

**PRODUCTIVITY COMMISSION
SYDNEY DRAFT REPORT HEARING
16 SEPTEMBER 1999**

**ISSUES FOR RESPONSE
FROM AHA (NSW)
[21 OCTOBER 1999]**

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TOPIC 1: THE COMMISSION IS EXCEEDING ITS TERMS OF REFERENCE

THE COMMISSION'S COMMENTS

MR BANKS: Perhaps the most important of these is the claim by the Australian Hotels Association of New South Wales that the commission *has exceeded its terms of reference by including analysis and assessments in its draft report and not just data and description.*

(Page 1402 para 3)

You appear to have misunderstood what is meant by an information report. The only real difference with a standard inquiry report is that we're not asked to make formal policy recommendations which require a response from the Commonwealth government. The whole purpose of an information inquiry, like any other inquiry, is to help informed policy-making, and that's the Productivity Commission's job. Indeed, the Australian Hotels Association itself urged us from the outset to make recommendations about taxation of clubs' income from poker machines, and even in the present submission you criticise us for not coming out strongly enough on that issue.

(page 1402 para 4)

MR BANKS: Good, thank you. We share that sentiment and that's what this is about. You have raised a lot of things there and Robert and I no doubt will have different things that we want to raise. But perhaps the best place to start is where you started, which is with our terms of reference. *I obviously didn't convince you with my introductory remarks, but I just point out that in the terms of reference, item E talks about the commission examining and reporting on the effects of the regulatory structures, including licensing arrangements, entry and advertising restrictions, application of the mutuality principle and differing taxation arrangements governing the gambling industry, including the implications of differing approaches for industry development and consumers. That tells me that the treasurer might have been a bit disappointed if we'd just had a few facts and figures out of the Bureau of Statistics publications in a rather slimmer report. Clearly, we will continue with findings, with analysis, with policy relevant assessments and views in our final report, and I guess what we're trying to do here is to get a better understanding for the underpinning of those to make sure that they're as well founded as they can be.*

(page 1409/10 para 6 & 1)

MR BANKS: We could talk more about that but we won't. The second point you raised, and this is a legitimate point, is to talk about the economic benefits of the industry and your criticism of our approach there. I think that criticism is again perhaps based on a misunderstanding about what we're saying. *We are not denying that the industry accounts for a lot of jobs and a lot of activity; in fact we document it in our report, so that's not the case. The question we looked at rather was that if there hadn't been a deregulation of gambling, if there hadn't been the expansion of gambling, what would have happened to the money that went into gambling? It wouldn't have disappeared. It would have been spent on other things*

(page 1411/12 para 10 & 1)

So the basis for our logic is rather the counter-factual. The point you make, having established an industry, if we were to ban it overnight, that would have a very significant effect. There's no doubt about that. I don't deny that. But the issue we were looking at, in a sense – and we were required to by our terms of reference – was *what is the additional value, the economic benefit brought about by the expansion of this industry.* It's in that context that we made those observations.

(page 1412 para 2)

MR BANKS: I can understand that, and I think we were quite clear in how we expressed it. *I mean, even your point about regional areas, we have had a lot of retailers and other business people telling us that the gambling industry's growth has been at their cost and has been to the disadvantage of the region, has generated earnings which have been siphoned out of the region through tax and through repatriated profit.* There have been some studies done which have tried to quantify that, some of them have been made available to us just since the publication of the draft report, so it's by no means a straightforward story, even in a regional context.

(Page 1413 para 2)

MR FITZGERALD: But hardly – the report could not be seen to be a document that actually *is taking up the cause of regional retailers in an aggressive way.* I mean, the report – I would have thought your industry would actually be saying “*Well done*” – because what it actually does, is does not give undue weight to those arguments. *It tries to put them in a real, reasonable context and I think that that's where I would have been surprised that you actually don't acknowledge that that is in fact a much fairer treatment of those arguments than has hitherto been put.*

(page 1414 para 2)

AHA (NSW) RESPONSE:

We did not say that the Commission had exceeded its terms of reference by including analysis and assessments in its draft report and not just data and description. Mr Banks' comments constitute a sophistic gloss on both AHA (NSW)'s criticism and the unambiguous nature of the terms of reference and the obvious perception of other witnesses.

We attach sample copies of standard previous terms of reference over many years. When the government wants recommendations it quite clearly states that it wants recommendations. It does not call recommendations the implications of differing approaches and put them in paragraph (e) of the Reference. It does not call recommendations “analysis and assessments”.

It is extremely difficult to interpret what the Commission prescriptively states in, for example, Chapter 15, as anything other than recommendations.

AHA (NSW) notes that Mr Banks, in his response to Fred Nile's repeated comments on the Commission's recommendations, stated that:

"I might just respond to one point, really a key point in the broad thrust of your submission in asking us to make much more formal recommendations in our final report. This is an issue that has been some contention with other participants as well. The inquiry is known as an information inquiry, which in a technical sense simply means that we're not making formal policy recommendations that the Commonwealth government would need to respond to and it's the Commonwealth which is our area of jurisdiction."

The AHA (NSW) considers that there is a much greater difference than that identified by Mr Banks between an information report and a full-blown report which requires recommendations and where the data, analysis and conclusions are a foundation for the recommendations. It is specious to talk about a "technical" difference when the Commission has clearly pre-empted the Government's policy prerogative. It is not the Commission's function to make policy via the media.



TOPIC 2: THE COMMISSION'S SURVEY IS FLAWED

THE COMMISSION'S COMMENTS

MR BANKS: You have repeatedly claimed, and I heard it again this morning on the radio, *that the national survey that the commission conducted is fundamentally flawed. That too is wrong and I believe the AHA would have benefited from expert advice, as we did, in these matters. The commission undertook its survey with great care, with considerable prior research and investigation, using methods and sample sizes comparable to those employed by the ABS. Indeed, the survey size of 10,500 is greater than the 8500 employed by the ABS in its household expenditure survey. The sample size is the biggest that's been employed in any survey of gambling in Australia and is large by world standards. The results were not affected by the period in which it was undertaken. We achieved an 88 per cent contact rate. The survey provides evidence on 150 problem gamblers, not 81, and this is by far the largest sample reached by any Australian survey. Sample surveys of this kind are all used to infer the overall population affected by problem gambling. It's the basis of all other epidemiological research into problem gambling in the world and nearly all the survey work done by the ABS and other statistical agencies.*

(Page 1402/3 para 6)

MR BANKS: Look, can I just pause on that one *because you've compared our survey unfavourably to a range of other surveys. Our survey is bigger than all of those surveys that you've quoted with ---*

(Page 1405 Para 5)

MR BANKS: *Those numbers are wrong.*

(Page 1406 Para 6)

MR BANKS: On the point about "conceived and executed in haste", I just for the record note that we first held a round table of experts to discuss survey methodology and design issues in October 1998. The members of that round table are all eminent researchers in this area and indeed have conducted a number of the surveys that you *cite with approval*. That was in October 1998. The field work was conducted from the end of March through April over a four-week period in 1999. So October, November, December, January, February, March, April, *seven months of development, of testing, of discussion, of getting consultants to go through our work and discuss it with experts and so on before we did it.*

(Page 1417 Para 7)

MR FITZGERALD: *No, that's another issue. I know you've got some points about it. I just wanted to come to the sample size because I want to just deal with that, if I can. This is one of the largest surveys done in the world. You have cited with absolutely no question surveys which I find interesting. At the end of the day this was one of the largest in the world. Compared to the United States for example, we surveyed 10,500, they surveyed 2400. You cite with absolutely no hesitation a report in New South Wales which actually surveyed 288 regular gamblers. We actually interviewed in depth 1225.*

Ours is questionable, that is not questionable. The issue I would have thought you may have debated, and you have, is whether you use SOGS 5 or 10 or other indicators. That has been a constant discussion in every survey throughout the world.

(Page 1417/18 Para 11 & 1)

I do find it, however, not acceptable that you continue to maintain such a strong issue about the sample size and its methodology. This survey interviewed, double interviewed people, in a way that almost no other survey in Australia has done, and the one thing that the experts have all said is it's one of the best surveys in the world that has ever been done. Now, you can argue whether or not we chose a point along that continuum of SOGS and whether SOGS is an appropriate method. That is a point of contention that has been so right throughout the inquiry. But I do find it extraordinary that you continue to attack the actual survey methodology and size when I would say that that is the one thing about it that has actually world credibility.

(Page 1418 Para 2)

MR BANKS: But we compensated for the with up to four or five call backs, so at the end of the day somebody who wasn't there, if there was any problem because of the holiday period, that had been well and truly compensated for over the period, the four-week period in which we conducted the survey, and we got a contact rate of 88 per cent. Now, that's not 100 per cent but anybody who knows anything about surveys knows that a contact rate, a response rate of 88 per cent, is very high if not unprecedented in this area

(Page 1418 Para 6)

Now, the interesting thing is a number of the other surveys again that *you've quoted with approval* have not even given us the contact rate. We don't know. We don't know what the response rate was. They might have got their numbers by just moving on. Someone wasn't home – "Let's interview somebody else." Now, we were meticulous in that and if we're sounding a little precious it's because we went to a lot of trouble to ensure that our survey design was watertight.

(Page 1418 Para 7)

We're happy to get back to you and if you've got other estimates of standard errors and so on that we should be looking at, we can look at those and respond to it. Standard error calculations in this area are not easy. In some of them because of the complexity of the nature of some of the parameters, we're looking at millions of iterations through a computer simulated model to get the correct estimates. Back of the envelope stuff won't get us there. And neither Robert nor I are expert in this area but we have confidence in the people and the people who advised them.

(Page 1419 Para 1)

MR FITZGERALD: Yet in the United States *many of the surveys are at SOGS 3 plus.*

(Page 1419 Para 11)

MR FITZGERALD: We take that on board but even at SOGS 10 you end up with something like 140,000 or so people with problem gambling. Surely that is significant in public policy terms and if you want to go along the continuum, as we have other submission, have said we've drawn the line far too high and you're saying that's too low, some are saying too high. We've used other indicators including harm minimisation indicators which Gary might want to talk about or otherwise, but I just wonder in terms of public policy what is the figure or figures that you as an association think should in fact cause governments to be looking at this issue? Is it 140, is it 100, is it 200? Where does it happen? Frankly, we're never going to agree on the SOGS issue about the break. We're going to get different views. Where does it become an issue for public concern?

(Page 1420 para 2)

AHA (NSW) RESPONSE:

It was clear at the hearing that the Commission prefers the view of "experts" who say that the survey was "one of the best surveys in the world which has ever been done".

We maintain our criticism of the fact that the survey was conducted over the Easter and school holidays and agree with Mr Banks that "it wasn't ideal to initiate a survey during that holiday period".

Our other criticisms:

- that the arbitrarily chosen definition of SOGS 5+ was at odds with other expert opinion and biased upward in a dramatic way the purported results in terms of problem gamblers;
- that the sample size was inadequate for most of the estimates made;
- that the confidence intervals are mostly so wide that the estimates are almost meaningless;

and that those results are presented in a manner which is not legitimate, are of greater concern and remain.

Whether the survey was or was intended to be "one of the largest in the world" (Mr Fitzgerald transcript, page 1418) the fact remains that ultimately only 1225 "regular gamblers" were asked the SOGS questions. To impute the sample proportion observed in this small sample to the adult population of Australia (14.1 million) without reference to the range the estimate is nothing short of misleading.

Mr Banks said (Page 1403) that 150 problem gamblers were observed not the 81 we calculated (from the 3498 total interviews of regular and non-regular gamblers and non-gamblers) but 150 observations is a small number on which to make an unqualified estimate of 329,000 problem gamblers.

If 150 observations was translated to an estimate of 329,000 estimate then the (estimated) 46,000 "problem gamblers" who actually experienced problems must reflect about 18 observed individuals only. This is a ridiculously small number on which to base an unqualified estimate.

We wish to make it clear that the fact that other researchers prefer a score of SOGS 10+ as an identifier of problem gamblers does not mean that we "quote with approval" the other surveys. We would reject those surveys also on the basis of their sample size.

Because of the small proportions involved and the small sample size, we can see no way in which the confidence intervals can be other than extremely wide.

The Commission invited us to discuss the methodology and confidence intervals with its advisers and we accept that invitation and look forward to those discussions.

Probably our strongest objection of all is to the way in which the Commission presented its results.

Besides neglecting to state the range of the estimates and level of confidence which could be reposed in them, the Commission made statements which, on their face, are simply untrue. It said, for example: "there are 7,700 people who report at least one significant adverse impact". That is not true. What is true is that (on the Commissions figures) about 35 people said that and it may be able to be said by a larger number lying between two other widely separated numbers of other people.

Our concerns with the Commissions statistical work and its presentation remain.



TOPIC 3: THE PROPORTION OF WORLD POKER MACHINES IN NSW

THE COMMISSION'S COMMENTS

MR BANKS: Your second point, you returned to the point about bias and you talked about what you thought was my inappropriate letter to the editor, responding to a story in that same newspaper in which there was a report that the Australian gaming Manufacturers Association was critical of our estimate of the number of machines and proportion of the world total. I thought I was, as the chairman of this inquiry, justified in correcting the point that it wasn't our estimate, but rather an estimate that we had got from the industry, and indeed the leading manufacturer of gaming machines in Australia, and an estimate that we in fact had actually talked to them about confirmed before we went to print.

(Page 1410 para 2)

MR FITZGERALD: The people that actually manufacture the machines, the largest manufacturer to their shareholders. Up until that point of that report, the perceived wisdom about those numbers was not questioned by anyone in the industry throughout this inquiry – not at all. *I think it is very important that simply because the way in which that number has been taken and used politically, we don't then enter into a new process of trying to redefine a market in a way that is itself misleading and unrepresentative. I think we will investigate that. But I want to make it very clear: nobody should come to this commission and try to restate the figures, if they have represented those to shareholders, on the one hand saying how successful the industry has been, and then suddenly when the figure gets used politically against them, say, "No, it's a different market." I'd be very interested to know how shareholders would react to this if that's the case.*

(Page 1411 Para 5)

MR FITZGERALD: *And the industry should not now disown it.*

(Page 1411 Para 8)

AHA (NSW) RESPONSE:

The error in the Commission's report relating to the proportion of the world's electronic gaming machines in Australia and in NSW has been established.

Whatever the source of the error, it is the Commission's task to get its facts straight and to cull out misinterpretations and misunderstandings between the informant and the researcher. In this instance, it failed to do so.

Mr Fitzgerald said (page 1411) that it is “not [a question of] what is the real figure” and that it is important that “we don’t enter into a new process of trying to redefine a market in a way which is itself misleading and unrepresentative”.

AHA (NSW) submits that clearing up a misconception arising from a mistaken definition is not to redefine a market, nor is it misleading and unrepresentative.



TOPIC 4: CONSUMER SURPLUS

THE COMMISSION'S COMMENTS

MR. FITZGERALD: Yes, and it's an issue that we've looked at, whether you range it or you take an estimate and then be attacked on the estimate in that range. Anyway, that's fine. What I do find surprising, however, is the one area we did find of benefits, despite the range, you have actually completely discounted. We came to a conclusion based on consumer surplus, which you haven't referred to in your oral presentation. You say, "There's no practical use because it's little more than a non-measurable, hypothetical notion, a useless academic parlour game." *In fact, that's where we got the \$5 billion worth of benefit for your industry. If you actually have no consumer surplus, given that in economic terms there may or may not be significant benefit from employment and other activity, you end up with nothing.*

(page 1415 para 4)

So I'm surprised that you have attacked what is, I find, a difficult concept, being a non-economist. However, everyone else has told me – economists from the industry itself, from internally the Productivity Commission and externally – *that this is a very appropriate technique for measuring the consumer surplus of a product.* Now, there are many people who have said to us, "There is absolutely no value, no benefit, out of gambling." *The commission has been extraordinarily liberal in actually saying, "Yes, there is," and we've tried to quantify that.* Yet you actually take it out of hand. I find that extraordinary.

(page 1415 para 5)

Yes, we'll come to that. But I just want to get to the point. *If you say that this is a hypothetical nonsense, literally, then you are left with the position that you will not be able to attribute any quantifiable value to the enjoyment experienced by your customers.* I think that is a very unusual position for an industry to take and I'd be very keen for you to reflect on that. At the end of the day I'd be quite happy if you said, "Well, we actually don't see a value," or you do see a value. But if you say, "There's no point in quantifying it," I think that would be very interesting.

(page 1416 para 5)

MR BANKS: Because it is an important part. *I mean, I thought that was one of the contributions we made and we had a bit of difficulty convincing people, including a number of journalists,* that there was such a thing as consumer benefit out of this industry, that people weren't just indifferent, they were just spending an amount that made them indifferent, so that if you took the industry away they'd be no worse off. I think they're getting value well above what they're paying, in a sense. So they would be worse off if you took the industry away.

(page 1416 para 9)

AHA (NSW) RESPONSE:

There is a major fallacy in the logic of Mr. Fitzgerald's comments. It is simply not true to say that if we reject the calculation of consumer surplus then there must be no consumer surplus. Our submission to the draft report Hearing made our position abundantly clear.

We are saying that any quantification that ranges from virtually nothing to \$5 billion in an industry that generates \$11 billion of revenue is hypothetical nonsense. It is equally nonsensical to insist that the only other position available is to conclude that the industry creates no consumer welfare in the Australian economy.

The Commission is forced into what is obviously an unsatisfactory methodology because of its commitment to the exclusion of supply side welfare contributions to the Australian economy. The fact is that the full employment resource allocation arguments of the Commission do not explain away the revenue, employment and taxes contributed by the industry to the Australian economy. Mr Banks says (at paragraphs 1 and 2, page 11) that:

“what would have happened to the money that went into gambling?
It wouldn't have disappeared. It would have been spent on other things”.

and

“what is the additional value, the economic benefit brought about
by the expansion of this industry”.

The fact is that economic benefit is not just about consumer welfare. The welfare of employees and investors and the community at large who benefit from the taxes paid by the gambling industry must be taken into account. It is not sufficient to say that we must accept a consumer welfare calculation alone or that an excessive range is justified on the basis that the methodology is acceptable.

Finally, Mr Banks' assertion that the money would have been spent on other things has no empirical or theoretical foundation. Consumer spending is not a closed circuit. In the absence of the gambling industry consumers could decide not to spend some of the money they would otherwise have spent on gambling.

In summary, AHA (NSW) reiterates that any calculation which uses assumptions ranging from highly elastic to highly inelastic and makes arbitrary assumptions about even higher elasticities for different forms of gambling is going to result in a conclusion that has no explanatory value as a measure of consumer surplus.

It is wrong to say that this means that there is no consumer surplus or, more importantly, to ignore general economic welfare. The approach taken by the Commission has simply not provided a sensible estimate of that welfare value.

Finally, we repeat that \$11 billion in revenue, 120,000 jobs and \$3.8 billion in taxation constitutes a very significant contribution to the welfare of the Australian economy that would not be duplicated by alternative resource uses. The consumer surplus is in addition to this welfare contribution.



TOPIC 5: SURVEYS NEED AN ERROR TO BE AUTHENTIC

THE COMMISSION'S COMMENTS

MR BANKS: That is a very nice debating point, I grant you that, but anyone who knows anything about surveys will know that every estimate has a band around it or standard error and that if everything looks exactly right that's almost a sure sign that something is shonky in the survey. In other words, you expect with a survey and with the number of variables that come out of a survey of this magnitude that you are going to get some where the average is out of kilter. It's just in the nature of having the sort of standard errors that apply. We actually included our standard errors in the report, again, something a lot of other surveys don't. So you have a basis for assessing how reasonable they are. That said, when you get a result like that you do need to test it. A lot of what we've done in our survey is test our results against others to corroborate them, but getting one outcome that doesn't seem right, doesn't damn the whole survey at all. There would be no survey in the world that didn't have that kind of outcome.

(Page 1421 para 4)

MR FITZGERALD: No, you've just ignored one of the comments that Gary has just made. We actually looked at our results against the average of all surveys that were undertaken in Australia and actually found we were on the low side. *In fact, the main game, the main point is not out of kilter.* Your paper claims it to be out of kilter. It is not. It is where you draw the particular line. The point that I don't understand is this: the industry has always acknowledged that there is a continuum. You know, there is a continuum on that problem gambling trail. It's not just those that right at the end – that you have to worry about. It's those that are on the way; those at risk and they can be at any point on the SOGS scale.

(Page 1421/22 para 6 & 1)

AHA (NSW) RESPONSE:

With respect, to use the Commission's terminology, we find Mr Banks' view astonishing. The number of standard errors or standard deviations has absolutely nothing to do with the point made in relation to the number of divorces resulting from gambling problems. What it probably reflects is the willingness of the surveyed group to blame everything on gambling because they obtained a positive response from the surveyor.

It is simply not true to say that a survey without a major error is probably shonky. A better response would be return to the questionnaire and consider whether the response reflected a skew in the survey resulting from an inappropriate survey environment, poor question construction or a leading viewpoint from the surveyor.



TOPIC 6: POLITICAL OUTCOMES FROM THE PROBLEM GAMBLING NUMBER

THE COMMISSION'S COMMENTS

MR FITZGERALD: And the point about it is that I just want to make, the point is the commission has not come to a number based on anything other than what it sees as reasonable. If others choose to use a number that is no reason why the commission in its final report should then dampen that number down simply to moderate the political outcome. That would be like saying we should pump the number up to encourage a political outcome. Both are inappropriate. The only way you can look at it is to say what do you actually reasonably believe is the best methodology to identify this particular group.

(Page 1423 Para 1)

MR BANKS: I agree and I think clearly we try to be careful and probably we need to be even more careful in being clear and plain in our speaking so that people understand what we're saying, but that diagram that we had which showed the continuum in part was intended to convey a picture for people who don't like reading words, so that they would get the same ---

(Page 1423 Para 5)

MR FITZGERALD: The perception speaks for itself, that on a particular basis there are a large number of people that are experiencing problems with their gambling. That's the perception and that is a right perception. Whether it's 140,000 or 330 or 500,000, that's the issue, as to where you draw the line. But that there are a large number of people experiencing problems with gambling is in fact what the report indicates and you accept that. I don't think we can advance the discussion in this any further because clearly we will disagree about where that is drawn, at five or seven or 10 or some other measure, at the moment.

(Page 1423 para 7)

AHA (NSW) RESPONSE:

If the Commission had said that its survey, at a 95 per cent confidence level using two standard deviations at the mean and a SOGS score of 5+ resulted in a range of from 240,000 to 400,000 problem gamblers then its number would have been qualified by and associated with the assumptions and appropriate statistical commentary that is usually associated with professional surveys. The Draft Report does not do that. It quotes a specific number of 330,000 and proceeds to use other numbers as if they were actual response numbers rather than extrapolation from a far smaller number of people.

Our view of the Commission's Survey is dealt with elsewhere in our supplementary response. However AHA (NSW) considers that the Commission needs to ensure in its final report that its views and comments are appropriately conditioned by the facts and the assumptions it makes rather than presented as eternal truths. We not asking for a number to be "dampened". We are asking for it to be presented in appropriate survey terminology and are certainly not expecting to be told that 140,000 people said anything about gambling when it is patent that the Commission did not survey that many people.



TOPIC 7: THE REALITY CHECK AGAINST 300 PROBLEM GAMBLERS

THE COMMISSION'S COMMENTS

MR FITZGERALD: Yes, I'm surprised you would throw that one out, but it's the other one that I thought you might. Can I just make a comment about the consumer protection stuff. Firstly, we have sought comments, so that's fine. The second thing is it was reality checked against 300 problem gamblers. It has never happened before in the world. Actually, these issues were put and they didn't agree with all of them. As you know, we put a tick and cross thing. We said, "Come back to us." The 300 problem gamblers, who actually have experienced it, were much more discerning in terms of what they said would work and wouldn't work. A lot of the stuff we thought might work they said wouldn't work at all.

(Page 1425/26 Para 11 & 1)

So there's a very big reality check and I doubt whether your association or anyone else has surveyed actual problem gamblers. Just occasionally people that have actually consumed the product might actually know which might have helped minimise their problems. That's what we did. 300 problem gamblers who had nothing to lose or nothing to gain from this survey – very insightful. A lot of the stuff that other had said to us, like clocks on the walls, they said, "Waste of time." So it would be a mistake to believe this hasn't been reality checked. It has been reality checked with your consumers, but those that ultimately ended up with difficulties. So in your response, be very careful that you think these are not out of some theory. They were heavily reality checked. Whether you agree with them or not, I just want to make that point because this was something that I think is really important in social and economic impact statements – that you actually do talk to consumers who can inform.

(Page 1426 Para 2)

AHA (NSW) RESPONSE:

AHA (NSW) considers that Mr Fitzgerald's comments constitute a blatantly biased view of reality. To regard putting policy initiatives to 300 problem gamblers as a "very big reality check" is akin to asking the inmates how to run the asylum. Clearly, this comment focuses policy initiatives on the interests and predilections of a very small group within the group of gambling consumers. It is not an "insightful" process to talk to a group of consumers who represent the absolute extreme of the gambling continuum i.e., those gamblers who have such extensive problems that they are already in therapy or receiving counselling.

There is an absolute necessity in the final report for the Commission to conscientiously seek to create a balanced report and to provide insights that reflect the attitudes of the entire community of gambling customers.

We repudiate Mr Fitzgerald's comments that:

"So in your response be very careful that you think these are not out of some therapy, they were heavily reality checked"

It is obvious that the Commission's perception of reality is very different from that of the gambling industry.



TOPIC 8: OPTIONS FOR A BLUEPRINT OF GAMBLING REGULATION

THE COMMISSION'S COMMENT

MR BANKS: The only other point, really – there are a few minor things – but the only other general point I suppose is that, partly because of your view about the role of our commission in making findings, you didn't address very much the last chapter, where we float some options for a kind of a blueprint of gambling regulation and institutions. If you had, I know you would be thinking about that in the context of New South Wales. If you wanted to make any comments on what we have put there, offer any criticism or even any compliments, that would be okay. But I'll leave that with you.
(Page1428 Para 9)

AHA (NSW) RESPONSE:

The AHA (NSW) was invited to come back to the Commission in relation to the Blueprint for Gambling Regulation, mainly discussed in Chapter 21 of the Commission's report. While AHA (NSW) intends to comment further and in more detail, in this immediate response it wishes to highlight the critical issue of the regulation of extra-jurisdictional providers of gambling services.

AHA (NSW) is concerned that this important issue is largely neglected in the Commission's draft report, and urgently requests the Commission to pay greater regard to the issue in its final report.

The array of control mechanisms discussed in Chapter 21 would apply to domestic providers as will specific measures adopted, including taxes.

Unless steps are taken to equalise the treatment of domestic and foreign providers, administration of gambling will impose taxes and costs on Australian providers which are not imposed on foreigners. If centuries of experience in international trade has not already done so, the history of differences between the States in dealing with gambling makes it crystal clear that the imposition of taxes and/or costs in one jurisdiction can divert business to another jurisdiction in which these costs and taxes do not arise. The process is analogous to a reverse tariff, in which domestic activity is taxed and competing foreign activity is not. In theoretical (and painfully practical) terms, the "subsidy equivalent" of the taxes and costs is negative.

In the view of AHA (NSW) all consideration of administrative arrangements and possible measures must be carried on with awareness of what distortionary influences may be set up. The Internet and on-line gambling make this imperative. As a first step, co-operation between the States in making systems and measures as uniform as possible is highly desirable and, from a national viewpoint, the domestic industry must not be rendered uncompetitive with foreign providers.



TOPIC 9: MUTUALITY

THE COMMISSION'S COMMENTS

MR BANKS: No, we certainly will take particular pains to make sure that we're not misrepresented. Maybe if I move on from that area to another point which – you got quite passionate at the end and I can understand why – where you accused the commission of not seeing the inequity in the differential tax treatment between the clubs and the hotels. Now, again, maybe we could have explained ourselves a bit better. I guess – I mean, the point for us was that this tax treatment has been there for some time. We didn't see evidence that current holders of hotel licences were getting lower returns in the market as a result of that and would be interested to see any evidence on that, that pub owners are actually accepting relatively low returns compared to other things they could do with their money. But I take your point, that people can get stuck in situations where they don't always make the logical financial decision.

(Page 1424 Para 3)

AHA (NSW) RESPONSE:

Mr Banks elsewhere comments on the need to ensure that the substance of arguments was not overwhelmed by rhetoric and that the Commission would be swayed by substance. AHA (NSW) is at a loss to understand why the obvious substance of the mutuality argument is constantly being clouded by red herrings and Aunt Sallies in both the Draft Report and the Chairman's comments.

Perhaps it is appropriate to respond in point form:

- equity of taxpayer treatment is a cornerstone of every efficient taxation system in the world
- the mutuality principle preserves an obviously inequitable taxation treatment between entities engaged in the same commercial activities (clubs and hotels)
- some clubs are not engaged in the same activities and we have no problem if the mutuality provisions are preserved by the ATO through the delineation of a safe harbour in a Tax Ruling
- Such a Ruling is administratively practical and the Draft Report's expression of taxation difficulties is an Aunt Sally.

- Similarly, Mr Banks' comments about the returns achieved by publicans is a red herring. Their returns have nothing to do with the issue. The issue is about comparative tax rates for entities engaged in the same activity. The level of returns achieved in that activity is irrelevant.

The AHA (NSW) is not asking the Commission to make recommendations; to do so would be to go beyond its terms of reference. It is asking that the issue of possible distortionary effects be addressed and analysed in detail.

The AHA (NSW) final comment in this immediate response is that in discussing, administrative arrangements and measures, the Commission has strayed across the line between discussion of merits and making recommendations.



TOPIC 10: OTHER MATTER (TABCORP EVIDENCE)

THE COMMISSION'S COMMENTS

MR FITZGERALD: Could I just remind you there – and I did this earlier – the figure of 98 per cent of gamblers is not right and it's occurring in all of the industry submissions. 98 per cent is 98 per cent of the adult population.
(Page 1630T Para 3 Tabcorp Evidence)

MR FITZGERALD: Problem gamblers represent 15 per cent, so we just need to avoid that figure because if you're having difficulty with our figures, this one is occurring. It isn't 98 per cent of gamblers that don't have problems.
(Page 1630T Para 4 Tabcorp Evidence)

AHA (NSW) RESPONSE:

This comment is obviously and palpably wrong. The Commission's survey calculated a number (subject to confidence levels, standard deviations and a range) that was then expressed as an actual percentage of the population of gamblers that were problem gamblers (2.3%). However, Mr Fitzgerald has misrepresented the Commission's own survey. Mr Fitzgerald has made a statement that has represented a number which is a proportion of regular, non-lottery gamblers as a proportion of the total gambling population.

The AHA (NSW) believes that this number, which is fifteen times higher than the general proportion level of problem gamblers identified in international studies is grossly incorrect. We are extremely uneasy about Mr Fitzgerald's interpretation of the problem gambling statistics in this way. It is obviously easy to manipulate the survey to so define the sample that a much larger number of problem gamblers in the population is identified than is obviously empirically the case.

A great deal of difficulty has been caused by the Commission's expression of the conclusions from its survey results in the Draft Report. The AHA (NSW) asks the Commission to carefully define the context of its conclusions in relation to problem gambling measurements.

