, as what are the rights of the owners of racehorses or greyhounds to returns for their investment and their right to race. It's a very important consideration that appears to have been overlooked in that segment.

So we don't think the TAB funding model, as it's described, which I think is the totalisator funding model, has been detrimental, as I said, with that utility that the totalisator provides, it does provide a mechanism and this has been the case all over the world, the totalisator being the predominant funding opportunity for the racing industry. But as a betting mechanism it requires a level of regulation to make sure that it is not attacked by the parasitic behaviour of others that are trying to copy the prices and exploit the investment that goes into the totalisator for their own gain.

The last area though where there are material errors of fact is the issue with the funding model itself. So the commission has painted a picture that the gentleman's agreement existed to advantage and protect the TABs; that Betfair went to the High Court and got a High Court ruling, as a result race fields came in and a number of jurisdictions, particularly New South Wales and Queensland, have attempted to protect their current funding model by putting forward unrealistically high charges for their product. The facts of that are completely incorrect. In every respect they're incorrect. They're just not fact. So that's a story that just isn't true.

For a start the gentleman's agreement has nothing to do with the TABs and the statement in the report that the TABs do not pay for interstate wagering product is completely incorrect. The TABs pay very substantial amounts of money for

interstate wagering product to their local racing jurisdictions. So we have a contract in both New South Wales and Victoria for the provision of the entire Australian racing product from the racing industries in both of those states and we pay a very substantial, very significant product fee for that. So the TABs pay for the Australian racing product. They don't get it for free. The gentleman's agreement exists between the racing bodies. It's got nothing to do with TABs and the effect of the gentleman's agreement is not isolated to TABs. Bookmakers also receive free data. Betting exchanges also receive free data. So this bias towards the TABs and the anti-TAB segment is just not based in fact. It's just a complete fallacy.

The fact is that the statement that the TABs have refrained from competing for customers outside their state or territory, is a completely false assertion. We completely deny that that has occurred, that there is any agreement or understanding whatsoever between any TABs that we don't compete, absolutely wrong. We actively compete on every level in sport, in racing, for customer segments over the Internet, over the telephone, and we have tens of thousands of interstate customers that wager with us now. So that is just a completely incorrect statement.

The commission asserts that gross revenue is preferred by all racing codes in Victoria and Tasmania, a completely incorrect statement. So in Victoria, harness and greyhound industries both have turnover models. It's only Racing Victoria in Victoria that has a revenue model. The chief executive of Racing Victoria has declared that he's done that for legal reasons and if the outcome of the action currently taking place in New South Wales is that the turnover model is legitimised, he will move to the turnover model. The greyhound industry in Victoria moved from revenue to turnover following the Supreme Court case action that we took in Victoria.

You state that Tasmania has a revenue model; no, it doesn't. Tasmania has withdrawn their model, did that some time ago and is currently revisiting its entire economic contribution approach. The commission asserts that the ruling favouring Tabcorp in the Supreme Court in Victoria would apply equally to product fees based on turnover; completely false. It's interesting to note that the commission went to RVL who lost the case and was found to have denied TAB Ltd natural justice and procedural fairness by failing to consult with us on our views on product fees and then seeks the loser of the case's opinion as to the impact; well, it's the winner of the case who received all of our costs paid and a full refund of the product fees levied, the sole purpose of us undertaking that case was to demonstrate the uncertainty involved in a revenue based calculation and the court gave an unequivocal decision that there was sufficient uncertainty to make that unreliable and not as a mechanism for which product fees should be levied. So for the commission to form another view, I am staggered that they have gone down that path and saying revenue is supported because RVL thinks so.

The commission asserts that revenue has widespread adoption as a funding model and that any problems with it are not insurmountable. Now, at a general level, I would have thought the courts are a better place to deal with this than the commission having a view, and the matter is before the courts quite extensively now. But turnover is the internationally accepted method of payment for racing products between countries, all countries, all jurisdictions. We export racing to 18 countries. We import it from eight countries. Every one of those arrangements is a turnover based product fee arrangement between the countries. We are aware of at least 50 or 60 other agreements that exist around the world. Every one of them is on turnover. Revenue is not a product based fee arrangement anywhere in racing and for the commission to assert otherwise just shows the level of analysis and the level of information the commission has got is clearly flawed.

MR BANKS: What about Hong Kong?

MR NASON (T): Yes, we pay Hong Kong a product fee based on turnover for their races that are shown in Australia. Interestingly, the corporate bookmakers and the betting exchanges to our knowledge do not pay any product fee to Hong Kong. They use the fact that we pay it and we show it on Sky Channel and they free ride on that.

MR FUNKE KUPPER (T): In fact in the slide on page 4 I think in the Betezy example has Hong Kong in there - do nothing for it, pay nothing for it.

MR NASON (T): They're the sort of things that we would expect the commission is getting at, so how do you have an export industry when you've got a quarter of the market not paying any international product fees and the only ones paying them is the totalisators? How does that work? You can say there's a consumer advantage, sure, because consumers are getting good prices on Hong Kong racing. They're getting the best of the tote, but it's only because a product fee is not being paid. It's only because the legitimate requirement of the racing industry to be funded for their product is not being made. The commission has just totally overlooked that. The notion that New South Wales and Queensland are charging higher fees, you can add a number of other jurisdictions and a number of other racing codes to that, and I don't see where the commission gets that 1 and a half per cent is a high fee, when the going rate internationally is 3. So we pay 3 per cent of turnover for Hong Kong racing. We pay 3 per cent of turnover for Singapore racing. We pay 3 per cent of turnover for New Zealand racing. We show it and we wager on it and we make profit on that in Australia.

MR FUNKE KUPPER (T): The other thing that's important I think to note - two things to note: one is the inconsistency between the statements that totalisators

should be exclusive, tote odds betting should be allowed, and a revenue model can solve that with a fee between 5 and 20 per cent. Now, the math just doesn't work in our view. The other thing that I think is worth thinking about is the statement that says that turnover based fees discourage price competition, whether that is truly correct, because if you actually say the racing industry has a right to charge for its product at whatever level it sets and gets its certainty and pays for the product, like Hong Kong and Singapore and everybody else does, let's say it's 1 and a half per cent of turnover, to put a number on it, there's nothing that discourages that price competition once people buy that raw product.

If everybody pays the same for the raw product and the industry charge is on turnover, which you have the right to do it to their product, then above that 1 and a half per cent, which is the input price you pay for the product, all the price competition levers still apply. If I operate only over the Internet, I've got a lower cost fee model. If I'm a large operator, I've got scale and therefore I can offer customers a better price. If I've got a small head office, I can offer a better price. If I'm more efficient and effective in my marketing, I can offer a better price. So all the things that the operator can control to compete on price are exactly as they are today. What they can't do is arbitrage a product fee and a tax. You pay the same for the raw product. Everybody pays the same on turnover. The racing industry charges what it thinks is the right price for its product and if they don't charge the right price, nobody will buy it, so that has to be based on turnover. After that, good luck to you. If you can develop a business model that's efficient, then the bookmakers will continue to be efficient.

Our Luxbet operation in the Northern Territory will continue to be of a lower cost than the rest of our business and will therefore continue to operate with better prices for consumers because it's an Internet-only business that operates in a very efficient way relative to the big retail market. That's just a function of what we do. So we don't see that the argument that says that turnover based fees discourage price competition is right; turnover based fees take the arbitrage away, after which the ability to compete on price is truly exposed based on your skills, your scale and your efficiency and what you offer the consumer, as opposed to an arbitrage. So we would urge the commission to rethink that argument.

MS SYLVAN: The sports codes are based on turnover?

MR NASON (T): Sports codes don't charge, so basically 99 per cent of our sports betting is product fee free. We bet on the English Premier League, the World Cup soccer. We pay nothing to anyone and neither does anyone else. In that market, we're the number 1 provider on the Internet against all the others. The only state that's moved to have a product fee regime is Victoria and we believe those fees are based on revenue, but where the other states end up going, we don't know. But

because that's bookmaking as well - if it's a solely bookmaker market, that's a potential, but I can tell you, revenue does not compute for a totalisator. If you want to have a revenue based model, you have an Income Tax Assessment Act with all the different definitions of revenue and you have an army of investigators and auditors to go out, as the Tax Office does, to verify how revenue is calculated because there are a number of offsets. We've presented those complications to the Supreme Court of Victoria and in every one of the examples which were revenue specific, had nothing to do with turnover models, they were revenue specific, in every one of those, the Supreme Court has agreed with us that for a totalisator, a revenue model is not capable of calculation with certainty.

MR FUNKE KUPPER (T): And then the question is could you have a hybrid; you might be able to have a hybrid, but you can't have a hybrid when tote odds betting is allowed because, remember, you have this fee differential of three to four times, so to fund the racing industry to give it its fair return for its product, you have to charge the same as the totalisator if you allow that. So we would argue if you ban tote odds betting and have bookmakers be true bookmakers, then you might be able to have a hybrid, but even then, 10 per cent of revenue - which is one of the suggestions - doesn't work because the math again doesn't stack up. It's probably close to 20 per cent or plus that.

So again we encourage you to think through price based competition, first of all whether the consumers value it - and some consumers do because a large group of the population for whom work is provided in Australia has very little to do with that and secondly, whether it actually discourages price competition because we can't see it and we live in all those worlds. We do all of it and we can't see that logic.

MR NASON (T): Just as an operator things I get frustrated about here and the commission said the words that the product fees are to protect the incumbent totes. In New South Wales we're paying \$30 million of product fees because of the product fees levied by Racing New South Wales. That's a significant burden on us as a company. But I understand the reason the racing industry is doing that and I actually support the extraction of the right fee. But to say it's protecting and giving the TABs any benefit is ridiculous. The Northern Territory government offers tax concessions to the Northern Territory bookmakers specifically on New South Wales racing to overcome the 1 and a half per cent product fee. So to say that bookmakers are going to be disadvantaged and consumers will, shouldn't the Productivity Commission look at the reaction to the governments that are having quite considerable advantage over this arbitrage that's going on, what their reaction is going to be? So Tasmania and the Northern Territory have significantly reduced taxes to wagering operators in their jurisdictions to overcome the advent of product fees.

So to say the notion that the actual bookmakers are paying it, I'm not sure is

right and then on tote odds betting the frustration I have is the corporate bookmakers duplicate all of our products. So we spend millions of dollars developing a quadrella, a trifecta, a first four. We put all of that investment in and under the model that the commission is supportive of we pay four times the product fee for exactly the same bet, with exactly the same dividend provided to exactly the same customer. Under the revenue model proposed by the commission, a totalisator will pay four times the product fee of a bookmaker. How can you compete? So what the commission has done in chapter 13 is basically destroy totalisator betting in Australia. You've taken totalisator betting out of the market and we're going to have a model like the UK where the tote has about 7 per cent market share.

That is what will naturally eventuate and as an operator we will offer tote odds betting. So we'll actually facilitate that because if you're going to make it available to the market, we'll offer it and then the tote won't exist. Why bet with a single tote price when you can have the best tote price plus 5 per cent under a revenue based funding model? So that's what the commission is doing. It is taking a level of betting, totalisator betting and taking it out of the Australian market when it has been the fundamental funder of the racing industry since the 60s. It's the international model that stimulates all international export and import of racing and clearly has a utility that many consumer segments want and you're saying taking it out of the market, it doesn't work.

MR BANKS: We're not saying that. You're imputing that as an implication of what we are - - -

MR NASON (T): I'm saying you're saying it because that's exactly what you're doing.

MR FUNKE KUPPER (T) : I think I'll wrap up because we're over time. I think Robert makes his points very, very strongly and passionately. We truly believe that we have an opportunity to get this right and the reason we react strongly to chapter 13, which is we singled it out out of the entire report, is that we think there are some serious dangers in going down the path that's advocated there without understanding the true consequences. In our submission to the commission we've tried to in fact model the consequences of going down this path and our estimate is industry funding will decline by between 25 to 30 per cent if we go down this path, that the totalisators will be under severe pressure. Now, whether they go down to the UK level where they only have 7 per cent of the market or whether they end up with 30 per cent or 40 per cent of the market it somehow doesn't particularly matter because the consequences of that model are very severe for the racing industry, therefore, very severe for the owners and very severe for everybody who lives off this product and there are many thousands of people who have their livelihoods in hotels, clubs, agencies, breeders, trainers, jockeys, strappers and so who live off this

business.

We believe it's unnecessary to go down a path where one of the few industries where Australia truly ranks in the top five globally gets severely affected and that's why we're arguing our case so passionately. Ironically, we may still be okay under the model you implicate because we have all the skills and all the businesses to compete in the markets the way you prescribe a direction in chapter 13 and we can be successful. The problem that we see for Australia is it will be very successful in a shrinking market and a shrinking racing industry and it's hard to see how that is a good thing for the country, particularly if this is just a large part of our economy. We think simply there is a better way and what we on page 14 summarise, the last page of the presentation, is aligning our recommendations, our five recommendations, to the Productivity Commission findings and recommending some next steps. They will come back in our written submission with the fact base to support it.

So our first recommendation was consider transferring responsibility for taxation regulations to the Commonwealth. The Productivity Commission has said in all areas we need national consistency and so agree with each other. The commission, in a number of areas, said that that consistency might be achieved through cooperation between the states and agreement between the states. Our sense, having lived in this world for the last 10 years and personally for the last three and a half years, that cooperation will be quite difficult to achieve and it might be better to transfer responsibility to a national body where that's available. The second recommendation is to prohibit tote odds betting. The commission says allow tote odds betting and solve the free-riding issue through fees. We think there is an apparent conflict with that recommendation and totalisator exclusivity and that the kinds of charges we would need to charge will be very difficult to charge under the model advocated. We note that in the most free market in the world, the United Kingdom, tote odds betting does not exist.

Apply uniform tax regime, we agree with you. We'd like to see it soon rather than later obviously and transferring responsibility to Commonwealth might achieve that. Consistent product fees based on turnover, the commission recognises the free-riding issue and we appreciate that. The commission recognises that it needs to be dealt with. Our analysis suggests that doing it on the basis of revenues allowing tote odds betting will not deal with it and in fact might inadvertently legitimise the problem that we have today and therefore make it continue if adopted for the next 10 years which would have very detrimental consequences for the funding of the industry and everybody who works in it.

The finally we recommend a national approach to consumer regulation and the commission agrees that consistent application is important so that if something is allowed it should be allowed for everyone and if it's not, because it's politically

non-acceptable or consumers need to be protected, they should be protected everywhere and not in one state and not in the other so we agree with you on that one.

Our recommended next steps are on page 14 and I hope that we certainly provide a passionate feedback but we do have strong facts to support our position and those facts are available to the commission. We have 15 years' experience across all segments and markets and any specific questions that the commission would like to understand more, we would be delighted to help and make our data available. A good example is elasticity which is one of the questions raised, are we elastic? We have a very deep understanding of elasticity because we operate in all price segments of the market and understand exactly what happens to consumer behaviour when we move price. It's that kind of understanding that is underlying some of our analysis. Price, competition, the way advocated does not create the market size to solve the financial problem that we will face and we simply think there is a better way and hence we advocate so passionately our recommendations.

MR BANKS: Thank you. I have no problem with passion and if it's backed up with facts which will be coming to us in due course, so much the better. It's also good to see that we do agree on some things but obviously disagree on others and that's what this process is about, to get the kind of feedback that hopefully will allow us to sort this through. I'm conscious of the time and I'm also conscious my college hasn't had an opportunity to ask any questions. Do you have any questions?

MS SYLVAN: No.

MR BANKS: The crucial thing really is the point that you made towards the end that your perspective that a number of these criticisms aren't just about Tabcorp's business or its business model or the interests of your corporation, which would be a legitimately perspective to have, but have a wider community interest, and that's all that the commission is really about, that wider community interest. So we'll be sorting through the kinds of arguments you have made. We appreciate the extent to which you have addressed those today but obviously there's more information coming. When we get that, there may be an opportunity for us to come back and get clarification from you.

I guess the main thing I would suggest is that you try to get that more detailed submission in sooner rather than later, just because obviously we get into the Christmas period and January, because we will certainly want to do it full justice in our final report.

MR FUNKE KUPPER (T): Thank you for recognising that we are thinking about more than just ourselves because as I said, we'll be successful probably under any

scenario but we prefer to be successful in a growing market and a growing industry, rather than successful in a shrinking industry and that's really where our passion comes from partially.

MR BANKS: Yes. That's the proposition we'll be testing as we go forward. So thank you very much.

MR FUNKE KUPPER (T): Thank you.

MR NASON (T): Thank you.

MR BANKS: We'll break now for a little while before our next participants. Thank you.

MR BANKS: Our next participants are Robert, Gai and Tom Waterhouse and colleague, Sam Swanell as well. Maybe just to repeat your names, if you don't mind, for the sake of the transcript and just indicate the capacity in which you're here.

MS WATERHOUSE: Gai Waterhouse, horse trainer.

MR R. WATERHOUSE: Rob Waterhouse, a bookmaker.

MR T. WATERHOUSE (TW): Tom Waterhouse, company licensed bookmaker in New South Wales and oncourse bookie and Internet bookie in Victoria.

MR SWANELL (TW): And Sam Swanell, chief operating officer of Tom's business.

MR BANKS: Good, thank you. Thank you very much. We appreciate you all taking the time to appear at the hearings and look forward to hearing what you have to say. We haven't had an opportunity really to see what you've sent us, so we're in your hands. As I say, we welcome the input that you can make. I'll hand over to you to make whatever remarks you want to make.

MR R. WATERHOUSE: I suppose our primary point is, as you well recognise from your report, that the racing industry is going through great change and has gone through great change but that's typical of virtually every industry I can think of in the last 25 or 30 years. The only difference is that most industries are forced to adopt the change, whereas it's as though this industry is fighting to stop the change. I think that's an error on the part of the industry.

The two great pressures, as you well understand, are the Internet for delivery and the loss of a near monopoly of gambling. I don't mean the TAB's loss of monopoly, I mean that 30 years ago there were no casinos and there was no sports betting, there were no poker machines in hotels, and that's all changed now. We used to have a monopoly of wagering and gambling, whereas now it's a very small proportion of the wagering sector, a tiny proportion of the wagering sector.

I suppose our greatest point is that we feel very strongly that the consumer should be put first. We reject this notion that the consumer should be made to pay large fees and it's only right that he should. I suppose the way I'd put it is this: there seems to be something wrong with the general widespread belief that rich people who race and breed horses must be subsidised by poor people who like to bet on them. I just can't see parallels in any other industry. It would be regarded as being absurd if someone said that casino owners should be paying continuing royalties to

slot machine owners or card makers or dice makers or that insurance companies should be paying building companies and car makers recurring rights or stockbrokers should be paying fees to public companies for the right to trade their shares. I just don't see why there are exceptions, being a basic thing, that the punter must be made to pay. I understand that it's a model that works well and the operators are pleased to pay it, but I think it should be at least thought about.

The most important issue I suppose I can talk about today is the issue of a turnover tax or a gross profits tax. I suppose I should say that as a bookmaker, we used to pay turnover tax for access to the punters that have enjoyed going to the races. We didn't think for one moment about paying for the right to bet on the horses. We paid a rent, as it were, to actually get access to the punters that go to the races and that doesn't happen any more. This is a new concept of actually paying a fee for the use of the race fields. It's been developed, to my mind, out of nowhere.

As regards the gross profits tax, I think this is a very important question. I think the Victorian model of offering a choice of paying a bookmaker or wagering operator, paying one or the other, is quite appropriate. There are some wagering businesses that would prefer to pay the 1 and a half per cent or 1 per cent of whatever the figure is; another business would be better off paying the gross profits tax of whatever figure it is. It is interesting, I know that the previous speakers spoke very strongly against the gross profits tax, but my clear understanding from Racing New South Wales is the New South Wales TAB Act obliges the TAB to pay New South Wales Racing 22.97 per cent of its gross revenue, plus add-ons that come to about another 5 or 6 per cent on top of that, which works out, when you re-engineer it, to being about 4 and a half per cent but it actually is based on a gross revenue model that they then redescribe as being a turnover tax.

I suppose, whilst on that very point, reading announcements on the web site of Racing New South Wales, it appears to be true that they have been paying the race fields tax, New South Wales, to the TAB, but they have withheld a similar amount from the other payments they have made, so whereas they were paying 4 and a half per cent of turnover under the other figures, they have withheld that 1 and a half per cent, as I understand it from the web site of Racing New South Wales, and are saying they shouldn't have to pay both. So it's all very well for them to say, "We're happy to pay it," but they're really saying, "We're happy to pay it if in fact the figures are less, that we pay under other ways."

I suppose this area has been looked at before and I suppose the three outstanding cases to do with gross revenue, the first one of course is Adam Smith, who in *The Wealth of Nations* gave the example of the British government, that they should reduce the barley tax and by reducing the barley tax, they would increase the revenue to the government, which they in fact did do, following the book. Then you

had Prof Laffer, who was in the Nixon cabinet in America, and changed a lot of taxes in America and actually caused revenues to rise. The third example is the one that I suppose was used by the British government in about the year 2001, a man called Prof Vaughan Williams was the adviser to the British government and he was commissioned to undertake studies and to do models, and his reports to the government were very much that they should be adopting the gross revenue tax rather than a turnover tax and that they would receive more revenue. They in fact did do exactly what he said, I think more because they were frightened of the leakage from the system to Malta and other places, but in fact their revenues went up to everyone's amazement, except for Prof Vaughan Williams. In the piece of paper you have there, you have the details of where they are on the web site, his submissions.

I suppose what I'd say in relation to gross revenue tax is you do have various different markets and some of them only exist because they can generate vast amounts of turnover. In my experience, punters as a group have a finite amount of money to lose and the question is whether they lose it quickly or slowly. The hundred dollars in their pocket will disappear over a period of a day, a week or a month, but it's a question of whether you take it fast or slowly. To me, I just can't see why you wouldn't be looking to increase their pleasure and give them more time to enjoy it. I think it's just mean to do otherwise.

It's interesting with the TAB, on the products where they have a monopoly, of course they're happy to charge the high amounts they do. In the products where they don't have a monopoly, such as sports gambling, of course they're happy to have 3 per cent margins. To me, if it's not gouging, I don't know how else you would describe it. The things they have monopolies on are just too profitable.

I suppose one of the issues is - Tom might tell you if we ask him in a moment - but he tells me that all his young friends are only interested in sports betting. I see that as being the great competition with horseracing, that we actually have to have a product that is competitive pricewise with betting on sports and in fact casinos. Businesses saying, "We're happy to keep charging the same figures as we used to in the past," I don't think it helps. I think it's actually a great hindrance to racing. I think people lose their money too quickly in horseracing. I think that's a major problem.

MR BANKS: Just on that, do you see that already eroding the horseracing industry, the fact that there's this competition coming in through sports betting and so on?

MR R. WATERHOUSE: And casinos. Casinos have knocked the socks off horseracing betting. Tom, what do you say with your friends?

MR T. WATERHOUSE (TW): The first point with casinos is you see all the

punters that used to be at the races 10 years ago, you see them at Star City Casino or Crown Casino and you go, "Gosh, I haven't seen that bloke for five, 10 years," and it's because they get more for their money or they get to play for longer in a casino, because the margin is lower. But in saying that, a lot of my friends that wouldn't have been involved with horseracing, they would never have thought to go to the TAB or to even look at horseraces, because of the likes of Betfair and because of the competitiveness of corporate bookmakers on line, they go, "Look, I'd rather look at the stock market." But now that they've got Betfair and there's a hundred per cent market, it's very competitive. They like trading on horseracing or on sports or - - -

MR R. WATERHOUSE: But they often have their first bet on sports.

MR T. WATERHOUSE (TW): Exactly. They often have their first bet on sports.

MR R. WATERHOUSE: They discover it and then all of a sudden, they - - -

MR T. WATERHOUSE (TW): And then on the other things. But the low margin, they go, "That's something that interests me. I can see that there's a trading thing. I see a similar thing on the stock market," and that brings them in. If you're stuck with the traditional tote odds, you would never attract that type of punter.

MR SWANELL (TW): I would just make a point there. I would argue that the previous speakers made some points about the growth of wagering turnover, that they had seen growth in that area. Obviously we all know as a percentage of total gambling spend though, it's dramatically reduced. But I think if there was a breakdown of TAB figures and turnover figures, a lot of that growth that's probably been reported is at the very top end, the high-volume punters, and a lot of that to a degree has been driven by price discounts in the form of rebates that encourage those punters and let them turn their money over further. So I think in terms of first-time punters or the real low-end punters, the overall figures would be slightly different on their books.

MR R. WATERHOUSE: Sam, on that subject that we were talking in the break, the TAB said that the turnover on course over the spring carnival was roughly half and half between bookmakers and the tote on course. I saw a lot of publicity last year that Tom actually held more than the oncourse tote. That's just not true, what they said, is it?

MR SWANELL (TW): Rough figures off the top of my head would think that that's not quite accurate and when you consider the advantage that they have through distribution channels on course, where there's a TAB operator in every corner of the course versus bookmakers being in designated spots and the number of, I think the choice of where punters are going for value pretty much speaks for itself.

MR T. WATERHOUSE (TW): I guess in many ways - and I speak to my grandfather and also my dad and a lot of traditional bookies - is that they would love to wind back time where the tote offered tote odds and the bookmakers offered bookies' odds and they were two completely separate things. The bookies worked on course and the tote worked on course and off course. But with the tote offering now fixed odds and now on line and all these trimmings, bookies, to keep up, have thought they'd better go on the Internet and it's come to this environment, and to wind back the clock to what they said previously, he said, consumers are now used to betting to these competitive markets, betting on line with corporates. The times have changed. You either as a bookmaker like myself move with the times - and I've had to move my business to Victoria, start on line, try and adapt to these new changes - or you just are left behind. To go backwards, you can't.

MR R. WATERHOUSE: Tom, I think it would be true to say that in fact the TAB, through its Luxbet, is as competitive as there is - - -

MR T. WATERHOUSE (TW): Luxbet is the most competitive corporate out there.

MR R. WATERHOUSE: They complained about Betezy offering best tote; in fact Luxbet offers what's called "best of the best", the best tote and the best bookmakers' prices. They pretend to be the gamekeeper but in fact they're the poacher.

MR T. WATERHOUSE (TW): But good on them, they're got to run their business the best way possible, but if you're looking from a consumer's point of view, the more competitive the environment is, the better for them. Each to their own and we're not trying to say - - -

MR R. WATERHOUSE: But the TAB isn't saying, "Look, we'll stop betting bookmakers' odds," for instance, and, "Please stop bookmakers betting tote odds," they're saying they want to do both, "and we want to be very competitive.

MS SYLVAN: If we can come to an issue that comes up in this particular area of the debate, the argument appears to be that if you change to gross revenue, for example, and you have the highly competitive corporate bookmakers essentially not paying what used to be paid or what is paid by the TABs, that racing itself will decline in a very substantial way. Now, do you have a view about that?

MR R. WATERHOUSE: I don't accept that for one moment. They made the same comment when Betfair came to light, saying everyone was going to bet on Betfair. I think they're different customers; different folks for different strokes. Different people bet on Betfair to those that bet in TAB agencies, and I think by having

different pricing schedules you actually maximise the gross revenue and in turn the return to racing. We caught a plane down from Sydney today and I was too frightened to ask the people beside me in the seats what they paid because there's a good chance that there's no-one else has paid the same amount. The airlines don't do it to drive us all mad, they do it because they're maximising their revenue. In the same way, Betfair, which is a very low-cost outfit, it appeals to a certain sort of punter, it's actually quite hard for a punter to use Betfair, and the person that bets quite big, has credit with a corporate bookmaker, that suits him as well, and the person who is at the pub having a drink, he's quite happy to pay a high-cost operator. I think by having the different levels actually maximises the gross revenue. To me, I think it works out that they pay about 30 per cent in total - if it was on a gross revenue basis, which 22.97 is actually specified - they have a monopoly. I'd be happy to pay 30 per cent of gross revenue if I could have a monopoly, please. I think it's a bit cheeky to say, where the bookmakers offer to pay 10 and sometimes are paying 15, that it's not appropriate. If you're a monopoly, of course you have to pay a monopoly fee. I just don't understand the argument. It's almost a cheeky argument.

MR BANKS: Okay. I think we stopped your flow. That was quite helpful, thank you.

MR R. WATERHOUSE: Dealing with a few points, the TAB representatives made much of the contribution they make to racing by their ownership of Sky Channel and various media things. I must say I'm quite resentful of it to this respect: they own Sky Channel. I think they've bought TVN. They own 2KY and the Victorian equivalent. They, as I understand it, pay over \$6 million a year in subsidies to the Telegraph in Sydney and 2 and a half million to the Herald; similar amounts to the Herald Sun and I know you see their banners on lots of Internet sites. But what in fact happens is that nothing else gets coverage besides the TAB and nothing unkind can ever be written by anyone. I was told by the racing editor of the Telegraph in Sydney that in their contract there's actually a fine in the contract for mentioning a corporate bookmaker's name. Well, it's unhealthy, I think, and there's never any criticism of racing in general because of - and I think this is a great cost. I don't see it as being a service.

I suppose it's interesting, there's great controversy over the licence in Victoria which has come up for renewal and Sky Channel has been saturated with ads encouraging Victorians to move their business to New South Wales. What's the TAB company's best interests is not necessarily racing's best interest and it certainly isn't ours.

MR BANKS: So are you supportive of our recommendation then that the ACCC has a look at this?

MR R. WATERHOUSE: Absolutely.

MR BANKS: Okay.

MR R. WATERHOUSE: I suppose what should also be said in the TAB discussions, they thought that America and Hong Kong were very effective at stopping Internet people outside the country. I think it would be a mistake for Australia to stop people betting with betting sites outside of Australia. On the other hand, Paddy Power, which has just bought two large Internet betting companies in Australia, actually operates its business from the Isle of Man in England because of the tax constraints. So I think it's best to keep things going along in Australia, rather than forcing it offshore, but if offshore can offer a better deal for consumers, so be it. I suppose that's the nub of what I would say.

In your report, it makes much of problem gamblers. I hadn't really thought about it until I read your report. I started as a bookmaker at the age of 18 and I could think of lots of instances of problem gamblers at that time. I don't think it exists on racecourses any more. I just think that the problem gamblers are attracted by the poker machines and casinos and they have all abandoned the racecourse because it's so slow. Where we had a monopoly, we also had a monopoly of problem gamblers but now they've gone to greener pastures, as it were. If there was some talk of banning credit or whatever, I just don't see it as being an issue at all. The banning of credit, of course, would reduce turnover dramatically.

MR BANKS: You make a distinction there between what happens on course versus betting on racing generally?

MR R. WATERHOUSE: No, I don't really. I don't hear stories of people - it's very rare to hear a story of a problem gambler, whereas I hear about them all the time with the casino and I hear that all the time with poker machines.

MR SWANELL (TW): I can add some comment there. I used to work for the Tasmanian TAB and used to sit on a problem gambling committee where people can impose self-bans on themselves to stop themselves from gambling, venue bans on themselves et cetera, and in my three years there, I think there was maybe one or two or three problem gamblers that wanted to ban themselves from the totalisator shops versus hundreds when it came to casinos and poker machines and the like.

MR BANKS: I think that's reflected in the prevalence studies that are done nationally. Problem gamblers don't have a label on their head so that you can't always tell.

MR R. WATERHOUSE: You can't always tell, but you do get a sense of things. I

hear discussions with people saying, "Of course his wife plays the poker machines and it's a big problem," but I don't hear it with racing any more. You used to, but I don't hear it any more.

MR BANKS: Another illustration of that I think is the studies that have been done in WA show a higher incident of problem gambling with lotteries than you get in the other states - - -

MR R. WATERHOUSE: Yes.

MR BANKS: - - - because lotteries are the main vehicle for gambling - - -

MR R. WATERHOUSE: Isn't that interesting?

MR BANKS: - - - in WA, relative to the gaming machines because they're just not available. But certainly the incidence or the prevalence I think is lower, and you think there's actually been a downward trend over time, just anecdotally?

MR R. WATERHOUSE: Absolutely, anecdotally. I think it's a bit outside your scope but one of my complaints about racing is that because of this drip from the TABs of funding that race clubs have taken their eye off actually attracting betting fans to the races and actually making them far more suitable to wagering. The totalisator staff in about 1930 and the TAB staff in the early 60s - before the early 60s, of course, they had to make their racing work and the whole thing was getting people to go to the races, whereas nowadays of course they see it as being a place to have parties at big carnivals, but nothing actually to do with teaching people how to bet or enjoying themselves.

I'd like to say, on reading your report, I thought that your definition of "wagering" was a bit lacking in describing it as being "an enjoyable pursuit". I think it should be recognised that betting on horses, dogs or trots is perhaps the only opportunity a lot of people actually have of exercising some intellectual thought and actually making decisions. Whilst we might say that's a bit trite, a lot of people don't have that opportunity of thinking about what they should and how they should bet, an I think it's a very wonderful thing that someone can actually come to some conclusions and have a bet. Even if he doesn't win over a period, at least he's giving some thought to it.

MR T. WATERHOUSE (TW): There's many people that you would know that would spend three, four hours doing the form and probably only outlay a hundred dollars on the day.

MR R. WATERHOUSE: Absolutely.

MR T. WATERHOUSE (TW): But they spend that time going through it and doing certain systems, trying to work it out, where when they go to a casino or other forms of gambling, it's just simply, "Well, I'll just spend my hundred dollars," and there's no thought process.

MR R. WATERHOUSE: They must be ashamed of themselves going to the casino, whereas they're proud of themselves having a bet.

MR T. WATERHOUSE (TW): Thinking about, "I've done that right," or, "I was wrong there because this horse got blocked," there's a real thought process for a lot of people.

MR BANKS: Just getting back to your earlier point about the substitutability between the different gambling modes, that's a comparative advantage that horseracing has.

MR R. WATERHOUSE: Not perhaps over sport though.

MR BANKS: Okay.

MR R. WATERHOUSE: And I suppose not over casinos. Blackjack was a dead game in the late 60s until the book, "How to Win at Blackjack," came out, but there would be now a thousand books on how to win at blackjack, but it did actually cause blackjack to explode. A blackjack player, if he's read the book - it takes great restraint to actually win at it - but he'd actually be proud of himself playing blackjack. Of course poker has got a great following now because people can use their skill and actually can win playing poker if they are disciplined enough and pick the right people to play with. So I think things should be characterised differently and it is a valuable thing to society, compared with someone pulling a poker machine handle.

MR BANKS: Or pushing the button these days.

MR R. WATERHOUSE: Or pushing the button, yes.

MR T. WATERHOUSE (TW): They've got rid of the handles now.

MR R. WATERHOUSE: I suppose the other thing was I thought your definition was just a little bit lacking, and it was touched on by the TAB. I did some back of the envelope calculations with corporate bookmakers and bookmakers and I thought their gross income would be somewhere between 70 and a hundred million dollars as a guess, but don't hold me to those figures. Sam, you would know better than I

would but I would imagine that the professional punting groups and professional tote players would actually earn as income a multiple of that figure.

MR SWANELL (TW): Yes.

MR R. WATERHOUSE: I think that's something that's forgotten, that firstly, there are winning punters and actually in terms of revenue creation, they're doing very well. I think they're sort of lost from - I'm not saying they should be included but I think it's something that is actually lacking from your definition. I don't know what you do about it. I'm not saying you should be bringing in the facts on them at all but I think it's something that's not recognised as being - Tom, you'd have quite a few of your punters actually win, wouldn't you, in terms of turnover?

MR T. WATERHOUSE (TW): 80 per cent of my punters are probably losing but 80 per cent of my turnover is from winning customers, yes, so there's a small - - -

MR R. WATERHOUSE: No wonder you're so poor.

MR T. WATERHOUSE (TW): Exactly. The turnover of winning customers makes up the majority of my business.

MR R. WATERHOUSE: I suppose I'd say one of the great changes - and this is I'm sure way outside your orbit - but I wish that the race clubs and the racing administrators were more inclined to make a better wagering field by a variety of things such as artificially wetting tracks to make them dead going, even though we all know that at least turnover happens on dead tracks. They encourage, particularly in Victoria, unofficial barrier trials where there's no results printed, which to me seems absolutely madness. The programming policy of matching the population rather than what punters want to bet on seems to me irresponsible if you're trying to maximise turnover. The compressed handicapping which sort of invites good horses to compete again is anti-maximising wagering turnovers. Starters' bonuses, where you encourage, to make up field sizes, hopeless horses to start, I see as being a foolish strategy. The idea of closing down country racecourses or reducing their meetings doesn't recognise that the nursery of racing is actually in country races for both horses and punters. Having all betting wings hidden away at the back of grandstands rather than where people can see them seems absurd; the poor and expensive form compared with other jurisdictions such as Hong Kong and England, and the inconsistency of race dates, such as there isn't a race meeting any more in Sydney every Wednesday, it's sometimes provincial, sometimes not, just seems incomprehensible. But I understand these are just things I want to get off my chest; I don't expect you to include those in your report, but I actually think that it's a shame that the racing industry itself, the controllers, weren't more thinking of how to make it a better place for wagering operators and for punters.

I think that sums up what I have to say. I just reiterate that I suppose my most important point is that the gross profits tax, by and large, would maximise for all racing - - -

MR T. WATERHOUSE (TW): Or the choice of, in that they talk about the tote funds the industry, but you see in Hong Kong where most of the turnover or more than 50 per cent of the turnover is with illegal bookies in Macau, and the industry doesn't get any money from them.

MR R. WATERHOUSE: I think it's more than 50 per cent.

MR T. WATERHOUSE (TW): Exactly, it's a lot more than 50 per cent, but it is more than 50 per cent, and Australia has got to harness that there are many different types of punters that want different products. Some, like you said, want very competitive products, others don't really care so much, but it's about getting a national model that the tote can operate under, that corporate bookies can operate under, that oncourse bookies can operate under, and all can prosper, thrive and the punters are no worse off.

MR R. WATERHOUSE: A few things occurred to me from the previous speakers; they said that nowhere in the world do they have a gross profits model. Of course England and the United Kingdom most certainly don't. The tote in Hong Kong, as I understand it, has a gross profits model, so has Singapore. They themselves are a gross profits model. I just don't see why it's not the case. I think he said we were only one of four countries in the world that had bookmakers; I reckon they have got about 12, going through my head, a lot more than they mentioned, and of course it makes for much better racing.

MR T. WATERHOUSE (TW): The bookmakers are the biggest turnovers on the tote. I turn over a fortune with the tote; all my competitors turn over a fortune with the tote. If the tote didn't have us betting with them - the people that bet with me, I can't think of one punter that bets with me that would have a bet with the tote because why are they going to bet where they're taking out 16 per cent, where they bet with me - and I use it as part of betting back and making the book that I want to make, and I use the tote because I'm maximising my position.

MR R. WATERHOUSE: There was mention made of the markets being manipulated. There was a famous case in Sydney two or three years ago with a market being manipulated and there was one in Queensland a few years before that, taking advantage of the tote. But I just don't hear it talked about at all, I think they're just anomalies and tiny pools he's speaking of.

MR T. WATERHOUSE (TW): And it's always where the punter has been better off. It's never been where bookies have been better off.

MR R. WATERHOUSE: Yes, I don't think that manipulation - I think it's just a lot of rubbish. I don't accept it. I can understand if you had a complaint from bookmakers, saying, "This is not fair, this is happening," but I just don't think it's true.

MR SWANELL (TW): There's really no point to it because most of the bookmakers have now built in rules that if tote dividends are so way out of whack that there's massive variances, that they've got rules against it to protect themselves, so there's really no purpose. The TAB wins, doesn't lose either way, because they take their commission, so they're not concerned about it. So if someone is trying to exploit a tote product offered by a bookmaker, there's protection there now.

MR BANKS: I take it from your earlier illusions to Laffer and even Adam Smith which resounds very well in the Productivity Commission, I should say implicit in that is that you think the position that was put previously about the insensitivity of consumers to price is not something you would agree with.

MR R. WATERHOUSE: When I was 16, I was allowed to go and stay with a friend of my father's in Las Vegas for two or three weeks and he was the general manager of a big casino there and he also had a very small casino downtown. It was the first casino ever to be only machine based, so only poker machines. There was a sign outside saying, "We return 97 per cent of the money in our slots." We went down there and I said, "That sign outside, that's a good gimmick, but that wouldn't be true." He said, "No, it's all 97 per cent, Rob, no." But I said, "That's ridiculous. In Australia they return 60 per cent. It's just ridiculous." He said, "No, look, Thanksgiving, New Year's Eve, those times, we wind it right back because we want the people in and out to play the machines. We want them in here, lose their money and gone. There's no-one here at the moment; we want them to sit there for four hours and lose their \$20. "Whatever happens, they come with their \$20 to lose, they'll lose it, but we want them to enjoy themselves." That was very true, what that man said.

MR BANKS: Okay.

MS SYLVAN: Can I just pursue something for a moment. I'm not quite sure where it fits in our consideration but when we looked at the wagering and racing industry and that incredible intertwining of it now which perhaps 30 years ago, whatever, 20 years ago was not - I mean, the racing industry in a sense has become quite dependent on the wagering. You were arguing - I don't want to put words in your mouth - that in fact the racing industry, because of the way it's now funded, has in

effect lost its focus on its consumer base which is the punter.

MR R. WATERHOUSE: Absolutely.

MS SYLVAN: And that ultimately that's detrimental for the development of the industry as it competes against a whole lot of offerings in the market now.

MR R. WATERHOUSE: Absolutely. When I first came into racing, to buy a racehorse at the Easter sale in Sydney, they averaged at about \$20,000 which was the price of a Holden motor vehicle, which was a year's training, which was the value of a race on a Saturday. A Holden motor car would be \$40,000 today. A year's training - what do you charge for a year's training, about 30,000, about that - a race on a Saturday is probably worth 60,000, and a yearling at Easter is 330,000. The breeders are doing very well. I suppose our complaint is I went to a breeders' meeting about the funding issue for racing and unfortunately the breeders have control of racing bodies and they are very aggressive and hateful towards wagerers. They want to wind the clock back. They remind me of the American Indians waiting for the buffalo to return; they think they should be able to wind it back to what it was 20 years ago but unfortunately it's not going to be like that. Things have changed. Rather than resisting change, it's trying to maximise the position for the industry - "It's your responsibility."

MR BANKS: Again, I guess implicit in what you're saying is that you think that the funding model that we've put forward would be a positive thing for the industry?

MR R. WATERHOUSE: Absolutely.

MR BANKS: One of the benefits of these hearings is people in the audience now know, as you get quite contrasting views, depending on the different perspective and positions that people have in the industry, so I think those perspectives are quite useful, but against the ones that we had from Tabcorp, to introduce these - - -

MR R. WATERHOUSE: I've just come back - and I just see things from the consumer's point of view. Whatever works best for the consumer must be the best thing. I just think that the consumer is the person that should be thought about, and he's the last person considered in all these matters.

MR BANKS: What if it implied some reduction in the overall size of the industry itself, which I guess - I mean, we've had more of a Doomsday version from that presented before but - - -

MR R. WATERHOUSE: I don't think it would be. I think it would be an expansion rather than a reduction.

MR BANKS: Hence your point about Laffer and - - -

MR R. WATERHOUSE: What it's all said and done, yearlings are too expensive, for instance; unfortunately the demand for - the breeding side of things in racing is very healthy.

MR T. WATERHOUSE (TW): I guess also, you see with rugby league in New South Wales, no-one goes to rugby league. People watch it on TV. It's a better game to watch on TV. You go to the AFL here - and I've only been down here a year and a bit but it's a terrific game to go and watch live. There's so much happening off the ball. You want to go and see it. Racing is a little bit like that. It's fantastic to watch on TV, it's easy to watch on TV, but there's no incentive, except for Paris Hilton once a year at the Melbourne Cup or whoever get as that random celebrity, to go to the races. Racing needs to adapt to the times and make it attractive for people, whether it's lower take-out on oncourse tote, whether it's some incentive to get bookies to be on course or something for punters to go to, and I guess they've got to adapt with the times, rather than just saying, "We need to get the drip off the TAB and keep things the way they are." It really needs to have a shake-up and adapt to the way things have gone.

MR SWANELL (TW): I think the other part of the funding model that maybe has been overlooked somewhat is Australia has got a great racing product and to Tabcorp's credit, they have been making great efforts to open that up to international punters and clients. As we've said, things adapt and things change and there's a huge funding source. You get the product fees or race fields fees right, those international wagering operators will pay it. There's a great market out there. We've got a great product. We've got good time lines for Asia. There's slow progress being made in places like Singapore and Hong Kong, a huge source of funding. You get the product fees and get them paying product fees or race field fees, it's a huge source of funding.

MR BANKS: Well, it's been incredibly useful and interesting to have these insights, particularly juxtaposed with the earlier participants. Were there any other points that you wanted to make?

MR R. WATERHOUSE: I can't think of any.

MS SYLVAN: This is slightly off wagering and racing, and Tom may not have had an opportunity to look at one other part of our report, so if you have a chance - and you don't want to respond to this at the moment, that's just fine - but we've recommended some liberalisation of Internet gaming, and given the business you're in which is Internet wagering, I'm wondering if you've had a look at that and whether

you had some views about that.

MR T. WATERHOUSE (TW): In what particular respect?

MS SYLVAN: We've recommended the repeal of the act and that providers in Australia of Internet gaming be permitted, with a number of caveats obviously attached to that in relation to harm minimisation and so on, but if you haven't had a look at it, that's just fine, but given the business you're in, I thought it might be interesting for you to have - - -

MR R. WATERHOUSE: Australia led the way in the world with Internet betting up until about the year 2000; I'm not sure when the precise dates were. But of course because of those laws, it's dropped away now and it seems a shame that you have so many Australians betting with overseas companies, and wrong.

MR BANKS: I guess the point we made in our report is that in many cases they would be quite exposed in terms of the probity issues but also harm minimisation.

MR R. WATERHOUSE: Absolutely, harm minimisation.

MS WATERHOUSE: From someone on the other side of the fence, a person employing nearly a hundred people in the racing industry, as an employer, as a trainer, prizemoney levels have dwindled, especially in New South Wales. It's so reliant on one thing, the punting dollar. No-one respects it. I think it's so sad to think that we're at the crossroads and you're the people that could change it so radically, hopefully for the better. But they don't realise that without the punter, without the person spending their money either with my husband or my son or other bookmakers, that they're not going to get the same turnover. They think that if they can eradicate the bookmakers and screw them out of the industry and get rid of this weed or whatever they think it is that they will have a better product, but it won't be a better product. It will cause people to go offshore, which means we don't get one dollar of the punting dollar and that cannot happen. That's what's so important with the decision you're making, to make sure that we don't lose that punting dollar to the revenue that keeps the industry afloat, otherwise we won't have an industry and we'll all be out - I don't know what doing.

MR R. WATERHOUSE: That just made me think of something. Tom, you offer best tote and whatever else; not you, but of the corporate bookmaking industry, what proportion do you think finds its way back into the tote pools?

MR T. WATERHOUSE (TW): It's hard to say but from my point of view I'd say that 80 per cent of my best tote turnover goes back into the tote pools, and probably about 80 per cent that goes into the tote pools, I'd say 60 per cent of it goes into the

Tabcorp pools.

MR R. WATERHOUSE: I suppose one thing that is unsaid is that sometimes your clients are incredibly on credit, aren't they, which wouldn't be betting - - -

MR T. WATERHOUSE (TW): Nearly all my clients would never be a TAB customer because they bet credit, they bet very large credit, and they would never think of having 100,000 on the TAB because they wouldn't be getting any return, where they get either a fixed price guarantee from me or they get - with a tote guarantee, and then it's my position whether I back that back a little bit on fixed odds or whether I back it on the tote. But because I've got the constant turnover of people betting very large, it's turnover the TAB would never have seen.

MR R. WATERHOUSE: So what I'm saying is from the TAB's point of view, whilst they may not say it or may not even realise it, I'm sure their turnover is far, far more because of the bookmakers betting - - -

MR T. WATERHOUSE (TW): The corporate bookmakers are the TAB's biggest customers.

MR R. WATERHOUSE: I wish I could say the same was true of everything - bookmakers' prices. We get none of that business.

MR T. WATERHOUSE (TW): But the whole thing that we're basically saying is you want to expand - - -

MR R. WATERHOUSE: A very competitive market.

MR T. WATERHOUSE (TW): - - - open things up and bring the world to us, rather than closing things off and creating more barriers.

MR BANKS: I think that's an excellent note on which to end. We appreciate your time and for coming. To have the four of you here I think has been very valuable and your different insights into this. So hopefully that we'll take that, together with other input that we've got, and come up with a pretty compelling chapter 13 in our final report.

MR BANKS: Thank you very much. We'll just break now for a moment before our next participants, please.

MR BANKS: Our next participants this morning come from Regis Controls Pty Ltd. Welcome to the hearings. Could I ask you please to give your names and positions.

MR SZEWACH (RC): Elik Szewach, CEO.

MR DONALD (RC): Ian Donald, technical director.

MS HORTEN (RC): Lisa Horten, director.

MR BANKS: Good, thank you. Thank you very much for taking the trouble to appear at the hearings today. You've provided us an outline of the points you'd like to make and I'll give you the opportunity to take us through those.

MR DONALD (RC): Thank you very much. Firstly, thank you for the opportunity to present to the commission. Let me firstly congratulate the commissioners on the report. I think you've got the numbers about right on both sides. I think in summary, we support virtually all the recommendations. There are some areas where perhaps it needs a bit more detail; for example, occasional gamblers, how they're defined, how they are controlled. I think we'd also like to see something about newer forms of gambling, pay TV and mobile, which are going to grow in the next 10 years, and assuming there's no other inquiry in the next 10 years, I think we'll see them to be a much larger proportion of the gambling industry than they are currently.

What I'd like to concentrate on in the next few minutes though is implementation or transition, as you call it in the report. The steps required are obviously legislation and that's really outside the control of this room, except to say there is an election due next year and the balance of the Senate might well change as a cause of that. I'll talk about government and staffing - and I'm here talking about the Commonwealth government and how this might be implemented, and I'll come back and talk in a bit more detail about that. Our view is very much that we believe there should be a lot of consultation, not obviously with the states, that takes place anyway, but with industry. There are major opportunities for industry to save money through what's proposed. If it's an adversarial relationship, which it will start as obviously, that's going to be difficult to achieve. So what we would like to see is a more sort of cooperative type of relationship develop, so the industry gets some benefits, as well as having to pay the cost of solving problem gambling.

I'd like to talk about standards because there are two sorts. There are business rule standards which I think, by and large, you've probably covered in a fair amount of detail. What I'd like to talk in detail about though is technical standards because I think that's where the devil is in the detail and this is where an awful lot of high-tech

schemes, particularly by the Commonwealth government, haven't been implemented and we'll talk about that.

I think the report is right, that procurement shouldn't be left entirely to the states. I think the Commonwealth has to play a major role in that and we'll talk about how we might do that. The other area isn't really touched on in the report but I think will loom fairly large: testing and certification. If you are dealing with e-cash, and you are, and it's a national scheme, then things like APRA and Reserve Bank approval loom in this, and you need to certify every supplier and that's no easy process. We'll come back to that.

There need to be trials, and I would like to see the Commonwealth involved in some of the current trials in Queensland, Tasmania, South Australia and one in Victoria. There's a process of roll-out and I think again the Commonwealth has to play a major role in that. The system won't maintain itself post-2016 or whenever it's implemented; there will be ongoing work. We'll talk about that, particularly maintenance of standards and certification.

Let's talk about governments and staffing. We believe one Commonwealth agency should be responsible for the consultation process initially and that may have to be the Productivity Commission, for standards development with the states, with industry, with suppliers. I think the procurement process needs to be disaggregated; in other words, you procure a series of panels for suppliers of cards, of terminals, for reading cards, for testing, certification et cetera, and then the states can select from that as to how they want to implement it, but I think the Commonwealth should take the lead in procurement and produce a list of certified suppliers, including the scheme operator.

As I say, I think the new agency should oversee the trials and influence those as far as possible, use the business rules that are proposed in those trials. Clearly, the agency should coordinate the roll-out across the states and some are more willing than others, I suspect. You've touched on in some detail R and D on the gambling industry, gambling propensity, and also responsible maintenance. We don't believe it should be under ACMA. We think Sweden and Denmark have got it right and Finland has got it wrong in terms of where the agency sits. You might say what does that mean? In Sweden it comes under treasury, or finance they call it; in Denmark, it comes under, believe it or not, the minister of taxation, which sits in treasury or finance. In Finland, it comes under Family Services and Health. If you look at the problems Finland is having with the EU, on its interpretation, and indeed politically, I think you can see there's a difference. So if it sits anywhere, in our view, it should be treasury.

MS SYLVAN: Did you say it shouldn't be under ACMA?

MR DONALD (RC): It shouldn't be under ACMA, no. It would be an also-ran in the scheme of things in our view and it's too important to leave it to that. So we would like to see policy coordination on gambling, coordinated by one industry, not split between states and ministers as it is now.

Standards I've touched on. There are two types of standards. There's the business rules about how people set a limit, how long does the limit last, how often can they change it, how much can they put on a once-off smart card et cetera. Then there are technical standards and those, believe it or not, are going to take two to three years to develop. They are highly complex. The nearest thing we have to this currently is a thing called EMV, 4.2, and I will touch on what that means.

If you look at systems that have similar complexity - in other words, you're rolling out millions of cards to users, a prepaid system, and the most obvious example is public transport ticketing systems - one-third of public transport ticketing systems around the world never get implemented. So they start off with good intentions and all the fares, by and large, are there for the scheme to work; one-third never get implemented. 90 per cent of the rest are at least a year late, 90 per cent. If you look at Sydney, version 2 was supposed to be in before the Olympics. It's now nine years later and still counting. Version 3 is still ongoing. Melbourne's is over three years late and still counting, so Australia's track record in that area is not great. I won't mention what Centrelink and DHA have done on smart cards over the last 25 years; the answer is not a lot. So they are complex systems and we shouldn't underestimate them. As I said, the devil is in the detail in terms of technical standards.

The nearest standard I can find currently, forgetting Scandinavia for the moment, is this EMV 4.2, Europay, MasterCard and Visa, on this system used for, as you know, credit cards, debit cards and ecash. That is now published on the Internet in four volumes, 670 pages. There was a three-year development period before EMV 2.0 was published in 1995. There have been seven versions issued since, major revisions, so one every two years. There are four test requirements for the components of that system which run to 700 pages each, so they are complex systems.

Now, I skimmed last weekend EMV 4.2 because it was a wet weekend in Melbourne and there is nothing in that that I don't believe you could exclude from this. In other words, every component of that I think is going to be required in some shape or form. So it took Visa, MasterCard, Amex and a lot of banks three years to develop this; there's a charge ahead of us, I believe.

All of the components of EMV are required in a pre-commitment card system,

so cards, EGMs, terminals et cetera all need to be tested and certified. In effect you're going to end up with an issue of acquiring a system for money and that is going to require, as I say, APRA approval in my view and Reserve Bank approval as well because potentially there are legal minefields at the back of this if it doesn't work properly and the industry may well take advantage of that. So we're talking about things like digital signatures for the average RSL or sports club which is going to be a foreign language to most of them but that's the sort of process we have to go through.

Procurement, there are a number of components which can be procured separately and that's what I mean by disaggregated procurement cards and they should be procured more often because you can reduce the price over time and probably balance readers as well, so people know what's on the card at any time. There need to be certified poker machines which accept cards and operate as they are supposed to according to the system. There need to be card-accepting terminals that issue smart cards, receive money and issue it back to customers. There needs to be a software and back-end system and that's the most complex part of this and that's where a lot of these systems in my experience fall over. They also need to comply with privacy, both personal and commercial. In other words, you don't want all the gambling service providers knowing what consumers are spending with each other, otherwise there's another legal challenge. You need testing and certification facilities.

The estimated system development and operational costs, I've done some work on that but I won't talk about it publicly for a number of reasons; I'm happy to do that in private. It's not as much as industry has stated that it's going to cost, but it's probably a lot more than you're thinking. I'm happy to discuss that separately again.

MR BANKS: Are you happy to give a ballpark?

MR DONALD (RC): Let me give you an example of why it's difficult. A smart card, that's a pre-commitment card from Sun City, north of Johannesburg. That card could cost \$1, it could cost \$10. It depends what facilities you want. If you want it PIN operated, if you want money stored on it, if you want to use it nationally, interoperability, then you're up at the upper end of the scale. If you want a high security level, Triple-DES or RSA et cetera, then you're tending towards the \$10 limit. If you just want a plain non-identified card, then you're nearer the \$1 limit. The same applies right the way through. But I'm happy to take that under notice, if I may.

Trials, we've talked about that. Clearly, either you or the new agency needs to be involved as quickly as possible in the current trials in the various states. I also believe there are no major suppliers involved in the current trials, national suppliers,

who can provide the capital to run a national scheme. I think you have to engage the major IT companies, the IBMs, the Unisys's, the Microsofts et cetera in this process because I think the up-front capital cost is going to eliminate a lot of the very small suppliers currently. You might offer a loyalty card, for example. They cannot compete, as it stands, for a national rollout scheme.

Maintenance, there's ongoing certification. As standards change, as suppliers come into the market, go out of the market, there's ongoing upgrade of the specifications. So things like card standards change and you need to make allowance for that, and as we've seen, it happens every two years. There's ongoing R and D. But I think there's an opportunity for export and internationalisation; I'll come back and touch on that. The EU is fairly struggling with what to do with it if we read some of their material; it hasn't got very far in five years.

We talk about online gambling. It's the fastest growing gambling medium, although we will see pay TV and mobile technology coming up as well over the next few years. I think we would like to see a link between pre-commitment testing for both poker machines, EGMs and online gambling. You might say that's a long bow but I think it is well worth looking at and we think it's feasible to do that.

We believe Australia is in a good position to lead internationally on this. We've got a strong reputation for gambling. Whenever I talk to the UK Home Office, they're always very interested in what's happening in Australia because (a) we have this reputation for gambling and (b) they also think the government has a fair handle on it which they don't seem to have in the UK. Time will tell.

I think we would like to see a bit more minimisation of the impact of prominent gambling sites, the eCOGRA sort of principle of testing potential sites. There are an awful lot of unregulated sites out there and more publicity I think could be generated. It wouldn't be hard to do that.

I think even bank suasion, which you have touched on in the report, tax havens seem to be in vogue at the moment. A lot of unregulated sites tend to coincide with tax havens. I think there is scope there for some sort of negotiation with the banks. We believe the government should tender an online pre-commitment system. I think there are opportunities to generate income to pay for the roll-out of that system through that. I think there would be a lot of (indistinct) players. We also believe you should tender for domestic online limit systems as well.

We touch finally on the risk assessment here because there are risks involved in this whole process. It goes without saying there could be legislative delays. One of the worries there is unlike many of the assessments I've been involved in, in the last 20 years, and their implementation, three of the six key stakeholders have a lot to

lose financially if the assessment goes in on time and works. They have a lot more to gain if the system is late or never goes in. That is most unusual in a high tax (indistinct) - most unusual. I think there's a risk of divided Commonwealth responsibilities. As we've said it should come under one agency, one minister. Having acted as secretariat for a state government working group on standards, there is enormously different views among the states and after four years we didn't reach agreement. I can see the problems and that was on something they basically all agreed with.

The biggest risk though is software development not getting that right, as we've seen from a lot of high tech systems here and elsewhere. There is a risk that you don't have suppliers with sufficient resources, particularly capital resources, technical resources, to implement this. At the moment, the industry - apart from manufacturers - is dominated by a lot of small regional players and I don't think they're the answer. There is also the problem of ownership and this is going to take some driving through to make it happen, particularly given three of the key stakeholders are (indistinct) and there is also significant up-front funding that needs to be (indistinct)

We also question whether too many problem gamblers also become frequent, occasional gamblers - to use a tautology - in other words they go to different venues to get a card at each and stay for as long as they want. So that's a quick assessment of implementation and transition.

MR BANKS: You put great emphasis on the Commonwealth's role here but in fact what we've seen already is some state jurisdictions moving and in particular Victoria moving in this direction. How do you see that being reconciled?

MR DONALD (RC): Given there's also a state election due next year in Victoria I would see, if this is going to happen nationally, then I think the Commonwealth has to drive it. I think probably WA is in a different situation as we know, as far as poker machines are concerned, but New South Wales will take a lot longer than, say, the other states in this relationship. Unless you drive it, it isn't going to be a national scheme. If you want it to be nationally adopted - and it has to be - then you have to get all the states together and drive it collectively. At the moment you've got disparate solutions in different states.

MR BANKS: Just on that, couldn't you have a combination of national standards but state systems?

MR DONALD (RC): You could have state business rules but you need national technical standards. I don't think you can vary those, otherwise you'll find the card doesn't work nationally, or it will cost the industry a lot more for compliance.

MR BANKS: Yes, compliance, otherwise the costs would rise.

MR DONALD (RC): Yes.

MR BANKS: I was going to ask a bit more about costs but that's obviously a tricky area for you.

MR DONALD (RC): There are a number of reasons I don't want to talk about that.

MR BANKS: Yes, I can understand that. Time frames, if you were being optimistic - - -

MR DONALD (RC): I think six years is a real challenge, I really do.

MR BANKS: Victoria's own time frame you think is quite challenging.

MR DONALD (RC): Yes, and it's a different system, as I understand it, to what's proposed. If they have to change it then it's going to have (indistinct) so that's another reason why I think you should coopt the states and go down one path, rather than different paths and try and meet somewhere down the track.

MS SYLVAN: I was just looking for a bit of clarification on how you define the stakeholders - the states and territories are stakeholders from your point of view?

MR DONALD (RC): Yes.

MS SYLVAN: Commonwealth as a separate stakeholder.

MR DONALD (RC): Yes.

MS SYLVAN: You're dividing up the industry - - -

MR DONALD (RC): There are venue operators, there are machine manufacturers, there are ancillary providers and there are consumers. They all have more to gain than lose in the long run.

MS SYLVAN: Yes.

MR BANKS: Your earlier point was, here's a technology that would actually be beneficial from a public policy point of view but probably resisted from potentially a private interest perspective. But do you see this technology also bringing benefits to the industry itself?

MR DONALD (RC): Yes, I do, substantial benefits. Let me quote an example: the majority of casinos in Las Vegas have moved to smart card technology, not because any government has forced them to, or state has forced them to, but because they actually save a fair amount of money. A lot of casinos around the world - I've just shown you the Sun City, the largest casino in South Africa, has moved to entirely smart card technology. 98 per cent of respondents who have been interviewed accept and like it. It seems to be accepted in South Africa, for example. A lot of other casinos around the world are moving to smart card technology. We've seen that in Scandinavia, for example, but the government by and large is driving it.

MS SYLVAN: From the point of view of Las Vegas that's not just part of their loyalty system?

MR DONALD (RC): No, it's not. The cost of collecting cash - - -

MS SYLVAN: Okay.

MR DONALD (RC): Machine down time is the biggest factor, believe it or not. Coin jams are the biggest cause of running out of coins. It's the biggest problem with machine down time. That's why they have moved to smart card technology. They're out to make money in Las Vegas.

MR BANKS: Okay. We don't have any more questions. I don't know whether you had intended to provide a more detailed submission covering some of these points.

MR DONALD (RC): Would you like us to?

MR BANKS: Perhaps what we could do is back to you if there are aspects here that are reflecting on the - - -

MR DONALD (RC): I would say one of the key questions, costs, I think there's a number of parameters that need to be resolved.

MR BANKS: Obviously there's some commercial-in-confidence issues there.

MR DONALD (RC): Yes. Given we're not a bidder for an operator - - -

MR BANKS: Yes, so maybe we can get in touch with you as we - because obviously a key issue in all of this is the cost relative to benefits. We've had a variety of perspectives on those things.

MR DONALD (RC): I can imagine, and they tend to be biased.

MR BANKS: Thank you very much for participating.

MR DONALD (RC): You're welcome. Thank you.

MR BANKS: We'll break for a moment. We have one more participant and we'll break for lunch.

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MR BANKS: Our final participant before lunch is Kildonan Uniting Care. Welcome to the hearings.

MS FRASER (KUC): Thank you.

MR BANKS: Can you tell us your name and the position you hold.

MS FRASER (KUC): My name is Sue Fraser. I work as one of the senior managers of the social advocacy services at Kildonan Uniting Care.

MR BANKS: Thank you very much for taking the time to attend today. Uniting Care provided a submission earlier on in the process. I don't think we have any paper from you now, so we're in your hands and we'll let you make the points you want to make.

MS FRASER (KUC): Thank you for the opportunity. Kildonan as an agency is a member of the Uniting Church network of which there's 35,000 employees, so sizeable nationally but all delivering welfare services to try and work with low-end vulnerable consumers. Kildonan as an agency itself is 128 years old and we have a raft of traditional welfare programs, but social advocacy, which is my domain, also incorporates financial counselling, housing, no interest loan schemes, proactive, hopefully early interventionist programs but often have a responsive approach which is where we often intersect with individuals and families where gambling has been an issue.

In reading the documentation I think the Productivity Commission is to be congratulated on looking at greater regulation around consumer protections, and for us always that's one of our great concerns. The financial counselling team that I have is actually 12 financial counsellors. It's the largest program in the country, but through that we see a range of services. We're located in the northern parts of Melbourne and our main office is in a growth corridor, so a lot of new housing estates, a lot of new venues on the outskirts where the population mix can be quite extreme, both in culture and income, so an interesting space to work.

51 per cent of the population which we work with have a language other than English, so there are also some unique characteristics, and the area of the city of Whittlesea is growing at something like 130 new residents per week, so huge potential. The area I would like to focus on is really around access to credit and debt, and the increase in debt as a result of that. We have many cases that I haven't brought with me but the general theme is, as you can imagine, some consumers

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overcommit themselves with gambling, often their own or family money, and the family is left decimated as a result of that, to the point where in our community housing program we have often had to house families where there has been a suicide and property damage, as in houses being burnt down because of fraudulent activity in some cases but overcommitment.

I guess my perspective, from working at the coalface, is different from a lot of the presentations you'll have. Dealing with the grief and trauma on a daily basis is fairly wearing, as you can imagine, so my views are often coloured, I would say, with those experiences. What consumers tell me - and consumers who gamble tell me - is that the access to credit is a very difficult obstacle for them to overcome. When they're in the throes of their activities they often think of nothing else because it's a fairly continuous process. What it means for families is often money that's earmarked for mortgages or for food or for school activities is taken out of joint accounts, particularly, often without the other party's authority to do that. That presents problems.

We would like to see the limitation of cash withdrawals at \$200 a day in venue. We'd also like to see that the pre-commitment should be limited to \$100 and have it be compulsory knocked in, not opt out.

MR BANKS: \$100 - - -

MS FRASER (KUC): As a limit. For people to be able to nominate limits of \$100 that they're able to gamble with, maximum, to try and limit the financial stream that's available to consumers.

MR BANKS: Let's look at that again. One of the virtues of pre-commitment as a public policy tool in this area does allow individuals to choose what's appropriate for them, hopefully at a time when they're a bit more rational about what the choices are and their constraints. But are you saying there should be an imposed - - -

MS FRASER (KUC): Our sense was that if there's an opt-out that is a tool that might be ineffective.

MR BANKS: Just thinking about the \$100 now. I guess we envisage a system where you could be finely tuned to the needs of the consumer, and some consumers wouldn't be problem gamblers but they might want, for budgetary purposes, set a limit, maybe \$1000 over some extended period of time. I just want you to elaborate a little bit on the \$100.

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MS FRASER (KUC): If we follow the argument that gambling is a source of entertainment then our concern was that the level of entertainment might need to be limited for those who don't have control of that.

MR BANKS: But why wouldn't you let them choose what that limit would be and then lock that in and not be able to renege on their own commitment?

MS FRASER (KUC): If the regulation not being able to renege was strong, that would be viable. Consumers are fairly resourceful, I guess, is one of the comments I'd make. Often there are ways that they would find to move around credit limits and pre-commitment levels. In our view it needed to be fairly minimal, the amount, to try and limit harm effectively.

MR BANKS: We saw an opportunity for people to decide to be part of the system or not. Once they were part of the system they would be constrained by it, but you wouldn't want to see anybody opt out of the system, even if they were asked the question periodically whether they wished to be part of it or not.

MS FRASER (KUC): I think at times there would need to be some sort of an assessment tool or some process to allow them to consider that really thoroughly. In the further submissions we make we will elaborate on these points so that might be more useful.

MR BANKS: Okay.

MS FRASER (KUC): We have concerns around credit betting and using credit in any form of gambling. Our experience again is that often consumers who are using credit as a methodology of gambling is they then will have difficulty in repaying those amounts.

MS SYLVAN: Can I check, are we primarily talking about electronic gaming machines?

MS FRASER (KUC): Yes.

MS SYLVAN: You're not talking about the bookmakers.

MS FRASER (KUC): No, EGMs. Also cash advances on cards in venues also, for the same reasons. One of the concerns that we have in our areas is the availability of being able to access EGMs and would like to see some closure period and preferably something like 12.00 till 10.00 to allow people to get on with their life and to focus

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on other priorities.

MR BANKS: Yes. You would be conscious that different jurisdictions have different closing time provisions. We made the comment that some of those closing times seem to be suiting the cleaners more than the problem gamblers in terms of the logic of them - very early hours of the morning and so on.

MS FRASER (KUC): Yes.

MR BANKS: Why do you say 12.00 till 10.00 would be an appropriate period?

MS FRASER (KUC): I think it needs to be a long enough space to allow for normal family functioning and to reconnect with people's other lives in some ways, although I would recognise that some people who are shift workers would use the facilities at those times. I think the longer opportunity to gamble, the greater propensity for people to remain in that sort of space and not attend to the other facets of their existence.

MR BANKS: In your experience is there an issue also with alcohol, late at night relative to during the day?

MS FRASER (KUC): Serving of alcohol, yes, absolutely. Again when we talk with families - if it's not them as the gambler but the family of the gambler, we're talking about their delinquency from the home and not being accessible to family, and in that time not being available. We're also seeing with gambling - although it's a little bit left of this issue - around elder abuse and using financial resources of other people to enable gambling, which is very often coupled with violence, and the increase of that for us as an agency is certainly quite frightening. That's an activity that's often late at night that leads into a range of other activity.

I'll just go back. The location of ATMs is something that's disturbing for us, and acknowledge that there has been comment in rural areas that access to money is quite difficult because of the lack of other facilities. In general though, particularly in metropolitan Melbourne, we would like to see no ATMs in the short term, rather than the longer term, being available.

MS SYLVAN: Can I just check that, so within venues - - -

MS FRASER (KUC): Not at all.

MS SYLVAN: - - - no ATMs but they could be next door, in a sense. It could be a

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bank next door.

MS FRASER (KUC): Yes.

MS SYLVAN: So it's just as you walk in the door of a venue that no ATMs should be there.

MS FRASER (KUC): Yes, preferably at a greater distance than next door but I think accessible for those who are mainstream, if we can call it that, but far enough away that it would give people a break and an opportunity to reassess what they were doing for those where it is an issue.

MR BANKS: Your agency deals with financial difficulties that people have generally.

MS FRASER (KUC): Yes.

MR BANKS: You might have mentioned this and I was just trying to find it in the earlier submission but what proportion of those clients would have problems that were related to problem gambling? The majority of clients?

MS FRASER (KUC): In our site we also have problem gambling counselling as well as a legal service so that people are able to access a multitude of services within one's sight. In what we would call mainstream financial counselling I would estimate 10 or 12 per cent and very often not necessarily the gambler, but the family of gambling partner or children. In our family violence financial counselling program, it's actually a much higher incidence. What we're seeing is violence and gambling often go hand in hand.

MR BANKS: Why is that, in your view?

MS FRASER (KUC): My experience tells me that it's around money is a weapon and a tool of control and that a lot of the clients that we see are vulnerable for a whole range of reasons and often don't make terrific life choices in partners. In some ways for me the linkage is that issue of control and risk taking.

MR BANKS: Okay. Were there other points you wanted to raise with us?

MS FRASER (KUC): No, as I said, for us the access to credit is one of the big issues because that's the outcome of which our financial counsellors and our agency deal with. But also debt and family issues that come as a result of problem gambling

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which I think will be a perennial problem but we have to try and peg it back so that the financial harm, if limited, might allow for other interventions to be successful.

MS SYLVAN: Can I just come back to your \$100 sum.

MS FRASER (KUC): Yes.

MS SYLVAN: I suppose of what you might call recreational gamblers those sorts of amounts are probably not unreasonable, but other people would spend quite a bit more as recreational gamblers. Was your suggestion effectively that people who are by themselves identified, if I could put it that way, as having a gambling problem - as many people do - - -

MS FRASER (KUC): Yes, they do.

MS SYLVAN: - - - because they ask to be prohibited from the actual venues and so on. Is your suggestion that - or where there has been a third party identification that there is a group of people for whom - or are you suggesting the limit globally on any gaming machine and the maximum that could be spent in - I wasn't quite sure what period of time we were talking about, would be \$100. Could you just elaborate on what exactly you're suggesting,

MS FRASER (KUC): I think for those where there is an identified issue where they can self-select that that's appropriate. I think within venues there is the opportunity to identify people who do have issues and work with them towards setting a realistic amount. Our concern was the amount needed to be fairly minimal which may inhibit those who are recreational gamblers but we see this as a risk product for the consumers that we work with.

MR BANKS: Thank you very much for participating.

MS FRASER (KUC): My pleasure.

MR BANKS: We will break now for lunch and I think the participant who was scheduled for immediately after lunch isn't coming. So we will back here at 2.15 and we have Macedon Ranges Shire Council and then RSL Victoria appearing in the afternoon. Thank you very much.

(Luncheon adjournment)

MR BANKS: I will just recommence the hearings and our first participant this afternoon is Macedon Ranges Shire Council. Welcome to the hearings. Could I ask you to please give your name and your position with the council.

DR BEYER (MRSC): My name is Lorraine Beyer and I'm the social planner at the Macedon Ranges Shire Council. Councillor John Letchford will be presenting with me. He's held up but he should be here shortly.

MR BANKS: Thank you. Thank you very much for taking the trouble to appear today and also for the two submissions, one in the first round prior to the draft report and then one since the draft report, although perhaps not directly responding to the draft report but clearly raising issues that you think are important and that could inform the final report. So I will give you the opportunity to go through some of the key points.

DR BEYER (MRSC): We think these points are particularly pertinent and because we've had an ongoing application, it took five years to get to the final decision, so along the road we've learnt quite a lot and so it's really nice to be able to share that with a body like the Productivity Commission and we were really happy to hear that the gambling has been examined again.

MR BANKS: Good.

DR BEYER (MRSC): I will present this on behalf of John Letchford, our major, to point out that local governments in Australia have a mandated responsibility under the various state and territory legislations to protect and enhance the wellbeing of their communities and on that basis we have looked to the health, social and economic wellbeing and prosperity of our community against the issue of introduction of pokie machines into our shire. Our shire is made up of nine main towns, the largest is only 6000 and the smallest about 900 people. Our observation is there is very, very little research evidence about the impact of pokie machines on communities and not because there is no impact but because that research has never been commissioned or conducted in Australia.

There is considerable and growing concern in the community about the damage pokie machines are making to individuals and we've run a number of surveys, one of which I sent to the commission a few days ago as part of this verbal submission and it contains a lot of the comments that were made by our residents when we out and asked them about pokie machines and what role local government should have in decisions relating to pokie machines. So while there remains an absence of research to demonstrate pokie machines are safe and beneficial to a community as claimed by the government and industry, local governments have been left to try and fill that breach and respond as best they can to what we see as a rapacious industry only

interested in making profits and to the high level of community disquiet and apprehension. So we're stuck in the middle there.

The underlying philosophy of our council is that the voice of the community must be heard and in a democratic society one wouldn't expect to get many arguments against that. Community views and opinions shouldn't be ignored and the wellbeing compromised to make way for multinational, multibillion dollar companies who have a vested interest in establishing venues without any regard to the negative aspects on the community. So we've just gone through, as I have said, five years defending this principle that community views matter and must be taken seriously into account in government decision-making.

MR BANKS: That's under the cover of legislation in Victoria that provides for community input to local decision-making or not?

DR BEYER (MRSC): Under the Health and Wellbeing Act of the Victorian government - there is a new one that has just been enacted this month. Yes, that's a mandated responsibility and there's also a local governance act as well so that's the two pieces of legislation.

MR BANKS: But specifically under gambling regulation there's no explicit provision relating to consultation in communities. I thought there was.

DR BEYER (MRSC): There is now some provision for local governments to have a say in every pokies' application that's made. Previous to October 07, I think it was, that any application that involve pokies sitting on a space less than 25 per cent of the total of a venue's floor space didn't have to go before council and naturally they were all under the 25 to just circumvent that extra step. There is provision in the act for a social impact assessment. Our problem with that was that the framework that's been provided by the government is extremely simplistic, it's a very simplistic form that's a tick box form. There is no guidance about the type of framework which would be looked at more favourably at VCAT and at the Gaming Commission hearings, so we're left totally to ourselves and that's resulted in all the local government areas having to act independently with very limited budgets to do that and usually not the expertise within the local government. The pokies is an extremely complex area and it's very hard for a local government, especially one like ours which has a rate base of around 40,000 people, so it's a huge impost.

Previously, it's our view that the pokie industry has been able to make pokie machines in venues anywhere they like, regardless of the size of the community. One of the issues we bring up later is the state government's - the number of machines allowed per thousand head of population and the problems with that.

MR BANKS: Okay, thank you.

MS BEYER (MRSC): I was going to very briefly outline what the process was with our Romsey pokies application. Very briefly, the Gaming Commission originally rejected it because it's a small country town, it's only got one hotel; there's no other options for people to go in that town. It's right next door to the community centre and the main transport hub and so on. Then when it was taken to VCAT by the applicant, they approved the machines but didn't call on any of the community evidence that was put forward at the original one. So our councillors unanimously voted to challenge that decision in the Supreme Court, which they did, and won. It gave us a great deal of heart because the narrative within the finding was saying all the things we had been saying all along about the importance of community input and it really needs to be taken seriously.

One of the beauties of that decision and the later VCAT decision which has rejected the pokie application - that was two weeks ago - for that hotel, is that it finally defines in quite succinct language what is community wellbeing, because before it was so nebulous that no-one could really define it. It was very easy to just circumvent around that and ignore that issue for the industry, but now it's much more black and white and gives that status to community views, even if they're not able to be quantified very easily, which unfortunately is the nature of community wellbeing.

MR BANKS: Yes.

MS BEYER (MRSC): Just a couple of weeks ago, as I said, the VCAT decision was to finally reject the application and what they said was:

The surveys reveal a genuine and legitimate feeling in the community that the social character of Romsey would be damaged and the tribunal would be reluctant to force gambling machines on a community which does not want them. This is the kind of application that should not be approved under the no-detriment test.

So although the finding was that there was slight economic benefit to the town to have the pokie machines there, the community views outweighed that, so on the balance, they rejected it, which was really fantastic. We've been getting congratulations from all over the state, particularly from those local councils who have felt that they have just been hitting their heads against a brick wall in trying to be able to represent their communities' views adequately at these hearings.

Just touching on that, the expense to local governments is really quite enormous and despite the fact the legislation was changed a couple of years ago so that we now, as local governments, can hear every application for pokies, there is

absolutely no resources attached to that. So what we've worked out, it costs about to 20 to 40 thousand in legal fees per application, costs between 15 and 25 thousand in council staff time per application and 10 to 20 thousand for each social and economic impact assessment that we might commission. So each of them costs about \$85,000 to the local government which of course in regional and country areas is a huge amount of ratepayers' money that's being expended on this with absolutely no support from the government to be able to fulfil our function of representing the views and interests of our community.

Our final bill for the Romsey pokie application was around \$650,000. We shouldn't have to spend this sort of money to protect our community from multinationals trying to force unwanted problematic products on to our communities. Given the enormous level of state and industry revenue obtained from pokie machines, it doesn't seem unreasonable that local government should be supported in their function of properly assessing pokie applications and representing the interests of their communities.

MR BANKS: How has the community - have you had any feedback from them as to how they feel about (a) the decision and (b) the amount of money, actually their money, spent on this?

MS BEYER (MRSC): There was some controversy about the money, particularly after we won the Supreme Court challenge, and there was euphoria in Romsey after the decision. 650, considering the applicant themselves estimated \$2.1 million per year going out of the town, being lost out of the pockets of people - the research shows that the catchment is five kilometres around a venue, and Romsey is surrounded by countryside, so all that money would have come out of the local residents. So the impact on the community - and we've I think marketed and explained this to the community quite well through our local media and so on and I think they have a really good understanding, our community, now about the issues - and it's not just about rejecting an application by that applicant, it's a whole lot of other issues which I'll touch on later, like just the safety aspects of the machines and that we don't have any research or any commissioned research that can reassure us that there are not problems with the machines.

MR LETCHFORD (MRSC): My apologies for my lateness. I got caught on the Bolte Bridge.

MR BANKS: That happens.

MR LETCHFORD (MRSC): John Letchford, mayor of Macedon Ranges Shire Council.

MR BANKS: Welcome. I hope you don't mind that we started early.

MR LETCHFORD (MRSC): No, that's all right.

MR BANKS: Your colleague thought you wouldn't mind and so we've done that and if the transcript records that you've arrived now. We're just having a conversation about the victory that you've received and how it's perceived in the community because obviously a lot of people would have supported that but it was also an expensive process.

MR LETCHFORD (MRSC): \$650,000 worth over five years and we had to budget for that over the successive years as well and certainly 650,000 could have gone to a stadium or other rural activities and that's the impost of trying to fight this without any assistance from even VCGR that had supported our position in the first instance and then didn't later on. So it does make it very difficult for rural communities and whilst we have a 40 to 43 million dollar budget, anyone who's further out afield would be in very difficult times. Of course, it's not the be-all and end-all because we still have other venues that are looking at gaming machines and the fight will still be continuing. But certainly we do have a precedent through Bell J and settling through the Supreme Court. However, there has been discussion of going to the High Court.

MR BANKS: Right.

MR LETCHFORD (MRSC): So once again another cost impost upon the community.

MR BANKS: The work that was done, I think your colleague mentioned that that decision was taken, notwithstanding the fact that the economic impact assessment indicated a net benefit to the area. I don't know whether that's probably available. I'd be quite interested in seeing that economic impact assessment. My experience of those assessments is they're usually not very well done and often have faulty economics in them. So I'd be quite interested to see - - -

MS BEYER (MRSC): We had a forensic economist do our study and we had an independent social planner do the social impact. The difficulty with those sort of impact assessments too is that they're all economics, health and social. It's all bound up together so it's really hard - it's artificial to separate them out but we did do a separate economic one because of the specialities involved.

MR BANKS: So that was not the applicant who did the economic assessment but the council commissioned it?

MS BEYER (MRSC): I think one of the industry players - I'm not sure if Tabcorp or Tattersall did that on their behalf. The applicant was fully backed - so they were getting supported obviously by - - -

MR LETCHFORD (MRSC): They have very deep pockets.

MR BANKS: This involved the redistribution of machines from other venues somewhere presumably?

MR LETCHFORD (MRSC): No, not at that time, that was pre because the redistribution has come in since.

MR BANKS: Yes, okay.

MR LETCHFORD (MRSC): Of course we had difficulties with the planning scheme, what the definition of strip shopping centre was because there have been other further changes that came in as well. So it's an accumulation of legal areas that really are tied to jurisdiction of council because if we had the ability to make our own laws or to have a greater influence on the Planning and Environment Act, then the hurdle would be placed a little higher, that bar would go up. Where we do have the ability within the planning scheme to change a few of the areas, mainly the triggers, to make a little more difficult. But within the survey that we had right across the shire, 83 per cent of our community were saying that we should have greater planning controls and planning ability of where these machines should go.

Mind you, we've got to clearly state that council is not wowsers. We know that these machines and, of course, TABs, other racing activities do occur and we do have a racecourse - we have two racecourses in the shire which we support. But it's the ability to spend the money so quickly on poker machines in an area that's not high on the SEIFA index and we have two townships that are in that line. They just don't have the disposable income to go and play on these insidious machines and we do have evidence of some people losing their houses as a result.

MR BANKS: Just on that, and I know that you've got a presentation but on that issue of spending money quickly, did you have an opportunity to see what we recommended in relation to spending rates? Were you supportive of that and would you think that if that was supplied in your jurisdiction it would have made a difference?

DR BEYER (MRSC): We support it. The only query was - my understanding of the technical and mathematical side of things is not huge but that would be absolutely wonderful if it was restricted as to how much money can go through a machine per hour. I think the averages though are much broader. I think one of the

problems with the industry saying the winnings in relation to what goes through the machine - because it's averaged over a whole year rather than - I think the players themselves are under a misapprehension that it's - I don't know what the return rate is but, say it was 40 per cent, they expect that that machine will return any moment because it has to return 40 per cent. So whether over the long period of time - it would depend on the averages, if it was averaged over a day I think it would be absolutely perfect but I had in the back of my mind that maybe over the year period, if that's over the year period, someone could put in a lot of money today but averaged over a year it wouldn't be much.

MR BANKS: We're talking about pre-commitment, I think you're talking about the pre-commitment regime where people would decide how much they wanted to spend over particular periods. But we also had recommendation in there about how much you could bet per button push, for example, where, as you know, currently - - -

MR LETCHFORD (MRSC): 15 lines they can gamble on.

MR BANKS: Yes, but five to 10 dollars per push which we indicated some of the loss rates that are associated with that.

MR LETCHFORD (MRSC): But it's misinformation about return to the player and I think it's - - -

MS SYLVAN: We're talking about the rate of return mandated by government which is actually something that's averaged over a very long period of time and consumer behaviour which chases losses because they think it must return that money.

MR LETCHFORD (MRSC): It's over the year, over the whole of the venue.

MS SYLVAN: Yes, that's correct?

MR LETCHFORD (MRSC): If the particular machines - and this is where the regulation is going to come in and more regulation to the free spins, just the gimmicks that are actually sucking people in. It's the unbalance wheel as they call it. It does give the appearance that they're winning but it's actually not because that shouldn't be counted in the equation that that is a possible return rather than money. So it's a differentiation between what the return is in money or the return is in free spins or free other activities that are associated with the machine.

MS SYLVAN: In a sense it goes in part to the disclosure, if I can just follow Gary's question, there were recommendations about the amount people could bet per button push which would limit the losses at maximum playing intensity to about \$600 per

hour which is not, as far as one can tell from the evidence, how players see - the disclosure that it will return 89 per cent. Did you have some thoughts about disclosures. In a sense what we're coming at is, is there a poker machine that would be comfortable for your shire if the machines were changed in a sense to make them, I guess, to use your terms, a safer device.

MR BANKS: I actually think, just to correct that for the record, we're looking at probably \$120 per hour relative to 1200 which is what - - -

MR LETCHFORD (MRSC): But remember there is a bank of machines and people, if you do into the gaming machines and if you go through the morning I have seen one person play three machines all at once. All they have to do is just push the buttons and that's the ability of the new electronic gaming machines. The older machines where you had 20-cent piece or the dollar coin and physically had to put it in out of a coin jar was a lot slower than putting in our \$50 note, \$20, \$10 or \$5 across three machines and just pushing number 15 which is 15 composites of the reel so that is really quick.

There have been instances in the past where regulations have tightened up, people were able to put in their business cards or their credit cards to hold the slot down, the activation button. Now that's regulated and it's an offence to have a machine that is that way. But that's what they were doing, they were that keen to press those buttons. Yes, it's a very difficult one. Going back to how it used to be some time ago, before the casino came in and gambling came in to Victoria people used to have their poker machine buses going up to Albury and along the Murray River. A great activity, everyone planned it, but it wasn't as quick to dispose of their income and there was - and I'm not sure anecdotally it was a greater return to the player at that stage.

But since they've come into Victoria, state governments have relied upon the income from the machines, about one-fifth of the budget, so it is difficult to try and eradicate them. In two years time the casino regulations will be relaxed and people will be able to apply for casinos. We already have two applications in our corridor, one is at Mildura and one is at Bendigo, where in two years time they're looking at a casino. Of course, that's going to then have the casino licence and more machines et cetera, et cetera 24/7.

But getting back to the machine itself, it was identified within Macedon Ranges that it just couldn't fit within the mixed ball of the social demographic that we have, hard-working, labouring people, no high disposable income. We do find that in Gisborne we have a higher disposable income, people are higher than the average income earner and they go down there and just have a flutter and a good time out. But we've seen no real benefit or connection from the poker machine

venue to the hotel providing other activities, cheaper meals or anything else.

Within the new licence which we dealt with recently, they were looking at increasing their machines. We were able to work with them to get a community benefits scheme but it's only something like \$16,000 that goes back to the community in the immediate area. So we set up a committee to look after that to try and assist the local community in other endeavours other than gambling. It's a small amount. It's so insignificant in the overall perspective of revenue raising that comes out of one machine.

MR BANKS: I know you've got a fair bit to get through here so we should let you continue with that.

DR BEYER (MRSC): Thank you. One of the points that I wanted to make related to what we said earlier, that there is simply no research on the impact of pokies on communities which to us seems absolutely extraordinary when you're making government policy that you haven't got the most basic of evidence on which to base it. So we did form a relationship with Ballarat University and the Victorian local government association supported us, as well as some other local government areas, to actually conduct our own research and we got an Australian Research Council amount, about \$250,000 all up to conduct a before and after assessment of what the impact of pokie machines in a community was.

It's absolutely extraordinary that that sort of research has not been done before and that we had to arrange it ourselves to get any understanding of what the impact truly is on the community. An interesting part of that process was that before we applied to the Australian Research Council, Ballarat University spoke to 18 other funding bodies to request to have a meeting with them to discuss the possibilities of this research and the funding of it and they all wouldn't even agree to have a meeting with them, let alone take on the research. I've noted down some of the comments that were made to John McDonald that, "That's not an issue. We don't fund that sort of research. We couldn't be seen to be involved in funding that." While refusing to entertain even a discussion about the research in this area, I think it was four of the agency staff started to relate stories about their own personal experience with problem gamblers in their family.

The gaming industry offered to fund the research but we do want it published widely and we don't want to be restricted in what we can produce as the evidence, so we haven't taken that offer up, generous as it was, so we have got the Australian Research Council funding now so that research has begun. At the beginning, part of that involves an extensive literature review. The vast majority of all the research that's been done in relation to poker machines is funded directly or indirectly by the gambling industry. You can see it's no wonder the research has not focused in this

area. They have very conveniently focused just on the problem gambling aspect of it. As we say in this submission, just focusing on the problem gambler is like focusing on the car accident victim without considering to look at the state of the roads or the type of vehicle and safety aspects. It seems extraordinary if the rhetoric is to be believed that none of this is put in place.

That leads into the whole issue of product safety. One of our local reporters reporting on a story within our shire, spoke to Tim Allerton - who represents Aristocrat, the makers and designers of many poker machines - earlier this year, and Tim stated that \$117.2 million was spent just last year on research and development in Australia. That's an extraordinary expenditure on research and development in relation to poker machines. What is that money being spent on, particularly when you think about the fact that in Victoria, the gaming industry owns and controls all the gambling machine data. I don't believe that's the case anywhere else in the world. That means they have a monopoly on that data that no-one else can access, but it also means they can use sophisticated network analysis, along with all the huge developments in brain function and reactions to stimulus and so on, to develop more and more machines that hold players and are more high yielding and profitable.

That's a huge concern to us and it should be to the community but, of course, none of this sort of information is out there for people to know about. The focus on problem gamblers, it's laudable in itself but it's only half the picture. It's just ridiculous that there's no research and no focus at all on the product safety side of things. Every behavioural scientist knows that the environment in which a player finds themselves influences their behaviour. It's not just the machines, it's also the environment in which that product is delivered which is the venue and the types of inducements they may have in the management of those machines, such as the loyalty schemes and its free teas and coffees or whatever it happens to be to get players in.

We have a saying in our shire that the money goes straight out of middle-aged women's purses into the male sport, because that's the only place where the donations are made. A cynic would say, "Well, that's where they get the best marketing bang for their bucks so that's why it goes into male sport." Whichever way we've looked at this issue it's very discouraging when you're trying to represent the best interests of your community and you know all these issues exist with a problematic product like poker machines where the government has not provided the evidence that would give any reassurance that the machines are safe and not damaging to the community. Even if they were good products and didn't have any harm associated with them, the government just hasn't been able to reassure us. The fact that the community and its growing concern about the safety, the government should also be representing the interests of its community. If there's such a high level of anxiety out there about poker machines, that's a real big issue on its own and ought to be

addressed by governments, not just local governments.

MR BANKS: I guess in the 10 years since the last inquiry, it's fair to say there has been quite a lot of activity, including harm minimisation measures and so on, but you don't see those as having been effective from a local community point of view?

DR BEYER (MRSC): No, not at all. All the rhetoric is there and there's now codes of conduct, but they're so general and they're so broad they could mean anything. In fact we have actually put together a suggested action based code of conduct that we would want any other applicants of poker machines into our shire to make a commitment - things you could see by just walking into the venue and see that they're in place; nothing extraordinary. But that's certainly not reflected in the codes of conduct that have been produced recently. They're just so general, they're just rhetoric really.

They've got to say that there's a concern about harm minimisation but when it actually comes to actions and visible difference, there's absolutely nothing. It's all smoke and mirrors when you look at it closely.

MR BANKS: I assume you've read our report but there's quite a lot in it that addresses that particular issue. If you wanted to get back to us with any comments on the particular recommendations we made that would be quite helpful. I won't detain you now.

MR LETCHFORD (MRSC): It comes down to the legal - local government has a clearly mandated responsibility by both the state and federal government. Just to reiterate - and you've received a copy of our submission - in that opening paragraph, we do have a mandated and legitimate right. We see the external powers are undermining our own local community. This is where Bell J has given credibility to the local community by saying:

If members of relevant communities find the prospect of gambling at a proposed venue disconcerting, it is immaterial whether such concerns are founded on philosophical or moral or religious views, or simply reflect unarticulated views about the kind of community in which people wish to live.

Where the community voice is saying, "We do not want these machines here," then it shouldn't be undermined by overarching power that has no local moral obligations but it has a political will that is looking at an income from an alternative stream. It should be looking at those community concerns, whether they are articulated well or not, whether it is correctly founded. If the overwhelming majority say no, then local governments should have that power to advocate on their behalf,

nothing more nothing less. That's a great decision that we have had and of course it's going to send some tremors around the place, but we want to see it enshrined in legislation to give us a far more greater say and far more greater ability, not only in the Macedon Ranges but across Victoria, across Australia.

A lot of communities have called expressing the same concerns that we have. We weren't aware of the level of interest that is across Australia. There is a number of communities that are calling up the shire to ask how did we do it, and they want to know the formula. But the formula rests with recommendations and legal entities to be able to assist local government, and a real partnership.

MR BANKS: That decision now is final?

MR LETCHFORD (MRSC): Yes, it's only subject to if it is going to go ahead within the 28 days a High Court challenge.

MS SYLVAN: So it's very recent.

MR LETCHFORD (MRSC): At this stage it's settled.

MR BANKS: Good. We'll let you continue with your other points that you need to make.

DR BEYER (MRSC): Perhaps I'll just mention the density. Within this state the inquiry into that recommended eight machines per thousand population, Cabinet has then said it would be 10 machines per thousand population, but the problem with that is that it's local government area wide. In our shire, for example, our density is only 2.88 machines but in our town of Kyneton where almost one in four persons are over 64 and most of those are on pensions. Just from that demographic fact it's a lower socioeconomic area. The density is 11 if you take the suburb area - ABS - and it's 16 if it's just the town. That means the industry can concentrate their machines in those deprived areas but still within the LGA they're well within the density limit. It's a complete nonsense.

When you examine any of these decisions that have been made in relation to trying to harm minimise, none of them make any sense or they don't stand up to any scrutiny.

MR BANKS: Speaking in as general terms as you like but do you think there's a conflict of interest there at the state level?

DR BEYER (MRSC): Yes, most certainly. The regulator has a vested interest and they have got no financial incentive to improve.

MR BANKS: Approximately a fifth of the state budget.

DR BEYER (MRSC): It's 12 per cent, it's huge, just out of poker machines. Macedon Ranges - except for tourists, racehorses is our next biggest industry and we have lots of thoroughbred and racing farms and so on. It's a completely different ballgame. There's so many jobs involved with the racing industry - and it's a real boost for the economy. You've got all the feed merchants, the shearing people, the veterinary surgeons, specialists of all sorts. It's a really good economic benefit to our shire, but with the poker machine gambling, it's just not comparable at all. Two-thirds of the losses go straight out - in consolidated revenue - a third to the machine owner. Some of our hotels have got international owners or interstate owners, so there's absolutely no guarantee.

We did a few figures about how much was taken out of the community per head based on what we could find out about how much the machines were taking - this is from the Gaming Commission's figures - and in Kyneton, for example, it was something like \$1300 per adult was going out each year, and what they contributed back, - I think, it's 3, 4, 5 and 6 is the community benefit section, which is the broader community - was something like \$20. There is no economic benefit that we can see.

MR BANKS: Any other points you wanted to make?

DR BEYER (MRSC): Through the Victorian Local Government Association we have formed an interest group, a local government working group on gaming. The lobbying, the surveys, the way we got the community and pulled it together as evidence to fight some of these applications, we'll certainly be sharing that right across the state. We've had interest from all over, including community lobby groups and so on. We feel that we have been able to contribute considerably to democracy, I suppose, you could say. It's mainly through our counsellors and the unanimous - that focus for five years I think is quite amazing.

MR LETCHFORD (MRSC): Being able to be clever on a budget and holding back money and you save for that particular thing because there is a huge impost upon one budget, so what we did we budgeted for it in preparation for any appeals or going further.

MR BANKS: Do you see this decision in a sense as leading in the future to decision-making such that you wouldn't have to spend as much money or do you see that this is just going to be something that you'd have to do every time to get a decision like that?

MR LETCHFORD (MRSC): We certainly do not get any support. We would like further support but what that form is going to take, and be, I think is going to be the subject of further discussion, because it certainly is very difficult for any small community to take on with some of the giants.

DR BEYER (MRSC): Through our community pokies policy it makes it very visible how we're going to make a decision about new applications. So we will actually be asking the applicants themselves to do this social impact assessment. This is the one based on the wording in the Supreme Court decision and we ran it through a CAT system survey. In one way we hope that we will be able to reduce our costs by providing the resources and getting the applicant - because they're going to be making the profits, not us. If they think it's worthwhile, they need to be the ones that are spending it, to convince council that there won't be any - - -

MR LETCHFORD (MRSC): That's an application mechanism that we're trying to ensure that we reduce some of our costs, but if we go to VCAT and if there's a Supreme Court action then the costs are borne by the council because we take that action. It's vice-versa than the costs themselves. But, of course, through VCAT there is normally a policy of no-one being for the fees or cost recoveries through VCAT. It's a very good model of courts when you compare it to the rest of Australia. The rest of Australia is far more adversarial, but at least VCAT gives the normal punter in the street the opportunity to be able to be heard for a particular disagreement. It can go through mediation processes. Of course there's other areas of the law to apply to vexatious litigants. It is a fair and very transparent application process. But once again the costs for representation in that forum is still quite substantial, especially when the other side are having a very gifted barrister or senior counsel.

Certainly council has to look at the best legal representation that we can afford and that went into a senior counsel, Queen's counsel, plus you have a barrister and instructing solicitor. It does certainly mount up. To the average punter out on the street, they just don't have those resources to go down there.

MR BANKS: Is it a requirement to have legal counsel or is that how it has evolved over time in VCAT?

MR LETCHFORD (MRSC): There's no requirement under the Planning and Environment Act. It has evolved such that there's technicalities in the act that there are some of those greater minds that are required after all.

MR BANKS: And the correct dollars.

MR LETCHFORD (MRSC): That is part and parcel of it. However, if you want

the best representation for your community then, yes, of course you're going to go down that particular line.

DR BEYER (MRSC): The Victorian Solicitor-General's Office did an analysis on the Supreme Court finding what that meant for the Gaming Commission and they came to the conclusion that the Gaming Commission should have been there defending their original decision because we did feel left out on a limb. We had to defend their decision in a way. So hopefully they will step up and defend where they have rejected an application and VCAT is hearing it. That might be another positive that's come out of it.

MR BANKS: Is that the document you can send to us?

DR BEYER (MRSC): Yes.

MR LETCHFORD (MRSC): That's where that legal, social, moral obligation was in law. Is it actually protecting our community or not. We all have a Health Act to respond to. As local government we had a whole host of mandated requirements, both state and federal laws. We would be negligent if we did not go to look at the total wellbeing of the community. One of those is right down to gambling. It's a requirement. We can't walk away from it but we don't get any assistance and therein lies the problem. The assistance comes in the form of legislation, it comes in the form of totally recognising our sphere of government as a legitimate sphere to be able to actually arbitrate for our community and advocate for them.

MR BANKS: Is this a precedent Australia wide? Is there any other jurisdiction effectively where local government has this role?

DR BEYER (MRSC): It is a precedent.

MR LETCHFORD (MRSC): It's binding because it's gone up to the Supreme Court. Of course it goes to the High Court then it's going to be binding right across Australia. However, by saying that, there's a number of precedents which are in VCAT which are persuasive. As it goes up the hierarchy as you're aware is that it becomes more than persuasive, it becomes partly binding across Victoria and highly persuasive in other jurisdictions.

MR BANKS: Good. That has been very helpful and thank you for making it all available to us. If there's other documentation relating to it, such as the one I just mentioned, we would be welcome to receive that as well.

MR LETCHFORD (MRSC): Certainly. Thank you very much on behalf of Macedon Ranges and also the rest of local government for having an independent

inquiry, which is great. I'm sure that a lot of people will be sitting up and taking note of certainly the recommendations that come out of the inquiry. But we also look forward to the opportunity of making a submission - I've not got the document but certainly if that's available to us - - -

MR BANKS: Yes, the report is available and as I say, with this as the background, you having a look at specific recommendations, if there are any of those that you wanted to comment on specifically as being helpful from a community-wide perspective, your particular perspective, that kind of input, it could be a letter, it doesn't need to be a long submission, but that would be helpful to us.

MR LETCHFORD (MRSC): No, that would be great. It would be a great opportunity to have some social influence for some social outcomes.

MR BANKS: Good. Thank you very much.

MR LETCHFORD (MRSC): Thank you very much for your time.

MR BANKS: Okay. We'll just break now for a moment before our next participant.

MR BANKS: Our next participant is RSL Victoria. Welcome to the hearings. Thank you for taking the time to attend and also to attend in numbers, which is good. Could I ask you please though for the record to give your names and your positions.

MR McLACHLAN (RSL): My name is David McLachlan and I'm the state president of the Returned Services League, Victorian branch.

MR JOHNSON (RSL): Mark Johnson, director of planning for the Victorian RSL.

MR CAIRNS (RSL): Brian Cairns, executive officer, RSL Licensed Sub-Branched Association.

MR SHERLOCK (RSL): Mark Sherlock, chief financial officer of the RSL Victoria.

MR CURL (RSL): Bruce Curl, legal adviser to the Victorian branch of the RSL.

MR BANKS: Good, thank you. As I said, thank you very much for participating. We had an earlier submission that you provided and I think you've given us some discussion points that you will be elaborating on here today, so I'll hand over to you to address those points.

MR McLACHLAN (RSL): Thank you, chair. We thank you for the opportunity to be present here this afternoon. As you would appreciate, we have read the draft report that is on the table at the moment and in being here today, we represent our 300 RSL sub-branches within the state and of those 300 sub-branches, 110 are what we consider to be licensed sub-branches and 71 have gaming operations.

Gaming operations for the RSL in Victoria has allowed us to pursue our objectives of looking after the welfare and betterment of our veterans and the wider community in a very professional way and I must say that without gaming, it would be very difficult for us to continue to be able to do that at the degree to which we do it at the moment. We as a league welcome the continued introduction of the proven measures that will assist in reducing the prevalence of problem gambling, particularly across all sectors of the gambling industry.

In a regulatory sense, our sub-branches have always been very proactive and at the forefront of best practice in harm minimisation and responsible gaming initiatives. The government on many occasions in this state has acknowledged the outstanding contribution and the commitment that we provide to our local communities and they also recognise the actions that we take in harm minimisation. In going forward, the league believe that a responsible gaming sector is a vital part of

the commercial activity that will underpin our RSL viability and effectiveness in the 21st century. We see it as an important part of the fulfilment of our charter and objects and it's our view that the RSL sub-branches are a hub for providing much activity in many areas. In particular, we provide a safe and secure environment in our activities, particularly in the licensed sub-branch which is important to women and the broader community as well as to elderly persons, and we've made that point in our submission.

We make a significant contribution to each of the local communities through our commitment in supporting our ethos and through our sub-branch network. We also provide a list of intangible benefits, such as fostering social inclusion and a lot of that happens; including the quality of life for the aged, and we also embrace through our schools programs the younger generation. There is a greater emphasis on education and community awareness of the outstanding contribution of veterans and the values of the RSL movement and again, we're able to really amplify that through the proceeds of our gaming institutions in the state.

With that as an opening remark, I'd ask my colleague, Mark Johnson, to comment on some of the more specific areas in the report.

MR BANKS: Good, thank you very much.

MR JOHNSON (RSL): Thank you, David. Commissioners, there's six key points in the draft report that we would like to comment on and they're relative to our day-to-day activities but more importantly, they do line up in relation to some of the issues that we face with the new model post-2012. There's a lot of unknowns and we are mindful of understanding the considerations around the regulatory framework and more importantly the impacts that it may impose on our businesses and how that would be factored in in the long term.

The first one I'd like to talk about in the report is the prevalence of problems with gambling. During the introduction of gaming into this state, we've seen a significant increase in firstly the operation of RSLs across our state that have full-time operations and gaming, but that has led to a dramatic increase in membership and obviously visitation. With that comes compliance, and to ensure that our people are protected in all facets of the business and that goes across liquor licensing and gaming, which are the two predominant ones that we have to deal with on a day-to-day basis.

We are mindful of the associated issues with those that have problems in the gaming sector but what we find hard is that there's no way to validate those that maybe come from the club sector versus a hotel versus a casino. We don't have any information that can validate that people who may pass through our doors have

sought assistance through other mediums, so that's something that we have some concerns with.

We also place great importance on the diversity of the service that we're offering than when we first started. We had very small facilities. Gaming was predominantly a major part of it, but over the recent years, we've worked really hard to change that diversity to make the offering as diverse and obviously meet the demographic and the consumer needs in each of our local areas and that's been an important aspect to us. At the same time, we understand the responsibilities and the duty of care that we carry with that. As I said, that's across all elements of our business.

What we have seen first-hand in a couple of instances is some of the associated issues of problem gambling and what we have experienced is that it hasn't been isolated purely to problem gambling. There's been other health and personal issues that have been a ripple effect of that. That's something we have noticed and that's something we've kind of pushed for a long time, that it's very diverse in its nature and it can't be purely pinpointed in a lot of cases to one particular element.

As a result of that, we've done a lot of work internally in providing a mechanism for our own network in the counselling and treatment services arrangement. Firstly, about three years ago, we introduced through Trauma Counselling Australia the ability for committee, management and staff to access to trauma counsellors if they felt the need to do so. Some of those initial reactions were based on our demographic where a staff member might have had a long-term connection to a patron and they had suddenly passed away; there was a trauma element that we probably didn't consider that impacted on our members and more importantly our staff or our committee members. That then started to expand where it was obviously available for those that may have issues at home or felt that they just needed to be able to talk to someone about management issues of a particular operation; it was a bit of a sounding board and that's been very successful. We've had about 10 major cases and in two instances, we were able to prevent a major suicide for a family-related issue. We unfortunately had a suicide case just recently with a young gentleman in a country town and that obviously had an enormous impact on the area, but the trauma counselling services was able to gravitate across family, friends and a lot of people within the township that knew this particular person, so we've been very supportive of that.

As a result of that, we have put together a pilot to put to the Victorian government, trialing what we call RSL Assist. That is a 1300 number with a 24-hour professional counselling service at the other end of the phone with the ability to tap straight into someone that has an immediate need for attention, to have someone on the spot, or if it's not an immediate reaction, then obviously to refer that person to the

necessary service. That goes across, as I said, gambling, alcohol, domestic violence, sexual abuse, it goes across depression, it goes across all those areas. We're not trying to fulfil the role of those service providers but we are trying to provide the opportunity for those that seek, through the RSL - doesn't matter who they are - the opportunity to be able to pick up the phone and make that initial call and then to get the relevant assistance and service at that particular time. We also pride ourselves in that the staff don't need to know the details, don't need to go into the background, purely have the ability to provide the contact details for that person to make the call.

On the other side we've developed a compulsory code of conduct for our network which was put together by our association and again, that is specific to the RSL network and the family that we undertake to look after. It's something that obviously we review all the time, it's carried across our 71 sub-branches, it's in different variations in relation to languages and we continue to address the issues that may be need to be enhanced as that code expands. The next point that we have spent a lot of time on - and again David alluded to we want to be at the front edge - is obviously pre-commitment. We, as a member based organisation, we have a generic carding place in our network with about 150,000 currently using that card. It has the ability to go across the 71 sites. At the moment it currently checks the validation of the financial status of a member, but it also gives the ability for a member to get the membership discounts at that particular sub-branch.

That is integrated across a number of systems so we've been delighted to be able to not have to throw the baby out with the bath water but to introduce something that's certainly started to evolve over the last couple of years.

MR BANKS: Could you just say again what coverage that has among the venues of the RSL.

MR JOHNSON (RSL): We have about 150,000 members that have our generic membership card and licensed sub-branches with gaming have the ability to be able to swipe the card at purely a point of sale at this stage so they can actually check the financial status of a member from a visiting sub-branch. So it's mainly used for that status but also provides where there is a member discount offered that that person can also get that benefit.

MR BANKS: Okay.

MR McLACHLAN (RSL): But it's also got potential for other purposes, particularly in self-exclusion.

MS SYLVAN: Central database.

MR JOHNSON (RSL): We have offered that to the Victorian government for our network to trial and have indicated that we would be happy to work with them in relation to that and as you just heard, it certainly has another opportunity to provide the ability for self-exclusion so that a member accessing an RSL could be reminded of their responsibilities under that arrangement. We also have proposed an additional measure in relation to self-exclusion where a visitor signing into a RSL club when they sign in they could actually sign and tick a box where they were signatory to any other self-exclusion code anywhere in the country. So again that would remind people of their obligations and that would bring it to our attention and then obviously we could make the person aware of what their responsibilities were. So the card and obviously the signing-in process for access to a member based club has some hurdles that we could put in front of people.

MS SYLVAN: Can I ask how it works if a member from let's say one club shows up at another club where perhaps they are less known and they sign in with their card which says they're a valid RSL member and they're coming into this particular club and they're self-excluded, what prevents them - how do you anticipate that working in terms of them going onto a gaming floor or - because they're not actually gambling with that card, that's simply an admission card to the event.

MR JOHNSON (RSL): What we would like to do at some stage is have the introduction of a kiosk which would be at the point of entry in relation to the reception areas, the ability for the visiting member to swipe their card, that could be then seen at reception so that would be the awareness. It also has the ability to print a receipt, so there could be a message attached to the member's card just informing them that they have been self-excluded and be mindful of their obligations. So I suppose it's a safety net, we know that there is opportunity for someone to slip through it but believe it's another mechanism to maybe remind people of their obligations. Again, it could be introduced in relation to liquor where someone thinks they have a problem with alcohol, that it could be a reinforcement across that side of it.

We also see the ability from a pre-commitment self-exclusion, a member based organisation to have one card. We think the ability to reinforce using the card for a range of options starts to put some value behind it and it starts to have a reinforcement that people will start to use. Having purely a card that may be - and there are there mechanisms of pre-commitment obviously but we think the card is something that people would be proud to have and then it has the ability, for those that wish to, to have a range of options attached to it in which they seek to use.

MR BANKS: You don't see any resistance of your membership to the use of these cards, particularly with more things attached to them?

MR JOHNSON (RSL): Initially we think that if it was introduced as part of the membership and it was an option that a member could take, it was a voluntary option in any of those areas, we think it's something that people would accept. We think having a card purely that says, "I'm a pre-commitment," or, "I'm self-excluder," then that kind of puts the spotlight - we think if people can do it with some privacy and again, if they have a bit of a lapse and they want that reminder, there is a mechanism to give them that reminder. But we think the card being used for various reasons, for getting a drink or buying a meal or whatever, if it's something that's regularly in the hand, then the ability to remind that person, there is more chance of that happening.

Can I ask our legal counsel just to comment on the venue activities and this is a fairly complex matter and we would ask Bruce if he would make some comments on behalf of this for us, please.

MR CURL (RSL): There are two matters I wanted to talk about, the first one relates to your report where you make the point that the responsible gaming codes are voluntary. The point I want to make in Victoria is that that is not now the position. There has been a large amount of reform take place - probably too much in the last 12 months but a vast amount of reform in relation to gaming and now every gaming venue in Victoria, pursuant to section 3.4.12(b) - and I will give you this in writing in due course - is required to have a gaming policy and a self-exclusion policy. It has to be lodged and it has to be approved by the VCGR and unless they're approved they can't be lodged. The act gives the VCGR the ability to amend those gaming codes, the responsible gaming codes. I practise in that jurisdiction extensively. I have every reason to believe they will exercise that power within the next 12 months.

The second thing is - and this goes towards this matter of the statutory clause of action in part. It seems to me that in your report the statutory cause of action is put there for two reasons: (1) is to financially bring to the attention of the venue their responsibilities and make them suffer, if I can put it that way. It's the stick behind the carrot, if I can put it that way, and I say that for that basis it's not required because there's a specific provision in the act that if the venue operator - the person who holds the venue operator's licence in Victoria - repeatedly breaches the code of conduct or the self-exclusion, they can be disciplined. The VCGR which is the Victorian Commission of Gaming Regulation does have disciplinary hearings, has the regularly, suspends people, has in the past closed venues for periods of time for punishment.

MR BANKS: Relating to issues to do with the treatment of their patrons?

MR CURL (RSL): Not relating to the responsible gaming codes because they only came in in April this year.

MR BANKS: They didn't have statutory force before, do you mean?

MR CURL (RSL): They didn't before. They have closed then for other reasons and they have closed them for - for instance, Liquor have closed gaming venues for serving minors specifically; one was closed for about three weeks. So in Victoria at least both the self-exclusion arrangements and the responsible gaming codes do have legislative force here and I have no reason to believe the VCGR will not use that. When the various codes were put up, the VCGR had comment on them but they didn't just file them and negotiations took place as to what was to be in them so it's a very active interchange, bearing in mind there's about 500 venues in Victoria. It's not quite as large as it might be in some other states. I'm referring to gaming rather than keno or rather than betting shops and things like that.

MR BANKS: If we just look at the provisions relating to gaming and when this action might be triggered, what would be the sequence of events? How would it be brought to their attention?

MR CURL (RSL): It would be brought to their attention two ways: you're required in the gaming policy - which I will let you have a copy of - if somebody asks, it can be reported to the VCGR that there is a complaint been made. All complaints are required to be dealt with. That's set out in the policy, how they're to be dealt with. It includes a mediation process and it requires the production of all these documents for the VCGR.

Now, the Victorian government, as a result of the changes in gambling, in repeated documentation have made it clear that responsible gaming and self-exclusion are very important, that they have and will continue to give directions to the VCGR. I would expect this to be closely monitored. In any hearing where you go to the VCGR for approval of machines for additional fittings there would be in a two-day hearing about three to four hours spent on responsible gaming and what the venue does for it.

The commission will call for the incident book in most cases and you're subject to very substantial details. There is also I think three flying squads from the VCGR that attend at venues unannounced. They are concerned with a whole range of things, including incident books and they call for incident books. I think that supervision and oversight will be increased, not the least because of your report and your draft report, but it was going that way in Victoria beforehand.

The commission, I believe, requested this power and the government was happy to give it to them. I think it's March this year, but earlier this year gaming policies have been mandatory and they have got a sting in them. The disciplinary

includes fines, and substantial fines, suspensions and cancellation. I think you would have to be fairly serious to be cancelled, but if you were operating a gaming venue and you were suspended for one month, that would be a fine in many cases that would be some hundreds of thousands of dollars. It's not a slap on the wrist, it's a very substantial fine. I thought that was relevant as to that part of your report.

MS SYLVAN: The other element of that is the individual, of course. You were about to get to that?

MR CURL (RSL): I was about to get to that. I was about to suggest that I think there's very real difficulties with a statutory course of action. You were probably aware of the recent High Court case, the Scott case in Tasmania, which no doubt you have heard about, the so-called responsible service of alcohol, the High Court's remarks. My own view is they went a little further than I might have been prepared to go. It's relevant in one case, that case, but the problem with a responsible gamer is twofold as against somebody who is drunk: one, if somebody is drunk you've got a pretty fair chance of working out whether they are; responsible gamers, you can't work it out that quickly. That's the first thing.

The second thing is if a person gets drunk at a venue, they get drunk in one or two venues over a short period of time, such as 24 hours. In relation to a problem gamer, that problem will take some time to develop. It might take, at the very least, some months and probably a longer period of time. They will, during that time, in most circumstances - and I'll deal with the casino in a minute because I think it's a different issue - they will visit a large number of venues. When you're trying to run a course of action, who do you sue and how do you apportion. If a gamer has developed a gaming problem and is continuing to have one and you want a duty of care, do you end up suing 25 venues? How do you prove they were there? There's a whole series of practical problems in making that work.

I think the casino is different - the casino cases that you've reported to - it's where gamers had a very specific relationship with one casino. In my experience - and inquiries I've made - is that people who game a fair bit go around to the venues. You know, the machines are paying here this day, they believe they're not paying over there. They might regularly visit 10 or 12 venues. Certainly when they self-exclude, they will self-exclude for 20, 30 or 50 venues. It's clear that people who have a gaming problem will extend themselves over a long period. I think the problem with the statutory cause of action by way through the courts is that it will be so unwieldy and you will be unable to apportion liability. It just won't work.

What might work is that it might be an alternative to say that the regulatory authority, such as the VCGR, can award part of the fine or something, obtained from the venue, to a problem gamer who was subject to the particular breach. That's not

dissimilar from the arrangements in New South Wales for industrial accidents where there's a prosecution and where part of the fine goes for that purpose. If you want to provide some form of compensation - and bearing in mind your report refers to people who are guilty of flagrant breaches not a slip - a problem gamer is going to be a problem gamer whether there's a flagrant breach or not, if you know what I mean, if you're talking about the development of it.

I think otherwise the quantification of damages becomes impossible to deal with. That's partly pointed out in that Tasmanian case as well about this causation issue. If you wanted to do it another way that might be effective, I would have thought placing it with the regulatory authority might be a more satisfactory way of bringing it about, and it would certainly not require the sort of costs - I'm a lawyer, I know that and I appreciate costs but there could be a problem with that. Our view is that they're the reasons why we think a statutory cause of action just really would not work on a practical basis, assuming you could get to it.

MR BANKS: Thank you for that. That's very useful feedback. I mean, clearly what we had in mind is there would be reasonably well defined instances in which this could be invoked. I guess we imagined it would involve a relationship between the two parties, and what you're saying is that that probably in any case wouldn't happen - - -

MR CURL (RSL): Less than 3 per cent, and that's where the casino cases are misleading. The two that you quote - particularly the one that's currently waiting for judgment in the Supreme Court - it was clear that that gentleman had a substantial relationship, as I understand from the material, with one casino only. Problem gamers playing gaming machines do not have that problem, it's more broad. That's the problem.

MR BANKS: If I can give one example - I was trying to find it but I can't, but one example would be where someone had self-excluded but was nevertheless encouraged back into a venue and allowed to play and lost a heap of dough that that would be fairly clear cut, I would have thought.

MR CURL (RSL): The VCGR, with respect, I think is the better tribunal to deal with that, is the point I'm saying as well.

MR BANKS: Right.

MR CURL (RSL): I'm not arguing if there's flagrant breaches that there shouldn't be a penalty and a reward, if you can put it that way, and I don't think a statutory cause of action is the way to do it.

MR BANKS: Good. Thank you for that.

MR McLACHLAN (RSL): Could we now ask our CFO just to talk on some of the financial implications of what we're talking about before we come back to Mark?

MR BANKS: Good, thank you.

MR SHERLOCK (RSL): The RSL in Victoria is unique. We talk about not-for-profits, sometimes unfortunately I say not-for-loss - sometimes. All of our sub-branches are incorporated associations under the Associations Act in Victoria. Each of them have the same rules. Whenever there is a change to the rules, they all change. In Victoria we do not have a separate club and a separate sub-branch. They're the one entity. The incorporated association is a licensed sub-branch and you would have heard us talk about sub-branches rather than clubs.

The sub-branch holds the liquor licence and also the gaming licence and any other licence going forward. We ensure from the Victorian branch perspective that the sub-branches carry out their objects, both in a voluntary and in a financial manner. We in the Victorian branch at Anzac House, across the road here, oversee that. The sub-branches by the way expect that. It's quite unique. The RSL network last year donated over \$6.5 million in cash in kind. Last year the voluntary hours in our group was in excess of 1.25 million hours. Again you won't find the actual set-up that we have in Victoria in any other state. We'd love, naturally, for it to go to other states and we're working on that. That's all I'd like to say, thank you, sir.

MR BANKS: Thank you.

MR McLACHLAN (RSL): Mark, if we could go on with the cash and credit side.

MR JOHNSON (RSL): I'd like to pick up in section 9 in the draft report which is access to cash and credit. Obviously we draw the attention of the draft report where the commission supported the implementation of the self-regulatory mechanism in relation to ATMs. The commission was aware that we put forward to the Victorian government a very detailed proposal earlier this year about having the ability to have a process where we could use again a membership card for access to members only in a secure environment within an RSL where a member could access an ATM on one occasion in a 24-hour period across our network.

We also brought down the withdrawal levels to \$200 per day, or again that the person could make that one decision on that one entry point. That ability across the network also had the ability for those that were self-excluded to take themselves out of play but, more importantly, someone that didn't want to access the ATM within an RSL that also had that opportunity to be able to do that. We put a lot of work into

that and it was also based on our demographic. A lot of our members come into the RSL probably on a weekly or an infrequent opportunity to socialise and interact from a membership point of view and use the RSL at that stage from a security point of view to access the ATM to get money for shopping, to pay bills, to have some cash available to them.

That's something that we also don't have the luxury of being on prime street corners. In some instances we're in back blocks. In a lot of cases in regional Victoria we're outside of the CBD, so to speak. So the access to an ATM within walking proximity is in some cases limited, and in some areas we are the only facility that provides an ATM outside of a bank where they don't have the hole in the wall, so to speak.

We were mindful of accessibility to our members. We certainly took on board how people would use cash and knows how it goes into the gaming machine, we don't hide from that fact. But it is used for paying membership, for paying for food - we are a cash based organisation in relation to how people make a transaction - for buying tickets, for paying for day activities, going on tours, all sorts of things. So there was a diverse range of activities where we had access to cash. More importantly again we felt that it met all of the criteria that the Victorian government were trying to apply to it, in limiting access to cash via an ATM, so a visitor to an RSL could not access an ATM. Again it was a member only service controlled by a membership card in a secure environment.

We'd like to go on record and say that we're disappointed by the government's decision in Victoria not to allow us to put that pilot into play and we obviously have to consider the impacts of what that might do to us down the track. We will take that to another avenue.

MR BANKS: Because of their decision to actually remove ATMs from - - -

MR McLACHLAN (RSL): From 2012, yes. It's interesting, the average withdrawal out of our ATMs is about 102 to 103 dollars per day per individual, so it's not a big amount.

MR BANKS: You thought \$200, notwithstanding the points you made about the use of ATMs, was a reasonable proposition?

MR JOHNSON (RSL): Yes, and also the \$20 notes in relation to the dispenser, so we could actually round it off at \$20 notes and things like that. The final point in relation to the draft is section 15 under the Gambling Policy Research and Evaluation. We would support the improved policy review on evaluation and we think there's been a number of initiatives introduced over a long period of time where

we haven't had the ability to be able to consult. There's been a major cost in some of those areas but also there hasn't been the ability to be able to evaluate the introduction of some of those particular measurements that have been introduced over a period of time.

We can talk about lights and smoking and all that kind of thing, they all have had an implication in the costs associated but again we haven't had the ability to understand how it impacts on our business, and also more from a consumer point of view. We talked about three areas that we believed we could implement in relation to self-regulatory options within our network in a very short period of time. We talked about RSL Assist. There's no doubt that would be an extension of the education awareness that people would have within our network to gain access to where they would seek assistance and require additional help outside of the normal services they maybe think are out there.

We also see the pre-commitment and it's also supported in our code of conduct. We've talked very clearly about the pre-commitment strategy. We see that as a great opportunity for the government and industry to trial something in a field environment, and for the research and evaluation to take place, and for all stakeholders to have an input into how that would play itself out. Again we think there's a number of systems, and having a generic card that again that's one option. It could be a keypad, it could be a touch screen, there's a number of options we could implement we think in a very simplistic way, I suppose, and mindful of the costs associated.

Finally, everything we talked about today is providing a secure environment for our members. We talked about the use of a membership card. It is our formal ID process. We have a generic ID that we align to every membership card that we process through Anzac House. We have the ability to provide that mechanism under one card with a range of activities associated to it. We think that's a fairly powerful tool. As I said earlier, it has the ability to integrate into third party systems. We've done it a fairly simplistic way at this stage but we feel that that could certainly be enhanced by talking to the people on the IT side of things.

I'd just like to close by saying that we do fully support the commission's ideas about strengthening incentives for those that can self-regulate. We think as an organisation we're in a good position to be able to do that, in hand with industry and other stakeholders to be able to look at the outcomes and align those objectives with what governments have across the different borders. Thank you.

MR McLACHLAN (RSL): Commissioners, I think from the branch's point of view, we seek to some extent to have treatment as a unique entity in this whole business in gaming operations. There is some support that we sort of look towards to

ensure our long-term viability. In Victoria, again I'd say we're unique and we offer an unrivalled opportunity to trial harm minimisation in our environment, and self-regulation programs. We can come up with the quantitative analysis at the end of that to be able to let you see the results and their impact.

Within our sub-branches there is a direct community benefit from the gaming revenue in RSLs. Any surplus funds are used to improve the facilities which in some instances are used by every single local community group for meetings, sporting events and other social activities. Many of our sub-branches provide the only social interaction that members in the aged community facilities have to get away from their facility, and that's generated by the RSL.

Our membership card, as you heard, offers again a unique opportunity to monitor and measure the movement of problems and at-risk gamblers within the network. Our Assist program will not only offer new data sources on problem gambling, but will also directly help those at risk and to identify other related problems that are not isolated just to problem gambling. I believe that our code of conduct that we have established across our network goes beyond what was required and shows a rigorous commitment to harm minimisation within our network.

We offer to trial the pre-commitment program and to help provide data to develop an appropriate pre-commitment system, and we have offered that to the Victorian government and it's an offer that still sits on the table. As you heard we are still disappointed at the government's decision to remove the ATMs in 2012 in other jurisdictions, as well as our own. In discussions with political leaders there seems to be an acceptance of the fact that it does provide a social opportunity for people in a safer environment to be able to do things which they are not comfortable doing on the street.

I guess from the RSL's point of view, why do we want to harm our own people? Why don't we protect them from the harm minimisation and gambling there. I think that's the important thing, that we are very committed to ensuring that people that come into our venues can do so in a safe and secure environment and that they're protected from themselves. Thank you.

MR BANKS: Thank you very much. I'm sure we've both got questions. One that I just wanted to establish early on, I think you remarked that you were trying to diversify your activities and potentially sources of income et cetera, but could you tell me what proportion of your revenue now would come from gaming machines or perhaps how that's moved over time. Do you have any data on that?

MR SHERLOCK (RSL): Yes. Our total revenue in 2007 was \$115 million, of which 68 was from gaming revenue. Of that as well 25 million was from bar income

and food generated 11.

MR BANKS: That's about 60 per cent.

MR SHERLOCK (RSL): Yes.

MR BANKS: You would have seen in our report - and the point you make is well taken about caring for your members, I guess generalising to the industry more widely the fact that quite a high proportion of the industry's revenue comes from gaming and quite a high proportion of that, according to our calculations, comes from people who are having significant problems with their gambling, does pose a problem for self-regulation of an obvious kind and I guess that's why the commission, not being a body that normally would recommend a lot of regulation does see a role for it in this way. But I think what you're saying is that the things you've been doing in a sense anticipate some of the regulation anyway or perhaps even goes beyond it in some respects.

MR McLACHLAN (RSL): Commissioner, could I make a point. You talk about \$68 million and so it is if it were to come into one location. But I think the point that often gets missed is that \$68 million from gaming is represented over 71 different venues and it's the money that goes back in those venues, to the development of the venue and it's operation as well as back into the community. So it's not we at Anzac House amassing all of this income, it's out there back into the community to be used by the people that are putting it in. But I take your point about responsible gaming and that's what we try to ensure.

MS SYLVAN: That went to the heart of my question actually as well. We had some data from one of the club venues who are also community based venues in terms of where their members spend money as gamblers within other clubs. I was wondering if you have any - as opposed to gross income - details about where the income from gaming is coming from in relation to your individual members. One of the reasons for that is the evidence that we are looking for to see what proportion, in a sense, of very high losers are sitting in the income streams which are very relevant for clubs and pubs, RSLs and so on. Problem gamblers spend more, so how many are sitting spending a lot of money. Do you have that sort of data?

MR SHERLOCK (RSL): No, the only information we could provide would be which postcodes and particular RSL they come from. We don't have that information.

MR BANKS: I was going to ask you about consultation and good process and get you to perhaps comment a little bit more on that and in particular you are concerned about what's happened in Victoria in relation to ATMs and ask you whether you

were consulted in that process or consulted adequately as a particular example of it. But if you had any other general comments to make around that issue of good process, we would be interested in that as well.

MR McLACHLAN (RSL): The proposals for the ATMs was canvassed with us and we made a submission to it, we wrote separately to the responsible minister. We offered to conduct trials related to it. We made some suggestions to the relocation of ATMs away from line of sight from gaming areas and all of those matters. But despite our best offers of working together in that, to trial it, the decision was made and we've been told that it is going to be implemented. We made a reply to the responsible minister and he's come back and said, "No, government has made their decision."

MR BANKS: So you were consulted. Did you feel there was adequate opportunity to put your case, adequate time to prepare it and - - -

MR McLACHLAN (RSL): I don't think there's any doubt that we had the opportunity to put our case but I'm not sure that there was much consideration given to the points that were made. But that's a different jurisdiction and that's unfortunately.

MR BANKS: You mentioned, and it's quite interesting the story you have about the way in which you can develop systems that can go across your various venues and sub-branches and so on, but you put a proposal relating to pre-commitment to the government. I was just wondering whether that was a document that you could make available to us or maybe think about that and - - -

MR JOHNSON (RSL): Originally it was on offer. It was in consultation with one of the current operators. They had been doing some work in another area not on gaming directly so they had an option available. It had been put to government as a possibility. We were happy to push it to that next stage where it could be put in a trial environment so it was really in conjunction with one of the current operators.

MR BANKS: I suppose I was wondering whether you'd actually set out what all the elements of this pre-commitment - - -

MR JOHNSON (RSL): We could give you a step-out paper - - -

MR BANKS: Yes, that would be useful.

MR JOHNSON (RSL): - - - just as to how we would see it going and we could do that for you.

MR BANKS: Okay, thank you for that.

MS SYLVAN: Just one last question. There were some recommendations in our draft report in relation to changes to machines themselves which you haven't commented on. This was reduction in bet limits so that it reduces potential losses from - well, depending on the intensity of play, of course - a substantial amount down to \$120 and other changes as well. Did you have any comment on that?

MR JOHNSON (RSL): We have considered that option and I think this is really a whole of industry approach and I think it really goes back to the manufacturers firstly to talk about the implications of changing the dynamics of a particular game and denominations and things like that. We felt that the stronger vehicle that had a more universal approach was the pre-commitment. We felt the pre-commitment could be applied and it was a voluntary code that people had the awareness and the ability to be able to get into it easily and understand how it works. We felt that some of those parameters - and I think that was also in the draft report - might be redundant at some point in time. Pre-commitment has been lined up as part of 2012. It was not on the table from a monitoring point of view for Victoria. The government have seen fit to line the two up and they're coming together very closely. We still have no understanding at this stage of what pre-commitment strategy or system might be used in this state.

So we're asking that that be put on the table and let us explore it in an environment and again, we've always been mindful of the things we're putting forward are not just isolated to the RSL network. We think there are things - hotels are a little bit different because they don't have a member based capability but again it's something that could be looked at. So we're purely coming from a member based club activity initially but certainly not exclusive to ourselves.

MR McLACHLAN (RSL): The other thing, of course, is that across our network I don't think we have a facility that would be able to operate at that level on a particular machine doing that rate of utilisation. Of course, the other thing is that you would have to ask state governments about that too because it's going to have a big impact on their revenue base.

MR BANKS: I take the point that you make. A number of these minimalisation measures are only effective if they're effective across venues and obviously not just RSL venues but the club or club over the road.

MR McLACHLAN (RSL): Pubs and casinos.

MR BANKS: That's right.

MR JOHNSON (RSL): Can I just go back to the point you asked about in relation to the ATMs. David sits on RGMAC the advisory council to the minister here in Victoria and we presented our proposal to the full RGMAC advisory committee and it was endorsed by the RGMAC committee as a recommendation to the minister to allow our trial to happen and then the minister come back and obviously thwarted that attempt. So it was certainly put to all the stakeholders at a full RGMAC meeting and it was supported that we be given an opportunity to conduct a trial.

MR BANKS: Okay. You mentioned a voluntary system of pre-commitment. I just want to understand what you mean by voluntary and as you will see in our report, we advocated a opt-out rather than an opt-in system. You understand the difference between those two things. It can have quite a powerful difference actually in terms of take up of options available to people, whether they opt-in to those or have to opt-out. You'd say it's still voluntary, but the difference is significant.

MR JOHNSON (RSL): Initially we'd see it where we would line up with renewal or retention of membership so when you're renewing your membership you would have the ability to tick a number of boxes and we would see that that is one of the options and we would hope with education and people aware of what that offered, that they would take it up and not be fazed by that process. So we would hope that people would consider it as part of the overall membership package that we would offer and if they didn't feel comfortable then they could certainly opt out. But we would see it as purely just something that they would tick the box and be comfortable with just a service that would be provided within that particular environment.

Again, that presents another set of circumstances from a visitor point of view but we also have talked about the ability from a visitor to have a temporary card so we again could have the option of a pre-commitment strategy for a visitor coming in, provide a temporary card to them, allows them to access the system or to use the system and then to set the particular limits while they're using the RSL facilities.

MR McLACHLAN (RSL): Of course, in the discussions that we have had with the relevant authorities in the state, when they were talking about the early stages of pre-commitment, there was a feeling that perhaps everybody had to have a card to be able to play, not just to get into the venue but to be able to play on a particular machine and we were then a little concerned that if a casual player or a visitor to a venue came in and whilst the husband went to the bar and the wife wanted to put \$10 or something in a machine, if she didn't have a card, she wouldn't be able to do that. It took away part of the entertainment that goes with that. But the state government has said that that wasn't their intention to have a card that everybody operated with. So I think that there is that flexibility in it.

We wouldn't want to see everybody that has to play have a card that actually

gets them the authority to operate on a machine. But we are quite conscious of the fact that in a pre-commitment situation which is voluntary, you can have such a card to be able to exclude yourself.

MS SYLVAN: Can I just clarify something. In the pre-commitment system that we've recommended, it's not only self-exclusion that we've recommended, as you know, it's the ability of a person to actually indicate at the beginning of their play precisely the amount they wish to lose. In a way self-exclusion is at the end of that which is you want to lose nothing at all. If our calculations are correct in relation to the extent of moneys derived from problem gambling and electronic gaming machines and one of the implications of pre-commitment and the ability for the problem gambler to control their expenditure would of course be a decline in revenue. In a sense you're saying that that's appropriate, particularly for venues such as yours. That would be expectation - we don't know how much obviously, it would have to be speculative - but that would be almost an inevitable result, I would think, of problem gambling.

MR McLACHLAN (RSL): It would be. In addition to that would be the infrastructure costs associated with implementing the system that allowed, in our particular case, to be monitored statewide because if a person has a pre-commitment with a card, you want to make sure that they don't only go to this particular sub-branch. So then not only have we and the RSL got to have that network, the state government has got to impose a network associated with that also.

MR BANKS: Thank you, gentlemen. It has been a very useful input. As I said, we have asked for a bit more information and if there is anything extra you can provide us, that would be great.

MR McLACHLAN (RSL): We will undertake to provide the information from our learned colleague here and also the other matter.

MR BANKS: Thank you very much.

MR McLACHLAN (RSL): Thank you for the opportunity to be here.

MR BANKS: We will adjourn the hearings now. We resume in Sydney on 1 December. Thanks very much.

AT 4 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 1 DECEMBER 2009