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**TRANSCRIPT
OF PROCEEDINGS**

PRODUCTIVITY COMMISSION

INQUIRY INTO GAMBLING

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

TRANSCRIPT OF PROCEEDINGS

AT CANBERRA ON TUESDAY, 15 DECEMBER 2009, AT 8.33 AM

Continued from 14/12/09 in Brisbane

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MR BANKS: Good morning, ladies and gentlemen. Welcome to the final of our public hearings for the Productivity Commission's national inquiry into gambling in Australia. My name is Gary Banks. I'm chairman of the Productivity Commission and presiding on the inquiry. With me on my left is Louise Sylvan and on my right Robert Fitzgerald, who are both full-time commissioners of the Productivity Commission.

As you would be aware the draft report was released in October. It has received a considerable amount of publicity since then and has engendered considerable public debate. Of course that's the purpose of the draft report and we welcome the feedback that we received. I emphasise that this is only a draft report. The commission is very open to making changes where we think that those changes would be appropriate in light of the feedback we receive and any further research that we do. So we encourage those with views about the commission's findings and recommendations in our draft report to place those on the public record through submissions which will then be available for wider public scrutiny. This is an important part of the Productivity Commission's process and the public hearings give participants an opportunity to do just that and an opportunity for us to have discussion with them about their submissions. This will help the commission identify areas warranting further thought and further information and other considerations that we need to take into account.

Following the hearings we will be proceedings to do the further work needed to refine our analysis and finalise our recommendations which need to be made to government by 26 February 2010. I remind participants that while the hearings are conducted as informally as possible a transcript is made to provide a public record of discussions. There is no formal oath-taking but the Productivity Commission Act 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 from staff here today or by contacting the commission.

I should add for the record that participants need not feel constrained to making a single submission. For example, participants may wish to make submissions in response to those of others and we will continue to accept submissions after the public hearings through until at least Christmas. I don't think we have ever refused a submission but the later they come in of course the less time we have to take them into account. To comply with the requirements of the Commonwealth occupational health and safety legislation I should advise you that in the unlikely event of an emergency requiring evacuation of the building exits are located in that direction and the staff here will assist you if necessary, and indeed, the staff are here to assist you on any matter.

With those formalities out of the way I take pleasure in welcoming UnitingCare Australia as the first participants here this morning. Welcome to the hearings. Could I ask you please to give your names and positions?

MR BROWN (UCA): Michael Brown, director government relations, UnitingCare Australia.

MR BANKS: Thank you.

MR HENLEY (UCA): And Mark Henley. I'm manager of advocacy and communication with UnitingCare Wesley in Adelaide.

MR BANKS: Good, well thank you very much. Thank you also for the submission you provided in the first round and some comments that you've provided to us in response to the draft. I'll give you the opportunity to highlight the key points.

MR BROWN (UCA): Thank you very much for the opportunity to meet with you. We represent UnitingCare Australia and the network of UnitingCare agencies across Australia who provide problem gambling help services and related services, including emergency relief, financial counselling, relationship counselling and other services. We congratulate you on the draft report. We think that implementing its recommendations would significantly reduce gambling harm and thus benefit people, families, communities across Australia.

We support four particular emphases of the report: (1) strengthening services for problem gamblers, self-help tools, precommitment and exclusion systems, (2) strengthening gaming machine standards and making these more safe and more consistent across jurisdictions, number (3) introducing an earlier and longer shut-down period for gaming machine venues and (4) using education campaigns that highlight potential losses and the likelihood of developing a gambling problem while using a particular product and that - make the community aware of behaviours indicating problem gambling.

Some comments about precommitment. We strongly support the recommendations for a universal precommitment scheme to be in place by 2016, not in isolation but as a suite of interrelated measures - as part of a suite of interrelated measures. We believe a public health approach to tackling the risks of harm from gambling should be taken. By this we mean a focus on building resilience in individuals, families and communities by using proactive rather than reactive measures; focusing on prevention and early intervention. Precommitment measures are consistent with that sort of public health approach and such measures, we believe, have been shown to lessen the chances of transitioning from recreational gambling to problem gambling and to help people who experience problem gambling to reduce

their losses.

We have set out our preferred approach to introducing precommitment in background material previously. In very brief summary: (1) reach; because people can move between venues, between jurisdictions, between technologies, we strongly prefer a single national precommitment program, (2) compulsion; we believe the scheme should be compulsory in all venues and that each person should use a precommitment device to start playing even though each person may opt out once playing, (3) consequences of exceeding limits; we think the most effective response to someone exceeding predetermined loss or time or spend limits is a face-to-face interaction with venue employee, (4) regulation controls; we think an independent body will be needed to implement a universal precommitment program and monitor compliance. As well, we're conscious that some trials of precommitment schemes are using loyalty programming, which risks negating any reduction in gambling activity driven by precommitment by encouraging people to spend more on gambling in order to generate more loyalty rewards. If the commission does decide that precommitment with a loyalty program is acceptable, then we think that clear protocols are needed, (5) information; we believe data from a precommitment system should be owned by this independent body, reviewed by a stakeholder panel and made public and (6) evaluation; within two years of its implementation we suggest there be an early evaluation of how well the precommitment program is working and after that precommitment with any changes needed could be extended to all other forms of gambling within a further two years.

Now, a couple of comments on accreditation of help services. We support the development of quality improvement programs that work best to meet the needs of people accessing services. Funding bodies, in particular, need to state clearly the outcomes they need from gambling support services based on evidence of good practice of what actually works for people dealing with the impacts of problem gambling and seeking to stop problem gambling. Funding agreements should include appropriate strong, clear performance indicators. There should also be adequate resourcing to evaluate services at a local level. Taken together, we think that these measures would go a long way towards developing quality services. One key concern about a national accreditation process is that accreditation programs need to be linked to a particular set of standards. Given the diversity of client groups and venue types, sites, there's a need to make sure that such standards are better than a minimalist one size fits all approach and in fact encourage quality.

Now, some brief comments on issues other than precommitment and accreditation. Consumer protection measures. We strongly support the recommended \$1 per spin limit as well as making daily venue shutdowns earlier and longer and also limiting cash access in venues. We also think that the merits of an ombudsman-type scheme for gambling activity ought to be considered. We realise

that better and clearer product safety standards would need to be developed to make such an ombudsman scheme effective. As well, we think that information about products should include the percentage of regular players who develop a problem on a particular type of machine.

Online gambling. We can't support the recommendation to liberalise online gambling. We believe that removing the ban on Internet gambling in Australia will mean online gambling opportunities will be more accessible and more heavily promoted and that as a result there will be higher levels of problem gambling which will be especially difficult to detect and provide early intervention for, given the at-home nature of online gambling.

Indigenous gambling. We believe there are specific issues with problem gambling for indigenous communities and we think that there is a need for further data collection and research. We suggest that each Productivity Commission report on indigenous services include specific data on the impacts of gambling in indigenous communities.

Finally, some comments on the leadership, oversight and implementation of reform. We support the Australian government taking a leadership role in the reform of gambling policy by such means as coordinating the regulatory framework, collecting data on gambling activity and help services, establishing national electronic gaming machine design standards and enhancing other consumer protection measures. States and territories for their part should be responsible for such things as licensing, caps on machines, setting up protocols for local residents and other stakeholders to input into decisions on new or changing venues. But we think that the leadership role of the Australian government is especially important given the particular competing interests that need to be managed by state and territory governments who are responsible for concurrently attending to industry expectations, consumer interests, revenue considerations and regulatory frameworks. We believe this reform leadership role should have a twin focus on building national consistency in best-practice regulation and reducing gambling harm. Ideally, this responsibility should be located in the health portfolio as per the New Zealand model, reflecting the public health approach that we suggest. Under federal leadership a revitalised ministerial council on gambling could drive reforms.

Those are our opening comments. Thank you again for the chance to meet with you today. Mark Henley and I would be very happy to answer any questions you might have.

MR BANKS: Good, thank you very much. Well, you've covered a fair bit of territory. One issue that you've raised which we haven't had much discussion with others about is the question of an ombudsman scheme. I just thought I might get you

to elaborate a little bit on that. I mean we're clearly aware that there are such arrangements that apply in other areas like banking and telecommunications and so on. But typically in those areas there's quite a good paper trail to follow. So I'd be just interested in your comments on such a scheme could operate in practice and whether indeed it might have determinative powers as in the case of the telecommunications industry ombudsman, for example, so that restitution could be legally ordered, or something like that; so I'd be interested in your comments.

MR HENLEY (UCA): Look, our view is that there would be real merit in patrons who are dissatisfied or grieved with any aspect of the gambling industry having recourse to an ombudsman-type scheme. We recognise for an ombudsman-type scheme to be established first there needs to be standards, processes and protocols, codes of practice et cetera which set up the procedures which would be the basis upon which an ombudsman would make determinations. But we believe that they could be developed and indeed that the ombudsman would be, in our view, a consequential flow-on from the development of national gaming machine standards; national protocols about consumer protection; national standards about venue responsibilities, roles et cetera.

So we would suggest that step one is determine the standards, the practice, the procedures and then step two is establish an ombudsman, which would need to be, we would think in terms of cost effectiveness, is probably a national ombudsman with accessibility at probably capital city level. But I mean you wouldn't want a big office. You'd want to keep it reasonably small. But we think it would need to have determinative powers and be able to make findings on redress. I mean that may tie in with the commission's recommendations, I think in chapter 8, about some sort of legislation to give consumers protection legally for venues that behave egregiously.

We think that an ombudsman scheme could probably be more effective given - could be effective given a bit of legal backup, but it's perhaps a less formal process and with a little bit of promotion would be much more acceptable. People that feel aggrieved on a range of issues could go to the ombudsman for fair treatment. We believe that would actually be of benefit to the industry as well as other elements of consumer protection; because clearly, you know, people complain about the machines being rigged or venues not paying out properly et cetera and the ombudsman would be able to determine quite quickly that appropriate process had been followed. So it's actually a protection, as ombudsman schemes are, for industry as well as consumers. But your first step is the standards against which the ombudsman will operate.

MR BANKS: So clearly - I mean that's predicated on a view that some of the problems in this area are not confined just to the concerns of problem gamblers but of consumers more generally?

MR HENLEY (UCA): Yes, we certainly take the much broader consumer perspective.

MS SYLVAN: Do you see this ombudsman scheme funded in the way that some of the industry ombudsman-type schemes are, which is a levy - - -

MR HENLEY (UCA): Levy on industry.

MS SYLVAN: - - - on industry and, if I understood you, statutorily based with adjudicative power, binding adjudicative power?

MR HENLEY (UCA): I think that's what we mean. I'm an economist, not a lawyer. But the ombudsman would need to have the power to make determinations that are binding, yes. An industry levy would be an appropriate way to go. We recognise that we're not looking at a massive bureaucracy here. It would need to be a tight, well-managed office, but we would expect there would be enough complaints and enough work that would keep a small team fairly busy and would be in the best interests of consumers and industry.

MR BANKS: Okay. You've, in your comments, referred to the precommitment scheme and you've seen that as being an important way forward and obviously we share that view. In terms of these vexed questions about the degree of voluntariness or mandatoriness in them, again I thought I might just get you to comment a little bit on how you saw the opting-out provision work in your conception. When would that happen and what would be the consequence subsequently for somebody who'd opted out of the system, whether they would still have some kind of limits that would apply to them or not. Have you got any thoughts in that area?

MR HENLEY (UCA): Indeed, and we've tried to base our comments on the diagram in - well, I think it's figure 7.1 in your report which really identifies five variables which all have, I suppose, elements of mandatoriness in them.

MR BANKS: Yes.

MR HENLEY (UCA): Our view is that for the system to be effective - and this is predicated on the understanding that a significant number of gamblers, regular gamblers, gamble in a number of venues. So it's not just one gambler one venue. So therefore for a precommitment scheme to be effective it does need to rope in all venues. So we are seeing that a precommitment scheme would need to be compulsory to the extent that it was utilised in all gaming venues: hotels, clubs, casinos. So wherever there's a poker machine the scheme applies.

We would also prefer a situation where for a person to gamble they need a precommitment device to activate play. We think there are some exceptions around, overseas guests et cetera. Then the opting out for us is more at the limit setting. So we would say, look, everybody needs to have a device to play but there would be a small number of mandatory limits that would be set reasonably - will be set in line with perhaps median levels of spend. We would see the priority limit, for example, as being spend per session and we'd set that at something like median spend limits of current sessions across Australia. We would guess that's somewhere between 35, 40 bucks a session, that order of magnitude. That may be wrong, we haven't got the full data set. But we'll be saying that people can opt out when it comes to limit setting but that the preset limits would be modest. So that's really the main opt-out option.

Once a limit is exceeded, what we're saying is the critical thing is that there is actually some contact from the venue, and this has been very effective in - certainly I've seen it in South Australia where we've got Gaming Care with Hotels Association, I think Club Safe in New South Wales, Skycity's Host Responsibility Coordinator program. All of those programs have a venue staff member making contact with a person whose limit is exceeded. It's not a counselling session but it's a, "Hey, how's it going? Is everything under control," sort of thing, the option to make referral et cetera. That, for us, is the priority intervention. However, again, our preference from a purely harm point of view would be that a person is unable to keep playing once they've reached a limit. That would be on a session by session basis. That is also in line with what the Victorian government has announced in terms of the way its precommitment system will operate, although again we note they're still developing the details on that. So we're taking a fairly strong line, a fairly firm line, but we're saying this is about reducing gambling harm. So the opt-outs are at limits set rather than participant in a precommitment scheme.

MR BROWN (UCA): The second of the two mandatory limits we would suggest in addition to the spend per session limit would be a mandatory break in play limit. We think that it's important that the number of limits be small, to reduce player frustration and hence lead to greater likelihood that people won't opt out.

MR FITZGERALD: Can I just raise a question I think in the Adelaide hearings I asked Mark in relation to small venues and I noticed Ian Horne, he was from the Hotels Association of South Australia. Do you make any distinctions between venues that perhaps operate less than 10 machines, and there's a disproportionately high number of those say in South Australia compared to other states? The second part is we've been urged, including yesterday in Brisbane where Louise was attending, to exempt casinos because they're a destination based venue. So that the two areas that I just wonder whether you've got a thought about is very small venues, whether they need to be treated differently in terms of either requirements or the timetable for the introduction of the requirements. Secondly, this very strong push

by casinos to be exempted because of what they would perceive as a different nature of operations.

MR HENLEY (UCA): Our simple response to those two questions is no and no. We would see universal precommitment scheme means universal precommitment scheme and all venues are involved. That said, we - again, we're not technologists but our understanding is that the technology is not expensive. This is not a major impost on venues, even small venues, in terms of their turnover. They have staff on duty already, so the staff interaction with patrons would keep happening. Even small venues currently need to be linked into reporting systems for tax purposes, turnover purposes et cetera et cetera. So this is a very small impost in terms of cost or, we believe, inconvenience, given that we get the precommitment system and the devices right. So we will be saying there's no strong argument for exempting smaller venues.

With regards to casinos, our understanding is that if we're talking about universal precommitment scheme for EGMs then that applies to all venues operating EGMs. Again, we would suggest that in terms of scale casinos are a better place than hotels and smaller clubs to be able to implement a precommitment scheme. They've got the scale, they've got the mechanisms pretty much in place already. So we don't accept that there's grounds for exempting casinos.

MR BANKS: Are you aware of the precommitment scheme that the Crown Casino has in place currently?

MR HENLEY (UCA): I've got some understanding of it. I haven't been to Crown recently.

MR BANKS: I guess I was just going to ask whether you think the existing measures are adequate. There are - as I say, Crown has its own arrangements. I mean you may care to take that on notice and have a look at it because I think the industry would argue that the measures that are already in place are serving the purpose. But of course, against the test that we set out in the report the universality one obviously isn't satisfied.

MR HENLEY (UCA): Yes, that would be our main concern, is that universal means universal and that means everybody. Given our understanding that many patrons, and particularly regular users, are using a number of different venues then the last thing we would want to see is a plethora of different precommitment schemes which aren't integrated with each other being put in place. So that would suggest that we preclude a one-off Crown, a one-off Jupiters, a one-off - you know, a police club having their own separate unique precommitment scheme. Whatever we end up with needs to be integrated and the more integrated it is nationally the easier, the more seamless it is for patrons.

MS SYLVAN: Talking about integration, sorry, we also have the issue of whether or not the Internet should be liberalised, which you've raised and you recommend against it. We heard yesterday from a technological point of view from one of the providers that it would in fact be possible to potentially have the nature of the precommitment device, whatever that happens to be, operating both in a casino, club, whatever, on an EGM, and of course in the Internet space as well. So that if somebody is setting expenditure limit on themselves for the week or whatever it is that it would operate essentially in any sphere providing they were on a regulated site. Does that influence your positioning in relation to the Internet draft recommendation? There are a lot of people gambling already online and we've recommended that it might be more safe to have regulated Australian sites and good standards than to simply have people going off-shore to sites that are not necessarily trustworthy.

MR HENLEY (UCA): We would take that as two separate issues. We would see no reason why the Australian government can't be regulating Internet sites where they exist without removing its ban on Internet provision from Australia. We would prefer to see the precommitment and whatever other consumer protection schemes can be developed for online gambling, wagering, whatever, put in place. See those established, legislated or whatever is required before we look at basically open slather for licensing or registering or legalising other forms of online gambling. So we'd say let's get the protection measures in place and then we'd be prepared to look at whether they're going to be effective rather than saying, "Look, let's liberalise, let's open up, let's, you know, let the horses bolt and then try to rein them in later." Do you want to say something?

MS SYLVAN: Well, I'm just - from a feasibility point of view it's not clear how the Australian government could actually legally deal with a site which is not within its jurisdiction. So it can't really regulate them.

MR HENLEY (UCA): Couldn't they make licensee requirements of any gambling provision that happens in Australia irrespective of the home base of the provider?

MS SYLVAN: No, if the gambling is offered in - pick any destination you want. If the gambling is offered out of the UK, for example, and the consumer enters the UK jurisdiction to gamble, Australia doesn't have a lot of reach. So in other words Australia isn't involved in that debate internationally in setting global standards for Internet gambling and so on. You might just take that under consideration. We're sort of out of the picture.

MR HENLEY (UCA): Sure.

MR BROWN (UCA): We will, but there is one thing I should add, which is that one of the ways in which we think a good precommitment system would be designed would be, for example, when limits are exceeded for an approach to be made by a venue employee to the person. Obviously that sort of supplementary control, if you like, can't apply to at home Internet gambling. So that would be a cause for some concern for us.

MR HENLEY (UCA): Yes, I think we're saying that precommitment needs to be the technology and the personal contact.

MS SYLVAN: Just one additional question on the loyalty schemes because these have now come up a number of times in the hearings and we haven't really talked about them in the report. Your objection, if I can phrase it quite specifically, is to the loyalty accruing attached to the more spending, in a sense. We heard of an alternative, and it's something you might want to consider in relation to linking loyalty schemes, because that has some cost benefits obviously for the venues, in Ontario, I think it was, where the loyalty points accrue if people pre-commit and loyalty points accrue. So there are alternatives that might be considered as part of a loyalty scheme which don't reward for necessarily more spend.

MR HENLEY (UCA): We certainly haven't ruled out loyalty programs as a platform for precommitment, and certainly I'm very familiar with the Worldsmart trial in South Australia of course where the loyalty program is the platform, and it certainly makes implementation costs of precommitment very, very small. We are concerned about the potential for countervailing objectives and we say in a precommitment scheme the number 1 objective, whatever the platform, has got to be about the precommitment scheme. But we will certainly take the question on board about loyalty points upon precommitment. My initial instinct is that we'd probably find that acceptable.

MR BROWN: We do think that there should be some protocols in place, such as not promoting or offering inducements to a problem gambler to gamble if they for example had exceeded limits a certain number of times in the previous X number of months or whatever. There need to be some protocols.

MR BANKS: I just had one other question, and that related to accreditation of counsellors. I think your concern that a national arrangement would impose sort of an undue uniformity, etcetera and maybe cause some red tape burdens, etcetera. I thought I'd just ask you how you thought the way forward should be in relation to accreditation and indeed training of counsellors and how it should be organised. Do you have some views on that?

MR HENLEY (UCA): I think our main concern, and this has been picked up by

the commission's report on community service organisations, is that when we get a whole range of different programs provided by often the one service, and each service having different standards, different accreditation requirements, different data, collection requirements. So we're pretty keen to see as community services some better integration of accreditation and reporting and accountability systems. So we're not opposed in any way to the accountability measure, and in fact welcome it.

How to best proceed? Probably setting some minimum national standards which set the bar reasonably high and having the capacity for those standards to be linked in or consistent with other services offered, whether it's financial counselling or child support or whatever, so it's about common standards which can be applied and which set high standards but which can be applied with flexibility in the reporting and application process under jurisdiction and even a program basis.

MR BANKS: Thank you very much. We appreciate that. We will just break for a minute, please, before our next participants.

MR BANKS: Our next participants this morning are from the RSL and Services Clubs Association. Welcome to the hearings. Could I ask you, please, to give your names and your positions.

MR MILLER: My name is Bryn Miller, I'm the chairman of the RSL and Services Association.

MR CARROLL (RSCA): Graeme Carroll, CEO of the RSL and Services Clubs Association.

REAR ADMIRAL DOOLAN: Rear Admiral Ken Doolan, national president of the RSL League of Australia.

MR BANKS: Thank you very much for attending today and also for the earlier submission that you provided and some indication of the points that you wanted to raise. But I'll give you the opportunity to make those now.

MR CARROLL (RSCA): Thank you. Look, I'll lead off with a relatively brief opening statement and then we can move on to questions from there.

MR BANKS: Thank you.

MR CARROLL: I should say that the association welcomes the opportunity to respond to the Productivity Commission's draft report on gambling prior to the final report in February. We believe that the commission appears not to have addressed adequately the economic impacts of some of its recommendations and contribution of the industry to community development activity. RSL and Services Clubs, because of their history, offer a unique contribution to the fabric of the club industry.

They are steeped in the traditions of the ANZAC spirit, which are central to Australian society, the values of which are continually referred to, and used by people from all walks of life, from politicians to sporting teams. They also oversee several important community projects, which, if some of the proposed recommendations were implemented, would be under threat of funding cutbacks or could be lost forever. I will allow the national president of the RSL to expand on those issues.

From our point of view, these clubs deserve to maintain their unique place in Australian society and culture. There is an RSL and Services Club in almost every major city and town in New South Wales offering a range of quite sophisticated amenities for members, including food and beverage, entertainment, social/sporting clubs, snooker facilities, 10 pin bowling, fitness centres, swimming pools, golf

courses, bowling greens and aged care, in addition to gaming.

RSL and Services Clubs in addition to nurturing projects at a local level join together in several major corporate social responsibility projects, such as the Kokoda Youth Leadership Challenge, Operation CARE, the Gallipoli Scholarship and Gallipoli Art Prize. These projects provide immeasurable intangible benefits to their local communities and the people of New South Wales and serve as a reminder of the sacrifices of Australian troops in wartime and the strong culture which is recognised every year on Anzac Day.

Clubs are run for the benefit of club members and are not-for-profit entities which have been granted the right by successive governments to legally-operate community based gaming. It is a generally accepted principle by government and many members of the community that registered clubs play a vital role in providing infrastructure for sporting, social and recreational activities, amenities which are often considered unviable or unsustainable if they are provided for on a true economic basis of return on cost.

On that basis, if these amenities were not provided by clubs they would be beyond the ability of governments to provide. The recent IPART report into the New South Wales club industry estimated that based on the direct cash and in-kind contributions the value of clubs to social infrastructure in New South Wales in 2007 was \$811 million. This did not include the indirect or intangible contributions made by clubs which IPART said was difficult to quantify consistently and reliably but is nonetheless important.

One major role of an objective of RSL and Services Clubs is contribution to veteran welfare and it's estimated that the value of in-kind and cash contributions to those activities in New South Wales is around about \$6 million annually across the 274 RSL and Services Clubs in the state. However, a number of the recommendations in the draft report appear to ignore the major community benefits provided by clubs in favour of more commercial operations, such as casinos and online gambling. What is disturbing is that the report gives a strong impression that problem gambling only seems to exist in clubs and hotels.

We believe that the report is far from definitive in its findings, lacking sufficient empirical evidence and seemingly contradicting its own views. If the commission's objective is to reduce problem gambling, the association believes its recommendations should be equally applied across the entire gambling industry. Simply because someone is a high roller or an international visitor does not mean they are not a problem gambler.

The recommendations also appear biased against poker machines, compared to

other forms of gambling. The point is exemplified by the commission in its overview that leads with the heading, A Focus on Pokies - where most harm arises. Yet the fast-growing online gambling is breeding a potentially new form of problem gambler who can bet on a plethora of sports and other forms of gambling in total anonymity and with no controls and be potentially under-age.

The commission has taken a view this form of commercialised gambling should be liberalised in deference to gaming in clubs which provide substantial benefits to their local communities. While the association strongly supports harm minimisation measures to protect problem gamblers, it needs to remember that a vast percentage of members and visitors to clubs gamble recreationally for its entertainment value and do so responsibly.

The commission and governments in general need to reinstall the notion of people taking responsibility for their own actions, as is the case with several recent High Court decisions, and not throttle down the rights of the vast majority. No-one denies that we need to protect problem gamblers. However, as is the case with various other government policy, the fact that the vast majority of the population has to suffer for the transgressions of the few is a notion that is wearing thin with the general public. We believe the commission has to strike the right balance of harm minimisation against infringing on the basic rights of the general population.

The association welcomes recommendations which build on the counselling and treatment support services already available and gambling research and education such as the greater emphasis on counselling and treatment support services and establishment of a national centre for gambling policy research and evaluation funded by the government. Problem gambling prevalence rates have halved in the past 10 years and there is every reason to believe that those rates will continue to fall. A number of the recommendations however, appear more designed to impact on the enjoyment of the vast majority while seriously impacting on the viability of many community based clubs.

It is on this basis that the association proposes to the commission that a number of its recommendations focusing on precommitment, ATM limits, \$1 maximum bets, cash and input credits and extended shutdowns be actually referred to and be properly researched by that proposed national body to determine their validity and whether they should be adopted. Such an independent body comprised of all the various stakeholders could properly evaluate these harm minimisation measures rather than governments adopt the commission's draft recommendations which even it concedes in some instances could have questionable benefits. The impact of those measures on the industry could also be properly assessed under those circumstances.

The commission has recognised in its draft report that a number of past harm

minimisation strategies were to the detriment of the industry and provided little or no impact on problem gambling. Clearly, we do not want to go down the same track again. Simply because a policy has been implemented in one jurisdiction does not mean that it is working and should be extended wider. From our perspective we need to adopt strategies that protect our unique clubs which nurture and protect the values of which this country is so proud and which underpin the Australian culture.

MR BANKS: Good.

MR CARROLL (RSCA): Thank you.

MR BANKS: Thank you very much. Any further comments to add to that? Thank you. Well, of course, you know, I disagree with your proposition that the commission has not tried to get a balance between the minority and the majority. A lot of our report is really predicated on trying to find that balance and obviously you disagree with that. But any further information you have specifically about the areas where you think we got that balance wrong or where you think further research by an independent body that we propose, you know, would be helpful. The other point I would make is that we are obviously an independent body and we have statutory independence that would exceed potentially that proposed for a research institute, particularly one that encompassed all stakeholders with just not the kind of independence that the commission has formally under statute.

Perhaps just to come back to your opening remarks which I think are important. You said that your association, the RSL clubs, have a unique role. I might just get you to talk a little bit more about that. I mean clearly in relation to veterans' welfare and that of their families that's a very important social role that your organisation holds. But I might just get you to comment on whether you think that uniqueness relates to your position relative to other clubs and how that in turn may relate to hotels, particularly in the context of what that means for public policy in relation to gaming. In other words, whether you are in a position that would warrant a differential approach relative to say other clubs or indeed hotels. So a little bit about the uniqueness of the role you offer, how that may differ with clubs, particularly hotels, and then what that might mean for regulation.

MR DOOLAN (RSCA): Perhaps, chairman, I can pick up on that and refer you back to - the commission back to the beginnings of the Returned and Services League 93 years ago and the four principles under which it was established which remain to this day. Two of them I don't need to further address before you this morning and they are, of course, commemoration of the war dead and the maintenance of a strong defence force. But the other two are very important and go right to the core of what we're talking about. Those are looking after the veterans and more particularly the wider veteran community and the welfare provided to

them. The second thing, the fourth of the main aims, is providing welfare for the broader Australian community. It is the funds that are generated by many ways by the Returned and Services League of Australia through the state branches and through the sub-branches that are provided for these two things. Underlying that are two key words: care and responsibility.

Let me just go to care first, because that was what the diggers of the First World War and those who fought in subsequent wars are all about. It's about caring for your mates, it's about providing welfare for those who are down on their luck, it's about providing for welfare in the broader sense to their families and to their dependents. The moneys that are generated come from a variety of sources. They come - state of Queensland, for example, from an art union the RSL has been privileged to run up there for a very long period of time. They come, in Victoria, from the licensed sub-branches which have been provided - under state law down there as you're well aware for some period of time. So the picture across Australia varies. But the picture is of about 1400-plus sub-branches literally in almost every hamlet and village across the country.

What do they do? Well, let's take a few examples of the sorts of things that they do. They provide on a daily, sometimes weekly, sometimes monthly basis, welfare for the local community in terms of buses that brought to old and aged people's homes provided by volunteers and by the funds that the RSL generates; buses that then takes those folk to the local RSL club. Why do they go there? They go there for two reasons. Principally one is because it's safe. There are three reasons: one because it's safe, one because they are cared for and the third reason, of course, is because we're able to provide folk like that with the support that they otherwise would not get.

MR BANKS: Would many of those people go to the RSL clubs to gamble?

MR DOOLAN (RSCA): Some will undoubtedly gamble. I can speak personally for my deceased mother who, during the latter part of her life, when she was in a hostel was picked up on a reasonably regular basis and she would be taken with her friends from the hostel in which she was living and they would go to that club and yes, my mother would occasionally have, as she would call it, a slight flutter. She would enjoy the occasion. She was safe, she was secure. That applies right across the country. So at that end of the scale the Returned and Services League does a great deal for the aged community. I'm sure the commission is well aware that the Returned and Services League does in RSL Care. In other words, the funds that are generated by the various means they are generated, and they include poppy days and that sort of thing of course, are also fed into many of the old age homes which RSL Care runs in just about every state and territory of the Commonwealth. So those funds are used for the care of people.

But let me turn to another aspect of where funds are generated. The commission will recall the tragic bushfires of Victoria earlier on this year. \$400,000 was actually raised by the Returned and Services League to a fund which was set up by the state branch president of Victoria and those funds were then disbursed not just to RSL dependents but indeed to the broader community. That's just typical of the sort of work that is done. Let me give you a few more - - -

MR BANKS: Sorry, could I just ask there though, because you obviously have diverse sources of funds.

MR DOOLAN (RSCA): Yes.

MR BANKS: But what proportion roughly or what range of revenue would come from gaming machines as opposed to other sources of funds including the lotteries and so on?

MR DOOLAN (RSCA): I can't answer that specific question and the reason I can't answer it is simply because each of the state branches is a separate business entity and each of the sub-branches is a separate business entity. So what we depend upon nationally for these big national things is donations from them.

MR BANKS: Yes.

MR DOOLAN (RSCA): I have no authority as the national president to seek or to be provided with the fiscal details. I have responsibility only for the national business.

MR BANKS: But clearly - I mean you're saying that our recommendations would impact very adversely on the revenue of the clubs, so you must have some idea of what proportion of the revenue of the clubs comes from - - -

MR DOOLAN (RSCA): I'm afraid that I'm unable to give you that but one of my colleagues may be able to.

MR MILLER (RSCA): I'm at a loss to give you the exact figure or percentages. I can reiterate what Ken has just spoken about in the aspect of care and responsibility. Every RSL sub-branch throughout the state of New South Wales has a welfare officer; welfare officers' duties are to visit the sick, the ill and people in nursing homes. It's a very unique aspect because when the registered clubs kicked off a lot of clubs used to offer it. In most other clubs it is - most other form of clubs that type of facility has now gone. RSLs traditionally still keep that up. In some of the examples - like I also work for a club in Sydney, western suburbs, of Merrylands RSL. We

have various activities for people and senior citizens, for instance. We have 2000 of those each month attend Morning Melodies. It's an area where they can - - -

MR FITZGERALD: I don't want to cut you short about the benefits but there seems to me to be a problem, and that is this: the commission has never queried those benefits nor the value the clubs offer; the quantity you can argue. Indeed, the community provides extraordinary tax concessions for you to be able to achieve that: income tax exemptions, mutuality of income and concessional rates for gaming in most jurisdictions. So the community acknowledges that and we've acknowledged the benefits. But if your values are as they are, and we would respect those, surely you would not want a business model where a sizeable percentage of your income is coming from those that suffer problem gambling. So the question is not about the benefits, we're not attacking the clubs. It's about the source of revenue and that portion of revenue that comes from those experiencing problems. Of all the organisations we would think your organisation, given its commitment to care and responsibility, would be most concerned that your revenue does not come from that source. Now, of all the figures, whatever they are, and we know that people dispute our figures - we know that a sizeable portion of EGM revenue comes from that source. So I was wondering what's your response to that?

The second thing is you put about personal responsibility. Again, our precommitment arrangement gives back to the individual that responsibility, the ability to set limits and what have you. I'm surprised you are not supportive of that, because that exactly goes to the ability of consumers to be able to set limits to control their own behaviour in a way that would apply universally, not to the disadvantage of clubs or necessarily to their advantage. I was wondering whether you could deal with that proposition because it's not about the community benefit, it's about the source of revenue attached to those that experience problems.

MR MILLER (RSCA): I think you may have a feeling that we don't care for all people and I would like to say that we do care. As an example of the club that I work for we do have a system, a BetSafe model for counselling and for helping people with problem gambling. We admit there's problem gambling. That system in a club where I work in western Sydney deals with - say for self-exclusion aspects, 35 to 40 people a year exercise that restraint. We do have all our staff trained. Every member of the staff that work on the floor are trained in a basic counselling aspect of recognising problem gambling. They know what to do. They know who to contact. If a person does suffer a problem under the BetSafe model they pick up a telephone 24-7, any day of the week, and they speak to a human person. They don't speak, in some cases, to a message and leave a recorded response.

MR FITZGERALD: Sure. But would you agree that whilst we acknowledge that and the report says that there has been significant improvement by clubs and other

organisations in terms of counselling and training of staff, and we have acknowledged that explicitly, perhaps the time has come to also look at some mechanisms that enable people to reduce the harm actually occurring. Again, precommitment, capping of bet limits, maybe reducing cash limits, are ways of actually reducing the harm before it occurs. Why would that not be part of a continuum of measures, including all the measures that you have indicated which we have fully acknowledged and supported in this report. We've been praiseworthy of the industry in those areas.

MR CARROLL (RSCA): Can I say that, look, clubs are based on membership as opposed to a number of other venues in the gambling arena. As such, we're out there to protect every one of our members. If we don't, we lose them. The model is based on that membership. If you look at some of these - I mean in terms of precommitment people already do have the ability to be able to limit their daily spending with limits they can apply personally on credit cards. We're not saying that there should not be other means of reining in that problem gambling issue.

But from our perspective we see that there has been not enough empirical evidence to look at both sides of the equation. If you take the \$1 limit, for instance, some figures that I was given yesterday, and I will include some more detail in our final report, show that in that 50 percentile number of clubs - take out the top 25 and the bottom 25 - the estimated loss in revenue at the best end is maybe 15 to 20 per cent and at the top end 40 to 45 per cent. Now, if that - - -

MR BANKS: Sorry, can I just confirm, that's a loss in revenue - - -

MR CARROLL (RSCA): In revenue.

MR BANKS: - - - consequent to - - -

MR CARROLL (RSCA): Consequence of the \$1 bet limit.

MR BANKS: That indicates a very, very substantial proportion of revenue coming from gaming, if one provision like that could have a 30 to 50 per cent impact on the bottom line.

MR CARROLL (RSCA): That's our best and worst-case scenario and we need to - you know, we'll include all those figures in there for you. But that's the sort of effect it's going to have, and the flow-on effect is the loss of revenue that the clubs can provide for our sort of services like veteran welfare, the other community services that we provide. We need to get the balance between the - - -

MR FITZGERALD: Yes, but can I just make the comment: that means that you

have different figures from us which indicates that over 80 per cent of gamblers do in fact already spend less than \$1 per button push. Now, if our figures are wrong I'd be very pleased to see that. But you're assuming that already the vast majority of your patrons push more than \$1 per button push. Now, we'd be interested in that evidence because the evidence seems to us to be completely contrary to that. Secondly, it would indicate to us - as we already do know that problem gamblers are more likely to be those that will in fact push the higher limits, button limits. So again, if you've got evidence to indicate that that's not so we'd welcome it; because to take the point is our recommendations are based on the best available evidence that we have which would indicate most recreational gamblers would be unaffected by a \$1 limit. Secondly, those that bid higher than that are more likely to be at risk of or problem gamblers. If your evidence is contrary to that then we'd welcome it. But the assertion that our effect would have that impact assumes that there is a vastly different set of information or data out there than we have ever seen.

MR CARROLL (RSCA): It depends largely on the configuration of the gaming floors in the different venues.

MR FITZGERALD: Sure.

MR CARROLL (RSCA): Some of the smaller venues would be far - - -

MR FITZGERALD: But the other point too is governments have already acted on this. Governments have \$10 bet limits, \$5 bet limits, \$2 bet limits. Which of those is right? You've had those for 10 years. What's the evidence in your own clubs that one - because they're differential in different states. So on your evidence which is in fact better? Which one has reduced problem gambling? Or are you saying that none of them have worked? I mean what - based on the evidence what are you seeing in the RSL clubs? Because as you say you're concerned about the patrons, we accept that. You've now had a - you've had that experimentation across the states. We would be seeing a pattern by now, wouldn't we, or are we actually saying that all of the regulations around that either don't work or you don't believe that there's a legitimate reason for them?

MR MILLER (RSCA): I think it's very hard to say what works as far as a limit goes. It's very hard to impose that limit. People have individual choices and to a pensioner a dollar bet could be very, very expensive. To a successful business person \$10 mightn't be a problem.

MR BANKS: But even a dollar bet at maximum intensity translates to about \$1200 or something per hour. So a spend per hour - - -

MR MILLER (RSCA): But it's choices and people like the flexibility of choice. I

don't know of too many - - -

MR BANKS: Yes, but I think that's what my colleague is saying. If you look at the choices that people exercise as indicated through the empirical evidence, most people choose to spend a dollar or less. So against the test that you rightly put to us that we should be addressing those who have got the problem but not detracting from the pleasure to the average patron of your clubs, we felt that - that test. Now, if you disagree, that's fine. But further information in your submission as to why we've got that ratio wrong would be very helpful to us and indeed, you know, for some of the other recommendations we have as well. We're not putting all the onus on you obviously, others will provide information and the national clubs body will also be doing that. We'll hear from them later this morning.

MS SYLVAN: Can we come - the machine changes seem to be of particular concern from what you've said in terms of effect on your revenue. The precommitment system - just assume for the moment that no machine changes but there is a precommitment system in place which allows people to take personal responsibility by setting either a time limit on their playing so they don't forget the children, you know, and picking them up if they get involved in gambling or sets a limit on what they want to spend that day or that week. Can I just get clear, really, where you would sit on something like a precommitment system which may be technologically very easy to do, and that's something we need to further investigate but there's some evidence coming forward in relation to that. Would that support what you would want to see your particular members doing, which is taking responsibility themselves?

MR MILLER (RSCA): I think a precommitment has a lot of benefit or scope but it depends on conditions and laws and rules and regulations that could be applied to it. I think a precommitment, if a gambler can ascertain what they want to do, how much they want to put and regularly review it I think is a very sensible aspect because they can see at the end of the month what they have gambled or what their losses have been. I think there is some sense to it. But I think also representing all the RSL clubs I think some of the smaller clubs are going to struggle to be able to fund that and to provide that facility. There are a number of RSL clubs every year folding or having to amalgamate to try and survive.

MR FITZGERALD: Can I ask this question, you would have heard us ask this of the last participants, we acknowledge there are costs and people will tell us whether the costs we've got are right or not. One of the issues that has been raised with us is there should be some differential treatment for venues that have very small numbers of machines, 10 or less. Again, on the information you have, is there a threshold? Are small clubs with machines of 10 or less or whatever the number - do they need to be treated differentially either in terms of the recommendations we've made or the

timetable for their implementation because of those costs, as distinct from the principle itself. I'm very pleased that you agree that precommitment to some degree might have some merits. But we are very conscious of the cost, so is there a difference between the very small - the clubs that have very small numbers of machines vis-a-vis the rest that we should be taking into account?

MR MILLER (RSCA): Definitely. I mean if you go to country New South Wales there are generally three clubs in small country towns and they can't sustain the three of them and they are looking at amalgamating or closing a number of them and keeping some. But, you know, you talk about small populations in village-type aspects like Molong in central New South Wales, very, very small. It's a very fine line between survival and going under. So additional costs - some of them can't even afford to belong to our association and we make membership free for them because of that aspect.

MR DOOLAN (RSCA): The other point on that aspect - the other point, if I may jump in there is not to discount or forget the value of the volunteer, and the RSL runs very largely on volunteers. The national executive of the RSL, for example, is comprised entirely of volunteers and that runs right throughout the community. These smaller clubs have - you're asking - well, we ask an enormous amount of our volunteers to do this, to gather statistics and all the rest of it. But what we really do ask them - and I go back to those two words I used before, care and responsibility. That's what they do, they do it of their own volition and having extra regulation imposed on top of them when they think they're already doing a good job is a psychological problem and may well be the final straw that breaks the camel's back of those many volunteers. We estimate, and I have some figures for Victoria, that the costs - the overall value to the community in one year of what they volunteer is \$26 million. That's a lot of money.

MR CARROLL (RSCA): Even in the last 18 months in the current economic climate we've lost about 18 clubs, 20 clubs through amalgamations or actual closures. So there's already some pain out there and you have an RSL sub-branch attached to every one of those clubs doing its work in the community and also working with the club to provide those facilities and those Anzac traditions that are in those towns and seen clearly on Anzac Day, Remembrance Day and all those other commemorative days. If a club goes under, the town loses those traditions.

MR BANKS: No, we're very conscious of that and I think as Robert indicated at the outset I mean in the case of clubs and associations such as your own, it's a matter of balancing the good works that you do against the potential for harm to the community that come through the problem gambling side of things and trying to get that balance right. I can assure you that that's a balance that we're grappling with. Certainly welcome any further comment that you have to us in your written

submission where you think we've got the balance wrong or you think the evidence is lacking and so on. So that would be very helpful.

MR CARROLL (RSCA): That's why we've sort of taken this slightly different approach, this constructive approach, to say well, we don't think that there's enough evidence there in what has been presented so far and it needs to be properly evaluated by that research body that has been proposed.

MR BANKS: Yes.

MR CARROLL (RSCA): We feel that in doing that we will get the right answers, rather than making knee jerk reactions to the current recommendations.

MR FITZGERALD: Sure. But can I just - we're out of time, I know, but just the last one about your Internet position or the your position in relation to our recommendation about that. We understand that there are very diverse views and strong views around this recommendation but I just want to link it to personal responsibility. You've urged us to reinstall the notion of personal responsibility. In that light, why would it not be also your contention that I would be able to make a decision to gamble on the Internet with appropriate safeguards? Again, ours is not an open slather. It has actually got all of the harm minimisation measures plus built into that. But again, if you believe that personal responsibility is important, and most of us do, why would it not be consistent then to say that I should be able to gamble on the Internet with the harm minimisation measures in place? Because logically, taking to your point, I should be able to do so.

MR CARROLL (RSCA): The issue with problem gamblers, I think as we all know, is anonymity. Gambling on the Internet allows that totally. It is a free and open rein. If the objective of this inquiry is to rein in problem gambling, there's enough evidence out there to suggest, I think, that the Internet poses some serious risks to people, particularly under-aged people getting access to those sorts of activities. We believe that if you're going to apply rules to clubs and hotels and everyone else they need to be applied evenly. There needs to be a level playing field. You just can't simply let one form of gambling which has the potential to skyrocket out - and when you look at Australians' computer use and interactivity on the Internet, that's doubled in the last six or seven years, you can see that there's a lot of potential there for these sort of things to get totally out of control.

MR BANKS: I guess one of the things we're grappling within the report is the sort of perverse circumstance in which banning Internet use or Internet provision in Australia has led to Australians using Internet sites overseas where they have none of the protections that you would obviously value in other gambling forms. So that's the issue, and I guess our response to that was a more pragmatic one that it might be

better to actually have a managed liberalisation process in which those protections can be put in place and hopefully Australians would use those sites. But there are trade-offs and again we're trying to get a sense of what the correct balance is.

MR CARROLL (RSCA): I mean already - I mean we - clubs and hotels can't advertise their gambling in New South Wales but there's a host of advertising on TV sports programs urging people to go onto the Net and bet and getting up-start limits et cetera. So there's no level playing field there at the moment and there's evidence to suggest it is growing rapidly.

MR BANKS: Okay, all right. Well, thank you very much. We appreciate that and look forward to whatever further information you can provide to us.

MR CARROLL (RSCA): Thank you.

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

MR BANKS: We will resume now, please, ladies and gentlemen. Our next participants are Dr Charles Livingstone and Richard Woolley. Welcome to the hearings. Could I get you please just to confirm your names and to indicate the capacity in which you're appearing today, please.

DR LIVINGSTONE: Yes, my name is Charles Livingstone, I'm senior lecturer and deputy head of department at the Department of Health Social Science at Monash University, although I appear in a personal capacity.

MR BANKS: Thank you.

DR WOOLLEY: I'm Dr Richard Woolley, I'm a post-doctoral research fellow at the Centre for Industry and Innovation Studies at the University of Western Sydney, and I'm also appearing in a personal capacity.

MR BANKS: Thank you very much. Thank you for attending today and also for the earlier submissions that we have received from you, three I think. Obviously we have had access to other writings and work that you've done. As indicated, I will give you the opportunity to make the key points you want to make, and we can have some discussion around those. Thank you.

DR WOOLLEY: Thanks. We'd like to say that we welcome the commission's draft report and commend its approach. In particular, we support the report's emphasis on the highest risk gambling forms, particularly poker machine gambling, and on addressing the thinking towards the regular users of these products in particular. We just propose to make quite brief remarks. I'm going to speak quite directly to the proposed reforms in relation to poker machine technology, and then Charles will address some more broad issues.

In relation to the suggestions, the draft recommendations the commission has made in relation to the reduction of harm from problem gambling but with an attempt to seek a balance to not unduly disturb the amenity of recreational gamblers, in our opinion the commission has found a very good balance in relation to these key challenges and we support the idea the commission has taken up to back material change as a way of leading towards behavioural change and to include that in a balanced strategy which also relies on personal responsibility on the behalf of gamblers at the same time.

We do acknowledge, and I think the commission makes a very important point, and point out that meaningful material change will inevitably lead to some reduction in revenues, at least in the short run and that this may lead to some negative financial consequences for some stakeholders, and this should not be overlooked. However,

although this challenge is one that requires ingenuity and effort, we do believe it is a different challenge to that of reducing harm from problem gambling, particularly harm from problem gambling emanating from poker machines.

The remainder of my remarks will be to the measures the commission has proposed. I would also like to make a brief comment about gaming machine technology itself and its future trajectory. In our opinion, the Productivity Commission makes the very crucial point that most recreational gamblers gamble at relatively low intensity levels and that the parameters of the system have to date been set at levels that allow gambling consumption to far exceed the level required for recreation and entertainment and to provide the scope for accelerated financial harm. I won't go in detail to the commission's recommendations, other than to say that we support both harm-reduction measures, the reduction of maximum bet per game cycle to \$1 and the reduction of the maximum amount of money that can be loaded into poker machines to \$20.

However, on a slightly critical note, the draft report does make a statement regarding the changes to parameter values, that there could be scope to repeal these arrangements if the introduction of precommitment has its intended effects. In our opinion, this is a relatively dangerous statement in fact, as it could undermine the ideal of a balance between safe consumer products and the minimisation of harm from gambling consumption as part of a balanced strategy which also relies on personal responsibility and precommitment. It offers the return to a one-sided reliance on controlling individual behaviour, which would undoubtedly reduce the effectiveness of the reform measures proposed overall and may in fact increase incentives to set precommitment levels that do not effectively prevent individual harm.

Individuals, we believe, should be able to use the available technologies, however they may be configured, in terms of precommitment, to control their expenditure levels within a relatively safe context, not an excessively risky one. I think, having identified the current context as containing excessive risk, particularly of financial harm, it is dangerous to propose going back on that, even if precommitment is universally introduced. On the matter of universal precommitment, we think the draft recommendation 74 sets out a very sound position on precommitment.

However, as you can probably guess from my preceding remarks, this recommendation is also compromised slightly by the inclusion of the option to opt out. Clearly a voluntary precommitment system would be far less effective than a simple across-the-board solution and patchy implementation would also render the evaluation of such a system virtually impossible. I think the data and the available knowledge that could be built from a universal system would be invaluable and able

to give us clear insight into the effectiveness of the proposed measures, but this would be reduced should the implementation not be universal.

As I have just described, precommitment should not be viewed as an alternative to reduction in the opportunity for excessive consumption. neither should it be viewed as a casual commitment in relation to high-intensity poker machine gambling; rather, precommitment should remain a concurrent strategy to enable gamblers to set expenditure levels within a context of reduced risk of excessive consumption. In comparison to where we currently stand, this is what is currently proposed by the measures of the draft report.

In relation to opting out, therefore, I think opting out should only be understood in terms of people who don't in effect almost opt in. So those who, as the commission describes, want to play very low-intensity gambling gaming machines should have that right. But these machines would have to be of demonstrably low intensity and of negligible risk and you would be otherwise unable to gamble on high-intensity gaming. As I mentioned, I'd like to make a brief comment on future gaming technology, because I think this is a little bit overlooked, shall we say, in the draft report.

The draft report does note that technology is increasingly viewed as part of the solution to problem gambling and integral to harm reduction strategies, and I think this is exactly correct; and, as I have suggested, material change is indeed the most effective way to lead towards safe products and a sustainable consumption of poker machine gambling entertainment. To this end, I think it would be appropriate for the gaming machine national standard to include as one of its core aims of principles the idea of design for safe consumption so that the development design and implementation of popular safe products remains a core objective, as it should be for any entertainment industry.

Industry expertise would be the leader here. Aristocrat and other gaming machine manufacturers have experience of regulatory change in the Japanese market around essentially the issue of reducing harm but retaining entertainment. A wholly owned subsidiary of Aristocrat, ACE Interactive, has been very successful in entering the market for server base gaming in Norway. As the commission is aware, Norway is a jurisdiction in which preregistration, access cards, limits on expenditure are already in play.

In conclusion, for my own part I would like the commission to also consider recommending a somewhat more deep strategy, I guess, towards the technological innovation in the poker machine sector; a uniform national strategy which actually deals with some of the issues with which the industry has to grapple, in terms of the variation between states and territory expectations at the moment; and that this

deeper strategy could lead towards an underlying game structure, operational requirements, etcetera, that would in itself provide a dynamic towards safe and sustainable consumption.

MR BANKS: Thank you. I'm sure we have got a few questions. But it might be more efficient to allow you to proceed, and then we'll ask them from there.

DR LIVINGSTONE: Thank you. Yes, look, I'll be as quick as I can. I note the time. I just want to make a few general points around issues of public health primarily. The first one of those is the relationship between problem gambling and harm. They're not the same thing. There are people who clearly have problems with their gambling and they experience considerable harm, perhaps most of the harm - probably not most of the harm but a lot of the harm that's associated with gambling is clearly the consequence of people who have a well-defined gambling problem. But the instruments to measure gambling problems are not particularly precise, as you've said in the report, and there's a lot of fluctuation in how we decide at what point someone is a problem gambler. In some jurisdictions a CPGI score of 8 or more defines problem gambling. In other jurisdictions a CPGI score of 3 or more is regarded as emblematic of a problem.

So these issues are very big and important issues but I think the commission is absolutely right to sort of put those sorts of issues to one side and focus on the harm reduction mechanisms which are available because if you think of public health 101 and a standard distribution then most of the harm is experienced by people gambling at moderately low levels of intensity. So if you can actually bring down the opportunity for people to have occasional binges, if you like - even though they may not score particularly high on a problem gambling score they're actually experiencing harm. So in the aggregate the harm in that community will be substantially reduced.

I think that's an important consideration that we need to carry forward. It's not just about those people who we can clearly label as problem gamblers. It's about reducing the harm-creating capacity of the system and pulling it back into line with what you expect the community would regard as a reasonable standard. What the commission has done, in my view, is to sort of address that fair and square and it's an excellent set of recommendations that address that sort of harm-reduction system. In fact, it's almost like classic harm reduction from any of the other areas where harm reduction has been applied in the recent past, we would argue.

The second point I want to talk about is dependency. Now, you know, the commission, I think, noted varying levels of dependency within the various players in the gambling industry and I think we've seen some examples of that again here today. Clearly that dependency has given rise in some cases to very strong feelings of resistance that we can't actually change anything because it will bring about a lot

of adverse consequences to many significant players; these include clubs, presumably hotels also. Many of the submissions that I note on the commission's web site are from community organisations who have some level of dependency on gambling revenue, whether it's from a club or from their own operations of machines or whatever.

But the theme across them seems to be if we lose the capacity to operate machines at these levels then somehow we're all going to go broke. That may well be so. Certainly there's no doubt that there will be a revenue loss associated with some of the commission's recommendations. I think that's probably inevitable. But these issues also may not be that easy to resolve, particularly in the case of some of the clubs in New South Wales where levels of gambling revenue dependency are extremely high. I think some of the clubs have levels as high as 85 per cent or higher. Now, clearly if they lose a significant proportion or even a moderate proportion of that revenue their capacity to continue operating as they wish will be adversely affected.

So what I'm suggesting here is that although the commission has certainly looked at this area I do think there are particularly three key areas where we need to think through what the transition will involve and how we go about doing it. The first thing I think we need to do is actually get some good independent research into what the costs actually would be to government particularly, to the club sector and to the charitable sector. Those, I think, are the three key areas where the commission's reforms do have some potential to cause adverse effects, at least in the short to medium term.

Now, I don't think these are insoluble problems either. I actually think we can work through them. I think the things that the clubs do if they're worth doing - and many of them are, there's no doubt about that - what the charitable sector does relying on gambling revenue is in many cases extremely important. Of course government gets a hefty size of its own tax revenue declining over time but nonetheless in Victoria's case still a billion dollars a year, which is a not insignificant sum. We have to work out how we replace that or at least that part of it which is likely to be lost. So I think some research into that and to providing guidance and assistance to these sectors to make the transition is probably an important area of consideration.

MR BANKS: Could I just say quickly there because I mean the tax issue arises. You're aware that there's the Henry tax review at the moment - - -

DR LIVINGSTONE: Yes.

MR BANKS: - - - which is going to look at the question of tax and territory

taxation as well as Commonwealth. So that's a perfect vehicle to come up with a structure of taxation which makes sense nationally.

DR LIVINGSTONE: That's right.

MR BANKS: Your other point, I think, about the impacts on venues and the industry and so on I think is right, and we will be having some discussions with the industry about how extensive they are.

DR LIVINGSTONE: I'm simply flagging them, that's all.

MR BANKS: Yes.

DR LIVINGSTONE: Yes. Look, the other thing is I think that some of the clubs, I suspect, are a bit ethically challenged by this. Certainly I've had conversations with club managers who are very concerned about - well, for the first place pragmatically because they know that the winds of change are blowing and that they have to position themselves in the new environment. Many club managers, I think, take that view, certainly some I've spoken to strongly take that view and they're trying to position themselves as responsible gambling providers. They don't quite know how to do it but many of them, I think, want to do it and I think we need to help them to do that.

But if they want to have an ethical industry in the current context I think it's very important that they could use - you know, one advantage is that if they can introduce safe gambling environments that, to me, seems to be a marketing advantage. That if you can market to your community, say, "Here is a place you can come. You can have some harmless fun without risk of becoming a problem gambler," like so many people unfortunately have become in the recent past, then that seems to me to be something which could overcome to a certain extent - it's never going to overcome the losses which are experienced by people in the grip of a gambling problem who are pouring thousands and thousands of dollars into it but it certainly provides another marketing opportunity.

I think we perhaps have overlooked that, that there are many advantages to being able to market yourself as providing a very safe and welcoming environment to people where there is little risk, if any, of experiencing adverse consequences from a night out. Unfortunately we can't say that at the moment. Even the best-run clubs are not in a position to be able to guarantee that whereas the sort of recommendations that the commission has made would put those clubs in that position, if well managed, I think.

The other thing I want to talk about is public health. There's a lot of - public health as a concept is invoked in the gambling debate. Some of the state regimes at

the moment concentrate on what they call a public health approach. From my perspective I think a lot of these assertions are relatively hollow since they focus - what we call on downstream solutions. They treat people - obviously they have to do that. They do prevalence studies, obviously they have to do that. But that's not all you do when you do public health. Again, one of the things I think the commission has done is to identify that public health needs to go way upstream. In other words, it needs to start thinking about the regulatory environment, it needs to think about how we coordinate or how we align community expectations, the protection of the citizenry, the provision of people with the right to pursue lawful activity. Balance those things so that we minimise the amount of harm.

That requires a range of actions, as Richard calls them, material changes, which he provided, but it also needs a reorientation of policy probably at a national level and probably with national leadership to reorient policy around what we're actually trying to achieve. So when we talk about public health, rather than pathologising individuals and saying it's all a matter of individual responsibility, which unfortunately has tended to be what has happened in the past, it's imperative from a contemporary public policy or contemporary public health practice point of view that we realise that there are very many layers of action which are required to effectively address these sorts of problems. One of those - - -

MR BANKS: Just quickly on that, since you've raised that, I mean there are other members of the industry, and they will be appearing later this morning, who describe problem gamblers as irresponsible gamblers.

DR LIVINGSTONE: Irresponsible.

MR BANKS: Irresponsible and that in a sense it's their fault and they should be taking action to exclude themselves and that's really the only feasible way forward. Do you have any comment on that?

DR LIVINGSTONE: Well, if people wish to exclude themselves at the moment it's very difficult to do that in most jurisdictions in an effective way. One of the advantages of a precommitment card, particularly a universal precommitment card, is that you wouldn't be able to play a machine if you were excluded because you simply wouldn't have access to those, certainly not to the high-intensity machines which cause the most problems.

I also would argue, and this is probably not the time to have that debate, but I think there's plenty of evidence to suggest that gambling machines, for whatever cause, have a capacity to modify people's agency to a significant degree. There are many people in the community who are susceptible to that modification of their agency, their capacity to act in what an external observer would regard as a rational

way. It appears that unfortunately there are a number of people for whom gaming machines become, for want of a better term, addictive. In those circumstances I think it is very difficult to regard those people as irresponsible. They are people who have a particular preoccupation or obsession. Even ordinary people, I know many ordinary people who play machines who find themselves getting lost in the machine.

DR WOOLLEY: Can I add something there? I think it's important to remember there that the ensemble of technologies, the venue, the design, everything that is in place is not a neutral environment. It is an environment that is constructed specifically to encourage you to consume more of the product. So the rationality that we speak of I think is a bounded form of rationality that is contextualised in that environment. So the individual gambler who may have very logical plans about their budgets for this week or this month but who is a regular gambler who spends a lot of time in that environment does become immersed in a more bounded form of rationality where the logics of the game and the objectives they're pursuing in relation to their consumer activity become more important or become foregrounded, for whatever reason.

I think it's a little bit naive to suggest that in some way gambling environments are just a neutral space. I mean, they're not. They work on clients to suggest to them that they are having fun, they're having entertainment, but also that the way to prolong this is to spend more money and to spend more time. I don't think there's anything wrong with that, that's what all entertainment environments, all commercial products are about. But what we are arguing in this context I think is whether the balance cannot be maintained by some people in the context of that bounded rationality.

DR LIVINGSTONE: On that note, I don't know whether the commission has seen any of the work by Natasha Schull from MIT in the United States. She is an anthropologist who has actually done a lot of ethnographic field work in Las Vegas, including extended interviews with gaming machine designers and manufacturers. We're putting in our supplementary submission before the end of the week, so I'll attach one of her papers to it, because I think it's invaluable in getting an understanding of how the industry is focused on enticing people to spend as much time and money as they can on the devices.

My final point, if I may make it, is that in relation to gambling and children, where I think it's imperative that the precautionary principle must be applied very actively. Over the recent past, it's clear that there has been a marketing explosion, particularly in relation to sports-betting operations. In Victoria for example one goes now to the football and sees the travelling odds of the game being displayed on the screen at quarter and three-quarter time and half time, I think Betfair odds are put up there.

Of course, you know, you're sitting there with young children and they start to realise this is what it is, that it's a betting operation, and it normalises it. This is not the only way in which it's being marketed to children, I think we have seen some publicity in recent times about the way in which gaming venues market to young people and to young families, to children, free meals and all the rest of it. The AFL for example endorses a thing called a footy chip, which is a poker chip, which has the images of footy players on it; this is like the footy cards that kids still buy, they can buy them, and of course all the kids I know who buy them immediately start playing poker with them; that's clearly what the purpose is.

There are playgrounds provided at gambling venues. There's no doubt in my mind, and in the minds of others who have investigated this, that these are incentives for parents to bring their kids along, knowing that the children will be diverted. In some extreme cases, I understand, some of the clubs have provided things called Kiddie Bingo where you bring the kids, put them in a room, the kids play bingo and you go off and play the pokies, or whatever.

I think that marketing to children or marketing or advertising in environments where children or children-friendly themes are available, such as football matches and so on, should be very carefully scrutinised and, in my opinion, should be prohibited. I think there is no doubt that association with these types of activities normalises them. We know the research suggests that in most other areas exposure to excessive drinking, to smoking, etcetera will lead to problems in later life of a similar nature. They are risk factors, if you like, for these sorts of things and I think we need to be very careful about marketing to children and family products. I mean, they are potentially dangerous products in many cases. That concludes my remarks.

MR BANKS: Thank you. Could I just ask a quick question on that, and then I'll let my colleagues have a go. That reference to normalisation, you'll have seen that the Australasian Gaming Council has been quite a strong advocate of education programs within schools. Would you see that as a counterfoil to this subliminal, I guess, advertising of gambling and so on and normalisation that might occur. So any comments you had on school education programs related to gambling, I'd appreciate.

DR LIVINGSTONE: The public health literature suggests that education programs are of very limited efficacy in modifying later behaviour around what you might call dangerous consumptions. Very few have them have been properly evaluated. The ones that have, to my understanding, tend to show either a negative or in some cases an effect of inducing children to take up the activity. For example, a well-known program, which is still I think being rolled out through Victorian schools by a charitable organisation, the only time it was evaluated the only effects shown on it was that the kids who had been through the program were more likely to smoke than

those who hadn't.

So I think education campaigns look good, they make people feel that they're doing something; whether they actually achieve anything is very doubtful, certainly in other areas of public health. I don't think an education program in schools about the dangers of gambling is likely to do anything other than to encourage risk-taking kids to have a go. That's, bluntly put, what the literature would suggest.

MS SYLVAN: My question is related to that as well. It seems to be clear that awareness-raising doesn't necessarily lead to behavioural change.

DR LIVINGSTONE: Correct.

MS SYLVAN: Which is why a number of the educative campaigns in the media and so on do not work.

DR LIVINGSTONE: Correct.

MS SYLVAN: However, if one looks at that from a different perspective, it seems to me that exposure to betting, sports betting and so on, that it's going on in the community, or, let's take it to the possible, more problematic form even, exposure to parents' gambling on gaming machines, the pathways here don't seem to me to be clear at all, and added to that is the issue that there are far less problems with people playing poker for example than people playing on gaming machines, on all of the evidence. So we concentrated on the gaming machines and not the sort of context in the society in relation to acceptance or not of forms of betting. So I wonder how much one can push the precautionary approach in relation to children seeing sport betting going on and so on, because it doesn't seem to me that it necessarily leads anywhere at all in terms of problematic gambling behaviour.

DR LIVINGSTONE: Certainly from other areas of public health, exposure to parental smoking, exposure to parental excessive drinking, exposure to domestic violence are all risk factors.

MS SYLVAN: Influential people - - -

DR LIVINGSTONE: Yes, influential people. They're all risk factors for that behaviour in later life, to a significant degree, according to the literature. Do we know that about exposure to gambling? Not really. The literature is ambiguous on that, for the most part because the studies haven't been comprehensively undertaken. We're actually doing a literature review on that at the moment, and hopefully we'll get somewhere with that soon. But at the moment I can't say absolutely that that's the case. But if you abstract it from other areas of public health concern, that would

seem to be the case.

MS SYLVAN: If we can move from that, I do we know it in relation to seeing advertising for betting in a - - -

DR LIVINGSTONE: Well, my argument would be that the pathway is that exposure to gambling forms which normalises them is likely to lead to greater uptake, and if there's greater uptake then there's going to be an increase in problematic behaviour amongst those participating. That's the pathway, if you like. Is that proven? No, it's not proven. Is it something which is plausible? I think it is. Is it something we can abstract from other areas of public health? Yes, it is. I admit we have not got specific studies available which demonstrate that that's the case. But I do think in the case of children in particular the evidence at the moment is strong enough to suggest that we need to be very careful about how we legalise that form of promotional activity and the sites in which it's undertaken.

MR FITZGERALD: You have mentioned about the context within which gaming takes place. I was wondering whether you have any views as to whether or not we need to be more differential, I suppose, in our approach. Casinos have argued strongly that they should be exempted in relation to the EGMs; although we have made various exemptions in relation to high rollers and others. Hotels and clubs continue to paint a differentiated position. There's some that say that very small venues should be treated differently from slightly larger or very large venues. Given that the context within which the machine is played does matter, should we be more differential in our approach or do you believe the approach we're taking is appropriate?

DR WOOLLEY: Clearly there are precedents in other jurisdictions for taking the view that you should calibrate the technology that's available to the type of venue that it is, and in the British system having - in social venues having low-intensity gaming machines I think is a lesson that they learnt from visits to Australia seeing high-intensity gaming machines in operation in social venues. So clearly there is a distinction we can make immediately between a purpose-built gambling venue and social venues that have become the hosts of gaming.

I actually think, personally think, that the commission's approach at the moment - more for reasons of the culture of the country and the idea and the focus on personal responsibility as something that is culturally embedded, I think - I think the commission's approach to actually first of all make a personal access card a portable form of access and availability regulation, that could be, if the technology is sophisticated enough, able to differentiate in those kinds of manners. I mean the report talks about differentiating between levels of intensity of gaming machines.

There is no logical reason why if you entered a club which has fulfilled a number of criteria to be able to label itself, market itself and benchmark itself as a safe gaming venue according to requirements, whatever they might be, of a national regulator or whoever - there could be a different kind of access to gaming in those kinds of environments where the machines are known to only have a top bet of a dollar or \$2 or whatever. Whereas when you go to the casino when you insert your card into the technology there you're in a context where gaming is off the hook. If you go to Crown Casino and you go into the gaming specified areas it's quicker and faster even than we have in social venues. But you can only access that using that card and all of that data about in your play in those contexts is collected and can be monitored.

Data collected when you are in a high-intensity environment can be associated with a software package or something which then monitors, as they did trialing in Canada - monitors changes in patterns of play, increases in the amount being bet or whatever, the intensity of gambling to actually say, well - to flag someone as saying their behaviour has changed, they have entered a risky phase of play. This depends, of course, on what - sophisticated technological capabilities with the card system. But I don't see why we should aim low. I think, as I say, that this sits more comfortable with the culture of personal responsibility.

On the other hand we already have different forms of access to hotels and clubs. I mean I personally agree with what Charles said before, and I think the club sector in particular has a really ideal opportunity if they expect to lose 30 per cent of revenue - and I preface this by saying that no club or hotel that I have ever encountered said they want revenue from problem gamblers. I am sure that that is the case. Any organisation which is able to market itself as the safest way to gamble surely is going to then be able to ameliorate some of the potential losses from excluding problem gamblers from excessive financial harm. So I mean that's a convoluted way of saying yes and no.

MR FITZGERALD: That's all right.

MR BANKS: Could I ask a couple of questions? One relates to the point you just mentioned, you know, the degree to which venues are dependent on revenue from problem gamblers or people at risk. Have you looked at the work we've done in our report in terms of supporting the broad estimates, and admittedly they're ranges, about the share of industry revenue coming from problem gamblers and people at risk? If you've had a look at it I just ask if you could comment on whether you think it's useful or - - -

DR LIVINGSTONE: We think it's really useful. I mean it's difficult - it is difficult to quantify in the absence of actual player data. That's the first question. If we had a

precommitment card that was collecting this data then we'd be in a much better position to have some sense of how much of the money is coming from what proportion of the group and all the rest of it. So we could actually start tying the ends together much more neatly.

Look, in general terms what you've come up with by diverse means and by referring to the work of others including ourselves is to suggest that it is probably in the range of 40 or so per cent, I think. That's a little lower than some estimates we've made and roughly equivalent to other estimates we've made and broadly in line with the estimates from overseas in a number of other jurisdictions. Whether it's 20, 40 or 60 per cent is clearly a significant proportion which needs to be addressed. If we actually were able to squeeze out all the problem gambling from the system would that mean therefore that there would be a 40 per cent reduction in revenue? It's very hard to know, isn't it?

DR WOOLLEY: Well, personally I don't think there would be because I think there would be other benefits that would - - -

DR LIVINGSTONE: That would override it.

DR WOOLLEY: Of course there are other benefits from excluding people involved in problematic behaviour from a venue. They may well be very grateful that you have supported their ability to get out of this situation and continue to spend plenty of money in your bar, on your dance floor and all the rest of it. I don't think you necessarily lose clients by losing problem gambling.

DR LIVINGSTONE: Might lost some revenue. But look, I mean the short answer is I'm impressed by your argument and I think you're probably about right. We've made estimates that are higher, they've been subject to extended critique by many, but nonetheless we think that the range - you know, the range of 40 to 50 per cent is always what we argue is probably what it is. You've done it by various means including the more complex methods you've adopted with this thing. I'm convinced that that's probably about right. I think somewhere in the 40s is probably about right.

MR BANKS: Okay. Look, I'm conscious of the time going by. But maybe just - I think you're very well placed to comment on one last question of a more general nature as academics, and that is the role of the evidence, particularly in this area of gambling policy which is such a difficult area and a difficult area to get absolutely 100 per cent watertight evidence through the kind of double-blinded random trials and so on that are seen as the gold standard in other areas and so on. Just to get you to comment on that and in particular - I mean a line of criticism that is being used about our report - to comment on what you think the burden of proof should be and indeed any comment on the onus of proof in an area where a lot of liberalisation

occurred without not a lot of evidence, quite frankly, to precede it.

DR LIVINGSTONE: Well, I'm sure Richard has something to say on that but I just quickly say that this is an area of public policy where as you say correctly, absolute gold standard evidence is never going to be available. Therefore we must proceed, we would argue, on the basis of the best available evidence. The best available evidence all points in a particular direction. Certainly in my opinion, and think in Richard's, the evidence that you've relied upon to form the conclusions and the recommendations in the draft report is of a more than adequate standard to form those conclusions and make those recommendations. Is it absolutely perfect? Does it point like an arrow towards a direct conclusion? It never will. There will never be evidence of a standard necessary to meet this sort of - you know, the double-blind trial that you talked about. But is there plenty of evidence to suggest that we need to act and that we need to act in particular ways? I would say absolutely.

DR WOOLLEY: Yes, well, I mean the way knowledge is made and the way knowledge is used in this area is a very interesting topic and I think the commission has done an excellent job, as they did in 1999, of making the best of what is available and weighing the probabilities. As I said before, I think that the approach taken - it's clear from the approach taken that the PC is not trying to restrict the ability of gaming providers to profit from recreational poker machine gambling consumption. There is no attempt to restrict the ability to profit from non-problem gambling. There is an attempt to restrict excesses. To say that you can create an objective non-falsifiable form of evidence for that I think is probably wishing for too much; but as I say I think making a pragmatic decision based on the available evidence.

Always with these - with all of the knowledge made, all academic knowledge made, it always moves on, it always improves. I mean we often have the New South Wales study done - referred to as a gold standard. Industry often refers to that as a gold standard. But even that report, the methodology and the conclusions made from the evidence that was contained in the report there was by no means a consensus on what that report said. In fact amongst the authors themselves, if you read what they have said in the report and what they have published in academic papers later, you have grounds for saying, "Well, the interpretation of the data has evolved." That is normal academic practice and it's normal scientific practice and knowledge-making practice. I think as you can very easily use that report to suggest that change is not proven, you can also very easily use that report to support specific measures which clearly have been show to disproportionately affect problem gamblers and to assist in their situation.

DR WOOLLEY: I think finally, if I might say, in public health in particular it's necessary often to take action without all possible evidence being available. If you have something which is clearly doing harm to people, it's often necessary to get the

best available evidence and to act on that and obviously to modify one's actions as better evidence becomes available. But that is a principle which is well established in public health and has been for the last 150 years and I think this is an area where the same principle can be applied quite easily and without equivocation.

MR BANKS: Okay. Thank you very much. We'll break now for 10 minutes, please.

MR BANKS: Let's get started again, ladies and gentlemen. The next participants are from the Australian Hotels Association. Welcome to the hearings. Could I ask you please to give your names and positions.

MR McGUIRE (AHA): My name is Tom McGuire. I'm the national president of the Australian Hotels Associations.

MR WHELAN (AHA): John Whelan, I'm the director of responsible gambling.

MR HORNE (AHA): My name is Ian Horne. I'm the general manager of the Australian Hotels Association South Australian branch.

MR BANKS: Thank you very much. Thank you for attending today and also for the submission that you provided in the lead up to our discussion draft. We haven't yet had the benefit of another submission but give you the opportunity now to go through the main points you want to make and we will respond to those.

MR McGUIRE (AHA): Thanks very much. Mr Chairman, I will give some introductory remarks and then after that I will hand over to John and Ian to go through in more detail some of the things surrounding those remarks. The AHA, as most of you will probably know, represents the interests of hotels throughout Australia. These hotels range from five-star hotels with accommodation, suburban hotels, city pubs, numerous country hotels which are scattered throughout Australia. The way in which these hotels operate varies, as indeed does our customer base. As well as gaming, hotels offers a range of services, including bars and food in the typical country pub, motel-style accommodation, simple dining rooms, restaurants, function rooms, as well as an enormous choice of live entertainment.

We make a significant contribution to the Australian economy by way of employment and purchasing goods and services. As a background, when this inquiry was launched we engaged the services of PricewaterhouseCoopers to give a view or a study of the economic and social impact that we have throughout the Australian economy. That report showed that the industry employs over 188,000 people. We spend approximately \$75 million each year supporting 21,000 sporting teams, 1800 community groups and 14,000 health and educational and like organisations. We spend \$72 million a year on training our staff and just on security alone it's \$516 million. The average pub in Australia serves 1000 meals a week. The industry hosts 250 live performances of music a year. It's an interesting fact that the report showed that hotels with gaming machines were twice as likely to provide entertainment than those without. So there has been an assertion over the period that hotels have been jammed with machines and the live entertainment industry has disappeared. In fact that is factually incorrect.

MR BANKS: I think a popular rock group composed a song around that theme.

MR McGUIRE (AHA): That's right. In fact I heard it played in a casino recently which I thought was quite funny. I mention these facts by way of background, that the AHA genuinely looked forward to this commission's process of addressing the terms of reference put down by the government. In my capacity as the national president of the AHA, I had the expectation that the draft report would have addressed the terms of reference in a balanced manner using factual information. The draft report in our view does not fully address the terms of reference in detail and does give rise to serious imbalances. Mr Whelan and Mr Horne will address those issues in detail as we go.

I know that, Mr Banks, you addressed the Whitlam Institute recently where you said that these draft recommendations would have an effect on the bottom line to pubs, clubs, casinos and state governments. I would have expected that the draft report would have quantified what these falls in income would have been so that we as a sector could comment on them and possibly illustrate to you that lovely word "unintended consequences" that may follow and that is a serious issue in our part, that we don't seem to have that balance there for us to be able to comment on.

All parties won't agree with your recommendations, however, I think we've all got more than a reasonable expectation that the government will be provided with well-researched data and the costs effects of your various recommendations. That data, in our opinion, is lacking in this report. I have spent all of my life either living in hotels or working in them. It's a complex industry, it caters to a variety of personalities and when I see some of the issues raised in this draft report, I'm very concerned about the economic impacts that will result and I have some doubts about what we will finally achieve, whether we will achieve what everybody hopes that we would.

I appreciate that in your capacity you undertake a number of reports in a variety of industries and it can't be expected that you claim expertise in our particular area and it is for that reason you seek advice. So in closing my introductory address, it is probably fair to say that we feel you are lacking in four areas and we say this with respect. We want to find out how some of your recommendations will work. We want to know how those recommendations - the cost that's involved in effecting them. Will, or what are the chances of those recommendations having a successful outcome and very much importantly in our case, addressing some of the unintended consequences that are left hanging in the air? I will hand over to John now and he can go through in more detail, but thank you for your time.

MR BANKS: Good. Okay, thank you.

MR WHELAN (AHA): Thanks, Tom. We were very pleased when the announcement of the review and update of the Productivity Commission report was announced. We were particularly pleased when we saw the terms of reference that was handed to the Productivity Commission by the assistant treasurer. One area that really attracted our attention was the terms of reference number 5 which requested the Productivity Commission to report on the contribution of gambling revenue on community development activity and employment, particularly in terms of community development activity. This is an area that we are very proud of. As Tom mentioned, we engaged PricewaterhouseCoopers to undertake a review of the hotel industry. We surveyed 1100 hotels across Australia and the number that we came up with was that hotels contribute \$75 million each year to the community. We saw this terms of reference as a very straightforward request for information from the government. I would just like to ask the commissioners as to where in the report you've responded to this specific request?

MR BANKS: Well, let me indicate that in terms of doing this inquiry we were asked by the government to provide an update on the earlier one. But the context, if you read carefully, of our terms of reference allows us to focus on areas where we thought extra research would be most beneficial, and that's what we've done. So at no time, and this was signalled in the issues paper, did we intend to replicate everything in that earlier report which covered all the ground that you're talking about. Things may have changed in some respects since. But we responded to the submissions and the information we received from a whole range of people as to where we should put the main focus and the overwhelming response that we got was that the main focus should be in the area of reducing some of the social cost particularly associated with gaming machines. So admittedly a fair bit of what we've done in the report does focus on that area.

MR WHELAN (AHA): No, I understand that you certainly didn't need to replicate the 1999 report but having looked at, briefly, through the Productivity Commission Act my understanding of it is that you have an obligation to actually respond to requests made by the minister. I am not sure whether you have actually responded to that specific request in terms of industry contribution.

MR BANKS: Well, I have to say I'm very pleased - I can tell from your copy of our report that you've read the whole report - - -

MR WHELAN (AHA): Lots of tags, yes.

MR BANKS: - - - which not everybody has done. Of course we've got a lot of appendices as well. We will certainly look between the draft and the final to see any areas where we need to put more information but I should also say that to date we

have had no reaction from the government of disappointment that we haven't met their expectations in this report in response to the terms of reference we have received.

MR WHELAN (AHA): Okay. Moving on to terms of reference number 3 which deals with interrelationships with other industries such as tourism, leisure and other entertainment and retailing. The hotel industry has very important relationships with these other entertainment and hospitality-related industries. Hotels rely on local suppliers for food and - for the food they sell, we employ cleaners and plumbers and electricians and musicians. As Tom mentioned we provide tourist accommodation. We were again very keen for the Productivity Commission to respond to that term of reference that was given to them by government and again, we haven't seen any real evidence of this in the complete report that has been released.

MR BANKS: We will certainly cover in the final report all the elements that we think are necessary to inform the government about good public policy in that area. If the things that you bring to our attention are in that category we will certainly take that into account.

MR WHELAN (AHA): The first part of that terms of reference dealt with employment. Having read back through your 1999 report and now read this report, we seem to have lost 30,000 jobs in the industry. I will refer to - and I don't expect you to have the 1999 report with you right now but on page 2.15 in the 1999 report it says that:

In 1997-98 it is estimated that over 107,000 or 1 per cent of Australia's workforce were employed directly in Australia's gambling industries.

This year in your 2009 draft report you've said, and this is on page XXVII:

Around 67,000 people are directly involved in the gambling industry.

We're just at a loss to understand where those 30,000 jobs went.

MR BANKS: Well, I am too at the moment. So if you - that's exactly the kind of feedback we need.

MR WHELAN (AHA): On page 2.14 of the 2009 report you actually provide some estimates as to - with regard to industry employment, not just hotels but all industry. I'm just wondering where that data came from.

MR BANKS: Look, I think we'd save ourselves a lot of time if you would actually tell us what you think about the draft report. I mean your job here is to appear and

give us your responses to our draft report and we would ask you about those responses. Unlike most participants in this inquiry and in every other inquiry you have not provided us in advance with a submission. Now, if you did and that submission asked those kind of questions it might have been appropriate for us to allocate an extra couple of hours and we could have gone through all of that in some detail. But you didn't do that and we're not in a position to do that today. So what I'm telling you, you only have a certain amount of time - - -

MR WHELAN (AHA): Sure.

MR BANKS: - - - and I think it would be a good idea for you to raise the questions that you think are most important for us to consider in the final report.

MR McGUIRE (AHA): I take that point. But I think you've also got to take it from our industry's point of view that when we read your draft report we saw some glaring errors. The questions that came across to us was to say, "Well, how did these people make these decisions?" Now, if at every stage, and I'm not a - you do this every day of your life, I don't. But I came along today expecting that you could have said, "Well, listen, yes, we have made a mistake here." Some of the stuff is pretty good. The number of hotels you - just bring that one up. John?

MR FITZGERALD: Sorry, but can I just raise a broader issue? The 1999 report acknowledged within a band of range the economic significance of the gambling industries. We acknowledge that. We also acknowledge the social cost within a range again. If we project forward to today we would imagine that the economic contribution of the industry would have increased. We would also have expected, on just simply sheer simple exponential growth that the social cost would have increased. The report at no stage seeks to reduce the size of the industry per se, the importance or relativity of hotels versus clubs versus casinos. The report acknowledges that there is an economic contribution of the sector, and it's probably very substantial. You would also acknowledge that the social costs are equally very substantial, because they would have both gone up together in some way.

So I understand what you're saying and as Gary indicated if we feel that the terms of reference more adequately addressed then we will do so. But we're not arguing about the fact that your industry, the Australian Hotels Association and its members, are significant. We are not trying to reduce that significance. What we are dealing with is a much simpler issue - a much more complex issue but a much narrower issue: that is in relation to the revenue that's garnished from people that exhibit either problems or have at-risk - or are at risk. That's the concentration. So like a number of participants who are telling us about the benefits and the economic industry, we're not attacking that. We have been honest enough to say that some of our measures will have an effect on revenue, and you have raised that legitimately.

But you're arguing that you're insignificant. We're not arguing for a reduction in your industry. We're trying to actually deal with part of that revenue source which even you would acknowledge comes from people at risk or with problems.

MR McGUIRE (AHA): I understand your point and I agree. Where we're coming at we just have a doubt that when we see information put in a report that is patently wrong, incorrect, that that creates doubt in our minds about the veracity of some of your assumptions later on down the path. Now, that's why - we're bringing that up in a constructive fashion.

MR FITZGERALD: Sure.

MR McGUIRE (AHA): I can understand your point. We know that you know that we employ a lot of people and we've gone up and all that sort of stuff.

MR FITZGERALD: Sure.

MR McGUIRE (AHA): We're more concerned about where your recommendations are leading and have you ascertained some of the effects on our existing structure that could result. So that's where we're hoping to go without wasting your time.

MR BANKS: I don't rule out that we have made some errors, okay, but what will convince us is probably not rhetoric but a submission that points this out and provides alternative information that we can take into account in our final report. Unlike some other reviews an important part of this process, as you are now well aware, is that we do produce a draft report for public scrutiny precisely for that reason. So this is your opportunity in a proper submission, a written submission, you know, to detail chapter and verse of the things that you think are incorrect or poorly judged or where the evidence, you think, is lacking and so on and indeed, provide evidence of your own where you can and we will take all that into account. We have got until the end of February to do that.

MR McGUIRE (AHA): Sure.

MR WHELAN (AHA): We will certainly be giving you a detailed submission by Friday, which is the due date, and we will outline all these issues. Just that one point, just finishing off from that point we raised on the employment estimation. Your document estimates hotel employment at around 65,000 including 22,000 gambling staff. It appears that that figure has been derived from old ABS data which severely underestimated the actual number of hotels that are in existence and it actually conflicts with the advice that a number of state governments, New South Wales and Queensland, have given you in the submissions that they have made to you on the

actual number of hotels that have gaming facilities. So, as Tom mentioned, the concern we had was that if this overall employment number was underestimated so dramatically, likely by around half, it would influence the remainder of the report. We will certainly detail that in our submission which you will have by Friday.

MR BANKS: As you would appreciate, with statistics official sources carry some weight because that's what they're there for. So you've got the ABS as an independent statutory statistical body.

MR WHELAN (AHA): Sure.

MR BANKS: But if their data is wrong - and we can check with the ABS and so on in response to what you provide us - - -

MR WHELAN (AHA): We've had PricewaterhouseCoopers give you an estimate which is 188,000 with 137,000 full-time equivalents. We're not asking you even to rely on that but to rely on the information that the various state governments, who are independent players in this, have provided through to the Productivity Commission in their submission. Moving forward, just onto the information that you have provided government that will allow them to make informed decisions. One of the concerns we have is the advice that you have given them in terms of what sort of implications there will be for government for the community groups for employment if these recommendations are actually implemented. As Robert mentioned, you certainly made an issue and you made a point about the negatives associated with the gambling industry, but I'd just like to hear your views on how you have addressed the other side of that, to balance it up, the implications of actually implementing these recommendations that you've made.

MR BANKS: All right. If I can just come back to what I said before, you will see that all reflected in our final report. I'm not preparing here - I give a lot of presentations and one has been referred to but I am not going to give another presentation here today, that's your job. So if you present yourself well enough, you will see your points well accounted for in our final report.

MS SYLVAN: If I can frame that another way in terms of trying to help you help us which is really what we're asking, if I could take your first point, the term of reference 5 and you think our response is deficient and you have a figure from KPMG which was 75 million, let's say we had come up with 100 million, just for the sake of argument, so we've come up with another figure. How would that affect your responses in terms of our major recommendations of precommitment and so on, so how does that change for you in terms of how you respond to you? It's that connection and relevance that we're looking for.

MR McGUIRE (AHA): Our concern is the ability to harness 75 million or a hundred million that comes from our revenue from gaming machines. If that revenue is drastically reduced, our ability to hand that through the system goes. Who is going to fill that vacuum? A lot of the people that the hotel industry deals with - and I imagine the clubs are the same - are organisations that fall through the cracks through government funding and we, as the flip side to some of the harm, provide some good and that's what we're trying to get over. Our feeling was that the draft report didn't fully acknowledge the flipside and, if the effects have a huge or drastic impact, we won't be able to provide that funding so who is carry the bag after we leave the house?

MR BANKS: That's true. But, taking Louise's point, we appreciate that in all the conversations we have had with your members around Australia throughout this process that they have a fundamental tenet and that is that they do not wish to receive income from problem gamblers and I presume that's your position.

MR McGUIRE (AHA): Definitely.

MR BANKS: All we have sought to do is to try to identify the level of that harm and the nature of the harm and put in place measures that may well achieve that. That's where the rubber hits the road. We would hope that your association members share that view. You may disagree with our measures and we agree but I hope you would also acknowledge that this has not been a report that has tried to paint the Hotels Association or its members in a poor light. It has in fact tried to deal with the actual core issue. It was a core issue in 1999 but that really was an industry study, it was the first time we had ever done an industry study. This we're actually trying to say we acknowledge lots of that and, as Paul has indicated, maybe we need to update that but that's really the point here.

So are we all on the same page, that you and your members acknowledge that the real issue here is, how do we reduce the level of harm associated by a group of gamblers that experience harm? Not the majority of recreational gamblers, we know that. We say that. But are we on the same page about that and we can argue about how you achieve that? Because if we're not on the same page in the opening, we can't be in agreement about anything.

MR McGUIRE (AHA): We are in agreement, right. It's just our concern is by trying to focus on that very small percentage some of the recommendations we have some doubts on the success rate and the impact that it will have on the recreational gambler who is a significant part and we have thrown the baby out with the bath water. So we are on the same page.

MR BANKS: We are relying on you to tell us what the impact is on your business

because, as you say, we're not experts in your business but you are. You mentioned a very small percentage but another proportion that we indicated in the report was that 15 per cent of regular gamblers are people who are classified as problem gamblers under the CPGI screen which is favour currently. You may wish to respond to that because that is quite an important statistic and I know the industry likes to focus on the 1 per cent and that number is right. But for policy purposes the 15 per cent of regular gamblers seemed to be a number that was more relevant as far as we were concerned. If that number is wrong or you have an alternative number to provide, that is exactly the sort of thing that would be quite helpful to us.

MR WHELAN (AHA): We will move into the key recommendations and we will provide those comments. But if you can just indulge me, there is one more issue that we think is very, very fundamental to the actual report and I will just briefly mention it and it is what we see as an incorrect statement made prominently in report in the overview which said that, "Hotels offering gaming also derived the majority of their revenue from that source, almost all of it from gambling." That is clearly not the case and the NSW AHA and also the national AHA have made submissions to the Productivity Commission just advising that ABS stats and also PricewaterhouseCoopers' research shows that 72 per cent of revenue comes from food and beverage sales in hotels, it doesn't come from gambling.

MR BANKS: 72 per cent of all those hotels that offer gaming?

MR WHELAN (AHA): That offer gambling, 72 per cent of their revenue is actually from food and beverage sales, not from gambling.

MR BANKS: That's a very relevant statistic, as you say, because it mitigates the impact that any reduction in gambling revenue would have if it's 30 per cent that comes from gambling, a proportion from which would only come from problem gambling.

MR WHELAN (AHA): It is also a major issue when we're dealing with ATMs in that any restrictions on ATMs will severely impact the food and beverage sales in a venue. We will go into more detail when we're discussing ATMs but that's the real issue we have with the recommendation of the \$200 limit is not the impact it will have on our gambling industry but on the 72 per cent of our revenue that actually comes from our food and beverage sales.

MR BANKS: You're probably not in a position to comment, but how variable would that be across hotels? Would that average be pretty much the norm or typical?

MR WHELAN (AHA): I have never seen that sort of data. I could certainly go back to PricewaterhouseCoopers and try and obtain that. They surveyed all the

hotels and so they would have that information. I have never seen it but I will try and obtain it.

MR BANKS: The 72 per cent number from Price Waterhouse survey - - -

MR WHELAN (AHA): It's from both - sorry, Price Waterhouse was 70, the ABS was 72 so they're not too distant.

MR BANKS: Thanks.

MR McGUIRE (AHA): I think where it also comes about is later on we will get through - the nature of our business, the number of machines in hotels throughout Australia varies and a lot of them are small places and you're right it could only be an ancillary part but it's an important part. But that's just trying to get you on the right - - -

MR BANKS: Yes.

MR WHELAN (AHA): Moving onto the key recommendations in the report, obviously the main one is the recommendation regarding precommitment. We have read that section a number of times but I suppose we still don't have a clear understanding of exactly how it would work, what exactly you're proposing. So we were hoping that you'd be able to shed some more light to the recommendation that's in there.

MR BANKS: All right, and we'll do that in the final report, if that's what you feel you need.

MR WHELAN (AHA): Well, we'd like to respond to it in our final submission to you.

MR BANKS: I can tell from all those sticky labels you've read a fair bit of that. There's also the appendices; have you had a read through those too?

MR WHELAN (AHA): I have.

MR BANKS: I think that provides enough for you in your submission to identify for us the areas that are not clear and that we need to clarify in our final report - - -

MR WHELAN (AHA): One of the difficulties we're facing, from my reading if it, is it's not very clear from your point of view as to what systems will be implemented, whether it will be card based or biometric or - - -

MR FITZGERALD: If I can just make a couple of points. We deliberately are seeking feedback about the exact nature of the precommitment. What we were keen in the draft to do is to identify the key elements of it. Yes, you're right, there would be, for those that are regular gamblers, some sort of key entry, whether it's a card or a USB or something; they would be required to indicate whether they are or are not going to precommit, if so, there would be a range of precommitment questions, and that would come up even if you decided to opt out. What we have tried to do is put the principles.

We understand that our precommitment strategies are widely supported by some and opposed by others. We're very keen to know what elements of that you think are particularly problematic. The actual design of it, we're not even sure we need to be prescriptive about that, but we'll look at that towards the final. But are there principles that we have articulated that you think we need to be particularly concerned about, going forward.

The other thing I should say is we have always indicated that for the casual or the visitor there should be a different approach, either a low-intensity machine or a simple, almost a cash card of \$10 or \$20 or something like that. So we have always acknowledged that there's two types of players, the visitor and the regular player. The point is that the actual design of it - very happy to get more feedback from the industry, but the principles I thought we'd clearly articulated.

MR HORNE (AHA): If I can make a contribution there. As we discussed in Adelaide, it became a revelation to us that the concept of a broad based, an Australia-wide - well, you weren't talking about an Australia-wide - - -

MR FITZGERALD: Not necessarily, no.

MR HORNE (AHA): Not necessarily. But I guess that's what strikes terror into the heart of our industry, because of the likely costs. Certainly we have heard in evidence this morning from some contributors that they have an expectation of a card that you can use around Australia. I think, as we articulated to the commissioners last week, that that would require an enormous database, enormous technology.

In the case of South Australia, where I come from, because of our technology, it would require the complete replacement of 12,500 machines. So I guess that's why we're in no man's land. As you well know, in South Australia there's a trial of a precommitment system going utilising loyalty, it's a voluntarily based one, and that's going through an evaluation process. In Queensland there's similar ones that have been tried on different bases. Of course the Victorian government has made a commitment, but they actually haven't even established the model that they're going

to use. They have also in the Victorian government's submission suggested that how far they go with it is also based on cost.

I guess our experience with precommitment internationally is predominantly with Nova Scotia and Norway, where we have visited, and we spent some time with regulators there. If we were to apply the Nova Scotia model, which is an after-market retro fit, quoting from them, they talk about somewhere between 3700 to A\$5000 per machine. If you were to apply that model, then you're looking at somewhere from between three-quarters to one billion dollars. If you go the Norwegian model, they removed 18,000 privately-owned machines, had a three-and-a-half-year battle in court, compensated community groups \$200 million, and are still only now, some several years later, rolling out the system. I guess that's our concern we talk about.

MR FITZGERALD: They're the sorts of things that we're intimately concerned with; and, as we go through this particular phase, people will be giving us, hopefully, very concrete numbers around some of those systems. But can I just get clarification from you; is there a fundamental objection to the notion of getting to a situation of a university precommitment arrangement, at least on a jurisdiction-specific basis, a state or a territory basis, with a number of the elements that we have put in place?

Be very careful, what we have tried to do is we have tried to take account of the visitor, the occasional player; we have tried to take account of the regular player; and in our proposal, although some have disagreed, we have actually allowed even an opt-out. So we have actually put a lot of elements in that takes account of your customer base. Now, how you get there and the precise nature of the machine or the network we understand is an issue, we acknowledge that. That's why it's in the draft, asking for feedback on that. But do you have a fundamental problem with the notion of where we want to get to? Then we can worry about the means of getting there.

MR McGUIRE (AHA): I have a fundamental problem, in that there's a general proposal there, and if your grand scheme, or whatever the scheme is, comes to pass, how effective is it going to be in mitigating the problem gambler? So in other words, we could be going down this path, spending heaps of money, all right, for the best intentions, and still the problem gambler will find a way around it, right, and it has made us feel very, very good, but it hasn't achieved anything, and that is where we have a very, very deep concern about the effectiveness of what is going to be proposed. Now, if you can say to me, "Listen, it's going to be hard, but it's going to do it," which I know you can't, "we could probably go somewhere," it makes us feel good, but I don't think you're right..

MR BANKS: Clearly we want the scheme to be effective, and I guess you'll have a view about that. Community groups have a contrary view. We're

independently-constituted to come to a judgment call about that, which is what we will do.

Could I just say, while it's here - because in a sense you've tried to attack the credibility of the commission on the basis of some numbers, which I think reflects a misreading of the overview - it has just been pointed out to me that in relation to the proportion of revenue coming from hotels with gaming machines, we say on page 214, on the first dot point there, "Among hotels, 73 per cent had some gambling facilities, 78 per cent of those had EGMs, and for hotels with gambling facilities 28.3 per cent of their revenue was derived from EGMs in 2004/5." That's the most recent data we had; there may be more recent. But I think when you quoted numbers before in the overview you were referring to clubs and hotels together.

MR McGUIRE (AHA): Let me just go back to it there; it's XIX.

MR BANKS: But you agree that on p.214, we have stated it pretty clearly, that number 28.3 corresponds with the 72 per cent that you were talking about.

MR McGUIRE (AHA): But the quote on XIX in the overview, so essentially the executive summary, it's in the second-last paragraph there, is quite clear that, "Hotels offering gaming also derive the majority of their revenue from that source, almost all of it from gaming machines," and that's the quote that we have got an issue with.

MR BANKS: All I'm saying is, in terms of the precise number in the chapter, I think we have got that right.

MS SYLVAN: That is actually clubs and hotels together.

MR McGUIRE (AHA): It might be a semantic thing, but are we correct in saying that the overview probably doesn't reflect, whatever page, you have quoted at the back?

MR BANKS: That refers to collectively clubs and hotels.

MS SYLVAN: Yes, it says it quite clearly, "clubs and hotels".

MR BANKS: We are very happy to pull them apart.

MR McGUIRE (AHA): That's all we're after.

MR BANKS: Very good. It's not a problem.

MR HORNE (AHA): Can I just continue perhaps, with your permission, about the

precommitment, particularly - and we discussed this in Adelaide too and it has come up a number of times - about the smaller venues.

MR BANKS: Yes.

MR HORNE (AHA): I undertook to get you some figures, which we will forward in our written submission. But in South Australia there are some 590 hotels and clubs, maximum machines is 40. 48 per cent of hotels and clubs have less than 20, and in fact 27 per cent of all gaming venues, clubs and hotels, have less than 10. South Australia is not quite as unique as people think, because in New South Wales some two-thirds of hotels with gaming, or nearly 1120, of New South Wales' hotels have less than 15. The reason we raise that is simply this, that in precommitment of the future, depending on what it may take, if it comes with a substantial cost, those small venues will have great trouble coping with that cost.

MR FITZGERALD: I have raised that question several times, as you've heard this morning, and in Adelaide, and it is an issue for us, to see whether or not we need to differentiate our responses, based on a whole range of factors. Ian, and I know you mentioned this in Adelaide, or John or Tom, can you just tell me why think - what would be the rationale for treating differently venues with a very small number of machines? I keep saying 10, let's just say it's 10. What would be the rationale and is it about - I want to be very clear. Is it that you actually don't think the precommitment arrangement needs to be into those venues because of the nature of those venues or is it simply - and I acknowledge that there are costs associated with it - it is a costs issue in terms of implementing the scheme? So where is the - what's the reason for treating it differently? As I said this morning, you know, the casinos have put a different proposition as to why they think, at the other end, they should be treated differently.

MR HORNE (AHA): My first one is it's a definite cost thing for small venues. There is a great difference between the top 50 per cent of the industry and the bottom 50 per cent. The bottom 50 per cent of the industry are much more a cottage industry. In some cases they're small micro companies. They run not particularly sophisticated businesses. In fact, three or four or five or six machines that aren't the latest one, it's not intensive gambling - is from our observations. But I guess the reality of course is that they just financially couldn't cope with some of the concepts of precommitment that have been floated around by others. Now, I have heard it said, well, in a town with four little pubs and a couple of clubs with the machines why wouldn't you just put them into one venue? Well, that would be a disaster because then you'd just - it'd be a Victorian model where one venue gets blessed and all the others struggle financially.

However, on the precommitment the AHA is not yet convinced that

precommitment is a way forward. I guess the point we're making is while people point to Norway and Nova Scotia, they are yet to prove what they're promising. Both of them are government monopolies where - and I would argue from our travels there both outcomes were driven very much by a political need at the time. In the case of Norway, Norsk Tipping was losing market share to private providers. Now guess what? They've got 100 per cent control of all the gambling revenue.

In Nova Scotia, a similar thing. They had some really bad politics at the time. But again, all the machines are owned by the government. But even in Nova Scotia a lot of the preliminary testing they did the Nova Scotia Gaming Corporation acknowledges that a lot of those trials were done at the same time - they banned smoking at the same time they reduced machine numbers. They were tainted because across the road were the First Nation gambling venues, the indigenous gambling venues, that aren't part of the legislation. So you could walk across to the reservation, and in their case the reservation is the tavern across the road, smoke, have - all unrestricted. So I guess what we're saying is that both Norway and Nova Scotia, while very interesting for people to quote, it's a great example, they are yet to implement their models completely and they have yet to test them to see whether they can deliver.

MR WHELAN (AHA): I think, as Ian mentioned, there's a number of trials that have recently been finalised in Australia or still ongoing. There's the MinCo commission GRA phase 2 study into precommitment. We certainly take the view that it surely makes sense to wait and evaluate properly these studies rather than make immediate recommendations, even though you're suggesting in 2016.

MR FITZGERALD: You'll admit we have a problem, that is, we've got trialing a precommitment in Queensland and to a degree in South Australia. But until such time as you actually have a model that has a universal application or at least a multi-venue approach - what we're doing is we're looking at a system that is purely voluntary as to whether you actually touch it or not versus what you're proposing, which is a more universal approach. Indeed, the studies in Australia will never conclusively tell us an answer until we actually do it. In other words, until - - -

MR WHELAN (AHA): And they might be wrong.

MR FITZGERALD: No. But public policy is not always based about having that certainty. In fact, you can't do that and you know that.

MR WHELAN (AHA): Unintended consequences.

MR FITZGERALD: Yes, we're conscious of the unintended consequences. But I'm just saying to you that the trials at the moment - as good as they are or as weak as

they are, and they're good that they're happening - have inherent limitations in them. So I'm just making that - and you will appreciate that, that we were working in an environment where there are inherent limitations. Your caution is don't do something that is going to have a high cost and little benefit.

MR WHELAN (AHA): Well, you don't know what the cost will be.

MR HORNE (AHA): And we don't know the benefit, more importantly.

MR FITZGERALD: Sure.

MR BANKS: I guess just to come back to the point I mean we've enunciated a number of principles that we should apply for an effective system. Now, if you disagree with any of those principles this is an opportunity to do that, I mean in your submission, to indicate that you think some of those principles if applied would be prohibitively costly whereas some wouldn't. I think by self-selection some of the industry based trials that are going on have self-selected certain principles and discarded others. But we would like to see a justification for that, you know, for non-universality, for example, or for an opt-in system rather than an opt-out system. I guess it would be useful to have your reaction to the principles that we have got there. We acknowledge ourselves that in terms of the exact technologies and so on this is a process that will take place over a certain amount of time. The fact that Victoria has committed to 2016 in a sense already provides a time frame at least for one major jurisdiction.

MR WHELAN (AHA): But they've committed to it on the condition that the cost will not be too prohibitive, and that was included in their submission to you. So that's obviously an issue for them, this cost issue, which is that great unknown.

MR BANKS: Yes, but as we know - I mean one of the difficult things for governments to come to terms with is to get an accurate estimate of the costs. So that issue is potentially fraught, I think. So again, any advice that you got to us about ways in which the costs could be most effectively assessed in advance of the full roll-out of the system I think would be quite good, because the range of costs that we've got in the travels we've had around the country are from trivial to cataclysmic. So it would be quite nice to sort of - to narrow that down and get a sense of what are the elements that would drive cost and what are the kinds of regimes that would be most costly. Well, clearly a retrofit-type regime would have higher costs than one that was gradually evolving and piggy-backing off technology that was being developed over time. So they're all relevant things for you to refer to us.

MS SYLVAN: Can I clarify something that I'm a little bit unsure about at this point? I thought it was clear when we were speaking with Ian in Adelaide. In a

sense the issue is primarily the cost in transition in terms of the implementation of a precommitment system. As I understand what you're saying - - -

MR WHELAN (AHA): And also evidence it will work.

MS SYLVAN: Well no, just a moment. Assume it is extremely low cost. Let's just assume that for a moment for the sake of the argument. It's going to cost, you know, whatever, \$2 to implement it. So we would have a precommitment system potentially effective in place and the cost very minimal. Let's just say that was in front of us as a proposition. Do I understand your position correctly, which is in the event that might work to help problem gamblers with their personal responsibility and controlling their gambling you would think that that was a good system?

MR WHELAN (AHA): We've got a long way to go before we get there, I think. I mean - - -

MR McGUIRE (AHA): I would probably be more blunt in a sense to say you would have to, on the other side, say to me, "Tom, this is going to work." Not that "I think it's a great idea and," you know, "academically we think this," and at the end of the day if you say to me, "Tom, it's going to work," you've got a chance.

MS SYLVAN: Okay, Tom.

MR McGUIRE (AHA): But at this stage it can't.

MS SYLVAN: It's going to work; on all of the evidence we have available to us at the moment.

MR McGUIRE (AHA): Well, I don't think you've got much there to go on.

MR BANKS: We'll appraise it slightly differently in our report but we will address that question.

MR FITZGERALD: Can I just move to the other measures? What we have done is we've taken a two-stage approach. Precommitment is a medium to longer term strategy. In the meantime we've indicated a number of issues, you know, limits on bets and so on. I'm sure that you don't agree with some of those. But you may - - -

MR McGUIRE (AHA): No, well, it's coming.

MR FITZGERALD: That's all right. So you may want to get to that before we run out of time. We've got a while yet but I just want to make sure we cover off those because the precommitment stuff we really want you to come back on the principles

and I understand where your issues are. What about the rest of the measures, and there maybe some of the educative measures and public health issues as well?

MR WHELAN (AHA): Well, we'll move on to the \$1 - the bet limit. We note that you state that the target group that you're trying to help is really the problem gamblers, not necessarily those recreational gamblers who don't have an issue. We are quite confused with this recommendation. When we look back at your 1999 report which shows that from your national gambling survey problem gamblers stake \$1.62 per push. We don't see too much difference between a \$1 bet and a average bet that a problem gambler makes of \$1.62. We're just wondering how reducing it to \$1 will actually help problem gamblers when your own research back in 1999 found that problem gamblers bet an average of \$1.62 per push.

MR BANKS: We're obviously quite aware of our own research but if you can draw our attention to other research that you're aware of that we haven't been able to draw on in terms of more up-to-date assessment of the spending of problem gamblers relative to recreational gamblers, in particular their button-push inclinations, that would be quite good.

MR WHELAN (AHA): We also need to raise with you this claim of \$1200 lost per hour and we seriously question whether that is a realistic figure or not. We acknowledge that in the report you also refer to a spin rate - the three-second spin, as you would be aware, gives you the \$1200 per hour. In the report and throughout your 1999 report and throughout various independent research they talk about spin rates being five seconds or five and a half seconds being realistic. While you've acknowledge it hidden in this document, publicly the only the comment that has been made is this \$1200 and that's the one that has attracted the attention of media and been the sensational figure.

MR BANKS: Again, that's an expected value at the limit. We were trying to indicate how hard these could be pushed and what the loss rates could be and so on, the spend rates and the loss rates as a proportion.

MR WHELAN (AHA): In your research was there any experience of anyone actually playing at that rate for an hour or a number of hours?

MR FITZGERALD: Can I throw it back, can you tell me this: what percentage of gamblers push the button for more than a dollar currently and who are they? It's your business, your industry, your consumers, you know them backwards, we don't. On the best available evidence which we put in the report, the vast majority of players do not push more than a dollar currently. The smaller percentage of regular players that do are more likely to be those with risks or problems. If that's fundamentally flawed, show us where it's fundamentally flawed. We're not trying to create a reason for our

decision. We looked at the numbers and said - in fact to be honest we think 50 cents is closer to the mark, not a dollar. What no-one in the industry - any industry - has shown is that the current limits of two, five or 10 make any difference. Of course the industry says, "We're comfortable with them," because it makes no difference. It's easy to be comfortable if you're not actually addressing the problem.

Maybe we were in fact too generous, maybe it should be 50 cents and therefore we would be actually sure. But what we have tried to deliberately do - deliberately - was not to affect the play of the average punter. So are we wrong in the evidence that we have or do you have better evidence? On our assumption we've come up with a proposal that is targeted, it is not meant to hit the recreational player. It is meant to target regular players that are currently putting the bets at a higher rate because we believe that that group constitutes the most at-risk group. It's a well-considered view but it starts from the evidentiary base. But is the evidence wrong? Do you have information that would rebut it? If you do, we would welcome it. I want to make the point we are not trying to find an argument for our proposition. Our propositions were based on the evidence that was available as poor or as weak as you may think that is. So is there different evidence?

MR WHELAN (AHA): But the argument we're making is whether we can't see that this would be effective because from our own data - - -

MR BANKS: Are you talking about data back in 99?

MR WHELAN (AHA): Yes, I am.

MR BANKS: Wouldn't you think that the commission's updated report would overtake the data that was in a report in 99, given that we understood that that data was in that earlier report? All I'm saying to you is we're aware of our own data and our own survey results from 10 years ago, but if you have more recent information that contradicts the more recent information that we have used in the report that we have just released, please make that available to us.

MR WHELAN (AHA): Just on the \$1 bet still, have you considered the impact of inflation and the effect that that has had? I can only quote New South Wales - - -

MR BANKS: Relative to 99?

MR WHELAN (AHA): No, relative to when that maximum bet limit was introduced which, in New South Wales I am informed by the government was in 1987, and that's not worth \$10 today, that's worth half that amount.

MR BANKS: It was worth a lot more back then. It was much higher.

MR WHELAN (AHA): As time goes on, the real value of that - - -

MR BANKS: That might be a reason for monetary expansion, we can get the inflation rate up and get the limit down.

MR FITZGERALD: John, there is no doubt at all inflation takes an effect. But what I would like is anyone in the industry to actually show me what the current effect of the 2, 5 of \$10 is and why they think it should stay, other than to say the obvious, "We can live with it." My point is very clear, it's unequivocal, of course you can live with it if it has no effect and there's a lot of public policy out there which we think is in that criteria. So the question here is we have put forward a very concrete suggestion. I have given the reasons why we think it would work, if what I have said is incorrect, then we need to understand why it's incorrect. We've asked people in industries to say, "You've now experimenting across the states. Somebody should be able to say in the \$2 and \$5 state and the \$10 state we're seeing something different." I have to say that's completely absent. We can only work on the assumption - I understand your concerns about it but if it is going to have a big impact, either two things have happened: either the recreational spend is going to go down substantially and we think the evidence is contrary to that, or, it will go down, the revenue will go down because it is actually attacking those that have got problems or at greatest risk.

In our case we think it's not going to be the recreational dollar that's going to go down, we think, and it's aimed to reduce the dollars coming from problem gamblers.

MR WHELAN (AHA): When you made that recommendation, one of the things that we can't see in the report is the cost implications on implementing it, particularly in terms of machine modification and again, particularly from a hotel industry perspective in terms of the small regional hotels located throughout Australia who regularly don't have or usually don't have the modern machines, so they're probably going to require a new machine to be reconfigured to accept these \$1 maximum bet limits. What sort of work did undertake in assessing the cost implications of recommending this.

MR FITZGERALD: I'm not sure that's right.

MR BANKS: We've got in the report some information on that and again, it's in one of the appendices and I don't have it with me. But if your point is that - - -

MR WHELAN (AHA): I think you mentioned up to several thousand dollars but it's not - - -

MR BANKS: Again, coming from the industry and knowing your own members and your members knowing their own machines et cetera, that's precisely the sort of information that would be quite helpful to us. It probably goes again, depending on type of machine, from being a trivial amount to, if you had to replace a machine, that would be a very substantial amount but you could probably give us some information about how prevalent that would be.

MR WHELAN (AHA): We will endeavour to do that but the real concern we have is that a lot of our venues don't have the modern machines and they would require a replacement.

MR BANKS: It does seem New South Wales has more ancient machinery than any other jurisdiction.

MR HORNE (AHA): South Australia has some old ones.

MR FITZGERALD: They've all got some old ones.

MR HORNE (AHA): I'm sure Queensland would be in the same boat as well.

MR McGUIRE (AHA): No, we're ahead of the game.

MS SYLVAN: One of the things, Ian, you were going to try and provide us with was the replacement profile.

MR HORNE (AHA): The profile, yes.

MS SYLVAN: Metropolitan versus rural would which be important.

MR FITZGERALD: Of course, seriously going forward from that, of course, I presume you're going to be supportive of national standards in relation to machines, not necessarily national measures, but I presume given that we have this dispirit operations out there that you will support a move to a more national approach in relation to the standards that apply to machines? I want to make one point very clear. It doesn't mean that every jurisdiction, for example, has to have note takers. You can actually turn them off if the government doesn't want to have them. But are you supportive or that thrust or do you want jurisdictional variation in relation to the technology?

MR WHELAN (AHA): There is a national standard but I think we recognise that every jurisdiction is different and has evolved differently.

MR FITZGERALD: But do you want that to proceed going forward? In relation to the technical specifications of the machines, are we on the right track in trying to get a national standard, acknowledging that some elements of it can actually be turned on or turned off?

MR HORNE (AHA): I think generally we would be in favour of a national standard simply because there are enormous economies that can be gained through a national standard. Again, sorry to harp on about South Australia but while our machines are based on a national standard, there are several appendices which means that the selection of clubs and hotels in South Australia can have of popular machines on the eastern seaboard is very much restricted. So I guess selfishly and for economies of scale you would have to say a national standard would be preferable. You also know that we're the one state that doesn't have note acceptors.

MR FITZGERALD: Yes.

MR McGUIRE (AHA): As I said, we're not going to ask for them either.

MR FITZGERALD: Northern Territory, I should say, doesn't - - -

MR McGUIRE (AHA): Northern Territory as well. But again in terms of the actual game functionality and the machine itself, a national standard would be of great use to the smaller jurisdictions.

MR HORNE (AHA): Moving on to the ATM issue that we discussed briefly earlier. We really just want to emphasise the point that 72 per cent of our revenue does come from food and beverage sales, and any withdrawal limit would have the biggest impact on our food and beverage sales and not necessarily our gaming. That will be an absolute unintended consequence, that you'd threaten the viability of a number of hotels.

It might only have a handful of machines in the corner of the room that notwithstanding generating much revenue from their gaming at all, but patrons would be restricted to 200 limit. That may well also be a couple who have a card, so essentially each person would be restricted to 100 limit themselves. So that's something that we really want to emphasise, that that we feel would have a devastating impact on our hotels that generate the majority of their income from food and beverage sales.

MR FITZGERALD: The difficult there is, what is going to be your association's approach in relation to Victoria then, where they're actually removing the machines. When we looked at this, we have two propositions; one is to remove the machine, and there's no caps basically, if you go around the corner, and it's unrestricted; or

what we said was leave it in the venue but to try to achieve the outcome that we're seeking, to reduce the cap. We're certainly very cautious about the removal - - -

MR WHELAN (AHA): We certainly don't support the Victorian proposal, but the Victorian government has made that announcement and made that decision. You can only protest for so long, but we certainly don't and didn't support that proposal by the Victorian government.

MR McGUIRE (AHA): I can speak from a practical angle. I've got 10 hotels, we have got a big entertainment complex in one of them, and at night at 11 o'clock when the kids come out they hit that ATM and they load up for the weekend, or whatever the thing is, and they're not even interested in having a look at a machine or anything like that. So that's where you've got to be extremely careful, all right. I think in Queensland where they have moved to \$1000 that you can take out, I don't know, the average might be, you know, 250 or 300, I can't tell you straight off the thing here. But you have got to be careful that you don't muck up the rest of the business to say to stop this problem gambling because he's going to load up somewhere else and bring the money in.

MR BANKS: Again, any evidence that you can bring, you know, from case studies or from individual businesses and so on would be quite helpful there. My recollection is that that is one area where the data is a bit thin. But we looked at what data was available, in terms of the spending habits or the ATM-usage rates of people in venues and thought again there was a limit that met the test, that we enunciated earlier about not impacting unduly on recreational users of venues. But if that's wrong, again we look forward to getting some information on that.

MR McGUIRE (AHA): I think that's one that needs some.

MR FITZGERALD: Sorry, but the ATM stuff has been subject to research and reviews by the gaming councils - the actual research, or not? There has been some research around the withdrawal of cash, that's around ATMs and whatever, all that.

MR BANKS: I guess what I'm asking is, have a look at that, we have addressed that, and any feedback on those particular - - -

MR FITZGERALD: We acknowledge in this area absolutely the unintended but known consequences, and what we have tried to do is look at a range of alternatives that have been put forward. We have also, I might say, listened to problem gamblers, and I have to say one of the things that is absolutely strongest - and this should not surprise you, because they're some of your customers - they are very strong that limiting access to cash is very important to them; these are people that have experienced problems.

Equally, I might say, they have also been very strong on bet limits. People experiencing the problems have in fact been a contributor to this report, and they are very strong on the view that limiting cash at ATMs - in fact, universally, they don't think ATMs should ever have been allowed into the venues. So again we have been guided by people that have experienced this and have reflected on that later in life. So there's a very strong sense from the people that have been directly affected that - - -

MR WHELAN (AHA): We actually conducted some research, we had Sweeney Research undertake some research for us, where we surveyed - the New South Wales AHA has a self-excluded gambler list and we surveyed 400 of those problem gamblers and we put to them a proposal where we had an ATM self-exclusion where it was up to the individual, if they went up to an ATM in a venue they could set their own withdrawal limits or they could even ban their card from working, and we put that proposal to them - and you've actually acknowledged that in your report, which we are appreciative of.

We put that to them, we said, "Look, which model would you prefer? Would you prefer a banning of ATMs or one where you could actually restrict the amount that you withdraw yourself?" They actually preferred their own ATM self-exclusion where they could control their own destiny. So you've acknowledged that in the report, which we appreciate, and you've mentioned that there could be exemptions for jurisdictions that talked of bans of ATMs. But we would strongly argue that jurisdiction should also consider exemptions for all ATMs if jurisdictions do go down the road of imposing withdrawal limits. That will be expanded on in more detail in our report. Thank you.

MR BANKS: Thanks.

MR WHELAN (AHA): Moving on to cash input limits. We have been a bit confused by this one, and I suppose we're wondering how the Productivity Commission has arrived at this \$20 limit. We watched on YouTube the chairman's speech at the Whitlam Institute a few weeks ago where you talked about a \$20 or \$40 limit, and we're just wondering whether there has been some movement from the Productivity Commission on the actual value of this minimum cash input limit.

MR BANKS: Perhaps I should say, it wasn't the opportunity of speaking at the Whitlam Institute that went to my head, and maybe I didn't phrase it as carefully as we had in the report, but effectively a \$20 limit means that you've essentially got \$39, up to \$39 in the machine at any given point in time. So when I said \$20 to \$40, for an audience that, you know, wasn't the aficionados of gambling, that's what I was really talking about.

MR WHELAN (AHA): Okay. The issue we have got there, and I think it's acknowledged by yourselves, is that the evidence on the matter is not clear, and you've said there's no precise way to pick an appropriate figure. We're really at a loss to understand how you've arrived at that \$20.

MR BANKS: \$20 to \$40 - or, \$20 to \$39.

MR FITZGERALD: Well, it compares a bit to the \$10,000 limit that exists I think in New South Wales. So, yes, we acknowledge that ours is a very great difference from that particular point, but if you've got a particular view about it - we thought that at \$20 and effectively \$39 it will, again, allow the recreational player to be unimpeded in their play. It seemed to be, on the evidence that we had, that it wouldn't have any effect on that. But it was deliberately designed to inconvenience and slow down regular players, that's true; and specifically for the purpose, what I said before, of hitting those that are at risk. So it's a judgment. But again I make the point that the current limits are, without respect, completely ridiculous; a \$10,000 cash limit is ridiculous.

MR McGUIRE (AHA): I would tend to agree with you.

MR WHELAN (AHA): Yes, and there's no argument as well.

MR McGUIRE (AHA): I would doubt - I don't know when you'd see somebody feeding 10 grand in, to be quite honest - - -

MR WHELAN (AHA): We're acknowledging that 10,000 is not realistic, but neither is 20.

MR FITZGERALD: Okay.

MR BANKS: What you need to come back to us on there is, if you look at the basis for our judgment there about what 20 or 39 would translate to, in terms of different spending rates, how often you'd have to sort of start again and so on, whether that's accurate or not; that's the sort of information we need.

MR WHELAN (AHA): Also we're not clear on what evidence there is that would actually be effective as well in helping problem gamblers - - -

MR McGUIRE (AHA): Other than taking your point that it's going to inconvenience - - -

MR FITZGERALD: Look, can I just comment on that principle, for other

participants, we are unapologetic about that. Some of our measures are absolutely designed to inconvenience regular players who are likely to be at risk, but it's targeted, and what we have been trying to do is avoid inconvenience that goes to the occasional or the recreational gambler. I'm sure we haven't got it completely right, but that has been our aim right through. That's another one of those where we have looked at the patterns of play and we have made an assessment. But, again, we'll look forward to the feedback.

MR WHELAN (AHA): Another one is the cheque-cashing, \$250. We have read your comments on it, but we're still no clearer as to how you've arrived at this \$250 limit.

MR BANKS: As I said, I'm not going to give chapter and verse on everything that's in there; otherwise, I could read directly from the report - - -

MR McGUIRE (AHA): No, I hear what you say.

MR BANKS: So again, you tell us if you think the evidence there is particularly weak or - - -

MR WHELAN (AHA): Particularly, and you actually acknowledged this that there have been studies by Caraniche, McMillen and Pitt, IGA, IPART and you say that, "All of the studies and reports recommended no substantial changes to the existing requirements." Then you've continued on to recommend a \$250 cheque/cash limit. So we're really a loss there as to why - - -

MR BANKS: Your loss is registered and we'll have a look at that. But, as I say, we wouldn't have made a leap of faith like that but I don't think we've got time now for me to delve back into the report. We were just conferring on how much more time you need. We don't want to cut you short.

MR WHELAN (AHA): No, that's all right. I think probably the last issue we'd raise is the focus on EGMs. The report really doesn't look at any other form of gambling - sure you've got a chapter on wagering but that really just deals with the administration and operation of the racing and wagering industries. It doesn't look at the harm minimisation, it doesn't look at the impact on problem gamblers in those areas. Your 1999 report looked at the expenditure of problem gamblers and while there was a high expenditure for those playing gaming machines, 33 per cent of wagering revenue came from problem gamblers and yet in this report you've chosen not to pay any attention to that at all and only focus on EGMs. We don't feel that there is a balance there are all, that you've just simply ignored the other forms of gambling that do have people with problems and focused only on EGMs.

MR BANKS: We haven't ignored it. Everything that is in the report is there because we thought about it and we thought about where we could add value most effectively for public policy, so that was the basis for it. But if you're telling us that in a sense in doing that we've kind of given a wrong signal for public policy in some way, then we can have a look at that.

MR WHELAN (AHA): I just thought it would have been more comprehensive and it would have been more comprehensive and it would have looked at other forms of gambling.

MR BANKS: Yes.

MR WHELAN (AHA): Just in that regard, was there any - - -

MR BANKS: We can make it more comprehensive, but as you know, if you drop this on your foot - - -

MR WHELAN (AHA): No, I understand but this is just a report that's focused on EGMs and there are other forms of gambling out there.

MR FITZGERALD: A couple of things: I take your point that there is a focus on EGMs absolutely, that was intended. But I think you will agree that in the Internet gambling area which is a very controversial area and an very important area we've really looked at harm minimisation and we've said that there needs to be very robust harm minimisation in that area so we have looked at that. We have also, as you have said, in the 1999 report try to calibrate our responses, we looked at lotteries, we looked at wagering, we looked at EGMs. You will also see that we've calibrated differently to table games in casinos which are not caught by our recommendations. The reason for that we think is that the 1999 conclusions about the relativity of harms still holds. If we are wrong, that's okay.

But what you will see is we have in fact looked at the harm minimisation across all of the gaming industries but clearly come to different conclusions and I think the casino one is a classic where we have looked at in fact even different strata. But again, on wagering if you've got suggestions about how we can reduce harm minimisation in the wagering area, we'd be grateful.

MR WHELAN (AHA): No, it's not that we're here to pick on the wagering system - - -

MR FITZGERALD: No, I know that.

MR WHELAN (AHA): - - - we're just saying in a broad - this doesn't say Gaming

Review, it says Gambling and - - -

MR FITZGERALD: I thought we did a reasonable job on that but if not - I just want to make the point that we've deliberately taken a calibrated approach and I think in the Internet area, in the lotteries area, in the casino areas you'll see that we have calibrated, wagering may be the stand out, but I'm not sure so we will have a look at that. Even if we were to do that, can I make the comment, we wouldn't recommend less EGMs, it would be whether or not you have to do more in those other areas, that would be the issue.

MR WHELAN (AHA): I think the point we were making is that we were expecting a broader, more comprehensive report. You've had a full year to produce the document and really it only focuses on EGMs.

MR BANKS: I just come back to the point, notwithstanding the amount of time we have had, it's been a public process, we've had a lot of submissions. We have responded to those submissions in terms of where we thought we could add most value and our own research and discussions with government and if we've got that balance wrong, that's the balance we think we have in the report but if you think we've got that wrong and there are other areas that we should be putting more effort into, please let us know. In addition we look forward to your own submission which you said you would get to us by Friday, and even Monday would be okay, as long as we get it before Christmas, I guess. So we would value that an in particular any detailed responses on specifics and evidence.

MR WHELAN (AHA): Thanks very much for your time.

MR BANKS: Thank you for your time.

MR FITZGERALD: Thank you.

MR BANKS: We will just break for a moment please before our next participants.

MR BANKS: Our next participants this morning are here from Clubs Australia. Welcome to the hearings. Could I ask you please to each give your name and your position.

MR BALL (CA): Anthony Ball, executive manager policy and government, Clubs Australia.

MR NEWELL (CA): Peter Newell, I'm the president of Clubs Australia and the chairman of Clubs New South Wales and I also happen to be the president of the Steelers Club in Woollongong.

MR LANDIS (CA): Josh Landis, manager of government relations, Clubs Australia.

MR BANKS: Thank you very much. Thank you for attending today and also thank you. Josh was reminding me on how heavy and comprehensive your submission was in the first round and we appreciated that. We haven't seen a submission in response to the discussion draft yet but I guess that's why you're here this morning and hopefully there will be a written submission coming shortly. I will hand over to you to make the main points that you want to make.

MR NEWELL (CA): Thanks, chairman. I might begin by making an opening statement. I would like to thank the commissioner for the opportunity to speak today about the impact of the draft report on the club movement. Clubs Australia's full written response to the draft report will be provide on or by the 18th and we'll address each finding and recommendation as well as the research and evidence behind them. Clubs Australia is of the view that the Productivity Commission's draft report is flawed in a number of key areas. The evidence presented to support many of the findings is, we believe, deficient and does not support what we regard as extreme recommendations proposed. If implemented, a number of the recommendations would have a hugely detrimental impact on clubs, their members and those who rely on clubs for economic and social support. What stands to be lost is laid out in our first submission and those of more that 120 clubs and club supporters.

Unfortunately, these submissions seem to have not carried any weight with the commission and the report has therefore surprised and, I've got to say, disappointed the club movement. Clubs Australia has found a systematic approach has been taken throughout the draft report, the costs of gambling on gaming machines have received analysis but the positives from gambling to the economy, jobs, infrastructure and what you might term the social good seem to have been ignored and this is despite the terms of reference number 3 and number 5 which required the commission to undertake such analysis.

So Clubs Australia will therefore ask why the commission, in our view, saw fit to ignore two of the terms of reference when, in our view, the absence of cost benefit analysis is a serious omission. It is notable in this regard that to us the commission has virtually ignored the findings of IPART's inquiry into the New South Wales Registered Clubs Industry which was conducted only two years ago. The IPART report balanced the positives of clubs against the negatives and concluded by being supportive of New South Wales clubs and the \$811 million a year social contribution they make to their communities, of course, supporting by gaming revenue.

The commission's decision to not take up the numerous pro-club submissions and evidence is, we believe, not only a failure to meet the terms of reference but also a contributing factor to the commission's recommendations. For example, by recommending mandatory precommitment, in our view, the commission has effectively recommended that the majority of the 200,000 poker machines in Australia be replaced within six years. It has not costed this recommendation; assessed the impact of that cost on small clubs run by volunteers; determined the likely impact on recreational and problem gamblers; questioned whether gamblers might switch to less restrictive forms of gambling to avoid precommitment or estimated the extent of the likely fall in revenue for venues and governments. There has also been no assessment of the impact of reduced revenue on club employment, charitable contributions, ability to generate tourism or to service debt and without such analysis it is not apparent to us how the commission can come to the conclusion that precommitment or other recommendations have merit.

The commission's focus on venue based gambling extends to what we see as a lack of attention to the issue of personal responsibility. Personal responsibility as a phrase appears only twice in the entire draft report, yet the commission quotes research in that report which shows most problem gamblers self-correct within 12 months, meaning self-help options are effective and are needed more than dramatic changes to poker machines. The law, as shown in the Victorian Supreme Court's decision in *Kakavas v Crown Casino*, since this draft report was tabled, is that gamblers must take personal responsibility by utilising the self-help options that exist.

The court decided that *Kakavas* was not unlike *Ulysses*, instanced in the draft report, tied to the mast, because he, like any problem gambler, could self-exclude and if he wanted to end the self-exclusion so he could gamble and the venue denied him that right, it would not be allowing him freedom of choice. The court said:

To ask that of any casino is to require the casino to assume the mantle of God.

They continued:

The seeds of tyranny are to be found in the footsteps of those who profess to know more about what is good for the subjects of their attention than do the subjects themselves.

In a recent case heard by the High Court of Australia the claimant alleged that licensed venues have a duty of care for their patrons, including a duty to limit how much alcohol they drink. Three of the High Court judges issued a separate judgment from the otherwise unanimous decision by five of the nine judges in the High Court to warn of what they called "interfering paternalism". Target responses to assist problem gamblers are available, effective, affordable and supported and, indeed, the draft report recommended a number of these. Clubs Australia, therefore, believes options which target problem gamblers should be given preference over measures which affect everyone and have a substantial negative effect on employment, economic activity and social capital.

The commissioners claimed in the draft report that measures with even modest efficacy in reducing problem gambling merit implementation. Yet the finding on which this statement relies, that there is a \$450 million cost saving for every 10 per cent fall in problem gambling, to our view, has not been proven. The commission has also omitted to identify the extent to which such savings can be realised, that is, the level at which the prevalence rate will realistically bottom out. Queensland's latest study shows prevalence of only 0.37 per cent, down consistently in each of four studies from 0.83 per cent eight years ago. It must be accepted, we believe, that the rate of problem gambling will never be nil and as the prevalence rate falls the cost to further decrease the rate will increase as harm minimisation becomes more intrusive. Clubs Australia believes the cost and impacts of such intrusion must be understood and properly waived against recommendations.

Clubs NSW has used KPMG Econtech to conduct expert analysis of the impact of reductions in annual revenue of 10, 20 and 30 per cent. Clubs Australia believes a 30 per cent downturn is conservative if any of the most severe recommendations were implemented. We can only guess at the cumulative impact of all of the recommendations. The KPMG analysis that 30 per cent downturn, using 2007-2008 figures, would reduced club revenue by \$2 billion per year and cost 11,500 jobs in New South Wales clubs alone over the short term. These figures which only relate to clubs in New South Wales would likely double if extrapolated to clubs nationally.

The commission would no doubt presume that this army of unemployed would soon find work in other industries, but the analysis shows that particularly in rural and regional areas where clubs are major employers and tourism generators the impacts of unemployment will be long term. This impact would put a substantial

hole in state and territory government revenues that would have to be sourced elsewhere, presumably through new or increased taxation. It would also hurt many working Australian families. Assuming the commission is true to its statement that it must concern itself with the welfare of the entire community, then this must be considered.

It is important to say that Clubs Australia is not opposed to all of the recommendations put forward in the draft report. Clubs Australia, from the start of this process, sought to be constructive and made a number of recommendations in our six-point plan for reducing problem gambling and it's pleasing to see that some of these have been taken up by the commission. However, we do take issue with the draft report's dominant focus on poker machines to the near exclusion of other forms of gambling. The commission found that the growth of revenue from poker machines over the last 10 years was only 12 per cent or 1.1 per cent a year compounded. This rate of growth does not typically even cover inflation. By comparison Internet gambling is experiencing average growth of 25 per cent a year, yet the commission has seen fit to recommend that Internet gambling be liberalised.

Clubs Australia is of the view that the modest growth rate of poker machines, together with evidence of declining problem gambler prevalence rates, negates the need for a fundamental rethink of current efforts to mitigate problem gambling on gaming machines. By recommending to reduce the revenue clubs can earn from poker machines, clubs will be unable to meet their liabilities and these invaluable assets will be lost forever from the community. If that happens, who will coordinate the 70,000 volunteers that operate through clubs? Who will fund the charities? What does that mean for communities throughout the country which rely on their clubs for jobs, meals and social interaction? What does it mean for surf lifesaving, for our returned servicemen and women, for rugby league and AFL, for junior and professional levels, for golf and bowls which will no longer be available at affordable prices for ordinary Australians? Who will build and maintain the sporting and social infrastructure that Australians enjoy because of our not-for-profit clubs?

Clubs Australia is deeply concerned that the draft report has not taken into account the very serious impacts, unintended as they might be, of its recommendations. We look forward to, in the time available, discussing our concerns and hopefully together with our written report convincing you of the need to revisit recommendations that, in our view, fail a thorough cost-benefit test. Thank you, Mr Chairman.

MR BANKS: Thank you.

MR BALL (CA): Chairman, that is the way we feel about the report and in our submission, which will come on Friday, we will answer each and every finding and

also recommendations, although we won't wade too deeply into wagering, I have to say. We will do that by again using expert advice, as we did in the first submission and we hope that that has some bearing on the final outcome. We will also include some of that economic modelling from KPMG. I know and I hear what you have been saying today that this is a report about dealing with that cohort of the population who you think are problem gamblers or at risk of being problem gamblers but you cannot divorce that consideration from the overall picture which clubs are in the centre of and that is why we are very strong on that because whilst the science may or may not support you, the reality of this in five or 10 years will be, we think, quite dire in Balranald or Gulargambone or wherever it is that the club is located and that is why we have taken that position.

Chairman, it is not our intention today to go through recommendation by recommendation, perhaps we can just flag a couple of our main concerns and then answer any questions that you may have. If I can start with precommitment which we say as, I think, the commission's gold standard for harm minimisation. You asked the question earlier about the principles of precommitment and whether people support them or not. I don't think anyone disagrees that there should be some form of precommitment, the question is the form of it. Is it as simple as Anthony Ball setting and sticking to his budget which our research shows most people do, or is it giving them some kind of help through technology?

We are firmly against a technology mandatory precommitment solution. One of the reasons is that it would only apply to poker machines. The singular focus on poker machines means that there will be substitution. Yes, 12 billion out of 18 billion dollars today is spent on poker machines but if you introduced a mandatory networked precommitment system for poker machines, you would find that balance rapidly shift and it is very simple for people to go online, both through Australian providers and offshore. It is very simple for them to bet on the horses or any other kind of product that companies provide and sports betting. So that would be one of our concerns about that, the fact that it's difficult to apply uniformly across gambling modes.

MR BANKS: Could you just elaborate a little bit more on why precommitment, in the form that we've described it which would be an opt-out scheme, which had a provision for opting out, why that would drive people out of the clubs' gaming rooms.

MR BALL (CA): Because the solution that you put forward really makes those that opt out able to play an amusement device. The poker machines - - -

MR BANKS: No.

MR FITZGERALD: No, that's not right.

MR BANKS: Someone who opted out could stay playing on that machine but the difference between our scheme and others that have been recommended is that before they opt out they had to consider whether they wanted to be part of the system or not. If they didn't, they would have to indicate specifically that they were opting out and then they could play on that machine.

MR BALL (CA): But at a lower intensity, as you call it.

MR BANKS: No, they play at the intensity that the machine allows. We have other recommendations relating to machine intensity and we can have some more conversation about that, but this was seen as a separate provision. Where we talked about other machines or whatever, if you had somebody who was an international visitor or something, a tourist, we had some thoughts about how you could minimise the red tape burden.

MR FITZGERALD: I think I know where you're getting conflation. If you've got two people to walk into a club, if that person simply wants to play on a low-intensity machine, that might be an option. The alternative is they simply get a cash card for \$10 or \$20, whatever the figure is, and that's it. For those that are more regular players, they would enter into a precommitment system. What we have tried to do, as I have said several times, is try to accommodate the visitor, no more than clubs expect when you actually sign-in and show your identification card and get a membership thing and that gives you either low intensity or a limit, they are two options, or you've got the precommitment. If you go the precommitment stream you'll be asked whether you wish to precommit, you'll be asked a series of questions. You can opt out, you'll be asked those again. Given this misunderstanding about the scheme, I would find it almost impossible to understand why there would be substitution as a consequence of our scheme. I find that almost impossible to understand.

MR NEWELL (CA): I think one of the reasons would be that people are inherently wary of any card based system to deal with their own money. They are inherently suspicious.

MR FITZGERALD: Sure.

MR BANKS: We don't see that in a lot of other areas, do we? Everybody has a got a card to go and take a video - if you look at other forms of entertainment like videos and so on.

MR BALL (CA): They're not quite the same as this. What we are saying is that

poker machines are unique in all the world when it comes to recreation. There is something about them that requires this - - -

MR FITZGERALD: Can I talk about substitution. If the substitution is to the Internet, our harm-minimisation measures are very strong, including absolute identification, much more substantial than what would be required of the occasional player in a club. So then you're going to say, "Well, are you going to substitute to wagering?" A huge percentage of wagering in fact is identification through bookmakers and others. There is not that much that isn't.

MR NEWELL (CA): You will have identification but you're still content for them to punt on credit on the Internet.

MR FITZGERALD: That's a question we've raised in the report about the whole issue about credit and whether that's appropriate. We welcome your views about the Internet but I want to make the point that I understand, if you've misconstrued our scheme, why you might be concerned about it, but in the way in which we have in fact developed it I'd like to understand why there would be substitution and it can't be to the Internet because it's going to actually be just as restrictive - the unregulated.

MR LANDIS (CA): That's what you say you'd like but you want the repeal of the act.

MR FITZGERALD: If we go down our line.

MR LANDIS (CA): How do you have regulation without action to require it?

MR BANKS: That is precisely the point. We have the perverse situation at the moment where a medium is banned but you can't stop people using offshore sites which don't have the protections we think would be comparable to the sort of protections that we see in the so-called terrestrial gambling sphere.

MR BALL (CA): But you can in relation to child pornography. You can in relation to racial hatred or other discrimination on the Internet. Those are - - -

MR BANKS: Do you see these as positive precedents for gambling?

MR BALL (CA): I think poker machines are being portrayed somewhat in that light. The issue is that the poker machine becomes something that abhorrent because what you are setting up here - and as far as the Internet goes, it's really a lukewarm recommendation, "It is very difficult, let's talk about it a little bit more, let's repeal the act," whereas at the same you are very firm about your recommendation as far as precommitment on machines goes and when that should be rolled out. You cannot

convince me that people who go to the club to play poker machines will not be turned off by the regime that will be put in place - that is a fact - recreation, heavy gambler or problem gambler.

MR LANDIS (CA): They are hurdles to play and you've said that's what you want but the problem is people don't want to have to jump hurdles. It's a recreational activity they do for enjoyment and if you put in those hurdles, they will look for something else to do.

MR BANKS: Just coming back to that and it could be that weren't clear enough, someone who doesn't want jump hurdles would jump out so they would continue to play without any further limits on their play. The question of whether somebody who was a regular gaming machine player could be deterred at the margin and move into something else is an issue on which there is some evidence actually, survey based evidence about the extent to which people have crossed over different gambling media and the evidence suggests that there is not the high incidence of that occurring. That may change in the future as Internet gambling evolves and so on but there is a little bit of evidence on that. As I say, the impediment is not as you first described it, but you may still see that as an impediment, just to clarify that.

MR BALL (CA): Do you think they would stop gambling, these people?

MR BANKS: Which people?

MR FITZGERALD: No, we expect them to either commit or opt out. We don't expect them to leave the venue. I must say, talking to problem gamblers, there's no indication from the people who have experienced this that that is what they would do. When you talk to people who have experienced these problems, which is a very powerful but underrated voice in this inquiry simply because they don't present in the same way as industry and others rightfully do, there is no indication that would happen.

MR LANDIS (CA): Can I just say I think you overstate the input of problem gamblers partly because - well, problematically from our side they're not psychologists, they're not experts, these are people who have looked back and said, "We've spent too much money, what can we do to prevent the spending of money?" We think their issues are in fact much more to do with comorbid factors that need to be taken into account and that these are people who are quite possibly in therapy and need to be there. So the idea is to get them into therapy, not to change the machine. Most people, over 99 per cent of people, play safely within their means.

MR FITZGERALD: Yes, Josh, I understand the importance of counselling and therapeutic services, and that's why we have put a lot of emphasis on them. But

they're not exclusive of doing other things in relation to the environment within which they actually gamble. They're not mutually explicit, they're part of a continuum of action that we take, and, in public policy terms, we see that in everything.

We acknowledge that treatment services and counselling and the responsible gambling training that your members have been involved with is important, but that doesn't mean that you shouldn't be looking at other issues that in fact reduces the level of harm before they get to that, or even when they have got to that. I don't understand why people see these as unconnected; we see them as a continuum.

MR BANKS: I'd be interested in your response to this. You're advocating personal responsibility, and I think that's appropriate. I guess there are issues about the extent to which a person in a venue once they have started playing is well placed to make an objective judgment about their own wellbeing, and there's a lot of evidence about that. But wouldn't you see a precommitment approach as being totally consistent with personal responsibility, in that what you're giving to gamblers - or consumers, more generally, to use a more neutral term, is the opportunity to make a decision about how they want to play.

Now, admittedly, if subsequently they change their mind - they have made a binding commitment on themselves, but we would see that as again impacting overwhelmingly on people who have got a problem or are at risk of harm, rather than the average recreational player. While you may differ with us, we have calibrated every recommendation we have made on the basis of trying to target the group that we believe needs to be targeted. There are some judgments that need to be weighed, and one of the great things about the draft report process is all that those judgments are being tested, and we'll look at what you and other say to us about that.

MR BALL (CA): Sure, yes. Look, I think that's one of the ways you could do it. First of all, we're not convinced that it will help problem gamblers as much as you think it will. Secondly, you do need to look at how this thing is implemented and what it costs and how it will impact upon recreational gamblers. So there are forms of precommitment at the very basic level about education and empowering people to set and stick to limits that don't have any flow-on impact.

Now, you would argue that they offer very little help for problem gamblers as well. But there is a spectrum, and yours is certainly at the most expensive end of that and it also potentially creates the most problems for clubs, as far as downturn in revenue goes. I think the fact that you didn't present options there and you were quite firm means that we can only respond to that.

MR BANKS: Well, we did set it at the level of principles and I guess there are

certain principles that clearly you have got a problem with. Coming back and telling is why those principles would be expensive to implement, whereas other you could imagine could be discharged, that's quite valuable feedback. So we look forward to that.

MR FITZGERALD: The other thing that I think is very important in this is, let's assume you're right, that there's a reduction in revenues to the levels you've set, and you've given three models, 10, 20 or 30 per cent, what are the assumptions you've made, in terms of who is in fact going to spend less? Is it going to be the recreational gambler, and in that case what of our measures would actually impact on that group, or is it in fact the regular high-spending gambler? That's an important question, because, as Gary has indicated, we have tried to calibrate very clearly not to affect the occasional punter. We think we have done that; you don't think that we have.

MR BALL (CA): No.

MR FITZGERALD: But I can't work your assumptions out about the revenues unless I understand who you think is actually going to stop spending with you. If it is the problem gambler, we acknowledge that. We have acknowledged in our report that there will be revenue implications. But you can't reduce problem gambling without reducing revenue to some degree or other. You've acknowledged that. We acknowledged that in 1999. If you're saying to us that the great loss in revenue will come from recreational gamblers, then you have to tell us which of the measures are likely for that to be true, because at the moment we don't quite see that. Now, we know about the ATM stuff and we'll come on to that in a minute. But what is it?

MR BALL (CA): Robert, can I ask you a question? What do you think the downturn in revenue would be? What would be the cumulative effect of a dollar max plus a limit to \$39 on input plus restricting cash plus precommitment? The effect of that would be 10 per cent?

MR FITZGERALD: Yes, but, see, look, you can't have it both ways. I mean, you've disputed estimates that venues get roughly 40 per cent of their revenue from problem gamblers, right. But on the other hand you're saying that measures that we think are targeted at that group would have very substantial effects on the revenue.

I guess, getting a sense of what that is from your perspective, we have some information from some clubs which shows that the 80/20 rule that is normally seen as a bit of a guide in business, in the case of that particular club, which was a large club, it was anonymous, and you kindly provided the information, it was more like an 80/2 rule; in other words, they got 80 per cent of their revenue from 2 per cent of their customers. Now, that's quite extreme. We're not saying all those 2 per cent are problem gamblers, but what we do know is that one of the characteristics of a

problem gambler is spending beyond his or her means, so high-spending rates are a bit of an indicator.

MR BALL (CA): We don't dispute that there are heavy gamblers, chairman; we know there are. The extent to which they're problem gamblers I think is in dispute, and when you look at that data you can't tell me any of that 2 per cent has a problem, because you don't know them.

MR FITZGERALD: But surely - - -

MR BANKS: Well, maybe, but maybe not. I think it gets to the point about at-risk gamblers as well that we're talking about how heavy someone gambles really; rather than do they really have a problem with it.

MR FITZGERALD: But, Anthony, you'd have to acknowledge surely that the research from well-respected academics, including today, would indicate that one of the indications is in fact high-intensity play and very high spending rates, one of the indicators. It would be implausible if you didn't believe that of the 2 per cent some didn't experience either harms or had problems, it would be implausible. I can't and we can't tell you the per cent.

But you're not putting to me the impossible proposition that none of the 2 per cent would be? We're not saying that all of the 2 per cent are; what we say is that in that group there would be some. We acknowledge there will be revenue implications. My question is - and this is I suppose what we have got to look at as well - where does the revenue come from? The point simply is if it does come from the problem gambler that's an objective which we would say is important.

MR BALL (CA): Well, some of it will. The question is how much of it doesn't. With the modelling that we have done with KPMG we don't actually build that in, we just say that our feeling is that there could be a 10, 20 or 30 per cent reduction - which I think is realistic, quite frankly - and that that is the result of that.

MR FITZGERALD: I accept it and I'm very grateful and I look forward to seeing the modelling, but I do think it is incumbent on you to have the modellers try to work out the assumptions that lie behind the figures, as you're asking us. I'm not being critical of it, I'm just saying that if you assume all of this comes from recreational gamblers it is important for us to understand which of the measures you think delivers that.

MR BALL (CA): In our original submission we thought, using the research that you looked to, that it was more like 20 cents in the dollar came from problem gamblers; we weren't hard and fast about that, but we thought our analysis was that it

was about half of the 40 cents. We then went on to say that with the growth in revenues and the growth in club membership and the reduction in problem gambling prevalence that intuitively you would think that would be reducing over time, over 10 years, and we stand by that. So in our final submission to you we won't be able to say whether it's 19 or 20 or 21; we say that there's a very strong argument to suggest that it was less than 40 to start with and has continued to reduce.

MR BANKS: Just on that though, we would find it valuable - I know you've got some expert consulting advice and so on - for you to go through that appendix where we do that triangulation approach and to sort of look at the ranges of spending and pick any holes it in you can; we'd find that quite helpful. But at the end of the day I guess we all agree that whether it's 20, 40 or 60 there is a significant proportion of revenue that comes from this group that warrants policy action. You would say the actions are pretty much in place and they're working.

On the issue of prevalence and to what extent it has declined, we have look at all the evidence - as you know, we have got a fair bit on that - and our judgment was that on balance it probably has declined, and attributing that to particular things is very hard. But there's an effect that you'll get whereby individuals will basically come to terms with their problem and cure themselves. The problem is that many of those people really only come to terms with it and go to therapy when it's too late, when they've basically lost their home or wrecked their family life and so on. So as Robert said earlier, a lot of what we're looking at is about mechanisms or measures that would stop that happening, that would provide tools, I guess, for gamblers to use earlier on to control their spending and so on.

But look, the other point I was just going to raise with you is that you've essentially focused in on the problem gamblers, and I think that is important, but do you see any wider consumer issues with gaming or do you see it just as an issue for problem gamblers who you see as having particular issues and comorbidities and so on?

MR BALL (CA): Well, there clearly are some and it gets down to education, providing information and making sure that people understand the product that they're using. We think that there has been an awful lot of work on that. There is more work to do. It's not like buying a car, however, it is a little bit different and that's why we're sitting here today having this debate, I suspect. But I think that giving consumers power has been at the forefront of a lot of what state governments have done around the country. I don't think they get much credit for it. There's also a discussion over whether it has been effective or not. If you look at prevalence rates, and they're trending downwards, you would say that on that measure that it has had some impact.

Our real beef is that we don't think you need to go to the extent that you're suggesting to drive that further down. There are improvements to be made around the safety net, the extent to which players get information and connect on that. Definitely improvements to be made. There's staff training. We think that clubs are in a good position to help people at the coal face and there are ways of doing that. We haven't got the answers to that yet. That requires the experts to sit down and work out what those behaviours are that need to be targeted and how people can actually do that. Our staff aren't psychologists. Those things, we think, will continue to help them drive down prevalence.

MR BANKS: Sure.

MR BALL (CA): So look, I think an awful lot has been done. In a way it is treated as another consumer good but it is different, we recognise that. There is a little more to do without going to the extreme lengths that you propose.

MR BANKS: I know you keep using the word "extreme" and we're not going to agree on the precommitment at this stage, but I have to say empowering consumers to be able to make choices that limits - in a structured environment seems to me to be anything other than extreme. I accept there's a cost and there's an issue to the industry. But, you know, good consumer protection principles would say this is not a bad thing to do anyway. But the other point about - can I just tell you what's so - self-exclusion. One of the benefits that would come from our precommitment system is an enhanced self-exclusion regime. Now, you can do it without that. I was wondering whether you have any views about that. You're right, that was part of the issue that was raised in relation to Crown and we've read that judgment. But do you think any of our proposals in relation to strengthening self-exclusion regime, connecting it to precommitment - because that's the ultimate form of precommitment, "I'm actually going to exclude." So we actually see them not unlinked. Are there any merits in any of the things we propose?

MR NEWELL (CA): I just think broadly the very simple comment that establishing a universal self-exclusion scheme that may be effective Australia-wide or indeed statewide is an extremely difficult thing to achieve. I don't know whether it is possible to achieve it, to tell you the truth.

MR BALL (CA): I think it has been tried in Victoria on a statewide basis with limited success. We support self-exclusion. We think there are improvements to it that can be made. We think it's important that problem gamblers don't go into a club, they shouldn't be there, they should be away until they're fixed. Once self-exclusion is actually effected there are all kinds of things that councils can do in concert with the problem gambler to limit their access to cash and to stop them going to venues and to modify their behaviour. So we certainly support self-exclusion, improvements

to it.

MR BANKS: Would you support the improvements that we recommended in our report?

MR BALL (CA): I think we flagged some real issues with a statewide, if you like, network solution given the nature of what clubs are, which is organisations that people walk into every day, sometimes for small clubs you only need to walk past the door and then sign in and that supervision does become an issue for them.

MR BANKS: Sure.

MR BALL (CA): So we're just flagging those issues. We're not saying absolutely no but significant issues.

MR BANKS: But of course that's where we thought that the precommitment card or whatever it is, whatever instrument actually aids that - no, it doesn't eliminate fraud, we know that, but it might aid that. So we didn't see them as completely unrelated.

MR LANDIS (CA): There are some challenges in regards to that, to identification, particularly in regard to precommitment where people can share cards.

MR BANKS: Sure.

MR LANDIS (CA): Can take one from a friend, can - all that kind of thing. Or, alternatively, will want to play with a friend, where they'll sit down together and try and play the machine together. Whose card to they use? Who is tracked? These are serious questions.

MR FITZGERALD: I know. As you know, and in fairness to us, I suppose, we've flagged a whole lot of different possibilities including biometric things. Anyway, we'd welcome feedback about those but we're not trying to say that there's a completely perfect system, there isn't.

MR BANKS: Also, I mean if that was the test, that you couldn't introduce a system with potential benefits because a small minority might misuse it in some way we wouldn't have a lot of social programs that we have. I guess the thing to do would be design it in a way that it maximised the benefits and minimised the costs. The conversation we're having and the submission you're making will help us reach a judgment.

MR LANDIS (CA): I think we would assert those who are the kind that will look

to take another person's card are also the kind who would spend more than their limit is; whereas the people who will - the middle ground will probably look to do the right thing, although there will be some who would ordinarily gamble on an impulse and say, "I'm not going to sign up for a card when I'm only here for a little while."

MR BANKS: Yes.

MR LANDIS (CA): "I'm not going to go and hand over my ID to get a cash card." So it's those ones at the extreme who would lose the impulse, gamble, and we would - and your measure wouldn't be effective for problem gamblers.

MR BANKS: Yes. But I mean - I don't want to put too much emphasis on that but imagine the circumstance in which a problem gambler has to say somebody, "Look, I can't use my card any more because I've got a problem and the machine won't let me use it. Give me your card." There wouldn't be too many people that would hand over the card. I mean I think that is an issue perhaps but we should regard that as an issue at the margin, I think. I think the bigger issues are about the questions of universality, opt-in versus opt-out, and so on and the technologies that would be more or less costly. I think they're the things that would - - -

MR BALL (CA): Chairman, I could see interesting conversations at the golf club after a game as they do paper, rock, scissors to see whose card they were going to use to have a group game.

MR BANKS: Well, golfers, what can you do with them?

MR BALL (CA): Exactly.

MR NEWELL (CA): Robert, could I just come back to your comment earlier when you said you were - this is - the thrust of this was unashamedly designed to inconvenience regular players. Is that an accurate - - -

MR FITZGERALD: No.

MR BANKS: At risk.

MR FITZGERALD: At-risk players.

MR NEWELL (CA): I thought you said to inconvenience regular players.

MR FITZGERALD: No, at risk. At-risk gamblers are more predominantly, by their very nature, regular players.

MR BALL (CA): Robert, can I ask you - - -

MR FITZGERALD: I mean you can't - can I just - look, we have to deal with the reality here. Problem gamblers don't sit at your machines separate to regular players or recreational players. They merge and they move in and out. We acknowledge that. You've indicated that yourself. So at the end of the day at the margins you will always affect those that you didn't intend to, that's true. What we've tried to do is to come up with a range of proposals which minimise that occurring, but it will happen at the margins. But problem gamblers, because they're not identified as problem gamblers - they don't have to wear that big P on their head and you don't want them to and we don't want them to - means that, yes, some of our measures inconvenience those that you don't want to target. The argument we will have about is whether we've got that balance right, and you've heard the hotels say that they think we've absolutely got it wrong. That's fair enough .

What I'm not trying to is I'm not trying to pool wool over people's eyes. We're not trying to say it's a perfect system. We're not trying to say this is a costless system. We're certainly not trying to say to you that there won't be an impact on revenue. We don't say any of those. But what we are trying to say is yes, we are about trying to target a particular group. At the margins you will pick up those that you don't intend, that's true. That's absolutely true.

Can I just deal with a couple of the other issues? This cash issue. I don't - obviously it's an important issue. I was wondering what the clubs' view, national clubs' position is on ATMs and cash withdrawals. Given that we have experimentation around Australia, sometimes the machines have been pulled out, sometimes they're capped, what is your general view about access to cash in club?

MR LANDIS (CA): We think your research was right, that problem gamblers take the cash with them. So if they've taken the cash with them then what difference does it make whether they're - and your research says that generally they only take out 100-odd dollars. Then what are we talking about? Really, what are we talking about? They bring the cash with them, they're going to gamble, they will find the cash somewhere. They will either get it from another ATM - but they will spend money that causes them harm and other people need that money and they need that machine in the club.

MR BALL (CA): Robert, we put a pile of evidence onto the senate committee about this as well. The reality is that people go to the club for a whole lot more than punting. They go there to have a meal, enjoy a show, get the money out for the week, 200 bucks just isn't enough for that. So balancing that with the fact that problem gamblers will beg, borrow and steal it, we don't think there's a case for a limit beyond that which currently exists. There is already a \$1000 limit that a

problem gambler could modify, anyone could modify, by picking up the phone; and that's part of strengthening the safety net, to have people who probably have a sophisticated network of accounts, you know, get a hold of those things so that they can't get the money out. We have been on the public record on that now for a year.

MR LANDIS (CA): In addition to that, Tasmania doesn't have ATMs in pubs and clubs but their prevalence rate is higher than South Australia and Queensland. Victoria has limits, as does South Australia; but, again, Queensland has a lower prevalence rate. So the question has to be asked where the evidence is that it's effective.

MR BALL (CA): I think Victoria is going to be interesting to see. I think that is not going to work, and we know that because we know what happens out there in the suburbs and the towns; people need to get cash from their club - or their hotel, for that matter, and I think that will be an interesting case study.

MR FITZGERALD: How do you think either the government or the industry should evaluate that? I mean, given that you don't think it will work, given the government obviously has a view that it will, given that we have said we should learn from it, what do you think is the way by which we would know whether it works? What is the sort of parameters of - - -

MR BALL (CA): I guess the impact on gaming revenue would be the most obvious one, if it is a harm minimisation measure. But given the cloudiness of the science around prevalence, I don't think that's going to be much of a help either. Look, I don't know, you've caught me on the hop there, Robert.

MR FITZGERALD: You might think about it, because it's a practical problem. I mean, we have said, like you, caution on the Victorian approach, we haven't endorsed it. But the question is we have said, like you, let's see what actually happens with it. I'm interested whether industry can actually input into the way in which you would actually develop an evaluative framework that would be robust.

MR BALL (CA): We might have a think about that, Robert.

MR FITZGERALD: You have a think about that.

MR LANDIS (CA): I noticed you did propose, maybe somewhat cheekily, in the draft report that some ATMs could be put into clubs or pubs in Tasmania and that would tell very quickly. I'm not sure that's necessarily the case, in terms of establishing an impact on prevalence, but clearly you'll establish by determining within regions whether the absence or inclusion of the machines is effective over a long period of time.

MS SYLVAN: Could we move to Internet? I take it your position is that the law shouldn't be repealed and replaced with an additional law that permits Australian providers to offer gaming on the Internet. I'm curious how that fits with both the personal responsibility emphasis, that most gamblers are perfectly in control of their gambling, Josh. I'm not sure that it's 99 per cent; in terms of EGMs the statistics are different, that's a prevalence rate, including people who don't gamble.

But nevertheless, the majority of people control their own gambling. Our point in relation to ATMs, that people can put limits on themselves, if they're using a credit card for example. Given that you can have full harm minimisation elements within a gambling site, which is authorised, and probity issues have been handled by the government and so on, I'm curious how you get to wanting to continue a ban on it.

MR BALL (CA): If I could, Josh. We're not asking for a ban on Internet gambling, and we never have. We're saying that it needs to be regulated consistently with land based; that's an important distinction there. The evidence is that it's growing fast.

MS SYLVAN: That's offshore sites of course.

MR BALL (CA): And Australian. Well, offshore is another issue of course. But, look, it's growing at 25 per cent a year, compared with about 1.1 land based poker machines. At the moment it is largely unregulated. There are all kinds of tricks that they use to get people in and to get them to spend; you can use your credit card. Our position is clear, it needs to be regulated, similar to poker machines.

We see the difficulties with that, but we don't think it's a position that you can credibly take to say, "Let's go away and have a talk about it. Yes, we need to build in precommitment and other things, but are you allowed to bet on your credit card. But states and territories get together, have a think about it. We're not sure who should be in charge of this." That's how I read your chapter on the Internet, which, against what you say on poker machines, is inconsistent.

MR FITZGERALD: I think we're very clear about the harm minimisation measures that need to go into Internet; and they were in 1999, I might say. The question for us is, yes, "Who should regulate it?" That's a question, it's not a confusion; we're asking which is the right one, we have a view about that. The second thing, it is a problem, is the issue of credit card. However, as you said, there is a slight problem, and that is the Internet works on the basis of credit cards, it's the fundamental way in which it operates. So you're right, it's an issue. So we're trying to deal with that. How do you actually deal with that issue, when it's a fundamental way in which that actually operates.

MR LANDIS (CA): There are actually numerous ways. You can transfer money electronically without having to use credit on the Internet, and the Internet can easily operate with setting up credit accounts. That's in a sense why the idea of an exemption for ATMs in casinos is a farce, because, as Kakavas showed, people will spend a lot more money than that in casinos, \$1000 isn't the limit there. If Kakavas wanted to set up an account with an Internet based provider, he could simply have transferred a whole bunch of money into that account, he wouldn't have needed a credit card.

MR FITZGERALD: That's good. You're going to put that in your submission, I hope. Well, at least make some reference to it. I mean, the Internet stuff is a very vexing issue. But the point you would raise is it's not a matter of differentially treating them, it's actually trying to treat them, given the circumstances in which we find ourselves. At the moment we don't have a whole unregulated poker machine industry, whereas with Internet we do. As you know, that wasn't our view in 1999. We had a very different view. But just taking that, so your view on the Internet is you're not opposed to Internet gambling, provided there is a relatively strong set of provisions around Internet, which doesn't, I suspect, unfairly treat you, vis-a-vis them. Is that your view?

MR BALL (CA): That's correct, and credit is a part of that. We know the issues that you're wrestling with as far as offshore providers go. But hey, they have tried it in the states. There's different views on whether it's successful or not, but they were brave enough to try.

MR FITZGERALD: I'm conscious of the time, Gary. Do you have any questions?

MR BANKS: Clearly the liberalisation process that's occurred with gaming has seen gaming machines move from clubs into hotels and so on, and we have had hotels this morning also advocating the important economic contribution that they make, including to the community. I don't know whether you just want to comment at all about the environment within clubs, as opposed to hotels for example, from a harm minimisation point of view or there are any issues there that would require special consideration of clubs. We had the RSL also appear this morning, who talk about the unique purpose they serve in relation to the welfare of ex-servicemen and their families and so on.

MR BALL (CA): Chairman, the first thing to say there is that we set out in this submission here chapter and verse what clubs do, and IPART, your counterpart in New South Wales, actually measured the social dividend above and beyond the economic one at \$811 million a year, and I won't go into what that is made up of, but it is substantial growth and we think it needs to be protected. It's built on the back of

poker machine revenue, there's no doubt about that. That's all I'll say on that.

In New South Wales for instance there's evidence where the state government treats clubs and pubs differently around poker machines. Clubs are uncapped, hotels are. Clubs are allowed to advertise gaming machine promotions to members, but that is a function of our unique membership mutual structure. That's the only comment I'd make, that the regulation reflects our not-for-profit member based nature.

MR NEWELL (CA): From a problem gaming point of view, I think we may have made the point when we had our initial discussion earlier this year that clubs are in effect owned by their members, and it just contradicts all good sense that we would knowingly, or even unknowingly, seek to harm them, from a gambling point of view, when they are our owners. We do have some visitors, but we're predominantly our own members who own our own institutions. So it's not in our interests to harm them. We want to preserve them and protect them in every reasonable way, but without sending our businesses to the wall in doing so.

MR FITZGERALD: You agree that it's not in the clubs' interests to be deriving income from problem gamblers if you can possibly avoid that in a cost-effective way.

MR BANKS (CA): No, and, chairman, we're having a debate here about how to achieve that, not whether it's worth doing.

MR FITZGERALD: Can I just respond to your opening comment about us ignoring your submissions. Clubs by far were the largest group of submitters - is that the right word? Anyway, that's what I - submitters.

MR BANKS: It isn't.

MR FITZGERALD: It wasn't that we ignored or undervalued the contribution clubs make, and we've made this point to the RSL, in fact to the Hotels Association. We acknowledge that benefit. The question really is a much narrower proposition, and that is, do you have a business model in which a sizeable proportion of your revenue is based on harms that are associated with a particular group of problem gamblers? In other words, put simply - no-one, and certainly not the commission, has ever questioned the value of the clubs per se or the contribution. We can argue about the dollars and cents but that's not our job in this particular report. I think the clubs particularly have misunderstood that. What we're really trying to do is a much simpler but more complex issue in a sense: simple that it's about the revenue that comes from a particular group, complex in trying to address it. But I would not want either publicly on the record or for you to believe that the commission has in fact dismissed the value of the contribution of your members and in fact, as Josh knows

and others in the other inquiry, we explicitly talk about that.

But I think it is incumbent on the clubs to acknowledge that you can't - that a business model that has a sizeable proportion of the revenue coming from problem gamblers or people at risk is not a sustainable model going forward, and I suspect, as you say, we're arguing about how. But your opening statement seems to indicate that the commission deliberately took a view that we wouldn't measure the contribution. In a sense we didn't think we needed to because we could - well-stated in 1999, and as I said to the hotels, it's likely to increase, which you're saying the figures show. We don't disagree with that.

MR BALL (CA): Robert, I just think, reading the report, it's not there. Given that the last time we went through this it was, it's a very natural reaction, I believe. Look, clubs are pretty basic people. They took the time to write substantial submissions about what they do and they didn't see that reflected at all in the report and I think their reaction to that is entirely understandable.

MR LANDIS (CA): It needs to be taken into account that like any industry there is a two-sided coin and you cannot possibly assess the cost without assessing the impacts and the benefits. You have to look at them otherwise you can justify anything. There needs to be that assessment of the contribution of the club industry as well as the impacts upon it of the recommendations. Yes, we are talking - and we agree that there is potentially a large - - -

MR FITZGERALD: I absolutely agree you need to look at - try to ascertain the impacts of the decisions that we're recommending, we agree, and we will struggle with some of that, as we have indicated, because you won't be precise. We can't put a precise dollar on it but we will do our best. But that decision is, in a sense, irrespective of the benefits that come from the clubs. Whatever the figure is for the benefits, they will be substantial. At the end of the day the public policy about trying to reduce harm - that's where the concentration is going to be. What we've got to do is to make sure that the measures we propose are proportionate to the costs that are going to be incurred.

MR LANDIS (CA): Well, you've assessed them for gaming machines at 350 million a year Australia-wide. I think when you do the analysis and compare that with the contribution, economic and social, of the club industry alone, you find that the clubs provide a much greater return. So when you do the cost-benefit analysis and look at the downturn on the club industry as a result of the lost revenue that will come as a result of intrusive recommendations that affect everybody, we're saying you've got the balance wrong and that those measures which reduce the spend of gamblers rather than target problem gambling specifically are bound to cause deep impacts that will hurt jobs and hurt communities.

MR BANKS: Look, we will look at your updated modelling KPMG got, I think, from Econtech with interest because I suspect Econtech has done a commonly wide modelling, GE-type modelling, which - - -

MR BALL (CA): It's a regional based model, New South Wales only.

MR BANKS: Because when we talk about net - I mean the thing we're focusing on is net effects, really, rather than just a head count of jobs or whatever. So as you know we looked at that - - -

MR BALL (CA): They model impact on GSP and other things as well.

MR BANKS: All right, okay. Well look, I think that has been very helpful. We do value the contribution that you have made to the inquiry. As I say, your submission was an important early one and we gave it due regard and we will certainly do that in response to the submission that you're going to provide to us shortly. So thank you for your input. We'll have a break now and resume at 2 o'clock, thank you.

(Luncheon adjournment)

MR BANKS: Welcome back, ladies and gentlemen. We'll get started. Our first participants this afternoon are from Australian Bookmakers Association Pty Ltd. Welcome to the hearings. Can I ask you please to give your names and your positions.

MR ROLFE (ABA): Yes, Mr Chairman, it's Mick Rolfe, ABA delegate and chairman of the New South Wales Bookmakers Co-operative, and I'm here in the absence of the chairman of the ABA, Mr Lyndon Hsu, who has pressing commitments in Asia and wishes me to tender his apologies.

MR BANKS: Thank you. Thank you very much.

MR FLETCHER (ABA): Thanks, chairman, it's Peter Fletcher, chief executive officer of the New South Wales Bookmakers Co-operative.

MR BANKS: Good, thank you, well thank you very much for taking the trouble to attend today; also, for the submission that we've already received, and you've given us also an indication of some of the points you might wish to raise today. I'll give you the opportunity to go through those and we can ask some questions after that. Thank you.

MR ROLFE (ABA): Thank you for the opportunity to speak to the commission today. I'd like to provide a brief description of the ABA, its role and its membership. The ABA is the national representative body for Australian on-course bookmaking. The ABA is made up of delegates of the state and territory bookmaking associations. It represents approximately 700 on-course bookmakers across the nation and has total annual betting turnovers of approximately 1.4 billion.

Our submission to the inquiry. Our key theme was the relative long-term decline in race wagering market share of the gambling industry and in particular, our on-course bookmaking sector and the urgent need for regulatory reforms to reflect the emerging national form of the industry. This need for reform is, we believe, no more critical elsewhere than in our traditional on-course bookmaking sector. Our sector has been decimated over recent years due to stand-still regulatory positions while other wagering sectors have been allowed to reposition towards the growing and more profitable off-course betting market.

As industry statistics have highlighted, our members' share of the total wagering market has shrunk dramatically over the last three decades as primary wagering has shifted away from the racecourse. The future outlook is gloomy with recent predictions by a leading corporate bookmaking firm that on-course bookmaking will shrink further from its current 5 per cent of national wagering

market share to less than 2 per cent within the next five years. This prediction is not inevitable but is based on the continuing reluctance in many jurisdictions to recognise the need for local bookmakers to expand their customer reach, their location options, their delivery platforms, their hours of operation and their product range.

We believe the continuing decline of our traditional on-course bookmaking sector should be more of a focus in the current debate on this industry. Bookmakers are an integral part of the race day experience and add colour and excitement to the event. Anyone who has ever attended non-bookmaking race meetings elsewhere in the world will attest to this fact. They are an important factor in driving racecourse attendances and have been a key factor in driving overall betting, including through the totalisator. Our members have historically been strong supporters of the racing industry and have paid industry fees and contributed financially towards the product to a significant degree and over the long term. However, we feel somewhat left out of the very debate that is currently being dominated by corporate bookmakers, the TABs and the lead racing bodies. We would hope that the commission could apply more focus to our sector in its final report.

In summary, and on a more macro scale, we believe that the current national wagering market is inefficient, due mainly to fragmented, overly-complex and protectionist regulatory arrangements in most jurisdictions at both government and racing industry levels. More than any other factor, this regulatory-led market failure has limited the overall growth of race wagering and, by extension, racing industry revenue growth. Critically, the preferences and economic welfare of betting consumers have run a very distant last place in the continuation of these arrangements. This is clearly a poor policy approach in any discretionary spend industry.

The draft report. The ABA fully endorses the content, findings and recommendations of the draft report, particularly with regard to its wagering and racing industry content. In our view, it provides an independent, economically-focused guide to the future conduct of the industry that has been sadly lacking under previous vested-interest based analyses. Importantly, it recognises that industry policies and management must be better aligned with the interests of wagering consumers if the industry is to have long-term relevance.

Our key messages today. Without totally repeating the positions taken in our submission, we would like to highlight a couple of key issues today that we feel are critical to our sector of the industry. We will also make some brief comments on positions held by some other contributors. National regulation. We applaud the commission's recommendations to address the current fragment and inconsistent application of regulation in our industry.

The wagering market is now a national one, but in many cases is being poorly regulated under outdated and protectionist policies that detract from consumer welfare and work against competition and growth. The recommended implementation of a national independent product fee-setting body appears to be necessary, given the racing industry's demonstrated inability to manage this issue itself. We would prefer this was not necessary, but the current legal disputes are symptomatic of a racing industry that is unable to organise itself nationally and unable to properly consult with its wagering providers and product consumers on these matters.

Consistent regulation of gambling is as important as fee-setting and should also be nationally focused. Again the current arrangements are inconsistent, inefficient and in most jurisdictions work against proper competition and the welfare of consumers. We would welcome more detailed direction by the commission on how a national approach should be implemented, as our main fear is that relevant governments, state and federal, will fail to take action on this issue.

Competition. We applaud the commission's pragmatic assessment of unproductive limits to competition within the wagering market. It is interesting to note that the other most recent independent analysis of the wagering industry, the New South Wales Cameron report resulted in very similar findings and recommendations. We firmly believe that both independent assessments have been correct. Wagering and racing in Australia has long been treated by policymakers as a special industry that should ignore consumer welfare priorities and will best prosper via anti-competitive arrangements.

Unfortunately, the industry's current struggle for market share and relevance to younger generations is a product of this misguided approach. We are astounded that in light of your assessment, and Cameron's beforehand, some racing administrators are still promoting market protection of the tote as being the best way forward. Tote monopolies have recently not performed well in countries that allow them. The state-controlled tote in Japan has been in long-term decline for more than three decades now; and Hong Kong has in recent years also performed poorly, with a recent fixed-odds sports-betting licence representing their only significant growth stream.

USA racing tote turnovers continue to languish; and New Zealand's TAB monopoly is now also struggling, in terms of race-betting growth. Only France is performing reasonably well. These comparisons are very important. Betting declines the major tote only racing countries are now resulting in significant decreases in total prize money paid to owners. A five-year snapshot of the latest available thoroughbred prize money figures in the Australian Racing Board fact book

tells the following story between 2002 and 2007: Hong Kong, prize money down 18 per cent; USA, prize money down 25 per cent; Japan, often referred to as the greatest horseracing nation on earth, down a massive 34 per cent.

I won't dwell on other figures here, but, suffice to say, all of the major mixed tote and bookmaking countries experienced positive prize money growth in the same period: Australia, plus 18 per cent; the UK, plus 4 per cent; Ireland, plus 31 per cent; and South Africa, plus 30 per cent. Clearly Australia has one of the best structures on paper with tote and fixed-odds competition allowed, albeit on an inconsistent basis. However, all industries must continue to reform and evolve if they are to grow over the longer term.

If we could here make some general observations about the current differences and approach to competition between the two largest stake wagering markets. Firstly, New South Wales. New South Wales at both government and racing industry levels is continuing to take a conservative approach to reform and deregulation of bookmaking activities. This is despite the largely-ignored recommendations of the recent Cameron report in that state, and we are happy to explain this stance further if the commissioners are interested.

Suffice to say however, the New South Wales policy direction appears to be ongoing limitations for its licensed bookmakers to compete for offcourse customers in both the New South Wales and broader national wagering market. The racing industry, or at least the main sector there, has also been reluctant to compromise on fee levels and methodology, as we are all very aware.

On the other hand, Victoria is taking a different approach now; and, although the pace of regulatory reform on bookmaking restrictions there is still slower than we would like, there is genuine intent to promote more competition and to engage in consultative dialogue with wagering operators concerning fee levels. We think the policy differences are fairly stark in these larger betting jurisdictions and that this should be a point of particular focus and comment for the commission in its final report.

In conclusion, ladies and gentlemen, we could go on, but in the interests of preserving time for your questions, I will leave it here. Again we thank you for the opportunity to meet with you today, and we congratulate you on the draft report, which we hope will help guide the future of our industry. Our supplementary written submission later this week will also attempt to provide feedback on a number of questions you have specifically posed, such as potential limits to credit betting. Thank you once again.

MR BANKS: Thank you very much for that, and we look forward to that further

submission. Indeed we'll see if we can find more room for you in our final report perhaps than we had in the draft. One of the points that you've made there I guess is the need for consistent regulation. I might just get you to talk a little bit more about that, I guess there you're sort of thinking potentially across the country but also across different modes, and perhaps get you just to sort of talk a little bit more about the regulatory disparities or disadvantages you face relative to, say, the corporate bookmakers on the one hand and the TABs on the other. Any comments in that area would be welcome.

MR FLETCHER (ABA): Yes, I might take that issue then. We're feeling that our sector is a little bit unloved and we've fallen through the cracks in this debate between corporate bookmaking and the TABs. Basically the Cameron report, which you're familiar with in New South Wales, recognised that and said that it doesn't make sense to continue some of the outdated restrictions and limits to on-course bookmaking that have been there over the decades.

We, in the major states, still have problems in accessing the off-course customers via flexible telephone betting and Internet betting and via access to more convenient licensing arrangements such as company licences, corporate licences and so on. So New South Wales Bookmakers in particular are having difficulty holding clients, they are losing them to the corporate bookmakers who can provide a seven day a week, 24 hour service on all events including - full product range including tote odds. New South Wales Bookmakers are limited severely in all of those capacities, still tied to operating from a racecourse, from a racecourse stand. The small improvements that have been made in terms of access to further telephone and Internet arrangements will give us some benefits but will nowhere near bring us up to the level of service that the corporates and some of our other interstate competitors have got.

MR BANKS: Okay.

MS SYLVAN: Can you explain to us what the rationale is for that distinction and regulation?

MR FLETCHER (ABA): As the chairman has said in his address, there seems to be a reluctance in New South Wales to open up the market to more competition. Historically New South Wales has been slower to move than any jurisdiction on regulatory reforms in wagering and competition reforms. It has been the last move on telephone betting limits. It has been the last to move on bookmaking licensing arrangements. The view of regulators has been a conservative one in that any move might harm the tote turnover and proceeds and that therefore it is best not to be progressive for those issues.

MR BANKS: Why is that not also the concern of Victoria? So I'm intrigued, always, when you get two jurisdictions, particularly New South Wales and Victoria, taking divergent approaches. Victoria, in a sense, has the same motivation to protect its tote. So why do you think we have two fairly different approaches? I might say it's not just in relation to wagering, it's in relation to a whole range of other gambling-related areas but what is driving these differential approaches?

MR FLETCHER (ABA): You can get down to individual personalities and their view of the world. I mean as you say, commissioner, Victoria probably has more reason to be cautious. The racing industry is in a joint venture, commercial joint venture, there with Tabcorp, which is a different structure to the New South Wales arrangements. But I think in general the government administrators, the ministers and the racing industry lead bodies in Victoria have, for whatever reason, taken on a more progressive stance. They've opened the way for more dialogue with wagering operators. You see the difference in fee approach. I think it flows on to the regulatory approach in terms of bookmaking, licensing arrangements and other things.

MR BANKS: Well, just on that, obviously you would have seen - and I think later in day we will have people that don't agree with the national approach in relation to this area. Just explain to me why you think more explicitly a national approach to price setting would in fact be the right way, which is what we've recommended. You will have seen - other submissions have said that price setting should stay in the hands of the producers of the product, that is, the racing industry, in each of the individual jurisdictions and that that would be good for competition. So I was just wondering why you have taken this particular approach which is supportive of our position but different to many of your racing colleagues.

MR ROLFE (ABA): Mr Commissioner, we view the differentials that exist at the present time to be a burden for the industry and anticompetitive. We believe it needs to have a national perspective. From that point of view the bookmakers are very firm in their belief that we need a national perspective to get the consistency we need across the board to generate a level playing field, and that is what is not existing at the present time.

If I could just draw your attention also to the fact of the burdens now existing for on-course bookmakers alone of providing the paperwork and information forthcoming from each jurisdiction. You've got to understand that the bookmaker is a lay person. He has been bookmaking for years within these types of burdens now attached to his licence. It is becoming a burden to the point where some of our members are now considering, because of the reduced viability of their operation, of exiting the industry. We're trying to hold on to our members. We get, daily, members of our organisation asking us how to go about completing the paperwork

that's required from all these jurisdictions. We believe it should come from a national perspective. It would simplify it. It would take the red tape out of it completely and we'd all know what our requirements are they would be limited compared to what they are now.

MR FLETCHER (ABA): We've gone from single state licensing where you basically needed a licence in the state that issued a bookmaking licence to requiring virtually a individual bookmaking licence in every state in Australia whose events that you are conducting betting on. Some of the arrangements are differential, are different. Some of them require probity and other checks that you would expect to go through in your own jurisdiction but you wouldn't expect to be duplicated state by state, territory by territory. As has been said, most on-course bookmakers are sole trader operators. They don't have the sort of administrative support that a corporate bookmaking company with hundreds of staff would have and they're being forced into these situations; not only on licensing but on AUSTRAC arrangements and on various other regulatory arrangements. So we see - you know, regulatory burden excessive and we see need for a simplified approach, be that national; we suggest that's the right way to go.

MS SYLVAN: This burden occurs, does it, in relation to each type of betting? For example, does it occur in relation to the Internet and then telephone and then on-course or is it simply related to - you know, is Internet more - you're in one jurisdiction and you can offer to the whole of Australia. Where is the burden coming from?

MR FLETCHER (ABA): Your gambling licence is issued by the state that you have sought to have your primary licence and reside in and operate in. However, race fields licenses are required in every state that you take bets on that event. So it may be that your primary New South Wales licence is a simple process. But across the race fields requirements and any other arrangements that each state might apply, for example, South Australia is indicating they would like you to apply for different bet types and impose different limitations on the types of bets you can make to residents of South Australia by phone or Internet. All these inconsistencies add to the regulatory burden of a bookmaker no matter his primary domicile is.

MR FITZGERALD: Can I just take that, the South Australian approach. What's driving that? Is it a consumer protection focus that's requiring these different - is it an integrity or probity thing? What's driving that particular type of intervention?

MR FLETCHER (ABA): It can be both, commissioner. As you know state regulatory bodies have different views of how to manage their responsibilities and some of them would disagree with the other states' management of responsible gambling issues, the range of products that should be allowed to be bet. There is

quite a lot of differences across the states now on that very issue. Again, you know, we don't want to keep harking back to New South Wales but there are quite a lot of limitations in New South Wales on the types of products that you can offer. These products are being made available by the ACT, by the Northern Territory, perhaps by other states but not in New South Wales. Now, on a national basis you've got these inconsistencies across the board.

MR BANKS: You - sorry.

MS SYLVAN: Well, you continue.

MR BANKS: I'm going to go in a new direction. I was just going to ask you, because you've actually enumerated the impacts on prize money, etcetera in those jurisdictions which have got the protected tote approach, do you want to make any comments on other impacts that this has had on the quality of the service or the racing product price in the variety that's available for punters or consumers.

MR FLETCHER (ABA): I think our main point in this respect was those that are advocating the tote and the protection of the tote as the best way of supporting financially the racing industry have ignored the clear international evidence that the tote monopolies around the world are not doing well, and in particular Japan, which, as probably the most protected market in the world, is doing worse than anyone in terms of growth over the last 20, say, 30 years. But their year-on-year declines are now quite diabolical. Our view is that competition, innovation and the allowance of new entrants can and will drive the wagering market and wagering revenues.

The tote in Australia, being opened to more competition in recent years, is not collapsing. The growth in racing revenues from betting in the past 10 years has been stronger than in the previous 10 years, so the corporate bookmaking area, if I can put it that way, has not caused racing revenues to decline, in fact the revenue stream in the last 10 years is stronger. The CEO of Racing Victoria made that very point publicly at a Sydney wagering conference two weeks ago. This is why Victoria and RVL hold no particular fears about the future of more innovation, more competition, more providers and less reliance on a protected tote situation.

MR BANKS: Thank you.

MS SYLVAN: I'm wondering if you can enlighten us a bit on the gross revenue turnover debate. We have put a view in the report, which I'm sure you've seen, about how the calculations probably should be done; though I have to say at the end of the day I would have thought it's probably the total amount of money that comes out that matters more than the calculation. I'd appreciate your view on that and also on a position that has been put to us that, while there should be some national market

elements to this particular part of the industry and you can have some regulation at that level, the product fee should still be allowed to set by the racing authorities in each jurisdiction in competition with each other within a national wagering market.

MR FLETCHER (ABA): As we said before, we think that the racing industry has not handled this issue well; the fact that New South Wales is in litigation, Victoria has taken a different view. We have doubts about the racing industry's ability to manage this issue on a coherent national basis. Sorry, your second point was on competition between racing codes and a body.

MS SYLVAN: That the product fee should still be allowed to be set.

MR FLETCHER (ABA): There will be an element of shake-out over time if inconsistent fees are set for different forms of racing, different codes of different jurisdictions, there will be a consumer impact over time. This is not a special industry, this industry has the same economic outcomes as any other industry that differentiates the prices of its products to a consumer.

However, in the short term there are major difficulties and obstacles for wagering operators in coping with the lack of a clear-cut, consistent, coherent and workable fee that's applied to the wagering industry. So this is why we have agreed with your approach. We think that a national body would be better placed, after consultation, to set an appropriate fee for the industry rather than having the industry at war with wagering operators and indeed with its own customers.

MR FLETCHER: The product fee that would be set, whatever that figure is, would it be the same for corporate and non-corporate bookmakers? In other words, without actually worrying about what the fee is, is it a case where your bookmakers would be levied at a different rate to a corporate Internet bookmaker or do you expect at some stage to actually get to a common fee structure for all bookmakers and betting exchanges?

MR FLETCHER (ABA): We'd be suggesting there's room for differential fees between retail and telephone and Internet betting. It's important with cross-border betting, telephone and Internet, that fees be set consistently; and you're seeing market failure at the moment because that and the regulation of same is not consistent. At a retail level, we see no reason why there could not be differential fees afforded to operators who were given licences to conduct retail cash betting.

We agree with your assessment on the doubtful need for TAB retail monopolies, we think retail arrangements can be run more competitively, albeit the tote pools should not be tote pools, should be run as single pool entities. But there's no reason that you couldn't have multiple sellers into a tote pool and an appropriate

retail fee for operators to be able to set up shops and sell bets in cash to operators. Why should that be one company, and what would the benefit of that be? We don't understand that either.

MR BANKS: Thank you very much. We really appreciate that. As I say, we'll read carefully your written submission when it comes in. But in the meantime, we appreciate the conversation we have had today. Thank you.

MS SYLVAN: Thank you, gentlemen.

MR BANKS: We will just break for a moment before our next participants, Harness Racing Australia.

MR BANKS: Our next participants are from Harness Racing Australia. Welcome to the hearings. Could you please give your names and your positions?

MR WANT (HRA): Thanks, commissioner. I'm Geoff Want. I'm chairman of Harness Racing Australia.

MR KELLY: Andrew Kelly, chief executive of Harness Racing Australia.

MR BANKS: Thank you very much. Thank you also for the submission that you provided previously. You have also given us an indication of some of your reactions to the discussion draft. I'll give you the chance to talk to those. As I said, we can perhaps ask a few questions after that.

MR WANT (HRA): Thank you, commissioner, and thank you for the opportunity to appear before you. Harness Racing Australia has prepared a written response to the Australian government Productivity Commission's draft report into gambling dated October 2009. As you mentioned, this response has been provided to you, I understand. It's presently in draft form, but the final version will be lodged in the next day or two, and I don't really envisage any change to that, commissioner. So I think we can use that as the basis for our discussions.

Just by way of background, Harness Racing Australia is the peak national body representing more than 40 owners, over 7000 trainers and drivers and the many thousands of people employed within the harness racing industry and in ancillary industries reliant upon harness racing for their income. We also have a keen interest in the wellbeing of the many tens of thousands of punters who follow harness racing, given their importance to the industry. I don't propose to read our response in detail, which I'm sure you'll be pleased about, as it's on the record for the commission to review. But I would like to go over the key points and then, as you said, discuss any matters with you, if this is appropriate.

First of all, obviously HRA considers chapter 13 of the draft report, the developments in the racing and wagering industries, to be of critical importance to the future of harness racing in Australia. Some of the points we would like to make. HRA strongly supports the commission's recommendation to develop a national funding model for the racing industry which is underpinned by national legislation. Indeed we advocated this in the original HRA submission, numbered 231, and we are pleased that you've recommended this.

HRA supports the commission's statement and the absence of regulation, free-riding by wagering providers would undermine the racing industry and harm consumers of wagering and racing products. HRA does not support a levy which is

universally paid on a gross revenue basis. We support a more flexible approach which allows each state racing authority to determine the type and amount of the levy it considers appropriate for the use of its racing product.

HRA is not persuaded by the commission's reasons for preferring a gross revenue levy or a turnover levy. While we agree with the commission that the charge must be fair to all operators, we do not agree that consumer interests are better served by a gross revenue fee. We believe consumers will be best served by a racing industry which can provide quality, safe racing underpinned by the highest standards of integrity. Much has been made of the levy in Britain, I might point out, before this commission, but it has simply not worked in Britain.

HRA does not support the establishment of an independent three-person racing and wagering tribunal to set and review the levy. As the producer of the racing product, the racing industry is best placed to determine the levy. HRA disagrees with the commission's finding that the arguments for renewing TAB retail exclusivity are not compelling. It is HRA's view that increased competition in the retail network would ultimately lead to poorer outcomes for consumers.

HRA does not consider a direct distribution model feasible nor preferable. The direct distribution of funds to clubs based on wagering ignores the myriad services which are required to be provided by the state racing authorities. HRA disagrees that tote odds betting should not be prohibited. In order for the Australian harness racing industry to thrive and provide a high quality product which is attractive to all consumers it's imperative that the industry can charge a fair price for its racing product.

The end result needs to balance the needs of punters or consumers with increased returns for industry participants, more stakes money for owners and a more self-sufficient and productive industry capable of making an even greater contribution to the Australian economy, solutions needed to strengthen not weaken the racing industry, which the commission agrees is facing increasing challenges from offshore wagering and competition for the entertainment dollar along with a changing economic and social environment. The racing industry needs to be able to achieve their goals and secure a sustainable future for the tens of thousands of people employed in the industry.

The future survival of the racing industry depends on its ability to get maximum benefit from its collective resources, to think strategically and to act decisively. Just a couple of other general comments I'd like to make, commissioners, if I may. We have covered them in the thing. We talk a little bit in our submission about the commission seeming to have drawn a parallel that punters are consumers. We just want to make the point that while we recognise the role of punters in the

industry, they're not the only consumers. We'd prefer to see a broader term for consumers.

It's an interesting mix of stakeholders, all of whom we regard as consumers in the racing industry. We have got people who depend on the industry for the livelihood; we have got people who depend on it for entertainment and social interaction; we have got people who simply love the animals, which is why they're part of it; we have got owners who embrace one or more of those categories; and we have punters, many of whom also embrace one or more of those categories. While I have no intention of commenting on previous submissions at this point in time, I just want to assure my friends from the ABA that we're not anti bookmakers, we actually welcome oncourse bookmakers and would like to see more involvement with oncourse bookmakers in the industry.

As I said, punters are a loosely defined group who range from small, occasional betters to professional investors. There has been a lot said before this commission about take-out rates and terms, particularly in regard to corporate bookies and people's margins and profitability and sustainable business models and what have you. It has been my experience that take-out rates don't mean a lot to the vast majority of punters. I don't wish to trivialise the debate, but take-out rates are there for a purpose, and I'm sure the commission understands those purposes, and they vary across different jurisdictions.

But the vast majority of punters don't consider take-out rates. Their primary reasons for betting are the thrill of winning and collecting a dividend. I also don't believe that take-out rates have been the primary reason for the growth of corporate bookmakers. Certainly the low overheads for the corporates have allowed them to put much more attention and focus on marketing and customer service and, quite frankly, I believe that it is customer service that has been the biggest cause of the growth of corporate bookmakers. The racing industry has neglected some of its consumers in the past couple of decades, I have no doubt about that. I'm not talking about the present administration.

I think in harness racing we have very vibrant state racing authorities and certainly HRA that's looking very clearly and hard at how we overcome some of those issues now; but certainly there was a problem, going back some years, in terms of paying due attention to the rights of their consumers. I certainly believe that the TABs have been guilty of being lazy and not taking care of their customers as they perhaps should have done. That doesn't mean that they should be tossed out of the equation here, it means simply that they need to get their act together, and I think they are gradually doing that.

We have done a fair bit of market research in Harness Racing Australia,

particularly we did a recent exercise where we talked confidentially with the largest punters in harness racing that we know of in Australia, and I have to say that the reason that everyone of those that bets with corporates gave us for betting with the corporates was better customer service, and it was all sorts of things. But I just make that point when I'm talking about take-out rates.

Just in terms of free-riding - and obviously we welcome, as I said, a great deal, the commissioners' comments on free-riding - the corporate bookmakers have been able to ignore the cost of product in their business plans. The discussion seems to be that the racing industry, a lot of the corporate bookmaking people that have appeared before this commission, has to continue to subsidise the business undertakings of bookmakers, because their business model is not sustainable if they have to pay for the product. Because of that, we're disadvantaged, as they woo punters from the wagering retailers who are paying for the product, using their lower overheads as their primary weapon.

In another role, I serve on the board of a very small licensed club in New South Wales in a regional community. We are the only outlet in town where one can get a drink or any sort of social interaction, and we struggle, it has been hard. We are a little tennis club. But it's the centre of community activity.

We have 18 poker machine entitlements and I know that the Office of Liquor Gaming and Racing in New South Wales thinks we're fairly unique because we actually make more money out of bar sales than we do out of poker machines. It's almost a museum because we have reconditioned poker machines. We upgrade them; you know, these are second, third, fourth, fifth hand machines that we got from someone else, I think we paid as much as \$10,000 for a machine once, whereas obviously the bigger clubs down the road and wherever, they go and pay their 40 or 50 thousand dollars for their new machines.

Using the analogy with the corporate bookmakers, I wish that we could pay Aristocrat and Konami and co what we could afford to pay for a machine and get their new machines into our premises and we'd be a lot better off, they'd certainly make our business model a lot better; but we can't, we have to deal with the reality of the situation. The only other two points the commission did ask, there were two points that you made. One was on the Sky Channel.

In the response we point out that we have put a submission to Australian Competition and Consumer Commission previously, a couple of years ago, on the whole the Sky Channel ownership business. I think we're attaching that as an addendum to our report, that submission. Our views are set out; again we have put them in the response. I served five and a half years and chief executive and managing director of Sky Channel, so while I would not dare comment on their

current policies and do not wish to comment on the current ownership, I'm happy to point out just one thing. People have talked about the content of Sky's programs at the moment. I can assure the commission that during my tenure that growth in programming was primarily due to market research and feedback from our viewers rather than being dictated to by the our then owners, which were Tabcorp; and I did serve for six months under Tabcorp before I decided to move up to Lake Macquarie and enjoy life there much more.

So as I said, we've included comments on Sky's ownership. Also you talk about the Interactive Gambling Act. We don't support the repeal of the act. We believe that the current prohibition on the provision of online gambling services including casino games, electronic gaming machines and bingo is appropriate. There is one thing that I - and I have to say I know I can't give personal views when I'm representing Harness Racing Australia but I sometimes allow my - the fact that I'm a father and grandfather to come to the fore in these matters. I find it a little repulsive when I am sitting - I've educated my children and my grandchildren about responsible gambling. I find it a little repulsive when I'm sitting and watching free to air television, particularly cricket broadcasts, telecasts, and I find commentators constantly ramming down our throats the fact that these are latest prices on a game. I'm not against sports betting but I am against that sort of thing. So I'd personally welcome the commission making some comment on that in its final report as well, that's all. Andrew, is there anything you wish to add at this stage?

MR KELLY (HRA): No, not at this stage. Happy to take any questions.

MR BANKS: Okay, all right. Well, thank you I think it has been a very interesting range of issues that you have addressed there which we're obviously going to need to think about for our final report. But in relation to harness racing in particular are there any issues or specific features or problems of harness racing as a racing form that we should be aware of in doing more work or the perspectives you've brought have been a more common one, as you see it, to the racing sector generally, horse racing sector generally?

MR WANT (HRA): Harness Racing is a - I'm an independent chairman. Harness Racing asked me to be - they wanted an independent chairman, which I thought was an interesting - you know, that showed something to start with. I mean I've been around racing, obviously, a long time and what have you. I've had not so much involvement in harness racing until I took on this role three years ago.

It's an interesting industry in that many of our participants are much smaller than - you get a lot more professional trainers, for example, in thoroughbred racing. A lot of our people are genuine hobbyists. We have an enormous number of hobbyists. Not to say there are - there are professionals and what have you. But, for

example, during equine influenza, which Andrew can speak more competently than I, in that he was chief executive of Harness Racing Queensland and it happened in - Queensland being one of the states, with New South Wales, that was hard hit by EI. We felt the ramifications of EI very harshly because so many of our participants are actually - own their own horses, they train the horses they own and a lot of them drive them in races. Now, don't get me wrong, as I said, there are professional stables and trainers and what have you. But it's a much more family oriented sort of mum-and-dad sort of industry than say thoroughbred racing is.

MR KELLY (HRA): There is one point I would like to make and I'm not sure whether or not I'm picking on your question specifically but we hear a lot about the racing industry, and reading some of the transcript we've heard about the racing industry. I put to you that largely that's the thoroughbred racing industry, as distinct from the harness racing industry. We come here today with very clear understanding of the views of our members, which is articulated in the reports which we've put to you to this point.

But further to that, just - I mean because we've heard from the bookmakers association and them talking about Victoria as a jurisdiction, the Harness Racing Victoria model or preferred model is very different to the RVL model which has been into practice at this point in time and it's a clear distinction that I'd like the commissioners - for you guys to understand, that they are not of a similar opinion to RVL and that they have steadfastly taken an opposing view, if you like. In relation to that, I suppose, we come here joined at the hip as a full membership and an organisation.

MR FITZGERALD: But can I just deal with this issue about national - it seems to me attention - and attention seems to me to be in part about whether or not this is truly a national industry, in your case a national harness industry or not. It seems that when you look at issues around product fees and what they are, we're arguing around a very constrained set of differences. For example, in harness racing there are literally only two types of product fees. It's either 1.5 per cent of turnover or it's 10 or 20 per cent of revenue. So it's 1.5 per cent of turnover or 10 or 20 per cent of revenue and that's it. That's the difference across the whole of Australia in relation to harness. Yet it is a huge issue in this inquiry, a massive issue.

The point that I want to raise is, is this really about the cost of producing the product and getting a fair fee or is it actually a tension that is emerging around the changing nature of this to a national industry? I mean you've heard the bookmakers today say that they believe it's a national industry and have a national approach. There's a logic in arguing that if we've got Internet corporate bookmaking and betting exchanges which are national by nature. But in fact the industry is in transition and the argument is really about whether or not the industry wants to be a national

industry or a collection of eight different industries. So just explore for me what's actually happening here, because on the - when you look at the numbers it doesn't make sense there's so much anxiety. It just doesn't make sense, and yet there is.

MR KELLY (HRA): You're absolutely right and it's an interesting point in that I don't think you'd get any argument that wagering is truly a national if not international sport at this point in time. However, the way in which traditionally the racing industry has operated with state based legislation to licensed participants to licensed horses to make arrangements for club et cetera I suppose we're somewhat beholden to that, as you'd be aware. We'd certainly support the national funding model but within that the ability of the states to set their own levy or price; for that reason being of the disparity of costs associated with providing the product in the first place. There's very different costs and fixed costs associated between the states and between the jurisdictions.

MR FITZGERALD: Well, can I just test that. I thought that was the basis of why people wanted product price differentiation but it's clear in this inquiry that may not be the case, that in fact people are saying you should have a right as an industry, a jurisdiction based industry, to be able to set the fair price that you think you should receive. But in fact the actual costs are not in fact significantly different between Queensland, New South Wales, Victoria, ACT. So can you just explore to me is the product fee differences going to be based on a genuine assessment of costs or is it simply the right of each individual jurisdiction to be able to set the price that they think is appropriate, and they are different, and they're different outcomes.

MR KELLY (HRA): I was just going to allude to a point that Geoff made earlier that particularly in harness racing the hobbyist element certainly is very sensitive to price and cost and, you know, we continually hear and are dealing with some massive issues of drought and petrol prices et cetera. I suppose I know that I'm flowing down right to the base level - - -

MR FITZGERALD: Sure.

MR KELLY (HRA): - - - in terms of an understanding here of the costs associated with putting on the show and with providing the product. But I think it is relevant that we do have quite a sensitive production line.

MR FITZGERALD: Sure, but can I just test it a bit further. If I were a national price-setter and you gave me all the evidence from all of the states in relation to the harness racing industries in those jurisdictions, would I be looking at a situation where there is a vastly different price - sorry, a vastly different production cost between New South Wales and Queensland and Victoria, the three major states when it comes to harness racing and therefore need to set very different product fees? Or

is it more likely than not that I actually come up with a consistent fee based on a relatively similar pattern of production costs?

MR WANT (HRA): Commissioner, I would suggest that the quantum may differ in terms of obviously because of the sizes of the market in each of those states but no, the basic - the basic cost structure is similar in all states. If I may just try and explain this a little further. The reason that I believe we have a different approach in some states to - and we're talking 1 and a half per cent of turnover of gross profit model - is I think comes down to individual perceptions of how to deal - or individual approaches in how to deal with the growth of, let's just call it the corporate bookmaking thing, that suddenly the market didn't really read the warnings signs too well. Going back - I mean, if we go back, 10 or so years ago we had corporate bookmakers in the Northern Territory, there was a trickle of money to those bookmakers. They were largely servicing existing clientele or major punters and they were setting prices. It was a very different scenario to what suddenly took off in the last few years; suddenly the growth quite quickly was upon us, and to be frank, the industry didn't read that coming too well and nor did the TABs.

I think what has happened is that in different states people have sat back and taken a different view based on their own beliefs. I know that there are some who felt that corporate bookmakers were good for racing because they were going to bring new business to racing, that they wouldn't cannibalise existing revenues. I know I have had this discussion with different administrators, they firmly believe that.

So the bookmakers therefore preferred the gross profit model, obviously; I mean, one doesn't have to be Einstein to work out why. Those who believe that argument that that would increase revenues for racing were quite happy to accept that, because they thought anything they get in new is better. Other people said, "Hang on, that can't be the case. We can see this eroding our revenues," because of the customer service angle that I talked about earlier, "because they will move customer costs from the other."

So you go from a revenue model of where you were getting 4 and a half per cent or 6 per cent, depending on the state return, through their TABs, for every million dollars of turnover they were getting somewhere between 45 and 60 thousand, back to the industry, to, if you went to a turnover model, it dropped to 15,000, but you're still getting something reasonable, to a gross profit model where you're getting somewhere south of \$5000, so I'm told. So it came down to a matter of choice and what administrators truly believed the situation was going to be arising out of those performances, and then we have ended up with the situation we have got today.

MR BANKS: Isn't the amount of income or revenue that comes back just a matter of what the rate would be? I mean, couldn't you have equivalent revenue streams coming from the different levy arrangements, just depending on what those levy rates are for the different bases that they apply to?

MR WANT (HRA): As I have made clear already and it's in our response, we support the way the system works at the moment with the parimutuel operators in each state having exclusive retail rights in those areas, or offcourse rights. If you drew a picture where so long as one was getting a fair return and equal return from various suppliers, I'd imagine that the return to the racing industry is the same, there's not going to be a dispute there.

MR FITZGERALD: So how do you counter the argument that you've heard from the bookmakers, and we have heard from others, that in a sense in the pricing there is an anti-competitive element in this, in the sense that some of the operators, not necessarily harnessing but in the racing industry more generally, really don't want corporate bookmakers, that in fact some of the pricing does have an element that is really trying to maintain the status quo rather than to free up the competition. I know there are court cases going and you won't want to comment on those, and we don't either. But it does strike me that some people in the industry, your stakeholders, actually believe that some of the price-setting is in fact to some degree an anti-competitive device. Is there any veracity in any of those claims?

MR KELLY (HRA): I'd probably put it another way, and maybe it's a very simplistic view. But it's certainly what we have spoken about as an industry time and time again and it's in fact coming down to the certainty of what the industry will receive at the time that the bet is placed, and again I may be breaking it down and making it far too simple, but essentially that's where it is: at the time the bet is placed, what is the industry receiving? The quantum is not spoken about in our second submission, we are not talking about that necessarily today, but it comes down to that certainty.

MR WANT (HRA): Commissioner, if I just might pick up on that or add to that and answer your question. I have certainly not heard in my three years in this role any of my executive, which represent all states, say that they wanted corporate bookmakers banned. We have always advocated that we need a fair return for our product, and we're not getting that at the moment.

But I have not heard anyone say they wanted corporate bookmakers banned; what they wanted was a situation where the corporate bookmakers have to provide a fair return for the product they're working on. I mentioned earlier about, you know, what is a sustainable model. If you are able to start a business and determine that you won't pay any cost for the product, it's a very different world if you've got to go

into some other industry and you have to work out what the cost of doing business is, and this is the cost of business.

MR BANKS: Why do you say not pay any charge for the product? I mean, isn't the idea of avoiding a free ride a notion, which you've supported obviously, addressing precisely that? You might just need to explain to me a bit more why they're getting away without paying.

MR WANT (HRA): Why they're getting away without paying it?

MR BANKS: Yes.

MR WANT (HRA): Well, the laws in Australia and the way they have been at the moment haven't permitted us to be able to pursue them.

MR BANKS: I'm just saying, under the funding model that we have put forward, it's designed precisely to avoid the free-riding that you're concerning about.

MR KELLY (HRA): That's right. I don't want to put words in Geoff's mouth, but I think he wasn't talking about the here and now in relation to that.

MR BANKS: Okay.

MR WANT (HRA): Yes, I was.

MR KELLY (HRA): There are a number of operators not contributing at all. There are some paying and some that are being held in trust, and all sorts of things.

MS SYLVAN: Continuing with that and your preference for the turnover - because of certainty, I think you indicated - we have certainly heard from the corporate bookmakers and to some extent the betting exchanges that the model of turnover is not one that suits the growth of their business. We have heard from others, in the thoroughbred racing industry, for example Rob Hines from Victoria, who is doing a presentation in Sydney, that the growth that they're seeing in relation to wagering is coming from the corporate bookmakers in particular.

One would think that you would have a strong interest in the growth of that particular part of the wagering industry. You've got on the one hand your preference for certainty, as against a new model which is attracting not simply people moving but it appears on the evidence to be attracting people into wagering on your code, so there's growth there. So that is, it seems to me, a very difficult issue for you, to choose to stand by a model of which that component of provider in your industry which is growing is saying it is not viable for them to be able to continue and

compete.

MR WANT (HRA): Commissioner, I know that corporate bookmakers often say that they have brought new people into racing. I don't see a lot of evidence for that. I find it intriguing that most of their advertising is geared to being on racetracks and in racing publications and racing media; and that's where they're getting their client base. I don't see them advertising their services a lot outside of those areas, apart from sports betting.

MS SYLVAN: So basically what you're telling us then, if I can summarise that, is there's not much opportunity for growth in your industry, the new bookmakers haven't attracted more people in, so it's better to stick with the model that was there, which gives you a definitive amount front end in.

MR KELLY (HRA): That's right, on the understanding that, whatever was the quantum that was set by the states, they weren't going to be forcing anyone out of the market, or they'd certainly want to make it an attractive proposition for anyone to continue to want to wager on harness racing. I say that's the safeguard at the end of the day, that no-one would be setting a fee which was going to be detrimental to the growth of their industry, I wouldn't have thought.

MR WANT (HRA): Commissioner, I see a lot about growth. If we're going to truly get new growth in your industry and new participants into our industry, then we have to become a little more innovative in our marketing and in attracting people back to the courses for our feature events, and that sort of thing. I genuinely believe that's how we grow a lot of our audience, otherwise we're just regurgitating around the same mass.

MR BANKS: You were here before I think when the ABA talked about betting declines in the major tote-only racing countries and talked about some of the numbers there, with Hong Kong prize money down 18 per cent, 25 per cent in the USA, and so on. I think those statistics were taken from the Australian Racing Board fact book. Would you like to comment on that, because essentially you're arguing for the maintenance of retail exclusivity? But what they're arguing I guess is that that model hasn't been working too well, in terms of the sustainability and growth of the sector.

MR WANT (HRA): I wouldn't argue with my old colleague, Peter Fletcher, on any of those statistics that he put forward, commissioner. But I do believe that the point that the ABA was making was that jurisdictions where there is a tote-only monopoly - in other words, there is only parimutuel wagering - is not healthy, with the possible exception of France; and some other European countries, I might add - and it has never been our position, we have not advocated at any stage, and nor will we that I

can see, that we have a parimutuel-only operation in Australia. I would like to see more bookmakers back on course at our harness-racing meetings.

Look, as for the figures, as I said, I wouldn't dispute that. But again when we look at some of these figures we need to look at some of the underlying reasons for what occurs in some of these markets. I don't think Australia is in any way similar to the market in Japan. Certainly Hong Kong is a very different market, and there's a whole host of issues there. Some of our figures in Australia have been affected by EI, both good and bad, it worked for us and against us, we need to go back to pre-EI before we look at them, because you'll get some sharp movements over the last couple of years.

MR FITZGERALD: Just on tote odds betting, we made a call that that shouldn't be prohibited. You have indicated I think that we have got that wrong, that you'd like to see it prohibited. Can you explain to me why you think that's the case.

MR KELLY (HRA): That's certainly the position of our membership, and they're quite strong on that point. I suppose as we sit here today - and whether or not we have made it crystal clear in our submission, I'm not sure, but it's thought that that is domain of the totes, the market has set that price, that market is paying a price for setting the price, if you like.

Whilst we'd like to see it abolished, whether it can or can't be, the point that we would make is that we would like to move to a single tote or parimutuel pool sooner rather than later, and we have been very strong on that through various Racing Ministers' Conferences, etcetera for some time, and even put up our hand to say, if they would like to test a model, that harness racing is there ready and waiting to test that model, because we do believe that the larger parimutuel pools will certainly benefit the consumer.

MR WANT (HRA): Commissioner, from a consumer viewpoint, if the corporate bookmakers were framing a market and putting that up so there was a true alternative, we would have far better competition. But no, they're not, they're just simply taking three tote prices and letting the market set the agenda, if you like, so that it depends how much is being wagered in and across those three major tote pools as to what they pay out.

Yes, I guess at the end of the day the consumer wins out if you have placed a bet in one state and you can get a better price because it's a better price in New South Wales or Queensland or something, I could see that working. But the consumer doesn't have real choice. If they were overlooked beforehand and see that the bookmaker has, as bookmakers used to do, set a frame on a market and set a price, then they have an opportunity to look for real choice.

MS SYLVAN: Would you extend that prohibition to tote odds actually offered by the totalisator? Tabcorp has Luxbet for instance, a corporate bookmaker, that offers effectively tote odds.

MR KELLY (HRA): Yes, I think that's right.

MS SYLVAN: The whole lot?

MR KELLY (HRA): I think if we're going to have a position on it, it's across the board and it's fair for all. Just on that - and it may be a little bit off-track, but we have talked a bit about take-out rates, we have talked a bit about tote odds, etcetera and obviously all bookmakers and all markets set a book to a certain percentage - at the end of the day it may not necessarily matter or concern the consumer as to what they have set their book at, it's the price of the horse or the greyhound that they want to back at any particular time that motivates their interest. What the book-set is is largely irrelevant, as long as they believe that they're getting the best value or the best price that they can.

MR BANKS: Thank you very much. I found it very helpful. We understand that you'll be sending a final version of the submission but it won't change much from the one we have got. So we appreciate that and thank you.

MR WANT (HRA): Thank you for your time, commissioners, and we look forward to the final report.

MR BANKS: We will just break now until 3.30, please.

MR BANKS: Okay then, so I call our next participants, the National Race Horse Alliance. Welcome to the hearings. Could I ask you please to give your names and the capacity in which you're here today?

MR EINFELD (NRHA): Good morning, it's Einfeld, E-i-n-f-e-l-d, I'm counsel instructed by solicitors, Esplins, to appear on behalf of the National Race Horse Alliance. With me is Mr Michael Sissian, S-i-s-s-i-a-n, who's the co-convenor of the alliance and the principal of one of the major horse breeding studs in the Hunter Valley.

MR BANKS: Good, well, thank you for appearing. I don't believe we have an earlier submission.

MR EINFELD (NRHA): No, we don't.

MR BANKS: So presumably you want to comment on the draft report and as indicated I'll give you the opportunity to do that and you won't mind if we stop you along the way and perhaps raise some questions.

MR EINFELD (NRHA): Not at all.

MR BANKS: Thank you.

MR EINFELD (NRHA): Mr Chairman, the National Race Horse Alliance is a recently formed national association of participants in the Australian racing industry. It represents the thoroughbred racehorse owners of Australia which in turn represent some 30,000 racehorse owners in the country; the thoroughbred breeders of Australia, which represents something in the order of 8000 thoroughbred horse breeders; the New South Wales Trainers Association; and the two principal auction houses in the thoroughbred industry, William Inglis and Son Ltd and Magic Millions organisation.

We appreciate the opportunity to address the commission on its draft report. Unlike some, we come at this point in time not as a party seeking in some way to justify previous submissions that we've made but rather with the advantage of an understanding of the commission's tentative views about the matters expressed in the draft report. Our comments this afternoon are intended to be constructive and not merely critical. We had hoped to have available a written paper to present before now and for today. Unfortunately it has been delayed but we expect to be in a position to deliver it to the commission very shortly.

MR BANKS: Thank you.

MR EINFELD (NRHA): Some time in the next few days, and it will contain quite a deal of statistical and historical information that we won't take time to present today.

MR BANKS: All right.

MR EINFELD (NRHA): Consisting as it does of participants across different aspects of the Australian racing industry, the interest of the alliance for whom I appear lies in addressing comments, unsurprisingly, in chapter 13 of the draft report. A quick perusal of the transcripts since the publication of the draft report rather tends to suggest that chapter 13 is one part of the report which seems to generate a deal of passion on behalf of some.

MR BANKS: It's not the only part, I can assure you.

MR EINFELD (NRHA): No, I'm sure that's not the only one. One possible reason for that response, is, as we will submit, that the commission has approached the issues affecting Australian industry from a particular perspective which, to some extent, we wish to challenge. We bring in some measure a slightly different focus to the debate contained in chapter 13 and has been presented by other organisations representing, as we do, owners and breeders of large scale. No doubt, due to the commission's focus on productivity and a desire to foster competition, and because that focus in this inquiry is upon the gambling industry, the draft report, as we read it, tends to treat the Australian racing industry as an adjunct to or subservient to the gambling industry rather than as an industry in its own right; that is to say, the rationale of the Australian racing industry appears to have thus far been regarded as existing as part of and, as we say, an adjunct to the racing industry rather than a large scale industry - perhaps to use a phrase used, I think, somewhere in the report - for its own sake.

The fact that this commission is now inquiring into gambling and, as far as the racing industry is concerned, wagering has tended, we would submit, to mask the significance of the Australian community and economy of the racing industry itself. However, even if seen as a component of the gambling industry, it's clear enough that racing's role is a significant one. The first diagram in the overview section of the report at page XXVIII places racing's contribution to revenue as greater than that of the lotteries, the pools and keno all taken together.

We provided, Mr Chairman, last week a letter from our solicitors which identified the four primary matters upon which we wish to address the commission. Can I just identify them and then commence to address them. Firstly, they are the nature and identity of the community and consumers in particular associated with the

racing industry. Secondly, the size and significance of the Australian racing industry and in particular the suggestion apparent in the draft report, particularly in chapter 13 that competitive factors may operate for the better if the Australian racing industry were downsized. We wish to thirdly make some brief submissions about the role of corporate bookmakers, both onshore and offshore about which no doubt you have heard a considerable deal. Finally, again to turn to a subject matter about which the commission has been addressed at some length and that's the question of race fields legislation and product fees. Had time permitted, we would have addressed other matters. It doesn't and we won't.

MR BANKS: Feel free to put that in a written submission.

MR EINFELD (NRHA): Yes. The written submission will expand to some other areas but because of time factors they are the ones we wish to concentrate on this afternoon. In doing so we observe that the draft report does appear to accept and acknowledge in chapter 13 the cultural significance to many Australians of the racing codes and I won't ask you to turn to it, but for reference purposes that's addressed at the top of page 13.2. Secondly, it acknowledges the need for adequate compensation of the racing industry for wagering on its product, the same page; and the importance to the viability of the racing industry of the contribution to its funding and wagering operators.

With that background, can I turn to deal with the first question which we address and that is an appreciation of the nature of the racing community and of racing consumers, as they've been termed in the draft report. We would in this context suggest it's useful to refer back to the terms of reference for the inquiry. As you would no doubt know far better than I, they are reproduced at page IV and in particular I draw attention to terms 3 and terms 5 which have special significance. Both refer to the impact of gambling on employment and, we suggest it's fair to say, on the community generally. The draft report, in its present form, we suggest on examination is virtually silent on the potential effects on the community and in particular on employment in the community of the commission's proposed findings and recommendations.

It's with that background that we wish to raise with commission those two important aspects of its consideration of the racing industry as it comes to consider the preparation of its final report. The first is, which is the community to which reference is or should be made and secondly, who are the consumers to whom the report's consideration should be addressed? We submit respectfully that there is a problem with the approach currently adopted in the draft report and that approach accepts the current position of the corporate bookmakers. It proceeds on the basis that consumers, that is, punters are best served by a model of free competition, particularly among the corporate wagering operators, and it appears then to

rationalise the outcome in terms of a suggestion that the racing industry might need to downsize, as it were, to accommodate that result.

We submit that approach is unrealistic in the circumstances and unreasonable. It is in effect a case of setting the goal and then fitting the considerations to fit that goal. We don't say that disrespectfully, we understand the commission's perspective, being principally on productivity and competition. But we wish to submit that in this particular circumstance the nature of the Australian racing industry itself doesn't lend itself readily to treatment as if it were an ordinary business or an ordinary business model or ordinary business competition, retail stores and many other sorts of industries with which the commission deals.

MR BANKS: Just to clarify that, because there was some ambiguity in the way you expressed it, we haven't seen as an objective reducing the size of the industry.

MR EINFELD (NRHA): No.

MR BANKS: Our objective has been more about community wellbeing and broader objectives of that kind, of which productivity obviously is one part.

MR EINFELD (NRHA): We don't suggest for a moment that there has been any predetermination or setting out to achieve that goal.

MR BANKS: Okay.

MR EINFELD (NRHA): But by focusing upon competition in the wagering operator market which chapter 13 primarily does - not solely, but primarily - that becomes in effect the tail that wags the dog or the horse, I suppose, in this case.

MR BANKS: Yes. But it's a pretty big tail and it's not just related to competition for its own sake but rather competition as a means to an end and we might differ as to whether that's going to lead to that consequence or not.

MR EINFELD (NRHA): We also may differ as to what the end is or should be and that's what we wish to address. The starting point though is to identify to who we are dealing with. Term 3 in the terms of reference requires consideration of the economic impacts of the industry, as I'm sure you all know, employment and the interrelationships with other industries. Term 5 is the contribution of gambling revenue on community development, activity and employment. In our submission both the question of community and community development and employment have tended to become lost in the focus upon corporate wagering and corporate wagering operators. The community interest in all three codes of racing extends, we submit, beyond the interests of punters. You will know far better than I, particularly the

chapter on the racing industry is very focused upon the question of consumers and what's best for consumers and I will make reference to a couple of passages in a moment.

The first question is: who are the consumers, who is the community which is required to be served and which is served by the racing community. The racing community, we submit, is itself a very significant one. A useful source of information about that industry is contained in a report we understand has been given to the commission by the Australian Racing Board. It was an analysis by a company called IER Pty Ltd called Economic Impact of Australian Racing. I am not sure whether it has been tendered or whether you actually have a copy of it. Can I make available a couple of copies that we have spare, if they're of any use, because I just want to go to a couple of passages of it, if I can.

Although the report was prepared in 2007, its statistical data are useful for information which is not presently presented in the draft report. If one turns to that IER report just very briefly, I won't take time to go to this, it's worth noting the introductory comments of the then Australian Racing Board Chairman at page 3. The numbers are in the bottom corners as one turns the pages. There's a foreword from the Australian Racing Board Chairman, Mr Pearson, who says:

It involves no measure of exaggeration to say that horseracing is a quintessential part of the Australian way of life. Australian racing doesn't lend itself to easy or neat description. It's a major economy activity contributing to the GDP, jobs, government revenue and it's also one of Australia's oldest sports -

et cetera.

It's closely linked with gambling but has a cultural significance the poker machines and casinos will never acquire -

et cetera. That's a matter we wish to emphasise because it's something that although reference, and scant reference at that, is made to it in chapter 13 it becomes a very important point. One matter not addressed by the commission other than in passing is the last matter mentioned in that top paragraph on page 3, whilst talking about the countless millions that watch the Melbourne Cup:

At the same time racing continues largely unchanged. In picnic meetings run throughout country Australia almost every place big enough to be called a town and some that are not has its own racetrack.

I went one New Year's Day to somewhere in the Hunter Valley where the only

thing that was in the town was a post office, a petrol station and a racetrack. That was Wallabadah.

One matter not addressed by the commission, in our submission, which deserves consideration in light of the terms of reference is the desirability of maintaining these local focal points and the means to do so, as opposed to dispensing with them because they do not serve or are not served by the competition model. Now, it's not a criticism but the fact is that kind of consideration, which we submit does fall within the charge to the commission by the terms of reference, its effect upon community, community development and community interests, is largely not addressed in the chapter because that's not a focus. It's focusing upon competition between consumers but it doesn't have regard to the interests of the vast racing community beyond consumers who effectively, for practical purposes are defined as punters, and then some, we will say largely the professional large-scale punters. That's a matter we will return to.

At page 9 of the IER report is a useful broad presentation of community involvement in racing with the participation of the economy, the number of attendances at race meetings, almost five million a year, 100,000 race club members, 230,000 employees, participants and the like and reference to revenue. At page 10 is a breakdown of the employment factors or participation factor which I would like to pause for a moment with you if I may. On page 10 in the left-hand corner is heading, Jobs and Participants. Total employees - this is, remember, back in 2007 or 2006-2007. 65 and a half thousand directly employed participants; come down a little, 67,000-odd employed in support industries; come down a little again, with owners, trainers et cetera, breeders - total participants in employees something in the order of 230,000 people.

It's a little stark to those who will read the final report that in a chapter on the racing industry it contains no analysis of those persons who may be affected by increase in the size of the industry or downturn in the industry, not for its own sake but if that happens to be a consequence of increased competition. We would respectfully commend to the commission the notion that considerations of public interest require the commission to have regard to those kinds of factors as it proceeds to undertake any analysis of the racing industry, albeit as part of an adjunct to an inquiry about the gambling industry. One doesn't find it.

At page 11, for example, is a comparison of racing against utilities' workforces, just to give you some idea of the comparison. I won't take time to take you through it now, it will speak for itself. It continues over at page 12 with analysis of how many people are involved, state by state and territory race attendances and the like: five million attendances, "Racing days play an important role in the leisure pursuits of Australians," and so on. It's not just a question therefore of achieving competition

as soon to be the best means of serving the end consumers without taking into account that those that are going to be affected one way or the other by the commission's recommendations spread far beyond the role of punters and in particular those who might use the services of corporate wagering operators.

MR BANKS: Yes, but nevertheless you're linking their interest to what happens in the gambling domain?

MR EINFELD (NRHA): We'll make a submission in a moment and the report that we'll prepare we'll produce some actual statistics. There's no question that wagering obviously is of significance to the racing industry and vice versa. There can't be doubt about that. We take issue with the suggestion that punters ultimately fund the racing industry. We will provide in a moment some information, and the report will do so in more detail, the fact that in fact the greater financial contributor to the racing industry in Australia is not the punter but the owner and the breeder in terms of dollars. Whilst that is not of itself - doesn't lead to any particular conclusion nevertheless it's a significant factor. Yes, sir?

MR FITZGERALD: I think we understand where you're going with this but can you explain to me who should be the determiner of the right size of the industry? I mean effectively the rubber hits the road in a few minutes when you get to it, which is the fee setting.

MR EINFELD (NRHA): Come to it, yes.

MR FITZGERALD: That's it. Well, we can short-circuit that a little bit because we understand that's where it is at. But the point about is we've not tried to establish the size of the industry or what it should be, nor have we actually set a price.

MR EINFELD (NRHA): No.

MR FITZGERALD: What we've done is set a mechanism by which a price is set. I understand what you're saying but we have not tried to determine what the industry size should be. But am I reading you correctly in indicating that you believe that the current size and shape of the industry is the desirable size and shape that should be protected in the setting of prices?

MR EINFELD (NRHA): There's two answers to that.

MR FITZGERALD: It's the second part, yes. The other part is when you talk about competition, I want to be very clear here, you're talking about new wagering competitors or are you talking about something else, because the corporate bookmaker is the new entrant into that market. Of course our view would be that we

don't believe entries to - or barriers to entry should be put in place. So I just want to unpack those two. But, again, is your proposition, when we get to the point about pricing, that the current size and shape of the industry should be maintained?

MR EINFELD (NRHA): Not necessarily. Our position is that before - as I said, there are a couple of answers to the questions. First is this: we don't see the issue necessarily as being the task of setting the size. We don't suggest that the commission set out, as it were, to set the size or that it should. We are all taking a given, and the question is before mechanisms are put in place which may affect that given the consequences of the mechanism need to be considered. It seems to us impossible to consider the consequences of the mechanism upon the status quo without first giving some consideration to what is the status quo.

For example, the high point is not necessarily because of those who I represent but as a matter of logic, we would submit, that having regard to the terms of reference which twice identify employment issues as significant to the commission's inquiry, that before one were to recommend a mechanism which may have the effect, as the chapter itself supports, desirable or undesirable - let me put to one side for the moment - of leading to a downsize of the industry. One has to take into account the effect that that will have on the lives of Australians who are going to be affected, whose - if we're looking on the one hand at one term of reference which talks about the consequences for the social fabric of Australia of problem gambling, another one is the consequences for those employed in or affected by or participating in the racing industry of a mechanism, which on the commission's approach, may have the consequence of constraining the industry.

Now, I'm not suggesting and we don't make a submission that constraining or expanding the industry is necessarily good or bad. The exercise in analysis hasn't been undertaken. We can't undertake it. All we submit is that before the commission reaches conclusions about that matter it can't safely do so without bringing those matters to account. If the analysis hasn't been undertaken for all sorts of reasons, and I don't have any notion as to what they are, but if the analysis hasn't been undertaken then that must cause a caveat about launching into conclusions to what mechanism is appropriate without considering the interests of those people as a group.

As to the second question about price fixing and the method of price fixing and the extent of competition, can I just come to that shortly because I will be dealing with that expressly.

MR FITZGERALD: But can I just ask this question: given that each of the states adopt a slightly different approach to the setting of the price, did Victoria in setting its price, vis-a-vis New South Wales in setting its price, do that? Are you aware of any analysis, by any of those jurisdictions when they set the price, including New

South Wales, if they actually examined the industry effects of that price-setting; and if so, was it contested? In other words, was it transparently set or not?

MR EINFELD (NRHA): The answer is, I don't know. Mr Sassoon, who should be by my side, but, unfortunately, has taken ill and can't be. I doubt - - -

MR FITZGERALD: But can I put it to you - - -

MR EINFELD (NRHA): Can I just finish the answer, please?

MR FITZGERALD: Yes.

MR EINFELD (NRHA): That is, I don't know whether that analysis was undertaken. One suspects not. But this commission is charged to discharge its terms of reference, and those matters are expressly identified in the terms of reference. I don't have a magic wand to wave. We don't have the means of providing, we haven't undertaken the exercise of providing that kind of analysis. But the point we wish to make, and it doesn't appear to have been made in the submissions we have read or the transcripts we have read, is that before the price mechanism is determined the analysis needs to be broader than a focus upon what is best for consumers of consumers - - -

MR FITZGERALD: I hear that.

MR EINFELD (NRHA): I want to come to that. I'm conscious of time factors and I'd like to try and drive towards that, if I can. As I say, I'm not trying to avoid answering the questions, I'm just conscious there are others to follow.

MR FITZGERALD: Thank you.

MR EINFELD (NRHA): Can we just draw your attention to page 13 just to get some idea of the scope of the Australian industry. You'll see that the table at the bottom left-hand side of the page is a comparative table of industries and percentage of the national gross domestic product. We just observe that, although it's at the lower end, nevertheless the Australian racing industry, at least as at the time of these figures, 2007, was contributing more to the gross domestic product than the finance and insurance industries.

We submit that if the industry is brought to a point of further rationalisation, which may be one of the consequences of a model such as that propounded in the report, then unemployment in the industry would be inevitable. It's a very labour-intensive industry. For every horse that's racing on a Saturday or a Wednesday somewhere there are trainers, breeders, owners, handlers, feeders and the

like, it's a very labour-intensive industry and its contraction will unquestionably have ramifications for employment, and we simply commend that that's a factor which ought be brought to account because it's an important one charged by the terms of reference for the commission's consideration.

It's not reasonable or practical other than in the most general way to discuss the industry, we submit, merely from the perspective of those who wager on its events. To do so, we suggest, ignores the cultural role of the industry as part of the fabric of the Australian make-up and ethos; it ignores those who attend race meetings not as serious punters but as owners, as observers or just for the occasion. As we say in the IER report, our statistics are quite surprising perhaps, on the numbers of people that do attend race meetings, although the numbers are falling, and for some years, those who watch racing on a regular basis through television outlets.

We had some statistics taken out. If I could just provide them to you quickly; I won't stop to discuss them. I was going to make some detailed mention of them, but because of time, I can only do that. Can I provide you with an analysis of some sample weeks taken - they do include the Melbourne Cup week last year, but that's obviously a peak of television viewing - provided by Sky Racing to us for your use, as I'm instructed, which identifies the fact that there are something in the order of a million Australians who look at live racing on Sky Racing and TVN every week.

It just gives an idea that the focus of chapter 13, which is upon the punter, does not truly reflect the nature of those who have a special interest and would be affected by any changes in the industry. More so, do we add to those who attend race meetings and those who watch television, the very substantial numbers, one can surmise, consumers, if one calls them that, or simply general community members, who attend their local pub TAB or club TAB on a Saturday or any other day? All of these people are members of the racing community whose financial and broader interests may be potentially impacted by the commission's recommendations.

The draft report speaks of a potential reduction in the size of the industry, it does so at pages 13.10 through to page 13.13, but no investigation appears, to us, to have been undertaken as to the economic impact of such an eventuality upon employment in the industry or the livelihood of the many thousands of owners, breeders and others who participate in it. There is no assessment in the draft report as to the economic contributions and importance to the industry of the breeders and owners.

It seems to us that the repeated reference in the report to consumers driving the industry, and there are many of them, or ultimately funding the industry is misplaced. There's simply no recognition that one of the prime drivers for any inquiry into the financial aspects of the industry ought be the need to provide adequate compensation

to owners and breeders across the country in order to maintain a healthy racing industry with obvious governmental revenue and general economic benefits to the community at large.

The draft report doesn't pay due regard to the size of the contribution, of owners in particular. The issue we addressed, as we know, as we saw from the transcript, by Mr Brown and Mr V'Landys of Racing New South Wales on 1 December. Of course we accept punters have contributed substantially to the industry, but the suggestion, as I indicated earlier, that they ultimately fund the industry, we submit, is an exaggeration. The financial contribution of breeders and owners was addressed at least in part by Mr V'Landys on 1 December, and we'll have some further things to say about that in our written document.

We suggest it's central to the prosperity of thoroughbred racing that returns to owners are not diminished in the drive for competition between wagering operators, be they TAB-related or private, lest that result in a slumping of growth in the industry, reduction in its revenue, and thus contributions and returns to government. What we don't know, and the report properly concedes or accepts, is the effect of creating greater competition or ensuring competition between wagering operators, whether it will drive prices down and as the report suggests - we suggest, inappropriately - lead to an increase in revenue or consumption, placing bets, or whether it will be neutral or whether the industry will contract, which is a possibility, is an unknown.

We support the submission of Racing New South Wales to the extent it recognises the plight of the majority of owners who in Australia in most cases do not receive any return on their investment, indeed they lose on their investment. Any proposal to equate the wagering operators which has the consequence that there might even be a reduction, or contraction in the industry with an ultimate reduction in revenue, places the contribution of owners in great jeopardy.

The difficulty is obvious to those in the industry that, if that happens, reduction in horses, reduction in race fields, consequent reduction in wagering on races, the circle will not meet to the point that was intended, to engender competition, and thus revenue in fact has adverse consequences for the very people who in one sense create the industry and create the medium for wagering activity.

MR BANKS: Could I just comment there, to get you to comment. You're not implying that the status quo would not have some of that same effect itself potentially over time?

MR EINFELD (NRHA): That's correct. As it is, the racing industry is rationalised; there has been a growth of corporate wagering. Nobody is promoting

the notion that all of that stop. It will find its marketplace, as it has. The question is whether the mechanisms proposed by the commission in chapter 13 ought be recommended without some closer analysis of the potential outcomes, and we submit it's somewhat dangerous, understanding where the commission is approaching the matter from, to promote competition without having an understanding of what the outcome is likely to be.

MR FITZGERALD: Can I just make a comment?

MR EINFELD (NRHA): Certainly.

MR FITZGERALD: No-one in the industry so far has said to us that we shouldn't promote competition. You're the one that's raising the issue. Can I make the comment that we have asked explicitly in every public hearing that I've done, "Do you or do you not support the introduction of corporate bookmakers?" The answer is, yes. The point about it is the fair price that corporate bookmakers should pay.

MR EINFELD (NRHA): Correct.

MR FITZGERALD: At the moment it's this argument about whether it should be 1.5 per cent of turnover or 10 or 20 per cent of revenue.

MR EINFELD (NRHA): Yes.

MR FITZGERALD: A fairly simple issue, I might tell you. Now, that's where it's at. So I understand where you're going with this but right at this moment people are saying to us, unless they are lying, that they welcome the introduction of corporate bookmakers, it's about a fair price. So contrary to the position you're putting, most people think a competitive environment is desirable.

MR EINFELD (NRHA): I haven't put the contrary to that at all. I've not suggested for a moment that there shouldn't be competition in the industry. What I'm saying is that the drive for competition to produce a better playing field, as it were - not a good expression for punters - is itself the driving factor in chapter 13 and it shouldn't be. That's where we're going.

MR FITZGERALD: Sure, and I think you've made that point many times and we agree. Can we get to the point, we're going to run out of time, where does this hit the road in terms of the actual mechanism and why you're so concerned about the mechanism?

MR EINFELD (NRHA): We're concerned about the mechanism without any investigation of its effect on other participants in the industry other than the punter.

That's first of all.

MR FITZGERALD: I hear that.

MR EINFELD (NRHA): Well, I'll try and finish it quickly because I'm conscious of time factors. I think it was Mr Funke Kupper and Mr Nason of Tabcorp who in their November oral submissions - and one can appreciate the position of Tabcorp because one might have thought, being in a position to take a stance about corporate wagering operators which you have heard - he says that - and they took issue with the commission's question as to whether funds should be distributed directly to race clubs or principal racing authorities. They correctly, in our submission, posed the question: how do we distribute wagering returns to owners and what is the right configuration of that? That's a driver, that's a factor, which chapter 13 does not address one word to. Not a word, it's just not there. If that comes from Tabcorp whose interests, in a commercial sense one would have thought, are for the shareholders of Tabcorp, it's a recognition of an important factor which thus far has not been noted. That's the point of this submission.

I'll try and press on. I want to deal with the question of consumers as a lead-up to this question of turnover and gross revenue, gross profit. There's a major impediment, we submit, to the finalisation of the report in its present form. It lies in the failure to identify with any precision or accuracy the consumers whose interests, the report suggests at page 13.1, should be maximised. Quite properly the report makes abundant reference to the interests of consumers. The key points at the beginning talk about the interests of consumers, it's later said, "The interests of consumers and thereby the racing industry" -an assumption, a premise built into that - "are likely to be best served by a diverse and competitive wagering market."

There is no analysis, statistical or otherwise, with great respect, to support that proposition at all. But we wish to address some remarks to who is the consumer. Whose benefit does the draft report suggest best serves the ultimate interest of the racing industry and wagering generally? The emphasis is almost entirely upon punters who do or would take advantage of the presence of corporate bookmakers. We don't oppose corporate bookmakers for their own sake. But the problem is that the report focused almost entirely upon punters who would be likely to take advantage of the presence of those corporate bookmakers.

There seems to be an underlying assumption, sir, that any enhancement in the number of current corporate bookmakers and their patronage will benefit consumers generally, and that's the issue we wish to take up. There doesn't appear to be any analysis to underscore or support that premise. We aren't aware indeed of any survey anywhere undertaken to determine what proportion of punters have had or are likely to have any interest in betting with the corporate bookmakers, or for that matter any

other agency other than the local TAB or TAB outlet. Racing New South Wales addressed this on 1 December. The transcript page 176 suggested that recreational punters contribute 90 per cent of wagering turnover.

Mr Windross in his submission on the third-last page showed that by far most punters were betting, on average, in small amounts, generally no more than \$10. The parties for whom I appear consider it likely that whilst the amount wagered by professional punters is significant, nevertheless the number of punters likely to use the service of corporate bookmakers is very small. We hazard the suggestion that the vast majority of punters prefer their wager at the local TAB or in an occasional visit to the races and only a very small percentage of punters in this country have their need met by corporate bookmakers. Most punters, we suggest, punt for pleasure, not profit. If that be so, if it be so, even if it's possible it be so, then the vast majority of punters are not necessarily concerned to obtain a one or two point advantage in the odds available to them. The vast majority of punters, we suggest, are content with the fluctuating odds at their local parimutuel outlet.

The point I want to make before we finish primarily is this - and I've still got a bit to go so I'll try and do it very quickly - at a couple of places in the draft report, in particular in chapter 13 at page 13.10, firstly, the following is said, and it's reflected a couple of times. It's said at page 13.10 at about point 3 on the page:

Lower margins also imply better prices for punters, increasing the quantity of bets they place.

There's just no analysis which underscores that. That might be a product of some submissions or some statistics but they're not identified in the report, perhaps they might be. Then it says:

If punters are sufficiently sensitive to better odds, it is even possible that the racing industry could expand as low margin corporate bookmakers increase their share of the racing market.

At 13.13 this is said, just quickly:

An industry ultimately exists to meet the demands of consumers and for the interests of the community generally ... The "correct" industry size is that which most closely represents consumers' preferences for the number, frequency and quality of races, and the prices they are willing to pay for them (in terms of the odds they receive).

What is it? What presumption, if I may be so bold as to suggest, enables the commission to proceed on the basis that the industry exists to meet the demands of

consumers and the community generally in an industry which most closely represents consumers' preferences for the number, frequency and quality of races - and importantly - and the prices they are willing to pay for them in terms of odds?

That assumes that some, all or a vast majority of consumers have any interest or any special interest, let alone a sole interest, by wagering in terms of the odds they receive. There's no doubt that there are some, the professional punters, those that use the corporate bookmaker services may well. But our submission is that there's an underlying assumption that's false. It is by no means clear that many, let alone most, punters have any particular or special interest in obtaining the advantage thought to be offered by corporate bookmakers in terms of odds. We suggest that can be illustrated most readily by anybody who goes to the races on any day, a Saturday, this coming Saturday in Melbourne or Sydney or Canberra, for that matter, at any code. Most punters will bet with a tote where the odds to be paid are then unknown, rather than the bookmakers. Many will place their bets with a particular bookmaker, either because they have an account there or because they choose to, without making any attempt to compare odds or to go to the source of wagering or the wagering operator which necessarily provides them with a one or two point better - better odds for their wager. If one goes any Saturday to the races at Randwick or any other metropolitan racetrack one will observe the vast majority of people having a bet who are enjoying their day out will not even compare odds from one bookmaker to the other.

The underlying powerful inference and premise in this whole chapter is that what's to be provided in the interests of greater competition or adequate competition is a service which is likely to be utilised in the interests - as page 13.13 says. It goes on to say:

If punters prefer better odds ... then a leaner racing industry that delivers this is preferable to a large industry that does not.

There's an underlying fundamental assumption in chapter 13, that is, if punters prefer better odds, and the same on page - almost the same phraseology -

if punters are sufficiently sensitive to better odds -

on page 13.10. We suggest that's true of a small number but not of a large number.

MR BANKS: So what's special about punters that they don't pay any attention to the price of the service that they're spending their money on? I mean, I could go into Woolworths on the weekend and I can see people buying - - -

MR EINFELD (NRHA): I was about to use exactly the same example.

MR BANKS: - - - things off the shelf. I wouldn't know how price sensitive they are from that observation.

MR EINFELD (NRHA): There are no doubt many consumers who go into David Jones or Myers and buy a product without checking to see whether the price next door is higher or lower. In the wagering industry what we are suggesting is that the commission has taken a model punter or a typical punter as being somebody who is sensitive to price differences, suggesting that the increased competition between the Tabcorp or the TAB outlets and corporate wagering operators one will be left with a situation where the competition will eventually drive prices down, that will encourage punters to bet more.

But the majority of punters are not sensitive to whether they are able to receive 10/9 or 9/1 from this bookmaker or the next. What drives them? Who knows, a good day out, the fact that they're multiplying their investment by 1000 per cent in three minutes and don't much care whether it's \$1000 or \$1100, the very fact that even on a race course any particular day the majority of bets or certainly a large - I can't say the majority but a very large proportion are bet with the tote at a point in time when the punter has no idea what price he or she is going to get. That fact alone demonstrates, we suggest, the proposition that to found a chapter driving to competition in order to achieve a leaner industry or a greater industry, whatever it is, on the premise punters prefer better odds, is a misconception. It just doesn't exist. It's not the reality.

MR BANKS: You will have to do more than use rhetoric to demonstrate that to us.

MR EINFELD (NRHA): No.

MR BANKS: If you provide a submission which demonstrates that punters have no interest in price - admittedly price, over time, is often hard to work out. But if you can demonstrate that to us that would be useful. We have had other submissions that have maintained that punters and indeed consumers expressed in that way of this particular service are quite interested in price and some of the changes we have seen have reflected that.

MR EINFELD (NRHA): Mr Chairman, no-one submits that no punters are interested in price. What we have said is that in many cases that will be the case, in many cases it will not and the submission that the - - -

MR BANKS: Well - - -

MR EINFELD (NRHA): Wait a minute. It shouldn't be for any participant, any

one party to make a submission here to demonstrate that something that's propounded in the draft report is not correct. Before the commission reports on the basis of an assumption that punters are price sensitive in a sense, as I say, there undoubtedly will be many. Those that bet in large sums, many of those that bet in small sums will shop around for the best price, but many will not. It shouldn't be incumbent upon us or any other party making a submission to provide statistical evidence of that. If it's available, so much the better. If it's not, then the position of it is that the commission will hesitate for founding a chapter on a basis that makes the assumption that punters generally, particularly those likely to be involved in corporate wagering operators, are price sensitive, rather than stating it as a given and asking one of the participants to disprove it.

MR BANKS: But surely what you're differing on is the degree of price sensitivity, isn't it? What economists would call elasticity of - - -

MR EINFELD (NRHA): Undoubtedly elasticity will be important to those who are sensitive to price variance.

MR BANKS: So you say there's a component who have no interest in the price and then there are some who are interested in the price and the price elasticity of their demand will vary.

MR EINFELD (NRHA): That's true.

MR BANKS: This is an interesting perspective, but I don't know any economic theory that would support that. I mean, one theory would say that there would be different degrees of sensitivity and you may well get in some areas totally insensitive demands.

MR EINFELD (NRHA): Mr Chairman, you have had some reference to the petrol industry I saw in some of the written and oral submissions.

MR BANKS: It's a questionable analogy, I think, and it's one that we will address in the final report.

MR EINFELD (NRHA): It's a very questionable analogy, that's my point. The racing industry is in fact unique but one can't make assumptions about how it operates without some investigation of them and the problem is that corporate bookmakers and others with vested interests, and that's not being critical, with particular interests have come and made submissions, the commission appears to have adopted them without critical analysis and I don't mean that disrespectfully. But there seems to be - I must press on because I have more - an acceptance in answer to the chairman's question of the proposition that the competition is, as it

would in the general community, be desirable if it leads to a better industry but one of the critical integers in that is that those participating in the market are necessarily competing for a better price and it just so happens that in this particular industry some will but a lot won't and assumption is that the generality will.

MR FITZGERALD: We are not going to get to the end of your submission because the time is almost out.

MR EINFELD (NRHA): I must - - -

MR FITZGERALD: We are not going to get there. But can I make the point to you, corporate bookmakers have said to us very clearly, the issue from their point of view is a simple issue: it is about paying the fare value in terms of a product fee. That is what we are trying to deal with.

MR EINFELD (NRHA): Can we deal with it now.

MR FITZGERALD: Only very briefly, because we are right out of time.

MR EINFELD (NRHA): Whether product fees should be set as a percentage of turnover or gross profit has also generated a deal of comment. In terms of its acceptance or application, it's obviously that neither turnover nor gross profit has universal acceptance. Turnover has been widely applied and I won't take time, as I was going to, to identify those jurisdictions in which it has. Can I point out that in the High Court's decision in *Betfair v Western Australia* last year the court observed that in Western Australia bookmakers paid an annual licence fee calculated as a percentage of turnover, their fee for operating at race meetings was based on turnover, race clubs conducting on-course totalisators the High Court recognised, also paid an annual licence fee calculated on turnover.

I was going to make some more detailed submissions about the English position. Can I simply invite you, to the extent that the chapter at page 13.29 cites a passage from the annual report of the Levy Board in the United Kingdom from the chairman's address, extend a caveat and a note of caution because the chief executive officer in his report reports instead that the use of the gross profit measure when setting the levy for 2007 in fact led to a reduction on levy income and rather illustrates the difficulty of accepting things at their face value.

Can I make this comment quickly about turnover and gross profit. In the Victorian case, *TAB Ltd v Racing Victoria Ltd* in 2009 on 13 August Davies J had this to say at paragraph 32 about the exercise of a statutory power to fix race field fees. He said:

As the fee condition creates the liability to pay an amount, there must be certainty about the amount which must be paid. The requirement of certainty, in my view, is an inherent condition of the exercise of power.

We support the application of a race fields fee, such as in New South Wales, as 1 and a half per cent of turnover. We oppose the change based on gross profit. Can I just say this about turnover based fees: we suggest the advantage turnover outweighs gross profit in two particular respects. May we observe firstly that the draft report's apparent preference for gross revenue basis remains speculative. It speaks at 13.28 of the alleged potential. It says that the gross revenue basis - the outcome is not clear, it may enable various outcomes and at 13.31 gross revenue is more likely from open competition, it is said. They are all, no doubt, well intended by hypothetical.

We want to take up specifically in the very limited time I have left a suggestion at the foot of page 1329 that the administrative advantages arising from the use of turnover are likely to be small when compared with a fee based on gross turnover. Obviously determination of gross revenue will factor in cost of sales, including commissions and rebates and so on. That capacity provides, we submit, for dubious management decisions and accompanying procedures that may be difficult to monitor and scrutinise. We know that the chairman and CEO of Racing New South Wales addressed those issues on 1 December but I want to, just before I finish, draw attention to some of the evidence to which Mr Brown made reference but didn't take you to in the Betfair case a week and a half ago given by the chief executive officer of Betfair itself, one of the corporate bookmakers.

If you will just indulge me for one minute, I think all of the members of the commission may find this instructive. Mr Twaits gave evidence only a week and a half or so ago that in terms of monitoring a fee based on gross revenue the following matters had to be brought to account, and you weren't addressed about these specifically and I'd like to take a moment to do so and you may find them helpful. Mr Twaits was asked whether he agreed that if a racing body wished to verify commissions in order to determine in part gross profit or gross revenue, the following at least would be needed: first, the net winnings of each player on each market and Mr Twaits said yes. He then acknowledged that it would be necessary to ascertain if the net winnings were accurately recorded and whether they would be able to reflect the odds on each market and when its consumer had place the transaction and he said, "That's right." It would be necessary to know the result of each wager in that market, the subject of such odds, "That's right. It would be necessary to know the discount rate provided by Betfair, and we know, as you have been told already by the other corporate operators, for each customer in respect of each wager, and Mr Twaits accepted that.

Fifthly, it was said, the current rate of discount at any given time for the

individual consumer. It would be necessary then to convert that, if it were in foreign currency, to Australian dollars, with fluctuating rates. It would be necessary to know that discounted points were awarded on wins or whether they were awarded on implied commissions or net losses; both were taken into account. It would be necessary to know whether discount points were awarded on - in respect of every wager or only some, and so it went on. The effect of it was that the CEO, the chief executive officer of Betfair, conceded what in fact amounts to an administrative nightmare in order to determine product fees based on gross revenue.

MR BANKS: But one which has many precedents.

MR EINFELD (NRHA): I was about to say, no doubt it's used in a lot of places; no doubt turnover is used in a lot of places. So before the commission recommends one rather than the other, surely one has to determine what is the cost, what is involved in the administration of the gross revenue fee basis; what is the cost to the right industry or to government or to the authorities, whoever is going to administer the collection of the race fields fee - before one can recommend one or the other.

It's true that in many jurisdictions one operates and one doesn't, but it's not sufficient, in our submission, simply to recommend the one rather than the other because some jurisdictions use it because we know some jurisdictions use the other. Now, there is some debate about these matters - - -

MR FITZGERALD: But can I just make the comment: if we were to approach Victoria and South Australia and Western Australia - they've also used this revenue on certain occasions - and they were to say that administratively it's quite achievable, it doesn't have the costs - - -

MR EINFELD (NRHA): Well, Victoria is questioning that now.

MR FITZGERALD: Well, hang on, we've met with them and spoken to them about these issues.

MR EINFELD (NRHA): Yes.

MR FITZGERALD: In New South Wales the principal agreement between Tabcorp and of course the New South Wales government is in fact a percentage of gross revenue, it is not turnover. That has been in place for many, many years. Now, neither Tabcorp nor the New South Wales government or Racing New South Wales have said that agreement is unworkable. So not only are there precedents of long standing, we actually have demonstrable examples where we can go and talk to these jurisdictions, which we have been doing. So I want to make the point that there are differences but the commission has not been blind to those issues. I think what

we're saying is at the end of the day whether you go for turnover or revenue has consequences.

MR EINFELD (NRHA): Yes.

MR FITZGERALD: But I'm just making the point that some jurisdictions, in particular Victoria, have not indicated to us on the record at all a dissatisfaction with their current arrangement of 10 per cent of revenue and 15 per cent during October-November.

MR EINFELD (NRHA): One may reason maybe a desire of self-justification. I'm not being critical of anybody.

MR FITZGERALD: Or it may be - - -

MR EINFELD (NRHA): This is just a model.

MR FITZGERALD: It may be that the New South Wales concerns which are dominant in this issue are not as justified either.

MR EINFELD (NRHA): Well, the UK experience, as you would now know, and Mr Windross makes the point - - -

MR FITZGERALD: We're aware of the UK.

MR EINFELD (NRHA): Well, the UK experience has led to bookmakers moving offshore. Some, and indeed the largest about to - on a gross revenue based levy fee. It's true that balance is required. I have to say that the report doesn't tease out those issues. I mean, it's a very large report and it could only devote so much to this topic, but it doesn't tease out those matters, and perhaps it might.

Can I just finally observe that there's an assumption also built into this report that introduction of a product fee, whether for race fields or based on copyright of race product generally, may be likely to drive future corporate operators offshore. But there is no analysis in the report of a basis for the conclusion that what might drive corporate operators offshore is any more the need to pay a fixed product fee based on turnover against which each party can compete in terms of making their management model competitive, albeit with a standard fixed turnover figure. It's not that they're likely to be driven offshore any more by having to pay a fixed fee for product, race product, than they are by taxation considerations or less expensive operating costs overseas. Yet the report makes the assumption that what might drive those operators offshore is a race fields fee based on turnover. The analysis isn't there. That's not a criticism, because everybody has limited time and limited

resources. But without it there seems to be a tendency to jump to or to promote the conclusions without the underlying evidence.

We will, Mr Chairman, where we can, provide in our written outline the statistical data that we have been able to collate from other sources and which we hope is useful. We're grateful for the time you've afforded us. We're sorry to have gone on overtime. But we hope that what was said provides food for thought and that on reflection of the terms of reference one considers the matters that we've propounded before producing the report in its final form. Thank you for the time.

MR BANKS: Thank you for taking the trouble to do that. The points that you've raised, all of them are ones that we will obviously consider in preparing the final report and look forward to any further written material that you can provide us or indeed other source material that you can - - -

MR EINFELD (NRHA): We will provide it. You will have it in full within the next week or so.

MR BANKS: Thank you very much. Okay, we'll just break for a few minutes please before our next participants.

MR BANKS: Let's resume, and our next participant is from Gaming Technologies Association. Welcome to the hearings.

MR FERRAR (GTA): Thank you.

MR BANKS: Can I ask you please to give your name and your position?

MR FERRAR (GTA): Ross Ferrar, the CEO of the Gaming Technologies Association.

MR BANKS: Good. Well, thank you for taking the trouble to attend today. We've obviously had conversations in the past and you've made multiple submissions to the inquiry which we've found very helpful.

MR FERRAR (GTA): Good.

MR BANKS: Indeed, you've given us some indication of the sort of things that you may wish to cover here today but I'll give you the opportunity to address those yourself.

MR FERRAR (GTA): Well, thanks, Mr Chairman. By my calculations you're in the 55th week of this inquiry.

MR BANKS: No wonder it feels like Friday.

MR FERRAR (GTA): I'm on my third copy of the draft report, that's for sure. Thanks for the opportunity to appear today and also for the opportunity to provide a written submission which you will be receiving on or maybe before Friday.

MR BANKS: Thank you.

MR FERRAR (GTA): First of all, let me tell you that the Gaming Technologies Association views the release of the Productivity Commission's draft recommendations as an important step towards an integrated national approach to problem gambling. We support a number of the positive measures that have been recommended but we also challenge others as being perhaps impractical or based on incorrect information.

In line with this national approach we support the introduction of nationally consistent gambling machine standards and the establishment of a national centre for gambling policy research and evaluation. These are important building blocks. However, if the differences in state and territory regulations around Australia are allowed to remain, the opportunity to achieve genuine change will continue to be

hamstrung by unnecessary red tape, delay and costs. Industry and venues can better implement change when there is clarity and certainty from government and no overlaps between states and territories on what should be common standards. These initiatives and related measures would help deliver a better way of addressing problem gambling.

To be clear, we believe there is a better way, one that involves all stakeholders. We all need to share in bringing this about. A better way is needed to deliver a positive outcome for the nation. The issue of problem gambling, challenging though it is, needs to be addressed within a wider national context. Everyone - players, venues, industry, government, the community - is entitled to expect that recreational gambling should remain just that, recreational; a well-accepted part of the fabric of Australia's entertainment and recreation for millions of Australians, activity that brings social and economic benefits that the commission itself has recognised.

The commission has focused much of its work on problem gambling measures that it hopes will achieve a net social benefit to the Australian community of \$450 million per year. In doing so the commission acknowledged that any changes to current policy settings and institutional arrangements rely on whether these would be, and I quote, "Likely to improve the wellbeing of the Australian community." We agree. The commission also acknowledged, and again I quote, "Harm minimisation measures with modest efficacy may produce worthwhile net benefits as long as they do not also involve excessive costs." We agree. On that basis the GTA believes that the commission's sweeping recommendations to change the design of games and to bring in universal precommitment simply cannot deliver the net social benefit of \$450 million per year to the nation. This is because the measures will trigger more than \$2 billion in additional costs, 1.55 billion of which will be needed to replace, retrofit or update Australia's 200,000 gaming machines and more than 20,000 game software sets, costs which have not been taken into account.

This \$2 billion figure represents only part of the cost of the draft recommendation, it does not take into account the impacts on hospitality or tourism industries, venues, infrastructure investment or on regulators and government itself. All of this work would take 10 years to complete, by which time sophisticated new computer and gaming technologies now starting to be implemented overseas will have overtaken the commission's recommended changes and made them redundant. There is also the flow-on effect to recreational gamblers of the proposed measures.

MR BANKS: Could we just pause and talk a bit about the technology side of things there, those costs.

MR FERRAR (GTA): Yes.

MR BANKS: Could you elaborate a little bit more on the \$2 billion number and the \$1.5 billion retrofitting. So what are you referring to here? Are you talking about precommitment or are you talking about the spend rate limits and so on that we - - -

MR FERRAR (GTA): We're seeing them as a basket of measures. So if you need to change the essential elements of a gaming machine, depending on the age basically of that gaming machine, you will either have to replace it, do major upgrade work to it or relatively minor upgrade work to it. We have estimated that a little more than 25 per cent of the gaming machines operating in Australia currently would need to be replaced to implement the basket of measures in the draft report.

MR BANKS: Okay, and you'll provide that information in your submission?

MR FERRAR (GTA): Absolutely, yes.

MR BANKS: Yes, that would be quite useful to us.

MR FITZGERALD: I was just going to say, in relation to the trials, do you have the figures on how much it actually cost to implement the trials in the Queensland clubs per machine?

MR FERRAR (GTA): What I'd like to do is go through my introductory remarks because we're heading into an area that addresses the question. There's also the flow-on effect to recreational gamblers of the proposed measures. These measures would decrease enjoyment for the millions of recreational players around Australia. Recreational gamblers would retreat from unappealing games that could also inadvertently exacerbate problem gambling. Certainly these measures would hinder technical innovation and diminish the economic benefits of the hospitality industry if they were implemented as proposed.

The commission itself recognised there was a risk that, and I quote, "The majority of Australians who do not experience problems with their gambling would lose an entertainment worth potentially billions of dollars to them were they no longer able to gamble." All of these impacts, unintended or not, surely bring into question the practicality and relevance of the changes proposed by the commission in its drive to reduce problem gambling and deliver a net social benefit.

The GTA strongly believes that ultimately it is very much in the national interest for the federal government to carefully consider the full impacts of the commission's final recommendations, not just the impacts on problem gamblers but on all parties, particularly on the millions of recreational players, the many thousands of venues around the country, the related industry groups and also the economy. In relation to the proposed measures GTA believes universal precommitment as

recommended is unwieldy, unworkable and unnecessary.

A universal precommitment system cannot be simply achieved by a few strokes on a keyboard, as some others suggest. Rather, it would take at least 10 years of effort and several hundred million dollars, part of the \$2 billion I outlined earlier. However, the GTA does support optional precommitment and we do support dynamic messaging. The GTA strongly agrees with the commission that dynamic messaging combined with optional precommitment will effectively target problem play before a player can inflict harm. These can be delivered on a machine-by-machine basis, but ultimately would best be delivered through the new networking technologies now entering the global marketplace.

Already a new US casino has installed new technology to network its gaming machines from a central computer which allows dynamic messaging to customers. This networking technology is real, it is being introduced now and it will progressively enter the global market, including Australia, as more and more software development is undertaken. In the GTA's view, this new technology must ultimately form part of an integrated package of measures that can better address problem gambling than the measures that the commission currently proposes. Importantly, it would still allow recreational gamblers to enjoy playing as they choose.

Optional precommitment together with dynamic messages to players at risk should be implemented as a cornerstone of a nationally-coordinated technology based package of measures. This new technology will allow consumers much more choice and control. It would allow an option for players to budget time or money, something which could be provided in all interactions between a player and machine. This solution would be highly-targeted and therefore would not affect recreational gamblers. Players would also retain anonymity and privacy, as cards or other precommitment devices would simply not be necessary and the incremental costs would be negligible. Surely that is a better way, better than spending in excess of \$2 billion without any certainty or assurance of outcomes.

Finally let me address a matter of genuine concern over what has become a landmark figure in the commission's draft report, the calculation that the expected cost of play is \$1200 per hour. This quite astounding \$1200 figure has been used throughout the draft report to underpin many of the findings and recommendations. The calculation has now taken on a life of its own, yet it's patently wrong as a measure of the actual cost of play.

The commission says the \$1200 per hour figure is theoretical, it uses a number of assumptions and omits several variables, resulting in a skewed number which, in our view, dramatically overstates the expected cost of play. To some it appears to

artificially highlight the risk to problem gamblers. Incredibly, this figure has now been used as the basis for not one but two pieces of draft legislation tabled in the senate and which are seeking to impose major restrictions on our industry.

While those draft bills have been delayed until after this commission's final report is handed down, it's of real concern to us that this figure, purely a theoretical expected cost of play, has triggered such a reaction. Surely that is an unintended consequence of a piece of theoretical math. Well, for the record, here is the reality as we see it. The average actual revenue per hour of a gaming machine is around \$10.91 per hour or less than 1 per cent of the commission's expected cost of play of \$1200 per hour.

Reasonably, you would ask where do our figures come from? Well, from the draft report, which notes that 198,303 gaming machines are currently in use in Australia, and the latest available expenditure figures, a total of \$11.841 billion for 2006-7. Assuming they were each available for play 15 hours a day on average, the calculation is quite simple. An actual yearly revenue per machine of just under \$60,000; an actual hourly revenue of 10.91 per operational hour. That, to us, is the real expected cost of play per hour, not \$1200.

Why are we so concerned about this figure? Well, it's all about getting certainty. The GTA wants certainty; certainty in the numbers produced by the Productivity Commission and certainty that the measures proposed by the commission can have a real impact on problem gambling without unravelling what is an important industry to Australia and a recreational activity for millions of Australians. Our industry needs certainty so that it can remain viable and provide the financial capacity to help deliver sensible and practical solutions to minimise problem gambling. This can only be done if at the same time recreational gamblers are allowed to enjoy their chosen leisure activity. This industry and venues need certainty too, that the transition periods allowed for any agreed solution are sensible and realistic; certainty that hospitality venues around the country can continue to operate without massive unnecessary investment.

In the national interest and in the interests of the millions of Australians who are recreational gamblers, the GTA will support reforms that can achieve genuine positive impact on the issue of problem gambling but not at the demise of the industry or venues, particularly when new technology offers a genuine low-cost alternative solution not just in the long term but in the near term as well.

So we face two options, I believe. One option is to bring in the commission's package of measures once they have been tested against two key criteria: practicality and cost benefit to the nation. As taxpayers we all need to understand whether or not these measures can actually assist problem gambling and at the same time achieve a

net gain to the nation, taking all of the costs and time frames into account. Under this first option all governments will need to urgently reform and streamline their regulations and processes. Then industry and venues will be better able to adopt those measures. A major problem, of course, is that these measures will still be being installed, machine by machine, as the new network technology overtakes them.

Another option is all about bringing real reform, genuine long-term reform, to Australia. It is based on the advantages offered by new generation technology. This technology would provide optional precommitment and dynamic messaging on all gaming machines. It would be put in place progressively. Optional precommitment and dynamic messaging would simply be included in all new machines and upgrades from say mid-2011 and the incremental costs would be negligible.

For all of the millions of recreational players of today and for those in future years, they will be able to play unaffected by the protection measures aimed at players at risk. For players, venues, for industry, this targeted real-time intervention system is what will provide the best outcome for all stakeholders and for the nation. It would come at far less cost to the nation than the \$2 billion plus to develop a set of measures that must be delivered machine by machine, a solution we all know will be overtaken and become outdated within five years. Can this technology solution be done soon enough? Well, we think it can. Commissioners, the future is already here. All we have to do as a nation is to embrace it. Thank you.

MR BANKS: Okay. Well, thank you for that. Just a couple of questions. You talk about optional precommitment in your dynamic messaging approach.

MR FERRAR (GTA): Yes.

MR BANKS: Could you define optional in that sense? Do you see it as an opt-in system?

MR FERRAR (GTA): What we're seeing is that every initial interaction between a player and a machine would result in a screen asking if the player wants to set a budget.

MR BANKS: Okay, yes. So they would be taken through those - - -

MR FERRAR (GTA): Yes. So that initial interaction would be entering money, touching a touch screen, pressing a button, any interaction with the machine.

MR FITZGERALD: Is it the commitment that you would make on that machine only machine based or is it venue-wide?

MR FERRAR (GTA): Initially I mentioned sort of two layers of technology. In the near term the answer to your question is machine by machine. In the long term it would be best delivered by what is coming down the technology trajectory.

MR FITZGERALD: I must say it's clearly me, not you, I don't understand something.

MR FERRAR (GTA): Okay.

MR FITZGERALD: We've been having discussions with your organisation about future technology and have been supportive of it. In our recommendations we haven't actually suggested a technology solution. People said, "Don't do that". What we said is, "These are the principles for precommitment". Now, putting aside whether we agree or disagree about mandatory or optional, and a lot of the research advice we have received is different to your position, you're saying to us that if you commence in 2011 within a period of time the new technology would be able to achieve our proposal as well as your proposal. In other words, the new technology, if it can in fact deal with optional precommitment could also deal with mandatory precommitment, couldn't it?

MR FERRAR (GTA): To an extent.

MR FITZGERALD: There is nothing in that - - -

MR FERRAR (GTA): To an extent, yes.

MR FITZGERALD: Well, yes, so can you just explain to me this new technology, what is that code for? Is this server based? What is it?

MR FERRAR (GTA): No.

MR FITZGERALD: Then what's the new technology referring to?

MR FERRAR (GTA): We're saying this would operate, if you like, on a stand-alone machine by machine basis.

MR FITZGERALD: Yes, but why? Will the new technology, given that we've already networked the machines, be capable of having multimachine and potentially multivenue requirements into it?

MR FERRAR (GTA): We see the networked technology as being the longer term.

MR FITZGERALD: Sure, but what does that mean?

MR FERRAR (GTA): We're saying well past your horizon of 2016 before you've got widespread implementation.

MR FITZGERALD: I'd be very grateful if you can tell me what you mean by long term. I mean are we talking the introduction by the commencement of that network technology by 2015? I'm not asking you for a precise date but we have consistently through this report said to every participant: try to tell us what the industry will look like through the effluxion of time; what will it look like given new technologies' what would it look like if we went too early.

MR FERRAR (GTA): Yes.

MR FITZGERALD: So I need to understand this new technology and this new networked technology. What are the likely time frames?

MR FERRAR (GTA): Well, I'll just start with networked technology. I think most people in the technology side of the industry agree that network gaming floors are the way the technology trajectory is going.

MR FITZGERALD: Correct.

MR FERRAR (GTA): Pretty well everyone agrees with that. But the next question, and your question, I believe, is, "Well, when will we see widespread implementation of network technology?"

MR FITZGERALD: Well, when will we start to see any implementation in Australia of that technology?

MR FERRAR (GTA): Certainly within the commission's horizon of 2016.

MR FITZGERALD: Fine.

MR FERRAR (GTA): I can't see that not happening. All of this is merely my opinion, of course. I can't - - -

MR FITZGERALD: Okay. Just so that I understand it, if that new technology was started to be introduced by 2015 or 2016, our recommendations, whether you agree with them or not, could be implemented on that new technology.

MR FERRAR (GTA): I don't think there's any doubt that that's the case.

MR FITZGERALD: That's what we've always understood.

MR FERRAR (GTA): Yes.

MR FITZGERALD: That at some point within the not too distant future we would start to see the rollout of new technology which would allow network. We've also made the assumption that notwithstanding whether you agree with the measures, the measures we're proposing would be capable of being introduced onto that new technology base. That would include multi-machine multi-venue precommitment, in our case. Now, all of that is capable of being dealt with.

MR FERRAR (GTA): At a technical level, of course.

MR FITZGERALD: Sure.

MR FERRAR (GTA): Yes, undeniable.

MR FITZGERALD: What you've also said is that new technology will be able to significantly reduce costs than if we suddenly have to require all of the current machinery to be replaced.

MR FERRAR (GTA): We're looking for ways to assist in achieving the commission's objectives.

MR FITZGERALD: Sure.

MR FERRAR (GTA): We're saying, "Now, what is feasible here?" In the normal course of events, as we have said in a couple of submissions, most if not all machines in Australia are likely to be replaced or at least considered for replacement inside a 10-year time frame.

MR FITZGERALD: Correct.

MR FERRAR (GTA): The question then becomes what are machines replaced with or what do upgrades include and not include? We're saying by mid-2011 potentially, given regulatory streamlining and a few other conditions, we could include optional precommitment and dynamic messaging. We see dynamic messaging as absolutely vital to having precommitment actually work to achieve the objectives.

MR FITZGERALD: I clearly want to look at that but I just want to go back a bit. If you can achieve optional precommitment - we've got to be very clear, you're talking about optional precommitment on a per machine basis.

MR FERRAR (GTA): Yes.

MR FITZGERALD: The problem we have with that is that the advice we received, and you're looking at the trials, is that a per machine basis is not going to achieve the objectives we wish to. In other words, you've at least got to have venue-wide. Then people have said to us consistently that venue-wide won't work unless you pick up - because people move venues and you've got to put something which is multivenue. Now, even the trials in Queensland lead us to those conclusions at this stage. So what we're saying is that we'll look at your proposal about the voluntary but the evidence does not seem to support that as a way of actually meeting that target group.

MR FERRAR (GTA): We see dynamic messaging, as I said, as adding a whole layer onto precommitment that makes it far more powerful.

MR FITZGERALD: Okay.

MR FERRAR (GTA): It means that a recreational player will essentially be left alone providing the characteristics of their play are considered safe by appropriate research by experts in whatever fields are required, but if a person is conducting their playing activity in a manner which is not appropriate and does not fit in the categories that are considered safe, then there are appropriate messages in real time stopping the player, giving them breaks, increasing elevating the emphasis of messaging and ultimately cashing them out.

MR FITZGERALD: Yes.

MS SYLVAN: In no is way dynamic messaging mutually exclusive to either an optional precommitment or mandatory precommitment, in fact do you see them as going hand in hand?

MR FERRAR (GTA): I do.

MS SYLVAN: So it's a question of what optional means. The proposal that we discuss in the draft report, some people have actually called it optional to us; they've actually said a system where someone can opt out of putting in a precommitment is not really a mandatory precommitment. So, as I understand it, including the messaging, you're actually proposing a system which is very similar, with one critical exception, which is it's a machine by machine base.

MR FERRAR (GTA): And to cost \$2 million less.

MS SYLVAN: Can I come to the money.

MR FERRAR (GTA): Do you mind if I go off on a tangent?

MS SYLVAN: The money is critical obviously, and come back to your issue - - -

MR FERRAR (GTA): Yes, I have some views about the players' attitudes towards precommitment as I see them - personal opinion.

MS SYLVAN: Okay. Come back to that because that's important. But if we can come to your \$1.5 billion retrofit and then the \$2 billion.

MR FERRAR (GTA): Yes.

MS SYLVAN: If people are actually replacing their machines in any event, which is what we're talking about so lots of venues, particularly metropolitan venues have a period of time, the machines change over the period of time. So if this new technology is coming through, the machines are being replaced because they're better machines for a variety reasons, they're keeping themselves up to date. Why does that system not cost the same as the system - - -

MR FERRAR (GTA): For a variety of reasons, including we're talking about machine by machine. We're looking at feasibility here and then I'm leading again into the way we believe players will react to precommitment.

MR FITZGERALD: I understand that but I want to stick to the technology for a moment. Taking Louise's point of view, we've always tried to look at this as a replacement process, that is, a reasonable period of time in which machines are replaced with better technology.

MR FERRAR (GTA): Yes.

MR FITZGERALD: Somebody the other day said to me, who is in the gaming technology area, said that we're asking the wrong question. It's not about whether the machine needs to be replaced or how often you replace the software. They said that in fact our question and the industry's position on this issue about replacing machines is wrong, that the question is how quickly you can replace the software that sits within it. I'm no expert and you know that, Ross, with all of our discussions, I'm the least expert, but that is not the first time that has been said to us, that in fact much of what we recommend, if you agreed with it, and putting aside the fact that you don't for a second, can be achieved with quite modest cost by changing the software with minimal variation to the machine and that over time, as Louise has indicated, of course operators - the better operators, the larger operators - will move to the new technology that you've referred to. We have always anticipated that.

So irrespective of the measures, it seems to us that we can in fact achieve changes in software and modest changes to machinery in advance of the new technology naturally replacing the old stock. Is that a completely wrong line of thinking?

MR FERRAR (GTA): It's a very complex area but I'll try to cut through all of the complexity. It is complex because of the varying age and standard of machines in Australia. Ian Horne mentioned this morning that in South Australia there are quite a lot of old machines. My analogy is trying to get iPhone applications running on the very first mobile telephone you ever saw. Those machines that are, say, older than 10 years, they will have to be replaced. There is not the componentry, there is not the skills to change the software, it is not possible. Then there is a mid-category where there would need to be significant hardware, there would need to be significant software upgrade but the machine itself could probably be made to comply with the new environment. The majority of the machines, or about half, we think, could be upgraded with relatively much less effort.

So that's where we get into the conversation about upgrades and in a large venue, you know, say, a Las Vegas casino you will see game upgrades very frequently. In a smaller place, like some of Ian's hotels in the outback of South Australia, no-one would have touched the software there since the machine was purchased over 10 years ago. In essence the people advising you are correct within a fairly narrow construct of the overall inventory of gaming machines.

MR FITZGERALD: If one understood the age of the machinery better than we do clearly, one could actually say there should be a different approach for very old machines, you might have a different graduated process, but the end point, by whatever time that is, we can actually achieve that. We can get to a new modern technology which is in the interests of the industry, we can achieve that at a modest replacement cost and we can do that with whatever measures in the end governments think are appropriate. There would be some machines in the middle of the Nullarbor that are maybe going to be changed, we understand that. But we're talking about the majority, that's the position we can get to.

MR FERRAR (GTA): Yes.

MR FITZGERALD: That's what I understood, so thanks for that.

MR FERRAR (GTA): You're welcome.

MS SYLVAN: Can I come to one question, also on the technology that we had yesterday in Brisbane which you're probably going to respond to but let me ask the

question, which is that most of these machines contain player tracking potential in any event.

MR FERRAR (GTA): Most is an arguable thing in our world.

MS SYLVAN: Machines within - - -

MR FERRAR (GTA): It's difficult to get a accurate handle on exactly how machines include player tracking. Certainly a large number but whether it's most or not, we're having debates within our organisation.

MS SYLVAN: Okay. Let's say there's a significant proportion, whatever that number may happen to be, and that inserting some kind of device, whatever that may be - and we're not that interested in prescribing technology - is actually a reasonable simply thing to do because just about everything you need, except for the piece of software is already present. Did you want to reply to that?

MR FERRAR (GTA): You've just summed it up. It would be very easy to drill a hole in the front of a machine assuming there's an empty space and in most machines there is. The gentleman who presented yesterday was correct. But plugging a device into the front of machine and making it work are two very different things. Depending on what interfaces are required to what part of what software in which games on what machines, you get back to the argument of 25 per cent of machines would have to be replaced, 25 per cent would require major rework to make it work, make it happen and the remaining - this is very round numbers here - 50 per cent it would a relatively easy upgrade. So almost no matter what you do you come back to the same argument. If you've got to go back into the software of a machine that's older than 10, it's almost impossible.

MR FITZGERALD: Do we know - and you may have already provided this - with any degree of certainty what the age profile of the machinery is around Australia?

MR FERRAR (GTA): We've got a reasonable handle, but I hesitate about saying to you, "Yes, I'll deliver you an accurate table." We've got a reasonable handle. Of the jurisdictions, Ian is right, South Australia is not the leader.

MR FITZGERALD: Notwithstanding this morning's submissions by some participants, we are acutely aware of the transition costs. Trying to get a handle on them is, as you say, acutely difficult.

MR FERRAR (GTA): Yes, it is.

MR FITZGERALD: So what we're trying to is to meet the demands that the hotel

and the clubs and the casino industries put to us - - -

MR FERRAR (GTA): So are we.

MR FITZGERALD: - - - and we've been consistent in that. As long as we understand what the trajectory is and where we'll be in 2020, we can work back from that to some degree.

MR FERRAR (GTA): Do you mind if I go to our views about the players. We're almost not entitled to have views about players. We're suppliers, okay, but like everyone who is passionate about the industry they work in, we have views about everything. We see the hospitality industry and the people that visit hospitality venues as guests. We do not see them as commodities or figures on a spreadsheet and to use the words of one of my colleagues in the hospitality industry who certainly is entitled to make comments about players, "Why would you treat our guests as criminals?" Those words echo around in my head because having spent 30 years in the industry, half of which I've been working on gaming floors in casinos and clubs and hotels, I agree with that.

I think the acceptance of devices like we saw yesterday would be very, very limited. I can cite personal examples, my mother plays gaming machines et cetera but that's probably anecdotal and not relevant for your purposes.

MR BANKS: Does she withdraw videos from a video rental place?

MR FERRAR (GTA): No, my mother sees that as too complicated.

MR BANKS: Okay.

MR FERRAR (GTA): She can't actually get it to work on the video recorder. I see the acceptance of such devices as very, very limited indeed and, of course, if the hurdle is too great, then you have mass exodus of recreational players, thereby pushing the proportion of revenue from problem gamblers much higher as a proportion of a lesser total. We want to go the other way.

MR FITZGERALD: But in the report, just to canvass this, one option, for example, is to allow a visitor card and then the other one is more of a smart card. But one of the options we canvassed was for low-intensity machines in the venues. So in fact your mother could go to a machine, no card, but play at very low intensity. Now, we've asked people's opinions - that's what we're seeking here. We can go to a keycard, which is a very low level of identification or we can just simply have a number of machines per venue that are at very low intensity. So in your case of your grandmother she has the ability, without any problems, to go to those machines. The

difference is the experience will be different to what she is currently experiencing or would experience on a high-intensity machine, for which there would need to be some sort of access, whether it's a card or a USB or whatever it might be. Is that a better option than requiring everybody to have some form of card?

MR FERRAR (GTA): Our view is, and we build on this in our written submission - and I don't mean to avoid the question or repeat myself - we see dynamic messaging as a more important component of safe play than precommitment. We see dynamic messaging as, if you like, the key, so that every play on every machine by every player is tested. If there is a failure of that test then messages are delivered. We see recreational players as being left alone, whether it's my mother or someone who wants to play, you know - - -

MS SYLVAN: So what does that look like? I'm a problem gambler and I'm playing this machine. So I'm putting in lots of money. What is it that it's flagging to give me messages about?

MR FERRAR (GTA): We've come up with some possible scenarios, bearing in mind please, that we're technologists, we're not well-versed in such matters. But we've thought that might include increasing bet size over time; that might include increasing bet size after a losing run, so what Senator Xenophon might call "chasing". Senator Xenophon used the word "chasing" a lot in his presentation to this commission.

MR BANKS: A lot of people do.

MR FERRAR (GTA): Increasing the frequency of button presses, playing through minor win celebrations. We see those as potentially areas that appropriately qualified people might research as indications that there ought to be some immediate real-time intervention.

MR FITZGERALD: Well, just explain to me, if you can, going back to this issue about the stock that we currently have, if you were to go as a first step to dynamic messaging can that be introduced at a modest cost on the majority of the current stock?

MR FERRAR (GTA): Yes.

MR FITZGERALD: Okay.

MR FERRAR (GTA): We're suggesting from 2011 with optional precommitment as part of new machines replacements and upgrades.

MR BANKS: Just to come back again to those issues, in a sense what we're differing on in terms of cost and so on, in part, particularly on the costs side, is about the pace of implementation.

MR FERRAR (GTA): Yes.

MR BANKS: So in the end technology presumably would provide the solution. It's just a question about how soon or late that would be.

MR FERRAR (GTA): We agree. But we see the gaming industry, and if you like the hospitality industry in Australia, as an industry that is in danger of not being viable, as it has been historically. The people that represent venues are far more qualified to discuss this with you and have but the impact of things like smoking bans and - they go back to drink driving, increasing frequency of drink driving testing and a whole range of other factors; the rise of Internet use in the home.

MR BANKS: Sure.

MR FERRAR (GTA): A whole range of factors mean that the hospitality industry might experience a very rock financial road in the near future. So in reviewing the draft report and indeed building up to the draft report we've been looking for feasible ways to deliver products that will meet the objectives of the commission and, let's face it, the whole community in a way that it has the best level of feasibility for the venues.

MR BANKS: Okay. Look, because you referred to it I should perhaps just come back to this question of how much one can bet on some of these machines depending on the intensity of play and just clarify. You're using the term "expected" I think more in a layman's term although I'm sure you've done as much stats as I have, whereas you understand that we're using the term "expected" in the statistical sense. So we're talking about the expected loss rate based on how much you could feed through a machine in an hour. So \$12,000 translates into \$1200, right? Now, this is at the limit. As you say, that's been picked up because media loves a big number et cetera et cetera but we were quite careful in how we expressed that. Equally, the number you've chosen, you know, one could say has been chosen to get the minimum number per hour. That's based on the actual, as I understand it, spend rate per hour based on the aggregate statistics divided by the aggregate number of machines.

MR FERRAR (GTA): Yes, a simple calculation.

MR BANKS: That's right. But, look, could I just go on to say, however, that if that \$10 number were correct and that's the average and that's the normal, then the kind of

spending limits we've advocated would have very little effect on anybody, quite frankly, because the dollar button push and the 20 to 39 dollars in the machine would give you plenty of gaming at \$10 an hour.

MR FERRAR (GTA): I think the reason we raise it is that it's become almost a cause celebre among a small group of people along the lines of Australia had 20 per cent of the world's gaming machines in the 1999 report. Of course we've repeatedly run independent research to say that it actually has 2.4 per cent at most of the world's gaming machines.

MR BANKS: Yes, so there were semantic issues involved.

MR FERRAR (GTA): I guess, you know, the reason we raise it is to put another point of view, not particularly to argue about - - -

MR FITZGERALD: Just taking Gary's point, I agree. I'm similarly appraised, but the issue there, for example, the bet limit, governments around Australia have already used a lever and some have pulled it at \$10, \$5, \$2 - - -

MR FERRAR (GTA): Or a handle, perhaps.

MR FITZGERALD: Or whatever. Incumbent on the commission is to try to understand - what, handles? Crown has handles, they're classic machines. But the point there is at the end of the day no-one has been able to provide a single bit of evidence that those are appropriate or make any difference, because if you actually do the numbers, they don't. So what we've done is we've taken a lever, a public policy lever, and said in order for that lever, which is accepted by all the jurisdictions - we need to pull to an effect that actually makes a difference. So again, whilst the \$1200 may or may not be in your mind causing a problem, the actual policy response of a dollar we would think is still reasonable, on the basis that those that would be affected would not be the recreational gambler but would be those that use machinery intensively and gamble heavily.

MR FERRAR (GTA): There are many issues around this. In essence again this is quite probably more properly an issue to be discussed at the interface with the player level. But given that we're passionate about our industry we have opinions about everything. From that perspective if there's an average bet of \$1.20 or 80 cents that doesn't mean that every bet is \$1.20 or 80 cents. As was pointed out to me again by a colleague of mine only an hour or so ago, there are plenty of recreational players that do not play at levels that low. One must wonder what will happen to that recreational player in the event of a \$1 maximum bet. We don't know. The trouble is you need evidence and I can give you a million anecdotes like that. What I kind pull this back to though if we were to sit down to design a game and we didn't have

the benefit of all of our 55 weeks of inquiry, we would rather have the flexibility to provide more entertaining and appealing games with a \$10 maximum bet or even higher than with a \$1 maximum bet, because it would permit us the flexibility to have more - some movement in the game in terms of payouts to players.

MR BANKS: That's true, and I'd expect the industry to take that perspective. But I guess our job is to look at the other side as well.

MR FERRAR (GTA): Of course. Again, I appreciate that what I'm saying isn't particularly evidentiary.

MR BANKS: Well, it's not even about evidentiary. It's just about the logic of the industry perspective on maximising revenue, and that's a legitimate objective that every industry rightly has and the broader social objective about getting the balance right with those - - -

MR FERRAR (GTA): Our game designers are very concerned about this, they're concerned at whether they're going to be able to provide games that are not unappealing to any player. So again it's a topic of great discussion within our circle at the moment. But I don't have a huge amount facts to give you in that regard.

MR BANKS: All right.

MS SYLVAN: Do you have some facts to give us on the New Zealand, and I think there's another jurisdiction that uses dynamic messaging? Do you have data on the effects - not now, but in your submission - - -

MR FERRAR (GTA): We certainly talk about New Zealand in our submission. New Zealand has a \$2.50 maximum bet, as you're aware. There are some other jurisdictions that we'll mention. Sweden has been mentioned to you, it has a maximum bet equivalent to \$A3.15, Norway has \$A9.62, Nevada has \$A108 and Macau has \$A140 at the moment. Although there's currently an assessment of prevalence rates under way in New Zealand, I would have to say New Zealand's prevalence rates are at least comparable to Australia's - it depends on which party you listen to greater - at a \$2.50 maximum bet and a \$500 maximum price.

MS SYLVAN: Has the dynamic messaging had an effect, because they do - - -

MR FERRAR (GTA): There is a lot of debate about that at the moment. It has not been investigated. It was mandated to be provided on all machines by 1 July this year. I have done my best with my colleagues in New Zealand to ascertain the exact cost, it has been a different process again, \$NZ65 million was the answer for machines in clubs and hotels, which is a little under 20,000 machines; and it's

indefinite about the cost in casinos, because PIDs - they call them PIDs, player information displays - have been implemented as part of replacements and upgrades, so that's a little difficult.

MR BANKS: We value your input and your perspective, in terms of the technology, and obviously look forward to the written submission. I think we have had a good conversation, and we thank you for attending today.

MR FERRAR (GTA): Thank you.

MR BANKS: We will just take a few minutes break before our next and final participants for the day. Thank you.

MR BANKS: Our final participant today is the Australasian Gaming Council. Welcome to the hearings. Could I ask you, please, to give your names and positions.

MS VARDON (AGC): Cheryl Vardon, the chief executive of the AGC.

MS GRINBLAT (AGC): Nadine Grinblat, the research and communications officer.

MR BANKS: Thank you very much, and thank you for your patience in waiting. We have had a full day. You have obviously been a key player in this inquiry and provided substantial earlier submissions and other support, for which we thank you. You have given a bit of an indication of the sort of things you want to raise in response to the discussion draft, so I will give you the opportunity to go through those.

MS VARDON: Thanks, chair. I'll make an opening statement and we'll head into perhaps the four issues that we have chosen in particular that we would like to discuss. At the outset I want to say that we support the contributions and presentations of our four member organisations who have spoken today and yesterday, and the ALH is our fifth member organisation. So it's important to note that and that we have supported them in writing their submissions and they have taken on board many of the things on which we have advised them. So thank you for this chance.

I am going to comment briefly on the AGC; but as you're familiar with the AGC I'll go over that fairly swiftly. I also want to have some comments on the record about the Productivity Commission's draft report, its process and impact potentially on problem gamblers, the industry, and state and territory governments in fact. I would like you, given that the chair has referred to our initial submission, to note the policy principles in that submission, which were carefully put together and drawn in part from the comments that the chair has made in the past in various speeches, which we agree with, and that is the value and importance of evidence based policy recommendations, to avoid diverse outcomes and unintended consequences, which has been spoken about a fair bit.

We want to in particular offer up some advice and thoughts on the findings and recommendations to do with prevalence, precommitment, education and research; and if we have time, I know that you have our speaking notes, and other issues might arise, for brief comment. You will certainly have our final submission to you before Christmas, providing you don't give extensions. We are working with KPMG Econtech on some recommendations, and, pending board approval, they will be in our submission; Econtech has been very helpful to us.

Just briefly, on the Australasian Gaming Council, it's a watershed for us, I guess, this particular Productivity Commission report; the organisation came into being post the 1999 report in 2000 when leaders of the industry saw very clearly that they needed to come together and to take on a leadership role in terms of dealing with problem gambling and harm minimisation and working on a sustainable industry. Over the 10 years the AGC has built I think - and I have only been there for a few years - a very good reputation with stakeholders, particularly governments and community members.

We have fostered collaborative partnerships with governments and community. We have certainly been involved in public policy participation around gambling, and we are represented on most, if not all, of the public policy forums that governments have set up around Australia, either as a statutory member, a visitor or whatever, and the AGC actually chairs the government's Responsible Gambling Working Party in South Australia, and we're quite proud of the collaborative partnerships that we have worked through there as we look at precommitment.

Our charter is a sustainable industry through promoting responsible gambling and harm minimisation quality research and promoting information and education that's accurate around gambling, and I am pleased to say that my colleague and I were invited and involved in the Gambling Research Australia consultation recently, which was quite a small hand-picked group, so we were pleased to be involved in that as industry representatives. So the AGC work over the years has opened up many pathways which simply didn't exist before, many pathways to working jointly and collaboratively with stakeholders on harm minimisation, and all the things I mentioned, focusing on problem gambling and accurate information; and I have mentioned the South Australian work.

Those collaborative relationships don't mean that we all agree and then go out and do something totally different. It means that in each forum there are disagreements, but there is some consensus position reached, and I think that's the important part about collaboration. It doesn't mean there haven't been some ding-dong arguments in some of those forums from time to time but that's pretty healthy, we think.

So it's opened up those pathways and we do feel, I guess, that we've had a bit of a setback in consolidating those pathways and seeing them valued through the Productivity Commission's most recent report. The previous report in 1999 was a wake-up call and all stakeholders responded, and that would include state and territory governments in that. The last report did have many figures and statements that were left, I guess, and where further research was clearly needed and where some research did happen. We thought perhaps that with this report we'd settled some of those issues. But new ones, of course, have arisen and others have been

presented in different ways. We thought also that the Gambling Research Australia program of millions of dollars of research would settle some of those issues, but that's perhaps another story.

As our colleague Ross Ferrar said, the industry certainly needs some certainty about figures. We would go on to say that problem gamblers also need certainty in terms of harm minimisation remedies offered to them. I now want to quote from Econtech's overview of the report, and I emphasise this is draft only and it is criticism. As well as criticism we go on to offer some constructive thoughts and areas of research and evidence that we think can offer - and that whole area of evidence - - -

MR BANKS: Can I just ask, this report by Econtech that you're drawing on, is that going to be eventually publicly available?

MS VARDON (AGC): We think so. I can't actually say that because it has to go through our AGC board.

MR BANKS: I mean, why would you only think so? Wouldn't you have a policy that you would want to make as much evidence as possible publicly available for public scrutiny?

MS VARDON (AGC): Yes. We'll certainly be heading towards that. I'm able to quote from the draft now. The aim is that we do publish that report or certainly quote extensively from it, and that's in our agreement with them.

MR BANKS: You're able to quote from it but we're not able to test that by having read it ourselves.

MS VARDON (AGC): Yes.

MR BANKS: If you want that to be credible as an influence on us I just encourage you to get that full report to us in time for us to digest it for the final report.

MS VARDON (AGC): Thanks. Yes, we'll take that on board and certainly do that. Some of the comments coming from Chris Murphy and his team talk about concerns about sound evidence based policy, the lack of sound evidence based policy that clearly identifies the issues around problem gamblers; talks about many of the recommendations advanced in the draft Productivity Commission's report tackling the symptoms or effects of problem gambling rather than some of the underlying causes; and that the available evidence that they have picked up suggests that there is potential for some recommendations to have perverse outcomes that may even exacerbate problem gambling. You're quite right, that report does need to be

presented and highlighted, it's important.

It also goes on to talk about - which I won't go into detail - issues around COAG protocols and rules and the Productivity Commission Act itself. It talks also about the pivotal and important role of the Productivity Commission in presenting recommendations. I have to say that that's not only - I don't see that as only advice that is being received externally from experts. But also from my own perspective of having received and commissioned many government reports over the years and having written them and had oversights of them and so forth and most recently from the perspective of being a public service commissioner. So I well understand competing policy pressures, resources, datelines and reconciling stakeholder views. We fully understand the purpose of the review. But we do think that collecting evidence, and I believe myself that collecting evidence is, in the end, a shared responsibility. Governments need to take the leadership in collecting evidence. So where to from now?

MR BANKS: Could I just pause there, because I suspect you've glossed over possibly some hard-edged criticism from your consultants which we will see in time, and of course if we just see it in time we can respond to it in our report. But we obviously agree about the importance of evidence. We have quite a lot of material in our report about the role of evidence in social policy development and where the threshold should be, what the burden of evidence should be and even issues about the onus of proof and so on. I mean we would be happy to get any reactions to that. While, no doubt, you have consultants who, I'm sure - again, reading between the lines - have been critical about the extent to which we've mastered the evidence, such as it is, we had participants this morning, two academics who you would be aware of, who praised the commission for the ability that it showed in getting across the evidence that was available and using measures such as triangulation to draw on various strands of evidence to have more robust conclusions than otherwise.

So I just want to indicate for those who read the transcript without - and for us not having had the benefit of seeing that consultants report that there are different views about that. We agree that evidence is fundamental but we don't agree that evidence has to be 100 per cent conclusive in an area of social policy. You know enough about education policy and other things to know that if that had been the test in any other area of social policy nothing ever would have been implemented. So there are risks both ways, I think, with public policy in relation to evidence. There are risks of commission and risks of omission. There's always a balance that needs to be drawn. So I just say that because again, I don't have the benefit of seeing that report but I suspect it is critical. As I say, we don't mind that, reports being critical, provided we get an opportunity to respond to them.

MS VARDON (AGC): Yes. While we're talking about evidence there's a

difference between evidence that is sometimes finger in the wind, I guess, what's best on a particular day, and evidence that does have some fairly rigorous base in collecting data. The point I'm making is that the evidence that the commission has worked on, worked from this time round, is evidence that perhaps state and territory governments have put together with different methodologies, different ways of approaching things, and we'll talk about the triangulation issue a little later on if we have the chance. There is a role for government in settling some of the figures that have been put out there very loosely, very clearly. I'm sensing actually a lack of time that the commission has had to finish the report, and we're very happy to help you negotiate a further extension date post February 26, if you would like that.

MR BANKS: Well, let me respond to that. We feel we've had adequate time and in fact the participants before you were rubbing it in that we've had 15 months.

MS VARDON (AGC): 55 weeks.

MR BANKS: So we would not be indicating we haven't had enough time.

MS VARDON (AGC): Yes.

MR BANKS: Indeed, part of the time we've had is to give you and other participants the opportunity to make submissions which nevertheless we haven't had the benefit of before this hearing.

MS VARDON (AGC): There are some pretty solid submissions coming in which I think will need a fair bit of scrutiny. So that whole evidence area, without labouring it too much, I think is pretty important because all players need certainty. Some of the research from which evidence has been drawn we - with others, other academics in fact - would like to dispute. It's an interesting area, the whole area of gambling research and how it has developed over the years.

But putting that aside, what comes next, I guess, in terms of the further research that is needed to do to collect evidence to satisfy a whole range of fairly loose figures as we see it - have been put out there - and how do we get to - and this is your issue, clearly - a very robust report in the end that settles down a lot of the issues around lack of evidence. We would recommend, and with respect would like you to recommend - I think you have, actually - as part of this, to be more specific, that Gambling Research Australia gets on to a research agenda which sorts out some of the issues that are left quite loosely. I know that you have said that research should be more policy relevant. We would say too that the whole research participation area needs to be opened up to include consultants as well as academics, who tend not to understand - with all due respect to any academics listening in - who tend not to understand datelines or to understand the pressures on governments and

industries and businesses and others around deadlines.

So the four top issues, I guess, that we wanted to talk about, as I had mentioned, were prevalence and precommitment, and education and research; and education in particular from my background is one that has caused me some concern. But I would like to hand over to Nadine, my colleague, to talk about prevalence, because we see that as the key issue which underpins policies for reducing problem gambling. How do you measure it? What is harm? How do you quantify that?

MR BANKS: Good, thank you.

MS GRINBLAT (AGC): I would agree with that entirely. We do find this to be a key issue. Looking at draft report finding 4.1 we picked two words which we really think are the source of some of the issues that we have with the chapter regarding prevalence, and that's categorisation, or those who are not categorised as problem gamblers, and harm. Essentially those are the two issues with the use of the CPGI. If you like I'll restrict my conversation to the use of the CPGI, or the Canadian Problem Gambling Index, rather than South Oaks Gambling Screen for the purposes of this conversation.

So essentially the CPGI - and the draft report makes this point - as a categorisation tool does show that the balance of evidence suggests that overall rates have fallen. Then we note too that the commissioners have noted that there are difficulties inherent in that, and that is not to be taken without a few caveats. Then the conversation moves more appropriately to what we see to be really the heart of the matter, and which we think the commission has identified as the heart of the matter, and that's the issue of harm. Now, Drs Livingstone and Woolley spoke a little about this earlier. Indeed, harm is at the base of all the matters here because it affects the public health definition of problem gambling, it goes directly to it. It has also been cited by the commission as a good reason or perhaps reason enough, if harm is large enough, to reduce the evidentiary base for making recommendations about problem gambling or about harm-minimisation matters. So that's quite clear in the report. That's why we think the issue of harm and how it's calculated is of quite immense importance.

We understand that the commission has referenced in the draft report the work of Svetieva and Walker in speaking about harm. They did in fact - those academics did in fact very recently say that what we should be measuring are the problems that are caused by gambling, and the commission would define that as the detriment, in the draft report. I should state from the outset that the agency have no issue with the aim of identifying harm or of quantifying harm in terms of talking about problem gambling. We would, however, question the execution and the methodology by which those very broad constructions of harm were reached within the draft report.

If my understanding is correct, it seems to me that the CPGI was - or rather the individual unit data responses from the CPGI as used in various prevalence surveys were used to sum the harms that might be seen to exist on an aggregate level.

So if that is correct then it follows further from Svetieva and Walker's argument that there are whole issues within the CPGI itself as a screen capable of assessing harm. My main contention then is that the draft report hasn't really measured harm with a screen that's designed to assess the number and the quantum of problems that are experienced by gamblers on any independent or validated scale. In fact, it has summed responses from CPGI unit data where the CPGI has been quite roundly criticised as not capable of really quantifying or in some cases over-representing the harm that could occur. I mean Svetieva and Walker, for example, caution on the subject of tapping into moral attitudes. They say that questions that ask about, "Do you feel guilt about gambling?" or, "Are you criticised about your gambling?" are really more reflective of moral polarisation that's associated with gambling rather than inclusive indicia of harm.

So what concerned the AGC when we looked at this quantification of significant harms that the draft report goes into is that guilt is in fact referenced there. So that brings us to the point that if that is going to be the case then - and I understand that the report mentions that it will look at subjective items and that it's very hard to determine and they're hard to quantify but they will do so. But I would suggest that Svetieva and Walker's criticism that these questions tap into moral attitudes, they tap into ideas that are quite complex in the human psyche and are not necessarily caused only by gambling. That can really much create invalid measures of harm and it will also introduce systemic differences between large groups of people.

With the issue of guilt depending on how you were raised and what moral values you were raised to uphold, irregular gambling, very infrequent gambling may cause you to answer that yes, you feel a great deal of guilt about your gambling; not for any harm that that gambling has in and of itself caused but because of the issues that you have surrounding your own beliefs or the beliefs of those who surround you. So we think that's an issue. We also think - - -

MR BANKS: What would you say about suicide as a form of harm? Do you think that - - -

MS GRINBLAT (AGC): That actually goes to my next point about the quantum of harm that's attributable to gambling. I think you need to look very carefully at causation when you're talking about complex issues such as suicidal ideation or difficulties with coping with life in general. They can go to comorbidity, not necessarily just to gambling. I don't think the CPGI adequately explores the quantum

of harm that is attributable to gambling per se. I think it asks the question but then it certainly doesn't go further than that.

MR BANKS: Well, it's true it's hard to survey someone who has suicided; that's true.

MS GRINBLAT (AGC): It is true. But I think in suicidal ideation if people are contemplating self-harm - and that's a dreadful thing and it's quite rightly recorded as significant harm. But there's no exploration of what other issues or causalities could have contributed to that ideation. There's no exploration of other problems.

MR BANKS: When you give the submission I'm sure that our team will be able to look at the actual issues but I want to ask just the fundamental one: does the AGC believe that the level of harm, however measured, is sufficient to warrant a public policy response?

MS GRINBLAT (AGC): Well, see, that's again where we look at the broad construct of harm that's come out of this report, because if you look at significant problems and you look at non-problem - and I am getting to the answer - and low-risk gamblers, you find that by the commission's own significant problem scale that's a much small percentile of the problem. I would say for policy relevance of course there are harms that need to be addressed, and especially in problem gamblers or moderate-risk gamblers. But I would argue that they are the groups that should be targeted rather than gamblers as a whole.

MR BANKS: Sure. Then we're going to argue about whether our measures do that, because I have to say I would have been shocked and disappointed if the AGC had not indicated that harms were sufficient to warrant public policy, because in the 10 years, I agree with Cheryl, you've done extraordinarily good work that was not present 10 years ago. The second thing, however, is to just make the point we've made all day: we are exactly the same point, that is, we've identified that there is sufficient harm to warrant a public policy response.

MS GRINBLAT (AGC): Yes, we agree.

MR BANKS: All of our measures we have tried to actually - exactly to what you've done - to minimise the impact to those less at risk or at no risk and to target the measures and which that's what we're going to disagree - that what we're going to obviously talk about. But the point about it is - I'm very happy for you to question our figures and our conclusions but as a commissioner sitting here, all of the evidence given to this inquiry indicates to me that public policy response, evolution of where we are in terms of public policy, is warranted. My point is I would hope you would agree with that, and I think you do, even if you disagree with our

methodology or the quantum.

MS GRINBLAT (AGC): Yes, well, I would agree that you certainly identified harm. I would agree that you certainly identified harm that is of public policy relevance. But where I would perhaps have a contention is in saying that the harms are so broad, and even so broad as to non-problem gamblers and to low-risk gamblers that we can reduce the evidentiary basis that's required for the making of good public policy. That's a contention that I will put today.

MR BANKS: Okay.

MS VARDON (AGC): Of course we agree, and it's about measuring harm so we can better target programs and resources and really help those people who are in dire need and those at risk.

MR BANKS: How would you categorise those two-thirds, the two-thirds of people who say their health has been affected by gambling do not qualify as problem gamblers; but on the face of it, doesn't that suggest harm?

MS GRINBLAT (AGC): Again, "on the face of it" I think is the term to apply to that. The CPGI looks on the face of it, it tests psychometric issues, it doesn't test quantum of harm.

MR BANKS: It is a validated item of the CPGI.

MS GRINBLAT (AGC): So that would be the issue again that we have of it. Those issues of causation. There are other issues that I have with the use of the CPGI and the comments in the draft report about, for example, low level indicators of current harm that point to future risk. So low level, very low level indicators, that point to future risk. In the research that exists - I'll cite a report by LaBrie, Shaffer, Nelson and Gabower on this subject - there is no real set stability across time.

The commission agrees in itself that gambling exists on a continuum, that people move in and out, and what the research of Shaffer would suggest is that it's not so easy to quantify which of those low level risks, such as a faulty cognition, will necessarily transpose to future harm. So I think that's an important issue as well. At the end of the day, as I said, we do agree that there are harms that are identified that need policy responses, but it goes to the evidentiary basis of which we speak.

What we really want to get out of this is that we think further research is necessary, and we notice that the commission at recommendation 15.3 talk about research of direct policy relevance, and that is the point for us here, that it is somewhat ridiculous that this issue of harm has been around since the commission's

harm index of 1999; and yet Walker, who has been a great proponent of the harm measuring, has made mention only last year that a statistically-sound measure of harm caused would seem a necessary next step in problem gambling research. Although some exists, none are without major criticism, and these give some guidance to the kind of reasoning needed to measure harm. The way forward will begin with a logic behind these instruments. But I would suggest that we haven't quite got there yet.

MR BANKS: But am I picking up from you a contrary view to my earlier one, that 100 per cent bulletproof evidence about the harms, for example, is a necessary first step before you would do anything - - -

MS GRINBLAT (AGC): No, I disagree.

MS VARDON (AGC): No, we wouldn't say that.

MS GRINBLAT (AGC): Harm often, as you so rightly mention, can be subjective, they can be difficult to quantify. At the end of the day, gambling is a complex issue, it's complex, like a social phenomena, problem gambling especially. I don't think you'll ever get 100 per cent bulletproof evidence, because the individuals who gamble differ, their responses differ. What we're suggesting is that the quantification of harms in this report has been used to lower the evidentiary basis that is required. You have heard from our members today, they're very concerned about the evidentiary basis.

MR BANKS: I don't agree with that. I mean, at the end of the day we have made a judgment about what measures we think would target the problem without having too much collateral damage on recreational gamblers, and we have made a judgment call about that. We haven't lowered the evidentiary base, but the evidence, such as it is, is not perfect, it's not of the 100 per cent bulletproof variety that you seemed to be hinting at was required before one could contemplate any action in this area.

MS VARDON (AGC): No, I think we can go around in circles with this debate about evidence. My favourite reading on the subject is Peter Shergold's speech of a few years ago, called Cherry Pickers vs Peddlers of Public Opinion, which I quote in any presentation I'm giving about evidence and how public policy is derived from research and evidence in the end - - -

MR BANKS: Might I just say though at this point, because there are other books. Darrell Huff's How to Lie with Statistics is another classic item from many students first year at university. One of the raison d'etres of the commission is to provide an independent judgment call precisely in areas where the evidence is not absolutely and is not bulletproof. We make that a judgment call from the basis of what we

believe would be in the interests of the community at large.

Countries that haven't had that ability to have independent research and advice have had the problem that, as you say, a lot of consultants are doing work in this area, but the people there don't know what to believe. One could have millions and millions of studies, and we do have them, over the last 10 years in Australia there has been a lot of research done. Unfortunately, it hasn't advanced things as much as we would have liked. That's one of the reasons why we have advocated a more independent footing institutionally for research going forward, which we had also advocated 10 years ago.

MS VARDON (AGC): Yes, that's true. A neat way I use sometimes of putting it is that sometimes the entire industry, and its participants I guess, the gamblers, are seen through that prism of problem gambling, and that's not the case and that's where we need to draw the line.

MR FITZGERALD: I think we have got to grasp something, that the truth of the matter is there was no evidence at all for the liberalisation of gambling, none. So in a sense most of us here in this room would say that the problems began when we actually liberalised. There's no evidence at all, none. Of course in WA we have the opportunity not to liberalise, or to liberalise, depending on - - -

MS VARDON (AGC): Or to liberalise, yes.

MR FITZGERALD: Yes. But from that point on, from the moment that politicians agreed to liberalise, without any evidence of anything - - -

MR BANKS: Well, there was plenty of evidence probably of revenue going over the border in Victoria, and I think that might have been - - -

MR FITZGERALD: Yes, lots of revenue, and there really were consequences. We have played catch-up with trying to get evidence. Can I just make a point, and I don't want to argue about the evidence base and Gary is the expert on this and so are you, better than I, but one thing that is of concern to me in the inquiry, and I think we have shared it before, Cheryl, is the lack of available information from the industry itself about their customers.

I have consistently, in 1999 and subsequently asked, "What does the industry know about its customers? How do they operate? What actually happens in the venue?" It's almost completely absent. One of the things, going forward, taking your point about going forward, I would hope that if there's another inquiry - and invariably there will be, but not with us involved in it I hope; not me, anyway - - -

MR BANKS: We might become consultants.

MR FITZGERALD: There might actually be a much greater understanding of how people actually perform, behave, in venues, different venues across the country, because the research I think is growing. What is missing is a really good understanding of behaviours.

MS VARDON (AGC): I agree. From my perspective, after many years in government then coming to this area, this industry has not been seen as a legitimate participation in drawing-up research agendas, commissioning research and having a say, and I hope that's changing now. In terms of data, the industry is one of the most tightly-regulated industries I have ever come across, and rightly so, if it's to do with money and so forth, and the regulators in each state do collect data from the industry, and the industry is required to provide it.

In a lot of cases - we heard about smaller venues this morning - there's knowledge of customers, by virtue of knowing who comes into the place. But I'm sure, with a greater role and recognition and participation around research and gathering data, that the industry would be pleased to start collecting data, if it hasn't already, and looking at what might be possible. I'm saying that without checking that with my colleagues, but I think that's the general view.

MS GRINBLAT (AGC): May I just add briefly too, that industry participation in some research has been largely not mentioned except perhaps by the researchers themselves. So for example if you look at Delfabbro and his identification of problem gamblers in the venue, there are a lot of interviews conducted with gaming staff and that is done with the full acknowledgment and at the behest of industry.

MS VARDON (AGC): Yes.

MR FITZGERALD: I'm not trying to diminish that. I'm just simply saying, when you have asked fairly obvious questions about what is the evidence about how consumers of your product behave, it is exceptionally difficult, in a way that I must say doesn't appear in many of the other industries with which we deal. I don't want to labour it, but I think going forward that would be extremely helpful.

MS VARDON (AGC): It's just a pretty funny thing that you're going to scrutinise your customers to see how they behave when they have come in for a cheerful night out I suppose.

MR BANKS: Some of them aren't so cheerful. I mean, that's one of the issues. I think one thing that has changed in the last 10 years is the preparedness of venues to train their staff to detect lack of cheerfulness, I guess, and what that might mean for

someone who is in difficulty. So that has been, I must admit, an attitudinal shift on the part of the industry.

MS VARDON (AGC): Absolutely, yes. I think the information is there. It's a bit of a shift though to suddenly call it evidence, I guess.

MR BANKS: Sure.

MS VARDON (AGC): It's, you know, information, some of it's anecdotal, and hoteliers and club managers and so forth are very, very close to their customers. Do you want to move on to education?

MR BANKS: Yes, please.

MS VARDON (AGC): I have to say I was a bit rocked by chapter 6, Gambling Information and Education, and I'm drawing from that, the draft finding and draft recommendation to do with school based education, not so much the other parts of community education and so forth. Speaking as a person who has led state education jurisdictions and who has been very concerned with the need to give kids, give students, information in a carefully presented way which helps them develop protective behaviours. That has been a key curriculum issue I have been involved in for many, many years.

You will find that our recommendations in our submission, which is still draft here in front of me, says a whole range of things that encourages the commission to please make those recommendations stronger. We don't believe - and I stand to be corrected, I couldn't find it anyway - that sufficient consultation was held with educators, with curriculum developers, with parents, for example, parent groups, around this whole issue. We know it's contentious and difficult. But other topics around adult activities where young people do need to have some information in that careful way are embedded in the school curriculum and they include sex education; education about responsible consumption of alcohol; and road safety, to pick another one; and increasingly, interestingly enough, careful choice of food, which is turning out to be a contentious issue.

So those topics are embedded in the school curriculum; not every day all day, some of them are integrated across the curriculum but some are done on a once-off basis on an occasional but in a regular way. Sex education in fact is part of a national curriculum and there has been an uproar about that. But that has been worked through. The greatest disservice we can say to kids is, "You don't need to know about this because we want to protect you and if we tell you about it you will go off and do it anyway." Well hey, they are doing it, and that includes sex, alcohol and - underage and drinking and driving too fast; not in venues, I hasten to add,

alcohol that is. That's really, really important and I think - - -

MR BANKS: We don't deny the importance of that but when you say we should strengthen our recommendation I mean our recommendations just simply says:

Given the risk of adverse outcomes, governments should not extend school based programs without first assessing the impacts of current programs.

MS VARDON (AGC): Yes.

MR BANKS: Now, this was not an inquiry into those programs. Of course we talked to some people, including you, about them. But we felt that in light of some of the meta-analysis that has occurred in related areas that there were some issues there that required one to pause before simply extending this. I mean that's apart from the issue of whether these things are distracting children from other core subjects and so on.

MR FITZGERALD: Can I just add to that. I think we were genuinely surprised too. I think when you've made the suggestions about school based education there's no question at all - my original reaction was that sounds very positive. We were surprised as we looked through the research and the evidence that that was in fact much more contentious. So as Gary has indicated our recommendation is a much more cautionary one. But I've got to be absolutely honest and say, Cheryl, it was a surprise to us too. We thought that the evidence for school based education might be much stronger and it didn't seem to be when we actually did the analysis.

MS VARDON (AGC): A few things about that, three things, in fact, that I can think of. First of all, curriculum is delivered within the community, not just given to the kids as a tablet and say, "This is what it's about, kids." But it's delivered. filtered through parent and community and teacher interests in terms of what children and young people can cope with. That's the first point.

The second point is we must have been looking at different evidence. We will present obviously different evidence that says that school based gambling education programs while they are contentious they are becoming very, very critical because in the research that we did, the AGC did, and we did that with schoolchildren - ministerial youth councils; young people's groups in three states; we did that with the permission of parents when it came to schools; football clubs, for example - truly, I have sat down and talked to a lot of young people in my life about curriculum and what they want to learn and what's school for. Some of the stories about young people gambling under age, nowhere near venues but learning their behaviours, the myths and magical thinking about gambling would make your hairs stand on end.

It's really imperative to do something. That's why we would like that recommendation strengthened. In our final submission we will come up with a stronger recommendation.

MR BANKS: If you can point us to an evaluation that has been conducted that you think is best practice evaluation it will also give us an insight into what you regard as adequate evidence, I must say. So that would be very useful for us to see that.

MS VARDON (AGC): No, very happy to do that, because in the end a lot of people gamble and we don't want young people when they reach 18 going into venues, as a lot of them will do, and beginning to gambling without understanding the product and some of the consequences and its place in the whole entertainment spectrum of offerings. We don't want them there unless they've got some protective behaviours and understandings of gambling as an adult activity.

We've worked very closely with Paul Clitheroe too on financial literacy aspects of gambling education because that was something that we thought was overlooked, that gambling is essentially about money. Managing your money, putting aside money for basic needs and wants and then looking at discretionary money is an important part of what young people need to learn. Gambling is in that mix. So that is pretty important and we will come back on that. The AGC, with support from all our directors, support from all our members, has produced some excellent gambling education resources, which we have not sent out to schools in any way but we have made available and will continue to make available to state education systems, and we have very good relationships with them.

MR BANKS: I must say I've seen some of that material but I didn't see much that sort of touched on the dangers or the risks associated with gambling but I may have missed some of them.

MS VARDON (AGC): Our big, complete, recently finished report certainly talks about that, has notes for teachers on where to go if they should come across children who may be affected by the problem gambling of their parents or carers. That's an important part of it. But it's not seeing the whole industry through that prism of problem gambling, seeing it as it is, as part of our society and here to stay as one of the offerings in that whole spectrum of hospitality. So I think that's pretty important and I'm quite passionate about protecting young Australians in this area.

MR BANKS: We're passionate about that too. I guess what you've got to demonstrate to us is that the evidence base now is such that we would have no qualms about building on these programs and rolling them out.

MS VARDON (AGC): Curriculum evaluations happen all the time. It's not

something that's static. Curriculum programs are evaluated on an ongoing way. It doesn't mean that some programs won't be banned from Christian schools, for example, which has happened in Queensland with gambling education; not in Catholic schools, I have to say, but in other Christian schools. It's contentious but it is very, very important.

MR BANKS: You're also not ruling out - I assume you've seen the literature that some of these programs, these information programs for young people, have been demonstrated to have had perverse effects in some of the evaluation studies that have been done; not just in Australia but in the US and elsewhere. I'm not speaking specifically about gambling now.

MS VARDON (AGC): No, I know. I'm not saying that there's no potential for perverse outcomes but as school based management picks up speed then there is greater emphasis on the whole school community being involved in the implementation of some of these programs, which are broadly life skills programs, I guess, how to look after yourself. With that kind of network of support then protective behaviours can be built, so we'll get back to you on that. There's a really positive one now before we get to precommitment and that's research.

MR BANKS: Everyone agrees on the need for more research.

MS VARDON (AGC): We agree with your recommendations on the administrative changes and streamlining the restructures around research because it was a bit of a dog's breakfast, to put it kindly. There's a range of recommendations that you've made which I won't go into which are very, very good. All stakeholders would agree on that.

That whole issue of research being more policy relevant is important because one thing we would emphasise, and that is that a mature industry which has made enormous contributions to harm minimisation and indeed to commissioning its own research has a rightful place at the table; not in an advisory capacity necessarily but right at the grass roots: developing the issues, developing the agenda. I've suggested too being part of the procurement process as external experts but it doesn't go down well with government, I have to say.

MR BANKS: Okay.

MS VARDON (AGC): So precommitment?

MR BANKS: Yes.

MR FITZGERALD: Well, no, I was just going to say I'm interested in your

comments. I was with a jurisdiction the other day, one of the governments, they were highly critical of our recommendations, I might say, on the interesting basis that they believe that the research to date was very policy relevant and that our proposal would in fact have exactly the opposite. So I was pleased to hear your comments. It was just interesting how a particular jurisdiction saw that our recommendations would in fact lead to less policy relevant - which was very different to what we thought was - - -

MS VARDON (AGC): Who was that? I'll go and talk to them.

MR FITZGERALD: No, it's one of the state governments. They may or may not put in a public submission but it was just an interesting comment. I think we're closer to where you are in our views about that.

MS VARDON (AGC): So long as we're part of it.

MS GRINBLAT (AGC): I suppose in speaking about precommitment we'll travel first to self-exclusion because I do think it's an interesting conceptualisation of self-exclusion as the ultimate precommitment, promising not to go. So I think at the end of the day I don't want to discuss these in great detail. You will be receiving our written work. I do think some of those issues that are discussed - there's one I would like to put on the public record and that's I was attending the public hearings in Melbourne and it was discussed there that - around the confiscation of prizes won by person shown to be in breach of self-exclusion orders, which I just tend to refer to as forfeiture because I've worked within that system.

MR BANKS: Sure.

MS GRINBLAT (AGC): That this would pose no problem for industry because they would be in receipt of those funds. I do - would like to stress that that is a basic misunderstanding of the current Victorian legislation with regard to forfeiture where it's made quite clear that all moneys paid or payable on any game, if won by a self-excluded person, must be forfeited to the state government.

MR BANKS: I was being flippant. It doesn't show up in the transcript. It could say, "Mr Banks just - - -"

MS GRINBLAT (AGC): No, there should perhaps be a flippancy note - - -

MR BANKS: With a smile on it.

MS GRINBLAT (AGC): - - - because otherwise that would have saved me from section 78B(2) and reiterating that today.

MR FITZGERALD: No, that's good.

MS GRINBLAT (AGC): But it was something I just - - -

MR FITZGERALD: But do you think - given that is the Victorian government's position - that's a good strategy from your point of view?

MS GRINBLAT (AGC): I've worked operationally at a casino where forfeiture was in place. In fact, I was working operationally in responsible gambling when the forfeiture rule came into play. I will say there are a couple of things there in the discussion that are missing. One of them is what constitutes a win for the purposes of forfeiture. If you've ever worked in gaming and looked at how an EGM pays out or how people operate around table games, it can be quite difficult to distinguish what is the win for the purposes of that law. I believe that the VCGR - it came to the conclusion that it would be the hand in play on a table or a jackpot or, I believe - not a cancelled credit on a gaming machine.

MR FITZGERALD: I think we were - I stand to be corrected - trying to really get at the notion of the prizes, substantial prizes would have to be paid by way of a cheque. But of course if you then turn up and you're an excluded person you don't get it.

MS GRINBLAT (AGC): Yes.

MR FITZGERALD: Can we have a look at that?

MS GRINBLAT (AGC): But that's not necessarily related to cheques, forfeiture - - -

MR FITZGERALD: No, I know, it can be different. I mean, if you think of it in an easy way if somebody got a large prize they have to actually go and get a cheque, it would be checked against whether they're excluded, they wouldn't get it. But we can look at that.

MS GRINBLAT (AGC): No, I can understand that.

MR BANKS: But you're agreeing with the notion of forfeiture - - -

MR FITZGERALD: Yes.

MS GRINBLAT (AGC): I don't have any difficulty with forfeiture in principle.

MR BANKS: Right.

MS GRINBLAT (AGC): I think though there's nothing there that suggests that it actually deters problem gamblers. I would say anecdotally it may work because if you're explaining self-exclusion to a consumer who is attending, that that makes a very good reason not to attend if you cannot keep what you've won.

MR FITZGERALD: Sure, but can I just ask - I would have thought that that measure, not in and of itself but as part of a suite of measures, would play on the mind of a heavy user gambler, a problem gambler, if there was prospect that they weren't going to get paid for their winnings.

MS GRINBLAT (AGC): And that's - - -

MR FITZGERALD: Because this is an excluded person, so they've already made the decision or had the decision made for them they're going to be excluded. I would have thought it's a very significant issue for the problem gambler.

MS GRINBLAT (AGC): It may well act as a deterrent.

MR FITZGERALD: Sure.

MS GRINBLAT (AGC): But as I said, that would depend upon the person and how they viewed their self-exclusion.

MR FITZGERALD: Yes.

MS GRINBLAT (AGC): One thing I did want to mention with regard to self-exclusion programs was that I found it a little disappointing that - more so perhaps in this chapter dealing with that particular issue, maybe less so in the chapter on counselling - that there's not a great deal of discussion regarding the pathways to recovery and treatment that can arise from self-exclusion. There's, in fact, a very large emphasis on enforcement and upon industry as a watchdog for consumers rather than upon - as another individual or as a company that could assist problem gamblers to the appropriate form of treatment. I think that's important. We have a paper at the AGC which is called, literally, A Gateway to Treatment, and it's about self-exclusion.

In that Blaszczynski letter, sir, now I noted that a key deficiency in current programs is over-reliance on external forms of control over an individual's behaviour. I would submit that that over-reliance on external forms of control - and that could apply to a lot of issues mentioned elsewhere - does not actually empower the individual to change. I would suggest that if you promise someone that they will

be barred and that will occur every time and there is absolutely no opportunity that there could be any other then you're not encouraging that person to perhaps seek treatment, look at the reasons for perhaps why gambling became such an issue in their lives and progress past that.

MR BANKS: Sure.

MR FITZGERALD: A lot of self-exclusion regimes allow for the person to lift the exclusion if they can demonstrate that they have actually taken - - -

MS GRINBLAT (AGC): Revocation, yes.

MR FITZGERALD: - - - you know, some treatment services and what have you.

MR BANKS: Is that in the pathways that you're thinking about?

MS GRINBLAT (AGC): I'm more thinking about - and if you look at the pathways and the work that the AHA in Victoria have done around the pathways project and that's in concert with Gamblers' Health, it's very much about not just enforcing this idea of industry policing, I guess, it's about that issue and dare we mention again a personal self-responsibility. But I prefer the idea of the individual and self-advocacy more than personal responsibility, though personal responsibility is a part of it.

MR BANKS: So what are you getting at though? I mean somebody - a problem gambler self-excludes, so what's your vision for the way this person can deal with his or her life in relation to gambling? What's the pathway that you - - -

MS GRINBLAT (AGC): Well, the pathways that are suggested are that there be a referral to counselling and that that play a major part. That was my main issue there. I don't think that has been addressed enough within the report.

MR BANKS: All right. We'd be empathetic to that view.

MS GRINBLAT (AGC): Okay. I suppose moving on from self-exclusion and self-exclusion processes, as I said, we can place the rest in our written submission. The idea of that interim measure of precommitment and the AGC has made a lot of recommendations around the idea of precommitment from the outset simply because Cheryl chairs the South Australian Responsible Gambling Working Party which is trialing precommitment measures at the moment. I understand that you've taken all those arguments as read for starters but one of the issues that we wanted to address was the idea that a voluntary model could not appropriately balance the interests of problem gamblers and recreational gamblers, the idea coming from the commission

that that could not be so, that it has to be, I suppose, a nudge-theory opt-out model.

My contention around this is that there has been a fair - not a fair bit but a reasonable amount of Australian research into precommitment. McDonnell-Phillips indicated that there's consumer interest in limits and prepaid gambling cards but that won't appeal to everyone. So the obvious answer that people have is, "Oh, it won't appeal to the problem gamblers." I would suggest perhaps differently. There is a Schottler Consulting report and it's quite recent, 2009 Vic DoJ. It talks about the level of conceptualisation that gamblers have around their own difficulties. There's also market research that Schottler has done into segmentation work for basically marketing problem gambling messages to gamblers. They speak also of this level of awareness that problem gamblers already have as to their own issues. I would suggest that if you merged a voluntary precommitment system with the appropriate educative and marketing measures it may well be very applicable to problem gamblers and have no need for an opt-out model.

MR BANKS: Can I ask this question then: of the two trials in Queensland and the work done in Adelaide of which we have been very encouraging and looked at, is there any evidence/knowledge emerging that would indicate that problem gamblers are accessing that and, if so, are they staying with it, or not, or do we simply not know?

MS VARDON (AGC): Not yet; too early in the evaluations in South Australia.

MS GRINBLAT (AGC): Yes, so, as I say, I do believe that a lot of problem gamblers are in contemplative mode, that they are aware that there are issues in their lives, and they may well take a voluntary system as that intermediate step, before enough harm has occurred that self-exclusion may be required.

MR FITZGERALD: Yes. Given that we're going to run out of time - - -

MS GRINBLAT (AGC): Yes. Sorry.

MR FITZGERALD: No, your submissions we're very happy to hear. But going back to the GTA, what Ross has presented for you - I just want to get your sense, and maybe you don't have this sense - given that we disagree about whether it should be mandatory or voluntary, putting that aside, that is it actually feasible in the way that Ross indicated, if you wanted to go to a precommitment, a multi-venue precommitment, that in fact that can be achieved, whether you should - I understand there's differences.

When we looked at the trials in Queensland it became very clear to us that people were saying, "You do have to in fact have a system that applies across all the

machines," and then the thing was that if you then don't take it outside the venue it's fairly weak. So I suppose my question is, given what Ross indicated, that it is feasible to have a system in place that allows you to be single machine, multi machine, multi venue at some stage; and as that new technology occurs, the costs of changing that over time will obviously reduce, we know that.

MS GRINBLAT (AGC): That is obviously where we would have to take the advice Ross Ferrar has presented on that issue. Feasibility issues are terribly complex in this area, and Ross has pointed out precisely how complex they are. The other issue that we wanted to mention around precommitment in particular is this idea that cards are readily accepted by consumers for other issues. So they're readily accepted for use of a library or for, you know, hiring a video.

I would suggest that there are other issues around gambling and that gambling is different in and of itself, so that consumer acceptance of a mandated card for gambling may not be as easily achieved as perhaps one for your local library. I think those issues of stigma are quite prevalent in today's society, whether or not we wish to make more choices about people's recreational activities.

So I think gamblers have those privacy concerns then as a rule. I think that has been evidenced by a lot of the qualitative research that followed up the responsible gambling device trials in Nova Scotia that were done by Bo Bernhard too of the IGI in the US. So I think that's an issue. Also Sharon Nisbet, who is an Australian writer, points out that consumer acceptance in putting harm minimisation on gamblers is absolutely fundamental, and she makes that very clear in her discussion on card play.

MR FITZGERALD: But just trying to use the logic to this, if all players required some form of a card, irrespective of whether it's just a visitor card or a smart card, for everybody, no matter what their circumstance, that just is a precondition for entry. So I do wonder whether or not the stigmatisation of individuals is reduced by having sort of a universal system. Your point may be that you're stigmatising the gaming activity itself - - -

MS GRINBLAT (AGC): Not everybody gambles.

MR FITZGERALD: Sure. I agree.

MS GRINBLAT (AGC): As I said, there are judgments that are made, upon those who gamble once a year recreationally, by some. I believe that's an issue. But more to the point of privacy and a carded system, is the fact that the issue is how much effort do recreational gamblers have to then go to in order to gamble maybe \$10 or \$20? So I think that's one of the issues for industry, that if you have customers who

are out on a Friday night and think, "We'd like to pop in there," and all of a sudden it's all too hard, that will have a significant impact on revenue.

MS VARDON (AGC): I mean, cards in gambling do exist, loyalty cards, membership cards and so forth. As Nadine says, it's this idea of a card for everybody, where you have to go through hoops to get it, and then that becomes, say, having to apply for a licence to gamble.

MR FITZGERALD: We are talking to operators about that; you can graduate the requirements if you have a visitor card. But what is your view about not having cards for the occasional player but just having low-intensity machines in each venue? Is there a view about that, because, I mean, that's an alternative where you don't need a card, but the player enjoyment is changed; I don't know if it's diminished, it's low intensity rather than what we have described as high intensity.

MS GRINBLAT (AGC): Are they the same low-intensity machines that you suggested for play after limits have perhaps been reached, so a restricted player, free games offering no monetary prizes, 100 per cent return to player; or are you talking about a \$1 bet limit and reductions in that?

MR BANKS: No, actually if you have any views on that - that's our air bag proposal that we put in there - - -

MS GRINBLAT (AGC): Yes, it's not really compatible with a business model perhaps.

MR BANKS: We might get you back on that one. But one thing, just come back to the point you were making, that you don't think that people who use clubs and hotels would see any need for and indeed may feel stigmatised by the need to have some form of card, or whatever. A contrary possible bit of evidence in relation to that is the high proportion of Australians who acknowledge that gambling is a problematic activity, in a way they don't talk about cinema or sports or other things.

So there's quite a broad consciousness in the community; and there's almost, I guess, the odd circumstance that a majority of Australians think it's a problematic activity but a majority of Australians engage in it. You could well argue that the combination of those two things would mean that people would accept quite readily the need to do that, particularly given that, as you say, there is already extensive use of loyalty cards. I mean, you can't go into a club without a card, you know, to be a member, unless you're a visitor, and so on. It's a question, and we'll obviously look at it.

MS VARDON (AGC): People are very proud to have membership cards for clubs

and be part of loyalty systems and so forth. That's quite different from having to have a card to give you permission to gamble. I can wander around shops and so forth without - - -

MR BANKS: Perhaps we just need a nice name for it; you know, like "loyalty".

MS VARDON (AGC): - - - pulling out my credit card, which I try not to do, being financially literate; and pulling out my EFTPOS card. I have got a card, but I don't have to produce it, except at this time of year maybe.

MR FITZGERALD: Obviously we have considered those, and we will consider that issue further. I must admit I am surprised ? in Sydney, as you may or may not be aware, nightclubs are now requiring fingerprinting, which is a bit of an unexpected shift. I am not suggesting that, but I am saying that it seems that over time communities accept - - -

MS VARDON (AGC): It gets back to the nature of hotels and clubs in particular, and casinos. I was present when one of our members after a presentation on biometrics said, quite spontaneously, echoing everybody around the table, "That's awful, to have our customers treated like criminals," and I think that's a real issue. Getting back to the first point that was raised, through all of this debate I think our goals are congruent, in that we want to get a better handle on problem gamblers, their numbers and what actually causes harm and how that can be quantified, and we want to continue our good work, as part of the industry, on harm minimisation and working with governments.

It is a highly regulated industry and I think we have to recognise that. But our goals are the same. This is one area I think where evidence will get to certainty. I am not talking about evidence that's a never-ending story without reaching any resolution and hence being another name for delay, not talking about that at all; talking about something that's more concrete than a huge range of figures for expenditure of problem gamblers, something that's more concrete than a large quantum of those would seem to be harmed by gambling. Just let's settle on some good research that gives us something to go on.

MR FITZGERALD: But whilst I accept all of that, the problem is that unless we actually have a scheme that reflects ours in some jurisdiction we will never know. In other words, looking at voluntary schemes will never tell us the answer; and of course it's going to be Victoria in a sense that will implement a universal precommitment scheme. It's one of those difficulties, it's just not possible to actually research it without in fact doing it to some degree. So there's the dilemma. Anything else?

MS VARDON (AGC): Not unless there's anything else that - we've covered the four top issues that we thought were important. If there's anything else from our speaking notes that you wish to ask us about?

MR BANKS: It's just I know Robert's - - -

MR FITZGERALD: No, that's fine. I'm fine.

MR BANKS: You've talked - and we're pleased that you're addressing the question of the \$1 bet limit and the \$20 cash input limit or it has been described as the \$39 limit, in practical terms. You've indicated you don't think we have enough evidence there. In your written submission it would be good if you pointed to the weaknesses in our evidence or the evidence that you thought was faulty or indeed if there's counter-evidence that you would address that.

MS GRINBLAT (AGC): We're certainly happy to do that. With regard to the \$1 bet we note that there is a large degree of reliance upon what is methodologically a very sound report by Blaszczynski in 2001. But that research states to its own limitations and they're quite clear that it was about one cent machines, that it was a convenience sample of both hotels, clubs and patrons and that it may not apply to machines of higher denominations. I think Ross Ferrar has hit upon that issue of cost when he has then talked about how much it would cost to reconfigure machines who are perhaps not so easily amenable to a \$1 bet as a one-cent machine.

MR FITZGERALD: Sure, except - can I just make the comment there which you'd be aware of. I may be wrong in this but every jurisdiction has a bet limit now.

MS GRINBLAT (AGC): Every jurisdiction does but - - -

MR FITZGERALD: It's 10 or five or two and changing that is not a huge issue but the question I have is, and nobody has answered it yet, what's your understanding of the effects of any of those?

MS GRINBLAT (AGC): I think people - with regard to the bet limit, the 10 and the five, I think what you really need to look at is how people are betting within those constraints? Are they constantly hitting maximum bet? I would argue not. That comes down again to intensity. The intensity of play can be dependent upon time or dependent upon opportunity cost for a gambler. So intensity can vary as well. This is why a \$1 bet may not work for recreational gamblers. If you have one friend who takes \$50 to a venue and - or actually two friends that each take \$50 to a venue. One manages to play a one-cent machine and spend two hours of time enjoying themselves and they are wanting that time factor and that constant enjoyment factor. Another may walk straight to a \$1 machine, have 10 shots at \$5 a

go and be done with and quite happy with that result. So I think if you're looking at gamblers and who is a recreational gambler, recreational gamblers behave in both of those ways.

MR FITZGERALD: Except we do know that regular gamblers who exhibit at risk or problem behaviours play with greater intensity than others. We know that, that's - - -

MS GRINBLAT (AGC): Yes, greater intensity over longer periods of time, I would add as a caveat on that.

MR FITZGERALD: Yes, absolutely.

MR BANKS: Both.

MR FITZGERALD: Both.

MS GRINBLAT (AGC): Yes.

MR BANKS: They spend a lot more money over a year as well.

MS GRINBLAT (AGC): But equally I would argue that - - -

MS VARDON (AGC): Well, maybe they can afford it.

MR FITZGERALD: If they're just simply - - -

MR BANKS: Well, we're talking about problem gamblers. These are people who come up on the screen as having a problem - by definition can't afford it.

MS GRINBLAT (AGC): But equally I would argue that neither time nor money alone is sufficient evidence that someone is experiencing problems with their gambling, it's relative.

MR FITZGERALD: That's true. But I mean can I just make the comment no-one in your organisation would ever say that that's what the commission says, because we don't. We've never said - and I noticed it has been said a few times but I know you wouldn't agree with it - commission has never said simply high - you know, playing high intensity.

MS GRINBLAT (AGC): No, we understand that.

MR FITZGERALD: But of course when you actually go and look at the indicators

that you look for when you're trying to identify a problem gambler, that's one of the indicators, as there are several others. So I think we've been very careful about that. We're not saying that people who spend a lot of money are necessarily problem gamblers. But conversely your own industry, particularly the casinos and that, in their identification of problem gamblers, you know, it's one of those things you look for.

MS GRINBLAT (AGC): Well, financial impacts are probably the most easily - - -

MR FITZGERALD: It's one of them.

MS GRINBLAT (AGC): - - - seen in terms of people attending counselling. It makes the most sense to the individual when they're looking at their own lives. But it doesn't change the fact that there are some people who gamble quite how amounts and have no issues, as the chairman himself has acknowledged.

MR BANKS: There is survey evidence, including a survey we conducted ourselves 10 years ago, that a high proportion of those who spend above a significant amount are problem gamblers. That has come through in survey evidence. The other thing I just mention to you because you've mentioned it, and in your submission hopefully you can look at the evidence in our own report, and that's relating to this vexed issue of ATMs and cash withdrawal limits. As you know, we've not recommended removal of ATMs and we've said let's have a look at the Victorian experience with that. But we have indicated that a limit should be placed of \$200 a day on withdrawals. Now, we've had the clubs and the hotels say that that will cause all sorts of problems for non-gamblers or recreational gamblers.

We did look at about 14 studies in relation to access to cash and credit and they're detailed in appendix G. The evidence from those studies overwhelmingly shows that the bulk of people rarely or never withdraw money from an ATM at a venue and at-risk gamblers are much more likely to use ATMs to withdraw cash. In one large-scale Queensland survey - I just mention this because I'd like you to sort of respond to these in your written submission. But there was a large sample, a Queensland survey, which showed that over 90 per cent of problem gamblers sometimes offered or always withdrew money from ATMs but less than 25 per cent of recreational gamblers. Now, I point that out and I didn't have the opportunity earlier simply to indicate that the commission is not being cavalier. We might differ on what that limit should be and so on but there's quite good evidence coming through those studies about the asymmetric use of ATMs by problem gamblers and other patrons.

MS VARDON (AGC): Okay, well, we will certainly be looking at that in our submissions. Getting back to something you mentioned, chair, and that is could we

do something about the \$1 maximum bet. There are a range of recommendations and findings in the Productivity Commission's draft report which in fact need quite extensive work, modelling assumptions built and so forth, which is just not going to be possible between October 21 and 18 December. That's much longer-term work. There are a couple of others - recommendations like that too.

MR BANKS: What modelling did you have in mind for that?

MS VARDON (AGC): Sorry?

MR BANKS: What modelling did you have in mind?

MS VARDON (AGC): The economic modelling about the impact on the industry of various levels of bet limits plus the bank notes accept issue together with the 10 per cent reduction in costs benefits to society. There are a number of recommendations where we feel that there is a need to look very carefully at them and to do some serious modelling around them in terms of impact on problem gamblers and the industry. So it's not something that we can necessarily achieve by Friday.

MR BANKS: Yes, but again - I mean you're taking a position in relation to the evidence threshold that you think is appropriate. We have looked at the evidence such as it is and indeed invite you to critique that evidence in making that point that more research is needed.

MS VARDON (AGC): We can certainly say that, yes.

MR BANKS: Okay. All right. Well, it's almost a quarter to 7 on that clock - - -

MS VARDON (AGC): We know.

MR BANKS: - - - which is slow, and it's a quarter to 7 on my watch. So thank you for - - -

MS GRINBLAT (AGC): It has been an interesting conversation.

MR BANKS: It has and we've enjoyed it.

MS GRINBLAT (AGC): Thank you.

MR BANKS: We look forward to your written submission, as I said, and we do appreciate the way you've engaged with this inquiry and the help that you've provided us and in particular, the earlier submission. So we look forward to that.

Thank you very much for that.

MS VARDON (AGC): Thank you for the opportunity.

MR BANKS: Okay. This is the end of the hearings. I would like to take the opportunity on behalf of my colleague, Robert Fitzgerald, and my other colleague, Louise Sylvan, and myself to thank everybody who has participated. We have had, I think, a rich array of information and evidence and discussion through the course of our hearings around the different capital cities. We really value that and we will certainly take into account all the points that people are making. We encourage - I say this for the benefit of the record, we encourage people to get in their submissions sooner rather than later. We also encourage them in some cases, if they wish, to comment on the submissions of others, which we find quite helpful in terms of coming to a judgment on some of the issues. So thank you to everybody and we will close the hearings now. Thank you.

MS GRINBLAT (AGC): Thank you.

MR BANKS: Good. Thanks very much.

AT 6.45 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY