



SPARK AND CANNON

Telephone:

Adelaide	(08) 8110 8999
Hobart	(03) 6220 3000
Melbourne	(03) 9248 5678
Perth	(08) 6210 9999
Sydney	(02) 9217 0999

**TRANSCRIPT
OF PROCEEDINGS**

PRODUCTIVITY COMMISSION

INQUIRY INTO GAMBLING

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

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON TUESDAY, 1 DECEMBER 2009, AT 9.14 AM

INDEX

	<u>Page</u>
NICK XENOPHON	92-101
BETCHOICE CORPORATION PTY LTD: MARK MORRISSEY JAMIE NETTLETON	102-122
GAMBLING IMPACT SOCIETY OF NEW SOUTH WALES: KATE ROBERTS	123-134
TOURISM AND TRANSPORT FORUM AUSTRALIA: EVAN HALL	135-148
NEW SOUTH WALES RACING INDUSTRY CONSULTATION GROUP: MICHAEL KENNY	149-168
RACING NEW SOUTH WALES: ALAN BROWN PETER V'LANDYS	169-189
ABORIGINAL HEALTH AND MEDICAL RESEARCH COUNCIL OF NEW SOUTH WALES: SANDRA BAILEY ROGER WILLIAMS SOPHIA LEMA	190-200
EXODUS GROUP: HANS TIMMERS BILL CREWS MURRAY McFADGAN LANCE HALATAU	201-211

MR BANKS: Good morning, ladies and gentlemen. Welcome to the public hearings for the commission's national inquiry into gambling in Australia. My name is Gary Banks, I'm chairman of the Productivity Commission and presiding on the inquiry. With me are Commissioner Louise Sylvan on my left and Robert Fitzgerald on my right. As you would be aware, the commission has released a draft report for this inquiry in the normal way and these public hearings provide an opportunity for participants to comment on that report in person and have some discussion about their responses, in addition to making formal written submissions. This will help the commission identify the areas that may warrant further thought and where it can make some changes to its report, the final report being due at the end of February, 26 February 2010.

I just 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 the Productivity Commission Act requires 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.

With those formalities truncated slightly, out of the way, I now would like to welcome our first participant for the hearings here in Sydney, who is coming to us through teleconference facilities and we appreciate the effort you're making, Senator Nick Xenophon. Welcome to the hearings.

SENATOR XENOPHON: Good morning. Can I say I'd much rather be there than where I am right now in terms of what's happening here in Canberra.

MR BANKS: I can imagine that. We do appreciate the time that you've put in to making a submission to the inquiry and indeed this morning. So we're in your hands. We'll make it as brief as you like and of course if you wanted another opportunity to make comment or to appear, we could try to arrange that. I'll just hand over to you, if you like, to make some of the key points that you want to make.

SENATOR XENOPHON: Sure. Thank you for this opportunity. You already have my submission that I forwarded several months ago and I stand by that. If I could just focus on some of the recommendations in the draft report of the commission, particularly in relation to the issue of reducing the rate of loss on machines and on the issue of precommitment. I think those two alone would have significant potential to reduce the level of problem gambling.

I think the key to the whole issue of reducing the rate of loss is not only in terms of the maximum bets you can place but also to reduce the volatility of machines. I think the problem is that there is not a nationally uniform standard as to how volatility applies. That's my understanding in terms of different jurisdictions have a different approach as to how you determine the minimum payout rate;

whether it's over the life of a machine or the life of a game, I think there are different approaches. But the key there is to ensure that if volatility is reduced, then if a player is playing a machine for an average period, if it's for half an hour or an hour, if they know that they will get most of their money back in that period, that reduces the risk of heavy losses and people chasing their losses and I think reducing volatility would be a key to this, as well as reducing maximum bets.

MR BANKS: Yes. Thank you for that. It's obviously something that we will need to talk to others about but I take it nevertheless that the suggestions that we've made in the other areas about loss rates and precommitment, as you say, are ones that you think would address the issues?

SENATOR XENOPHON: I think so, on the basis of my disclosure with gambling researchers and those at the frontline, those that treat problem gamblers. They say one of the common features is that people are chasing losses because they think that there's a win around the corner, but of course the way the machines operate, it just isn't like that. In terms of the whole issue of the volatility of machines, I think that if people know that within a specified playing period they will approximately get what the payout rate is meant to be, then I think the machines will probably be less attractive to play but they will also be less problematic to play from a product safety point of view.

MR BANKS: As you know, faulty cognitions abound in relation to gaming machines, but you don't think there's any other way in terms of informing gamblers or consumers that could address that same issue?

SENATOR XENOPHON: I think a lot more needs to be done but I note that in New Zealand, they've got an approach there of having pop-up warnings; that may be of some assistance, although as I understand it from a media report of just July of this year, whilst spending on machines dropped to a seven-year low, there is some conjecture as to the effectiveness of those pop-up warnings. Certainly they haven't done any harm. They haven't made things worse in terms of problem gambling but they may have only had a marginal benefit.

I think if you look at smart card technology or precommitment technology, I think short of getting rid of poker machines - which is always my holy grail but I'm also a pragmatist - is you have effective precommitment technology that would have the potential to significantly reduce problem gambling. That's why the Independent Gambling Authority in South Australia's report of 2005 I think was quite instructive in terms of the work that they did then. They found the technology existed back then. It's certainly much more advanced now to have an effective precommitment technology.

MR BANKS: Just on the precommitment, senator, did you have any comment

about the principles that we should apply for an effective precommitment system because as you know, precommitment is increasingly being talked about but people's conceptions of what constitutes a precommitment system vary considerably in relation to issues like how voluntary they are and to what extent they have coverage across different venues et cetera.

SENATOR XENOPHON: That's right, and almost you have two-tiered poker machines; I think that was one of the suggestions. My position would be that you ought to have an all-in approach, otherwise it won't be effective. The inconvenience to recreational gamblers of getting a precommitment card with some sort of biometric scanner or some sort of security system - the inconvenience will be quite minimal. It could probably be done in the course of a few minutes and then you never have to worry about doing that again. But the importance I think of effective precommitment is it certainly will make a big difference in terms of people chasing their losses. If you commit at the beginning of a playing session, if the parameters are set early on, I think you could actually have a very effective approach that will reduce problem gambling but it's important that it not be driven by industry but it could be driven by regulators with the overarching aim to reduce problem gambling.

MR BANKS: Okay. I think Robert Fitzgerald has a question.

MR FITZGERALD: Yes. Senator Xenophon, can I just ask you in relation to the two bills that you have before the Senate at the moment, could you just enunciate the key thrust of the most recent one, the Reduced Losses - Interim Measures Bill and where that is up to at the moment.

SENATOR XENOPHON: As with most private senator's bills, it will go off to a committee and then the committee will report on that and I expect that the committee will report some time early next year and then if we're lucky, it gets to be debated. The main focus of these bills is that it actually provides some fact-gathering exercise for a Senate committee where all stakeholders can give evidence, including obviously industry, including the machine manufacturers, the clubs and hotels and of course the various concerned sector groups. Obviously I am hoping that it will be picked up in some form by government as a positive act to reduce problem gambling and also I think to make the point that the Commonwealth does have the power to override states when it comes to problem gambling measures, in the sense that the Commonwealth can use its powers under the corporations and banking and telecommunications laws and even taxation laws to effectively regulate. So there may be a debate on it. Time may be set aside, I would imagine in the autumn sittings, for the bill to be dealt with and hopefully a vote to be made on that particular piece of legislation, but we're still a few months away on that.

MR FITZGERALD: In relation to the earlier bill, the one dealing with ATMs and cash facilities, as you would be aware, our report is more guarded in relation to the

ATM issue. Your first private member's bill indicates that you want ATMs removed from venues. Ours is basically to say let's see what the Victorian experiment proves. Also we've taken a different approach to limiting cash withdrawals through the ATMs on a daily basis. I was wondering whether you have any particular views about our recommendations and approach vis-a-vis ATMs and cash withdrawals.

SENATOR XENOPHON: I thought the commission's 1999 report and its survey of ATMs was terrific, so that's the one I keep referring to where I think you found that an overwhelming majority of recreational gamblers don't need to use an ATM at a venue, whereas a very significant proportion of problem gamblers, particularly those with a severe problem, would use the ATM as a means of chasing their losses. But the whole issue of ATM access at venues I think would be sidelined if you had effective precommitment technology, precommitment measures in place. It would be superseded I think by effective precommitment technology if that was mandated.

MS SYLVAN: Senator Xenophon, Louise Sylvan here. On the precommitment issues which you have talked about and see as potentially highly effective, the draft recommendations are for all in, as you've supported. There's an additional question of how it operates when the individual gets in front of the poker machine and we've suggested that the choice would continue to rest with the consumer as to whether ultimately they put in an amount and/or time, so it's effectively an opt-out. They must deal with the system and would continue to have to deal with it as it re-asks that question. But I wondered if you had particular views about that operational aspect of a precommitment system.

SENATOR XENOPHON: I guess the issue is that the problem with addiction is the question of free rational choice is compromised and if a person has a pathological gambling addiction, I think it's important that any precommitment be effective in the sense that once they make an initial decision to play, they're locked into that and how long they're going to play for and how much they are planning to spend. I think it would solve the problem for the person who has a severe pathological gambling disorder, in the sense that they will make a commitment to risk it all, but in most cases, from the many discussions I've had with problem gamblers and with their counsellors, people chase their losses. In most cases people go into a venue thinking they're only going to spend 20, 50 or a hundred dollars for half an hour or an hour, not expecting to be there all night and a thousand dollars poorer at the end of the session. So I think it's important that any system take that into consideration in the context of any effective precommitment strategies.

MS SYLVAN: Thank you.

MR BANKS: Okay, thank you. We're conscious that the ball is in your court and the time constraints are greater for you.

SENATOR XENOPHON: Sure. Can I just ask, is another 10 or 15 minutes okay?

MR BANKS: Absolutely.

SENATOR XENOPHON: Yes, sure. Can I just say on the issue of online gambling, I think I saw a cover story - it may have been Clubs New South Wales magazine - why is it that poker machines are picked on and Why Aren't You Doing Anything About Online Gambling; I think that was the heading or the headline on the cover of the magazine. Without shocking the clubs in New South Wales too much, can I say that I agree with them insofar as I am concerned about the growth of online gambling. I foreshadowed a reference to the Community Affairs Committee next year which will be voted on about the effectiveness of current online gambling laws, the growth of online gambling technologies and also I think a related factor is that with the betting to lose with betting exchanges and the means by which that betting can take place, I think there is a much greater concern in relation to the whole issue of match fixing which I see as part of the policy framework for sports betting. So I think that online gambling is something that we as legislators in both state and federal parliaments have not adequately addressed in the last few years because there has been a massive growth, both in technological advances in respect of online gambling, but it hasn't been matched with a review of the legislation.

MR BANKS: As you would know, I guess we made a distinction. We tried to approach each of the forms of gambling with the same sort of considerations in relation to scope to reduce harm without impacting unduly on those who derive primarily benefit from it. The problem we found with online gambling, gaming in particular, was that the provisions there to block access to it were not working, so that we had the curious situation in which people who were using that form of gambling were actually more exposed to harms than they would be if the system was properly regulated. It was rather speculative last time as to what extent it would be possible to block overseas sites et cetera. Our understanding is that that has not proven possible or indeed any easier over time. Do you have any comments about just the practical issues to do with implementing what you've proposed there?

SENATOR XENOPHON: Sure. I don't think that Senator Stephen Conroy will be listening to this particular submission - he may read the transcript - but I don't think that what he planned as an Internet filter will work from the evidence I've seen of Internet service providers. I don't think blocking sites would actually work. I think there are many ways around that, but when you consider the harm caused is not looking at one of these sites but losing your money on one of these sites, then the problem should be tackled in terms of the financial transaction.

A number of years ago, I assisted, along with a gambling counsellor, a person that lost many thousands of dollars on an online gambling site somewhere in the Caribbean, I think somewhere in the Americas, and the transaction was voided as a

result of an argument we put to the bank, an Australian bank, to say that this is at least a voidable transaction under the interactive gambling legislation and therefore the transaction should be cancelled. It was. I think that if the approach was one of if it's a voidable transaction, if it's for these illegal sites, then I think you can nip it in the bud, in the sense that if a transaction is voided, I think that most overseas sites won't want to go near any Australian credit cards. Obviously there would be ways around that. If you wanted to send an electronic transfer to somewhere in the Caribbean to an online casino, then I think you've done your money, but most of these transactions will occur by way of credit card and I think you could significantly impact on the growth of online gambling and the harm caused by making sure that these transactions are quickly voidable.

MR BANKS: This was a one-off case that you're describing there. Have you had any discussions? I'm just trying to think about the earlier work we'd done ourselves about the transaction costs for the banking sector in implementing such an approach in a generalised way.

SENATOR XENOPHON: The transaction costs would be - I mean, effectively the policing would take place via the punters, in a sense, so that you would have a situation where it would be whether the online casino would face losing their shirt, rather than the player which I find a particularly attractive proposition in terms of the tables would be turned on the gambling provider. I think you would find that if it was clearly a voidable transaction and a legal contract at law, if you like, that it would be a transaction that could be voided. I think the banks - there may have to be a reasonable administrative fee involved in that but my concern is that with the proliferation of online gambling, you really have the potential to see a massive expansion of problem gambling behaviour, particularly with mobile phone technology, particularly with the 4G network that will roll out eventually where people can easily access online gambling via their phones.

MR BANKS: So effectively what you're saying is that it would be voided at the request of any punter who complained, in other words, anyone who lost money.

SENATOR XENOPHON: That's right. I don't want this to be seen as been a mark in any way but the reality would be that I think that online unauthorised online casinos would avoid any Australian credit card like the plague, knowing that they could face losing their money but if there wasn't a complaint about any wins, they would still have to pay out. That to me is the only practical solution. I don't think you can do it by way of Internet filtering. You can't do it by blocking transactions at the point of the bank, saying that this is a barred transaction because the bank wouldn't know the name of the online casino, or the corporate entity may not have anything that identified it as an online casino.

MR FITZGERALD: Can I just clarify your position in relation to Internet

wagering and sports betting. Obviously you take the view that we shouldn't liberalise in any way gaming or casino gaming on the Internet but what about the existing wagering and sports betting?

SENATOR XENOPHON: I think we can do a lot better in terms of regulation. I have a concern about ease of access. I think in relation to sports betting, there are concerns about the probity of games being compromised. I think what occurred in Europe recently in terms of soccer indicates that there are very real concerns about match fixing. I know Declan Hill, who wrote *The Fix* was in Canberra recently to present at a national sports law conference, says that Australia is being increasingly targeted by crime syndicates in the region because we don't have I think adequate regulatory frameworks in place. It's a mishmash of state and federal laws or principally state laws. There needs to be a national approach. My concern is that you can at least toughen up the regulatory framework to ensure probity in games and that would involve greater disclosure on the part of players and managers and those involved in games in terms of any financial transactions.

MR FITZGERALD: But just on that, you see probity and integrity being the key issue, rather than the issue of harm minimisation or problem gambling more generally?

SENATOR XENOPHON: No, the primary issue has to be harm minimisation but I'm saying that I think that regulators around the country haven't faced up to the challenges of what is actually occurring out there, particularly with betting exchanges such as Betfair - and I'm not singling out Betfair, the entity, itself - but the fact that you can bet on a losing event, if you like, that opens the scope for match fixing. In terms of the whole issue of harm minimisation, clearly online gambling would lend itself to having precommitment strategies in place immediately. That's something that can be done. I think machine manufacturers are saying they will have to modify their machines and in some cases it will take them some time to do that, but with online games, it's just a question of a software change and I think that online wagering can actually lead the way in terms of appropriate warnings, precommitment strategies and a whole range of other measures that I think would make a real impact on minimising the harm caused or that can be caused.

MR FITZGERALD: Just a final couple of questions. Can I just get your overall approach to the regulation of this industry. Given your private member's bills both in relation to ATMs and cash and in relation to reducing losses which you would see applying at a national level, can you just explain to me your views about the roles of the Commonwealth and the states and territories? What do you think the role of the states and territories should be into the future?

SENATOR XENOPHON: I think that the commission, in terms of what it suggested 10 years ago, its criticisms of a lack of a uniform approach, the lack of

consistency, I think the lack of appropriate enforcement, I think just as we have national template legislation with respect to a whole range of industries or regulating professions, for instance, there is no reason why there couldn't be that approach at a Commonwealth level, not a race to the bottom, but having best practice, because there is inconsistency at the moment. There is a lack of coherence in terms of the way that regulators approach problems. The fact that in my home state, South Australia, there has yet to be one prosecution, one successful prosecution at least, in the 15 years that poker machines have been in place in that state in terms of a prosecution against the venue for breaches of the act - which I find extraordinary - I think indicates that you do need a uniform approach and an approach where a national body can actually independently assess the effectiveness of measures both in terms of minimising harm and also ensuring effective enforcement of laws. I just don't think we have that national approach and I think there should be a national body to look at these and to drive the agenda in a constructive way.

MR FITZGERALD: Good, thank you.

MR BANKS: As a lawyer, I'd be interested in the many views you had about our proposal for consideration of a statutory cause of action in this area in prescribed circumstances of egregious behaviour on the part of venues.

SENATOR XENOPHON: I think that would be welcome. I think it also points to the fact that the Trade Practices Act is probably not clear enough - well, it hasn't been tested but on the advice I've received, the Trade Practices Act probably isn't quite there to give a remedy. When you look at cases such as Reynolds v Katoomba RSL a number of years ago, a New South Wales decision. I think it indicates that there is a gap between community expectations and where the common law is at at the moment. So I think that a statutory right would be a very welcome development and I think it would also have the effect of improving the behaviour of a number of venues where their behaviour, in terms of managing the risks involved with the product that they've got on offer, is fundamentally inadequate.

MR BANKS: Okay, thank you. We don't have any other questions, senator, but are there any other observations or comments you want to make?

SENATOR XENOPHON: I look forward to this process. I think it's important that the federal government take action in broad terms, in terms of the broad thrust of your report. I'm looking forward to your final report and I'm also looking forward to legislation introduced by the government to implement some of your recommendations next year some time.

MR BANKS: That's a good note on which to end, so thank you very much. Again, thank you for your contribution.

SENATOR XENOPHON: Thank you for your time. Good morning.

MR BANKS: We'll just pause now for a little while before our next participants.

MR BANKS: Our next participants are from Betchoice Corporation Pty Ltd. Welcome to the hearings. Could I ask you please to give your names and positions.

MR MORRISSEY (BC): Mark Morrissey, CEO.

MR NETTLETON (BC): I'm Jamie Nettleton from Addisons, lawyer for Betchoice.

MR BANKS: Thank you very much and thank you for the submissions you've provided. You have provided some speaking points for today and I believe you have a fuller submission that's on its way. Is that correct? We look forward to that. As indicated, we will give you the opportunity to go through some of the main points and we might stop you along the way and have some discussion.

MR NETTLETON (BC): Thank you. Betchoice will be providing a further submission to the commission in due course. It welcomes the opportunity to be here today and make a presentation. In general terms Betchoice very much supports the finding of the commission in its draft report in connection with the wagering sector. There are a lot of factors which are covered in the draft report which Betchoice welcomes. There has been enough consideration given in this area and it's very welcoming to see a number of those findings.

I think there are a number of specific points that we would like to confirm in our presentation today and a number of the factors come from the draft report which are worth confirming. The first point is that in connection with the corporate bookmaking sector it has not resulted in a decline in the revenues available to the racing industry. This is very much shown from the statistics which are published annually which are referred to in the early Betchoice submission and also referred to by the commission in its report. Those revenues have increased over time despite some material adverse events which have affected the racing sector in the last decade involving both the split vision, which has prevented ready access to consumers of racing events and the ability to access matters of form of entertainment and education and secondly, as a result of the equine influenza and the downturn on racing which they caused.

Despite those events, there's been a growth both in the revenues of the TABs - or the totalisators - over time and even though the focus has generally been on the revenues that have been generated by the corporate bookmakers coming from a very low in the last 10 to 15 years, the fact is it has not been at the detriment of the totalisators and the racing industry. I think this is recognised across the board both by the totalisators as well in connection with some of the comments which were made by representatives of Tabcorp at the hearings last week in Melbourne.

The next point to mention is have the corporate bookmakers grown at the expense of the totalisators? Again, it's very simplistic to look at the statistics and say, particularly in respect of the corporate bookmakers which are in the Northern Territory, that any revenues which have generated by corporate bookmakers have essentially come at the cost of someone and that cost being to the business detriment of the totalisators. That is not the case. The market segments from which the corporate bookmakers derive their business is a different segment of the business. There is a lower take-out rate and there are a number of consumers who are very aware of the benefits of entering into transactions with the corporate bookmakers.

In addition, as a result of the business activities of the corporate bookmakers there is a considerable amount of their business which in fact takes place with the corporate bookmakers and may be useful for the commission to be aware that of the Betchoice turnover - and we'll give you some further information in a minute - approximately 20 per cent of Betchoice turnover in fact takes place with the TABs as a result of the revenue which is generated through bet-backs.

I think it's appropriate to mention the race field regimes and to agree with the objective as alluded to by the commission in its report. Essentially the principle behind the race fields legislation was to target what is perceived as free riding which was taking place by the corporate bookmakers and not appropriate contributions taking place to the racing industry. There's a significant amount of history here. That's been referred to by the commission in its report but I think it's important to note that this legislation has been imposed to a degree by the various state and territory governments, more the state governments, despite the recommendations being made in the cross-border betting task force that there should be dialogue taking place between the racing sector and also the corporate bookmakers. At that time there is a lot of contentions by the corporate bookmakers to enter into dialogue but despite a number of efforts, particularly coming from the corporate bookmakers, there was no real engagement that took place.

There was a lot of public comment which was made by the racing sector that there was not a willingness on the part of the bookmakers to enter into discussions and that was very much behind the objectives of the legislation, the unwillingness, if you like, of the bookmakers to contribute. There was a willingness, but there was inability to do so.

What I would like to do, with the commission's permission, there are a couple of points which are made in the table which is in the commission's report which has some information which is not completely up to date. We will be submitting to the commission now, or later if you wish, an updated table of that. Shall we do that now?

MR BANKS: Thank you.

MR NETTLETON (BC): Just as a summary, it's fairly simplistic because it's reducing it very much down to the financial criteria which is applicable under the race fields legislation. The point to note there is that since the commission's report there has now been legislation introduced in Western Australia which provides for a fee to be payable by reference to turnover or the greater of revenues of turnover and the percentages as shown on the chart which I have just provided. The Australian Capital Territory has just passed legislation to create a race fields regime that is providing for the fee that's going to be payable by reference to revenues, the percentage has not yet been determined.

As a result of the TAB Ltd case in Victoria, there have been a couple of changes. First in connection in Victoria which has been as a result of the change from the TAB case, in fact the position is as stated in the charter it's now 1.5 per cent to turnover which is the base, that has now been queried and I think it's important to note that in respect of a lot of these criteria, yes, they are the statute criteria and as the commission is aware, a number of these levels of the benchmarks upon which race fields fees are being set are being challenged on one or more grounds, both before the courts in New South Wales, which are referred to by the commission, but there are a number of other changes which have also taken place and are taking place across the country in respect of the benchmarks.

The Tasmanian position is that previously, the fee had been provided to be calculated by reference to 10 per cent of revenues. That matter is now being looked by the solicitor-general in Tasmania as to its legality following the TAB case and no fee is payable currently. I think the rest of the information is something of which the commission is already aware but there are a couple of changes there which indicate the correct figures. South Australia, as you will note, is on a revenue basis, but 20 per cent of revenues.

MR BANKS: Good, thank you.

MR NETTLETON (BC): One point perhaps worth mentioning to the commission is in respect of the fee which is payable - and this is something which Mark Morrissey will talk about in a second - is what does the fee actually include or cover or the benefits which are provided to the bookmaking segment. The only real benefit which is conferred is that it precludes action being taken against the bookmakers or the wagering entity who obtains the approval from being prosecuted for use of that information. There is otherwise no positive benefit, if you like, which is provided by the bookmakers. Indeed, that does not mean that the information is there available to use. It's still necessary for the corporate bookmaker to obtain access to that information and in order to facilitate that, it either has to do it through its own resources which of course involves having in place the technology and other systems to generate the data or to purchase that data from third parties. That is currently

being done. That was done through a number of intermediaries who obtained information from RISA racing information.

MR MORRISSEY (BC): And the fee doesn't guarantee us intellectual property rights.

MR NETTLETON (BC): Even though that data may be obtained, and this is certainly provided for on the face of the race fields legislation, that does not preclude action being taken for infringement of intellectual property rights as a result of the use of the race fields. Indeed, in letters which were issued by Racing New South Wales to a number of the corporate bookmakers, I think it was the beginning of October from memory, there is a requirement that a copyright fee also be paid in respect of the use of the information that was in addition to the 1.5 per cent of turnover. That claim was withdrawn, particularly as a result of two factors: (1) there was correspondence entered into asking for the basis of the legality of that request and, secondly, a number of amendments were made to the proceedings currently in the Federal Court. But the response, which now appears open, is that the racing bodies may well claim that they also own intellectual property rights in the race field information and suggest that a further fee be payable by the wagering entities for use of that information.

That's going to give rise to a number of legal arguments as to whether or not there is in fact intellectual property rights which can be claimed as a result of the recent decision of the High Court in the IceTV case. But irrespective of that decision, the claim was made and I think there's probably an expectation that further claims will be made in due course which will result in a high impost. My recollection of the claim there was that 2 or 3 per cent of turnover - - -

MR MORRISSEY (BC): 3 per cent.

MR NETTLETON (BC): An additional 3 per cent of turnover for that fee.

MR MORRISSEY (BC): The original fee was supposed to give us the cross-border advertising rights, so we won the constitutional grounds. We were able to advertise across borders. That lasted I think about eight weeks and then they changed the legislation again and basically crippled the changes via stopping - or allowing us branding but no promotional advertising, so in essence we ended up with nothing out of it for paying the fees.

MR NETTLETON (BC): The next point to mention is the question of whether or not the product levy that is going to be charged for the use of race fields should be calculated by reference to turnover or revenues. In one sense this is a bit of a theoretical argument. The key issue is how much is the actual fee and what is going to be the impact on the business operations of each corporate bookmaker. I'm sure

that any corporate bookmaker that this issue is discussed with will hold a similar view, that is, if the percentage rate in respect of revenue is so high, then essentially that's going to have just as much an impact on the business as would a high rate of turnover.

Having said that, on the basis that the amount which is levied is one which is within the reasonable expectations of bookmakers and is something which they can cover in the cost of the business, I think this still needs to be recorded on the basis that this is a statutory levy. It is not actually a levy which arises out of the common law on the basis of whether or not there's intellectual property rights, so therefore it's something which is an impost or a tax and therefore needs to be addressed.

I think it's quite useful to provide to the commission now, if I could, a further document which indicates the actual impact of the race field levies as charged to date on Betchoice's business. Now, the document which we're submitting, obviously we'd like to keep it confidential if that were possible; we're very happy to discuss it with you.

MR BANKS: Okay, thank you.

MR NETTLETON (BC): The chart which has been provided to you sets out in detail the business of Betchoice which has been conducted since race field levies were first introduced and race fields legislation which was in New South Wales initially.

MR MORRISSEY (BC): Actually this one goes back to when we first moved to the Northern Territory, so a little further back actually.

MR NETTLETON (BC): Sorry, I beg your pardon.

MR MORRISSEY (BC): It does cover that period.

MR NETTLETON (BC): So it goes back to 1 October 2006. The information which is provided, the first column is indicating the amount of bets which were made with Betchoice in respect of races that took place in respect of each month. The race result indicates the amount of gross profit which, after taking into account bet-backs which have occurred. The percentage profit indicates the profit which is generated by the Betchoice business from racing. The next three columns deal with sports, so we're talking in respect of the first six columns the gross profit of the business, whereas the first column, Races Hold, talks about the turnover of the business. The next column dealing with expenses - - -

MR MORRISSEY (BC): Yes, expenses, just general expenses, wages et cetera, computing costs. The next one is adjustments which is things like commissions,

where we get charged a commission through betting back with Betfair, bonuses. You can see there are some negatives there for commissions where we have earned commissions betting back through the TABs. There's a sum of those then expressed as a percentage, then there's the net profit figure but that is an EBITA figure. Then we have the extraordinary which would be the income taxes, BAS.

MR NETTLETON (BC): The key figures to look at are the land-hand column which is talking about the amount of turnover and then the figure which is talking about the amount of profit. Once you take that into consideration, it's very clear on its face that the impact of a turnover benchmark on the business of the corporate bookmaker as against the impact of a gross revenue or gross profit levy.

MR MORRISSEY (BC): Again, that's only on the figures that are being touted at the moment with a direct comparison of 10 per cent of gross profit or 1 and a half per cent of turnover. Obviously I would still rather pay on a turnover basis if it was a half a per cent of turnover rather than 20 or 30 per cent of gross profit. So the argument isn't just whether it's turnover based or gross profit, it realistically comes down to the actual nominated figure so it's not really the methodology that's paid it's what the end figure is. We're just working off the numbers that are being touted at the moment. You can see the net profit, there is actually very little left because of the old business model: high volume, low margin. This is our argument that - - -

MR FITZGERALD: Just for the record, your argument is that in one sense it doesn't matter about how you levy this product fee, it really is the quantum and its effect on business.

MR MORRISSEY (BC): That's correct.

MR FITZGERALD: But your argument against the way in which this levy has been set at 1.5 per cent of turnover in New South Wales and variously throughout Queensland and so on is that by doing it on turnover you believe it has been done for a particular reason? At the end of the day, whether it's on turnover or revenue, the question is, what would be the percentage of those? Can I ask this question: what is your argument against it being based on turnover versus revenue beyond the actual percentage?

MR MORRISSEY (BC): The main point is the percentage, it's the fact that it was based on 1 and half per cent of turnover. If they said, "The Northern Territory charges us .33 per cent," then we would be happy with that. But it's just the business models, when you equate the turnover against the parimutuel model as opposed to fixed odds model or betting exchange model, it's much less as a proportion of their profits. So financially it is better for the TABs than it is for us if you use the same figure across the different betting models.

MR FITZGERALD: Just going on from that, are you suggesting that in fact that has been done as a deliberate attempt to prefer one type of operator over another?

MR MORRISSEY (BC): Yes, I do. I think there is an agenda to squash the corporate bookmakers. It's been seen in writing but that was an agenda to get rid of betting exchanges and they were quite open about that. When exchanges first came over they said - Peter Maloney's greatest saying, "We want to eliminate betting exchanges." They haven't hidden the fact but some would see it as being paranoid.

MR BANKS: You see the turnover basis for the fee as being an anticompetitive device in other words?

MR MORRISSEY (BC): Yes, at the 1.5 per cent. It would basically send us out of business where it would not do the same thing to the TAB.

MR NETTLETON (BC): The difficulty in talking about it in abstract is if any decision were made to cap this on a turnover basis and a proposition were put and depending on the impact it has on business, then various submissions were made by the corporate bookmakers as to how that actually impacts on the business. There has not been that opportunity that's been given really by anybody in the country to this date. It's been very much imposed without a dialogue taking place to ensure that the business impact of the relevant decision would occur. So, therefore, the premise has always been, for example, turnovers are much easier to calculate, therefore, it must be better. However, the principle must be, we would suggest, that in looking at the actual level it's very much saying, "Even though it may be easier to calculate on one level, the fact is if the criteria is set - and there's no reason why the criteria cannot be sent in a certain way - then the gross revenue takes into account the business and decision-making of the bookmaker.

The objective of every business is to essentially make a profit at some point over time and it's a matter of saying, "Well, in considering the level of profit," business decisions can be made by the corporate bookmakers once they have certainty of the fee and they can therefore submit, "Well, this is going to have a certain impact or not," as the case may be.

MR BANKS: What about the argument that's been put, if it's based on turnover you're obliged to be paying a fee essentially for the property or the intellectual property, if it's based on a gross revenue - that may or may not happen depending on what that gross revenue might be. Indeed, if you're making a loss, then no contribution is made.

MR MORRISSEY (BC): Yes, they've stated over and over in the press releases about the problem of being involved with the risk side of it. We have no choice in that. We, unfortunately, unlike the TAB, didn't want to have basically a licence to

print. They've got a no-loss model. They cannot lose. I'd love to have that and I would pay the fees they're paying if I was in that position. Unfortunately, I'm not, so we do have a degree of risk. This seems to be a double-sided argument here and they said they won't clarify. If we are making lots of money, then they surely shouldn't be worried about the risk if they're obviously handling the risk well. If we're not making lots of profits, then what is the threat to the industry? We're not taking any money out. But they won't clarify, they seem to want to have it both ways. They keep saying how well we're going but they say they don't want to be part of the risk. There doesn't seem to be any risk if we're sitting on their \$4.7 billion turnover and taking all that money away from them. I would like them to clarify that position.

MR NETTLETON (BC): It has been suggested that the only way to calculate royalties in respect of use of intellectual property rights is by using a benchmark of turnover. Certainly from my experience that's not necessarily the case. The case is always a matter for negotiation and there are a lot of intellectual property licence agreements which have a gross profit calculation as being the benchmark. It can work. It's always a matter of being subject to review and audit procedures and each of the conditions which are currently being published by the race control bodies has very rigorous audit procedures and requirements to provide statements.

Indeed part of concern - and I realise I'm going off the point slightly - is the fact that there is a different requirement for each race control body in respect of statements and audits that the amount of red tape that's currently being caused by the whole race field regime is a significant impact on the time of management and the ease of doing business. I think there was a diagram that was provided in the earlier Betchoice submission which gives you an indication of the complexity that the business face. That will eased by reference to some form of national or harmonised model so there is one party which is essentially overseeing the collection and implementation process. Sorry I went off on a tangent.

MR BANKS: That's okay. Are there precedents that would give you some confidence about the workability of the gross revenue model, precedents across different jurisdictions or different codes of sport where it's currently being used?

MR MORRISSEY (BC): Taxing on profits works for the Taxation Department.

MR BANKS: Sorry, the gross revenue model.

MR NETTLETON (BC): Certainly all the sporting bodies have ventured into voluntary arrangements and the corporate bookmakers have ventured into voluntary arrangements with the sports control bodies which is a gross profit model.

MR FITZGERALD: Could you just explain to me - and perhaps you're not the right body to do this - but why is it that we have in Victoria and New South Wales

different treatment between thoroughbred, harness and greyhounds? For example, in Victoria, thoroughbreds are at 10 per cent of revenues, give or take; harness are 1.5 per cent of turnover and greyhounds are at turnover. Can you explain to me why that jurisdiction perhaps uses revenue in one case and turnover in another, and even in New South Wales, greyhounds is again different. It's turned over all revenue, depending on which is the lesser. Why is there a differentiation between the three forms of racing and in other jurisdictions there's no differences?

MR MORRISSEY (BC): They were just allowed to make their own decisions, each particular body, plain and simple, and that's what's made it so messy. There was nobody overseeing all this, and that's what we would like to see. We would like a federal judgment on this to get it across the board.

MR NETTLETON (BC): I think part of this is historic. Under the legislation in each of New South Wales and Victoria, each race control body has different rights conferred on it by statute, so it has a separate discretion on decisions and also under the legislation that's conferred specifically on the race control body. In Queensland the legislation was drafted in a way that the powers were essentially conferred on Queensland Racing initially and so therefore they issued a statement on behalf of each of the race control bodies, even though that now seems to be a matter which is out of the control of each of the race control bodies.

Western Australia is just one body which is dealing with that, as I understand it, and in South Australia, by virtue of agreement between the race control bodies, they allow South Australian racing to essentially look after the process. It may be - and this is surmising - that there were concerns about reaching some sort of common agreement between the independent bodies, perhaps trade practices issues, but that's supposition on my part.

MR MORRISSEY (BC): New South Wales and Victoria was fragmented and just didn't get together.

MR FITZGERALD: Can you also just perhaps respond to this: later in the day we will receive submissions which would indicate that if we move to a revenue based tax, this will lead to a loss of revenue for the racing industry and that's put by a number of parties. Can you just respond to that? As I understand it from previous discussions, you don't believe there will be a loss of revenue to the industry from a change from turnover to revenue.

MR MORRISSEY (BC): Again it depends on the number chosen.

MR FITZGERALD: Sure.

MR MORRISSEY (BC): If it's 1 and a half per cent, it would basically put us out

of play, and then the additional money we're bringing in is lost. We don't feel that we're cannibalising the money that's going through from the totes, the revenue that we're getting from the totes - if you like, we are additional funds - and the figures prove that because there hasn't been a decline in the tote revenues over the last six or seven years. It's not just the model, it comes down to the number. If the number is set correctly, there's still enough funds to prop up racing.

MR FITZGERALD: I know you'll come to this in your submission but we've indicated that there should be a national levy established. However, some would argue that - just let's assume for a moment that there is a levy and it's based on revenue. Is there a case for that to be differential, depending on the jurisdiction? I notice in your figures, for example, South Australia is 20 per cent of revenues; Victoria is 10 per cent of revenues for most of the year. If you have a national body to establish the levy, is there a case for the levy to be different for different jurisdictions or does it have to be a standard levy? Just for a moment, let's assume it's a percentage of revenue.

MR MORRISSEY (BC): Provided it's capped at a particular figure, I don't have a problem with that. I would prefer it, from an administration point of view, to have - - -

MR FITZGERALD: No, I'm not asking whether you prefer it, I'm asking do you think there's a justification for having a differential figure between the jurisdictions? Clearly that applies now, but when we were looking at establishing this national body to establish the levy, I think our view was that you would end up with a uniform levy as a percentage of revenue. But perhaps there is an argument to say that the levy could in fact be different or that's an argument that could be put. Some of the states would say that there are different circumstances which could warrant different levies. Is that so or not?

MR NETTLETON (BC): My response is without actually breaking it down state by state to see whether or not certain businesses are more profitable, therefore having a greater margin in respect of certain races in certain states, it's hard to see justification for there being a differentiation, particularly when one considers the actual benefits which are being provided and it's hard to see the rationale for having that differentiation, just on its face.

MR MORRISSEY (BC): There's no additional benefits from these particular states. It would only be giving us the same thing which is the rights to use the race fields. We do make more profit on, say, Queensland racing than we would on Western Australian, but if it was all set at 10 per cent, they would get more from us pro rata anyway, so I don't see the necessity to vary it. I can't see their argument.

MR BANKS: It's probably more that a turnover tax would translate into different

gross revenue taxes around the country, depending on the business model that the different jurisdictions favoured, but again, it's probably not a basis for calibrating it that way.

MR NETTLETON (BC): I think one factor which it leads into is that if the rate, whether it's turnover or revenue, is too high, there's certainly potential for there to be less participants in the business. This is a factor which does impact on the profit. There have been bookmakers which have ceased conducting business. Most of the publicity has been given to the decline in the oncourse bookmaker, but there have been a few offline bookmakers which have also ceased business and that may well continue, particularly if the rate is set too high. That will have an impact on I suppose the availability of a better-priced product for the consumer. I think at the end of the day, a better position of Betchoice and other corporate bookmakers is that the party who should really be looked at here is the consumer and the options which are available to it as a result of the services which are provided.

MR MORRISSEY (BC): They are the ones that are funding the racing industry, not the TAB. I mean, the TAB is basically a collection agency for the racing industry. They do not fund it. They take the money, they stick half the money in their pocket and then they hand the other money over to the racing industry. It is actually the punter that is the one with the negative balance at the end of the day and I think the person we should look after is the consumer and the best way to look after them is with an open marketplace with free trade and competition.

MS SYLVAN: While we're talking about the totalisators, could we move for a moment to the tote odds issue. There certainly has been a view put that almost by definition the provision of tote odds undermines the pool in general. I'm not talking about exclusivity in relation to each other or anything of the sort but by definition the pool needs to be a pool that works in a sense. Do you have a comment on that?

MR MORRISSEY (BC): I can't see how it would be fair to stop us competing in that way. I mean, you can't go to Coles and say, "You can't have a can at \$2.50 because Woolworths is selling at \$2.60." That's, in essence, what they're asking us to do, not to compete. They can't own a price. We're not sure that it is actually two different products, although we're working from their prices, based on their price. We can still lose. We will take a bet and it's not like there's a parimutuel pool where we pull 16 per cent out and divide up the rest. We will bet to those odds, if there is an imbalance on the winner for us, we can still lose even though we're betting the parimutuel prices. So it is a still fixed odds price in essence. We can lose on that model. It's not exactly the same one they're working.

But asking us to stop it is basically saying you can't compete and I just don't think that's the way this country works. I think we should be allowed to compete and if we happen to offer better prices than them, tote plus 5 per cent, I think it's at the

benefit of the consumer. If it's at the detriment of the TAB then they're the one that should change their model and not us. The business model is - the infrastructure is too expensive, they're going to have to lower their costs and put out better prices. I don't think it's our problem, I think it's theirs.

MR BANKS: Just on that in relation to tote odds, you say that it's a price like any other. But is it a price like any other? I mean, the price for any other product or service emerges from the cost of production generally and it's sort of a reflection or outcome of that. In the case of tote odds, the production process actually is to produce the odds.

MR MORRISSEY (BC): Wagering is very different to every other industry. We don't have a product to produce. It's not like we've got a lounge and it cost us 1500 to manufacture it and sell it for \$2000. It's just money being pulled out of the air. There is no production costs so it's difficult to look at it in comparison to other industries.

MR BANKS: Are you saying there's no costs involved in calculating the tote odds themselves?

MR MORRISSEY (BC): No.

MR BANKS: Okay.

MR NETTLETON (BC): I think we have talked about the turnover revenue differentiation. The TAB Victorian case has been suggested that that is a death knell to the calculation of race fields by reference to the revenue. That's in fact not the case. Even though there have been adjustments made in Victoria by RVL and greyhounds as a result of the TAB decision, certainly as far as RVL is concerned, to from all intents and purposes the fee is calculated by reference to revenue still and certainly from the greyhounds' perspective, it certainly could still be calculated by reference to revenues. The legal perspective is that this is very specific because of the wording of an amount in the legislation. So it's very much a technical legal argument rather than a point of principle. If I look at the other points, we have discussed many of these issues.

MR FITZGERALD: Sorry, I just want to clarify this. In relation to Victoria, the primary outcome of that case was that you've now got to charge a fixed amount. Is that correct?

MR NETTLETON (BC): That's correct.

MR FITZGERALD: So all that's happened is you go to the previous year, use a percentage of either revenue or turnover, depending on what it is, and then apply that

as a fixed amount for the subsequent year. Is that correct?

MR NETTLETON (BC): Yes, that's correct

MR FITZGERALD: That was really to deal with this issue of whether it's a tax or an impost or a levy or whatever it is, wasn't it, basically.

MR NETTLETON (BC): That's correct and my understanding is the decision is being appealed in any event.

MR FITZGERALD: But I just want to understand, that's really it's only - the only outcome is that it will be a fixed amount but based on a formula for the previous year.

MR NETTLETON (BC): I might take that question aside and come back to your separately.

MR FITZGERALD: That's fine.

MR NETTLETON (BC): My recollection is, as you say, there's some time lag. What I can't recall is whether or not there's some sort of adjustment.

MR FITZGERALD: That's fine, I just wanted to get the general principle.

MR NETTLETON (BC): In connection with the national body which it's been suggested be the party to set and administer the payment of a levy for use at the race field. Betchoice agrees with the commission that that party should be independent, a party like IPART, it's certainly very open-minded about that. The concern which Betchoice would have is that if it is a matter that's going to be administered by the racing industry or other parties who may be perceived to be less impartial. One issue perhaps to mention - and this has certainly been referred to in each of the Betfair cases and is currently being mentioned in the Sportsbet cases - whether we like it or not, there is always going to be a very close relationship between the racing bodies and the totalisators as a result of the significant funding which is coming through.

Even after the initial Betfair case, it took a long time before there were open-minded views which were adopted by the racing bodies towards taking sponsorship or advertising from any of the corporate bookmakers and indeed, by virtue of a number of the long-term arrangements which have been entered into by the totalisators, there are still considerable difficulties with Betchoice obtaining either publicity in certain of the press or advertising or sponsoring to the extent that it would in a normal free market. There are still considerable constraints.

MR MORRISSEY (BC): When the advertising laws were changed in September

last year, the first thing I did was pick up the phone and rang the AJC asking to sponsor a race. I was refused when I said it was from Betchoice. I tried the same thing with the Victorian Race Club. I was refused. There is sponsorship now, they're starting with bookies now in Victoria but I've found this negative approach to us. There was a protectionist attitude towards the TABs. You'll see in the press because obviously with the TABs their biggest advertiser, News Ltd, we find it very difficult to get a mention if we're in the story. There was one the other day about Glen Lynch, the ex-jockey, that incurred a \$300,000 debt with us which they thought was a very newsworthy story. We were simply mentioned as "a corporate bookmaker". We can't get Betchoice mentioned, we can't get it from a branding point of view in an editorial. We just seem to be suppressed wherever we turn.

MR NETTLETON (BC): I think this plays into point 8 in the submission which is the commission's comment or query about whether or not the ownership of Sky by Tabcorp should be investigated. Betchoice's view is that that should certainly be looked into. There are considerable competitive constraints as a result of the arrangement between TVN and Sky and the inability of the corporate bookmakers to attain advertising on Sky and it is something that perhaps needs to be looked at from the benefit the Australian consumer to have access to the broad range of products which are available. That's one considerable impediment.

On the issue of credit betting, Betchoice's position is that there should be a level playing field in respect of the provision of credit betting. Concern has obviously been made from a harm minimisation perspective that credit betting is something that should not take place. Betchoice is obviously very concerned to address harm minimisation, has in place very stringent procedures and indeed I think a number of comments that have been made earlier by Senator Xenophon, I think, are ones which Betchoice very much understands and these are issues which are currently looked at in South Australia particularly, for example, in connection with precommitment in respect of the online wagering entities and certainly that is something which perhaps isn't more advanced than might otherwise seem and the suggestion is that within the next year there will be some form of precommitment required for wagering entities which should be recognised in South Australia and it's a matter of those terms and conditions currently being finalised but that's very much supported by Betchoice.

MR MORRISSEY (BC): We have no problem with that.

MR BANKS: Good, thank you.

MR NETTLETON (BC): I think in connection with credit betting principles obviously should be employed which address harm minimisation issues and some form of period should be instituted which suggests that credit betting cannot be allowed with new customers for three months.

MR MORRISSEY (BC): We have no issue with that.

MR NETTLETON (BC): The concepts of retail exclusivity is a vexed one. In the earlier submission which was made by Betchoice which it certainly supports, the principle in connection with retail exclusivity is vague. The totalisators have essentially had conferred on them initially a monopoly right to provide offcourse betting on the totalisator in respect of each state and territory. That was the actual initial right that was granted. By creep that extended from totalisator betting to fixed-odds betting and that's a fairly recent addition within the last five to eight years from memory.

However, even though a retail outlet appears like a high street shop, that's not the way it is necessarily being interpreted and there's an issue in connection with VenueNet providing services in the Rising Star Hotel in Melbourne by having a form of terminal through which betting services can be accessed. That's currently being examined by the Victoria authorities as to whether or not that's a breach of actually quite different laws to that involving wagering. The Queensland view is that that falls foul of Queensland legislation and it is certainly a position which the subject of further discussion. From Betchoice's perspective, it is unclear as to what the scope of this right is and in a recent promotion which was engaged in association with Betchoice which essentially is allowing people to see Betchoice's site in a room like this, that is perceived by some regulators to be in breach of the exclusive retail rights which are conferred on the totalisator rather than being general marketing. The lines are very blurred and it's not one which is really easy to comprehend and also is a limitation on the business.

What the proposal of Betchoice is, is that retail exclusivity should be removed, they agree with the commission's recommendation but recognising the advantages which are attained by having a right to grant exclusivity perhaps is something that should be looked at by reference to some additional fee which might be imposed.

MR MORRISSEY (BC): Premium. To be perfectly honest, it is 72 per cent of the TAB's revenue and to get into retail outlets I think we could do harm to them and hence with the roll-on effect to the racing industry. As we are, being Internet based, we're 85 per cent Internet based at the moment, the TAB is 13 per cent Internet based so we're not going head-to-head so we're doing, like I said, minimal harm. All we're doing is bringing additional revenue in. But to be perfectly honest, I think, if we got into the retail outlets we would do damage because we have a far superior product. But to stop that, if we did get in, we would be happy to pay a premium. I think we would have to pay more to get into it.

MR FITZGERALD: If you went into retail, you'd be happy to have a premium, you've just said.

MR MORRISSEY (BC): That's correct, a higher rate for bets taken within those to make sure that there is no loss to the industry.

MR FITZGERALD: Give me the logic of that. Why should a retail operator, through an Internet site or terminal that sits within a facility, pay a premium for that? What is the logic of that premium?

MR MORRISSEY (BC): I'm talking about face-to-face taking cash.

MR FITZGERALD: Okay.

MR MORRISSEY (BC): It's a different thing.

MR FITZGERALD: So we're not talking about terminals or - - -

MR MORRISSEY (BC): No, I'm talking about - - -

MR FITZGERALD: Could I just ask, what is your view going forward as to the ability of Betchoice and others to have terminals in facilities generally. Is that the way you see it moving? I understand the issue about the retail exclusivity given to the TABs and that at the moment. But just putting that aside for a moment, do you think a future will see us potentially with terminals in many different retail - - -

MR MORRISSEY (BC): I think from a legal viewpoint you'll have difficulty stopping the bookmakers getting in there eventually.

MR FITZGERALD: In relation to those terminals, you're saying that there should be no additional fee to the product fee that you'd be required to pay?

MR MORRISSEY (BC): If you asked most corporate bookmakers they would say no. To be honest, I think we should. I've been in racing for 30 years. I do not want to damage it. I've given you all the facts and figures to show we haven't done any damage so far but I do think even those would do some harm; I'll be honest enough to admit that. So while the TAB has retail exclusivity, they have got no threat from anybody. It is by far the greatest proportion of their revenue and they can support the racing industry off that. If we get in there, I do think we can do some harm but it would have to - say, working because of the low margin model which works out okay over the Internet but into the retail outlets I think we would have to pay a premium to make sure that there isn't any damage done there.

MS SYLVAN: Could I pursue that for a moment.

MR MORRISSEY (BC): The other bookies will hate me for this, but I want to be

straight with you.

MS SYLVAN: We've almost covered the issue in another way. The industry that exists at the moment is of a particular form and shape because of the legislative requirements that exist and the regulatory forms and the way in which people have responded to that. So when you say the industry might be harmed, is there an assumption behind that that the current, the way it operates and so on is, in a sense, from your point of view an ideal and you would want to maintain that as it is now?

MR MORRISSEY (BC): With the proportion that the TAB pays from the revenue they take from the retail outlets, that is really what is propping up the racing industry. As I said with us, their figures have maintained in the last 20 years 3.4 per cent growth, even when the corporates went in 2000 from 200 million to 4.7 billion today they've maintained that growth and that was because of the retail outlets. So because we have come in as Internet based, we're a different model, it's a different betting method. So there's will always be minimal, the Internet betting for the larger TAB is around 13 per cent where we're at 85 per cent so we're not encroaching on their business.

If we go in head-to-head against them in the retail outlets with better prices, the punters will start betting with us and the lower margin will mean less return. So I would think we should be prepared to pay a higher margin to have the privilege of being in the retail outlets which is what the TAB did in essence with the - they paid a billion dollars for the licence. I making myself very unpopular here but, like I say, I want to be honest with you.

MR NETTLETON (BC): I think it's a matter of trying to find that distinction because currently, and as was alluded to, people can make bets by telephone, people can make bets, SMS, there are so many different ways. It's just a matter of is there a difference between that means and making a bet being stationary rather than mobile and it's the matter of whether or not it's just them and friends, I suppose, having accessed that unit or whether or not it's subject to being sold as a particular outlet site. The difficulty which comes is very much through the marketing perspective of, for example, Internet cafe which may have branding on it falls one side of the line on the basis that that's marketing as against a location which is specifically set up as a location through which bets are made and that may be the distinction that can be drawn. I realise it's still fuzzy around the edges.

MR MORRISSEY (BC): It's all presumption, I don't know. I'm just trying to be honest. We might get in there and possibly people bet more, the volumes are so much higher but even at the low margin might still make up the difference. But I think it's going to come. I think the laws will get the corporate bookmakers through into the retail outlets but I think should tread carefully and possibly see what happens over the first 12 months and have a look at the on-flow effect from it.

MR BANKS: I'm just conscious that time is ticking by a bit. We probably have another five minutes or so.

MR NETTLETON (BC): I think we've covered the tote odds issue. Precommitment, we've talked about that issue and we'd refer the commission to the South Australian proposals. The last point: should a national gambling regulator be created? This is probably a different point to the concept of whether or not the party that should be administering the race levy - and I'll come back to that in a second - and this is whether or not there is appropriate integrity in place, whether it's sporting events or in connection with controls which are employed over the various corporate bookmakers or other parties. Historically, it's not there hasn't been a job that's done. Even though Senator Xenophon alluded to the fact that there hasn't been a prosecution brought of a venue in South Australia, the fact there hasn't been a prosecution brought doesn't by itself mean that things have been done wrong or in breach of the law in the past.

The laws of control which exist in each state and territory in respect of any gambling licensee are very, very stringent and in fact they're probably more stringent almost than any other form of business which needs to be conducted in this country, whether it be the financial system or whatever, they're far more stringent controls. There is inconsistency in those controls which are currently administered between the states and territories and that's alluded to by some of the other submissions which were made to the commission, particularly in respect of the gaming machines. If there is a gaming regulator created, certainly from the perspective of Betchoice and other corporate bookmakers they'd support the uniformity. Whether that's done through having a new entity formed at the national level or some sort of body, a bit like other means of collating statistics, whereas provided to one party, say Queensland, which looks after a gamut of regulations in respect to the whole country, that's certainly a possibility. But what's important here is in respect of the gambling regulator, it must be someone who's got the experience in connection with it. It's not appropriate to have a new body. Even someone like the ACMA or APRA, obviously they have considerable expertise in respect of regulation in connection with the Internet, but they don't have the experience involved in administering gambling operations. That is something which takes a considerable period to understand the nuances and it is very much multi-layered. It is very bureaucratic and a very considerable task that's involved.

MR FITZGERALD: Could I just understand the regulatory regime under which you currently operate. Could you just explain to me in the simplest terms possible what is the regulatory regime? You are incorporated as a normal company but you are located in which state? Which is your home state?

MR MORRISSEY (BC): We have an administration office in New South Wales

but all the bets must be taken within the Northern Territory, so we have a call centre where all the telephone bets go through and the bets must reside on the servers in the Northern Territory and are monitored by the Northern Territory Racing Commission. We have log-in servers with replication, SQL replication, with dual passwords, so no bets can be altered after an event. It's very, very heavily regulated.

MR FITZGERALD: So the dominant regulator for you is firstly the Northern Territory government?

MR MORRISSEY (BC): That's correct.

MR FITZGERALD: Then how does that interplay with the states and territories? How do the regulators in those territories, apart from the fees, determine the way in which you can operate?

MR MORRISSEY (BC): The Northern Territory sets what events we can work on and basically the parameters we can work within, but as I say, within the other states, because we're Net based, it's very grey. The states stay without retail outlets in other states. There is not really much they can do, bar the advertising restrictions.

MR FITZGERALD: So in terms of the way you operate, the states and territories have a minimal involvement? I mean, they can preclude you from advertising and other things - - -

MR MORRISSEY (BC): That's correct, yes. Advertising is the main - - -

MR FITZGERALD: - - - those sorts of issues, but in terms of the way in which you run your business, it's largely determined by the Northern Territory government.

MR MORRISSEY (BC): That's correct.

MR FITZGERALD: If you were to move to a national regulator for all Internet based gaming and gambling - we haven't proposed that but if we were - how do you see your operations changing? In other words, would you see it as desirable to move to a national regulator? Are there advantages as an operator - - -

MR MORRISSEY (BC): It depends on what you allow us to do.

MR FITZGERALD: I know. It all depends on the detail but given - and it's only my lack of understanding - that what you've said is that the states and territories don't have a significant impact on the way in which you actually operate, what would be the advantages to an operator on having a national regulator, be it ACMA or anybody else?

MR NETTLETON (BC): Perhaps I can answer that question. There is now pressure on each of the states and territories, particularly through the race field regime, to try to impose some greater controls through imposition of harm minimisation measures in each state and territory level. Initially that was just done in connection with the manner in which marketing should be conducted, the provision of inducements, and there are differences in the regulations which exist in the states and territories, but particularly in connection with South Australia which has now imposed a number of controls over the manner in which the actual interstate operator must conduct its business. In one sense, that's duplicating the controls which exist in the Northern Territory but in some instances they are more stringent controls than exist in the Northern Territory.

Insofar as that's the start of a trend, that is of concern because it gives rise to even more considerable red tape, for want of a better term, but it's also the duplication that's the inadvertent breach; complying with one law, you may be in breach of another law and that's certainly the case - I foresee that being a trend occurring very soon in connection with South Australia, for example. This is going to be clouded with certainty for the user conducted business. Now, if that trend continues, then there is a necessity to have some form of national approach; whether that's on the basis of having harmonised with one state being responsible for the administration or whether it's by virtue of having a new body formed to administer it, I think we're pretty open minded.

MR FITZGERALD: Thank you for that.

MS SYLVAN: Just one final very quick question. You didn't say anything about online gaming as opposed to wagering and liberalisation of that regime which we've proposed. Did you have no view about that? Are people who are involved in racing and wagering not really - - -

MR MORRISSEY (BC): No, we would love to see it. It could end up as a large proportion of our business and as we said in the original submission, you can't stop people going overseas and betting overseas, so if they are going to do it, it's better to be within our own regulations. I heard Senator Xenophon say through the financial transactions that they could say, if they were betting in the Bahamas, cancel the credit card; that's all very well, but in practice, it just can't possibly work because these people that are betting overseas at the moment, they're betting in Russia, South America. The companies aren't even listed as gaming or online casinos when the money gets transferred across. How do you prove that the money was going to an online casino? Someone could just do a credit card transaction overseas with eBay and then say, "It was an online casino and now I want to cancel." In practice, I just can't see how it could possibly work. It's just too open to manipulation.

MR FITZGERALD: Just on that, we notice that in America, the US Congress is

about to strengthen their anti-Internet gaming provisions in relation to the financial transactions. I have a question just for you which you may know: in the US, what's the position in terms of Internet wagering? Is that permitted?

MR NETTLETON (BC): No, it's not, but a point of clarification: in connection with the US, I think yesterday it was announced that the introduction of regulations pursuant to the AGA have been delayed by six months.

MR FITZGERALD: Yes, that's right.

MR NETTLETON (BC): The information that's been provided to me suggests that was a result of some strong criticism in respect of the impact of the regulations.

MR FITZGERALD: Right. But basically the USA does not have Internet wagering at all?

MR MORRISSEY (BC): In theory.

MR FITZGERALD: No, but I mean, that's the position - - -

MR MORRISSEY (BC): Yes, that's correct, from a legal point of view. A person betting in the US would not be able to send money to us and that's because we are a legitimately registered government-controlled body, but if we weren't, how do you know where the money is going? You can't stop every overseas transaction; it's just not practical.

MR NETTLETON (BC): The difficulty in connection with the financial controls that may be employed, particularly with the credit cards, is how do you distinguish between a legal service and an illegal service? The actual categorisation which is given by the credit card companies which has traditionally been 7995 in respect of Internet gambling would cover both businesses of the sports bookmakers based in the Northern Territory as well as the casinos which are based in the Caribbean. So it's a matter of whether or not that's a sledgehammer to kill the inadvertent impacts which it may cause, but I think they are issues of which the commission is aware.

MR FITZGERALD: Good, thank you very much.

MR BANKS: Thank you very much for attending. We'll just break now for about 15 minutes, please. Thank you.

MR BANKS: Our next participant this morning is from the Gambling Impact Society of New South Wales. Welcome to the hearings.

MS ROBERTS (GIS): Thank you.

MR BANKS: Could I ask you please to give your name and your position.

MS ROBERTS (GIS): It's Kate Roberts and I'm the chairperson of the Gambling Impact Society of New South Wales.

MR BANKS: Thank you very much for taking the trouble to appear today. We've received a couple of submissions previously which were very helpful and I'll give you the opportunity to go through some of the key points in response to our draft report.

MS ROBERTS (GIS): Sure. I'd probably like to also add that in addition to being the voluntary chairperson of the Gambling Impact Society, I have previously made a submission in my own right as a problem gambling counsellor and social worker of 30 years, and also a consumer, having been part of a family who has been impacted by problem gambling. So I wear a number of hats in the area but today I will speak mainly from the GIS perspective but happy to answer questions in those other hats.

MR BANKS: Thank you.

MS ROBERTS (GIS): Just as a way of brief introduction for yourselves and the members here, the Gambling Impact Society was set up 10 years ago to try and provide community awareness-raising and education of problem gambling and harm minimisation at a time when there was very little available in the community to guide people to self-help resources. We also support the professional counsellors in the state and there's about 50 organisations who are mostly financial members of our organisation, along with members of the community and our focus is also on advocacy and trying to raise a voice for a community who rarely get consulted and who often, because of the stigma find it difficult to come forward so I will do my best in that regard.

So I've made some points that I think you've already had distributed and I'll just talk a bit to those, if that's okay.

MR BANKS: Thank you.

MS ROBERTS (GIS): I guess the gist of that is that we fully support the implementation of the recommendations contained in the draft report and just would like to make the following additional suggestions. We see a great need to actually

develop - I think we were particularly heartened to see that the report recommended taking a more public health and consumer protection approach to harm minimisation. I guess we would like to reinforce that. Part of our agenda for a long time has been to try and get a paradigm shift away from the current treatment and medical model here in New South Wales and move more to a population approach, similar to issues such as drug, alcohol, tobacco and things like motor vehicle accidents.

I guess we see there is an opportunity with this inquiry to develop a more strategic national framework on gambling and problem gambling in particular. As a member of the international alliance on harm minimisation in gambling, I need to also recommend that that sits within the World Health Organisation's principles on health promotion and following the 10 aims of the Ottawa Charter which is a well established, since 1982, and I think we need to draw strength from that. We would like to see that this national framework should therefore develop principles and strategies for gambling - and notice I say gambling, not just problem gambling - similar to those developed for tobacco control, alcohol consumption, drugs and motor vehicle accidents and that this national framework should drive this state in developing public policies and strategies.

We're very aware at the moment that there's a lot of discrepancies across states and territories, quite a lot of ad hoc harm minimisation approaches and really no binding national framework. People's interpretation of public health, harm minimisation and population approaches are often very blurred in clarification and I think there's an opportunity to develop more guidance at the national level on that. These strategies need to specifically reflect protection, prevention, health promotion and treatment in the fields of both gambling and problem gambling. So again not waiting for people to fall into the river before we drag them out but looking at that upstream approach which is certainly recommendations within the report and we would like to see those more clearly spelt out, I guess.

Any development and regulation, particularly of Internet gambling, whilst I guess we would be reticent overall to see Internet gambling established, I think the fact that it is already available offshore means that we would like to see it, if we are introducing it into Australia, that we have some serious harm minimisation strategies again within the principles of the World Health Organisation and that these are developed to obviously protect consumers from harm. In particular credit betting is a main concern and the increased accessibility, for instance, for young people to be able to access credit cards and get themselves into more difficulties. We believe that there should be some consistency, therefore in any kind of gambling, wagering et cetera to bring these activities in line with the current regulations that we have, for instance, in New South Wales on electronic gaming whereby credit betting is not available.

MR BANKS: Would you mind - and it's my ignorance - talking a little bit more about the WHO principles, which I understand would be more generic principles, but

how they were - - -

MS ROBERTS (GIS): Sure. I'd like to also say that in New Zealand there had been the expansion of those to look at developing a charter on gambling and, as part of the international gambling alliance in terms of harm minimisation from a public health perspective, that's some of the work that that organisation is trying to basically bring into consistency with the World Health Organisation's principles. So the Ottawa Charter, for instance, will look at developing capacities within communities to develop their resilience to any kind of activity of harm, that actually the main principles are to make sure that there is key stakeholder consultations and the development of the participative decision-making; that it's a whole-of-government approach as, opposed to, I suppose at the moment when we have pockets of state organisations involved in this issue, but this is an acknowledgment of the whole of governments so its main premise is around intersectoral cooperation so that again we're getting consistency between how we work on problem gambling but also how we're working on other determinants that reflect problem gambling. Off the top of my head I can't remember the five main principles but they're pretty well documented.

I guess the issue for me, and I also have to declare that I have been a long-term health employee and have also been a health promotion worker is that it's always astonished me that problem gambling has sat outside the principles that we've adopted within health for a considerable length of time and that on these other harm potentially, in terms of products like cars, in terms of consumption, in terms of drug or alcohol and that problem gambling has sat outside that. From a consumer perspective, the marginalisation of that, I think, has been quite detrimental. So the fact that it's not dealt as a mainstream issue within, for instance, health where we have the expertise and the background in having developed those other models, we feel like, you know, we've been battling an uphill battle because of the fact that it's not been recognised as a health issue and as a consequence to that, consumers have to go looking for specialist services and the approaches have all been very therapeutic in nature and not within that more holistic principle of Ottawa Charter which is quite clear we've moved to over 20, 30 years in terms of tobacco, alcohol, drugs and road traffic accidents et cetera.

So the models are there and we believe they need to be incorporated and quite clearly positioned within the World Health Organisation's approach that we should ultimately relate back to.

MR BANKS: Thank you.

MS ROBERTS (GIS): I guess then many of those other things follow through which you've already addressed: precommitment obviously needs to be clearly defined and our guess our position would be that we would like to see that sooner

rather than later within a minimum of two years. Again, in relation to things like motor vehicle use, we don't believe there should be ability to opt out. I know the industry has concerns about recreational gamblers and destination gamblers and people who may be coming in for a few hours. But I think the position is that this is a kind of one-off arrangement that you make that then is lifelong and effectively can be used in any state or territory. We see great benefits in that in terms of protecting consumers from harm.

We'd also like within some of those individual strategies to strengthen, for instance, the self-exclusion processes. At the moment it is very cumbersome in New South Wales, people have - there are three systems operating, if you include the casino. It's particularly difficult for people in rural areas to get to every single club to self-exclude personally and I guess our preference has been for the AHA model with the one-stop arrangement. From a family perspective, I guess we'd like to see the strengths and perhaps some models similar to South Australia where third party exclusions have been made available, as indeed through the court system there are other mechanisms where families have some level of redress and ability to actually place additional supports in place for a member who may be struggling with their gambling problem.

MR BANKS: Would you like to comment a bit more on that just in terms of not how that particularly works in South Australia, just the notion of having that capability for other family members to initiate a process that would lead to - - -

MS ROBERTS (GIS): Certainly from the point of view of being a gambler counsellor I'm very aware obviously that many people are not seeking treatment to resolve their problem. The nature of the problem itself often means that they have a denial there. Family members are often haemorrhaging major resource and assets that are being jeopardised and really, unless they have the recognition of the person gambling problematically, they can do nothing really in the current situation. Whereas at least in South Australia they do have the ability to make an approach to the court system and even although they don't actually seem to make that many orders, I think the empowerment of families in that process gives them room to start betting negotiations and certainly the initiation of self-exclusion should be - our approach is a very much a systemic one in terms of it's not just one person who is affected by this issue, it's whole families and there needs to be ways of families having improvements in how they can get some control over those financial aspects and currently in New South Wales there's no ability for that to occur.

Equally there is no penalty on either the venue or even the person who breaches. If a breach occurs the it's, "Oh, well, sorry," and that's it and we know in other states there's much more clout behind it.

MR BANKS: Okay.

MS ROBERTS (GIS): We've already stated in our previous submissions that the current funding arrangements on any kind of work in the field of health promotion and treatment in this field is very poorly funded in our state. We would like to see that that's addressed in the recommendations and that all gambling venue operators, manufacturers and gambling providers contribute to a health promotion fund to support a population public health approach to gambling in Australia. Basically at the moment New South Wales has the highest proportion of electronic gaming machines and we know from our experiences that they're obviously the greatest form of harm and yet it's only 2 per cent from the Star City Casino's tax revenue that goes back to treatment primarily. Of that, that's 12 million, 80 per cent of that is what's available be 20 per cent goes into actually funding the branch which leave a pretty paltry amount to be spread across those 50 treatment services.

Most of those treatment services pay their staff pretty pitiful rates under the SAC Award, so they're not usually professional awards. That reflects then in the nature of the people who actually become counsellors and, in terms of career development and therefore maintaining the integrity of their staff and turnover and, of course, out of that whilst we recently had a 2.4 million communication strategy, which is a good strategy and a good starting point to create better awareness in the community, ultimately it's still only a social marketing strategy and it needs to be backed up with much more capacity building in the community and much more health promotion and projects that address the social determinants behind problem gambling.

So within that focus of prevention, protection and then address the early intervention in tertiary, what we have in New South Wales is primarily a focus on tertiary treatment which we know only reaches 15 per cent of people who have gambling problems and within that 15 per cent only 16 per cent in nine years of operation were family members coming through the doors. So we need to have a much broader strategy. I think you recognised in the report that people - people often talk about natural recovery from an academic point at the moment. I guess I challenge that, if you think natural recovery is unaided, then that's an illusion. It's usually falling back on families and friends who often themselves need to have support knowledge and skills to be able to address it and if they're not going to walk through the doors of a counselling service, then where else do they get that information and there is very little out there. Also, of course, what we want to do is identify vulnerable groups and support those groups but also the whole population needs to be aware of the risk so that they can manage those risks accordingly.

We can't do that with \$12 million in New South Wales. Perhaps the model in Victoria is one that has certainly brought together the problem gambling counsellors which at the moment currently sit outside the health system. They've actually developed the partnership program where they sit now within their community health

services. They've brought in funding incentives to those partnerships to get out there into the community to do a lot more work. Currently in New South Wales we have a great social marketing strategy but the emphasis is on those individual counsellors who are trained in individual intrapsychic work primarily and in fact are drawn from the intrapsychic discipline. I'm probably a rarity of one social worker in that whole field but because of that they genuinely either don't have the skill set or in fact don't see it as their role to be out there being social marketers, community educators, health promotion workers.

In Victoria they have actually set up community educators alongside their problem gambling counsellors to be able to do more of that work and it is a different skill set. I'm one of the accredited supervisors for the counsellors and also trainer in the current framework here and the feedback I've had from counsellors is that they're really expected to be a jack-of-all-trades effectively at the moment, really because we're not funding and skilling-up and providing another range of services. I guess within that, unlike other health issues such as - my background previously was involved in setting up the Alzheimer Association in New South Wales. Other health issues generally work with NGOs in a variety of ways and certainly self-help and peer support programs are commonplace.

But, again, organisations such as ourselves have no funding stream within the current arrangements to be able - and we've written several times. We've had the odd one-off grant for developing community education resources such as a video, DVD et cetera but overall - and let's also get real, we're the ones that have driven in the last five years the Responsible Gambling awareness week in New South Wales and tried to coordinate that across the company. But we operate on about \$9000 that we get out of our local club's CDSE expenditure. There needs to be recognition of the skills that consumers bring to this and the range of NGOs that need to be involved. Under health, for instance, we have our health service deliverers. We also work on the issue with other NGOs. We still have this marginalised group of 50 treatment services operating very independently and organisations such as ourselves have no funding streams. So there's not much incentive for other agencies, let alone ourselves, to start working on gambling issues and we'd like to see that change.

I have already made comment previously in other submissions that we'd support a national accreditation program for gambling counsellors that reflects practice at a tertiary postgraduate level. We do believe that this issue has a complexity to it, comorbidity issues that you need a pretty high skill base to work with and that therefore we would assume that this base level of counsellor qualifications would be beyond vocational TAFE level qualifications so that they would have tertiary levels with a PG qualification similar to how you may work with other mental health conditions or other specialist areas that you have your basic tertiary level qualification and then you add onto it. At the moment I think we feel that that's been far too low and it's been a question of closing the door after the horse

has bolted.

MR BANKS: Just on that, how far would you see such national accreditation going into the area of methodologies as opposed to other more generic or process-related aspects?

MS ROBERTS (GIS): One of my concerns with the arrangements that happened in New South Wales, and I was one of two professional workers who deliberately failed the pilot, I have to say, initially because we weren't being asked, because we weren't being listened to and we felt that in the initial RPL'ing for basic counselling qualifications and this was a PhD level psychologist and I'm a master level social worker, were being asked to jump through a million and one hoops and provide documentation on what we would see as basic first aid-type counselling level. That wasn't even the gambling counselling models, we were quite happy to do the gambling counselling ones so we felt that those were additional skills on top of our basic therapeutic background which, when you're at tertiary level that is - whilst the rapport and relationship is 75 per cent of any therapeutic arrangement, that's still not to negate the 25 per cent of your theoretical background. TAFE qualifications in interviewing skills don't give you that. So there is some basic information around gambling and gambling sensitivities and self-exclusion and models of intervention but they need to be backed up by other theoretical underpinnings, I guess, is what we were saying. We believe that that is at tertiary level and because of the complexities around depression, anxiety, some of the other comorbidities and we were seeing - I worked for a community health centre, we were one of five health services that tendered for funding and now there's only four in New South Wales.

The benefit of our position, as we saw it, was that health-only employers, that level of worker - because we recognise the client group we're dealing with - and then the complexities of the issues that we actually were dealing with meant we had a colleagues in mental health, for instance, that we could work in a co-relationship with, people could come through the door of a community health centre and they could be there for anything. They don't have to identify as being problem gambler as such to come in. I guess we had the ability to draw in other specialists as we needed to and have that much more collaborative approach and that's very hard to provide when you're outside that system. What we had with what was CCBF at the time was a suggestion - and we were dealing with quite complex women surviving sexual abuse from childhood, people with other mental health issues, quite complex issues but having those baseline skills, being able to work with that and the problem gambling it compartmentalise people and just say, "Okay, we'll train you up to this level, I can deal with that bit but then you have to sort of go off to something else for all those other bits."

I guess the expectation that we had at the time and I was certainly told at the time was that, "We're not trying to replace sexual assault services et cetera et cetera,

you just deal with the problem gambling piece of the person." Well, people don't work like that and individuals don't want to be moved around the system in that way. So I guess what we're saying is you have to be prepared to work with those complex issues and you have to be trained to do so.

MR BANKS: Thank you.

MS SYLVAN: Could I go back to the Internet gaming potential liberalisation.

MS ROBERTS (GIS): Yes, but it's not my forte, I have to say.

MS SYLVAN: You mentioned the need to get the harm-minimisation strategies clearly defined and put into place before something like that occurred and you also went to the issue of credit and the potential problems and so on. Realistically speaking, I guess most of the Internet businesses operate on a credit card basis, there are some alternatives that are much less used. I wondered what you thought might be an alternative if credit is a particular problem or were you saying that with appropriate harm minimisation structures in place - - -

MS ROBERTS (GIS): No, we don't like credit at all. If you can't use credit for gaming on an electronic gaming machine I guess we're saying, why would you be then allowing that for Internet gaming or wagering that's effectively sitting in a room in your study. Yes, and also the fact that it's open to abuse, particularly by minors who can obviously take credit cards from parents et cetera and there's no checks and balances in that regard. You know, thinking about that off the top of my head I guess it's then about how do people set up other kinds of accounts if they're going to use a facility of Internet betting and a credit card's just too available and by the nature of it being a credit card you're already extending debt. So at least if you're using your own funds somehow, even although they're potentially likely to be maybe the funds of third parties, I think we'd be looking to make sure that credit wasn't part of that.

I have also had some discussions in the past with a UK-based organisation called gamAid who you may be familiar with and I guess the links that they make through sites to information, therapeutic support. But I have to say having looked at Betfair's site the gamAid icon is about this big at the bottom of the screen. So I would hope that any of our opportunities for providing information to customers would be much more sophisticated and I think the sorts of things around precommitment and self-exclusion would be something we'd want to make sure was there for the Internet.

MR FITZGERALD: I noticed in your speaking notes - and obviously we're going to run out of time before we can get to all of them so if I can just preempt a couple.

MS ROBERTS (GIS): Sure, please do.

MR FITZGERALD: Clearly you have an exceptionally strong emphasis on a public health approach, and a number of your speaking points go to the governance arrangements.

MS ROBERTS (GIS): Absolutely.

MR FITZGERALD: You might just want to articulate for us why you believe that the current governance arrangements in relation to the industry are inappropriate, but I suppose in particular why you believe that all of the harm minimisation policy development effectively should sit within the health portfolios.

MS ROBERTS (GIS): Or a human service organisation?

MR FITZGERALD: Yes.

MS ROBERTS (GIS): But health, I guess, we would say - - -

MR FITZGERALD: Because at the moment, as you know, regulation of the sector is all over the place according to the jurisdiction.

MS ROBERTS (GIS): Absolutely.

MR FITZGERALD: You might give us some more points about that.

MS ROBERTS (GIS): I mean, notwithstanding that we know health is in a bit of a mess. But we would support the sorts of arrangement that New Zealand has clearly adopted. So the current arrangements, for instance, in New South Wales there is a clear conflict of interest and, therefore, also lack of transparency, I think, with regard to the regulatory body for the industry and having also the responsibility of the development of human services and harm minimisation policy. I guess organisationally we don't believe that that organisation has neither the skills or the culture to be able to do that, they are not a human service and whilst they have brought in consultants and I think you only have to look at the recommendations of the 2004 IPA inquiry in New South Wales whereby there were clear recommendations to either hand over the treatment program - which is obviously the only program they have really at the moment - to health or at least build a relationship with help to be able to support that work. Now, six years down the track virtually that has never happened.

So I think we need to address that conflict of interest, both the perceptual one and the real one. I think having spoken to the health department and the DIA in New Zealand I think they have that balance well worked out. So, again, getting back to that whole of government approach, they're all working on the harm minimisation

approach, but the regulators have their abilities to be able to do that through the regulation and supporting the industry with host responsibility et cetera. But the development of policy on the human service end of it and the research, community education, harm minimisation strategies to that population approach and then the overseeing of the skills development and the qualification, the training et cetera for staff in those counselling services is handled by an organisation that has the background skills and political will and culture to see that occur and we don't have that here. As you say, it's in very different patterns in different states.

MR FITZGERALD: One of the recommendations we have is that whoever the minister is or the portfolio responsibility for gambling issues should in fact explicitly state that they have to take into account harm minimisation measures. I presume you would think that's an inadequate response.

MS ROBERTS (GIS): Absolutely, yes. I think it quite clearly needs to be split between the Office of Gaming and Racing and New South Wales and that needs to be somehow be brought back together again perhaps with an independent body. There needs to be policy division. You cannot have one organisation that's developing - an example, right at the moment that branch has been so thinned down and, for instance, the policy officer on research and community education and the head of the branch have currently been seconded out to work on a privatisation of lotteries. How does that work in the interests of developing health promotion, public health approaches at a time like now when we've got these major consultations going on?

There's a clear conflict going on in terms of the needs for the changes in the regulations around gaming and the needs of the community and the consumers which I think would be better served by a human service organisation such as health. I mean, basically we have the Liquor Advisory Board managing the regulations about liquor distribution licensing, host responsibility but we don't ask that board to set up programs for problem drinking prevention. That all sits with health and I find it hard to understand why we haven't taken that approach with gambling and problem gambling.

MR FITZGERALD: Thanks. Just the other things in relation to your speaking notes, local governments you see them to have a fairly important role. They have had an increasingly important role in being able to input into planning decisions.

MS ROBERTS (GIS): Yes.

MR FITZGERALD: I just want to understand how much further than that do you think local governments should be involved?

MS ROBERTS (GIS): In practice and I can only speak, as far as I'm aware in New

South Wales and I realise in Victoria they've been more actively involved in planning around gaming machine locations and caps et cetera. In New South Wales there's minimal input. So even although they're legislated to be able to be consulted on social impact statements, they have minimal input as far as that's concerned and never does that go back to their constituencies for consultation. So the point that we've made, I guess, is if we're not going to have local caps on distribution, although currently we've got the banding arrangements now in New South Wales, there needs to be a process for the community to be consulted around what levels of access to gambling they want in their communities, notwithstanding that there's new arrangements going on between Tabcorp and Australia Post, I gather, without again any consultation with those communities.

We see that the opportunity for that would be through the strategic planning that they do. They undertake major consultations around their local government strategic plans every three years. We believe that there should be some way that they are legislated to be actively involved in that harm minimisation on problem gambling and include those processes to feed back into the development of policies and proposals.

MR FITZGERALD: It's self-evident to ask the question, why do you have confidence that local governments are in a better position to be able to assess those sorts of decisions than the state or other levels of government, given the high influence that clubs and pubs have in their local communities and in planning decisions more generally.

MS ROBERTS (GIS): Absolutely. The example at the moment is Shoalhaven City Council who we have worked with over a number of years on these issues. They have called for their community service department to look at the concern that that even within band widths it doesn't stop the moving of machines, for instance, from perhaps from high socio-economic areas into lower ones and within our area - and it's a population of 96,000 people spread over 49 towns and villages. That can go on without any consultation with community. So there has been a proposal that the counsel actually limits that and that has now gone through the Living Futures program which is about looking at safety in communities and it's gone to their sustainability counsel at the moment. So that's something they're doing off their own bat and I think that's valuable.

My answer to your question would be that they're closer to the communities and have more opportunities to take their views into consideration. The difficulty with that, as we know from having talked to our local mayor in the past, is at the moment they have no legislative responsibilities and the small ones that they have had in terms of social impact they have been able to give the flick to and basically see it as a state issue and until they're told otherwise they won't take it on, they've got enough on their plate.

MR FITZGERALD: Thank you for that.

MR BANKS: Time is pressing, but were there any other final points you wanted to make before we close?

MS ROBERTS (GIS): No, I think I've probably made most of them. I just perhaps reiterate that the opportunity to look at the more equitable funding arrangements for this issue and I would like to see that that is seriously addressed.

MR BANKS: Thank you very much.

MR FITZGERALD: Thanks very much.

MR BANKS: We'll just break for a moment, please.

MR BANKS: Our next participant this morning is Tourism and Transport Forum Australia. Welcome to the hearings. Could you please give your name and your positions.

MR HALL (TTF): My name is Evan Hall. I'm the national manager of the Tourism and Transport Forum.

MR BANKS: Thank you. Thank you very much for attending and also for the submission that we previously received from you. As indicated, we'll give you the opportunity to go through some of the key points you would like to make in response to the draft report.

MR HALL (TTF): Thank you for the opportunity to present to the commission. My comments are largely going to focus in terms of your terms of reference, the relationship between tourism and gambling, particularly the economic interrelationship. Just a little background on us, the Tourism and Transport Forum were an industry-representative body that represents the entirety of tourism, that's from airlines and airports through to national parks, opera houses and, relevant for this scenario, casinos. What I'd like to do is just discuss the brief nature of tourism which will be some important background to the main comments I'd like to make and then have a look at the role of gambling venues within tourism and make a few comments about the draft report that's been presented today.

Essentially in terms of what is tourism, it's the activities of visitors staying away from their usual abode for less than a year for leisure, business and other reasons. It's not limited to holidays but does take into account business travel, business events and so on. Importantly for this discussion, Australian tourism is made up of some 27 per cent international visitors and 73 per cent domestic visitors. It is largely based on domestic tourism but it is very much a trade-exposed industry. That 27 per cent of international visitors drives around the order of a little over 10 per cent of Australia's entire exports. But domestic tourism is also an important replacement industry, insofar as the decision to travel made by Australians is, "Are we going to travel in Australia or are we going to travel overseas?" So the quality of our tourism offering not only is an export earner but it's also import replacement in terms of domestic tourism.

Those international and domestic visitors within Australian stay some 432 million nights per annum driving \$88 billion in expenditure. This accounts for 3.7 per cent of national GDP. Tourism is very labour intensive and therefore generates considerably more, 4.7 per cent of national employment and, as mentioned earlier, over 10 per cent of our national export earnings. Tourism is not really an industry, it is a collection of industries that together form a supply chain. Unlike most industries that bring their products to the consumer, we literally take the

consumer on a journey through our supply chain. But if you just have a brief look at the diagram in the bottom left in the speaker's notes I've given you, it goes through the key elements of the supply chain, that's long-distance transport; airlines and airports; local transport; precincts like the Rocks and Circular Quay; accommodation and food services providers in which we would place pubs and clubs and attractions, events and education which are the demand drivers, the reason why people travel in which we would put casinos and racecourses in terms of the venues, and marketing and distribution which is the role of groups like Tourism Australia or Tourism Victoria together with the private sector to market those products and distributed them around the world.

Just in terms of that supply chain, it's a key point to note that no-one comes to Australia because they particularly like flying on 747s or staying in hotels, that's the supply chain to get the visitor around. The key demand drivers are the attractions, events and short-term education which brings us to our major problem and policy challenge within tourism and that's the basic externality and market flow that exists within tourism. If you have a look at the chart on your bottom right which basically shows the share of total tourism gross value added by different industries, you will see that some 40 per cent - it includes manufacturing, retail and other - their external beneficiaries of tourism, 40 per cent of tourism expenditure is not spent within the tourism supply chain. Even within the tourism supply chain which makes up 60 per cent of tourist's expenditure, you will not that attractions and events only make 8 per cent of that expenditure.

The problem that we fundamentally have is the attractions that bring people to Australia or bring people to a certain state or destination do not make much money out of tourism, it is the rest of the tourism supply chain and in fact the rest of the economy that is the beneficiary. So this is a positive externality, it's obviously a good thing but it does lead to market failure and under-investment, particularly marketing; marketing a particular destination and the provision of infrastructure, particularly for attractions which as a result most of the attractions that the tourism industry relies on are in fact public assets, museums, national parks, opera houses. The golden exception to this rule is casinos, and I'll go into that in a little more detail. But in terms of pubs, clubs and bars, which we would put in as accommodation/food services, not an attraction but a provider of a service to tourism, they receive a little over 3 per cent of tourism gross value add. Casinos and racecourses, which are an attraction, only count for .5 per cent of the gross value add of tourism.

By that examination, you might reach the conclusion that pubs, clubs and bars are more important to tourism than casinos, but we would actually draw the opposite conclusion. Casinos are the main attractions, they are demand drivers for tourism, where pubs, clubs and bars are not, they are service providers. So essentially pubs and clubs are beneficiaries of tourism and the casinos drive tourism demand, and we are a beneficiary of casinos and racecourses. I particularly want to concentrate on

casinos for this point further.

One of the reasons why they are so important to the tourism industry is because they are an exception to that rule of market value. Casinos actually make money, as I'm sure everybody knows, and they are the one of the few attractions that do. They therefore can receive value not only from the attraction but for building-up tourism infrastructure. Essentially casinos attract more visitors, provide more infrastructure and spend more money on destination marketing than what their share of the tourism economy would indicate. In other words, the externality is reversed for us, we are the beneficiaries of casinos.

So just breaking that down, having a look at casinos as attractions, casino patrons, and these figures have come from two casinos, but as a rough approximation of casino patrons, around about 20 per cent are international visitors, 10 per cent are interstate visitors, 15 per cent are intrastate visitors and 55 per cent are what we would consider non-tourists local patrons.

MR BANKS: But are you saying here that 20 per cent of foreign visitors to Australia come here expressly to go to a casino?

MR HALL (TTF): No. Certainly for high rollers and others the casino offering would be critical. One of the problems that we have in tourism is, with the exception of some events and attractions, you cannot attribute the decision to come to any one event or attraction. The choice is the destination; but some attractions are necessary for that choice to be competitive.

Without a doubt, I have got to say, for particular target markets the casino offering is a crucial bare minimum, if you like, to be competitive for that target market. It is not the only reason why are coming, but it is one of the reasons why they are coming; unlike pubs and clubs, for example, which would simply be service providers. But the relationship is more complex than that, because they are also venues for events which do specifically attract visitors.

Just looking at the international visitors, 19 per cent of international visitors on average are casino patrons, but this changes very much depending on the source market, and particularly for our Asian source markets - Taiwan, China, India and Korea - the attendance at casinos is far higher than that average. The critical point for us is those target markets. Particularly China and India are where we are expecting to get the growth in tourism over the next 20 years, and without a doubt internationally competitive casino offering is critical to those markets.

China, for example, will replace UK, Japan and the US to become our second-largest market by 2018. So the value to pull out of that is that the international competitive casino offering is critical to those export earnings in the

tourism economy. But I have got to say whenever we are talking about international competitiveness, we are also talking about for domestic tourism, because once again it's an import replacement and it's the decision not to go to another international destination and to holiday at home within Australia. That's the role of casinos as attractions.

In terms of infrastructure provision, this is where they're extremely critical. We have a fundamental problem with tourism. We have identified that we need about \$86 billion in total tourism investment over the next 10 to 15 years, to supply particularly the accommodation, for the growth in tourism, and this is simply not occurring. Capital city accommodation is at record occupancy levels, but we have not seen any major development in tourism stock for quite some time. There's a range of reasons behind this, but the telling point is that the only place where we are seeing effectively the development of hotel accommodation in the CBDs is by the casinos.

For example, in Sydney we have had no new hotel accommodation development within cooee of the city since before the Olympics, with the exception of the hotel development that is now going on at Star City. It's a similar story in Melbourne, in terms of the casino and the hotel development there. The only other hotel development that has been going on in Melbourne is part of the new convention and exhibition centre, which once again brings the two together, where you have the attraction and the accommodation component. That is publicly-funded, the convention space.

Casinos are the major provider of venue space in each of the capital cities, after the publicly-funded convention and exhibition centre. There's effectively market value for the provision of meeting space, because of the large floor plate required of such venues. Market value tends to kick in around about 800 to 1000 person capacity. Casinos, because they do make money as an attraction, are like everything else, do go up to 1000, 2000 person capacity.

Above that, there is market value where you have to go to publicly-funded major convention and exhibition space in these venues. But without a doubt, the casinos are filling a critical gap in providing the venue space for performances, theatres, business events, conferences, exhibition space and conventions, and these events do directly drive tourism to destinations.

The other point I'd like to make is on the relationship between casinos and tourism marketing. There's market failure in destination promotion, largely due to the free-rider effect. This is the reason for the role of bodies such as Tourism Australia, Tourism New South Wales and South Australian Tourism Commission. They rely on what we call cooperative marketing, so they'll sort of brand Australia and put that out there and then do cooperative marketing campaigns with the private

sector.

Casinos spend more than just about any other private industry in the international promotion of Australia. That's \$65 million, and, putting that in context, Tourism Australia's budget is \$135 million per annum, so about half of what Tourism Australia is spending on international promotion. This is critical, because we have good evidence on the return on investment in tourism marketing, and Asia in particular is currently 17 to 1. So for every dollar spent on tourism marketing there's \$17 spent by international visitors from Asia in the Australian economy.

The critical role of casinos in tourism has been picked up by a lot of our international competitors, particularly once again in Asia. That's once again to protect their own domestic tourism market and to attract outbound from Australia and other destinations to their international market. But essentially what we're seeing is a lot of fairly significant developments, up to \$8 billion for combined casino, convention space, accommodation and resort developments, particularly in Singapore, and that's the international competition that we're facing at the moment.

I appreciate much of the commission's attention on this issue is going to problem gambling. I don't want to in any way hold myself out as an expert on problem gambling, but I did want to make note of the difference in consumer behaviour and what is fundamentally the tourist consumer behaviour. Tourism is essentially delayed gratification, it is discretionary expenditure which people are choosing not to spend now. Essentially our main competitors for tourism expenditure are things like plasma-screen TVs and that sort of instant gratification expenditure of the discretionary dollar.

Because it is planned, it is delayed gratification and often requires a considerable amount of negotiation between, say, an individual and their employer for time off, but often it's the individual and their partner and their family for time off. So it is very much planned expenditure. Our general view is that this is not symptomatic of problem gambling behaviour.

So in terms of the main considerations I wanted to draw out from those comments, first is that tourism is significant contributor to the Australian economy, particularly exports and jobs. Casinos within that are major attractions, particularly for some of our international key markets. The casino offering therefore needs to be internationally competitive to attract international visitors and to retain Australia's domestic visitors; and those casinos need to be viable, because they're undertaking significant investment for us in tourism infrastructure and marketing.

In terms of the draft report from the Productivity Commission so far, generally, we would have liked to see a bit more analysis of the role of casinos and tourism and the relationship between the two, in terms of once again the terms of reference in

there. In terms of the recommendations put forward, and I particularly point to the recommendations 9.1 to 9.4, first and foremost this is regarding access to ATM facilities, use of credit cards and so on and so forth. First and foremost, I make once again the distinction between pubs, clubs and bars and casinos, one is an attraction, the other is service provision.

I certainly recognise the fact that within the draft report an exemption was put in or proposed for international visitors to Australia. I am assuming this is recognition both of the significance of the international visitors and the need to offer an internationally competitive casino experience. I also think that exemption is appropriate for tourists, because this is planned expenditure, as we discussed earlier.

But all those reasons apply equally to domestic tourism as what they do to international tourism, if not more so, given the significance of the expenditure; and we would certainly like to see, if the exemption is applied at all, that it is applied to international and domestic tourist. We are unsure of the actual practicability of applying those exemptions and I can't really make comment on that; I guess you'd have to talk to the casinos directly. But we would be concerned about any measure that undermined the visitor experience in terms of actually being able to spend the money in the casino on their travels, not having to jump through hoops such as coming up with a passport or whatever it was to demonstrate who they were or where they were from. Essentially we want the experience to be a good and certainly internationally competitive.

I would also like to draw on, given the general - for casinos, the proportion of patrons who are international and domestic visitors, we believe that any measures to mitigate problem gambling should be targeted at those at risk rather than general measures applied to all patrons given that we know roughly up to 50 per cent of them are in fact tourists and not in that category. They are the main comments I wanted to make to the commission.

MR BANKS: Thank you. I think the points you made are quite interesting and actually they haven't been made in quite that way before and we know that, for example, within the gambling fraternity different strands of that do see themselves as being quite different so you have provided information, I think, in that distinction between attraction and the service provision. Just coming back to your point about the relationship between tourism and problem gambling in the sense of it's planned expenditure. We ourselves have noted in the report that there is a difference between destination-point gambling and more community based gambling in terms of the issues that arise. I guess in practical terms we have sorted out the high rollers and potentially international tourists in part because that would be more practical to do that. When you start to talk about domestic tourists, I think as you say yourself, it's very hard to distinguish a domestic tourist from some other domestic participant.

MR HALL (TTF): And an international visitor, to be frank. It's not as if they look different. So it would be a matter, at some point, asking them for proof, I assume, and we'd be wholly concerned about that how would actually impact on the visitor experience.

MR BANKS: Right.

MR FITZGERALD: Except to say this, if you look at the actual income for casinos, where is the majority of the income generated from? Is it not generated largely from high roller and VIP rooms together with beverages and refreshments? Indeed, when you look at the actual expenditure rates, the impact of any measures on the main floor that we're proposing would be modest in terms of the overall revenue of a facility.

MR HALL (TTF): My comments on that would be twofold: in terms of the impact on the revenue of casinos - so I'd say first and foremost our main concern is not that, it's the impact on the expenditure of tourists elsewhere in the tourism supply chain in the general economy if they're not coming because the casino experience is not internationally competitive. In terms of the impact on casinos, I'm obviously not sure of what the impact would be on their bottom line, but we would be concerned about their capacity to invest in the infrastructure that we're highly reliant on, being both the hotels and - - -

MR FITZGERALD: I understand that but that assumes that there's an impact on revenue and the issue here for us where is that impact. Clearly, our intention is to impact on revenues that come from problem gamblers.

MR HALL (TTF): Yes.

MR FITZGERALD: But if we look at the VIP rooms where many of the international guests go and if we look at the high rollers where they're nearly all international guests and, for example, in the VIP rooms you can't play in there unless you've actually got a card so you've got to have gone through a process to actually play in that room and high rollers are well known to everybody. So in terms of identification, we're talking about perhaps a small group in terms of those that contribute fairly revenue to the actual casinos. In other words, what I'm trying to say is there's no question our report is not about trying to reduce the viability of casinos or reduce the tourism trade, but there seems to be a assumption in this that there would be a significant impact on international or other visitors and I can't quite see where that would be the case.

MR HALL (TTF): To be frank, first of all, your assumption that the high rollers make up a significant proportion of the international tourist I would describe as being wrong.

MR FITZGERALD: No, sorry, high rollers make up a fairly significant portion of the general revenue of casinos for at least Crown and Sydney - - -

MR HALL (TTF): Without sounding too selfish, I'm not that particularly concerned about the revenue of the casinos, I'm concerned about the revenue from the international visitors who will not come particularly from some key source markets if the casino offering is not competitive. I'm not just talking about rates of return on the revenue, I'm talking about the whole experience of being there.

MR FITZGERALD: I know, but they're linked. Again, I understand fully that you're coming from a different perspective from the operators of the casinos who will speak on their own behalf but I'm not sure where you think in our recommendations there is a significant risk to the tourist dollar. I can't quite see it. What measures would you be concerned about. The fact that somebody may or may not have to in fact show they've got a passport frankly is a minor inconvenience. I understand that that's inconvenient but that would not put off anybody. So where is it in our report that you believe there are real risks to the industry or to tourism generally?

MR HALL (TTF): I'm sorry, I don't accept the assumption on the question that the quality of the experience, that having to produce a passport is a minor inconvenience. This is a highly competitive market, not just for the high rollers, for the destinations that people choose. People are very mobile in terms of where they're going and they do look for a competitive experience. It only takes one person to say, "I got hassled at the casino, had to produce a passport," or, "I could only take a cheque rather than my earnings," for that to spread by word of mouth to precisely the people that we're trying to attract to Australia. I do not accept the assumption that you can put down these measures without having an impact on the visitor experience and therefore on international - - -

MR FITZGERALD: So in European casinos where you actually have to produce identification and sign in and all those - - -

MS SYLVAN: I gather Singapore will require a passport as well.

MR FITZGERALD: To play.

MR HALL (TTF): To play.

MS SYLVAN: Yes. So it's not uncommon that you need identification.

MR FITZGERALD: I'm not disputing the fact that there may be some inconvenience but I'm really trying to understand whether or not the level of the inconvenience caused by any of our measures would be significant enough to

warrant the concerns you're raising. The fact that you're raising them, I understand that, and the fact that we appreciate the value of the casinos in relation to tourism, we understand that so we're not at cross-purposes. My question is really very targeted to which of our measures you actually think will diminish or has the potential to diminish that experience.

MR HALL (TTF): Measures 9.1, 9.2, 9.3 and 9.4.

MR BANKS: But in all of those we've acknowledged the point you're making, haven't we?

MR HALL (TTF): Yes.

MR BANKS: So that's what made me think that your main concern was domestic tourism.

MR HALL (TTF): Absolutely. The main concern is domestic.

MR BANKS: But isn't that a zero sum game nationally? I mean, if a tourist goes from New South Wales to Victoria or New South Wales to Queensland or anywhere within Australia, that's a zero sum from Australia's point of view. It's good that they're doing that and it's good for the tourism industry. But are you saying that if you had a provision relating to casinos that domestic tourists would go overseas?

MR HALL (TTF): Again, I don't accept it's a zero sum gain.

MR BANKS: They're going to spend their tourism dollar somewhere.

MR HALL (TTF): There is greater expenditure than would otherwise have occurred had it not been for the tourism experience.

MR BANKS: But they spend less on something else.

MR HALL (TTF): Indeed. They spend less on something else but there is a net gain in terms of overall expenditure. Secondly, it is a value to those destinations and while you might be looking at it from the Australian perspective, from a destination perspective, whether or not you're looking at national, by state or by regional destinations these are all export earnings when they come down to tourism and we don't believe that you should disregard the impact on regions of not having the tourist dollar being spent there because it is perceived incorrectly as being a zero sum gain Australia-wide. But the predominant concern is domestic visitors are mobile and they're mobile internationally. Our planned visitation from Australia overseas is the direct import replacement is domestic tourism. We are concerned about the impact on domestic tourism of having much better gaming experiences in places like

Singapore and Macau will be very attractive to a lot of elements of domestic tourism within Australia.

They also use, as we've noticed here, but haven't leveraged to the same effect - the casino experience underwrites the great entertainment experience of these destinations, the conventions and exhibitions and business conferences that they're pulling to these destinations, the convention space and so on and so forth. You can't separate out the interrelationship between having a viable and competitive casino experience with the other things that are therefore able to built around that casino experience and altogether it's the package that makes the international appeal. None of these offerings in Singapore and Macau would exist if it wasn't for the casino offering underpinning it and it's the same - we do it roughly through precinct planning, essentially though it is integrated development that are far more competitive.

But it is an essential part of the attraction but also its viability and it's ability as an attraction, its rare ability as an attraction to make money and fund the infrastructure for the other attractions are critical. Yes, we are primarily concerned about the domestic market.

MR FITZGERALD: But this is the dilemma for Australian casinos, isn't it, because unlike in many other countries where casinos are absolutely destination based, you've actually got to travel, you take an amount of money, you lose that amount of money and it's a big decision. In the Australian context they have deliberately been placed, particularly in Sydney and Melbourne, in the hearts of cities. As you say, at least 55 per cent of their custom is domestic. So trying to weigh up social problems, one's not trying to adverse the impact on the tourism industry, but on the other hand, you'd acknowledge that if you're trying to dealing with a problem, unless you assume for a moment it's a domestic problem, that's a legitimate concern. I mean, you would not support, I know, money coming from problem gamblers to support your industry or any others, I presume.

MR HALL (TTF): No.

MR FITZGERALD: Certainly the industry tells us that frequently so I suppose there is the trade off here. But again I'm having difficulty understanding that the offering in the casino is of such a lesser quality that it would actually have those behavioural impacts that you're suggesting. Again, in your paper here you really say we should look at that and examine it in more detail, I understand that.

MR HALL (TTF): Yes.

MR FITZGERALD: But at first glance it's hard to see that it would be a significant impact. There would be an inconvenience, we acknowledge that but the

trade off for that is maybe it actually helps reduce problem gamblers, both international and domestic but mainly domestic.

MR HALL (TTF): First of all I put it to you we should know that before we make any decisions about that, given the significance but I would not disagree and this is a fairly common reaction that we face. Most people make assumptions about tourist behaviour based on their own value sets. There are people who are choosing - and they are not necessarily high rollers - destinations based on the casino offering or the value of that casino offering is critical to their decision as to which destination they're going to. But it is rarely just the casino, I appreciate that. But typically casinos are driving the other attractions that are critical to making that decision as well.

The question that you raise - and can we first of all be clear on this, we've made the separation between the pubs, clubs and bars. We do not have this concern about pubs, clubs and bars to the same extent and, therefore, we think it's a separate matter. Casinos we know to be demand drivers. To the extent that measures that you might put forward would impact on them as attractions, both on how much they would spend on marketing on overseas, how much they would spend on infrastructure provisions for other attractions, how much we would lose in terms of "this is not a competitive destination any more" all that should be evaluated before any measures are put in place that might have an impact would be our primary concern. We do not accept that you can make changes here on the floor which we know will be inconvenient without measuring the impact on the international competitive.

But I would say this: with roughly half of the people being tourists, which is a very different complexion to what you might see at a pub or a club, it is, first of all, a valid consideration and, secondly, quite a significant consideration given that much of the tourism economy of CBDs is relying on the casino offering with all the attractions and the infrastructure and marketing that they provide that are keyed up to it. Therefore, given that roughly about half of them are tourists, roughly about half of them are therefore planned expenditure, we believe in that situation, in casinos at least, it should be targeted to problem gambling rather than general measures applied to all patrons to which you can exempt yourself by provision of passport or whatever proof may be needed.

So given the complexion of patrons to casinos we believe that the measures applied should be appropriate to that because we can assume there's a much smaller proportion of the patrons at any given time that are in fact locals and may therefore be in the problem gambling category as opposed to what we do know is a good chunk who are visitors and therefore there because they planned to be there, generally weeks, if not years, in advance for that expenditure and that consumption.

MR BANKS: Would that logic, at least in terms of domestic tourism, also extend

to some of the larger clubs, particularly in New South Wales, which in a sense are almost mini casinos, I mean, they're restricted in some of the games that they provide.

MR HALL (TTF): Yes. We do see some larger clubs, and you're quite right, they're sort of mini casinos in the fact that they are providing some venue space, typically in a destination that does not have a casino it is reasonably far away from the casino. But that said, even on the scale of the floor plates that they're offering for conference space or venue space or theatres or so on, they're generally not in that what would otherwise be market failure for the private sector to provide venue capacity. So we're not saying it is providing something that would otherwise not be there. It makes sense for them to have it there. Obviously we're appreciative of that but we don't put them in that category where they are providing infrastructure that would not otherwise be provided.

We would certainly not put them in the category where they're marketing internationally Penrith, for example, around the world. They're not contributing, they're not doing cooperative marketing with Tourism Australia or Tourism New South Wales, they don't have the networks of staff out there which certainly rival Tourism Australia's, for example. They simply don't have the economies of scale to be significant contributors on those add-ons which we believe are significant to the tourism industry, being the infrastructure provision and the marketing provision. Yes, they are providing some space but our general sense that space would probably be provided elsewhere by the private sector in a function hall for weddings and so on and so forth in that market. Whereas there's certainly space that's been provided by the casinos in the capital cities that would not otherwise be provided which, generally speaking, we'd have to call on the public purse to provide convention and exhibit space for those sorts of conference sizes and that is a critical concern.

Equally, it's very hard to look at consumer behaviour and what motivates any individual about which destination they're choosing and the exact mix of casino offering, the possibility to take a stroll by Sydney Harbour or whatever it is that makes up the decision to come along, very hard to get that attribution right. But we don't believe that pubs and clubs, even the big ones, are considerable drivers of demand, even in the domestic market. They might be holding some performances or events that will be attracting people but once again that's could probably be provided elsewhere.

MS SYLVAN: In terms of inconvenience, you've focused on access to cash and credit.

MR HALL (TTF): Yes.

MS SYLVAN: Do you apply the same logic to the precommitment systems that

would be in place if these recommendations are accepted to electronic gaming machines where people can't just play, they have things they have to do beforehand in relation to choosing to put a limit and so on?

MR HALL (TTF): I'd have to say I don't have any evidence or strong views. We haven't had any feedback from people about what that impact might be. Part of it is the quality experience, part of it is also, "What can we actually spend on the day. We've actually chosen to travel here. This is my holiday. I want to come to the casino, we don't have one in Dubbo. I'm coming into town for a weekend," be that domestic or the international equivalent. To then have a cap on what you can spend on your holiday, we believe is inappropriate and undermines the competitive offering. If it's an election by the visitor, I think on the whole we can probably not - - -

MS SYLVAN: So the process of having - - -

MR HALL (TTF): It's things like, "This is applied to you unless you can prove otherwise or demonstrate otherwise," that we would be more concerned about. But if it's something you have to do in advance before getting there, that adds to the, "I've got to plan more before I undertake my holiday," those things would concern us. But if it's something they can do turning up on the day and say, "I only want to spend this much money," I don't see any impact on that.

MR FITZGERALD: Just taking that up, with the Victorian legislation, as understand it, for example, ATMs will in fact be excluded from gaming venues entirely. Ours are staying, but there's a restriction. Have you actually looked at any of the measures that are going to be introduced down there and whether some will have greater or lesser effects on what you're proposing?

MR HALL (TTF): Not particularly. Obviously we've got feedback from the casinos and they have different views coming forward. Let's bear in mind tourists are not geared up to understand how things work in a particular area. Anything that requires them to do something else - you can, "We'll put in signage and so on and so forth." But if you make it hard for them, they won't do it and it detracts from the examination, "Why is it that I have to leave the casino, I'm here on holidays, I've precisely come to this casino as part of what I want to do. I want to take in a show, I want to do some gambling, I want to stay in a five-star hotel and yet I have to do this, that and the other which I wasn't expecting and might not necessarily know how to do," or undermines the experience and then the word of mouth undermines the market.

MR FITZGERALD: Okay. Just on that, to your knowledge, are there any regulations currently in place around Australia that have been of particular concern or where there's been a demonstrable impact on tourism attending a casino to day?

There's lots of lots of regulations been introduced over the last decade, have they had any demonstrable impact to your knowledge?

MR HALL (TTF): I don't know. I can't answer the question.

MR FITZGERALD: Okay, that's fine. Thank you very much.

MR HALL (TTF): Thanks very much.

MR FITZGERALD: We're going to resume at 2.15 and we've got four participants this afternoon so back at 2.15. Thank you very much.

(Luncheon adjournment)

MR BANKS: Welcome back, ladies and gentlemen. The first participant this afternoon is the New South Wales Racing Industry Consultation Group. Welcome to the hearings. Could I ask you please to give your name and your position with this organisation, please.

MR KENNY (RICG): Thank you, chairman. Michael Kenny, I'm the chairman of the Racing Industry Consultation Group.

MR BANKS: Good, thank you very much. Thank you for attending, taking the time to do that, and you've also provided us a written response for which we thank you as well. I'll give you the opportunity to go through the main points.

MR KENNY (RICG): Thank you, chairman. The Racing Industry Consultation Group first of all welcomes the opportunity provided by the Productivity Commission to respond today. By way of background, RICG, as it's known, is a statutory body established by the Thoroughbred Racing Amendment Bill of 2008 under the New South Wales Thoroughbred Racing Act of 1996. We have the function of consulting with and making recommendations to Racing New South Wales which is the regulatory body in New South Wales on matters concerning horseracing in the state.

Membership of RICG is made up of representatives from each of the Australian Jockey Club, Sydney Turf Club, provincial race clubs in New South Wales, country race clubs in New South Wales, thoroughbred racehorse owners, thoroughbred racehorse trainers, New South Wales jockeys, thoroughbred breeders in New South Wales and unions in New South Wales, so you can see we're a fairly representative body for thoroughbred racing within the state of New South Wales.

My comments today are confined to the commission's analysis and recommendations presented in chapter 13 of the draft report which is titled Developments in the Racing and Wagering Industries and I'll be pleased to answer any questions after the statement. I also note that it's our intention to follow up this verbal submission with a written submission by 18 December.

MR BANKS: Thank you.

MR KENNY (RICG): So the commission has recommended that a national regulator should be established to set a levy to be paid by wagering operators to the racing industry in a manner that approximates the function of a competitive market. In other words, the commission is proposing that a national body be set up to determine the price that the industry can charge for one of the products that it produces, namely race fields information. The effect of this recommendation is to substantially reduce the influence over the setting of the price of an important output

and an important source of revenue of the industry. We cannot support at RICG the recommendation to establish a national regulator. Even if we did support such a recommendation, we would not support a proposal to set this fee as a percentage of gross revenue. In the remainder of the time allocated, I will explain how we've reached this position.

Basically our view is that there's no need for a national regulator to set race fields fees for four reasons: number 1, the race clubs in New South Wales through Racing New South Wales and the New South Wales government are in an ideal position to set race fields fees and currently play a key role in the setting of such fees through our close working relationship with those two groups. Number 2, there's now sufficient and growing wagering competition in the industry to discipline the price and service offerings provided by the industry; (3) the cost of the regulatory arrangements proposed by the commission could be high, and to the extent that the arrangement is unnecessary, be a drain on the industry and the community at large; (4) a single uniform levy is likely to stifle, we believe, innovation with respect to the development of superior racing products.

If I can elaborate on those four points, chairman. The race clubs in New South Wales perform a key role in the racing and gaming markets as the market facilitator. We bring together the racehorse owners by providing a program of competitive races for their horses upon which wagering consumers bet. Racehorse owners provide the racing product and we are paid by the race clubs for their service through the provision of prizemoney. Prizemoney is paid by the race clubs largely from revenue they receive from wagering by punters on the races they provide.

As the market facilitator, race clubs understand that a successful racing event and a successful racing industry requires the careful balancing of the interests of punters and horse owners. Clubs strive to strike the right balance between these interests so as to maximise the overall value of racing events. In other words, race clubs understand that the interests of each side of the racing equation is dependent on the other. Without owners, punters would have no horses upon which to wager, and without punters, there would be no wagering returns to convert the prizemoney and therefore no incentive to race. Higher prizemoney attracts larger race fields and higher quality race fields and conversely, larger race fields and quality race fields provide betting opportunities and a greater spectacle for punters and the non-betting public.

With respect to race fields, we note that such fees are not directly set by race clubs in New South Wales. However, the clubs work closely with Racing New South Wales and the government to set this fee at an appropriate level. It's important to understand that the fee does not simply recover the cost of disseminating information; it also makes a significant contribution to the cost of producing this information, namely the costs of running the relevant event, along with the other fees

charged by race clubs which vary across and over time to reflect the demand and supply side conditions that the race clubs find themselves in.

On the consumer side, the race clubs rely on the race fields fees as a device for influencing the attractiveness of both oncourse and offcourse consumption of their racing product by punters. The clubs know that if the race fields fees is set too high, that that will render an event relatively unattractive to punters and will attract lower wagering returns and hence lower prizemoney for producers. This would make the event less attractive to producers, resulting in fewer starters. Conversely, if the race fields fees are set too low, they will render an event attractive to consumers but at the expense of horse owners who may have to accept lower prizemoney in order for the race clubs to recover costs. Events that are relatively unattractive to producers will attract fewer starters and hence reduce the spectacle for punters and non-betting patrons alike and also reduce betting opportunities.

MR BANKS: Excuse me, would you have a problem with us perhaps just asking a couple of questions section by section?

MR KENNY (RICG): No, please do.

MR BANKS: I just noticed that you talked about, on the previous page there, the race fields fees are not directly set by race clubs, and so on, and that the clubs work closely with Racing New South Wales and the government to set this fee at an appropriate level. Could you just elaborate a little bit on how that works?

MR KENNY (RICG): The current fee that's before the courts with Racing New South Wales has been determined at 1 and a half per cent of turnover, as the commissioners know, and that was determined by Racing New South Wales following consultation with the racing industry as to the best return or the best amount to charge. Previously, going well back, bookmakers in New South Wales used to be charged up to 3 per cent of turnover for provision of betting services. It was later reduced to 2 per cent of turnover and then more lately after that, 1 per cent of turnover. In my submission you'll see we've actually reduced that a bit lower again, even now. So the 1 and a half per cent probably reflects somewhere in that order that was being charged to bookmakers prior to race fields legislation.

MR BANKS: Right. Is there a forum for that kind of conversation or do some clubs represent others?

MR KENNY (RICG): I guess RICG is now the forum for that conversation. RICG has only just been established; it was established after the provision of the 1 and a half per cent turnover. Having said that, again, depending on how race fields legislation works in the future, it's the view of RICG and as determined in this paper that it can be quite a good weapon I guess in the attack of trying to grow a wagering

turnover by reducing or increasing prices. But currently that's not the situation; currently the situation in New South Wales is the price is currently set by legislation at 1 and a half per cent and there would need a change in the legislation if that was to change, currently, as I understand it.

MS SYLVAN: Just to finish it off so I understand it, when you say there's a process of consultation and so on, is it a public transparent process, so an amount is proposed and then people have public submissions to this?

MR KENNY (RICG): It hasn't occurred because there's only ever been one race fields fee set which is 1 and a half per cent, but in the future, processes need to be determined to determine it. But again, as the submission will show, the price that is determined through race fields legislation is not a price for the dissemination of the information, it's a price that will be used by the racing industry to cater for the costs of putting on the spectacle for punters to bet. So our submission is that there is two sides to the equation and we're of the view that the Productivity Commission report favours the consumer side, without having an equal view of the costs of the production of the product.

MR BANKS: In this price-setting process that you've talked about, how does the consumer interest get reflected? In a way, is the industry second-guessing what the - - -

MR KENNY (RICG): I think in the final analysis, the market will determine that if race fields fees are used in the appropriate manner. That is, if we charge too much, the consumers won't choose to bet on it; if we charge too little, then as I've said, we're not going to make enough money to be able to keep the product whole, so it will be a market based rate that will ultimately be struck.

MR BANKS: Okay, thank you.

MR KENNY (RICG): In relation to the wagering market, we believe that it is competitive. We submit that the commission's claim at page 13.8 of the report that TABs have a retail monopoly on offcourse betting is not correct. In New South Wales, bookmakers are now able to take offcourse bets over the phone, provided they field bets at a racecourse or betting auditorium, but the minister has recently announced changes to allow those same bookmakers to also take offcourse bets via the Internet and 24 hours a day, so there is growing competition in the market.

Prior to the development of the Internet, each state effectively had a monopoly on its racing product, that's correct, because of the very costly proposal for a punter from one state to place a bet in another state. With the advent of the Internet and the ability to transmit information over long distances at very high speeds and relatively low cost, coupled with the deregulation of offcourse bookmaking, there's been a

significant new entry into the wagering market in the form of alternate wagering outlets, such as corporate bookmakers and betting exchanges. The establishment of corporate bookmakers in the Northern Territory, Tasmania and ACT has provided substantial competition for traditional wagering outlets such as TAB and oncourse bookmakers. As a result, the Northern Territory increased its share of national racing turnover from less than 1 per cent in 2005 to up to 17 per cent in 2006-07.

At page 13.7, the commission refers to 25 per cent market share in terms of turnover that is accounted for corporate bookmakers but simply dismisses this as relatively small. As the commissioners are no doubt aware, in many markets producers accounting for less than a quarter of the relevant market impose a very strong competitive discipline on prices and levels of service offered in the market. Indeed in response to the growth and competitive advantage that corporate bookmakers have in certain jurisdictions, Sydney Turf Club and Australian Jockey Club in September of 2008 lowered their fees charged to oncourse local bookmakers from 1 per cent of net bookmaker turnover to 33 per cent of the net bookmaker turnover for bookmakers whose turnover was below the race fields legislation threshold of \$5 million per annum.

Additionally, competition in horseracing markets is disciplined by price and service offering in the wagering market. Horse owners are reasonably mobile in their decisions on where and when to race their horses. Any club that's prizemoney is deemed too long will find it difficult to attract large fields to the relevant event and prizemoney may be relatively low in situations where race field levies are set too high and as a result, deter betting on the relevant event.

Because of the significant competition in wagering markets, we do not believe any jurisdiction will be able to sustain race fields fees that are substantially above the level that would prevail in a competitive market, taking into account the quality of the racing event and the race club supply.

MR BANKS: Just maybe pause there. This is obviously an important issue, the degree of competition in the market. As you know, Tabcorp appeared in Melbourne and we talked about some of these issues. But would you say - I'd just be interested in your view on that - that Tabcorp, for example, receives no competitive advantage from its exclusive right to sell wagering products from an offcourse shopfront, that there's no competitive advantages?

MR KENNY (RICG): I think going back in time, chairman, certainly Tabcorp did enjoy the advantages of a monopoly within states. Even the agreements funding within the states determined that, that the money bet in the state, in the gentlemen's agreement, as it was called, stayed in the state. The changes that have occurred not only in the competition to Tabcorp but with race fields legislation, the way that the gentlemen's agreement has been broken down or will be broken down as a result of

that will certainly bring the producers of the product much closer to the market and the revenue that will be raised from the market will certainly be determined by how well they produce the product. I don't think that's certainly been the case in the past because we've been the beneficiaries of revenue on turnover that we don't produce, such that we are currently beneficiaries of betting turnover on Melbourne and Brisbane and Adelaide and Perth and so on and so forth. That will change under the new race fields legislation by charging the wagering operators for the service of betting on your own events.

MR FITZGERALD: So what should happen next time around in relation to these exclusive retail arrangements? Should they simply disappear? If they're not producing a benefit to the current - - -

MR KENNY (RICG): It depends if you mean, commissioner, retail arrangements, the shop betting front in the high street run by TAB Ltd. I think that the way that it will be determined is interesting. How it's going to be determined in the future I don't have a view on. I think that Tabcorp, in terms of the pool that it runs, certainly totes different from fixed odds betting is a different operation. Totes need big pools so they can operate, rather than having much smaller pools which can be manipulated by customers and punters. So the tote pool needs to be relatively large and therefore probably needs to be exclusive. As for the retail side of it, I don't have a view on the retail side.

MR FITZGERALD: But if it is true that there's very little competitive advantage for the current operators, why would it continue?

MR KENNY (RICG): I don't understand your question.

MR FITZGERALD: Well, they pay a premium for that retail presence, that shopfront exposure. Why would that arrangement continue if there's no obvious benefit? There's a benefit from the pool, but in terms of the retail presence, why have it and why would the governments and others be able to reap the substantial benefits of those arrangements?

MR KENNY (RICG): Currently as I understand it, the majority of the money that's still bet on the TAB comes out of their retail outlets in pubs and clubs and in their high street offices. I guess that will remain the case for some years to come as the wagering market and the landscape changes, but certainly that's a major advantage for the TAB at the moment to have those retail outlets and convenience for customers as well.

MR BANKS: Okay, thank you.

MR KENNY (RICG): We believe that the cost of the regulatory regime cannot be

ignored. The commission in its findings is proposing that a national regulator arrangement should replace the existing state based arrangements for the setting of race fields fees, though the commission recognises that the state regulatory authorities may still be needed for the task of distributing racing industry levy revenues to race clubs. The commission makes no comment on whether it expects that the national arrangement would be more or less costly than either the current arrangement or an arrangement that allowed race clubs to play a direct role in setting of the race fields industry levies. We encourage the commission to address this omission in its final report.

RICG submits that the outcome of a pricing mechanism that set the racing industry levy too low or set it to recover the costs to provide the cheapest product without regard to differences in the level of service is very similar to the consequence of permitting free riding by wagering providers. That is, it proposes a risk to the longer-run viability of the racing industry and would have detrimental consequences for the communities where racing plays a key role. More importantly, such a decline would also adversely affect consumers of wagering and racing products. So I guess we need to ensure that whatever the fee that's set, our concern is that if it's too high, it's going to be a concern to us; if it's too low, it could be a concern to us, and we liken it, if it's too low, to - as the commission had already determined, that that's equivalent to free riding on the system if it's too low to cover costs of the racing industry and providing the product that they produce.

MR BANKS: Just on that, I don't know whether you want to comment on the size of the industry currently and whether you see it in some respects optimal from - - -

MR KENNY (RICG): There's rationalisation currently going on within the New South Wales racing industry and I presume in other states as well and it probably has been brought about by the changes in competition and changes in funding arrangements, either currently or prospective. We haven't been idle in New South Wales in looking at those arrangements within the states. I believe that there are other changes that need to come in to racing in New South Wales. The rationalisation of areas does need to occur. We've stated that. As you know, there's merger talks currently under way between the STC, Sydney Turf Club, and the Australian Jockey Club, and other arrangements through Racing New South Wales, looking to try and I guess rationalise the costs within the industry and that needs to be done.

MR BANKS: So in a sense, what are the indicators that you're responding to in saying that there needs to be that rationalisation?

MR KENNY (RICG): I think everything is usually driven by income and when your income is threatened, as currently it is - we've been travelling well over the years through the TAB arrangements that we've had. Clearly with the competition

that's now in the market Australia-wide, that's signalled that those arrangements will have to change. So one needs to be forearmed if they're forewarned and that means that there's got to be some change in the industry to cope with that.

MR BANKS: Thank you.

MR KENNY (RICG): The final point that we make is in relation to the development of innovative racing. The draft report proposes that an ideal funding model should serve consumer interests, have some degree of flexibility, promote competition, should reflect value and should be uniformly applied. The draft report then only goes to consider the variations on a national regulator model. We find it difficult to conceive of how even a well-informed and well-intentioned national regulator could come up with a single levy that simultaneously achieves greater efficiency at national, state and local levels than the arrangement where race clubs play a direct role in the setting of the racing industry levy.

We expect that a national regulator will struggle to distinguish differences in the quality of racing information and racing events as well as the race clubs currently do. This is important because providers of high quality racing information and racing events are likely to incur higher costs and require higher compensation and the racing industry levy is an important source of such compensation. Even if it could distinguish the quality of racing information and racing events, the requirement that the levy be uniform would seem to preclude fair compensation for clubs that offer superior quality and guarantee excessive compensation to clubs that offer a level of quality that is substandard. As a result, race clubs may underinvest in higher quality information service and higher quality racing events relative to the level of quality that would prevail in the competitive market that is not subject to such a regulation.

We also cannot conceive of any way in which a single uniform levy can be more efficient when it is set at the same level, irrespective of the level of other fees and charges associated with a racing event. We know that better quality fields - eg, as a result of higher prizemoney - and more starters per field lead to higher turnover in individual events. A single uniform levy arrangement by definition will not take account of differences in these variables. The effect of the single uniform levy model is therefore to remove one of the levers currently available to race clubs to balance the interdependent interests of both consumers and producers.

RICG submits that the most competitive approach to the setting of an industry levy is for each jurisdiction to establish its own pricing regime based upon the value of the product it is offering for sale, with race clubs playing a key role in the setting of such levies. The consumer would then decide on what to wager, depending on the price. If New South Wales was too expensive relative to Victoria and other jurisdictions, then turnover would fall and prices would have to be adjusted to meet the market. If the wagering product as a whole was deemed to be too expensive

compared to other wagering or gaming products, then consumers would choose to wager elsewhere and racing would have to respond with cheaper prices.

If the product on offer was of sufficient quality that it commanded a higher price, then why should the producer of that premium product be forced to accept a price based on a lesser offering? We submit that in arguing for a national approach to funding in the wagering market, it was not the industry's intention that the third parties set the national price for all racing products, but rather that national laws could be enacted to enforce the right of the jurisdiction to set the price of the product and to enforce registration of only legitimately wagering operators.

MR FITZGERALD: Can I just ask this question then: given that New South Wales and Victoria are generally regarded as reasonably similar and have now chosen two different methods for applying the price, what is the difference for the consumer between the two jurisdictions? Where is this quality evident?

MR KENNY (RICG): Currently, if those two sets of prices between Victoria and New South Wales are allowed to continue in the market, then consumers will, presumably, if the prices are set at different levels be - set the price for each of the products - they will be set at different prices and the consumer - - -

MR FITZGERALD: But is there any difference? You've obviously taken different approaches but I must say that there's - and you may be able to provide it - no evidence that the product in Victoria and the product in New South Wales would warrant a different approach. Is there evidence of that?

MR KENNY (RICG): At different times there is evidence of it. Obviously at carnival times in both areas it's a better product in Sydney and again in Victoria - - -

MR FITZGERALD: But generally, is there really?

MR KENNY (RICG): No, but the point I guess I'm making is that if the product is the same and the prices charged in Victoria, for instance, are cheaper than the prices charged in New South Wales, then there will be a flight of consumer money into Victoria presumably.

MR FITZGERALD: Sure, but under our proposal, New South Wales and Victoria would potentially have the same levy. The point is we haven't actually specified a levy but it's hard at the moment to actually understand where this differentiation exists.

MR KENNY (RICG): It's interesting too that Victoria have chosen to charge a differential of prices, depending on the quality of their racing, so it's 10 per cent of the gross product for regular racing and 15 per cent for carnival racing.

MR FITZGERALD: Sure.

MR KENNY (RICG): So they've seen the need to put a different value on the better quality racing. I think in a more freer and open market, the setting of the prices should be more flexible in relation to charging prices for the quality of the product.

MR BANKS: Just on that, how would the new system differ from the old one in which you have - I mean, you have a uniform levy currently. The distribution of that is obviously differentiated according to the quality of the event and the turnover that's responsible - and that was certainly what we would have envisaged with an alternative based on gross revenue.

MR KENNY (RICG): But under the new regime, as we're discussing, rather than having the gentlemen's agreement working where, depending on - it doesn't matter what the product being bet upon, the price returned to the producer of the product is the same. Under the new arrangements of race fields legislation, the product that we'll be selling into Victoria, into Queensland and into Tasmania and elsewhere will be the New South Wales product and that's a completely different form of selling a product than opening a shopfront and exposing all products at the same price.

MR BANKS: The product fee is nevertheless common across the jurisdictions.

MR KENNY (RICG): It might not be - sorry, across which jurisdictions?

MS SYLVAN: If I can follow that argument up because I'm confused as well. It's one fee in New South Wales.

MR KENNY (RICG): Currently it is.

MS SYLVAN: So there's a uniform fee. Irrespective of whether it's gross revenue or whatever, if it's a uniform fee at the national level as well, the money flows, as you suggest, to the races, where people put money on the races which should reflect for the consumer the higher quality event. They're making a choice in the market.

MR KENNY (RICG): Yes,

MS SYLVAN: So I'm confused about how you see that as different from the situation that has now emerged which is a 1.5 per cent fee in relation to turnover.

MR KENNY (RICG): That's right, but currently that fee is charged for New South Wales racing, so it will be charged for New South Wales racing, and I think the point is that in our submission it could be in the future that the prices should differentiate

as to how you charge. So that for carnival racing in Sydney, for instance, during the autumn carnival, the AJC and STC, which is the best quality racing, maybe it should be that premiums are charged for that racing compared to Wednesday racing at Canterbury or Thursday racing at Gosford or Wyong. That's not the situation currently but if you're moving into a market where price is determined by market, perhaps that's the situation that we'll have to get to.

MR FITZGERALD: You have two points. Firstly, you don't believe there should be a national levy, but you don't believe that a national levy setter is appropriate either.

MR KENNY (RICG): Correct.

MR FITZGERALD: I understand why you're saying that but I'm not quite sure that a national regulator - although we're only talking about a price setter - would not be able to take into account a whole range of considerations. Maybe the question is would you be happy with a national price setter, but one that gave capacity for different states to be levied at different rates, depending on proven differences in product quality?

MR KENNY (RICG): I guess what we're saying is that the best people to set that at the local level are the people who determine the product at the local level, rather than a national operator setting those prices.

MR FITZGERALD: Sure.

MR KENNY (RICG): The final point that we make is in relation to structural reform within the industry. RICG recognises that competition and efficiency in the provision of racing and gaming services in the past may have been deficient. RICG also believes that the industry is very much aware that it cannot stand still and it's under challenge from competitive forces. These competitive forces and the industry's own desire for improved performance have led to a period of internal review and improvement that is ongoing. This is evidenced by the development of race fields legislation, merger activity, consideration of take-up of opportunities for shared services and processing and rationalisation of staff numbers throughout the industry. Given the momentum for review and reform within the industry, it's surprising that the commission quickly has dismissed the option of market based solutions to the remaining competition and efficiency concerns.

MR FITZGERALD: Part of that reform has happened in the wagering side, as you've indicated. I was wondering if I could get a very clear view from you about Internet corporate bookmaking. Where do you see that as part of the wagering reform?

MR KENNY (RICG): I think corporate bookmaking is one of the new forms of wagering that should be allowed within New South Wales and Australia.

MR FITZGERALD: So you see it as a positive thing for the industry?

MR KENNY (RICG): Providing they pay a fee for the service, absolutely.

MR FITZGERALD: Sure. They agree that they should pay a fee for the service.

MR KENNY (RICG): It's the level of the fee that we differ on.

MR FITZGERALD: Yes, that's right. But basically you would not be concerned about whether or not they expanded at a greater rate than the traditional retail outlets. In a sense, you would take an industry-wide and a statewide view about that, so whether more money was going through the corporate bookmakers than TABs, that would not concern you, provided the right fee was struck?

MR KENNY (RICG): It would concern me because the transfer of money out of TABs and into corporate bookmakers, Internet gambling through corporate bookmakers, certainly is going to return less money to the racing industry.

MR FITZGERALD: But surely that depends on the fee.

MR KENNY (RICG): Correct, it does.

MR FITZGERALD: Why is that assumption always made that - I don't understand this. Given that we've not set the fee and we're not intending to set the fee, I don't understand why it's instantly assumed that corporate bookmaking will automatically reduce the level of money available for the industry if there's a shift from traditional outlets. Now, as you say, it's the fee, so why in this debate is it always the case from the industry that that assumption is made?

MR KENNY (RICG): Because currently under the arrangements we have with Tabcorp in New South Wales, the amount of money we receive through Tabcorp is a very attractive figure.

MR FITZGERALD: But going back to it then, if the fee was set appropriately, you don't care where the betting dollar goes?

MR KENNY (RICG): If the fee was equal between Tabcorp and the corporate bookmakers at the rate that currently Tabcorp pay, then there would be no problem at all.

MR FITZGERALD: Excluding the fact that they've got an exclusive right, so that

you take that premium out, that fee out?

MR KENNY (RICG): If you take the premium fees out, again that's going to be less money coming into the racing industry which would be of concern.

MR FITZGERALD: Sure. But going back to it, you've already indicated that that may be under review anyway, going forward, that in fact that premium is really only related to the territorial or exclusive rights that have been granted, so they may well reduce anyway, irrespective of the role of corporate bookmakers.

MR KENNY (RICG): It would be our hope that they did not reduce. I mean, yes, there'll be some transfer of money between the two but we would hope the arrangements between the racing industry and Tabcorp would remain intact.

MR FITZGERALD: Sure, but it can't possibly be at the same rate. If what you've said before is that other forms of wagering are in fact impacting on the retail marketplace and the providers of that have already indicated that to us previously, then the value of that particular exclusivity will reduce. So it's inevitable that the premium must reduce over time. Is that not right?

MR KENNY (RICG): That's the inevitable process that's happening. I think that's correct.

MR FITZGERALD: So irrespective of the corporate bookmaker, that level of income in will reduce.

MR KENNY (RICG): And that's a worry for the racing industry.

MR FITZGERALD: Okay, that's fine.

MR KENNY (RICG): Because the costs of the racing industry obviously are much greater - well, they're currently set at a level, they will reduce. But there's still going to be a certain amount of cost and expense that has to be produced to get the racing product online.

MR FITZGERALD: Sure, absolutely, we're agreed.

MR BANKS: Just related to that and it picks up on what you were saying earlier about consumers and getting the balance which was important, I would just ask you how responsive you think punters are in general to price changes in the wagering market.

MR KENNY (RICG): I think all these discussions that we're having about pricing and so on have to be looked at over a very long term because by and large on any

given Saturday, a bookmaker will set prices depending on what the market is in front of him and probably will look at the results at the end of the day, rather than as he's setting his market. That's always been the case with bookmakers and probably always will be the case.

Totalisators are different, of course. They set their price at the first instance with a take-out rate that is deducted from the pool. So I think, as I say, these are more economic rational arguments than they are actual results of what will happen on the ground in the short term. I think that bookmakers will continue, as well as corporate bookmakers continue, to be setting their prices based on what they have to offer to attract customers into their betting shops or through their betting agencies.

MR BANKS: But that implies obviously a degree of responsiveness on the part of their market.

MR KENNY (RICG): And so the market will be. I mean, the market will respond depending on prices offered by several bookmakers compared to tote prices and the punter will take the best price. There's no doubt that they will. So the bookmaker, in order to compete, has to compete not only against the price he's paying for the goods but against the other bookmakers and other corporate offerers of service in the market. Oftentimes they're going to have to probably take a loss in relation to doing that if they're going to attract the market. That's one of our concerns in relation to setting the price on a gross profit basis; that bookmakers will take that decision to perhaps take losses in relation to races and therefore the returns to the racing industry is dependent upon the bookmakers' ability to be able to return profits subsequent to that decision.

MR BANKS: Okay.

MR KENNY (RICG): The gross revenue versus turnover argument, the Productivity Commission has recommended that the racing industry levy be based on a percentage of gross revenue received from punters; that is, the punters' expenditure. We note that the punter expenditure varies across wagering products from approximately 17 per cent of TAB turnover, about 6 per cent for bookmakers and about 3.3 per cent for turnover on betting exchanges. That's been taken from the Boston Consulting Group figures that were prepared.

In our view, if there is to be a single national levy, something that we, for reasons I've already explained, are strongly opposed to, or if it's to be a local jurisdictional based levy, turnover is a more appropriate basis than is gross revenue. It's important to keep in mind that the racing industry levy is designed to recover some of the costs of the racing industry which it incurs in providing race fields that the punter can wager on.

Under a turnover approach, wagering providers pay the same dollar fee for a piece of information. The cost of this information as a proportion of the total wagering provider costs differ significantly across the types of wagering provider. However, this is completely irrelevant for the design of a levy to recover some of the costs that the racing industry incurs in providing race fields. The only way that it might be relevant is if the federal government were to require the national regulator to intervene, so as to socially engineer the wagering market to realise a prescribed industry configuration that has a higher concentration of low cost and low quality wagering services than would prevail absent such engineering. However, this type of social engineering should not be confused with the emulation of a competitive market.

Turnover has also been the currency in racing and wagering for some time. It's easily understood, easy to calculate and universal to all wagering operators who calculate their operations based on turnover. The calculation of gross revenue on the other hand tends to differ across operators and is more readily manipulated by operators. It also makes racing clubs more exposed to the market risks faced by the wagering operator. It's not clear why the commission would find this desirable, as racing clubs are not well placed to manage these risks. It also exposes the funding of racing events to large and unexpected variations as the result of a difference in the performance of individual wagering operators.

MR FITZGERALD: Can I just ask a question on that. You say that turnover has always been the currency of racing and wagering.

MR KENNY (RICG): Yes.

MR FITZGERALD: I understand - but correct me if I'm wrong and I may well be - that the racing industry distribution agreement between Racing New South Wales and the TAB is in fact based on net revenues and net profits. That's the case, as I understand it.

MR KENNY (RICG): Yes, when the TAB was privatised in 1999, the distribution changed to a percentage of revenue, a percentage of take-out as opposed to turnover, but the reason that that operates with TABs is that the take-out rate is fairly constant at 15 per cent or 14 per cent in various levels - - -

MR FITZGERALD: But your assertion seems to me to be that there's something wrong in actually basing anything on net revenues and in fact it's a very common way of doing things. Many of the racing products around Australia are based on that and the TAB and Racing New South Wales one is based on that and they don't seem to be saying that's a problem. So again I can't quite understand why there is this concern about turnover versus revenue. I can understand the quantum, yes, absolutely; I don't understand why you feel so strongly about turnover. We

understand the simplicity and those sorts of issues but frankly, other jurisdictions are handling that quite reasonably. So again, is it really - - -

MR KENNY (RICG): Other jurisdictions are handling it; I think Victoria is handling it because they came to an agreement with their bookmakers as to what they were going to charge. I think their preference would still be to charge on the basis of turnover. I mean, there's nothing more simple than turnover in the industry than determining if you've bet a dollar, "That's a dollar that I need to count." Determining the revenue basis, yes, in the case of Tabcorp and the racing distribution agreement, is set on revenue, but the formula is absolutely exact and precise as to how it arrives at that.

MR FITZGERALD: But again in New South Wales, greyhounds have - you have to look at both. You have to look at both turnover and revenue and you determine which is the lesser of the two. Again, nobody is indicating to us that there's a huge problem with the revenue one, but it's easy for the turnover. It seems to be the greyhounds have accepted that. So again I just wonder whether you're overstating not the issue about quantum and not the issue about adequacy but about the difference between the two.

MR KENNY (RICG): But again when you go into revenue calculations in totes, it's different to revenue calculations with bookmakers. Bookmakers take risks.

MR FITZGERALD: Sure.

MR KENNY (RICG): It shouldn't be the case that the racing industry and the funding of the racing industry is based on the ability of a bookmaker to spread his risk. That's his problem, it shouldn't be my problem in then having to determine what prizemoney for next year on the basis of poor decisions made by bookmakers.

MR FITZGERALD: That would apply to greyhounds as well?

MR KENNY (RICG): I would imagine so, but again I won't speak for the greyhounds.

MR FITZGERALD: Sure.

MR KENNY (RICG): But I think it's the case that they've probably made the decision with the easiest result in mind, rather than going to the problem which Racing New South Wales has done, which has had to take action in court or is defending action in court against the way that they've determined their fees.

MR BANKS: Betchoice, in its submission or in the notes for its submission - and you can have a look at its submission when it comes in next week - argues that

revenues are not an uncertain metric and they use, apart from the examples that we've just talked about, New South Wales and Victoria, they talk about South Australia and Western Australia where that metric is used for thoroughbred, harness and greyhounds and similarly at the ACT as well as some of the other sports and so on that use that. Do you have any reaction? That, to me, suggests that it's not an impossible thing to apply in a sustainable way.

MR KENNY (RICG): As I say, it's clearly not impossible but it's not desirable, when there's a simpler and more exact formula available which is based on turnover.

MR BANKS: But isn't there a bit of a trade-off here? I mean, I suppose the argument is in the commission's report which I'd be interested in your comment on, that there's a bit of a trade-off there between I suppose the dynamics of the sector in terms of competition and this pricing mechanism. Now, we've had Betchoice say that if the turnover fee was small enough, they'd be indifferent, but clearly there's a limit and the fee is calibrated to generate a certain amount of revenue so there's not much room to move.

MR KENNY (RICG): Again it goes back to our submission here in relation to fee. The racing industry needs a certain level of fee to be able to provide the product on which the punters bet. I'm sure that the lower cost operators don't mind if the racing business went out of operation for lack of funds; they'd find something else to bet on. We need to ensure that the racing industry and the surrounding community benefit there is provided through providing racing and that means a certain amount of money needs to come into it.

MR BANKS: Yes.

MR KENNY (RICG): So the fee needs to be set at a level that is commensurate with the racing industry's ability to perform.

MR BANKS: Yes. But I think as Robert was saying earlier, that could be achieved through either mechanism, you just have a different rate, and that rate would take into account the fact that there may be more risk involved as well.

MR KENNY (RICG): It could be taken at either rate, I agree, but currently the proposal it seems, and the reason they're so stark is that currently the gross profit model proposed by the betting operators works on such a low margin as to set, if you convert it to a turnover basis, a turnover based levy that's too low for the industry to keep operating.

MR BANKS: So your main concern is that the particular proposal would not be sufficient to generate the revenue that the industry requires?

MR KENNY (RICG): Correct.

MR FITZGERALD: In South Australia's case, I understand they're charging 20 per cent of revenues, where in some other jurisdictions - well, Victoria is 10 per cent of revenues, but as you say, that's the thing. Do you have a view about the adequacy? Again, I don't think it's the commission's intention to put any fee on any of this, any quantum on any of this, but is there a view that South Australia has got it more right than Victoria?

MR KENNY (RICG): No, because I don't know the circumstances in South Australia as to what level of income they require to keep their industry running.

MR FITZGERALD: So yours is a theoretical argument or is there a fee at which - in New South Wales are we actually talking real figures and real numbers? In other words, when we talk about a too low, too high figure, you have a figure, that's contested at the moment, but if you were to convert that into a revenue figure, would you have a particular figure?

MR KENNY (RICG): No.

MR FITZGERALD: Okay.

MR KENNY (RICG): The independent regulator: we maintain the commission has recommended that the national regulator should strive to maximise consumer interest only and should be headed by a three-person panel with all panel members having a background in consumer affairs. We submit that the relevant skills are the ability to set fees so as to strike the right balance between independent interests of consumers and producers, not just consumers along.

In conclusion, ladies and gentlemen, we say that much of the work of the Productivity Commission report in relation to wagering has been based upon the older funding model with TAB state based monopolies. We believe that race fields legislation introduced into New South Wales and other states has changed that whole landscape forever with a breakdown of the gentleman's agreement. Wagering returns will in future be more aligned to the wagering product produced. Greater competition has also been introduced into the market in the last years and will continue. We do not agree with the commission's finding that the race fields legislation poses significant risks for effective competition in wagering, potentially affecting the long-term future of racing and wagering, and more importantly the punters who ultimately finance both of these industries.

We believe the commission is wrong in its assertion that the market is incapable of setting race field levies at appropriate rates and in fact we assert that it is imperative that the market does set the appropriate rates through the local industry

authorities. While there is scope for further improvement in state based governance arrangements, we believe the commission is too dismissive of the momentum for structural reform within the industry and has not provided a rigorous assessment of the nature and degree of competition in the industry and has failed to recognise the incentive that exist with race clubs to set race fields information levies so as to balance the interdependent interests of consumers and producers of racing products.

In our view, the commission's call for a single national regulator to impose a single uniform racing industry levy poses a significant risk for effective competition in wagering by stifling incentives to innovate and offer higher levels of service. We further submit that race fields levies should be set as a percentage of turnover and not as a gross profit. However, each jurisdiction should be at liberty to establish its own method of charging a fee and a market will decide its appropriateness.

Finally, we submit that the commission has not allowed sufficient time for the changes in the funding model proposed by Racing New South Wales and other state based jurisdictions to take effect on the market. We believe that those changes applied with national jurisdiction will be a catalyst for change within the thoroughbred racing industry. I need to just add one footnote to this and that is that the conclusions and recommendations in this submission rely upon a successful outcome for Racing New South Wales in their current defence of litigation brought by corporate bookmakers and betting exchanges against race fields legislation. Should this legislation be held to be invalid by the court, we would strongly be in favour of the enactment of national laws to enforce the right of each jurisdiction to set the price of the product and to enforce the registration of only wagering operators. Gentlemen, that's the submission of RICG. Thank you for your time.

MR BANKS: Thank you. Any questions?

MS SYLVAN: Just one, and it has to do with the size of the industry and level of support and so on. Taking that outside of racing and into the broader gambling environment - because, after all, the industry is competing with the gambling dollar that might be spent elsewhere on other forms of entertainment and so on - one of the things that the new Internet products, betting exchanges, corporate bookmakers on the Internet have done is potentially attract more punters into the market to actually take part in the industry. If the levy is set in the way it has been in New South Wales, we've heard from those providers - and of course there's a court case in relation to this - that this is non-viable for their business model. I guess I'd appreciate your sense of people coming in and innovating in relation to the wagering market, attracting more customers and so on to the whole area and the survival of the industry in relation to the ability of a market to actually respond to consumer preferences because consumers are indicating that they're pretty interested in this sort of betting.

MR KENNY (RICG): Yes, certainly the consumers are, but the model that's been proposed by the new entrants is unsustainable from a racing industry point of view when you consider the fee that we need to charge needs to be a fee to pay some of the costs of running the product. It's impossible for the industry to run with only some of the consumers of the product paying the cost of keeping the product alive and others getting a free ride, as you've said in your report, and paying nothing for the service. That's unfair for a consumer on one end to be paying nothing and other consumers to be paying more. So it's our view that, yes, entry into the market has been successful and we welcome new entrants into the market and wagering market; however, they must pay the same price that people within the market are paying and have to pay to ensure that the product continues to improve.

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

MR BANKS: Our next participant today is Racing New South Wales. Welcome to the hearings. Could I ask you please to give your names and positions.

MR BROWN (RNSW): Alan Brown, chairman.

MR V'LANDYS (RNSW): Peter V'Landys, chief executive officer.

MR BANKS: Good, thank you very much. Thank you for attending today and thank you also for the submissions you have made at least in relation to the draft report. You've provided some material relating to what you will raise today and I understand there's a submission coming, so thank you for that. I'll give you the opportunity to go through the key points.

MR BROWN (RNSW): Chairman and commissioners, thank you. I will explain that our written submission has changed; I've just given you an amended version there. Some of that will be addressed by Peter V'Landys. He's the facts and figures man so he'll be able to answer a lot of your questions that deal specifically with the revenue models, if you like, that we've been arguing about.

Firstly, can I say that I admire you for the way in which you've tried to tackle this particular subject. It's not an easy one. I've been involved in racing administration for 26 years and I'm still learning. Given the constraints of today, I'm going to confine our comments to chapter 13 and I do apologise in advance; you will probably hear a fair bit from me that you've already heard before.

If I was a corporate bookmaker I'd be delighted with the recommendations you've made. On the other hand, if I was one of any other participants in the industry, I'd be extremely concerned. I must say however that we do agree with certain findings and recommendations. They include, firstly, the need for regulation to prevent free riding and, secondly, that product fees should be consistent and fair and where possible uniform.

Unfortunately, the commission's draft report focuses more on the interests of wagering operators, particularly those claiming to be low-margin operators and what is incorrectly perceived as the bulk of consumers who are the recreational punters rather than, in our view, on the interests of the racing industry and the many thousands of persons who derive all or part of their livelihoods from it. We're not convinced that the recommendations would necessarily be of benefit to the majority of consumers. To this end, we believe the recommendations will facilitate the transfer of revenue from the racing industry to low-margin wagering operators and professional punters without providing any benefits to the overwhelming majority of punters.

We are also concerned that many of the commission's assumptions appear to be based on statements and opinions proffered by a wide array of commentators without really any factual information or in-depth and robust analysis having been undertaken to test those opinions and that very well may be a constraint of time and resources. By way of example, the commission quotes several persons in support of its assertion that totalisator monopolies have not been in the interests of the racing industry. Those quotes are simply opinions, not supported by fact. In addition, no industry leader has quoted a rebuttal.

So could I now deal with the commission's finding and I go to draft finding 13.1. We support the commission's finding that in the absence of regulation, free riding by wagering providers would undermine the racing industry and harm consumers of wagering products. As we've pointed out in our initial submission, it was for this very reason that the New South Wales government introduced its race field legislation. Now, whilst that regulation provides a mechanism to ensure that all operators using race fields for their wagering operations contribute towards the costs associated with running the industry, it does not fully compensate for the significant transfer of wagering activity from New South Wales to low-margin operators based in low-tax or tax-free jurisdictions.

In that respect it's stressed that race field fees are payable only in respect of wagering on New South Wales racing events, while transferred investments relate to wagering by New South Wales residents on all racing events, no matter where those events are held outside New South Wales. We do not agree that the state based legislation poses any risks for effective competition, nor do we agree with the commission's assertion that it is the punters who ultimately finance the racing industry.

In implementing the race fields legislation, Racing New South Wales applied the same level of fees to all operators, irrespective of where they were located and in what form of wagering activity they conduct. The operating margin of those operators is ultimately a matter for each of them to independently determine. This should then be the governing factor in determining competition between different operators. As the commission would be aware, our fee structure is currently the subject of two actions in the Federal Court of Australia and the outcome of those cases will largely determine the future application of the legislation.

In respect of your suggestion that punters ultimately finance the industry, I think that myth needs to be dispelled, that the industry's only source of funding is from wagering operators and punters. Although receipts from wagering operators account for approximately 70 per cent of the industry's direct revenues, the remainder coming from the other commercial operations of race clubs, it must be pointed out that the racehorse owners actually contribute a far greater amount. Peter V'Landys will expand on this point a little later.

However, let me say this: that unless - and I'm not a breeder now, I have been in the past - there is a strong breeding industry which of course depends upon strong demand from owners for their product, and that implies a need for good prizemoney, the following vicious circle occurs - you've probably heard it before but I'll repeat it anyway: there will either be less horses bred for sale or more will be exported or both. Less horses means reduced race fields sizes and smaller race fields sizes leads to reduced betting opportunities. Reduced betting opportunities means less value for the punter. Less value for the punter results in reduction in betting turnover. A reduction in betting turnover leads to reduced income to the industry from the wagering operators. Less income to the industry means reduced prizemoney and poorer facilities. Reduced prizemoney and poorer facilities means less demand for horses by owners which leads to a repeat of the scenario I've just outlined. As I said, it's a vicious circle. It's happened before, when owners departed New South Wales because of its inability to compete with Victoria.

The punter demands and expects strong field sizes for value, a choice with whom they bet, totes with retail outlets, Internet access, bookmakers and betting exchanges. They want fair racing on which to bet which means very consistent tracks and integrity of administration and excellent media coverage. The owners, a separate group, they want all of the above, what the punter demands; they want good sound horses they want an opportunity to obtain a return for their investment, they want great facilities at the track, they want race day crowds to add to the occasion when they race.

In addition, the industry must meet the expectations of the following: race clubs themselves, race club members, the public who attend the races, the breeders, the trainers, the jockeys and all those who are employed within the industry. The costs of meeting the very diverse and extensive expectations of those participants is considerable. If the industry is to continue to provide the level at which they all expect, then the funding model must be the right one. In our respectful submission, the model proposed by the commission, based on gross revenue and not on turnover, will simply not provide the funding required to meet those expectations, either in the medium or in the long term, and that's certainly the case for New South Wales.

MR FITZGERALD: Can I just interrupt at that point.

MR BROWN (RNSW): Certainly.

MR FITZGERALD: By analogy therefore you would believe, would you, that the Victorian model will lead to the outcomes you've indicated?

MR BROWN (RNSW): No, the Victorian model at the moment, as you know, is - - -

MR FITZGERALD: Again, to raise the point we raised previously, is it the quantum or is it the way in which it's levied that is the problem?

MR BROWN (RNSW): It's both. The reason it's both is this: if you allow betting turnover to escape the net and be transferred into low-tax jurisdictions where we don't get a fair return, the income level drops. Victoria is in a special position. They receive, as you probably already know, about \$70 million a year more than we do in New South Wales from the poker machine revenue. They can afford to take a more sanguine view about their relationship with the bookmakers down there. They are to some extent insulated from the risks that they would otherwise have to take. We can't take that risk here.

What's happened in the past, if we do not have the prizemoney to compete with Victoria, then we lose owners, trainers and jockeys. There's a flight to Victoria. It's happened before. We've been able to maintain the parity of prizemoney levels, if you like, with Victoria only at the expense of infrastructure and facilities. We run a very lean and mean operation in New South Wales, let me tell you, but it has to be that way to protect our industry in New South Wales. If we had the luxury of the money that they have, we could do all the things we wanted to do. So they are in that luxurious position where they can take the risk. But let me say this: they have indicated to me privately, and this is a lot of the racing administrators in Victoria, that if they had the choice, they would go with the turnover model and not the gross revenue model. Whilst Racing Victoria has indicated formally that that's the model that they are adopting, most of the administrators - and we're talking about race clubs and other industry participants down there - would much prefer a turnover based model.

MR BANKS: Why would they? Why is that the case? We've heard a lot about these private conversations but we haven't seen anything publicly from Victoria. If you have something public - - -

MR BROWN (RNSW): If you had have been watching TVN, you would have noticed the RVL CEO about two months ago publicly state that if we won the cases up here, they would switch to a turnover based model. Now, he seems to have retracted that a little but that's what he publicly stated on TVN in an interview and that's on the public record.

MR FITZGERALD: And yet ACT as I understand it is moving to - - -

MR BROWN (RNSW): I'm sorry to interrupt. The chairman of the VRC, the largest club in Australia, is also on the public record as saying that he much prefers a turnover based model.

MR FITZGERALD: May be preferring, but the explanation is not clear. ACT is about to go to a percentage of revenues, is that not right, and Western Australia has turnover and revenues, depending on which is the larger, and the greyhounds in New South Wales have either. I must say - - -

MR BROWN (RNSW): Can I take issue with greyhounds? Greyhounds went that way because they didn't want to enter into the argument that we were going to have with the corporates in the law case. They said they couldn't afford the fees, so they opted to settle with the corporates on the basis of the 10 per cent of gross. That's the only reason they went that way. Privately they said - and they're on the record I think of saying it - they would prefer the turnover based model. So that is the position.

MR FITZGERALD: I hear that, but I'm not understanding why. I understand the simplicity of levying something on turnover, I understand that very clearly, but beyond the simplicity argument, it is very hard to find a reason to favour one or the other. We've come down in favour of one because of competition issues but I'm still at a loss to understand why one is preferable to the other once you take away the simplicity issue, and levies and taxes are rarely, if ever, simple.

MR BROWN (RNSW): There are several reasons for it, apart from the fact that we know that funds we'd receive under a turnover model would be far greater than under a gross revenue model.

MR BANKS: There's no rate that would accommodate the two things?

MR BROWN (RNSW): I'm sorry, let's assume that we're talking 10 per cent - - -

MR BANKS: Okay.

MR BROWN (RNSW): - - - which is the model that's been adopted in some of the jurisdictions you've quoted. Western Australia is talking 20 per cent or 1 and a half per cent, whichever is the greater, I think - whichever is the least, I should say, in Western Australia, isn't it.

MR BANKS: It's a variation of that old saying, that it's not about the structure, it's just about the price.

MR BROWN (RNSW): Yes.

MR V'LANDYS (RNSW): If I can interrupt. But you lose control of the price when you go into a margin charge because the lower the margin, the less the price. The most competitive neutral charge is a turnover charge because no matter who the wagering operators are or who their platform is, they're all trying to attract the same

customer, and if we can just use that customer as a \$100 bet, they're trying to attract that \$100 bet. So if Tabcorp attracts that \$100 bet, they're currently paying the New South Wales racing industry \$4.70 per that hundred. The corporates, as you correctly pointed out, were free, paying nothing. New South Wales bookmakers were paying \$1 from every \$100 bet because they were paying 1 per cent of turnover. What the race field legislation does basically, it puts everybody on an equal playing field because they're all paying \$1.50 in every \$100 bet.

Now, if I was a wagering operator and I had a margin of 6 per cent and I was being charged 10 per cent of my 6 per cent, I'd be paying less than someone who has got an 8 per cent margin for the same product. Now, the best example or analogy of that is petrol. There are petrol stations, they all pay the same price for the petrol, but some have a lower margin and some have a higher margin, and they try to attract the customer that way. It is exactly the same product that every wagering operator is competing for. It's the \$100 or \$1 or \$50; they're all competing for that. Why should one get it at a cheaper price than anybody else? The other analogy I can use: if I'm selling this to Kmart and David Jones, do I have to sell it cheaper to Kmart because they've got a lower margin?

The most competitive neutral thing is to make everybody on the same equal playing field. Even then, they aren't on an equal playing field because Tabcorp, through its contractual obligation, is going to pay \$4.70 and it is currently paying the \$1.50 on top of that, so it goes to \$6.20 in every \$100. If you use your model of a gross profit, those wagering operators will be paying 50 cents in every \$100 bet. So the same product, same everything, one pays 50 cents, one pays \$6.10. It's not competitive neutral.

MR FITZGERALD: Sure. Again, I understand that there are court actions which are pending. That's all very well, but you look at a range of impacts and if the levies that you have charged did in fact have an anticompetitive effect or created substantial barriers to entry for new players, would that not concern you?

MR BROWN (RNSW): Can I say this - - -

MR FITZGERALD: Can I just make the point: the notion of everyone on the same level playing field is fine as a starting point, but if you then don't look at the consequential effects, as we've tried to do, then in fact you'll come up with a very strange answer. So again, I just want to test that, without necessarily going into all the intrigues that are part of the legal cases.

MR BROWN (RNSW): We take the view that 1.5 per cent is turnover is interdependent of management and pricing decisions and should be. Each wagering operator should be able to factor in the 1.5 per cent in our case, and then make such management and pricing decisions as it thinks fit. What has emerged in the evidence

in a case of *Betfair v Racing New South Wales* just recently is that the CEO of Betfair has admitted under cross-examination that the 1.5 per cent of turnover levied on Betfair is unlikely to and does not have a tendency to deter or hinder their trade, let alone interstate trade, either now or into the future. Betfair in fact are predicting a healthy growth in the Australian market. So the evidence seems to be emerging that they can cope with the 1.5 per cent. It's not a hinder on the entry of new players. We haven't seen anyone suffering or pulling out of the market because of the 1.5 per cent fee that's been imposed. They're paying it, reluctantly as they say, under protest, but they're paying it and they're getting on with business. They've priced that into their model, as they should.

MR V'LANDYS (RNSW): You indicated before to Mr Kenny about how Tabcorp pays on gross profit but Tabcorp pays more than just that. Tabcorp, just to get the right from us, has to pay a \$12 million a year fixed product fee, so it's got to pay that. It then pays 22 per cent of gross revenue and then it has to give us 25 per cent of gross profit. The big difference between Tabcorp's contractual obligation and corporate bookmakers is that we do have control over Tabcorp's pricing because Tabcorp has to ensure our total financial benefit out of the contract. If they reduce the price, say, of a take of a win bet from 14 and a half to 5.9 per cent, we can sue them, because they've taken a commercial action which affects our income.

Now, I can tell you straight off the bat that the Powerplays, that they did, when they reduced it from 14 and a half per cent down to 5.9 per cent take-out did increase turnover, no doubt about that, but it drastically reduced revenue. Now, we're in the throes of maybe now taking action against Tabcorp for reducing their price which commercially has been to our detriment. So there are protections with our contractual obligation on the gross profit. There is no protection in regards to corporate bookmakers or betting exchanges. Their pricing is up to them - and it should be up to them, it shouldn't be up to us - as long as they pay the commercially neutral fee that we charge.

Just in the court case that my chairman mentioned that the CEO of Betfair also admitted, that there were five charges that they charge that don't appear in their gross profit. Who determines what gross profit is? They have a premium charge over all their products. They do cross-selling over all their products, so what they do is they act as an agent for the totalisator in Tasmania and that person, if he bets with them, then gets Betfair points which reduces their commission when they use a betting exchange, so they're using one product to subsidise another product, so gross revenue cannot be used in that example. It's totally and utterly unfair because they're discounting something else to get the high margin. Where are these five charges or gross profit? They aren't in it. They had a premium charge that's spread over all the betting transactions. They bet on sport, they bet on - how do you apportion that between racing, sport and political - they are finding it difficult. They've got a transaction charge which they don't include in their gross profit. They have a usage

charge. They hold money of their clients which generates significant interest. If they weren't betting on New South Wales product, they wouldn't be getting that money in those accounts to generate that income. So shouldn't a portion of that income be in their gross profit? Who determines what makes up gross profit?

A lot of operators use gross profit to market themselves. What they do is they give you a \$10,000 free betting account or a \$1000 free betting account. That comes out of gross profit. They use their marketing tool out of gross profit. If they want to give a punter odds - you know, it's 3 to 1 but instead they give them 10 to 1 - it comes out of gross profit. They can pay their marketing expenses out of gross profit or giving free bets out of gross profit. So gross profit is hard to measure and as I keep saying, the most competitive neutral charge is 1.5 per cent of turnover. Everyone is the same. Then it's up to you to make your own commercial decisions, how you set your price - if you want to have a margin of 1 per cent, 10 per cent, 50 per cent, that's up to you, but the charge of the raw product is the same for everybody.

MR BANKS: You've drawn the analogy with selling petrol and I guess that's interesting and we'll sort of think about that, but wouldn't you admit that the wagering industry is a rather unique one, that the product that's being exchanged is actually itself, and you could well argue that it's the margin that actually in a sense is the relevant thing and is equivalent in a way to the petrol that's being sold in the physical market.

MR V'LANDYS (RNSW): Maybe if I go into the point, with your permission, Mr Chairman, of the misconception about the low-margin operator and how the wagering industry currently works. Basically what's happening at the moment is that the concept that low-margin operators provide better overall value for the majority of punters is purely illusory. What is happening is that the professional punter and the new breed of wagering operators are exploiting the majority of punters who fall into the category recreational punters. You have the honourable objective of looking after the consumer. What in actual fact you're doing is looking after a handful of a minority of consumers because what's happened, there's been a new exploitation of the wagering market, and let me just explain how that works.

The majority of punters in New South Wales are recreational punters. They're the labourers, the electricians, the steelworkers, the accountants et cetera. They are the majority of punters. 90 per cent of the wagering turnover in New South Wales comes from recreational punters. Only 10 per cent comes from professional punters. The majority of the recreational punters' money goes into the tote pool. That's where they bet. They go to the retail network. 70 per cent of the turnover is generated in the retail network. That's where the recreational punter goes to place his bet.

MR BANKS: Or has, or currently.

MR V'LANDYS (RNSW): Currently, okay. So how is the professional punter, low-margin operator exploiting the recreational punter and the racing industry? Corporate bookmakers, the new people into the market, are basically now offering a new product called Tote Odds, which is not a new product because tote odds have been around all the time. 60 to 70 per cent of the new turnover that's coming in from bookmakers is on tote odds betting. What these operators then do is they don't hold the money, they don't set a position; what they do is they reinvest it in the totes. They reinvest it. What they've done is they've negotiated for themselves a rebate of up to 7 per cent. So basically now these bookmakers are no risk, because they're getting - you know, TOTE Tasmania will tell you that they're giving 6 to 7 per cent. Tabcorp is now in the market giving 4 or 5 per cent. UNiTAB is in the market of giving 4 or 5 per cent, so these corporate bookmakers aren't holding any money at all basically. The best example of that was a recent media story where one of the corporate bookmakers took \$50 on a bet on a greyhound race and the poor operator immediately reinvested it on the tote but instead of putting \$50 on, he put 50,000. Now, it shows you the magnitude of the size of the bet that they're not even taking the risk on a \$50 bet. So what they're doing basically is in New South Wales, the recreational punter per annum loses \$800 million. Of the average deduction of 16 per cent or 16.8 when you add the roundings, the recreational punter loses 800 million and it's something in the other tote pools throughout Australia.

So what these corporates are doing is putting the money in all the three totes, getting a rebate of a commission and really, all they're doing is skimming the money off the recreational punter and the racing industry. It's not bringing new money in. Their customers are the high-level professional punter. They're the handful of punters. They don't handle many of the recreational punters. The recreational punters, as I said, the majority of them go through the tote pool. So all they're doing is skimming off the top of the losses of the normal consumer that you're trying to protect. So basically there's a new loophole or whatever you want to call it whereby the new wagering on Internet and the phone, all it's really doing is making corporate bookmakers commission agents and then reinvesting on the totes.

The biggest illusion in my eyes a betting exchange. In the court, I was stunned in the evidence to find that punters on a betting exchange only get 80 per cent back of their turnover. So basically it means there's a margin on a betting exchange of 20 per cent, but that 20 per cent doesn't go to the racing industry or Betfair, it goes to the person that's on the other side of the bet which is called the layer. Now, the layer, from what we understand, is either a bookmaker or a professional punter, so basically any recreational punter that's going through a betting exchange is only getting 80 per cent back of his turnover. To equate that to a corporate bookmaker who's got a 6 per cent margin, he would have got 94 per cent back if he went through the bookmaker, and if he bets through the tote, on a win bet which has got a 14 and a half per cent deduction, he would have got 86 per cent back or around that mark. So

you can see that a recreational punter who's using a betting exchange is actually paying the highest possible margin of 20 per cent

The people that are the layers on these betting exchanges are professional punters and bookmakers. That's what's happening in England. 70 per cent of the layers in England are actually bookmakers. So what Betfair then does is charges whoever wins out of that transaction, so if the layer wins, he gets charged between 2 and a half per cent and 5 per cent, but because the layers have got the majority of the turnover in the betting exchange, they then pay a less fee because they discount them down because of the Betfair points - or the betting exchange points; I don't want to single any operator out. So realistically, that's an illusion in itself, that the punters are better off under this low-margin betting exchange. They're not, because the punter is only getting 80 per cent of his money back.

All that's happening at the moment is that the way that the wagering landscape has been formed has been that all these recreational punters - all that's happening is that \$800 million that they were losing, instead of some of it going to the racing industry and some going back to the recreational punters, now someone else has got their hand out which is corporate bookmakers and betting exchanges. So it's been a diversion of money. It hasn't improved the market.

To give another example, in Australia the margin by corporate bookmakers is about 5 to 6 per cent and that's in the annual accounts of Centrebet and in the annual accounts of IASBet. In England, which is the model that you recommended, their margin is 11 per cent and they're still not going exceptionally well; I'll come back to that a bit later. So they've got a much higher margin and the industry over there is not surviving and the prizemoney levels are dwindling in England, and they've got an 11 per cent margin compared to our margin in Australia of 6 per cent.

I congratulate you in trying to help the consumer but the majority of consumers aren't being helped by this low margin. In actual fact you're helping the corporate bookmakers get wealthier, you're helping the professional punters make a lot more money. This is why corporate bookmakers and the professional punters are fighting so hard to try to get a gross profit model because if they pay on turnover, they've got to pay some of their 6 per cent rebate back to the racing industry. That's why they're fighting it to the degree they are. I don't blame them. If I could find a loophole where I'm going to make millions of dollars out of the racing industry, well, I'd want to keep it going as well and that's exactly what's happening.

MR BROWN (RNSW): That's a response to only one question. Probably Peter has dealt with a fair bit of the stuff he was going to talk about anyway, but there will be no doubt some further questions so we can deal with them as I take you through this paper. But can I just add something further to what Peter was saying: one of the reasons that we say it's difficult to set a fee based on gross revenue, the difficulty

in working out what it means, I can give you heaps of examples coming from this recent court case, where the court has virtually accepted that there are significant difficulties in adopting that sort of method because of the difference in the way in which gross revenue was treated.

A fee based on gross revenue, it also fails to reflect the cross-selling benefits, as Peter mentioned, which, for example, Betfair derives from discounting practices and that's a very big aspect of their business. So in other words the low commissions offered to some punters by Betfair reflects significant financial benefits it might otherwise receive in the form of past commissions paid by a customer and significant financial benefits that Betfair hopes to receive in the form of customer loyalty and future revenue. So none of those benefits would be reflected in the fee paid to Racing New South Wales based on the commission taken from the punter.

There are about 15 further reasons I can give you in formulating and monitoring a fee based on gross revenue. What I might do after, if I may, is provide you with a copy of the submissions in the Betfair case which, on page 22 of Mr Gleeson's submissions, details all the reasons why it is almost impossible to track through the various methods that you would have to discern the revenue to determine a fee based on that.

I will go back to the paper I was speaking to before. I think I was up to 13.1. I think I said then we concede that a national funding model might address the issue of free riding but we'd be concerned if the interests of the industry were ignored and if the model were based on the lowest common denominator - in other words, the level of fees charged to wagering operators being based on the lowest fee currently levied by any individual jurisdiction or a negotiated fee - in our view, this would lead to a massive downturn in the industry's financial viability and this has occurred in other racing countries, particularly the United Kingdom, and that experience must be avoided here at all costs.

As identified by you, yourselves, the current state based race fields legislation already overcomes this problem, subject to the outcome of the race fields legislation cases. We believe the race fields legislation remains the most appropriate method of ensuring that all wagering operators contribute equally towards the costs associated with maintaining the industry. The wagering operators and punters all expect the industry to be robust and to operate with the maximum integrity, and the costs of that are very high.

Irrespective of our views on the matter, we would point to the many previous attempts by the state and territory governments over the past 15 to 20 years to develop and implement national approaches to the issues of wagering and industry funding; they've all failed, as implementation of a national funding model as suggested by the commission would require agreement between the government and

racing industries of all eight Australian states and territories, as well as input from the federal government; we remain very sceptical that such agreement could ever be reached.

As far as replacing all existing product fees with a national model is concerned, the current product fee charged to this state's totalisator operator are governed by a series of contractual agreements ordered by statute. Those agreements are extremely complex and they were entered into after a long period of negotiations with extensive trade-offs and interlinkages between various aspects of those contracts which make it impossible to accurately or fairly encapsulate the relationship between the parties by reference to a simple formula. So we think it would be totally inappropriate and impractical for those commercial agreements to be amended or put aside, otherwise then by agreement of all parties and any attempt to do so would raise serious and fundamental concerns regarding sovereign risk and the certainty of any commercial contracts in Australia.

It's the commission's suggestion that any new product fee model should be based on gross revenue; we've talked about that. I don't think there's any need to go over that. We simply maintain our view as we expressed in our first submission that turnover is the correct one.

MR BANKS: Perhaps in your written submission, could you elaborate a little bit more on the contractual issues that you've identified there in terms of the time period and the nature of these contracts. It would be useful to have something like that.

MR BROWN (RNSW): Of those negotiations? Unfortunately there are many, but what we can do is provide you with a precis of those agreements, if you like, after this hearing is over. It would take too long to go through those.

MR BANKS: I don't mean to go through them now.

MR BROWN (RNSW): No. We'd be happy to do that, yes.

MR BANKS: Thank you.

MR BROWN (RNSW): We've talked about the fact that the gross revenue model would give us no certainty and rely on the wagering operator's business model, efficiency and management for its revenue. Perram J during the court proceedings made that very point. Further argument against the use of gross revenue to determine industry payments, there is a difficulty in assessing such revenue; we've talked about that. I think we've gone through a number of these other issues which make it difficult, the cross-selling and what have you. So they're all those there in that paper.

We also want to take issue with a further assumption made by the commission

on this matter. In the draft report, the commission tends to quantify the effect on each type of operator of the 1.5 per cent turnover levy imposed by us using the same arguments advanced by the corporate bookmakers and Betfair. I think you stated in your report that the 1.5 per cent levy is equivalent to 9.4 per cent of the TAB's gross revenue based on an average take-out rate of 16 per cent and compared that with the effect of the levy on low-margin operators. That's a simplistic argument as it conveniently overlooks the considerable state taxes and industry product fees to which Tabcorp is already paying. You've no doubt heard this from Tabcorp themselves. But those levies and taxes total 67 per cent of Tabcorp's gross profit, a fact which was acknowledged in fact by the chief executive of Betfair during his recent appearance in court on 23 November.

So accordingly, the imposition of the 1.5 per cent levy on Tabcorp has a far greater effect than that portrayed in your report and places Tabcorp in a similar position to that of the other operators. The impact on Betfair, for example, of a fee based on gross revenue, allegedly 60 per cent, cannot be made out as Betfair fails to disclose all the revenue it receives, so we've dealt with that.

Talking about turnover as a measure, in other jurisdictions, if you like, Australian totalisator operators are being required to pay a turnover levy of 3 per cent on their tote and fixed odds business when covering racing from Hong Kong, Japan, New Zealand and several other countries. The same situation applies in the United States where a turnover levy of 3 per cent is charged between state racing authorities, and they're not unique, turnover levies, in racing. You've heard that already today. If you wanted me to give you a history lesson on that, I'm happy to do it, but probably you can read the paper and most of it is there.

We've said that any reduction in revenue to the Victorian racing industry as a result of declining totalisator turnover can be more readily absorbed in that state and I've mentioned the fact that they are far better off than we are. They've got an extra \$70 million from the poker machines to absorb any loss or reduction. We've talked about the fact that we don't think that turnover based fees will drive operators out of business. The fees have now been in operation for over 12 months and there's no evidence of any wagering operator ceasing activities or drastically altering its business models. I've talked about Betfair and their predictions for the future.

We strongly disagree with the assertion that the recent decision of the Victorian Supreme Court in respect of the uncertainty of gross revenue would apply equally to the turnover of levying fees. Of course we have great difficulty, as did RICG and Michael Kenny expressed it as well, having an independent body be given the responsibility of setting and reviewing racing industry levies. We say that to suggest that the industry prices be established by a body similar to IPART would be inconceivable. As I understand it, that's a body that oversees regulation of the water, gas, electricity and public transport industries of New South Wales. The primary

purpose is to regulate the maximum prices charged in monopoly services by government utilities. We're a private enterprise, not a government utility, and we don't provide services for and on behalf of the government. But we as a body have responsibility for - and I've stated here it's pretty much from the act under which we were established - overseeing the business, economic and strategic development of the horseracing industry, and initiating, developing and implementing policies considered conducive to the promotion, strategic development and welfare of the horseracing industry in the state, as well as protecting the public interest in relation to that industry. We think it would be ludicrous to suggest that that could be undertaken without the ability to control the industry's revenue streams.

The so-called independent body was to be given responsibility for setting one aspect of the industry's financial structure, namely the price wagering operators pay for using our product; why wouldn't it also be responsible for seeing the operating margins of totalisators, bookmakers, betting exchanges or even setting admission and catering prices for race clubs or training and riding fees for trainers and jockeys and fees charged by stallion owners? I say it's clearly inappropriate and an inappropriate proposition. We say that as a racing industry, it should be able to set its own price. We take into account the interests of the wider industry and not confined solely to the interests of wagering operators and professional punters.

On 13.2, I'll just briefly mention there that we have no comment on this recommendation, other than to say that we'd be concerned if any changes to the broadcasting arrangements resulted in a lesser and inferior coverage of racing events. On 13.2, we fully support the proposition that the government cooperate when setting and reviewing wagering taxes. I'm conscious of the time, chairman, so I probably won't read all of that, unless you would like me to go it, or if you've got any questions.

MR BANKS: You can take that as read and we can come back to some questions later.

MR BROWN (RNSW): Thank you. So far as your draft finding 13.3 is concerned, tote odds betting should not be prohibited as there are better ways of dealing with the risk it involves. Again, we say the tote odds betting offered by bookmakers in certain jurisdictions provides a customer with odds which are not fixed but rather determined by reference to the final odds. In many cases tote odds betting is offered at the highest odds of any of the three main TABs; you heard that before. Peter has mentioned that. These products directly target tote customers. They do so by free riding on the commercial investments which TABs have made in their totalisator operations. Again, Peter has mentioned this already. A lot of bookmakers offer this form of betting merely facilitating the transfer of investments.

On draft finding 13.4, we agree with that; other than that, no further comment.

We think that's an excellent recommendation and we'd support it. On TAB retail exclusivity, you say the arguments for renewing TAB retail exclusivity are not compelling. We don't agree with that. The New South Wales TAB was privatised in 1997, again following a series of complex and protracted negotiations between the government, the New South Wales racing industry and the TAB, and those agreements reached between the parties were then given statutory recognition. The TAB was then floated on the stock exchange with mum and dad investors along with retail investors encouraged to participate in a float which raised approximately \$1 billion for New South Wales taxpayers. That sale also underpinned the industry's future funding arrangements and gave it the degree of certainty needed to enter into the contractual agreements mentioned earlier.

At the time the TAB was privatised, there was recognition that remote betting by the Internet and telephone would be subject to competition from New South Wales bookmakers and interstate wagering operators. However, it would be fair to say that investors were encouraged to purchase TAB shares and the industry was comfortable to enter into its commercial agreements in the belief that TAB would retain its retail exclusivity. The cost of maintaining TAB's retail network is significant, with the cost of selling bets greatly exceeding the costs involved in the selling of bets through other medium, so any action which reduced Tabcorp's turnover through its retail network would increase its costs and lead to a possible closure of agencies as occurred throughout Australia in the banking industry. This we don't believe is in the interests of recreational punters at all. As Peter mentioned, 70 per cent of Tabcorp's wagering turnover is now derived through its retail network. Now, if that source of revenue was jeopardised as a result of TAB losing its retail exclusivity, then the value of investors' shareholdings would be seriously devalued and the industry's continued viability would be threatened. This could then possibly lead to a series of compensation claims against the New South Wales government which could have adverse affects on all New South Wales taxpayers.

There are many other matters which support the continuance of TAB's retail exclusive arrangements and we'll address those in greater detail in our final submission. I don't know whether Peter wants to deal with other issues that appear at the bottom of pages 16 through 17 and 18, 19 and part of 20, commissioners, but I won't deal with those. I will simply read my summary and I hope you won't be offended, but it's intended to alert you and everyone else about the implications of recommendations that, if adopted, could have huge impacts on our industry. As I've said, they're in summary.

If the commission's draft recommendations as they stand now were adopted and implemented, in our view the Australian racing industry would eventually end up like the industry in the United Kingdom. There, operating under a similar system proposed by the commission, the corporates have extracted huge profits which they have used to diversify into various other non-racing-related commercial enterprises

which has left the racing industry very much on life support; alive but only just. If the Productivity Commission gets its final recommendations wrong, it could have massive long-term implications for our racing industry from which I don't believe it will ever recover.

MR BANKS: Good, thank you.

MR V'LANDYS (RNSW): If I can just take one of the points from my chairman, the point is, who funds the industry? I think in your report you've basically said that the punter funds the industry through the wagering revenue, and there's always an argument in racing, who's more important, the owner that owns the horse, should we look after him, or the punter who bets on that horse that he owns? In my view, they're both equal, because the owner subsidises the racing industry in New South Wales. He has to put more money than he gets back in order for the industry to survive. Let me just go through that quickly.

In New South Wales, the annual costs to owners just to have their horses compete, that is, to have them trained, agisted, floated et cetera, costs as a group \$220 million. That's what it costs them. That doesn't include the cost of purchasing the horse. That hasn't been amortised in those expenses. That's just simply direct costs in order to have the horse compete. What do these owners get back as a group? As a group they get back 100 million, so basically it costs them 220 million and as a group they get back 100 million because 15 per cent is taken out for the trainers' commission and the jockeys' commission. So it's a loss of around \$120 million a year.

When you add the amortisation costs, the cost of horses in New South Wales has been estimated - and we're still doing these figures - at about half a billion dollars per annum. If you amortise that into the cost, you will see that the owners are really subsidising the industry. The problem that we have there is the bigger the disparity between what they get back as a group and what it costs them to have horses trained is the deterrent, that they will leave the industry. We need to keep that disparity as close as possible.

To give you an example, one of our biggest owners was the Ingham family. I visited Bob Ingham when I drafted my 2004 strategic plan for Racing New South Wales and asked him how much money he's made out of the racing industry. He told me he has lost \$400 million. He said, "I've done it for entertainment. I've done it to keep the show" and he's had Group 1 - you know, probably the most success of any owner ever.

Now, what is the best key performance indicator of a racing industry? The best key performance indicator in my view is how much, as a group, owners get back comparative to the expense that they put in. Now, in Australia, we get 40 per cent

back. 40 per cent of the owners' costs are returned as a group in prizemoney. How do we compare to other jurisdictions? Hong Kong, Japan and Singapore that have take-out rates of up to 25 per cent on win bets and 20 per cent for win bets in Japan, pays 100 per cent back of owners' costs in returns to owners, so there's no disparity, 100 per cent. What is the worst jurisdiction in the world? The worst jurisdiction is England. It pays 20 per cent of owners' costs back in the form of returns to owners.

MS SYLVAN: Can I put a slightly different view to you that was put to us by Robbie Waterhouse. Mr Waterhouse put to us that poorer punters subsidising rich horse owners is not an outstanding model - I hope I'm not putting words in his mouth - but there's very few other industries where people are investing where they demand either 100 per cent return or a return that reduces - you know, they put themselves at risk. Somebody starts a vineyard, there's recreational activities sitting in there, so I'm wondering why you're suggesting that the 100 per cent return is in fact at all appropriate.

MR V'LANDYS (RNSW): Because that's a key performance indicator, because the greater the disparity, the less chance you have of attracting owners. Now, just to take on Mr Waterhouse's comments, Mr Waterhouse is a corporate bookmaker who is probably one of those ones that I suggested to you is profiting from taking money from recreational punters. They're the ones that are getting richer, not the owners or the breeders. Certainly some breeders are, in the exception, where they are making money out of the industry. There's no doubt about that. But again, that's supply and demand. If their fees for their stallions are what they are, they're what they are. But as a group each year, the greater the disparity the owners lose, the more chance you have to lose owners. In the last 10 years, we have lost about 20 per cent of owners because the disparity keeps getting bigger. They've got so much disposable income, so they're going to use that disposable income to pursue other hobbies. Rather than having a racehorse and losing all that money, they might go and get a private suite or go to restaurants or go on holidays rather than invest in a racehorse.

MR BROWN (RNSW): Commissioner, if I could just take you to page 4 of those notes I gave you, I think that explains the reason why it's important to keep owners encouraged. Even if you take it right down the line to the punter, the punter wants value when he has a bet. He needs field sizes in order to do that, and we won't have field sizes unless the owner is prepared to invest, so he's got to have a measure of return that he feels enough to encourage him to buy horses to race them.

MR FITZGERALD: Can I just cut to the chase a little bit with the corporate bookmaker. Every time you speak, Peter, I get a sense that in a sense, you believe the business model of the corporate bookmaker is inappropriate, for a whole range of reasons. You are using price as a way to extract a fair rent, in your terms. But I get an overwhelming sense that you actually think the business model is wrong. If it's wrong, why are you not suggesting that there be a regulatory reform to that particular

part of the wagering industry? You've raised a whole lot of issues that go well beyond the extraction of a fair rent, which we agree with. We disagree with how that might be achieved, but are you really saying to us that in fact the corporate bookmaking model as we have it now, including the betting exchange model, is in fact itself damaging? It's not just the rent, it's actually that the model itself is damaging, and if so, what is the appropriate public policy response to that?

MR V'LANDYS (RNSW): When you say it's damaging, it's there. It's the way the technology has moved and the way people are taking advantage of the wagering landscape. As I said earlier, 60 to 70 per cent of the wagering turnover of corporate bookmakers is tote odds betting and all they're doing is acting as commission agents and placing it through the tote.

MR FITZGERALD: Yes, I understand.

MR V'LANDYS (RNSW): So what I'm saying is in their gross profit, they don't include the 6 or 7 per cent they get as a rebate on those tote investments. So by us only getting a share of their gross profit, we don't get that 7 per cent. What I'm saying is if they want to continue to operate, that's fine. They be damaging and maybe we should look at that situation later on. But at the end of the day, if everybody pays \$1.50 in every \$100 bet, at least we are not being damaged to the degree that we could be under a gross profit model.

MR BROWN (RNSW): I think what Peter has also said in conversations with us, and I think he agrees with the board on this, is that the corporate bookmaker and the betting exchange should adjust their model. We shouldn't be adjusting ours.

MR FITZGERALD: Sure.

MR BROWN (RNSW): This is simply a fee which they have to take into account when they are setting their prices. The punter doesn't suffer from this. He doesn't see a difference in the prices being offered. It is simply a business cost.

MR FITZGERALD: The second part of that which we have highlighted in the report and clearly we have some difference about is the setting of the fee that's set, having regard to the size or the structure of the industry itself, the racing industry, and your point about the differential between what a horse owner spends and what he receives back is a valid consideration. I suppose one of the things that occurs to us is that one has to be very careful about setting fees that build in inefficiencies into any industry, but in particular these sorts of industries. Some of your figures would indicate a higher level of inefficiency. You yourself recognise by the changes you've been making over a period of time. But one of the issues that's been raised in the report which you haven't commented on is the high level of under-utilisation of racetracks in New South Wales vis-a-vis other jurisdictions. In other words, we tend

to use them with less intensity than others. So whilst again this is not an inquiry into the racing industry, there is a danger in what you're proposing, that in fact it builds in inefficiencies and maybe a more competitive environment, both in terms of wagering and the consequences, that that would actually assist you in achieving a more efficient industry. I understand the downside of what we're saying but has not that necessarily got some truth to it?

MR V'LANDYS (RNSW): I totally disagree with you about an inefficient industry, number 1, because the New South Wales racing industry is probably the most efficient industry in Australia. As my chairman pointed out, in Victoria they receive 80 to 90 million dollars a year for something they have got no control over, which is poker machine revenue. They get that, a 25 per cent share of it. Now, we can keep up with the prizemoney. We conduct 200 more race meetings than they do. We have a greater geographical area to maintain and when you say there's a lot of tracks that are under-utilised, we've done the costings on those tracks and basically they run on the smell of an oily rag. They don't cost that much because most of it is volunteer labour. Part of our strategic plan this year that the board wishes to do is to produce centres of excellence, so we can have the premium race spots around New South Wales, to take you up on your point of view. But closing some of those small tracks really has got insignificant savings.

The other thing I should also state is that before the privatisation of the TAB, there were 700 non-TAB meetings that were put on. Now there's only 190, so we have reduced those amount of meetings significantly. What that's done though, it's caused us a little bit of grief because in those regions there isn't as much racing activity, which means there's not as many participants, so when you get to your really busy periods of the year, you don't have enough stablehands, you don't have enough jockeys, you don't have enough participants, because they can't earn enough revenue out of the racing industry from those non-TAB meetings to keep them going. Now, there's a possibility with technology that some of those non-TAB meetings may turn into TAB meetings where we can generate additional wagering revenue to provide that service to regional areas in New South Wales. I also think there's a marketing effect with having a presence throughout New South Wales because if those people don't have direct contact with the racing industry in their region, they may not bet at Randwick or Rosehill or any other track for that matter, and the marketing cost is minimal when you look at the expenses of those particular regional tracks.

MR BROWN (RNSW): I think talking about the provincial and the city tracks, there's no under-utilisation of those tracks, so all you're really talking about is the country, and as Peter says, there's been a lot of rationalisation and it's ongoing there. We're not expecting this 1.5 per cent levy to be an additional revenue. This is revenue which we should have had, we should have been able to budget for, and it simply maintains the level but within that level, we are ensuring that it runs at its most efficient.

MR FITZGERALD: Can I ask one other question which you may not wish to answer. In the event that you're unsuccessful in the current court cases, what's the effect of that and what's the response to that? Now, I presume we won't know the decisions before our final report at the end of February, but - - -

MR V'LANDYS (RNSW): You might, because the judge this morning basically advised that he would be making a decision on 1 February.

MR BROWN (RNSW): But you're right, there could be appeals. We've got a fall-back position. We believe that the racing industry has got a very strong case to support an argument for copyright and we are taking significant steps along that road to ensure that we do have a fall-back position, that we can enforce copyright and that will be - - -

MS SYLVAN: Is this an alternative, because you have indicated a 3 per cent copyright fee, or is - - -

MR BROWN (RNSW): Yes, we would accept 1 and a half per cent.

MS SYLVAN: That's alternative to the 1 and a half per cent - - -

MR BROWN (RNSW): As an alternative to 3 per cent. I'm saying if they paid us 1 and a half per cent, we'd accept that instead of the 3.

MR V'LANDYS (RNSW): As my chairman said, when the Hong Kong jurisdiction sells its races to the New South Wales TAB, it pays 3 per cent of turnover. That's the internationally regarded rate. When South Africa sells it, it's 3 per cent. When New Zealand sells it to Australia for both totalisator and fixed odds betting, it's 3 per cent. When Belmont Park in the United States sells it to Hollywood Park, it's 3 per cent of turnover. We have to actually give a discount at 1 and a half per cent, and to a certain degree that's because of the contractual obligation we have with Tabcorp, where Tabcorp is responsible for paying the product fee for other states. We're the only jurisdiction in Australia that has that concession in their contractual obligation, so we don't have to pay anything to get other states' products, Tabcorp has. In every other jurisdiction, the racing industry has. So we would be disadvantaged on a national model because we have a substantial concession in our contractual obligation, a well-negotiated concession, from Tabcorp.

The big loser out of race fields legislation and the biggest furphy that's been going around is Tabcorp. Tabcorp in New South Wales has lost \$30 million off its net position to pay the product fee of other states when they start charging, and we're quarantined from it.

MR BANKS: Okay.

MR BROWN (RNSW): Thank you for the opportunity.

MR BANKS: All right. Thank you very much. We look forward to getting the written submission. When could we expect that?

MR V'LANDYS (RNSW): Probably 16 December. Because of our resources in the court case at the moment, we are a bit stretched, but we'll be as quick as we can.

MR BANKS: I can understand that. We appreciate the time - - -

MR BROWN (RNSW): In the meantime, chairman, we could let you have a precis of the various agreements that underpin the industry.

MR BANKS: That would be useful. Good, thank you very much.

MR BANKS: Our next participant is the Aboriginal Health and Medical Research Council of New South Wales. Welcome to the hearings. Could I ask you please to give your names and your positions.

MS BAILEY (AHMRC): Sandra Bailey, CEO.

MR WILLIAMS (AHMRC): Roger Williams, chief operations officer.

MS LEMA (AHMRC): Sophia Lema, health and policy officer.

MR BANKS: Thank you very much for taking the trouble to appear and also for the earlier submission that you've provided to us. As we indicated, perhaps we will give you the opportunity to go through the main points that you want to make.

MS BAILEY (AHMRC): I will start, and thank you for the opportunity to present to the commission here today. I'd like to acknowledge the Gadigal people of the Eora nation and make a few comments in response to the draft report.

MR BANKS: Thank you.

MS BAILEY (AHMRC): As you mentioned, we've provided an earlier submission to the inquiry, providing details of the AH and MRC of gambling issues for Aboriginal people and the activities that the AH and MRC and others are taking to address these issues in New South Wales. Today we'd also like to provide a submission that comments on the draft report that was released earlier to the October one, so that's the supplementary submission that we've handed up to you.

Just a few words about the AH and MRC: we're the peak organisation for Aboriginal Community Controlled Health Services in New South Wales and we represent more than 50 member organisations. All Aboriginal Community Controlled Health Services are governed by Aboriginal community members. Core business for those services is to deliver comprehensive primary healthcare to Aboriginal people and their communities. Comprehensive primary healthcare can include a wide range of services, including public health measures and is premised on a holistic definition of Aboriginal health which has been defined by the National Aboriginal Health Strategy as not just the absence of disease, the physical wellbeing of the individual, but the social culture and emotional wellbeing of the whole community.

About our gambling program activities at the AH and MRC, consultations were conducted by us and included the pressing problems reported in 2005 to 2007. These indicated that problems associated with gambling were common in Aboriginal communities. The reported problems among Aboriginal families and communities

included financial hardship, needs of children being overlooked, family tensions and contact with the criminal justice system. It also reported that fewer Aboriginal people are accessing gambling treatment and support services and there were no Aboriginal-specific gambling counselling services and only very few Aboriginal people have been trained as gambling counsellors nationally.

The work of the AH and MRC over the last few years has been supported by the responsible gambling fund of the Office of Liquor, Gaming and Racing and our activities have included raising community awareness through running information sessions and developing and distributing resources, building a workforce through developing and delivering accredited training through our Aboriginal Health College, building and developing service level capacity in partnerships to better link Aboriginal people who are experiencing gambling-related problems with available assistance. We are currently developing a screening tool for use in Aboriginal Community Controlled Health Services. More information about the gambling program activities is provided in our previous submission and the gambling reports were attached to that and they have got a bit of detail in there.

Our response to the draft report: we have been concerned to note that the draft report of the Productivity Commission's inquiry on the gambling industry has minimal coverage of gambling issues for Aboriginal people and this is despite the commission having received several submissions from us and others on these issues. We do acknowledge the commission's focus in this inquiry has been on the gambling regulatory policy environment as determined by the terms of reference the commission was given by COAG. However, it is critical that gambling issues for Aboriginal people be addressed urgently and systematically.

The needs of Aboriginal people should be acknowledged in the report as it is likely to be the key document that will inform the development of future gambling policy and programs. The previous Productivity Commission report in 1999 devoted a separate chapter to the issues and acknowledged the significance of same. Since then, a few organisations like the AH and MRC have been active in the area of addressing gambling issues for Aboriginal people. Since the 1999 report there has not been a systematic coordinated effort to acknowledge and respond to gambling issues for Aboriginal people. Gambling-related policy documents have continued to include very minimal coverage of issues for Aboriginal people and the acknowledgment that gambling is a significant issue for Aboriginal people in communities in the current Productivity Commission inquiry report is a critical opportunity to get some action to address these issues in partnership with Aboriginal people and their organisations.

I will just go through the conclusions, and that is that the AH and MRC urges the commission to firstly acknowledge the significance of gambling issues for Aboriginal communities in the final version of the report of the inquiry into the

gambling industry. Secondly, we urge the commission to call for action to support that systematic and comprehensive responses to gambling issues for Aboriginal people, families and communities, including a broad policy development process, a commitment to funds, support for community based activities to raising awareness and addressing issues, workforce development to identify and address gambling issues, developing gambling treatment and support services that develop appropriate and culturally secure services to Aboriginal people, and ensuring Aboriginal people in all regions have good access to alternative recreational facilities and activities. Thirdly, to promote the critical importance of involving Aboriginal people and organisations, such as the AH and MRC, in the development of gambling-related policy and programs relating to Aboriginal people. Thank you.

MR BANKS: Good. Thank you very much. You rightly point out that unfortunately this report wasn't able to replicate the coverage that we had in the first report. As you also understand, the focus of this report has been somewhat different, whereas the first one was in a sense surveying the landscape. We're quite conscious that there are specific issues for indigenous people, as indeed, I should say, there are some specific issues for other cultural groups as well which we were able to spend a little bit more time on in the first report. So we'll certainly take on board what you're telling us and think about that.

MS BAILEY (AHMRC): Thank you.

MR BANKS: I guess I was just going to ask you, clearly there are specific issues for indigenous people and gambling. However, there are some issues in common and particularly the issues that arise within a gambling venue are issues in common and we've made a number of recommendations about things that should happen within gaming venues to help people, whoever uses machines and so on. Would you see some of those being helpful to indigenous people as well as non-indigenous people, for example, issues to do with how much you can put through a machine in a given period of time and issues like precommitment options and things like that.

MS LEMA (AHMRC): While I understand the application that actually has as a harm minimisation strategy, I also believe that there are other issues in terms of unregulated gambling that takes place within the Aboriginal communities, especially remote areas.

MR BANKS: This is a specific feature, I remember from last time when we looked at this in more detail, and this element has become more of an issue over time, do you think? Has there been an increase in the extent of that activity?

MS LEMA (AHMRC): Yes, I believe that there has been; especially in New South Wales, you've got a very young population. Across Australia we do have a young population. We also have a lot of Aboriginal people that live in remote areas that due

to the lack of alternative recreational activities, they engage in unregulated gambling. Now, that unregulated gambling is the gateway to more regulated gambling. People do access venues and so on. Now, while it is a move forward, using strategies like that, I think that there's a need to maybe not only build the workforce but to raise awareness about the harms that arise from gambling.

MS SYLVAN: In relation to those unregulated activities in remote communities in particular, are you referring primarily to the card games, very large card games, that take place with significant amounts being bet and so on?

MS LEMA (AHMRC): Yes, as well as bingo. There's bingo, bush bingo. There's also a large amount of moneys that get spent in playing cards or conducting unregulated activities. There is also gambling that takes place in a regulated manner through sports betting, but because we don't really have a prevalence of problem gambling within Aboriginal communities, it's anecdotal and it's really difficult for us to really pinpoint what are the actual sources. But communities have given us feedback in relation to what type of gambling is harming, and I guess for us, what is actually at stake is this unregulated gambling that is normalising gambling and it actually places communities at risk of - - -

MS SYLVAN: Have you been involved with or is there any evidence that's emerging, because there seems to be a little bit but not a lot, that awareness raising, talking about the problems of gambling, recognising some of those issues, is effective in relation to better outcomes and people making more informed decisions about their participation?

MS LEMA (AHMRC): There is very little evidence. Having said that, I think for the last two years in New South Wales, there has been much more movement in regards to raising awareness and we're yet to evaluate those impacts. The feedback that we actually get from communities and through Aboriginal Medical Services is that people are actually having a discussion about it. So people are actually having more of an informed choice. We probably need more time to be able to create evidence and that's why it's important for us to think about in what policy context we can actually help Aboriginal involve at both a frontline and regulation level and that is not currently happening.

MR FITZGERALD: If I could just deal with that issue about communities that are affected. You've mentioned remote communities but can I just move to urban first and then come back to remote because I just want to understand whether you believe there is a significant problem for indigenous people within urban environments that needs a separate treatment from that which we've outlined. So, in other words, just deal with that particular area because so much of the discussion around Aboriginal affairs, as you well know, concentrates on the remote and regional but the urban is of equal interest. If we can just look at that issue, are the services and approaches that

we're identifying for that, for the broad community, reasonable?

MS BAILEY (AHMRC): If I can just make a comment there. Our approach and I guess what we're calling for - and I'm not really in a position to say whether the broad based generic measures that have been put in place will be useful or not for the Aboriginal community, possibly. Basically I'd just like to stress that in terms of raising awareness, developing materials, training Aboriginal health workers and then training counsellors in cultural security are issues where that cultural context is essential to our response to gambling problems.

MR FITZGERALD: Can I just look at that a moment, and this applies across regional and remote communities as well. How does one actually operationalise this particular set of proposals you're putting? Is it a requirement, for example, that you go through the Aboriginal Community Controlled Health Organisations? Where is the best way to operationalise both counselling your general community support to address the issues because that's one of the difficulties? It's okay to try to come up with a framework but then you say, "Well, how is that actually delivered?"

MS BAILEY (AHMRC): I think primarily through Aboriginal health workers. Quite often there's an association between other health problems and gambling and that's why we've been developing this screening tool for use by health workers.

MR BANKS: General health workers who are looking at a range of things?

MS BAILEY (AHMRC): Yes. So that is important to be assessing Aboriginal people. Sorry, I just forgot your question.

MR FITZGERALD: So if you were saying to the New South Wales government - - -

MS BAILEY (AHMRC): Through their medical services.

MR FITZGERALD: Through the medical services would be your main entry point.

MS BAILEY (AHMRC): However, there's a number of other gambling services who were consulted in our report and who gave feedback and who are working together with Aboriginal Medical Services. So we are promoting partnerships, we are promoting the enhancement of skills of Aboriginal health workers and development of workforce in that area of gambling counselling as well as providing cultural training for non-Aboriginal people working in that area. It's very broad.

MS LEMA (AHMRC): Could I just add, in terms of the potential that Aboriginal Medical Services have to respond to gambling issues, it's quite grey because

Aboriginal people actually access those medical services for a range of health issues. There's feedback given by community also suggested that maybe they might not want to access Aboriginal Medical Services to respond to gambling issues, they might want to see an alternative service. So what we actually see is that if we have Aboriginal people presenting because of any other issues we actually screen them and we might refer them to a more comprehensive gambling treatment service. We are doing that because in the whole of Australia there are only five Aboriginal gambling counsellors, two of which don't work as such, they actually work as consultants. So New South Wales don't actually have an Aboriginal workforce and the potential that we have is to develop a workforce within New South Wales.

This workforce can function in two ways: one through Aboriginal Medical Services and another one through other key organisations like gambling treatment services. But indeed Aboriginal Community Controlled Health Services would probably be the first stop. Now, we need to probably take into consideration the level of capacity that these services have to engage in that and that would probably require a different set of frameworks and so on. But, yes, I definitely see the potential for medical services.

MR FITZGERALD: Could I just also try and flesh out the exact issue that we're trying to deal with here. In the unregulated gambling environment, what do you see as the greatest cause of harm? In other words, there was a notion when we did this report in 1999 that if you had informal or unregulated counselling, but if the money stayed within either a clan group or a community group that in fact that was not so harmful. But since that time there seems to be a view, and I think it's been expressed to us a few times, that in fact the problem has in fact exacerbated. So I just wonder if I can try to understand what is the nature of the problem that you see today with the unregulated gambling that's occurring in indigenous communities?

MS LEMA (AHMRC): It is twofold and one is the amount of money that has been spent and the other one is the time that people spend conducting that type of activity and that comes from the lack of alternative recreational activities because there's nothing else to do, people just get a deck of cards and start playing and without realising it's been a couple of hours, a few hours. So those are pretty much the issues. Aboriginal communities also have highlighted that maybe the definition of problem gambling doesn't actually meet the definition of problem gambling and therefore the need to develop a culturally-specific definition that meets that is probably something that was highlighted. To what extent we do that, I don't know. We need to know the numbers out there of people presenting or indeed the prevalence rate.

MR BANKS: I take that point but the definition that we have used is quite a pragmatic one in the report related around harm and the harms could be interpreted more or less widely. So I think you could find that there were traps in trying to find

a specific definition and policy approach because you'd lose the potential of the wider framework which increasingly is a public health framework under which I think indigenous public health could fit quite nicely. We certainly take the point you make about the specific elements and the point you make, I think, just shows also how difficult it is to address this because, as you say, in remote communities it's linked with the lack of alternative recreation which is not an issue per se in urban or even major regional centres so it's got a much wider set of issues attached to it.

These, I should say, are part of the reason why we have had difficulty in this particular inquiry, given its focus, coming to grips with that. But we'll take the point you've made and it may well be in our final report that we think of a way forward in terms of how these specific issues can be addressed but that's a conversation we'll have to have among us.

MR WILLIAMS (AHMRC): It can even be linked with unemployment rates, lack of alternatives, you know, so people unemployed, bored, sitting around the house gambling.

MR FITZGERALD: Can I also just ask this, and I'm sure it's in your research report but in visits to North Queensland last year and the year before people identified to us - this was for another piece of work that we do - that the problem of gambling was particularly concerning for Aboriginal women in that particular community. So I am just wondering, giving your research, is the problem specifically for men and women across the board and is that a change in pattern of activity? We certainly know with the regulated area, the poker machines, that problem gambling for women has greatly increased since its widespread introduction but I'm just wondering in the Aboriginal communities, is there a pattern emerging as to who are most affected or is it just across the board?

MS LEMA (AHMRC): The actual Pressing Problems Report highlighted that pokies, EGMs, was one of the main issues for Aboriginal women. Having said that, I think it's difficult to say - I would probably speculate because we don't have the prevalence, we don't have the real indicator that is telling us what type of gambling is actually the most. But from the report, it actually indicated that poker machines was women, so it has been consistent.

MR FITZGERALD: What about in the unregulated, the community gaming area, are the problems most highlighted for men, women, young people? Where is your area of greatest concern?

MS LEMA (AHMRC): I think for us it would be for young people actually because we've got a very young population and because the unregulated gambling takes place, it's actually leading to the regulated gambling and access to it. I mean, in New South Wales we've got an average age of 24 years of age and the

unemployment level is 20 per cent. There's nothing else to do. Now, to elaborate further with your point about urban gambling in Aboriginal communities, in urban settings, I think that precisely because unemployment levels are so high and most of the poker machines in clubs are based in the western areas where Aboriginal people live, that also places them at risk, as a target risk group. So in terms of seeing that unregulated gambling taking place and people turning 18 and being able to access clubs, it just continues on, doesn't it. The pattern continues on. Sandra, is there anything that you'd like to add?

MS BAILEY (AHMRC): The involvement and exposure to unregulated gambling sort of reinforces the normality of it all and it's the entree into the regulated gambling world, but apart from that, no, I wouldn't like to add anything.

MR BANKS: We take that point and I guess one thing we'll think about with our proposals relating to the regulated gambling world, whether they're likely to address the issues and concerns that indigenous people have as well. I think one area that you've clearly identified is in relation to treatment services where there's clearly, within the regulated gambling world, a deficiency for indigenous people, so it's a point well taken.

MS LEMA (AHMRC): I guess also another point within the regulated area would be that the needs of Aboriginal people are incorporated in policy development. Aboriginal people do indeed access gambling venues. They do access the TAB and they go to sports betting events, so they are active players in the gambling field. So yes, I guess one of the points that we'd like to encourage the commission on is to have the needs of Aboriginal people indeed addressed in terms of policy development. The idea of also having recreational activities is a point that maybe the government can consider for funding. Visiting an elder in a remote area was that she said, "Sophia, there is a basketball field and it's full of grass and it's riddled with brown snakes. I'm not going to send my kids there. I'd rather see them play cards so that I know that they're there, than seeing them getting bitten by a brown snake." Now, that in itself says a lot, you know? There's a lack of alternative recreational activities because there's nothing else to do up there.

MR BANKS: But doesn't it possibly also say the community doesn't value that alternative facility?

MS LEMA (AHMRC): They do, but there is no money to maintain it because there's no department that's actually looking after that field. I'm sure they would probably access it if it was available, but it's not. That's where the problem is, that there's a lack of - even though they're there, they're not maintained.

MR BANKS: You don't see any scope for the community themselves to come to terms with this problem and find ways of addressing this problem of gambling within

the community? I mean, obviously there's a role for government help but I'm just wondering what role you see for communities themselves to take some proactive action to help themselves.

MR WILLIAMS (AHMRC): Wagga have actually formed a committee and developed posters for the community and put them around at different venues and different places, so there is evidence that that are organisations and communities actually doing that.

MS BAILEY (AHMRC): I would just like to add too that we are about facilitating community responses to raise that awareness, get the community involved to organise responses to gambling. In terms of, for example, though the upkeep of infrastructure such as the basketball court that's overgrown or the ring has fallen down, they are very expensive type of renovations and maintenance that needs to take place. Like, in a rural area, for example, Aboriginal people just don't have that financial clout. They're sort of disempowered financially to do those sort of things.

MR BANKS: But presumably in the gambling, a lot of money comes into play, from what you were just telling me, in terms of their gambling activities.

MS BAILEY (AHMRC): It would be good to see it go the other way.

MR BANKS: It would be good to rechannel it, wouldn't it, in that direction.

MS BAILEY (AHMRC): Yes, it would. But those things aren't going to happen by themselves; this is about edifying communities.

MR FITZGERALD: Sure. In relation to your funding issue, I'm just wondering whether or not you've got any observations about whether Aboriginal Health or other organisations are trying to access those funds. For example, in New South Wales you've got the Casino Community Benefit Fund, it may have assisted in your actual research; I'm not quite sure. But there seems the message we're getting is that in all the jurisdictions, there's a large amount of money available for treatment and counselling services. In fact some jurisdictions indicate how hard it is to spend it, but that may have more to do with their processes. But did you find at all that Aboriginal services were trying to access those funds or weren't aware of them or just simply were being rejected? Was there any information at all about that?

MS LEMA (AHMRC): So you mean in terms of - - -

MR FITZGERALD: Were they applying for that sort of funding?

MS LEMA (AHMRC): - - - applying for grants?

MR FITZGERALD: Yes, to run services.

MS LEMA (AHMRC): Some Aboriginal organisations weren't aware of it but it's interesting, the politics involved about who applies for those funds and how they get granted. So I don't know that a lot of Aboriginal people do access them, because of the nature of the processes that you need to go through.

MR FITZGERALD: Sure.

MS LEMA (AHMRC): But not all of them aware of them. In fact when I was visiting communities, a lot of people say that they weren't aware of the fact that they could access those, or if they were aware, there were hurdles to overcome in order to be able to access those grants.

MR FITZGERALD: Okay. My last comment just in relation to this is to what extent is, for example, the peak body, NACCHO and others, able to assist in this area? Is it an agenda that rates on their radar?

MS BAILEY (AHMRC): On the national agenda for the Community Controlled Health Services, there are a lot of very urgent, pressing concerns, I would imagine.

MR FITZGERALD: Huge numbers.

MS BAILEY (AHMRC): A lot of items on the agenda. It may be that this is one that doesn't get dealt with in and of itself as a priority. However, through the comprehensive services provided by the over 140 Aboriginal medical services around the country, that response to Aboriginal ill health and the poor situation of Aboriginal communities is far better addressed through that holistic approach. It is a unique network around the country of medical services, so it provides, like I say, a network for programs to be promoted and developed, stressing again that we promote the critical importance of involving Aboriginal people at that level of development and implementation.

MR FITZGERALD: There was a national wellbeing framework established some years ago by NACCHO, wasn't there? I've just forgotten what it's called. It may be referenced in your research.

MS BAILEY (AHMRC): A national framework of NACCHO?

MR FITZGERALD: Yes, not on gambling per se, but on wellbeing. I'm just wondering whether or not the gambling issue was taken up in that sort of framework but the framework didn't go very far. I think it stalled.

MS BAILEY (AHMRC): Was that the one focused on closing the gap?

MR FITZGERALD: Could be. All right, good.

MS BAILEY (AHMRC): Thank you.

MR BANKS: Thank you very much for your time. We appreciate it.

MR FITZGERALD: If you could just give your names and any position that you have with the Exodus Group, that would be great, in what capacity, and then we'll hear your comments and we'll have a discussion.

MR TIMMERS (EG): My name is Hans Timmers. I'm a counsellor with the Exodus Foundation and a facilitator of the Exodus Men's Group.

MR FITZGERALD: Good, thanks, Hans.

REVEREND CREWS (EG): Reverend Bill Crews, chairman of the Exodus Foundation.

MR BRAZELIS (EG): Tony Brazelis, I'm one of the thousands been helped by the Reverend Bill.

MR McFADGAN (EG): Murray McFadgan, client.

MR HALATAU (EG): Lance Halatau, yes, I'm another guest and I join in the activities happening there.

MR FITZGERALD: Terrific. All right. Who's going to lead off?

MR TIMMERS (EG): I would to start, Mr Chairman. Thank you for the opportunity to meet you and to be able to add a few comments to what we already have submitted to you in our letter of 2 April this year. Our submission is mentioned in your draft report as submission 138. The Men's Group of the Exodus Foundation has based their submission on the gambling experiences of hundreds of guests of the Exodus Foundation and on the life of tens of participants of the Men's Group. Our submission you can also find as chapter 8 in an Exodus publication called Gambling Resistance Now. The subtitle of it is The Gambling Problem Defined, A Wake-Up Call For an Addicted Society.

We presented this booklet in April this year to politicians in Canberra and to politicians and the general public in a presentation at the New South Wales Parliament House. We would feel very honoured if we could now table this publication in your meeting and could present it to all members of the committee.

MR FITZGERALD: Yes, terrific. Thank you.

MR TIMMERS (EG): What our wishes are in the first place - we are of the opinion that gamblers need more legal protection against bad practices of gambling operators. Together with law students of the University of New South Wales, we organised in 2008 a mock trial to test the chances of gamblers to sue gambling

machine operators. In chapter 5 of our brochure, you will find an article by the principal solicitor of Wesley Community Legal Service, Richard Brading, and the title of his article is Gambling On Trial - How Protective is the Law? One of his disappointing conclusions is that it is virtually impossible to sue a club or a hotel in New South Wales that fails to enforce self-exclusion.

The second thing that we would like to stress is that there is a serious reason to change gambling legislation and gambling practices and also in this booklet in chapters 6 and 7, you will find articles by the politicians Lee Rhiannon and Nick Xenophon that stresses these points and we would like to see that, one way or another, back into your report. These politicians are highly regarded by our members because we feel that we are understood by them.

We also are of the opinion that the practice of starving the reels - and I guess you know what that includes, "starving the reels" as described by Tim Falkiner - has to be prohibited. That is where changes are made, that you have good chances to get three or four symbols in a row, but not all.

MR FITZGERALD: Sure.

MR TIMMERS (EG): So in the publication you will find a DVD, Pokie Jokie, by Tim Falkiner. That, in an excellent way, makes clear what this practice does, and also you will find an article in that brochure. We are very interested in your response to our request to outlaw the process of starving the reels as a cheating device that at the moment is still available.

We are very concerned about the government's use of the terminology of "responsible gambling". You will agree with us that no level of gambling can be called safe and responsible if it is done by a person with a gambling difficulty. For them, there is no safe gambling, as there is also no safe level of drinking for an alcoholic. The term "responsible gambling" is very misleading and can bring individuals, but also those who use this term, into difficulties. Also - and I think my colleagues will talk about that more - we really would like to see that the combination of drinking and gambling is discouraged because so much gambling is being done after the first beer. We also would like to see that the government starts to encourage safe entertainment where there is no access to alcohol and gambling. Safe places like perhaps in the past, for people with a gambling problem are not available. So if you go out, it is very hard to avoid gambling machines.

As you are aware, there is great pain and anger amongst many community members through gambling. We are convinced that steps have to be taken to protect people with mental health problems. We see so many people with mental health problems suffering through gambling. We urge you also - and of course you will do that - to give full regard to the personal suffering of children and spouses of

gamblers. We see so many of them. A personal and moving account of one of our members you will find in chapter 2, titled Why Gamblers Need Protection. We hope that the input from economists in your final report will find the right balance to the input you receive from the community and from the social sciences.

You may be aware that people in the community are not confident always that your report will bring positive changes. It is important to note that much frustration and anger in the lives of gambling victims can be alleviated if their plight is taken seriously and if against existing expectations, serious changes will be proposed by you.

MR FITZGERALD: Thank you very much. Other comments you would like to make to start with?

MR McFADGAN (EG): I'm Murray. I've got to speak to you from the heart. We're dealing with a problem, and it's pure logic - it doesn't have feelings and it doesn't have emotions. We as human beings - it doesn't matter whether we're Aboriginal or white, whether we're from another country, what religion - but we all have a heart and I've got to tell you from the heart that what gambling is doing to society is so cruel. I am involved with running a meeting and mentoring the individuals within that itself. The amount of individuals that are broken hearted by depression, by illnesses, by alcohol - if you take away the alcohol, you've got depression. Take away the gambling, you've got depression. But these individuals are not very well, and dealing with pure logic that knows it's going to win - and it doesn't matter who you are - time is money - why don't you slow the reels down? Another comment from an individual is, "Put an ad on the machine so it comes up and says, 'Hock your car at Bob the Hocker's down the road.'" But if you slowed the intake of that machine down, they can make money out of advertising, but they're not breaking the heart, they're not breaking the soul.

I had an individual who I met personally last year who had given away his superannuation on gambling. After he'd given away his superannuation, he got depressed. He went to the doctor. The doctor gave him some medication. Then with the added alcohol that was given at the premises, he only had one choice and he made it and he took his life. That left five children that were homeless. That left a wife and because he had committed suicide she didn't collect any insurance. So the cost to this government is immense and that's only one incident of the hundreds that we have coming through, the effect that the children - there is no help. There is no counselling. It's like to hear that the Aboriginal community has only got five counsellors.

What's happening to society is because they're making logical profits out of the misery of other people. There must be a way that we can control it because we're not curing the damage that is already done, we're now in-roading it to creating more

damage, more sorrow, more heartbreaks. Let's think of the five children that didn't only lose their father, they lost their house, in having to shift they lost all their friends. In losing all their friends they lost everything.

To see that in society through just one death is just so cruel and painful. Where's the profits going? We hear of all these profits. But when a person needs help there is no help, and it has just got to stage where we need help. Like, we do need help. I'll just leave it simple like that; we do need help. So let's provide help. Thank you.

MS SYLVAN: We will read, Hans, with real interest your mock trial in the draft report. We of course suggest that gamblers have a cause of action available to them where a venue has behaved egregiously and inappropriately where someone who is self-excluded as an example is encouraged to come in and encouraged to drink around gambling machines and so on.

So we are well aware that the previous cases in relation to this have not given much assistance, either in assisting the gambler who has been treated poorly or in disciplining a venue that has behaved egregiously towards a gambler. So we have certainly taken that point on board. But we will read with interest your mock trial, because I think it will support the view that we came to, that it's extremely difficult legally.

On one other matter that Murray has brought up in particular, the equivalent of slowing the reels down, I suppose what we're really talking about is slowing the losses in a sense down and the speed at which people can lose money on the electronic gaming machines. One of the proposals, amongst many others, including things that pop up and give you warnings and so on, is to reduce effectively the amount that people can bet by reducing the maximum bet limits down to a dollar - in New South Wales I think they're 10, so if you're playing at maximum intensity you can bet something like I think it's \$12,000, isn't it, Robert - and - - -

MR FITZGERALD: Yes.

MS SYLVAN: - - - lose \$1200 in an hour, playing at maximum intensity. It's still a high number, but if you reduce that bet to \$1 - which is one of our proposals - then the maximum someone could lose would be, you know, \$120, and most people don't play at that kind of intensity. So that's another proposition, amongst warnings and a variety of things in the report where we attempt to come at those issues particularly.

MR TIMMERS (EG): Maybe together with a cap it's also good to consider that the gaming machines at the moment have a hypnotising effect on people who play it. We wrote also in this report, when you are a hypnotist if you take advantage of your patient/client you would be punished; and a gambling machine operator can just do

it, get people asleep and get all the money out of them. You wanted to say something about that too I think.

MR McFADGAN (EG): It does have an effect. I've played the machines myself and joined in the activities there. It seems that just time flies and money goes. The way they're designed, they're designed to cheat people out of their money.

REVEREND CREWS (EG): One of the gamblers once said to me, "The machines talk to you, you know. As you walk in the door, they'll say, 'Come on, come on, I'm the one. You try this one. I'm the one, I'm the one, I'll give you more than that one.'" He used to tell me how he'd come in and he'd listen to the machines and they would compete with each other for him.

MR McFADGAN (EG): Machines grab the emotion of an individual and that's what the logic is and it's on all those years of experience that they have had logically to play against an individual's emotions. If warnings were to come up on the screen, if you were just pushing the button you'd be almost, "Oh, there it comes. Oh, no, nearly. But next time," if something came up on that screen that took their minds somewhere else that would break that pattern.

Like, if a warning came up and it was a programmed, timed warning and/or if people wanted to pay for advertising and knew how to select like, say, three minutes' play, 30 seconds of advertising, that's paid for by whoever, but it breaks that emotional contact with the machine, the hypnotic sound, or some people don't like a machine because of the noise it makes but other people get entranced by that, they call it their own. But that emotional contact. It's like, for example, if you're cuddling your best partner and she gave you a bit of a cold shoulder and didn't want to know you for a second, you'd detach yourself for a little bit longer; exactly the same with a machine, you've got to take away that concentration.

MR FITZGERALD: This issue about getting breaks in play, breaking the play, requiring people to make choices as to whether they're going to continue to play, requiring them to go and do some other activity and come back, I gather, from what you're saying, that that will be effective; if you can actually get people to stop, think about what they're doing, go away, come back, even if they have got to go away to get money, that seems to be a common theme.

MR McFADGAN (EG): A common theme. It changes the emotion.

REVEREND CREWS (EG): That's the reason they want to keep the machines and smoking together. I'm quite surprised at the chemical addictions and the physical addiction of gambling, how related they are, and gamblers have to stop; if gamblers have to stop and go out and have a smoke and then come back, it breaks the whole cycle.

MS SYLVAN: On the subject of the machines being mesmerising, which we have heard any number of times from people who are "addicted" to them, I guess is the right word, on precommitment, where we suggest that people will need to say how much they're willing to lose in the session or indicate an amount of time that they're willing to play, so these are required breaks of some sort that happen in their gambling, is it your view that people will make use of that, because we have heard very often and it goes to your point as to whether there can be safe gambling with someone who is addicted.

MR TIMMERS (EG): Yes.

MS SYLVAN: But we have heard from people that they would use such a precommitment system, that it would help; they still want to have the enjoyment, but they want to become recreational gamblers, not people who are, you know, essentially owned by the machine when they play. So if they say they'll play for a couple of hours, the machine will then stop; and if they have a card system, they won't be able to put it in any other machine, the machine will stop.

So outside of that hot state and the relationship with the machine that is described to us so often, before that, when they're in a colder state and, you know, can choose, do you think from your point of view that this would be effective for at least a category of problem gamblers.

MR TIMMERS (EG): I think it will contribute. But at the same time we have to acknowledge that the problem is so big - like also the organisation for the Aboriginal counselling, that it is such a complex and so enormously deep problem that more is needed. In a way at the moment there is still an atmosphere of acceptance, as something that has been normalised, through governmental policies. It has been a normal part and everybody calls it, "It is our culture." No, it's not our culture; it's our problem. I think gradually society has become too a bit less tolerant towards gambling; as with alcohol. People start to wake up. Yes, alcohol is an enormous threat to society, especially the younger generation. So people become awake to that; and the same with the gambling.

MR BRAZELIS (EG): I think, if I may, as Bill said, the hypnotic effect that it has on gamblers, everything is against them, the whole gambling industry, not just poker machines. It's like drawing flies into a spider web, the way they advertise; billboards everywhere. You go into a pub, there's TAB there, virtually. It wouldn't be a bad practice to stop what's going on where the drinking part of a pub closes and yet the gambling section stays open all night. Everything is against a person, it's just a brainwashing-type technique. The poor unfortunates, the less well off, they have got no chance whatsoever; and then they lose everything, they're living on the streets, and then Bill has to look after them.

REVEREND CREWS (EG): I think the big thing for me was we can get up to 400 people a day eating in our restaurant, or more than that. If you count for breakfast, we'd have maybe 600 people a day come in, and then we do another one down at Woolloomooloo, which brings in another three or four hundred. In the beginning I would have said, "These are people who are struggling because of rent, or whatever." Through this men's group I have learned that the two big issues of people coming and eating in our hall are booze and gambling; the two issues, over and over again.

I run a program on 2GB on Sunday nights and I get about 110,000 listeners, you know, on a Sunday night. By far the biggest problems I get are people ringing up about gambling, by far; like, even more than, "Will you pray for my dog who's dying?" you know, or whatever. It's the biggest sickness that comes on on the radio on a Sunday night.

MS SYLVAN: And it's the poker machines that is the dominant - - -

REVEREND CREWS (EG): Mm. It would be the biggest social issue that I deal with.

MR HALATAU (EG): Even if you slowed people putting money into it or reduce, the revenue-raising would slow right down. So they'd have to find another way to spruce it back up again, wouldn't they?

MR FITZGERALD: We're aware that if our recommendations work they reduce the amount of money available to clubs and pubs and casinos.

MR HALATAU (EG): And the government as well.

MR BRAZELIS (EG): That's absolutely true. So there's some resistance to do anything that will do that. But it's absolutely right; if you reduce problem gambling, you reduce revenues.

MR HALATAU (EG): They're allowing fraudulently designed machines to take money off ordinary people that can least afford it, and there's a backlash there to the community.

MR FITZGERALD: Could I ask this question? You have mentioned a number of issues around breaks in play and, as Louise said, limiting the amount that you can lose. The warnings that exist; if a person is experiencing problems, do the warning signs make any difference? Do they have a value, or are they useless?

MR HALATAU (EG): Not once you're hooked.

MR FITZGERALD: Not once you're hooked. That's true.

MR HALATAU (EG): Once you're hooked, you're hooked.

MS SYLVAN: You don't pay attention to them.

MR HALATAU (EG): It's like a fish on a line, when you're on the hook you don't look.

MR FITZGERALD: I understand that.

REVEREND CREWS (EG): A friend of mine once was talking about addiction, saying, When you're not addicted, in general you don't know anyone who is. When you become addicted, you don't know anyone who isn't." I think that's very true.

MR FITZGERALD: That's true.

MR McFADGAN (EG): A sad thing about gambling is that when you're an alcoholic, you can't hide it, everyone notices you're staggering around. When you're a drug addict, you can't hide it. But when you're a gambler, you can hide it well, and that's the sad thing.

But talking about time-on on the machine, the emotion doesn't like to be mucked around, so if you span that time to a little bit longer then you're talking about the individual not having enjoyment, you're talking about the person with the addiction having frustration with the machine. So what I'm talking about is that length of time, because it does break the patterns and it will build a dislike to that machine; and that's the cure, is to stop that, because it's an adrenalin rush and it's an illness. So we have to address that in the individual.

MR FITZGERALD: Sure. Can I ask one other question. I know time is getting on. But in relation to getting people to counselling and treatment services, I am just wondering whether you have any advice for us about how we can encourage more people to access services, because, strangely enough, it seems that in some states it's very difficult to get people to the services, even when they're available, and I'm just wondering whether there's any advice you have for us about how to improve that.

MR TIMMERS (EG): Yes, I would love to respond to that. One is, if you advertise yourself as a gambling counsellor, you will not see people. If you advertise yourself as a free restaurant, you will get hundreds of people. If you advertise yourself as a gambling group, you will not get people. If you advertise yourself as a men's group, you will get the people.

There are no, as far as I know, real initiatives amongst the official subsidised

gambling counsellors in group work, or almost not. I think it is absurd, because through group work people really start to realise that their problem is not only their own problem, they share it with many others; but also society is involved, there are people at the back that they have to get interested.

MR FITZGERALD: Is there a reason why gambling counsellors and what have you are not engaged more in group work, because you would think that if it were effective they would do it.

MR TIMMERS (EG): It is very effective, in our experience. But we are not officially subsidised as gambling counsellors. But it's very effective, and it is also what people really want; to share, to study it together, because then you are lifted to not just the individual problem, that only makes people sad, and even suicidal. It really lifts it up to knowledge, insight and even action. Yes? That is an approach that has the future, and we call it not responsible gambling but gambling resistance.

We are for gambling resistance. Completely we see it in our people, they enjoy that, yes, and the focus that you will see is they enjoy to come forward. But if you put the imprint of responsible gambler; no. So I think a different approach is needed. But also the gambling counselling business has to come away from the gambling machine operators.

MR FITZGERALD: Can I just ask one last question. Has Exodus Foundation had an ability to influence gaming providers in the local areas - particularly around Ashfield where there's a few clubs - at all, or not?

REVEREND CREWS (EG): At one time one of our guests took a local club to court through our lawyers, and I was rung by the general manager of the club saying, "We give you all this money. What are we doing giving you money so that you can hire a place where lawyers can come and take us to court?" So you get caught up in that sort of situation.

MR FITZGERALD: All right.

MR TIMMERS (EG): The response that you gave was that the welfare team was concerned, "What are we going to do? Will this legal support for this lady continue or not?" Bill's answer was, "Of course. That lady needs support, and she will have it." That put us at ease and it also showed what we can do, as workers and clients; when he talked to a person of another service he had to stop being critical of the government policies, because he was afraid for his job.

REVEREND CREWS (EG): Sure. We have got the same thing with alcohol, that if a company wants to put in a bottle shop down in Ashfield they have to come before our group.

MR FITZGERALD: Is that so?

REVEREND CREWS (EG): Yes.

MR FITZGERALD: That's very good.

MS SYLVAN: Just your experience with the provider of moneys locally really raises a broader question that we have been examining as well. In some clubs the primary source of their income is in fact gambling, revenue from poker machines. One of the arguments put to us is that of course they do a lot of good community work, investment in the community, a lot of donations to a variety of causes, and so on.

The question that one would pose back on that, and I'd like your opinion on that, is our estimate is that those gambling revenues are approximately 40 per cent derived from problem gambling. You can dispute the range of that, but to take a mid-point, about 40 per cent of the revenue is actually problem gambler money coming through. So I'd be interested in your view of that trade-off that has been put to us by the clubs.

REVEREND CREWS (EG): There's no connection made between the money given and how the money is raised. Like, when the money is given they have it in a room like this, totally divorced from the machines and all of that, and the clubs regard that money as their money. It's their money the clubs are giving out, even though there's all this argument they have with the government about taxing and how they have to do it. If you look at it, they don't regard it as tax money, they regard it as money that the clubs are giving.

But they are very careful to draw a line between how the money comes in and how it gets given out. My guess is, if they had to do it right in the middle of where all the poker machines were, with everybody around, the connection would be pretty quickly made; because they're very careful to ensure that the money being given has almost like been just dropped out of the sky.

MR FITZGERALD: Louise, anything else? No. Thank you very much for that. We are out of time.

REVEREND CREWS (EG): Can I tell you one story?

MR FITZGERALD: You can, absolutely.

REVEREND CREWS (EG): This is how powerful it is. This man came to see me once and he said, "I want to go and work for you in Africa," and he told me a story.

He had been the good Catholic boy, with the family, the car, the money, everything, the business, and he said, "I lost the whole lot. First of all, I lost my money, then I lost my car, then I lost my business. I lost my house. Then I lost my wife and my kids," he said, "and I was sitting in a room with nothing. I had nothing, except there was a television in the room, and it showed something about Africa." He thought, "I've got to go to Africa."

He lied his way into a Christian group and got sent over there where the Christians suddenly found out he wasn't a Christian after all and kicked him out because he was smoking, and he ended up in the middle of Kenya with nothing, just kicked out, and he thought, "I've got two choices: I can go back to Australia or I can go further in," and he went right into Kenya, right into Africa and ended up in this village devastated by AIDS, just devastated, where all the kids were just sitting around and everyone was sitting around just sick.

He had been a builder, he'd had a building company, and he thought, "I can be useful here," and he taught the kids to make mud bricks, and they built a hospital. He taught them how to build a hospital with the mud bricks. He showed me the photos and he said, "They'll all be dead now, because they have all died of AIDS." While he was doing that and teaching those kids to do that, he changed, and he thought, "I've got to come back to Australia and sort my life out, and go back properly."

He came back to Australia and he got three jobs to start paying his debts off and all of that, and he's telling me this whole story and he's saying, "When I've fixed it, I'll go back, you know, to help." I said, "Oh, can I ring you?" He said, "No, Telstra is still after me for the phone account." But that's how hard it is. It's powerful. Like, there's a spiritual brokenness in all of this too that needs to be reconnected to people.

MR FITZGERALD: Well, look, thanks very much for that. That has been a very valuable, very helpful insight. We will certainly read *Gambling Resistance* now absolutely. So thanks Lance, Murray, Tony, Bill, Hans. Thank you very much. It's much appreciated.

MS SYLVAN: Thank you.

MR FITZGERALD: We will now adjourn and resume tomorrow morning at 10.30. I think we have two or three participants tomorrow morning. Thank you very much.

AT 5.28 PM THE INQUIRY WAS ADJOURNED UNTIL
WEDNESDAY, 2 DECEMBER 2009