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Proof Committee Hansard

SENATE

ENVIRONMENT, COMMUNICATION, INFORMATION
TECHNOLOGY AND THE ARTS LEGISLATION COMMITTEE

Reference: Interactive Gambling Bill 2001

FRIDAY, 4 MAY 2001

CANBERRA

CORRECTIONS TO PROOF ISSUE

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Tuesday, 22 May 2001

BY AUTHORITY OF THE SENATE

[PROOF COPY]

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SENATE
ENVIRONMENT, COMMUNICATIONS, INFORMATION TECHNOLOGY
AND THE ARTS LEGISLATION COMMITTEE

Friday, 4 May 2001

Members: Senator Eggleston (*Chair*), Senators Bartlett, Bishop, Bolkus, Calvert and Tchen

Participating members: Senators Abetz, Boswell, Bourne, Brown, George Campbell, Carr, Chapman, Coonan, Crane, Faulkner, Ferguson, Ferris, Gibson, Harradine, Harris, Hutchins, Knowles, Lees, Lightfoot, Lundy, Mackay, Mason, McGauran, McLucas, Murphy, Schacht and Watson

Senators in attendance: Senators Allison, Bishop, Eggleston, Greig and Tierney

Terms of reference for the inquiry:

Interactive Gambling Bill 2001

Committee met at 8.35 a.m.

CHAIR—I call the committee to order and declare open this public hearing of the Senate Environment, Communications, Information Technology and the Arts Legislation Committee. On behalf of the committee I welcome all witnesses and members of the public attending this hearing today. Today's hearing is considering the Interactive Gambling Bill 2001 and the committee is scheduled to table its report on 23 May.

FARMER, Mr Richard Lindsay, Chairman, Canbet

HINES, Mr Robert Andrew, Group General Manager, Jupiters Ltd

MORGAN, Mr Piers, General Manager, Centrebet

CHAIR—I welcome you all to the committee. The committee prefers all evidence to be given in public. However, you may at any time request that your evidence or part of your evidence be given in private and the committee will consider such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. I also remind witnesses that the giving of false or misleading evidence may constitute a contempt of the parliament. The committee has before it submissions Nos 10, 33 and 31, which have been published. Can you please advise whether you have any alterations or additions you wish to make to your submissions. If not, I invite each of you to make a brief opening statement, remembering that we have only 40 minutes allocated to this section.

Mr Farmer—I have nothing to add to my written statement.

Mr Morgan—Centrebet is a business that is based in Alice Springs. It was a pioneer of sports betting, established in 1992. In mid-1996 it went live on the Net. Centrebet has been betting live on the Internet longer than any other organisation in the world, other than an Austrian bookmaker. We believe we are an organisation that has a lot of experience in this area. Our experience has been that there have been virtually no examples of problem gambling arising from sports betting, either online or offline, in the time that we have been operating.

We think there are three reasons for that. The reasons are: firstly, there is a long gap between the time a bet is actually placed and resulted; secondly, it requires some skill, rather than chance, to determine winners consistently; thirdly, events occur reasonably infrequently. In fact, if you placed a bet at 8 o'clock this morning the first opportunity you would have to result the bet would not be until after lunch today and there would not be another opportunity until 5 o'clock tonight. There are quite large gaps between those occasions.

On that basis we think that sports betting itself and wagering generally should be exempted from this legislation. Furthermore, we think that the bill in totality is something that should not be passed as written because it is based on some premises that are illogical in our view—that is, that accessibility to gambling opportunities is increased by access to the Internet and that accessibility increases problem gambling. We do not believe the Internet itself increases the incidence of problem gambling.

Another point we make is that the legislation has some draconian consequences for us in relation to section 15, which would cause significant problems for our business in the future. As we have stated in our submission, it would question whether we have the viability to continue to operate in Australia.

Mr Hines—Jupiters Ltd is an Australian based public listed company based in Queensland. We have over 5,000 employees. One of our divisions is Centrebet. As part of my submission, I would just like to endorse the comments Mr Piers Morgan made and formally support the submission they have made to the committee.

There are two or three points I would like to highlight on behalf of Jupiters Ltd. The first one is that this bill, as we read it and our legal advice is, has consequences which we do not believe were intended in the original drafting of the bill. By the broad use of the term 'listed carriage service' we believe that this bill captures many other products other than just Internet gaming. We believe that in fact it affects the ability to operate lotteries, sell keno tickets and even link slot machines or poker machines. This will have a serious impact on traditional gambling premises such as clubs and hotels, even racetracks and TABs, and potentially an impact on small to medium sized businesses such as newsagents and hotels. We have submitted some amendments to the committee which we believe would address this issue.

The second point I would like to make is that in 1999 the government passed the Electronic Transactions Act, which we believe was intended to define functional equivalence and technology neutrality. This was to give some certainty to business when using electronic means rather than the old paper based means of transactions. That bill was a good bill and did give certainty to business. We believe that this bill is entirely inconsistent with the sections in that bill defining technology neutrality in that the bill before the committee makes a differentiation between a keyboard and a voice and does not make a distinction between the human voice and a synthetic voice, and that a telephone line is difficult to define whether it is part of the Internet or just part of a national telephone network. So the use of the term 'listed carriage service' broadly, as I made my point in the early point, does not fit with this technology neutrality of the Electronic Transactions Act 1999.

The other point I would like to make, which Mr Morgan touched on briefly, is that the criminal or penal elements in this bill are of great concern to us. The bill, if it were passed in its present form, requires that bets cannot be accepted from anybody in Australia. It does not mean a resident or a citizen of Australia but someone physically in Australia. So it could be possible that we have taken all the precautions to ensure that no Australian had signed up to such a service and someone was on holiday or visiting Australia and could go to an Internet cafe and sign on and we would be breaking the law; it would be a criminal offence. The technology and the cost of monitoring where every single bet comes from as a source would be very difficult for us. In fact, we do not think it is possible to do that with 100 per cent certainty. Given our position as a listed company with licences in running casinos and other gaming products around the world and in Australia, we just could not afford to take the risk that we would be committing a criminal offence and putting those licences at risk. So we believe that the penalties are not only too severe but also that they are not well-defined and not technically and commercially viable.

We have suggested one amendment which would assist with but not completely eliminate this problem, and that is to do with the defence of due diligence. In the bill, in section 15(3)(b), it refers to reasonable diligence. It is the only defence in the bill. In the explanatory memorandum it does go into a bit more detail as to what reasonable diligence might be. We are suggesting that that portion from the explanatory memorandum be moved and introduced into the bill to give operators a little more certainty. Thank you, Mr Chairman. That concludes my remarks.

CHAIR—Thank you very much. Senator Bishop.

Senator MARK BISHOP—I have some questions, firstly, for Canbet and then for Centrebet and then there are some general social issues that arise out of this bill which we might have a discussion about. Firstly, Mr Farmer, how do you determine whether a bet is being placed by a person physically in Australia?

Mr Farmer—We think it is impossible. If the bill is passed in its present form, we will have to leave the country. We do not believe that there is any mechanism that will enable us to say with certainty whether the person is within Australia or not. There are certain things that you can put in your program on your computer to identify the location of Internet service providers and where the call is coming from. But we are aware of—and it is very much in our mind—the case of one Australian company called MegaSports which is owned by a company in Nevada. They gave an undertaking to the Nevada Gaming Board that they would not take bets from within the United States, and they put in blocking protocols. An agent of the Nevada Gaming Board opened an account in Canada, purported to be a Canadian, quoted a Canadian credit card number and dialled from Nevada to Canada an Internet service provider so it came up at MegaSports as a Canadian having a bet. The person had identified themselves as a Canadian with a Canadian address and a Canadian credit card, but it turned out that it was an American. So they were forced to sell their Australian subsidiary—there were entrapped. I believe they had taken due diligence and had taken every precaution.

There was a very interesting article in the *New York Times* last week which talked about the establishment of services throughout the world that were primarily designed to help people with freedom of speech—not to have a bet. But for people in China, Saudi Arabia, Iraq, Iran, Singapore and Malaysia, where governments have denied access to certain content, there are now people set up on the Internet providing sites which enable you to disguise the country from which you are accessing. There is a way around the blankets that governments in those countries have put in.

Being aware of those facts, I believe it is impossible for me to say with certainty that I could stop someone within Australia having a bet. The law is drafted in such a way that, if I do take a bet from an Australian, I am liable to be charged. It is up to a policeman whether I get charged or not—whether a policeman thinks I have taken due diligence. So every time you accidentally take a bet from within Australia, your fate would be determined by a court. That is not a risk that I am prepared to take as a director of Canbet. We will close our operations in Australia if this bill is passed in its present form.

Senator MARK BISHOP—Does your company use the geolocation programs? I think your colleagues at the table had something in their submission about the geolocation programs. Does your company use them?

Mr Farmer—No, we do not. There is no need for us to do it at this moment. We take bets from around the world, and we take very few bets from Australia. We are aware that it is possible to put them in, but we know from our own experience and the experience of MegaSports, our next door neighbour, and the Canberra betting auditorium, that they are not foolproof. So I cannot say with certainty. If the legislation said, 'If you do install these programs, that will be considered for the purposes of this act to be due diligence,' then I would have a different view. I then perhaps would be able to comply. Perhaps that is one solution the committee might look at.

Senator MARK BISHOP—So do you look to a solution of all reasonable efforts being an adequate defence?

Mr Farmer—Yes, and some definition as to what reasonable efforts would be. This legislation is in two parts. The first part is to do with bookmakers and the second part is to do with Internet service providers. For bookmakers there is a ban that says that you shall not take a bet from within Australia, but it gives no guidance as to what is due diligence. The second part of the legislation, dealing with Internet service providers, which attempts to stop Australian punters betting overseas, says that there will be a code of practice drawn up and, if it is not drawn up to the satisfaction of the ABA, they can impose one. I cannot really see why the principles are different—why there should not be a six-month period for the industry to draw up a code of conduct. If that is not satisfactory to the government, then they could impose one by way of regulation so that you had some guidance. As the act now stands, no prudent person can operate. It is, in fact, a ban on my industry. It purports to be allowing it to continue but in practice it does not.

Senator MARK BISHOP—Mr Morgan, we may as well close that issue off. Does your company have a similar or a different view to Mr Farmer on that issue?

Mr Morgan—We have very similar views to Mr Farmer. I would add that in our submission we mentioned geolocation software, which we use to identify a new client when they sign on. We use that because we do not accept clients who are based in the USA. There is a real difference between using that in a first-up test of someone who is signing on and using it when you are actually accepting bets. It takes quite a while to run that trace back down the line and come back up. It is not really feasible to do it in a live situation.

Senator MARK BISHOP—But you only accept bets from registered betters, don't you?

Mr Morgan—Yes. Someone has to establish an account first and in the account creation process we take steps to determine they are bona fide. That includes ensuring that they are logging on to us—if they are registering through the Internet—from the country where they say they are resident. We do not believe it is feasible to actually use that technology to check all bets. We are absolutely sure that the technology does not work 100 per cent of the time and there are plenty of ways around it.

Senator MARK BISHOP—Are there any other controls that are available to be purchased or that could be put in place by your types of companies to identify the location of a patron who wants to use your services?

Mr Morgan—I do not believe there is any software commercially available at the moment that would allow us to do that in a way that would ensure the companies remained competitive and were able to accept bets quickly and compete in the international marketplace: nor would we have 100 per cent certainty.

Senator MARK BISHOP—In your submission you indicate that there is a growing number of reputable offshore sites regulated by legislation in the United Kingdom and run by reputable companies. Were you exclusively referring to wagering service providers?

Mr Morgan—Yes. It is exclusively wagering service providers who bet on Australian sport.

Senator MARK BISHOP—Are they gaining significant inroads to market share?

Mr Morgan—It is difficult to tell whether they are gaining significant market share, but the very fact that an increasing number of those organisations are now betting on Australians sport suggests that there is a market there that they are capturing.

Senator MARK BISHOP—One of the arguments has been in the past that—if you do not have regulation in Australia—because of the nature of the Internet, Australian consumers will be forced to avail themselves of

these unregulated sites, some of which have crime links or cannot guarantee adequate returns or consumer protections and the like. Do you accept that there are now reputable, properly regulated sites offshore?

Mr Morgan—Yes.

Senator MARK BISHOP—How many of those are there around the place now, do you think?

Mr Morgan—I think we listed four or five organisations that you might say were from well-regulated jurisdictions that were sizeable companies in themselves.

Senator MARK BISHOP—In that sense, then, you have got some regulated sites from Australia, regulated sites with the proper degree of probity available from offshore and a whole range of sites of dubious value. How can Internet users determine the probity of those sites? How do they choose a well-run reputable site as opposed to one that is not in that category?

Mr Morgan—I think it is extremely difficult for them to do that. They would have to do some research themselves. I doubt that most clients would do that. The price would tend to be the determinant in which site they were going to use.

Senator MARK BISHOP—Do you find that you are losing patronage to those sorts of sites? How much of an effective competitor are they?

Mr Morgan—I think the offshore sites are potent competitors.

Senator MARK BISHOP—The unregulated offshore sites are potent competitors?

Mr Morgan—Yes, I think they are because clients do not have to go through the sign-up procedure that they do with us, which is a burden that requires them to provide evidence—proof of identity and things like that. So for a start it is easier to log on to those sites and, given the way the Internet works, it is very easy for those sites to copy the prices of organisations such as ours. So, for all intents and purposes, they can quite easily appear as if they are well run and well established sites.

Senator MARK BISHOP—Mr Farmer, do you hold that view as well? Do you have a different view?

Mr Farmer—I will be going to England—if this legislation is passed—which is a first world country where the regulation is the normal law of contract. It is somewhat amusing to me that, in the very same week that the Australian government introduced legislation to ban my industry, the British Chancellor of the Exchequer, in his budget speech, made provision to encourage me to go to England by changing the tax rate that applies to wagering. So we would certainly be one reputable company in a first world regulated jurisdiction that will be attracting Australian punters.

Ladbrokes, William Hill and Sportingbet are all significantly larger than I am. We believe we are the largest bookmaker in Australia but we would not be in the top 10 in the world. There would be four or five reputable publicly listed British companies that are bigger on the Net than we are. From my knowledge, there would be five or 10 of those in Costa Rica and Antigua who are larger than us. There are plenty of ways of having a bet if you want to by choosing a site. The Internet is an amazing medium.

Senator MARK BISHOP—Mr Farmer, I let you go on, but the point of my question was: do you find these sites that are popping up in the South Pacific or the Caribbean—and we will call them unregulated; a lot of them, it is alleged, have dubious probity—provide effective competition to your company? Mr Morgan said yes.

Mr Farmer—William Hill, who are the second largest bookmakers in the world, operate out of the Caribbean. They are not the Mafia; they are not the mob: this is a publicly listed reputable British bookmaker. Ladbrokes operate out of Gibraltar. Not everyone in these unregulated environments is a crook. If the reputation of your company is great enough, it does not really matter where you are. If you have a 50-year tradition of honest dealing with punters, that is more important than what environment you operate in.

Senator MARK BISHOP—Let me narrow the question down. There is effective competition from reputable companies in the unregulated environment—I accept that. Let us move on to the suggestions that have arisen in the past three or four inquiries, that there is a degree of improper behaviour, criminal influence or whatever in a range of those sites, located in those areas. Are they equally effective competition?

Mr Farmer—Yes, they are traditional SP bookmakers who have moved their phone answering service from cities in the United States, where they fear the rap on the door from the FBI, to Costa Rica, Belize and Antigua. They are a major competitor because they have taken their illegal business with them. Slowly what companies like mine are trying to do, I suppose, is win it back, change people from betting with an illegal SP. They still pay and collect on the street in the American city. Yes, they do exist and of course they are a major competitor because they are traditionally in the United States the only people that you could have a bet with.

Senator MARK BISHOP—Mr Hines, this question is probably for your company but it might have application to the other two, so if it is I would ask you to offer comment as well. It has to do with this issue of

linked jackpots. I presume Jupiters offer that service. Just for the record, as I understand it, linked jackpots are poker machine games that provide jackpots to players in pubs, clubs, et cetera. You keep playing until the jackpot is won or the money in the pool is lost. NOIE say the intent of the bill is not to regulate or ban land based poker machines, and they are quite clear about that. Yet, my take is that, because of the process that is involved in these linked jackpots, it is necessarily interactive gambling. Is that correct or am I incorrect on that?

Mr Hines—That is the advice we have. Because of the way the bill is drafted, using a telecommunications network, both the in-house linked jackpots—which are not linked to other properties; they are linked within a house—and those linked to other properties are linked usually over a WAN or a listed carriage service, and that means they are captured by this bill. That is our legal advice.

Senator MARK BISHOP—The intent of the bill is to limit the spread of gambling. The first few pages of the explanatory memorandum quote extensively from the Productivity Commission report and a range of other public inquiries which have found there have been quite significant adverse social consequences attached to land based gambling, particularly poker machines. That is one of the major rationales of this bill—to limit the further spread of gambling. Why shouldn't, then, linked jackpots be caught by this bill?

Mr Hines—The intention of the bill is a matter for the regulators and the people drawing up the bill. Clearly, there has been no public statement. None of the ministers has indicated that the intention is to wind back land based gaming, and this bill would have that effect, because we could no longer offer the linked jackpots that are currently on offer. There needs to be some openness about the intention of the bill. If the intention is to restrict land based gaming, let us have that debate. Let us have that debate in the community and let us let people make comment about that.

This bill has been introduced with the intention to stop people having a poker machine in every lounge room—that is the phrase that I remember. As I understand the bill, the intention is to limit the spread of Internet gaming. I did not think it was intended to cut back on land based gaming. If it is, I think it has very serious ramifications. It means that you cannot buy a lotto ticket in a newsagent, you cannot buy a keno ticket in public and you will not be able to play poker machines that are linked to jackpots. If that is the intention, we need to have that debate. I think the community view on that would be quite different from the community view on the banning of Internet gaming.

Senator MARK BISHOP—Have you, Mr Hines, or has your organisation put that proposition to the minister's office?

Mr Hines—Not directly. We are using this forum and our submission here to make those points.

Senator MARK BISHOP—So you have not formally put that proposition to the minister or to the bureaucrats?

Mr Hines—No, not at this point.

Senator MARK BISHOP—Mr Farmer and Mr Morgan, does this discussion affect your enterprises—linked jackpots?

Mr Farmer—No, it does not. We are a wagering company. We feel that we understand the concern about gambling in the Australian community that has led to the legislation, but it does not affect us.

Senator MARK BISHOP—Mr Morgan?

Mr Morgan—It does not affect us, and Centrebet is the only online arm of Jupiters.

Senator MARK BISHOP—Mr Hines, you have made the point that linked jackpots are, apparently, caught by the bill. You think it is going to affect the purchase of lottery tickets and the like from agencies. Are you of the view that it should be included in the bill?

Mr Hines—I am of the view that it should not be included in the bill. We have submitted some amendments with our submission where we attempt to define—it might be fairly crude; it was fairly quickly done—a public place. We felt that was more the intention of the bill—that this is attempting to limit gambling in a non-public place. That is our amendment and those amendments have been submitted to this committee to be published.

Senator ALLISON—Mr Morgan, I think it was you who said that there is no problem gambling in your industry, related to the use of the Internet. Can you advise the committee what evidence you have for that and perhaps even table it?

Mr Morgan—Certainly. I was suggesting that there was no evidence of problem gambling in our company, rather than necessarily in the industry. We say that on the basis that we maintain an online account for all our customers and there is a transaction record for those people. We can see their betting record and we can see the history of their betting experience. We also communicate with our customers quite regularly with

queries and the like. On average, about one customer a year would come to us and say that they would like their account closed for a reason which might include that they think that they should limit their gambling opportunities. But it is not always for that reason; there are sometimes other reasons why they might be saying that. There is a very low incidence of that sort of problem. When we examine our client's accounts and our records, we do not see the transaction histories that would suggest that there is problem gambling; we do not see funds being refreshed and reinvested in accounts. It is partly because sports wagering online does not create the continuous opportunities to place a bet as other mediums do.

Senator ALLISON—Can you explain what that means: 'to refresh an account'? Why is that an indicator of a problem?

Mr Morgan—I suppose it is an indicator of a problem because, if you have run out of money, in our case you need to replenish your funds in your account before you can place another bet. Clients would need to do that in order to continue to bet. There is not a history of people doing that. In fact, what people tend to do is deposit funds, usually at the start of a season or at the start of a week. They will place their bets. If they win, they leave their funds there, generally speaking, until either the end of the season or the end of a competition and then they will tend to take their funds out. If they lose some bets and they do not have funds left in their account, typically they do not do anything about it until the next weekend or the next month when they come back to bet on their sport. We find that most of our customers tend to bet on a particular sport or just a range of sports. We offer bets on 50 different soccer competitions from around the world, for instance. Often our customers are betting on only one or two of those leagues.

Senator ALLISON—Why do you not accept bets from the United States?

Mr Morgan—We do not accept bets from the USA because there is some legislation in the USA which has extraterritoriality provisions and also because we have a shareholder who has interests in the USA. Mainly for the extraterritoriality reason, with a minor reason being our shareholder's interest, we choose not to accept bets—

Senator ALLISON—There is a ban, isn't there? The United States has a ban on such transactions?

Mr Morgan—No, that is not the case at all.

Senator ALLISON—Mr Hines, can you indicate what it is that has been useful to your industry in having access to the Internet? Obviously, it has only been in relatively recent times. Why is it important to your industry?

Mr Hines—There are a couple of different responses to that question. The first one is a technological response in that, as the Internet has grown and has become more acceptable for business transactions, the Internet itself has now become part of the communication network. Even telephone calls can now occur over the Internet—voice-over Internet. For business reasons, the Internet is often replacing what was a standard telephone line. We are now using the Internet for virtual private networks, as they are known, and as a way of moving data around within the company and, indeed, transferring bets or bet type information between clubs and hotels and our central operation. The network for a game such as keno that has a central operation and then sells bets in multiple locations can be driven over the Internet. They do not have to be via a standard telephone line. In fact, with the way that technology is growing, for telephone companies now you may not know whether they are using a standard telephone line or are a part of the Internet. There is a technological answer and that is one reason the Internet is useful to us—because it is a new form of technology and it has reduced costs in communication transactions.

The second response is the opportunity to market to more people. Where it is legal and available, we give people the opportunity to place a bet using the keyboard rather than using the telephone. We have had telephone betting through our Internet subsidiary, Centrebet, for some time and, to us, it does not seem to make much difference whether it is a keyboard or a telephone at the end of the line if the telephone line itself is placing the bet. It should be that the bet is illegal, that you should not be able to make that transaction. It should not matter what technology you use to make that transaction. In itself, the growth of the Internet and the growth of PCs in the home and office has opened up a wider market for us. People who are interested in betting on sports and doing telephone betting can now do that via the Internet.

Senator ALLISON—Can you provide the committee with some statistics about the number of telephone betters who have now shifted to the Internet and the number who are with the Internet who previously did not use the service? Is that possible?

Mr Hines—Can I ask Mr Morgan whether he has that information? He operates our Internet wagering business.

Mr Morgan—We will have to take that on notice to find that accurate information. Generally, customers who bet by telephone do transfer to the Internet, though not necessarily at a fast rate. In our case, there is

faster growth in new Internet customers than in new telephone customers. There is some transfer between the two but we are not really able to accurately monitor the reasons.

Mr Farmer—I will be available and we could get those figures for you very quickly.

Senator MARK BISHOP—Is the number of telephone customers dropping off?

Mr Farmer—Ours have stayed stable. They tend to be larger in size. Larger betters bet on the telephone and smaller betters bet on the Internet. Over 50 per cent of our telephone customers transferred to the Internet. I can provide accurate figures for you on that.

CHAIR—That would be very useful. We will have to wind up there because we are running to a fairly tight time schedule. I think the issues will recur, so opportunities to raise various issues will occur with other witnesses. I would like to thank the witnesses for appearing.

[9.12 a.m.]

ASHMAN, Dr Charles John, Chairman, Australian Registered Bookmakers Advisory Council

CHARLEY, Mr Robert Lindsay, Chairman, Australian Racing Board

HARDING, Mr Andrew, Executive Officer, Australian Racing Board

RYAN, Mr Timothy John, Member, Internet Betting Subcommittee, Australian Registered Bookmakers Advisory Council

CHAIR—Welcome to the committee. The committee has before it submissions Nos 1 and 2, which have been published. Could you please advise whether you wish to make any additions to your submissions. If not, I invite you to make a brief opening statement, pointing out that we have only 40 minutes allocated to this sector.

Mr Charley—The Australian Racing Board is the peak administrative body for thoroughbred horseracing in Australia. Whilst I speak on behalf of the thoroughbred racing industry, our interests are aligned with both the harness and the greyhound code on this matter. This is a well-intentioned bill. Australian racing does not cavil with those who oppose the proliferation of electronic gaming machines and casino games in the home via the Internet. However, without amendment, this bill will have very grave consequences for the Australian racing industry. I wish to submit to you three points in support of that argument. The first is to advise you of the scale of industry; the second is to advise you of its dependence upon wagering; and the third is to highlight the danger of offshore operators which currently exist.

For those with a limited knowledge of the racing industry, the most familiar image is likely to be of the Melbourne Cup. A total of 150 million people worldwide now watch the race on the first Tuesday in November. As Rudyard Kipling said to Banjo Paterson, 'I don't understand you Australians. You think the most important thing in the world is the Melbourne Cup.' The Melbourne Cup is just one race though—one of 22,000 races held around Australia each year. Just staying with that number for a minute, those 22,000 races are staged by 428 race clubs. Only 13 of those clubs are metropolitan clubs. So, of the 22,000 races, 23 per cent of them take place in the city and 77 per cent of them take place in the bush or in regional areas of Australia.

When I say to you that racing contributes some \$6 billion per annum in GDP, you will understand that this is a major agribusiness which is one of the mainstays of the economic base of regional Australia. Further, when I say that some 100,000 Australians derive their employment from racing, you will understand this is not just jobs in the cities. It is very true and meaningful that the jobs that racing provides are jobs in regional Australia. Breeding and racing are labour intensive activities, providing employment in a wide range of jobs—jockeys, trainers, strappers, farriers, stable hands, track work riders, stud masters, racecourse curators, float operators, et cetera: the list goes on. People employed in these callings, particularly in regional areas, are highly unlikely to find replacement jobs in substitute industries.

Quite apart from the economics, there is the very real significant social contribution made by racing. In 1995, the Australian Bureau of Statistics recorded that 1.7 million people attended a race meeting at least once a year and that was second only in popularity to Australian Rules football. Major crowds, of course, are attracted to glamour metropolitan meetings, but we must look at the effect that it has in the bush. In a book entitled *Discover Australia: our highways and byways*, of the tiny but typically Australian town of Louth the author said that the normal population of 30 exploded to 3,000 people on the annual race day. For most rural communities the cup day race meeting and the agricultural show are the two highlights of the year.

This brings me to the second point—the dependence of this large industry upon wagering. Racing is funded by two discretionary players—the owner and the punter. Every cost of presenting a horse to race is borne by the owner. His ally is the punter who provides the revenue from wagering taxation. Unlike most other mainstream Australian sports, racing and wagering are inextricably linked. Racing is heavily reliant upon large and consistent revenue flows from wagering turnover, to the extent that at present some 70 per cent of racing industry's total revenue is derived from TAB payments. Without this revenue, there would be a severe reduction in the income to race clubs, and consequently owners, who help stage the show. Given that the Australian racing industry's significant role is as a provider of employment in regional areas, the flow-on effect would be a marked decline in economic activity and in employment in regional Australia.

At this point we must distinguish between gaming and wagering. Wagering depends on an event being concluded prior to the completion of a transaction. While gaming turnover has grown a staggering 900 per cent in the last 25 years, wagering in the same time has regressed 10.8 per cent. If you look at the last year, gaming turnover increased by 11.5 per cent while wagering decreased by 0.65 of a per cent in dollar terms. In Tasmania, for example, wagering declined by 6.29 per cent. What that means in reality is that those in Tasmania who depend upon racing for their livelihood may be placed in jeopardy if this bill goes through unaltered.

Again, we must recognise that wagering by telephone has been accepted in Australia since the 1960s. This wagering with TABs enables the customer to bet against pre-established credit. In a sense, that Internet wagering is now available. It is simply another means of delivery. In fact, Internet wagering has been operating since 1998 and its effect has been merely to transfer existing transactions from voice telephone to keyboard entry. The Internet itself is not encouraging wagering. It is simply enabling the punter to access his or her account more efficiently and at lower cost. Online gaming is different and plainly adds a new dimension to gambling that was not previously available—that is, access to gaming from the player's home.

The third proposition I wish to bring to your attention is the real and growing problem of overseas based operators free-riding on Australian racing. A fundamental distinguishing feature of racing is that, unlike most other industries, it is possible for an outside party to garner revenues from the industry without contributing to its cost. The real threat of offshore operators free-riding on Australian racing is not fanciful. Already in the form of bookmakers based in the no-tax haven of Vanuatu, taking bets from Australian citizens on Australian racing is a real problem. Recently, the UK company SportsBet.com, the seventh largest bookmaker in Europe, acquired the operation in Vanuatu which was previously owned by Australian interests. The turnover that was listed in the report to the London Stock Exchange was that that operation is turning over \$500 million a year—greater than the total turnover of bookmakers operating legally in Victoria. That \$500 million is currently costing the Australian racing industry \$20 million a year in revenue and the state government somewhere between \$15 million and \$20 million a year.

Elsewhere in the world, Hong Kong wagering revenue dropped eight per cent last year because of foreign based Internet bookmakers offering wagering on Hong Kong. I believe that, rather than introducing a bill which may have devastating effects on the wagering industry here, the government should look seriously at taking some action to prevent leakage of turnover from citizens of Australia betting with offshore operators who pay no duty and give no support to Australian society or Australian racing.

What must be understood is that Australians are wager online today and will do so in greater numbers tomorrow and in the future. Basing themselves in no-tax countries already gives offshore operators a major competitive advantage over Australian TABs and bookmakers who do pay the Australian racing industry to bet on our races. If Australian operators are prevented from offering online services, they will, as mentioned by earlier speakers, simply move their operations to another area of the world. There is no sound basis for believing that wagering through the Internet poses the same threat of exacerbating problem gambling. Furthermore, there are in fact powerful reasons, given racing's economic and social significance, for continuing to allow wagering via this medium. Thus we urge you to consider an amendment to the bill to exclude wagering from the proposed ban.

CHAIR—Thank you. Does the Australian Registered Bookmakers Advisory Council wish to make a statement?

Dr Ashman—Yes. The Australian Registered Bookmakers Advisory Council basically represents all Australian bookmakers, with the exception of the Northern Territory. I thank the committee for allocating time for me to speak on behalf of ARBAC and look forward to answering your questions. I would like to preface my statement by commenting on the fact that I am what may be called a traditional bookmaker. All bookmakers are the same. However, some are bigger than others. It is a business where skill, judgment and professional expertise are paramount, irrespective of the size of the operation. It is also a business in which technology is largely irrelevant. There are some bookmakers who still use handwritten ledgers; there are others who accept bets via the Internet. It is all the same thing. A bet is accepted and recorded.

In addressing the issues raised by this bill, I am concerned by some of the fundamental assumptions about gambling, in particular, that wagering and gaming are both the same thing. Nothing could be further from the truth. Wagering is about skill and judgment. It provides for a heightened level of excitement when watching a horse race or sporting contest or some other event where the punter has a real expectation of winning. Interactive gaming does not involve skill. It is a high frequency activity and is randomly based. I am also appalled by the suggestion by some commentators that wagering is in some way less regulated than gaming. This is a fallacy. Bookmaking and totalisator operations are subject to stringent controls and regulations at various levels, including state government departments, racing industry control bodies and self-regulation. This bill, or more correctly the debate around it, and the community concern about poker machines have focused our industry's attention on responsible business practice—a process that was already happening in a number of jurisdictions around Australia. We have addressed this issue by developing a national code of practice which has been agreed to by all state bookmaker bodies and as recently as last Monday by the sports betting corporations from around Australia.

ARBAC's position is best summarised in the following points. ARBAC supports the government's call for a ban on Internet gaming. Wagering and gaming are very different gambling products and, accordingly, we believe that wagering is outside the scope of the bill's intent. There are three core points of separation of the two. There is need for cognitive process in wagering—it is skill based. The wagering event is a third-party

contingency in which the wagering operator and the punter have no involvement. These two points combine to bring about the requirement for a significant time interval between wagers, a fact that gives rise to the statement: wagering is not by its nature interactive. Wagering involves independent third-party outcomes based on uncertain but assessable probabilities. There is little difference between financial market or stock market speculation and wagering. It is illogical to treat them differently. Wagering, despite significant advances in technology, relaxation of promotion restrictions and dramatically improved accessibility, has had a 10.8 per cent decline in real terms over the last 25 years. This is not the case with gaming. It has risen by 900 per cent. The inclusion of wagering within a ban on interactive gambling has the potential to do great harm to the racing industry, which is dependent on wagering for its continued existence.

Legislation is about principles society wants to adhere to, not whether it can prevent some individuals from breaching the law. Therefore it is absolutely irrelevant if a ban can be technically circumvented. Legislative principles should be applied uniformly. There should be a reciprocal responsibility on the consumer, including penalties, as well as the supplier. This is the case with state based gambling legislation. Any legislation should be technology neutral. For example, if wagering is permitted by telephone, it should be permitted by the Internet or by another other means. The proposed separation of onshore and offshore operations in respect of interactive gambling is hypocritical. If a ban is to be applied, it should apply broadly and uniformly. Specifically, it should ban all operations from providing a service in or into Australia and should make it an offence for Australian residents to use any service irrespective of its location of operation.

ARBAC recognises community concern in respect of the spread of gaming and, as such, has instituted its industry backed moratorium on microevent wagering, and has called on the state racing ministers to give that initiative regulatory suppose. We do not believe that microevents or bet types that closely resemble gaming—that is, where (1) the frequency of the microevents, and (2) the level of judgment and calculations required is so diminished as to be considered like an event of chance—should be offered. This position is not inconsistent with the continued offering of betting in the run, as it is not high frequency, does not require lesser judgment and is currently offered by telephone and face to face. There are significant barriers to the development of interactive wagering, and ARBAC's code of practice moratorium supports that.

Bookmakers are small and medium enterprises and as such are basically representative of ordinary Australia. Bookmakers are gambling professionals, have a genuine desire to provide a responsible service, and as such have real concerns about gaming. The driving force for Internet gaming is big business.

Senator MARK BISHOP—Mr Charley, what differences are there between the products or services that are offered via the Internet compared to that over the telephone?

Mr Charley—That question would probably be better addressed to one of the TAB people who will be speaking later, as to the actual range of products. My understanding is that what you can do on the telephone you can do on the Internet. The thing is that the Internet services you so much quicker, and allows you to place multiple wagers in a very short space of time. So the professional gamblers, who I would suggest make up the bulk of the Internet wagering transactions, are able to access their accounts and place multi bets at the press of a button rather than in the time taken in a voice situation. But the range of products is something that is better addressed to someone else.

Mr Ryan—It is exactly the same. For the TAB and bookmakers, it is the same product. They are regulated by state regulation which permits which bet types and which sports and which racing you can take bets on. The medium is irrelevant. It is exactly the same bet. There is nothing offered on the Internet different from that which is offered via the telephone or face to face with bookmakers or in TAB agencies.

Senator MARK BISHOP—So the only difference is the physical way in which a person lays out their bet?

Mr Ryan—That is correct.

Senator MARK BISHOP—Mr Charley, does the ARB have a view on reputable overseas gambling houses or even bookmakers offering the ability to bet on Australian racing?

Mr Charley—Yes, it does. In fact it is not just the ARB. I am a member of the eight-nation international committee on wagering. The eight nations—the eight large wagering nations of the world—are extremely concerned about the fact that there is a proliferation of wagering throughout the world by operators who are paying no tax. The Hong Kong Jockey Club is probably suffering from this more than any other country. There and even Australian licensed operators who offer Hong Kong punters the opportunity to bet on Hong Kong racing, with none of the subsequent revenue going back to Hong Kong.

Senator MARK BISHOP—They do not pay turnover tax or whatever?

Mr Charley—Yes.

Senator MARK BISHOP—But the companies that are set up are regulated by companies codes or securities codes and they would pay normal rates of taxation or the like to the host country?

Mr Charley—For the most part, I would say yes. I would agree with an earlier speaker, I think it was Richard Farmer, who said that most of the large operators in the world attract customers from all round the world because they are well known, their product is badged—Ladbrokes, William Hill, et cetera. But there are fly-by-night people; I will acknowledge that. They are springing up all over the place as well.

Senator MARK BISHOP—But your criticism of the reduction in tax goes to these companies not paying, effectively, the bookmakers turnover tax?

Mr Charley—Yes. You could sum it up by saying: we are not concerned with Australian citizens betting with, for instance, William Hill on the outcome of Manchester United versus Leeds. We are not concerned with Australian citizens betting on any event which is staged overseas. We are concerned about offshore operators offering our citizens the chance to bet on our racing and returning no revenue to our industry.

Senator MARK BISHOP—About 70 per cent of your industry's revenue comes from the TAB's system, doesn't it?

Mr Charley—Yes.

Senator MARK BISHOP—That is your concern: the lack of return to your industry. Your submission states that the credibility of Australia's gambling industry could be undermined by the fact that the present regulatory regime's strength is based on the protection of Australians. Do you think that there will be any changes in the strength of state regulatory frameworks as a consequence of Australians gambling service providers not providing services to Australians?

Mr Charley—New South Wales is the only state that has passed legislation to make it an offence to wager with an operator not licensed within Australia. The other state ministers have been reluctant to do that, although I understand there is a movement for the next ministers conference for other states to come on board. We are urging all of the states to pass similar legislation.

Senator MARK BISHOP—Why is that?

Mr Charley—I come back to the point about Vanuatu. Vanuatu is a major threat to Australian racing revenue. We believe, for instance, that the federal government gives approximately \$18 million a year in aid to Vanuatu—and yet the Australian states are losing more than that in lost wagering turnover. If this bill was to go through in its current form, I think there would be little doubt that there would be Australian based operators who would find somewhere else in the world to set up and offer their Australian clients the opportunity to bet with them on Australian racing. It is a difficult thing for the states to be able to regulate. They are not going to be able to regulate it unless they all act in concert, and we believe they should enlist the aid of the federal government to try to put a stop to a scenario like Vanuatu which we think will be replicated in other parts of the world in the future.

Senator MARK BISHOP—Dr Ashman, your submission states that problem gambling, although occurring in wagering, occurs to a far lesser extent in wagering than in gambling. That assertion is quite contrary to the finding of the Productivity Commission:

That the prevalence of problem gambling varies by the mode of gambling, with higher prevalence for regular players of gaming machines, racing and casino table games.

In the light of that finding by the Productivity Commission, why does your submission suggest the opposite? What evidence do you bring to us to support it?

Mr Ryan—Basically, the Productivity Commission report found that poker machine gaming was 70 per cent and racing was 15 per cent. One of the issues with gaming versus wagering is a fundamental assumption about how much people spend and whether they lose as much. With gaming devices, it is chance based, so that the more you spend, the more you lose. It is mathematically linked and impossible to break. With wagering, that is not the case. A lot of high turnover activity is done by punters who actually win. In fact, Mr Charley pointed out—and it is included in the TAB submission—that they have a high percentage of their larger punters using electronic means. That is not representative of the data that came through in the Productivity Commission report—the understanding that there is not a direct link between turnover and loss.

Senator MARK BISHOP—So you stand by your submission?

Mr Ryan—Yes.

Senator MARK BISHOP—But there is a degree of problem gambling within the wagering industry, isn't there? You do not say there is none.

Mr Ryan—I think there probably is. In fact, it would be foolish to admit that there is not. One of the things that is of great concern to the industry with regard to trying to prohibit online transactions or account based wagering is that any move towards that serves to ameliorate the risk of people who are using problem gambling, because the majority of that actually occurs in cash based activities. When someone moves towards seeing what they are gambling, where their accounts are online and all the information is available, that is the

more logical approach. People who are committing illegal acts or fraudulently borrowing money to service problem gambling habits will not deal with online systems because it leaves a paper trail.

Senator MARK BISHOP—You seek that the bill be amended to exclude wagering and the effect on wagering. If that were to occur, would you have any other complaints about the bill?

Mr Ryan—If wagering were excluded, the bill as it stands would be of little consequence to the wagering industry. ARBAC's position is that it actually supports the call for a ban on interactive activities. We have looked at issues with regard to microevent wagering, which appears to be a concern out of the Netbets report, and would support the bill broadly on that basis.

Senator MARK BISHOP—I am intrigued that both of your organisations derive a significant amount of their revenue, income and employment from punting provided by the state by various mechanisms; yet you support the restriction on gambling by new technology—interactive gambling. Why is that? Why can't that just be portrayed as a simple appeal to protection for an existing industry?

Mr Ryan—There is an argument that the wagering industry will be protected by further growth in gaming. Obviously, there has been a massive increase in discretionary expenditure on gambling in the last 25 years.

Senator MARK BISHOP—Yes.

Mr Ryan—Of that, it is fair to say that wagering definitely has not got its share because it has declined on a turnover basis, whereas gaming has gone up.

Senator MARK BISHOP—That is right. But punters have just received a whole range of different products—

Mr Ryan—Yes.

Senator MARK BISHOP—and they are choosing to go to different or new products.

CHAIR—Big casinos and so on.

Senator MARK BISHOP—That is their choice. They want to lose at Jupiters as opposed to at the races on Saturday.

Mr Ryan—The issue that we have raised and the concern that is being brought to government is with regard to accessibility of gaming product. The bookmaking industry has identified where there are products that would otherwise be considered wagering—in other words, a third party contingency which can be offered by bookmakers or licensed wagering operators—which are probably within the ambit of this bill from the viewpoint of concerns. There is a concession that the wagering industry, or at least the bookmakers, are prepared to make with regard to those items.

The regulation of gambling, both gaming and wagering, has been location based. Originally bookmakers had to be at a racecourse. In fact, all transactions must still go back to a racecourse. All Internet betting must go back to a racecourse because of the regulatory controls that the racing industry and the controlling bodies have over it. You cannot receive it at some Web shop somewhere else at the back of Bourke. It has to be within the regulated environment. Those things transcend it. When it gets through to interactive wagering, as the government has called it, or microevent wagering, there are issues that say it has become an event of chance. We had bookmakers at the meeting we held on Monday, for example, who have been offering face-to-face bets on how many runs will be scored off the next over of cricket, consider that that would be an event outside the definitions we have used for our code of practice and are prepared to withdraw that bet type from face-to-face betting over the telephone or the Internet.

Senator MARK BISHOP—Are or are not?

Mr Ryan—Are. Either the bet type and the product should be legal or it should not. The wagering industry is a skill based operation, so we are saying that is where the focus should be, not on the technology part of it. If it is permitted then you do it by whatever distribution channel, and distribution channels have benefits. It is fair to say at the moment that telephone betting operations are in part subsidised by the Internet wagering operations because of the different cost bases of structure. As Mr Farmer pointed out, a ban on Internet activities is effectively a ban on the whole lot because it makes the economic proposition of the business unviable, particularly when compared to trying to compete against offshore regimes which do not have that impediment.

Senator MARK BISHOP—Perhaps you might explain what you mean by microbetting and then explain how this bill impacts upon it and what your concerns are.

CHAIR—Microwagering.

Mr Ryan—Microevent wagering. To use the longest example, will the next ball be hit for a two or a three, or how many runs will be scored off the next ball? Will the next serve be an ace? It is those types of events. In itself, that event before it occurs is not critical to the outcome of the overall competition. The next ball served

by Patrick Rafter is not going to be critical as to whether he wins the game or not. It is chance based. He may win the point or he may not. It could be critical if he wins that particular game if it is the last game of the set. But the issue, having pointed out what wagering propositions are, is that from the time taken when the bookmaker is able to discern what the event is that he is going to offer and what the odds are and then to accept the bets means that you are moving into a regime where it could only be accepted by the Internet and could only be transacted by it. It could no longer be done on the telephone and probably could not be done face-to-face, otherwise the bookmaker would be knocked over in the rush.

CHAIR—It also becomes chance, doesn't?

Mr Ryan—And it is a chance based event. In the case of state based regulation, for example, originally there was a bet type introduced in New South Wales to allow odds and evens betting on the result of an AFL game, in other words, add the two scores together and if it is an even number or an odd number. That was initially introduced because it was introduced in Victoria. It was removed by the minister as being an event of chance. No amount of skill could determine whether or not it was an odd or an even number at the end of two hours of football.

Senator MARK BISHOP—How does this bill affect that?

Mr Ryan—We have proposed in our submission that the government looks towards ARBAC in providing a code of practice, probably under the same regulatory environment as in New South Wales, where the effect on a licensed operator is exempt by the minister granting the regulations that someone adheres to the code of practice, mostly the same methodology as proposed for ISPs in the current bill's format. We would propose a similar sort of environment for bookmakers, with a code of practice where we will identify what sort of events are appropriate or not appropriate and enforce that.

Senator MARK BISHOP—So the bill currently would make such activity—

Mr Ryan—The bill as it stands is a blanket ban on wagering, so to a certain extent we are having a bit of a discussion about how much the government gives up in the course of try to get this bill through. If it gives up wagering, how much wagering? The moratorium bill, to be more precise, works on the basis of excluding wagering and then clawing back wagering after the event has started.

Senator MARK BISHOP—So what you are advocating is the removal of wagering from the bill and putting in place an industry code of practice that attempts to regulate this issue of wagering and the micro issue. Is that correct?

Mr Ryan—Correct.

CHAIR—The real intent of this bill is to deal with problem gambling, and the trend is that there is increased use of the Internet. You have said, or your colleagues have said, that there are fewer problem gamblers within, say, the wagering sector. Nevertheless, the use of Internet technology must in time greatly expand the number of people who access wagering activities. Therefore, must it not carry a risk of increasing problem gambling?

Mr Ryan—On face value you would probably say that, but the exercise between what problem gambling is and the issues that are particularly around addictive behaviour and the desire for a fix as such is what constitutes someone's need for gambling as against whether they have just lost too much money. The Internet really does not increase that accessibility at all. The evidence before all of the operators, as has been attested by Mr Morgan earlier and by Mr Farmer the last time around, in particular, is that online operators have found no requirement by punters to be removed or to ban their activities.

The industry has looked at putting in place already—and there are state requirements with regard to this—cooling off periods to avoid certain activities of problem gamblers, such as chasing losses. In other words, someone has lost \$1,000 this week so they try to put in more money; they have exceeded what their predetermined loss limit was. There is a seven-day cooling off period before you can put extra money back into the system, or top up your account.

Increasing accessibility has not brought about increases in turnover or increases in problem gambling. You have only to look at the last 25 years—the dramatic increase in accessibility of wagering generally, the complete relaxation of promotion of wagering, the increased acceptability of wagering. In that time turnover has dropped 10.8 per cent, in a time where discretionary expenditure on gambling has risen by 900 per cent. It is the cognitive brake on consumption that comes to wagering, the time lag between it, that is changing. No doubt there are some people who have problems—people who have problems with addiction to alcohol, addiction to smoking and could have addictions to gambling as well.

And there could be people who are poker machine gamblers who similarly use wagering as a form of outlet. Most of the research and studies that I have read have great difficulty in trying to extract one particular point about problem gamblers or one particular focus, but we do know the vast amount of evidence from all the social workers and so on involved in it centres around electronic gaming. To pick up on Senator Bishop's

questions earlier, I am somewhat surprised on the linked jackpots, because I think that is the sharpest end of problem gambling.

Senator ALLISON—Dr Ashman, could you outline for the committee what is in the code of practice with regard to protecting against problem gambling emerging through this source?

Dr Ashman—We have quite a few points on harm minimisation. We have a system of complaint resolution procedures in which we say that all participants will ensure that they support the code of practice in respect of handling of complaints and cooperate with the relevant authorities in the resolution process, maintain adequate procedures for receiving and responding to both oral and written complaints, respond promptly to all complaints and make every reasonable effort towards their resolution. With regard to harm minimisation we have the provision of customer identification systems to prevent access by minors, offering precommitted loss limits to clients—

Senator ALLISON—Can we just go back to that point? How does customer identification to exclude minors work in practice?

Mr Ryan—Physical identification. Piers Morgan commented that each bookmaker has a different system, but in the main they require physical copies of the user's credit card, their driver's licence or some other form of identification.

Senator ALLISON—With regard to Internet wagering?

Mr Ryan—It is the same whether it is Internet or telephone. They require identification of the user to confirm who they are. Some confirm who the user is through telephone directory listings or with PIN numbers—there are different confirmation systems.

Senator ALLISON—Is this a new initiative or has this always been the case? What is new in the code?

Mr Ryan—Those sorts of things have been in place already and these are issues that are drawing through to make sure that they are clearly identified and that the public understands what it is. A lot of these things are already in place.

Senator ALLISON—So there is nothing new in the code?

Mr Ryan—I would not say that there is nothing new in the code. For example, the introduction of the seven-day cooling off period has been introduced as a policy initiative.

Senator ALLISON—Is that in practice at every operator?

Mr Ryan—The code we are in the process of introducing has been in development for the last three months. The process of it was formally ratified at ARBAC's annual conference last December and it is being reviewed through our state bodies and through their bookmaking corporations. There are a couple which are outside the ambit of ARBAC and they have participated in this process.

Senator ALLISON—When will we know how widespread the adoption of that code with respect to that measure and others will be?

Mr Ryan—This code of practice will be published very shortly. Effectively last Monday's meeting was one of the final processes of it. I am quite happy to provide it to the committee as soon as it is completed.

Senator ALLISON—How will the code of practice stop microwagering in the longer term?

Mr Ryan—One of the points here is that the bookmaking industry has a moratorium on microevent wagering and bookmakers agree to seek approval from ARBAC before offering bet types that may be considered microevent propositions. Bookmakers using the seal of approval agree to withdraw any bet type if requested to do so by ARBAC.

Senator ALLISON—And what are the processes ARBAC have in place to determine what is microwagering and what is not?

Mr Ryan—ARBAC has a subcommittee for Internet betting.

Senator ALLISON—And who is on that committee?

Mr Ryan—I am and Mr Kieren Glynn, who is the Chairman of the West Australian Bookmakers Association, Mr Con Kafataris, who, like me, is from the New South Wales Bookmakers Cooperative, and Mr Geoff Donald from Victoria.

Senator ALLISON—Will the criteria for determining what is microwagering and what is not be a public document?

Mr Ryan—We are in the process at the moment of identifying different bet types such as the example I gave before in South Australia where they have been permitted to do wagering at the cricket match on events which would now be considered chance. But the fundamental criterion is that the propositions that offer

microwagering must fundamentally be skill based and not be able to be discerned at chance and that any event offered within a sporting event would be offered only where it is of significant impact on the outcome of the event. For example, in a test cricket match, which batsman was next to fall would not be considered a microevent—it could last for hours and could have a critical effect on what the result of the game would be. Betting on the half-time scores of a football match would be considered critical to the final result of the game. It is all about frequency, timeframe and the level of chance. Within the industry—I know it is probably difficult—any bookmaker or any punter would be able to discern fairly quickly where this line was if they were asked a particular question about a particular bet type.

Senator ALLISON—What are the obligations on operators? Say there is a determination by your committee and they choose to ignore it. What happens then?

Mr Ryan—The full resolution that we expect probably has not been clearly identified but at the moment the support from all the online operators is that they would adhere to this practice.

Senator ALLISON—Sorry, they would?

Mr Ryan—They would comply with this requirement. This is about peer regulation. Bookmakers have a strong peer regulation function already in place. There are processes by which bookmakers are credentialled by their bookmaking organisations. Bookmaking companies or associations around New South Wales guarantee all the bookmakers. So, in the event of the failure of a bookmaker on a particular race day or for whatever reason, their losses are guaranteed by the bookmakers' cooperatives—they are joint and severally guaranteed. There is very strong regulation of the bookmakers and of their understanding among their peers.

CHAIR—We will have to leave it there because we are now over time. I thank the witnesses for appearing.

[9.56 a.m.]

CHARLES, Mr David Ernest, General Manager, Government Affairs, Tabcorp Holdings Limited

FLETCHER, Mr Peter, Public Affairs Manager, TAB Limited

WILSON, Mr Warren, Managing Director, TAB Limited

CHAIR—I welcome our next witnesses representing TAB Ltd and Tabcorp Holdings. The committee prefers all evidence to be given in public. However, you may at any time request that your evidence or part of your evidence be given in private and the committee will consider any such request. I point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. I also remind witnesses that the giving of false or misleading evidence may constitute a contempt of the parliament. The committee has before it submissions Nos 7 and 24 which have been published. Do you have any alterations or amendments to your submissions?

Mr Charles—No, Senator.

CHAIR—In that case, I invite you to give an opening statement, pointing out again that we have only 40 minutes allocated to these segments.

Mr Charles—I will be fairly brief. To reiterate what we have said in our submission, which we think is fairly succinct, Tabcorp is Australia's largest gambling company with over 6,000 employees. The three major points of our submission are, first, that online gambling—with the exclusion of wagering—should be banned. This includes a ban on overseas companies offering online gambling to Australian residents. If this proves impossible to implement because of technological considerations—and that is another debate—consideration should be given to allowing the operation of online gambling under strict regulation. Secondly, exclude all TAB wagering from the legislation because wagering through the Internet is merely an alternative method of transmitting bets to the TAB and is equivalent to existing online services that the TAB has been operating for several years. Thirdly, all TAB operations should be excluded from the legislation to rectify any misinterpretation regarding the definitions in the bill regarding the Telecommunications Act. This is reflected in the definitions of contents service and a listed carriage service, which are defined as having the meaning of the Telecommunications Act 1997.

State TABs are the major source of funding for the Australian racing industry. In the last financial year in Victoria, Tabcorp paid the Victorian racing industry some \$224 million. There are over 100,000 people employed in the racing industry, with many more people employed in associated industries who rely on significant amounts of their income at certain times of the year, particularly through the major carnivals in Melbourne and Sydney. There are only seven TABs in Australia. There are three racing pools in Victoria—SuperTAB, which comes out of Victoria, New South Wales and Queensland. There are only two pools relating to sports betting—the Superpool in Victoria and New South Wales. As we point out in our submission, all TABs are very highly regulated.

I reiterate, and it goes back to the point about the Telecommunications Act which we may go into this later, that if you go into a TAB—Tabcorp in our case—and put your card in the machine, it is transmitted to the home computer. The bet is registered at the home computer, not at the TAB. It is registered and sent back to the machine, which produces the ticket for the patron. All that happens in a flash of a second. The bet is registered back at the TAB. There are debates on both sides of the legal argument on this but, on the surface, the bill would catch all TAB operations in Australia, even on-course totes, because their bets are transmitted back—and the bet is registered back—at the TAB of the state.

If you go to Flemington racecourse and have a bet at the tote, the bet is registered back at Tabcorp headquarters in Bowen Crescent in Melbourne. Effectively, it catches everything—as has been discussed before with other witnesses—including lottery tickets. I emphasise that this is the face value of the bill. The intent of legislation before a judge has immense importance and it could change the whole situation if the government were to make it very clear what the intent of the legislation was. If the government did not do that the only person that would survive this would be the bookmaker with a bag over his shoulder.

We take bets via various methods now—telephone, faxing, telexing. We even have special arrangements with people who do not understand the new technology. They write out their bets and fax them to us. There are only a handful of those. People send emails. There are all sorts of arrangements. Big punters have been online directly to our computer for over 10 years. We have been operating Internet wagering for some time.

I reiterate a point that has been made already: we have not seen any growth in wagering. All we have seen is a shift from the bigger punters, and it is decreasing. As time goes on we are seeing more and more account holders putting their bets through the Internet, but we have not seen any effect in the growth. If we got a growth rate of two per cent we would be doing cartwheels around the boardroom, but we have not seen any growth: it is really a shift across. Where do we win? We win on the cost side, because it costs \$10 for you to

phone through to the TAB. So if you phone through and have a \$2 bet we have just lost money; whereas if someone puts a bet on the Internet it is a matter of cents. It costs less than a dollar to transmit that bet.

I also make the point that I think the bookmakers, in their previous evidence, helped Tabcorp's case in what it has presented to exclude TAB wagering. I would suggest my colleague here would have the same view—that all TABs simply would not take contingency bets as was talked about in recent evidence. For instance, we simply would not take a \$10,000 bet on whether, when Steve Waugh comes to the wicket, he is going to last the over. We simply would not take that bet. In that sense, TABs do not gamble. Bookmakers may. It is up to them. TABs do not take that sort of bet. Our bets are very regulated and we have to look to our stakeholders. That sort of contingency bet is simply not on our radar screen.

Mr Wilson—Thank you for the opportunity to speak on the matter today. TAB Ltd is the largest wagering operator in Australia and, indeed, the Southern Hemisphere. It has followed the interactive gambling debate with great interest and has made submissions and appearances at all of the lead-up inquiries to date. Our written submission on this bill now appears on the public record. Therefore, I do not propose to repeat all that detail here today. That submission includes some comments on drafting and, clearly, the unintentional inclusion of wider gambling services. My following statement covers some key points which are at the forefront of our arguments.

First, let me be clear that TAB Ltd has no current interest nor plans to enter the interactive gaming field. TAB is predominantly a wagering company but does have some New South Wales government non-interactive licences to provide gaming related businesses such as poker machine monitoring and jackpot links. Wagering is, however, the heart of our business, and we share our revenues with our major stakeholders, they being the New South Wales racing industry and the New South Wales government. A snapshot of the beneficiaries of our company's wagering revenues last year looks like this: \$173 million distributed to the New South Wales racing industry; \$189 million distributed to the New South Wales government in wagering taxes; and \$51 million retained by TAB and paid to our shareholders in after-tax profits from our wagering business. The \$173 million paid to the New South Wales racing industry represents over 70 per cent of that industry's total revenues. The unbreakable link between Australia's world-class racing industry and TAB wagering is therefore clear to all.

We have provided details concerning the fundamental importance of interactive wagering to the viability of our business. TAB operations over the last few decades have been typified by falling oncourse betting turnovers but modestly increasing offcourse turnovers, especially through interactive channels such as telephone and, more recently, computerised services including direct PC betting and Internet betting. These last two services, which we call Betstream and NetTAB, have currently over 30,000 registered account customers. They provide about \$185 million in betting turnover annually. That equates to about \$30 million in revenue. Both will be closed if this legislation proceeds without amendment. We do not believe that all of that current turnover will return to us via other channels. More importantly, the closure of these services will take away our two most profitable distribution channels. The New South Wales racing industry and consequently the national racing industry will suffer the consequences. We have continued to argue the fundamental differences between interactive wagering and gaming. Simply put, we have said that online wagering does not provide additional forms of betting or new contingencies. Rather, it is merely an alternative means of communication allowing customers to bet on the same live racing and sporting events. Online wagering is therefore no different from telephone betting, which has been available since 1965.

The government is concerned about the impact of interactive wagering on the Australian public. It need look no further than the latest Tasmanian Gaming Commission statistics on Australian gambling, which clearly indicate negative growth in real per capita expenditure on racing over the last 25 years. This trend has continued during the last 10 years despite the introduction of computer based interactive wagering services. These figures show that real per capita annual racing expenditure has dropped from \$171 in 1975 to \$118 last year, a fall of approximately 30 per cent. During the last 10 years the decline in racing expenditure has averaged 17 per cent. We think it is worth noting that the real per capita growth in gaming during the same 25-year period has been approximately 300 per cent, with the last 10 years representing a growth of approximately 150 per cent. From a fairly even comparison 25 years ago, expenditure on gaming now outstrips wagering by a factor of some seven to one. To summarise, it is clear that, despite advances in technology allowing online wagering in its various forms, there is no real growth in per capita spending on racing. Sports betting has grown, but still represents less than three per cent of the national wagering business. Gaming expenditure, and in particular poker machines, is clearly the huge growth area and, as such, should be the focus of your concerns in the interactive gaming debate.

You have heard earlier from the Australian Racing Board about the devastating effects that the loss of our pre-existing interactive wagering business will have on the Australian racing industry. That industry is one of Australia's largest employers, providing some 100,000 jobs. Many of these jobs are in regional areas and as such are probably not transferable to other industry sectors.

From the problem gambling perspective, TAB has no evidence to suggest that interactive forms of wagering have created new classes or groups of gamblers. Rather, our evidence suggests that our interactive wagering customers have in the main transferred from our other sales channels. The negative per capita growth in wagering expenditure previously cited supports this conclusion. Furthermore, TAB believes that the player identification arrangements required with interactive wagering allow more scope for the introduction of responsible gambling measures than our other channels of business.

In all of these circumstances it is difficult to understand the reinstatement of wagering in the latest bill. TAB Ltd along with Tabcorp and other TABs suggest that an appropriate amendment be made to exclude all forms of racing and sports betting from the legislation.

Senator MARK BISHOP—Mr Charles, I was a bit surprised when I read your submissions advocating banning online gambling in Australia. As I flicked through your submissions again, they appear to read that that has been the position of your company for some time. I have a memory of being involved in a couple of the other Senate inquiries where representatives of your organisation came along. My memory is that both the TABs advocated no banning of online gambling, and that was a very strong position Am I wrong in that memory?

Mr Charles—We did not present at the Senate inquiry into the moratorium.

Senator MARK BISHOP—No; the previous one, that I was heavily involved in—the Netbets inquiry.

Mr Charles—It was before my time at Tabcorp, but I do not believe that Tabcorp put a submission in to the Netbets inquiry.

Mr Fletcher—Our position on gaming has been, basically philosophically, that there have been poor outcomes historically with attempts to prohibit forms of gambling rather than legalise and properly regulate forms of gambling. I think that has been our consistent position from TAB Ltd.

Senator MARK BISHOP—I do not think that has been your consistent position. I think your consistent position has been not to ban interactive gambling, not to ban online gambling. That is why I am surprised that it is there.

Mr Fletcher—That is what I said, Senator. TAB Ltd's position has been a philosophical one on gaming, in that poor outcomes have generally been afforded to prohibitionists rather than legalised regulatory outcomes, for gaming. However, our key concerns about the legislation, and indeed about our business, are the wagering ones because, as the managing director has already said, we have no interactive gaming interests at TAB Ltd in New South Wales.

Senator MARK BISHOP—So do TAB Ltd and Tabcorp have different positions on whether online gambling should be banned or not?

Mr Fletcher—I cannot speak for Tabcorp.

Senator MARK BISHOP—Mr Charles, you say that it should be banned, don't you?

Mr Charles—Yes. Let me put it this way. We have said it should be banned but, as I have raised in our submission, the question about the technical problems—

Senator MARK BISHOP—I understand that. So Tabcorp's first position is to ban online gambling?

Mr Charles—That is correct.

Senator MARK BISHOP—If that is not technically possible, then you say regulate it strictly?

Mr Charles—Yes, regulate it strictly. There are probably two questions the Senate has to look at. One is: does this help problem gambling? That is debatable. The second question, which we have discussed at Tabcorp—no matter what our position may have been years ago—

Senator MARK BISHOP—Two years ago.

Mr Charles—is on the social aspects: do you want everyone playing a gaming machine or a roulette wheel in the home for long periods of time? I think the Senate has to make that decision on the social aspects.

Senator MARK BISHOP—Okay. Mr Wilson, could you put your company's former position and current position on that issue.

Mr Wilson—We have the same moral situation as does Tabcorp. We do not believe that it is in the interests of the community to have, effectively, a casino in every household. However, our company's position has never been to come out and actually debate for or against that in a public forum, as it is not our part of the business. We are not involved. Nor do we have any intentions to get into that part of the business.

Mr Charles—Can I just add that commercially we have invested money in developing an online gaming site. We have not gone live with it. In a sense we have done it because we had to be in tune with what was happening, but we were always concerned about the commercial viability, which is another question

altogether, and the aspects that I have already raised. So we have invested money and if it does not go ahead we have to write that off. Nonetheless, we have come to the conclusion that it is probably in the best interests overall if overall online gaming was banned. But wagering is a different kettle of fish altogether because it is simply not interactive. No matter what the Senate does, playing at gaming, whether it be a casino game or a poker machine, you are interacting with a computer. You could be playing for a couple of hours and you are interactive. In wagering you are betting on an event that might be in an hour, a day, a week or in some circumstances, if you are betting on the premiership of your football code, it may be eight to nine months away. So, instead of picking up the telephone, you touch your computer and have your \$10 on your favourite football team or racehorse and walk away. So it is a different kettle of fish altogether.

Senator MARK BISHOP—If wagering per se was expressly excluded from the act, would both of your companies then maintain opposition to the bill in its current form?

Mr Charles—No. There are two things. As Mr Wilson said, if all wagering was excluded, including sports betting, and the government made it clear what the intent of the legislation is, because the Telecommunications Act referred to in the bill raises certain questions, then we would be happy with the bill going through.

Mr Wilson—We have no objection to the bill on the basis that wagering was excluded and also it clarified the unintended consequences.

Senator MARK BISHOP—What are the unintended consequences that you identify?

Mr Wilson—The unintended consequences—depending on the legal debate and hence it is grey as opposed to the black and white—are, as Mr Charles has iterated in his opening remarks, that it could, if it was argued so, bring down the existing nature of our wagering business because we communicate bets from just under 2,000 outlets across New South Wales by a telephony method or a wire, effectively.

Senator MARK BISHOP—Have you approached the government prior to the bill being drafted or after the bill being made public about those two concerns?

Mr Fletcher—We certainly made it clear in our submission, which was lodged on 24 April, that legal advice had not been—

Senator MARK BISHOP—No, have you put those two concerns to the government prior to the bill being drafted or after the bill becoming public—not this inquiry.

Mr Fletcher—In terms of the unintended consequences?

Senator MARK BISHOP—Yes, and the wagering.

Mr Fletcher—Yes, the wagering has been a consistent point of view from day one for us.

Senator MARK BISHOP—On the wagering, what was the government's response?

Mr Fletcher—If you are talking about a wagering carve-out or exemption, we understood that the government accepted our arguments in the Netbets inquiry and in the lead-up to the moratorium legislation by indeed delivering that wagering carve-out or exemption in the moratorium legislation. We were most surprised that wagering was reinserted in the current legislation. It took some time to pull together legal advice in respect of the unintended wider consequences of the drafting of this particular bill. Therefore that was not brought to attention until this current submission, which was lodged on 24 April.

Senator MARK BISHOP—So you thought the wagering issue had been dispensed with when the moratorium bill went through and you are surprised that it has re-emerged as an issue in this bill. Has there been any discussion between your two companies and the government on that issue since you became aware of its reinclusion?

Mr Fletcher—Yes, there has.

Senator MARK BISHOP—What was the government's response?

Mr Fletcher—There has been no indication of a likely outcome. However, our concerns were clearly accepted by the people we saw.

Senator MARK BISHOP—Accepted or noted?

Mr Fletcher—They were noted.

Mr Wilson—Thanks for the distinction, Senator Bishop.

Mr Charles—I have had informal discussions with the minister. I do not want to go over that, because they were private discussions, but we discussed the two points I have raised about unintended consequences and the wagering and telecommunications situation. He noted them. We are hopeful that the government will see it positively. I think there are members within the government who do appreciate what we are saying.

Senator MARK BISHOP—To your mind, is it fair to categorise the inclusion of wagering in this bill, being regulated by the bill, as a deliberate policy action by the government?

Mr Charles—That is not for us to comment on. I was not totally surprised that it was in the legislation. I was slightly surprised. I was hopeful that it would be out, but it was not. Whether that is a deliberate policy or whether the government wanted it I do not know, it is up to them. You would have to ask the minister that.

Senator MARK BISHOP—We will, but I thought I would get your answer first. Let us go to the second issue of the unintended consequences that you have raised. This obviously impacts heavily on your businesses. What has been the government's response to that concern?

Mr Charles—There has not been an official response. The government have noted it and have gone away to look at it.

Senator MARK BISHOP—Were they aware of the concern before you raised it with them?

Mr Charles—To be fair, the answer is no. But it was stated to me informally, not by Senator Alston but by a staff member, that that was not the intent. That is all the discussion we have had so, obviously, the government will go away and look at that issue.

Senator MARK BISHOP—Mr Wilson, can you give us any more detail?

Mr Wilson—No, certainly nothing more concrete. We had the same sort of response: that it was unintended. But we certainly have not made a direct submission to the government. It only became clear in the last few weeks, once we had received our various legal opinions. But, post today, we will certainly be continuing down that path with the government and will tell them that they do need to clarify these unintended consequences. But, again, it was passed on to us by a staff member that it was unintended.

Mr Charles—Considering that several submissions have raised it—and it has been raised by nearly every person who has come before the committee today—I think it is fair to say that if the government do not make an announcement, or a statement at least, about the intent, then, by default, one would say that it is the intent. But I do not believe it is the intent, so we are continuing to press the government either for amendments or for a clear statement in the parliament of what the intent is.

Senator MARK BISHOP—We will ask the government later on this afternoon what their clear intent is on this issue, so I am putting them on notice. Mr Charles, I want to go back to the first issue I raised about the ability to effectively ban online gambling. Your companies would be aware of the nature of the debate over the last three years in this country. Is it any more realistic or practical now to put an effective ban on Internet gambling in Australia?

Mr Charles—My personal view is that you will never be able to have 100 per cent. But, to answer that in a political way: if any government came forward and said, 'We are going to ban a certain thing'—whether you could technologically do it or not—and they then made it illegal also for Australians to participate, 99 per cent of the population would do the 'right thing'. You then get the argument down to: how big is the one or two per cent and is it worth worrying about? Those are the political realities in my opinion. You could really stop the major part of it by banning it and making it illegal for Australian citizens. Technically, that is I think for you to ask others. NOIE is appearing later today.

Senator ALLISON—What money does Tabcorp spend on promoting online wagering? Is it a big budget item for you in terms of public relations?

Mr Charles—No, it is minute, in a sense. We do not really advertise it as such publicly. We promote it through our account holders. We make them aware of it. They do not open a separate account: they have already got accounts. We do not spend money promoting it to the person who walks into the TAB. We promote it to our existing account holders. We say, 'You have this other convenient method if you so desire.' From a monetary viewpoint, how much we spend is very small.

Senator ALLISON—Can you give us an estimate, nonetheless?

Mr Charles—I could not today, but I can get it for you within a few days.

Senator ALLISON—Obviously there is some self-interest in your support for banning Internet gaming. What would you expect to carve out, as it were, from that market for your business?

Mr Charles—If we were in Internet gaming?

Senator ALLISON—No. How many customers would you expect to shift back to wagering and possibly online wagering as a result of a ban on Internet gaming?

Mr Charles—I do not think any: very few. That has not been our motive at all. I do not see there are many customers that would shift across to online wagering if they were presently using online gaming. I do not see there is that correlation. You say 'self-interest', but it is not really self-interest. Notwithstanding that we have spent money to put together a site on online gaming, we have concerns about the social effects going forward

and, commercially, we doubt whether it is worthwhile. The billions that have been talked about do not come together for us. Notwithstanding that, we are here supporting online wagering as a separate entity, totally. We would do that whether we were in gaming or wagering. In fact, we are the biggest in Australia because we own casinos. We have gaming operations and we own the TAB. In theory, we should be promoting both, but we are not. We are here to make sure that wagering is excluded. That is our major concern.

Mr Wilson—TAB Ltd would spend very little on the promotion of Internet betting. It would be in the order of less than \$1 million per annum. In relation to the second point, again we believe that we would gain not one additional customer by the banning of Internet gaming. In our opinion, they are discrete.

Senator GREIG—Mr Charles, I pick up a point that you and your colleagues have made repeatedly—that is, the notion that wagering differs from gaming in that gaming is interactive and there is a perception, an underlying assumption, that it is the interactivity which is in part the cause of problem gambling. Can you give me an indication, roughly, of how many horse races, both racing and pacing, occur within Australia on any given weekday?

Mr Wilson—I think it is 50,000 per annum. There are about 22,000 to 23,000 thoroughbred events. The harness and greyhound industry would make up the other 30,000 events.

Senator GREIG—So on any given day you could be looking at?

Mr Wilson—There would be 15 to 20 meetings of approximately eight to 10 events per meeting.

Senator GREIG—So it would be possible for a problem gambler to be online wagering 20 to 30 times a day.

Mr Wilson—Absolutely.

Senator GREIG—So they could be there with a credit card, presumably, or some form of account—

Mr Wilson—Not a credit card, an account. I accept an account: I do not accept a credit card.

Senator GREIG—They could start in the morning as the sun moves across the nation. They could be betting on the east coast and then moving to the west coast. They could be betting \$5, \$10 at a time or greatly in excess of that. Would you accept that for a problem gambler it would be very easy to lose money in that way?

Mr Wilson—It is no different from picking up the telephone; it is no different from going down to a pub or club TAB; it is no different from going down to one of our agencies. I think that the risk is the same. We have been betting online for three years and in that three-year period we have introduced the broadcast of racing into the homes. Through pay television, you can now watch racing in your home seven days a week. There are potentially 1.3 million viewers through pay TV, which is about one in five households.

Again, I repeat that the growth in wagering has gone backwards in a per capita sense in real terms. The things that create the ‘paranoia’ about what the outcomes are going to be of interactive wagering or putting racing into the home have already occurred, but there has been no change whatsoever in the betting patterns of Australians. Therefore, there has been no change in the problem gambling. The problem gambling is the same as it was prior to these events. For us as a company, one problem gambler is one too many.

Mr Charles—I absolutely support that. The question, in theory, is right: no-one has come to our notice at least who does that. That has not come to our notice at all.

Senator GREIG—Do you feel you have the mechanisms to detect that if that were the case?

Mr Charles—It would eventually come to our notice, yes. The technological advances and the technology that we have would allow us to pick up certain things eventually.

Mr Wilson—Eighty per cent of our customers are anonymous through the pubs, clubs and agencies. If we are going to introduce harm minimisation systems, the only way you can do it is where you know your customer. The only way you know your customer is through their account. Therefore, your best methodology of harm minimisation is by knowing their name and address and being able to monitor their patterns, et cetera, and being able to promote directly to them harm minimisation strategies.

Senator GREIG—I understand and accept that, but I was challenging the notion that there was somehow some inherent difference between wagering and gaming in terms of access and the amount of money a person could spend on that. Mr Charles, you mentioned that some people wagered online by email, although you made it clear that that was a very small percentage. As I understand it—correct me if I am wrong—if this legislation were to pass unamended, you would have a situation where punters could no longer wager online; that is, they could not use their home PC to involve themselves in a horse race, for example, but they could still use their PC to send an email to do the same thing.

Mr Charles—Yes. In the hypothetical case that it stays unamended and the government does not make a statement as to the intent of the legislation—and it would have to be a very succinct statement—in a sense,

every TAB in Australia would close. Every on-course tote would close because virtually every mechanism and every technological advance, whether by email, fax or being directly connected to the computer, over the Internet or whatever, would all be caught. That is why, apart from the fact that we want wagering excluded, we are very concerned at the intent of the legislation. We believe we know what the intent is, but it is not in the legislation. Either the government will need an amendment or it will have to make a very precise statement in the parliament as to the intent. You are right: everything would be caught. You could think up a whole host of things—as you have, just one—that would be caught and would cause us huge problems.

Senator GREIG—I am right then in the statement that, if this legislation were to pass unamended, punters could still wager online—not through a web site but simply by sending an email.

Mr Fletcher—We are not clear about that. One would suspect that that may also be caught in this rather wide drafting of the bill. To put things in perspective, the number of people and the amount of money taken by emails—in fact, TAB Ltd does not deal in any way with emails—would be minuscule in the overall scheme of events.

Mr Charles—We would not want to go through that exercise. Later today you will be hearing from the gaming research institute. In their submission they mention something that Senator Bishop was talking about—that TAB gambling was a major source of problem gambling from the point of view of the Productivity Commission. When you look at the figures, there are only three or four avenues of gambling—gaming machines, TABs, lotteries, et cetera. If you ran the trifecta, I think lotteries would be the third one. In a general sense, horseracing and TAB generally are fairly small in comparison with the others. Secondly, the submission also says that sports betting has increased by 42.13 per cent. Going from 42.13 per cent from next to nothing is next to nothing plus a few—

CHAIR—One dollar to one dollar—

Mr Charles—Exactly. As Mr Wilson said earlier, it is less than three per cent of the total wagering turnover. Obviously in the next few years, percentage wise, it will increase substantially and then it will find a level and level off fairly quickly. When you take it out of context, when you do not put it in the right context and just put up raw figures—the Senate can have a different viewpoint—you have a sports betting situation that is totally out of control, which is totally untrue because it is minute in the whole scheme of things.

Mr Fletcher—I have the latest Tasmanian gaming statistics in front of me. Sports betting last year represented total real per capital expenditure of \$2.89 per adult versus total gambling expenditure of \$931.64—clearly, less than 0.3 of one per cent of the total gambling expenditure in Australia.

CHAIR—Thank you for appearing before the committee.

Proceedings suspended from 10.38 a.m. to 10.55 a.m.

FLYNN, Ms Julie, Chief Executive Officer, FACTS

MORTIMORE, Mr John, General Manager, Tattersall's Holdings Pty Ltd

NICHOLLS, Mr Robert John, Partner, Gilbert and Tobin

ODDIE, Ms Susan, General Manager, Business Affairs, Network Ten

THORBURN, Mr William, Chief Executive, Golden Casket Lottery Corporation Limited

CHAIR—Welcome. The committee prefers all evidence to be given in public. However, should you at any time wish to give your evidence or part of your evidence in private, you may make such a request to the committee and the committee will consider your request. However, I point out that any evidence taken in camera may subsequently be made public by order of the Senate. I also remind witnesses that the giving of false or misleading evidence may constitute a contempt of the parliament. The committee has before it your submissions. Do you wish to make any additions or alterations to your submissions?

Mr Mortimore—I have not had a chance, in my submission, to offer the amendments that we would suggest would take care of the unintended consequences. I seek leave to add this to my submission.

CHAIR—Thank you, Mr Mortimore. We will have that distributed. Would you like to make opening statements?

Ms Flynn—I am appearing here as the CEO of FACTS. We appreciate the opportunity to speak to the committee. I am accompanied today by Susan Oddie from Network Ten and Mr Rob Nicholls from Gilbert and Tobin, who is one of the people who provided us with some legal advice. We are seeking to ensure here today that we are not precluded from providing services currently provided by the television networks. Most of those are already highly regulated under state laws. In relation to the telephone exemption, we have concerns that we would not be able to provide similar sorts of services through the television receiver that would be available through the telephone. For instance, you can flash a 1900 number on the screen or, with the digital services, you could flash on the screen a message saying, 'Enter your message details now, and press X or Y button,' which would be a different way of providing the same service that we would currently provide through the 1900 number.

The bill is aimed at interactive gambling, but we are concerned that the drafting of the gambling definition does not actually require interactivity or, if it does, it is discriminating between the ways that the viewer can interact, whether via the telephone or via the remote. The regulation impact statement clearly says the television industry is not intended to be affected, but we are concerned that there are some unintended consequences in the drafting. Susan and I would not pretend to be experts on the ins and outs of gambling. We are making this submission purely and simply on the basis that those services that we currently provide and would continue to provide, and new services through the datacasting arrangements, be available to our viewers. We understand the government has legitimate social policy objectives with this legislation and we are not here to debate that at all.

Mr Thorburn—Thank you for the opportunity to address the committee today. I am speaking on behalf of a joint lotteries industry submission, which has been put in by Golden Casket Lottery Corporation Ltd, Tattersall's Sweeps Pty Ltd, the Lotteries Commission of South Australia and the Lotteries Commission of Western Australia. Lotteries have a century's history of socially responsible operation in Australia, with hundreds of millions of dollars being returned each year to a variety of community services and other worthy causes. The joint submission to the committee by the lottery industry calls for careful consideration of the bill's implications for an industry which can be clearly differentiated from other forms of wagering and gaming. There has been a lot of public comment about the unintended consequences of this legislation, and a number of speakers this morning have added to that. I support those comments, and the lottery industry submission calls for this matter to be corrected. We have provided a suitable amendment in our submission which would rectify those unintended consequences.

However, the debate on unintended consequences should not necessarily divert attention from a key issue: should Australians be able to purchase a lottery ticket online? The answer to that is yes, and our submission provides four arguments in support of an exemption for lotteries from this legislation. Firstly, lotteries are a passive, non-continuous form of gaming for which there is no evidence of a contribution to the rise of problem gambling. Like wagering, lotteries are a very mature industry in Australia, displaying signs of very limited growth in the current market. The Productivity Commission supported our view on this and in fact found that lotteries were the only form of gaming which were shown to produce a clear community benefit. The Productivity Commission measured that benefit as between \$1 billion and \$1.5 billion.

Secondly, lotteries are already one of the most accessible forms of gaming. There are literally thousands of small businesses spread throughout Australia providing lottery products to customers within Australia. This has not been shown to contribute to problem gambling and the extension of purchasing lottery products online

will not really increase the accessibility further. It will merely provide greater convenience of purchase and another form of electronic lodgment. In fact, Australians have been electronically lodging lottery tickets for close to 20 years in Australia. The third point is that the restriction on accessibility which will flow from this legislation will have most impact on those Australian citizens with the disadvantages of remoteness, disability or age. Surely it is not the government's intention that this group be further disadvantaged by being prevented from purchasing their weekly Lotto ticket in a convenient manner? Lastly, our submission provides evidence that many lotteries around the world are actively considering extending or are extending their lottery products to the Internet as we speak. Australians therefore will have access to a myriad of online lottery offerings, some of which will be from reputable, licensed and regulated operators overseas. The inability of Australian lotteries to provide a local alternative to overseas product could cause significant damage to our industry which would flow on to impacts for our small business retailers and also affect the high returns that we send in every year to the various governments and communities around Australia.

In conclusion, the lotteries industry submission is seeking an exemption from the application of this legislation. In our submission we have provided an amendment which, if implemented with the legislation, will correct that situation and also the unintended consequences.

Senator MARK BISHOP—Ms Flynn, you raise the issue that you do not think it is the intent of the bill to cover or regulate or affect at all the broadcasting industry. Could you outline to us what current services your members offer in broadcasting that might be caught by the bill? Secondly, could you give us a bit of detail as to where the industry is going under the new digital regime? In particular, what sort of services are going to be offered in an interactive sense and what are your concerns in that area?

Ms Flynn—Yes, I can do that. I will look at, for instance, *Wheel of Fortune* and *Who Wants to be a Millionaire?* as they currently exist and what might be available once the digital interactive services are there. Looking at the broad definition of what a gambling service is, for the purposes of *Who Wants to be a Millionaire?*—and we have an attachment to our submission—contestants are asked a series of questions whereby they have four options to choose from to attain the correct answer. They score points for each correct answer. The contestant with the highest amount of points wins. Home viewers may also call up the TV show and participate. We think that falls under the conduct of a game—‘played for money or anything else of value’; money and product prizes are available; ‘game of chance or mixed chance and skill’. The contestant’s skill is required to a certain degree to give a right answer to the questions. However, should they not know the correct answer or be unsure of the correct answer, then it is by chance that they choose. Home viewers telephone and pay a consideration—being the cost of the call. Additionally, the selection process involves lodgement of an application to appear on the show by a 1900 number. We think that is captured by ‘a customer gives or agrees to give consideration to play or enter the game’.

Senator MARK BISHOP—So you think shows like *Wheel of Fortune*—which in my state is on at about half past five on a weeknight—where you are asked relatively simple questions and you get points at the end in a competition and you get to win cars or whatever, currently put out by both the pay and the free-to-airs, would be caught by this bill?

Ms Flynn—They certainly appear to be captured by the broad detail of this legislation. It does not require interactivity. That is our problem.

Senator MARK BISHOP—So it is just passive reception at the moment?

Ms Flynn—That is right.

Senator MARK BISHOP—If the bill went through unamended, what would the consequences be?

Ms Flynn—In our view, it is unclear.

Mr Thorburn—Just to add to that, there is a television program on at the moment called *Cash Bonanza* which is linked to a scratch-it ticket. The purchase of a scratch-it ticket may enable the customer to be flown to Queensland to appear on a television show, play some games of chance and win some money. It is hardly interactive, but it is our assessment—

Senator MARK BISHOP—That is not interactive, is it?

Mr Thorburn—No, but our assessment is that the show will be closed down by the full operation of the legislation as currently drafted.

Senator MARK BISHOP—Perhaps we can come back to that. I want to finish off the question with Ms Flynn.

Ms Flynn—As to what might happen in the future, people can play along—they can interact via their remote control—with *Who Wants to be a Millionaire?* or with *Wheel of Fortune*. They can participate. Hundreds or thousands of people might be participating in that game and at the end it might be chance—you get selected at random—as to whether you are the person who wins the prize associated with that game.

Senator MARK BISHOP—Have you put these concerns to the government, apart from at today's inquiry and this submission? Have you had any negotiations with the government?

Ms Flynn—No, I think this is the first time we have raised these issues. As you know, I have been with FACTS for only the last couple of months. So I cannot go to what was discussed previously.

Mr Mortimore—I would like to add something on that point. I think it is important to point out that our advice is that it is sufficiently unclear in this drafting of the legislation as to whether it will have these consequences. It will have consequences for any monitoring network used for the control and monitoring of distributed poker machines where that monitoring system uses a wide area network. Therefore, effectively—as we discovered from discussions earlier this morning—all forms of terrestrial gambling in Australia would be affected by this legislation.

I have personally raised with the minister's officials this issue, because we realise that it would have these consequences as soon as the bill was published. I think I raised the initial concern on 6 April. I finally got a response in the form of a personal meeting with the minister's officials approximately a week ago. I think I can say there was acceptance that there were unintended consequences. I was told that redrafting of the bill was already in progress and there was some hope that the redrafting would be presented today. I have to say that to do otherwise leaves the industry in a very difficult position. How are we to know by examining any redrafting that these consequences are going to be removed prior to the bill being presented for consideration by the Senate? It seems to me entirely unreasonable to expect the industry to react when the bill is introduced in the Senate—presumably, in some amended form—to bring all of our lawyers together, examine it and very quickly determine whether it is or is not fixing the unintended consequences.

Senator MARK BISHOP—Was the industry consulted at all prior to publication of the bill?

Mr Mortimore—No. I can say that we had some discussion with the National Office of the Information Economy about the moratorium bill, because there was some drafting in that bill that we were concerned about. It was a grey issue, but we felt that it could have had the kinds of consequences that this bill now has for the terrestrial industry, so we raised that with NOIE. They responded by indicating that they were prepared to amend the moratorium bill, but then nothing happened. Therefore, in my view they were at least aware of the fact that the drafting was unsuitable, but it has been repeated in this bill.

Senator MARK BISHOP—Yes, but the difference between the moratorium bill and this bill is the moratorium bill when it was finally passed only had a life of six months—

Mr Mortimore—True. However—

Senator MARK BISHOP—and it may have been that deficiencies probably were not worth pursuing. The problem we have now is they appear to have been copied into this bill, which has an indefinite life.

Mr Mortimore—The point is that the same services and the same networks are at issue here.

Senator MARK BISHOP—So do you seek an exemption for those entities that hold broadcast or datacast licences issued under Australian law? Does that cover you, or is that too wide?

Mr Mortimore—No, we are quite happy that the exemption should cover those organisations such as Julie Flynn represents. Our obvious immediate interest is with the lotteries and sports wagering organisations in Australia, and indeed all of the current terrestrial forms of gambling, being allowed to continue their businesses, because clearly the government's intention, as stated and as publicised, was not to affect them. This was supposed to be all about interactive gambling.

Senator MARK BISHOP—Mr Mortimore, I will come back to you in a minute. Let me just finish off the TV, because this has sort of come out of left field. You seek an exemption for holders of datacast or broadcast licences issued under Commonwealth law, don't you? Would that cover you? Would that cover the FACTS people and the pay TV?

Ms Oddie—There are a couple of exemptions that we seek in respect of this bill. One is that we can continue to do what we are allowed under state law to do, so that we are not precluded from our current activities. The second is to ensure that there is no discrimination in terms of technology. As Julie explained, it is possible with digital to interact in more than one way. In other words, with digital coming along you can interact with the TV program through the television receiver as an alternative to interacting through the telephone—that there not be discrimination against new technology. That is one of the benefits of digital.

Ms Flynn—You might have a situation with someone who does not have the interactive capacity. So you would be flashing two signs on the screen at the one time. You will be saying 'ring the 1900 number' or 'register your details', et cetera. So why is one captured and one not perhaps?

Ms Oddie—The other exemption that we seek is we are really endorsing that, as in the first bill, there be an exemption in relation to wagering.

Senator MARK BISHOP—Why does that apply to Network Ten—why do you care?

Ms Oddie—In relation to a number of the television programs that all of us broadcast there is an opportunity to participate or make comment in terms of their outcome. For example, for a program such as *Survivor* you might wish to participate in suggesting who will ultimately win that show.

Senator MARK BISHOP—Aren't you then getting to the heart of the issue, from the government perspective? It is not my job to articulate their cause, but they say they want to prevent the spread of gambling facilities or services in Australia. They say the spread has gone far enough in terms of land based facilities and they instance the social harm that comes from pokies. You are now saying that you have got this whole range of TV shows and you want to be able to offer others the ability to gamble on those outcomes.

Ms Flynn—But it is already happening. If you want to pick who is going to be the ultimate winner of *Survivor*, for instance—which is on the Nine Network and finishes tonight—you can dial a 1900 number until 9.30 this morning and under the definition of 'wagering' we think that would be captured, because you are not actually affecting the outcome. You are making a consideration and that would already—

Senator MARK BISHOP—What happens when you pick the outcome—do you win a car or something?

Ms Flynn—Yes.

Senator MARK BISHOP—So you have picked who is going to be the one survivor on a TV show and you win a car, but Ms Oddie is saying something different.

Ms Flynn—No, she is not saying anything different. That is one of our examples of what could be covered by wagering. I think the cricket competition 'Catch of the Series' is another example of that.

Senator MARK BISHOP—I do not see how picking the outcome of who is left in the race is wagering—not in the context of the discussion that we have been having for the last three years.

Ms Oddie—I suppose what we are saying is that it is unclear, based on the current drafting of the bill, as to whether those examples are captured or not.

Senator MARK BISHOP—That is a fair comment.

Ms Oddie—We are not characterising what we do as wagering; we are trying to demonstrate that technically, because of the way the way the wording is—

Senator MARK BISHOP—it could be characterised as wagering.

Ms Oddie—Yes, despite the common person not thinking of those as wagering.

Senator MARK BISHOP—I take that point. I thought you were advocating the ability to wager on a whole range of outcomes. If that were the case, I could see Senator Alston's response straightaway. Mr Mortimore, coming back to you, you simply want exemption for current matters regulated by state laws in terms of the lottery business?

Mr Mortimore—First of all we would like the unintended consequences of the drafting corrected. We have discovered how far they go—they go to even the kinds of competitions that the TV stations are carrying out. They certainly go to the conduct of state lotteries, wagering and the monitoring of gaming machines throughout Australia. So first of all we want the unintended consequences removed. Secondly, we are arguing quite clearly—and I support Mr Thorburn's arguments—that lotteries and wagering are not the forms of interactive gambling that the government has evidently intended to try to do something about in this legislation. They are clearly not forms of interactive gambling—certainly lotteries are not. Therefore they should be excluded from the legislation.

Senator MARK BISHOP—Just explain to me what this monitoring of gambling machines is.

Mr Mortimore—In New South Wales, Victoria, South Australia, the Northern Territory and Queensland there are operations which are regulated by the state governments for the purposes of monitoring gameplay at every poker machine that is licensed to be located within a hotel or a club in the state. The concept is to ensure that the whole structure of gambling of that form in the state is properly licensed and regulated and clearly controlled and able to be accounted for. That is the purpose of monitoring systems. They use wide area networks and therefore unfortunately they are caught by this legislation.

Senator MARK BISHOP—Why are they caught by this legislation?

Mr Mortimore—Because of the way it is drafted. This is one of the unintended consequences of the drafting, because any wide area network that connects up gambling machines is caught by this legislation, or at least appears to be.

Senator MARK BISHOP—So it is the same conceptual argument that TAB argued.

Mr Mortimore—Absolutely. On the reason why we feel that lotteries and wagering over the Internet should not be included in this legislation, I think wagering has already articulated its case and clearly Mr

Thorburn has articulated our case on lotteries. Lotteries have never been indicated in any of the committee reviews to be a form of compulsive gambling. Most people do not think of lotteries as gambling at all. Whilst we understand that senators feel strongly on this issue and they wish to take a moral position, nevertheless getting public policy correct I am sure is equally important to them. Including the sale of lotteries over the Internet in legislation of this form is just incorrect.

Senator MARK BISHOP—With your indulgence, Chair, I will go back to Ms Flynn. You have obviously got contact with like organisations in the United Kingdom and the United States. What is going to be the future direction of interactive television and datacasting and its relationship to wagering and games for prizes?

Ms Flynn—Susan can speak to what happens already in the UK.

Ms Oddie—In the UK you can actually subscribe to a subscription service where you can participate by winning prizes in relation to sport. For example, if you have a game of football, you will be able to participate in terms of who you consider may be able to win the game. There are a number of different systems, but an example would be that you would accumulate scoring points over a period of time and you may be able to redeem those through a token to win a prize, encouraging further participation and viewer interactivity. So it is seen as an additional service that viewers can enjoy. Some people choose not to participate because they prefer to sit back, but we see it as one of the suites of services that it is important to be able to offer as part of digital television so that Australians, like people in the UK, can actually enjoy the greater participation if they choose to participate in that way.

Mr Mortimore—Through our relationships with the World Lottery Association we are very well aware of what is happening in terms of gambling regulation all around the world. It is quite clear to us that the European countries are going down the path of regulation. They will allow their existing licensed gambling providers of all forms to use all of the new interactive channels to offer their products to the communities. So this is happening in respect of the UK national lottery, the French national lottery and the German lotteries. It is certainly happening in terms of mobile connection to the Internet and it is also happening in terms of digital TV.

Ms Oddie—If I can add one other comment, behind this submission is not to seek to permit anything that we would otherwise not be permitted to do. In other words, there are very strict regulations already covering this on a state basis and elsewhere. We are simply trying to ensure that this bill does not preclude us offering our viewers something that we would otherwise be able to provide.

Senator MARK BISHOP—I understand that, Ms Oddie. Are you aware of any studies that have been done into the addictive effects of interactive television programs? Is there any research or literature on that?

Mr Nicholls—The level of interactivity that is available on an international basis is relatively limited. Indeed, some of the first parts of interactivity have been things like weather channels providing information, the interaction being that you can choose to look at the weather, in the case of the first one, in Paris or in Lyons or wherever. The first services that have been made available in the UK, and to a lesser extent in Germany, are really at the edge of what is being offered. So part of it is a continual encouragement to be involved in interactivity to explore where interactivity is going, rather than creating any issues at all.

Senator GREIG—Ms Flynn, I have just been flicking through the bill itself again and also referring to Minister Alston's second reading speech to the bill and I find that it is peppered with the use of the words 'online', 'offline' and 'Internet'. Is this where you feel the confusion or the ambiguity is in relation to television and TV broadcasting? Does the bill specifically refer to those kinds of interactive measures which you have spoken of, in terms of 1900 numbers and so on, or is there an ambiguity there and that is your area of concern?

Ms Flynn—We are concerned about the broadened definition that seems to capture services that we already provide and that we would certainly seek to provide in the future. Given that the regulation impact statement certainly does not cover this as being intended to hit television services, it seems that in drawing the definition as widely as they have they have not thought about those. You probably would not have thought of those things, those services, as online gambling or interactive gambling. I think that is what has happened.

Senator GREIG—You use the example of *Survivor*, where people could dial a 1900 number and presumably leave a name and address. Is there a financial interaction there as well?

Ms Flynn—The financial interaction is the 55c telephone call.

Senator GREIG—That covers the cost of the call itself—

Ms Flynn—No, it does not.

Senator GREIG—There is profit on top of it, of course.

Mr Nicholls—It need not more than cover the cost of the call, so that there is a sharing of that 55c revenue with the provider—Telstra or Optus.

Senator GREIG—The customers are made aware of that when they phone in?

Ms Flynn—Yes.

Senator GREIG—So your argument is that the profit portion of a 1900 phone call might be seen as a wager.

Ms Flynn—It is a consideration if the customer agrees to give consideration to play or enter the game. That is under the definition of gambling services at (3)(e).

Senator GREIG—I know it is difficult, given the rapid evolution of online services and digital broadcasting, but is it not inconceivable that, at some time in the not too distant future people could be wagering in a more substantial way, in an interactive way, with TV services?

Ms Flynn—I do not think so. There are no intentions of the television stations to do anything other than those things that we stated we are allowed to do currently under state law. As Rob was just pointing out, these things are still very much in their early phases, and I am not quite sure how rapidly they will expand. There is quite a long list of them, and we talked about a couple of the games. There is *Home and Away* and *Popstars*—and even *Video Hits* seems like it might be captured by the definition. If you go to the conduct of game, participants are required to watch the program, then call a 1902 phone number and leave their name and contact details to be entered in the prize draw. The winner is randomly drawn from all callers to the 1902 number. There are product prizes and it is chance—winners are selected by a computerised random generated draw. The consideration, again, is that entrants must call the 1902 number at an elevated rate to enter the competition. As to interactivity, Susan from Network Ten might talk to how that might work in the future.

Ms Oddie—We are not sure where things will develop. For example, the 1900 number is not the only form of consideration that might be paid by a viewer. In the Channel 7 Adopt a Dot promotion the contestants must purchase the red dot from a BP service station or register on the Channel 7 web site to enter the competition. If you purchase a TV guide or something and take the information from it, that may be seen as consideration. Our submission relates to the drafting, because it is drafted in such a way that makes it unclear as to what would be required.

Senator GREIG—Have you made a suggestion to the government as to what redrafting might be required to satisfy your concerns, or suggested an amendment to that effect?

Ms Flynn—No, we have not gone to that point. At this stage, we simply wanted to alert the committee to our concerns and see where this would take us. We have not actually got to a point of saying, ‘We think, if you redraft it this way, we would do it some other way.’ I do not know if some of the others around the table have come up with anything. However, this is obviously the start of the process for us, not the end of it.

CHAIR—Thank you very much for appearing before the committee today.

Ms Flynn—I have here a Channel 7 digital presentation. It is a video that we thought might be useful, perhaps going to some of Senator Greig’s comments on the kinds of things that are interactive services that will be available. We would like to table that.

CHAIR—Thank you very much. We will see if we can have that run today. Had you told us beforehand, we would have set up a video to run it before the committee.

[11.36 a.m.]

MADDEN, Mr Paul, Executive Director, Baptist Community Services (SA) Inc.

CHAIR—Welcome. The committee prefers all evidence to be given in public. However, you may at any time request that your evidence or part of your evidence be given in private and the committee will consider any such request. I do point out, however, that evidence taken in camera may subsequently be made public by order of the Senate. I also remind you that the giving of false or misleading evidence may constitute a contempt of the parliament. The committee has before it submission No. 32, which has been published. Would you please advise the committee if there are any alterations or additions that you wish to make to your submission. If there are none, I invite you to make an opening statement.

Mr Madden—Thank you for the opportunity to appear before you today. By way of context and to give you a little information about our organisation and our connection with gambling issues generally, Baptist Community Services in South Australia is a welfare and community service agency that provides a range of services in the areas of crisis housing, emergency assistance, substance abuse counselling, employment services and other general counselling services. In the context of those services we see people who are affected by gambling addiction quite frequently. While it is impossible to give a precise percentage, because of the different ways in which people present to our services, those impacted by gambling addiction do represent a substantial number.

The purpose for our putting in a submission has been driven largely by the impact we have seen of poker machines in our state—poker machines were introduced in the early 1990s—the huge escalation in gambling problems that has emanated in the state and the attendant amount of money that is being circulated and lost through poker machines. At the moment, about \$500 million a year is lost on poker machines, and in the context of our state and its population that is a pretty significant number.

We have concerns but not so much with the legislation. Our desire is that protection in particular areas should be provided through the legislation. Whilst we are not experts in the wording of law and so forth, our concerns revolve around protection for children in the home environment, with around 50 per cent of households with children having access to a computer. We are also concerned about the impact that electronic gambling has had generally on women. In the pre-poker machine or pre-electronic gambling era we saw a very small percentage—around two per cent—of problem gamblers being women and now women represent around 50 per cent of those who become problem gamblers.

Senator MARK BISHOP—Mr Madden, thank you for your comments. You will be aware that this bill has the effect of making illegal the provision of interactive gambling services essentially by Australian corporations to persons residing in Australia. I presume you are also aware that the bill does not impact upon services offered by non-Australian companies outside Australia via the World Wide Web.

Mr Madden—Yes, we are aware of that.

Senator MARK BISHOP—Do you have concerns that Australians who wish to engage in interactive gambling will simply go to sites remote from this country to avail themselves of those services?

Mr Madden—As I understand it—and I may not be understanding the bill correctly—it is an offence to provide a service even from outside Australia that can be accessed within Australia by Australian citizens. I may be incorrect in my reading of that.

Senator MARK BISHOP—You are incorrect, Mr Madden. If I wanted to dial up a site on my computer now and gamble through a service offered out of the Caribbean, South Africa or Vanuatu, it would be entirely simple to do so and not illegal under current or future law.

Mr Madden—Okay.

Senator MARK BISHOP—My question then is: what can be the purpose of this bill when I simply go offshore to achieve the same end?

Mr Madden—I am not someone who understands a great deal about how these things work technologically, except to say that if the legal framework is not developed in such a way that it simply moves the casinos offshore and still gives free access, the legislation will fail largely in its intent. It is my understanding that this legislation is borne out of a concern about the way in which access to interactive gambling is impacting on citizens in Australia and that, in particular, the ease of that access is causing problem gambling to grow at an alarming rate within our country.

Senator MARK BISHOP—I do not quarrel with what you are saying. There has been a huge growth in gambling and we know that there has been a huge growth in problem gambling deriving from that. The issue is that the bill only half fixes the problem. First, it stops Australian companies offering services to Australians resident in Australia but it does not seek to impact upon Australians accessing services in Britain, South

Africa or wherever; and secondly—and I ask for your comment on this—it expressly permits Australian companies to offer services to residents of other countries, although they are prohibited from offering those services to residents of their own country. Do you have a view on the morality of that?

Mr Madden—There would certainly appear to be a contradiction in our values base if that were the case. But if this bill fails to safeguard the citizens within the country by allowing easy access from offshore the bill is fundamentally flawed in that respect.

Senator MARK BISHOP—You are probably right. For the sake of comment, let us assume that what I said is correct and that your conclusion is also correct. In that instance, would you favour any other approach to address the issue of problem gambling and the proliferation of gambling services?

Mr Madden—Our experience in South Australia has been that, the more easily interactive gambling—and I can go only on our experience with poker machines, because I do not have any data on access to Internet based gambling—is accessed, the more significant the growth in both expenditure and in problem gambling. We are still seeing a significant escalation, of around 10 per cent a year, in both expenditure and problem gamblers.

Senator MARK BISHOP—Do you see the principal problem, in terms of the growth in numbers of problem gamblers and the social costs attached to that, as related to the ready provision of poker machines and the like in South Australia? Is that your principal problem?

Mr Madden—One of our problems is that the access to the interactive gambling opportunity, whether through the poker machines or through Internet based services, seems to be driving the problem gambling.

Senator MARK BISHOP—But are the problem gambling and the problem social costs more attached to the provision of poker machines and land based services in South Australia?

Mr Madden—I do not have any information upon which to base an opinion about—

Senator MARK BISHOP—What is the anecdotal advice of your welfare workers and like organisations? You have told us in your submission—and we know from other inquiries—that there is a huge amount of men and women seeking support and welfare services because of a loss of income due to problem gambling. Presumably, those people tell you that they are gambling on poker machines, in the casinos or on interactive Internet machines. What do they tell you?

Mr Madden—Overwhelmingly, poker machines are the issue. Many of the people that we see in our direct welfare services do not have access to Internet based services. However, those we see in our counselling services do. I am not sure that the numbers that we have going through would give any kind of reasonable indicator as to how many are accessing Internet services, but what we do see is that the ease of access drives the growth of the problem. The problem with Internet based services is that they have the potential to put a casino inside your house. Instead of walking down to the hotel, you walk into your lounge room or wherever your computer is.

Senator MARK BISHOP—If I offered you the opportunity to eliminate poker machines in the state of South Australia, except for in the casino, would that go a long way to solving the social problems attached to problem gambling you have encountered over the last five or 10 years?

Mr Madden—It would certainly eliminate a significant number of those issues in connection with poker machines. But what we do not know is to what degree Internet based gambling will present the new generation of it.

Senator MARK BISHOP—I accept that but, if I also offered you the opportunity to ban Internet gambling, either in a half-hearted form in this bill or completely, what impact would that have on the social problems attached to poker machine gambling in South Australia?

Mr Madden—Are you saying, if it was banned on the Internet, what impact would that have on poker machines?

Senator MARK BISHOP—Yes.

Mr Madden—Very little. I suspect that people will turn to whatever is accessible to them. However, the problem with the Internet is that it just brings the opportunity to gamble even one step closer to home.

Senator MARK BISHOP—Everyone knows that digital TV is coming sooner rather than later to this country, and we know from overseas experience that there is going to be a fair degree of interactivity in the new digital TV world. Would you favour some sort of system whereby, if people wanted to gamble or wager via the TV in their lounge room, they would have to sign up, be accredited and provide proof of age and all those sorts of things, like you have to do with TAB gambling?

Mr Madden—I am not sure that I am in favour of any more easily accessed processes for gambling, because I think that we have got quite enough. But, in any event, if it were to be, there needs to be a range of

constraints that at least mean that kids with their parents' credit card cannot simply walk to the TV or the computer or whatever it is to bet.

Senator MARK BISHOP—So you would favour a range of regulations and mechanisms to prevent abuses?

Mr Madden—I would favour no opportunity, but I guess if one is going to be there, I would favour regulations. I certainly do not favour regulation of this market. I favour something that excludes the market. If this bill does not do it, this bill is inadequate.

Senator MARK BISHOP—Going down that path of interactivity, at the moment commercial TV stations broadcast the races, the odds and all those sorts of things every Saturday afternoon. You would be familiar with that, wouldn't you?

Mr Madden—Yes.

Senator MARK BISHOP—People have been able to bet over the phone for 20 or 30 years. Do you see similar sorts of mechanisms as having any value at all, if we go down this path of interactive gambling?

Mr Madden—Similar sorts of constraints, do you mean?

Senator MARK BISHOP—Yes.

Mr Madden—If interactive gambling is to be introduced, there have to be as many check factors in it as possible. I would not have a lot of confidence that, once introduced, those check factors would be either very rigorously policed or applied.

Senator MARK BISHOP—But they are rigorously policed and applied in respect of the TAB and the like, aren't they?

Mr Madden—Yes, but you have to go through a process to get an account and those sorts of things.

Senator MARK BISHOP—That is what I am asking you to comment on—the same sorts of account based mechanisms for interactive gambling.

Mr Madden—Certainly, if it is to be, I would favour that. But I reiterate that I favour a total ban on them.

Senator MARK BISHOP—That is understood. Thank you for your time, Mr Madden.

Senator GREIG—Mr Madden, you spoke in your opening preamble about the concerns you have—which I share—with pokies in South Australia and generally, although I note that we do not yet have them in my home state of Western Australia, which I approve of. Would you agree, though, given that so much of what you have said today was in relation to poker machines, that the use of the Internet for online gambling pales into insignificance, given the problems of gambling that you see through other uses—and pokies, in particular?

Mr Madden—We cannot know the answer to that because I think we are still at an early stage in the technology take-up. Whilst the poker machine is an easy instrument to use and the computer has a higher degree of complication in terms of needing to start it up, the simple access in the home means that as people become more familiar with them and as there are a greater number of computers in households it becomes a much easier outlet to access. Whilst I do not know anyone who has any solid information upon which they can base their opinion as to whether or not it will be taken up in huge way, I think there is enormous potential for harm to occur as people become transfixed not by a poker machine but by the computer in their own lounge room, where they can then gamble away to their heart's content.

Senator GREIG—You spoke earlier of ease of access being a concern that you have in terms of people being involved with gambling itself. Yet we have the situation whereby if this legislation were to pass unamended people would no longer be able to wager—that is, place a bet on horse race, for example—through the Internet but they could do so on the phone. Would you agree that using the phone is a more simple and accessible method for most people for that form of gambling?

Mr Madden—Yes, I think it probably is but in the context of this legislation and the move to interactive gambling in particular my concern is not so much about halting what is—because I think there is a certain inevitability or reality about what currently is—but about not flinging the door wide open to new and added opportunities. The other thing I might add to that is that, whilst making the phone call may be a simpler process at the moment, in the emerging world of digital TV and so forth—and I have to say that I am not a technological person—people tell me that these processes will become simpler and easier to access.

Senator GREIG—You mentioned a statistic of 50 per cent of homes in South Australia having PCs. Was that correct?

Mr Madden—Fifty per cent of households with children was the statistic that I got.

Senator GREIG—Okay. Would you agree though that it is largely wealthier people who have access to or ownership of a PC? It might be argued that those people with a gambling problem are unlikely to have a PC. These people for the most part seem to be—for want of a better term—typical battlers, who might be pouring money into a poker machine or using whatever form of gambling outlet they prefer in the hope of improving their financial situation.

Mr Madden—That may be true but once again we are still in an emerging market situation with computers. That may well be absolutely true at this moment in time but it may not be true with the emergence of digital television. One of the contradictions you find with poverty, for example, is that sometimes there is not food in the fridge but a TV and a video are sitting in the lounge room. I do not know that we can say that the situation as it is at this moment is the situation as it will be in five years time. Heavens above—we never thought we would have 13,000 poker machines in South Australia!

Senator GREIG—Mr Madden, you express an aspiration in item 8 of your recommendation in your submission in which you indicate that the bill:

Send a clear message to society that this legislation marks a determination to deal with the major problems to individuals and the community of problem gambling.

Given that you have now expressed the view that the bill is fundamentally flawed in that all it can really do in terms of online gaming is shift the services offshore such that all a punter needs to do is type in two different digits than 'au' as the suffix of the Internet address, do you think that is an aspiration you would revisit?

Mr Madden—It is certainly an aspiration I would revisit. On my reading of the legislation I understood that there was a process for prohibiting or identifying those services seeking to operate from overseas into the Australian market. That was a mistake on my part. Certainly any legislation that fails to deal with the offering of Internet services wherever they are based is going to be inadequate.

Senator GREIG—It has been argued here today and in submissions that there is benefit in having gamblers use an online process in that their behaviour and expenditure can be monitored and regulated, particularly through the use of a credit based system, as opposed to somebody walking off the street into a club and using a poker machine or into a casino and playing blackjack or whatever. Would you agree that there may be some benefit in that kind of regulation where citizens can be monitored in terms of their expenditure?

Mr Madden—Not really. I think monitoring has no impact on what their behaviour will actually be. Secondly, I cannot see a great value in knowing precisely to what extent they have lost. It might be of academic interest. But, essentially, if they have a problem and they are losing vast amounts of money that they can ill afford to lose, whether we can count that accurately is largely irrelevant, I would have thought.

Senator GREIG—That would be the case, though, if this legislation were successful and Australian online gambling companies simply moved offshore. Then we would have an unregulated system whereby Australian citizens could game to their hearts' content without any monitoring or regulation.

Mr Madden—I fail to see, though, how monitoring will have any impact on what their behaviour will be.

Senator MARK BISHOP—I just wanted to correct one misapprehension I might have caused in your mind. The bill does provide for a complaints system whereby Australian residents can make formal complaint to a regulatory authority about material hosted from offshore, and complaints can be referred on to the appropriate police agency for offensive or illegal material. That does go part way to allay your concerns. It does not provide, though, for any limitation on access to those services offered from offshore sites.

Mr Madden—If I understand this correctly, in that particular case the Internet service provider would commit an offence by allowing that to be hosted on an Australian site but it would not be an offence for someone to access that site—is that it?

Senator MARK BISHOP—I am not so sure that it would be an offence for the ISP to host the material, either.

Mr Madden—What would the ISP's obligation be, once having been advised of that information on their site?

Senator MARK BISHOP—We are not sure of that. We are going to try and establish that with the government this afternoon.

Mr Madden—Okay.

CHAIR—Thank you very much, Mr Madden.

Mr Madden—Thank you for the opportunity.

[12.05 p.m.]

PHILLIPS, Mrs Roslyn, Research Officer, Festival of Light (SA)

CHAIR—Welcome. The committee prefers all evidence to be given in public. However, you may request at any time to have your evidence given in camera, or privately, but you must understand that subsequently the Senate may order any evidence given in camera to be made public. I also remind you that giving false or misleading evidence may constitute a contempt of the parliament. The committee has before it submission No. 13, which has been published. Do you wish to make any alterations or additions to your submission?

Mrs Phillips—Not major ones. The amount of money lost by Australians in gambling is no longer just over \$11 billion; it is over \$13 billion, but I have not been able to get all the latest figures.

CHAIR—Would you like to make an opening statement before being questioned by the senators?

Mrs Phillips—Certainly. As we said in our submission, Festival of Light has long been concerned about the inroads of addictive forms of gambling in Australia. By ‘addictive’ we mean forms of gambling such as occur on electronic gaming machines which are designed to give very rapid turnaround. When people who use those machines lose something they quickly try and recoup their losses. They get instant gratification when they win, with bells and lights and congratulations, and that spurs them on to think that the next big win is just around the corner. Unfortunately, the whole set-up is so framed that they will always lose and they can lose enormous amounts and keep going back. It has a very addictive effect.

Large amounts have been lost since poker machines have been more widely introduced around Australia. For example, in South Australia, since about 1994 we have had them just around the corner for most people, in the local pubs as well as clubs. A lot more money has been lost to gambling by those who can least afford it. We warned our government about 10 years ago about the likely effect of introducing poker machines—as did others—but the parliament narrowly decided to go ahead and assured us there would be lots of safeguards and we did not need to worry. Time has shown that our warnings were correct and the safeguards did not really protect the people at all. Those who are losing most from poker machines are those who are in particularly disadvantaged areas, as well as others. There have been many tragic stories of suicides, marriage break-ups, and so on.

So we believe that interactive gambling—which is based on the same sorts of principle as electronic gaming machines with the same psychological mechanisms coming into play—being much more available to people than even the local pub, could have even more devastating effects on the community as a whole. We welcome this legislation. We have made a few recommendations for what we believe would be improvements, but we are very glad that the federal government is looking at the problem and trying to address it in this way.

Senator MARK BISHOP—I was looking at your submission, particularly on page 1. You address the two-part focus of the bill: firstly, prohibition of the provision of Internet gambling services by Australian identities to Australian citizens and, secondly, the complaints mechanism. You have some criticisms of the complaints mechanism. It is not my understanding that the complaints mechanism or the bill in any way provides for the issuance of take-down notices. Is that your understanding?

Mrs Phillips—My problem with the bill and the time given for making submissions was that we really did not have time to consult widely on it. I agree that the bill may not explain the take-down mechanisms and I believe there are some problems in this area. I assumed, when I wrote the submission, that similar arrangements would be made as now apply with child pornography and other such problems on the Internet.

Senator MARK BISHOP—I am not aware that that is the case.

Mrs Phillips—Well, if that is not the case then it is a weakness in the bill.

Senator MARK BISHOP—Yes. But it gets to the issue: whilst you can prevent access by Australians in Australia to Australian based sites—and that is made illegal—what do you say to people just typing in a different address to go to a site hosted out of South Africa or the United Kingdom or Vanuatu? They still have the ability to access Internet based gambling services, don’t they?

Mrs Phillips—Yes. That was one reason why we suggested that it would be good to have a provision to prohibit banks from honouring transactions made to illegal gambling sites, wherever they are.

Senator MARK BISHOP—They are not necessarily illegal gambling sites; they are sites that are not regulated. It is a different thing.

Mrs Phillips—True. But it could be made an offence for Australians to access interactive gambling sites wherever they are.

Senator MARK BISHOP—Do you advocate that?

Mrs Phillips—Yes. I believe that would be helpful.

Senator MARK BISHOP—If the government does not accept your suggestion and stays with the current thrust of the bill, do you regard it as fundamentally flawed?

Mrs Phillips—I believe anything that is attempting to address the problem is a step forward. I would not reject the legislation simply because it did not go far enough.

Senator MARK BISHOP—Can you then explain to me the difference between these situations. It is made illegal for Australians to access Australian hosted sites—and I understand how that can prevent the offence occurring. But if I just want to type in ‘www.jupiters.UK’, for example, I can gamble to my heart’s content and the bill does not impact upon that in any way or prevent that from occurring in any way.

Mrs Phillips—I would like to see an amendment to address that problem.

Senator MARK BISHOP—If that amendment does not address that problem, what is your attitude to the bill?

Mrs Phillips—I still think the bill is better than nothing. By having no legislation at all, the impression given to the public is that there is nothing wrong with this kind of gambling.

Senator MARK BISHOP—If you have closed down a range of Australian sites and do not attempt to close down a range of sites that are linked to crime interests or other interests of dubious value, what sort of message are you sending then? Because that is the effect of this bill.

Mrs Phillips—I believe you are still sending the message that interactive gambling is harmful, and I think that is a very important message to send. Certainly I would like to see amendments to improve the bill.

Senator MARK BISHOP—And if you do not get those amendments we have been discussing, you are satisfied the bill will achieve its purpose?

Mrs Phillips—I have not said that. But I have said that any attempt to address the problem is better than doing nothing. I would certainly like to see improvements to the bill. I suspect that it has been put together in a great hurry, and I would hope the government would welcome amendments, such as the one you have suggested, to improve it.

Senator MARK BISHOP—Your organisation was not consulted or contacted in any way prior to the bill being tabled in the parliament, was it?

Mrs Phillips—No, not by the government.

Senator MARK BISHOP—If complete prohibition is not possible, or not authorised by the parliament, do you have any view on alternative systems of regulation of interactive gambling.

Mrs Phillips—With the poker machines, people said that by having all these protective mechanisms harm would be minimised. But certainly that has not happened. If you believe it is possible to regulate, which means you ban certain practices, then why not ban all of it? I do not see why the distinction should be made. There are lots of other opportunities for people in Australia to gamble in a way that is not so addictive and harmful, so why can’t they enjoy those, without people being allowed to have particularly addictive forms that do much more damage?

Senator MARK BISHOP—Is your organisation active in the provision of welfare services to persons harmed by gambling in South Australia or are you more of a think tank?

Mrs Phillips—We are more of a think tank. We do get calls from families who are desperate because one of their members has become addicted to poker machines, and we refer them on. We do not get involved in the coalface of actually counselling them. I know that area is very stressful for those who do.

Senator MARK BISHOP—Yes, it is. It is a significant problem. Is the critical problem in South Australia the provision of poker machines? Is that the major problem in your state?

Mrs Phillips—Yes. Most weeks there are large articles in our *Advertiser* of more and more problems and tragic stories of people who have been affected. It seems to be such a problem because it was not expected: we were so reassured in the early nineties that it would be all okay, because they were aware of the possibilities of damage and they would put in place all these protective mechanisms. But they simply have not.

Senator MARK BISHOP—Would you favour the closing down of the poker machine industry in your state?

Mrs Phillips—I would indeed.

Senator MARK BISHOP—Do you regard that as a greater priority than half-hearted attempts to regulate interactive gambling?

Mrs Phillips—No. I think they are both part of the same problem. One of the counsellors whom I know quite well, Vin Glenn, said a couple of years ago, ‘If you think pokies are a problem, with interactive gambling you ain’t seen anything yet.’

Senator MARK BISHOP—But one is an actual program and the other is a potential problem.

Mrs Phillips—Yes. But he said: the problem with the pokies now is they are not just in the casino—they are in the corner pub and you can go whenever you like, and people spend all day there except when the pubs close. When it is in your front room 24 hours a day, how can you keep children out of them? It is an escalation of the problem. I believe we should act now, before it has got out of hand. At present people are very wary of making transactions over the Internet. This is in general terms—they are not buying things either. But this is going to change as people get more used to this new medium, and that is when Internet gambling could really take off—which is another reason why I think the banks should be involved.

Senator GREIG—Just prior to you coming on line and chatting to us, we were chatting to a colleague of yours, Mr Madden, from the Baptist Churches, also from South Australia. He was clearly of the same misunderstanding as you seem to have been in terms of what the aim of the bill was and what the bill could actually do. After some clarification, he said that he felt that the bill was fundamentally flawed in that, while he initially supported it, he now understands that the bill does not prohibit the use of online gambling by Australians, because Australians can simply, through continuing their use of the Internet, access gambling services based overseas.

You posed the rhetorical question: if that is the case with the bill then why isn’t it the case that complete prohibition applies? Why isn’t it the case that accessing online services overseas is also prohibited? I guess the better question would be: how would that be done? The short answer to that is it cannot. I know a little about the Internet, and a little of the Australian Constitution to assure you that you cannot prohibit people accessing offshore services online, nor can you prohibit banks from honouring payments to lawful overseas organisations. Given that scenario, that it is physically and literally impossible to prohibit the use of online gambling from the Internet and physically and literally impossible to ban banks from honouring those kinds of fees, why then would you propose any support for this bill?

Mrs Phillips—I am not sure that I agree that it is impossible to do those things. We have a similar problem with child pornography on the Internet from overseas sites—don’t we?—and that has not stopped the government from attempting to address that problem.

Senator GREIG—But it has failed to do so.

Mrs Phillips—I believe that in time some of those problems could be overcome. Remember that the Internet is a very new medium and we are learning how to use it every day, so I have not given up hope that they will be able to address those problems more effectively in the future. In the meantime, I believe that the legislation the government has introduced is going some way to dealing with the problem. I had not realised that this legislation is not similar to the child pornography control, but if that is the case I believe it should be extended to include that. I do not see why banks cannot be required by law to dishonour transactions made by Internet gambling. Why can’t a government say that Internet gambling is out of bounds, just like importing drugs and other things? I do not see why it cannot make these things illegal and financial transactions involving them illegal.

Senator GREIG—I suspect that the short answer to that would be that it was unconstitutional, but I do not pretend to be a constitutional lawyer.

Mrs Phillips—Why should it be? Importing drugs and financial transactions regarding them are illegal; that is not unconstitutional. So why can we say the same with an addictive form of gambling, which has the same effect as drugs as far as I am concerned?

Senator GREIG—An interesting debate. You have expressed concern, concern that I share, about the general problems created for many people in the community through gambling in general, and you have talked at length, as have most submitters, of poker machines. Why, then, focus on the tiny proportion of people who are using and may use online services as opposed to the far greater number of people who are accessing poker machines in casinos? I know you have said in your oral submission this afternoon that there is the opportunity for online gambling to radically increase, but there is no evidence for that. With wagering, for example—that is, placing a bet on a horse race—while that may be prohibited on the Internet under this bill, should it pass without amendment it would still remain lawful on the telephone.

Mrs Phillips—I am not sure of all those details, but remember that we have not had very much time to look at this bill and consult more widely. The whole Internet medium is new, and that is why so few people are using the Internet gaming at present. They are not using the Internet to buy things, either. This is what a survey has shown. My husband tried to pay some bills over the Internet, and it took him ages. He thought that

unless they speed things up it would be much simpler to pay them in the time honoured way. But these things will speed up. The whole process will become much more familiar.

Far more people are accessing the Internet now than did five years ago. That is why I believe we should act now, before it has got out of hand. It is much harder with the poker machine problem to say, 'Right; now we will ban it,' than it would have been back before we even introduced them. I believe we should phase out poker machines. We cannot do it overnight but, if every year we said there shall be 10 per cent fewer in this state, and allow the venues that have them to slowly cut down numbers, that would be the way to do it. It is a very big problem, and I think we should act with interactive gaming before it becomes such a big problem.

CHAIR—Thank you, Mrs Phillips.

Proceedings suspended from 12.26 p.m. to 1.12 p.m.

FARRELL, Mr Gregory, Managing Director, The Federal Group

FARRELL, Mr John Stephen, Director, Business Development, The Federal Group

CHAIR—We have your submission before us. If there are any matters that you wish to give in private, you may request permission from the committee to do that, but you must be aware that the Senate may subsequently publish any evidence given in camera and make it public. I also remind you that the giving of false or misleading evidence may constitute a contempt of the parliament. Do you have any alterations or amendments to your submission?

Mr G. Farrell—No, we do not.

CHAIR—Would you like to make a brief opening statement?

Mr G. Farrell—Yes, thank you. To start with, we would really like to put the point that we also believe that the bill is fundamentally flawed. Before stating the reasons why, I would also like to make some comments about how we believe this whole misguided saga over the Internet gambling moratorium and now the Internet gambling bill has had a disastrous impact on our own business. We had a legal business, which was made illegal retrospectively, having gained a licence from the Tasmanian state government in July 1998 and having engaged in this new industry since 1996 when the first meetings of the national regulatory officials from the various states started getting together. Commercially, we had a \$20 million investment, which essentially has been wiped out. A large number of valued employees have lost their jobs through this saga, as well as many consultants and specialists who have been employed by the group over many years. Essentially, the opportunity costs to our company have been enormous as three years of commitment and development have been wiped out by the stroke of a pen. We now find that our business, which was forced to closed down, would have conformed with the government's own bill, inasmuch as we did not accept bets from Australians and we only accepted bets from people outside of Australia. So, in reality, the bill as it currently stands before this committee, and as it may well stand before the Senate if approved, would actually have conformed with the way in which we operated.

However, I would like to make some comments about the bill. We believe it is misguided, inappropriate and founded on blatantly wrong assumptions that the bill will limit the development of the industry and minimise the scope of problem gambling. The industry has already taken off; the horse has bolted. Many comments have already been made today about the size of the industry. In fact, in Senator Alston's own second reading speech the industry was noted as having increased by some 100 per cent in the last 12 months, to some 1,400 sites worldwide. The Australian sites currently account for less than two per cent of the Internet gambling sites worldwide. We expect they will account for a much smaller proportion of that in 12 months time.

Antigua have just released a statement to the effect that they believe their legislation will lead to 100 new Internet casino sites being created or established. We are also aware now that Nevada have passed through legislation in their houses to introduce legalised Internet gambling from Nevada. So we believe it is a total furphy to say that, by prohibiting Australian companies from accepting bets from Australians, we are foreclosing or tightening up on the development of the Internet gambling industry. It is an absolute total furphy. We also believe that it does not protect Australians from problem gambling; it perhaps exacerbates it. We believe the Australian Internet gaming sites in the Australian model in fact put forward player protection measures which cannot be ensured through the hundreds, if not thousands, of sites currently being offered around the world.

The government has continually failed to recognise the outstanding work done by the Tasmanian, Northern Territory and Queensland governments. It has repeatedly turned a blind eye to the efforts by a large number of committed countries, such as ours, in participating in developing a national regulatory model for interactive gambling. Clearly that model, on the basis of this bill being approved by the Senate, will now be available to foreigners only and not to Australian residents or people in Australia, which to us is again blatantly ridiculous.

The only sane solution, we believe, would be to allow the tremendous work that has been done by the state governments to proceed, for the Australian model for uniform standards for the regulation of interactive gambling to be allowed to operate and that only companies and states that comply with the minimum standards be allowed to commence live operations of businesses. Furthermore, the Australian Broadcasting Association and the Internet Industry Association would work in conjunction to maintain a code where content filters were made available to people who felt they did not want to be given the opportunity to visit or see Internet gambling sites. They would be able to filter those sites, as currently proposed in part of the bill.

We believe this solution does three things. First, it does not require legislation. Second, it is not hypocritical in two senses. It is not hypocritical in the sense that it is consistent with the government's own stated policies, whereas in the government's own national strategic framework for the electronic commerce strategy it states that 'to develop a legal and regulatory framework to facilitate electronic commerce, the role of government is to create the environments as a user, supplier and purchaser of electronic services and to provide a legal and regulatory framework that ensures the information economy is safe, secure, respectful of personal privacy, certain and open'. We also believe it is not hypocritical because the government's own explanatory memorandum in fact says that we are exporting problem gambling potentially to other countries. However, the cost is not an Australian cost, which we believe would certainly be seen as hypocritical by any other foreign country reading the explanatory memorandum. Third, we believe that this solution could readily be implemented. We believe that the bill is flawed and that this has been a political stunt by the government. It will have no measurable or real impact on reducing or solving the issue of problem gambling in Australia.

Senator MARK BISHOP—Mr Farrell, at the bottom of page 3 of your submission you propose a fourth option and suggest that the Internet Industry Association implements a code by which approved content filters will be made available to Australian Internet users. What do approved content filters do?

Mr G. Farrell—Essentially, that would work similar to the model for pornography; so a person would be able to download a filter and nominate sites which they did not want processed through their computer. If they felt problem gambling was a concern to them, they would be able to say that that particular site would not be able to be accessed by their computer.

Senator MARK BISHOP—Thank you.

Senator GREIG—Mr Farrell, you have been here for most of this morning, have you not?

Mr G. Farrell—Yes, I have—I spend a lot of time here.

Senator GREIG—Would you agree that, even to this point, there is still tremendous misunderstanding about the operation of the Internet and effective legislative responses to that?

Mr G. Farrell—Yes, I would. There is also a lack of understanding about the difference between access and controls that can be placed on forms of gambling such as interactive gambling.

Senator GREIG—Would you expand on that?

Mr G. Farrell—What we have heard this morning is that many of the people who would support the banning of Internet gambling do so on the basis of putting a poker machine in everyone's home, therefore inferring access to that poker machine as per poker machines in many other locations in Australia that are publicly available. Clearly, for a person to play on a site that has been regulated and proved by an Australian jurisdiction, they have to go through a series of checks and measures to ensure not only that they are doing it in sane mind and body but also that they are agreeing to or can put in a number of controls about the amount of money they would like to expend, over what period of time and on what types of games, done in a total level of clarity and in a way which cannot be achieved in other forms of gambling and which is unlikely to be achieved by Australians who have access to any sites in the world where, in many cases, the level of access is far easier than on an Australian regulated site. We believe to a large extent the argument that access itself is the cause of problem gambling is a furphy. It is not.

Senator GREIG—I think there is legitimate concern in the community about problem gambling, although I have yet to see a definition of the term 'problem gambling' on which we might all agree. Are you aware of any evidence to indicate that online gambling services are a part of that and that problem gamblers are more attracted to that than they would be to other forms of gambling or wagering?

Mr G. Farrell—I cannot relate evidence, but I would suggest that in fact Internet gambling, under the Australian regulated model, is a deterrent to problem gambling. In a properly regulated environment, problem gambling is controllable. Tasmania recently released a report which was the third study into the extent of problem gambling in Tasmania, from 1994 to the year 2000. It demonstrated that the percentage of people who are considered to have problem gambling tendencies in Tasmania has not risen in six years. During the same six years, the extent of product that has been made available in that market has probably grown 400 or 500 per cent. We put that down to having a proper model in place for patron care policies and practices and responsible gaming practices.

Senator GREIG—I asked earlier witnesses whether they felt that the problem gambler would be less likely to own a PC. Would you agree with that?

Mr G. Farrell—It is difficult to say. At the moment, you would say that something like 30 per cent of Australians either own or have access to a PC in their home. In 10 years time, that number is probably going to be 70 or 80 per cent. We believe it is also fair to say that problem gambling on the Internet will not necessarily exacerbate the problem if in fact there are commercially supportive harm minimisation practices put in place.

Senator GREIG—These are things like monitoring expenditure through the use of accounts and so on.

Mr G. Farrell—And allowing people to actually establish controls on the extent of their gambling. We also believe that the vast majority of Australians do not have a problem with problem gambling. Problem gambling has been beaten up to some extent through popular media and has been made quite a soft touch by both the media and a number of political interests around this country.

Senator GREIG—A bit like the law and order debate.

CHAIR—Thank you. That appears to be all the questions. If you would like to stay there, Mr Farrell, we will call the Australian Casino Association and Lasseters Online.

[1.26 p.m.]

CAMPBELL, Dr Robert Bruce, Consultant, Australian Casino Association

DOWNY, Mr Christopher John, Executive Director, Australian Casino Association

FARRELL, Mr Gregory, Managing Director, The Federal Group

FARRELL, Mr John Stephen, Director, Business Development, The Federal Group

PAFUMI, Mrs Joanne Marie, Consultant, Lasseters Holdings Ltd

CHAIR—I welcome you to the table. You may request that evidence be given in private, and the committee will consider any such request, but you have to understand that the Senate may at a later date make public any evidence given in camera. It is an offence to give false or misleading evidence to a Senate committee. Do you wish to make any alterations or additions to your submissions?

Mrs Pafumi—No, thank you.

Mr Downy—No.

CHAIR—Would you like to make an opening statement?

Mr Downy—Yes, thanks.

Mrs Pafumi—Yes, thanks.

CHAIR—Please go ahead then.

Mr Downy—Thank you very much for giving us the opportunity to appear before your committee today to further discuss the Interactive Gambling Bill 2001. In our submission the Australian Casino Association referred to work that had been commissioned from ACIL Consulting regarding the worldwide online gambling industry. Dr Rob Campbell was responsible for putting the report together, and that is why I asked him to be here with us today. Mr Greg Farrell is the deputy chair of the Online Gambling Task Force, which is one of a number of task forces that is operated by the Australian Casino Association.

Our submission referred to the fact that Nevada had introduced legislation into its state legislature to legalise online gambling. As of Wednesday, 25 April, that legislation had passed through both houses of the Nevada legislature. The legislation allows only land based casinos to offer Internet gaming. One of the arguments that is being used to support the type of legislation that we see before us today is that Australia is not alone in pursuing this legislation. In fact, nothing could be further from the truth. As the ACIL report indicates—as do other submissions to this committee—many jurisdictions are now introducing legislation that will legalise and regulate online gambling. Australia, in fact, will be like a shag on a rock if it proceeds with this legislation.

Online gambling expenditure worldwide has grown from \$US1,170 million in 1989 to \$US2,200 million in 2000. These estimates have been prepared by Christiansen Capital Advisors, who predicted that this figure will grow to \$US6,300 million by 2003. Another group, Bear Stearns, has forecast a lower figure of \$US5,000 million by 2003. On the basis of this, ACIL has indicated that the potential loss for regulated Australian operators, if they are prevented from accessing the world market, could be as high as \$700 million.

Finally, the association wishes to restate its position regarding the legislation: it is bad legislation and bad policy. The association believes—and has believed since day one—that a uniform national set of regulations will provide more certainty and protection to customers than a ban of any description. The arguments used by some senators and members of parliament that regulations in gaming have tended to be watered down over time is just not borne out by the facts, particularly in recent times.

There have been, including this particular inquiry, three Senate inquiries, the Productivity Commission inquiry and the NOIE inquiry. They have all concluded, basically, that a ban on online gambling will not work or be totally effective and that managed liberalisation is the only solution to controlling problem gambling on the Internet. The strict regulatory regime that has existed in Australia has worked to the advantage of the industry, in that it enjoys a high reputation worldwide. Australia leads the way in responsible gambling and the AUS Model only serves to enhance this reputation. Indeed, many overseas jurisdictions have modelled their regulatory regimes on the Australian model.

Mrs Pafumi—Firstly, I offer the apologies of Lasseters managing director, Mr Peter Bridge. Prior commitments have kept him in Alice Springs today. I am pleased to represent Lasseters Holdings on his behalf and thank you for the opportunity of appearing before the committee. For the past two years Lasseters Online has proven that regulation of Internet gaming is highly successful and highly effective. For the past two years Lasseters Online has been providing various federal government inquiries with evidence based on the actual performance of a site renowned worldwide as offering the highest standards of player protection. However, in all the rhetoric surrounding the interactive gambling debate, the facts of regulated online gaming have often been lost. Some key facts are that Australia's regulated online casinos have the highest standards

of player protection of any gambling business in this country. No online or traditional wagering service provider in Australia comes to close to offering the same high levels of protection provided by the regulated online casinos.

Technology allows us to control and regulate online gaming far more effectively than is possible within physical gaming venues. Extensive registration and operating procedures implemented by Australian online casinos have minimised the risk of problem gambling among players. The Productivity Commission and the Senate Select Committee on Information Technology have both investigated interactive gaming and recommended regulation as the preferred policy response, rather than prohibition. All the additional player protection measures recommended by these two inquiries have been addressed in the AUS Model and agreed by the online casino industry through our own code of conduct.

Online players are people looking for home based, low cost entertainment. They are generally mature adults and not young people, as is often assumed. There have been more than \$200 million cash games played on Lasseters Online by players around the world, illustrating the demand for regulated online gaming. Australians are already participating in online gaming offshore in large numbers. In fact, Lasseters has had 15,000 Australians register with our site in the past two years, but fewer than 5,000 now remain as registered players, and we assume that this is because many have gone in search of sites that can offer them cash gaming where we cannot.

Our submission to this committee provides evidence of why the assumptions made in the design of this bill are wrong, but our fundamental issue is with the belief that this bill will prevent the exacerbation of problem gambling. Problem gambling will remain an issue in Australian society as long as the community's accessibility to poker machines in pubs and clubs across the country remains high. It will also be an issue online as long as Australians have access to international sites not regulated by recognised jurisdictions. But problem gambling can be prevented online if we have strong regulation. We have accepted the responsibility for offering Australians a safe choice, but none of the benefits of regulation are available to Australians under the proposed bill.

I note that many of the submissions to this committee were concerned with the exemption of wagering from the terms of the bill. We have heard arguments over the semantics of whether the use of the Internet to place a bet is interactive and why casino gaming is evil, even though horseracing is the second highest cause of problem gambling in this country. We would say this: if wagering is to be exempted, this industry must be subject to the exact same standards of regulation set by the online casino industry, including spending limits. Only then could the government be assured that problem gambling will not result from this exempted industry.

Senator MARK BISHOP—Ms Pafumi, when we did the Netbets inquiry in Alice Springs, both you and your managing director gave evidence. My memory is that your evidence was that you were attempting to create two new markets—a market for younger people and a market for females. Yet at page 4 of your submission you provide material showing that young people are not particularly attracted to online gambling. When you used the words ‘young people’, were you referring in the previous inquiries to children—that is, children under the age of 18—or has your hope to create new markets not been established?

Mrs Pafumi—I believe that our initial purpose for moving to online gambling was to allow Lasseters to access a much broader international market than we might otherwise be open to. The remoteness of Alice Springs means that the number of visitors we receive for the physical casino is small compared to other areas. So the main purpose in moving to online gaming was to access the large international market. We did not really have preconceived ideas about which demographic group we might attract to online gaming. I believe at the time of the Netbets inquiry we gave evidence to show that young people were not likely to be major users of Internet gaming, based on a Council of Social Service research report that was tabled at the time. So we did not really anticipate young people to be a major source of players. In terms of women, again we never really set out to target men or women, and the result has been that our players are fairly evenly split between men and women—if not a slight skew towards males. So our main purpose initially was not to really target any specific demographic group; it was really just to broaden our market internationally as a whole.

Senator MARK BISHOP—I must say that that is not my memory of your evidence. I will ask the secretary to dig out the submissions, because I do have a very strong memory that it was the opposite. That is a matter of fact, so we will just check that out.

Mrs Pafumi—Sure.

Senator MARK BISHOP—In any event, you do have some information in your submission on the number of 18- to 24-year-olds who use it. My next question is to the ACA. You have put forward the proposition that all states agree to a national regulatory model. That has been out in the public domain since, I think, early April.

Mr Downey—5 April.

Senator MARK BISHOP—And you are awaiting comment on that. I presume all of the casinos have signed up to that model?

Mr Downey—The Australian Casino Association endorsed the position that was taken by the Tasmanian gaming and wagering group, whose members are members of our association. As long as I have been the executive director—which is since October last year—and even before that, the association has called for harmonisation of regulations across Australia. We have been very strong in our support of that and we have been very strongly supportive of state and territory governments on that issue. That is the basis of our argument: that a national set of regulations that applies across Australia is far preferable to the sort of the legislation we are seeing here today. And we can even take it a step further: we have exactly the same view with regard to land based gambling as well. That is why we are very keen to play a part on that national advisory body on gambling that the government has established.

Senator MARK BISHOP—Who has signed up to that—the model that is out for public comment? Who endorses that in its current form?

Mr Downey—Do you mean in terms of our members?

Senator MARK BISHOP—Your members and any other organisations or companies.

Mr Downey—As I understand it, our members have. We have endorsed the position that has been taken by our members who are members of the Tasmanian gaming and wagering group, and that is all I speak for.

Senator MARK BISHOP—So who are your members?

Mr Downey—We are talking about Mr Farrell's company, Crown PBL and Lasseters.

Senator MARK BISHOP—And the Queensland operation?

Mr Downey—Jupiters?

Senator MARK BISHOP—Yes.

Mr Downey—Yes, Jupiters are members of our association.

Senator MARK BISHOP—So all of the land based casinos are members of your organisation?

Mr Downey—Yes.

Senator MARK BISHOP—And they have all endorsed it?

Mr Downey—Exactly.

Senator MARK BISHOP—Does part of the code address the issue of credit gambling?

Mr Downey—As I understand it, it does.

Senator MARK BISHOP—Can you just explain what the code is with respect to credit gambling in the online world?

Mr G. Farrell—Credit betting or playing on credit is not allowed. That means that you must have money in your account to play against.

Senator MARK BISHOP—Let us say that I have signed up. I am a registered user and I am having a punt. I exhaust whatever my limit is—\$500, \$1,000 or whatever it is. Can I then go to my Visa or Diners Club card and transfer money from that card to my gambling account and continue gambling?

Mr G. Farrell—Yes, you could.

Mr Downey—I do not think they can do that with a Diners card.

Senator MARK BISHOP—Why not a Diners card?

Mr Downey—Because Diners and Amex have unlimited credit facilities.

Senator MARK BISHOP—Do you only allow users of credit cards to transfer from cards that have limited facilities?

Mr Downey—That is correct.

Senator MARK BISHOP—So, if I have a limit on my Visa card or Bankcard of \$10,000, I could transfer up to that amount to continue gambling?

Mr G. Farrell—Chris, you had better answer that.

Mr Downey—I would have to take that on notice. My view is that you could, but I will take that on notice.

Mrs Pafumi—The amount that you could deposit to your playing account in any one month is subject to the deposit limits set by those online casinos. For example, with Lasseters, you would only ever be allowed to deposit \$500 a month.

Senator MARK BISHOP—What is the maximum that other casinos allow to be deposited per month?

Mr Downy—At this stage there are no other casinos. Lasseters is the only online casino that is operating in Australia.

Senator MARK BISHOP—In the future, will there be higher limits permitted?

Mr G. Farrell—The way the model works is that you can configure your limits: you could say that the maximum amount that you want to expose yourself to, say, lose in a month is \$500 or \$5,000. It could actually be higher. It is not necessarily the amount of money, is it? If you are Kerry Packer and you are playing on the Internet casino, whether it is \$5,000 or \$10,000 is very different to you as a person who has decided that the maximum amount of money that you are prepared to play against for that given month is \$300 or \$400. It is all relative.

Senator MARK BISHOP—All I am trying to establish is the extent to which gamblers will be allowed to use their credit cards to access funds to begin or continue gambling. What you are saying is that the cards that are open-ended cannot be used but with cards that are not open-ended—and I instance Bankcard or Visa card where the subscriber gets a limit from the particular company—you can bet up to that limit, whatever an individual might have. That is what I understand you are saying. Is that correct?

Mr G. Farrell—That is my understanding.

Senator MARK BISHOP—Does the ACA have any information on the proportion of gaming revenue that is returned to users?

Mr G. Farrell—It really depends on the game. In the majority of cases, the table games will return very similar returns to those in the casino. Gaming machine games generally return a greater amount to the players on Internet casinos. The reason is that it is a very competitive market and obviously the companies have fewer costs tied up in the gaming machine product. A gaming machine product in a casino may return anything from 85 per cent to 96 per cent to the player; in an online casino it is more likely to be in the very high 90s.

Senator MARK BISHOP—Is the online gambling world becoming very competitive?

Mr G. Farrell—It is very competitive.

Senator MARK BISHOP—It is already very competitive?

Mr G. Farrell—Yes, it is competitive.

Senator MARK BISHOP—So your margins are compressed?

Mr G. Farrell—Yes. There is absolutely no doubt that there are operators out there operating successfully and earning good margins with Internet gambling and there is also absolutely no doubt that there are those who have struggled and those who have come and gone over the early stages of the industry's development.

Senator MARK BISHOP—In the submission you said that there had been in the order of \$70 million invested in interactive gambling by the industry to date. Can you tell me how much of that has been spent on problem gambling? Can the ACA give us that information?

Mr Downy—On problem gambling?

Senator MARK BISHOP—Yes, on problem gambling.

Mr Downy—That is the amount of money that has been expended by the online industry on research and development. One of the issues that the ACA—

Senator MARK BISHOP—Has the \$70 million been spent by the online industry on research and development?

Mr Downy—That is as I understand it, yes. The association adopted a position earlier this year that it was prepared to look at the issue of supporting, if you like, problem gambling by hypothecating a part, one per cent, of revenue towards some sort of fund that would be set aside for research into problem gambling.

Senator MARK BISHOP—Did you say one per cent, or a part of one per cent?

Mr Downy—No, one per cent. You would have received that, Senator. We sent a position paper to all members of parliament and senators.

Senator MARK BISHOP—I receive a lot of papers.

Mr Downy—I am sure you do; I understand that. But in terms of the issue of responsible gambling, maybe I should go back a step. Up until October last year the association was very much, if you like, an organisation where the CEOs met on a regular basis and compared notes. The CEOs of the casinos determined last year that they wanted to see a national industry body set up in Australia to represent their interests. I am the first

full-time executive director. There were a number of task forces, mostly concerned with taxation, security and surveillance, online gambling.

The association has now set up a responsible gambling task force where we are having a look at the whole issue of responsible gambling. I cannot remember which senator it was—I think it was Senator Greig—made the point that there is not even really one definition of what problem gambling is. That is certainly an issue that has confronted our members as well. So part of our job as an association is to look at this whole issue of responsible gambling, both online and land based, and also the issue of problem gambling and how we work with the community and with governments at both a state and federal level to look at the whole issue. We want to be part of the solution. We do not want to be sitting outside. In terms of that we proposed earlier this year that, if it was to assist in any way, the online industry would be prepared to put one per cent of revenue aside for research into problem gambling.

Mr G. Farrell—It is also fair to say that the sites are designed very much around enabling people who have problem gambling tendencies to assist them with managing those tendencies, leading to people being able to ban themselves from the sites.

Senator MARK BISHOP—That is right, and you gave that evidence, which leads to the obvious question: how many online gamblers have excluded themselves to date through those mechanisms? Do you have any information?

Mrs Pafumi—Yes, I do. The latest information I have received this week is that since Lasseters Online went live over two years ago, 300 players have permanently excluded themselves from the site. That is 300 out of 140,000 registrations that we have received.

Senator MARK BISHOP—What is your active play list, if I can put it that way?

Mrs Pafumi—The current active play list is 140,000.

Mr G. Farrell—Before we were closed down, we had one. We actually had four, but three of them had incorrectly pressed buttons.

Senator MARK BISHOP—I do remember that evidence, Mr Farrell. So you have had 300 people who have locked themselves out. That is 300 worldwide, of course, isn't it?

Mrs Pafumi—That is right.

Senator MARK BISHOP—Over 95 per cent of your patrons are from outside Australia?

Mrs Pafumi—That is right.

Senator MARK BISHOP—Previous evidence—and I think it has been confirmed again today—is that, as we have just said, something over 95 per cent of your patrons are from outside Australia. So the enormous amount of your revenue, if you like, is not going to be affected by this bill in any way. You will still keep 138,000 of those 140,000-odd patrons. So it does not affect you in a material way. What is your particular concern, then, about the bill?

Mrs Pafumi—While the bill as it is currently drafted will not affect us immediately, as you say correctly, we are still concerned that it is not necessarily a good policy. We are still concerned also about the Australian market. We would like to be able to make our services available to Australian players and even though they are only less than five per cent of our current players, in an industry like ours, which is working on very small margins and where the whole success of the business is driven by volume of players, the critical mass of players, five per cent is very significant to us. So we are still concerned about the Australian market.

Senator MARK BISHOP—Has there been any increase or decline in overseas players' numbers since the moratorium was introduced?

Mrs Pafumi—No, we have continued to receive strong growth in player registrations internationally.

Senator GREIG—In your opening remarks, you made reference to clients who were unable to access cash gaming through Lasseters and thus went elsewhere. I do not understand what you mean by that. Can you clarify that, please?

Mrs Pafumi—Certainly; at the moment under the terms of our licence with the Northern Territory government, we are only permitted to allow cash gaming for Australians located in the southern region of the Northern Territory. That is an area that has a population of approximately 35,000 people.

Senator GREIG—What do you mean by cash gaming?

Mrs Pafumi—On the Internet you can either play for cash—so place cash bets—or you can just play for points, like with a video game or a computer game. Out of those 15,000 Australians who have registered with Lasseters, pretty much all of them are just playing for points. So essentially it is just a way of filling in some time in between things you are doing at home or whatever just for some home entertainment.

Senator GREIG—So far as Lasseters is concerned, is it a public relations exercise to perhaps interest people in the other advantages of being involved with the casino?

Mrs Pafumi—It is a service that we are offering worldwide. We offer points play for international players as well, so it is not only Australians who are playing for points. It is just part of the service, and we make our online gaming service available for people and they can make the choice as to whether they play for points or cash.

Senator GREIG—You also spoke in your earlier submission about this: if wagering were to be excluded by amendment to this legislation, it ought to be subject to the same safeguards and regulations that Lasseters, for example, has imposed. Do you feel that there is a double standard here in terms of those people arguing in favour of removing wagering while at the same time giving tacit or overt support for removing online services?

Mrs Pafumi—We respect those companies' position and we respect their right to defend their business. From that perspective, I would rather not comment on the pros and cons of wagering versus gaming. I think that has been detailed sufficiently. Our position has always been that there should be a consistent standard of regulation across all forms of gaming. For that purpose we believe that wagering should be subject to the same regulations as online casinos.

Senator GREIG—Those organisations who have supported the removal of wagering while endorsing the remainder of the bill or having no opinion on it have argued that evidence suggests that problem gambling is significantly contributed to by accessibility. They argue, rightly or wrongly, that online gambling provides greater accessibility. That would tend to be supported by your submission, for example. On page 4 you make reference to the Productivity Commission's investigation into various aspects of problem gambling or into the categories thereof, and they include gaming machines through to bingo. Clearly, for 68.9 per cent—nearly 70 per cent—of people, as this study suggests, the mechanism through which they exercise their gambling problem is through gaming machines. Would you agree then that there may be a link between gaming machines and online services and problem gambling?

Mrs Pafumi—To answer that question, you would have to look at what motivates a problem gambler. I am no psychologist, so I do not know all the answers to that, but my understanding is that there can be a variety of reasons why people choose to be problem gamblers. There are also a variety of reasons why people prefer to go down to play the pokies at a local club as a means of getting out of the house. I think there are a lot of reasons why people are drawn to poker machines in local venues as a way of socialising, passing the time, getting out of the home and getting some entertainment.

The dynamics of online gaming are quite different to that. What motivates an online player is quite different. Online gaming is really just a home based form of spending some time. It is entertainment, it is low-cost—you can put a bet on for as little as 1c—and we are finding that people are choosing to play for an average of 10 minutes at a time. They are not sitting on the computer for hours on end and playing the games, as you see people doing in hotels and clubs playing on poker machines. The dynamics of the two forms of gambling are quite different. We would argue that, while the large percentage of homes with computers now would create the potential for increased accessibility, there are a number of choices that people have to make as to whether they take up that potential and whether they do actually register with an online casino. The reasons they choose to do that are different to the reasons they would go and gamble in a hotel.

Senator GREIG—Are you aware of evidence to suggest—and you may already have referred to this—that many Australians are already quite readily and easily going offshore through the use of their own PC and gambling thus?

Mrs Pafumi—Yes. We do not have current research to tell us exactly how many are, but in our submission we have tried to estimate how many there may be by looking at international growth rates in the online gaming market, as judged by independent advisers, and also by looking at the take-up of electronic commerce in Australia based on the recent NOIE reports. We found that there could be anywhere between 135,000 and 218,000 Australians who are currently participating in online gaming. The important fact with that estimate is that our research amongst players shows that 70 per cent of players will register with four or more online gaming operators. For example, they may register with Lasseters but they might also be registering with three online casinos out of the Caribbean, England and South Africa or wherever. When you total that, you find that a large proportion of Australians are already participating in offshore gambling. Under the terms of this bill, there would be nothing to prevent that.

Senator GREIG—You said that, contrary to popular perception, young people were less inclined to be involved in online gambling. Do you think that that may change, given that it is generally young people who are the most comfortable and the most familiar with IT and Internet technologies and that, as those young people age, there may be a greater uptake of these kinds of facilities?

Mrs Pafumi—I would have to say no, mainly because, over two years, the percentage of players that have been young people has consistently been very low. While young people are very familiar with the technology, they are also the type of people who like to go to clubs, venues, pubs and casinos and have drinks with friends and socialise. For them, gaming activities are more of a social activity. For that reason I do not think that we will see significant growth in the young market online.

CHAIR—I thank the witnesses for appearing.

[1.59 p.m.]

CLARK, Mr Anthony Terrence, Director, Policy and Legislative Development, Planning and Strategic Development Division, Northern Territory Department of Industries and Business

CHAIR—Mr Clark, welcome to the witness stand, such as it is. We have before us submission No. 22. You may request that evidence be given in camera but, as I have said previously and as you have heard, the Senate reserves the right to make such in camera evidence public if it so desires. Do you have any alterations or additions that you would like to make to your submission?

Mr Clark—No, I have not.

CHAIR—Would you like to make an opening statement?

Mr Clark—Yes. Unlike others who have appeared so far, I appear on behalf of neither the gambling industry nor the antigambling industry. Rather, I have been involved in policy development, particularly in the area of interactive gambling, for some considerable time. Most relevantly for the work of this committee, I am currently a member of the officials group that supports the Ministerial Council on Gambling. I am a member of the national working party looking at responsible gambling practices. This is the group that has been charged with examining the options put forward by COAG and the ministerial council to address problem gambling in current terrestrial forms of gambling, like gaming machines.

I am also a member, and have been since its inception, of the national working party on interactive wagering. This is the body that developed the functionality requirements for wagering Internet sites that was referred to by ARBAC in its written submission. I have also been a member since its inception of the national working party on interactive gaming. I am currently the convener of that national working party, which developed the AUS Model—Australian uniform standards for the regulation of interactive gaming. So, in short, I have been directly involved in interactive gambling policy since 1995-96. I also represent a jurisdiction—the Northern Territory—that has established a number of world-class Internet gaming sites that have operated for some years. We have developed some expertise in their regulation, and you have heard submissions from these groups during the day.

It is with this background and experience that I approach the bill. If I am correct, the bill aims to achieve two things: firstly, it attempts to draw a symbolic line in the sand, as it were, to start changing the Australian gambling culture; and, secondly, it would seek to combat problem gambling. The Northern Territory fully supports both of these objectives. We want to change a gambling culture that encourages excessive and detrimental gambling. We are also committed to fighting problem gambling. However, this bill fails to achieve both of those objectives. Indeed, in respect of fighting problem gambling—to the extent that this bill would preclude operators using the Internet technological platform—this bill could actually be described as worse than useless.

Why does it fail? Essentially, there are two reasons. First, the bill is based on an inadequate assessment of the impact and potential of the new technology. For example, we have access to Internet gaming sites now. There is nothing potential about the access; the access is achieved now. Also, it ignores the fact that this technological platform can be used to deliver harm minimisation features that we would struggle to replicate in the real world. Secondly, it fails to differentiate between different forms of gambling and how interactive technology is used in that regard.

I will take the second point first. You have already heard lengthy submissions today pointing out that, for wagering products, TABs, bookmakers and lotteries, the Internet simply serves as a cost-effective communication channel. It enables bets and entries to be made for the cost of a local call. In some ways the Internet is just a glorified fax machine. It is just an alternative mechanism to the fax or phone, both of which will continue to be legal under this bill. No good reason has been presented as to why an activity that is legal using a fax or phone should be illegal using the Internet. Indeed, no explanation at all has been given as to why the findings of the Productivity Commission and this committee in relation to the Netbets report should be disregarded.

In terms of achieving the two objectives of the bill, which are culture change and combating problem gambling, our submission is that the bill will do nothing. Firstly, it will not stop gambling activity. Therefore, it will not have an effect on problem gambling, and again I am talking wagering, lotteries and these sorts of things. It fails to take account of the extent we are able to use the Internet to deliver harm minimisation

features. In other words, it takes away a valuable tool we have for fighting the problem we are all concerned about.

Of course, the effect of the bill is far wider. By blocking access to cost-effective technology you are forcing bookmakers and lotteries into using the technology of the last century. In short, you will make the Northern Territory's world-class operators unable to compete and, in the longer term, unable to survive in a global market. By denying access to the technology, it is clear that the Northern Territory operators will be forced to look offshore. This will see the loss of some 200 Territory jobs and the loss of export income. I think Centrebet noted that it was listed in the 50 most important exporters last year. We will lose IT expertise and so on. And why? Because someone does not appreciate the capacity to which we can use the technology for good, as it were, and, secondly, because they do not understand the actual gambling activity that they are trying to regulate.

In relation to wagering, one aspect that has come through is harm minimisation or, arguably, the absence of harm minimisation features compared to, say, a Lasseters site. It may be helpful for me to indicate to the committee that the racing ministers are in fact meeting today and one of the matters that they will be considering is an interim report on improved player protection measures. I must say 'interim' as I am not sure it will be finalised today, but I make the point that it is certainly being worked on at the moment and I expect it to be finalised soon.

So let us move to the more contentious area of Internet casinos. One of the concerns that has been expressed is that the Internet basically puts a virtual gaming machine in every lounge room and therefore increases access. Gaming machines have been identified already as products that are linked to problem gambling. Again, we need to be very clear about what is happening under this bill. I have already mentioned the fact that having access to the Internet means you have access to Internet gambling. That is a fact of life. In terms of the notion of access, access is here—access has been overtaken by the fact of the Internet. We now turn to the other question of exacerbating problem gaming, the so-called virtual poker machine in every lounge room. It is significant to note that the bill will not prevent Australians accessing offshore sites—99.9 per cent of the sites are offshore sites. So the bill will do nothing to prevent Australians accessing almost all of the Internet gaming sites that are available now.

In my submission I noted that Australians have access to almost all Internet gaming sites. The one omission is Lasseters which, as you heard previously, is currently restricted. In terms of the risks to gambling, and again focusing on problem gambling, the bill fails to recognise the extent of the harm minimisation measures that can be built into the gambling product. The Productivity Commission listed a number of features that already exist. They cited Lasseters, and I am sure several members of this committee have already seen the kinds of features that we built into Lasseters Online casino. The AUS Model, which I would now, with leave, seek to table before this committee, goes a lot further. If I may I will briefly point to some of the new player protection features. You have the capacity to set a deposit limit. That exists now—\$500 a month at Lasseters. Players will also be given the option of setting a bet limit and setting a loss limit. In other words, if I put in \$20 as my loss limit, I hit \$20, that is it, end of the game. The AUS Model will also provide for breaks in play. Again the Productivity Commission and other commentators have been concerned about the continuous nature of this—

Senator ALLISON—Mr Clark, would you draw our attention to the page on which you—

Mr Clark—Certainly. I am speaking generally, but in terms of breaks of play, I take you to page 13. Under the AUS Model, a site must provide the player with the option to set breaks in the play—five minutes an hour, 10 minutes an hour, whatever period they wish. Equally, the site will send emails to the player along the lines of, 'You've now been playing for 45 minutes; do you think it's time for a break?'—something to change the consciousness, to break the flow. Another new feature of the AUS Model will be improved national exclusions. Under the AUS Model, as you will see, a player can nominate to exclude from a particular type of gaming—in other words, 'I think I've got a problem with gaming machines. I don't want to play any more gaming machines.' You can choose to exclude yourself from that product across all Australian sites. You can choose to exclude yourself from a particular site or you can choose to exclude yourself from all Australian sites.

The first observation I would notice is that there is no gambling product in the world that has the kinds of harm minimisation features that AUS Model would provide. In fact, it is ironic that many of the features that COAG and the Ministerial Council on Gambling would like to see implemented in the physical world are inspired by or easily achievable on the Internet technological platform. Even more ironic is that with many of those that we are currently looking at with a view to moving into the physical world we will struggle to replicate what is available on the Internet. An excellent example of this is the capacity for a player to set bet limits. It is almost impossible, without a centralised system, for a player to self-impose a bet limit on a gaming machine by simply going to the next gaming machine and off we go again; whereas, with the Internet we can put that limit Australia-wide. We expect these features to help in fighting problem gambling. Indeed,

obviously the Productivity Commission, COAG and the ministerial council do as well or they would not have recommended that these features be applied to the physical world.

Let us come back to see how well the objectives of the bill are being met. Firstly, the bill will not stop Australians accessing almost every Internet gaming site in the world. So it makes no change in access. All it does is stop Australians accessing the best regulated Internet gaming sites in the world—our own. It is likely to exacerbate problem gambling rather than reduce it because you are blocking players from accessing the kinds of harm minimisation features of which I have just spoken.

I will now turn to a few points on the terms of the bill. You have heard today a number of complaints about the unintended consequences of the bill. I note for the record that Senator Alston has issued a press release indicating that those matters will be addressed, so I will not press the point any further. Secondly, I think you have had put to you some very sensible suggestions in respect of excising wagering and lotteries from the scope of this bill for the reasons you heard this morning. If so, this bill will apply only to Internet casinos. Yet they are the very products for which we need these extra harm minimisation features. In essence, if you are really concerned about problem gambling, you should defeat this bill. The suggestion was made by one of the witnesses earlier today that the bill is in fact better than nothing. With respect, I disagree. As I said at the opening, I think this bill will be worse than useless. That is my statement. Thank you.

Senator MARK BISHOP—Thank you for that contribution—it was most useful. I was intrigued by a couple of paragraphs in your submission. On page 7, under point 1, ‘Proposal: differentiate between the technologies,’ you make the point:

In respect of the internet, its global nature and resistance to jurisdictional control have presented special challenges. However, a key distinction between internet and broadcasting services is that consumers choose to access particular internet sites. This is not so in the case of broadcast services such as television—

That is quite correct. You continue:

These services have the potential to be more invasive in terms of delivering gambling to homes, and without the strict harm minimisation features that are applicable to the internet.

Can you develop that argument or add some more flesh to the bones?

Mr Clark—Certainly. I must say that, while I do make that point, it is not one I would press too strongly in the sense that technological development and datacasting are almost likely to overtake some elements of that. But simply looking at the situation of technology as it exists today, the television is by far the most accessible and perhaps invasive form of technology we have at the moment. I can switch it off and I can change channels, but the reality is that I take what I am given—unlike the Internet, where I actually go and choose what sites I am going to go and visit and what I am going to do when I go to those sites.

Senator MARK BISHOP—I accept all of that, but what is your particular concern with the use of the broadcasting services in the context of interactive gambling?

Mr Clark—I have not so much got a concern as that I am attempting to suggest perhaps an alternative for this committee if it were persuaded that banning the Internet in the light of the evidence given was not the way to go. It may well consider that the use of gambling by means of television raises equal social problems. As I have suggested, it would be difficult to apply those same harm minimisation features that we have built into the Internet to television.

Senator MARK BISHOP—Why do you say that?

Mr Clark—As I say, that statement is so based on the technology as it is today. As I said earlier, I would not press this point too far, because I think in a few years, with datacasting and other forms—

Senator MARK BISHOP—Datacasting is quite restricted, under the amendments last year, in what can be delivered.

Mr Clark—Indeed, but we are perhaps arguing about when it will achieve a certain technological functionality, and that is obviously a matter of judgment. If we take the social concerns that have motivated this bill, which are about delivering gambling products to people’s homes, I suggest that the risk is perhaps greater in respect of television than the Internet.

Senator MARK BISHOP—In that context, flagging that as an issue of concern, in your view is it something that is worthy of attention by both government and the community?

Mr Clark—I think it is. Problem gambling has now been established as a fundamental community concern, so where it occurs and how it occurs are matters very much for consideration by government and the community.

Senator MARK BISHOP—We have not yet seen Senator Alston’s press release, so we do not know what matters he is going to address in terms of the unintended consequences, but if it is the roping in of the lotteries, the kiosks and the game shows on the TV—and a lot of those things are not intended to be covered

by this bill, as some witnesses have suggested—we really have a bill that simply prevents Australians accessing Australian sites, don't we?

Mr Clark—Exactly right.

Senator MARK BISHOP—You do not have any reservation in urging that this committee find that the bill should be rejected on that basis?

Mr Clark—Absolutely not. I would strongly urge the committee to reject the bill on that basis, precisely because of the aims for which it has been put forward. As I said, it is actually likely to exacerbate problem gambling rather than help it. I can fully understand the community concern about problem gambling. I can equally fully understand and support those who want to do something about it and be seen to do something about it. But it is too important to simply go with symbolism when the effect is actually to make it worse.

Senator MARK BISHOP—Two final questions, Mr Clark: was the Northern Territory government consulted on the content of the bill before it was made public, and was the content of the bill in any way examined by the ministerial council?

Mr Clark—The content of the bill was definitely not made available to the Northern Territory prior to its introduction. The content of the bill was discussed at the Ministerial Council on Gambling. Obviously, I am precluded to the extent that I can go into it, but there are sufficient comments on the public—

Senator MARK BISHOP—Why are you precluded?

Mr Clark—The proceedings of the ministerial council were closed. As I understand it, they were not made public. Therefore, it would be inappropriate for me to speak in detail on that. But I can point to press releases and other statements on the public record which indicate that this was a matter of vigorous discussion at the Ministerial Council on Gambling, with the states and territories criticising the unintended consequences and certainly the inclusion of lotteries and wagering within the scope of this bill.

Senator MARK BISHOP—Did any of the states or territories support the bill in its current form?

Mr Clark—I am unaware of that, Senator. I could not say that is not the case.

Senator MARK BISHOP—You do not know. But in terms of discussion at the ministerial council, some of the unintended consequences that have been referred to by earlier witnesses were the subject of vigorous discussion and criticism by the various ministers; is that correct?

Mr Clark—That would be a correct statement.

Senator MARK BISHOP—And indeed they were all opposed to it, weren't they?

Mr Clark—I think that would be a correct statement as well, yes.

Senator MARK BISHOP—That is a correct statement, yes.

Senator ALLISON—What revenue does the Northern Territory government derive from gambling?

Mr Clark—I would have to take that on notice to be specific, Senator, but it would be in the order of \$20 million plus.

Senator ALLISON—What is your projection from Internet gambling in the event that the ban does not proceed? Is it possible to tell us what that would be, too?

Mr Clark—That is the revenue from all forms of gambling. The revenue that we receive from Internet gambling, as I think we have given evidence on before, is not the prime motivation as to why the Northern Territory legalised this form of gambling. I am unaware of any projections in terms of the effect on revenue whether this bill goes through or not.

Senator ALLISON—The Northern Territory government has not made any estimation or would not know what that was likely to be?

Mr Clark—The thing is that it turns on estimations of market size, market growth and these sorts of things, which are all good fun, but at the moment there is a remarkable lack of hard data in relation to the Internet market—who is using it and where it is likely to go. There are a large number of unknowns and, frankly, if we did do the exercise, I am not sure that we would end up with a figure that we can very much rely on.

Senator ALLISON—In terms of harm minimisation, what is the Northern Territory doing to see that there is harm minimisation in place across the spectrum? I do not want chapter and verse, but can you give us some idea of the budget—what is spent on harm minimisation—and what programs you have in place?

Mr Clark—This is general gambling and not just online gambling?

Senator ALLISON—Yes.

Mr Clark—We have a very strong responsible gambling regime in the Northern Territory.

Senator ALLISON—What is the budget for it?

Mr Clark—I will come directly to gaming machines because they are the best example of problem gambling. Unlike other states, for example, we do not allow note acceptance, we do not have linked jackpots and we do not allow external advertising of poker machines—beyond a small statement that they are available. Any prize over \$250 must be given in a personal, not negotiable, cheque, both to stop the player putting the winnings back through the machines and to stop the person being bumped on the head, shall we say, as they walk outside to the car park with their \$1,000. We have features that many are struggling to have. For instance, we have light in our venues, we have clocks and we have a maximum betting limit of, I think, \$10, but I will have to confirm that at a later time.

Senator ALLISON—Can you compare the Northern Territory with other states that do not have such stringent harm minimisation measures in place and can you demonstrate that those measures have worked?

Mr Clark—In relation to how we compare with other states, I would suggest that your staff may be able to give you some examples of that but just take, for example, no note acceptors, I think there are only three jurisdictions the same as the Northern Territory. In respect of payment of winnings by cheque, I think we are probably the lowest across all of them in terms of the dollar amount. As for effectiveness, we really have to look at the research. There are two main sources of this: one is obviously the Productivity Commission and its assessment of problem gambling rates in the Northern Territory. Also, when we introduced gaming machines in 1996, we had Professor Jan McMillan undertake a baseline study of gambling across the Northern Territory. I understand that the government is currently reviewing its policy in respect of both the community benefit fund and further responsible gambling measures. One of the matters that will be considered is a follow-up study to assess the impact of problem gambling. Our current level of problem gambling varies. Numerically, it is obviously fairly small but, in some ways, that is not the point. All I need is one person for whom it is an extreme problem for it to be of concern. So, yes, our numbers are fairly small.

Senator ALLISON—What evidence is there to suggest exclusion opportunities for online gamblers will work in the home environment?

Mr Clark—There is little hard evidence. You have heard that we are going to need research in a number of areas, and this is one where we actually need to know how effective these things are.

Senator ALLISON—With the current numbers of customers, do we know how many in the Northern Territory exclude themselves?

Mr Clark—Lasseters gave you that evidence in the previous submission. I think some 350 have availed themselves of the facility.

Senator MARK BISHOP—The number is 300 out of 140,000.

Senator ALLISON—So it is a very small number who are exercising that choice.

Senator MARK BISHOP—It is even less for Internet and overseas.

Mr Clark—With respect, if I understood Mrs Pafumi's evidence correctly, that was permanent exclusion. One of the features provided by Lasseters is that you can push the exclusion button and you are excluded for seven days. It is, essentially, a cooling off period. When you have pushed that button three times, you are excluded permanently.

Senator ALLISON—You said that you think this legislation will have a worse impact. This is presumably because you think that people will gamble online with overseas providers; is that the crux of your argument?

Mr Clark—Essentially, yes it is.

Senator ALLISON—Is there any other evidence?

Mr Clark—No, there are two points: the first is that, effectively, you have not blocked online gambling at all. The notion that this is a ban is essentially a misnomer. It is not really a ban; it is just a ban on accessing Australian sites, which would constitute, as I say, probably less than one per cent of the number of available sites. There is a suggestion that Australians are going to be reluctant to go overseas. Again, I have not seen evidence for that. Anecdotally, I think the Buy Australian campaign suggests that we are not all that parochial. Equally, Mrs Pafumi has already given some assessment of the number of Australians that are currently gambling with online gaming sites offshore.

Senator ALLISON—Have you done any studies of gamblers to determine whether making it illegal would make a difference to whether or not they use that service, overseas or otherwise?

Mr Clark—In the sense of: if we made it an offence would it have an effect?

Senator ALLISON—Yes.

Mr Clark—No. I can point to one aspect—and this is something that was picked up by some of the wagering people this morning—and that is, New South Wales made it an offence some years ago for a person to bet with other than an Australian licensed bookmaker or TAB. Correctly, they have observed that other jurisdictions are loathe to go down route because, frankly, I think it is an unenforceable offence. It would be interesting to know whether New South Wales has any evidence that an offence such as that has actually worked. The fact is that no research has been done and I could not give you a categorical yes or no.

CHAIR—Thank you, Mr Clark, for appearing before the committee. Your evidence was very good.

[2.32 p.m.]

BENNETT, Mr Raymond Barry, Chief Executive Officer, Western Australian TAB

JUDGE, Mrs Petrice Anne, Director, Federal Affairs, Ministry of the Premier and Cabinet

NICHOLS, Mr Jon Martin, Manager, Policy and Executive Support, Office of Racing, Gaming and Liquor

STEWART, Mrs Jan, Chief Executive Officer, Lotteries Commission of Western Australia

CHAIR—Welcome to the committee. While the Senate prefers all evidence to be given in public, you may request that evidence be given in camera and the Senate committee will consider that request. If it is granted, however, you should understand that the Senate may subsequently order the publication of any evidence given in camera to a Senate committee. I also add that you should know that it is an offence to give false or misleading evidence to a Senate committee. Do you have any alterations or additions to make to your submission?

Mrs Judge—No.

CHAIR—Would you like to make an opening statement before the senators question you?

Mrs Judge—Yes, I would. I understand that we have a very short time to present the Western Australian view.

CHAIR—We have your submission, which is quite long, and we have all read it. Even though the time might be a little short, we are aware of the Western Australian government's position.

Mrs Judge—In our view, it is a very clear submission and it represents the coordinated view of a number of agencies. You may ask why is Western Australia well equipped to comment. Our view is that the Western Australian approach to gambling policy is not revenue driven. In the 15 years since the establishment of its one and only casino, the obvious taxation revenue advantages to be gained by introducing gaming machines in the wider community were listed because of the potential for an unacceptable level of harm that would accompany such a move. This gambling policy is a critical component of the state's social fabric and the Western Australian government is committed to maintaining it.

The Productivity Commission has estimated that if gaming machines were to be introduced in Western Australia the incidence of persons with significant gambling problems would more than double. Western Australia does not in any way wish to compromise its position. Therefore, the government supports the concerns over the proliferation of interactive services over the Internet. Essentially, we are supportive of the bill but there are some issues in relation to the way the bill is currently drafted that we want to bring to your attention. Specifically, one of the issues is that, because a telecommunications line is used into shops, this may inadvertently make existing retail distribution illegal. We would like to send some possible amendments to the drafted words to overcome that problem. The other issue, as we raised in the submission, is about wagering on racing and sporting events over the Internet. It is our view that that should be possible, as well as the selling of lottery products. We are now open to questions from the committee.

Senator MARK BISHOP—I was a bit intrigued to hear your opening comment. If government at a Commonwealth level should attend to those concerns about lotteries, TAB and bookmaking services in terms of wagering, is it the view of the newly elected Western Australian government that the bill be passed by the Commonwealth parliament?

Mrs Judge—We are basically supportive of a ban on gaming over the Internet.

Senator MARK BISHOP—To the extent that the bill bans Internet gambling in Australia, you support it?

Mrs Judge—Yes.

Senator MARK BISHOP—What does the Western Australian government say to the proposition that if Australian residents are denied access to Australian based sites for Internet gambling they just have to pump in a few different letters into their PC and can access hundreds, if not thousands, of other sites to do their gambling?

Mr Bennett—That is quite true. Just banning gaming over the Internet is not going to change anything. We believe that, by making the payment system a bit more responsible for how the money changes hands over the Internet, it would be possible to significantly reduce the number of people betting onshore or offshore via the Internet.

Senator MARK BISHOP—Can you say that again, Mr Bennett?

Mr Bennett—The way in which most of these gambling sites work is based on credit card use. I know the banks have said that it is not possible for them to contain or stop people using their credit cards on the Internet, but if it were made law that a debt incurred by credit card for gambling purposes was not recoverable

you might find that even offshore organisations are going to have to try some other way for people to be able to deposit money into an account rather than the immediacy of being able to use a credit card. That might cause some heartache for a bank somewhere in the world, but it would seem to be a way to at least cause a break between the impulse to gamble and the payment of the gambling wager.

Senator MARK BISHOP—We heard previously from an official from the Northern Territory government, who explained to us some of the detail of the new AUS Model code that was published in early April and is out for public comment. I presume that the Western Australia government is in the process of signing on to that model. That model specifically allows for credit card betting up to certain limits using certain types of cards, like Visa card or Bankcard, where the consumer has a limit on the amount of credit he can access. Is the Western Australian government supportive of that measure in the AUS Model code?

Mr Bennett—It would certainly help, because the main danger is the unfettered ability to draw on credit cards. The system then comes down to one of almost stealth regulation by the operator. While you could have that applying to Australian organisations, I cannot see how you would be able to enforce that or apply that to any offshore organisation.

Senator MARK BISHOP—Isn't there a bit of inconsistency in supporting a model that allows or encourages credit card betting by consumers—and they freely access that provision consistent with the model endorsed by the Western Australian government—when you then want to make it illegal to recover the same funds by the provider of the funds?

Mr Bennett—No. In the model that we have been looking at, the wagering activities are legal, but people who want to place a bet by wagering should still need to have an account where that money should be put in some time prior to the bet taking place. We are also not participating in the AUS model because it represents interactive gaming machines.

Senator MARK BISHOP—So the Western Australian government is not participating in that model?

Mr Bennett—No.

Senator MARK BISHOP—Sorry, I understood that all states had signed off on it.

Mr Bennett—No, not as I understand it.

Mr Nichols—While Western Australia did participate in the development of the model and endorse its contents, we will not be participants in the application of the model because we do not license gaming machines in the community, and the model specifically relates to the licensing of interactive gaming sites and, therefore, gaming machines in the community. We will not be participants in the AUS Model.

Senator MARK BISHOP—Thank you for that. That clears up that area. Does the Western Australian government have any legislative initiatives on the go to address these issues?

Mrs Judge—In terms of preventing gaming over the Internet?

Senator MARK BISHOP—Yes.

Mr Nichols—Under our current Gaming Commission Act we have a prohibition on the access of non-casino gaming via a computer or interactive means. So we would need to legislate to allow the licensing of interactive gaming providers.

Senator MARK BISHOP—Is there any suggestion that you might be going down that path?

Mr Nichols—Not at all.

Mrs Judge—Definitely not.

Senator MARK BISHOP—That is very clear.

Mrs Judge—We do want it, though, to be able to sell lottery products over the Internet as well as—as I have referred to—the wagering.

Senator GREIG—I have a question about gaming versus wagering. We heard what I would argue was compelling evidence earlier today whereby one witness made the claim that the regulated Australian online facilities for gambling currently provide substantial safety nets and gatekeeping procedures to minimise problem gambling, a process which has been praised by some community commentators working in the area of welfare. Yet under this proposed bill access to those online services with their strong regulatory regime would be prohibited, although you could still wager online, and wagering has no safeguards and gatekeeping facilities. How does the Western Australian government reconcile its support for one but not the other using the argument of harm minimisation?

Mr Nichols—There are two issues here. Firstly, our view is that wagering over the Internet and the sale of online lottery products over the Internet present a much reduced potential for harm. The Western Australian TAB has been offering its services over the Internet since 1997 and the turnover, while showing some growth,

has only been modest. There has certainly not been the exponential growth, as one might expect, that has been attached to virtual casinos and we do not believe that service establishes any significant opportunity for harm.

Secondly, the Racing Ministers Conference that is being conducted in Alice Springs at the present time has, as one of its agenda items, the development of a code for responsible wagering. The guidelines for such a code are being discussed at a national level at the present time and Western Australia—and certainly I imagine the other jurisdictions will follow—will introduce a code for responsible wagering which will implement measures similar to those types of measures that are in the AUS Model concerning player commitment and other harm minimisation processes. Therefore, we do not believe our approach is inconsistent.

Senator GREIG—Does the Western Australian government understand fully, should this legislation pass, that in terms of online gambling it will simply have the effect of prohibiting Australians from using online services provided in Australia but that those same punters, still using the World Wide Web, can easily access gambling services based overseas?

Mrs Judge—Yes, we do.

Mr Nichols—We certainly do. The danger that we have with that approach is that, if our punters are able to access offshore sites, they will do so in a much less regulated environment than would be provided by Australian sites.

Senator GREIG—Are you saying that is a good thing or a bad thing?

Mr Nichols—A bad thing.

Senator GREIG—Then why support the legislation?

Mr Nichols—We support the legislation in that we are not supportive of the expansion of gaming machines into the community, whether or not they are virtual gaming machines or physical gaming machines. I think our approach is entirely consistent there.

CHAIR—I notice that, in the section on wagering on the Internet, you refer specifically to Western Australia's geographical problems in terms of the Internet service provided by the TAB. Would you like to make some comments about that for the record?

Mr Bennett—One of the problems in Western Australia, simply because of its geographic size representing nearly a third of Australia and about 10 per cent of the population, is our ability to transmit radio or vision via the conventional systems without very large investments in satellite uplinks, downlinks, receiver dishes and all the rest of it. We already run nearly 60 radio transmitters and we cover about 30 per cent of the state.

The Internet provides people who have an interest in wagering with the ability to listen to the races and look at the form, fields and tips on an Internet site. When the pipe has enough capacity, they will be able to watch the races on the Internet. It provides a relatively cheap vehicle or facility for people in remote areas to be able to access information that people in the city take for granted.

CHAIR—Thank you very much for appearing.

[2.51 p.m.]

CORONEAS, Mr Peter, Executive Director, Internet Industry Association

CHAIR—Mr Coroneas, welcome to this inquiry. I think you have appeared before Senate inquiries before. I remind you that you have the right to request that evidence be given in private and the committee will consider such a request. However, I do point out that the Senate may subsequently order to be made public any evidence given in camera. I also remind you that it is an offence to give false or misleading evidence to a Senate committee. Do you wish to make any alterations or additions to your submission?

Mr Coroneas—No. I am happy that the submission stands as it was provided to you.

CHAIR—Do you wish to make an opening statement?

Mr Coroneas—I thank the committee for the opportunity of giving evidence before it today. I apologise that I was not able to be in Canberra in person but I had a prior commitment in Hobart that I was not able to change. As you would have seen from our submission, the Internet Industry Association—being the national industry body representing many of the players in the Internet stakes in Australia—has been active in considering the question of the appropriate regulation of online gambling. We have convened a special online task force, which has been doing its work over the last 12 to 18 months.

If I can state our starting position, the association does not necessarily promote the practice of online gambling nor do we necessarily say that it is intrinsically harmful. What we do say, though, is that if it is to be regulated by government it should be regulated in a way that is likely to promote the end user experience and welfare. In respect of the present legislation, it is our view that that outcome will not be achieved. I am happy to speak further to that in my introductory comments and also to address those issues in questions.

CHAIR—Thank you.

Senator MARK BISHOP—Welcome, Mr Coroneas. We have had a fair amount of discussion today on the AUS Model in terms of Internet gambling. Perhaps you could outline for the committee where that is at from your understanding.

Mr Coroneas—Unfortunately, Senator, I was overseas when a media release was apparently issued from one of the state ministers. But it is my understanding that since my return there has been in principle agreement from the states in support of the AUS Model. The model was then put out for public consultation and that consultation period apparently closes on 5 May.

So it is my expectation, or my understanding at least, that the work that has gone into AUS Model is substantially complete and that, were the states and territories given the opportunity, I think they are very close to finalising a model which would be acceptable both to themselves collectively and also to the industry at large.

Senator MARK BISHOP—Okay. Have you had any discussion with your counterparts overseas about the AUS Model and, if so, can you inform us what their thinking might be?

Mr Coroneas—Yes, in fact I had the opportunity of presenting to the world Internet gambling summit in Miami, Florida on 14 March this year. While I was not at liberty to discuss in detail the contents of the AUS Model because the copy that I had been given was given to me in confidence, I was able to talk to them about the principles contained within the legal framework which currently exists at the state and territory level and which is largely reproduced but enhanced within the draft AUS Model. The response I, and many of my colleagues who have travelled overseas and discussed this issue, have received is that the approach that the Australian states and territories have taken is widely regarded by overseas players as being without question world's best practice. The feedback we also received was that the high reputation that the existing online gambling sites currently have accounts for the fact that most of their traffic is coming from offshore, and that their businesses are growing so rapidly.

The irony, I suppose, and the disappointment we would feel were the present legislation to pass and were the AUS Model initiatives to be lost would be that we would be squandering a regulatory lead, a lead that provides Australia with competitive advantage in the area while at the same time providing users with unprecedented levels of player protection.

Senator MARK BISHOP—Do you mind putting on the record, Mr Coroneas, what your particular concerns are about the bill?

Mr Coroneas—We take issue, I think, with the approach the government seems to be pursuing in the current draft which would allow the provision of online gambling services to people outside of Australia through sites that would be regulated within Australia but those same sites would be denied the opportunity of providing those services to Australians who in turn would still be permitted to visit overseas sites which may or may not be regulated. So we think there is the likelihood of a very illogical and counterproductive situation

where we have effectively exported best practice to the detriment of local users at a time when those best practice provisions far and away exceed the protections that are available to Australians when they visit offline gambling establishments.

So the primary objection, therefore, is why we ought to have a dual regime where Australians are denied the protections which are recognised as world's best practice yet those same protections will apply to people who are outside of Australia. We also believe that the Internet is not inherently harmful and that the protections that can apply online through the technologies which are emerging surpass those which are available offline. Therefore, we believe that, rather than the Internet being vilified as the problem here, it is part of the solution in terms of providing the levels of protection that Australians are concerned about and that they want.

Senator MARK BISHOP—Mr Coroneas, was your organisation contacted or consulted in any way about the content of this bill before it was tabled in the parliament?

Mr Coroneas—No, Senator, we were not given a prior copy of the legislation, nor were we given the opportunity to comment on it.

Senator MARK BISHOP—And you were not offered any opportunity to put your views in policy or principle terms?

Mr Coroneas—Certainly we have made our views known to the minister's office. Indeed, we submitted to the NOIE inquiry. So in that regard we certainly were able to provide input into the general thrust. We have since made public comment on the content of the NOIE report and in the submission itself to this committee we have certainly had input there. I do not want to imply that we had no opportunity to express our concerns, but in terms of any exposure draft of the legislation, no such exposure draft was actually provided to us directly for comment before the provisions were formulated

CHAIR—Thank you.

[3.01 p.m.]

GRAHAM, Ms Irene, Executive Director, Electronic Frontiers Australia Inc.

CHAIR—I welcome you to this inquiry. I do not know whether you have appeared before Senate inquiries before, but you may request that your evidence be given in camera and the committee will consider that. If evidence is given in camera you must understand that subsequently the Senate may order the publication of that evidence. It is important also for you to know that to give false or misleading evidence to a Senate committee is an offence. Do you have any alterations or additions that you would like to make your submission?

Ms Graham—No, we do not.

CHAIR—Would you like to make an opening statement?

Ms Graham—Yes. EFA's position on the bill is that it is an ill-conceived and inept attempt to deal with a genuine social problem. It will not prevent problem gambling online because Australians will be able to access the hundreds of gambling sites located in other countries. With regard to preventing people in Australia from accessing Australian sites, we consider it is totally inappropriate to imply that technological solutions, such as geolocation software, are available to support the legislation. These technologies are not reliable. It is unfair to impose severe penalties on Australian interactive gambling sites which may inadvertently allow Australians to access them because of unreliable location methods. In our view the only sensible policy option is to adopt a national coordinated approach in conjunction with the states and to regulate Australian online gambling operations so that Australians who choose to gamble online are at least able to do so in a responsible, controlled environment. That concludes our opening statement.

CHAIR—I think the issues you have raised have all been covered by previous witnesses and questions have been asked, so the senators do not have further questions for you. I thank you for your submission.

[3.05 p.m.]

BESGROVE, Mr Keith, Chief General Manager, National Office of the Information Economy

DALE, Mr Tom, General Manager, Regulatory, National Office of the Information Economy

CHAIR—Welcome, Mr Besgrove and Mr Dale. Both of you are very experienced in giving evidence to Senate committees and so you know all the rules. You know about evidence being given in camera and that it may subsequently be made public. You do not have a submission. Do you wish to make an opening statement nevertheless, before senators ask questions?

Mr Besgrove—We do not wish to make an opening statement. We would rather simply move straight into answering the committee's questions.

CHAIR—Thank you.

Senator MARK BISHOP—A range of the submissions, particularly this morning, argued that the bill before us had unintended coverage, for example, transfer of betting information over wide area networks—reference, the two TABs—or between a newsagency and a Tattslotto agency—reference, Tattersalls and all those sorts of organisations—and the material from FACTS in particular about the services and opportunities they offer to viewers. Can you outline the intended coverage of the bill and then address each of those areas of concern in particular as to whether the bill is intended to cover them. If the answer to that is yes, in what way?

Mr Dale—Yes; I have been here all day and have been making notes about the likely questions. The policy intention on all the matters that witnesses have raised both today and in their submissions is clear as far as the government is concerned. Obviously, there has been some confusion and there may be a need for some amendments or some further clarification. I will come to that in a moment, but first let me make clear what the government is trying to do with the bill.

The first set of issues concerns terrestrial based gambling services, particularly poker machines, which are linked by telecommunications services, TAB network operations and back-office operations and the very specific issue of sale of lottery tickets in newsagent's premises using, again, telecommunications services. In all of those cases it is not the intention of the legislation to prohibit those types of services. The advice we have available to us at the moment is that the legal position is not completely clear as to whether or not those services may be inadvertently covered.

At the time of the drafting of the bill, we were of the view that the powers provided for the minister in the bill to exempt certain services from coverage of the prohibition would be sufficient to deal with uncertainties. However, as the nature of the concerns and more information have come to light, particularly in submissions to the committee, we would like to discuss with those parties in more detail whether an amendment may be more appropriate than use of the exemptions power to achieve that policy intention. We will be offering to have those discussions with those parties in the next week or so. I do not know what final measures the government might agree on to remove that uncertainty but, as I said, the policy intention can be stated with that degree of clarity for those issues.

Senator MARK BISHOP—So that applies to the sale of lottery tickets over the Internet?

Mr Dale—No. The sale of lottery tickets over the Internet is within the definition properly at the moment of a gambling service. The lottery sale that I mentioned that was an inadvertent coverage was the one mentioned by Mr Mortimore from Tattersalls, which, he said, quite correctly, that he had drawn to the government's attention earlier in the year. It concerns the sale of a lottery ticket or a Lotto ticket at a newsagent where, particularly in the case of Lotto numbers, there is a telecommunication link involved in the sale of it. It is possible—not certain—that may be inadvertently prohibited by the bill. That is not the intention. It is clearly not intended to prevent people going to the newsagent in the same manner that they do now and selecting a quick pick or whatever. So that was the issue that I was referring to. The other matter is in a set of not inadvertent issues but policy issues about gaming versus wagering versus lotteries, which I guess you will come to.

Senator MARK BISHOP—Yes. I understand the distinction—thank you for that, Mr Dale. So it is currently government policy that the ability of consumers to purchase lottery tickets, if you like, over the Internet is to be characterised as gambling and to be prohibited?

Mr Dale—That is correct.

Senator MARK BISHOP—Is the government intending to revisit that policy position or is that fixed?

Mr Dale—Not that I am aware of. I do not know if there is anything in this world that is permanently fixed, as far as policy is concerned. But there is no intention at the present time to do so. You mentioned the TV games issue, too. I will address that. The concerns raised by the Federation of Australian Commercial Television Stations were first brought to our attention in their submission, which I read only early this week, and I heard what they had to say this morning. Again, they are a group of people who, now that they have raised that issue, we would like to have some discussions with to address their concerns.

Let me again say that the policy intention is clear enough there, as well. As far as the at-home interactive TV games that they gave as examples are concerned, there has been no intention on the part of the government to include those in the prohibition. We will be discussing with them whether or not some further clarification is needed. I note that page 27 of the explanatory memorandum to the bill says:

A promotion such as the chance to win a trip overseas upon signing up to an online service is not a gambling service for the purposes of the Bill. A promotional game or lottery does not involve the betting or staking of something of value, with consciousness of risk and hope of gain.

Promotional activities, such as winning a car, or if by good luck or good design you happen to pick who is being voted off *Survivor*, or whatever, are not intended to be covered. In our view, again, the bill as drafted does not give rise to those concerns. But obviously if FACTS have a different view we will be offering to talk to them about it to clarify that. However, I will qualify those remarks. The examples given in the table which was attached to the FACTS submission do not appear to be matters that the bill should cover. In some cases, in our view, it is highly arguable that there is an element of consideration involved in a 1900 phone number, but we will talk to FACTS about that. In regard to some of the other examples, such as the screening on TV of the weekly Lotto or Tattslotto draw, I cannot see at all what they have to do with the intention or drafting of the bill, but we will be happy talk to FACTS about them.

However, the qualification is that some of the examples that I understood the broadcasting representatives to be giving about what might be possible in the future—such as changing the basis of the joining fee from a 1900 number to something else and the example given of UK digital TV at the moment, where it is possible to use the television set to place bets on sporting events as they are being played—are two examples that we want to talk to them about as well. It seems to us that those sorts of services are getting fairly close to the sorts of things the government has concerns about, whether they are delivered via TV free-to-air, digital or otherwise, or whatever means. So that is the qualification I would put on it. Maybe some of those services the government would wish to see limited or prohibited. But we would like to talk to FACTS further about that, and we will.

Senator MARK BISHOP—That is the same issue that Mr Clark raised in his submission from the Northern Territory government. I do not know if you were here, but I had a discussion with him about that issue—the provision of those sorts of services over the broadcasting regime, where the recipient is essentially passive and receives what is broadcast, as compared to the user of the Internet, who chooses to attach himself or herself to a particular site and use the service. They recommended that that issue be addressed. Do you recall the debate now?

Mr Dale—I do not recall it in detail; I am sorry. I am not sure I can respond specifically to it at the moment.

Senator MARK BISHOP—The ability to use the broadcast services as gambling or wagering mechanisms is obviously coming in the next few years with digital TV. Is that a matter currently of concern to the government and addressed in this bill?

Mr Dale—Yes, it is. I think it was also addressed in the moratorium act last year, although obviously in that period there have not been any significant developments of those services as yet. As you say, they are coming. I think the government made clear at the time of the moratorium legislation and in subsequent announcements about this legislation that, while the immediate concern was the Internet as a platform for gaming, wagering, gambling and whatever, the government was conscious of and concerned about the use of new broadcast technologies, particularly for things like real-time sports betting. I think one of the witnesses referred earlier to microevent wagering. That is a particular concern as well.

The bill, as you are aware, does not make those particular distinctions about categories of gambling services. It defines gambling services broadly and indicates that, as well as the Internet as a medium, the use of broadcast services would be prohibited. You then come back to what is a gambling service. As I said, some of the things that were being talked about this morning are clearly not, but the things that were being hinted at for the future have been of concern to the government. We look forward to some discussions with the broadcasters about it.

Senator MARK BISHOP—It is an area that is squarely in the public arena for debate—this whole issue of gambling on every TV, and your lounge room becoming a gambling venue. As you are aware, there are strong arguments all around this debate—civil liberty arguments, social harm arguments; the whole lot. Has the government considered referring that issue to some sort of independent body, such as the Productivity Commission or a like organisation, to do a review of that, to have a look at all the issues?

Mr Dale—The issue being the range of technologies, or broadcasting in particular?

Senator MARK BISHOP—The use of the broadcast technologies for new purposes, such as home based gambling or interactive gambling.

Mr Dale—Not to my knowledge. There has been no consideration of that sort of referral at the moment.

Senator MARK BISHOP—We had a discussion this morning on linked jackpots. I am advised that linked jackpots are poker machine games that provide jackpots to players in pubs, clubs, etc. You keep playing until the jackpot is won. Your organisation says the intent of the bill is not to regulate or ban land based poker machines. Why is the government not trying to stop linked poker machines?

Mr Dale—It is not trying to stop them in this bill. Within our portfolio responsibilities and the drafting of the bill our focus has been online gambling, or interactive gambling, in its various forms.

Senator MARK BISHOP—But that is a form of interactive gambling, isn't it?

Mr Dale—If you are talking about a way in which offline poker machines have had their capabilities extended, the government would see it as more of an offline poker machine issue than an online issue and something that may be addressed. But certainly it is not part of our brief for the bill. The government has other arrangements and other people, as you may know, dealing with a range of offline gambling issues. But this bill does not address those.

Senator MARK BISHOP—The intent of the bill overall is to limit the spread of gambling, isn't it?

Mr Dale—That is correct.

Senator MARK BISHOP—Why wouldn't linked jackpots be included in that?

Mr Dale—The intention is to deal with the sorts of interactive gambling services that—as I think you have said today—have been the subject of debate and discussion for the last two or three years by this committee, other committees of the Senate, the Productivity Commission and the government in a number of other inquiries. I think that the question of opportunities to regulate or prohibit forms of gambling that are primarily offline and just happen to be linked by means of a telecommunications service is part of another debate. We have not asked, nor have we been asked, to put the question about the control or banning of such machines. It has come up very specifically in the context of whether it was intended as part of this decision of the government for this bill. The straight answer which we are giving you and which we are giving the witnesses who have expressed concern is that it is not to be covered here. That does not rule out, I guess, the government addressing it through other means but that is not within our responsibilities.

Senator MARK BISHOP—All right. I want to turn to the complaints system. As I understand it from the EM, if a person is aggrieved at material that is hosted on offshore sites the bill establishes a system where formal complaints are made to the ABA, and the ABA investigates. If it finds that there is some sort of justification for the complaint it can refer it off to the police and advise the ISP. Is there any suggestion that power be vested in the ABA to issue take-down notices, like it was in the broadcasting bill some time ago?

Mr Dale—The bill is based to some extent on the online content regime which is reflected in the Broadcasting Services Act from about two years ago. But some of the features are different because what the government is doing for domestic gambling content as opposed to domestic offensive or illegal content is creating an offence of providing the service. That is different from the online content regime, which is more complaints based and provides for codes of practice administered by the industry. In the case of this bill for gambling services there is a very clear distinction between, on the one hand, Australian based content, or content provided by Australian companies, broadly speaking, which is the subject of a criminal offence provision, and on the other hand the complaints based system, which is primarily for overseas hosted content and which is offering gambling services to Australians.

So the powers that the ABA has under the bill are not strictly comparable as far as Australian hosted gambling services go. The take-down notice issue does not really arise. In the case of a complaint about an overseas gambling site that is making gambling services available to Australians the intention is to provide for either an industry code of practice or ABA determined standards, which would essentially have the same effect as the online content regime, and that is to provide for the referral of complained about gambling sites to filtering software manufacturers and to have filtering software made available by Internet service providers, and others if necessary, to their customers but on a voluntary basis. That is as far as the bill goes in

relation to overseas gambling services at the moment. That is broadly comparable with what happens with things with an illegal content—effectively pornographic material—under the Broadcasting Services Act.

Senator MARK BISHOP—But with offensive material under the Broadcasting Services Act, once the complaint is made and the inquiry concluded, take-down notices and the like can be issued, which results in the closure of those—

Mr Dale—For Australian hosted content, yes. That is correct.

Senator MARK BISHOP—Is the same effect intended here?

Mr Dale—No, because a criminal offence provision has been created, and that is a matter not for the ABA to prosecute but for the police. It is different in that respect.

Senator MARK BISHOP—Going to the offensive material under the Broadcasting Services Act, the take-down notice is issued to the ISP, isn't it?

Mr Dale—It may be issued to the content host—I cannot recall specifically; they may or may not be the same entity—but issued to an Australian entity responsible for hosting the material.

Senator MARK BISHOP—In terms of the Australian entity that hosts the material in the gambling context, it is not proposed that those sorts of notices be issued here?

Mr Dale—No, it is intended that they be discouraged by the fact that they will be committing a criminal offence if they continue to provide those services—not host the services but provide the gambling services to people physically present in Australia. That is a police matter, not an ABA matter. That means of enforcement, as far as Australian providers go, was provided for, broadly speaking, in the moratorium act of last year, so the government is continuing that means of dealing with Australian online gambling providers.

Senator MARK BISHOP—Has nobody assessed the impact of the passage of this bill on e-commerce and Australia's reputation as a well regulated online environment?

Mr Besgrove—Not specifically. In what manner would you expect?

Senator MARK BISHOP—In the context of the bill achieving particular ends and making certain acts illegal in Australia that are permissible elsewhere—that has an impact in the IT and e-commerce world. I wondered if there had been any investigations made or conclusions reached.

Mr Dale—The report that NOIE did, which was released by the government at the end of March, did address most of those issues. Obviously we did not have a government decision and a draft bill at that time, but in preparing the report we looked at, and assessed as best we could, the different options and what their impact might be. But that assessment was only one factor the government took into account. There had always been on the public record, as I think you know, a general disposition on behalf of the government to prevent new services to the greatest extent possible. The assessment that we did, as I think a number of witnesses have told the committee, showed that there is at the moment a growing export market for some forms of gambling services by Australian operators. However, as I think a number of witnesses have also indicated, the bill is not targeted at the export of their services as such. So, to the extent that Australian customers are not significant—at least for some operators at the moment, particularly gaming operators—the legislation is not expected to have a significant effect.

The analysis that was done in the report was at a fairly broad level. There was a general piece of economic modelling done concerning the possible effects of a ban on Internet gambling and how that might shift gambling revenues to other forms of gambling, but that was one piece of economic modelling with the usual inherent flaws in it. That is about as far as the analysis went. Obviously, we provided additional comments in the regulatory impact statement that is incorporated in the explanatory memorandum. That is probably about all that we have on the record.

Senator MARK BISHOP—Finally, to return to the previous discussion, I am a little confused as to the effect of the complaints mechanism. Let us say I access a casino in Barbados and let us assume that it cheats me and does not pay me my gambling wins. I then make a complaint to the ABA and they find my complaint has substance. Do they then refer it to the police? What do they do?

Mr Dale—If it is a site in Barbados where you have been—to use the vernacular—ripped off, the complaint that you are able to make under legislation is not that you have been ripped off; it is that there is a site which is providing services to Australians—that is the first thing. But, because it is an overseas site, it is not a matter for the police, because there is no offence. The only offence that the bill creates applies to Australian-linked companies. If it has no link to Australia, there would be no prima facie offence. The most that can happen with your complaint is that the ABA will investigate and conclude that, yes, indeed, the site in Barbados—or wherever—is providing interactive gambling services to people physically present in Australia. If there is a code of practice in place or if they have made some standards, they can ensure that that site is included in filtering software, which we made available on a voluntary basis. That is as far as it goes.

Senator MARK BISHOP—That is as far as it goes?

Mr Dale—It is but, as I say, that is pretty much as far as the content legislation goes.

Senator MARK BISHOP—Understood. Thank you.

Senator ALLISON—To pick up on that point, if that is the case, how can we be confident that the switch to overseas online providers of gambling sites will not just pick up on what opportunities there might have otherwise been here in Australia?

Mr Besgrove—If I could respond to that in the first instance, the government is not asserting that these measures will completely eliminate access to overseas gambling sites. What the government is endeavouring to do is to limit and to discourage. We know from work that has been done by the Productivity Commission that Australia has a particular population of problem gamblers—I think it is of the order of 130,000 people. Of that group of problem gamblers, only a very small proportion currently use online technologies, because we also know from the Productivity Commission report that problem gamblers tend to look for easy gambling options rather than difficult gambling options. The sort of complaints regime and filtering mechanisms which my colleague has been describing are, in essence, a series of steps to try and limit the ease of access and use.

If I could just pick up in anticipation some other questions you might have, we already have some instances where problem gamblers actually use filtering technology to block their access to international Internet gambling sites. We also have instances, I believe, where the families of problem gamblers use those filtering mechanisms. That is quite an important point because, very often, the impact of these problem gamblers is very much on the families. We are actually placing some tools in the hands of those families.

Senator ALLISON—What was the policy intention behind allowing Australian online gambling providers to provide for overseas customers?

Mr Dale—It is the obverse of the main policy intention, which is clearly not to expand or control services provided to people outside Australia; it is to restrict services provided to people in Australia and, in doing that, as it not necessary to prevent access by residents of other countries the government has not done that. It is not necessary to achieve the main intention, which was the potential gambling problems of Australians rather than people in other countries. As the minister has said publicly, the general principle should be that initiatives to address or restrict gambling in particular countries are up to the governments of those countries. In this case we have taken action for Australian residents only and do not purport to do anything else.

Senator ALLISON—What talks has the Australian government had with other countries on reciprocal arrangements? I gather there are some countries which either have already considered or are considering a similar ban. Is there an advantage in reaching agreement with other countries? If so, what discussions have we had so far?

Mr Dale—There have not been any discussions to date other than some preliminary exchanges of information with the previous administration in the US when it was thought that legislation might be passed by Congress to prohibit Internet gambling in the US. As it happened, that did not occur.

At this stage we have not had formal discussions with other governments, because the government here was still finalising its position on this legislation. That does not mean that there will not be such discussions in the future but I am not aware of other governments having an interest in this particular matter as a priority. In most countries that we have looked at, it is seen essentially as a matter of domestic policy in the first instance. We have consulted with other agencies about any possible trade or other treaty implications of the legislation. Our understanding is that there are no implications for those commitments.

Senator ALLISON—The inclusion of wagering was seen by pretty well everybody as a bit of a surprise outcome in the legislation. What was the evidence that the department took into account in extending the proposed ban to those areas?

Mr Dale—The government has gone back to its first principles and adopted the policy position that was reflected in the first moratorium bill from earlier last year. You may recall that that extended the moratorium restriction to wagering as well as gaming. That was not the final form in which the web bill was passed of course: wagering was taken out via an amendment that the government was prepared to accept at that time. I think the reasons for doing so were made clear by Senator Alston. The government was concerned to achieve some restriction through the moratorium.

However, what this bill does is return to what the government said it wanted to do in the first moratorium bill, which was to start from the position that gambling is gambling. The Productivity Commission report indicated a problem gambling component for gaming, wagering and lotteries. Admittedly, of that the biggest single problem is, as everyone knows, offline poker machines. But the intention here with the inclusion of wagering, and lotteries for that matter, is to try to address the thing they all have in common for the purposes of this bill, which is greater access through home technologies essentially of opportunities for greater gambling in the home of whatever type—wagering, gaming or whatever.

Mr Besgrove—The Productivity Commission, I believe, found that in excess of a third of all problem gambling related to wagering.

CHAIR—Thank you very much. That concludes the hearings. I thank the witnesses for appearing. I thank the committee staff for arranging this hearing and *Hansard* staff for their efforts. We will have this report ready for presentation to the Senate by 23 May.

Committee adjourned at 3.39 p.m.