



SPARK AND CANNON

Telephone:

**TRANSCRIPT
OF PROCEEDINGS**

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

PRODUCTIVITY COMMISSION

INQUIRY INTO GAMBLING

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

TRANSCRIPT OF PROCEEDINGS

AT MELBOURNE ON MONDAY, 7 DECEMBER 2009, AT 9.10 AM

Continued from 2/12/09 in Sydney

INDEX

	<u>Page</u>
JOHN BEAGLE	240-250
VICTORIAN INTERCHURCH GAMBLING TASKFORCE: MARK ZIRNSAK	251-272
VICTORIAN INTERCHURH GAMBLING TASKFORCE and SALVATION ARMY: BRAD HALSE	251-272
BETFAIR AUSTRALIA: ANDREW TWAITS DANIEL HOARE	273-296
AUSTRALIAN INTERNET BOOKMAKERS ASSOCIATION: TONY CLARK	297-317
IBUS MEDIA LTD: DAMON RASHEED JAMIE NETTLETON	318-329
JEMAL ABDELREHIM	330-335

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 and presiding on the inquiry. With me, on my right, is Louise Sylvan and, on my left, Robert Fitzgerald, who are both commissioners with the Productivity Commission, obviously working on this inquiry.

These public hearings give participants an opportunity to comment on the commission's discussion draft and for us to have a discussion with them about their reactions and their submission, and that will help the commission identify areas warranting further thought and lead us to focus on some of the issues that will need to be given further consideration in the final report.

I would remind participants that the hearings are conducted as informally as possible, but a transcript is made to provide a public record of discussion. There's no formal oath-taking, but 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. Copies can also be purchased and order forms are available here today or by contacting the commission.

Finally, to comply with the requirements of the Commonwealth occupational health and safety legislation, I need to advise you that in the unlikely event of an emergency requiring evacuation of the building, exits are located in that direction and staff will be here to assist you if necessary, and indeed staff are here to help you on any matter that might arise.

So, with those formalities out of the way, I'd like to welcome John Beagle as the first participant this morning but also one who's participated before, I think, in the commission's activities in this area. Welcome to the hearings. Could I ask you please perhaps just to repeat your name and explain in what capacity you're appearing today.

MR BEAGLE: My name is John Beagle. I come from Canberra. I am here as a private citizen; I am an individual rather than representing any group or entity. I am here because of my passion for poker and my belief, over a very long period of many, many decades, about the role that poker can play within the Australian community, particularly with regard to the exercising of one's mind.

It's my very firm contention, which I believe has been proven elsewhere, both in Australia in two court cases and overseas, that poker is perceived as a game of skill rather than pure gambling or chance. I've been at pains over the years to distinguish poker from other so-called gambling events and I'd like to be able to get across the impression that poker isn't a sleazy place in ill-conceived set-ups - which

brings me back to a point: before the establishment of casinos in this country in 1973 - in Hobart, Wrest Point was the first - I subsequently set up the Australian Casino Association, after 10 years of agitation, so that the principals in these casinos that then existed meet one another and harmonise to form a body to represent their interests but also to represent the public for complaints that would naturally follow, and a whole host of things. The time has come for this to be again seen as a watershed, when it comes to poker.

Poker has come of age, as I'm sure you're all aware. In Melbourne one of the major poker tournaments in the world is held. The Aussie Millions, which is one of the three biggest events in Melbourne apparently, if not four - Melbourne Cup and the Spring Carnival, the Albert Park grand prix and the Australian Tennis Open. Poker pays out more in prize money than any of these events - perhaps debatable about racing. But next year, in 2010, there will be approximately 900 people putting up \$10,000, so we're going to have a \$9 million prize pool which is put in by people who are playing. It's not subsidised. There is no sponsorship for poker. So I'd just like to make those points very clear. I'm here because I'm passionate about poker, and my belief is that poker is wholesome rather than deleterious.

I have given papers on various subjects before and you mentioned earlier, Mr Banks, that I'd given evidence back in 1998, and in that evidence I predicted the growth of poker and what I forecast would have occurred from that time on has in fact been the case, and it's only going to explode from hereon in, for various reasons which I can elaborate on should you wish to be told. But in the first instance I wish to support the interim report from the commission - that is, the repeal of the Interactive Gambling Act and the introduction of a process of managed liberalisation for Internet poker, Internet wagering, gaming and other forms of gambling - but I wish to stress that I am here with a viewpoint that poker needs to be distinguished from all these other events.

It's extremely well managed on the Internet side of things because, unlike other entities, poker is played between individuals, and the house takes a small percentage. In the Internet poker field, the Internet provider has no real interest in the outcome of the event because it is purely there as providing the facility, so it is in their interests that everything is kosher. They have nothing to gain and everything to lose if their sites are not viewed with the highest probity.

When it comes to harm minimisation, they have pioneered all sorts of things to prevent harm. I don't know of anyone in this country - now, I stress "this country" because a lot of stuff that comes in the gambling field is stuff that comes out of America and elsewhere which isn't relevant to Australia. We are distinctly different gamblers to what is provided from other places, particularly out of the United States, where they have such things as the SOGS, the South Oaks Gambling Screen, to

determine problem gambling and all that sort of thing.

To my mind, a lot of that sort of research is meaningless when it comes to Australia. We've been born on gambling. This nation was born as a gambling nation and we had our first casinos - I think Peter Carey made mention of it in *Oscar and Lucinda*, his book, and he talks about The Rocks. There was a casino there in 1790. We've always had casinos. The racing industry formed the backbone of social entities throughout the colonial days. Apart from the church, the only event that brought people together was racing. So we're bred on so-called gambling.

Poker is a mind game. It's a skill game. Sure, luck plays a part, but overall - and I've made mention of it in my submission, the various areas where there has been research done which has proven without doubt that a skilful player will beat an unskilled player. But not only that: one of the things that distinguishes poker is that you cannot be affected by alcohol and play poker satisfactorily, you're on a hiding to nothing, and anyone who plays poker and consistently loses is not going to back up for another hiding. He or she either improves their game and comes back and tries again or steps off the boat, whereas if you're somebody who's playing Internet casinos, for instance, you can be drunk out of your mind and still win by playing roulette or other games in which your decision basically doesn't affect the outcome, with a minor variation with blackjack if you're a good player.

Just on harm minimisation, harm minimisation in the Internet poker field is unexcelled, I believe, and the regimes that take place there now have enjoyed a great deal of approbation around the world because people just can't destroy themselves in poker as they can in other endeavours. You can only deposit a certain amount each month, et cetera. So I think the harm minimisation aspect has been proven to be at the forefront of anything that occurs with Internet poker.

MR BANKS: Could you just elaborate on the point you made then about only depositing a certain amount per month, et cetera.

MR BEAGLE: You go onto a site such as - I play on PokerStars. That's the one that I play on. I'm not representing them, but I've played on them since, I think, 1992. You can only deposit a certain amount of money within a month. There's a limit to how much you can deposit and you cannot exceed that. You can self-limit yourself, of course, the same as you can in other gambling venues or gaming venues. You can't chase your losses; that's what it amounts to.

MR BANKS: And that's standard? That's the default?

MR BEAGLE: That's standard, yes, right across the better operators. I think I've said in the submission, or somewhere else it may be written, there are three hundred

and something poker sites throughout the world. These people don't want to slaughter the sheep; they want to keep shearing it. That's the bottom line. So they are protecting their multibillion-dollar businesses. I think PokerStars alone has given away 250 million in free tournament prizes to people who play on their site. That's not the money that the players put in but this is their incentive for players to stay with PokerStars, which is the world's biggest site. The next biggest site is one called Full Tilt.

MR BANKS: Just coming back then to another interesting point you were making earlier in terms of how they derive their revenue from these games, could you just go on and explain that.

MR BEAGLE: There are two types of games that you play in poker - not the actual games themselves. There are about 12 different varieties of poker that can be played, but you either play in what is called a cash or a ring game where we're all playing against one another, or you go in a tournament, and a tournament is where there may be hundreds or thousands. For instance, to give you an idea of the magnitude, if you were to get on the Internet now, Monday morning in Australia, you'd probably find upwards of a quarter of a million people playing on PokerStars because it's a Sunday overseas. Those people are playing in tournaments with upwards of 10, 15 thousand people playing in them. They normally take about 10 hours, the bigger tournaments - 10 to 12 hours - for people to play. So that's the distinguishing thing. You can go in and sit at a table and play for as long or as short as you wish, or you can go in a tournament and then keep playing until you ultimately get eliminated.

MR BANKS: Or prevail.

MR BEAGLE: Or prevail, yes - the rare chance that you prevail. But the thing is this: that probably the majority of people playing poker on the Internet are playing for what I'd almost call micro limits. They're not playing for huge amounts of money. You'll have the contrast of whiz-kids in this country playing on up to 14 games a time on the one screen and handling hundreds of thousands of dollars in a day, for which they have the money in their account, and then you'll go to other people who are playing either for cents or playing for points, just play points, which doesn't transform into anything and it allows them to play without any downside with regard to risking their money until they feel they're competent to move on.

MR BANKS: Just come back though. How does PokerStars derive its significant income from this activity?

MR BEAGLE: I go in a tournament, say, and it's a \$10 buy-in and a \$1 fee or a \$1.50 fee. That's their money.

MR BANKS: So it's a transaction fee that they charge anyone who wants to play.

MR BEAGLE: Yes. So when you play, you pay a fee plus the amount that is required for that particular tournament, and all those tournament fees go into the pot and then they are distributed on the basis of how many starters there are.

MS SYLVAN: And the fee, the amount that you can deposit, as I understand it a site like PokerStars has a maximum amount, or you can vary that by nominating a different amount?

MR BEAGLE: You can. I've never been in the fortunate position of being able to put as much as I wish in there, but I think \$2000 is the maximum you can put in. Perhaps for huge players they may raise the limit, but you can literally go on there and see people sitting at tables with hundreds of thousands of dollars, playing in real time for real money. You can go there and find people with hundreds of thousands of play money playing in real time. But to answer your question, I'm not particularly - you've got people from iBus this afternoon coming here. They are the professionals. They would be able to answer those questions better than I.

MR BANKS: The other thing that arises is that you've said quite a bit about the nature of poker as an activity relative to, say, playing a gaming machine or something like that, but what about the argument that some would make that a problem gambler sometimes had different avenues into their problem, and accessing poker through the Internet might lead them on to other more harmful forms of gambling?

MR BEAGLE: That's a possibility. Everything is a possibility, but I don't believe that's true, because there are far easier ways for people to become addicted, and that's what we're talking about when we're talking about problem gambling. We're talking about addictive losers. That's the bottom line. Nobody talks about addictive winners on the stock exchange or anywhere else. Problem gambling is only to do with losers. But people coming into poker, they're exercising their mind because, as I've made a point in this paper of mine, you do not back up if you're constantly getting belted. I'd say the same applies to chess and applies to bridge, for instance. People go to find somewhere else, where it's easier. And poker is a very social game, whether it's on the Internet or whether it's in the flesh at the Crown or other casinos.

MR FITZGERALD: You mentioned that there are about 300 sites. Are there any features of any of those sites that you would regard as undesirable? Given that operators are a very diverse group, are there features starting to emerge on the Internet that would give you concern?

MR BEAGLE: Mr Fitzgerald, I prefaced my remarks by saying I'm just a private

individual. I am not able to answer that, but I'd suggest that if there were anything that was untoward they would be out of business, because there's such a competitive situation with these sites. There are new people coming in all the time. For instance, I would imagine that we'll have Crown Casino operating their own poker site at some stage because of the probity associated with Crown. I don't know of anything on those sites that I could point a finger at, because I don't play on them. But the iBus people this afternoon are the professionals; they could answer that, I'm sure. And you will have another man here this afternoon, I think: Jamie Nettleton. He's a world expert on Internet gaming, gambling, you name it. He's a lawyer and he attends conferences around the world where those sort of aspects are possibly discussed.

MR BANKS: I think what you are saying is that it's in the nature of that activity from a business point of view that probity is a very important part of them deriving their income.

MR BEAGLE: Well, if they don't have it, they're gone out the door. That's why they're extraordinarily vigilant about collusion. Mr Fitzgerald and I might be good mates, so we're going to be playing at a table against you other two and other people, but we're on the phone and we're doing things, right? So I say, "Well, look, I've got a pair of kings. Don't play," or something. You can't totally avoid that sort of thing, but - I'll use PokerStars again because I'm very proud of their probity. They are looking at things all the time. If you're a regular poker player, say yourself and Ms Sylvan, and you've got suspicions about Mr Fitzgerald and I, you can get straight onto the support on PokerStars and say, "Look, I don't like the activities that seem to be going on between these two people," and people will be watching.

It's just the same in the casino. It's the eye in the sky. They will look at us, and they can go back and check all activities about what we've done. So you have to be extraordinarily clever to beat it continuously, because you're going to draw attention to yourself, and these characters might move in and move out again, but to the average person I don't think it makes a great deal of difference because, as I've stressed, the majority of people are playing for lower stakes.

One of the things that I needed to stress was that my being here is basically to push the barrow that a separate legislation be put up to cover Internet poker and it not be lumped in with any other legislation covering all other forms of Internet gambling, gaming or wagering. That's going to take a long process, I believe, to set up something that's going to be workable, because there are so many facets to it. Poker is an entity in itself, not really connected to those other places, because the providers of the venue don't have an interest in the outcome.

It's my estimation - and again the iBus people may be able to throw more light

on this - with a regime of taxation - a lower-end taxation; I'm talking about 10, 20 or 30 per cent taxation - and a heavy licence fee, Australia is currently missing out on approximately \$100 million of revenue that these providers would be very, very willing to provide to pay to get certification in Australia and be recognised as a first-world entity. Although some of them are licensed in Great Britain and Albany and I think Italy and other places, Australia has, I believe, the best reputation for overseeing and legislating all forms of gambling activity.

I believe this is a standout. It can be done comparatively simply, because the states don't have to come in it; it's a federal sphere. The states at the moment don't get anything out of poker. So therefore to my mind there's no real impediment not to look at this as a separate thing to be done. Now, in that direction I am trying to organise at this very moment the formation of the Australian Poker Industry Association. If my concept comes to the fore - now this is just in its infancy - I would like to see the poker providers; the casinos, who I have already spoken to; and other venues and other people that have a professional interest in poker forming this body so it can basically oversight and advise the government, and implement through membership the requirements that you would naturally want to put on any new regime.

So that's my aim: to start up that industry body, the same as I started the Australian Casino Association. It's now time for something like that, to bring it into the mainstream and give it legitimacy.

MR BANKS: As somebody who is obviously a practitioner in the field and you're very knowledgeable and you've got a deep background in the area, one of the concerns I guess that we had with the approach that the government ultimately took in terms of a legislative ban is just how workable it would be anyway. So the point we've made in our discussion draft that, regardless of the objectives, if you've got a ban that you cannot implement, in a sense you can have perverse effects, in that people are using offshore sites and so on - I'm not talking about poker here necessarily - that may not have the probity or the other harm minimisation technologies, et cetera, or provisions that you'd have in a regulated setting. Do you want to comment on that, just how practicable or how effective the ban can be anyway, and then the best way forward.

MR BEAGLE: I don't know that you can ban them. At this moment it's a marketplace thing. If you're playing or investing or gambling on a dodgy Internet site, the word soon spreads if people are getting burnt. Now, what I'm proposing in the poker side of things is that all these people would be subjected to the most stringent probity checks imaginable. I'm not really competent to talk on these other types of gambling entities that exist, because there are probably thousands of sites. I probably get 30 a week come to me wanting to give me \$1000 free play on their

casinos and all this sort of thing. Heaven knows what that leads to.

There would be other people in the Internet field - and perhaps Jamie Nettleton this afternoon could speak and advise you better on that with a vastly bigger knowledge than me, but I keep on harking back to poker. The poker providers are crying out to be legitimised - not that they're illegitimate at the moment, but they don't have the full tick - and they would be agreeable to any reasonable regime to oversight their activities. Bear in mind, the best thing about this is each one would be looking at one another. They're like house detectives. The same when you're playing poker. If anything is going on you soon pick it up around a table or in an Internet table.

So I can't really throw a great deal of light on that, other than that poker people would, I am quite positive, agree to anything just to get in the door, because they've got the score on the board. It's not as though they've started up last week to take advantage of some new legislation. It takes years and years and years to get a following such as the bigger sites have.

MR BANKS: Okay.

MR BEAGLE: There's one point that comes to mind. I mentioned in my submission that I was responsible for the funding being provided for the first chair of gambling in Australia at the University of Western Sydney, Macarthur Campus at Campbelltown, and Jan McMillan ended up being the first chair of that. There's no real research, as far as I understand, looking at various aspects of poker, and I believe that an industry body such as I am proposing, and the government, would be very advised to have a look at it. We know through the various university inquiries that are taking place and government inquiries throughout the nation, there's a lot of work done on problem gambling and other aspects of gambling, particularly with poker or slot machines.

There has not been a great deal done with poker because it's been self-regulating. But I think a lot of the queries could be resolved with adequate research, and I'm sure there are people playing poker that would jump out of trees to get in to do that, who would be academically qualified to do it. I think that's about all that I wish to cover today, gentlemen, and Ms Sylvan. The growth of poker has shown that - on the sites that are playing in clubs and pubs these days, they have got I think in excess of a million people playing on the two bodies that are represented, and it has spread around everywhere.

As an aside, my wife and I were in a little country town called Ulladulla a few weeks ago and we played in a tournament there. I think it cost 10 bucks or 11 bucks or something to get in. There were 100 and something. To my sorrow, my wife

came second and I got eliminated, but there you go. It happens. But it was such good fun and it was pleasant and it was enjoyable. Now, I put up a proposal numerous years ago to the club movement in New South Wales - it would be 10 years ago or more - to bring in live poker, to provide food and beverage opportunities for the clubs, but to enhance the social engagement of people.

I in fact invented a poker game that you can sit around and talk at and have bonuses attached to it, whereas you can come into a club and play for, say, \$50 and play all afternoon, or less money if you so wished. But by playing in a venue, which would be linked with other ones, you could share in very substantial jackpots without the downside of playing for large sums of money. I've been to America to try and get this introduced and I've been to a number of major gaming people and they say, "It's a wonderful idea," but nobody will look at it because they're more hooked on raping people through the ordinary slot, or poker machines as we call them here.

This provides a longer period of engagement, but it has the other social effect of being able to interact with people. So we sit around a table, we see one another across a table in a club, we have a screen that only we see and we play to the cards that are either common to everyone and our own cards, but we have the interaction and say, "Look, I don't believe you. You're kidding me. You haven't got so-and-so," and so you have the banter that's normally associated and, at the same time, the clubs are providing a venue, they're enabling people to use their brains, and one of the more outrageous claims I could make is that I don't know of any Alzheimer-affected poker players and I believe it keeps Alzheimer's at bay because you're exercising your brain, if nothing else. Anyway, I think that's about all, lady and gentlemen, that I have to offer, unless you have other questions.

MR FITZGERALD: Just one or two. We have seen a rapid rise in Australia in relation to the venue based gaming. Have we actually seen any evidence where people have reduced the number of poker machines and increased the poker playing, because I would have imagined that the poker machines produce a great deal more profit to the clubs and pubs.

MR BEAGLE: Hugely. Well, they're not labour-intensive.

MR FITZGERALD: So it's an addition to the gaming. There's no substitution taking place from what you can see?

MR BEAGLE: No, but various people have predicted over the years that there would be a slackening off of gambling, which may or may not have occurred. I believe that slot playing, or poker machine playing per se has dropped; not just necessarily because of the financial crisis but because I think people get bored with it eventually. We have by far the most innovative poker machines in the world and

people are striving all the time to keep those players but, at the same time, there's a different breed of people coming in to play at the venues on the poker. They will drift across and put a few dollars through a machine perhaps, but you would need to speak to somebody like Mr David Costello from the New South Wales club movement or something like that.

MR FITZGERALD: Sure.

MR BEAGLE: I don't see slot machine revenue going up. I'd say it's stable and, if anything, it's going to come back in the future.

MR FITZGERALD: The second point - and probably it's not something you can comment on - you have been speaking about the regulated poker playing avenue. I think we should just say that we have also had some concerns by Aboriginal communities around the unregulated card game playing, which is causing, according to the evidence so far, fairly substantial problems within those communities. Clearly, that's not what you are talking about.

MR BEAGLE: No.

MR FITZGERALD: Nevertheless, some would say to us the more that you promote poker playing, even in regulated environments, it has a flow-on effect, and some would say that there has been a rapid increase in recent years in relation to card based gaming on an informal basis, with some harmful effects. Whether that is so or not, obviously we're looking at, but when you say it's almost a harmless form of activity, what's your view about the fact that it actually can lead to harmful activity outside the regulated market?

MR BEAGLE: I would say without a shadow of a doubt, particularly in the Indigenous areas and where they're isolated, they can be victim to parasites that come in. There's usually grog involved at the same time, so therefore that's a concern, I think, which is a concern to everybody in the gaming world, and particularly in the poker world. We don't want to see poker tarnished by that sort of situation, which just comes back to the old original things: "All casinos are bad. All poker players are bad."

What you are talking about is a sad reality with Indigenous population, and they have got enough problems anyway. But poker is popular because they see it on television, they read about it and they see where Joe Hasham from Melbourne picked up seven million playing in a tournament, and all this sort of thing, so it's the pie in the sky. But, to come back to your point, the same sort of argument can be used, "If you produce more motor cars, there are going to be more accidents on the road." It comes back to the individual respecting their own sensibilities and, if need be, the

authorities looking at that.

There's a case to be answered about stricter control on private games, because how do these people enjoy themselves without being involved in an illegal game because there's nothing legal where they are. So it's a social thing, and I'm sure there will be people who will come to you and talk about the diabolical effects of it, which will be true - I won't deny that they won't be there - but that's not what we're talking about. We're talking about something where it is legislated, it is covered, it is guaranteed to be first-class for all involved and, again coming back to the point I'm making about forming an industry body, an industry body as such could be taking that on board as something to address.

MR FITZGERALD: Thanks.

MR BANKS: Good. I think it has been very interesting and I thank you for your input on that. We will certainly give it some thought.

MR BEAGLE: Thank you for the opportunity of presenting a layman's view.

MR BANKS: Thank you very much.

MR BANKS: Our next participant this morning is from the Victorian InterChurch Gambling Taskforce. Welcome to the hearings. Could I ask you, please, to give your names and the capacity in which you are here.

DR ZIRNSAK (VIGT): Dr Mark Zirnsak, chair of the Victorian InterChurch Gambling Taskforce.

MR BANKS: Thank you.

MAJOR HALSE (VIGT): Major Brad Halse, a member of the InterChurch Gambling Taskforce and representing the Salvation Army.

MR BANKS: Thank you very much for taking the trouble to appear this morning; also obviously for the submissions that you have made. I'll give you the opportunity to go through the main points that you want to make in response to our draft report.

DR ZIRNSAK (VIGT): Thank you for the opportunity and thanks for holding this hearing here in Melbourne. We would like to start by saying we really appreciate the commission's work in the second draft report. Obviously there are a lot of recommendations that we fully endorse and strongly support, so we will leave that for our written submissions - so just deal with those where we sort of say, "Well done," and fully support your conclusions - and draw on those where we perhaps think you haven't gone far enough or the few where we actually don't agree with the commission's current draft recommendations as the main areas for discussion.

MR BANKS: Good.

DR ZIRNSAK (VIGT): We'll start with studying the self-exclusion recommendations. One area that we felt didn't go far enough was actually addressing this issue that has been raised in the research around the detection system not being effective in the self-exclusion. To our understanding, pretty much all the jurisdictions in Australia rely on this notion that you take photographs and they're physical photographs and they get located in the venue, even if they are electronic. It probably doesn't help, or it may even exacerbate the problem, and you end up with a venue - and we've been in one where there is a board with 100 or 150 small photographs on there, and staff members are required to try and remember the people being there.

The industry's response to that - or parts of the industry, I should say - has often been to say, "Well, it's self-exclusion, so it's up to the person to keep themselves out of the venue. We do what we can to assist in that, but it's not our core responsibility." The research - and particularly that done by Michael O'Neill - seems to suggest that was a key failing within the effectiveness of self-exclusion

regimes; that people, if they walked into a venue and they were self-excluded and if they had had that temptation to test whether the self-exclusion was working, the fact that they could do so and not be detected in many cases undermined their ability to use that self-exclusion to reinforce the choice they were wanting to make. So that would be a point.

Clearly, self-exclusion still works for those who do use it as a tool, where they are self-committed and it's just nice to formalise that and they have the will and the strength to stay out of the venue, but not for those who actually test the system and find it then doesn't pick them up or doesn't deliver on helping them reinforce that choice, so we think there is a need to look at that.

Part of that would be addressed if, obviously, the jurisdictions picked up your recommendations on precommitment. Then that matter actually gets addressed by the fact that you would have an identification system through precommitment and, if precommitment was such that everybody needed to use it, at least be part of the system, then it's very easy to self-exclude; you simply get yourself blocked off the system and you won't be able to use an electronic gaming machine.

MR FITZGERALD: Just on that, given what you say is correct - that photo identification is problematic, particularly in very large venues - do you have a suggestion as to how to overcome that issue? It seems to us that at the end of the day you're probably going to have to have some form of photo ID, until such time as you have, as you say, a precommitment system requiring identification, which we believe obviously will help the self-exclusion regime.

The second thing is, do you think that the penalties associated for breach self-exclusion need to be addressed in some way? Some people have suggested to us that we should increase the penalties for providers that knowingly allow a self-excluded person to enter the premises. Some have suggested, of course, the penalties on the individual who breaches the self-exclusion should in fact be increased. So do you have a view about how you deal with the issue you've raised, but secondly, whether or not the penalty regime should be dealt with in a different way?

DR ZIRNSAK (VIGT): Yes. On the former, the task force's suggestion had been we move to a membership card type arrangement, which they already have in a number of clubs anyway. My experience of joining up at the Redcliffe RSL up in Queensland was that I could turn up at the venue and I got a photo ID card straightaway. They did that on the spot. It was sort of 10 minutes for them to do that. At this stage you don't require that to go and gamble, but you could have a membership card type regime, and we've suggested that that's not dissimilar, potentially, to what you already have.

An example would be video libraries where, if I want to go and borrow a video, clearly I need to present 100 points of ID and it doesn't matter if it's the only time I'm ever going to borrow a video in that video store, they require me to have the card. Clearly that's a business-driven model. It's their interest in not having their videos stolen by somebody, and not returning them, whereas this is actually more from a consumer protection point of view, saying that for the consumer you're trying to help with the self-exclusion issues.

So that seemed to us the most logical. It doesn't necessarily need to have photo I'd, and it would depend on venue set-up, but for many venues you do have limited entries into the gaming area and, particularly in clubs, they've often got people on a front desk doing it. For a hotel regime it might be a little bit more tricky and we understand why the industry are therefore less enthusiastic, particularly from a hotel side, but within a regime, outside of having a precommitment system in place, that would seem to be the most effective and efficient way of achieving an effective self-exclusion regime for gaming machine venues.

On the penalty side, the task force has always taken the view it's not appropriate to put penalties on the actual gambler for breaching self-exclusion. If there are penalties, they should be on venues who don't take reasonable steps. Clearly, if a self-excluded gambler sets out to defeat the system deliberately and tries to defeat all the reasonable steps a venue has taken to try and exclude them, then we don't think it's reasonable that a venue gets penalised, and in rare cases you may have some malicious attempt to defeat the system for the purpose of getting back at the venue, and clearly we're not wanting to see penalties put on venues for those reasons.

In the current regime we think there would be very few venues that would deliberately not seek to enforce the self-exclusion as it currently exists, but the problem is that the regime allows you to use this photo ID, which many in the industry admit doesn't work as a detection system. If you've allowed a system that you know doesn't really work in there, then it's very easy for them to say, "Well, we did all that we reasonably could. We have the photos up. The staff simply didn't notice that person; couldn't remember out of 100 photos that this was one of the people on the self-exclusion."

It doesn't seem that an increase in the penalty is somehow going to make the system more effective, because if it was really tested in a court setting, we imagine that the venue will easily be able to argue that the system itself is so difficult to detect and it's just unreasonable to expect staff to remember 100 faces and that's why the person didn't get detected when they entered the venue and continued gambling there.

MR BANKS: What about the provisions in relation to prizes and essentially either confiscating prizes or requesting identification for provision of major prizes, where we've suggested that. as applies in a number of jurisdictions, they should be paid by cheque?

DR ZIRNSAK (VIGT): That would certainly be helpful as well. It would be a discouragement for the gambler. If they know they can't collect the major prize, it would hopefully take away some of the incentive to come in and gamble, so that would certainly be a step forward. Any time a staff member does have to have that kind of interaction with someone, having some check of ID would increase, obviously, the ability to detect, and may also deter people then from breaching their self-exclusion.

MR BANKS: One nice thing about that is it's incentive-compatible on both sides, because for the venue they also get to keep their money.

DR ZIRNSAK (VIGT): Indeed. But at the same time they would have an incentive to not lose a customer. I think many do hope that people who have self-excluded will eventually come back to gamble. But, yes, certainly we would say that is a step forward and it would increase detection and increase the effectiveness of the system.

MR BANKS: Thank you.

MS SYLVAN: On the penalties for the individual who self-excludes, that there be no penalties if they breach that, if you could elaborate on that a little bit - why you've taken that view - but as well, for those people who have actually been excluded by order in some way - that could be some kind of third party exclusion or the venue itself excluding and so on - do you apply it across the board to the individual?

DR ZIRNSAK (VIGT): The thing we've struggled with is, our understanding would be that for many of the people who enter a self-exclusion program it's a step of desperation because they've damaged their finances so far with their gambling problem that they're already in financial difficulty.

MS SYLVAN: So it doesn't help.

DR ZIRNSAK (VIGT): It seems, therefore, counterproductive. They've got trouble controlling this problem, they breach it further and then you put a further financial penalty on them, to deal with a problem that's a financial problem that they're having because of their gambling problem. That just seems to exacerbate the situation rather than actually assist. Some people talk about, "A penalty could force them into counselling." Again, our conversations with counsellors seem to suggest

that the effectiveness of forced counselling is often pretty low. If someone has been forced to come along to counselling sessions, who is actually not voluntarily there, the impact of counselling appears fairly limited.

Even if it was a third party exclusion, you've got the issue that often the gambler's behaviour has damaged their family's finances, so again who picks up the tab if there is a financial penalty placed on them? Does it actually further damage the family's financial circumstances? That's why we've taken, on balance, the view that a financial penalty for breach doesn't seem to us to be a reasonable or a useful tool.

MR BANKS: Thank you.

DR ZIRNSAK (VIGT): The next one is on the precommitment system. The task force at this stage would still prefer a system where basically a gambler had to enter the precommitment system to gamble at all so that you don't have an ability to circumvent in any way. I know that the commission has suggested a kind of two-tier system, potentially, where you might have low-intensity gambling available for those who want to gamble without entering the precommitment system, and then precommitment on the rest.

The issue for us is to see precommitment being as effective as it possibly can be, which to our mind means that when a gambler makes a decision to set a limit, their ability to circumvent on that same form of gambling is limited. Otherwise, they hit the limit on the high-intensity gambling and then they move to the low-intensity gambling if they, at that point in time, don't lose control of their previous rational precommitment decision. So it works on a philosophical position that says a person outside of their gambling session is making a rational choice about what they can afford, sets their limit at a sensible, rational, affordable level, and the problem they have is once they get into the gambling session that rational, affordable decision goes by the wayside as they get caught up in the session.

MR BANKS: Yes.

DR ZIRNSAK (VIGT): So that's the kind of philosophical - - -

MR BANKS: Maybe there are a number of things there that have got a bit conflated. We certainly saw that someone who would play pretty regularly would have to have entered into the precommitment world, and they'd have to opt out of that world if they wanted to, but once they precommitted in any way they couldn't opt out, they were stuck with it for the period of time that was appropriate and with the limits that applied. But, by the same token, we're also sort of looking at the argument that you get occasional gamblers, particularly in the tourism sort of field,

somebody who wants to just go into a venue and spend \$20, and whether you'd have an option that didn't require them to have all of the requirements that would make an effective - so when you say "low intensity", it might be a very low amount of money that you could actually spend on one of those machines. The problem with all of these things is to get a balance between the cost and the benefits and try to find a way through that will address most of the problem without being seen to be so costly that it will be very hard to introduce. So your feedback in that area is valuable, and we will get it, obviously, as well from others and have to take it forward. You've been involved, I think, to some extent, in the Victorian initiatives in this direction. I don't know whether you want to make any comment about how you see that process going.

DR ZIRNSAK (VIGT): There's a limit to what we can say because those conversations are obviously confidential within the confines of the Responsible Gambling Ministerial Advisory Council working group. So certainly, you know, it's Chatham House rules.

MR BANKS: Yes.

DR ZIRNSAK (VIGT): The conversations have been along the lines now of what the Victorian government has said within the parliamentary statement and obviously there are some areas that need further clarification. So, for example, this issue at this point appears to be not clearly resolved in terms of whether gamblers will be - the government has said, "A precommitment will be required on all machines," and that if a person makes a precommitment, when they hit that limit they will be barred from further gambling. It's hard for us to see how that's going to work if there's an ability to go in and gamble without having to enter the precommitment system. In other words, the experience in Queensland on precommitment is that I've got a card. You can just relick. You can hit your limit. So I set myself a limit. I hit my limit and the machine won't let me play any more, and I can go to any other machine in the venue and if I insert that card I can't play. But if I pull the card out, I don't even have to leave my stool; I can keep playing on the machine that I'm in front of. So I simply know that I've hit my limit, but if in the heat of the moment or for whatever reason I decide I want to keep gambling, I can just keep going. That to us feels a circumventing of it.

I guess we've been a little bit disappointed because Crown effectively has that system currently where you have a precommitment system attached to their loyalty scheme. When you hit your limit, it throws up a warning that you've hit your limit, but you can gamble on; you just don't earn any loyalty points after that. They haven't been willing to put data out there to demonstrate what effect that system has actually had on gamblers and they haven't been willing, to my understanding, to participate in any research. So it makes us very suspicious, I guess, when people are not transparent. It makes you suspicious that that kind of regime is not demonstrating

results.

In terms of the Victorian thing, that would be one of the key areas - this issue about will you be required to be in the system? The government has been quite clear. It's not going to require people to set a limit. The commission has gone a step further and is saying basically that there should be a mandatory limit that you start with. I don't know what the appropriate amount would be. It might be \$50 a day or \$100 a day as your base limit, or whatever it might be, and then I can choose to simply say, "Now that I'm a wealthy person, I'd like to gamble a lot more than that. I'll set my limit up at \$1000 a day." But I would have to have a starting point, rather than the current systems where the limit is effectively infinite, so I'm starting with an infinite limit per day and I've actually got a (indistinct) level. You make in our view a good suggestion that you actually have a reasonable number to start with and people can vary from that. That's our understanding of what you've suggested. They can opt out.

MR BANKS: Yes.

DR ZIRNSAK (VIGT): Or I can say, "I actually don't like a limit at all. I do want the infinite limit per day," so I'll simply have a card that I have to insert, if it is a card based system and I've got an infinite limit per day on that.

The other area we would have suggested to go further than the recommendation would be on requiring gamblers to be able to have a history of their gambling play within the precommitment system. Systems out there already do that automatically. The two venues I visited up in Queensland, one actually did it on the spot; you had a terminal where you could just press a button and that spits out your transaction history on the spot. At the other place - the Sandgate venue - from memory, a monthly statement gets mailed out to your address. So there are clearly systems that can do it; clearly it's economic to do so. These venues are already doing it, so it suggests that it is not a problem from a cost point of view.

But within that, we probably would also say, though, there should be a restriction over the gambling provider having access to that history for the purposes of marketing. We have some real concerns about the gambling industry potentially wanting access to precommitment data or the history of a precommitment player and then using that for the purposes of targeting individuals. We've had quite a few conversations with a former gaming manager and one of the things he raised was that there were times where he was asked to ring up certain high-spending gamblers to invite them back into the venue. So where a venue may engage in activity to increase its share and the venue has access to the precommitment play history of gamblers within their venue, clearly it makes it easier for them to target people to get them back into the venue. That's also where we think there are problems if loyalty

schemes are attached to precommitment and then they can be used for marketing purposes. We think there's a mixed message: on the one hand you're trying to encourage people to set affordable, sensible limits; on the other hand you're allowing the gambling provider to go after them with marketing to try and get them to increase their spend. It seems a mixed message, if that's what happens.

MR BANKS: There is sort of marketing and marketing, isn't there? Your concern is that there would be like personalised marketing going on?

DR ZIRNSAK (VIGT): Yes. Clearly, though, there are still some concerns about a points regime that says, "The more you spend, you get free gifts and stuff." Clearly that is designed to get you to consume more. That's why people run loyalty programs - to get consumption up. But probably the greater concern is where you get that personalised pursuit of people, particularly high-spending people. Our concern would be that it's often the high spenders who disproportionately are those who have gambling problems as well.

MR BANKS: Just on that - I'm probably pre-empting what you might say - there have obviously been real difficulties in this area in terms of the sort of common law duty of care. We have seen some recent cases that illustrated that in other areas as well. Do you have any comment on the statutory initiative that we thought might be useful for certain prescribed cases; to have a statutory provision there that will effectively give the gambler some protections, where there had been egregious behaviour on the part of - and it could extend to those kinds of individual advances in situations where the person had a problem or had a precommitment regime that was being tapped into, in a sense, for that kind of purpose.

DR ZIRNSAK (VIGT): We would fully support the commission's recommendation in that area. We do think increasing the ability of gamblers to seek legal recourse in cases of egregious behaviour by a gambling provider is absolutely worthwhile; that it would help deter the very unethical providers, those who are well into engaging in highly unethical behaviour. We recognise that there would only probably be a very small number of gambling providers that would engage in that kind of egregious behaviour, so it's really sending a message to the industry about cleaning up its act and targeting those at the worst end, who would be a tiny minority, from our understanding. So we think it's helpful, we think it's absolutely worth doing, but we recognise that, in terms of addressing the wider big picture of problem gambling, it's probably not going to have an enormous impact on the problem gambling that is out there. But it is certainly worth doing and it's certainly worth sending the signal that those unethical operators aren't acceptable within any sort of business or industry.

MR BANKS: Thank you.

DR ZIRNSAK (VIGT): Moving on to ATMs: that was an area where obviously, as one of the bodies that actively campaigned in Victoria for removal of ATMs out of venues, we would come to very different conclusions to those put forward by the Productivity Commission's draft recommendations at this point in time. We have some concern that the recommendation may exacerbate problem gambling to a degree. That's based on, again, the conversations with this former gaming manager who basically said that in Victoria, when they were forced to remove the ATMs in the venues he was working in, out into the foyer away from the gaming area, the amount of money being taken out of the ATMs increased substantially and the throughput through the EGMs themselves increased substantially as a result. There's argument around that. He didn't have proof of this but his anecdotal evidence from within the venue was that once they were out of the gaming area the people with the gambling problems no longer felt staff were observing them going backwards and forwards to the ATM.

The behaviour that we hear - and all the research seems to confirm this - is that people don't go and withdraw their thousand-dollar limit all in one hit and then feed it into the machine; they go and withdraw 100 or 200 dollars, go to the machine and lose that 200, go back to the ATM and pull some more out. And that's why you also get one of the detectable behaviours of potentially having a gambling problem - is multiple visits to the ATM for the purposes of gambling.

So his argument was that, while they were still in the gaming area, there was a feeling amongst those who had gambling problems, that staff could observe them doing this and they were worried about detection. Once it was out in the foyer they felt they had a greater sense of privacy and anonymity about their withdrawals and that's why the withdrawals went up and the throughput through the machines also went up. As I said, that was anecdotal.

The argument we've then had is to say, "Well, our hope is that once the ATMs are out of the venue, having to actually leave the venue gives you a greater break than simply going out to the foyer, so you have more opportunity to rethink your behaviour." I certainly still think there will be gamblers with gambling problems who will still go to the ATM down the road, pull out money, come back to the venue and still repeat the behaviour, but your hope is that you're capturing part of that problem gambling population, rethinking their behaviour and therefore getting a reduction in harm from that point of view.

The concern about saying, "Well, we set the limit," is that, if the commission's view was people with gambling problems will do this thing of just go out the venue and withdraw the money at the ATM down the street where they've got the thousand-dollar limit, then the argument will be the current suggestion of a \$200

limit means you take the first \$200 out in the foyer of the venue and then the other \$800 you walk down the street and get from the ATM down the street. You know, if the logic being raised was, "Well, people will defeat that by just going down the street," it seems the suggestion doesn't actually achieve that.

So if the commission accepts there's utility in restricting access to cash through ATMs, we still think it's better to take the ATM out of the venue, and also based on, I guess, the anecdotal evidence we had from this gaming manager putting forward the case about what happened when ATMs were pulled out of the gaming area into the foyer in the venues he was in.

MR BANKS: Obviously with all of these things you're balancing considerations and you're focusing on problem gamblers, which is appropriate, but I guess we're trying to think about the bigger picture, including other patrons of venues and their need to access cash and so on. Now, we ourselves in 99, as you know, thought there was an asymmetric use of ATMs which favoured doing something. But you don't see any value in our proposition that it would be quite useful to watch how it plays out in Victoria before extending this Australia-wide?

DR ZIRNSAK (VIGT): I guess that's a testing of the evidence. At this stage clearly that will give a higher degree of evidence, but you're still going to get debate obviously, even if we see a drop. We may see a drop in overall take on EGMs and we'll then end up with the debate with the industry about - - -

MR BANKS: What drove it.

DR ZIRNSAK (VIGT): - - - "Well, is that people with gambling problems and risky gambling behaviour reducing their spend, or is it the recreational gambler who has cut their spending?" and we always end up in those kinds of debates, and there's nothing at the moment in place to actually test, if we do see a drop in revenue take on EGMs, where it will have come from. And even if we don't, we won't know whether it has actually had an impact; whether there's been a balancing out in some way and problem gambling has actually dropped.

It won't be detectable in prevalent studies, so if this was going to be detected there would actually need to be a proper evaluation, and I'm not aware at this stage that Victoria has got any plans to actually do a pre and post thorough investigation. They may do, but it hasn't come up yet within the Responsible Gambling Ministerial Advisory Council research working group.

MS SYLVAN: In some ways the anecdotal story you just gave us is a bit of an argument for keeping the ATM reasonably close by but very visible. If in fact you put it out of site of people who are watching the play and other activity inside a

venue, if that's the particular impact on the gambler in a sense that might - and, as you say, the research is missing here, so one doesn't know whether going out to the foyer will be any different than walking to the next building with the ATM. I just wonder whether you will comment on that.

DR ZIRNSAK (VIGT): Yes. I guess we're working from the self-report of people with gambling problems and other gamblers, and even staff inside venues saying that removing the ATM would be an effective mechanism. So that's a self-belief. We will see in Victoria whether, once that is tested, how effective it is. Our view at this stage is that the evidence seems to suggest it would be. On the issue of other people within the venue having access to cash, I guess our argument always back to that has been EFTPOS is available and there are consumer advantages to having EFTPOS.

Part of our understanding in talking to the banking industry has been that, for example, the major banks, the branded banks, virtually have no ATMs left in gaming venues because they can't compete with the non-branded ATMs, because the issue becomes, if you're one of the branded banks, any person who banks with you and who takes cash out in the venue pays no fee on the branded machine. So there's a section of transactions for which there are no fees. On the non-branded ATMs you pay a fee on every transaction and the provider of the ATM shares that fee back with the gaming venue. So we certainly had raised with us that some venues could be making up to \$70,000 a year on transaction fees via the ATM. So the ATM has become an extra source of cash for the venue.

Now, EFTPOS of course comes at a cost to the venue, because the person withdrawing doesn't actually pay any fees on an EFTPOS transaction and there's actually some staff time involved in processing an EFTPOS transaction. So we understand why the industry don't like that suggestion. But in terms of service to the customer or consumer, EFTPOS is the alternative, from our point of view, that satisfies those needs within venues.

The other argument that runs there is, again, the reason ATMs are seen as more problematic is because of the anonymity of the withdrawal. As soon as you're having to have interaction with a staff member about EFTPOS, again what we hear from venue staff is that people who have a gambling problem aren't really keen to be interacting with staff on a regular basis saying, "Well, I've lost that 200, I'd like another 200 on the EFTPOS." So it becomes, again, a kind of psychological barrier to the behaviour.

MR BANKS: So it's implicit in what you're saying there that you would see EFTPOS as a means by which a recreational gambler or person who is at the venue for other purposes could access cash, not just pay for services.

DR ZIRNSAK (VIGT): Yes. So we see cash could be withdrawn via EFTPOS and we think there's less - at this stage. We'll see how it works out in Victoria: given EFTPOS will stay and ATMs are going out, how that does actually impact. So we should be able to get some signs about the balance that gets struck there. Again though, too, our understanding would be - and I think the report highlights it - that a typical gambling session for most people is about \$30 - 30 to 50 dollars covers the vast majority of recreational gamblers. Now, we would imagine most recreational gamblers would therefore probably carry what they plan to spend as cash in their pocket, rather than planning on going in and having an ATM or an EFTPOS transaction.

MAJOR HALSE (VIGT): I just wanted to sort of back up that area. We recognise the argument put forward by elements of the industry - for example, the hotel industry - but we think that, in relation to recreational gamblers, the necessity to have an ATM there is significantly overstated, for the reasons that Mark has pointed out, and that the social benefits in helping to minimise the ease for problem gamblers to keep withdrawing money far outweigh the perceived negatives.

There may be some communities, particularly in country and regional areas, where there is a very localised case for having an ATM in a particular venue, but the vast majority of people are able to access all sorts of recreational pursuits, be they restaurants or whatever it may be; places where we socialise and enjoy recreation without having to have an ATM in that venue. So, as a broad statement, I think we respectfully disagree with those who mount a strong case for it.

MR BANKS: Thank you.

DR ZIRNSAK (VIGT): Staff training is one of the things the task force has been very keen on pushing recently, and that particularly follows the work done by Paul Delfabbro on identifying people with gambling problems within venues. We think there is now a sufficient case being made where there are certain behaviours that are likely to indicate a person has a gambling problem and would justify an appropriate intervention.

Now, we're obviously aware that that's probably where more work has to be done about what an appropriate intervention looks like. Clearly, you don't want to be going up to people, tapping them on the shoulder and saying, "I think you've got a gambling problem." This is being already done in Switzerland and Canada and we're looking to do some more research into exactly how they do interventions there in an appropriate way.

Some of the characteristics there were: people wearing a disguise; trying to sell items in the venue to raise money; requesting to borrow money from staff or

other customers; repetitive visits to an ATM to withdraw cash for the purposes of gambling, having left minors unattended. There are a number of signs that would appear to be highly characteristic of a gambling problem rather than simply a heavy-spending recreational gambler, so we think that's an area that warrants, potentially, jurisdictions moving down the path of requiring staff training and a regime where there actually is more active staff intervention.

Those that appear to be in place at the moment don't appear to put enough duty of care back on venues to effectively implement them within an Australian context, is our impression, again from the Delfabbro work and from discussing it with colleagues in other jurisdictions where there already are some of those requirements around venues. We should be looking for those kind of behaviours, but we're not getting a sense that that's very effectively implemented at this point in time.

There are a number of points where the commission, and particularly on the issue of winnings, has suggested that high rollers in casinos be exempted from the commission's recommendations. We have some concerns in those areas, particularly in light of the number of cases that have emerged where a casino is alleged to have provided encouragement and direct marketing towards certain high-rolling customers who, it turned out, were basically generating most of the funds they were spending at the casino through criminal activity, through stealing from their employers or from others who were in their care. So our feeling would be, if they're to be exempted at all, there should be greater obligations on casinos to know their customers in those high-rolling situations, particularly where they're targeting those people for individualised marketing activities.

Currently the casinos seem to say, "Well, it's none of our business as to where the money is coming from, outside of the obligations we have under the anti-money-laundering legislative regime at the federal level." So, clearly, they have to report suspicious transactions to AUSTRAC, but outside of that they don't appear to want to take on any greater duty of care in terms of knowing their customers, and that's of concern to us, particularly where high amounts of money are being potentially spent and, as we're saying, through certain individuals - it might be a minority - who have engaged in criminal activity to obtain those funds.

The other area we'd pick up and we fully support is the requirement that venues not be permitted to cash cheques of winnings, which is already the case in Victoria. We also believe, though, that venues shouldn't be allowed to cash cheques made out to cash within the venue. We don't see the need for that. We understand most venues currently don't do it anyway; they see it as too much of a risk. A person is making a cheque out to cash and wanting the cash on the spot from the venue, and some venues do talk about having jars full of cheques that have bounced made out to cash, so it seems it's got some risks attached to it already, but we'd like to see, for

those few venues that continue in that behaviour, that it simply be prevented. Again, we don't see any need for that to take place.

Probably the area where, again, we have our strongest concerns, which will probably come as no surprise to you, is the online gambling area. Our concern with this is probably a feeling that the Productivity Commission in this case has walked away from the kind of precautionary principle approach to this. Our feeling would be, as the commission itself has identified, that research in this area is very limited. We have a very small population currently using Internet gambling, particularly the kind of casino gambling there, and we don't know an awful lot about them.

The commission raises the issue that there's no proof of causality. So there is some evidence that people who are using online gambling have a higher prevalence rate of problem gambling behaviour but it speculates that it may not be causal, and we don't disagree - it may not be causal; it may contribute to the problem - but there's not enough research to know that for certain. My reading of the references seems to suggest there have been the prevalence studies done by GamCare in the UK, where the prevalence of problem gambling for EGM equivalent is quite low and, by comparison, the problem gambling related to those who gamble on the Internet is much higher, so we're actually seeing in that case that the evidence doesn't point to people engaging in a range of gambling first and then Internet becomes the add-on.

We strongly feel much greater and further research should be done before there's a lifting and a liberalising, and particularly in a regime where currently the Interactive Gambling Act prohibits marketing. Removing the Internet Gambling Act actually opens up the ability to actively market across a range of mediums. You can make the argument, "Well, currently the offshore providers can advertise," but they can only advertise online. They can't be out there on billboards or at sporting events or use other means to try and promote their product, so there are concerns about the degree to which active promotion would increase the population.

You would have picked up from our submission that the balance we see is that potentially you end up with a market that increases from this very small base of people who are currently using Internet gambling, to a much bigger base. Even in a regulated environment, even if that reduces the prevalence rate among that population, it may actually be that the size of the increase of those gambling results in more problem gambling even if the prevalence rate has come down, simply by that growth. So that's a concern for us.

In that, the other thing that isn't picked up, we didn't feel - unless I've missed it - within the commission's report is that the gambling provider has a greater ability to track the behaviour of its gamblers, so while that can be used for positive, for good, in terms of harm minimisation, it can also be used again for that direct targeting of

high-spending individuals for marketing purposes directly, so there would need to be a restriction on that.

Further, the harm minimisation measures the commission has offered so far all appear to rely on the gambler making voluntary choices to protect themselves. The only one that differs from that is where you've suggested precommitment limits that are opt-out again, so the gambler would be provided with a safeguard to opt out of it. But things like self-exclusion or warnings require the gambler to make a choice. So even in that area we think: what about bet limits on online gambling? What about restrictions on rate of spend?

The commission seems to form the view that people who use online gambling gamble less intensely because they're not under the pressure of being in the venue. Again, I'm not sure there was any research that was being drawn on to back that up, so our view would be obviously on a precautionary basis to say we think there's a lot more work that needs to be done in this area before any recommendation of liberalising or removing the restriction should be considered.

MR BANKS: What do you think about online poker? I don't know whether you were here when we had a gentleman earlier who was talking about there being a fundamentally different form of gambling activity that doesn't have a lot of the risks associated with it that come from - and he didn't use this term - more mindless forms of gaming that require the kind of intellectual effort that goes into poker. Would you see selective liberalisation of something like Internet poker which, by his own evidence, is obviously already quite an actively used medium, notwithstanding the IGA?

DR ZIRNSAK (VIGT): And that would be our understanding as well. I'm fairly certain I'm correct here, though, that the GRA is actually doing a project around young people and online poker as one of the research areas they're currently undertaking, so we'd probably want to see the results of that research, because the discussion would be: does online poker become a gateway into other forms of gambling or is it self-contained? The degree to which there is problematic or risky behaviour involved in that poker gambling would be of interest to us before we form a strong opinion about it.

MR BANKS: You would therefore accept the point that it's a different kind of gambling activity to some others, and probably in itself less risky, but you'd see it possibly as a gateway into other forms?

DR ZIRNSAK (VIGT): I couldn't say definitively at this stage that we'd see it as less risky, because we haven't seen any research that says what is the prevalence rate related to online poker. Clearly, though, if we look at the recent Sarah Hare work

which does suggest the level of online gambling, which would have included the online poker, is such a tiny portion of the gambling activity that's currently taking place by comparison to other gambling forms, it's very hard at this stage to be definitive because of the very small population.

Again our concern is around the liberalising of the marketing particularly, where suddenly you can liberalise the ability of these sites to actively promote themselves across all forms of media. Whether you get a much greater growth then in their share of the market participation - which will certainly allow us to learn more about the type of people gambling - from a precautionary point of view, if there's damage then being done or harm being increased we have got to wait till we see the harm and then go back to trying to pull it back rather than - - -

MR BANKS: Yes. You don't think the fact that this is an illegal activity might be affecting the survey results - about the extent to which people are doing this?

DR ZIRNSAK (VIGT): It's possible, but I would be speculating again as to whether it is or isn't - - -

MR BANKS: If someone says to you, "Are you gambling on the Internet, which is illegal?" are you likely to say yes?

DR ZIRNSAK (VIGT): I guess if you know that it's illegal clearly it may influence your response.

MR BANKS: Our position - and you have given other arguments, which we'll think about - is that this is an activity that is being undertaken by Australians, but with offshore sites that don't have protections that we imagine could be introduced in a managed way. We would be interested also in your view about whether you think Australian sites would be used or not because that would be another issue; people would probably gravitate to sites that they felt more comfortable with perhaps, but I don't know.

There are a lot of question marks there, but it does seem to be the case - and, as I say, earlier evidence suggests - that there is a fairly significant group of people who are already doing this. As I say, I'm not so sure about these prevalence numbers, particularly in Australia; maybe the ones in the UK might be a better guide, which are still showing relatively low prevalence compared to other things.

DR ZIRNSAK (VIGT): I think it's low usage, but I mean even the research you cite in the report shows a higher prevalence of problem gambling.

MR BANKS: Yes, higher prevalence, but lower usage.

DR ZIRNSAK (VIGT): But a very low proportion of the population using them.

MR BANKS: One of your concerns, I think, is this advertising side of things.

DR ZIRNSAK (VIGT): Certainly the ability to market, but also the issue becomes then, too, if you have Australian providers. It doesn't seem to fix the problem of the issue of unregulated sites, so you liberalise and you say, "We now can have online Australian sites," and you may introduce a whole range of harm minimisation protections that they need to provide for Australian consumers. What we tend to hear is that that will come at a cost, so the online providers in Australia will bear a cost; the offshore providers, who you can't exercise jurisdiction over, can choose not to provide those features.

MR BANKS: Yes. The difference now though is that the gambler would know that there were licensed sites and unlicensed sites, and the licensed sites would include international sites, as well as domestic. It's a bit more like the UK again.

DR ZIRNSAK (VIGT): Yes. Would they put greater faith in knowing that an Australian site was regulated and that these harm minimisation measures were being provided? The counter-argument to that has been - and again we don't have evidence to know what would happen - would the offshore sites, because they won't bear those extra regulatory costs, be able to provide a better price back to the gambler, provide more incentives, offer more free credits than an online site here and therefore induce more customers over to those sites that don't provide the harm minimisation measures? Again, we don't have the evidence to know how that's going to play out, but again we would be cautious in the absence of that evidence being provided - - -

MS SYLVAN: Could I clarify your advertising point?

DR ZIRNSAK (VIGT): Yes.

MS SYLVAN: You can have a legal product with quite severe restrictions on its advertising if one chose to. Tobacco is a legal product, but there are a whole lot of restrictions about how it can be advertised and so on. Your point was that, without any restrictions on the advertising, it might induce a lot of people to play - - -

DR ZIRNSAK (VIGT): I guess what we're drawing on is that we're looking at what we regard as aggressive marketing behaviour that's currently taking place with online sports betting.

MS SYLVAN: Yes.

DR ZIRNSAK (VIGT): And we have had down here, "A thousand dollar free credits. Come onto our site," and there's \$1000 free credits for you to start with; that kind of active advertising and targeting certain niches. Ads with bikini-clad women offering free credits, are clearly targeting a certain segment of the market that they believe are desirable for them to compete in; active advertising at sporting events and even on television. So if we look at the kind of marketing regime that is currently taking place - online wagering - and the inability of jurisdictions to actually act on all these activities which, quite frankly, if pokie venues were out there engaging in that same sort of behaviour, we have got no doubt there would be - and there has been - a clamp down on all that kind of behaviour for them.

And that is an example of here we have a legal product with high marketing restrictions, which we think are completely appropriate; on the other hand we have got online wagering where the marketing restrictions appear really problematic, and part of that has been - our understanding in talking to our own jurisdiction - the concern about the Betfair case with WA. So there's a feeling that the jurisdiction feels reluctant to try and put restrictions on marketing activities for online wagering sites. Our concern would be that, if we move to liberalising online casinos, will we see a similar explosion in marketing? That would be the concern in that area.

MR BANKS: Yes.

DR ZIRNSAK (VIGT): A final one - because I realise we are out of time - is the issue of looking at monopoly rent or excessive ability to extract revenue by the providers, which is something we raised in our submission but doesn't appear to have been picked up. The commission talks about tax rates and how much the states are getting. One of our concerns has been about the ability of venues to have excessive amounts of money, which makes the activity highly profitable and desirable and therefore also the fact that often a share of the revenue means there's always a desire to keep expanding the revenue.

We did draw on the National Competition Policy review in Victoria, which certainly was looking at the situation of the duopoly, which is about to end, and the Marsden Jacobs work in that case suggested monopoly rents - and that was using 1999 figures - of between 200 and 500 million dollars a year. The state refuted that, but still it seemed the internal rates of return for the industry were very large and disproportionately large for the kind of risk they were in terms of a market. So we have got some questions - from our point of view, if we are going to have legalised gambling - about the degree to which we get community benefit back. The task force view is that more community benefit is derived by taxation rather than the money going back to the gambling providers.

In this case we also have raised that issue of local competition, so it's not just a

market where gambling providers compete with each other; particularly when we start talking EGM venues; you actually have gambling providers competing with their non-gambling competitors. So the public doesn't have the pokies down the road, so you've got the pub with EGMs able to offer subsidised meals, subsidised drinks, a whole lot of other enticements for people to come in, and you have got another business down the road having to compete with it without being able to cross-subsidise its business activity through EGM revenue. So we have got questions about that. Given the state licenses one venue to have EGMs while the other one misses out, we think there is potentially a role for the state there to ensure that there aren't excessive profits being made and there aren't monopoly rents being extracted where people are paying for a product well beyond what the market should be getting them to pay for that product.

MR BANKS: How extensive among venues would you see this monopoly rent? Would it include clubs, for example, deriving monopoly rents?

DR ZIRNSAK (VIGT): Again our concern would be that you have non-gaming clubs being out-competed by those that have access to revenue. Speaking to clubs they say, "Well, the only reason we have been able to do all this refurbishment, provide all these facilities and build up our base is because we have had gaming revenue," so you say, "Okay, so what happens to the bowling club that has the gaming revenue and can do all this expansion of its facilities?"

MR BANKS: It's taken over.

DR ZIRNSAK (VIGT): What about the one down the road that doesn't have the gaming machines? If gaming is seen as a way of delivering community benefit through better facilities, there's a question there about selectivity. Obviously one argument we wouldn't be keen for that to go down is, "Well, the way we fix that is just open slather; everyone who wants a gaming machine can have one," and - - -

MR BANKS: Yes, well, that would be the ultimate solution.

DR ZIRNSAK (VIGT): Well, it's one solution.

MR BANKS: Yes, but I mean there is a legitimate trade-off there because, if you are restricting access and restricting numbers, you are creating rents, so the real issue then is: how do you extract that rent in a way that doesn't cause other problems as well? The clubs have resisted their rent being extracted through a long tradition, so there aren't easy public policy choices.

DR ZIRNSAK (VIGT): No. The balance then gets struck though. Of course, if you go that route of saying, "Well, everyone who wants a machine can have one,"

there's a social consequence in terms of what does that do for problem gambling prevalence? What kind of harms are then caused by having this highly accessible regime of a machine everywhere? We look again at the New South Wales figures where there are far more machines available, far greater accessibility, and we would suggest that it does seem to indicate that you end up with greater problems by doing that, which would counterbalance the arguments we're making about the obviously social cost of competing between gaming and non-gaming venues. The other solution of course is - and we're probably more inclined to say this - that the state should look more at how does it extract a greater fair share of the revenue and redistribute it back to the community for the community's benefit rather than - - -

MR BANKS: Don't you see problems in there, too? Some have argued to us that the state then becomes conflicted. It's extracting a lot of money because it's economic rent, et cetera, but it's becoming quite dependent on it and so states, on average, derive 10 per cent of their revenue, their own state revenue, from the gambling industries already.

DR ZIRNSAK (VIGT): And we have a concern about that, too, and I guess the balance we have struck at this stage is to say the state should be taking every reasonable step it can to reduce the harmful effects of gambling, so it should regulate. In actual fact, part of our argument has been that if it was to look at taking a greater share of revenue it could actually compensate it. So if, in taking every reasonable step possible to reduce harmful effects of gambling, that resulted in a net reduction of revenue by the state then being willing to take a greater share of what's left, it compensates itself against loss and in fact the people who end up paying for those harm minimisation measures are the industry being brought back to reasonable levels of internal rate of return by comparison to their investment and the level of risk involved in this industry.

I am sure the industry will argue counter, but our view would be that once you have got machines - like if you are talking EGM industry, once you've got the machines in a particular locality, it feels to us like it's a fairly low-risk business. We do know that there are venues that don't do well and haven't managed their machines well, but they appear to be a minority. If we look at the Victorian situation, 526 venues, for most of them having EGMs is a bonanza in terms of extra revenue to run - or to make extra profit, if you're a hotel.

MR BANKS: Yes. We were in Sydney last week, I think it was, and heard some criticism about the extent to which the revenue is being recycled to address the problems and going into community groups or into help services and so on. Do you want to comment on how well you think that's working in Victoria in terms of adequate funding for, as I say, help services or for other community groups to address the problems?

DR ZIRNSAK (VIGT): Our understanding in Victoria would be, talking to the help services, they would say they are actually adequately funded for the level of need, that that has been an issue that's been addressed, so if we were to talk to them about provision of actual counselling services they would say, "Yes, there's enough." Our view on other activities would probably be that there could be more. For example, Victoria has introduced mandatory requirements for venues and gambling providers generally to have codes of conduct, so that extends across multiple forms of gambling. One of the things that gambling providers have identified is that they want more interaction with the help services and help services are saying, "Well, that's something we don't have any funding for," so the state could certainly be providing more money into that area. Also we think research is underfunded: the number of conversations we have where we suggest research that needs to be undertaken or methodology that would give us better answers, and the reason it can't be done is that there isn't the research budget allocated to make it happen.

MR BANKS: Are you saying the scarce budget is being optimally allocated in terms of research projects? You will see that in our report we had some commentary about that.

DR ZIRNSAK (VIGT): I can only speak from a Victorian context, but within the budget that's provided the research has been of fairly high quality and has provided good information towards making policy decisions, but often it's hampered by problems with methodology or problems of not being willing to spend the amount of money it would take to get the really good answers, and our concern with this - and I think we raised that in our original submission - is that you can end up with the state kind of arguing a self-defeating regime, where it says, "We won't introduce regulation to reduce the harm until we have good evidence that this would actually be an effective measure to deal with it," but then we don't provide the funding into the research to give the answer at the level we require. So you set up a self-defeating process: "We need this level of answer, but we're only willing to fund answers down at that level," so we therefore don't act.

I've got to say the Victorian government has actually been willing to act on a number of areas - ATMs, precommitment - in the absence of research that would go to the nth degree. It's acted, from our point of view, on the reasonable level of evidence that's available, but if the argument is we need better evidence, well, we actually need better funding into those areas to make that happen.

There's a wider range of activities, though - community activities, and alternative recreational activities - that could be funded more. The state goes some way to doing that in the case of Victoria through their Community Support Fund, but certainly help services is not one of the areas. There's actually pressure in

government with the waiting list, if you want to look at financial counselling, and that's where perhaps some of the money could go: into general financial counselling, where the waiting lists are enormous by comparison. If you want to go and see a problem gambling counsellor, your wait time is a lot less than if you have got a financial problem that just needs a generalised financial counsellor.

There are issues about the effects that problem gambling has in other areas, such as homelessness. So, for example, should more money be going into homelessness services to counteract some of the impact of problem gambling? But again you would have to say, "In the overall homelessness problem, what proportion of the homeless population is actually due to problem gambling as opposed to other issues?"

MR BANKS: Okay. We really do appreciate your contribution yet again, so thank you very much for that. We will obviously take into account the things you have been saying to us.

DR ZIRNSAK (VIGT): Thank you for your time this morning. We really appreciate it.

MR BANKS: We will have a break for morning tea and resume at about 11 o'clock. Thank you.

MR BANKS: We have got Betfair Australia appearing. Welcome to the hearings. Could I ask you, please, to give your names and your positions.

MR TWAITS (BA): My name is Andrew Twaits. I'm the chief executive officer of Betfair.

MR HOARE (BA): My name is Daniel Hoare. I'm corporate affairs manager at Betfair.

MR BANKS: Thank you very much. Thank you for attending today and thank you also for the submission that you provided the first time round. We haven't got a second submission yet, but you've given us some notes about the sorts of things you want to raise, so I will give you the opportunity to go through those.

MR TWAITS (BA): Great. Thank you. The relevant chapters from the commission's draft report that directly concern Betfair are chapters 12 and 13. Chapter 12 obviously deals with interactive gaming and specifically the Interactive Gambling Act. Chapter 13 deals with broader issues of wagering and funding. The commission would recall that our submission didn't actually deal in any great level of detail with the funding issue around racing, but when we met with the commission that was obviously the major topic of discussion.

Clearly, the commission has put a lot of work into the funding issue, as well as the other parts of the report, and we had a couple of points that we wanted to make today for the commission's consideration and we'd anticipate that there might well be some additional questions that the commission might want to ask us arising out of matters that concern you, but also submissions or supplementary submissions that have been made by people in the wagering and racing industry generally - basically, to put it bluntly, either the turnover advocates or the revenue advocates - and we'll do our best to answer those questions.

You're aware, I think, that we're presently engaged in Federal Court proceedings against Racing New South Wales and Harness Racing New South Wales in relation to the funding issue - race fields funding in New South Wales - so we're limited to an extent in discussing matters that are directly relevant to that case, but there are certainly broader issues that we think we can talk about. In fact, I think much of the discussion around the funding of the racing industry has focused almost too much on, "How can parts of the racing industry get away with charging a turnover?" basically, rather than focusing the public debate on, "What is the best funding model for racing?" which I think is where we're really coming from.

We had a couple of short points to make in relation to interactive gaming. Broadly, we support the commission's recommendation that the Interactive Gambling

Act be repealed. Quite clearly - and I think this is contemplated in the draft report - there needs to be some other mechanism for the regulation of online gaming, and in terms of online gaming I think that there are two distinct categories. There's online casino and there's online poker and some other peer-to-peer type games.

I think we presented some - "evidence" might put it too strongly, but some facts and figures to the commission that indicated strong and increasingly strong levels of growth in the online gaming sector amongst Australians. Betfair globally has a series of online gaming products which we actively block Australian customers from using, to ensure compliance with the act, but it wouldn't take a great deal of research to see that there are a number of major online gaming operators around the world who don't block Australians and in fact actively target Australians in terms of promoting their products.

We think that the mechanisms available to adequately block Australians from using overseas online gaming sites, or to prosecute online gaming operators who do the wrong thing, are extremely limited. We think it's difficult to do and, without wanting to put words into the commission's mouth, it appears that the commission has formed the view that in any event online gaming is a legitimate pastime for consumers in Australia to engage in. Clearly there need to be appropriate harm minimisation regimes put in place, and this, I guess, leads to what we see as the major benefit of account based betting generally, whether it's wagering or online gaming, which is that with appropriate account opening procedures - and that includes identity verification and a whole bunch of other probity and compliance issues built into the relevant online gaming system - you can actually provide a much safer environment for consumers than if they're forced to use what I could loosely call illegal offshore sites.

In relation to wagering in Australia, I think that account based wagering provides a much safer environment for the consumer than cash based betting as well, and I refer specifically to the ability for customers to set loss limits and deposit limits, to self-exclude with a single click, and one of the other things that we have on our system, which is a requirement of our licence, is that third parties can apply to the Gaming Commission, our regulator, for the right to exclude what I'd call a dependant or someone who they're closely associated with.

I mentioned that in relation to the repeal of the Interactive Gambling Act there needs to be some piece of regulation around it to control the activity, and our view there is that - whether this is workable or not, I'm not sure - that there should be some sorts of benchmarks put in place at a federal level. So I think practically it would be easier, given the existing regulatory structures, for online gaming licences to be granted by the states and territories, but I think that there should be some minimum benchmarks put in place around things like harm minimisation, player protection,

and the probity of the operators themselves.

We don't have a model for how that would work but those are matters that we believe are critical to any licensing regime for online gaming in Australia. We also believe that, to the extent this is possible, there should be - given that they are standard products and a standard distribution channel would be contemplated under this regime - a standard tax rate for all operators across Australia. They're the two key points I wanted to make in relation to chapter 12. I'm happy to answer any questions that the commission has on it.

MS SYLVAN: On the licensing regime that you have just talked about, you've suggested that it should really continue as a state based licensing regime, as opposed to, for instance, a Commonwealth based, assuming they have jurisdiction potentially.

MR TWAITS (BA): Yes.

MS SYLVAN: So you wouldn't see a change in that to a Commonwealth-regulated function?

MR TWAITS (BA): I just think it's going to be too difficult and there are a whole lot of political issues. I think if you were starting with a clean sheet of paper you'd have the federal government regulate it completely. I think that is the preferable model. But in terms of what's workable, particularly in the short term, I think that a mechanism of state based regulation, perhaps with some overarching minimum benchmarks to deal with those issues that I mentioned earlier, is probably the most workable thing in the short term. That's my view.

MR BANKS: In relation to tax rates, in your view how sensitive is the industry to differential tax rates? Implicitly, you see domestically that the uniform tax rate would have a lot going for it, but internationally, obviously, jurisdictions are competing too. Would you like to comment on that?

MR TWAITS (BA): Yes. International jurisdictions are competing, and they are competing quite aggressively, particularly in the European Union, for gaming operators to base themselves in their particular jurisdiction. Betfair's gaming operation is licensed in Malta and I think the tax rate there is around about 400,000 euros per annum, which is not very much in the grand scheme of things.

MR BANKS: It's a fixed levy, isn't it?

MR TWAITS (BA): It is, yes, and it differs right around the world. I don't know what all the different tax regimes are, but we can do some work on that and provide the commission with some figures if you're interested. I think if you were to set a tax

rate in Australia, it would need to be around the 5 to 10 per cent of revenue mark to look at attracting operators to the Australian jurisdiction. Clearly that's higher than the Malta example I gave you, but if you linked - let me go back a step. I think that consumers will naturally - they might take a period of time but I don't think a long period of time - gravitate to legal well-regulated operators over time.

I think that if federal/state governments provide more of a carrot to people to get licensed in Australia - and one of the big carrots will be, apart from the integrity associated with being licensed in a credible jurisdiction, the ability to advertise in this jurisdiction. There is plenty of ambush marketing going on or attempted to be engaged in by illegal offshore operators, but if you create a regulatory environment here in Australia that sets the tax rate at a reasonable level, it gives operators the ability to target the Australian market with appropriate advertising. I think that would be a sufficient carrot to get people to obtain a licence here in Australia; not as opposed to overseas but certainly in addition to overseas.

MR FITZGERALD: But to do that wouldn't you really need a national regulatory regime? It seems to me, whilst you say it's probably not workable, in fact we're at the beginning of this increase in Internet gambling. If the governments adopted the approach we've taken in the draft report and manage liberalisation, wouldn't this be the ideal opportunity now to say to the Commonwealth, given their constitutional powers, "This is the time to take control of this particular form," rather than to continue down the path of effectively eight or nine jurisdictions having different requirements?

MR TWAITTS (BA): I think it is absolutely the ideal time to recommend that. I just think that politically - - -

MR FITZGERALD: Well, explain to me what the politics of this is. Is it simply that some states that would receive some tax benefits from this would not want to give that up? Is that it? Or are there any other enhancements?

MR TWAITTS (BA): No. My perception, for what it's worth, is that the federal government and the opposition won't want to get involved in regulating gambling.

MR FITZGERALD: That's true. But it can't be liberalised unless the federal government and potentially the opposition agree that it should be liberalised.

MR TWAITTS (BA): Yes. We're well aware of - - -

MR FITZGERALD: Because it's their constitutional right.

MR TWAITTS (BA): Yes. Look, I agree with what you're saying. As I said, if you

were starting with a clean sheet of paper you would get the federal government to regulate this. What I was mentioning was, just for what it's worth, our perception of the politics is that it will be very difficult for the government and the opposition to get together to regulate this area of the economy. I think they should - let me be very clear about that - but I'm just not sure that they've got the appetite for it.

MR FITZGERALD: One of the arguments that - well, you probably didn't hear - the InterChurch Gambling Taskforce mentioned this morning, but it's been raised with us before, is that they're cautioning us to take a precautionary approach. Because we're not absolutely certain about the nature of Internet gaming and its effects on problem gambling, because we're not absolutely sure of the cross-pollination between poker and other forms of gaming, there is a view that in fact the best line of attack is not to liberalise at this stage.

One of the concerns they raised this morning was that with liberalisation would come the ability to very proactively market the product in a way that currently can't be done, so that you not only liberalise the product but you go into a very proactive market-driven environment. I'm just wondering whether you want to comment about what's the evidence that would encourage us to in fact move to a liberalised market environment in light of those comments.

The other point I'd make is, whilst our draft report indicated we didn't think the Interactive Gambling Act had worked, one thing that is probably true is that it slowed the rate of Internet gambling by Australians. Now, there's sufficient evidence to say that a lot of Australians are gambling on unregistered international sites. It's also probably true that it has in fact slowed the rate of growth that would otherwise have happened, and some would say that's probably a positive sign that the Interactive Gambling Act has worked in part.

MR TWAITS (BA): I think it's true to say that the IGA has probably had some impact on slowing the rate of growth of Internet gaming, but I think a bigger factor in that - I guess, although it's been rapid growth, slower than perhaps in other jurisdictions - is the relatively poor penetration of broadband in Australia. It has got better in the last year or two. This is probably going back 18 months to two years. But we can look at how people are logging on to Betfair, and I think it was about 40 per cent of our customers by number were still using dial-up, which is extraordinary by world standards. I think you'll see that, as broadband penetration increases, people will find a way. They will find a way to use these offshore sites because, as you would know, it's not illegal for the consumer to access and use these products. It's illegal for the operator to offer them, which is having two bob each way - pardon the pun.

In relation to marketing, I think that it would have an effect of increasing the

take-up of those products. I mean, that's why you advertise. But it's also why I mentioned earlier that, to the extent the federal government was looking at getting involved in the regulation of online gaming, there be some guidelines, laws - whatever you want to call them - put in place so that advertising was appropriate, if I can use that loose term. Again, we don't have a model. We're happy to put some suggestions up to the commission in our supplementary submission, but we certainly wouldn't be advocating a free for all, if I can use that term.

MR FITZGERALD: Are there lessons to be learnt from overseas jurisdictions that have gone down the managed liberalisation route, such as the United Kingdom? Are there things that they have done that we would not want to do or, vice versa, things that we'd want to embrace?

MR TWAITS (BA): Look, I'm not an expert on international jurisdictions in the regulatory environments, but what I can say is that - and we implement these procedures here in Australia; I alluded to it before - if you're looking at regulating online gaming, you need to put in place appropriate procedures for the probity of the operator, player safety - and by that I'm talking about security of funds and the way that the games actually work - and probably most importantly the ability to set those loss limits and deposit limits that I mentioned earlier; perhaps a time-out. Given it's gaming and it's a repetitive type of activity, you know, you would offer some things that we don't offer in wagering, such as limits on the time of play or things of that nature.

MS SYLVAN: If I can follow up Robert's question: in a sense, what the Victorian Interfaith Gambling Taskforce put to us, in their comments about a precautionary approach here, is that if you liberalise Internet gaming you will, by definition, create more problem gamblers. You have more access and, you know, it's not simply going to be a migration of people from face-to-face sites on to online. They may in fact be different markets. Do you have a comment on that?

MR TWAITS (BA): I can't sit here and tell you that there won't be more problem gamblers created through online gaming or online wagering or whatever. I think that what we as an industry need to do is to provide the safest platform that we possibly can. It's not our job to be counsellors. We acknowledge that. And yet, all of our customer facing staff, although we're an online business - by that I mean our telephone operators and people who engage with customers - are required to go through first-level problem gambling training. But we maintain that having the right sort of safeguards in terms of loss limits and deposit limits is the best way of preventing problem gambling, in not just online wagering but online gaming as well.

Where do you draw the line between it being a precautionary approach and just saying, "Well, you can't do it. You can't do anything"? Clearly the vast majority of

consumers want to engage, or they are engaging in poker in pubs and clubs and they go to the casino, and this is another channel of distribution.

MR HOARE (BA): I think in response to that as well, under liberalisation at the very least you can have a much better idea of who those problem gamblers are. You're able to target them more effectively because you can see what is going on, rather than having everything flow offshore to operators; nobody knows who is using them or where the money is going. It's an industry that we estimate, from some of the stuff we've seen, at \$500 million a year that we think Australians might be gambling on poker, which is one of the most popular pastimes in the whole sort of gambling field.

I mean, there's that trade-off between do you liberalise; regulate? At the very least you put in measures where you can target who the people are that have the problems and you have the harm minimisation policies in place, or the other way of doing it is to leave it as it is, all that money goes offshore and you don't know who is betting it or who have the problems.

MS SYLVAN: Can I just come back to the shape of the regulatory structures again in the Commonwealth versus individual states. Your suggestion is about tax harmonisation, but you didn't say anything in relation to licensing requirements being harmonised. So there's an arbitrage there potentially for a business, I assume. The licence issue is not an issue for you because you can be licensed in one state, effectively, and deliver a national product.

MR TWAITS (BA): That's right.

MS SYLVAN: However, the tax regimes you have to pay in each jurisdiction.

MR TWAITS (BA): Yes.

MS SYLVAN: Okay.

MR TWAITS (BA): But in relation to the regulatory environment, I did mention that I think there should be some minimum requirements there in terms of - - -

MS SYLVAN: Yes.

MR TWAITS (BA): Those matters I talked about. But otherwise, yes, I think that it could work that the states develop their own regulatory structure based on the legislation they've already got in place to deal with other forms of gambling.

MR BANKS: Good. We'll let you go on.

MR TWAITS (BA): If I can just move on to chapter 13, which is the funding of the racing industry predominantly, although I think sport is unfairly left out. Although gambling is not a major revenue stream for the sports, I think that over time it will become a more meaningful revenue stream for them. I certainly think it will be a long, long time before it outstrips media rights or sponsorship or anything like that. But I think it's important to recognise that sports like cricket and other sports actually evolved as a form of - certainly it was recreational, but people were betting on it from the very first cricket game. It was organised by two wealthy people who wanted to bet between each other on the outcome. So I think it's wrong to say that sport has never had any connection with gambling, which is some of the rhetoric I've heard from some people in the racing industry who obviously have an interest in keeping sports betting down here because obviously it potentially detracts from the pool of money that's available to be spent on racing.

Clearly, we agree with the draft recommendation that the commission has put forward in relation to what is the most appropriate funding model for the racing industry, being a revenue based model. Our position, I think, as we mentioned at the commission last time we were here, is that customers have a limited amount of money to spend on gambling, if not more broadly, and from a racing industry perspective it shouldn't matter whether that money is spent with a betting exchange, with a TAB or with a bookmaker, or with a high-margin operator or a low-margin operator. What matters at the end of the day is that the racing industry gets the same share of the expenditure by a customer, no matter where it's spent, and whether that figure ends up being 5 per cent or 20 per cent or something else, it doesn't really matter.

This is where I mentioned at the outset this morning that I think there's been too much focus by some parts of the racing industry on, "How do we get away with a turnover based fee? How do we get away with forcing low-margin operators to increase their prices by multiples, not just percentage points?" and not enough on - from what we have seen - "What are the economic fundamentals and what is going to be best for the racing industry. How do we make racing a more competitive product and more compelling product for gamblers, when looked at in comparison to other forms of gambling and entertainment that are out there?"

Especially in the online environment: racing cannot hope to compete for the online gambling customer if it persists in charging an 18 per cent take-out rate for win and place betting when you can get effectively 2 per cent, being on sport, and online poker is sort of even less than that. It's just not going to happen. Punters aren't stupid. They will know where they're getting better value and, as appealing as racing is, especially Australian racing - some of the best-quality product in the world - it's not that good that it can - you know, when it's got the worst media coverage in

sport - well, certainly not as comprehensive. There is greater price transparency in the online environment, there are increasingly lower switching costs for consumers, it's going to be much easier for consumers to bet on those other low-margin products than racing and it's going to be more appealing for them to do it.

MR BANKS: Can I just comment there, because we've had some others who are defending a kind of turnover based regime on a number of grounds. But one comment that sometimes has been made is that the average punter is not very price-sensitive, or the average consumer is not very price-sensitive. I don't know whether you'd like to comment on that.

MR TWAITS (BA): I think it's true to an extent for your cash based punter. I'm trying to, in my own mind, get away from this concept of the retail customer or retail wagering. I think the better way to look at it - and the way that we're increasingly saying to look at it within our business - is cash based betting and account based betting. I think bookmakers and the TABs have done a pretty good job at keeping run-of-the-mill punters in the dark about the true price of wagering. Go into a TAB, look on their web site, go to the bookmakers' ring and try and find out without a calculator what the overround is or the take-out rate on each product that you're betting on; you won't see it.

MR BANKS: Yes.

MR TWAITS (BA): So you basically need a calculator or you need to be supersmart to do it in your head. I can't do it. It's just too difficult. So I think that there's been a bit of self-interest on the part of, again, sections of the racing industry and, I think, misconceived self-interest in terms of almost hiding the price of wagering from the customer. I think that has led to, I'd have to agree in some quarters, ignorance on the part of some punters when it comes to what is the real price of wagering.

MR BANKS: But to the extent that they're not sensitive, it's because they don't understand the price.

MR TWAITS (BA): That's right, yes.

MR HOARE (BA): I think it's also important to say there that the people who are saying this are talking about local Australian punters; their experiences that they have had with their local companies. So they may not be price-sensitive, but most of our customers are price-sensitive. The online audience is a whole new ball game. It's a much smarter, more sophisticated audience that you're trying to sell this product to. It's a much more competitive environment and there's no question that they are price-sensitive. Our argument is that we can open up Australian racing to these new

customers. We've got three million customers in our worldwide operation that we can open up Australian racing to and sell it to this new audience, so our argument is that, yes, they are price-sensitive and that is a market that you need to be competitive in. Australian racing is a market that can be opened up internationally with deals like streaming or races and that type of thing.

MR TWAITS (BA): Our view, broadly, on price is that the racing industry should encourage an environment throughout Australia that allows for what I would call channel based pricing strategies to be implemented. So in the cash based betting environment, it's more expensive to deliver the product to those consumers, and history has shown that those customers are prepared to pay a high price. Whether they know what the price is or not, they're prepared to pay it and they keep coming back. I think the figures are about 70 per cent of the TAB's revenue - and the TABs, as you know, have got exclusivity when it comes to cash based betting - comes from that cash based environment; the balance is from the telephone and Internet. So it shows that it's strong and I think it's going to be strong for a long, long time to come.

But I think this is our major concern with the turnover based model: it will force prices up and, as an online operator, our self-interest is that we need to be able to - racing is a great product. At the moment it accounts for about 75 per cent of our local revenue. So we've got an interest in making sure that the industry survives and prospers well into the future, but we need to be able to price the product in a way that makes it competitive against the other gambling products that are out there. I think that's where it's in racing's interest as well.

MR HOARE (BA): It's probably worth pointing out also that if customers aren't price-sensitive, why is racing's share of the wagering dollar heading in a southerly direction and sports, poker machines, casinos are heading in a northerly direction on the same ground?

MS SYLVAN: Is it really the turnover that's the issue? Isn't it at the end of the day the quantum that you have to pay?

MR TWAITS (BA): It is.

MS SYLVAN: And whether you can compete. In a sense, the methodology should be almost irrelevant to the - - -

MR TWAITS (BA): You're absolutely right, yes. But in terms of the turnover model, certainly my view is that it's been put in place to force up our prices to make us less competitive. That's why it's been put in place, at one and a half per cent. I think if we lose our court case in New South Wales, it will not be one and a half per cent for long. It will be 3 per cent very quickly. About a month before the court case

started, Racing New South Wales amended their race fields approval process to include a copyright claim that required you to acknowledge that they had copyright and sign up to a 3 per cent turnover based fee for use of copyright. A couple of letters later they withdrew that completely; so five years of planning to execute their copyright strategy and it took two weeks to undo it.

MR FITZGERALD: Although Racing New South Wales the other day in the Sydney hearings indicated that, should they lose that particular case, they will in fact go back to a 3 per cent of turnover on copyright.

MR TWAITS (BA): I've got no doubt that they will try and do that.

MR FITZGERALD: Can I just deal with this: they've questioned your assertions in particular that the current arrangements that they've put in place are in fact not competitive. They've made very substantial - both the New South Wales Racing Industry Consultation Group last week - questioned the commission's conclusion that the current arrangements were not competitive. Indeed, they've asserted that the arrangements, including the fee structures, are competitive and that corporate bookmakers, including yourself, corporate betting exchanges, have been unable to prove detriment as a consequence of the current arrangements. So they're saying to us that it is already highly competitive; that players are able to enter the market; the players are not going broke in it; and that our underlying assumptions of increased competition by changing it from a percentage of turnover to a percentage of gross revenue is in fact false.

MR TWAITS (BA): Yes. I haven't read the transcript of what they said, but I had heard that they mentioned that and I think they can only be alluding to evidence that I gave under cross-examination in the Federal Court case where I accepted - and I actually put out there - that our gross revenue has not been impacted since the one and a half per cent turnover fee came into place; certainly not because of that. And there is a very simple reason for it, and that is: we have not passed on the price to our consumer, pending the outcome of the court case. To do that, the business goes like that and if we win - and we're pretty confident that we will - it will take a long time for us to claw the lost custom back. So that's the reason.

MR FITZGERALD: How competitive is the current market? Let's assume you did in fact pay that particular levy - and I understand you withheld it.

MR TWAITS (BA): No, we're paying it. We're paying it under protest.

MR FITZGERALD: Yes, I know, but put that aside. In this case it seems to us all sides exaggerate their positions, and it's normal that that would happen, but on the one hand their point may be valid that in fact it's not as anticompetitive as you may

be putting out; that even if they were to maintain their current regime of fees and other states were to take a different approach, across the nation the competition would work its way through, and that in fact we are in fact overemphasising a need for changing the revenue base; that whether it's turnover or revenue is not in fact a significant issue across the nation.

MR TWAITS (BA): We say clearly it is. I go back to the fact that in evidence we said we haven't passed on the increased cost to our customers, and that's the reason that our customers just haven't noticed any difference in what we're offering. But I also said during cross-examination - and I think in evidence-in-chief as well - that we have not completed our scenario analysis as to what will happen if we lose the court case and a turnover base model is found to be valid in New South Wales, because it will then be valid in Queensland. Who knows what the other states are going to do? Who knows what rate it's going to be set at? Who knows what's going to happen to tax rates around the jurisdiction? So there are a whole bunch of issues that we need to take into account before we work out what we do if we lose the court case in New South Wales.

We're paying, with relief from Tasmania, up to 20 per cent of gross revenue that we're getting now since 1 July. It's still costing us 80 per cent of our gross revenue to offer New South Wales racing product, including the tax that we pay in Tasmania, so clearly that's not sustainable in the long term. But if we win, then we get roughly 50 per cent of our gross revenue back, so that's the reason that we haven't passed it on to our customers in the shorter term.

MR FITZGERALD: But just thinking about Louise's point, this issue that's perplexed us I think in recent weeks, the perplexing issue is: we look at it and we say it's basically about trying to set the right price, a price that's adequate to maintain a reasonably efficient racing industry and a price that is going to be attractive to consumers generally. Whether you do it on turnover or whether you do it on gross revenue seems to be a huge issue, a point of contention. From an outsider's point of view it doesn't actually matter on what base you levy it; it depends on the rate and the actual quantum. But clearly we're missing something in this, because everyone is arguing about not just the rate but about the base; that is, turnover or revenue. I was wondering whether you can clarify for me why a gross revenue as distinct from a gross turnover, given that you can levy it differentially and end up with the same amount of money, is such an issue.

MR TWAITS (BA): I think the only basis on which you could have a turnover based funding model for racing would be if there were differential turnover rates for different operators so that you ended up at a fair point, and we think that fair point is how much of the customer expenditure does each operator capture, and then tax that expenditure at the same rate for the racing industry. You can do some reverse

engineering to get to the same figure, but this is where we think, rather than going through some accounting gymnastics to get to that end point, why not just start with a revenue based figure with the same fee for everyone and apply that across the industry?

MR FITZGERALD: Racing New South Wales have put to us they're very happy with the same fee for everybody, provided it's the same fee on turnover for everybody. Their view is that they should not have to change their model, you should have to change yours, because they shouldn't be held to account for the different margins that operators have, and of course both efficient and inefficient operators, even in the same area, even corporate bookmaking in corporate exchanges, will have different gross margins in an unregulated environment. So their point, at first flush, may have some merit: just simply say, "It's X per cent of turnover, it's up to the business participants to work out the models that accommodate that, and they shouldn't be responsible for the differential gross margins that exist between different forms of operation and different operators."

MR TWAITS (BA): Yes, but let's be clear on this, though: they are advocating a different model. They are changing their model, because their major funding source at the moment is the TAB, and since they were privatised they've been paying their product fees to the industry based on a derivation of revenue. They actually call it net revenue; it's not even gross. So they're changing the model and they're doing it, quite clearly, to jack up the prices offered by lower-margin operators who are more efficient.

We are a more efficient operation than the TAB, and that's because we haven't had to fork out hundreds of millions of dollars for an exclusive cash based licence and we don't have the expense of shopfronts, but surely that's what innovation and productivity is all about. If we, as one of the many online operators in Australia, see an opportunity to leverage our particular competencies - and we consider ourselves to be more an IT company than a wagering company - why shouldn't we have the benefit of that if racing wins as well?

MR HOARE (BA): We don't suggest how to run the racing industry, but we would say that if you do embrace all forms of competition under a system that does work, then clearly you can sustain your industry better in the long term. The 1.5 per cent on turnover is simply unworkable for us. So, should it end up remaining, it doesn't really hold out much hope for us in New South Wales in the future. That's the bottom line for us.

MR BANKS: One argument that's been made is that this would impact adversely on the racing industry itself. The UK, I think, has been used a few times as an example of that. I don't know whether you have any insights into the UK experience

that you could provide.

MR TWAITS (BA): The media release that came out within hours of your draft report coming out, from Racing New South Wales, indicated that - I think the words used were that UK racing was on a rapid downward spiral, or something of that nature. 10 years ago - and we can supply the commission with these figures - the UK levy, which is the amount of funding that goes to the racing industry - was about half what it was this year. So it's up 50 per cent. It had a significant drop this year compared to last year, which was at record levels.

The simple reasons for that - there are two main ones. One is the loss of market share from racing because of the way the levies worked out. There's been a recalibration of the difference between sports betting and racing for the mainly smaller bookmakers. And the global economic crisis has certainly hit the UK harder than it has here. You see reports in the paper here every few weeks that bookmakers are suffering the effects of bigger punters just deserting them because they haven't got the money to spend, and that's a fact of life. Racing New South Wales seems to think that people have got money trees in their backyards. They don't. Everyone has got a fixed set of money that they can spend. We, the operators, should all be out there trying to compete to get - without wanting to put it too crudely - as much of that disposable income as we can. There's only so much of it, so tax it at the same rate, and I think racing should stay out of the competition issue.

MS SYLVAN: You do pay as well in Victoria.

MR TWAITS (BA): Yes.

MS SYLVAN: And that is on a gross revenue basis.

MR TWAITS (BA): Yes.

MS SYLVAN: What have the payments looked like, if I can ask? Are they increasing?

MR TWAITS (BA): In dollar terms?

MS SYLVAN: Yes.

MR TWAITS (BA): We're very seasonal, so they increased right up until mid-November, and over the last week or two they've dropped back down. We're happy to provide you with the figures on a confidential basis if you'd like to see what they are. Even though we've only been required to pay under race fields for less than a year, we can still provide the commission with details of what the revenue would

have been.

MS SYLVAN: Between the different jurisdictions?

MR TWAITS (BA): Yes. We can go back. The Australian Racing Board puts together a very good publication called the Fact Book and they use the Queensland Treasury figures to provide - they only provide turnover figures, but they don't even split the turnover out by product, so the jurisdiction of the racing, and this I think entrenches some of this protectionist view that still pervades a number of racing jurisdictions. What they should be doing, in our view, is (a) getting rid of turnover and focusing on revenue, but at the very least present the figures so that everyone can see what is being spent on Victorian racing, on New South Wales racing, on Tasmanian racing. At the moment all they do is report based on where the TABs and bookmakers and betting exchanges are licensed. In fact, betting exchanges aren't in there yet. They will be in there next year, I believe.

The industry just hasn't got its head around the race fields model or the breakdown of the gentlemen's agreement. They were pushing for it. We think it's a great idea that the gentlemen's agreement has gone, because it was the wrong funding model for racing, but they still can't grasp, it seems to me, what it means for the industry because they still look at, "How much are we going to get from the New South Wales TAB and from the Victorian TAB?" or whatever it is. There just hasn't been that change in mind-set yet that I think needs to happen.

MS SYLVAN: You said that you see yourselves primarily as an IT company in the betting business, in a sense.

MR TWAITS (BA): Yes.

MS SYLVAN: You haven't, I don't think, said anything in your notes about the liberalisation of the tote retail market as distinct from the tote wholesale market.

MR TWAITS (BA): Yes. The main reason for that is that as a company, we don't have any real experience in retail offerings. It would require a significant change in mind-set for the business for us to look at entering into the retail space ourselves. We've looked at it; any business would who's in our sort of industry. That's why we tried to stay out of the arguments in relation to exclusivity and terminals and all this sort of thing, but it's also one of the reasons why we're trying to get away from this concept of a retail betting person thing, instead call it cash based betting.

I think the terminal that Sportsbet was offering - I spoke to the publican whose pub it was in and he said that people just look at the screen and whoever is on the bar says, "Have a look at the phone number in the top right-hand corner," because people

are fiddling around with buttons and if they've got a few pots under their belt and there's a queue of people behind them and there's two minutes to go in the race, it's just not going to work. I think that's where the TAB have done retail - if I can revert back to that concept - really well. I think that there are certainly natural barriers to entry there, in terms of the call capabilities that they've built up over time in offering retail based or cash based betting.

MR BANKS: Tabcorp has rejected the notion that there's any market power associated with that retail exclusivity. Do you want to comment on that?

MR TWAITS (BA): Clearly there is. It's, I think, market power associated with the granting of the exclusive licence that they have.

MR HOARE (BA): Would a state government make them pay so much money if there was no market power in it? That's the question.

MR TWAITS (BA): I think the real question is: what do they do with that power? Do they exercise it in a way that is damaging to the overall market? I think that's the real question.

MR BANKS: I guess their argument would be, it's used in a way to support the industry in a way that alternatives couldn't do. That seems to be the proposition.

MR TWAITS (BA): Yes, it does. But that's why I mentioned earlier that, in terms of cash based betting, it still accounts for about 75 or 70 per cent of their revenue. I don't see that going away in a hurry. From my looking on the outside inwards, they appear to be trying to convert a lot of their cash based customers into account based customers through loyalty schemes and what have you. I think that's a good thing because it will enable them to implement some harm minimisation measures that will probably enable them to service their customers better than they have in the past. But, yes, certainly I would disagree that they don't have market power as a result of those exclusive licences.

MR FITZGERALD: One of the focuses of our considerations in this particular section of the report has been on consumer benefit. One of the claims by the corporate bookmakers and betting exchanges has been that they offer better value for consumers. I want to raise one issue which was raised by Racing New South Wales last week in relation to that view. They questioned whether or not low-margin operators do in fact provide better returns to consumers. In particular they identified you as an operator where they believe that is not the case. In that presentation, and it's in pages 16, 17 and 18 of their submission presented at the hearing last week, they've maintained that your returns to punters particularly back-bet customers, is significantly lower than TAB punters.

They maintain that TAB punters receive 84 per cent and, whilst you're claiming something in the mid-90s, by the time you take out all the fees, it's in the mid-70s. They claim that it's a misrepresentation effectively that you are in fact providing better consumer benefits and that the rates of return to your customers are in fact substantially lower than TAB. Clearly, we're not investigating all of those claims, but what they've done is basically questioned our assumption that consumers are likely to be better off under your arrangements or other corporate bookmaking ventures.

MR TWAITS (BA): We make our money by charging customers a commission. There are two sorts of commissions. There's the standard commission on the market base rate, which is set at 2 to 5 per cent. We have a premium charge. That came in a bit over a year ago. The object of the premium charge is for the handful of customers - and there are about 111 customers in Australia who have been charged - who are in profit over their lifetime activity on Betfair. We looked at their aggregate commission that they've paid us, as well as any other charges for data access and what have you.

If that equates to less than 20 per cent, then we increase their commission for weeks going forward up to that 20 per cent level, or thereabouts. If you were to do that exercise on the TAB, the figure wouldn't be 20. It would be 150 or 200 per cent, but for them to suggest - as I understand what you've just put to me - that we are a higher margin operator than the TAB is just ludicrous and thank heavens they're not in charge of our business. If you want access to figures so that you can verify that claim, rather than make assumptions, we're happy to provide you with access. Just tell us what you want.

MR FITZGERALD: It may be helpful. I don't want to go into the detail so much, so let me just quote so that we've got it accurately. They say, "They" - you -

would imply on aggregate Betfair customers receive 95 to 97 per cent of the investments back as winnings, compared with TAB punters who received 84 per cent.

They then go on to say:

Based on Betfair's own figures, winning punters would then be required to pay a further commission to Betfair of 3 to 5 per cent, thereby reducing their net returns to between 75 to 70 per cent.

Then it goes on:

These returns compete unfavourably with returns provided by the TAB of 84 per cent and 94 per cent return attributed to bookmakers.

Anyway, it would be helpful for you perhaps just to give us a further supplementary submission around that, if you so choose. Some of these figures - and in fact, I've just missed a particular paragraph which refers explicitly to the Federal Court proceedings, but it may be helpful to just respond to some of those.

MR TWAITS (BA): That's absolutely fine. I point out that Racing New South Wales has been beating the drum loudest on this turnover issue or the funding issue in racing and they've done it for five years. When it came time for them to stand up and explain their position and have it forensically analysed - and with the greatest of respect, in court under oath - they presented no evidence. None of the decision-makers gave evidence. They abandoned their regulatory economist, they abandoned their forensic accountant, they abandoned their market expert. They presented no evidence whatsoever. Now, that's entirely their choice. If they think that we haven't proved our case or that we couldn't prove it, good luck to them. That's their choice. But for them to use this forum to put that sort of material up there is outrageous. We're more than happy to rebut it and to be questioned by the commission on it further, if you wish.

MR BANKS: I think you have the opportunity to look at that and respond to it. Indeed, I'd say to any participant in these hearings that they should feel free to comment on the submissions of any other participant. It's part of the process and gives you that opportunity. We keep all those submissions public, as you know. That's an important part of it. So we're not asking you to provide commercial-in-confidence information that would be made public; although on the other hand, there are provisions under our act in which commercial-in-confidence material can be kept precisely that: in confidence. We'll leave you to have a look at that material and respond how you think would be most appropriate.

Still thinking about the long-suffering punter, I think the suggestion was also made that, under the current arrangements, Australian punters are probably much better served than they are in the UK. I don't know whether you'd agree with that or whether you could give any examples or make any commentary on that point.

MR TWAITS (BA): Was that in terms of the quality of the service offering, the price? In what context was that comment made?

MR BANKS: It wasn't 100 per cent clear to me. It might have been a combination of both.

MR HOARE (BA): Was that in relation to the retail betting shops and the

convenience of it and all that type of thing?

MR BANKS: To tell the truth, yes, there was a wide-ranging discussion which covered a number of dimensions, but I guess I just give you the opportunity to make any comment, to the extent that you're aware of what the situation is in the UK.

MR TWAITS (BA): If you've been to a betting shop in the UK - but I think I'd absolutely agree that the TABs here, right around the country, as a rule do it much better than they do in the UK. They do it very well. I think that the range of betting products that's offered in Australia is very good. I think there are additional opportunities, but I think the barriers to entry in terms of new betting products are pretty low. Subject to regulators giving you approval, it's pretty easy to get new products up, new bet types and that sort of thing.

I think that the restrictions on in-play betting on sport are a real problem. To my knowledge, Australia is the only country in the world where online wagering is legal, but in-play betting online is illegal. That just doesn't make any sense, so we support the commission's recommendation. It's tied up in the IGA repeal, I know.

In terms of price, I think with the rise of corporate bookmakers and betting exchanges, I think that's led to - whilst people say that oncourse bookmakers are going backwards, my most recent discussion with the Victorian Bookmakers Association indicates that their numbers are growing; not by much but they're certainly not falling off a cliff. I think that they're looking for some reforms that will enable them more freedom to bet back with other operators, including Betfair, betting exchanges, to make them more competitive. Look, I think as a rule Australian customers are served pretty well by international standards.

MR FITZGERALD: Can I ask you a question, going back about the national levy that we're proposing. Is there justification for the levy to be differentially applied between jurisdictions? One of the issues that a couple of participants have raised with us is that, irrespective of how you apply the levy - turnover or gross revenue - it would be inappropriate to try to impose a national levy, and that based on a whole range of factors including the quality of the race product itself, you may in fact want to have differential levies between jurisdictions.

So I'm just wondering whether or not you believe there could be a case that, even if the levy was set nationally, it could in fact be set differently for South Australia versus Victoria versus Queensland, and frankly I'm completely uncertain as to whether there is a justification for doing that or not.

MR TWAITS (BA): My view is that there should be scope to have different revenue based funding models for different jurisdictions because there are

differences in the quality of the product definitely. I think as long as each wagering operator, who has approval to cover that racing product, pays the same rate within that jurisdiction, then I wouldn't have a problem with it. I think it makes sense to provide the flexibility.

MR FITZGERALD: Sorry. I understand it may make sense, but is there a justification for it? In other words, is the product or the circumstances of the racing industry in different jurisdictions of such a different character or nature that in fact there would be a strong case for having differential fees?

MR TWAITS (BA): I see. So should you do it?

MR FITZGERALD: Yes. I mean, I just want to explore the possibility, because when we were thinking about this, I think we were thinking about a national levy, which would be consistently applied across all jurisdictions. Nevertheless, when you think about it, there may be reasons why a particular state or territory would require a higher or lower, or differently applied, levy.

MR BANKS: And also there was some confusion, I think, between the levy and how it was distributed.

MR TWAITS (BA): Right.

MR BANKS: So we didn't see a uniform distribution within the jurisdiction or anything like that.

MR HOARE (BA): So it effectively becomes a subsidy for particular states? Is that what you - - -

MR FITZGERALD: No. Let me just put it: at the moment we already have differences amongst the states in terms of the levy and how it's applied. Some would say that the product in South Australia may require, for example, a higher levy than the product in Queensland which might require a slightly lower levy, because of the different nature of the racing industry as it operates in those states. Others would say, "Look, it's a national industry and therefore the fees that you would levy would be nationally applied. The consumers will move their dollars according to whether they think the product is good, bad or indifferent."

That means some territories and states are net losers out of this and some are net winners, but if there is a case to say the cost of actually producing the product is different from state to state, normally pricing would take that into account.

MR TWAITS (BA): I actually don't think that the fees should be set by reference

to the cost of producing the product. I think it should be determined by reference to demand for the product in the betting sense, and that's where I think quality really comes into it. I think what Victoria has done is interesting in having what they call a premium rate during the spring carnival period.

MR FITZGERALD: Yes.

MR TWAITS (BA): I think they've got it wrong. I think what they should probably do is not focus so much on the two months around the spring carnival, but focus on, say, group enlisted races which are the genuinely better quality races and, certainly on our platform, attract more business than race 2 on Melbourne Cup Day. I can't remember what that race is but - - -

MR FITZGERALD: Can I just explore that a little bit further?

MR TWAITS (BA): Yes.

MR FITZGERALD: Whilst I think the commission itself would have a predisposition to what you've just said - that you should have it to where the punter wants to put the money - nevertheless, it is true that in order to produce the product for the punter one in fact has a whole lot of infrastructure costs in racing, including the production of a whole range of horses that never make any grade, let alone the grade. Of course, given the demography of Australia and what have you, is there not some justification to have regard to the cost of production of this racing product?

MR TWAITS (BA): I think it gets very difficult to do that because a lot of the good horses, or the horses that won a lot of races during the spring carnival in Melbourne were from interstate, and we found that once we got licensed in Tasmania - and there is a whole bunch more money put into Tasmanian racing - up went the prize money. I think we did some stats: about 50 per cent of the prize money was going to interstate owners all of a sudden, from 25 per cent the year before. So where do you draw the line at what is the cost of production? Do you go right back to where the breeding took place or do you just look at the training? Do you look at infrastructure costs, as you mentioned, the racetracks themselves?

MR FITZGERALD: The cost of the land.

MR TWAITS (BA): The cost of the land - there's a whole range of things in there. I'm not saying you shouldn't do it necessarily, but it's pretty difficult and that's why I think we should just focus on what the consumer wants.

MR BANKS: Okay. There was another proposition put to us and I'll just give you the opportunity while you're here to respond to it. It was argued that under a revenue

based system it could expose the racing industry to a risk that corporate bookmakers would artificially lower their margins in various ways; for example, through using free bets for advertising or lowering margins to cross-subsidise other activities or products. Would you like to comment on that?

MR TWAITS (BA): Free bets are not banned unless you operate a cash based exclusive TAB. They can offer free bets but you can't use them to induce people to open betting accounts or to bet more frequently through account based betting. So it's probably a hypothetical issue these days, but simply free bets, and the extent to which they impact on gross revenue, is simply a definitional problem - not even a problem. They're either in or they're out, and that's up to the racing industry. As long as they treat everyone the same, it shouldn't really matter.

MR HOARE (BA): There are pretty clear regulations for how you produce those figures as well. I heard a bookmaker say the other day that if he played around with his figures, the original gross revenue figures, and reduced them as a way of paying less tax, that he'll end up in gaol should he be found out. It's just not worth the risk. I mean, it's the proper function of regulations.

MR TWAITS (BA): The same issue arises in relation to bad debts, you know, with credit betting, but again it's a definitional issue. It's not for us to come up with a definition and we're happy to have input with the racing industry, but as long as we're treated equally we're fine. I don't really know much about how corporate bookmakers operate in any sort of detail but, to the extent that the Betfair systems are able to be audited - I mean Racing New South Wales does audit our figures. They've got the right to audit under race fields and they don't. We have to pay for it, and yet they complain that there's uncertainty around our figures. It's an argument that suits them at the moment but it's not a real one.

MS SYLVAN: Just a final question on your disclosure proposal in relation to the consumer; the raw price, as it were.

MR TWAITS (BA): Yes.

MS SYLVAN: I've been trying to decide whether the take-out rate is more like a commission in a sense, and there's an actual price. You're really proposing that it's the key element of price. What would that look like to a consumer in looking at the various places they can bet? The reason for my question is there's a fair amount of evidence that if you disclose the wrong things to consumers - when what you want them to be doing is shopping for a price; in other words the best deal for themselves - and if you start disclosing too much information it actually disables their decision-making.

MR TWAITS (BA): Yes.

MS SYLVAN: It doesn't help. It actually interferes with it. So what would this look like, this recommendation of yours?

MR TWAITS (BA): In my view it would simply be - I can show you some samples of this, we can send them in, if you like - the overround, so a percentage figure. We do it - so we put at the top of our market 102 per cent, 101, whatever the market is, and so at the top of each page or the bottom of each page, under the list of odds, you would have whatever the relevant percentage is. In the TAB's case that would include the roundings.

MS SYLVAN: Yes.

MR TWAITS (BA): Rounding down.

MS SYLVAN: Yes.

MR TWAITS (BA): That's where I got the 118 per cent from; including roundings, it works out to be about 118 per cent on their win market: for a bookmaker, exactly the same, just beneath the odds. You just have what the book percentage is.

MR HOARE (BA): And there are examples of it. One corporate bookmaker who was in last week before you guys, Betchoice. I've seen it at the bottom of their's sometimes. I'm not sure if it's all markets but at least some markets, they will have their figures at the bottom of the - - -

MS SYLVAN: And these are quite comparable?

MR TWAITS (BA): Yes. As long as you've got - - -

MS SYLVAN: In terms of one provider to another?

MR TWAITS (BA): Yes, absolutely. For most punters you're looking at the individual price on a run, but it's the overall price of the market that should give you an indication as to whether it's good value or bad value. You can still have 120 per cent market and get a better price on the horse you want to back than the 102 per cent market over here. It depends on a whole range of things which you'd know about. But I think in the interests of fairness and transparency, it should be something that's made available to the consumers.

MR BANKS: Thank you very much for that. There are a couple of things that have come up where you could get back to us and we'll leave that up to you and look

forward to receiving that material. Thank you. We will adjourn these hearings until 1.15.

(Luncheon adjournment)

MR BANKS: Our next participant today is the Australian Internet Bookmakers Association. Welcome to the hearings. Could I ask you, please, to give your name and your position.

MR CLARK (AIBA): Thank you. My name is Tony Clark and I'm the executive officer of the Australian Internet Bookmakers Association.

MR BANKS: Thank you very much for taking the trouble to appear today, and also for the submission that you provided on the first time round, and you've also given us some speaking notes to give us a sense of what you'll be talking about today. But I'll give you the opportunity to go through those points. So it's over to you.

MR CLARK (AIBA): Thank you very much. Although the following comments and opinions are my own, I know that the general thrust of what I'm about to say is supported by the majority of the Australian online bookmakers, so I'll be taking the liberty of claiming to speak for them through this presentation. We generally support the recommendations of the draft report and our detailed response to the recommendations will be given in a further written submission.

MR BANKS: Thank you.

MR CLARK (AIBA): Today I'd just like to look at developments that have occurred since the publication of the draft report and outline how we would respond to some of the objections that have been made by others to the draft. I'd like to address five specific areas today. These are: responsible gambling, and in particular the areas of precommitment for online gambling providers and the question of credit betting. I'd then move on to the repeal of the Interactive Gambling Act. If we have time, we might speak about issues around sports betting and the integrity of sports; then to move to the vexed question of race funding and product fees; and, finally, the scope for national regulation under which I'd also consider the recommendation for an independent pricing tribunal for product fees.

MR BANKS: Good. Thank you.

MR CLARK (AIBA): As a matter of housekeeping, perhaps it would assist if I stopped at the end of my comments on a particular topic and then we could just take those questions before I move on.

MR BANKS: Thank you.

MR CLARK (AIBA): As I address the specific areas, two interrelated themes keep occurring. These are consultation and the need to actually focus on the facts. Bookmakers have found that when we've been able to have genuine consultation

with the stakeholders - and that can be racing bodies, the major sports, even regulators - we have all achieved workable outcomes. The notable exceptions we'll talk about shortly. The second theme is the need to actually address facts. There are enough areas in this gambling examination which call for matters of judgment and which are open to genuine disagreement on the basis of opinion, but it would be helpful if this discussion occurred without mistaken assumptions or, frankly, misleading statements about facts.

But let me begin by addressing responsible gambling and the provision of precommitment facilities for online gambling. In our submission earlier this year, we proposed that precommitment facilities become a mandatory feature of all Australian online gambling sites. The Northern Territory, and recently South Australia, have been examining ways of implementing this step, and I would like to acknowledge the consultation afforded by both of those jurisdictions around how this will work in practice. A key feature that both jurisdictions have agreed to in principle is that the precommitment facility should be structured so that the player can set a net loss limit. Operators may, additionally, allow for deposit limits.

The net loss concept means that a player would be able to set whatever amount they thought was appropriate as the maximum amount that they would wish to lose over a given period, so it could be \$100 a week, \$500 a month - whatever. At this stage - and, I note, contrary to your recommendations in relation to precommitment for online gaming - it's intended there would be no default precommitment amount set. However, a gambling account cannot become active until a player has made a conscious choice as to whether or not to set a loss limit. In other words, this will be a mandatory field that must be completed as part of the registration process. Needless to say, this facility will be always available to the player as part of the web site should they wish to set a limit at a later time.

It's also been agreed that a decision to revoke or decrease the limit should be subject to a delay of at least seven days. The process going forward is that the Northern Territory proposes to await receipt of your final report before settling the details and then to explore the appetite of the other states and territories for national standards in this area. We are working towards an implementation date of next year; at this stage possibly July but it may be a little bit later, depending on how we go.

As operators, we would welcome national standards. It is simply too complex and too expensive to architect computer systems around each particular state's whims and requirements. So we would urge the commission to consider recommending not only the adoption of mandatory precommitment facilities for online services but that the basic operational parameters be nationally agreed and defined. That's all I have to say on that, if you have any questions. No?

MS SYLVAN: On the mandatory field, as you described it, and how that might work, if a gambler chose in the first instance not to set - in other words, you have a form of opt out - - -

MR CLARK (AIBA): Yes.

MS SYLVAN: - - - what then happens in the model that you're exploring? Do they get asked again, or is it something that they need to initiate?

MR CLARK (AIBA): As in the next step?

MS SYLVAN: Yes.

MR CLARK (AIBA): Look, I've got to say that is probably a matter for discussion. What has been certainly agreed to date is that the precommitment facility must be properly publicised and given prominence in both communications to our clients and on the web sites. So there is certainly this passive opportunity to do it. If I interpret your question correctly, it's perhaps more going to an active question about whether you wish to set that. My top-of-the-head response is that we'd probably be a little bit resistant to that, simply because you have the facility, it's there every time you log on, so you always have that option. But, look, that's as I said just an initial reaction. It's certainly one we can talk through.

I've got to say finally: all of these very practical questions are the ones that have benefited from consultation with other stakeholders, so we've changed our position, they've changed their position, but I think we're getting to that workable outcome.

MR BANKS: Good. We had no other questions on that.

MR CLARK (AIBA): I'll now turn to the question of credit betting. The draft report noted concerns about credit betting and possible links to problem gambling, and it recommended the maintenance of credit betting for bookmakers but sought feedback on such questions as the proposals put forward in the Cameron review that there be, for example, a minimum period before which a client could be allowed credit or whether credit betting should be limited only for higher denominated bets or larger punters.

Let me begin by reminding you that, in the event of a default of a credit arrangement, it's the bookmaker who usually bears the financial cost. Accordingly, bookmakers take a number of steps to assess the creditworthiness of any applicant for credit. This can entail the need for a pre-existing business relationship before credit is given. But the proposal to set a minimum time period for credit betting or

that it can only be available for higher bets I think cause problems but don't really assist to address problem gambling. Indeed, you could argue that the proposed bet limit is exactly contrary to good, responsible gambling practices, because it leads to the peculiar situation where a betting provider must advise the client that he cannot offer credit for a \$50 bet, "But I can give you credit for a \$500 bet."

Likewise, when you look at mandatory time periods, I'd suggest they don't really do much more than formalise current practice and current due diligence practices. But it again leads to a strange outcome where a bookmaker must refuse credit to a client who on every other measure is a good credit risk, until the passage of three months. Why? Accordingly, we would support the commission's proposal that this area be the subject of further research, but we would recommend that research occur before any changes are made to current practice.

Finally, I note that the online bookmakers have no objection to the TABs being able to offer credit betting to selected clients. We have consistently said in relation to all queries regarding market access and market behaviour that we are not looking for a special deal. All we want is a fair outcome. We also support competition, as we believe this helps grow the market for all. So just as we expect to be treated fairly, so should our principal competitors. So we agree that the restriction on the TABs offering credit betting to selected clients is not justifiable. Those are my comments in relation to credit betting.

MR FITZGERALD: People have indicated to us in a number of submissions that they think that no credit betting should be permitted at all, which would in fact achieve the same objective of being fair and equitable; that nobody would get it. As we look at the liberalisation of Internet gaming more generally, there's a broader issue as to whether or not credit betting in fact is a detrimental activity more generally. Why do you have confidence that credit betting is not a harm-inducing activity?

MR CLARK (AIBA): If I could just pick up different aspects of those comments. Firstly, I think that if you look at the genesis of the right to offer credit betting, it has arisen from bookmaking, the unique circumstances of the wagering ring, and given those comments, for example in relation to Internet gaming, I would not see this as the kind of facility that's appropriately extended to other forms of gambling. And, consistent with that, I think we come back to the reasons why it originally arose with wagering, which are the risks primarily from carrying large amounts of cash in the ring; hence, as you know, betting on the nod and the agreement to settle at a later time. Your question was in relation to why I think there aren't concerns around credit betting.

MR FITZGERALD: Just take that. Given that we don't have large amounts being

carried in cash through the Internet or the TAB itself, why should we continue with the practice of credit betting? If the purpose was to eliminate the carrying of large cash amounts and therefore the risk of theft and other things, that is no longer the case in relation to these products. So what's the rationale for providing credit betting at all?

MR CLARK (AIBA): There are two answers to this. The first is that it reflects I think an accepted practice. And particularly for the larger and more sophisticated punters it's an accepted and expected facility. Your concern, if I understand you correctly, is the relationship to problem gambling and the risks associated with problem gambling. Intuitively you would expect there to be some link, for the same reasons that we're concerned about credit in all other forms of gambling. However, it is one where the assertion is made, but I am not aware yet of the extent of the problem associated with credit betting in the wagering sphere.

MR FITZGERALD: You might be able to help me a little bit further.

MR CLARK (AIBA): Please.

MR FITZGERALD: I'm not understanding. If credit betting is to be prohibited in relation to the terrestrial world of EGMs and what have you, we've heard in relation to poker this morning that the people already have the money in the pot before they start playing, or as they're playing it. I'm not understanding why credit betting for wagering is distinguishable. What is it about wagering that distinguishes it from the other forms of gambling when you're looking at the impacts of credit? And I understand the historical background.

MR CLARK (AIBA): Exactly. The historical background - - -

MR FITZGERALD: I should just say that as a commercial lawyer I've acted for bookmakers in the past, so I understand its historical background, but I don't understand the distinction when we're talking about Internet betting.

MR CLARK (AIBA): And others. Firstly, if we begin with the historical background, I think it has become an - it is an accepted practice, as you'll agree, betting on the nod. The same clients may well often have an Internet account. It's simply a question of what's the facility for them.

MR FITZGERALD: Yes.

MR CLARK (AIBA): My approach is that, pending evidence of problem gambling, I am not advocating a change. In other words it's, to come back to a common theme, evidence-based need to change.

MR FITZGERALD: Sure.

MR CLARK (AIBA): So my expectation is that, when the case or if the case is made that there is a link between credit betting and problem gambling, then we are in the position to know what we should do with it. But at the moment I see what is largely an accepted practice. I'm aware of the concerns in relation to credit betting and problem gambling, but I haven't seen any evidence as to the extent and what is prompting it.

MR FITZGERALD: But your answer, Tony, if I can just be clear, does not give any distinguishing features between wagering and the rest of gambling in relation to credit betting, other than historically it has been there, and you're saying there's no evidence that credit betting in relation to wagering produces problem gambling. That's it. But in terms of the actual nature of the game playing, you're not identifying anything that distinguishes it from the other forms of gaming. So if we were to liberalise the Internet you would still maintain the position, until the evidence showed otherwise, that credit betting would be restricted to Internet wagering but not extended beyond that.

MR CLARK (AIBA): Yes.

MR FITZGERALD: Is that correct?

MR CLARK (AIBA): That's correct.

MS SYLVAN: On your comment that it's odd that they can't loan \$50 but could loan 500, in a sense the proposition was that someone who did need to borrow \$50 to make a bit is possibly the sort of individual that one doesn't want in that market. Potentially that's the point of it. But, more specifically, the nexus isn't that tight, is it? I mean, these surely are forms of revolving credit. They're lines of credit almost, where I would negotiate a facility for \$5000 to bet. If I choose to bet \$50 today that's my business as the punter.

MR CLARK (AIBA): That's correct.

MS SYLVAN: But I'm a person who could have a five or ten thousand dollar line of credit negotiated. So it's not, you know, "Here's \$500. Now go away and bet it immediately." The nexus is just not that tight, I assume.

MR CLARK (AIBA): No. As I said, I'm simply responding to the proposition in the Cameron report that this facility be restricted only to either higher denominated bets or higher, larger punters. So, I'm sorry, my 50 and 500 was just my crude

example of the artificiality of drawing the line between them.

With that, I now turn to the Interactive Gambling Act. The major online bookmakers support the recommendations of the draft report. While this would be unsurprising to most observers, given our commercial interest we would urge all sides of the gambling debate to support the recommendations because of the consumer protection and responsible gambling reasons given by the commission. I suggest the decision process is fairly simple. Prohibition doesn't work.

Your draft report identified over \$700 million in player funds being spent offshore on online gaming products. By comparison the lawful sports betting market in Australia is only \$300 million; less than half. Any reasonable observer must now agree that the Interactive Gambling Act, whatever its past merits, is now totally ineffective. We cannot keep the status quo. The first response is always to try for more effective prohibition - in other words, build higher walls - and the usual steps that are put forward are either filtering or ISP blocking, or payment blocking. It appears it's not feasible to block access to these sites. Though technically possible, it comes with an enormous cost and degradation of Internet performance.

Likewise, those countries that have looked at payment blocking related to Internet gambling have found it to be too difficult to implement, in particular the ability to distinguish between legal and illegal gambling. Only last month the United States authorities put back implementation of the 2006 law for another six months, until 1 June 2010. So in effect there has now been four years' delay in the US actually implementing its payment processing ban. Such a ban is also ineffective. There are now just simply too many alternative payment mechanisms for restrictions to work on bank transfers and credit card usage.

But if my interpretation of the commission's report is correct, you have perhaps reinforced your view on the merits of regulation over prohibition, and instead turned discussion to the terms and conditions under which licensing should occur. Australian online gambling companies are largely supportive of the consumer protection measures outlined in your draft report. This is obviously an area that needs discussion. We would like to understand the practical aspects of the intervention strategies that are proposed and, as I flagged before, perhaps a mandatory field rather than a default level is a better way to go in terms of precommitment, but we collectively are supportive of the general approach of the commission.

Since the publication of your report there have been various objections raised to making any changes to the IGA at all. Opponents to Internet gambling have objected both to allowing access in the home and about the risk of normalising online gambling in the community. The objection that any change to the IGA will see a

casino in every lounge room or, the subeditor's favourite, "You can lose your house without leaving it," tend to skip over the fact that this is precisely what can occur now. Australians are effectively playing unhindered with these sites. The real objection to any change to the IGA with the most substance is, I think, the risk of normalising online gaming in the community.

As we know, one of the claimed merits of the IGA was that it dampened or slowed consumer take-up of these higher-risk products. So the question arises, what happens if it goes? I think there is scope here for moderating adverse social impacts. The concern that often arises with the proposal to license is that every billboard, every television show, is suddenly going to be peppered with advertisements for Internet casinos. What the draft report has shown is the enormous appetite for online gaming without lawful advertising. I suggest this could still be an area where appropriate advertising controls could help moderate any excessive stimulation of the market.

I am not advocating an advertising ban. This would completely defeat the objective of letting the players know that there is a competitive Australian alternative. But it may well be appropriate that advertising be restricted; for example, only allowed on the Internet or perhaps in gambling-specific magazines or suchlike. In other words, it's probably highly desirable that restrictions on on-the-ground and broadcast advertising be developed.

A corollary of this is that we better enforce the advertising restrictions on offshore gaming companies, especially the trojan horse method that is used now, whereby supposedly lawful advertising of a free play site invariably leads to connection with a play-for-money site. In this regard we would again recommend that Australia follow a similar practice to that adopted by the United Kingdom advertising standards authorities, as described in our earlier submission.

I'd also suggest this is another area where the merits of a truly national scheme of regulation are self-evident. This is not something that can be addressed on a state-by-state response. While I wouldn't suggest any state is considering this, you'll appreciate it would be totally counterproductive if one state, for example, decided it wanted to ban Australian providers from offering gaming machines or other particular bet types, when those products are readily available offshore. The aim is to provide a locally competitive alternative to what Australians currently have available to them, so any attempt by a particular state to carve out a particular exemption fails to appreciate the real driver for this change.

A licensing scheme should be implemented as soon as possible. I note the independent senators have introduced private members' bills on various aspects of the draft report to encourage the federal government to move with urgency on

particular points. I suggest that the area of online gaming is one where further delay would be inexcusable.

Although I had expected it to be large, I didn't expect the illegal online gaming market to be more than twice the size of the lawful sports betting market. This is an enormous hole in our harm minimisation fence. We are not talking about finessing a particular strategy. We are dealing with a situation where there are no effective or only limited player protection measures in place. I'd suggest that any reasonable assessment of the draft report would identify this as one of the priority areas for legislative reform, and again I would encourage all sides of parliament to support legislation as quickly as possible. This is not a small deficiency. This is a gaping hole and it needs a speedy response. Those are my comments in relation to the IGA.

MR BANKS: Just on the expenditure numbers, could you talk a little bit more about those and how accurate you believe they are, depending on how they've been derived.

MR CLARK (AIBA): In relation to the online gaming market?

MR BANKS: Yes.

MR CLARK (AIBA): All I can react to is what I read in the report. The submission that you quoted, I think from iBus who will follow shortly - are probably able to give you more explanation on the background.

MR BANKS: Okay. So you have nothing - - -

MR CLARK (AIBA): I have nothing special there.

MR BANKS: Okay.

MR CLARK (AIBA): All I have, as I said, was what I expected: it would be a big number, simply for the reasons I gave in the earlier submission. In many ways I was defining the centre of the circle by describing its circumference. So we knew it was going to be big, but nothing along the lines as outlined in the draft report.

MR FITZGERALD: Can I just get a clarification around the regulatory framework. You're suggesting a national approach to Internet gaming.

MR CLARK (AIBA): Yes, I am.

MR FITZGERALD: Are you suggesting a Commonwealth approach? In other words, do you see this as a place where the Commonwealth government would

assume - and constitutionally we think it can do this - full responsibility for Internet gaming?

MR CLARK (AIBA): Firstly, the constitutional question is beyond argument. The federal government could come in and take over this whole area of gambling, if it was so minded, using a combination of various powers. So then the question now is, "Is it desirable?" My personal reaction is it's not necessary. The states and territories have the capacity to implement an agreed licensing scheme. But I do make the point it must be an agreed single national scheme. In this regard, whether it's adopted by virtue of federal legislation or by way of state legislation is a fine point. In substance it won't make much difference. My own impression is that I think it will be speedier and more effective if it is federal legislation, albeit it's a licensing scheme that can be administered by the states and territories.

MR FITZGERALD: Without pre-empting your other comments which you're going to make, are you in fact taking a similar or different approach when you come to Internet wagering?

MR CLARK (AIBA): To pre-empt those comments, I take a broadly similar approach. I think that in many cases these should be relatively uncontroversial and the subject of national agreement, and in this regard I'm talking about regulatory standards, responsible gambling standards generally across the board. As a matter of principle, they should be common national standards.

MR FITZGERALD: Just let me test this a little bit further. If the Commonwealth were to assume responsibility for Internet gaming regulation - assuming that for a moment - would you also argue, or are you more ambivalent about whether the Commonwealth should assume responsibility for Internet wagering, or is there again potentially a case to treat them differently?

MR CLARK (AIBA): This is actually a very good question, because from a theoretical point of view the initial impulse is to say, "Yes, the federal government could regulate gaming and, look, the states and territories are regulating wagering so let's let it run." The point is that the same operator is likely to have both licences. This is not a fatal problem. Many of the Australian operators, for example, will hold a number of licences from jurisdictions all around the world, so it's certainly something that can be worked around. It's just something to bear in mind when both products and a lot of the infrastructure to support both wagering and gaming are going to be on the same site, and you have one set of regulators looking at this side of the site and one set of regulators arguing the other: again, a practical issue; one that's not fatal, but obviously has difficulties.

Your questions are really edging towards this really fundamental question of

whether this is an area that the federal government should really step in and take over altogether. If I could perhaps anticipate that question and just give you the answer back.

MR FITZGERALD: Yes, please.

MR CLARK (AIBA): As a policy officer who previously worked from the states, I'm actually a very strong advocate of the federal system. Each jurisdiction learns from the other, whether they acknowledge it or not, and as you know, they will happily steal the best ideas that another state or territory comes up with. This has actually been a benefit to us, in not only gambling but a whole lot of policy areas, and when you move to a single scheme of regulation, be it administered by the federal government or be it administered by a common state body, you risk imposing this dead hand on further development. It stifles innovation. It stifles in many ways creative development.

So it's a really difficult question to give you a specific answer on. From an operator's point of view it's far better for us that there just be one single authority giving us one set of requirements and that's who we go to. But from a policy perspective and a consumer perspective there are absolute advantages in being able to learn from what others are doing. So I'm not sure if that was particularly helpful, but you can see the thrust of where I'm going.

MR BANKS: That's a general principle. I mean, one could argue about whether states pick up the best ideas or the worst ones.

MR CLARK (AIBA): Indeed.

MR BANKS: And promoting that into jurisdictional learning I think is quite important. I don't think we had anything more on that.

MR FITZGERALD: No. I just want to come back to your advertising issue. The InterChurch Gambling Taskforce this morning picked up on the issue that you've directly dealt with, and that is their concerns in relation to the proactive advertising that would follow any liberalisation of the Internet gaming. And I'm interested in your proposal that there could be controls in relation to this. It's always trying to find why you would treat things the same and why you would treat things differently - is the essence of a lot of my questions.

But, again, if you were to have advertising controls in relation to Internet gaming, would you treat differently the ability, for example, for sports betting and what have you not to be subject to those same restrictions? Again, I'm not saying they should be the same, but what would be the case for differentiation, where there

has already been controversy, as you know, in relation to sports betting appearing on television at all times and therefore promoting. And you're right: when you actually go to many of these sites they link you to other sites and so the connections are made.

MR CLARK (AIBA): In relation to advertising of sports betting, we have to make an assessment I think of why we want to impose the restrictions to begin with, and they are that it is a proportionate response to the risk posed by that particular product. Again, speaking generally, I think there's general agreement that the online gaming products are riskier than your online wagering products. Therefore, to answer your question, this justifies different treatment. Secondly, the challenge for any policy-maker is to develop the appropriate policy response to the threat posed.

If there are differences in treatment, I regard these as simply consequential; almost by-products of the response you make. They don't work backwards in terms of what you should do. So the fact that we, having made the assessment of the risk of the product, formed an approach as to how we would regulate that; we have identified stimulating excessive demand as a major risk. This appears to be the obvious tool and response to address that demand. The fact that downstream is now inconsistent with how we treat another albeit similar gambling form, as I said, is I think just a by-product rather than a show stopper or a fatal objection to us making that step to begin with.

MS SYLVAN: If we follow your proposition through logically there are different risks from different products in gaming. So do I understand you correctly? We've had it put to us that poker, for example, is a very different level of risk simply because of the nature of the game.

MR CLARK (AIBA): That's true. I'd agree with that.

MS SYLVAN: It's very different than, for instance, an online EGM, let's say.

MR CLARK (AIBA): That's right.

MS SYLVAN: So do I understand that you're proposing a regime that has at the front of it in an online setting quite different parameters depending on the game being played and the risk accorded to that game?

MR CLARK (AIBA): As a proposition, yes, I would support that. But I would be cautious about further subdivisions and suddenly - as if you were asked to make that assessment for each particular kind of product. Your distinction between an Internet casino on the one hand and Internet poker on the other is probably one that is sustainable, given the nature of the products, the fact that you're playing against a

computer, whereas with poker you are usually playing with actual other live people, and they do have a different risk profile. So it may well be that a case can be made for advertising distinctions between them.

MS SYLVAN: And precommitment distinctions and, you know - - -

MR CLARK (AIBA): Again, it would need to be justified on the cases. I think poker, for example, once you've paid your entry fee and a lot of your tournament fees, you've effectively precommitted in a lot of ways already, with table limits and so on. But, look, if I could I'd say that, as a starting point, I would recognise the difference between the two.

As a starting point, I would expect them both to accept the principle that there must be appropriate controls. How they're expressed might be a little bit different; for example, poker occurring in pubs and clubs, specific venues, may well see the advertising of online poker. I'd still be reluctant to see it plastered on a billboard outside the MCG.

MS SYLVAN: Can I also take up your financial institutions transfers legislation in the US, which has had problems, but I gather it is in fact implemented, I think reasonably successfully. We might hear a bit more about this in a minute as well, in other jurisdictions in the EU, for instance. I think Germany has it and - - -

MR CLARK (AIBA): I'm unaware that it actually has been successfully implemented. I'm aware that it's certainly under consideration. It's under consideration in, for example, Norway, Holland, Germany. It has been flagged as a sort of trade-off for the licensing regimes under consideration in Denmark. That being said, I'm unaware where it has actually touched the ground and is working. I stand to be corrected on that obviously, but that's my understanding at this point.

MR BANKS: All right. Let's proceed. I think, as you probably anticipated, we might move - I mean, feel free to raise the questions on 3, but maybe move more through into 4 and 5.

MR CLARK (AIBA): Indeed. We'll go straight directly to the question of race funding and product fees, and then to the question of a national scheme of regulation. In terms of the question of race funding and product fees, all online bookmakers support the recommendations made in the draft report. The draft report identified the divide between Queensland and New South Wales on the one hand and the rest of the country - and if I can express it somewhat crudely - and the rest of the planet in relation to their approach to this. One aspect of this dispute is now the subject of court action. This is another where my themes of consultation and the need to focus on the facts are actually best borne out.

I suggest that it's no coincidence that Queensland and New South Wales are the two jurisdictions that refused to have any meaningful consultation with the bookmakers. I need only observe that we didn't even know the proposed rate of the New South Wales fee until six weeks before the actual commencement of the scheme. I understand there are concerns in some sections of the racing industry about what would happen to current payments of product fees should Sportsbet be successful and the New South Wales legislation is declared invalid.

Let me again state that online bookmakers are ready and willing to pay a fair fee, with or without valid supporting legislation. This is something that we have been offering since 2003. I understand Racing New South Wales has argued that corporate bookmakers were paying no fees to New South Wales until the passage of the race fields legislation. That is true, but let me be clear: that is because of Racing New South Wales's choice. We've been offering to pay a fee since 2003. Indeed, I think we were close to agreement with the Australian Racing Board on a simple scheme on a national basis, but they were unable to actually gain the agreement of New South Wales.

We have always looked for a fair outcome, however that was structured - turnover, revenue, whatever. However, our preference now has hardened towards a revenue formula as adopted by the majority of the states and territories and as recommended in your report. Could I say that the racing authorities of the other states had exactly the same concerns as New South Wales. They're cautious about the arguments that the corporate bookmakers put forward but, as I said, whenever we received a fair hearing, our arguments were considered on their merits and we've ended up with the revenue outcome.

I suppose the question arises: well, how is it working? South Australia and Victoria have reported their results. In October, Thoroughbred Racing South Australia reported strong growth through a combination of product fees, taxation reform and rationalisation and cost-cutting. It moved from a loss of \$2.1 million in 2007-08 to a profit of nearly \$6.8 million in 2008-09. It reported that the biggest factor in the improved performance was the race field contributions from the bookmaking sector which boosted gross revenue by \$9.2 million for the nine months of the year for which the contribution was paid. Interestingly, it also reported that UNiTAB's funding also increased by \$2 million, a practical illustration of the benefits of competition. South Australia is said to be budgeting for a net contribution to grow by a further \$2 million this financial year.

In June this year, Racing Victoria Ltd issued a media release that in the 2008-2009 year they were on target to receive a net total of \$234 million from the joint venture with Tabcorp and under the race fields arrangements with other

wagering operators, an increase of \$19 million or nearly 9 per cent on the previous year. In 2009-10, they're expecting a further increase of \$14 million or nearly 6 per cent. The media release went on to note that:

Corporate bookmakers and betting exchanges were also making a further contribution through direct sponsorship of clubs and events which also assist in supporting prize money levels.

RVL has expressed its satisfaction with the operation of a scheme based on revenue. I haven't had the benefit of reading the transcript of the recent presentation to you by Racing New South Wales, but press reports indicated that you invited Racing New South Wales to respond to the apparent success of the RVL scheme. What was reported is that a representative of Racing New South Wales said that RVL would change to a turnover model if it could. Obviously, I'll leave RVL to speak for itself, but I note that this comment is exactly contrary to the views expressed by the chief executive officer of RVL on Wednesday of last week, who supported the continuation of the revenue model, regardless of the outcome of the Sportsbet challenge.

I also understand that Racing New South Wales has, from time to time, claimed that the increase in funding was due to Victoria's special access to gaming machine profits. Again, I can only cite what the CEO of RVL has stated several times: that this was not the case; that over \$8 million of the \$9 million increase was from improved wagering receipts. Also relying on press reports, I understand that an objection was made by Racing New South Wales to the whole concept of a revenue based fee on such grounds as, "It's difficult to define what 'revenue' would mean," and that the scheme was open to threats of manipulation. I suggest that any reasonable observer would agree that these are wafer-thin objections.

Somehow we managed to define what "gross profit" would mean with everyone else, and the suggestion of manipulation is as offensive as it is ridiculous. However, if I could, I'd like to directly address Racing New South Wales' often stated arguments that, basically, "bookmakers should meet the costs of putting on the show", that "TABs are the lifeblood of racing" and that "corporate bookmakers are eroding racing's funding base". Let's look at the facts, in particular the historical turnover figures. If Racing New South Wales is right and this is a systemic structural problem, then it should be something that is visible nationally. But the figures don't support what is claimed and instead suggest that the problems are in fact New South Wales specific.

If you have regard to the Australian Racing Fact Book of 2007 and 08, the numbers are set out for totalisator turnover over each year. What it shows is that over the past five years, there has been an average national growth in totalisator

turnover of 12 per cent. Some states have exceeded this. For example, Western Australia's turnover has grown by 46 per cent. Victoria has achieved the average: 12 per cent growth. But over that period, New South Wales lags the rest of the country with a minus 3 per cent growth. Even if the EI year of 07-08 is taken out of this assessment, the four-year TAB growth rate in New South Wales is still the lowest in the country at 4 per cent over five years.

If we extend the vision a little and look at the numbers over the past 20 years, you will see that the TAB betting turnover in Australia has been in a consistent low-growth pattern for almost all of that time. You'll appreciate this period covers before the advent of corporate bookmakers as well as the period after the advent of corporate bookmakers. What these figures suggest is that TAB growth rates have not been significantly impacted by corporate bookmakers. National TAB turnover hasn't fallen. In fact, the jurisdictions allowing more bookmaking competition have achieved some of the highest TAB growth rates in the nation. By comparison, the protective regulatory jurisdictions such as New South Wales have generally performed poorly in both TAB and bookmaking sectors.

As I noted, the New South Wales totalisator growth was a negative number. In the same period in New South Wales bookmakers experienced a 20 per cent decline in turnover. When regard is had to these facts and to the poor state of racing in New South Wales as shown by when they're frankly struggling to make up the numbers for some races, you'll appreciate our concern that corporate bookmakers are simply being used as a scapegoat to disguise wider policy problems in the administration of racing in New South Wales. We suggest the problems with racing in New South Wales are caused by policy failures far wider than anything arising with cross-border betting.

With this in mind, let's look again at the argument the bookmakers should be "paying their way". One of Peter V'Landys' more colourful descriptions has been the supposed price of petrol and his argument that he's being required to supply the product at below production costs. This is a fairly strange analogy, as racing itself admits that wagering doesn't cover the costs of the industry. Instead, what is expected is that all operators will make a fair contribution to the funding of that industry. For New South Wales, this appears to mean, "We're not so much required to make a fair contribution as to basically fill the budgetary hole," the assumption being that we, or indeed any other fixed-odds operator, are somehow taking business away from the TAB and that these are somehow TAB bets and it is TAB turnover. This is not so, for the reasons set out in our submission of earlier this year.

More importantly, Peter's petrol analogy I think pithily sums up a failure to really appreciate the importance of the consumer in actually keeping the show on the road. It's a truism of all businesses, but for a racing industry that's in competition

with other forms of gambling, it's even more so: that you need consumers. It's summarily stated, "Racing needs punters. Punters do not need racing." The statistics show that competition stimulates growth and corporate bookmakers have created new turnover and grown the racing market; in other words, Peter is now selling more petrol. He has a higher turnover than he was able to achieve before and by making petrol more competitive with other fuels, he's eaten into their market share and still made a profit on the turnover.

Really, I think the more accurate petrol analogy is that New South Wales is more akin to the monopoly petrol supplier who uses its position to price gouge consumers and is now calling for your assistance to stop cheaper suppliers from coming into New South Wales from interstate. In any other market, the petrol price goes up and down; not, apparently, in any petrol market controlled by Racing New South Wales. As I said, I can only respond to what I've read in press reports and I'm sure Peter would have made much more important points of substance in his actual presentation. Could I actually ask: is there anything that he raised that you would like me to address specifically?

MR BANKS: You've probably anticipated a number of the questions.

MR FITZGERALD: We're obviously going to run out of time. In fact, we're over time right at the moment. But the basic points - we raised this with Betfair prior to lunch - were two things. Firstly, I think Racing New South Wales will take the view that there is already a highly competitive wagering market with the current levy arrangements in place and as part of that they would say that providers are not going out backwards, including the Internet bookmakers or betting exchanges.

The second thing they did raise was their rebuttal of the view that corporate bookmakers and betting exchanges were in fact delivering better value for consumers, and they specifically raised the example of Betfair, which we've put to Betfair this morning, indicating that they believe that the return to the punter is less than that which is returned by the TAB in New South Wales. So both of those were to rebut the assumption that there is an anticompetitive element in what they're doing, and secondly, that consumers are in fact better off by increasing support for your members.

MR CLARK (AIBA): I've got to just pause at the proposition that somehow consumers are better off. For my mind, one of the fundamental tests for consumer benefit is the price of the bet. I think it's indisputable that the corporate bookmakers and bet exchanges are operating on a much, much lower margin than the TAB. Therefore, I am at a loss to understand how a consumer benefits with a higher-priced bet; if I could just put that.

MR FITZGERALD: I think it would be helpful when the transcript is available for your members to have a look at those particular comments.

MR CLARK (AIBA): To do justice to this point.

MR FITZGERALD: They're quite detailed in nature and perhaps if you want to just give us a quick response.

MR CLARK (AIBA): Happy to do that.

MR FITZGERALD: The point we made to Betfair: we don't want to argue the toss about the numbers. I suppose the issues that we're looking at are whether or not a change to the levying arrangements would produce a greater and better competitive marketplace; and secondly, would that be in the interests of the consumer? So it's a broad issue that we're looking at.

MR CLARK (AIBA): Sure. With that in mind, perhaps we could turn - and bearing in mind the time, we'll move immediately then - to the question of the scope for a national scheme of regulation and the independent pricing tribunal question. By way of setting the scene, the most telling thing for me since the release of your draft report has been the frankly dismissive way it's been received by sections of the racing industry. I had hoped that the release of the draft report might see some change in the approach by New South Wales and Queensland as they understood that they are largely alone in defending what I suggest is a self-evidently discriminatory scheme. Regrettably, I've seen no sign of it. This colours our reaction to the question of national schemes and importantly the proposal for an independent national pricing tribunal.

There are probably two areas for discussion. Obviously the first one is what I think would be the uncontroversial area of agreed standards for responsible gambling and definitional things. We'll put that to one side. We covered that earlier. Although I would need to say that, while we agree in principle on that, it has to be genuine. Our support is for common and genuine responsible gambling initiatives not, as the commission identified in its draft report in the case of the ban on inducements, a thinly disguised attempt to provide competitive protection for the incumbents.

To turn to the question of the national independent pricing tribunal, I'm sure the commission is aware this is a far-reaching recommendation. But we have to acknowledge it appears to be the best, or at least the least worst of the options presently available for resolving the current impasse caused by New South Wales and Queensland. In crude terms it seems we've got three options for resolving the present problem. The first is that New South Wales and Queensland change their

minds and agree to a more sustainable fee.

Queensland has the opportunity to review its decision and we will see what their attitude is shortly. However, I am not confident that Racing New South Wales under its present leadership is able to change its position. You've observed for yourself the dismissive way in which your report has been received. Apparently you and the rest of the country have got it all wrong. The benefits of this first option, what we'll call option 1, is that the racing industry actually remains in control of its own destiny; but, as I said, unlikely to see a change in Racing New South Wales's position, so we can put this option to one side.

The second option is litigation. The present case is focused on constitutional issues. There are clearly other avenues open for legal challenge, including trade practices laws. We're also likely to face lengthy and expensive appeals. Now, it's true we can continue to spend millions of dollars, leading to years of uncertainty, and under this option racing's destiny is shaped by the courts. However, in relation to litigation, it's important you understand that for bookmakers the ram has touched the wall, if you appreciate your Roman siege analogy.

Despite our arguments, despite constructive discussion, despite reviews, despite even court decisions, there is an unwillingness to afford us what we regard as our basic legal rights. So though we remain open to discussion and to compromise - a fair and equitable compromise - we have come too far and we are not prepared to just walk away from our legal rights in order to reach a compromise at any cost. The second option, litigation, is in play now and the outcome is completely out of the industry's and our control.

This brings us to the third option and the question of how to avoid this legal train smash that is going to occur over the next couple of years. In our submission earlier this year we proposed this whole question be referred to either the ACCC or be the subject of a specific reference by this commission, in the faint hope that if someone of stature and independence was able to explain to the racing industry exactly where the boundaries are in terms of legal and market obligations we still might be able to negotiate to achieve a fair outcome. We were perhaps naive. Your proposed fix would give an immediate mechanism for fixing the problem.

The difficulty is it takes away the fee-setting power from the racing authorities of all of the states and territories when this situation is largely brought about by the wilful blindness of New South Wales. It's a very unfair outcome where the majority of the states and territories have frankly done the right thing: put aside their innate hostilities to corporates and considered our arguments on the merits. However, reluctantly we also agree it is the best and most effective option to fix the problem and therefore it has our support.

In giving our support I must state that it is conditional on the same terms and for the same reasons as you set out in your draft report. Bookmakers have come too far now to simply accept a cobbled together state or racing industry representative body that is simply used as a puppet to impose restrictive practices to benefit incumbents. Regrettably, sections of the racing industry have proven themselves incapable of looking to their own wider interests. So reluctantly, therefore, we agree there should be a tribunal to make the decision. I stress it must be genuinely independent, and we would support such a tribunal constituted on the terms and with the qualifications set out in your report. Thank you. Those are my comments.

MR FITZGERALD: Just one question. We raised it this morning and it's just a question that I'd like your opinion on. We've recommended, as you've indicated, a national price-setting body and we've indicated the basis on which a levy would be charged. I just want to ask the question: is there a case in your view for differential levies to be applied, even by a national price setter, having regard to the cost of production of the actual race product, or is it an industry where in fact a universal, a nationally set levy would be appropriate? I suppose that's a question that has arisen, given that there already are differentials in play between the jurisdictions; even those jurisdictions that charge on gross revenue.

MR CLARK (AIBA): Look, I'd suggest the ideal situation is for a single and common fee. I think it has two attributes: (1) it better recognises that in fact this is a national market you're dealing with. The difficulty with state based fees and the arguments that have been put to you that, "Yes, everything should be national except the price," absolutely works contrary to this whole driver. And what really the High Court has said flows from the concept of a national market. It also is better adapted to the proportionality and neutrality principles that this kind of thing is trying to get.

You pointed to differences in the costs of production. This is something I would need evidence on, because I think it is something that is asserted by particular jurisdictions where I cannot see that the same arguments wouldn't apply in the other states and territories.

MR FITZGERALD: Thanks for that.

MR BANKS: Yes, I think variations in costs of production are typical for almost any industry you can think of.

MR CLARK (AIBA): Exactly.

MR BANKS: That's been very helpful. Thank you very much, particularly for anticipating a lot of our questions, I think, in the way you've made your presentation.

We'll end there, I think.

MR CLARK (AIBA): Thank you very much.

MR BANKS: We'll just break for a few minutes, please, before our next participants.

MR BANKS: Our next participants are from iBus Media Ltd. Welcome to the hearing. I'd ask you, please, to give your names and positions.

MR RASHEED (IML): I'm Damon Rasheed and I'm the chief consultant.

MR NETTLETON (IML): I'm Jamie Nettleton, partner Addisons, solicitors to iBus Media Ltd.

MR BANKS: Thank you very much for attending today and also for the very substantial submission that you've put in in the first part of this process. You've given a bit of an outline of some of the points you want to make, so the best thing is to allow you to elaborate on those.

MR RASHEED (IML): Thank you very much for taking some time to meet with us again. I thought I'd take a few minutes just to remind you of who iBus Media is and where we sit in the marketplace, and then I'll hand over to Jamie who will take you through our second submission that we've forwarded.

So iBus Media is the world's largest poker media company. The main web site is pokernews.com, and that's operated in 27 different languages, and we're the premier live reporting partner for the four largest offline poker tours, which are the European Poker Tour, the World Series of Poker, the World Poker Tour, and the Asian Poker Tour, and in Australia we are Crown's premier partner with the Aussie Millions that they run every January. So we're a reasonably large company in this area. We have over 300 employees on a worldwide basis and we generate a significant number of visitors to our web sites. Just last month we had over 11 million visitors to our network of sites.

Of course our clients are the major poker rooms and we have quite a symbiotic relationship with them, in that we provide media coverage for them and we also send thousands of players each day to each of the operators, who can then sign up for an account. And because we deal with all of the major operators in each geographical location we've got a very good snapshot of the marketplace, and we collect some quite good data. So we feel that we're in a very good position to contribute to the inquiry.

I also thought I'd quickly mention that we thought that the draft report demonstrated an excellent understanding of the issues surrounding the effectiveness of the Interactive Gambling Act and we thank you for that. With that, I'll pass over to Jamie, who will take you through our second submission.

MR BANKS: Thank you.

MR NETTLETON (IML): Thank you, commissioners. I would echo what Damon has just said in connection with the report and the recommendations which were put forward. I think it's clear that the strategy that's been employed by the federal government in this area has not worked. That's very much demonstrated by the statistics which were provided as part of the first submission of iBus Media. Perhaps it's worthwhile talking about those statistics. Those statistics are generated from regulated offshore gambling sites and they essentially do a survey of the operators, looking at the customers of each of those operators on a country-by-country basis and category-by-category basis.

Comment may be made about why haven't those statistics actually been viewed before? The answer to that is that, certainly from an Australian perspective, there's been no proper means by which those statistics can in fact be generated. There's been no ability to tap into a regulated provider to obtain any usage by Australians of online gaming sites and the full panoply. There have of course been statistics generated as part of the Australian gaming statistics in respect of both the sports betting, the wagering and the totalisators, as well as the terrestrial gambling services, but not in connection with online gaming activities.

The points which we wish to make today are really to emphasise some of the points which are made in the draft report of the Productivity Commission and to update with further information. We've already heard some of the information from Tony Clark in respect of some of the overseas developments, and we've also heard from Damon just then in connection with the continued growth in the amount of interest in respect of poker sites.

Perhaps it's worthwhile just mentioning that this submission is made on behalf of the online poker community and not generally in respect of online gaming interests. The people who are partners of iBus Media are involved pretty much in online poker rather than in connection with online gaming. Of course there are some similarities but, as was emphasised by John Beagle in his submissions this morning, there are clear distinctions to be made in respect of the game of poker as against the other forms of online gaming, particularly in connection with the conduct of poker tournaments online as against poker which can often be played in a casino, which is essentially against the house.

Unfortunately I wasn't here this morning when John was making his submissions, but just to emphasise again in connection with generally online poker: first of all, it's equivalent to a sport in one sense; it's also a game in which a very high level of skill is exercised by the people who are successful at it. If one looks at the target in respect of the Interactive Gambling Act when it was first implemented, it was principally targeted at online gaming activity and in respect of, if you like, EGMs online or casino games on line. It was only really to ensure that it had the

broadest coverage that it also covered the provision of certain games in which there was a mere element of chance involved, such as bridge, chess and, even though it wasn't anticipated at that stage, it also covered poker. But it is very much at the lower range of the casino games involving elements of chance in which poker falls.

Indeed, in respect of some of the statistics - and I think this is information which Damon will be able to provide - a game of poker is something which takes a considerable period of time. The amount of moneys which may be deposited are far less generally than are involved in respect of other forms of online gambling activity insofar as tournaments can be conducted for very low stakes and yet the actual tournaments can take a considerable number of hours, and there will be further information provided to you in the written submission in due course on this particular point.

I'll just move on from the background generally in connection with poker and the conduct of poker tournaments online. As was pointed out in the initial submission, Australia already has an online gaming regulatory framework. Legislation already exists in a number of states and territories which provides a model on which online gaming can be regulated. It may be that some of the legislation which was introduced before 2001, even though it's been updated, could be subject to some further review, particularly to take into account the applications of the latest harm minimisation techniques. But, essentially, the model is already there.

We don't need to start from scratch and, indeed, some of the best world practice in respect of online gaming operation is based on the Australian model first promulgated as part of the national model just over 10 years ago. So that regulation already exists. There are permutations of that legislation also in place in Tasmania and in the Northern Territory and, indeed, a number of the regulators who were involved even back in 2001 are still there and have some experience in connection with the ability to regulate online gaming.

MR BANKS: Is there any jurisdiction that, in your view, has got it righter than others in terms of the framework, or do you see them all as variations on the same essential Australian framework?

MR NETTLETON (IML): I think the jurisdiction which probably has it best currently in connection with the regulation of online gaming is probably the Northern Territory because it provides the greatest flexibility as to the approach. There is a degree of flexibility which is available under the Tasmanian legislation, but that's only part of the story.

MR BANKS: When you say "flexibility", what do you mean?

MR NETTLETON (IML): It's an ability to essentially apply standards to the extent which is required by the actual gaming model that's actually being regulated, rather than being particularly prescriptive on the base of the legislation and not giving a degree of flexibility to the regulators in order to apply the relevant legislation and/or regulatory standards. Certainly from the Northern Territory approach and Tasmanian approach, there is the ability to rely on compliance with codes of conduct and to have a degree of flexibility to take into account various harm minimisation controls.

I think part of the reason why those jurisdictions are perhaps better placed at this stage is by virtue of their experience in respect to the regulation of online bookmaking and the grant of licences and the consideration of the manner in which online gambling should be regulated. That is not something which the other regulators have got as much day-to-day experience of.

MR BANKS: Okay. Thank you.

MR NETTLETON (IML): Other aspects which perhaps we forget is the degree of expertise which still exists in the Australian gambling industry sector in respect of the regulation and development of online gaming. At least two of the main gaming testing laboratories are Australian based and were initially set up in Australia and continue to have large offices in Australia. So the expertise is very much there to ensure that any standards which are applied at the obligatory level - that the requirements can be complied with. Indeed, the technical standards which exist in a number of the jurisdictions can certainly be applied very quickly and understood by the testing laboratories.

We also tend to forget that a number of licences were initially granted under the Australian legislation and were near operational at the time that the legislation came into place. So the Australian regulatory model has worked in practice. Yes, it's a long time ago that some of those operators existed, but the expertise still exists as a result of the regulation of online gaming and the requirement for consumer protection, integrity of operation and other factors.

If I can now talk to some of the harm minimisation strategies. One of the points I think worth mentioning is that the current legislative approach which was adopted means that no licence can be granted in Australia in respect of online gaming or online poker. That is said to have the effect - that means that only unscrupulous operators can essentially provide services to Australians and therefore Australians are at harm as a result of the multimillion-dollar turnover of funds which are being generated.

In fact the benefit of a regulatory approach is that the regulated operators who

wish to and currently do work within very high standards of regulation will come to Australia to set up business. They are the operators referred to by the commission's report as being the ones who have the brand and will do everything absolutely possible to ensure that the brand is not compromised in any way by putting in place the highest levels of integrity, the highest standards of harm minimisation and consumer protection because, irrespective of the form of regulation that exists, they do not wish their brand to be damaged by being seen to be acting in an improper - fraudulent, lack of integrity, lack of respect for the customer. They will always be wishing to deal with that.

So the attraction of having a regulatory approach is it's those people who will come on board and will comply with the requirements to ensure Australians are properly protected. It is true that certain operators will not come onshore as a result. That was alluded to by Tony Clark in his submission. But at least by virtue of having a licensing regime in place, operators who have the expertise will be able to come into the market and we'll be able to put in place standards that will protect the Australian consumer.

A number of the harm minimisation standards which we've identified are already in place and indeed are already complied with by a number of the largest online poker operators. There are considerable controls preventing access from minors. There's the same Know Your Customer identification, which has essentially been referred to and is complied with by the Australian licensed bookmakers. That is standard practice in respect of online poker operators, both to prevent access from minors but also to ensure that full checks are conducted on customers before they sign up.

There are self-exclusion techniques which are in place. There are a range of precommitment options which are available on a number of the sites. There is compliance with the British standards in connection with harm minimisation, whether a counselling service, a referral to problem gambling help services, as well as internal services which are also provided. As I said, we'll be providing you with further information about this in due course. Those standards are there and, indeed, as we heard before, they are more accessible online and many of the controls which are of concern can essentially be implemented and complied with online.

From my perspective, I'm not sure there's much more I wish to say, except to indicate that I think the evidence is clear that the current form of regulation is not working. There's a considerable quantity of services which are being provided and, once again, in connection with the submission, what is referred to there is just part of the services which are being provided. That is not a survey of all overseas operators by any means. That's part. It may seem considerable. If you looked in respect of the whole online regulation of business in Australia, in respect of racing and sports

betting it's perhaps not as great a percentage as may have been alluded to previously, but nevertheless it is substantial.

That can essentially be brought onshore to a considerable extent. And by "bringing that onshore" I'm not talking about the scale of the business; what I'm talking about is the fact that those services can be provided in a manner that will ensure that Australian customers are protected in accordance with Australian regulatory standards. Those regulations will come onshore, and provided the barriers to entry are not significant, I think we're going to find far more visible forms of harm minimisation in place for online gaming activity.

Sorry, I should just refer to one point, which is, "Should there be a distinction made between the different forms?" I also agree with Tony. I don't think you wish to have a situation where every form of online gaming should be treated in a different manner but there is some merit that there be categories of online gaming which are recognised as having different consequences in respect of the potential harm and therefore in the standards which may be applied.

I'm not suggesting by any means that the actual standards apply to the purview of the operator or integrity of the games or the testing of the software, but it's a matter of perhaps looking at the manner in which those services may be provided, where perhaps they should be looked at in different ways. So some of the comments which we made in connection with online racing sports betting are also appropriate in connection with games like online bridge or online poker but maybe not in respect of online casino games, which perhaps should be looked at in the same way as other forms of casino games being conducted in Australia.

MR BANKS: Are you aware of any research that would sort of underpin that proposition, which sounds reasonable at face value - that problem gambling is less prevalent in relation to poker or online poker?

MR RASHEED (IML): As I said earlier, we collect statistics. I've been through the accounts that we have with the various operators, to look through the sign-ups, and I was quite surprised actually to find that, of all the people that set up an account, only 40 per cent of them deposited real money, and that's a sample of over 12,000 that I collected for the first six months of this year. So that, to me, indicates that poker is being played for entertainment value. I mean, the 60 per cent that don't deposit are playing for free money; for the enjoyment factor.

Then if you look at the players that do deposit, 85 per cent of them play for what I call micro stakes, which are up to 50 cent/\$1 blinds. So the potential harm that would occur to those customers - let's say if they could play 100 hands per hour, and the worst player might lose three big blinds per hundred hands, we're talking

about four or five dollars per hour for those customers that play at the micro level. So that covers the vast majority of players that sign up for an online poker account. They're not really in harm's way. In terms of actual research, I'm not aware of any that has been done out of Australia. Jamie, you might know something more on that.

MR NETTLETON (IML): There was a study that was referred to in the first submission, conducted out of Harvard, which is about the first one that we're aware of, and conducted specifically in connection with online poker, so I draw the commission's reference to that. I think some of the results of that survey are actually quite surprising; the different levels and lesser levels of problem gambling which emerge from online poker than from in connection with other forms of online gaming.

The difficulty with a lot of the research which was conducted is that one can always find fault with it. One will always find that it's perhaps not a complete picture, that there are questions posed on what breadth; apples have been compared with oranges. It's just too difficult for there to be much reliable research. But insofar as reliance can be placed on this survey conducted of a number of players of bwin online poker, it suggests that there's lesser concern arising. I'm sorry, that's very general, but I draw your attention to it.

MS SYLVAN: In terms of the sequence of legalising poker games online in the world - and I don't actually remember how many countries have done that - is there any evidence for what a population actually does, either with casino gaming and/or poker, or just poker if that's the data you've got? For example, if people have been on offshore sites before it's legalised, is there evidence that they come back to the home country for feelings of assurance and that there's a properly regulatory regime and so on, or in fact are they - - -

MR NETTLETON (IML): Are you talking about consumer sites?

MS SYLVAN: You know, what do they do? And if it is the case that countries introduce more stringent harm minimisation to protect their citizens, is there in fact, once they try those sites, some sense that this is just a plain irritant and they're going to go find more risky sites elsewhere?

MR RASHEED (IML): From the consumer's side, I think the market is very self-regulating. There are forums and that out there. Consumers generally know which operators are the better operators and they tend to be loyal to those brands. We've been lucky enough that we haven't had many cases where operators have done the wrong thing but, if something happens, it's propagated out on the Internet in five minutes. Within individual countries people are still loyal to the big brands that are generally providing a service from offshore. We've seen that with every country.

In terms of regulation, I think it was mentioned in the previous discussion that most of the countries that have tried it in Europe have been very unsuccessful. I think you mentioned Germany, Louise, and we haven't seen any evidence of a slowdown in Germany since that law was enacted a couple of years ago. The same operators are generally providing the service. We haven't seen any waning in traffic numbers from that country.

MS SYLVAN: Is there law in place in Germany in relation to financial transfers?

MR RASHEED (IML): No, my understanding is it's more of an advertising ban in Germany. I'd have to check the specifics. I think Italy is the most recent one that's gone down the track of regulation and they proposed a similar model to Australia in some respects, I think, in terms of your report.

MR NETTLETON (IML): Italy has completely reversed its position from one of absolute prohibition to one of now being very permissive, and part of the regulation which has come in has been to allow licensing of online poker, particularly in connection with tournaments, and there has been quite considerable take-up. The take-up which has occurred initially - it's my understanding of the statistics - was for the local licensee as a result of some of the offshore licensees which had brands which are recognised by the Italian public. They are now becoming more successful. But it's only a matter of months that that's occurred.

To answer part of your question in connection with the controls in connection with financial regulation, there have only been really two countries which have looked at this in practice. One is the US, which has brought law back in 96. There's been a delay in the regulations and it's quite a long time since the regulations have been first - it took them a long time to be crafted. When they were crafted, very significant objections were made by the banking community and they very much continue. Norway also has in place regulations which apply to financial controls. They have had legislation that's now been in force for about a year, something like that, but the regulations are not yet in force and again they've got the same objections.

In fact, the objections which were made in connection with the imposition of financial controls are very similar to the objections which were made at the time that there was a section - I think it was 69 - review here that was conducted a couple of years after the Interactive Gambling Act, where there were very significant objections to whether or not the financial controls would work in the Australian environment. Strong submissions were made by the credit card companies, the Bankers Association, et cetera, and they were obviously understood, which is why we don't have any regulations or further restrictions relating to financial transactions

for Internet gaming in Australia.

But they're the same arguments which you'll see have been made to the US Congress, the same arguments in Norway, which range from the difficulty in respect of trying to differentiate between a legal transaction and an illegal transaction, to the difficulty it generally causes in the banking sector - how to differentiate between them. It's the same outlooks.

MR FITZGERALD: Can I just ask one or two questions. I know we've canvassed these issues previously, but the one that keeps coming up - and again just following on as to whether there's any evidence or research - is the conditioning effect that poker playing will have on leading particularly young people, young men, into other forms of gambling. Is there any research at all that shows what is the pattern of a poker player, particular young men, and their future gambling activity? Is there any research at all that tells if it's a conditioning for other forms of gaming or gambling, or do people play poker and that's about all they play?

MR RASHEED (IML): We have some research. I don't know if there are any publications. You might be aware of some, but our research has shown that there's not a great crossover between poker players and general casino games. They're a different market. Poker players tend to like to think that they're educated, that it's a game of skill and that they can beat the game, whereas casino gaming, like roulette and whatnot, is a different form of gambling altogether. So we don't see a lot of crossover between people that visit our casino pages or our poker. There is a dividing line.

MR FITZGERALD: The second thing is, has your organisation, or others, attempted to carve out an exemption on the current IGA with the former or current governments, and if so what's been the response to that?

MR RASHEED (IML): We haven't. We've taken this review as an opportunity to do so, but no.

MR FITZGERALD: There have been no formal attempts to try to get an exemption from the current law?

MR RASHEED (IML): No. iBus wasn't around when you did your first review, and we haven't taken any steps until this one.

MR NETTLETON (IML): I'm not aware of any.

MR FITZGERALD: Not aware of any. Okay, that's fine. Can I ask just one final question just on credit, just following on from our discussion with Tony Clark. Can I

just be very clear about this: is credit provided on any Internet poker playing games or is it that you've always got to have cash in the bank?

MR RASHEED (IML): No, you need to have cash in the account.

MR FITZGERALD: I thought that's what John Beagle said this morning. I just wanted to be sure.

MR RASHEED (IML): Obviously you make your deposit by a credit card, but I think that's a different form of credit.

MR FITZGERALD: No, that's different. I'm just talking about actual credit. Yes, thanks for that.

MR BANKS: And typically there would be a limit on how much you could hold in that account. You could hold less, but no more. Is that right?

MR RASHEED (IML): That's right, yes, and obviously there are credit card limits imposed by banking institutions as well.

MR BANKS: Yes, that's right.

MR RASHEED (IML): And I don't have the figures, but I imagine a credit card would be the primary depositing mechanism; daylight second

MR FITZGERALD: I guess your earlier comment about gamblers, particularly poker players, gravitating to reputable sites and blowing the whistle on any site that seemed to be not doing the right thing: could you say that, outside poker, generally that would be a phenomenon in Internet gaming or not - in casino type gaming?

MR RASHEED (IML): No, I wouldn't, because there's human interaction with poker. You're playing against other people and people chat in the chat box and they chat on forums, whereas I think casino games are a different product altogether - - -

MR FITZGERALD: More anonymous.

MR RASHEED (IML): - - - where it's more anonymous, like blackjack or roulette or whatever.

MS SYLVAN: You're playing the house.

MR RASHEED (IML): You're just playing against the software, so there's not that interaction. That would be my view on that.

MR FITZGERALD: Right.

MR NETTLETON (IML): Each of the leading poker sites provides a number of means by which players can communicate with each other, whether it's on blogs, chat rooms, or even during play there is the ability to communicate with others in the tournaments, and as soon as you make yourselves that public, the word gets around very quickly if something inappropriate has occurred, and certainly in connection with the online poker activity where there have been issues, it's like a bushfire. It's just very rapid.

MR BANKS: You will probably have to give a qualitative answer to this, but to what extent do you think the market in Australia is being held back? Clearly there are a lot of Australians playing online poker internationally, notwithstanding the fact that those providers aren't supposed to be providing to Australians, but if it was liberalised and in conjunction with, I guess, a licensing regime that had a range of harm minimisation measures and so on in it, how would you see the market developing in Australia?

MR RASHEED (IML): I think the market has changed a lot, even in the last six months. You've got the poker leagues around the place with the pub poker, and that's been exploding, and in the last couple of months you've had two television programs come out about poker, that were based out of Australia, with Australian Poker Hero and the Poker Star. Since those shows were aired, we've seen a tremendous spike in traffic from Australia to our web sites. I think our numbers of unique visitors in the last few months have doubled compared to the previous two or three years, so there's considerable consumer interest now in poker. So, to answer your question, I'm not sure that regulation is really doing that much currently. It's prohibiting some advertising from the other operators, but that might be an adjustment of market share or whatnot; but everyone is aware of poker now.

MR NETTLETON (IML): The question is more: by licensing, will it lead to growth in connection with poker? I think it's difficult to answer that question. It's clear that there has been very substantial growth from a zero base in the last five years or so. Certainly in respect of that activity that's currently taking place in an unregulated manner, there will be a substantial proportion that can take place in a regulated manner and perhaps that's the initial benefit which we see. I suppose the question of whether or not there continues to be growth - that has to be questionable, I believe, in connection with the numbers who are currently participating in leagues and in connection with the unique business, because Australia has only got a population of 22 million. The number of people who can actually play will be obviously much less than that.

MS SYLVAN: How much of the growth, in your view, is related to interest in the game and how much might be related to the fact that the technology has improved for people so that they're able to use broadband connections and - - -

MR RASHEED (IML): I think it's the interest in the game. If you're talking about the technology meaning the actual poker sites and the software that they've developed, that's been relatively constant for some of the major operators.

MS SYLVAN: I'm thinking more broadband versus - essentially the structural and technological developments.

MR RASHEED (IML): The broadband rollout, yes. Some of it would be to do with increases in broadband penetration, but a lot of Australia's population is based in the capital cities and they've had broadband for a decent amount of time. It will be a contributing factor but I wouldn't say a significant one.

MR BANKS: The last question I had was really in terms of - you've seen our report and the sort of harm minimisation measures that we imagine could be used. To what extent are these already being employed in a number of the world's best practice providers of Internet gaming services?

MR NETTLETON (IML): Most of them are already there in one way or another. Some may not work in practice to the same degree, but I think that's a matter of discussion with the regulators in due course, to say what's actually most appropriate for the consumer in this instance, without affecting or prejudicing the entertainment experience in a way where it may in fact drive them away from the actual site or a regulated site at all, because I think there is always a danger, and we've seen this before, where there could be over-regulation as a reaction in respect to this, and then that will have just as much of a harmful effect as maintaining the current regulatory approach.

MR BANKS: Okay. Thank you very much. Thanks again for contributing.

MR RASHEED (IML): Thanks.

MR BANKS: We'll just break for a couple of minutes before our next witness.

MR BANKS: Good afternoon. Could you give your name for the record, and any organisation you represent.

MR ABDELREHIM: My name is Jemal. I am representing myself and you can also say representing the gamblers.

MR BANKS: Okay. If you could just give us some opening comments, and we've got your written notes also.

MR ABDELREHIM: The first one, draft report number 9.2, the ATM restrictions, is an example. The ATM restrictions, when they started talking about ATMs to be removed from venues, immediately renovations started in one of the venues belonging to Tatts pokies and then immediately another one followed in Tabcorp. So what I show is the operators are capable of adjusting to any rules or any regulations or policies that might come.

This is in my area where I hang around. There is about five venues. Out of those five, two - a bank had been located next door to pokies. In one of them, only three metres away. The ATM machine of the venue is only three metres away from the ATM of the new bank which was located. And I heard some other things similar is happening.

That's only about the ATM machines, but also in a lot of other areas, like the operators being able to adjust and get away with some misconducts or whatever. For example, with static electricity. I am an engineer, an (indistinct) engineer with enough knowledge about electronics and electricity. The static electricity which wasn't on TAB but on the Tabcorp - but the Tattersalls machines, for example, there was a higher degree of static electricity.

As soon as complaint came in, that was fixed. It's good, but been for a long time and there was no punishment. So again they can adjust to something, and the damage caused by the static electricity is known to any medical professional who wants to know.

Another, for example, poker machines which swallow coins, which I've not played, and that also, when complaint came in, they started fixing it because the venue managers they used to have spare parts which they change themselves, but nothing - the complaints haven't gone very far and such things happen repeatedly.

In general, too many complaints go, and the main purpose of the regulators and the operators is to smoothly run this industry and to maximise profit, and when they talk about minimising harm they are talking about minimising harm to the scheme of the profit, to the scheme of the cycle of profit.

So in general I show there is privilege given to the operators, and the relationship between the operators and the governing body - the governing body, whether a government or whether the Gaming Commission or whoever is - and anybody who have involvement falls either on the sides of the government or the governing body or the operators, and I see very close - the governing body and gambling operators are very close, and the gamblers and their dependants are isolated too far. So this is been all the time and it's going go on, on, on, on and nobody will watch it.

Again, when you also see the trouble that myself and (indistinct) had at the council to combat a legal battle against Tattersalls and the costs, I ask myself: an individual confronting an operator, how can they do it? So there is a need for protection to the gamblers and their dependants and nothing can work without this - to say that there is harm minimisation, whatever, because they are not defending themselves and they have not been defended, so maybe it is a gambling union or whatever; some organisation which the gamblers themselves can fund or the gamblers themselves can protect themselves.

I see the gamblers as the most disadvantaged people and they deserve rights like anybody. That the general, but I see also it's - a case is very hard to find. Draft report 4.3 says that "a true case is hard to find". It is "elusive for gambling-related problems". I say it is not - and I have collection of more than 100 different issues which are proof to the hard done by, specially by gambling on pokies.

I have been going, running up and down, and have written up to 13,000 pages, to authorities, to ministers, to the Gaming Commission, and they are there. I have copies. And you can't go, you can't reach anywhere. So this personal experience which I am talking from, when I see there is proof, there is lots of proof.

Again, also the report says the damage caused by the lottery is less than the pokies, but I also say that the lotteries might be reason for a lot of unsolved crimes which are still to be investigated or haven't been investigated properly, because just enough that the prior information of somebody having a winning ticket in his pocket before he himself knows it is putting lives in danger.

Whilst all these problems are in the gambling and gambling is where money changes hands unexpectedly and regularly, and it is the focus of crime, corruption and anything - money laundering. So I can't see any organisation of this being funded by the governing body to protect gamblers working in the legal issue. A legal problem cannot be solved by counselling.

When somebody goes to complain that they haven't got his winning money,

even the legal organisationists they direct him to problem gambling counselling. Somebody who says, "I didn't get my money, my winning of Tattersalls, whatever, directly," a minister or organisation which is recognised - legal organisation or legal firm or the Gambling Commission - they are looking to directing him to problem gambling, so a person who didn't complain about his habit, about gambling.

So that means the money spent for problem gambling is also not being used properly. I am afraid to say that I am against almost every step of how it is being conducted, all the gambling altogether, and the only thing I see solving this is when gamblers have the right to an easy access to justice. If you want, they will be coming to you one by one, the proofs that you want.

For example, the CEO of Tattersalls saying one time, openly, that he is going to screw the problem gamblers till he is stopped by legislation. For example, burning the data, the problem gambling data of Tattersalls. For example, Mr McElwaine offering the government \$50 million in order to renew the monopoly, which is openly spoken about in the newspapers, and if I see, one way or another, it is like bribe and everybody could go to gaol. So all this build-up to getting nowhere, and I'm very happy to be speaking alone with no other witnesses.

MR FITZGERALD: So if I can understand correctly, from your notes and what you've been saying, the real remedy, the real way to assist problem gamblers is to give them greater access to what you call justice, to legal recourse, to the legal system.

MR ABDELREHIM: That will be one. The capacity of the operators is very hard for the simple - - -

MR FITZGERALD: Sure.

MR ABDELREHIM: In gambling, you're looking at somebody who is working for very little money just suddenly becoming a millionaire, and so the focus is there of the underworld, of the criminals; a network is always there. No criminal is not going to think about how to get to a position where there is unexpected money changing hands. The victimisation becomes double when it is not only you are gambling unfairly but when you win you don't get your money, and there is few people who are not educated or they cannot read and write or whatever who got trapped in this problem and they get nowhere.

I consider myself lucky enough to make my point clearly in my personal case, but this overrode my personal case and it became a principle, and I will not stop also. I will be going all the way, continuously, on this issue of injustice, because justice and injustice is my natural interest.

Before I come to collect gambling issues I used to collect about justice, from newspapers, articles or whatever. Now I ended up with four-by-four room, a library of articles and things related.

MR FITZGERALD: In our report we've indicated that we think there should be greater legal remedies available for problem gamblers. Are there other measures - any other particular measure you think that we should recommend to assist problem gamblers?

MR ABDELREHIM: Yes, should be access means you have to have a body which belongs to him, the gambler. Now there is legal firms which assist in a lot of things, but when somebody goes on something to do with gambling, it is like the money from gambling is like money which is less valued, so you don't get interest. They might direct you to problem gambling for counselling, or you might go running up and down and they sit between you and between the big organisation to get difference, and some lawyers might think that, from their own mind, "Finally, if it gets worse, he's going to accept a little bit of money." That is where they are working to.

So in some instance the interest - one-third of the interest of your - only one year interest of your own money you could end up with, like it happens in a lot of instances, because people are forced to accept a fraction of their money and leave the rest for the criminals and whatever to share.

Anything required, any proof required, I have done my homework very hard. I left my 20-year work because I cannot do this job. I just walked out because it was very hard for me to go through the process and medical health problems, I stopped. I am doing it full-time. So I have done my homework.

MR FITZGERALD: Good. Jemal, could you explain to me your proposal on your last page? You're proposing a gamblers' union or something similar; a council of gamblers.

MR ABDELREHIM: Well, gamblers have to look after it by themselves. Somebody who is a gambler will have to be the one responsible for following. A gamblers' union is also an organised way to say, because all the tradespersons have unions and the gamblers are - some people are doing full-time gambling and some people are spending more time on gambling than at work, and the gambling population is bigger than any trade, so it's also a power to be recognised.

MR FITZGERALD: Sure.

MR ABDELREHIM: Now, how to do this is also - because it's unusual. How to do this also needs the support of the governing body, because you are also confronting people who are against this and people never think of something like this happening. So even if you're telling them, "You have to do this, or this, or whatever, soon," they don't listen to you because this is - "Who do I fight, the government?" So they just give it up.

Also, in the pokies there is two people now nearly a hole in their eye, because somebody is going like this, from right to left and up and down, continuously, all day. It's not supposed to be all day. So there is some few examples of two people I know that there is damage into their eyes. Also the air treatment which - when the poker machines started, the air treatment, because there was smoking and the air have to be treated, but it's not done for somebody to sit there for all day and smell that chemical. Due to these reasons my focus is very short and healthwise I am not well. I cannot focus too much.

MR BANKS: Sure.

MS SYLVAN: Basically in terms of your proposal, a gambling union is something of that sort, and your diagrams in relation to the industry, government and so on - you're basically saying that the gambler themselves need more input into policy. Would that be a fair summary?

MR ABDELREHIM: That's what I'm saying.

MS SYLVAN: Yes.

MR ABDELREHIM: I said it. I tried myself but long time ago, but there was no ear which listens and I have written a lot to the government in different areas complaining. I will continue to do that.

MR FITZGERALD: Do you think gamblers would want to join a union or a group? Do you think that they are a group of people who would like to come together to change policy or not really?

MR ABDELREHIM: It is easy but they have to also understand that it's got a limit in here, in Australia, in comparison to the rest of the world, especially the pokie machines - the number of pokie per person. This knowledge is not there and the knowledge about what electronic possibilities are, what it can do also, it's always a secret hidden. If they know that, especially the racing customers will be happy to join a union and fight the pokies.

MR FITZGERALD: Thank you very much for that. It's much appreciated, and we

now stand adjourned until tomorrow in Adelaide. Thank you.

AT 3.25 PM THE INQUIRY WAS ADJOURNED UNTIL
TUESDAY, 8 DECEMBER 2009