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Proof Committee Hansard

SENATE

SELECT COMMITTEE ON INFORMATION TECHNOLOGIES

Reference: Online gambling in Australia

THURSDAY, 11 NOVEMBER 1999

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SENATE

SELECT COMMITTEE ON INFORMATION TECHNOLOGIES

Thursday, 11 November 1999

Members: Senator Ferris *(Chair)*, Senator Mark Bishop *(Deputy Chair)*, Senators Calvert, Harradine, Lundy, McGauran, Stott Despoja and Tierney

Senators in attendance: Senators Ferris, Harradine, Lundy, McGauran and Tierney

Terms of reference for the inquiry:

To inquire into:

a. the nature, extent and impact of online gambling in Australia;

b. the feasibility of controlling access to online gambling, especially by minors;

c. the adequacy of State and Territory regulations in relation to online gambling; and

d. the need for federal legislation.

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RAE, Mr Jeffrey Regan, Director, ACIL Consulting Pty Ltd

CHAIR—I declare open this public hearing of the Senate Select Committee on Information Technologies. I welcome witnesses appearing before us today, which is 11 November, Remembrance Day. I wish to indicate that, subject to members' agreement, the committee will pause for one minute's silence at 11 o'clock this morning. I also wish to place on record that I have received from Senator McGauran a letter which relates to issues of disclosure, and I would like to table that letter for the committee now.

Today's hearing in Melbourne is the fourth public hearing of the committee's inquiry into the nature, extent and impact of online gambling in Australia. The committee is particularly interested at this early stage of the industry's development to ensure that, if there is a need for regulatory intervention in the operations of this industry, these measures are put in place at the earliest opportunity.

I now welcome our first witness. The committee prefers that all evidence be given in public. However, you may at any time request that your evidence, part of your evidence or, in fact, the answer to a single question be given in private and the committee will consider any such request. I do point out, however, that evidence that is taken in camera made 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 submission No. 35, which has already been published. Are there any additions or alterations that you wish to make to the submission at this stage?

Mr Rae—No, thank you, Madam Chair.

CHAIR—I now invite you to make a short opening statement and, at the conclusion of those remarks, we will have some questions for you.

Mr Rae—At the outset, I thank the committee for the opportunity to present the submission that we have prepared. It was an independent piece of work by my firm and was funded, as is indicated on the front of it, by Tattersalls and Crown Ltd, gambling service providers. While official statistics on online gambling are not readily available, industry sources suggest that, world-wide, we probably have about 145 million people who have gambled about $US700 million at 280 sites in 1998. The numbers are growing. Global turnover, for one, looks like it may have doubled in the year since that time. We already have 13 licensed online operators in Australia, with the prospect of more.

Against a background of concerns about the impacts of traditional gambling, on the one hand, and of the spectacular rise—or, more correctly, the spectacular potential, in the view of some—of online gambling, we have seen the emergence of a lively debate about the appropriate public policy on online gambling, both here and overseas. As you would be aware, there have been moves in the US Senate to ban online gambling, and there has been a report of a national commission recently.

In Australia, the approach that has been taken to date has been quite different. The authorities here have taken the view that prohibition would be ineffective, and their preferred approach has been to regulate authorised providers. This has led the states and territories to develop the *Draft Regulatory Control Model for New Forms of Interactive Gambling*, and the draft model code has now been incorporated into the legislation of five jurisdictions, with the prospect of more.

In its recent report on the gambling industry, the Productivity Commission indicated that it preferred an approach of 'managed liberalisation' to online gambling, with regulation essentially to ensure integrity and consumer protection. The commission concluded that prohibition might reduce problem gambling but that that would only be at the expense of eliminating the benefits that the technology offers consumers. While we broadly agree with the central conclusion that the commission reached, we consider that the advent and growth of online gambling raises a number of important issues on the taxation and regulatory fronts, both for traditional and online forms of gambling.

Our submission points out that very little is known about the substitutability of online and additional gambling at this point. But, if online gambling ends up providing significant competition to traditional forms of gambling, the heavy-handed regulatory and tax regimes which are currently applied to traditional gambling will need to be revisited by governments. Strong competition from the online sector will mean that heavy taxation of traditional gambling will become an ineffective means of raising revenue for state governments. Moreover, as it is impractical to tax foreign online gambling providers, local providers will be overtaken by international competition if we attempt to apply the existing tax rates to them. Similar considerations also apply to the regulation of both forms gambling.

Another important issue raised by our submission involves the enforcement of online gambling regulation itself. The Australian legislation, as you would be aware, provides penalties for unlicensed operators who offer services within their jurisdictions and for players who use unlicensed products. Generally, Internet service providers do not know who is logged on to what service: they merely provide the gateway for gamblers and others who are accessing services on the Internet. Monitoring is technically feasible but very costly. This raises the question of how the authorities will be able to detect and prosecute those who play unauthorised games, and that is clearly an important issue in deciding the overall shape of the regulation of the online sector.

For some people, problem gambling, crime and restrictions on access by minors are the principal issues of policy in the online area. I would like to finish with some comments on each of these three areas. Firstly, with regard to problem gambling, there is a variety of definitions of problem gambling. Most rely on self-diagnosis and self-assessment by the person in question. The Productivity Commission has noted that there are substantial disagreements over the definition and causes of problem gambling and the conceptual framework with which to analyse the phenomenon. However, there is no doubt that problem gamblers and their families suffer significant emotional and financial stress as a consequence of problem gambling behaviour. There is little doubt that the impact of such behaviour, regardless of the cause, should be addressed by welfare organisations in the non-profit sector and by governments, through their respective welfare programs.

However, given the considerable uncertainties surrounding the nature, causes and consequences of problem gambling, the implications for the regulation and taxation of gambling—online or traditional—are very open to question. The question applies to the form of the intervention as well as to the extent. Importantly, the question is independent of whether one accepts the Productivity Commission's figures on the overall economic costs of problem gambling itself.

Broadly based regulatory or tax solutions are likely to fail, essentially for two reasons: firstly, they are likely to be ineffective; and, secondly, they are likely to have unintended consequences. A brief way of illustrating it is that a measure that affects all gamblers is unlikely to be either an effective or efficient way of dealing with a problem that, on the commission's figures, accounts for two per cent of the population. Indeed, the Productivity Commission itself in its draft report recognised the force of this argument in its own conclusions on the taxation of traditional gambling.

Problem gambling might be less of an issue on the Internet, however, especially under the model code that has been devised here in Australia. Self-exclusion of online gamblers can be more effective than is possible with traditional forms of gambling, and venues are able to achieve a complete technical lockout in the online area. Australian legislation also provides for third parties to seek exclusion of a problem gambler, which is technically difficult if not impossible in the traditional area.

Although online gambling poses new risks for problem gambling, the Productivity Commission itself concluded that it had moderating features and brought with it the scope for more effective consumer protection. Given the screening requirements, the years of monitoring accounts and the inability to access winnings, it saw that the risks to minors were probably not significant for licensed sites and that supplier integrity could be monitored and could become largely self-enforcing.

On crime, concerns over the infiltration of gambling by criminal interests and the use of gambling to launder money has been one of the major reasons advanced in the past for heavy regulation of traditional gambling. It is difficult to see, however, how criminal elements would be able to easily gain a foothold in the legal online gambling sector. The Australian legislation applies extremely strict requirements to the granting of a licence to an online operator, and it would be very unlikely that persons with criminal associations would be able to obtain a licence. Moreover, licensed online operators are subject to existing Commonwealth legislation dealing with tax evasion and money laundering. In other words, the risks in this area appear to be less than they are in the traditional area.

On access by minors, under Australian legislation the stringent requirements for player identification and place of residence will make it extremely difficult, if not virtually impossible, for children to open an online gambling account with a licensed provider. Estimates by the commission suggest that children find it easier to gain access to traditional gambling venues than they would to online ones. Our submission outlines the approach Tattersalls and Crown have indicated they are considering taking if they were to operate online gambling sites. I also have some handouts here, which I can take you through, of the model that one of my clients is attempting to use in the development of its own products in this area. The Productivity Commission considered that supervised gambling in the family

environment was more likely to teach children in question the value of responsible gambling. Parents and teachers will also be able to make use of software to block access to gambling sites, just as they can now in relation to other adult material on the Internet. Thank you for your attention. I would be happy to take your questions now.

CHAIR—I notice that you say about 3.4 per cent of adult Australians have an interest in accessing the Internet for gambling. Surely that is related to an understanding that it is available rather than to there being an established market that people are choosing not to take part in. How relevant is it really to compare it with shopping, et cetera?

Mr Rae—We wanted to give you the latest information available from the ABS, which is our national statistical organisation, on perspectives on online gambling. No-one would pretend that that situation is not changing rapidly, and no-one would pretend that it is not subject to an understanding of what is available there. Clearly it is changing so quickly that those sorts of figures rapidly become out of date.

CHAIR—The two areas I wanted to explore with you in relation to the companies that you are representing this morning are access and the ease of access, and the issue of consumer protection, which seems to me to be the essence of all forms of gambling, whether they are online or offline. The question of access and the ease of access to Internet gambling appears to me to have the potential to be able to be more effectively regulated than perhaps offline gambling and casinos. Could you comment on how the companies you are representing today have considered that issue, and also on the question of consumer protection in relation to problem gambling? To what extent do these companies that you are representing place an emphasis on that? How do they see that as being critical to community perception that they are responsible companies in this area?

Mr Rae—There is a box on page 40 of the submission which gives you a brief idea of the broad approach that the two organisations I represent are taking. I should emphasise that in both cases their approaches are under development and some are more advanced than others, so they are not at the stage where they have completed their work entirely and are ready to go to the marketplace. There will undoubtedly be changes made in the development of their own ideas, and they would hope to be able to adapt their services in the future to better meet the needs of their customers as they see the response to their own products. I have here a series of print-outs of the pages of the Tattersalls site, which is under development, that will give you an idea of what the consumer will see when they log on to the site. I can give you copies if you would like them, and I am happy to take the committee through them, if you would like.

CHAIR—Thank you. That would be useful. The committee will receive those and have them tabled. In relation to consumer protection, how important do your client companies regard that issue as being? It does seem to me that consumer protection covers the question of problem gambling. To what extent do the companies address that issue currently, and how would they expect to address it in relation to online sites?

Mr Rae—They are addressing it in several ways. Both businesses have a strong incentive to do what they can to provide a good service to their clients. Consumer protection is but one element of that; another is ensuring that their clients are well informed about what

the services are and how they may best avail themselves of them. It really begins when someone comes to the site and wants to proceed with placing a wager on the site. The Tattersalls case is probably the best one to talk about, because I have no details of the Crown case—because they have not got to the stage where their thinking is sufficiently concrete beyond what I have given in the submission.

In the Tattersalls case, it would involve a player applying for a provisional registration, to begin with. The provisional registration has limits both on the amount of money the player can put into his or her account and on their ability to withdraw from that. There is a limit of $100 when they log on to the account and get a provisional registration. They can wager that. The winnings will stay in that account until their status is converted to full registration. In other words, they cannot withdraw their winnings until they have confirmed who they are, their place of residence and their age, which are the critical factors.

CHAIR—They can open the account without a point system?

Mr Rae—No; they have to provide the information that they are subsequently going to validate. When we get to the slides, I can take you through it. Essentially, they have to provide details of who they are, their place of residence and their age, and they have to deposit the appropriate amount of funds. If it subsequently turns out that the information they provide does not line up with that, they cannot take it any further. They are not able to get to full registration. They have to confirm, with certified copies of appropriate documentation, that the information they originally put to the company is correct.

CHAIR—And presumably they could not access any of the winnings they might have already accumulated.

Mr Rae—They cannot access any winnings at all until they have gone to full registration, which means they have to have gone through the 100-point check, which involves the production of at least two documents—one of which would be a birth certificate, a passport or a certificate of citizenship, and a driver's licence or a utility bill, for example. I can give you the details. It is the same 100-point check that the banks put on their clients when they open an account.

CHAIR—Okay. We will actually go through the material a little later.

Senator HARRADINE—Can I just follow that up while the question is in my mind. So in fact they can log on to be an online gambler immediately without any verification of who they are, what their address is and so forth, for $100?

Mr Rae—That is correct. For $100 they can log on, but they cannot take any winnings away and they cannot add to their account.

Senator HARRADINE—They are liable for the losses?

Mr Rae—They are liable for their losses, if that is what happens. There is also provision in the Tattersalls case for them to have a points registration in which they can play games for points rather than for money, if they wish. So, if they wish to play without staking

money, to get an idea of how the games work and to see whether they like the experience or not, they can do that. There is provision for that.

Senator HARRADINE—But the point is that, without any verification, they can play $100.

Mr Rae—As I understand it, they are able to put $100 on whatever game it is, and they are not able to take it any further than that other than to play with it.

Senator McGAURAN—Before we get into the question of the substance of the matter, there is a niggling concern that I and others have in regard to your status here as a witness. You opened here by saying that the report you have put before us is an independent report.

Mr Rae—That is correct.

Senator McGAURAN—What did you mean by that?

Mr Rae—It meant that the policy analysis in it was our own work. We did not, if you like, write a report that suited Crown or Tattersalls. They employed us to do an independent analysis on the policy that should apply in the online area.

Senator McGAURAN—In relation to your consulting group, what is your direct daily relationship with the gambling industry, let alone with Crown and Tattersalls?

Mr Rae—We have done some work for them. We did a submission for the Productivity Commission for a group, and they were two parties to that group.

Senator McGAURAN—This is exactly a lift-out of the Productivity Commission.

Mr Rae—It is an extension of that work, exactly.

Senator McGAURAN—But you personally do not have direct working experience with the gambling industry?

Mr Rae—In what sense? Do you mean have I done any other consulting work for the gambling industry? I have done a number of other jobs in the same area in relation to the review, under way in New South Wales by the New South Wales government, of their racing and betting legislation. We did a review of that for TAB Ltd.

Senator McGAURAN—I guess the point I am trying to make is that I wanted be sure that the committee is getting the correct insights into the social and economic effects of Internet gambling; so I for one am disappointed that Tattersalls and Crown have not sent a direct representative to the table rather than what seems to me to be an arms-length person who has not the daily experience that we are looking for in the gambling industry.

Mr Rae—Let me say to you that we were employed to do a policy analysis for them. That policy analysis actually does not require one to have a detailed understanding of the gambling industry.

Senator McGAURAN—But we do.

Mr Rae—I understand that. I am not saying that you do not. I am trying to be clear about the role that I was performing for them. We have done a policy analysis which we thought would be one of the things that you would be interested in receiving and understanding.

Senator TIERNEY—Just on the same point, yesterday we went to Lasseters in Alice Springs. Lasseters showed us around and showed us their whole set-up. We had an inquiry and they presented evidence. They were quite keen to explain exactly what they were going to do online. I therefore find it very surprising that both Crown and Tattersalls, who are going to move into a similar position, choose not to appear and to do this arms-length arrangement. This is not a criticism of you, obviously; they have employed you to do the job. But I think it sets a very poor precedent when a company do this and therefore shield themselves from direct questioning on their own operations. Have you actually worked in the gambling industry personally?

Mr Rae—No, not at all.

Senator TIERNEY—So you come as a macro-economic policy analyst.

Mr Rae—I come as a policy analyst and as an economist to this issue. We believe that our skills are in those areas and that they can be applied to any sector. That is the sort of business that we are in.

In terms of your original question about the appearance of the companies, what I can say, and I have certainly gained this impression from talking to them, is that their own thinking is not at a stage where they feel able to come out and be categorical about of a lot of things they are going to do. The reason is that they can see that the situation is changing very rapidly as they go through the development stage, and they do not want to be locked into a particular form of product or service if they determine that it has moved on, and they want to be able to adapt to changes that are occurring in a very fast changing world.

When they come to the launch point, I am sure they will be more than happy to talk to you—and others, indeed—about the nature of what they are about to do. But I do know that they are not at the stage where they feel able to do that. There are significant intellectual property issues in all of this too, don't forget. They believe they are developing products and services which have a significant intellectual property behind them and they are naturally cautious about risking that in terms of disclosing a lot of the detail that lies under the service.

Senator TIERNEY—But they are not at the leading edge of this; Lasseters is. Lasseters is two years down the track from them and has the template for how to do all of this. If they did have any commercial-in-confidence problems with questions, all I can say is that that is commercial-in-confidence and there are a whole range of other questions which do not relate to design, technical features and commercial-in-confidence matters that we would like to directly ask Crown and Tattersalls. Madam Chair, I suggest that later we have a private meeting to see whether it is possible to actually call Crown and Tattersalls directly.

Obviously it is up to them, but I think we should perhaps ask them directly if they would be prepared to appear.

Senator LUNDY—I ask the chair whose responsibility it is to organise witnesses for this and how long she has known that Mr Rae would be here representing ACIL, consulting for Crown and Tattersalls. If there was any concern about the witness, why didn't the chair take responsibility for that in the first instance?

CHAIR—Senator Lundy, that is an issue you may like to raise at a private meeting. It is not a question for a public meeting. Senator Tierney, if you have some questions—

Senator LUNDY—Sorry, Chair, I had not finished my point yet.

CHAIR—You had finished your question, because I answered it. If you have another point to make which is related to a point to be raised in a private meeting, I would urge you to consider that.

Senator LUNDY—No, it is not; it is to be raised here.

CHAIR—Please raise it now.

Senator LUNDY—I am concerned that there has been some reflection on the witness and the companies that the witness is here to represent, and that the imputation there is somehow that those companies are avoiding being here. My take on it is that the chair was fully aware of the status of the witness and the companies this witness is representing here today, so I think the imputation is a little unfair, and I am concerned about process.

CHAIR—That is a comment and not a point to be raised, and it is additional to the material you raised before. Can we move back to questioning the witness, please. Senator Tierney, you may wish to include in your questions some of the issues that you would like to have raised so that we are able to explore those with the companies.

Senator TIERNEY—I want to go directly to some of the comments you have made, Mr Rae. You mentioned weighing up consumer benefits and losses in this. But isn't the issue really the benefits to the people setting this up, the benefits in terms of profit in a new industry? Wouldn't that really be the concern?

Mr Rae—Are you saying it is something—

CHAIR—Senator Tierney, can I just stop you. It is 11 o'clock and it is Remembrance Day. As I foreshadowed at the opening of the hearing, I would like us all to now be upstanding to observe one minute's silence. I have asked Senator Harradine to read the ode.

Proceedings suspended from 11.00 a.m. to 11.02 a.m.

CHAIR—Thank you. Senator Tierney, would you like to make that point again?

Senator TIERNEY—Yes. The point I was making related to what you said about consumer benefits and losses with the introduction of online gambling. Could you give me Crown's, Tattersalls' or your own assessment of the benefits and losses and what factors you are actually weighing up there?

Mr Rae—I will give you mine; I do not know what theirs are.

Senator TIERNEY—For the consumer.

Mr Rae—The consumer will get a range of new services that they have not had before. You can think of them as existing services provided in a new way, or you can think of them as services which are actually in some sense very much transformed. They will be able to access these services at times and places they would not previously be able to do. These are major benefits for consumers. How big the benefit is will be difficult to estimate until we know precisely the exact nature of the demand. What we do not know is how much competition one form of gambling will provide to the other and how much new market will be created by it.

Senator TIERNEY—It could be argued that we are not short of gambling outlets in Australia.

Mr Rae—You could argue that. No doubt last century people would have argued there was plenty of transportation around because there was no shortage of horses. I do not think the comparison is at all valid.

Senator TIERNEY—I do not think your analogy is very valid, either.

Mr Rae—You are entitled to that. Our approach is to let people access these things and make their own estimation. If a person believes it is a benefit to themselves to be able to access this kind of service, and if they are prepared to pay the cost of the service, on the face of it they are gaining something. Whether I think it is a sensible thing for them to do is irrelevant, in my view.

Senator TIERNEY—What you have just given us is what you saw as the consumer benefits. My question was: on balance, what are the consumer benefits and losses? You have not touched on that.

Mr Rae—The consumer benefits, whether they lose or not, in a financial sense—

Senator TIERNEY—No. I am not talking about in a financial sense. What is being suggested here is the introduction or legalisation of a new technology which has quite a profound impact on consumers and on society generally. What I have asked you is: what are the benefits and losses of that? You have only touched on the benefits. Have you analysed what the losses to society might be as a result of this new technology?

Mr Rae—This depends upon your view of problem gambling. Our view on problem gambling is well known.

Senator TIERNEY—I do not know what your view on problem gambling is.

Mr Rae—I assumed that you did. It was in the submission, and I thought you might have read a bit of it. We believe that the estimates that the Productivity Commission has made are vastly overstated. But, even if you accept the estimates of the Productivity Commission, they come up with a net benefit to consumers from traditional forms of gambling. It is difficult to see, given their own judgment and analysis of online gambling, how the access to online services would worsen that. It could only improve it. They have said that they believe it will make problem gambling easier to manage, and we broadly agree with that. They have also said it will provide a degree of competition with traditional forms of gambling. That will be a benefit, both in terms of the new services that consumers are able to access and in terms of the gains they get from competition with existing services.

Senator TIERNEY—Mr Rae, you have said that you are an independent consultant to these companies and that you are a micro-economic policy analyst. I am finding it rather surprising that, as an independent analyst, you have been so shy to talk about the other side of the equation.

Mr Rae—I am not shy; I am happy to talk about it. What would you like to talk about?

Senator TIERNEY—What are the social downsides of us introducing this technology? What is going to be the impact on individuals and societies, particularly in the lower socioeconomic groups?

Mr Rae—Is our frame of reference a belief that, if we do conclude that it is adverse, we can prevent it?

Senator TIERNEY—We are balancing up pluses and minuses. All I am trying to get from you—if you are an independent analyst—is an answer to the question: what are the minuses as well as the pluses? You have spoken about the pluses. What are the minuses?

Mr Rae—I have said to you that we believe that the commission's own estimation exaggerates the cost of problem gambling. But if you accept the commission's one, which would in our view exaggerate the costs, their conclusion is that, on balance, traditional gambling provides a net benefit to the community. I believe that is an underestimate, and it would be greater than that. How much greater than that, we can discuss, if you would like.

Senator TIERNEY—You have stated the final sum, plus and minus, and said that on balance it is plus.

Mr Rae—Isn't that what you wanted to know?

Senator TIERNEY—No; I wanted to know what the minuses were. You have only talked about the pluses.

Mr Rae—What are the minuses? I am not sure that we actually know with a great deal of confidence what the minuses are that are attributable to gambling. What we know is that there are a lot of people who suffer severely from problems that are associated with gambling. What we do not know with great certainty is the attribution of those costs to gambling itself. It is a very, very complex situation and it is not one that admits of an easy answer. If I were to try to give you an easy answer, I think you could justly say that I was exaggerating or distorting the answer.

Senator TIERNEY—Yesterday we heard from CentreBet, who are putting racing and other things online. I would suggest that you have a look at their evidence. They were incredibly candid about it: they said that there were going to be all sorts of negative social implications from this. They went through a few of them. I am a little disappointed that you have not, but we will leave the point there.

Mr Rae—No; can we return to it in this sense: I was approaching the answer from the point of view of trying to answer your question: what is the impact on the rest of the community? Essentially, to me, they are the costs that matter in all this. The costs to the individual—if the individual is an adult and is of sound mind and body—are capable of being taken into account by the individual.

Senator TIERNEY—It is a pity about their families, isn't it?

Mr Rae—That seems to me to be an issue for the family, if I may say. I have got no problem with your suggestion that there are problems within the family, but I would say to you that the only known solution to problems within the family is the solution to be found within the family and the institutions that support the family.

Senator TIERNEY—My wife is a social welfare officer. I suggest that you go around with her some time and see if that is actually a viable solution to people who are powerless.

CHAIR—Senator Tierney, do you have any further questions?

Senator TIERNEY—Yes. I would like to move on to another comment that you made. You talked about social welfare problems and you said that these should be addressed by welfare—

Mr Rae—Organisations and the government.

Senator TIERNEY—Yes, by welfare organisations and the government. Welfare organisations, of course, are stretched to the limit in providing services that they have to provide anyway. Government, from the federal government's point of view, on its whole range of responsibilities, is stretched to the limit. If we introduce this new technology, we are going to introduce a new range of problems or else extend the social problems that are there already. Could you give me your view on what the responsibility of the industry is in terms of providing some sort of contribution to ameliorating these social problems, either through a fund or through some other mechanisms?

Mr Rae—One does have a responsibility, and I think the industry recognises that it has a responsibility. The industry is probably still struggling in terms of coming to grips with what that responsibility means in a practical sense, but I have no doubt that it accepts that it does have a responsibility.

Senator TIERNEY—Although you did not mention that before. You said it was, to quote you, up to welfare organisations and government. I was curious that you did not mention the gambling industry as part of that.

Mr Rae—That was an oversight on my part, that is in fact corrected, if I may say, in our submission to the Productivity Commission. It seems to me that they do accept that they have a responsibility. The evidence of that is that Tattersalls, for one, has a link to G-line on its existing web site and will continue that link when it launches its own online service, and that link will be on every page of its online site. It has developed with G-line a series of messages, to present to people who are accessing their site, about responsible gambling, avoiding the use of alcohol when gambling, and being sensible in terms of gambling behaviour. All of that seems to me to be an expression of a positive approach.

They are involved in applying the Gaming Machine Association code of practice. Their people on the help line will be trained to assist people who ring in and who they perceive have problems and refer them to counselling agencies. They will be able to access counselling agencies online, either individually or through a group chat room. So it seems to me that, while, undoubtedly, some people would say they could always do more, the companies are certainly attempting to do things that they can that are practical to deal with the problem.

Senator TIERNEY—I do not think you have mentioned in any of that, apart from setting up and linking those services, a financial contribution from the gambling industry.

Mr Rae—The gambling industry already provides substantial taxes to government, some of which are already earmarked for the Community Support Fund and which are used for funding research and counselling for problem gamblers.

Senator TIERNEY—I am not quite sure of the set-up in Victoria. In New South Wales—

Mr Rae—It varies, I think, between jurisdictions.

Senator TIERNEY—Obviously, companies pay taxes.

Mr Rae—No, I am talking about the specific gambling business.

Senator TIERNEY—That is right; that is what I was trying to get at. In New South Wales there is a dedicated fund that a stream of the gambling revenue has to go into. What I am asking is: is that going to be the situation in Victoria, from online gambling?

Mr Rae—As I understand it, the tax will apply in the jurisdiction in which the licence is held. That is the way it will work. So you will pay the tax of the jurisdiction where you are licensed.

Senator TIERNEY—That is just your normal tax, is it? I am talking about—

Mr Rae—No, that is your gambling taxes.

Senator TIERNEY—Yes, right, gambling taxes. I am talking about the New South Wales situation. If it is a gambling tax, it will just go into consolidated revenue. Is there a dedicated stream, like there is in New South Wales?

Mr Rae—In Victoria, there is an earmarking of some of that tax that goes into the Community Support Fund.

Senator TIERNEY—But that is earmarking just budget to budget, year to year, though, isn't it?

Mr Rae—I am not sure of the precise mechanism by which—

Senator TIERNEY—Which means it is competing with schools and hospitals and everything else.

Mr Rae—No; it is an earmarking of the gambling tax revenue. This is a factual thing, I am sure I can confirm it.

CHAIR—Senator Tierney, you can have one more question, and make it short, please.

Senator TIERNEY—Okay. The question relates to what is probably the main concern a lot of us have about this new technology. We have had gambling obviously on race tracks and in clubs. It has moved in New South Wales—I am not too sure about Victoria—into pubs over the last four years. The effect of that has been to put the amount that people spend on gambling up from $7 billion to $11 billion—a 50 per cent increase in four years. Our concern with this technology is that you are now bringing it directly into the home. The concern is that, because it is so accessible—evidence is that it is those in the lower socioeconomic groups who tend to gamble—it would then create a vast increase in an array of social problems. Would you like to comment on how online gambling in the home would exacerbate social problems in that way?

Mr Rae—It seems to me that there is a risk of exacerbating problems in the way you have talked about; in other words, if more is spent, will that lead to more problem gambling? The home, however, also provides some countervailing pressures. One of the things which has been emphasised in the debate on traditional forms of gambling is the fact that the gambler is detached from his or her family, and that is a large part of the problem. They are going to a venue which is away from the home and where they are out of touch with their family. They lose a large amount of money, come home and then the problem starts. If they are in the home, there is more likelihood that the other members of the family will know

about it and will be able to take action to help them; in other words, they will become aware of it sooner.

The fact that you will be using your credit card or bank account to provide the top-up for the account means that you will no longer be able to avoid the recording of those transactions. On the assumption that the household operates in a broadly normal fashion, other members of the household are likely to have access to those accounts and will be able to see, earlier than they probably otherwise would have been able to see, what is happening in terms of gambling behaviour.

So it seems to me that there are both positive and negatives here. It is not clear whether online gambling is going to be the new nirvana, if that is the right word—and I think that from your point of view it is the wrong one—for gambling. We just do not know, I am afraid. It is an unknown. These technologies will have effects that are entirely unanticipated. Most of those effects will be unanticipated effects. That is the nature of technology.

Senator LUNDY—I would like to clarify a few issues. Senator Tierney said before about legalising this new technology. For the committee's benefit, can you explain the current legal status of online gambling, please.

Mr Rae—As I understand it, the states and territories have developed their draft model code, which is a regulatory framework to regulate gambling. It has been implemented in legislation in five jurisdictions, including the Northern Territory, the ACT and Victoria. It has been legislated in quite different ways. For example, in the Northern Territory, it has basically been legislated by means of amending the existing legislation that applies to traditional forms of gambling. In other jurisdictions, a purpose-specific piece of legislation has been put in place.

The manner of its implementation has been quite different, but the broad principles are the same, as I understand it, in all the jurisdictions that have implemented it to date. They essentially involve the licensing of providers. Services provided by licensed providers are, if you like, legal; and those licensed providers are not allowed to provide services to people in jurisdictions where it is not legal to access them. Those providers that are coming on stream are effectively providing services in those jurisdictions where there is legislation in place.

Senator LUNDY—So we are not actually talking about legalising something that is currently illegal.

Mr Rae—Well, the other thing you should all remember is that there are currently unlicensed providers offshore whose services are accessible now. It would not matter if you were to ban it tonight: you would not necessarily stop anything except the leakage of tax revenue overseas.

Senator LUNDY—Just another point in terms of gambling services in the home: are you aware of how long phone accounts have been available for the purposes of gambling in this country?

CHAIR—Senator Lundy, I do not think that is really—

Senator LUNDY—Senator Tierney chooses to use this forum to put debating points forward, so I am choosing to use it for the same purpose.

CHAIR—I think that to ask a witness who is representing some major gambling companies when Australia went to telephone accounts is somewhat irrelevant to our terms of reference, and I urge you to move on to questions of a substantive nature.

Senator LUNDY—Chair, I asked the question on the basis that the imputation by Senator Tierney was that the Internet brought gambling into the home for the first time. That is untrue, and I am just trying to demonstrate that.

Senator TIERNEY—That is not what I said. Look at the *Hansard* transcript—

Senator LUNDY—Don't worry! I will.

CHAIR—Order! Mr Rae, I quite understand if you do not wish to answer that question.

Mr Rae—I do not know the precise time, but it has been several decades. It is probably fair to say that, in an operation like the New South Wales TAB, which has an Internet service, it is essentially their telephone service provided over the Internet. However, there will be, and there are, completely new services that are being brought into the online world; so you have got both the traditional services being provided through the medium of the online world—in other words, the service has not been changed in any significant form at all, and it is essentially wagering—and also the new forms of interactive casino games that are being provided by operators both overseas and now in Australia to people in the home. I suppose that you have got both influences.

Senator LUNDY—Turning to your submission now, with respect to many of the Internet based companies or .coms that are starting up, a lot of them have revenue models that extend beyond the actual service that the site is delivering—for example, the on-selling of information about users of that site or customers on that site. What safeguards are in place with respect to the on-selling of that information, given that it is such a common revenue model for Internet sites?

Mr Rae—The privacy laws that are in place would remain and would apply to—

Senator LUNDY—What privacy laws are you referring to?

Mr Rae—There are state privacy laws about information that you obtain from customers that you have, and there are limitations on your providing that to others. And that would continue to apply, whether you were an online operator or a traditional operator.

Senator LUNDY—There is currently no federal legislation with respect to privacy in the private sector.

Mr Rae—That is certainly my understanding, too.

Senator LUNDY—I was wondering if you could comment on whether or not such legislation would enhance the privacy protection of consumers, if it were in fact proceeded with and if it addressed specifically this issue of privacy on the Internet.

Mr Rae—I am afraid that I do not know enough about the state privacy laws to really be able to comment. I am not aware about any concerns about a gap opening up in the privacy laws because of the emergence of online services, but I am not sufficiently familiar with that area to offer a definitive comment.

Senator LUNDY—I notice on the slides that you have circulated that in fact one of them on the third page, at Register', carries the comment: 'Your personal information will not be released to another party. Your privacy and security are assured.'

Mr Rae—That is essentially a reflection of the state privacy laws.

Senator LUNDY—Is there a specific privacy policy, embodied as part of this product, that the companies have developed themselves?

Mr Rae—Yes. The company does not wish to be in a position of passing on details about their clients, in just the same way as now they do not wish to provide details about their clients without their clients' consent. You have got the privacy laws as well that require that, and so there is a coincidence of policy and commercial interest there.

Senator LUNDY—Perhaps you could, on notice, provide me with the direct reference to the appropriate clauses within the state privacy acts.

Mr Rae—I will try to get back to you with some indication of which parts of the state privacy laws would apply.

Senator LUNDY—That would be useful, thank you. I have a question on the tax treatment of gambling revenues. Have you had the opportunity to compare the tax regimes with respect to gambling online in other jurisdictions with what is proposed and what is currently the structure here?

Mr Rae—In jurisdictions overseas, do you mean?

Senator LUNDY—Yes, internationally.

Mr Rae—The short answer is no. But I believe that there are at least a couple of jurisdictions, if not more than that, where there is effectively no tax on the gambling service provider. Some of the sites in the Caribbean are, I believe, of that character. I can talk to my colleagues and see whether we have any more information on that, if you would like it.

Senator LUNDY—What prompted me to ask that question was your comment that somehow, in the whole gamut of taxation and regulatory regimes, if the Australian online gambling sector develops, there are competitive issues at stake here if in fact the taxation is too hefty. Can you extrapolate there?

Mr Rae—That is exactly right. An online provider who is paying a substantial rate of tax and is competing with an offshore online provider who is paying little or no tax is at a distinct competitive disadvantage. A local operation will of course have the advantage of providing its services from a more reputable regulatory environment—

Senator LUNDY—Yes; and that takes me to my next question.

Mr Rae—and that is undoubtedly an issue for the consumer. What value consumers will place on that will, I guess, vary; but, broadly speaking, the domestic providers will be at somewhat of a disadvantage competitively if they are in a higher tax environment and are competing with others overseas who are in a low tax one.

Senator LUNDY—We certainly got some evidence from Jan McMillen of the Institute of Gambling Research about how people who gamble weigh up the sort of licensing and regulatory regime against the security or the quality of that particular gambling experience. Do you have any sense of those sorts of weightings from the people themselves who gamble, or any indication as to how you would find the balance between a tax burden that is sustainable, offset by a strident licensing regime?

Mr Rae—I am sure the econometricians would love to get their teeth into this and they would like to think that they could come up with something useful. I am not sure they will. I am not aware of any work that is being done in this area that might be relevant to your concerns. Undoubtedly there are other products and services where this is an issue which may be of some guidance to you, but at the end of the day it will be largely a judgment about what you think the market will bear, if you like. I am not sure we can put a precise figure on it at all. If it does emerge eventually that there is a significant online sector here and there is a direct head-to-head comparison, we might be able to produce something, but there will probably be so much changing in the environment that it will be difficult to draw firm conclusions about it.

Senator LUNDY—I have one last question, and it is about your advertising policy with respect to this site. Does it carry commercial advertising, and has this been identified as a revenue stream for the business?

Mr Rae—I do not know the answer to that. I believe it does. But I am not sure whether it is only Tatts related advertising or whether there are other forms of advertising. At the moment, of course, the Tatts site does provide a link to Canbet in the ACT.

CHAIR—Perhaps you could take that question on notice, because I would be interested to know.

Senator LUNDY—It is an important point.

CHAIR—I just had a quick glance at the slides you have given us showing the way people would log on. Nowhere on this, that I can see at first glance, is there any indication of assistance that could be given if this person has a gambling problem or believes they have a gambling problem.

Mr Rae—No; this just takes you through the registration procedure. That is additional.

CHAIR—Nevertheless, if they are gamblers in a number of other fields of gambling, surely it would be useful to say 'This is a form of gambling which also attracts people who have a gambling problem. In opening this account you may wish to learn more about the assistance available to people who have a gambling problem,' and give the 008 or the 1800 number available for this. The warning about problem gambling could be given at the start and not after they have deposited $5,000.

Mr Rae—They will get that, in fact.

CHAIR—How will they get it?

Mr Rae—This just shows you what the registration procedure will look like for someone coming online.

CHAIR—But how will they get it?

Mr Rae—There is now a link to G-line on every page of the Tatts site. That will be maintained. There are now messages which have been developed with G-line that appear randomly on any page in the Tatts site—messages that are about responsible gambling and what it involves. The link to G-line will take you to a counsellor you can talk to online, either individually or in a chat room, if you wish. You can send an email to G-line if you wish. If the self-exclusion policy has been invoked, which is an option you will have on this, and you come to the time when you want to go off it, you have to present evidence that you have been to counselling and that the counselling agency has been notified that you are resuming your account. Protections and information are already built into the existing site. They will be continued when they launch their own site.

CHAIR—I just say again that, if somebody is putting $5,000 in to play with, I would have thought it was appropriate to have some message about assistance for problem gambling available right at the start and not after they have established the process.

Mr Rae—They will get responsible gambling messages from the beginning, like using your head and not your heart, not drinking while you gamble and that sort of thing. You will get that from the time you come onto the site, and that will be maintained through the site. Some of those messages will be put up randomly and some of them will be available permanently. There will be the ability to leave the site from any page and go to a counselling site and to seek counselling if you feel the need.

Senator McGAURAN—Just for clarification, at the point of registration they will get that message?

Mr Rae—You will get that message right through.

Senator McGAURAN—Right through; but the short answer is yes, they will get the message at the point of registration. Thank you.

Senator HARRADINE—We are running into time problems, but I would like to deal with two issues. In your submission to us, as an economist you seem to be leading to the end result that there will be a vast loss of taxation revenue to the public authorities—

Mr Rae—The possibility of that.

Senator HARRADINE—or states. Could you tell the committee briefly why you come to that conclusion? You have mentioned it in your submission.

Mr Rae—The brief answer is this: there are online providers now offshore, including in jurisdictions that are generally low tax jurisdictions, like the Caribbean. They are likely to grow in the future. Low tax jurisdictions will have a competitive advantage over high tax jurisdictions. Basically, the technology is the same and internationally available—you pay the same amount for it—and the only difference will be if your labour is cheaper or if your tax is lower. Those jurisdictions will have advantages in both those areas. If there is a substantial tax differential between gambling in Australia online and gambling overseas online, there is likely to be a significant loss of revenue from people who choose to go the route that will give them the highest return as consumers. They will no doubt discount that to some degree because of the greater certainty they have that the operators they are dealing with here are licensed by government and are therefore reputable and so they are likely to get their money back, but we do not know how big or how large that discount factor might be. It could be significant and, if it is, the loss of revenue could be very substantial.

Senator HARRADINE—The other point I wanted to raise is the question of promoting the sites. Obviously the company would want to promote the site. What sort of promotion would you envisage?

Mr Rae—I cannot answer that question, Senator; I would have to take it on notice. I can ask the company. There are restrictions now on advertising, general as well as specific, and I would assume that they will continue to apply, but beyond those I am not sure what specific restrictions, if any, there are in the various jurisdictions that regulate online gambling.

Senator HARRADINE—For example, is it proposed that you would have access to the site in order to get people used to the interactive nature of the online gambling situation—a practice run, for example?

Mr Rae—In the Tattersalls case, yes. In the Tattersalls case you can either register to play for points or you can register to play with money.

Senator HARRADINE—In the tabled document, on the third page there is an encrypted register or electronic purse. You can play with cash. Is that the $100 we were talking about before?

Mr Rae—That is right; or you can play with points. It is just the entertainment value.

Senator HARRADINE—One of the issues, as you know, is the question of protection of children.

Mr Rae—Minor access.

Senator HARRADINE—One can see that, if they have to come up with the money, that would be a restriction in itself, to a certain extent. But there is nothing to stop them or anybody else—a late teenager, for example—from getting into the site and starting to get used to the interactive motors and getting hooked on it, and that leads to a lifetime of gambling.

Mr Rae—They still have to complete the registration process: they have to go from being a provisional registrant to a full registrant, which means they have to provide validated copies of their identity, their age and their place of residence. I cannot imagine how a child would do that. It would be easier, as the commissioner said, I think, to get into a traditional venue than it is to get into an online one. That is not to say there will not be one child somewhere who may get in.

Senator HARRADINE—By giving a false name, I suppose.

Mr Rae—If you give a false name, as soon as they find out about it, you are offline—you are kicked off.

Senator HARRADINE—Next week you can give another false name, I presume.

Mr Rae—Not if you give the same address. You are going to have to keep changing all those details. You are never going to get any money out of it. All you can do is deposit money. Eventually the chances are that you would be caught, because they will be doing some data matching as part of their own checks of people. If there are databases that government keeps of excluded players, for example, they will be checking them against those.

Senator HARRADINE—On the question of child protection, on page 40 you say:

Crown has also included in the development of a gaming site direct links to proven child protection software—

Mr Rae—That will be true of Tattersalls, as well.

Senator HARRADINE—You would see that as desirable in legislation, would you not?

Mr Rae—What would you legislate for?

Senator HARRADINE—The requirement that the provider of the site—

Mr Rae—What precisely are you going to require? You have to write down in legislation what they have to do.

Senator HARRADINE—A requirement that the promoter and provider of the site provide access, free of charge, to software such as CYBER Patrol, Net Nanny and CYBER Sitter, and updates of those.

Mr Rae—The companies that I represent are certainly going to do that on their own account. What do you gain by having regulation to require it? There is a difficulty in doing it—you are going to have to specify the nature of the software. Given the fact that it has taken a US district court judge several years to work out what an operating system is, it is impractical to specify in legislation the kind of software we would require the companies to have. What would you be gaining over and above what apparently you are already going to get? The companies can see that it is in their own interests to provide that without legislation. All you would get is a restriction on the scope of the kind of thing that they could do, which would be a loss to the very people we are trying to protect.

Senator HARRADINE—Why not have legislation which requires what you are proposing to do to be done by all licensed operators?

Mr Rae—I think you will find that the act of writing it down is a very challenging act indeed.

Senator HARRADINE—There are very resourceful counsel and parliamentary draftspeople.

Mr Rae—Yes, I am aware that we have lots of resourceful lawyers. And the more resourceful lawyers you use, the more work you create for resourceful lawyers.

Senator HARRADINE—We are seeking to come to terms with this, and surely if this is going to be essential to the protection of children, as you seem to indicate—although some of these are not 100 per cent effective—wouldn't it be appropriate for regulations to require operators to provide this sort of safeguard for their consumers?

Mr Rae—A lot of people certainly do think it is appropriate to try that. My own preference is to go down the voluntary code of practice route, because you need to give the providers enough flexibility, and indeed the responsibility, to search out ways to handle this problem, given that it is extremely difficult to actually specify it in legislation.

Senator HARRADINE—You are saying it is.

Mr Rae—I have had experience in other areas—

Senator HARRADINE—But in this area?

Mr Rae—No; in other complex areas like health and safety.

Senator HARRADINE—Tell us about complex issues. Native title—how about having a go at that, for instance?

CHAIR—Senator Harradine, that is not within the terms of reference.

Mr Rae—And I do not think I am competent to pronounce on that entire issue.

CHAIR—I am not sure that anyone in Australia is.

Senator HARRADINE—Thanks, Mr Rae.

Senator LUNDY—I just want to ask you, Mr Rae, whether you have contemplated having a compulsory points process at the initial entry point for users of your product, as an exercise to go through before they actually sign up with an account.

Mr Rae—Do you mean from the very beginning?

Senator LUNDY—Yes; from when you first go in. You have spoken about an optional points thing, whether or not it would be part of your site. You had thought about making a points exercise a compulsory thing.

Mr Rae—The points exercise is compulsory to really get any benefit out of registering. You can make one deposit and you cannot withdraw anything. After a while you are not going to be able to play at all; so, if you want to continue to play, you have to provide the information that is required to convert.

Senator LUNDY—I am sorry but I do not mean identification points; I mean playing for points and making playing for points almost part of something like a compulsory qualifying process before you can actually go in and formally register, even with $100 or a full account. It would be part of an exercise.

Mr Rae—Certainly, my answer as an economist would be that I like to let people make the maximum number of choices themselves. If they are adults—and this process is designed to ensure that they are and that they are who they say they are—and as there are possibilities of getting information about the risks online and of getting counselling online, I think that the rest of it should be up to the individual. It is all there as a menu, and the individual can choose to go through that menu in the order and at the time and pace that they would like.

CHAIR—Thank you, Mr Rae, for your contribution this morning and for the effort that you put into the submission that you made available to us. We appreciate the time that you have given us this morning.

Mr Rae—Thank you, Madam Chair.

Proceedings suspended from 11.43 a.m. to 11.53 a.m.

CHAPMAN, Mr Edward, Project Officer, InterChurch Gambling Taskforce

COSTELLO, Reverend Timothy Ewen, Member, InterChurch Gambling Taskforce

WEBSTER, Ms Marilyn Jane, Acting Chair, InterChurch Gambling Taskforce

RUZZIER, Mr Ron, Coordinator, BreakEven Eastern, Eastern Access Community Health

XENOPHON, Mr Nick, Member, Legislative Council, Parliament of South Australia

CHAIR—Welcome. The committee prefers that all evidence be given in public. However, if at any time there is a question asked, the answer for which you may like to give in private, please ask us and we will consider that. However, it could subsequently be that that evidence could be made public by order of the Senate. I would also like to remind witnesses that the giving of false or misleading evidence may constitute a contempt of the parliament. The committee has before it submissions Nos 59, 50 and 11, which have already been published. Are there any changes that you would like to make at this stage to any of those submissions?

Ms Webster—There is no change to our submission, although we do have some additional material that we would like to introduce by way of discussion.

CHAIR—Thank you. We will get to that in just a moment. I would now like to invite each of you to make an opening statement. When that is completed, we will ask each of you questions. I am conscious that there are five witnesses at the table so I would ask you to make your introductory remarks as brief as possible to allow more time for my colleagues to ask questions.

Ms Webster—The InterChurch Gambling Taskforce is very grateful for this opportunity to appear before the committee today. We believe that the issue of online gambling and interactive gambling is an extremely important issue. Despite the fact that the recent Productivity Commission report identified that only 86,000 people had actually participated in online gambling to this point in time, we believe that it is an issue of immense proportions that is likely to have profound social effects. This was confirmed for me personally yesterday by speaking to some of the financial counsellors at Good Shepherd Youth and Family Services, who are already seeing the impacts of this technology on low income families in a situation with relatively little protection.

We believe that, while our initial report to you indicated that there were very severe problems with the issue of adequately regulating online gambling, there is a strong case to be made for following the US lead of the Kyl bill and that there should be close examination of the issue of total prohibition. We believe that there are severe problems with the regulatory approach undertaken so far in Australia. The features of that regulation have basically been protection of government revenue, protection of the industry, and protection of the consumer only where underlying that were the purposes of the integrity of the industry. We believe that the fourth purpose of regulation, which we believe should underpin any

regulation—that is, safeguarding the community—has actually had fairly minor attention paid to it in the process of regulation.

We believe that in other forms of gambling, particularly in Victoria, voluntary codes of practice have completely failed; and obviously we take the industry on in that respect. Finally, we believe that, failing the issue of prohibition, there are some things which can be undertaken to strengthen a regulatory approach but we believe that this is very much a secondary approach. Edward Chapman will now introduce our submission and talk in more detail about some of the measures that we are proposing.

Mr Chapman—I will not bore you with the details of the report, as I am sure you have all got it in front of you. I have a few main points that I would like to draw together from the work that we have done. It appears that most of the debate around Internet gambling, due to the input of the industry and other bodies, has been mainly around the regulatory framework. We want to pull this back a bit to analyse again the case for the ban on Internet gambling, which is often pooh-poohed by much of the industry and other bodies.

We believe that this has to the examined again more fully, especially in light of the United States Kyl bill and the prohibition on Internet gambling that is going through there. We are aware of the extreme political and economic pressure that almost demands that Internet gambling be regulated. The amount of money that could be potentially won, as well as the amount of money that could be potentially lost to overseas sites, puts a great deal of pressure on the need to regulate this industry.

However, in analysing the social costs and economic costs, when it is looked at more carefully, we believe there is a strong case for a ban on Internet gambling and we believe that, if it cannot be 100 per cent achieved, it is still worth pursuing and worth examining further for its potential. Failing that ban happening, we have also examined more closely the regulatory framework. We have looked in more detail at the weak points of the legislation. We have examined the Victorian legislation in particular and the weak spots there. Primarily, in Victoria there is the inability of a third party to place a restriction on an individual's betting—which was an ability in the Queensland legislation that we fully supported and would like to see implemented in all states.

As I said, all of the information and regulations have been laid out there. We have put particular emphasis on access to minors—which we believe has been underestimated by the industry and is much harder to control—as well as on the ability for children to bet, as was discussed previously, by points and not financially—which we believe also has complications. The fact that an individual cannot receive moneys does not mean that a social problem is not being caused. That is probably a quick run-through of the information.

Rev. Costello—You will know from our report that it is a plea to consider a ban but, if that is rejected, I guess there is as a fall-back to consider much stricter legislation. I would not want the committee to believe that somehow we are a little half-hearted about a ban. We actually believe that a national framework—not a state framework—that has drawn up national guidelines is absolutely essential: a national framework that holds in solidarity with the US, which is moving—and we should all acknowledge this—to look at international conventions and maybe even a treaty in terms of how this is regulated. To break ranks with

the US and to boast, as some of our states are doing, that we are the world leaders and that we are out there is corrosive of the US lead, is foolish, and ultimately will be defeating of proper international discussion and conventions which will ultimately be the only protection for all of us.

As for a competitive framework, at the moment at state levels, I must confess some cynicism about this: when the states drew up their code and framework, I—as a person who follows gambling fairly closely—did not even notice it. The states do not agree on a lot of things, as we know, but they seemed to slip off and all come back with this you-beaut agreement—which, I must say, only intensified my cynicism that this was driven by state revenues, which we know from the Productivity Commission has been one of the major reasons for the explosion of gambling in Australia and why we are so far ahead of everyone else. State revenues have actually fuelled the demand.

That is why I profoundly distrust a state framework where a Crown and a Tattersalls can come along and say, 'You can trust us; we are responsible players.' Sadly, we know, thanks to the Productivity Commission's work, that 35 per cent of Crown and Tattersall's revenue—and, by extension, 35 per cent of state government revenue—comes from gambling addicts, from 2.3 per cent of the population who have no free choice at all. So to actually say, 'We will be self-regulating; do not place any regulations on us, because we are responsible players,' is laughable. There is so much money at stake here, in terms of advancing and creating a much more ravenous technological appetite for Internet gambling, that it needs to be a national and international framework that regulates this.

We also said in this report—and I will just underscore it—that the Productivity Commission has found that problem gamblers are mainly created through accessibility. Unlike a drinker who might drive all over the city to find a hotel, it is the accessibility, visibility and proximity that creates problem gamblers. It gets no more accessible than Internet gambling. It is there in your home. You might be drinking; you might be depressed. It is the only form of gambling that is credit based. No other form is. It is the most seductive and dangerous, and every new technological advance creates a new category of problem gamblers.

In this state, pokies—which we thought would be fine because New South Wales had had them for 30 or 40 years—once introduced, saw women, who had been about two per cent of problem gamblers, jump to being over 50 per cent when pokies went through clubs, pubs, and literally everywhere. We think there will be a similar, parallel creation of new problem gamblers who do not go to casinos and clubs but who, with online gambling, with the illusory promise that it is all regulated and safe and that they do not risk losing their money in the Cook Islands or the rogue offshore states, will actually be a new category of problem gamblers.

Very briefly, you have before you some stuff I have pulled down off the Internet, which talks about Visa being responsible for a woman's $70,000 Net gambling in the US, and Visa now recognising that it must move to ban that. If you go to page 3—and I will not read this for you; you can read it at your leisure—a Visa subsidiary, a major company called Providian, which has 11 million customers, is taking steps to make debts illegal on the Net. It sets out there why it believes those powers are both enforceable and why we would

believe, under the banking provisions of our Constitution—or, for that matter, the telecommunications provisions—similar federal intervention is both achievable and sensible. Yes, people might still go offshore to gamble, but the risks for them are then known. Once you say yes and the industry is saying, 'It has all now been made watertight; the regulations are in place and you have nothing to fear,' that actually intensifies use far more quickly than do the prospects of the offshore, fly-by-night, overnight sorts of companies that exist at the moment.

So we would say it is foolish for us, as the greatest gambling nation in the world—with now, demonstrably, the greatest number of pro rata gambling problems—to boast about leading the world, when that is actually breaking ranks with the responsible leadership that the US and other countries are giving to head toward both protection of their own and protection through international convention. So we would urgently submit that the federal government consider its powers in this matter—if only, I might say, because the Productivity Commission has shown that the states, in their fiscal crises, have continued to fail to resist this painless, windfall tax which is just so easy to collect because it costs nothing electorally.

Mr Ruzzier—Thanks for the opportunity to appear before this committee. At the outset, I need to say that I represent BreakEven Eastern and Eastern only. The BreakEven network is a state-wide network. However, the comments that you will hear today come from the eastern region and the eastern region only. We employ 12 people in our service—eight counsellors, three financial counsellors and a community educator—and we cover the eastern metropolitan region of Melbourne, which covers about a million people. The previous witness, Mr Rae, said something in the nature of—

CHAIR—Could I just ask you to explain what BreakEven does?

Mr Ruzzier—BreakEven is a service that is funded by the Victorian Department of Human Services. The money that the department gives us comes directly from the Community Support Fund. That fund, in turn, is derived from gaming machines in hotels in Victoria and hotels only. Clubs do not contribute to that fund.

CHAIR—And you provide support for gambling addicts?

Mr Ruzzier—We provide assistance, support and counselling for any person adversely affected by gambling. That is the person gambling, or their partner. We also provide a range of other activities that include community education and liaison with gaming venues. Of course, we have strong links with G-line, which is the 24-hour provider in the state. Unlike, I suppose, the InterChurch Gambling TaskForce, we cannot argue for prohibition, because part of our brief from the department is to promote a responsible gambling culture in Victoria.

The previous witness, Mr Rae, said something to the effect that nobody knows what the nature, causes and consequences of problem gambling are. We as an agency would take issue with that. We would certainly believe that, after five years of providing a service to about 3½ thousand people, we have some understanding of the nature of problem gamblers, the causes of them becoming problem gamblers, and certainly the consequences on families, individuals, employers and the community as a whole.

One of the things that you will note in our submission is that certainly part of the nature of problem gamblers is that their behaviour is often secretive, clandestine. That is often because they feel ashamed, embarrassed and terribly guilty about their actions. Whilst the previous speaker again said that if online gambling is in the home it is going to be spotted and everything will be hunky-dory, we take issue with that. Our main concern with Internet gambling is that we see that online gambling in the home or at work really facilitates the clandestine nature of problem gambling: it is even more secretive, because people will gambling online at home when their wife or husband has gone to bed. They will gamble at work on their computer. You could be gambling on the 20th floor up the road here, and your boss might not know.

That is really the major thrust of our concern. As well, we think that we have had only one person at the moment presenting with an online gambling problem. We have a double whammy, because he is a person from a non-Australian background and he is also on a disability pension. The issues for him are that he thinks it is safe, that it is convenient, that he does not have to move physically, and that it is a very easy and convenient way for him to gamble. I take up what Reverend Tim Costello said: there is no doubt that accessibility to gambling certainly is a big issue. Eight out of 10 of the clients we see are experiencing problems with electronic gaming machines. If we had had a service prior to 1992 when the machines were introduced, all our gamblers would have been horse punters or gambling on illegal casinos. Now, as the Reverend said, half of our clients are women and those women, by and large, are gambling on electronic gaming machines.

Whilst our brief is to promote responsible gambling, we are concerned about the impact of gambling in the home. The previous speaker made some comment to the effect that if the gambling is brought into the home it will be much more visible and therefore the problem gambler will not commit the act. I do not want to draw a long bow here, but as a parole officer who dealt with sex offenders, I can tell you that sex offenders found ways to commit crimes in the home. I have no doubt that, if they can do that, problem gamblers will be able to access online gambling either in the home or at work without much problem.

Mr Xenophon—Thank you for this opportunity to give evidence. By way of background, I am an independent member of the Legislative Council for the South Australian parliament. There was a discussion with your previous witnesses about what ‘independent’ means. I suppose I manage to upset both the Premier and opposition leader occasionally, sometimes both on the same day, so I guess I am independent in that regard. I was elected on a single issue, the ‘no pokies’ campaign two years ago. Poker machines were very much the manifestation of the gambling exposure in South Australia and the rapid increase in the number of people seeking help from welfare agencies, and the easy access to them in hotels and clubs has largely been the driver of gambling losses. Gambling losses in my state have doubled in the last five years.

I do not see the issue of online gambling as one of wowserism; I see it primarily as an issue of social justice and consumer protection. The select committee of the Legislative Council of the South Australian parliament is currently undertaking a similar inquiry into the risks, benefits and feasibilities of online gambling and into the difficulties and challenges faced in prohibiting or regulating that industry. There are a number of conundrums in dealing with this industry. The industry approach appears to be that you can regulate this

industry. The corollary to that, I would think, is that if you can effectively regulate it then you ought to be able to effectively prohibit it. I would think that, from a legislative point of view, there ought to be a choice so that a decision can be made based on the technical feasibility of dealing with this industry.

I would like to take up the issue of the prohibition approach. That is something that the industry talks about, and they allude to prohibition in the 1930s in the United States. I think the issue with gambling is very different. We do not see a popular movement as there was in the US to end prohibition. We do not see a situation here where people are marching the streets for the right to gamble online 24 hours a day, seven days a week. Given the Productivity Commission's survey results—that some 75 per cent of Australians believe that gambling does more harm than good and that 92 per cent believe that there should be no more poker machines in the community—I find the Productivity Commission's view, that you can deal with interactive gambling by way of a regime of managed liberalisation, to be, at the least, curious.

My appeal to the committee would be to look at this as a consumer protection issue and to look at effective ways of dealing with the very difficult technical issue of regulating or prohibiting this industry, and perhaps to take the approach that has been suggested in the US of using the banking powers to outlaw credit card transactions—which will clearly be a significant driver in the growth of this industry—in online gambling. For example, if a punter loses money on an Internet gambling site, wherever that is, they ought to be able to void that transaction. Most transactions—or the industry itself—could effectively be nipped in the bud if that legislative approach was taken. I am more than happy to deal with that during questions.

I also see that there is an inherent tension in the approach of the industry that says that you can simply regulate this industry and regulate it effectively. The approach of previous witnesses that you can simply have a self-regulatory approach is something that does not make sense, particularly given the comments made by the Productivity Commission that a self-regulatory approach does not really deliver a good policy outcome in terms of reducing levels of problem gambling.

CHAIR—Thank you very much. Perhaps I can open by asking a question directed to Reverend Costello, and somebody else might like to come in. Your submissions and your statements this morning have painted a very bleak picture of Internet gambling and of a very worrying likely influence on families. But, to my way of thinking, there is currently nothing more damaging to me, as a member of a family, than to see young children parked outside TABs in baby strollers while their parents are inside laying bets. Even worse, in my opinion, is to see them kept outside a barrier in a hotel while their parents are on the other side of the barrier gambling on poker machines. As Mr Xenophon's study of poker machines and losses by postcode has shown that these are invariably people on low incomes, how are such people with no access to computers and very limited access to the Internet generally going to be worse off than they are now, with such ready access to other forms of gambling?

Rev. Costello—I think your argument has answered itself. People are being promised such illusory things as that they can be a winner, and they are flooding TABs and poker machines. Once access to computers does become universal—and it will eventually become

universal even for the poor; prices are coming down—that accessibility only intensifies the very things that you are talking about.

When you say 'families' I think you are spot on. At the Productivity Commission's hearings in Brisbane that I sat through, the previous witness, Jeffrey Rae from ACIL, argued that gambling is a rational activity, that people who are problem gamblers have rationally chosen how much distress and suffering they want to endure for their gambling. He added that family members are free moral agents—because this is their whole rational moral agency theory—to contract out of a problem gambler's life and pain at any time they choose.

This is where this notion of theoretical choice becomes absolutely ridiculous. I saw a woman three weeks ago whose husband suicided after she found he had lost $160,000. He put his Qantas suit on and gassed himself in his car in the Qantas car park. His wife had no idea until she found out how much he had lost, and a day later he suicided. She had no opportunity to rationally withdraw from this awful addiction once he was found out with the shame. Families do not have that opportunity and, once computers are in homes and accessible right across the board—as they eventually will be—that will only intensify the pain for families.

CHAIR—One of the critical questions is this one of access, and you have answered some of the question in the points you have just made. But isn't it also the case that Internet gambling involves people—certainly in Alice Springs, where we heard evidence yesterday—making some choices before they start gambling so that they determine the maximum amount of money they want to lose in a month, they determine their maximum bet and they make certain other choices as well?

Those are not choices that are imposed on people who gamble in any other form of gambling, as far as I am aware. It is in fact worse still: it is not unusual to see, very close to casinos, pawn shops operating very profitably and EFTPOS machines—whole walls of them. Surely Internet gambling, online gambling, offers the opportunity to more effectively regulate access to gambling than the myriad other forms of gambling that we now have, which are causing the problems that all of you have outlined this morning.

Rev. Costello—Before Ron replies, I will say that Lasseters is by far the best. I visited Lasseters, too. I was personally quite impressed with the attempts they had made there, and their limits—you can only gamble within the state. They had a much more responsible attitude. But Lasseters is not typical of this industry. Crown is nothing like Lasseters, and its approach, which we have seen in this state, will not be like that of Lasseters. What will happen, unfortunately, to Lasseters—with their limit of, I think, $500 a month—is that, with the competition from Crown and other places and offshore sites, those standards will go. This is what competition does; it is the downward pull.

Those self- exclusions that are quite impressive there at the moment unfortunately still do not give rights to third parties who may have had no say in that self-exclusion: for example, a wife or a spouse finds that the $500 that was the rent money for that month is gone. So we are still maintaining our argument, notwithstanding that there is some good practice in limited places.

Ms Webster—I would like to make a point about the introduction of the technology and low income families. Much is made of the complexity and sophistication of the technology acting as a barrier for low income families. But with the introduction of new televisions, interactive televisions, and the simplifying of that access, the total access to the technology will become available to low income families, and the take-up rate will explode, just as it did with video technology; in fact, it was that portion of the population that drove the take-up of video technology. This was the area that the financial counsellors of Good Shepherd were particularly concerned about. It will be the debt incurred, not only with the actual play but in acquiring the technology, that will be affecting those families.

Senator TIERNEY—Telstra have a plan to do that next year.

CHAIR—I have one further question on the point you make about Lasseters. Surely, if we were looking to regulate in an area of consumer protection, Lasseters is quite valuable in that area. One of the things that concerned me this morning—I do not believe we were able to clarify it to my satisfaction—related to this log-in set of slides. Nowhere does it pick up the point that somebody might be a problem gambler already from poker machines or some other form of gambling. It seems to me that it is fundamental to offer some counselling at the point at which somebody is going to set up a new form of gambling on their home computer, in addition to all other forms of gambling that they may already be looking at. I wonder whether you have got any comment to make on that. I did not feel I was able to clarify that, to the extent that it was going to be put on to the set of access procedures.

Rev. Costello—I believe—and others might have a view on this—that it is virtually impossible to identify problem gamblers on the Internet. We know this from pornography sites, which spring up all over the place. It is the fastest growing access. In fact this will happen with online gambling too, it seems to me, unless there are banking situations, like the Providian one referred to in this document, where they are barring the use of credit cards: you have got to go overseas and set up an account.

At least with the pokies and casinos, in the trajectory of this industry we are about 20 years away from where the tobacco industry was at the end of the 1970's perhaps, when tobacco research still funded most of the research going on into cancer. It was unthinkable that you might ban, on planes or restaurants or workplaces, people smoking. People would have laughed in your face 20 years ago and said, 'You can't do that.' And we have done it; there has been a cultural change.

I believe that, over the next 20 years, we will have a cultural change because we actually are winning this debate with the hearts and minds of Australians who are saying, 'Gambling should be there; no-one is limiting anyone's options to gamble. However, we do need to responsibly identify problem gamblers.' If they have to go into a pub or a club or a casino, we can start to make it normal to identify, to pro-actively intervene—like a licensee should do with a person who is drunk. We will even be able—perhaps in 20 years time—to insist that they get counselling, because we can identify them. What worries me so much about this is that there is no way of identifying them. That is why I am very, very worried about this form of gambling.

CHAIR—Other than by the company that is providing the service identifying them.

Rev. Costello—Yes.

Senator LUNDY—Just going back a little bit, I think it was you, Reverend Costello, who made mention of how you actually go about restricting content and made reference to the CDA and what was happening in the US. To what degree do you think that the potential of the same fate of CDA1, if you like, is going to occur with the current legislation being considered, given that even the commentary that you provided talks about the pending challenge and the fact that, because it is clearly a restriction on content, it could very well be subject to a First Amendment problem, as was the CDA?

Rev. Costello—I cannot actually answer that, except to say that the amount of gambling per head and problem gambling in America is far, far less than ours. But the resolve in America at the moment is far, far greater, curiously, than is ours, to try to address these problems. From my context there, whatever the legal fate on that, this issue is now so clearly taking root in the American public's mind that even court cases interpreting First Amendments are shaped by cultural attitudes. The judiciary, contrary to what they might tell us, are responding to what they see as dominant.

The States are now seeing—Nick Xenophon has just been there—numbers of states outlaw any foible—slot machines, for example. There is a mood there to say that people should have the opportunity to gamble—nobody is suggesting they should not—but the need for greater and more gambling is not being driven by community demand; it is being driven by the industry. Although there are decriminalising groups for marijuana and all sorts of things, with people out there actively lobbying, that is not happening with gambling. It is coming from the industry and state governments, and in America they have recognised that and are rolling it back. I think, legally, they will continue to press this, whatever the fate of that case.

Senator LUNDY—Further to that, the whole state-federal relationship in the US is intrinsically part of their considerations, as you imply is the fact here. To what degree do you think the issue is being motivated by the state governments in the US to look to Congress to actually legislate, given that so many of the states choose different paths and have far more flexibility in their own state based revenue models to draw revenue from other sources? For example, consumption taxes are state based in the US and they have a degree of flexibility that is not available here. How much of their whole scenario can be likened to what is going on in Australia, because of the differences in the way that the states can actually attract revenue? Some states in the US have made gambling illegal; you cannot gamble in some states over there. And people make a social choice about where they live, perhaps, as a result of that—maybe not.

Rev. Costello—Others might want to speak on this. I would just say that our federal system clearly is different from theirs, and there is no doubt that the vertical fiscal imbalance between state and federal has fuelled state reliance on gambling and the massive expansion of gambling. I think that is indisputable. The GST here will top up state revenues a little bit. It remains a real challenge to know how to address state revenues so that they do not remain dependent on gambling. But if Victorians, for example, knew that the state government or an industry were getting 35 per cent of its revenue from heroin addicts living off the back of them, there would be outrage—moral outrage. They would say, 'Whatever the cost, this is

morally wrong.' That is what is actually happening with gamblers, with people who are addicts. The state of Victoria is now getting 16 per cent of its total revenue from gambling, and that figure is growing. Thirty-five per cent of that comes from addicts. It is morally and socially wrong. And whatever the legal federal-state jurisdictional difficulties, whatever the economic revenue cashflow problems, we actually need to set the moral values clearly, because any state or federal budget is ultimately a statement of values and priorities—that is what it is—then we work it out.

Senator LUNDY—To follow on from that, I asked the previous witness a question about revenue models and revenue drivers behind industry initiatives, behind markets and consumer products that are offered. It seems that, from what you have just said, the responsibility for identifying what those revenue drivers are goes back to who has control of those revenue models. The motivating factors that are making gambling such a prevalent and accessible thing, particularly in this state, relate to those revenue models and how the different stakeholders, if you like—the government and the casino operator—actually position themselves.

You have to deal with those revenue models if you want to address the social problems that are derived from them in the first instance. How is your position on banning going to actually resolve this problem—those underlying motivational factors—at its cause? While ever you leave those revenue drivers that promote the market in place, you are really just putting a bandaid over the sore bits.

Rev. Costello—Yes. I will not take time here to give my views on what should happen to fiscal state vertical imbalance.

Senator LUNDY—But my point is that it is a motivator.

Rev. Costello—I understand that, but I think there are answers to that. That would be a long discussion for us. I do want to say, however, that this is ultimately a matter of political leadership. In this state now we hope to be seeing political leadership that says it is no longer sufficient for us simply to say that, because we are stuck a little bit with not getting enough out of the feds, we are going to throw more pokies in the poorest areas. The present government has promised regional caps on pokies, to say that no longer will the poor subsidise the captains of the gaming industry and the big social Agenda 21 projects—air museums and tennis opens.

It will require political leadership to explain why state taxes in other areas might have to go up, and that will be a very courageous political leadership; but, if you have laid out the grounds sufficiently to say it is no longer right to create dependency here, then that is your next task. We say that, unfortunately, we have perhaps had governments that have failed clearly to do that, and I do not just say that of the Victorian government. It has been true of all state governments except the West Australian.

Senator LUNDY—My next question is on the relativities that exist between what is proposed here and the online services bill that has been passed by the federal government. There has been a fairly consistent amount of evidence that that piece of legislation will not achieve what the government has promised it will achieve—that is, protect people from the

type of material that it seeks to make illegal—by virtue of issues that you have acknowledged, in that there are international sites and material hosted on servers elsewhere that cannot be blocked. To what degree is that evidence relevant to the prospect that you are advocating—that is, that Internet gambling be banned? Are you proposing a framework for its banning which is similar to the online services act: that is, takedown notices, and so forth?

Rev. Costello—I am sorry I am doing all the talking here, but I would say that we acknowledge at best that it will filter and restrain significantly enough to make the legislation worth while. Most of us know the old truism that if the law is not enforceable it has no purpose, but most laws are not 100 per cent enforceable. Most laws continue to have a restraining, educative and limiting value. It will restrain it long enough for us to do the necessary work internationally, on which the US is prepared to give the lead, and on which we should be giving the lead, to find international conventions to bring to heel those rogue sites that are being exploitative. In relation to pornography, and I know there has been a lot of disagreement on that, the disagreement is over whether people really believe visually sexually explicit or violent material has any causal connection in shaping the culture, and all of that.

Senator LUNDY—It is not violent material; it is just sexually explicit material.

Rev. Costello—Sexual, sorry. I understand—

Senator HARRADINE—Just for clarification, it is violent material that is being banned under the online broadcasting legislation. I thought I would clarify that.

Rev. Costello—I know the arguments about the causal connections and all of that, that split people. I am not coming here to wade into those arguments except to say that there is an indisputable causal connection between accessibility, privacy, secrecy and problem gambling. The damage it does is extraordinary. There can be no equivocation about the causal connection here, whatever you might argue on the other matters.

Senator LUNDY—Further on that point, you acknowledge that it will not be 100 per cent successful but you recognise that that restraining factor and the fact that it is illegal will act as a disincentive to the community. Do you think the disincentive that illegality brings will actually target the people you are trying to target, the problem gamblers?

Rev. Costello—Yes, I do. I think it will be a very effective disincentive. I think the possibility that, if you have a win, you are not going to get paid is the most effective disincentive, because that site might disappear overnight or you—as a service provider—might be prosecuted or your credit card provider, if banking powers are used, is not going to validate your winnings or losses. I think it would be very powerful.

Senator LUNDY—Despite the attributes you have described for problem gamblers—being secretive, going exploring for and really finding, I suppose, the gratification they are looking for?

Rev. Costello—There will still be some who get through, but not others. There is any amount of opportunity to actually go and gamble. The interest, I guess, here is for us to say that—rather than it being utterly private and therefore not accessible at all to the counsellors that Ron and others have been talking about—we should make it more likely that people actually go out in public and gamble, where at least some education and intervention proactive elements can actually be located.

Mr Ruzzier—I might just add to that point. One of the processes that we do facilitate is self-exclusion from the casino and gaming venues. When you exclude from the casino, that is actually under Victorian law: if you enter the casino as a prohibited person, you are liable for a fine of 10 penalty units. The gaming machine venues operate under a code of conduct. We have had two cases recently where we had a man of Malaysian descent who was a self-excluded person from the casino. He should not have been in the casino but had spent five days in a row there. His son rang the Crown Casino and said, 'My father's in there. Will you get him out? This is what he looks like.' They said they could not find him. That was a man who should not have been there. He was committing a crime by being there but was still there. We have to balance that with other cases.

We had a guy recently on a disability pension. Every Monday the money would hit his account at 1.00 a.m. and every Monday at 1.15 a.m. he would be at a gaming machine venue. We got him banned and he has not gambled for the last three weeks. It is early days yet, but that is the first time in four years he has not gambled. I agree with Tim that there will be people whom it will deter and there will be people whom it will not. At least if there are some prohibitive measures, you will filter out some of them, if not all of them.

Senator LUNDY—A question on electronic commerce: you made the distinction before—and please correct me if I am wrong—that Internet gambling is the only source of gambling you can do that is credit based, as opposed to debit based. Can you clarify that for me, and whether or not other credit based forms of gambling are available to people, apart from the obvious?

Mr Ruzzier—There are others. EFTPOS machines are in probably every gaming venue in Victoria. There are 555. If you put in your EFTPOS card, you either take it from your debit account or from your credit account, so there is that. My understanding is that a gambler we have at the moment has also accessed credit from Crown Casino because they have a credit facility.

Rev. Costello—Strictly speaking, we are using credit in a couple of different senses here. The laws at the moment are that gambling on credit is not on: you actually have to have cash. If you are taking it from your own account and EFTPOS, that is another matter. You cannot go and ask for credit.

Senator LUNDY—So in a gambling venue that is right. But if you have access to your own credit account, through Visa, Mastercard or Bankcard, you can still gamble with credit?

Mr Ruzzier—For sure.

CHAIR—What is the situation with telephone betting accounts for the TAB?

Mr Xenophon—At least in South Australia the TAB now has a fine bet credit card facility so that you do not even have to speak to anyone. In the privacy of your workplace you can punch a few numbers in and transfer money from your credit card into your TAB account.

Senator LUNDY—Can you do that from home as well?

Mr Xenophon—Yes, you can.

CHAIR—So you can do it from anywhere that there is a telephone?

Mr Xenophon—Yes; anywhere there is a push button telephone.

Senator LUNDY—I think someone made the statement before that Internet gambling was the only form of gambling you could do in the home where you could have direct access to your credit account.

Mr Xenophon—That is not the case, but then again it is a question of the TAB product as distinct from the services offered by the providers of online gambling.

CHAIR—I am conscious of the time, Senator Lundy.

Senator LUNDY—Okay. I just have a couple of specific questions about the current laws relating to electronic commerce. It may be credit related, given that most electronic commerce sites are credit card enabled, as opposed to debit account enabled. Are you aware of the current structure behind liabilities for defaulted bills from credit card accounts in that online environment, and of where those liabilities fall under Australian law?

Mr Xenophon—The position at the moment is that if a transaction is illegal you can void that transaction with the credit card provider. If it is an illegal transaction then, in terms of the general principles of contract law, the argument is that you ought to be able to void it. As for the current policy of credit card providers, my understanding is that they will cancel a transaction if it is disputed. There is a clearing house, and you have 30 days to cancel that transaction. If there is legislation in place that says that you cannot use your credit card to gamble and it is so used, then you ought to be able to cancel that transaction with the credit card provider. Obviously, Visa, American Express or whoever will then takes steps to ensure that they do not get stung; they will not pay the online casino. The current position is that, if you bet on an online casino with Antigua, the Bahamas or wherever, that generally is honoured because it is not illegal to gamble on those. So at this stage it is fairly vague as to what the legal position is.

Senator LUNDY—Would you agree with the assertion—and I am referring to the news story that you circulated about Visa affiliates clearing online gambling debt—that the success of any regime to make online gambling illegal will be the direct and implicit involvement of credit card companies in the way that you have just described?

Mr Xenophon—I think that is crucial. If you cannot deal with the credit card providers through legislation, you could well lose the battle. Effectively, the online gambling industry

will be policed in everyone's living-room. You could imagine what online casinos in the Bahamas would say if they knew that an Australian punter who lost could cancel the transaction, but that if they won presumably they would not be dobbing them in to their bank. That is the beauty of that, in the sense that it is an easy—

CHAIR—Or their bank dobbing them in to the police.

Senator LUNDY—Would the credit card companies notify the police if they knew illegal transactions were occurring?

Mr Xenophon—It depends how the legislative regime works. My view is that you ought not make gamblers the criminals. I think that turning the average punter into a criminal under that model is not desirable. The aim is to reduce the level of problem gambling, and the way to do that is to cancel the credit card transaction or to make it voidable. I think there is a clear distinction between the broadcasting online legislation, in that the damage is done effectively with online gambling by virtue of the financial losses. I suppose there is a different argument there.

Senator LUNDY—I am just trying to get a bit of a picture of the model that you are proposing, in terms of what is illegal. Is gambling by the individual illegal, or is hosting a gambling site and encouraging people to gamble what you are proposing to make illegal? If so, what are the penalty regimes applying to either?

CHAIR—How will it be technically feasible?

Senator LUNDY—That comes next.

Rev. Costello—I would differ a little from Nick. I would certainly say it is ideal to have the banks doing what Nick is suggesting. Whether they will do that or not, I do not know. I think there is a lot of work yet to be done on it. I would say that, though it is less than ideal, it is still worth declaring that those providers who provide online gambling within this jurisdiction, at least until we sort out some international conventions, are acting illegally. I would place the liability there.

Senator LUNDY—I have one final question. On those international conventions, we know—and again I use electronic commerce as an example—that in all of those international fora invariably not everyone is a participant. Whether it is the privacy regime sought to be implemented by the EU or the OECD's taxation framework conditions for electronic commerce, invariably not all players are partners to those agreements, treaties or even discussions. In that case, how are you going to be able to use those fora to control something online, given the nature of the Internet?

Rev. Costello—This is a common problem we have in every area of human life, from arms control to drugs to just about anything we want to name. We have Security Council members who do not agree on troops going into Kosovo or East Timor. This is actually part of human reality. But just because we cannot necessarily get unanimity and say therefore we have covered it all, we do not say therefore that we will actually just back off and have a little bit of a regulatory go ourselves here. That would really—and this is our main objection

with this—act as an incentive for further expansion of what we believe will be a privately and socially devastating industry.

Because it is difficult—and we have admitted that we are never going to cut it out 100 per cent—we cannot then allow the states, who have been the direct beneficiaries, to always say, 'Yes, of course we're only protecting consumers here.' And we cannot allow the industry, which in this state is both monopolistic and duopolistic—Crown is monopolistic, and Tattersalls, duopolistic—to say, 'Of course you can trust us,' and ourselves to actually say, 'Oh, that's the best we can do. We'll hand it over to them because we won't ever get a truly universal international coverage.' That would be, in my view, both a pessimistic and a nihilistic approach.

Senator LUNDY—Chair, I have one more question that I think is very important.

CHAIR—We are running very late.

Senator LUNDY—It relates to advertising. I asked a question of the previous witness on what their policy was on advertising on their site, and your comment about smoking made me think of it: there is a shift in community values. With the issue of advertising, it is again a question of what mechanisms were available to solicit that kind of activity. That was an effective way for governments to actually begin regulating that area. Do you—either collectively or individually—have a specific view about restrictions placed on the advertising of online gambling sites, both in the online medium or in the traditional medium, as a way of limiting the pervasiveness of the continuation of online gambling services?

Mr Ruzzier—We have a 17-year-old living with us for a week because his parents are overseas. He wants to access his home email, so he types on my computer 'www.altavista.com.au'—a major site accessed by probably tens of thousands of people—and, bang, the first thing that comes up is a link to a gaming site. That worries and concerns me.

Rev. Costello—Jeff Kennett's web site goes straight to the grand prix and then to Lasseters—700,000 hits.

Mr Ruzzier—I would say that, from a harm minimisation approach, which is the one we come from—we do not come from a prohibitive one—that concerns me.

Senator LUNDY—Perhaps I could leave that with you to take on notice. I think it was a regulatory mechanism used to restrict or constrain the appeal of a particular thing that was perceived as being harmful to a community, in the case of smoking, and I would like your views if you have any.

Rev. Costello—All of us here bar Ron are against the advertising at all of pokies and casinos.

Senator LUNDY—Okay, that is 'generally' and that would transfer into this.

Rev. Costello—Because that is a public act, that could actually be directed—a bit like smoking, which is mainly a public act which affects others—but with online it is much harder to suggest that regulating advertising would somehow cut it down.

CHAIR—Senator Lundy, no more questions please.

Senator LUNDY—Okay. I have just put one on notice as to whether or not the legislation in the US relates specifically to advertising of gambling in relation to either online or offline gambling sites.

Rev. Costello—I do not know; I am sorry.

Senator LUNDY—Please take it on notice.

Senator TIERNEY—Ms Webster, I would like to ask you a question relating to a point in your submission that online gambling leads to a jump in problem gambling. Could you perhaps describe what has happened in this state—as you have moved to having gaming machines in pubs—and what you feel will happen if it comes into the home? Reverend Costello did touch on this. I just want your view on what you think will happen.

Ms Webster—The statistical information from Victoria's own Victorian Casino and Gaming Authority demonstrates that, with the introduction of each gambling methodology, there is a consequent increase in the number of problem gamblers in the community. That reinforces the connection that Tim was making earlier between the dependence of the industry and government on problem gamblers for revenue and the need to increase those who are actually participating in that form of so-called entertainment.

Senator TIERNEY—Reverend Costello, you mentioned the percentage of people who are problem gamblers in the country and how much that contributes to state revenue. We were talking to Lasseters yesterday; they really had not carried out any survey on who these problem gamblers were and where they were. I assume studies have been done in Victoria. What does that reveal about the socioeconomic demographic of people who are problem gamblers?

Rev. Costello—Ron might want to address this. The reality in Victoria is that the concentration of gambling opportunities and promotion of them naturally is in the poorest areas. There seems to be a direct correspondence with accessibility, visibility, promotion and problem gambling. So the make-up comes from those who are in the poorest socioeconomic areas.

Senator TIERNEY—The counterclaim to that is that, because of the technology, people with better incomes tend to be involved. Poorer groups would perhaps be shielded from that because they would not be able to afford computers. Perhaps you might put on the record what you think is going to happen in the next few years in terms of access and technology for those lower socioeconomic groups.

Rev. Costello—As Marilyn said, the framework here is almost certainly envisaged by some of the states as being the same framework effectively as for digital online gambling.

Once digital TV comes in, it is interactive and you can gamble on whether Shane Warne's next ball is a flipper or an off break. This is linking sport and gambling in the home, and again that is immediately accessible. Even those who are poorest will, interestingly, probably find the money to buy a digital TV. My life and work amongst people in poorer communities says that access to TV, video and, interestingly, even computers comes before a house deposit, overseas travel or education.

Mr Ruzzier—I might add to that by saying that the number of households in Australia connected to the Net as at August last year was about 1¼ million, or 18 per cent of all households. And that represented a 28 per cent rise in three months. I was looking through a 10-year-old newspaper the other day and there was a $2,000 mobile phone advertised. They are chucking them out now. I would tend to agree that computer access is going to increase.

Senator TIERNEY—As I hinted at earlier, even before digital TV arrived, Telstra was working with a European company to put the Net onto television, so you will not even have to buy a new set.

Senator LUNDY—The technology is available to do it now, Senator Tierney.

Senator TIERNEY—Yes, Senator Lundy, of course it is, but it is not going to come into Australia next year because the technical arrangements will not be across the country.

Senator LUNDY—No, it is here. You can put the Net on your TV right now in Australia.

Senator TIERNEY—Mr Ruzzier, in terms of what you were saying about people with disabilities, we did receive evidence yesterday that this sort of gambling on the Net would be of benefit to a number of groups, particularly people who have disabilities, because of their lack of ability to get out to clubs. What is your view on the downside of that accessibility, given that it has been put on the record as being a big plus?

Mr Ruzzier—I will be very careful what I say here, bearing in mind that I represent BreakEven. We encourage people who present to us to have a range of entertainment options, gambling being one form of that. The major concern is that it opens up a new market for gamblers and, therefore, a new market of problem gamblers. I do not have any problem with people with a disability accessing the Internet or having fun or having a small account, but our experience has been that some of the causes of problem gambling are isolation, depression, boredom, frustration and lack of human contact, and my feeling is that Internet gambling in the home enhances all of those feelings and therefore makes those communities who are the disabled and the frail aged perhaps more vulnerable.

Senator TIERNEY—Our previous witness was saying that the tab for all of this social cost should be picked up by welfare groups and the taxpayer, because they claim they pay their taxes and they pay gambling taxes, and that is enough. What is your view on what sort of responsibility the people operating online sites should have in terms of paying a special income stream to help resolve those problems? I am not sure what Victoria does with gaming machines. Certainly in New South Wales there is such a stream. A representative of the casinos seemed to argue they should put nothing into that. Could we do it out of the

general budget, or do you think there should be a specially dedicated income stream from online gambling to help ameliorate social problems?

Ms Webster—Certainly in Victoria at the current time we have hypothecated taxation. There is also the Community Support Fund. The legislation that underpins that has, over the last six years, constantly been amended to expand the objectives to which that funding might be put. It has been a fairly salutary lesson for the churches and welfare agencies that originally supported the creation of that fund, in terms of its ultimate destination and use. I do not think that there is an easy answer.

Senator TIERNEY—It is interesting that you say that, because a similar thing happened in New South Wales. Any fund that is created has to be tied down very tightly in terms of the way it is used.

Ms Webster—The advantage that New South Wales has had is that they have had a community representative committee with some oversight. In Victoria it has been the responsibility of the arts minister, who was also the Premier, and some of the direction of that funding really has not been subject to community debate and discussion.

Rev. Costello—Whether it is a hypothecated tax or general revenue, all of us at this table emphatically reject the view that the gaming industry pays its tax and therefore has no other ongoing responsibilities. A view that has been put very bluntly, namely by ACIL, the group you heard from before, is that there are not problem gamblers but only problem people. It is a scapegoating view. It is a view that sits nicely with this whole notion of rational moral agency and free choice which says, 'We will just have a free choice around anything that is out there and, if you suffer the consequences, the industry that gave you that free choice is not responsible.' We totally reject that; in fact, most Australians reject that.

Senator TIERNEY—Yes.

Mr Xenophon—There is an assumption with hypothecated taxes—the Productivity Commission has had a fairly broad discussion on this—that they in some way legitimise the industry. The misleading impression is often given to the community that simply by hypothecating a tax for problem gambling everything will be okay. The philosophy I subscribe to, as do Tim and others, is that it is much better to have a fence at the top of the cliff than the best equipped ambulance at the base of it. We can put that in perspective. Even if we accept the gambling industry's view that, say, two per cent of the adult population have a significant gambling problem—according to the commission, it is about eight per cent for poker machines in hotels—it is extraordinary that we take the approach that says, for instance, that if there was a restaurant where two per cent of patrons regularly came down with food poisoning, that was okay. That restaurant would have to clean up its act so that people did not have adverse consequences so regularly. The fact that there are, according to the commission, 330,000 Australians with a significant gambling problem indicates that the current regulatory regimes are not working.

Senator TIERNEY—You might like to also comment on what you said about the possibility of not allowing credit cards for online gambling. Do you have anything written on

this that you would like to submit to the committee? It is something we would like to explore, if you have some more detail on that approach.

Mr Xenophon—I am happy to provide that, but currently our select committee is still waiting to hear the Australian Bankers Association view on this issue. My understanding from the credit card providers is that you can abort a transaction if the legislation allows it. Clearly, it is not an ideal solution, but it would nip a significant degree of problem gambling in the bud. My feeling, that I think is shared by others, is that once you have access to digital TV, the Internet and interactive gambling you will see a new tidal wave of problem gamblers in this country. That is the clear fear, from a product point of view.

Senator TIERNEY—That is an interesting comment in light of the evidence we received from TAB in New South Wales. They claim that there is a consumer entertainment dollar in it and that expansion into online gambling would be at the expense of other things. They gave the example of people going to the movies: instead of people going to the movies they would be doing this. Would anyone like to comment on TAB's view?

Mr Ruzzier—I would love to comment on that. We certainly say to our people that they should gamble for one reason only, and that is for fun or entertainment. If you go to Hoyts down the road, you can take your $20 and you can probably get yourself and your partner in and have a bag of popcorn, and you are there for two or 2½ hours. If you are watching *Titanic*, you are there for 3½ hours. The problem is that if you take your $20 into a gaming venue it can literally last you five minutes. People think, 'Hang on, it is half past eight on a Saturday night. I will put another $20 in.' Because of the way the system works—the longer you are there the more you lose—people lose $40 and then the nature of the relationship changes from being one of entertainment to one of, 'Hang on, I have to try to win this money back.' It becomes a lot more serious.

Whilst the industry does promote it as a great entertainment option, in some senses it is not—because it does not always represent value for money. There are people who gamble at Crown—I am sure you could walk down there now and find them—on 1c and 2c machines. They are pressing one line, one credit at a time, so it is costing them 1c and they are getting 100 spins for their dollar. But there are also people gambling on 5c machines, who are gambling on nine lines and maybe two credits, so each spin is costing them 90c, and $20 goes just like that.

Rev. Costello—This is our whole argument with the online technology. The industry keeps saying to us, 'Australians have always been great gamblers—two-up and the Anzac tradition, the great flutter on the race that stops the nation. It is part of our cultural identity and genuine interest in having a flutter.' They have not said that the gaming machines, the pokies that were the old one-arm bandits, where you might lose $60 or $70 an hour at worst, are now up to 16 lines that you can play continuously and you can lose $1,200 an hour. The technological intensification has really been a blind spot, in terms of its social effects and its devastating social impacts.

Mr Xenophon—I have a very cynical view of the gambling industry and I do not think you can take it on face value. In 1992 when poker machine legislation was passed in South Australia, the marketing development manager of Aristocrat gaming machines came to South

Australia and said, 'This is entertainment, not gambling. It will take you a month of Sundays to lose $100 on one of these things.' On our calculations you can do your $100 in about 10 minutes if you are playing an Aristocrat machine today. The industry simply saying that it can be contained and that there are bet limits and the like does not allow for the technology, which allows for limitless amounts of money to be lost in very short spaces of time.

Mr Ruzzier—The concern I have as well with online gambling is that when a problem gambler goes to a casino or a gaming machine they usually go to an EFTPOS and pull out cash. There is at least this link, 'I am putting this cash into a machine.' With Internet gambling, that direct link with a hard cold $50 note is gone. You are literally typing in a credit card number. So the value of money is diminished even further. That is a concern, because that is something we see with our problem gamblers. They lose a sense of money, particularly when they are gambling.

Senator TIERNEY—Just a final point that comes out of Lasseters' evidence yesterday: they have set it up in the Northern Territory so there is a $500 limit per month on gambling. I know Reverend Costello was saying that pressure will be on for that to collapse over time, but just assume that that did hold and that it was introduced across Australia. What is the effect of a limit like that, that people can only gamble up to $500 on the Internet—let alone anything else, of course?

Mr Ruzzier—I would say it would have no effect. There are 280 other gambling sites they can access. In some ways, it is like banning yourself from one venue or saying, 'Please limit me at this TAB to $500,' knowing there is another TAB around the corner.

Mr Chapman—I can add to that. We tend to think of this as an 'either/or' but in fact it is an 'and' situation. One can lose $500 a month on an Internet gambling site and we might think, 'Fine, that is only $500. That is a lot less than they would be losing down at the local pokies,' but for many gamblers there are different markets and there will be a lot of overlap between those two markets. Therefore that $500 will be on top of what has already been lost in another environment.

Another issue related to the idea of gambling as entertainment, as we discussed previously, is that it is not merely a financial issue. As you said, where a family might have gone to the movies and spent the night there, they now spend it at home gambling on the Internet. We have the issue now of exposure to the youth and children of that family. Therefore, instead of entertainment becoming synonymous with going out, having a good time and spending money to retrieve something, entertainment now becomes synonymous with sitting in front of a computer and gambling away $500 a month, at least. It changes the paradigm. It changes the concept of entertainment somewhat. That $500 therefore can do more damage than merely just $500 less in the bank account. It can be establishing habitual patterns within youth and young adults that can be followed in later life.

Senator HARRADINE—Mr Rae in his opening remarks on behalf of Crown and Tattersalls referred to problem gambling, and the term 'problem gambling' has been used right throughout this inquiry and various other inquiries. Mr Rae said a problem gambler relies on self-diagnosis. I would like the witnesses to make a comment on that. I notice that you used the words 'gambling addicts'. Is there a difference between 'problem gamblers' and

'gambling addicts'? First I will ask Ms Webster for her comments and then perhaps Mr Chapman.

Ms Webster—The debate about problem gambling has been fairly hard fought in Victoria. There has been quite a deal of research by the Victorian Casino and Gaming Authority around the diagnosis of problem gambling. They have drawn on the SOGS instrument, which was developed in the United States, in the research that they have undertaken since 1992 to map the change in the percentage of problem gamblers in the Victorian community, which has gone from about 0.6 per cent to 2.5 per cent. The welfare organisations and some of the problem gambling counselling services do have difficulty with the use of that instrument and that definition, primarily because they believe that the actual incidence of gambling which causes problems in the community is much greater than 2.5 per cent of the adult population in Victoria, which incidentally works out to about 64,000 people, so it is not a minor social problem.

The difficulty has been to try to get government to recognise that not only are problem gamblers in difficulty but their family members and associates are also having problems as a result of problem gambling. The desire of those who are supporting families has been to try to expand the definition of problem gambling. Therein lie some of the conceptual difficulties you might have encountered with terminology.

Mr Chapman—I would agree with pretty much everything that Marilyn has just said. There is the difficulty in the definition, from both sides of the argument. The industry will argue that the figure is severely overblown. There is that difficulty due to the use of the SOGS scale. In many ways, problem gambling tends to take on a pathological appearance, and the industry tends to push this because it finds a much smaller number. We have looked into, to a certain extent, the degree of problem gambling versus excessive gambling—people who, in a sense, are not fully addicted, are not problem gamblers with all the pathological traits that a heavy addict, like a heroin addict, might have, but who are gambling more than they would be comfortable to do, and it is having an effect on themselves, on their partner, on their family. This especially relates to the situation where we are seeing gambling replacing entertainment, being seen as a different entertainment form, where we see people using more money, and their entertainment budget being blown out accordingly.

Senator HARRADINE—I hope I am not reading too much into what Mr Rae says, but it came across to me that, okay, problem gamblers will self-diagnose and they have got a button and everything will be all right.

Mr Ruzzier—That is certainly not our experience all of the time, Senator. The rough definition that we work on is that problem gambling is gambling in a manner, form or mode that causes harm to the individual themselves, to significant others or to the community at large. Whether people self-diagnose or not I think is a bit of a moot point. We had a phone call yesterday from a woman who has been married for 36 years to a problem gambler. He does not think he has got a problem. But the family is destroyed; they will lose their home in the next week or two. The marriage has gone down the tube. They have three children and grandchildren, so that effect is multiplied. This man does not consider himself to be a problem gambler—they never do—but he clearly is.

I think Edward is right: the industry does get caught up in terms like 'pathological' and 'addictive' and talks about people with a genuine illness. We do not use the words 'illness' or 'addiction' or 'pathological'. We tend to encourage people to view it as a behavioural problem, something that they can perhaps get themselves out of, with most people. To some people, we would say, 'Look, you have got no option but to cut it out.' But I do not think we need to get caught up in what the definition of a problem gambler is, because it really distracts from the real issue that there is harm out there being caused. Our view is that, if it is hurting you or anybody around you then, yes, you have a problem, and you need to address the issue.

Rev. Costello—The industry always tries to say that there are some pathological people out there who, if it were not gambling, would have a problem with drugs or drinking or sex or whatever it might be; they would be addictive type personalities. That is not our finding, in our experience. Again and again we find people who have never had any other addictions. There has been a huge jump in the number of women who have become problem gamblers; it has gone from a low percentage to a high percentage. With the advent of accessible pokies—you walk from your car, and someone brings you a coffee and cake and remembers it is your birthday—these people develop addictions, because they are just being community people.

What is very difficult about this whole notion of self- diagnosis—and I am extremely sceptical about it—is that, with respect to drug or alcohol addiction, firstly, you can now socially talk about them; secondly, third parties can clearly recognise the physiological symptoms—slurred speech or tiredness, whatever it might be. With problem gambling there are no physiological signs, and you are only ever one win away from not having a problem. You are that close to not being a problem gambler. That means that this notion of self-diagnosis of problem gamblers is really, in my view, quite nonsensical for the great number of problem gamblers.

Mr Xenophon—The Productivity Commission's assessment of problem gambling in Australia really is the most independent and comprehensive survey we have had. They have taken a very cautious approach, I would have thought. They have not used a self-diagnosis approach; in terms of assessing the level of problem gambling, that is simply nonsense. Ultimately, I think the Productivity Commission has set a very responsible benchmark for looking at the level of problem gambling in this country, given the depth of their inquiries and the factors they have taken into account. Then again, there is the broader issue. I think the average problem gambler loses, according to the commission, $12,000 per annum. But if you are a low income earner losing $20 a week, and that makes a difference between how well your children are fed, I think that there is an argument that that is a problem. So it is all relative, but I think the Productivity Commission has given us a very responsible benchmark for levels of problem gambling.

Senator LUNDY—Mr Ruzzier, what makes people gamble, in your experience? I know it is a big question, but I think it is relevant when we are commenting on some of the social pressures that these people find themselves under.

CHAIR—Very briefly, Mr Ruzzier.

Mr Ruzzier—Very briefly: isolation, boredom, depression. We see a lot of shift workers, a lot of care givers. We find that a lot of people are in unhappy relationships and they tend to not want to go home, and so they gamble on the way home. Some people are lured by the concept that they can win. I think those are all the reasons that bring people to the activity in the first place, and then what keeps them hooked in there is chasing the losses. Just to finish with a quote, Mickey Rooney said in 1940, 'I lost $2 on a horse and I have spent the last 50 years and $2 million chasing it.' That is inevitably what happens: people chase and chase. As the Reverend said, they are one win away from not being a problem gambler, and the feeling that 'I could be lucky' keeps them hooked in.

CHAIR—That is an appropriate point at which to thank you very much for your evidence, which I found very valuable this morning. I could have listened for much longer. Having spent 16 hours, as Mr Xenophon has, in Las Vegas just last week speaking to the problem gambling institute there, there is no doubt that the whole world view has very similar principles. It was a bizarre experience. Thank you very much indeed for coming along and giving evidence to us today.

[1.18 p.m.]

CULLEN, Mr Keith Robert, Managing Director, eBet Ltd

MOSS, Mr Jonathan Charles, Consultant, Ebet Ltd

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 point out, however, that any evidence taken in camera may subsequently be made public by an order of the Senate. I also remind you that giving false or misleading evidence is a contempt of the parliament. The committee has before it submission No. 27, which has been published. Are there any alterations or additions you wish to make to your submission at this stage?

Mr Cullen—No, I do not believe so.

CHAIR—I now invite you to make an opening statement, following which we all have some questions for you.

Mr Cullen—I would just like to provide some background on our organisation so that people will have an understanding of it and where we sit in the whole interactive and Internet gambling world. Our business is an Australian based company that was established 4½ years ago when we saw the opportunities that were being presented in a commercial sense by the proliferation of online networks. There was a lot about at that time of interactive television, and that quickly became the Internet, which gathered momentum. We took a view that the proliferation of such online networks represented a good opportunity primarily for existing licensed and regulated gaming and wagering operators to provide better service to their customers and also to build their customer base through the international distribution opportunities presented by it.

Our business has gone about developing technologies that enable existing licensed and generally blue chip operators to move into the online environment. We have relationships with New Zealand TAB whereby we operate an Internet service for them on an agency or commission basis, distributing their race betting and their sports betting products around the globe.

We have an arrangement with Tattersalls lotteries in this state to distribute their Oz Lotto, Powerball and Tattslotto products. We have just finished technology development on those but will be starting online distribution of those products within coming weeks. We have also formed a relationship with one of the major racetrack operators in the United States to distribute United States and international race betting products, within the United States to customers there and also to an international audience, whereby we will be broadcasting racing across the Internet as well.

In general, I would like to state that our company's view is that there is nothing new in terms of the gaming and wagering market when it comes to the Internet. What the Internet does is not provide a new product in its own right; it provides a new distribution channel. We believe that, in general, markets like Australia's have been very well regulated with

strong legislation in place. We believe that most of the operators in markets like Australia's have a very solid history of integrity and we believe that these same sorts of things should be carried across into the Internet and online services in terms of the regulatory and legislative framework.

To this point in time we have stayed out of the casino market, for the very reason that most of the operations have been in jurisdictions that would have been considered less credible jurisdictions. We are very interested in what has been evolving in the various states around Australia over the last 12 months or so in terms of regulatory framework. We support that state based framework. We do hope, however, that as that framework develops it remains competitive with what is available in other markets. At the end of the day, we believe that consumer demand is there for online gambling product and we would prefer to see existing well regulated markets like Australia's prosper—and the operators within these markets prosper—rather than see the market shift to less regulated jurisdictions such as those in the Caribbean.

CHAIR—Thank you very much. I want to ask you about the capital outlay required to establish a company such as yours. Clearly, I do not want you to breach commercial-in-confidence aspects of that question. I would be interested to know how easy it is to establish a company such as yours and how you go about marketing yourself. If somebody were to see an advertisement in some way or another, how would they go about establishing their personal credentials with you as a company?

Mr Cullen—From a consumer perspective, or in terms of the business to business relationships with firms in New Zealand?

CHAIR—I think probably from a consumer perspective—to start with, anyway.

Mr Cullen—The capital outlay that we have put into our business runs in the order of several millions of dollars over the past 4½ years—the amount that we have committed to building the business to where it is to date both in technology development and also in general business development marketing. In terms of promoting ourselves to consumers, in general the advertising that we would use and the way in which we would attract people to our services would be online, through promotion online on other sites that we think might have relevance and might have an audience that our products would appeal to.

In general, as we have been operating with blue chip operators that have established brand names, we have been able to leverage off that position. We find with what we are doing with the New Zealand TAB that the vast majority of our customers are actually located in New Zealand—because the brand name has such relevance there, as does the product offering. Many of our customers were existing customers of the New Zealand TAB to start with. In fact, the vast majority of them within New Zealand are simply moving from one form of distribution channel or one form of outlet to the Internet as another form of outlet. We see that, for example, with the lottery products in particular, that will be exactly the same.

CHAIR—How do you operate the consumer credit arrangements?

Mr Cullen—All wagering online that we have ever seen is account based wagering, and we do not differ in that regard. It is very different from the cash based wagering that you would see in a TAB outlet, a pub or a club, which is completely anonymous. One would need to establish an account with us. They would need to produce bona fides by way of sending to us a public piece of identification duly signed by a notary with their photograph on it. They would need to provide us with their address details and so on, before we would establish an account with them.

They then have a number of mechanisms that they could use to fund that account. For example, with the New Zealand TAB operation that we have, if they are resident in New Zealand they could go to any bank or any New Zealand TAB outlet and fund that account in the same manner as they would their telephone betting account. Our larger international customers tend to use some form of wire transfer to fund their accounts, because that is the lowest cost mechanism of doing that. They would simply ask their bank to forward money into a bank account that we would nominate.

Alternatively, we do accept credit card cash advances that we broker. People can give us their credit card number and we will give them a cash advance against that, or the bank will give them a cash advance against that. The bank will provide us the funds then to establish a credit balance in their account for them to bet against. We do not sell individual bets on to a credit card; they must have established a credit balance in their account.

CHAIR—You have heard us asking questions this morning about self-exclusion, determining the amount of a total loss, and determining outlay arrangements for making bets. What about those?

Mr Cullen—In terms of total loss and so on, we are operating in partnership with existing licensed operators, such as the TAB, Tattersalls and so on. So we carry across any policies that they might have in place with, for example, their telephone betting or retail betting operations. Having said that, we particularly take the situation with respect to credit cards very seriously. Aside from our own ethical issues with respect to restraining people's use of credit cards to fund their betting accounts, there are also the risk management issues that the operator faces in accepting a credit card across the Internet.

There are very clear regulations that Visa, Mastercard, American Express and others have with respect to a consumer's ability to repudiate a transaction that has taken place in what is called a 'non-card-present environment', and that would be any online transaction or any telephone transaction as well. A consumer has a period of up to six months to repudiate that transaction. So it is certainly not within an operator's interest to provide people with unlimited access to their credit cards online—quite the contrary. I think you will find as you move around that even some of those less credible Internet sites, as they might be termed, in the Caribbean and so on have quite stringent policies in place with respect to the use of credit cards, if for no other reason than to protect themselves.

Senator HARRADINE—What is the sort of percentage account problem that you have in respect of your operation in New Zealand, for example? That is to do with wagering, isn't it?

Mr Cullen—Yes, it is.

Senator HARRADINE—And not gaming, as yet?

Mr Cullen—No. The products that we are offering at this point in time are race betting on New Zealand and some Australian racing and sports betting on all international sporting events. We will be very shortly offering lottery products—Oz Lotto, Powerball and Tattslotto. We are, however, as I stated earlier, reviewing moving into the casino market.

Senator HARRADINE—Thank you. Do you have many problem gamblers on the wagering side?

Mr Cullen—No, I would think not. We offer a self-exclusion policy. We have had, through our service, some 8,500 people betting with us. We have that many registered customers and we have had two people self-exclude themselves. In terms of monitoring credit card activity in particular, we have had perhaps one or two circumstances of people either using a friend's or a family member's stolen card or getting in over their heads, so to speak.

Senator HARRADINE—So most of your customers on the wagering side—in horse racing, for example—would be interested in the racing itself and would keep themselves informed as to the form of the various starters?

Mr Cullen—The clear distinction between wagering products, such as sports and race betting, and gaming products is that the informed punter does have a chance on race betting and sports betting. It is the law of diminishing returns on most gaming products, of course. Yes, most of our punters are very well informed, and I think a lot of them are turning to the Internet because the Internet provides such a good opportunity to gather information.

Senator LUNDY—I want to go to the issue I inquired earlier about, the liabilities of credit providers and banks in relation to credit cards if payments are defaulted on. What is your understanding of current liabilities?

Mr Cullen—It is more than an understanding; it is one that comes from commercial experience. All the responsibility sits with the merchant. No responsibility sits with the consumer. No responsibility sits with either the card issuer or the bank. If a transaction is repudiated by a consumer, inasmuch as a consumer decides that they would like to argue that they did not authorise that transaction to take place, the card issuer will press the consumer but only to a certain point before they automatically charge back the merchant and hand the case to the merchant's responsibility.

This varies somewhat in the case of fraudulent or stolen cards. If the merchant can identify that the bank was at fault by, for example, authorising a payment against a previously reported stolen or fraudulent card, clearly the responsibility sits with the card issuer or the issuing bank. I will say that, in terms of fraudulent activity, we have found the banks and the card issuers to be very remiss in their support of merchants online. I did come in only halfway through before, but I did hear some talk of the banks being used as the overlord or the overseer in any sort of regulation that might take place. I would suggest that

people should look again if they think that they are going to play that role in a positive manner.

Mr Moss—In the Cynthia Haines case, about which the article was brought up before, there was no legal judgment that what she was doing was illegal. It was a voluntary repayment to her of the moneys that she had spent, and she did not claim that it was not her. She acknowledged it was her, but basically tried to say the act was illegal and therefore she should not have to pay.

Senator LUNDY—Whilst I appreciate that evidence on what happens with regard to a fraudulent claim, I think that the Haines case highlights an area about liabilities because of other factors that could be drawn in to why people would expend money in that way and where that ultimate liability falls. In that case it was not dealt with in the courts. Are you aware of any precedents in this area at all that could offer any some guidance under Australian law?

Mr Cullen—Not that I could speak to confidently.

Senator LUNDY—Okay. Going to the issue of advertising, what is Ebet's policy on advertising on your site? To what degree do you advertise your site in either an online environment or a traditional media environment?

Mr Cullen—We do not accept advertising on our site. Ours is an e-commerce site so we do not carry advertising for anyone. We promote ourselves on our site and leave it at that. In terms of our own advertising, the vast majority that we do is in the online environment. The reason is that we are interested in attracting consumers that can find us readily. We are not necessarily interested in driving people to go and purchase a PC and move across to switch online.

Advertising in general has been one of the key ways that state governments in this country have restricted the distribution and proliferation of other gaming products from other markets into their states. New South Wales and Victoria are good examples. There are no laws to prevent TABcorp here in Victoria, for example, accepting telephone account bets from New South Wales residents. In fact, they do and they pursue them—in particular, the larger punters—quite aggressively. What they are not allowed to do under New South Wales legislation is go forth and promote in this sort of general media up there.

What we would term 'offline advertising' is restricted to the jurisdiction in which our partners are duly licensed. In the case of New Zealand TAB, that is obviously within New Zealand. In the case of what we are doing with Tattersalls lotteries, that will be within the various state jurisdictions here in Australia where Tattersalls operate their lotteries, namely, Victoria, Tasmania, ACT, Northern Territory, et cetera.

Senator LUNDY—To what degree does your advertising strategy drive site visits? I appreciate that that is a pretty big question, but how critical is it to your business plan?

Mr Cullen—Any commercial enterprise needs to advertise, and it is a critical part of any business. Without access to media and promotion, it becomes a pretty dull commercial world.

Senator LUNDY—A question I also asked Mr Rae, a previous witness this morning, is this: to what degree do you have alternative revenue models hanging off the Ebet presence, or how much is driven by your percentage on what is gambled or wagered on your site?

Mr Cullen—We are a gaming and wagering operator, and that is the extent of it. I would suggest that ours is a very global model. As our operations are being established in the US, we are in negotiations in the US and all around the world and we intend to build a global business offering product from all sorts of jurisdictions. As we build a larger audience, that probably presents an opportunity to build other product offerings onto the site that have relevance to the audience that we have built. But at this time we solely rely on the commissions that we generate from the sale of gaming and wagering product.

Mr Moss—Coming back to your question from this morning, there is no sale of those customer databases to anyone. There is no advertising.

Senator LUNDY—Is that governed by the corporate policy?

Mr Cullen—It is certainly governed by corporate policy. I would not give access to our database to anybody. It is one of the most valuable things that a company in the online world can possess.

Senator LUNDY—People pay a lot for them.

Mr Cullen—They certainly do. That is so they can sell things to those people, and we are quite happy selling them the product that they sign to buy from us. An example would be in New Zealand, where they have quite stringent privacy policies in terms of signing up for an account and getting onto a database. They have strict opt-in policies where people must nominate to receive marketing material even from the person that they have signed the account with, let alone from somebody else. We operate under that New Zealand legislation, but even without that in place we would not give anybody access to our database. Consumers in the gaming and wagering world prefer their information to be kept between the operator and themselves. You would do yourself a real injustice by sharing it with anybody.

Senator LUNDY—Does your site leave cookies?

Mr Cullen—On somebody's browser?

Senator LUNDY—Yes.

Mr Cullen—Yes, it does.

Senator LUNDY—I have another question about e-commerce. From what I have read about the style of service or the thing that you are offering, it seems to be possible that you

might enter into some arrangements or agreements with other content providers that might have their own e-commerce solution. Does what you offer fit within someone else's e-commerce solution?

Mr Cullen—Do I take that question to mean would our betting engine, for example—

Senator LUNDY—Could your content integrate into someone else's bigger content framework?

Mr Cullen—Non-gaming and wagering related framework? Yes, quite readily; it could.

Senator LUNDY—With their e-commerce solution being—

Mr Cullen—Ours is quite a unique e-commerce solution, in so much as that, by distributing product of existing operators, we are interfacing into their legacy systems that are there. So, from a technical standpoint, it is quite a complicated thing to do. Our e-commerce solution varies as we move from operator to operator. Our solution for Tattersalls is to interface into their lottery system. Providing online lottery sales is different from providing online race betting and sports betting and so on. But the notion of perhaps becoming an integral part of a larger e-commerce site or a larger sort of community site, whether it be a yahoo.com, just by way of example, is certainly one we see as quite a feasible one and probably the way that the industry is headed.

CHAIR—I have a couple of extra questions. In section 5 of your submission to us you strongly recommend the legalise, regulate and tax approach for a number of key reasons, and you go on to say what they are. In terms of consumer protection, would you have any advice to the committee on any extra levels of consumer protection that you would see as appropriate in the category 'regulate' of your suggested legalise, regulate and tax approach?

Mr Cullen—To my mind, probity is the biggest issue in consumer protection—to ensure that the nature of the operators who have been licensed is such that they are going to a large degree self-regulate and look after the consumer. Beyond that, there are all sorts of measures that can be put in place—player identification, self-exclusion policies, et cetera. You can look generally to the land based environment to start to create models for that. The only thing I would caution against is this: online consumers have a wealth of information and opportunities available to them. I would suggest that, in wanting to encourage people to deal in a regulated environment, you need to ensure that you do not put so many regulatory hurdles in place that the experience for the consumer becomes one that is not easy and not enjoyable. There needs to be a balance in that regard.

People argue with us constantly. It is not easy to open an account on our site. I have investors in our business, and many other people who observe our business—our advertising agency and so on—argue with us constantly about the hurdles that we put in place in opening an account. They are there for very good reasons. They are there to provide player protection. They are there to ensure we do not get minors betting on the site. They are there to ensure that we have genuine and bona fide information about people. But you can go too far, to the point where you make the experience a difficult one for people, and they will turn to one of their other options.

CHAIR—We have already taken evidence from another witness who has a significant number of clients in America, so I think your point is well made.

Mr Cullen—A market that we stay out of, by the way.

CHAIR—We have had some interesting evidence putting a point of view on both sides about the legality of accepting bets in Australia from states in America where gambling is illegal. I want to ask you one final question about lotteries. I understand that you are expanding the base of lotteries that you will be offering through Tattersalls. Can you tell us again, without breaching commercial-in-confidence, what sorts of new markets you plan to explore there?

Mr Cullen—The primary focus is exploiting the existing opportunity that is there to provide people with a more convenient way to purchase their tickets. Our primary target is people who are already purchasing those lottery tickets. If you look at the opportunity that a current lottery customer has to buy a lottery ticket, they need to ensure that they remember to go to their agent on a weekly basis. Most lottery players are the same people playing the same numbers week after week. People need to ensure that they remember to go to their agent. Their only other alternative is to pre-purchase a ticket 10 weeks in advance, but that ends up costing $150 to $200 to do. People prefer not to do it. We think that those existing consumers will be attracted to the online model, because they can have a pre-purchase option and do not have to fund it up front—they just fund it on a weekly basis through us taking funds from their accounts.

CHAIR—It would be more in the dimensions of extended convenience rather than pursuing a different market for other lottery tickets?

Mr Cullen—Certainly at this time. We will continue to work with Tattersalls—they are the licensor—to look at what other jurisdictions might be within the bounds of legality to chase; and, as those opportunities present themselves, we will do that.

CHAIR—That brings to an end the questions that we have for you, Mr Cullen and Mr Moss. Thank you very much for your patience this morning. I know we kept you waiting, but it is difficult to stay on a tight time frame when we have five witnesses at the table. I did appreciate your patience there. Thank you very much for the helpful suggestions in your submission to us today.

Mr Cullen—Thank you very much for the opportunity.

CHAIR—That completes the evidence today.

Committee adjourned at 1.45 p.m.