
TRANSCRIPT OF PROCEEDINGS

COMMISSIONER: HON. RAY FINKELSTEIN AO QC

**IN THE MATTER OF A ROYAL COMMISSION
INTO THE CASINO OPERATOR AND LICENCE**

MELBOURNE, VICTORIA

10.02 AM, FRIDAY, 4 JUNE 2021

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Counsel for the State of Victoria	MR PETER GRAY QC MR GLYN AYRES MS GEORGIE COLEMAN MS HELEN TIPLADY
Counsel for the Victorian Responsible Gaming Foundation	MS JENNIFER FINDLAY

10:02 1 COMMISSIONER: Good morning, everyone. Just checking on
10:02 2 volumes.
10:02 3
10:02 4 Mr Emery, can you hear me?
10:02 5
10:02 6 WITNESS: I can, Commissioner.
10:02 7
10:02 8 COMMISSIONER: Good. Mr Kozminsky, you are online and
10:02 9 hearing everything?
10:02 10
10:02 11 MR KOZMINSKY: Yes, Mr Commissioner.
10:02 12
10:02 13 COMMISSIONER: Mr Borsky, you are on mute but can
10:02 14 otherwise hear the proceeding?
10:02 15
10:02 16 MR BORSKY: I can, thank you, Commissioner.
10:02 17
10:02 18 COMMISSIONER: Mr Kozminsky.
10:02 19
10:02 20 MR KOZMINSKY: Yes, Mr Commissioner, I call Nicolas
10:02 21 Emery.
10:02 22
10:02 23 COMMISSIONER: Okay.
10:03 24
10:03 25
10:03 26 **MR NICOLAS JAMES EMERY, AFFIRMED**
10:03 27
10:03 28
10:03 29 COMMISSIONER: Mr Kozminsky.
10:03 30
10:03 31
10:03 32 **EXAMINATION-IN-CHIEF BY MR KOZMINSKY**
10:03 33
10:03 34
10:03 35 MR KOZMINSKY: Good morning, Mr Emery.
10:03 36
10:03 37 A. Good morning, Mr Kozminsky.
10:03 38
10:03 39 Q. I take it you can hear me okay?
10:03 40
10:03 41 A. I can.
10:03 42
10:03 43 Q. If you can't hear me for whatever reason, especially because
10:03 44 of the technology, perhaps just raise your hand and let me know.
10:03 45 If you don't understand anything I'm asking, just speak up and
10:04 46 I will try and clarify.
10:04 47

10:04 1 A. Certainly.
10:04 2
10:04 3 Q. Is your full name Nicolas Emery?
10:04 4
10:04 5 A. Nicolas James Emery.
10:04 6
10:04 7 Q. Thank you. And you've prepared a statement for the
10:04 8 Commission?
10:04 9
10:04 10 A. I have.
10:04 11
10:04 12 Q. Its contents are, to the best of your knowledge, true and
10:04 13 correct?
10:04 14
10:04 15 A. They are.
10:04 16
10:04 17 MR KOZMINSKY: Mr Commissioner, I will tender that
10:04 18 statement along with exhibits.
10:04 19
10:04 20 COMMISSIONER: I will describe it as the statement of Nicolas
10:04 21 James Emery dated 5 May 2021. That will be Exhibit 133.
10:04 22
23
24 **EXHIBIT #RC0133 - STATEMENT OF MR NICOLAS**
25 **JAMES EMERY DATED 5 MAY 2021**
26
27
10:04 28 MR KOZMINSKY: Thank you, Commissioner.
10:04 29
10:04 30 Mr Emery, you are Crown's Chief Marketing Officer?
10:04 31
10:04 32 A. That's correct.
10:04 33
10:04 34 Q. At work, are your key performance indicators focused on
10:04 35 the success of the marketing team?
10:04 36
10:04 37 A. Partly on the success of the marketing team and partly on
10:04 38 the success of the business.
10:04 39
10:05 40 Q. I understand. Taking each of those separately, could you
10:05 41 just explain to us what the success of the marketing team means?
10:05 42 What is it focused on?
10:05 43
10:05 44 A. Certainly. So about 40 per cent, if memory serves, my
10:05 45 KPIs are what are known as personal objectives, and they relate
10:05 46 to specific activities that I and my team would undertake, and in
10:05 47 some instances the outcome of those activities in some instances.

10:05 1 So if memory serves, and I may not get that 100 per cent right,
10:05 2 the key ones in my KPIs as they were a couple of years ago now,
10:05 3 due to lockdown, were centred around getting an improvement in
10:05 4 marketing return on investment, and around driving increased
10:06 5 visitation to property. There were then other things around
10:06 6 driving improving customer experience, and the rest of my KPIs
10:06 7 were around, which sit outside of the 40 per cent were around
10:06 8 team leadership, team management and risk management.

10:06 9

10:06 10 Q. Got it. Thank you. Insofar as KPIs are focussed on the
10:06 11 business, that again is more or less focused on visitations,
10:06 12 turnover, things of that nature at a general level?

10:06 13

10:06 14 A. Yes. 35 per cent of my KPIs, though, are the growth,
10:06 15 profit, performance.

10:06 16

10:06 17 Q. Yes. Thank you. Can I ask you this: have you had any
10:06 18 Responsible Service of Gaming training?

10:06 19

10:06 20 A. Yes, I have.

10:06 21

10:06 22 Q. When was the last time you received that training?

10:06 23

10:06 24 A. The last one was a refresher course, which would be within
10:06 25 the last four to six weeks, I think.

10:06 26

10:07 27 Q. Right, and before the last four or six weeks, when ---

10:07 28

10:07 29 A. So I would have done at least two, maybe more of the
10:07 30 online training, so the first one and I think we have, I can't
10:07 31 remember whether it is annual or semi-annual refreshers on that.
10:07 32 I had an induction training when I came in on responsible
10:07 33 gaming.

10:07 34

10:07 35 Q. Yes.

10:07 36

10:07 37 A. I also had the Senior Manager Responsible Gaming at some
10:07 38 point in the first month or two of me being here. I also spent time
10:07 39 with Sonja Bauer and Michelle Fielding when I came into the
10:07 40 business. I spent an hour or two with them and they walked me
10:07 41 through various topics in the regulatory and responsible gaming
10:07 42 space.

10:07 43

10:07 44 Q. So if I take the conversation with Ms Bauer and
10:07 45 Ms Fielding for an hour or two, and then I'm right, you might
10:07 46 have had induction training for about an hour and a couple of
10:08 47 refresher courses for about an hour; that is about it?

10:08 1

10:08 2 A. That would be about right.

10:08 3

10:08 4 Q. In paragraph 3 of your statement, Mr Emery, you say that
10:08 5 your role involves working with business units to understand
10:08 6 their business needs.

10:08 7

10:08 8 A. Yes.

10:08 9

10:08 10 Q. Is that an accurate statement?

10:08 11

10:08 12 A. That's correct.

10:08 13

10:08 14 Q. And do you agree with me that the key business need for
10:08 15 the gaming business unit is to increase gambling turnover?

10:08 16

10:08 17 A. Yes, and that would either come through, predominantly,
10:08 18 comes through driving visitation to the property.

10:08 19

10:08 20 Q. Yes, thank you. And it predominantly comes through
10:08 21 driving visitation, but tell me if you agree with this, or if I'm
10:08 22 right about this, or if I'm not, correct me, the ways you might
10:08 23 increase turnover are these: you can increase turnover if existing
10:08 24 customers gamble more frequently; do you agree that's one way
10:08 25 to increase turnover?

10:08 26

10:08 27 A. Yes.

10:08 28

10:09 29 Q. Another way is if customers gamble larger stakes?

10:09 30

10:09 31 A. I've not thought of it that way. Yes, but that is not
10:09 32 something that I've considered or I believe we've ever done any
10:09 33 work into. The way that we think about driving revenue is
10:09 34 essentially three components: it is a number of unique customers,
10:09 35 so how many people visit the property at all, how frequently they
10:09 36 visit ---

10:09 37

10:09 38 Q. Yes.

10:09 39

10:09 40 A. --- and the average amount of spend that they spend when
10:09 41 they come here. I've not broken it up into those buckets you've
10:09 42 talked about just now.

10:09 43

10:09 44 Q. I was close. My first one was if customers gamble more
10:09 45 frequently and the other one was getting new customers to come
10:09 46 in, which I think was one of yours, right?

10:09 47

10:09 1 A. Yes.
10:09 2
10:09 3 Q. And I put it in terms of gambling more, and you put it in
10:10 4 terms of spending more.
10:10 5
10:10 6 A. Spending more might come, again I haven't thought of it
10:10 7 this way, but it could be longer durations or it could be more bet,
10:10 8 I guess. But I probably need to think that through a bit more.
10:10 9
10:10 10 Q. Well, I mean, we can do the maths on it, but if you bet \$100
10:10 11 per spin for an hour, your turnover will be whatever it will be and
10:10 12 if you do \$1,000 per spin for an hour, the turnover will be more.
10:10 13
10:10 14 A. Yes, that's correct.
10:10 15
10:10 16 Q. Thank you. Would you agree with me, I know you haven't
10:10 17 thought about the bet purse thing, but would you agree with me if
10:10 18 you achieve any one of those three outcomes, so people coming
10:10 19 through the door, gamble more frequently, or spend more, from
10:10 20 a marketing perspective that is a success?
10:10 21
10:10 22 A. That's one of our success measures, it's not the only one.
10:10 23
10:10 24 Q. Sure. But that is a success and is consistent with the
10:10 25 business needs of the gaming unit?
10:10 26
10:10 27 A. Yes.
10:10 28
10:10 29 Q. And you agree with me that the higher the gambling
10:11 30 turnover, the higher Crown's profits are likely to be?
10:11 31
10:11 32 A. Yes.
10:11 33
10:11 34 Q. And you agree with me that there is a direct correlation
10:11 35 between Crown's profits from gambling and customer losses?
10:11 36
10:11 37 A. Yes.
10:11 38
10:11 39 Q. You said in your statement that one of your goals at work is
10:11 40 to create an engaging reason for people to visit the casino; that's
10:11 41 right?
10:11 42
10:11 43 A. That's correct.
10:11 44
10:11 45 Q. One aspect of doing that is providing different types of
10:11 46 rewards, and you've listed them in your statement.
10:11 47

10:11 1 A. Yes.
10:11 2
10:11 3 Q. One of the ones I want to discuss with you is the cash
10:11 4 giveaway, if we could.
10:11 5
10:11 6 A. Yep.
10:11 7
10:11 8 Q. Can I ask you this: in the ordinary course, am I right to
10:11 9 think that a cash giveaway would normally be given to members
10:11 10 on a higher status, so black, platinum and gold?
10:11 11
10:11 12 A. No. Usually cash giveaways are, so they could be prize
10:12 13 draws and then cash is given from that. So if it comes to a prize
10:12 14 draw, then on average people in higher tiers, so we run
10:12 15 different draws for different tiers of customers. So if it is
10:12 16 a Mahogany Room draw or a platinum tier draw, then the
10:12 17 absolute prize of that cash draw if someone wins it will be higher
10:12 18 than what it would be than if it were a main floor draw, but that is
10:12 19 not always the case.
10:12 20
10:12 21 Q. I understand. Thank you for clarifying.
10:12 22
10:12 23 Do you agree with me that the idea of a cash giveaway is for
10:12 24 customers to use the cash they win to gamble at the casino?
10:12 25
10:12 26 A. No. In terms of a pure cash giveaway, no, the intent is to
10:12 27 create something that is motivating to how people engage with
10:12 28 the promotion. Whether they then on-spend is not how we think
10:12 29 about it or engineer it.
10:12 30
10:13 31 Q. Okay. Do you have any insight as to whether or not when
10:13 32 people win cash draws they tend to then take the money to
10:13 33 gamble at the casino?
10:13 34
10:13 35 A. I don't.
10:13 36
10:13 37 Q. We heard evidence from a current black tier member, and
10:13 38 I will read you out the quote verbatim so there can't be any
10:13 39 complaints, she said:
10:13 40
10:13 41 *Customers are usually back on the table within 15*
10:13 42 *minutes of the draw finishing.*
10:13 43
10:13 44 Would that evidence surprise you?
10:13 45
10:13 46 A. To be honest, I'm not close to what happens after the draws.
10:13 47 I'm not customer-facing.

10:13 1
10:13 2 Q. Let me ask you the question this way ---
10:13 3
10:13 4 COMMISSIONER: Can I interrupt.
10:13 5
10:13 6 Mr Emery, does that mean you are indifferent to what the prize
10:13 7 winners might do and you've never enquired about it and never
10:13 8 spoken about it with anybody?
10:13 9
10:13 10 A. It genuinely hadn't occurred to me until the question was
10:14 11 just asked.
10:14 12
10:14 13 COMMISSIONER: Okay.
10:14 14
10:14 15 MR KOZMINSKY: I want to tease it out. Let's just see where
10:14 16 we get to. Let's assume you have a cash giveaway and it is
10:14 17 \$5,000. And let's assume that person took the money and did
10:14 18 gamble and lost it.
10:14 19
10:14 20 A. Yes.
10:14 21
10:14 22 Q. Let's assume the customer lost another \$5,000 in the same
10:14 23 session. Do you agree with me that from a marketing
10:14 24 perspective, that is a successful outcome?
10:14 25
10:14 26 A. Well, the objective would be to get people in and playing in
10:14 27 the first instance, so that wouldn't have been the marketing
10:14 28 objective of that activity. But yes, that would be successful for
10:14 29 the business.
10:14 30
10:14 31 Q. Am I right that ---
10:14 32
10:14 33 COMMISSIONER: I'm finding this a bit mystifying, Mr Emery.
10:15 34 Presumably the object of having cash giveaways is to get people
10:15 35 to come to the casino; correct?
10:15 36
10:15 37 A. That's correct.
10:15 38
10:15 39 COMMISSIONER: And people come to the casino principally
10:15 40 so they will gamble?
10:15 41
10:15 42 A. Yes.
10:15 43
10:15 44 COMMISSIONER: And if you give them cash giveaways, the
10:15 45 unstated assumption is they'll gamble the cash they've got, that is
10:15 46 why you brought them there?
10:15 47

10:15 1 A. Look, I hadn't thought about it that way, but ---
10:15 2
10:15 3 COMMISSIONER: Think about it now.
10:15 4
10:15 5 A. Okay, yes.
10:15 6
10:15 7 COMMISSIONER: Thank you.
10:15 8
10:15 9 MR KOZMINSKY: Following up from the Commissioner's
10:15 10 questioning, Mr Emery, am I right to then say this: if marketing
10:15 11 were to entice customers to gamble more frequently, visitation,
10:15 12 that is a successful outcome?
10:15 13
10:15 14 A. Yes.
10:15 15
10:15 16 Q. And if marketing entices customers to gamble larger
10:15 17 amounts, more amounts, that is a successful outcome, whether
10:15 18 you've thought about it before or not? Sitting here today you
10:16 19 recognise that is a successful outcome?
10:16 20
10:16 21 A. Yes, providing that is done within the risk management
10:16 22 frameworks that we have.
10:16 23
10:16 24 Q. I want to look at examples while we are on the topic of
10:16 25 cash draws.
10:16 26
10:16 27 Could you, Mr Operator, please go to CRW.510.052.2174.
10:16 28
10:16 29 Mr Commissioner, I have this in hard copy for you behind tab 1.
10:16 30
10:16 31 You see that?
10:16 32
10:16 33 A. Yes.
10:16 34
10:17 35 Q. At the top of the document you will see it appears to be
10:17 36 addressed to interstate customers; is that right?
10:17 37
10:17 38 A. Yes.
10:17 39
10:17 40 Q. You can see that?
10:17 41
10:17 42 A. Yes.
10:17 43
10:17 44 Q. Great. It is a cash draw at the River Room. I assume the
10:17 45 River Room is at the casino?
10:17 46
10:17 47 A. It is.

- 10:17 1
10:17 2 Q. Whereabouts is it located at the casino?
10:17 3
10:17 4 A. It is opposite the Palladium, so it is not on the casino, it's
10:17 5 not on the gaming floor, it is outside of that, opposite the
10:17 6 Palladium on level 1.
10:17 7
10:17 8 Q. Yeah, so you go down the escalators, turn to your right, and
10:17 9 then you can get into the main gaming floor there?
10:17 10
10:17 11 A. That's correct, yes.
10:17 12
10:17 13 Q. Thanks. And it says, just under the numbers and the time
10:17 14 of the prize draw, it says:
10:17 15
10:17 16 *To enter the prize draw and receive 1 complimentary*
10:17 17 *entry form, open a program between [certain dates]*
10:17 18
10:18 19 Do you see that?
10:18 20
10:18 21 A. Yes.
10:18 22
10:18 23 Q. Does the program mean a gambling program at Crown?
10:18 24
10:18 25 A. Yes.
10:18 26
10:18 27 Q. Just so I understand, in terms of front money or turnover,
10:18 28 what is the criteria for opening a program at Crown?
10:18 29
10:18 30 A. Now, I'm afraid I don't have responsibility for programs so I
10:18 31 have a fairly limited knowledge about that. The gaming business
10:18 32 units would do a better job of answering the question. But in
10:18 33 terms of this promotion, I don't know whether there was a front
10:18 34 money requirement for it or not.
10:18 35
10:18 36 Q. Do you see the next sentence says:
10:18 37
10:18 38 *One additional entry will be given for every \$100,000 in*
10:18 39 *turnover thereafter.*
10:18 40
10:18 41 A. Yes.
10:18 42
10:18 43 Q. Would it be fair to assume that that means the initial entry
10:18 44 is to turn over \$1,000 or front money of \$100,000? I said
10:18 45 a thousand but I meant \$100,000.
10:18 46
10:18 47 A. So no, the initial entry would be - would come from just

10:19 1 opening a program --

10:19 2

10:19 3 Q. Yes.

10:19 4

10:19 5 A. --- and what the amount front money was required for that
10:19 6 program would be a matter for the gaming business units. But
10:19 7 yes, thereafter, every \$100,000 of turnover would contribute one
10:19 8 additional entry.

10:19 9

10:19 10 Q. And just, I won't ask you any more questions because
10:19 11 you told me you don't know, but are you able to give me
10:19 12 a ballpark figure or range?

10:19 13

10:19 14 A. I think, my understanding is the programs start at
10:19 15 \$10,000 but I don't know what they go up to.

10:19 16

10:19 17 Q. Right. Got it. They could go up to a million, maybe
10:19 18 \$100,000, you don't know?

10:19 19

10:19 20 A. Potentially.

10:19 21

10:19 22 Q. Do you see it is \$100,000 of cash prizes there?

10:19 23

10:19 24 A. Yes.

10:19 25

10:19 26 Q. How does someone win that? Is it a simple ballot?

10:19 27

10:19 28 A. Yes.

10:19 29

10:19 30 Q. How does it work?

10:19 31

10:19 32 A. They will get tickets based on their spend, and they will put
10:20 33 them into a barrel and the barrel will be drawn.

10:20 34

10:20 35 Q. I think you've agreed that getting people to come to the
10:20 36 casino is a marketing goal, and that's the purpose of that kind of
10:20 37 promotion?

10:20 38

10:20 39 A. Yes.

10:20 40

10:20 41 Q. The idea of saying "if you turn over another \$100,000 you
10:20 42 get more entries" is to encourage people, when they come to the
10:20 43 casino, to gamble more?

10:20 44

10:20 45 A. Yes.

10:20 46

10:20 47 Q. And you agree with me that they can turn over \$100,000 by

10:20 1 being there for longer periods, betting larger amounts, or both?
10:20 2
10:20 3 A. Yes.
10:20 4
10:20 5 Q. Now, a promotion like that one, do you have any feel for
10:20 6 how many people the promotion might have been sent out to?
10:20 7
10:20 8 A. Interstate it would typically be sent by the hosts. So for
10:20 9 interstate promotions, we run them essentially for the gaming
10:21 10 business units hosting teams, or interstate sales teams in this
10:21 11 particular instance. So we would, in discussion with them, we
10:21 12 would design the promotion and kind of get that set up and build
10:21 13 the (inaudible) sale which is what you are looking at now. The
10:21 14 sales team would then send out these invites to individuals and/or
10:21 15 they may give us a list of people that they want us to send it to,
10:21 16 and then that would be sent out for them. So it would be
10:21 17 relatively small numbers. I'm afraid I couldn't tell you off the top
10:21 18 of my head, but it would probably be in the tens and hundreds
10:21 19 rather than thousands for an interstate thing like this.
10:21 20
10:21 21 Q. Notwithstanding it is a small number of people, tens or
10:21 22 hundreds, you agree, don't you, that Crown undertook no research
10:21 23 into the financial position, well-being of these people before they
10:21 24 sent out the promotion?
10:21 25
10:21 26 A. Not to my knowledge, no.
10:21 27
10:22 28 Q. Yes, okay. Mr Commissioner, I might tender that
10:22 29 document if I may.
10:22 30
10:22 31 COMMISSIONER: I will just describe it as Promotion for Lucky
10:22 32 Reds Cash Draw, Exhibit 134.
10:22 33
10:22 34
10:22 35 **EXHIBIT #RC0134 - PROMOTION FOR LUCKY REDS**
10:22 36 **CASH DRAW**
10:22 37
10:22 38
10:22 39 MR KOZMINSKY: Mr Emery, I want to go to another document
10:22 40 now.
10:22 41
10:22 42 Mr Operator, it's CRW.510.052.2193. Can you see that?
10:22 43
10:22 44 A. I can.
10:22 45
10:22 46 Q. This is a voucher, so if someone wins the cash draw, this is
10:22 47 the sort of voucher they might receive; is that right?

10:23 1
10:23 2 A. Yes.
10:23 3
10:23 4 Q. And if you see underneath the \$25,000, it says, sorry,
10:23 5 Mr Commissioner, behind tab 2 of the hard copies for you.
10:23 6
10:23 7 It says, Mr Emery:
10:23 8
10:23 9 *To redeem your prize, please proceed to the Mahogany*
10:23 10 *Room cage.*
10:23 11
10:23 12 A. Yes.
10:23 13
10:23 14 Q. So you get this voucher, let's say I won \$25,000, I take the
10:23 15 voucher, I go to the Mahogany Room cage, I give it to them and I
10:23 16 get \$25,000 in chips; is that right?
10:23 17
10:23 18 A. Chips or cash, I believe.
10:23 19
10:23 20 Q. And the reason ---
10:23 21
10:23 22 A. Sorry, for clarity, I'm actually not sure on that. I would
10:23 23 need to double-check that but I believe it is either.
10:23 24
10:23 25 Q. Yes. But the reason, isn't it, that you go into the Mahogany
10:23 26 Room to the cage with the \$25,000 is in the hope that the person
10:23 27 will use that money to gamble?
10:23 28
10:23 29 A. My understanding is it is a simple operational reality, is that
10:23 30 the cage is where we would do any kind of transaction like this.
10:23 31
10:24 32 Q. Right. Crown hasn't ---
10:24 33
10:24 34 COMMISSIONER: The question really is: why the cage and
10:24 35 why not somewhere else? For example, send the money in cash
10:24 36 by electronic transfer to the prize winner? In other words, why
10:24 37 has the cage been chosen as the location at which the prize
10:24 38 winner redeems the voucher?
10:24 39
10:24 40 A. I'm afraid I'm not sure, Commissioner. It's always been
10:24 41 done that way and I didn't think to ask.
10:24 42
10:24 43 COMMISSIONER: You are not involved in that kind of
10:24 44 decision?
10:24 45
10:24 46 A. No. No. I don't get into that level of detail.
10:24 47

10:24 1 COMMISSIONER: And you have never enquired why the
10:24 2 redemption should take place at the cage in the Mahogany
10:24 3 Room?
10:24 4
10:24 5 A. No, I haven't.
10:24 6
10:24 7 COMMISSIONER: Have you ever wondered about it?
10:24 8
10:24 9 A. No, I haven't.
10:24 10
10:24 11 COMMISSIONER: Think about it now. What is the likely
10:25 12 explanation for why redemptions take place in the Mahogany
10:25 13 Room at the cage?
10:25 14
10:25 15 A. I can only hypothesise. I imagine it's a combination of two
10:25 16 factors. One is that operationally that would be the best place in
10:25 17 the business to do such a transaction and the other one would be
10:25 18 to have people back on the gaming floor.
10:25 19
10:25 20 COMMISSIONER: And if I take the first one, first; could you
10:25 21 explain to me why "operationally", your word, that is the best
10:25 22 place? Why not the main cage on the ground floor, for example?
10:25 23
10:25 24 A. Sorry, I meant any cage. I wasn't thinking specifically
10:25 25 about Mahogany Room. My assumption again, and the
10:25 26 assumption would be that that was because that is where these
10:25 27 customers would play, so we would do it in the area which would
10:25 28 be where they would play.
10:25 29
10:26 30 COMMISSIONER: All right. Thank you.
10:26 31
10:26 32 MR KOZMINSKY: If I could ask you one other question,
10:26 33 Mr Emery, are you aware that under the relevant legislation
10:26 34 called the Casino Control Act, that that is neither here nor there?
10:26 35 A casino operator, as a general rule, not always, won't pay out
10:26 36 winnings on an EGM more than \$2,000 except by cheque? Were
10:26 37 you aware of that?
10:26 38
10:26 39 A. It rings a bell but I (audio distortion).
10:26 40
10:26 41 Q. Crown would have the capacity to cut a cheque at the River
10:26 42 Room, for example, if someone won a prize? Operationally that
10:26 43 wouldn't create any difficulties whatsoever for Crown, you accept
10:26 44 that, would you?
10:26 45
10:26 46 A. Possibly. Again, I don't know, but that would make sense.
10:26 47

- 10:26 1 Q. I want to ask you this, and I know you've told us you
10:26 2 haven't thought about it, and in fairness to you I accept that, but I
10:26 3 just want you to have a think about it now as we go through this
10:26 4 series of questions: would you accept this as being correct, that
10:27 5 a customer who has \$25,000 of chips they've just won in a draw,
10:27 6 for them that might be a thrill?
10:27 7
- 10:27 8 A. Potentially, yes.
10:27 9
- 10:27 10 Q. And do you think it is possible that someone who has
10:27 11 \$25,000 of chips they've just won in their hand might use it to
10:27 12 gamble? I think you've accepted that?
10:27 13
- 10:27 14 A. Yes.
10:27 15
- 10:27 16 Q. And they might, with that money, that they've just won
10:27 17 increase their bet size? So if they normally played blackjack and
10:27 18 bet \$100 a hand, it is possible, isn't it, that part of the thrill, they
10:27 19 might increase their bet size?
10:27 20
- 10:27 21 A. It is possible but I haven't seen any data to say one way or
10:27 22 the other.
10:27 23
- 10:27 24 Q. Do you know whether or not - tell me if you agree with
10:28 25 this: do you agree that if a person starts with betting larger
10:28 26 amounts as a general rule, they don't decrease their bets again,
10:28 27 they tend to go to the higher bet limits?
10:28 28
- 10:28 29 A. I don't have data to say one way or the other on that
10:28 30 specifically. The data I have seen that is, I guess, connected with
10:28 31 that is that typically, spend levels year-on-year remain within the
10:28 32 same broad bands for customers. We see about 90 per cent of -
10:28 33 just shy of 90 per cent of customers tend to stay in the same
10:28 34 spending band from one year to the next with the remaining 10 or
10:28 35 12 per cent moving up and down.
10:28 36
- 10:28 37 Q. Right. I'm asking you whether or not one way you might
10:28 38 get customers, you might target more of that up-and-down
10:28 39 movement, but a particular up is by giving winners of cash draws,
10:28 40 increasing their bet sizing, getting a thrill out of it, and continuing
10:29 41 to do it with their own money?
10:29 42
- 10:29 43 A. That would be a very inefficient way of doing it. Giving
10:29 44 \$25,000 away, very few people would get that. So that wouldn't
10:29 45 be a mechanism we would use to try and do that.
10:29 46
- 10:29 47 Q. Okay, but you are not just giving away \$25,000 in cash

10:29 1 draws, are you, Mr Emery, you are giving a thousand to lower tier
10:29 2 members --- (speaking over) ---
10:29 3
10:29 4 A. Yep.
10:29 5
10:29 6 Q. --- to lower tiers, so you are giving \$25,000 to people who
10:29 7 bet a lot in the hope they will increase their bets ---
10:29 8
10:29 9 A. Yes, but we view that money as the cost of doing the
10:29 10 promotion. We evaluate the success in the promotion
10:29 11 predominantly on whether it drives visitation and whether or not
10:29 12 people spent when they got there.
10:29 13
10:29 14 Q. Gaming to increase visitation and spend?
10:29 15
10:29 16 A. Yes, for all participants, not just the winners.
10:29 17
10:29 18 Q. I want to ask you this: I'm right, aren't I, that before sending
10:30 19 out promotional material, Crown doesn't consider if the people to
10:30 20 whom the material is sent can afford to gamble at the levels
10:30 21 required to qualify for the promotion?
10:30 22
10:30 23 A. No, we don't.
10:30 24
10:30 25 Q. And it doesn't look at any player data analytics before
10:30 26 sending out promotional material?
10:30 27
10:30 28 A. Sorry, in what regard?
10:30 29
10:30 30 Q. Crown has a wealth of player data analytics. You know,
10:30 31 when customers start gambling, how long they gamble, on
10:30 32 EGMs, how much. Approximately how much they are spending
10:30 33 on tables. You have a wealth of player data and I'm asking if you
10:30 34 as a Chief Marketing Officer or anyone in your team looks at any
10:30 35 of that before you send out marketing material.
10:30 36
10:30 37 A. So, yes, we do. The first way we do that is to see what
10:30 38 offers would be appropriate for different customers, so the high
10:30 39 value customers would get high value offers, and the second way
10:31 40 we would do that is we would look at all the standard exclusions
10:31 41 we have, so stop codes to police Responsible Gaming, and other
10:31 42 exclusions and other marketing exclusions either because
10:31 43 a customer hadn't opted into marketing or they had opted out, or
10:31 44 they had been opted out by frontline staff as part of a responsible
10:31 45 gaming time-out.
10:31 46
10:31 47 Q. I understand. So there are two parts to your answer. The

10:31 1 first part is if you are going to give, as you said, a \$25,000 cash
10:31 2 draw, you will give it to someone who is a black tier member, not
10:31 3 someone who is a silver member?

10:31 4

10:31 5 A. Yes.

10:31 6

10:31 7 Q. You accept that has not got anything to do with the
10:31 8 Responsible Service of Gaming?

10:31 9

10:31 10 A. No.

10:31 11

10:31 12 Q. But in fairness it was a direct response to my question, I'm
10:31 13 not being critical, I'm clarifying. The second part of your answer
10:31 14 is you look at stop codes?

10:31 15

10:32 16 A. Yes.

10:32 17

10:32 18 Q. And make sure things don't go out. I understand that is
10:32 19 automated, isn't it?

10:32 20

10:32 21 A. Yes.

10:32 22

10:32 23 Q. So you are not actually looking at it, an automated
10:32 24 program?

10:32 25

10:32 26 A. Yes, when the lists are cut, the analyses have a standard bit
10:32 27 of code that is run that make sure the appropriate exclusions are
10:32 28 enacted.

10:32 29

10:32 30 Q. Okay. Now, just on the stop codes that you've raised them,
10:32 31 in your statement I think you identify three types of stop codes
10:32 32 that are used to prevent material being sent to people who might
10:32 33 be experiencing problem gambling: self-exclusion, Responsible
10:32 34 Gaming WOLs, withdrawal of licenses ---

10:32 35

10:32 36 A. Yes.

10:32 37

10:32 38 Q. --- and time-out participants?

10:32 39

10:32 40 A. Yes.

10:32 41

10:32 42 Q. You have the totality of the stop codes that prevent
10:32 43 marketing material going out?

10:32 44

10:32 45 A. With regard to Responsible Gaming, yes.

10:32 46

10:32 47 Q. And in fairness to you, I think people can opt out

10:32 1 themselves and they also don't receive marketing, they don't get
10:32 2 their player activity statement?
10:32 3
10:32 4 A. Yes.
10:32 5
10:33 6 Q. Putting them to one side. I'm talking about the proactive
10:33 7 codes, there are three: self-exclusion, RG WOL and time-out;
10:33 8 right?
10:33 9
10:33 10 A. Yes.
10:33 11
10:33 12 Q. I want to take 2019 as an example because that's the last
10:33 13 COVID-free year, so it's a reasonable measure.
10:33 14
10:33 15 According to Ms Bauer's evidence, and we can bring it up on the
10:33 16 screen, but I don't think it is necessary, and this, for Mr Borsky's
10:33 17 benefit, is at paragraph 168, page 40. There were 123 responsible
10:33 18 gambling WOLs, 471 self-exclusions and 22 time-out
10:33 19 participants. My maths isn't great, Mr Emery, but I think that
10:33 20 comes to about 616 for the year. Are you happy with that
10:33 21 number?
10:33 22
10:33 23 A. Yes.
10:33 24
10:33 25 Q. Which is, on my maths, less than two a day.
10:33 26
10:33 27 A. Yep.
10:33 28
10:33 29 Q. Ms Bauer's evidence is that in 2019 Crown had a tick over
10:33 30 23 million, well, 23,300,000 visitors. That sound about right
10:34 31 to you?
10:34 32
10:34 33 A. Yes.
10:34 34
10:34 35 Q. In fairness to you again, they are not unique visits, the same
10:34 36 person can come a number of times, but it is a big number?
10:34 37
10:34 38 A. Yes.
10:34 39
10:34 40 Q. You agree with me that not marketing to 616 people in the
10:34 41 context of that number is not really an adequate or meaningful
10:34 42 proactive step; don't you?
10:34 43
10:34 44 A. The controls that we have in place are based on, are
10:34 45 reliant on the frontline teams to identify people who are at risk.
10:34 46 So the extent to which those are adequate or not, I'm not sure. On
10:34 47 face value, though, if you go on the point that 1 per cent of

10:34 1 customers, I can't remember the percentage, but, yes, that would
10:34 2 be a small percentage of all the potential problem gamblers who
10:34 3 would visit the property.
10:34 4

10:34 5 Q. And that 1 per cent figure, that is right, Mr Emery, so you
10:35 6 have plainly done a little reading in this area, between 0.9 and
10:35 7 1 per cent depending on what you read of Victoria, generally, that
10:35 8 is prevalence of problem gambling in Victoria generally, is that
10:35 9 the point you were making?
10:35 10

10:35 11 A. Yes.
10:35 12

10:35 13 Q. I don't know if you are aware of this, but the VCGLR has
10:35 14 put in a statement, which we will get to later in the week, which
10:35 15 cites one particular research paper that says that people who
10:35 16 gamble at Crown are three times more likely to be experiencing
10:35 17 problem gambling when compared to all other Victorians. I don't
10:35 18 expect you to be across that particular figure, but you would
10:35 19 accept, wouldn't you, that people experiencing problem
10:35 20 gambling, that is more likely ---
10:35 21

10:35 22 COMMISSIONER: Hold, on, Mr Kozminsky.
10:35 23

10:35 24 Mr Rozen?
10:36 25

10:36 26 MR ROZEN: I think Mr Kozminsky said the VCGLR put in
10:36 27 a statement.
10:36 28

10:36 29 MR KOZMINSKY: My apologies, Mr Rozen. The Foundation.
10:36 30

10:36 31 MR ROZEN: Just so it is clear for the witness.
10:36 32

10:36 33 MR KOZMINSKY: Sorry, Mr Emery, if I created any confusion
10:36 34 for you.
10:36 35

10:36 36 Thank you, Mr Rozen.
10:36 37

10:36 38 MR ROZEN: Thank you.
10:36 39

10:36 40 MR KOZMINSKY: Just going back, you would agree with me
10:36 41 the prevalence of problem gambling at the casino is likely to be
10:36 42 higher than in the Victorian population more generally?
10:36 43

10:36 44 A. Yes, based on that.
10:36 45

10:36 46 Q. Not just on that, but based on your experience?
10:36 47

10:36 1 A. Yes.
10:36 2
10:36 3 Q. Now circling back to where we started, which is looking at
10:36 4 player analytics, there is a wealth of player analytics. The casino
10:36 5 knows how often people are coming, knows how long they are
10:36 6 playing for, all that sort of data is not looking at before
10:36 7 promotional material is sent out? That's right, isn't it?
10:36 8
10:36 9 A. From an RG perspective, yes.
10:36 10
10:36 11 Q. The Commission has received submissions and has heard
10:37 12 evidence about Crown's marketing drawing people back into the
10:37 13 casino and causing great harm. I don't need to take you to it, but
10:37 14 I can if you want me to. You agree with me that as a responsible
10:37 15 corporate citizen, Crown should be taking more proactive steps
10:37 16 before marketing to people?
10:37 17
10:37 18 A. I think so, yes. I think that with a risk like problem
10:37 19 gambling we should always be adding things to the way that we
10:37 20 manage risk around that.
10:37 21
10:37 22 Q. Yes.
10:37 23
10:37 24 A. I've added --- sorry.
10:37 25
10:37 26 Q. No, no, I thought you had finished. It is a problem with
10:37 27 technology, Mr Emery, there is a bit of a lag. You continue.
10:37 28
10:37 29 A. I'm finished, thanks.
10:37 30
10:37 31 Q. But you agree with me, based on what we've just been
10:37 32 through, it is not adequate at the moment; you accept that,
10:37 33 Mr Emery?
10:37 34
10:37 35 A. Well, based on the controls that we have, and the feedback
10:38 36 that I've had, I believe that - I believe that it was adequate
10:38 37 within what we currently have. I think that we can and should be
10:38 38 adding more controls to that. So I think they are partially
10:38 39 adequate at the moment. I think more things can be added to
10:38 40 them.
10:38 41
10:38 42 Q. Putting to one side whether it is because there is not enough
10:38 43 frontline staff to identify these issues to feed up into the stop
10:38 44 codes, or whether it is because the technology hasn't been
10:38 45 developed to look at this stuff before you market it, whatever the
10:38 46 reason might be, and irrespective of whether the fault lies with
10:38 47 the marketing team or somewhere else, at the moment, stop codes

10:38 1 for 616 people, when you have a casino that had 22 and
10:38 2 a bit million visitors, and otherwise no steps being taken, is
10:39 3 inadequate; "yes" or "no"?

10:39 4

10:39 5 A. Yes.

10:39 6

10:39 7 Q. Thank you, Mr Emery. There are different mechanisms
10:39 8 through which customers become eligible to receive gifts, and
10:39 9 one of the mechanisms is what you call in your statement
10:39 10 "visit-and-get"; is that right?

10:39 11

10:39 12 A. Yes.

10:39 13

10:39 14 Q. It is a neat name. It means the customer goes into the
10:39 15 casino or visits the casino to obtain the gift or get the gift. That is
10:39 16 the idea?

10:39 17

10:39 18 A. Yes.

10:39 19

10:39 20 Q. For most personalised offers like, for example, if you are
10:39 21 giving a black tier member tickets to a concert, they come into
10:39 22 the casino, they use a visit-and-get mechanism; is that right?

10:39 23

10:39 24 A. Yes, that's correct.

10:39 25

10:39 26 Q. We've heard from two Mahogany Room hosts, and you
10:39 27 know Mahogany Room hosts, Mr Emery, deal with platinum and
10:40 28 black members, domestic ones, that is their clientele; you are
10:40 29 aware of that?

10:40 30

10:40 31 A. Yes.

10:40 32

10:40 33 Q. I want to read you, and for Mr Borsky's benefit, verbatim
10:40 34 and not de-contextualised, the evidence that one of the hosts
10:40 35 gave. One host said this. I asked a question, "Why is having
10:40 36 them onsite an advantage?" And the answer said:

10:40 37

10:40 38 *Because a gambler is a gambler, a punter is a punter.*
10:40 39 *When they are on site, a lot of time they are not going to*
10:40 40 *come in and park their car, jump on a bus and go to the*
10:40 41 *football, they are going to come back and play.*

10:40 42

10:40 43 That is the idea, isn't it, you agree with that evidence?

10:40 44

10:40 45 A. Yes.

10:40 46

10:40 47 Q. I won't read it out, there is another host who gave

10:40 1 substantially the same reason why dinners are onsite, tickets are
 10:40 2 onsite, cash draws are onsite, the same idea?
 10:40 3
 10:40 4 A. Yes.
 10:40 5
 10:40 6 Q. We heard evidence from one Crown customer. He said
 10:41 7 this. For Mr Borsky's benefit, on 3 May 2021, transcript page 9:
 10:41 8
 10:41 9 *..... on that occasion I got called in to pick up Phil Collins*
 10 10 *tickets, because you got to go in and pick them up, I went*
 11 11 *in to pick them up and I dropped 30,000. So going in to*
 12 12 *pick up Phil Collins tickets cost me \$30,000 for my friends that*
 13 13 *went to watch him.*
 14 14
 15 15 *.....*
 16 16
 10:41 17 *..... Nothing is for free, it's all calculated, it's all pretty*
 10:41 18 *smart. They know how to play you and they play you*
 10:41 19 *quite well.*
 10:41 20
 10:41 21 COMMISSIONER: Mr Kozminsky, I'm afraid I have to stop you
 10:41 22 for a minute. We've got at this end another technological
 10:41 23 problem. I have to break for five minutes or so to see if the thing
 10:41 24 is back up and running.
 10:41 25
 10:41 26 MR KOZMINSKY: You will adjourn for five minutes?
 10:41 27
 10:41 28 COMMISSIONER: Yes, we will adjourn for seven minutes or
 10:41 29 something like that. We will get back to you as soon as the
 10:42 30 system is up and running again. Apologise to you, Mr Emery as
 10:42 31 well.
 10:42 32
 10:42 33
 10:42 34 **ADJOURNED** [10.42AM]
 10:43 35
 10:43 36
 11:00 37 **RESUMED** [11.00AM]
 11:00 38
 11:00 39
 11:00 40 COMMISSIONER: I think we are back online.
 11:00 41
 11:00 42 Mr Emery, can you hear me? You will have to unmute yourself
 11:00 43 if you can. You are still on mute.
 11:00 44
 11:00 45 A. Can you hear me?
 11:00 46
 11:00 47 COMMISSIONER: Mr Kozminsky, you are back online? I just

11:00 1 want to explain. There was a problem with the audio on the
11:01 2 stream that was going live. It has now been rectified, and at some
11:01 3 stage when we can redo the parts not heard properly by the public
11:01 4 and the final, I guess, stream will be rectified so that if anybody
11:01 5 wants to go back and listen to the last, I think it was a problem
11:01 6 for about 15 minutes, they can do that. So precisely when that
11:01 7 will happen I don't know, but sometime during the course of the
11:01 8 day. At the moment, we are running properly.

11:01 9

11:01 10 Mr Kozminsky, I don't know where you got up to, but if you can
11:01 11 remember, then you can pick up the last question to Mr Emery.

11:01 12

11:01 13 MR KOZMINSKY: Sorry about the delay, Mr Emery.

11:01 14

11:01 15 A. That's quite okay.

11:01 16

11:01 17 MR KOZMINSKY: Mr Commissioner, before we do that, I
11:02 18 didn't tender the last document I went to. I might do that now
11:02 19 because there is a break. It is the document behind tab 2 in your
11:02 20 folder. CRW.510.052.2193. That is the voucher.

11:02 21

11:02 22 COMMISSIONER: The Lucky Reds Cash Draw for \$25,000 will
11:02 23 be Exhibit 135.

11:02 24

11:02 25

11:02 26 **EXHIBIT #RC0135 - LUCKY REDS CASH DRAW FOR**
11:02 27 **\$25,000**

11:02 28

11:02 29

11:02 30 MR KOZMINSKY: I think, Mr Emery, where we left off was I
11:02 31 read you a passage of a customer who was using a "visit-and-get",
11:02 32 he went there to pick up a ticket, do you remember that?

11:02 33

11:02 34 A. Yes.

11:02 35

11:02 36 Q. And he lost \$30,000. So he came onsite, he picked up the
11:02 37 tickets, and because he was there, he gambled and he lost
11:02 38 \$30,000. Do you remember that?

11:02 39

11:02 40 A. Yes.

11:02 41

11:02 42 Q. I was going to ask you, in respect of that customer from,
11:02 43 a marketing perspective, that is a good outcome?

11:02 44

11:02 45 A. Yes.

11:02 46

11:02 47 Q. We've looked at the cash draws. I want to go through some

11:03 1 other promotions with you so we can get a feel for a variety of
11:03 2 different events and promotions that happen.
11:03 3
11:03 4 Could the operator please go to CRW.510.052.2486.
11:03 5
11:03 6 Mr Commissioner, you have that in hard copy behind tab 3.
11:03 7
11:03 8 Can you see that, Mr Emery?
11:03 9
11:03 10 A. I can.
11:03 11
11:03 12 Q. Down the bottom there are terms and conditions. They are
11:03 13 really hard to read. In the first row it says:
11:03 14
11:03 15 *Each draw is open to Crown Rewards members playing*
11:03 16 *on participating table games in The Mahogany Room at*
11:03 17 *the time of the relevant cash draw.*
11:03 18
11:03 19 Do you see that?
11:03 20
11:03 21 A. Yes.
11:03 22
11:03 23 Q. So the Mahogany Room we've heard evidence that is really
11:03 24 for the high rollers at the casino?
11:04 25
11:04 26 A. More premium customers, yeah, platinum and above.
11:04 27
11:04 28 Q. Yes. And this draw, if you scroll back up, you will see that
11:04 29 there are four draws, 3.45 pm, 5.45 pm, 7.45 pm and 9.45 pm; do
11:04 30 you see that, Mr Emery?
11:04 31
11:04 32 A. Yes.
11:04 33
11:04 34 Q. So each draw is two hours apart?
11:04 35
11:04 36 A. Yes.
11:04 37
11:04 38 Q. The idea is to get someone to the casino just before 3.45
11:04 39 until after 9.45; is that the idea?
11:04 40
11:04 41 A. No. Well, the primary objective is to get them into the
11:04 42 property, the extent to which, and I wasn't part of the design of
11:04 43 this, the extent to which it is to get them there for the full day,
11:04 44 I'm not sure. What I do know is that the majority of customers
11:05 45 wouldn't be there for each draw. I don't think they would be there
11:05 46 for each draw.
11:05 47

11:05 1 Q. It is from 2020. You were Chief Marketing Officer then?
11:05 2
11:05 3 A. Yes.
11:05 4
11:05 5 Q. You say you don't think people would be there for each of
11:05 6 the draws; is that a guess, is someone telling you ---
11:05 7
11:05 8 A. No, that is a guess, I would need to check, but based on
11:05 9 data I've seen on other competitions we've run, the majority of
11:05 10 people aren't there for each of these.
11:05 11
11:05 12 Q. I was wondering about the two-hour break. How long does
11:05 13 a cash draw like this take?
11:05 14
11:05 15 I think Mr Emery is frozen.
11:05 16
11:05 17 COMMISSIONER: Yes. That is a problem at the Crown end.
11:06 18 I don't think we can do anything about that here.
11:06 19
11:06 20 Mr Borsky, can you ---
11:06 21
11:06 22 MR BORSKY: Yes.
11:06 23
11:06 24 COMMISSIONER: --- email or ring or do something?
11:06 25
11:06 26 MR BORSKY: I will do something. It is a problem at the Crown
11:06 27 end. Ms Bauer encountered similar problems once or twice in
11:06 28 her evidence. It did correct itself, so let's, may I suggest, give it
11:06 29 30 seconds or so and if that doesn't resolve, we'll need Mr Emery
11:06 30 to disconnect and try to reconnect.
11:06 31
11:06 32 COMMISSIONER: Okay. Is there a technician nearby the room
11:06 33 where Mr Emery is who can go in and connect and unconnect?
11:06 34
11:06 35 MR BORSKY: It is. It may be the technician has entered the
11:06 36 room, but we wouldn't see it in regards to the freeze.
11:06 37
11:06 38 COMMISSIONER: I think they've switched him off, so they are
11:06 39 probably doing it now.
11:06 40
11:06 41 MR BORSKY: It is probably just moments away. If I may
11:06 42 suggest we wait for another 30 seconds or so we'll probably see
11:06 43 Mr Emery again.
11:06 44
11:06 45 COMMISSIONER: Okay, thanks.
11:07 46
11:07 47 (Technical pause).

11:07 1
11:07 2 A. Hello, can you hear me?
11:07 3
11:07 4 COMMISSIONER: Yes, we can see and hear you again.
11:07 5
11:07 6 A. Great.
11:07 7
11:07 8 COMMISSIONER: Sorry, Mr Kozminsky.
11:07 9
11:07 10 A. Sorry about that.
11:07 11
11:07 12 MR KOZMINSKY: It's not your fault, Mr Emery. I'm sorry it is
11:07 13 dragging on a bit. It is no one's fault. I'm sorry. I was asking
11:07 14 you, a cash draw like this, how long might it take?
11:07 15
11:07 16 A. To be honest, I actually don't know. My apologies.
11:07 17
11:08 18 Q. A range?
11:08 19
11:08 20 A. I would imagine, because the guys make a bit of theatre
11:08 21 around it, so I would imagine 15 to 30 minutes, I would imagine,
11:08 22 but I would need to confirm that back to the Commission.
11:08 23
11:08 24 Q. Can we, for purposes of the questioning today, let's assume
11:08 25 it takes up to 30 minutes.
11:08 26
11:08 27 A. Yes.
11:08 28
11:08 29 Q. Are you happy with that? Am I right in thinking this: two
11:08 30 hours isn't a random number plucked out of the air between each
11:08 31 draw; it leaves 1.5 hours between the end of the first draw, the
11:08 32 beginning of the next draw; you agree with that?
11:08 33
11:08 34 A. Yes.
11:08 35
11:08 36 Q. And that is enough time that the draw is close enough that
11:08 37 someone might think, "oh, I will hang around, I'll keep gambling,
11:08 38 maybe I will win the next draw", but it is also long enough that
11:08 39 you can gamble for a bit and lose money?
11:08 40
11:08 41 A. Yes, that could probably be part of the decision. The other
11:09 42 part of the decision, I would imagine, again I wasn't involved in
11:09 43 creation of this specific offer, would be to give people flexibility
11:09 44 across the course of the day so they can get into one or more
11:09 45 draws based on their personal arrangements.
11:09 46
11:09 47 Q. Sure. The draw, of course, there might be several purposes

11:09 1 of the two-hour break, but you've agreed one purpose is the one I
11:09 2 described to you?
11:09 3
11:09 4 A. I would imagine so, yes. I wasn't involved in this one, but I
11:09 5 would imagine so.
11:09 6
11:09 7 MR KOZMINSKY: Thanks. I will tender that document if I
11:09 8 may, Mr Commissioner.
11:09 9
11:09 10 COMMISSIONER: I will describe it as "Lucky Money Cash
11:09 11 Draw Brochure for January/February 2020". I will redescribe
11:10 12 that as the "Cash draws for \$67,000 wins, January/February
11:10 13 2020". I think I'm up to Exhibit 136.
11:10 14
11:10 15
11:10 16 **EXHIBIT #RC0136 - CASH DRAWS FOR \$67,000 WINS -**
11:10 17 **JANUARY/FEBRUARY 2020**
11:10 18
11:10 19
11:10 20 MR KOZMINSKY: Thank you.
11:10 21
11:10 22 COMMISSIONER: One or two questions for you, Mr Emery,
11:10 23 from me. You said you weren't responsible or involved in the
11:10 24 design of this particular product. Who at Crown or who does
11:10 25 Crown engage to design these kinds of products if not you?
11:10 26
11:10 27 A. So the gaming marketing team within my Melbourne
11:10 28 marketing team would design these, and they would do so from
11:10 29 essentially a pick-and-mix of promotional elements that has
11:10 30 mechanics and benefits that had been created previously.
11:10 31
11:10 32 COMMISSIONER: Thank you.
11:10 33
11:10 34 MR KOZMINSKY: May I continue, Mr Commissioner?
11:10 35
11:10 36 COMMISSIONER: That's it.
11:11 37
11:11 38 MR KOZMINSKY: Thank you.
11:11 39
11:11 40 Could you bring up CRW.510.0522.2531, Mr Operator. That is
11:11 41 the next tab in your folder, tab 5, Commissioner.
11:11 42
11:11 43 There appear to be some technical difficulties.
11:11 44
11:11 45 COMMISSIONER: Wait a minute. It might be sorted.
11:12 46
11:12 47 MR KOZMINSKY: This is a slightly different promotion. There

11:12 1 are two parts to it. I want to focus on the car giveaway.
11:12 2
11:12 3 If you just have a look at this, it says underneath the car that it
11:12 4 runs from 3 October to 12 November.
11:12 5
11:12 6 A. Yes.
11:12 7
11:12 8 Q. That's about 40 days; do you agree with that?
11:12 9
11:12 10 A. I believe it was six weeks, but, yes.
11:12 11
11:12 12 Q. Yes, and the Aston Martin is what you can win, which is
11:12 13 apparently worth \$295,000?
11:12 14
11:12 15 A. Yes.
11:12 16
11:12 17 Q. If you just go over the page, Mr Operator, you will see that
11:12 18 to qualify, you have to register your daily visits at the kiosk, and
11:12 19 to qualify for the car draw do you see you have to have 16 daily
11:12 20 visits?
11:12 21
11:12 22 A. Yes.
11:12 23
11:12 24 Q. So 16 on 40, you've got to qualify by gambling 40 per cent
11:12 25 of the days of the promotion period? My maths is not great ---
11:13 26 (speaking over) ---
11:13 27
11:13 28 A. Sounds right. Yes.
11:13 29
11:13 30 Q. And if you see underneath, it says:
11:13 31
11:13 32 Once qualified for the respective draws, you can earn:
11:13 33
11:13 34 *3 additional entries for each Daily Visit*
11:13 35
11:13 36 So if you gamble more than 40 per cent of the days of the
11:13 37 promotion, you get additional entries; do you agree with that?
11:13 38
11:13 39 A. Yes.
11:13 40
11:13 41 Q. You also get an entry if you earn 5,000 points in a day?
11:13 42
11:13 43 A. Yes.
11:13 44
11:13 45 Q. And 5,000 points is not about winning or losing, it is about
11:13 46 turnover?
11:13 47

- 11:13 1 A. It's theoretical win to the business, so but yes, it's
11:13 2 effectively turnover.
11:13 3
- 11:13 4 Q. To earn 5,000 points on a table game, not an EGM, one
11:13 5 might need to turn over tens of thousands of dollars?
11:13 6
- 11:13 7 A. So 5,000 points roughly would be about \$1,000 of theo,
11:14 8 which would be,6 or \$7,000 would be my very rough
11:14 9 guesstimate of turnover you would need to do for that, but I
11:14 10 would need to get someone who knows the detail of how those
11:14 11 calcs work to give you an exact number.
11:14 12
- 11:14 13 Q. I think you've given some evidence about the ratio of points
11:14 14 and dollars and turnover.
11:14 15
- 11:14 16 A. Yes.
11:14 17
- 11:14 18 Q. And I might be mistaken, but I think there might be some
11:14 19 errors in that. I will take you to a document about it a bit later on.
11:14 20
- 11:14 21 A. Sure.
11:14 22
- 11:14 23 Q. But whatever the unusual might be, it might be your 6 or
11:14 24 \$7,000, it might be my tens of thousands of dollars, it is lots of
11:14 25 money; you agree with that?
11:14 26
- 11:14 27 A. Yes.
11:14 28
- 11:14 29 Q. So, definitionally, this promotion is encouraging people to
11:14 30 gamble very frequently, for lots of money; agree with that?
11:14 31
- 11:14 32 A. Yes. The extent to which it encourages them to do more
11:14 33 than they were doing varies. So, for clarity, black tier members
11:15 34 would - so the way that this is designed is that black tier
11:15 35 members, if memory serves, would be visiting about that amount
11:15 36 of time in the promotional window already. They also already
11:15 37 spend quite large amounts of money. So, yes, it absolutely
11:15 38 encourages them to do so. In many events it is encouraging them
11:15 39 to continue to do what they were already doing.
11:15 40
- 11:15 41 Q. Yes, I understand that. But this promotion isn't just open to
11:15 42 black tier members but platinum tier members?
11:15 43
- 11:15 44 A. Yes, it is, that's correct.
11:15 45
- 11:15 46 Q. And there is a category called gold-plus, is there not, which
11:15 47 has access to the Mahogany Room?

11:15 1
11:15 2 A. Yes, that's correct.
11:15 3
11:15 4 Q. And entry to this is available at the Mahogany Room,
11:15 5 which means any gold-plus, platinum or black tier member could
11:15 6 enter?
11:15 7
11:15 8 A. My understanding is that it was only platinum and black,
11:16 9 but I would need to check that.
11:16 10
11:16 11 Q. Let's assume it is platinum and black. I can't see it in the
11:16 12 terms, but that might be so -no, you are right, platinum and
11:16 13 black. You are entirely right. Platinum and black members are
11:16 14 entitled to enter this draw, not just black members; you agree
11:16 15 with that?
11:16 16
11:16 17 A. Yes.
11:16 18
11:16 19 Q. In fact most of your revenue and theoretical turnover comes
11:16 20 from platinum members, not black; you agree with that?
11:16 21
11:16 22 A. Yes.
11:16 23
11:16 24 Q. 36 from platinum and 26 from black?
11:16 25
11:16 26 A. That sounds right.
11:16 27
11:16 28 Q. So this is encouraging black members and platinum
11:16 29 members to gamble frequently and at least in the case of platinum
11:16 30 members, likely far more frequently than they are gambling?
11:16 31
11:16 32 A. Potentially, however, that is also why we have the \$10,000
11:16 33 prices as well. There is something there for platinum players at
11:16 34 the levels that they play at.
11:16 35
11:16 36 Q. I just want to be clear: a platinum person might be tempted
11:17 37 by this promotion to gamble?
11:17 38
11:17 39 A. Yes. You're correct. 100 per cent.
11:17 40
11:17 41 Q. 100 per cent, you agree with me?
11:17 42
11:17 43 A. Yes.
11:17 44
11:17 45 MR KOZMINSKY: Thank you. Mr Commissioner, could I
11:17 46 tender that.
11:17 47

11:17 1 COMMISSIONER: That will become Exhibit 137. I will
11:17 2 describe it as the Luxury Car Giveaway Prize -
11:17 3 October/November 2017.

11:17 4
11:17 5

11:17 6 **EXHIBIT #RC0137 - LUXURY CAR GIVEAWAY PRIZE -**
11:17 7 **OCTOBER/NOVEMBER 2017**

11:17 8
11:17 9

11:17 10 MR KOZMINSKY: Mr Emery, if you need to see your
11:17 11 statement, I will take you to it straight away. You identify seven,
11:17 12 what I might call broad marketing categories in your statement,
11:17 13 and, if you look at paragraph 2 of paragraph 11 ---

11:18 14

11:18 15 A. Yes.

11:18 16

11:18 17 Q. --- it talks about items for VIP domestic customers.

11:18 18

11:18 19 A. Yes.

11:18 20

11:18 21 Q. And in paragraph 3 it talks about "local (Vic) customers".

11:18 22

11:18 23 A. Yes.

11:18 24

11:18 25 Q. I wanted to understand something about Crown-speak, if
11:18 26 I can call it that.

11:18 27

11:18 28 A. Certainly.

11:18 29

11:18 30 Q. A domestic customer is anyone in Australia located outside
11:18 31 of Victoria?

11:18 32

11:18 33 A. Correct.

11:18 34

11:18 35 Q. And a local customer is a Victorian customer?

11:18 36

11:18 37 A. Yes, although I believe, and this would be a question for
11:18 38 the business unit, I believe there are some --- there might be some
11:18 39 programs that are used for regional customers but I'm not sure of
11:18 40 that. I think they are all interstate, yes.

11:18 41

11:18 42 Q. Okay, and then the third category is international, in
11:18 43 Crown-speak?

11:18 44

11:18 45 A. Sorry, number 1 on my statement is international ---

11:18 46

11:18 47 Q. Just generally you have international customers, domestic,

11:19 1 and local?
11:19 2
11:19 3 A. Yes. Sorry.
11:19 4
11:19 5 Q. You don't have to apologise to me at all. I just want to take
11:19 6 you quickly to one letter.
11:19 7
11:19 8 Mr Commissioner, this is already an exhibit, it is RC0122. It is
11:19 9 behind tab 7 of your hard copy bundle.
11:19 10
11:19 11 For the operator, it is CRW.0000.0003.0677.
11:19 12
11:19 13 Mr Emery, this is a document which will come up in a moment.
11:19 14 It is a letter we received from Allens, who are the lawyers for
11:19 15 Crown Casino. I hope it will come up in a moment, Mr Emery.
11:20 16 Have you seen this document before?
11:20 17
11:20 18 A. Yes, I have, I think so.
11:20 19
11:20 20 Q. If the operator could stop scrolling, please. The first row is
11:20 21 time limits on play. You see that, Mr Emery?
11:20 22
11:20 23 A. I do.
11:20 24
11:20 25 Q. It says:
11:20 26
11:20 27 *Crown will introduce the following time limits on playing*
11:20 28 *at Gaming Machines, Table Games and Electronic Table*
11:20 29 *Games*
11:20 30
11:20 31 And there are two sub-dot points, one for domestic players and
11:20 32 one for international premium program players: do you see that?
11:20 33
11:20 34 A. Yes.
11:20 35
11:20 36 Q. In Crown language, so I'm clear and based on the
11:20 37 discussion we've just had, the time limits on play do not apply to
11:20 38 Victorian customers?
11:20 39
11:20 40 A. I wasn't involved in writing this. I'm not sure. The fact it
11:20 41 doesn't refer to --- it makes me think if domestic players refers to
11:20 42 everyone in Australia. I don't know is the answer to the question.
11:20 43
11:21 44 Q. I will ask a different question. Based on your
11:21 45 understanding of Crown-speak which you've used in your
11:21 46 statement, this row, on its face, you wouldn't think applies to
11:21 47 Victorian customers?

11:21 1
11:21 2 A. Based on Crown-speak, no, but based on my reading of this
11:21 3 document it would include locals, but that would be a question
11:21 4 for the people who put this document together.
11:21 5
11:21 6 Q. Okay.
11:21 7
11:21 8 You can take that off the screen. If I can ask you this, in your
11:21 9 statement ---
11:21 10
11:21 11 COMMISSIONER: Before you to that, Mr Emery, you said you
11:21 12 have recently seen the letter. I take it you've shown it in the last
11:21 13 few days?
11:21 14
11:21 15 A. If I understand that correctly, that was part of a Board
11:21 16 submission, and I saw the Board submission after it was put
11:21 17 forward, is that the same one we are talking about?
11:21 18
11:21 19 COMMISSIONER: I think so, yes.
11:21 20
11:21 21 A. Yes.
11:21 22
11:21 23 COMMISSIONER: In what circumstances do you come to see
11:21 24 the Board submission?
11:21 25
11:22 26 A. So it was sent to me after - by Steve Blackburn after it had
11:22 27 been put up. It was also sent to me on, I think in the Thursday or
11:22 28 Friday before it was sent up, so I could assist with putting content
11:22 29 into it for the two items which I was asked to provide text for.
11:22 30
11:22 31 COMMISSIONER: Which items are they?
11:22 32
11:22 33 A. That was the one which is called marketing offers, and the
11:22 34 one which was research into the rewards program.
11:22 35
11:22 36 MR KOZMINSKY: We'll come to that, Mr Commissioner.
11:22 37
11:22 38 COMMISSIONER: Thank you.
11:22 39
11:22 40 MR KOZMINSKY: Your evidence is between FY2016 and 2020
11:22 41 the total cost of all marketing and awards activity was about \$2.5
11:22 42 billion at Crown?
11:22 43
11:22 44 A. That's correct.
11:22 45
11:22 46 Q. Which is about \$500 million a year?
11:22 47

- 11:23 1 A. Yes.
- 11:23 2
- 11:23 3 Q. That money is being spent for the reasons we discussed, to
- 11:23 4 get people into the casino and spending at the casino?
- 11:23 5
- 11:23 6 A. Yes.
- 11:23 7
- 11:23 8 Q. By contrast, Crown spent, I can take you to the document if
- 11:23 9 you want to see it, it's in evidence, it spent about just under
- 11:23 10 \$1.9 million on the Responsible Service of Gaming in 2019. Are
- 11:23 11 you aware of that?
- 11:23 12
- 11:23 13 A. That sounds similar to a ballpark figure I was told, yes.
- 11:23 14
- 11:23 15 Q. If you compare that to the total spend on marketing, you
- 11:23 16 would agree it's not even a rounding error?
- 11:23 17
- 11:23 18 A. Yes.
- 11:23 19
- 11:23 20 Q. Since January 2018 when you became the head of
- 11:23 21 marketing at Crown, I know this might be a difficult question, but
- 11:23 22 how many promotions do you think you might have been
- 11:23 23 produced by Crown? Thousands, tens of thousands, numbers?
- 11:23 24
- 11:23 25 A. So, based on the numbers we prepared for this
- 11:24 26 Commission, based on FY19, I think we had a little over 200 in
- 11:24 27 FY19, so, and then we've got shut down, so maybe 400, maybe
- 11:24 28 4 or 500.
- 11:24 29
- 11:24 30 Q. How many communications for the 4 or 500 are we talking
- 11:24 31 about?
- 11:24 32
- 11:24 33 A. You mean to individual customers or in terms of the - so
- 11:24 34 there would have been one communication for each of those
- 11:24 35 promotions. In addition to that there would be communications
- 11:24 36 that we do to - for things like what's on, which will be
- 11:24 37 newsletters about all the things that are on at Crown, and we may
- 11:24 38 also, there would be service communications regarding the
- 11:24 39 Crown Rewards program or property.
- 11:24 40
- 11:24 41 Q. So you might have had many hundreds of what I might call
- 11:24 42 events and maybe a thousand or so communications, I think you
- 11:25 43 use that terminology ---
- 11:25 44
- 11:25 45 A. Yes.
- 11:25 46
- 11:25 47 Q. --- say if I got it wrong, but about those sort of numbers?

11:25 1
11:25 2 A. Yes.
11:25 3
11:25 4 Q. When was the last time you read Crown's Responsible
11:25 5 Gaming Code of Conduct?
11:25 6
11:25 7 A. The Code of Conduct, probably not since I arrived in the
11:25 8 business. So I read it when I arrived. I don't think I've
11:25 9 read the content that is in the training that I've done. That would
11:25 10 be the extent of it since then.
11:25 11
11:25 12 Q. Right. And are you familiar, just out of curiosity, with the
11:25 13 term "observable sign"?
11:25 14
11:25 15 A. Yes.
11:25 16
11:25 17 Q. Can you tell me a few of them, just so ---
11:25 18
11:25 19 A. Certainly. Duration, lack of control, emotion, so that could
11:26 20 be anger or other visible signs of distress, the financial ones
11:26 21 regarding trying to borrow money. There would be social ones
11:26 22 regarding grooming and people reaching out for help to friends
11:26 23 and family, and then there would be mystical thinking, as the
11:26 24 business calls it, which is unrealistic views of the probability of
11:26 25 winning.
11:26 26
11:26 27 Q. Yes, and in terms of duration, how long is too long,
11:26 28 according to Crown?
11:26 29
11:26 30 A. I'm not sure off the top of my head.
11:26 31
11:26 32 Q. Thanks. Are you familiar that Crown does have a policy
11:26 33 about play periods?
11:26 34
11:26 35 A. I've become aware of it as part of preparation for this
11:27 36 Commission.
11:27 37
11:27 38 Q. But not beforehand?
11:27 39
11:27 40 A. No.
11:27 41
11:27 42 Q. You agree with me that some people suffer gambling harm?
11:27 43
11:27 44 A. Yes.
11:27 45
11:27 46 Q. Tell me if you agree with this definition: gambling harm
11:27 47 means any adverse consequence due to an engagement with

11:27 1 gambling which leads to a decline in the health or well-being of
11:27 2 an individual, family unit or community population?

11:27 3

11:27 4 A. Yes.

11:27 5

11:27 6 Q. And you agree with me that some people experience
11:27 7 problem gambling?

11:27 8

11:27 9 A. Yes.

11:27 10

11:27 11 Q. Tell me if you agree with this definition of problem
11:27 12 gambling: it's characterised by difficulties in limiting money
11:27 13 and/or time spent on gambling, which leads to adverse
11:27 14 consequences of the gambler and other members of the
11:27 15 community. Happy with that definition?

11:27 16

11:27 17 A. Yes.

11:27 18

11:27 19 Q. One of Crown's Responsible Gambling messages is "Stay in
11:27 20 control". You agree with that?

11:27 21

11:27 22 A. Yes. And a responsible gambler sets limits on the amount
11:28 23 of time and money they will spend, they stick to those and walk
11:28 24 away when they are reached; do you agree with that?

11:28 25

11:28 26 A. Yes.

11:28 27

11:28 28 Q. With that background in mind and those definitions, I want
11:28 29 you to give me, please, a specific example where you personally
11:28 30 made a change to a marketing event to ensure it did not
11:28 31 encourage gambling harm, problem gambling, and in giving the
11:28 32 example I would be grateful if you could give me the name of the
11:28 33 event, the specific change you made, when you made the change,
11:28 34 and the documents that record the change.

11:28 35

11:28 36 A. So the process that we have to - one of the protections, as
11:28 37 I said in my statement, for problem gambling is that we have
11:28 38 review, that I, the Responsible Gaming team, the Legal team, the
11:28 39 Regulatory team as we go through designing promotions. So
11:29 40 there have been multiple instances where things have come up
11:29 41 through that process and then changes have been made to the
11:29 42 promotions. There was, I think -I can think -off the top of
11:29 43 my head I can think of one quite recently, which is actually for
11:29 44 a promotion that has not gone live yet, where it is
11:29 45 a cross-complex promotion where for a prize draw, I think it is
11:29 46 a prize draw, where the entry mechanic was just a visit, and that
11:29 47 gets you one entry, and then you can put into the prize - you can

11:29 1 enter into the prize by going to a terminal at multiple points
11:29 2 through the course of the day. I believe the original proposal by
11:30 3 the Gaming Marketing team is that people could enter up to 16
11:30 4 times and the Responsible Gaming team said that was too many,
11:30 5 so that was reduced. I can't remember what it was reduced to.
11:30 6 I think it may be 8. There is another one ---
11:30 7
11:30 8 Q. Sorry, can I pause you there for a one second, Mr Emery.
11:30 9 My question was, and in fairness to you, it was a long question, it
11:30 10 was about a change you made. So I understand there have
11:30 11 recently been changes to involve Responsible Gambling, since
11:30 12 FY20, I think your evidence is. I'm asking you now a slightly
11:30 13 different question, which is a change you personally made, not
11:30 14 a change the Responsible Gambling department made.
11:30 15
11:30 16 A. So, no, I haven't made any personal changes and the reason
11:30 17 for that is because the process is that all of the promotions and
11:30 18 events that involve gambling get reviewed by those teams. I have
11:31 19 confidence that those are where issues or concerns are picked up
11:31 20 and those changes are made, so I don't go into individual
11:31 21 promotions to check over and above that. I have had things
11:31 22 escalated to me, so that was one example, the one I just gave you
11:31 23 where that was escalated to me, and I made a decision on that.
11:31 24 Another one that was escalated to me recently or since
11:31 25 reopening ---
11:31 26
11:31 27 Q. Sorry, Mr Emery. Let me be - tell me about an example
11:31 28 before FY21 change ---
11:31 29
11:31 30 A. There's not one that I've made, but there have been
11:31 31 instances where my team have changed things in response to
11:31 32 feedback from Responsible Gaming prior to FY21.
11:31 33
11:31 34 Q. Has the Marketing team, to the best of your knowledge,
11:31 35 made a change of its own volition to marketing material without
11:31 36 the involvement of the Responsible Gaming department?
11:31 37
11:31 38 A. I couldn't say. I would need to go and ask people.
11:31 39
11:32 40 Q. Sitting here today you can't think of an example?
11:32 41
11:32 42 A. I can't think of an example, but like I said, we put a huge
11:32 43 number of promotions out, and each one is considered carefully
11:32 44 by the people who are designing those promotions. The people
11:32 45 who are designing those promotions would have gone through
11:32 46 many, many hundreds of iterations of reviews of prior promotions
11:32 47 with the Responsible Gaming team, so they would be, I would

11:32 1 hope and certainly my understanding of it, they would be making
11:32 2 sure that the promotions that are put forward are unlikely to ring
11:32 3 alarm bells for Responsible Gaming.

11:32 4

11:32 5 Q. I wonder, Mr Emery, whether it is a concern, given that
11:32 6 there are hundreds, and sitting here today you can't think of one
11:32 7 where absent the Responsible Gaming department stepping in
11:32 8 and changes being made, of the marketing changes of their own
11:32 9 volition?

11:32 10

11:32 11 A. There may be many of those made day-by-day as
11:33 12 promotions are worked up. I wouldn't ever have those
11:33 13 communicated to me.

11:33 14

11:33 15 Q. Let's go then at a slightly broader and more general level.
11:33 16 Your evidence is that promotional material, marketing material,
11:33 17 in different ways pre and post FY21; is that right?

11:33 18

11:33 19 A. Yes.

11:33 20

11:33 21 Q. And you say prior to FY21, promotions went to the legal
11:33 22 and compliance teams, all of them?

11:33 23

11:33 24 A. Yes.

11:33 25

11:33 26 Q. If Responsible Gaming concerns were identified, the
11:33 27 Responsible Gaming department would be contacted for
11:33 28 additional input if needed?

11:33 29

11:33 30 A. Yes.

11:33 31

11:33 32 Q. I want to show you a document. This is a process map.

11:33 33

11:33 34 Mr Commissioner, it's behind tab 12 of your hard copy.

11:33 35

11:33 36 For the operator, CRW.510.059.0124.

11:33 37

11:33 38 Mr Emery, this document will come up in a moment. It is
11:34 39 a document that was produced in response to a request by the
11:34 40 Commissioner for documents you looked at in preparing your
11:34 41 statement.

11:34 42

11:34 43 A. (Nods head).

11:34 44

11:34 45 Q. At the bottom of the page, this was last updated on 16
11:34 46 November 2019?

11:34 47

11:34 1 A. Yes. Looking at this, this would be the earlier version
11:34 2 before we added Responsible Gaming in; is that correct? Yes,
11:34 3 that looks right.
11:34 4
11:34 5 Q. That's exactly right. This is the process by which
11:34 6 marketing gets checked or the process. This first page is
11:35 7 "Melbourne Gaming Major Campaign Processes".
11:35 8
11:35 9 A. Yes.
11:35 10
11:35 11 Q. And just under the top left-hand corner, there is
11:35 12 "Legal/Compliance check-in"? Can you see that?
11:35 13
11:35 14 A. Yes.
11:35 15
11:35 16 Q. And in the very top left there is "Legal Approval", do you
11:35 17 see that?
11:35 18
11:35 19 A. Yes.
11:35 20
11:35 21 MR KOZMINSKY: Mr Commissioner, have you seen that?
11:35 22
11:35 23 COMMISSIONER: (Nods head).
11:35 24
11:35 25 MR KOZMINSKY: Now, the next three pages, if we just flick
11:35 26 through, are different types of campaigns which have similar
11:35 27 maps. They are not exactly the same. The second page, 0125 is
11:35 28 for minor campaign.
11:35 29
11:35 30 A. Yes.
11:35 31
11:35 32 Q. In the top left-hand corner you see "Legal Approval" and
11:35 33 "Legal/Compliance check-in"?
11:35 34
11:35 35 A. Yes.
11:35 36
11:35 37 Q. Then on 0126, again in the top left-hand corner, you will
11:36 38 see the same boxes?
11:36 39
11:36 40 A. Yes.
11:36 41
11:36 42 Q. And this is for jackpot process?
11:36 43
11:36 44 A. Yes.
11:36 45
11:36 46 Q. The last page, I think is ad hoc processes and in the top
11:36 47 left-hand corner you will see those two boxes again.

11:36 1
11:36 2 A. Yes.
11:36 3
11:36 4 Q. I've been through these and haven't been able to identify
11:36 5 anywhere on them where the Responsible Gaming department is
11:36 6 mentioned. Do you agree with me that it is not mentioned in this
11:36 7 document?
11:36 8
11:36 9 A. No, it's not mentioned in this document but my
11:36 10 understanding is that that is what happens, or happened prior.
11:36 11 I can certainly think of instances where that did happen.
11:36 12
11:36 13 Q. Just one moment. Let me ask you this - let me do
11:36 14 something first.
11:36 15
11:36 16 Mr Commissioner, can I tender that document, please --
11:36 17
11:36 18 COMMISSIONER: That will be Exhibit 138, which I will
11:36 19 describe as a series of documents setting out ---
11:37 20
11:37 21 MR KOZMINSKY: Mr Commissioner, that is ---
11:37 22
11:37 23 COMMISSIONER: --- process for advertising campaigns. I will
11:37 24 add to that, as at September 2019.
11:37 25
26
27 **EXHIBIT #RC0138 - SERIES OF DOCUMENTS SETTING**
28 **OUT PROCESS FOR ADVERTISING CAMPAIGNS AS AT**
29 **SEPTEMBER 2019**
30
31
11:37 32 MR KOZMINSKY: Thank you.
11:37 33
11:37 34 Mr Emery, tell me if you agree with this: that document is the
11:37 35 formal process by which campaign material and promotional
11:37 36 material was vetted?
11:37 37
11:37 38 A. Yes.
11:37 39
11:37 40 Q. And, according to that document, Responsible Gambling
11:37 41 department was not involved?
11:37 42
11:37 43 A. Yes, so this --- I appreciate that they are not on there. This
11:37 44 is a marketing internal document. My understanding is that legal
11:37 45 and compliance teams would check-in with Responsible Gaming
11:38 46 if there was anything that raised any concerns with them as they
11:38 47 went through that review process, and I have certainly seen

11:38 1 instances of where that has happened.
11:38 2
11:38 3 COMMISSIONER: Does that mean that it is not, at least for
11:38 4 2019 and earlier, it was not part of the process that all advertising
11:38 5 material went to the Responsible Gaming section, only those that
11:38 6 somebody in legal thought it was appropriate to send off?
11:38 7
11:38 8 A. That's correct.
11:38 9
11:38 10 COMMISSIONER: Which is a little - I didn't quite get that
11:38 11 understanding from your evidence earlier. Your evidence earlier,
11:38 12 I thought that everything went to Responsible Gaming but that is
11:38 13 simply not correct.
11:38 14
11:38 15 A. Yeah, no, as of FY21, so the reopening of the casino ---
11:38 16
11:38 17 COMMISSIONER: I understand there is new systems in place,
11:38 18 but up until this year, that was not the course that advertising
11:39 19 material followed?
11:39 20
11:39 21 A. Up until this financial year. So we started it last calendar
11:39 22 year.
11:39 23
11:39 24 COMMISSIONER: Yes. Thank you.
11:39 25
11:39 26 A. Yes.
11:39 27
11:39 28 MR KOZMINSKY: I should say, in fairness to the witness, in his
11:39 29 statement, Mr Commissioner, he did say that if Responsible
11:39 30 Gaming issues were identified, then it would go to Responsible
11:39 31 Gaming. He didn't say "all" prior to FY2021, in fairness to the
11:39 32 witness.
11:39 33
11:39 34 Mr Emery, I think you agreed with me before the Commissioner's
11:39 35 questions that a formal document doesn't record that happening?
11:39 36
11:39 37 A. Yes.
11:39 38
11:39 39 Q. So really would this be a fair summation of your evidence:
11:39 40 to the extent it happened, it happened on an informal and ad hoc
11:39 41 basis?
11:39 42
11:39 43 A. Yes.
11:39 44
11:39 45 MR KOZMINSKY: Just for completeness, Mr Commissioner, so
11:39 46 you have a complete record of what has occurred, I should tender
11:39 47 CRW.510.059.0128, which is the next tab in your hard copy

11:40 1 bundle.
11:40 2
11:40 3 Mr Emery, I won't take you to this but this is the October 2020
11:40 4 version which does expressly refer to Responsible Gaming.
11:40 5
11:40 6 COMMISSIONER: Which tab is that?
11:40 7
11:40 8 MR KOZMINSKY: Tab 13 of the hard copy.
11:40 9
11:40 10 COMMISSIONER: I've got it. Where do I see the reference to
11:40 11 Responsible ---
11:40 12
11:40 13 MR KOZMINSKY: In the top left-hand corner it now says
11:40 14 "RG/Legal/Compliance".
11:40 15
11:40 16 COMMISSIONER: I see it. You will tender that,
11:40 17 Mr Kozminsky?
11:40 18
11:40 19 MR KOZMINSKY: I will.
11:40 20
11:40 21 COMMISSIONER: Exhibit 139. I will give it the same
11:40 22 description but this one as at October 2020.
11:41 23
24
25 **EXHIBIT #RC0139 - SERIES OF DOCUMENTS SETTING**
26 **OUT PROCESS FOR ADVERTISING CAMPAIGNS AS AT**
27 **OCTOBER 2020**
28
29
11:41 30 MR KOZMINSKY: Thank you, Mr Commissioner.
11:41 31
11:41 32 I want to go back, if I may, to the 26 May 2021 letter, Mr Emery.
11:41 33
11:41 34 Mr Commissioner, it is in hard copy behind tab 7.
11:41 35
11:41 36 For the operator, CRW.0000.0003.0677.
11:41 37
11:41 38 If you can just turn over to the last page, that is the code in the
11:41 39 top right-hand corner, can you see there "Marketing offers"?
11:41 40
11:41 41 A. I can.
11:41 42
11:41 43 Q. It says:
11:41 44
11:41 45 *Controls have been put in place to ensure that direct to*
11:41 46 *member offers do not require customers to exceed*
11:41 47 *historical behaviours (spend or visit frequency) in order*

11:41 1 *to get their first benefit. No offers outside of this control*
11:42 2 *have been sent to customers since reopening.*
11:42 3
11:42 4 Now, you see that, Mr Emery?
11:42 5
11:42 6 A. Yes.
11:42 7
11:42 8 Q. I think you told the Commissioner you were involved in
11:42 9 drafting that?
11:42 10
11:42 11 A. Yes.
11:42 12
11:42 13 Q. There is no mention of that in your statement, is there?
11:42 14
11:42 15 A. No, because that happened after I wrote my statement.
11:42 16
11:42 17 Q. Yes, that's right. When were you asked if you can
11:42 18 remember to put some wording in around this?
11:42 19
11:42 20 A. So that would have been on the Thursday before this was
11:42 21 written.
11:42 22
11:42 23 Q. The Thursday before ---
11:42 24
11:42 25 A. The Thursday before this was written. I believe this went
11:42 26 to the Board on Monday the 24th or 25th.
11:42 27
11:42 28 Q. Yes, so I'll get my calendar open just to make sure we are
11:43 29 on the same page. So about 17 May 2021?
11:43 30
11:43 31 A. That sounds about right.
11:43 32
11:43 33 Q. Who asked you to prepare the words on the piece of paper
11:43 34 there?
11:43 35
11:43 36 A. I saw a first draft of this as part of preparing the - as part
11:43 37 of inputting - so it was Sonja Bauer and Steve Blackburn asked
11:43 38 me to add into this.
11:43 39
11:43 40 Q. Let's break it down.
11:43 41
11:43 42 A. Sure.
11:43 43
11:43 44 Q. Did you get an email with some draft of this document
11:43 45 before you had a conversation, before the 17th ---
11:43 46
11:43 47 A. No. I think the sequence was I had a conversation with

11:43 1 Sonja Bauer regarding the research part of it, the rewards
11:43 2 research part of it. And then I saw a draft of the document, and
11:43 3 then I updated the text regarding marketing offers.
11:43 4
11:43 5 Q. When did you see the draft of the text?
11:43 6
11:43 7 A. So that would have been on Thursday, I think.
11:43 8
11:44 9 Q. You got an email presumably from someone with the draft?
11:44 10
11:44 11 A. I believe I got one from Sonja, I think I then got another
11:44 12 one from Steve the following day.
11:44 13
11:44 14 Q. After you received the email from Sonja, you updated the
11:44 15 text for marketing and sent it back to her?
11:44 16
11:44 17 A. I sent it to Steve.
11:44 18
11:44 19 Q. I see. I'm just curious about this, Mr Emery. What
11:44 20 instructions did Sonja Bauer and Steve Blackburn give you in
11:44 21 terms of the drafting?
11:44 22
11:44 23 A. So Sonja asked me, so her and I and Steve had discussed
11:44 24 the need to do more research into the rewards program, so she
11:44 25 phoned me to ask if I could help her with language to explain
11:44 26 how we would do that, which is what I submitted. In doing so, I
11:45 27 saw that something had been put in regarding marketing offers,
11:45 28 and I provided, proactively, new text to Steve Blackburn
11:45 29 regarding that.
11:45 30
11:45 31 Q. Am I right in understanding - so you had a discussion on
11:45 32 the 17th between you and Sonja Bauer and Steve Blackburn?
11:45 33
11:45 34 A. So, the first one was between myself and Sonja and ---
11:45 35
11:45 36 Q. Just go slowly for me, I want to make sure I have it right.
11:45 37 On the 17th you have a conversation with Sonja Bauer about
11:45 38 research?
11:45 39
11:45 40 A. Yes, that's right.
11:45 41
11:45 42 Q. Then you amend the document after that conversation?
11:45 43
11:45 44 A. No, so I then phoned Steve Blackburn and I sent him - to
11:45 45 discuss a change in the wording on marketing offers. I then sent
11:45 46 him an email regarding those changes, I think, Thursday night.
11:45 47

11:46 1 Q. Did you have any other input into this document after that?
11:46 2
11:46 3 A. No, I did not.
11:46 4
11:46 5 Q. What did Mr Blackburn have to say to you on the phone, if
11:46 6 anything, any instructions or guidance about the changes and
11:46 7 what you were hoping to achieve?
11:46 8
11:46 9 A. No. He was just accepting of my suggested changes.
11:46 10
11:46 11 Q. Just so I'm clear, this says "controls have been put in
11:46 12 place". There is no mention of such controls in your statement
11:46 13 and you said that is because this doesn't exist at the time you
11:46 14 wrote your statement. Do I take it from this that at sometime
11:46 15 between your statement being drafted on the 5th of this month
11:46 16 and the 25th - no, earlier, because you drafted on the 17th. So
11:46 17 sometime between 5 and 17 May, controls were put in place to the
11:46 18 effect stated there?
11:47 19
11:47 20 A. Yes, that's correct.
11:47 21
11:47 22 Q. And those controls are documented somewhere?
11:47 23
11:47 24 A. I've got that in an email but I don't know whether they are
11:47 25 in a document elsewhere, but I have an email assurance from the
11:47 26 marketing team that those - that essentially the way the
11:47 27 targeting will work moving forward will not allow for this.
11:47 28
11:47 29 Q. You are the marketing team, so when you say you got
11:47 30 an email from the marketing team?
11:47 31
11:47 32 A. Sorry, so I got an email from my Melbourne General
11:47 33 Manager of Marketing saying that he's confirming that no -
11:47 34 controls are now in place to prevent this happening.
11:47 35
11:47 36 Q. But you don't know what these controls are?
11:47 37
11:47 38 A. It will be - essentially be the way that the analysts pull
11:47 39 together lists. They will make sure that customers aren't selected
11:48 40 in such a way such that the threshold for them to get their first
11:48 41 benefit will be set at their current play levels.
11:48 42
11:48 43 Q. Yes, and just so I'm clear, if we look at the car example or
11:48 44 the lucky money draw, you get more entries the more you play ---
11:48 45
11:48 46 A. Yes.
11:48 47

11:48 1 Q. --- that each entry would be a second or third or fourth
11:48 2 benefit?
11:48 3
11:48 4 A. That's correct. So this is in order to get their first benefit.
11:48 5
11:48 6 Q. But, yeah, I understand. So, just so I'm clear about this,
11:48 7 you might have someone who gambles once a week and you tell
11:48 8 them if they gamble once a week they qualify ---
11:48 9
11:48 10 A. Yes.
11:48 11
11:48 12 Q. --- and if there are \$100 million of turnover, to take
11:48 13 an extreme example, they can get further entries and that
11:49 14 wouldn't be caught by the control?
11:49 15
11:49 16 A. No, so this is specifically with regard to direct-to-member
11:49 17 offers, not the promotional examples you were bringing up
11:49 18 before. So direct-to-member offers are predominantly
11:49 19 "visit-and-get" offers. The vast majority of them, about
11:49 20 three-quarters of them are visit once, so you just need to turn up
11:49 21 in order to get the benefit, and there are no subsequent benefits
11:49 22 after that. Some of them, a small proportion of them, are
11:49 23 multi-visit, so you might visit once and get one visit and then
11:49 24 two, three times and get additional benefits over and above that.
11:49 25 And then the final group, which is a fairly small proportion of the
11:49 26 total, 10 or 15 per cent, are points earned offers where basically
11:50 27 the more points you earn, the more benefit you get back, so it will
11:50 28 be thresholds and you will get some kind of benefit for each
11:50 29 threshold you set, you hit.
11:50 30
11:50 31 Q. I'm sorry, because we haven't got all the documents and this
11:50 32 is all happening on the run, these questions are taking a bit
11:50 33 longer. I apologise for that but I do need to understand.
11:50 34
11:50 35 So I'm clear, and I think I understand your answer, this marketing
11:50 36 offer control, which is currently in an email and no formal policy;
11:50 37 is that right?
11:50 38
11:50 39 A. Yes.
11:50 40
11:50 41 Q. And it relates only to direct member offers?
11:50 42
11:50 43 A. Yes, it does.
11:50 44
11:50 45 Q. I will ask you to bring up on screen paragraph 19 of your
11:50 46 statement. You have different rewards and you have mechanisms
11:51 47 by which they might be given, and at 19 you describe a variety of

11:51 1 different ways that might happen. And none of these ways,
11:51 2 except for direct member offers, is caught by the control.

11:51 3

11:51 4 A. Yes, that's correct.

11:51 5

11:51 6 Q. Is there a plan to formally document the control at some
11:51 7 point?

11:51 8

11:51 9 A. Yes. Yes, that will need to be done. But, like I said, and as
11:51 10 you pointed out, we've only just identified it as an issue that
11:51 11 needs to be remediated.

11:51 12

11:51 13 Q. In fairness, Mr Emery, it is a knee-jerk reaction to what is
11:51 14 happening in the Commission?

11:51 15

11:51 16 A. So, no, I don't agree with that. On this particular control,
11:51 17 so, yes, the looking in to check whether or not direct member
11:51 18 offers were asking people to play outside of their historical
11:51 19 bounds was triggered by the Commission, but that was something
11:52 20 that I looked into because I thought we should check on it, and
11:52 21 we found that in a very small proportion of instances, about half
11:52 22 a percentage point of instances within these direct member offers,
11:52 23 patrons who participated were doing so outside of what they had
11:52 24 historically done. I don't believe that to be acceptable. I talked to
11:52 25 Sonja Bauer, and neither did she, and that was the advent of the
11:52 26 control.

11:52 27

11:52 28 Q. You are talking about the conversation on the 17th?

11:52 29

11:52 30 A. No, no, this was prior to that.

11:52 31

11:52 32 Q. But your evidence was this Commission triggered it, and
11:52 33 that you had previously looked at it.

11:52 34

11:52 35 A. No, so this Commission prompted me to look into whether
11:52 36 or not we had --- people had been having to play outside of their
11:52 37 historical behaviours. So, yes, that's correct.

11:52 38

11:53 39 Q. So the answer to my first question in this series, that it was
11:53 40 prompted by or a reaction to this Commission, the answer is ---

11:53 41

11:53 42 A. That's correct. Yes.

11:53 43

11:53 44 Q. Thank you. Just dropping down --- sorry, if we can go back
11:53 45 to the letter, CRW.0000.003.0677. Thank you, Mr Operator.

11:53 46

11:53 47 If we drop down to the next row which is "Crown Rewards", the

11:53 1 first dot point there:
11:53 2
11:53 3 *..... Crown will replace gaming vouchers on signing up to*
11:53 4 *the Crown Rewards Program with a non-gaming/promotional*
11:53 5 *voucher instead.*
11:53 6
11:53 7 A. Yes.
11:53 8
11:53 9 Q. You made that change because it is irresponsible to give
11:53 10 people free betting vouchers?
11:53 11
11:53 12 A. I wasn't involved in that decision, the only text I added was
11:53 13 the research part.
11:53 14
11:53 15 Q. But you agree with me giving people tokens to bet with is
11:54 16 irresponsible?
11:54 17
11:54 18 A. I've seen no evidence that it has been creating a risk. I'm
11:54 19 not across the thinking that sits behind this.
11:54 20
11:54 21 Q. Take a moment to think about it, put to one side research.
11:54 22
11:54 23 A. Yeah.
11:54 24
11:54 25 Q. Do you think if you give someone, the average punter free
11:54 26 chips to gamble with, that is inconsistent with Responsible
11:54 27 Service of Gaming?
11:54 28
11:54 29 UNKNOWN SPEAKER: No!
11:54 30
11:54 31 A. Sorry? Did someone else just talk there?
11:54 32
11:54 33 MR KOZMINSKY: I think someone did, but I don't know who it
11:54 34 was.
11:54 35
11:54 36 COMMISSIONER: Ask the question again, Mr Kozminsky.
11:54 37
11:54 38 MR KOZMINSKY: Sitting here now, do you think that giving
11:54 39 someone free chips or vouchers or tokens to gamble with is
11:54 40 inconsistent with the Responsible Service of Gaming?
11:55 41
11:55 42 A. Based on the evidence I've seen, I don't think it necessarily
11:55 43 is, and my reasoning behind that is that firstly, everything that has
11:55 44 been put out has gone through the review process, nor have we
11:55 45 had any complaints from customers regarding this, certainly in
11:55 46 the customer complaints in my time. And also, anyone who signs
11:55 47 up for the rewards program in order to get this would have also

11:55 1 had to have accepted they were interested in gaming marketing
11:55 2 offers. So I've not seen any evidence that this is causing harm.
11:55 3 So I can't hand on heart say that I think it is irresponsible,
11:55 4 because I don't think the evidence I've seen says that it is
11:56 5 irresponsible.
11:56 6
11:56 7 Q. So is your evidence is you don't know what the position is?
11:56 8 It is possible it might not be the case, you don't know?
11:56 9
11:56 10 A. Yes.
11:56 11
11:56 12 Q. I want to just quickly, so we have a complete picture, go to
11:56 13 the earning of points and status credits. You've given some
11:56 14 evidence about that, Mr Emery, at paragraphs 63 to 68 of your
11:56 15 statement. If I've misunderstood, I apologise, but if you look at
11:56 16 paragraph 64, I think you say that a dollar of theoretical revenue
11:56 17 earns 3.8 to 4.5 reward points; you see that?
11:56 18
11:56 19 A. Correct.
11:56 20
11:56 21 Q. And a dollar of theoretical revenue on table games gets you
11:56 22 slightly less, 2.5 to 4 rewards points; you see that?
11:56 23
11:56 24 A. Yes.
11:56 25
11:56 26 Q. I want to take you to a document, which is
11:57 27 CRW.512.037.0011.
11:57 28
11:57 29 Tab 15 of your bundle, Commissioner.
11:57 30
11:57 31 Do you see this is a Crown Resorts tier benefits presentation
11:57 32 dated 1 April 2021?
11:57 33
11:57 34 A. Yes.
11:57 35
11:57 36 Q. So it is a recent document?
11:57 37
11:57 38 A. Yes.
11:57 39
11:57 40 Q. Mr Borsky will correct me if I'm wrong, this document was
11:57 41 produced by you as a document you looked at when you were
11:57 42 preparing your statement?
11:57 43
11:57 44 A. That's correct.
11:57 45
11:57 46 Q. Just go to the next page, page 2, the last bullet point, that
11:57 47 says:

- 11:57 1
11:57 2 *Points earned from 'Gaming' accrue Status Credits at*
11:57 3 *a rate of 500 Points = 1 Status Credit.*
11:57 4
11:57 5 *- The points earned on Game Machines are based on*
11:57 6 *turnover (between \$2 and \$4 of turnover per point,*
11:58 7 *depending on the member's tier).*
11:58 8
11:58 9 You see that?
11:58 10
11:58 11 A. Yes.
11:58 12
11:58 13 Q. And the next one says:
11:58 14
11:58 15 *- The Table Games points earn rate depends on the game*
11:58 16 *being played, time played can range from \$12 to \$26*
11:58 17 *of turnover per point.*
11:58 18
11:58 19 A. Yes.
11:58 20
11:58 21 Q. Am I right in thinking that this document is likely to more
11:58 22 accurately reflect what the position is?
11:58 23
11:58 24 A. I think it is just a different reflection of the same thing. So
11:58 25 we are talking about theoretical revenue in my statement. I think
11:58 26 the translation of theoretical revenue into turnover in those two
11:58 27 product areas is what this is.
11:58 28
11:58 29 Q. Got it. Thank you, Mr Emery. Can we talk turnover
11:58 30 figures because that is easier for me.
11:58 31
11:58 32 A. Certainly.
11:58 33
11:58 34 Q. So if I just look at the \$2 to \$4 and \$12 to \$26, that
11:59 35 comparison there ---
11:59 36
11:59 37 A. Yes.
11:59 38
11:59 39 Q. --- am I right in understanding the reason there is such
11:59 40 a large discrepancy between turnover requirements, between
11:59 41 table games and EGMs, is because the house edge on EGMs is so
11:59 42 much higher?
11:59 43
11:59 44 A. My apologies, I need to think this through.
11:59 45
11:59 46 Q. I can break it down if it might make it easier for you. We
11:59 47 can discuss it and see if we can reach a landing together.

11:59 1
11:59 2 A. My apologies, this is not my area of strength regarding how
11:59 3 these calculations between theo and turnover work. So part of it
11:59 4 will be because the theoretical chance of winning on a table is
12:00 5 lower than what it is on machines, so I think the direct translation
12:00 6 comes through. So I think it is a function, and my apologies we
12:00 7 might have to - I might have to get further information on this
12:00 8 and produce it back. I think my understanding is that we base it
12:00 9 on theo and then this is just how that then translates through, so
12:00 10 the theo is essentially, for want of a better word, the commercial
12:00 11 decision that is made on what the business is willing to give by
12:00 12 way of points for the amount of spend and the aim is to get in that
12:00 13 band at or below 5 points per dollar of spend. And this is then
12:00 14 just the flow through of that, so yes, that would be a function.
12:00 15 Yes, so the win rate would be a part of the function of that.
12:00 16
12:00 17 Q. It is a driving factor because ---
12:00 18
12:00 19 A. Yes.
12:00 20
12:01 21 Q. --- because you - it is a driving factor?
12:01 22
12:01 23 A. Yes, that's correct.
12:01 24
12:01 25 Q. I just want to take you back to some evidence you gave
12:01 26 earlier when we were discussing the car promotion, 5,000 points,
12:01 27 and I said to you it would be tens of thousands of dollars on the
12:01 28 table game, and you said you thought 6 or 7,000. The confusion
12:01 29 between us was I was talking revenue and you were talking
12:01 30 theoretical profit; that's right, isn't it?
12:01 31
12:01 32 A. Revenue and theoretical profit are one in the same thing.
12:01 33
12:01 34 Q. Turnover ---
12:01 35
12:01 36 A. Turnover is significantly higher than theoretical revenue,
12:01 37 yes.
12:01 38
12:01 39 Q. I was talking tens of thousands of turnover ---
12:01 40
12:01 41 A. Yes.
12:01 42
12:01 43 Q. --- and that was a confusion on my part, I should say.
12:01 44
12:01 45 A. It is an incredibly confusing topic, as I'm clearly
12:01 46 demonstrating.
12:01 47

12:01 1 Q. No, I understand. Thank you.
12:01 2
12:01 3 I want to now go, and I apologise ---
12:01 4
12:01 5 COMMISSIONER: I think you should tender this.
12:01 6
12:02 7 MR KOZMINSKY: Yes, Mr Commissioner.
12:02 8
12:02 9 COMMISSIONER: These are Crown Resorts tier benefits, April
12:02 10 2021, Exhibit 140.
12:02 11
12:02 12
12:02 13 **EXHIBIT #RC0140 - CROWN RESORTS TIER BENEFITS**
12:02 14 **DATED APRIL 2021**
12:02 15
12:02 16
12:02 17 MR KOZMINSKY: Mr Emery, for your benefit, I hope we won't
12:02 18 be too much longer. I will be finished by lunchtime.
12:02 19
12:02 20 A. That's okay.
12:02 21
12:02 22 Q. I want to now turn back to the letter, and I apologise for
12:02 23 jumping around, CRW.0000.0003.0677.
12:02 24
12:02 25 Tab 13, Commissioner.
12:02 26
12:02 27 To the last page, this is something that you have inserted the text
12:03 28 of?
12:03 29
12:03 30 A. I dictated it to Sonja Bauer, who I think has pretty faithfully
12:03 31 reflected it in this.
12:03 32
12:03 33 Q. On Ms Bauer's request?
12:03 34
12:03 35 A. Yes.
12:03 36
12:03 37 Q. Just leave that up on the screen and we'll have a chat.
12:03 38
12:03 39 I want to ask you this question: you personally would not
12:03 40 intentionally market to a customer who had a welfare RG WOL
12:03 41 in place, would you?
12:03 42
12:03 43 A. No.
12:03 44
12:03 45 Q. Because marketing is designed to get someone to come to
12:03 46 the casino, and you don't get someone with a gambling problem
12:03 47 to come to the casino?

12:03 1
12:03 2 A. That would certainly not be our intent.
12:03 3
12:03 4 Q. And you personally, for example, wouldn't upgrade
12:03 5 a customer's loyalty tier if they were participating in a time-out
12:03 6 program?
12:03 7
12:03 8 A. Sorry, I missed the end of that.
12:03 9
12:03 10 Q. If they were participating in a time-out program, you
12:03 11 wouldn't upgrade their membership tier, for example?
12:04 12
12:04 13 A. That is my understanding, yes.
12:04 14
12:04 15 Q. Those two examples I've given, marketing and tier
12:04 16 upgrades, they are evidence of a loyalty program, aren't they?
12:04 17
12:04 18 A. Yes.
12:04 19
12:04 20 Q. The loyalty program, the purpose we've discussed, is to get
12:04 21 people to come to the casino?
12:04 22
12:04 23 A. Yes.
12:04 24
12:04 25 Q. And gamble?
12:04 26
12:04 27 A. One of the purposes, but, yes.
12:04 28
12:04 29 Q. You agree with me that people who exhibit problem
12:04 30 gambling will tend to have higher gambling turnovers? I know
12:04 31 every person is different, but as a general rule, that is the case?
12:04 32
12:04 33 A. That is absolutely what the research says, yes.
12:04 34
12:04 35 Q. And you agree that Crown's loyalty program rewards higher
12:04 36 turnover customers?
12:04 37
12:04 38 A. That's correct.
12:04 39
12:04 40 Q. And you agree that problem gamblers are, therefore, likely
12:04 41 to benefit more from Crown's loyalty program than other people
12:05 42 who might gamble in a safe manner?
12:05 43
12:05 44 A. On average, yes.
12:05 45
12:05 46 Q. Yes, average. Tell me if you are aware of this: on 5 April
12:05 47 2021, the Chair of Crown's expert panel on Responsible

12:05 1 Gambling said this:
12:05 2
12:05 3 *In a recent review of loyalty card play, around*
12:05 4 *45 per cent of EGM players reported using a Crown*
12:05 5 *loyalty card. Of those with a gambling problem, a higher*
12:05 6 *proportion, 61 per cent, reported such use.*
12:05 7
12:05 8 Are you aware that statement was made?
12:05 9
12:05 10 A. I believe so. Was that Paul Delfabbro?
12:05 11
12:05 12 Q. No.
12:05 13
12:05 14 A. Mr Blaszczyński?
12:05 15
12:05 16 Q. Yes, Blaszczyński.
12:05 17
12:05 18 A. Yes. Yes.
12:05 19
12:05 20 Q. I should correct myself, Mr Blaszczyński cited the research
12:05 21 of Paul Delfabbro, so you were in fact right. He was citing. Both
12:05 22 those gentlemen are members of your expert panel?
12:05 23
12:05 24 A. I believe so, yes.
12:05 25
12:06 26 Q. Do you know who the third member is?
12:06 27
12:06 28 A. I don't.
12:06 29
12:06 30 Q. Professor Lia Nower. In any event, two members of your
12:06 31 expert panel on Responsible Gambling have said people with
12:06 32 gambling problems report higher use of loyalty card programs.
12:06 33
12:06 34 A. Yes.
12:06 35
12:06 36 Q. And that doesn't come as a shock to you?
12:06 37
12:06 38 A. Not based on the reading I've done over the last couple
12:06 39 of months prompted by this Commission.
12:06 40
12:06 41 Q. Okay. I want to take you to Professor Delfabbro's articles
12:06 42 and skip over what Professor Blaszczyński had to say. It is
12:06 43 COM.00013.0001.0741.
12:06 44
12:06 45 Mr Commissioner, tab 17 of your bundle of documents.
12:06 46
12:06 47 This article is titled, can you see there, Mr Emery:

12:06 1
12:07 2 *The prevalence of loyalty program use and its association*
12:07 3 *with higher risk gambling in Australia*
12:07 4
12:07 5 A. It is very small print but I've read the article.
12:07 6
12:07 7 Q. Have you read the article?
12:07 8
12:07 9 A. I have read the article, yes.
12:07 10
12:07 11 Q. Okay. So maybe for the benefit of the Commissioner as
12:07 12 well, I will take you to a few passages on page 1094 under the
12:07 13 heading "Results". It is the next page for the operator's benefit.
12:07 14 It says there in the second sentence:
12:07 15
12:07 16 *The results indicate some variability, but it appears that*
12:07 17 *approximately 10% of non-problem gamblers; around*
12:07 18 *20% low risk gamblers, 33% of moderate risk gamblers*
12:07 19 *and over 40% of problem gamblers, report belonging to*
12:07 20 *a loyalty card program. Across all surveys there is*
12:07 21 *a clear upward trend, with higher risk gamblers more*
12:07 22 *likely to report having a loyalty card.*
12:07 23
12:08 24 You see that, Mr Emery?
12:08 25
12:08 26 A. I do.
12:08 27
12:08 28 Q. Doesn't come as a shock?
12:08 29
12:08 30 A. No, it doesn't.
12:08 31
12:08 32 Q. The first full paragraph on the next page, there is a passage
12:08 33 which Professor Blaszczynski cited about in Victoria, 61 per cent
12:08 34 problem gamblers, you see that there?
12:08 35
12:08 36 A. Yes.
12:08 37
12:08 38 Q. Then on that same page under the heading "Discussion",
12:08 39 the third sentence:
12:08 40
12:08 41 *Overall the results suggest that loyalty card or program*
12:08 42 *use increases with the level of risk.*
12:08 43
12:08 44 Do you see that?
12:08 45
12:08 46 A. Yes.
12:08 47

- 12:08 1 Q. And dropping down the page to the fifth last line:
12:08 2
12:08 3 *The data still suggested that loyalty cards encourage*
12:08 4 *people to gamble more frequently and intensively.*
12:08 5
- 12:09 6 You see that?
12:09 7
- 12:09 8 A. I do.
12:09 9
- 12:09 10 Q. And that doesn't come as a shock to you either?
12:09 11
- 12:09 12 A. No.
12:09 13
- 12:09 14 Q. And on page 1096 [COM.0013.0001.0744], the first full
12:09 15 paragraph:
12:09 16
12:09 17 *The knowledge that problem gamblers are more likely to*
12:09 18 *be engaged in loyalty programs may also be useful from*
12:09 19 *a Responsible Gambling or harm minimisation*
12:09 20 *perspective. loyalty programs can provide a vehicle*
12:09 21 *for targeted messaging, reminders pre-commitment or*
12:09 22 *budget setting systems*
12:09 23
- 12:09 24 You see that?
12:09 25
- 12:09 26 A. Yes.
12:09 27
- 12:09 28 Q. I draw that out because while there is no doubt you are
12:09 29 collecting data from a loyalty system, you can offer help, you can
12:09 30 monitor people; you agree with that?
12:09 31
- 12:09 32 A. Yes.
12:09 33
- 12:09 34 Q. But the rewards, the rewards part of the loyalty program
12:09 35 benefits increased gambler turnover; you agree with that?
12:09 36
- 12:09 37 A. Yes.
12:09 38
- 12:09 39 Q. And that means it is encouraging problem gamblers
12:10 40 because they have the highest level of turnover; you agree with
12:10 41 that?
12:10 42
- 12:10 43 A. So I am not sure. In this same article at the top of the
12:10 44 "discussion" part, it is as has been called out in other research
12:10 45 that the causal link between rewards programs and problem
12:10 46 gambler gambling is not known. So the two are definitely
12:10 47 associated but whether rewards programs cause problem

12:10 1 gambling is not known. Yes, people who spend more will be
12:10 2 more rewarded by rewards programs, and, yes, problem gamblers
12:10 3 spend more, so they will on average be more rewarded, but the
12:10 4 extent to which a rewards program causes problem gambling, that
12:11 5 is not established. And, as Professor Delfabbro says, more
12:11 6 research is needed into that. So this and the other research that I
12:11 7 read is what triggered the conversation with Sonja Bauer and then
12:11 8 Steve Blackburn regarding doing research into this.

12:11 9

12:11 10 Q. I want to ask you a few questions and then I want to go to
12:11 11 some more research. You agree with me that if you were
12:11 12 taking - I withdraw that. You agree with me that if the priority
12:11 13 for Crown was the welfare of its customers and the welfare of
12:11 14 Victorians, it wouldn't wait for gold standard research, it would
12:11 15 proactively take steps to address the link between loyalty
12:11 16 programs and problem gamblers?

12:12 17

12:12 18 A. Well, so - I would say no because it is critical that we
12:12 19 understand whether there is a causal link between the two and, if
12:12 20 so, what aspects of the rewards program is causing that causal
12:12 21 link because as is stated in this and other research, the rewards
12:12 22 program also presents - provides a vehicle to help us manage
12:12 23 problem gambling for the reasons that you've outlined, and before
12:12 24 we make changes to a rewards program that does engage
12:12 25 customers, including those who aren't problem gamblers, we need
12:12 26 to understand, (a), if the rewards program is actually causing
12:12 27 problem gambling and, if so, which bits of it are, so changes can
12:12 28 be made to the right bits. If we didn't make changes to the right
12:13 29 bits we may not affect the outcome that would be required by
12:13 30 either the business or the community.

12:13 31

12:13 32 Q. Okay. So I want to break this all down. The loyalty
12:13 33 program incentivises people to gamble, you want to get them to
12:13 34 the casino to spend more, do you agree with me?

12:13 35

12:13 36 A. Yes.

12:13 37

12:13 38 Q. Okay. And you agree with me that all the data that you
12:13 39 direct that might be used towards problem gambling could be
12:13 40 collected without the rewards card or loyalty program; in other
12:13 41 words, people put their card into a machine and you know how
12:13 42 long they are gambling for, when they're gambling, how much
12:13 43 they are losing, and you could take that and use it, if you wanted
12:13 44 to, to address problem gambling?

12:13 45

12:13 46 A. If all people were forced to use the card, then, yes.

12:13 47

12:13 1 Q. And there is no prohibition on Crown doing that?
12:13 2
12:13 3 A. There is no prohibition on Crown doing that. What I would
12:13 4 say though is it would present - it would possibly present
12:14 5 an ineffective control against problem gambling, because if that
12:14 6 weren't a state-wide or arguably national requirement, then
12:14 7 problem gamblers would just go somewhere else.
12:14 8
12:14 9 Q. Let's work on one problem at a time. Problem gambling is
12:14 10 a big problem. Let's work on problem gambling at the casino,
12:14 11 which is what we are concerned about. You could collect that
12:14 12 data without giving them benefits around rewards and free money
12:14 13 on the casino floor, do you agree with me?
12:14 14
12:14 15 A. Yes, correct.
12:14 16
12:14 17 Q. Did you hear any of Ms Bauer's evidence yesterday?
12:14 18
12:14 19 A. Bits of it, but certainly not all of it.
12:14 20
12:14 21 Q. Do you know that Crown has recognised a key weakness of
12:14 22 it is that it doesn't participate in research - well, not in an
12:14 23 absolute sense, but doesn't participate enough in research on
12:14 24 problem gambling and doesn't make available de-identified - I
12:15 25 will reframe that. I withdraw the question.
12:15 26
12:15 27 Are you aware that in a Crown-produced document, one of its
12:15 28 weakness was that it does not participate enough in research on
12:15 29 problem gambling? Are you aware of that?
12:15 30
12:15 31 A. I wasn't, but that would make sense.
12:15 32
12:15 33 Q. Are you aware that six, possibly seven academics signed
12:15 34 a letter saying they weren't able to access data?
12:15 35
12:15 36 A. I wasn't.
12:15 37
12:15 38 Q. No. And are you aware that in 2018, 2019 and 2021 the
12:15 39 Foundation made complaint about those issues?
12:15 40
12:15 41 A. I didn't.
12:15 42
12:15 43 Q. But if there is not the data, and there is not the research, it
12:15 44 becomes very hard to do these things, and all those matters have
12:15 45 been in the control of the casino for some time. You agree with
12:15 46 me they have access to data and could be undertaking -
12:15 47

12:15 1 A. Yes.

12:15 2

12:15 3 Q. So if I go back to my original question, if you were going to
12:15 4 proactively prioritise the welfare of customers who are by and
12:16 5 large Victorians, you would not be giving out free money on the
12:16 6 casino floor and you would have addressed what appears to be
12:16 7 a real link between loyalty program and problem gambling?

12:16 8

12:16 9 A. No, I don't agree with that. So if the objective here, which
12:16 10 I believe that it is to minimise and ideally prevent harm from
12:16 11 problem gambling from the activities that we do, the rewards
12:16 12 program is linked but there isn't causal information. We need to
12:16 13 establish that, and then we need to act based on what information
12:16 14 comes from that. So I agree that certainly research can and
12:16 15 should have been done sooner than this based on what I've read in
12:16 16 the last couple of months, but in terms of giving money out on the
12:17 17 casino floor, what specifically are you referring to there? Was
12:17 18 that with regards that the rewards program?

12:17 19

12:17 20 Q. Cash giveaways, the \$25,000 for somebody at the
12:17 21 Mahogany cage.

12:17 22

12:17 23 A. Again, the Responsible Gaming team, the legal and
12:17 24 regulatory teams, have reviewed all of those before they have
12:17 25 gone out and have not raised issues from a Responsible Gaming
12:17 26 perspective. Furthermore, reading through research in
12:17 27 preparation for these hearings, I've not found anything that says
12:17 28 that marketing promotions are inherently causing problem
12:17 29 gambling, nor in my time here, have we had anything back from
12:17 30 customer complaints regarding that. So we would have to make
12:17 31 a decision based on good evidence as to what changes need to be
12:18 32 made to make sure that customers were adequately protected.
12:18 33 And, based on the evidence I've got at the moment, the fact that
12:18 34 research into the rewards program is required aside, isn't
12:18 35 flagging that we are driving problem gambling with the activities
12:18 36 we are undertaking.

12:18 37

12:18 38 Q. I want to take you to a statement that the Foundation has
12:18 39 put in.

12:18 40

12:18 41 Mr Operator, VRGF.0002.0001.0049.

12:18 42

12:18 43 Tab 19, Mr Commissioner. This is ---

12:18 44

12:18 45 COMMISSIONER: I don't want to interrupt too much but the
12:18 46 Delfabbro ---

12:18 47

12:18 1 MR KOZMINSKY: My apologies, I will tender that.
12:18 2
12:18 3 COMMISSIONER: Article by Delfabbro and King, "Prevalence
12:18 4 of loyalty program use and its association with higher risk
12:18 5 gaming in Australia", I will mark that as Exhibit 141.
12:19 6
12:19 7
12:19 8 **EXHIBIT #RC0141 - PREVALENCE OF LOYALTY**
12:19 9 **PROGRAM USE AND ITS ASSOCIATION WITH HIGHER**
12:19 10 **RISK GAMING IN AUSTRALIA**
12:19 11
12:19 12
12:19 13 MR KOZMINSKY: Thanks.
12:19 14
12:19 15 COMMISSIONER: Sorry.
12:19 16
12:19 17 MR KOZMINSKY: That's all right.
12:19 18
12:19 19 Mr Operator, VRGF.0002.0001.0049.
12:19 20
12:19 21 Mr Emery, are you broadly familiar with the role of the
12:19 22 Foundation, the Responsible Gaming Foundation?
12:19 23
12:19 24 A. Only over the last few weeks preparing for this.
12:19 25
12:19 26 Q. But you have a general idea about what they are?
12:19 27
12:19 28 A. Yes.
12:19 29
12:19 30 Q. Ms Rosa Billi has prepared a supplementary statement for
12:19 31 this Commission. Her evidence will be next week. She deals in
12:19 32 this supplementary statement with research into loyalty programs
12:19 33 if you go down to paragraph 5 you will see the heading. At
12:19 34 paragraph 5.2 there is a reference to a 2018 study which was
12:20 35 presided by Professor Delfabbro which you may or may not have
12:20 36 read.
12:20 37
12:20 38 A. Yes.
12:20 39
12:20 40 Q. I just want to go to the quote under there, over the page,
12:20 41 I think. If you go down four lines:
12:20 42
12:20 43 *..... loyalty programs provide rewards to player who*
12:20 44 *gamble frequently Thus linking reinforcement to the*
12:20 45 *amount of money gambled.*
12:20 46
12:20 47 You see that?

12:20 1
12:20 2 A. Which line are we on?
12:20 3
12:20 4 Q. Fourth line. Just read from "specifically" down to
12:20 5 "strategies", I don't need to read it out to you.
12:20 6
12:20 7 A. Yes.
12:20 8
12:20 9 Q. And so "may be antithetical to harm minimisation
12:21 10 strategies". May be. You agree with that?
12:21 11
12 12 A. Yes.
13
14 Q. It may be.
15
16 A. Yes.
17
12:21 18 Q. And if you drop to 5.4 it is citing an article we have already
12:21 19 been to. 5.5 talks about another study that found that:
12:21 20
12:21 21 *Loyalty card or program use increases with gambling risk*
12:21 22 *as identified on the problem gambling severity index.*
12:21 23
12:21 24 Do you know what that is, Mr Emery?
12:21 25
12:21 26 A. I do.
12:21 27
12:21 28 Q.
12:21 29
12:21 30 *Problem gamblers are more likely to be members of*
12:21 31 *loyalty programs that people defined at lower risk levels*
12:21 32 *by the PGSI.*
12:21 33
12:21 34 You agree with that?
12:21 35
12:21 36 A. Yes.
12:21 37
12:21 38 Q. They spend more time gambling?
12:21 39
12:21 40 A. Yes.
12:21 41
12:21 42 Q. Spend more money gambling?
12:21 43
12:21 44 A. Yes.
12:21 45
12:21 46 Q. Members of loyalty programs are more likely to have PGSI
12:21 47 scores in the moderate or problem gambling category, see that?

12:21 1
12:21 2 A. Yes.
12:21 3
12:22 4 Q. It doesn't come as a surprise to you?
12:22 5
12:22 6 A. No, I've read the studies that Rosa Billi (inaudible) that
12:22 7 most of the studies referenced here, and I've read this statement.
12:22 8
12:22 9 Q. I want to ask you if 5.6.2 and 5.6.3 also come as a surprise
12:22 10 to you and do you agree with them?
12:22 11
12:22 12 A. 5.6.2, I agree. 5.6.3 I have not been able to find that
12:22 13 research study so it doesn't surprise me, certainly some of the
12:22 14 things that we do definitely do drive visitation and spend.
12:22 15 Considering the fact that I've not read the research, but yes, I
12:22 16 agree thematically with what that says.
12:22 17
12:23 18 Q. Great, thank you. So I suppose Crown has two options: one
12:23 19 option is to wait for all the data to get out, all the research to be
12:23 20 done, and then take steps. That is one option available to it,
12:23 21 which is the option it is going to pursue; you agree with that?
12:23 22
12:23 23 A. Yes.
12:23 24
12:23 25 Q. I just want you to tell me if this is another option: you stop
12:23 26 all of the benefits and then you introduce the ones that are safe
12:23 27 once the research is done; you agree that is another possibility,
12:23 28 another pathway?
12:23 29
12:23 30 A. That is another option, yes.
12:23 31
12:23 32 Q. Okay, thank you. And that is not the pathway Crown is
12:23 33 adopting?
12:23 34
12:23 35 A. No, and I would say that the risk with the second option is
12:23 36 that if everyone then opts out of the rewards program, we've lost
12:23 37 the ability to identify the play behaviours which can then be used
12:23 38 for the purposes we've talked about regarding harm minimisation.
12:23 39
12:24 40 MR KOZMINSKY: Mr Commissioner, I am not going to tender
12:24 41 Ms Billi's supplementary statement because she will give
12:24 42 evidence and it will go through her if you are content with that.
12:24 43
12:24 44 COMMISSIONER: All right.
12:24 45
12:24 46 MR KOZMINSKY: The last paragraph of your statement says
12:24 47 this:

- 12:24 1
 12:24 2 *To the best of my knowledge the business has not*
 12:24 3 *undertaken any research into the effect the Crown*
 12:24 4 *Rewards program has on problem gambling.*
 12:24 5
 12:24 6 A. Yes.
 12:24 7
 12:24 8 Q.
 12:24 9
 12:24 10 *The Responsible Gambling team do however keep abreast*
 12:24 11 *of academic research*
 12:24 12
 12:24 13 A. Sorry, I missed that. Can you say that again.
 12:24 14
 12:24 15 Q. The last sentence:
 12:24 16
 12:24 17 *The [gambling] team keep abreast of academic*
 12:24 18 *research*
 12:24 19
 12:24 20 A. The Responsible Gaming team, yes.
 12:24 21
 12:24 22 Q. There is no mention in there, for the reasons we've
 12:24 23 discussed regarding the rewards problem and the links with
 12:24 24 problem gambling?
 12:24 25
 12:24 26 A. No.
 12:24 27
 12:24 28 Q. Because that arose for the first time for consideration 12
 12:24 29 days after your statement was signed on the 17th?
 12:25 30
 12:25 31 A. No. So I had, as I was reading through the research in
 12:25 32 preparation for this hearing, which started as soon as we knew
 12:25 33 that this Commission was also going to also be looking into
 12:25 34 Responsible Gaming, I started to read research. The thought of
 12:25 35 the fact that we probably need to do it was dawning on me prior
 12:25 36 to me putting my statement in. I had a conversation with Sonja
 12:25 37 Bauer and Steve Blackburn, I think post my statement going in,
 12:25 38 to discuss the need to do research and they agreed. So it wasn't
 12:25 39 triggered by the creation of the document that you referred to, or
 12:25 40 you showed earlier. It was a conversation happening prior to that
 12:25 41 document.
 12:25 42
 12:25 43 Q. Let me ask the question this way, Mr Emery. If the casino
 12:26 44 and you were serious about doing that research, it would have
 12:26 45 been mentioned in paragraph 85 of your statement?
 12:26 46
 12:26 47 A. In terms of the casino, yes. From a - in terms of me, I've,

12:26 1 like I said earlier, all of the activities that we run have been
12:26 2 passed through expert teams that I rely on to flag issues or
12:26 3 concerns ---

12:26 4

12:26 5 Q. Mr Emery, I am going to stop you. I just want you to
12:26 6 answer my question. I will frame it in terms of the casino if it
12:26 7 makes it easier for you to answer.

12:26 8

12:26 9 If the casino was serious about undertaking research about the
12:26 10 link between loyalty programs and problem gambling, it would
12:26 11 have been mentioned in paragraph 85 of your statement?

12:26 12

12:26 13 A. Yes, correct.

12:27 14

12:27 15 Q. That means, at least as at 5 May 2021, that was or was not
12:27 16 the case, "yes" or "no"?

12:27 17

12:27 18 A. No, that was ---

12:27 19

12:27 20 Q. You agree with me?

12:27 21

12:27 22 A. Yes.

12:27 23

12:27 24 Q. I just want to ask you one point of clarification because it is
12:27 25 something we haven't had evidence about. That is at paragraph
12:27 26 33 of your statement, you talk about an outbound call centre and
12:27 27 activity.

12:27 28

12:27 29 A. Yes.

12:27 30

12:27 31 Q. We've heard a very small amount of evidence about that,
12:27 32 and I'm just wondering if you can please tell me a little bit more
12:27 33 about how the call centre operates, who starts it and the people
12:27 34 they are targeting.

12:27 35

12:27 36 A. So, I will split this into two pieces, one which is what the
12:27 37 call centre is, and then secondly the activities they undertake.

12:27 38

12:27 39 The call centre is an extension of the guest services team who
12:28 40 take all the calls for restaurant bookings and hotel room service
12:28 41 and any number of other things. There is a group of operators in
12:28 42 there somewhere in the region of five to ten, I don't know the
12:28 43 exact number at the moment, who also undertake outbound
12:28 44 telemarketing for some of our offers.

12:28 45

12:28 46 In terms of the way the offers are generated and the customers for
12:28 47 them to call are identified, that is exactly the same process as

12:28 1 what I've outlined in the rest of my statement. So offers will be
12:28 2 created, groups of customers will be selected, and then that will
12:28 3 be passed on to the call centre to make those calls.
12:28 4
12:28 5 Q. So I'm clear, the outbound calls are to loyalty program
12:29 6 members or interstate members as the case may be, asking them
12:29 7 to come into the casino for some promotion or event?
12:29 8
12:29 9 A. That is correct, yes. Sorry, just for clarity, not always the
12:29 10 casino. So we also have hotel and food and beverage offers as
12:29 11 well.
12:29 12
12:29 13 Q. Yes, I understand. And just so I'm clear, and also making
12:29 14 bookings for - if a host is busy and one of their clients wants
12:29 15 something, the outbound call centre may make ---
12:29 16
12:29 17 A. No. That all goes through the hosts.
12:29 18
12:29 19 Q. I understand. Thank you. I just want to ask you one final
12:29 20 question. You made mention of a risk management framework
12:29 21 earlier on in your evidence that you had regard to. Do you
12:29 22 remember that?
12:29 23
12:29 24 A. Yes.
12:29 25
12:29 26 Q. Do you know what that document is called precisely?
12:29 27
12:29 28 A. Sorry, can you remind me how I referred to that?
12:29 29
12:29 30 Q. Earlier on in your evidence you made reference to
12:30 31 marketing having regard to the risk management framework. I'm
12:30 32 just trying to understand ---
12:30 33
12:30 34 A. That is not a formal document. So that - I was trying to
12:30 35 articulate how I view risk management and part of a broader risk
12:30 36 management framework, which is not documented as one thing
12:30 37 but as multiple controls. The review and approval of the expert
12:30 38 teams is a key part of that framework. So that was what I was
12:30 39 referring to there. There is no one document that has all those
12:30 40 controls, I don't believe, in one place.
12:30 41
12:30 42 Q. Are there several documents that comprise what in your
12:30 43 mind is the risk framework?
12:30 44
12:30 45 A. Yes, there would be.
12:30 46
12:30 47 Q. Do you know what they are called?

12:30 1
12:30 2 A. I don't.
12:30 3
12:30 4 Q. Do you know the names of any of them?
12:30 5
12:30 6 A. No.
12:30 7
12:30 8 MR KOZMINSKY: Thank you, Mr Emery.
12:30 9
12:30 10 Mr Commissioner, unless you have further questions, they are the
12:31 11 questions I had for Mr Emery.
12:31 12
12:31 13 COMMISSIONER: No, I don't have any. Let's see who else
12:31 14 comes up on the screen. Mr Borsky, I will enquire from
12:31 15 Mr Rozen and Mr Gray whether they want to pass or ask
12:31 16 questions.
12:31 17
12:31 18 MR BORSKY: Yes, thank you, Commissioner.
12:31 19
12:31 20 MR ROZEN: I will pass, thank you, Commissioner.
12:31 21
12:31 22 COMMISSIONER: Thank you, Mr Rozen.
12:31 23
12:31 24 MR ROZEN: No questions.
12:31 25
12:31 26 COMMISSIONER: Mr Gray or anybody from his team?
12:31 27
12:31 28 MR GRAY: No, thank you, Commissioner.
12:31 29
12:31 30 COMMISSIONER: Thank you, Mr Gray.
12:31 31
12:31 32 COMMISSIONER: Mr Borsky, to you.
12:31 33
12:31 34 MR KOZMINSKY: Sorry, just before Mr Borsky commences,
12:31 35 can I ask, as a matter of practice and courtesy, would you like my
12:31 36 video on or off while Mr Borsky is addressing Mr Emery?
12:31 37
12:31 38 COMMISSIONER: Off, please.
12:31 39
12:31 40 MR KOZMINSKY: Thank you.
12:31 41
12:31 42
12:31 43 **RE-EXAMINATION BY MR BORSKY**
12:32 44
12:32 45
12:32 46 MR BORSKY: Good afternoon, Mr Emery.
12:32 47

12:32 1 A. Good afternoon.
12:32 2
12:32 3 Q. I just want to ask you a few brief questions on matters
12:32 4 arising. First, you were asked some questions by Counsel
12:32 5 Assisting about your understanding of the meaning of domestic
12:32 6 customers and more particularly whether that included or
12:32 7 excluded Victorian customers; do you recall that?
12:32 8
12:32 9 A. Yes, as it pertained to the document with the enhancements
12:32 10 in.
12:32 11
12:32 12 Q. Yes. And that document, that is the 26 May letter from
12:32 13 Allens to this Royal Commission which had a two-page table of
12:32 14 Responsible Gaming enhancements, do you recall that?
12:32 15
12:32 16 A. That's correct.
12:32 17
12:32 18 Q. The first item in that table was the new policy approved by
12:32 19 the Crown Resorts board to limit to 12 hours the possible play
12:33 20 period for domestic customers?
12:33 21
12:33 22 A. I believe so, yes.
12:33 23
12:33 24 Q. It was put to you that Ms Bauer had given some evidence
12:33 25 on that meaning of the domestic customers, and you were asked
12:33 26 to clarify your understanding of Crown's use of the term
12:33 27 "domestic customers" in that context?
12:33 28
12:33 29 A. Yes.
12:33 30
12:33 31 Q. I just want to show you an extract from Ms Bauer's
12:33 32 evidence. Could we have brought up, please,
12:33 33 COM.0004.0090.1453.
12:33 34
12:33 35 COMMISSIONER: Is that the transcript, Mr Borsky?
12:34 36
12:34 37 MR BORSKY: Yes, it is the transcript. If it is ---
12:34 38
12:34 39 COMMISSIONER: I've got a feeling the transcript has not been
12:34 40 downloaded onto the system, so it might be necessary, if you
12:34 41 want to refer to particular parts of the transcript or Ms Bauer's
12:34 42 evidence, you might have to read it or summarise it.
12:34 43
12:34 44 MR BORSKY: Okay, thank you. It is not lengthy. I will read it.
12:34 45 I'm reading, for others' benefit, from page 1287 from the
12:34 46 transcript, which is evidence Ms Bauer gave the day before
12:34 47 yesterday on 2 June. Ms Bauer, having been taken to the same

12:34 1 letter and asked questions about the meaning of "domestic
12:34 2 players" in that context, said this, Mr Emery:
12:34 3
12:34 4 *Answer: Yes, I do [know what domestic players means].*
12:35 5 *Those who are resident in Australia.*
12:35 6
12:35 7 And then the question was asked:
12:35 8
12:35 9 *Question: So not just in Victoria, but those who are*
12:35 10 *resident in Australia?*
12:35 11
12:35 12 *Answer: That is my understanding, yes.*
12:35 13
12:35 14 So that is the evidence Ms Bauer gave on the subject the day
12:35 15 before yesterday, Mr Emery, and I want to ask if that accords with
12:35 16 your understanding of the new policy, that is to limit to 12 hours
12:35 17 potential play limits for domestic customers.
12:35 18
12:35 19 A. I'm afraid I'm not close enough to it to know that. That is
12:35 20 my understanding. And I think my confusion is because
12:35 21 "domestic" and "local" are always separated out as was referred
12:35 22 to in Crown-speak. But, yes, my limited understanding of that is
12:35 23 "domestic" refers to all Australians in that instance.
12:35 24
12:35 25 Q. Thank you ---
12:35 26
12:35 27 COMMISSIONER: In other words, that part of the document
12:35 28 draws a distinction between on one side domestic Australian, and
12:36 29 international, and there is no intermediate or middle group?
12:36 30
12:36 31 A. Yes, sorry, that's correct.
12:36 32
12:36 33 MR BORSKY: Thanks. You don't understand Crown's new
12:36 34 policy to permit Victorian players to play for longer than players
12:36 35 from other parts of Australia?
12:36 36
12:36 37 A. I wasn't involved in the building of those recommendations,
12:36 38 so I'm afraid I can't give an answer finding.
12:36 39
12:36 40 Q. I will move on. You've also given some evidence in answer
12:36 41 to questions from Counsel Assisting about the importance in your
12:36 42 view of understanding what, if any, aspects of Crown's loyalty
12:36 43 program may be causing any gambling problems, or Responsible
12:36 44 Gambling problems, before any changes to the loyalty program
12:36 45 are made?
12:36 46
12:36 47 A. Yes, that's correct.

12:36 1
12:36 2 Q. You've made the point that on your review of the research,
12:37 3 at least, the causal relationship between loyalty program rewards
12:37 4 and problem gambling is not established; is that right?
12:37 5
12:37 6 A. That's correct. And that's not my view. Well, it is my
12:37 7 view, but that is very much what comes through in all of the
12:37 8 research.
12:37 9
12:37 10 Q. Okay. Now, Ms Billi's supplementary statement was
12:37 11 shown to you. I take it you've, since receiving a copy of that just
12:37 12 earlier this week, have had an opportunity to read it carefully?
12:37 13
12:37 14 A. Yes.
12:37 15
12:37 16 Q. And you've had an opportunity to look at some of the
12:37 17 research to which Ms Billi refers in that statement?
12:37 18
12:37 19 A. Yes, about two-thirds of it, yes.
12:37 20
12:37 21 Q. Can we call up VRGF.0002.0001.0049. I see the operator
12:37 22 beat me to it. Thank you. Now, I want to ask you about one
12:38 23 paper in particular, and please tell the Commissioner if you have
12:38 24 or have not yet had an opportunity to look at it, it is the paper that
12:38 25 Ms Billi refers to at paragraph 5.6.5 in her statement?
12:38 26
12:38 27 A. Yes, I've read that.
12:38 28
12:38 29 Q. You've read that Prentice & Wong paper from 2015.
12:38 30
12:38 31 A. I have.
12:38 32
12:38 33 Q. Have you read it recently?
12:38 34
12:38 35 A. In the last six to eight weeks.
12:38 36
12:38 37 Q. Okay. I will show you a copy of the paper. CRW.512.107.0001.
12:38 38
12:39 39
12:39 40 COMMISSIONER: Has that recently been provided to the
12:39 41 Commission, Mr Borsky?
12:39 42
12:39 43 MR BORSKY: I'm instructed it has been recently uploaded to
12:39 44 the hearing book, but all signs to the contrary.
12:39 45
12:39 46 COMMISSIONER: Yes, it looks like it. It is being downloaded
12:39 47 as we speak. So if we wait for a few seconds it will come up.

12:39 1
12:39 2 MR BORSKY: Thank you. Grateful for the indication.
12:40 3
12:40 4 COMMISSIONER: It's up on my screen now.
12:40 5
12:40 6 MR BORSKY: Mr Emery, is that visible to you?
12:40 7
12:40 8 A. Yes, it is.
12:40 9
12:40 10 Q. Do you recognise this as the 2015 Prentice & Wong study
12:41 11 to which you referred to a few moments ago in answer to my
12:41 12 question?
12:41 13
12:41 14 A. Yes, I do.
12:41 15
12:41 16 Q. I will take you to a couple of parts of it as efficiently as
12:41 17 I can. If we go to the top of the second page, please, I want to
12:41 18 draw your attention from the second line to the short statement
12:41 19 there from lines two to five, really of the aim of the study. I will
12:41 20 read it to you:
12:41 21
12:41 22 *..... this study examines the effect of commonly practised*
12:41 23 *marketing strategies by casinos, and investigates the*
12:41 24 *relationships among casino marketing strategies, gambler*
12:41 25 *loyalty and behaviours, and problem gambling.*
12:41 26
12:41 27 You see that?
12:41 28
12:41 29 A. I do.
12:41 30
12:41 31 Q. You've read the study. Do you think that is a fair
12:41 32 summation of the aim to which the study was directed?
12:41 33
12:41 34 A. Yes.
12:41 35
12:41 36 Q. I will, with all due respect to the learned authors, pass over
12:42 37 the hypotheses and analyses and take you to the conclusion of the
12:42 38 study, relevantly to the point about which you were giving
12:42 39 evidence, that is the causal connection, if any, between loyalty
12:42 40 programs and problem gambling. Could we go, please, to page 8
12:42 41 of the study, which is the penultimate page. Operator, stay at the
12:42 42 top. Under the heading "5.3" - I should in fairness, Mr Emery,
12:42 43 just orient things. I ask the operator to go back to page 6 to show
12:42 44 that section 5 is the section which actually contains the discussion
12:42 45 and conclusions.
12:42 46
12:42 47 A. Yes.

- 12:42 1
12:42 2 Q. If we scroll down you will see section 5 commences with
12:42 3 that heading. So this is section 5. And then if - subsection 5.1
12:43 4 is about the relationships between casino marketing strategies and
12:43 5 gambling behaviours.
12:43 6
12:43 7 A. Yes.
12:43 8
12:43 9 Q. That is not directly on point for the present topic. 5.2,
12:43 10 which we see on the next page, page 7, was about the
12:43 11 relationships among casino marketing strategies, gambling
12:43 12 behaviours and customer loyalty. Again, not squarely on point,
12:43 13 you agree, for problem gambling?
12:43 14
12:43 15 A. Yes.
12:43 16
12:43 17 Q. Then back to page 8, please, section 5.3, it is, I suggest, but
12:43 18 tell me if you agree or disagree, that the critical conclusion of this
12:43 19 study for the purposes of the present context, that is the question
12:43 20 of any causal link between loyalty programs and casino
12:43 21 marketing strategies on the one hand, and problem gambling on
12:43 22 the other?
12:43 23
12:43 24 A. Yes.
12:43 25
12:43 26 Q. Under that heading, subsection 5.3 you see in the very first
12:44 27 paragraph, the second sentence, the authors express this
12:44 28 concluded view:
12:44 29
12:44 30 *Loyalty programs and customer loyalty have very little to*
12:44 31 *do with problem gambling. Although the results contrast*
12:44 32 *to the hypotheses, this finding has significant implications*
12:44 33 *for casino practitioners and gaming researchers. It*
12:44 34 *clarifies the relationship between gambler loyalty and*
12:44 35 *gambling addiction.*
12:44 36
12:44 37 A. Yes, that is correct.
12:44 38
12:44 39 Q. Is that conclusion consistent with your views based on your
12:44 40 review of research more broadly in this area?
12:44 41
12:44 42 A. Yes, it is because this is the only study I've seen that has
12:44 43 really tried to establish the causal link between the two. So, yes,
12:44 44 it is. However, this was based in Macau where this study was
12:45 45 done, and given what has been presented in the Delfabbro paper,
12:45 46 we would still need to do the same kind of research to establish
12:45 47 the causal connection in Australia.

12:45 1
12:45 2 Q. And that is the research which you or Crown has recently
12:45 3 committed to do?

12:45 4
12:45 5 A. Yes.

12:45 6
12:45 7 Q. Thanks.

12:45 8
12:45 9 I tender that document, if the Commission pleases.

12:45 10
12:45 11 COMMISSIONER: Can I go back to the first page, please.
12:45 12 Article by Prentice and Wong, "Casino marketing, problem
12:45 13 gamblers or loyal customers?" published in 2014 will be Exhibit
12:45 14 142.

12:46 15

16

17 **EXHIBIT #RC0142 - ARTICLE BY PRENTICE & WONG -**
18 **"CASINO MARKETING, PROBLEM GAMBLERS OR**
19 **LOYAL CUSTOMERS?" DATED 2014**

20

21

12:46 22 COMMISSIONER: Before we leave it, I don't mind who
12:46 23 answers the question, Mr Emery or Mr Borsky, I've got two
12:46 24 questions about what I've just read: one question is in this
12:46 25 particular article is there - the reason I ask the question is I
12:46 26 assume there are loyalty programs and loyalty programs, that is,
12:46 27 the rewards that are conferred by one loyalty program might be
12:46 28 quite different from the rewards conferred by another loyalty
12:46 29 program. Does the article pick up that kind of issue?

12:46 30

12:46 31 A. So, no, it doesn't. But to your first point, certainly from
12:46 32 what I've seen, looking around the world, there is not a huge
12:46 33 amount of difference between casino rewards programs. They
12:46 34 are all pretty much the same in structure. You will have multiple
12:46 35 tiers, and ours are not really different from most others, and then
12:46 36 you will have points earned rates, and then various different food
12:47 37 and beverage benefits as you progress up the tiers.

12:47 38

12:47 39 COMMISSIONER: I see. Thank you. And the last question,
12:47 40 which you might think is being very precious, is I will read a lot
12:47 41 of these articles in due course, but are these refereed journals or
12:47 42 are they places where academics and quasi-academics put their
12:47 43 literature?

12:47 44

12:47 45 A. I would need to check, but given that I got this - certainly
12:47 46 when I downloaded it from a published research site, this would
12:47 47 have been published and peer reviewed. In addition, it is cited in

12:47 1 quite a lot of other papers. So these are, to the best of my
12:47 2 understanding, a professional academic research into this space.
12:47 3
12:47 4 COMMISSIONER: I'm not suggesting otherwise.
12:47 5
12:47 6 A. Sorry.
12:47 7
12:47 8 COMMISSIONER: I'm wondering whether the articles before
12:47 9 they're published are reviewed by experts in the field and they
12:48 10 approve the publication of the article.
12:48 11
12:48 12 A. I do not know. That will be a question for the writers.
12:48 13
12:48 14 COMMISSIONER: I think you can usually tell. If I look at the
12:48 15 publication itself they will most often tell me whether they are
12:48 16 peer reviewed articles. Somebody second-guesses the nature of
12:48 17 the research and whether it is effective research, that kind of
12:48 18 thing. Leave that to me. If you don't know, I will find out.
12:48 19
12:48 20 A. My apologies, thank you.
12:48 21
12:48 22 COMMISSIONER: That's all right.
12:48 23
12:48 24 MR BORSKY: Commissioner, if I may try to assist. This is one
12:48 25 of the articles to which Ms Billi has referred and as Mr Emery
12:48 26 has stated it appears to be peer reviewed. I can confirm it is
12:48 27 an academic, a peer-reviewed academic journal.
12:48 28
12:49 29 COMMISSIONER: Okay, thank you.
12:49 30
12:49 31 MR BORSKY: I'm sorry, I don't remember whether you ---
12:49 32
12:49 33 COMMISSIONER: Yes, Exhibit 142.
12:49 34
12:49 35 MR BORSKY: Thank you. I will move on to a different and my
12:49 36 final topic.
12:49 37
12:49 38 COMMISSIONER: Of course.
12:49 39
12:49 40 MR BORSKY: There is a document I want to take Mr Emery to.
12:49 41 I hope it is on the system. CRW.512.107.0251. This was also
12:49 42 uploaded this morning so I hope it is on its way.
12:49 43
12:49 44 COMMISSIONER: Something has come up on the screen.
12:50 45
12:50 46 MR BORSKY: Our luck continues for the time being!
12:50 47

12:50 1 Operator, could we zoom - thank you.
12:50 2
12:50 3 Do you recognise this spreadsheet, Mr Emery?
12:50 4
12:50 5 A. I do.
12:50 6
12:50 7 Q. You were asked some questions this morning by Counsel
12:50 8 Assisting about visits, numbers of visits to the casino and in
12:50 9 particular unique patron visits; you recall those questions?
12:50 10
12:50 11 A. I do.
12:50 12
12:50 13 Q. You know that Ms Bauer gave some evidence in her
12:50 14 statement about the number of millions of visits per annum.
12:50 15
12:50 16 A. Yes.
12:50 17
12:50 18 Q. That was the subject of some oral evidence and questions
12:50 19 from the Commissioner earlier in the week in Ms Bauer's
12:50 20 evidence; were you aware of that?
12:50 21
12:50 22 A. Yes.
12:50 23
12:50 24 Q. Since those questions and that evidence given by Ms Bauer,
12:50 25 have you caused a member of your team, that is one of your
12:50 26 reports, to produce this spreadsheet?
12:50 27
12:51 28 A. Yes.
12:51 29
12:51 30 Q. Are you in a position to explain to the Commission what
12:51 31 question this spreadsheet endeavours to answer?
12:51 32
12:51 33 A. So, it endeavours to answer the number of unique
12:51 34 individuals who come on property on average in a day over the
12:51 35 course of a year. The way that we were - there are lots of ways
12:51 36 to measure visitation to the property, or there are three main
12:51 37 ways; one is the number of people we can see on the visitation
12:51 38 cameras, the other is for us to look directly at the rewards
12:51 39 program, and then the third is to look at the patron hours on the
12:51 40 property and divide that by the average amount of time someone
12:51 41 would spend on property. The cameras do not pick up
12:52 42 individuals, they just pick up people. So they are effectively
12:52 43 tracking entry. What we have done here is in the column
12:52 44 "average of uniques", we have used the rewards program to look
12:52 45 at, to identify the number of customers, rewards customers, who
12:52 46 have - unique rewards customers who have been in in a day.
12:52 47 And we've taken the average of that over the course of the year.

12:52 1
12:52 2 Q. So that is column B, Mr Emery, which for 2019 for
12:52 3 argument's sake is 7,859?
12:52 4
12:52 5 A. That's correct.
12:52 6
12:52 7 Q. Thank you. Go on, please.
12:52 8
12:52 9 A. So that is 100 per cent accurate, or nearly 100 per cent
12:52 10 accurate view, certainly the most robust view, as to how many
12:53 11 rewards members have been to the property on an average day on
12:53 12 a day. Rewards members don't make up everyone who is on the
12:53 13 property at any given time over any period, so the person who did
12:53 14 this has then taken two methodologies to estimate what the
12:53 15 remainder would be. And in both instances what he has used is
12:53 16 patron hours.
12:53 17
12:53 18 So patron hours gets tracked, which is essentially the amount of
12:53 19 time someone is spending on a device or a table, that gets tracked
12:53 20 irrespective of whether you are a rewards members. We can see
12:53 21 the patron hours for our rewards members and we can also see
12:53 22 the total patron hours on the property.
12:53 23
12:53 24 So what he's done to estimate the total number of hours is in the
12:54 25 first instance, so columns D and E, he has excluded Mahogany
12:54 26 and Teak because they are - the customers in there are not
12:54 27 representative - sorry, you have to be a member to play in there
12:54 28 in the first instance so they wouldn't be representative of the
12:54 29 people who are uncarded. And then the total number of patron
12:54 30 hours that are not carded, versus rewards members, and use that
12:54 31 to essentially pro rata up and estimate the total number of unique
12:54 32 individuals we would have expected to be on property, given that.
12:54 33
12:54 34 COMMISSIONER: Just so I follow, to make sure I'm getting this
12:54 35 right, the first column "average of uniques", that is the average,
12:55 36 annualised, of carded players? Or people who enter with a card?
12:55 37
12:55 38 A. Yes.
12:55 39
12:55 40 COMMISSIONER: The second column, unrated uniques using a
12:55 41 proxy, they are uncarded players?
12:55 42
12:55 43 A. That's correct.
12:55 44
12:55 45 COMMISSIONER: And then you get the total which is just the
12:55 46 sum of carded and uncarded players?
12:55 47

12:55 1 A. Yes.
12:55 2
12:55 3 COMMISSIONER: I'm doing better with this chart than the last
12:55 4 one.
12:55 5
12:55 6 A. Which is surprising, given my explanation.
12:55 7
12:55 8 COMMISSIONER: Fair enough.
12:55 9
12:55 10 MR BORSKY: So, Mr Emery ---
12:55 11
12:55 12 COMMISSIONER: What are the last two?
12:55 13
12:55 14 A. My apologies. So the last two is essentially a different way
12:55 15 of trying to get to the same number. So in this instance rather
12:55 16 than just excluding people who are in premium rooms, he's taken
12:55 17 the silver member tiers, the assumption being that people who are
12:55 18 uncarded tend to play more like silver and member tiers. We've
12:56 19 taken the average patron hours in a visit for a silver and member
12:56 20 tier and then use it back to estimate the number of uncarded
12:56 21 members.
12:56 22
12:56 23 COMMISSIONER: And then just pro-rated that up as well?
12:56 24
12:56 25 A. That's correct.
12:56 26
12:56 27 COMMISSIONER: Okay.
12:56 28
12:56 29 MR BORSKY: So, Mr Emery, is this accurate, this document
12:56 30 starts in column B with hard data which the casino has, and has
12:56 31 confidence in, for the average number of unique visitors who play
12:56 32 carded on a given day?
12:56 33
12:56 34 A. Yes.
12:56 35
12:56 36 Q. And then seeks to estimate in addition to those numbers, on
12:56 37 two alternative bases, the average daily uncarded playing
12:56 38 patrons?
12:56 39
12:56 40 A. That's correct.
12:56 41
12:56 42 Q. Those two alternative bases lead to two different total
12:56 43 estimates which are presented in columns E and H?
12:56 44
12:57 45 A. Yes.
12:57 46
12:57 47 Q. So if we look for example at the total estimate of daily

- 12:57 1 patrons visiting the casino, again, take 2019, on the first
12:57 2 methodology in column E, the estimate is a total of 12,660
12:57 3 patrons per day on average in that year?
12:57 4
12:57 5 A. Yes.
12:57 6
12:57 7 Q. And on the second alternative basis for the same year, the
12:57 8 estimate is a little higher, 13,157 average daily patrons visiting?
12:57 9
12:57 10 A. That's correct.
12:57 11
12:57 12 Q. Is it fair to say then that doing the best you can with data
12:57 13 that is available in the casino, your best estimate of the average
12:57 14 daily patron numbers visiting the casino is around about 13,000
12:57 15 patrons per day?
12:57 16
12:57 17 A. Somewhere between those two figures but probably nearer
12:58 18 the top end, yes.
12:58 19
12:58 20 Q. Somewhere between 12 and, say, 14 at the extremes?
12:58 21
12:58 22 A. Yes.
12:58 23
12:58 24 Q. But around 13,000 a day, appreciating this is not a precise
12:58 25 science because of the data constraints.
12:58 26
12:58 27 A. Yes, that is correct.
12:58 28
12:58 29 COMMISSIONER: Does that suggest then that on average per
12:58 30 year, each and every year, a single patron will come and go four
12:58 31 or five times per day, which sounds to me rather odd?
12:58 32
12:58 33 A. So, not quite. Because the visitation cameras record
12:58 34 entries, a patron may go out to have lunch in one of the
12:58 35 restaurants on property, because a lot of the restaurants aren't on
12:58 36 the gaming floor. These are casino entries. So you can still be on
12:58 37 property and you can walk out to go and have some lunch, or you
12:59 38 might go to the ATM. In addition, there are - they also pick up
12:59 39 staff members of whom there are quite a lot going in and out all
12:59 40 the time. So it wouldn't be in and out four times, it would be less
12:59 41 than that, but that would be about right, people would be going in
12:59 42 and out of the gaming floor during their visit to Crown.
12:59 43
12:59 44 COMMISSIONER: Okay, thanks.
12:59 45
12:59 46 MR BORSKY: Because the visits data that showed more than
12:59 47 20 million visits per annum, it is entries to the licensed casino

12:59 1 area within the broader Crown premises; correct?
12:59 2
12:59 3 A. That is my understanding, but we will need to check that
12:59 4 with Sonja Bauer's statement. But, yes, that is my understanding.
12:59 5
12:59 6 MR BORSKY: Okay. I tender that document, if the
12:59 7 Commission pleases.
12:59 8
13:00 9 COMMISSIONER: Will I just call it a spreadsheet of
13:00 10 visitations?
13:00 11
13:00 12 MR BORSKY: Yes, perhaps a spreadsheet of average daily
13:00 13 unique patron visits.
13:00 14
13:00 15 COMMISSIONER: All right. That will be Exhibit 143.
13:00 16
13:00 17
13:00 18 **EXHIBIT #RC0143 - SPREADSHEET OF AVERAGE**
13:00 19 **DAILY UNIQUE PATRON VISITS**
13:00 20
13:00 21
13:00 22 MR BORSKY: Now, I did give notice to my learned friend
13:00 23 before the hearing commenced this morning that we would be
13:00 24 seeking to tender this document, but in fairness he's only seen it,
13:00 25 I think, today. So I'm not sure if anything arises that perhaps
13:00 26 Counsel Assisting wishes to ask.
13:00 27
13:00 28 COMMISSIONER: Mr Kozminsky is on the screen so we'll find
13:00 29 out.
13:00 30
13:00 31 Before you go on, Mr Borsky, have you now finished your
13:00 32 questions?
13:00 33
13:00 34 MR BORSKY: I have, thank you, Commissioner.
13:00 35
13:00 36 COMMISSIONER: Thank you.
13:00 37
13:00 38
13:00 39
13:00 40
13:00 41 **FURTHER EXAMINATION BY MR KOZMINSKY**
13:00 42
13:00 43
13:00 44 MR KOZMINSKY: Yes, Mr Commissioner. Might I just ask
13:01 45 one question, one group of questions about the spreadsheet.
13:01 46 We've only had it for a short period. Perhaps it can be brought
13:01 47 back up.

13:01 1
13:01 2 Mr Emery, you don't need to name the person, but the person
13:01 3 who prepared the approximations from columns D onwards, is
13:01 4 that someone who walks the floor as part of their job?
13:01 5
13:01 6 A. No.
13:01 7
13:01 8 Q. There are people at the casino who do walk the floor as part
13:01 9 of their jobs?
13:01 10
13:01 11 A. Yes.
13:01 12
13:01 13 Q. The person who, as best we can tell, walks the floor most
13:01 14 regularly are the Responsible Gaming Advisors?
13:01 15
13:01 16 A. I'm not customer-facing, I couldn't say.
13:01 17
13:01 18 Q. Well assume for a moment they are. Part of their job, as we
13:01 19 understand, is to literally walk around the gaming floor and look
13:01 20 for observable signs?
13:01 21
13:01 22 A. Yes.
13:01 23
13:01 24 Q. The Responsible Gaming Advisor who we spoke to on
13:02 25 27 May at transcript P-1066 said that in her - her best guess was,
13:02 26 at least in respect of EGMs, somewhere between 40 per cent and
13:02 27 60 per cent of play was uncarded.
13:02 28
13:02 29 A. No, that's not correct.
13:02 30
13:02 31 Q. Well, you might disagree, but it is certainly the evidence
13:02 32 that she gave.
13:02 33
13:02 34 A. Sure.
13:02 35
13:02 36 Q. And that's based on she's been at the casino for 20 years,
13:02 37 and for the last four years walked the floor four times a week, for
13:02 38 somewhere between 2.5 and 5 hours a day.
13:02 39
13:02 40 A. Yes.
13:02 41
13:02 42 Q. If the Commissioner were to accept that evidence, you
13:02 43 agree with me that the daily visits would be about a thousand,
13:02 44 a bit more than a thousand, one or two thousand more visits a day
13:02 45 for 2019?
13:02 46
13:02 47 A. If you were to accept that number but, with respect, this is

13:03 1 hard data coming from 2,500 machines and the tables, so I'm
13:03 2 pretty comfortable that these figures are correct.
13:03 3

13:03 4 Q. Well, no, I've no doubt that column B is correct, I'm talking
13:03 5 about the subsequent columns, there is necessarily an element of
13:03 6 guesswork involved.
13:03 7

13:03 8 A. It's not, no, it's not guesswork. We know the machines
13:03 9 and tables all record how many patron hours are spent there. So
13:03 10 we know whether you are there and playing if you are not carded,
13:03 11 we just don't know who you are. We also know the amount of
13:03 12 revenue that is carded versus uncarded. And 60 per cent
13:03 13 uncarded is not correct.
13:03 14

13:03 15 Q. Sorry, can I ask, Mr Emery, I wasn't aware of that. The
13:03 16 casino is able to monitor the turnover of an uncarded player at
13:03 17 a table game?
13:03 18

13:03 19 A. Not an individual. Not at an individual. We just know the
13:04 20 total amount of turnover for the table or machine.
13:04 21

13:04 22 MR KOZMINSKY: I understand.
13:04 23

13:04 24 Mr Commissioner, I might because I only got this spreadsheet
13:04 25 five minutes before the hearing, want to ask some more questions
13:04 26 about it. Is it possible that the witness be excused for now on the
13:04 27 basis that he might be recalled once I have a chance to look at it
13:04 28 more carefully?
13:04 29

13:04 30 COMMISSIONER: I can, and I'm sure Mr Borsky won't have
13:04 31 any objection, I won't release Mr Emery from his requirement to
13:04 32 attend, I will just adjourn further hearing of his evidence, as long
13:04 33 as you let me know, Mr Kozminsky, soon, whether you want Mr
13:04 34 Emery recalled, I'll then let Mr Emery or Mr Borsky know
13:04 35 whether he will be or will not be recalled, so that he can get on
13:04 36 with his normal business.
13:05 37

13:05 38 MR KOZMINSKY: Sure.
13:05 39

13:05 40 Mr Emery, one more question: the data put into the spreadsheet
13:05 41 here, is that in a single Excel spreadsheet that might be able to be
13:05 42 delivered to the Commission?
13:05 43

13:05 44 A. I don't know. We'd have to check. I believe there might
13:05 45 have been a weekly view I think, originally, and then with some
13:05 46 calculations in there. So, yes, there was a precursor spreadsheet
13:05 47 to this. In terms of the raw data, then no, that can't be supplied.

13:05 1 It was just some code that was run by the analysts.
13:05 2
13:05 3 Q. I understand. Do you think you might be kind enough to
13:05 4 have a look for that particular spreadsheet?
13:05 5
13:05 6 A. Certainly.
13:05 7
13:05 8 Q. If you can find it, perhaps pass it on via your solicitors to
13:05 9 the Commission?
13:05 10
13:05 11 A. Certainly.
13:05 12
13:05 13 MR KOZMINKSY: Thank you.
13:05 14
13:05 15 Nothing further for now, Mr Commissioner.
13:05 16
13:05 17 COMMISSIONER: Thank you, Mr Emery. You may or may not
13:05 18 have to come back, but we'll let you know as soon as we can,
13:06 19 what your position is.
13:06 20
13:06 21 A. Thank you, Commissioner.
13:06 22
13:06 23
13:06 24 **THE WITNESS STOOD DOWN**
13:06 25
13:06 26
13:06 27 COMMISSIONER: All right. We would normally break for
13:06 28 lunch. Just excuse me for one moment. I have to work out when
13:06 29 we are going to take the next witness. Ms Sarah MacLean is our
13:06 30 next witness and she has to be finished by 2.
13:06 31
13:06 32 MR KOZMINSKY: If we start at 1.30, it will be done.
13:06 33
13:06 34 COMMISSIONER: Are you sure?
13:06 35
13:06 36 MR KOZMINSKY: 1.25, Mr Commissioner.
13:06 37
13:06 38 COMMISSIONER: We will adjourn until 1.25.
13:06 39
13:06 40
13:06 41 **ADJOURNED** [1.06PM]
13:06 42
13:06 43
13:28 44 **RESUMED** [1.28PM]
13:28 45
13:28 46
13:28 47 COMMISSIONER: Good afternoon, Mr Kozminsky,

13:28 1 Ms MacLean. Ms MacLean, I can see you have your mute button
13:28 2 on. If you could unmute.
13:28 3
13:28 4 WITNESS: I've done it.
13:28 5
13:28 6 COMMISSIONER: Thank you, that means you can hear me
13:28 7 okay.
13:28 8
13:28 9 WITNESS: Yes.
13:28 10
13:28 11 COMMISSIONER: All right, thank you very much. Mr Kozminsky,
13:28 12 please.
13:28 13
13:28 14
13:28 15 MR KOZMINSKY: I was going to call the witness, but I want to
13:28 16 make sure that Mr Borsky is also ---
13:28 17
13:28 18 MR BORSKY: I'm here, thank you very much.
13:28 19
13:28 20 MR KOZMINSKY: I call Associate Professor Sarah MacLean,
13:28 21 please.
13:29 22
13:29 23
13:29 24 **ASSOCIATE PROFESSOR SARAH JOAN MACLEAN,**
13:29 25 **AFFIRMED**
13:29 26
13:29 27
13:29 28 COMMISSIONER: Thank you very much, Professor. Mr Kozminsky.
13:29 29
13:29 30
13:29 31
13:29 32
13:29 33 **EXAMINATION-IN-CHIEF BY MR KOZMINSKY**
13:29 34
13:29 35
13:29 36 MR KOZMINSKY: Good morning.
13:29 37
13:29 38 A. Hello.
13:29 39
13:29 40 COMMISSIONER: It is the afternoon.
13:29 41
13:29 42 MR KOZMINSKY: Good afternoon, it is. My apologies. Could
13:29 43 you please tell the Commissioner your full name?
13:29 44
13:29 45 A. My name is Dr Sarah Joan MacLean.
13:29 46
13:29 47 Q. And your educational background, so the degrees you hold?

13:29 1
13:29 2 A. Okay. I have an Honours Arts degree, a Master of Arts and
13:29 3 a PhD.
13:29 4
13:29 5 Q. Thank you. And your PhD is in?
13:29 6
13:29 7 A. PhD is in sociology of alcohol and other drugs.
13:29 8
13:30 9 Q. Thank you. You've prepared a submission with others for
13:30 10 this Commission?
13:30 11
13:30 12 A. That's correct. Do you want me to detail who the others
13:30 13 are?
13:30 14
13:30 15 Q. I will do that in a moment. The document ID for the
13:30 16 submission is SUB.0004.0015.0328? Is that the submission?
13:30 17
13:30 18 A. That is the submission we sent to the Commission, that's
13:30 19 correct.
13:30 20
13:30 21 Q. And everything in that submission to the best of your
13:30 22 knowledge is true?
13:30 23
13:30 24 A. To the best of my knowledge, it is true.
13:30 25
13:30 26 MR KOZMINSKY: Mr Commissioner, I tender that submission.
13:30 27
13:30 28 COMMISSIONER: Thank you. That is - I'm just looking to
13:30 29 see if it has a date on it. Give me one second.
13:30 30
13:30 31 A. No, I don't think it does.
13:30 32
13:30 33 COMMISSIONER: You are right.
13:30 34
13:30 35 A. I can find the email where we sent it on if you want me to.
13:30 36
13:30 37 COMMISSIONER: No, no, I need it for identification purposes.
13:30 38 I will refer to it as submission by Associate Professor MacLean
13:31 39 and others. Exhibit 144.
13:31 40
41
42 **EXHIBIT #RC0144 - SUBMISSION BY ASSOCIATE**
43 **PROFESSOR SARAH JOAN MACLEAN AND OTHERS**
44
45
13:31 46 MR KOZMINSKY: Thank you, Commissioner.
13:31 47

13:31 1 Dr MacLean, between 2018 and 2020 you conducted some
13:31 2 research examining the impact of Bingo; is that right?

13:31 3

13:31 4 A. That's correct.

13:31 5

13:31 6 Q. And you did that with some other academics. Could you
13:31 7 tell the Commissioner who they were and a bit about their
13:31 8 background?

13:31 9

13:31 10 A. Okay. It was a team with a number of people involved in
13:31 11 it. I have a background in research concerning
13:31 12 dependency-forming practices, alcohol and other drugs and also
13:31 13 gambling. Kathleen Maltzahn was the research officer on the
13:31 14 project and she conducted the interviews, she has a lot of
13:31 15 experience in community-engaged research. Another member of
13:31 16 the team was Associate Professor Mary Whiteside who has since
13:32 17 retired. She is a social worker. Emerita Professor Helen Lee was
13:32 18 also involved, she is an anthropologist who has done a lot of
13:32 19 work on different cultural contexts and practices such as
13:32 20 gambling. Dr John Cox was also an investigator, and his interest
13:32 21 is in the anthropology of financial systems.

13:32 22

13:32 23 Q. Thank you. And your submission is based on that
13:32 24 research?

13:32 25

13:32 26 A. That is correct.

13:32 27

13:32 28 Q. Who funded the research?

13:32 29

13:32 30 A. The research is funded by the Victorian Responsible
13:32 31 Gambling Foundation.

13:32 32

13:32 33 Q. Just briefly, could you explain in broad terms for the
13:32 34 Commissioner the nature of the research?

13:32 35

13:32 36 A. Okay, the research was designed to look at the impacts of
13:32 37 gambling on three different communities that experience
13:32 38 socio-economic disadvantage. One was, I won't tell you which
13:32 39 all of them were, but one of them was older people on fixed or
13:32 40 low incomes in Melbourne who played Bingo. So there were two
13:32 41 others as well, involving an Aboriginal community and Pacific
13:32 42 Islanders, but the focus of our submission is really on the research
13:33 43 conducted in Melbourne with older people.

13:33 44

13:33 45 Q. Thank you. And I'm right that part of that research
13:33 46 included some observations of Bingo at Crown Casino?

13:33 47

- 13:33 1 A. That's correct. The research included about 66 interviews
13:33 2 with stakeholders or people who played Bingo across the three
13:33 3 sites, and also 12 observational visits and one of those was
13:33 4 conducted in October 2019 at Crown by me and by Associate
13:33 5 Professor Mary Whiteside.
13:33 6
- 13:33 7 Q. Okay. Thank you. And do you recall where in the casino
13:33 8 the Bingo took place?
13:33 9
- 13:33 10 A. Yes, the Bingo was upstairs, I think it was called the
13:33 11 Palladium Hall, above the main hall where the games and the
13:33 12 gaming tables are.
13:33 13
- 13:33 14 Q. Thank you. And Bingo, when you went to participate and
13:33 15 observe, about how many people were playing?
13:33 16
- 13:33 17 A. I obviously didn't count them, but the room - we went at 6
13:33 18 o'clock for the 6 o'clock session, it is a really large room.
13:33 19 Someone said that it could hold 1,000 people, it looked like that
13:34 20 would be about right because there was a lot of tables and seemed
13:34 21 pretty full to me.
13:34 22
- 13:34 23 Q. Based on your observations, could you describe the
13:34 24 demographics of the thousand people that were there?
13:34 25
- 13:34 26 A. Sure. Look, it was mixed. It wasn't quite as low
13:34 27 socio-economic group as other Bingo venues that we visited, but
13:34 28 I would say it was a lot of elderly people, some middle-aged
13:34 29 people were there, and people didn't look particularly wealthy.
13:34 30 Quite a mixed ethnic demographic as well.
13:34 31
- 13:34 32 Q. Thank you. And any distinction between males and
13:34 33 females within the group?
13:34 34
- 13:34 35 A. Mostly women, but some men. Predominantly older
13:34 36 women.
13:34 37
- 13:34 38 Q. Thank you. And in order to play Bingo, I think your
13:34 39 submission says you needed to be a loyalty program member at
13:34 40 Crown; is that right?
13:34 41
- 13:34 42 A. That's correct.
13:34 43
- 13:34 44 Q. And so before your observation were you a member at
13:34 45 Crown Casino?
13:34 46
- 13:34 47 A. No, I wasn't, no. I hadn't been there before.

13:35 1
13:35 2 Q. So you signed up?
13:35 3
13:35 4 A. Yes, we went up and tried to get into the Bingo hall
13:35 5 because we didn't know how the procedures worked, and we
13:35 6 were advised that we needed to go downstairs and sign up before
13:35 7 we were allowed to enter the Bingo hall. So we were directed
13:35 8 downstairs, and in order to get to the sign-up area we had to walk
13:35 9 through the really large hall where they have the gaming tables
13:35 10 and the electronic gambling machines, and then we waited for
13:35 11 a while for the sign up.
13:35 12
13:35 13 Should I proceed with this, Mr Kozminsky?
13:35 14
13:35 15 Q. You can keep going. I will only ask you questions if I need
13:35 16 to. Maybe tell the Commissioner about the sign-up process.
13:35 17
13:35 18 A. I'm drawing here, and I just want to add on my notes,
13:35 19 because we make detailed field notes after these observational
13:35 20 visits, it's not something I remember. I can remember it, but I'm
13:35 21 also informed by my notes.
13:35 22
13:35 23 So when we signed up we had to provide our driver's licence, and
13:35 24 they took a scan of that, and we had to give an email address.
13:35 25 Subsequently I received a lot of promotional emails from Crown
13:36 26 advertising various products. So when we signed up, after we
13:36 27 signed up, we were given two vouchers, one was for the
13:36 28 electronic gaming machines and another one was a voucher for
13:36 29 a gaming table.
13:36 30
13:36 31 Q. Just pausing you for one moment, do you recall the amount
13:36 32 of the ---
13:36 33
13:36 34 A. \$5 each.
13:36 35
13:36 36 Q. Thank you.
13:36 37
13:36 38 A. They asked us not to - we were then wanting to hurry up
13:36 39 and go to the Bingo, but they asked us to wait until someone
13:36 40 could usher us over to the tables. So one of the staff members
13:36 41 turned up, took us over to one of the tables, and took our
13:36 42 vouchers and exchanged them for I think chips, for chips on the
13:36 43 gaming tables, and explained that we could come back to that
13:36 44 table and game after the Bingo was concluded, if we wanted to.
13:36 45 So after that we made our way up to the Bingo hall.
13:36 46
13:37 47 Q. And your submission records there were three Bingo times,

13:37 1 one being ---
13:37 2
13:37 3 A. That's correct, yep. That was from the internet. There was
13:37 4 1, 3 and 6. So we went to the latest one.
13:37 5
13:37 6 Q. And how much did it cost to play the Bingo?
13:37 7
13:37 8 A. Nothing. It was free.
13:37 9
13:37 10 Q. And how long did the 6 o'clock Bingo session run for?
13:37 11
13:37 12 A. I think it went for about 35 minutes.
13:37 13
13:37 14 Q. Based on other observations during your research, is that
13:37 15 a longer period or shorter period?
13:37 16
13:37 17 A. It is quite a lot shorter. Most of them will run more games
13:37 18 with a couple of breaks and they will usually go over a two-hour
13:37 19 period rather than the about a half-hour period the Crown Bingo
13:37 20 went for.
13:37 21
13:37 22 Q. In terms of the prizes given for Bingo at the casino, what
13:37 23 were the amounts, the dollar value of the prizes at the casino and
13:37 24 how was that compared to an RSL, for example?
13:37 25
13:37 26 A. Sure. They vary a lot. And also some of the prizes offered
13:37 27 at the big Bingo halls are quite substantial as well, but when we
13:38 28 were there the prizes started, I think, at \$100 and doubled to \$200
13:38 29 halfway through the games, and the last prize was for \$1,000.
13:38 30 There was also mention that if the last number called, I think was
13:38 31 86, then that would be a \$9,000 prize for whoever called Bingo
13:38 32 when that happened. But it didn't land on 86, so nobody won that
13:38 33 \$9,000. But somebody did win the \$1,000.
13:38 34
13:38 35 Q. At an RSL, what would the prizes look like for Bingo by
13:38 36 comparison?
13:38 37
13:38 38 A. It varies but it is a lot less. For example, we went to a small
13:38 39 RSL in suburban Melbourne and the top prize there was \$181. It
13:38 40 was a very comparable time frame. Within weeks of the Crown
13:38 41 visit.
13:38 42
13:38 43 Q. After the 6 pm Bingo session finished, did you then witness
13:38 44 Bingo participants going to the gaming floor to gamble?
13:38 45
13:38 46 A. Well, we were really interested in that. And when it
13:39 47 finished everyone got up really quickly, and we estimated about

13:39 1 70 per cent of people went down straight away to the gaming
13:39 2 hall. There was like a tidal wave of people moving into the hall
13:39 3 below the Bingo room. And we actually asked the people next to
13:39 4 us as well, and they said that usually they would - they didn't
13:39 5 have to, but usually they would play EGMs or gaming when they
13:39 6 visited the Bingo at Crown.

13:39 7
13:39 8 Q. I understand.

13:39 9
13:39 10 Dr MacLean, at page 3 of the submission there are some quotes
13:39 11 that I will take you to of individuals who you spoke to. I just
13:39 12 want to ask, how is it you were able to recite in the submissions
13:39 13 verbatim what was said?

13:39 14
13:39 15 A. Because as part of the ethical approval for the project we
13:39 16 had consent to record interviews with people. So they were
13:39 17 digitally recorded and transcribed.

13:39 18
13:39 19 Q. Thank you. So in the second paragraph there is reference
13:40 20 to a couple in their 70s who said Bingo was offered as
13:40 21 an enticement to get people through the door. "They give them
13:40 22 something free." "They", I assume is Crown?

13:40 23
13:40 24 A. Yes.

13:40 25
13:40 26 Q.
13:40 27
13:40 28 *..... and they go in by busloads. They really want them in*
13:40 29 *to play pokies but offer Bingo just to get them there.*

13:40 30
13:40 31 Is that consistent with the research of you and your colleagues?

13:40 32
13:40 33 A. Yes, it is consistent.

13:40 34
13:40 35 Q. Your submission records that other participants explained
13:40 36 that breaks over two hours between the Bingo sessions
13:40 37 encouraged the participants to try out other forms of gambling?

13:40 38
13:40 39 A. They weren't quite two hours because it was half an hour of
13:40 40 Bingo and then 1.5 hours of other time.

13:40 41
13:40 42 Q. Precisely, and that is consistent with your research and
13:40 43 observations?

13:40 44
13:40 45 A. Yes, that's correct.

13:40 46
13:40 47 Q. Another participant in her 60s said this in an interview

13:40 1 about her friend of hers:

13:40 2

13:40 3 *She also loved to play Bingo but we play Bingo after that*

13:40 4 *I say, 'Come on, let's go, you know, I don't want to stay*

13:41 5 *here', and when I'm there she will listen. But once she*

13:41 6 *goes to the casino to play Bingo she will stay on and she*

13:41 7 *will tell me 'Oh, dear, I lost \$600 yesterday and I lost so*

13:41 8 *much'."*

13:41 9

13:41 10 Is that something, a theme that came up regularly during the

13:41 11 course of your research?

13:41 12

13:41 13 A. We weren't specifically asking about Crown, but the people

13:41 14 who - this is one of the people who mentioned Crown, but, yes,

13:41 15 it was a theme in relation to the more expensive kinds of Bingo

13:41 16 that people played. It was certainly a reflection that a couple of

13:41 17 the participants brought up without being asked about Crown.

13:41 18

13:41 19 Q. Thank you. I have one final topic, Dr MacLean. The

13:41 20 submission you've explained is based on research you undertook?

13:41 21

13:41 22 A. That's correct.

13:41 23

13:41 24 Q. So I assume there is a detailed journal article or paper

13:41 25 prepared for your research?

13:41 26

13:41 27 A. Yes, that's correct. We have a number of papers under

13:41 28 review at the moment, and we've produced a report to the

13:41 29 Victorian Responsible Gambling Foundation. My understanding

13:42 30 is that is sitting on the Minister's desk for noting.

13:42 31

13:42 32 Q. So I understand, when did it go to the Minister or the

13:42 33 Foundation?

13:42 34

13:42 35 A. It went to the Foundation in April of 2020. And I'm not

13:42 36 sure when it went to the Minister.

13:42 37

13:42 38 Q. Since that time you've been waiting for it to be noted?

13:42 39

13:42 40 A. That's correct, yes.

13:42 41

13:42 42 Q. After that it will be in a position to be published?

13:42 43

13:42 44 A. Yes, we hope so.

13:42 45

13:42 46 Q. Do you know what has caused the delay?

13:42 47

13:42 1 A. I am not absolutely sure, but we are really anxious to have
13:42 2 it released and to have it play a part in the policy process.
13:42 3
13:42 4 MR KOZMINSKY: Thank you.
13:42 5
13:42 6 Mr Commissioner, unless you have any further questions, they
13:42 7 are the questions I have for Dr MacLean.
13:42 8
13:42 9 COMMISSIONER: No, I don't have any.
13:42 10
13:42 11 Mr Borsky, do you have any questions? Before I hear from you,
13:42 12 Mr Borsky, I assume that neither Mr Rozen nor Mr Gray want to
13:42 13 ask the professor any questions?
13:42 14
13:43 15 MR ROZEN: That's correct, Commissioner, and thank you.
13:43 16
13:43 17 COMMISSIONER: Mr Gray?
13:43 18
13:43 19 MR GRAY: That's correct also from me.
13:43 20
13:43 21 COMMISSIONER: Thank you very much. Mr Borsky?
13:43 22
13:43 23
13:43 24
13:43 25 MR BORSKY: I don't have any questions for this witness either,
13:43 26 thanks, Commissioner.
13:43 27
13:43 28 COMMISSIONER: Thank you all very much. Thank you,
13:43 29 Professor, for taking the time out. I know you had to get away at
13:43 30 2, so we've met your timetable pretty well, I hope.
13:43 31
13:43 32 A. That's brilliant. Thank you very much.
13:43 33
13:43 34
13:43 35 **THE WITNESS WITHDREW**
13:43 36
13:43 37
13:43 38 COMMISSIONER: Thank you. I might adjourn for another 20
13:43 39 minutes if that suits everybody - we'll come back at 2 o'clock. I
13:43 40 just want to make sure that the next witness is available at 2, and
13:43 41 if the witness is not available at 2, I'll let everybody know one
13:43 42 way or another. But I think 2 o'clock works.
13:43 43
13:44 44 Mr Finanzio, do you know when?
13:44 45
13:44 46 MR FINANZIO: The next witness will be available at 2 o'clock.
13:44 47

13:44 1 COMMISSIONER: All right. Thank you very much. I will
13:44 2 adjourn until 2.00 and we will come back then. Thank you.
13:44 3
13:44 4 MR FINANZIO: Thank you.
13:44 5
13:44 6
13:44 7 **ADJOURNED** [1.44PM]
14:01 8
14:01 9
14:01 10 **RESUMED** [2.01PM]
14:01 11
14:01 12
14:01 13 COMMISSIONER: Mr Finanzio, you are online and Mr Lucas,
14:01 14 can you hear me?
14:01 15
14:01 16 WITNESS: I can hear you perfectly well, Commissioner, thank
14:01 17 you.
14:01 18
14:01 19 COMMISSIONER: Thank you.
14:01 20
14:01 21 Mr Finanzio, you can hear me and Mr Lucas?
14:01 22
14:01 23 MR FINANZIO: I can, Commissioner. Yes, I can.
14:01 24
14:01 25 COMMISSIONER: Thank you very much. Over to you,
14:01 26 Mr Finanzio.
14:01 27
14:01 28 MR FINANZIO: I call Mr Lucas.
14:01 29
14:01 30 WITNESS: Good afternoon.
14:02 31
14:02 32
14:02 33 **MR SHANE PETER LUCAS, AFFIRMED**
14:02 34
14:02 35
14:02 36 COMMISSIONER: Thank you, Mr Lucas. Mr Finanzio?
14:02 37
14:02 38
14:02 39 **EXAMINATION-IN-CHIEF BY MR FINANZIO**
14:02 40
14:02 41
14:02 42 MR KOZMINSKY: Thank you, Commissioner.
14:02 43
14:02 44 Mr Lucas, is your full name Shane Peter Lucas?
14:02 45
14:02 46 A. That's correct.
14:02 47

- 14:02 1 Q. Is your current occupation the Chief Executive Officer of
14:02 2 the Victorian Responsible Gambling Foundation?
14:02 3
14:02 4 A. That's correct.
14:02 5
14:02 6 Q. What is your professional address, sir?
14:02 7
14:02 8 A. 14-20 Blackwood Street, North Melbourne.
14:02 9
14:02 10 Q. I understand you have prepared a witness statement in
14:02 11 response to a request made by the Commission. But I understand
14:02 12 there are some corrections you wish to make to it; is that correct?
14:02 13
14:03 14 A. That's correct.
14:03 15
14:03 16 Q. I understand that the first correction is to paragraph 28.4.3?
14:03 17
14:03 18 A. That's correct, and it was to delete the final sentence of that
14:03 19 commencing with "For clarity" and ending with "not the GR
14:03 20 Act".
14:03 21
14:03 22 Q. Yes. So you wish to delete the last --
14:03 23
14:03 24 A. The last sentence of 28.4.3.
14:03 25
14:03 26 Q. The second change is at paragraph 91.
14:03 27
14:03 28 A. That's correct, this is was to make an addition at the end of
14:03 29 paragraph 91. So I have handwritten on my own statement, I can
14:03 30 read it into the record if that's what I'm required to do.
14:03 31
14:03 32 Q. Yes, if you could, please.
14:03 33
14:03 34 A. It should say:
14:03 35
14:03 36 *When a person reaches the limit that they have set on*
14:04 37 *YourPlay, the EGM will switch from unrestricted mode to*
14:04 38 *Crown's restricted mode.*
14:04 39
14:04 40 End of sentence.
14:04 41
14:04 42 COMMISSIONER: Can I get you to repeat that for me slowly,
14:04 43 Mr Lucas, please.
14:04 44
14:04 45 A. Sorry, Commissioner.
14:04 46
14:04 47 *When a person reaches the limit that they have set on*

14:04 1 *YourPlay, the EGM will switch from unrestricted mode to*
14:04 2 *Crown's restricted mode.*
14:04 3
14:04 4 COMMISSIONER: Thank you.
14:05 5
14:05 6 MR FINANZIO: Thank you. With those corrections, do you
14:05 7 adopt the statement as your evidence?
14:05 8
14:05 9 A. Yes, I do.
14:05 10
14:05 11 COMMISSIONER: I will mark the statement of Shane Peter
14:05 12 Lucas dated 10 May 2021 Exhibit 145.
14:05 13
14:05 14
14:05 15 **EXHIBIT #RC0145 - STATEMENT OF MR SHANE PETER**
14:05 16 **LUCAS WITH EXHIBITS DATED 10 MAY 2021**
14:05 17
14:05 18
14:05 19 MR FINANZIO: Now, the statement refers to a number of
14:05 20 exhibits ---
14:05 21
14:05 22 COMMISSIONER: The Exhibit will be Mr Lucas's statement
14:05 23 with the attached exhibits.
14:05 24
14:05 25 MR FINANZIO: Thank you.
14:05 26
14:05 27 Mr Lucas, you are presently the CEO of the VRGF?
14:05 28
14:05 29 A. Yes, I am.
14:05 30
14:05 31 Q. I just want to introduce you and your experience to the
14:05 32 Commission. At paragraph 8 of your report you set out that you
14:05 33 were, between 2013 and 2017, the CEO of the Early Learning
14:06 34 Association of Australia?
14:06 35
14:06 36 A. That's correct.
14:06 37
14:06 38 Q. Then before that the Global Head of Sustainable
14:06 39 Development for ANZ Banking Group?
14:06 40
14:06 41 A. From 2010 to 2012, yes.
14:06 42
14:06 43 Q. You've held a position as a member of the Victorian
14:06 44 Foundation for Survivors of Torture; is that so?
14:06 45
14:06 46 A. Yes, I joined the Board of that organisation August last
14:06 47 year.

- 14:06 1
14:06 2 Q. For a period between December 2017 and March 2019, you
14:06 3 were also a Member of the Commonwealth Administrative
14:06 4 Appeals Tribunal; is that so?
14:06 5
14:06 6 A. Yes, I was, I was a full-time member in the Migration
14:06 7 Division.
14:06 8
14:06 9 Q. For a period you've had a role at Deakin University
14:06 10 between 2011 and 2016?
14:06 11
14:06 12 A. Yes. I was a member of the advisory - one of the advisory
14:06 13 boards there that looked at their Master of Public Policy Program,
14:06 14 gave advice to the faculty.
14:06 15
14:06 16 Q. Before 2010 you held a number of positions at different
14:07 17 levels in the State Government; is that so?
14:07 18
14:07 19 A. That's right. For a decade or thereabouts I had a range of
14:07 20 different roles in the State Government.
14:07 21
14:07 22 Q. I want to start by asking you questions about the Victorian
14:07 23 Responsible Gambling Foundation and its structure. As CEO of
14:07 24 the VRGF, you report direct to the Board?
14:07 25
14:07 26 A. That's correct. Under our legislation we have
14:07 27 an independent Board to whom I report.
14:07 28
14:07 29 Q. Can you explain to the Commission the Board
14:07 30 composition?
14:07 31
14:07 32 A. So there are 11 Board members in total, though to be
14:07 33 completely accurate, as at the end of today there will be 10
14:07 34 because one Board member has stepped down in recent days. We
14:07 35 have 8 of those 11 members are appointed by Governor and
14:07 36 Council via the Minister For Gambling and Liquor Regulation,
14:07 37 and three members are elected members of the Victorian State
14:08 38 Parliament, in the Lower House in each case.
14:08 39
14:08 40 Q. Now, paragraph 11 of your statement sets out the functions
14:08 41 of the Foundation and paragraph 13, as I read it, extracts parts of
14:08 42 section 6 which sets out each of the different functions that are
14:08 43 ascribed to the Foundation.
14:08 44
14:08 45 A. Yes, that's correct.
14:08 46
14:08 47 Q. I just want to focus on a few of them. The first one at (a) in

- 14:08 1 paragraph 13 is to:
14:08 2
14:08 3 *..... undertake preventative and other activities to address*
14:08 4 *the determinants of problem gambling;*
14:08 5
14:08 6 A. That's correct.
14:08 7
14:08 8 Q. There is an education function at sub-paragraph (b).
14:08 9
14:09 10 A. (Nods head).
14:09 11
14:09 12 Q. At sub-paragraph (d) the Foundation also has the function
14:09 13 of providing information and advice to decision-makers in the
14:09 14 gambling space; is that correct?
14:09 15
14:09 16 A. That's correct.
14:09 17
14:09 18 Q. What does that usually involve?
14:09 19
14:09 20 A. It would involve two principal functions: one is our advice
14:09 21 to the regulator, to the VCGLR, which might be on a range of
14:09 22 issues that they seek our expert assistance on, but it might also go
14:09 23 to particular applications for new electronic gambling machines,
14:09 24 in particular LGAs. And the other core component of that is
14:09 25 advice into the Department of Justice and Community Safety, and
14:09 26 hence effectively to the Minister of Gambling and Liquor
14:10 27 Regulation.
14:10 28
14:10 29 Q. And section 6(i)(f) also confers upon the VRGF the
14:10 30 function to undertake research and evaluation activities related to
14:10 31 those functions.
14:10 32
14:10 33 A. That's right. So we fund many researchers in this particular
14:10 34 space. We also from time to time conduct small research
14:10 35 activities of our own, but the principal component of our research
14:10 36 is research undertaken by people like Professor MacLean who
14:10 37 appeared before the Commission earlier today, and other
14:10 38 educational institutions.
14:10 39
14:10 40 Q. Now, at paragraph 15 you say that the board is accountable
14:10 41 to the Minister for Consumer Affairs, Gaming and Liquor
14:10 42 Regulation. I just want to ask you to expand upon what you
14:10 43 mean by that, and in what ways are you accountable, and what
14:10 44 does that look like.
14:10 45
14:10 46 A. So the Minister is our responsible Minister in our portfolio.
14:10 47 We have a regular dialogue with the Minister through our Board

14:11 1 Chair. The Minister, for example, approves our annual business
 14:11 2 plan, obviously subject or subsequent to being approved by the
 14:11 3 Board, and the Minister might from time to time write to the
 14:11 4 Foundation with particular requests or to outline her strategic
 14:11 5 objectives for our work.

14:11 6

14:11 7 Q. The funding of the Foundation comes from the Responsible
 14:11 8 Gambling Fund. Can you explain how that fund operates and
 14:11 9 what the source of the funding is?

14:11 10

14:11 11 A. I probably can't answer the technical aspects of the funding
 14:11 12 arrangement. But the Responsible Gambling Fund, as I
 14:11 13 understand, derives funding through government taxation,
 14:11 14 specifically government taxation on gambling, and then we are
 14:11 15 funded in a four-year cycle. Unlike many other authorities and
 14:12 16 departments, we only go through what's called the Expenditure
 14:12 17 Review Committee of Cabinet on a four-yearly basis, and they
 14:12 18 then award us a package of four years' funding which obviously is
 14:12 19 then divided up according to the forward estimates, and we base
 14:12 20 our annual budgets on that.

14:12 21

14:12 22 Q. Now, you say at 17 that:

14:12 23

14:12 24 *The Foundation has no regulatory powers and no*
 14:12 25 *statutory power to compel the provision of gambling data.*

14:12 26

14:12 27 A. That's correct.

14:12 28

14:12 29 Q. But at 18 you say:

14:12 30

14:12 31 *From time to time, the Foundation receives data on*
 14:12 32 *gambling entities*

14:12 33

14:12 34 I wonder if you can explain to the Commissioner how that
 14:12 35 functions or works.

14:12 36

14:12 37 A. So, principally we receive data via the regulator, that is the
 14:12 38 Intralot data that comes - that looks at electronic gambling
 14:13 39 machines across the State with the exception of the casino. So
 14:13 40 we will receive data that can tell us what is effectively going on
 14:13 41 in that space, but the Intralot agreement in that instance is not
 14:13 42 with the casino. So that's one form of data that we receive from
 14:13 43 memory on a weekly basis. And then on a monthly basis, we also
 14:13 44 receive point-of-consumption tax data. That is a more recent
 14:13 45 source that really has come up over the last 12 to 15 months
 14:13 46 during the pandemic. The point-of-consumption tax data looks at
 14:13 47 the online gambling activity of Victorians, and officially it comes

14:13 1 from the Department of Treasury and Finance. We actually
14:13 2 receive it via the Department of Justice and Community Safety.
14:13 3 They are the principal two data sources that we get within
14:13 4 government and from those entities.

14:13 5
14:13 6 Q. Do you ---

14:13 7
14:13 8 COMMISSIONER: Sorry to interrupt, do you get any data at all
14:14 9 for your research purposes from the Melbourne casino?

14:14 10
14:14 11 A. No.

14:14 12
14:14 13 COMMISSIONER: Are you able to explain to me why
14:14 14 Melbourne casino is excluded from the sources of information
14:14 15 that is otherwise available to the Foundation?

14:14 16
14:14 17 A. No, I'm not, Commissioner. The casino has a different set
14:14 18 of legislative arrangements in large part. But as to why, I don't
14:14 19 know.

14:14 20
14:14 21 COMMISSIONER: Thank you.

14:14 22
14:14 23 MR FINANZIO: All right. And at paragraph 19 you talk about
14:14 24 the facilitation of the provision of data and other material being
14:14 25 established by a Memorandum of Understanding between the
14:14 26 Foundation and the VCGLR. Can you just explain --- I know this
14:15 27 precedes the commencement of your time at the VRGF, I think
14:15 28 you commenced in late 2019, if I'm not ---

14:15 29
14:15 30 A. March 2019.

14:15 31
14:15 32 Q. Pardon me, March 2019. Can you explain to the
14:15 33 Commissioner the nature of the MOU and why it came into
14:15 34 existence?

14:15 35
14:15 36 A. Certainly as I understand it, and I have spoken to my
14:15 37 predecessor on this matter as well, it was really wanting to
14:15 38 formalise what was a very positive relationship between the
14:15 39 Foundation and the regulator, where there was quite a lot of
14:15 40 information sharing, et cetera, but there was no fundamental
14:15 41 framework to govern that relationship. So that, to my
14:15 42 understanding, was the rationale, it was to really put into place
14:15 43 a framework so that staff in both organisations know that there is
14:15 44 an expectation that they will provide and be responsive to
14:15 45 requests for information and data.

14:15 46
14:16 47 Q. Is it right to say that broadly speaking, there is a free flow

14:16 1 of data between the VCGLR and the VRGF for the VRGF to
14:16 2 fulfil its functions?

14:16 3

14:16 4 A. In large part, yes, I would say that.

14:16 5

14:16 6 Q. When you say "in large part", what are the gaps?

14:16 7

14:16 8 A. I probably wouldn't use the expression "free flow". There
14:16 9 are arrangements in place around some aspects, and then there
14:16 10 might be issues that we need to have a conversation perhaps to
14:16 11 make sure that the regulator understands the purpose for why we
14:16 12 are seeking a particular piece of illumination.

14:16 13

14:16 14 Q. Is it possible to extrapolate on that by giving some
14:16 15 examples about what a constraint on information might be?

14:16 16

14:16 17 A. Well, for example, if the Commission is looking at
14:16 18 a particular application by a venue to provide -establish new
14:17 19 EGMs in a particular municipality, we will respond to requests
14:17 20 from the regulator for any intelligence we could have, especially
14:17 21 around obviously our remit, gambling harm, and we will be very
14:17 22 open with that. We would not expect the Commission, however,
14:17 23 and it wouldn't be appropriate, for the Commission to then share
14:17 24 with us always the rationale ultimately for its decision. There is
14:17 25 an acknowledgement and respect of different roles, that's really
14:17 26 what I mean, counsel.

14:17 27

14:17 28 Q. What are the main sources of data? And when I say "data"
14:17 29 here, I mean the collection of data from studies that are of most
14:17 30 interest to the Foundation.

14:17 31

14:17 32 A. Can you be a bit more specific?

14:17 33

14:17 34 Q. I suppose you mentioned before the Intralot data that is
14:17 35 made available. Are there other types of data like that that is of
14:18 36 interest to the foundation?

14:18 37

14:18 38 A. We would have a great interest in knowing more about the
14:18 39 YourPlay data. That is not a data set that we've ever had access
14:18 40 to. But I know that there is certainly within the Department of
14:18 41 Justice and Community Safety, I don't believe there is
14:18 42 an unwillingness to explore how we might be able to get access
14:18 43 to that YourPlay data from time to time. Certainly with regard to
14:18 44 the casino, as I said in response to the earlier question from the
14:18 45 Commissioner, we have no data from the casino, and no even real
14:18 46 understanding of what data the casino collects. So that would
14:18 47 also be of great interest to us.

14:18 1
14:18 2 Q. Commencing at paragraph 20, under the heading "The
14:18 3 Foundation's Work", you describe in practical terms how it is that
14:18 4 the Foundation fulfils its statutory functions.
14:18 5
14:19 6 A. Yes.
14:19 7
14:19 8 Q. You in substance start with the notion that the Foundation's
14:19 9 vision is a Victoria free from gambling-related harm. You go on
14:19 10 in the statement to describe different terms used, the
14:19 11 nomenclature used in this context.
14:19 12
14:19 13 Commissioner, I wasn't proposing to read these out. I know that
14:19 14 you've had the opportunity to read the statement, so I might move
14:19 15 over these parts for now --
14:19 16
14:19 17 COMMISSIONER: (Nods head).
14:19 18
14:19 19 MR FINANZIO: --- but I wanted to draw the witness's attention
14:19 20 to paragraph 26, where you describe the Foundation having
14:19 21 adopted a public health approach, and I wonder if you might just
14:19 22 explain that, pardon me, to the Commissioner and what that
14:19 23 means.
14:20 24
14:20 25 A. Thank you. Probably as a presage to that, I would note in
14:20 26 24 that taking a public health approach to our work has been
14:20 27 about trying to change the paradigm about how gambling is
14:20 28 understood in society. To take a public health approach really is
14:20 29 to look at issues around gambling at a population level in much
14:20 30 the same way as we might look at issues associated with alcohol
14:20 31 or tobacco over time, rather than to look purely at the individual
14:20 32 that is experiencing gambling harm. Let's look at it from
14:20 33 a context of people, and how people are impacted by gambling
14:20 34 harm, both the gambler themselves but also the many persons
14:20 35 associated with that gambling and in return affected others.
14:20 36
14:20 37 A public health approach also means looking at it from a place
14:20 38 perspective, ie the place in which gambling is served to gamblers
14:21 39 and involves looking at products. Products are clearly
14:21 40 an important part of understanding how gambling harm can arise
14:21 41 and research, such as outlined in my colleague Rosa Billi's
14:21 42 statement to the Commission, research is clear that some
14:21 43 gambling products can be more harmful than others. So, by
14:21 44 looking at it through that lens of people and place and product,
14:21 45 that is what we mean by trying to take a broader public health
14:21 46 approach.
14:21 47

14:21 1 Q. Thank you. At paragraph 28 you set out in a number of
14:21 2 sub-paragraphs the different work that the Foundation does in
14:21 3 practical terms to fulfil its function. The first is research. And
14:21 4 I think that speaks for itself. The second is the monitoring of the
14:21 5 gambling environment. Can you just explain how the foundation
14:22 6 does that?

14:22 7
14:22 8 A. So within the office of the CEO we have a small dedicated
14:22 9 knowledge and policy branch. Their task, really is, in that
14:22 10 expression, to monitor the gambling environment. So as issues
14:22 11 arise, for example, as I mentioned before, the
14:22 12 point-of-consumption tax data has become an essential
14:22 13 component of us understanding the otherwise quite-opaque
14:22 14 online gambling environment, and to be able to make suggestions
14:22 15 to the Government at federal level as well as to how that might be
14:22 16 better monitored. It involves being aware of issues that arise in
14:22 17 the community, and they again might go to particular applications
14:22 18 for new EGMs in communities where perhaps the community is
14:22 19 less interested in having less EGMs, and so local governments or
14:22 20 other bodies might come to us for information and research. That
14:22 21 is where that function really tries to also look at our research and
14:23 22 evidence base, and make that available to the broader community
14:23 23 as part of one of our functions.

14:23 24
14:23 25 Q. At 28.3 you deal with community awareness, and 28.4
14:23 26 community-led programs, and 28.5, treatment and support
14:23 27 services, and subsequently professional development. How
14:23 28 integral to all of those functions is the research function that the
14:23 29 Foundation has?

14:23 30
14:23 31 A. It is clearly very critical, the research and evaluation
14:23 32 functions. The research - gambling harm research in the
14:23 33 context of academia is a new and evolving field. It is 10 to 20
14:24 34 years. So the researchers are trying to understand the issues at
14:24 35 the population level, trying to understand gambling harm in its
14:24 36 many forms is really critical to the sorts of programs we might
14:24 37 seek to develop and deliver, as is evaluation of the programs so
14:24 38 that we know what is working, what needs to be done differently,
14:24 39 whether there might be other areas we need to focus.

14:24 40
14:24 41 Q. Thank you. At paragraph 30, underneath the heading
14:24 42 "Interactions between the Foundation and Crown", you
14:24 43 commence a section of your statement which sets out the
14:24 44 different ways in which the Foundation interacts with Crown. By
14:24 45 my count there is about six of them. I would like you to take the
14:24 46 Commission through the different ways that you interact with
14:24 47 Crown.

14:24 1
14:24 2 A. Okay. So, I will proceed in the order of the submission if
14:24 3 that's most helpful.
14:24 4
14:24 5 Q. Yes.
14:24 6
14:24 7 A. So, firstly, there at 30.1 we talk about Crown's involvement
14:25 8 with Responsible Gambling Awareness Week, as it used to be
14:25 9 known, and now called Gambling Harm Awareness Week, which
14:25 10 it has been called since 2018. Crown has been a member
14:25 11 previously of the steering committee for that particular week,
14:25 12 which is really an awareness raising series of activities. They are
14:25 13 no longer a formal member of the committee because we've
14:25 14 changed the structure somewhat. They still participate and they
14:25 15 will display materials at the casino, et cetera, during the course of
14:25 16 that week.
14:25 17
14:25 18 There is also, subsequently in 30.2, a description of integration
14:25 19 that occurs between Crown and the Gambler's Help agencies that
14:25 20 we fund. So when Crown makes referrals from its Responsible
14:25 21 Gaming Centre, those people are referred to a Gambler's Help
14:25 22 service, wherever is convenient to that individual. There is also
14:26 23 the Responsible Gambling Ministerial Advisory Council on
14:26 24 which I sit and which Crown and a range of other organisations
14:26 25 both from industry and the community also sit.
14:26 26
14:26 27 There is a Gambling Industry Leaders' Forum, which my
14:26 28 predecessor commenced in mid-2018, which the list of members
14:26 29 is in the submission there. Crown participates in that forum,
14:26 30 which is really an attempt to have a high-level conversation about
14:26 31 issues to do with gambling harm that might, where there may
14:26 32 be some commonality, especially around industry's perspective
14:26 33 and where we can obviously give our perspective on how
14:26 34 gambling harm might be better reduced and better addressed
14:26 35 by those organisations in their different settings. There is also
14:26 36 a second-tier Gambling Industry Forum.
14:26 37
14:26 38 Q. Before you move on to the Gambling Industry Forum, I was
14:26 39 interested in one of the matters raised in the discussions of the
14:27 40 Gambling Industry Leader's Forum.
14:27 41
14:27 42 A. Yes.
14:27 43
14:27 44 Q. At paragraph 36, a meeting on 21 March 2019, where there
14:27 45 was a discussion about the opportunities and challenges for
14:27 46 reducing gambling harm by reason of the prospect of moving to
14:27 47 cashless gaming in venues. And I would like you to just expand

14:27 1 upon what those opportunities and challenges were, please.

14:27 2

14:27 3 A. So cashless gaming is something that some industry
14:27 4 organisations more than others have wanted to move towards,
14:27 5 principally I think as a reflection of the broader retail
14:27 6 environment in which we live that has become much more
14:27 7 cashless, if that is a good conception.

14:27 8

14:28 9 So, we've always felt, and the research on this point is reasonably
14:28 10 clear, that cashless gambling could certainly come with
14:28 11 significant risk of gambling harm, of increasing gambling harm.
14:28 12 The frictionless nature of the transaction, and the difficulty of
14:28 13 potentially observing the money you are expending, could
14:28 14 certainly put persons who are at risk of gambling harm we feel, at
14:28 15 more risk of gambling harm.

14:28 16

14:28 17 That said, and I don't pretend to be an expert in the technology
14:28 18 around this issue, there does appear to be a lot of technological
14:28 19 advancement in the cashless space that could potentially make
14:28 20 cashless forms of gaming, carded gaming in some form,
14:28 21 potentially easier to monitor a person's expenditure and a person's
14:28 22 behaviours.

14:28 23

14:28 24 So it is an evolving issue. As you see there back in March 2019,
14:29 25 it was certainly a topic at a high level. I think through the course
14:29 26 of the pandemic it has possibly become another issue.

14:29 27

14:29 28 Q. So you would say, when I say "you", the Foundation, would
14:29 29 take the view that a move to cashless presents opportunities to
14:29 30 assist in monitoring gambling behaviour for the purposes of
14:29 31 research into problem gambling behaviour, but it should be done
14:29 32 cautiously to ensure it doesn't create a problem?

14:29 33

14:29 34 A. That is exactly correct. We've got a very clear policy
14:29 35 position on this matter. If we are going to be moving towards
14:29 36 cashless forms of gambling, they need to be developed and seen
14:29 37 through a gambling harm reduction lens, not through
14:29 38 a convenience lens, or through just that's the transactional nature
14:30 39 that the economy has moved in, those two issues are relevant, but
14:30 40 it should be seen through a gambling harm reduction lens as
14:30 41 an opportunity.

14:30 42

14:30 43 Q. And was Crown a participant in those discussions in March
14:30 44 2019?

14:30 45

14:30 46 A. From - I could probably check the minute, but from
14:30 47 recollection Crown wasn't in attendance at that meeting.

14:30 1
14:30 2 Q. Okay. All right. You were going to move on to paragraph
14:30 3 37, the Gambling Industry Forum. Could you just explain the
14:30 4 nature of that forum, please?
14:30 5
14:30 6 A. That is a forum that is at a next level down the management
14:30 7 chain forum. There is both an online forum for online providers
14:30 8 of gambling products and a land-based forum for the casino and
14:30 9 for Australian Hotels Association, et cetera, who I believe are
14:31 10 offering gambling services in a land-based venue. That group
14:31 11 looks at a lot of you might say, operational issues. How can we
14:31 12 better improve referral processes, for example. It is really
14:31 13 a consultation forum and looks to, as I say, pick up issues that
14:31 14 might be operationally challenging and there might be some
14:31 15 commonality in how we could address them.
14:31 16
14:31 17 Q. Okay. I think you've mentioned already Crown's
14:31 18 involvement in the Responsible Gambling Awareness Week.
14:31 19
14:31 20 A. I have.
14:31 21
14:31 22 Q. We won't dwell on that. The next topic dealt with in your
14:31 23 statement is the Sixth Casino Review. I wonder if you could just
14:31 24 explain your involvement, or the Commission's involvement -
14:31 25 pardon me, the Foundation's involvement in the Sixth Casino
14:31 26 Review?
14:31 27
14:31 28 A. Yes, I will do that to the best of my ability, noting that a lot
14:32 29 of this occurred prior to my appointment --
14:32 30
14:32 31 Q. Right.
14:32 32
14:32 33 A. --- but I am obviously basing this on my advice of
14:32 34 colleagues.
14:32 35
14:32 36 My understanding is we were asked to provide a submission into
14:32 37 the development of the Sixth Casino Review, which we did in
14:32 38 2017 and when the review or the report was concluded there were
14:32 39 two specific recommendations that requested the foundation to
14:32 40 provide expert advice and support to the regulator, which were
14:32 41 Recommendations 10 and 11. And we did that. So there were
14:32 42 a series of tripartite meetings that are set out in my exhibits.
14:32 43
14:32 44 Q. So can I ask you, at paragraph 48 you mention -47 and 48
14:32 45 you mention that a submission was given to, or made to, the
14:33 46 VCGLR?
14:33 47

14:33 1 A. Yes.
14:33 2
14:33 3 Q. Commissioner, that is in the tender bundle at tab 48. It
14:33 4 might be the easiest place for you to find it. It is also a document
14:33 5 exhibited at tab 33 of Mr Lucas's statement. Do you have that
14:33 6 there?
14:33 7
14:33 8 COMMISSIONER: I have it, yes.
14:33 9
14:33 10 MR FINANZIO: I appreciate, Mr Lucas, you weren't at Victorian
14:33 11 Responsible Gambling Foundation at the time that this was made,
14:33 12 but to familiarise the Commissioner with it, it is a statement
14:33 13 which - it is a submission which set out the background to the
14:33 14 role and function of the VRGF and then made, under a number of
14:34 15 different topics, raised a number of questions for the reviewers to
14:34 16 examine in the course of the Sixth Review. Is that a fair
14:34 17 summary?
14:34 18
14:34 19 A. Look, that is absolutely a fair summary. It was not a public
14:34 20 submission. It was a confidential submission providing thoughts
14:34 21 and advice and research and suggestions to our colleagues at the
14:34 22 regulator.
14:34 23
14:34 24 Q. I did note that. I wonder if you can explain why the
14:34 25 submission was --- Commissioner, are you?
14:34 26
14:34 27 COMMISSIONER: I want to make sure that Mr Lucas has got
14:34 28 the document that you are asking him to look at. I am not sure
14:34 29 that he has.
14:34 30
14:34 31 A. I'm just looking for it in my collection of exhibits.
14:34 32
14:34 33 MR FINANZIO: Oh, sorry.
14:34 34
14:34 35 A. As I'm sure you can appreciate, I have a lot ---
14:35 36
14:35 37 Q. There are a lot of documents in your statement, that's true.
14:35 38 Maybe I can do it this way. I can put it up on the screen for you.
14:35 39
14:35 40 A. That would be helpful. Thank you.
14:35 41
14:35 42 Q. It's VCG.0001.0001.1788. That will assist you in not having
14:35 43 to flick through things.
14:35 44
14:35 45 A. Thank you.
14:35 46
14:35 47 Q. The operator will take you through it - will take us

14:35 1 through it as I direct him. But my questions were broad in nature.

14:35 2

14:35 3 A. Yes.

14:35 4

14:35 5 Q. The first parts of the statement through to page 6, set out in

14:35 6 broad terms, the factors - the background to the organisation,

14:36 7 and then in particular the factors in gambling that have higher

14:36 8 associations with risk and harm at page 5.

14:36 9

14:36 10 A. I've now located it, counsel.

14:36 11

14:36 12 Q. Okay. And having gone through those risk factors, which

14:36 13 include continuous forms of gambling, complexity of gambling,

14:36 14 frequency of betting, high stakes and delusions of control, the

14:36 15 submission then sets out a number of different topics and raises

14:36 16 questions for the reviewers to consider in the course of the

14:36 17 review.

14:36 18

14:36 19 A. That's correct, yes.

14:36 20

14:36 21 Q. It does make some final observations or recommendations

14:36 22 on page 17, doesn't it?

14:36 23

14:36 24 A. It does.

14:36 25

14:37 26 Q. I think on page 17 it says:

14:37 27

14:37 28 *In relation to reductions of harm and risk of harm the*

14:37 29 *Foundation suggests Recommendations from the review*

14:37 30 *that would have positive impacts include those that*

14:37 31

14:37 32 And then there is a list of seven of them there:

14:37 33

14:37 34 *1. Increase transparency around Crown's practices,*
14:37 35 *including giving wider access to data for independent*
14:37 36 *research*

14:37 37

14:37 38 *2. Result in reductions or modifications of any of Crown's*
14:37 39 *promotions and practices that are identified as appealing*
14:37 40 *to vulnerable patrons and patron groups*

14:37 41

14:37 42 *3. Improve Crown's interventions with patrons exhibiting*
14:37 43 *visible signs of distress from gambling and the take-up*
14:37 44 *and policing of its Self-Exclusion Program.*

14:37 45

14:37 46 Just pausing there, in each of the first three, the

14:37 47 Foundation was suggesting improvement or increase in

14:37 1 the way in which Crown was then operating.

14:38 2

14:38 3 A. That's correct.

14:38 4

14:38 5 Q. And then, indeed, the remaining four more

14:38 6 recommendations made on the bottom of that page:

14:38 7

14:38 8 *4. Remove practices that ill inform customers by*
 14:38 9 *omission, for example, regarding odds and house edge for*
 14:38 10 *games.*

14:38 11

14:38 12 *5. Remove promotions, signage and other factors that*
 14:38 13 *could promote common illusions of control by gamblers.*

14:38 14

14:38 15 *6. Improve the gaming floor environment in relation to*
 14:38 16 *assisting patrons control and informed reflection*

14:38 17

14:38 18 Can you just explain what that means, or what that would be
 14:38 19 directed to?

14:38 20

14:38 21 A. Number 7 you are referring to?

14:38 22

14:38 23 Q. Number 6.

14:38 24

14:38 25 A. Number 6. Without being able to completely obviously
 14:38 26 appreciate what my colleagues were trying to say at the time, I
 14:39 27 would understand that to very much be looking at the physical
 14:39 28 environment within the casino.

14:39 29

14:39 30 Q. Yes.

14:39 31

14:39 32 A. So the issues that are reasonably clear from research that
 14:39 33 lack of clocks, lack of windows, lack of clear opportunities to
 14:39 34 take breaks, are all things that the physical environment plays
 14:39 35 a role in and that the staff within the casino potentially have also
 14:39 36 a role to assist people to take a break, to have informed reflection.

14:39 37

14:39 38 Q. And in the last one:

14:39 39

14:39 40 *7. Embed as routine independent evaluations of new*
 14:39 41 *products and promotions at Crown.*

14:39 42

14:39 43 Can I ask you this: why is the - do you know why the
 14:39 44 submission is made confidentially?

14:39 45

14:39 46 A. No, I don't, other than we frequently would make policy
 14:40 47 suggestions, comments, submissions to government that might

14:40 1 sometimes be a public process. For example, we make a public
14:40 2 submission to the Royal Commission into Victoria's mental
14:40 3 health system. Where it's advice to the regulator or the
14:40 4 department, that might be within the construct of our relationship
14:40 5 with those entities.

14:40 6
14:40 7 Q. Okay. You mentioned before that after the submissions
14:40 8 were made and the review was completed, the VCGLR made
14:40 9 recommendations. And, as a result, set-up meetings associated
14:40 10 with, as I understand it, the implementation of the
14:40 11 recommendations in the Sixth Review; is that right?

14:40 12
14:40 13 A. That's correct.

14:40 14
14:40 15 Q. And from paragraph 51 on and following, you deal with
14:41 16 those recommendations and what occurred. Can we just touch on
14:41 17 them now. Recommendation 10 concerned a review of the
14:41 18 revocation of voluntary exclusion policy; is that right?

14:41 19
14:41 20 A. That's correct.

14:41 21
14:41 22 Q. Recommendation 11 concerned a recommendation to
14:41 23 develop and implement a policy and procedure to facilitate
14:41 24 involuntary exclusions at the request of family members. So that
14:41 25 is the third-party exclusion?

14:41 26
14:41 27 A. That's correct.

14:41 28
14:41 29 Q. Recommendation 14 was the recommendation that required
14:41 30 Crown to develop and implement a Responsible Gambling
14:41 31 strategy focusing on the minimisation of gambling-related harm.
14:42 32 That was the 14th recommendation.

14:42 33
14:42 34 A. Yes, that's correct.

14:42 35
14:42 36 Q. Now, at paragraph 52, you observed that the report, that is
14:42 37 the Sixth Review report, stated that:

14:42 38
14:42 39 *The strategy should provide opportunities for regular*
14:42 40 *review of harm minimisation initiatives in response to*
14:42 41 *research and in conjunction with external stakeholders*
14:42 42 *such as [the Foundation].*

14:42 43
14:42 44 And then:

14:42 45
14:42 46 *In developing this strategy, Crown Melbourne should*
14:42 47 *work with the VCGLR and [the Foundation] to consider*

14:42 1 *and assess the nature of intervention initiatives, and*
14:42 2 *interventions may include a person to take a break from*
14:43 3 *gaming*

14:43 4
14:43 5 That is on the next page. Can you explain to the Commissioner
14:43 6 what happened to your involvement, and I'm assuming at this
14:43 7 point you were there at the VRGF during this period?

14:43 8
14:43 9 A. Yes. The tripartite meetings were ongoing when I
14:43 10 commenced, and they kept going for another couple of months.
14:43 11 With regard to 15 - sorry, Recommendation 14, I really just put
14:43 12 paragraph 53 of my statement before the Commission. We
14:43 13 weren't consulted in relation to Recommendation 14. I don't
14:43 14 know why that was. I can make assumptions, but we did raise on
14:43 15 at least one or two occasions through the tripartite meetings that
14:43 16 we were willing and able to assist with Recommendation 14. We
14:44 17 weren't consulted.

14:44 18
14:44 19 Q. Okay. But you don't know - when you say you made it
14:44 20 known that you were ready, willing and able to assist, how was
14:44 21 that willingness met?

14:44 22
14:44 23 A. These were meetings I didn't attend but the offer was noted.

14:44 24
14:44 25 Q. That was all, just noted?

14:44 26
14:44 27 A. To my understanding.

14:44 28
14:44 29 Q. You participated in the review of Recommendations 10 and
14:44 30 11?

14:44 31
14:44 32 A. We did, through those tripartite meetings with the VCGLR
14:44 33 and Crown.

14:44 34
14:45 35 Q. Could I just ask you about paragraph 58 which talks about
14:45 36 that role. Paragraph 58 describes different meetings in relation to
14:45 37 Recommendations 10 and 11.

14:45 38
14:45 39 A. Yes.

14:45 40
14:45 41 Q. Then it says:

14:45 42
14:45 43 *It was also noted that the VCGLR and the Foundation*
14:45 44 *would endeavour to act as one voice in relation to*
14:45 45 *recommendation matters.*

14:45 46
14:45 47 What does that mean?

14:45 1

14:45 2 A. Again I don't know exactly what that means, but I wrote
14:45 3 that in my statement because it reflects the advice I was given by
14:45 4 my staff, which was that the regulator was very keen for the
14:45 5 Foundation and the regulator to be, shall we say, on the same
14:45 6 page, in discussions with Crown.

14:45 7

14:45 8 Q. I see. At paragraph 64 you also set out:

14:45 9

14:46 10 *Separately from the tripartite process in relation to*
14:46 11 *Recommendation 6, 7, 8 and 9*

14:46 12

14:46 13 They are also gambling harm recommendations arising from the
14:46 14 Sixth Review. Can you just explain the nature of the
14:46 15 Foundation's involvement in those matters?

14:46 16

14:46 17 A. As you say, these recommendations were clearly within the
14:46 18 Foundation's remit of expertise and capacity to support the
14:46 19 regulator. So even though they were not subject to direct request
14:46 20 for the Foundation to be consulted, my understanding is the
14:46 21 regulator said, "we would love your assistance with these
14:47 22 recommendations", so we provided some evidence-based advice
14:47 23 on all those four matters.

14:47 24

14:47 25 Q. So, in this case, the recommendations didn't expressly say
14:47 26 that the VRGF needed to be consulted with, but you were
14:47 27 consulted with nonetheless?

14:47 28

14:47 29 A. We were.

14:47 30

14:47 31 Q. But in relation to Recommendation 14 you weren't?

14:47 32

14:47 33 A. No, we weren't. I think you noted at the start also that
14:47 34 Recommendation 14 does not expressly call out the role of the
14:47 35 Foundation in the recommendation. It is subsequent in the
14:47 36 commentary where it is quite clear.

14:47 37

14:47 38 Q. It is written in the text of the report ---

14:47 39

14:47 40 A. Yes.

14:47 41

14:47 42 Q. --- that that was the intention, but not written in the
14:47 43 recommendation?

14:47 44

14:47 45 A. That's correct.

14:47 46

14:47 47 Q. Do you understand that to be the reason that you weren't

14:47 1 consulted?

14:47 2

14:47 3 A. I don't know.

14:47 4

14:47 5 Q. Okay. You set out paragraph 68, pardon me, at 66, your
14:48 6 involvement in the TOPAS trial and in 68 you set out that in
14:48 7 relation to Recommendation 15, which involved the sharing of
14:48 8 information with the VRGF, some information has been shared
14:48 9 with you.

14:48 10

14:48 11 A. Yes, that's correct. The reports that I refer to in 68, we now
14:49 12 get those reports via the VCGLR.

14:49 13

14:49 14 Q. Can you explain to the Commission the utility of those
14:49 15 reports as a source of data?

14:49 16

14:49 17 A. The utility is very minimal, to be frank. They provide
14:49 18 a high-level snapshot of things such as referrals, requests for
14:49 19 revocation, et cetera, but there is no data there that is really useful
14:49 20 for research purpose, but it does give us a small line of sight on
14:49 21 their operations around responsible gaming.

14:49 22

14:49 23 Q. More like a dashboard of high-level graphs and pictures?

14:49 24

14:49 25 A. That is probably a fair way of characterising it, yes.

14:49 26

14:49 27 Q. Now, at paragraph 70 you set out some further data that was
14:49 28 shared by Crown with the Foundation concerning referral of
14:49 29 customers to Gambler's Help. How might that data be used and
14:50 30 how useful is that in assisting the Foundation?

14:50 31

14:50 32 A. It's not especially useful because it doesn't fundamentally
14:50 33 tell you anything other than that a referral occurred. It doesn't
14:50 34 talk about the process that went perhaps before that referral. It
14:50 35 also of course only gathers those persons who have sought
14:50 36 assistance and were referred. So it doesn't really tell us much at
14:50 37 all about what is fundamentally occurring from a gambling harm
14:50 38 perspective from within the venue, ie, a casino, or those
14:50 39 individuals.

14:50 40

14:50 41 Q. At paragraph 71, under the heading of "Responsible
14:50 42 Service of Gaming training", you outline a meeting between the
14:50 43 VCGLR, Crown and the Foundation in relation to training. Can
14:50 44 you explain what role the Foundation has had and the extent of it
14:51 45 in developing Responsible Gaming training at the casino?

14:51 46

14:51 47 A. We have no formal role in the development or delivery of

14:51 1 RSG training at the casino. The role we've had, a reasonably
14:51 2 minor one, I would argue, is again to support the regulator, to
14:51 3 provide perspective on the aspect of Crown's RSG training, given
14:51 4 that we do have responsibility for DJCS for development of RSG
14:51 5 training for the rest of the industry.

14:51 6

14:51 7 Q. So you provide some commentary or advice based on your
14:51 8 areas of - based on the functions that you have and the research
14:51 9 that you've done?

14:51 10

14:51 11 A. That's correct. And what we've learned through the
14:51 12 operation of RSG training outside of the casino.

14:51 13

14:52 14 Q. Do you always agree with the VCGLR about the outcomes
14:52 15 in relation to the training?

14:52 16

14:52 17 A. I'm not sure I can answer that question. Can you be a bit
14:52 18 more specific?

14:52 19

14:52 20 Q. Well, the way I understand this, you are brought in to
14:52 21 provide expert assistance and advice to the VCGLR when it is
14:52 22 considering whether or not to approve training programs at the
14:52 23 casino; is that right?

14:52 24

14:52 25 A. That's correct. We have been, yes.

14:52 26

14:52 27 Q. Is the nature of the advice sought by you sufficiently -
14:52 28 first of all, is the nature of the access given to you in relation to
14:52 29 training programs sufficient for you to provide detailed advice or
14:52 30 is it high level?

14:52 31

14:52 32 A. We can provide detailed advice about what we think best
14:53 33 practice RSG training should look like. What then subsequently
14:53 34 occurs in terms of what the casino is delivering, we have no line
14:53 35 of sight on that. So in terms of your question, it's not so much
14:53 36 a question of agreeing with whether the VCGLR should have
14:53 37 approved an RSG mode or not, because we don't fundamentally
14:53 38 know where our advice landed and how it was considered.

14:53 39

14:53 40 Q. Oh, I see. So this is the case: it's not the case, is it, that you
14:53 41 are provided with the training program or module, and asked for
14:53 42 your advice about whether or not the training program or module
14:53 43 represents best practice, that doesn't happen?

14:53 44

14:53 45 A. We might be given access to components of modules. To
14:53 46 my understanding, I don't believe - we're certainly not provided
14:53 47 with, "here is all our training modules and please comment on

14:54 1 them", I think our advice is sought around aspects of different
14:54 2 modules.

14:54 3

14:54 4 Q. I see. You are asked more for higher level advice that
14:54 5 might inform the more detailed work?

14:54 6

14:54 7 A. That's probably the right way to characterise it, yes.

14:54 8

14:54 9 Q. At paragraph 73 and following you are also asked to
14:54 10 provide commentary about gaming products?

14:54 11

14:54 12 A. That's correct. So what is now called the Gambling
14:54 13 Products Working Group, which is convened by the VCGLR
14:54 14 licensing team. We've had a role on that group for some time,
14:54 15 I believe.

14:55 16

14:55 17 Q. I would draw you now to that part of the statement
14:55 18 where - skipping over the parts where we've left off and where
14:55 19 we are going.

14:55 20

14:55 21 A. Yes.

14:55 22

14:55 23 Q. The statement has been tendered and the Commissioner has
14:55 24 read it, I'm sure. I want to take you to paragraph 83 where:

14:55 25

14:55 26 *The Foundation has been asked to respond to a request*
14:55 27 *from the Commission to express an opinion in response to*
14:55 28 *[two questions]:*

14:55 29

14:55 30 *..... whether Crown takes sufficient steps to minimise the*
14:55 31 *harm caused by gambling and to ensure the responsible*
14:55 32 *service of gambling;*

14:55 33

14:55 34 *..... what steps should Crown be taking to minimise the*
14:55 35 *harm caused by gambling and to ensure the Responsible*
14:55 36 *Service of Gaming?*

14:55 37

14:55 38 I note that you refer to Ms Billi's statement. She will be called
14:56 39 later, but I wonder if at 85 you could take us through what the
14:56 40 Commission's position is, what the Foundation's position is,
14:56 41 please.

14:56 42

14:56 43 A. So there is a series of aspects really to this question. One of
14:56 44 the key things that we think is required to assist us to be even
14:56 45 able to form an evidence-based opinion is this access to data.

14:56 46 That is extremely clear. It is very difficult for us to be able to at
14:56 47 all times make comment about operational matters of which we

14:56 1 have no direct relationship with, without access to data that might
14:56 2 inform our understanding of gambling harm and the way it is
14:56 3 managed within the casino.

14:56 4

14:56 5 The other core aspect for me is transparency. So to the question
14:56 6 here around Responsible Service of Gaming training, for
14:57 7 example, we can provide as much advice as we like to the casino;
14:57 8 we don't have any transparency on how that is developed,
14:57 9 delivered and put into place in a practical operational context.

14:57 10

14:57 11 The third aspect for me that I think would go to a range of things
14:57 12 I've said in my statement is consistency with the operations of the
14:57 13 gambling industry outside of the casino. The casino has had one
14:57 14 particular operating environment, industry has another. And that
14:57 15 goes to a range of issues that we think would potentially have
14:57 16 a positive impact on people experiencing gambling harm, such as
14:57 17 hours of operation, such as the sorts of products that can be
14:57 18 provided in the casino, the unrestricted mode, for example,
14:57 19 around EGMs, that are not available in the rest of the industry
14:58 20 within Victoria. So, I guess in broad terms, that is how I would
14:58 21 probably characterise our view. We need access to data, we need
14:58 22 transparency around operations and in my view we need
14:58 23 consistency between what occurs in the casino and what occurs in
14:58 24 pubs and clubs. I think that would be a good starting place for
14:58 25 preventing and reducing gambling harm within that particular
14:58 26 facility.

14:58 27

14:58 28 Q. I will take those three things as informing the points you
14:58 29 make under paragraph 85 of the ways in which harm could be - the
14:58 30 ways Crown could reduce harm caused by gambling at the
14:58 31 casino?

14:58 32

14:58 33 A. I think that is correct. 85.1, 2, 3, 4, 5, et cetera, I hope to
14:58 34 make it clear where we think there could be some serious
14:58 35 improvement to operations. That said, and back to my point
14:59 36 around transparency, it has been difficult for us to comment and
14:59 37 form an evidence-based opinion on these questions because we
14:59 38 have not had access or a transparent relationship with the casino.

14:59 39

14:59 40 COMMISSIONER: Can I ask this, Mr Lucas: both to the first
14:59 41 point, available data, and the second point, transparency, sticking
14:59 42 with the data point first, have you asked Crown to provide you
14:59 43 with the kind of data you would like to have in order to carry out
14:59 44 your work?

14:59 45

14:59 46 A. Frankly, no. We've had some discussions over time with
14:59 47 Crown about access for independent researchers. And I think I

15:00 1 cited in my statement there was an issue where they did allow
15:00 2 access to patrons so one of our researchers could interview
15:00 3 a patron. I believe in 2014 one of the Foundation staff made
15:00 4 a request to Crown for some data which was not provided. I've
15:00 5 been unable as yet to find an evidence trail to that, but I believe
15:00 6 that to be the case. Outside of that, Commissioner, no, we
15:00 7 haven't asked.

15:00 8

15:00 9 COMMISSIONER: Can I ask why not? If you need data to carry
15:00 10 out some of your principal functions and you need data from
15:00 11 Crown among other sources of information, why not write them
15:00 12 a nice letter saying, "this is what we need and will you make it
15:00 13 available?" Like hours of play or money spent or how a particular
15:00 14 machine is operated, or whatever it might be?

15:00 15

15:00 16 A. As I said earlier in my statement, we have no legislative or
15:01 17 regulatory power by which we could compel them ---

15:01 18

15:01 19 COMMISSIONER: I understand you can't do it by compulsion,
15:01 20 but there are many things people do in the world otherwise than
15:01 21 by compulsion, and if you want something done, sometimes you
15:01 22 ring them up and write them a letter and say, "will you assist?"
15:01 23 and sometimes the answer is "no" and sometimes the answer is
15:01 24 "yes". I don't understand why there is a reluctance to approach
15:01 25 Crown management or the Crown board and ask for the
15:01 26 information that you might need, or the data you might need.

15:01 27

15:01 28 A. I wouldn't have characterised not writing a nice letter as
15:01 29 a reluctance. I think perhaps it is just founded in
15:01 30 an understanding in the research community that the response, (a)
15:01 31 might simply be negative, or, (b) that Crown would seek to
15:02 32 exercise a degree of control over the ultimate outcomes of the
15:02 33 research that you did based on the data. I think one of the other
15:02 34 key points we need to make as a research-based organisation, is it
15:02 35 is very important to have independence when you are assessing
15:02 36 issues within the gambling industry. So perhaps, Commissioner,
15:02 37 I should have written a nice letter or my predecessors should have
15:02 38 written nice letters, but we haven't done it.

15:02 39

15:02 40 COMMISSIONER: Okay.

15:02 41

15:02 42 MR FINANZIO: Was that all, Commissioner?

15:02 43

15:02 44 COMMISSIONER: Yes, that's it.

15:02 45

15:02 46 MR FINANZIO: I did want to take you to paragraph 94 where
15:02 47 you describe best practice responsible gambling in the context of

15:03 1 the YourPlay system. Can you explain what you think is the most
15:03 2 appropriate course there?

15:03 3

15:03 4 A. Well, I think whether it is understanding limits as they
15:03 5 relate to time or understanding limits as they relate to money, if
15:03 6 a person is enabled to clearly set out, "I only wish to gamble for
15:03 7 X amount of time and at that point I wish my gambling to cease,
15:03 8 or I only wish to gamble to a certain level of expenditure, and at
15:03 9 that point I wish to cease. And if that expenditure especially is
15:03 10 affordable and within the means of the individual, I think that is
15:03 11 a clear way of enabling that person to avoid a risk of gambling
15:03 12 harm. Similarly, with regard to products. This is my point earlier
15:03 13 about consistency across the industry in Victoria, if products are
15:04 14 enabled to operate in unrestricted mode, and if persons reaching
15:04 15 a limit are then able to continue gambling, even once, if their
15:04 16 limit has been reached, then that is going to be obviously a cause,
15:04 17 potentially, of further gambling harm to that individual and those
15:04 18 around them. So we think the setting of limits around time and
15:04 19 money are very important.

15:04 20

15:04 21 We also think that having a consideration for the sorts products
15:04 22 that can be the source of harm and how those products are
15:04 23 delivered is another important consideration.

15:04 24

15:04 25 COMMISSIONER: I've got a couple of practice issues arising
15:04 26 out of setting money and time limits. Maybe setting time limits is
15:04 27 not so much an issue because if I make available a system where
15:05 28 time limits and money limits can be set, I can quite easily, I
15:05 29 assume, program the system so nobody can set a time limit of
15:05 30 23.5 hours. I can put a maximum time limit on. That, I think, is
15:05 31 relatively easily done. I'm not sure how I set a money limit ---

15:05 32

15:05 33 A. (Nods head).

15:05 34

15:05 35 COMMISSIONER: --- because I might be able to afford \$500
15:05 36 a week and if I'm realistic about it, I might set my limit at \$500
15:05 37 a week, whereas my neighbour might have a limit of \$1,000
15:05 38 a limit so she will set her limit at \$1,000 a week. In each case in
15:05 39 my questions the limits set are reasonably proportionate to the
15:05 40 capacity of the person to lose that money if the money is lost.
15:06 41 But how would one supervise the setting of appropriate limits and
15:06 42 who is going to test the appropriateness of the limit? Like, if it
15:06 43 ever happened that I could gamble a million dollars a year, who
15:06 44 would be able to assess, if I put in a million dollars as my limit,
15:06 45 a daily limit, whatever it might be, who can assess and how can
15:06 46 they assess what is my capacity for losses?

15:06 47

15:06 1 A. In response I would certainly draw your attention also to
15:06 2 the statement of my colleague, Ms Billi, who I believe you will
15:06 3 be speaking to next week. At paragraph 43 in her statement she
15:06 4 outlines some of the research that has been done in this space to
15:06 5 try and think to your point about expenditure as being more
15:06 6 proportionate to the person's income as opposed to trying to pluck
15:06 7 out a number that may be relevant to one person but not relevant
15:07 8 to another. So I think that research is a very good starting place
15:07 9 to try and understand frequency and expenditure and time around
15:07 10 gambling products.

15:07 11
15:07 12 There is also an issue around the research being quite clear that
15:07 13 people who gamble on more than one or two gambling products
15:07 14 are more likely to fall into harm. So in the casino setting, if you
15:07 15 are betting on EGMs and fully automated table games, you may
15:07 16 be more likely to fall into harm.

15:07 17
15:07 18 So, to your point, I think there is a responsibility on providers to
15:07 19 be appropriately also trained to particularly maintain and monitor
15:07 20 the question of time, and I think there is further research that
15:07 21 needs to be done to better understand what dollar limits,
15:07 22 expenditure limits could look like, and then what technology
15:08 23 might be enabled to allow a person to set that appropriate limit
15:08 24 for themselves.

15:08 25
15:08 26 COMMISSIONER: So, at the moment, from my perspective, it is
15:08 27 unclear whether, for example, it is possible to, say, set a money
15:08 28 limit of - just picking a figure - \$10,000 and if anybody wants to
15:08 29 bet more than \$10,000, impose on them an onus of establishing,
15:08 30 and the gaming venue of considering and vetting, whether the
15:08 31 amount should be higher than the \$10,000 - go to tax returns or
15:08 32 an accountant statement. But it is time consuming. There is
15:08 33 nothing straightforward about it.

15:08 34
15:08 35 A. I think another important point is whether the limit is \$10
15:08 36 or \$10,000 for an individual, when they reach that limit, they are
15:08 37 not enabled to continue gambling for a defined period of time.

15:09 38
15:09 39 COMMISSIONER: I don't have a problem with that in theory.
15:09 40 I'm trying to work out the mechanics of how you would set the
15:09 41 limit so that you don't impede the wealthy people from gambling
15:09 42 as much as they want, but within their means or gambling more if
15:09 43 they want to take a shot at it, as long as they fully understand the
15:09 44 risks that are being undertaken. I get the theory of it. I just have
15:09 45 difficulty so far working out how it could be implemented.

15:09 46
15:09 47 A. Well, I guess we touched on the issue earlier of the

15:09 1 potential technologies associated with cashless gambling. We
 15:09 2 also do have card systems such as YourPlay. YourPlay is not
 15:09 3 a mandatory requirement of a person entering a gambling venue.

15:10 4
 15:10 5 COMMISSIONER: Say it becomes mandatory. So it means you
 15:10 6 must have a card, forget the cash, and every card must have
 15:10 7 entered on it a time limit and a whatever maximum time might be
 15:10 8 and a money limit. Let's say they are two really effective ways of
 15:10 9 reducing harm or reducing the risk of harm. As I said, I can deal
 15:10 10 with the time element. I can say I can't play more than five or
 15:10 11 eight hours a day. I can pick a figure, a time, and say at the end
 15:10 12 of that time limit, come back another day or come back three
 15:10 13 days later. I can do that. But it is the money cap that I don't
 15:10 14 know how that could be done. I'm not sure whether technology is
 15:10 15 going to help me until the technology takes me to my accountant.

15:10 16
 15:11 17 A. Clearly the research around time is much, much clearer.
 15:11 18 The research that is embedded in our Responsible Service of
 15:11 19 Gambling observable signs is clear, 3 hours, and then at least
 15:11 20 a 15-minute break. That would give people a stronger sense of
 15:11 21 how the time component of their activity could lead them into
 15:11 22 harm.

15:11 23
 15:11 24 I think certainly more research and work is needed to better
 15:11 25 understand how limits that could be set that are affordable and
 15:11 26 appropriate for individuals based on their income, based on their
 15:11 27 outgoings, and I think technologically, hopefully - and it is not
 15:11 28 my area of expertise, but hopefully there might be ways to
 15:11 29 actually deliver that system through some form of carded play.

15:11 30
 15:11 31 COMMISSIONER: Well, if you can work out how to set the
 15:11 32 limit, I'm sure carded play can do it. And it is starting to sound a
 15:12 33 bit like Responsible Lending obligations imposed on banks,
 15:12 34 although I see the Commonwealth Government might change that
 15:12 35 and make it a bit less responsible. But putting that to one side,
 15:12 36 that Responsible Lending, which might be translated somehow
 15:12 37 into Responsible Gaming expenditure, it is quite a process. There
 15:12 38 is nothing simple when a bank sits down with its banking
 15:12 39 customer to work out what is the appropriate maximum loan that
 15:12 40 the customer can afford for an indulgence or a house or whatever
 15:12 41 it might be. If I'm trying to work out a similar scheme, I can't
 15:12 42 work out in my mind how it would work without being arbitrary.
 15:12 43 Arbitrary is easy.

15:12 44
 15:13 45 A. I don't have an answer for you, Commissioner. You do
 15:13 46 point out that there is complexity. What is important here for
 15:13 47 persons at risk or experiencing gambling harm is again also the

15:13 1 place in which that product is served, and the way that the venue
15:13 2 which they are receiving their gambling is able to respond to
15:13 3 observable signs, et cetera. So I think to your point, and your
15:13 4 example is possibly a good one, in the context of Responsible
15:13 5 Lending, there are a range of practices that the industry has to
15:13 6 comply with. It is still a very complex question.

15:13 7
15:13 8 COMMISSIONER: It is complex. Maybe I've been thinking
15:13 9 about it in the wrong way. Maybe it is wrong to start off looking
15:13 10 at what the customer of a gaming venue might under the current
15:14 11 voluntary system put as a maximum limit in money terms. And
15:14 12 I've heard evidence to say that quite a few people put in a million
15:14 13 dollars so they are not stopped from gambling as much as they
15:14 14 want, but maybe do it the other way. Don't worry about the first
15:14 15 amount. Or you could say anybody who wants to put in more
15:14 16 than \$20,000, go check because it is such a high amount, or
15:14 17 whatever the amount is.

15:14 18
15:14 19 But maybe you could reverse it and say whatever a person puts in
15:14 20 as his or her money limit per day may be the type of gambling
15:14 21 that they undertake can be programmed or looked at in a way that
15:14 22 says, no, there is something is going wrong here, and (inaudible)
15:14 23 off. In other words, we're looking at a pattern of behaviour or
15:14 24 behaviours - but I'm not talking about physical observation, just
15:15 25 I'm looking at the mechanics of spending, things that data will tell
15:15 26 you relatively instantaneously. And then you have a shut-off
15:15 27 point. I need a computer programmer to help me work that out,
15:15 28 I think.

15:15 29
15:15 30 A. That, I think that is correct, Commissioner. Again, I've
15:15 31 looked to the research evidence base which does give you some
15:15 32 indication about what a potential percentage of a person's gross
15:15 33 personal income should be effectively at risk through their
15:15 34 gambling behaviour. And if you go above that percentage, then
15:15 35 potentially that person has not got an affordable limit. The
15:15 36 second question then is how do we set and monitor those limits?

15:15 37
15:15 38 COMMISSIONER: Correct. How do you find out the data to
15:15 39 work out the percentage. You need the figure to work out the
15:15 40 percentage to work out what the - I get the problem.

15:15 41
15:16 42 All right, sorry, Mr Finanzio.

15:16 43
15:16 44 MR FINANZIO: Not at all, Commissioner.

15:16 45
15:16 46 Mr Lucas, the complexity that you've just explored with the
15:16 47 Commissioner, even if it doesn't have an answer, does heighten,

15:16 1 doesn't it, the importance of the other harm minimisation
 15:16 2 techniques? If it's not possible to prescribe a limit for people to
 15:16 3 gamble, it is - it becomes very, very important for the other
 15:16 4 harm minimisation techniques to be functioning properly?

15:16 5
 15:16 6 A. (Nods head). Yes, I would agree with that.

15:16 7
 15:16 8 Q. The next one that you deal with in your report, in your
 15:16 9 statement, is intervention. You make the point at paragraph 95
 15:16 10 that in the Sixth Review, the observation was made that there
 15:16 11 appears to be insufficient intervention by Crown with customers
 15:17 12 before they experience a significant crisis. And you go on there
 15:17 13 to say at 96 that:

15:17 14
 15:17 15 *The Foundation is not aware whether or not Crown has*
 15:17 16 *improved the operation or effectiveness of its*
 15:17 17 *interventions*

15:17 18
 15:17 19 It is right, isn't it, that those interventions along the journey
 15:17 20 toward a significant crisis are particularly important in
 15:17 21 minimising harm?

15:17 22
 15:17 23 A. Absolutely. And clearly outside of the casino context,
 15:17 24 when we develop and train persons in the Responsible Service of
 15:17 25 Gambling, we also base that on the Thomas et al other observable
 15:17 26 signs, and not the observable signs that is used in Crown's Code
 15:17 27 of Conduct. So I think, to your point, absolutely, it researches
 15:18 28 very clear intervention, and understanding when and how to
 15:18 29 intervene is a very critical part of trying to produce and prevent
 15:18 30 gambling harm.

15:18 31
 15:18 32 Q. You draw a distinction between Crown's Code of Conduct
 15:18 33 at 96.4, and the obligation placed on other EGM venues in
 15:18 34 Victoria where I think it is the case that the distinction is, if you
 15:18 35 like, a positive obligation on venue operators for pubs and clubs
 15:18 36 to take all reasonable steps to protect and minimise harm from
 15:18 37 the operation of gaming machines in an approved venue. Do you
 15:18 38 know - are you able to explain why that is?

15:18 39
 15:18 40 A. To explain why there is a difference?

15:19 41
 15:19 42 Q. Yes.

15:19 43
 15:19 44 A. No. I don't know the answer to that question.

15:19 45
 15:19 46 Q. Is there any plausible basis for suggesting that the casino
 15:19 47 with 2,600 gaming machines should adopt some standard less

15:19 1 than that which would be applied to gaming machine venues
15:19 2 anywhere else in the State?

15:19 3

15:19 4 A. Not in my view. I don't again pretend to have transparency
15:19 5 around Crown's operations or its rationale for having a different
15:19 6 set of observable signs.

15:19 7

15:19 8 Q. You've conveniently put the observable signs in Table B,
15:19 9 side-by-side, to illustrate the differences between the two. I think
15:19 10 at 96.9 you set out what you think should be added to Crown's
15:20 11 observable signs at the bottom of the page there.

15:20 12

15:20 13 That is, the introduction of a three-plus hours without a proper
15:20 14 break observable sign; anything more than two ATM or EFTPOS
15:20 15 withdrawals, anything greater than \$3 spins most of the time, and
15:20 16 anything greater than \$300 in a session.

15:20 17

15:20 18 Have you been watching the hearing during the course of this
15:20 19 week?

15:20 20

15:20 21 A. Yes, I have.

15:20 22

15:20 23 Q. From your understanding of the technology available, are
15:20 24 you able to say whether or not those kind of criteria are
15:20 25 frequently or usually deployed in EGM venues outside of the
15:21 26 casino?

15:21 27

15:21 28 A. I couldn't really answer that from a technological
15:21 29 perspective. All I could point out is those are the observable
15:21 30 signs on which the Responsible Service of Gaming training,
15:21 31 outside the casino, is based.

15:21 32

15:21 33 Q. Right. Okay.

15:21 34

15:21 35 COMMISSIONER: Before you leave that, I'm interested if you
15:21 36 could help me with this, with the \$3 per spin most of time, can
15:21 37 you tell me what kind of research led to the \$3 figure?

15:21 38

15:21 39 A. Not specific to the \$3 figure. Obviously those observable
15:21 40 signs were based on the research done by Thomas and Delfabbro
15:21 41 and others in 2014, from memory. I don't know that research
15:22 42 well enough to be able to tell you exactly what the \$3 rationale
15:22 43 was. My colleague Rosa Billi may be more helpful to the
15:22 44 Commission.

15:22 45

15:22 46 COMMISSIONER: I might ask about that. And presumably
15:22 47 I will get the same answer in relation to the \$300?

15:22 1
15:22 2 A. Yes, you will.
15:22 3
15:22 4 COMMISSIONER: And there is a problem with the two
15:22 5 EFTPOS withdrawals, because if you have to go to the EFTPOS
15:22 6 outside the casino, you might never be observed if you go there
15:22 7 200 times and it is unlikely that you would be picked up by
15:22 8 casino staff. So there is a practical issue about that one. I
15:22 9 suppose not so complicated in pubs and clubs.
15:22 10
15:22 11 A. They are 50 metres away at the casino. Again, I don't
15:22 12 pretend to understand the operational environment in the casino
15:22 13 well enough. I would have thought that could still comfortably
15:23 14 be an observable sign if you are closely observing the persons
15:23 15 that are gambling on the gaming floor.
15:23 16
15:23 17 COMMISSIONER: I understand. Thank you.
15:23 18
15:23 19 MR FINANZIO: Mr Lucas, I am going to move from the
15:23 20 statement now.
15:23 21
15:23 22 COMMISSIONER: Before you do that then, can I - I assume
15:23 23 that the confidential submission that the Foundation made to the
15:23 24 Sixth Review is not an exhibit?
15:23 25
15:23 26 MR FINANZIO: No, no, it's ---
15:23 27
15:23 28 COMMISSIONER: It is part of Mr Lucas's bundle of
15:23 29 documents?
15:23 30
15:23 31 MR FINANZIO: Correct.
15:23 32
15:23 33 COMMISSIONER: Okay, thank you.
15:23 34
15:23 35 MR FINANZIO: It has been exhibited I think in a number of
15:23 36 different forms.
15:23 37
15:23 38 COMMISSIONER: I just wanted to know whether I needed to
15:23 39 tender it.
15:23 40
15:23 41 MR FINANZIO: Thank you.
15:23 42
15:23 43 COMMISSIONER: Actually, I wondered whether you needed to
15:23 44 tender it, and the answer is "no".
15:23 45
15:23 46 MR FINANZIO: No, this is not one of the ones I've forgotten to
15:23 47 tender. This is the one of the ones that I knew I didn't need to.

15:23 1
15:23 2 COMMISSIONER: Yes, probably the first time!
15:24 3
15:24 4 MR FINANZIO: Mr Lucas, have you been provided - you've
15:24 5 heard, having watched the hearings during the course of the
15:24 6 week, about Crown's proposal conveyed to the Commission in
15:24 7 a letter dated 26 May 2021?
15:24 8
15:24 9 A. Yes, I have seen that correspondence.
15:24 10
15:24 11 Q. Have you reviewed the correspondence and in particular
15:24 12 the proposed so-called enhancements in the document in a table
15:24 13 in the appendix?
15:24 14
15:24 15 A. Yes, I have.
15:24 16
15:24 17 Q. All right. I wonder if - have you - when I say "you", has
15:24 18 the Foundation that you represent formed any views about the
15:24 19 enhancements that are referred to in the appendix?
15:24 20
15:24 21 A. Yes, we have and I have my own views as well, of course.
15:24 22
15:24 23 Q. I wonder if we could go through them. There is no harm in
15:25 24 going through them in the order in which they appear, so let's
15:25 25 deal with them one by one. The time limits on play proposal, can
15:25 26 you explain to the Commission your view about - to the extent
15:25 27 that your view differs from the view that the foundation might
15:25 28 advance, can you explain to the Commission the views that you
15:25 29 and the foundation have in relation to that one?
15:25 30
15:25 31 A. I didn't mean to suggest that my views were different to my
15:25 32 organisation's, counsel. With regard to the first one, time limits
15:25 33 on play, clearly that is an improvement on existing practice.
15:25 34 I think the notion of 12 hours in a 24-hour period is definitely
15:25 35 an improvement on what I understand is currently 18.
15:25 36
15:25 37 I don't believe that observation and intervention at 8 and 10
15:26 38 hours - it is probably an improvement on existing practice but is
15:26 39 not consistent with the research that suggests there should be
15:26 40 a 3-hour and then a 15-minute break.
15:26 41
15:26 42 As to customers being able to play for more than 48 hours in
15:26 43 a week, again, that is an improvement on their existing practice.
15:26 44
15:26 45 On a second matter, I don't quite understand the rationale
15:26 46 between there being a different environment for domestic and
15:26 47 international players. I would have thought that if you have

15:26 1 a duty of care for customers to ensure they don't experience or
15:26 2 fall at risk of gambling harm, I don't quite understand why that
15:26 3 should be different between one group of persons and another.
15:26 4
15:26 5 COMMISSIONER: One explanation might be that from the
15:26 6 history of the type of patrons who come and attend the casino,
15:27 7 very many of them are very wealthy people who come from
15:27 8 mainland China and other regions and it might be thought that
15:27 9 they don't need help, they've got millions and they are well able
15:27 10 to look after themselves. And if that was the rationale, that
15:27 11 would make sense.
15:27 12
15:27 13 A. I imagine there is a range of potential rationales for that
15:27 14 distinction. I guess our remit is preventing and reducing
15:27 15 gambling harm, and I think gambling harm can still occur to
15:27 16 a person who might be wealthy --
15:27 17
15:27 18 COMMISSIONER: That's true.
15:27 19
15:27 20 A. --- if they are not in control.
15:27 21
15:27 22 COMMISSIONER: That is quite true. But at least I wouldn't be
15:27 23 surprised if that was the kind of thinking that lay behind the
15:27 24 distinction.
15:27 25
15:27 26 A. It may be. The other point we make is gambling harm
15:27 27 comes in many forms that are not just financial.
15:27 28
15:27 29 COMMISSIONER: True. I think Singapore has a different set of
15:28 30 rules for Singaporeans on the one side and any foreigner on the
15:28 31 other.
15:28 32
15:28 33 A. I believe that's the case.
15:28 34
15:28 35 COMMISSIONER: So they are much stricter looking after their
15:28 36 own and less worried about looking after others who want to
15:28 37 come and make use of the facility.
15:28 38
15:28 39 A. I think that is correct. I suppose I would just come back to
15:28 40 our remit, which is trying to prevent gambling harm. There is
15:28 41 nothing in our legislation that says "only for Victorians" or "only
15:28 42 for Australians".
15:28 43
15:28 44 COMMISSIONER: Yes.
15:28 45
15:28 46 MR FINANZIO: Can I ask you now, Commissioner, I'm going to
15:28 47 move on to the next one.

15:28 1
15:28 2 A State-wide exclusion register; do you know anything about this
15:28 3 as a concept?
15:28 4
15:28 5 A. Look, a little. There are a couple of different self-exclusion
15:28 6 regimes in Victoria within industry. There is the Crown one and
15:28 7 there is effectively the one that is applicable to pubs and clubs.
15:29 8 From recollection there is also a slight distinction between the
15:29 9 ones that Community Clubs Victoria uses and the one that AHA
15:29 10 and the pubs use.
15:29 11
15:29 12 Look, as a matter of principle, I think having a State-wide
15:29 13 exclusion register that was well-understood, well-monitored and
15:29 14 consistent would be to my earlier point around trying to ensure
15:29 15 consistency in the industry in Victoria, that would be a positive.
15:29 16 I think it would be - it could be potentially difficult and I
15:29 17 haven't participated in conversations myself, but I understand that
15:29 18 historically it has been difficult to get industry to agree to
15:29 19 a similar set of approaches.
15:29 20
15:29 21 Q. What has been at the core of the difficulty as you
15:29 22 understand it?
15:29 23
15:29 24 A. Look, as I understand it, it is a combination of privacy
15:29 25 information and a combination of pubs, clubs and casinos all
15:30 26 having a perspective that their operation is slightly different.
15:30 27
15:30 28 Q. I see. Bingo.
15:30 29
15:30 30 A. Is that a question or an exclamation?
15:30 31
15:30 32 MR FINANZIO: I'm moving on to the subject of Bingo. It is
15:30 33 proposed that Crown's program in relation to Bingo will cease.
15:30 34 Do you have - first of all, did you hear the evidence in relation
15:30 35 to the Bingo program at Crown?
15:30 36
15:30 37 A. Yes, I did. I heard Professor MacLean as well before me
15:30 38 today.
15:30 39
15:30 40 Q. Yes, and what is your view about the Crown proposal to
15:30 41 cease that program?
15:30 42
15:30 43 A. Clearly that's an improvement, an enhancement.
15:30 44 I understand that it hasn't been utilised since the first lockdown in
15:30 45 March last year, so if there is an intention to continue to not offer
15:30 46 Bingo, then clearly, based on the research done by Professor
15:31 47 MacLean, that would appear to be a very positive thing.

- 15:31 1
15:31 2 Q. Are you familiar with the Bus and Red Carpet Programs
15:31 3 referred to in the next one?
15:31 4
15:31 5 A. Familiar to the extent that I've had meetings with people
15:31 6 like, or organisations such as the Australian Vietnamese Women's
15:31 7 Association, and other, especially CALD groups that have talked
15:31 8 to us at the Foundation about the programs. We've never done
15:31 9 any specific research, to my understanding, around those
15:31 10 programs. But certainly as they've been - as I have been told
15:31 11 about them, I would be thinking it is a very good thing, and
15:31 12 definitely an enhancement to Crown's operations if they ceased.
15:31 13
15:31 14 Q. How consistent with the Responsible Service of Gaming
15:31 15 would you describe those programs to be?
15:31 16
15:31 17 A. Without knowing those programs in detail, it is difficult to
15:32 18 say. But I certainly believe that taking groups of persons directly
15:32 19 to the casino, providing them with a potentially a range of
15:32 20 vouchers, food, et cetera, on one level it is good hospitality. On
15:32 21 another level it is putting persons in an environment where they
15:32 22 may experience gambling harm.
15:32 23
15:32 24 Q. The next one, diversity of RG staff, the proposal to recruit
15:32 25 additional Responsible Gaming Advisors with priority given to
15:32 26 the Culturally and Linguistically Diverse. I assume, correct me if
15:32 27 I'm wrong, that you regard that as broadly a positive
15:32 28 enhancement?
15:32 29
15:32 30 A. I would regard that broadly as a positive enhancement.
15:32 31 Again we don't know, we don't have the data nor the
15:33 32 demographics at the casino, but we know there are a range of
15:33 33 CALD groups that are well represented on the gaming floor. So
15:33 34 to have more persons there that are able to intervene and
15:33 35 communicate with those people in their own language, that would
15:33 36 clearly be a positive. I would come back, however, to saying my
15:33 37 threshold question on that particular proposal is, are they being
15:33 38 trained appropriately? Is the staff complement, regardless of
15:33 39 language, enough to enable them to be proactive in their
15:33 40 interventions?
15:33 41
15:33 42 Q. The next one is cashless. And we have discussed the move
15:33 43 to cashlessness in the course of our exchange earlier. Is there
15:33 44 anything you want to add that we haven't already discussed in
15:34 45 relation to the cashless component?
15:34 46
15:34 47 A. I don't think so. I think as we have discussed, cashless

15:34 1 gambling is certainly a topic that many jurisdictions around the
15:34 2 world are grappling with, and our view, absolutely, is that if it is
15:34 3 going to be implemented in some shape or form, it needs to be
15:34 4 implemented with a gambling harm reduction lens on it. The
15:34 5 research is quite clear that cashless gambling has historically put
15:34 6 people at more risk because of those issues that I described
15:34 7 earlier. With regard to the other matters, the note acceptors not
15:34 8 allowing more than \$500, obviously that would be a positive.
15:34 9 Not sure how I feel about the ATMs staying where they are.

15:34 10

15:34 11 Q. What do you mean by that?

15:34 12

15:34 13 A. I'm not sure why that is even there. I mean, my
15:35 14 understanding is that is a regulated distance and they are not
15:35 15 proposing to alter it so I'm not sure why it is regarded as
15:35 16 an enhancement to the current practice.

15:35 17

15:35 18 Q. Yes.

15:35 19

15:35 20 A. Paragraph 4, counsel, if you are able to enlighten me on
15:35 21 what that sentence means I would be delighted.

15:35 22

15:35 23 Q. I think in evidence yesterday, if I get this wrong, I don't
15:35 24 have the transcript in front of me and Mr Borsky may, but I think
15:35 25 an enterprise approach is language used to describe all of Crown's
15:35 26 sites that would be contemplated by the Crown Resorts Digital
15:35 27 Payments Steering Committee, which is a committee that has
15:35 28 formed but may have met only a few times, in consultation with
15:35 29 relevant parties - means in consultation I think internally and
15:35 30 externally. But beyond that, I don't think it has much more
15:36 31 meaning.

15:36 32

15:36 33 A. Thank you.

15:36 34

15:36 35 Q. Can we go to the marketing offers section of the table.

15:36 36

15:36 37 A. Yes. And I did not see all the evidence this morning from
15:36 38 the gentleman from Crown, but I did hear aspects of this
15:36 39 conversation. Again, I think on face value, an improvement or
15:36 40 a reduction to the way that Crown markets to its customers, we
15:36 41 would see as a positive, as an improvement. I think there is
15:36 42 a reasonable amount of research that suggests that --- whether it
15:36 43 is direct marketing, other forms of inducement, signage within
15:36 44 venues that suggests, you know, a win is always in prospect or
15:36 45 a jackpot is always in prospect, all those things can certainly
15:37 46 continue to gambling harm.

15:37 47

15:37 1 Q. How long has that - the last thing you just said, those
15:37 2 things that can contribute to gambling, how long has that been
15:37 3 known?

15:37 4
15:37 5 A. My colleague Rosa Billi would probably answer the
15:37 6 question much better, given her history in the field. But certainly
15:37 7 I believe it has been well-known for some time that there are
15:37 8 a range of ways in which the gambling products are offered from
15:37 9 a marketing perspective, that can contribute to people
15:37 10 experiencing some of those issues that we've discussed elsewhere
15:37 11 in my statement around delusions of control, et cetera.

15:37 12
15:37 13 Q. All right. The penultimate one is a larger one, Crown
15:37 14 Rewards, that part of the table. The first part is operational and
15:38 15 the second part relates to the review and research of the loyalty
15:38 16 program. Do you any views about either of those?

15:38 17
15:38 18 A. So if I can separate my response to both issues. From
15:38 19 an operational perspective, clearly no longer providing people
15:38 20 with vouchers that they can actually expend on gambling activity,
15:38 21 from a gambling harm reduction perspective would be a positive.
15:38 22 I would possibly take the view that providing a non-gaming or
15:38 23 other promotional voucher is also potentially still encouraging
15:38 24 people to utilise the facility, but clearly on face value that would
15:38 25 be an improvement to what I understand to be their existing
15:38 26 practice. With regard to the second, I don't wish to, on any level,
15:39 27 discourage Crown going down a path where research is
15:39 28 undertaken or research becomes available into the loyalty
15:39 29 program without knowing necessarily much about the loyalty
15:39 30 program, because again we don't have transparency on those
15:39 31 matters. I think the absolutely critical point would be the
15:39 32 independence of that research and the availability, you know, the
15:39 33 open availability of the data upon which those researchers could
15:39 34 rely. So I have some concerns with expressions like
15:39 35 a consultative process with the researcher and the design of
15:39 36 methodology. Clearly, Crown would be need to be consulted
15:39 37 with by independent researchers to better understand what
15:39 38 information is available, but to my earlier point in conversation
15:39 39 with the Commissioner, to be valid research, in our view that
15:39 40 research has to be clearly independent and based on available
15:39 41 data, and not potentially controlled in any way - and this is not
15:40 42 a criticism of Crown per se - not controlled in ways by the
15:40 43 industry which is being researched.

15:40 44
15:40 45 Q. And the last one, the gaming sales staff incentives?

15:40 46
15:40 47 A. I was a little unclear and seeing the evidence in recent days,

15:40 1 the way it is framed is that something that is not happening will
15:40 2 continue to not happen. That is a positive. What I think would
15:40 3 be more important in the third sentence is that, you know, any
15:40 4 and/or future employer incentive plans would have an overlay,
15:40 5 a lens, of Responsible Gambling or the potential implications for
15:40 6 gambling harm. So I think it is the third sentence I would think is
15:41 7 the more important one in that respect, and I hope that would be
15:41 8 the case.

15:41 9

15:41 10 MR FINANZIO: Thank you. Thank you, Commissioner.

15:41 11

15:41 12

15:41 13 **QUESTIONS BY THE COMMISSIONER**

15:41 14

15:41 15

15:41 16 COMMISSIONER: One follow-up from me. I have a few
15:41 17 volumes, lever arch folders full of articles written on gambling
15:41 18 harm. Is there any way that I can work out, without necessarily
15:41 19 Googling all the people concerned, which of the researchers are
15:41 20 funded by the gaming industry and which of them are
15:41 21 independent in the sense of their research not being funded by the
15:41 22 gaming industry or by Crown or anybody, the hotels, pubs, clubs,
15:41 23 I don't really ---

15:41 24

15:41 25 A. I don't believe that there is an easy-to-hand register,
15:41 26 Commissioner, to your question ---

15:41 27

15:41 28 COMMISSIONER: Do you know - can you name them by
15:41 29 repute? Are there well-known researchers - are there
15:42 30 researchers who publish a lot, and it is well-known that their
15:42 31 research is funded by the gaming industry?

15:42 32

15:42 33 A. There is certainly to my understanding, and again this
15:42 34 might be a question to my colleague, Rosa Billi, who knows the
15:42 35 research community intimately. There certainly are persons who
15:42 36 are known to have taken support from industry to conduct
15:42 37 research and I don't wish to name individuals because I wouldn't
15:42 38 wish to impugn their reputations or the quality of their work. I
15:42 39 would note that the gentleman who I believe is chairing the
15:42 40 Independent Advisory Panel is a very well-regarded researcher
15:42 41 and has done an exceptional body of work over his clear. He is
15:42 42 open, as I understand, that he has worked with industry, as he's
15:42 43 doing in this case.

15:43 44

15:43 45 COMMISSIONER: I think he may have even written years ago
15:43 46 that you should be distrustful of people paid by the industry. So
15:43 47 it is a very interesting position he finds himself in.

15:43 1
15:43 2 A. In the allocation of our research dollars through our grants
15:43 3 program, we don't automatically draw a line through someone
15:43 4 because they have at one point in their career perhaps done work
15:43 5 that has been supported by industry. In some other jurisdictions it
15:43 6 is difficult to avoid because industry actually pays a component
15:43 7 of its monies to the relevant jurisdictions for the purposes of
15:43 8 research.
15:43 9
15:43 10 COMMISSIONER: Yes, that's true. Thank you. Can I go down
15:43 11 the list of counsel again. Mr Rozen seems to have the first call,
15:43 12 followed by Mr Gray.
15:43 13
15:43 14 MR ROZEN: Nothing from me, Commissioner.
15:44 15
15:44 16 MR GRAY: Nor from me, thank you, Commissioner.
15:44 17
15:44 18 COMMISSIONER: Thank you very much. Mr Borsky.
15:44 19
15:44 20
15:44 21 **CROSS-EXAMINATION BY MR BORSKY**
15:44 22
15:44 23
15:44 24 MR BORSKY: Yes, Commissioner.
15:44 25
15:44 26 I have some questions for this witness. Mr Lucas, my name is
15:44 27 Borsky. I appear for Crown in this Commission.
15:44 28
15:44 29 A. Good afternoon, Mr Borsky.
15:44 30
15:44 31 Q. Good afternoon. Would you agree with me, Mr Lucas, that
15:44 32 the Foundation which you head fairly regularly seeks assistance
15:44 33 from Crown in aspects of its work?
15:44 34
15:44 35 A. Yes, I would agree with that statement.
15:44 36
15:44 37 Q. Would you agree that the Foundation which you head
15:44 38 receives that assistance that it seeks from Crown?
15:44 39
15:44 40 A. I think absolutely in large part, which I've certainly tried to
15:44 41 outline in my statement.
15:44 42
15:45 43 Q. Yes, thank you. And I won't rehearse with you the
15:45 44 highlights of that which Counsel Assisting has taken you through,
15:45 45 but I guess I've just invited you to give evidence more in the
15:45 46 nature of overview and characterising the interactions and the
15:45 47 relationship. Would you agree that Crown generally is

15:45 1 cooperative and constructive with the Foundation?

15:45 2

15:45 3 A. Yes.

15:45 4

15:45 5 Q. In your statement at 85.4.2 you say that Crown should

15:45 6 make data on gambling activity more readily available to

15:45 7 researchers.

15:45 8

15:45 9 A. Yes.

15:45 10

15:45 11 Q. In answer to the Commissioner's question of you, you, with
15:45 12 respect, very frankly and candidly conceded that you've not asked

15:46 13 Crown for that data before. I am instructed formally to confirm

15:46 14 to you, Mr Lucas, and to inform the Commission, that Crown is

15:46 15 absolutely open to discussing with you and any member of the

15:46 16 Foundation staff, the kinds of data that would be of assistance to

15:46 17 the foundation. So I take it you will take up that invitation and

15:46 18 reach out to Crown in an attempt to define the parameters of the

15:46 19 data that you might be after to advance your objectives and

15:46 20 facilitate your work.

15:46 21

15:46 22 A. Mr Borsky, we would be delighted to have that

15:46 23 conversation with Crown. Obviously we are an organisation with

15:46 24 a very set budget over the four-year funding envelope that I am

15:46 25 describing earlier. So this is not remotely a hesitation to make

15:47 26 good on responding to that offer, but we would also need to look

15:47 27 at our capacity, because I suspect, without knowing, that the

15:47 28 casino collects a lot of really, really interesting data that would be

15:47 29 really useful to us to assist them to protect patrons from gambling

15:47 30 harm. But I just want to make the point, in this environment also,

15:47 31 that we have our own limitations of capacity and resource.

15:47 32

15:47 33 Q. Yes, thank you. Now, in the Commission's request for

15:47 34 a statement you, or the Foundation, was asked to opine on

15:47 35 Crown's Responsible Gambling steps; correct? You referred to

15:47 36 that at paragraph 83, I think, in your statement; is that right?

15:47 37

15:47 38 A. That's correct. There were two specific questions in the

15:47 39 request that came to me for a statement for, in my opinion.

15:47 40

15:48 41 Q. Right. And those two specific questions are the questions

15:48 42 that you've reproduced, I take it, at 83.1 and 83.2?

15:48 43

15:48 44 A. To my understanding, yes, that is correct.

15:48 45

15:48 46 Q. In answering 83.1, you don't anywhere in your statement

15:48 47 express the opinion that Crown has not taken sufficient steps to

- 15:48 1 minimise harm caused by gambling and to ensure the
15:48 2 Responsible Service of Gaming; do you?
15:48 3
- 15:48 4 A. I think in seeking to provide an opinion on those questions,
15:48 5 I would come back to the point I made earlier about a lack of
15:48 6 transparency. So, very difficult for me to make specific
15:48 7 observations on Crown's operations to your point when we
15:48 8 simply don't necessarily know what those operations look like
15:48 9 because we don't have a regulatory or legislative power in this
15:48 10 space. So what I've tried to frame, in response to those questions,
15:49 11 is what might better practice look like.
15:49 12
- 15:49 13 Q. Yes. You've set out a number of suggestions of what better
15:49 14 practice in your view might look like without expressing the view
15:49 15 that the steps currently taken by Crown are insufficient?
15:49 16
- 15:49 17 A. That's correct. I haven't expressed that view.
15:49 18
- 15:49 19 Q. And you don't hold that view, otherwise you would have
15:49 20 expressed it?
15:49 21
- 15:49 22 A. I don't have information that enables me to hold
15:49 23 an informed view.
15:49 24
- 15:49 25 Q. All right. In your opinion, does Crown's CCTV facility,
15:49 26 which includes facial recognition technology, contribute to
15:49 27 minimising gambling harm from casino operations?
15:50 28
- 15:50 29 A. Mr Borsky, I don't pretend that I know enough about
15:50 30 Crown's facial recognition system to really be able to comment
15:50 31 again in an informed way. What I have been told, and I have had
15:50 32 an opportunity and in my submission I refer to a tour of Crown's
15:50 33 facility that I undertook in 2019.
15:50 34
- 15:50 35 Q. Yes.
15:50 36
- 15:50 37 A. I have been into the physical room as part of that tour.
15:50 38 Certainly what I saw that day is very impressive, but I'm not
15:50 39 a technical expert and ---
15:50 40
- 15:50 41 Q. I wasn't going to quiz you on the technical details of it.
15:50 42 That would be me wading in far too deep waters, but you are
15:50 43 aware, aren't you, that the technology is deployed at the casino in
15:50 44 an attempt, at least, to prevent self-excluded persons from
15:50 45 re-entering the gaming areas?
15:50 46
- 15:50 47 A. Yes, and on that particular tour in person I was advised that

- 15:51 1 by the Crown staff showing me that aspect of the facility.
15:51 2
- 15:51 3 Q. Do you agree that is a measure that contributes to
15:51 4 minimising gambling harms?
15:51 5
- 15:51 6 A. As best I understand it, yes, it would be a measure.
15:51 7
- 15:51 8 Q. Are you aware of pubs or clubs in Victoria that have
15:51 9 a similar measure in place?
15:51 10
- 15:51 11 A. I'm not - I'm not, to be honest. I'm not aware. I do
15:51 12 understand from discussions I've had with some of those peak
15:51 13 bodies that there certainly is a strong interest in developing that
15:51 14 technology, as to when it becomes affordable for smaller venues.
15:51 15
- 15:51 16 Q. Okay. You are aware also, aren't you, that Crown has the
15:51 17 24-hour Responsible Gaming Centre?
15:51 18
- 15:51 19 A. Yes, I'm aware, and I have again as part of that tour in 2019
15:51 20 I was shown the RGC.
15:51 21
- 15:51 22 Q. Yes. And you've had dealings with Crown's staff both at
15:51 23 the leadership level and operational level since that tour in 2019?
15:51 24
- 15:52 25 A. I haven't had a huge amount of personal dealings. I've had
15:52 26 a little bit of dealings with the Crown representative who attends
15:52 27 our Industry Leaders' Forum. My staff have certainly had further
15:52 28 dealings, and I've had one dealing which I think I referred to in
15:52 29 my statement with Luke Overman.
15:52 30
- 15:52 31 Q. The manager of the Responsible Gaming Centre?
15:52 32
- 15:52 33 A. That's right, yes.
15:52 34
- 15:52 35 Q. And insofar as you are aware - I withdraw that. Do you
15:52 36 agree that the 24-hour Responsible Gaming Centre at Crown
15:52 37 contributes to minimising harm caused by gambling?
15:52 38
- 15:52 39 A. I don't really have enough information about the operations
15:52 40 of the RGC. What I would say is it clearly would have the
15:52 41 potential to play a strong role in minimising gambling harm at the
15:52 42 casino. But it is difficult without knowing the details of its
15:52 43 operations and what occurs for persons who perhaps are not -
15:52 44 who don't approach the RGC or are not referred to the RGC.
15:53 45 Then it is difficult to comment.
15:53 46
- 15:53 47 Q. Have you heard of the Crown model, the data analytic

15:53 1 model?
15:53 2
15:53 3 A. I have heard of it, yes.
15:53 4
15:53 5 Q. Again, I won't quiz you on any of the technical aspects, but
15:53 6 do you understand it is a data modelling tool developed by Crown
15:53 7 to try to assist in a predictive sense in identifying problematic
15:53 8 gamblers or problematic gambling patterns of play?
15:53 9
15:53 10 A. That is what I've been advised but I don't know any more
15:53 11 than that the context of that sentence, frankly.
15:53 12
15:53 13 Q. Okay. Is that the sort of measure that you would agree also
15:53 14 can contribute to minimising gambling harm?
15:53 15
15:53 16 A. I think data analytics is certainly part of contributing to
15:53 17 reducing gambling harm within a casino setting. I do think also
15:53 18 obviously the physical aspects of intervention, and also some of
15:53 19 the issues we've discussed in my evidence today, around finding
15:54 20 appropriate ways to set limits for persons around both time and
15:54 21 money.
15:54 22
15:54 23 Q. Okay. Let me ask you some questions then about
15:54 24 observation and observable signs, if I may. At 85.3 in your
15:54 25 statement, you say that Crown could reduce the harm caused by
15:54 26 gambling at the casino by intervening when EGM gamblers show
15:54 27 validated observable signs - related to the longer list, rather than
15:54 28 Crown's list of observable signs.
15:54 29
15:54 30 A. And I understand that Crown's list was based in part on the
15:54 31 work of Thomas et al but certainly we are of the view, the longer
15:54 32 list, the 30 observable signs, which we also believe have a level
15:54 33 of clarity that would assist staff in terms of defining a number of
15:54 34 hours or defining the cost of a particular spin, they would be a far
15:55 35 better and supported by research list of observable signs on which
15:55 36 to base RSG training and intervention.
15:55 37
15:55 38 Q. Okay. Now, at 96.9 of your statement you set out four
15:55 39 specific observable signs from the longer list - if I could just
15:55 40 adopt that colloquial which I think is clear enough - which you
15:55 41 say Crown ought to use in its list, or incorporate into its list;
15:55 42 correct?
15:55 43
15:55 44 A. We brought those ones out especially in developing my
15:55 45 statement I thought it was important to bring out those ones that
15:55 46 perhaps did have a real sense of clarity.
15:55 47

- 15:55 1 Q. That is a yes?
15:55 2
- 15:55 3 A. That's a yes, Mr Borsky.
15:55 4
- 15:55 5 Q. You say that would better accord with the validated
15:55 6 observable signs identified in the 2014 Thomas and Delfabbro
15:56 7 study?
15:56 8
- 15:56 9 A. I believe that would better accord, yes.
15:56 10
- 15:56 11 Q. And you are familiar with the study, you've mentioned it in
15:56 12 your evidence a few times this afternoon.
15:56 13
- 15:56 14 A. I am familiar with the study. I am also familiar with,
15:56 15 notwithstanding that the observable signs have been purely
15:56 16 validated within an EGM venue context and not within a casino
15:56 17 context, I'm conscious that Mr Delfabbro and others based the
15:56 18 development of the indicators on research that did incorporate
15:56 19 work within a casino setting. So I think they are really valid.
15:56 20
- 15:56 21 Q. So you are familiar with the study?
15:56 22
- 15:56 23 A. Familiar to the effect that I'm not a researcher myself, but
15:56 24 I'm familiar with the outcomes of the study. It was obviously
15:56 25 being conducted some years prior to my being in this space.
15:56 26
- 15:56 27 Q. So it is true, isn't it, that the so-called longer list in the
15:57 28 study does not include a sign of playing for three or more hours
15:57 29 without a proper break?
15:57 30
- 15:57 31 A. I'm not aware of that. Can you bring something to my
15:57 32 attention? I'm prepared to comment on it.
15:57 33
- 15:57 34 Q. Let me take it sequentially. I draw your attention to your
15:57 35 statement at 96.9.1 where you say that is one of the signs Crown
15:57 36 ought to adopt.
15:57 37
- 15:57 38 A. Correct.
15:57 39
- 15:57 40 Q. You say that would bear record with the study, the
15:57 41 observable signs according to the study. Right?
15:57 42
- 15:57 43 A. On my understanding of where the observable signs have
15:57 44 come from in the context of the study.
15:57 45
- 15:57 46 Q. If we go to the study, CRW.512.096.0026. And then if we
15:58 47 go to page 0228 where the checklist of the longer list appears.

15:58 1 are we able to call up 0228, please?
15:58 2
15:58 3 COMMISSIONER. That is 0228. The index. You might have to
15:58 4 check your page numbers.
15:58 5
15:58 6 MR BORSKY: I certainly do, Commissioner. Can I try this,
15:58 7 page 203 of the PDF? Thanks. My mistake. I apologise.
15:59 8
15:59 9 Now, this is the longer list, isn't it?
15:59 10
15:59 11 A. I believe so, yes.
15:59 12
15:59 13 Q. The closest one can find to the observable sign which you
15:59 14 say Crown ought to adopt is at row 13, is it not?
15:59 15
15:59 16 *Often gambles for long periods (3+ hours) without*
15:59 17 *a proper break.*
15:59 18
15:59 19 A. Yes.
15:59 20
15:59 21 Q. You agree this longer list in the Thomas-Delfabbro study
15:59 22 includes a sign that a player, "often gambles for long periods (3+
15:59 23 hours) without a proper break"? Do you agree?
15:59 24
15:59 25 A. Yes, which is also the expression used in obviously the
26 long list.
27
28 Q. This is the long list.
29
30 A. Oh, is it?
31
15:59 32 COMMISSIONER: Can I stop you, Mr Borsky. I think we have
16:00 33 another technical problem. The transcript has stopped running.
16:00 34 If you give me a minute I'll see if I can sort it out. I know it is
16:00 35 late in the day but if we can sort it out late in the day, that would
16:00 36 be good. Just give us a second.
16:00 37
16:00 38 (Pause due to technical difficulties)
16:01 39
16:01 40 What is going to happen, we'll continue. The real-time
16:02 41 transcript is going to be behind time, we will just have
16:02 42 to catch up with that when it comes up. You won't have
16:02 43 it now but it we'll get it in due course.
16:02 44
16:02 45 MR BORSKY: Okay, thank you.
16:02 46
16:02 47 COMMISSIONER: Sorry for the interruption.

16:02 1
16:02 2 MR BORSKY: Mr Lucas, you agree with me that the sign which
16:02 3 you've referred to at 96.9.1 is not the same as any of the
16:02 4 observable signs in the longer list in the Thomas and Delfabbro
16:02 5 study?
16:02 6
16:02 7 A. I think what you are pointing out is the word "often" is not
16:02 8 there.
16:02 9
16:02 10 Q. Yes.
16:02 11
16:02 12 A. Is that your proposal?
16:02 13
16:02 14 Q. It's not really a proposal, but I'm asking you whether you
16:02 15 agree with me that the sign you referred to at 96.9.1 is not the
16:02 16 same as any of the signs in the long list in Thomas and
16:02 17 Delfabbro?
16:02 18
16:02 19 A. I think it is very, very similar to the long list sign at 13. It
16:02 20 simply doesn't have the words:
16:02 21
16:02 22 *Often gambles for long periods (3+ hours) without*
16:03 23 *a proper break.*
16:03 24
16:03 25 I think if that were - if what your question to me was would I
16:03 26 wish to potentially correct my statement at 96.9 to include the
16:03 27 exact words of the observable sign, I would be happy to do that.
16:03 28
16:03 29 Q. Okay. That wasn't my question, but I will put that to you
16:03 30 now. Would you like to correct your statement at 96.9.1 in that
16:03 31 way?
16:03 32
16:03 33 A. Yes, I would be.
16:03 34
16:03 35 Q. That will be taken as corrected, I'm sure. So it's not your
16:03 36 position that there ought be a hard and fast limit of three hours'
16:03 37 play; rather, it is your position that one of the observable signs
16:03 38 ought be whether a patron often plays for three or more hours
16:03 39 without a proper break, is that correct?
16:03 40
16:03 41 A. It's certainly my intention, and what I was seeking to
16:03 42 achieve through my statement, at least to suggest, that the casino
16:03 43 should use a long list of observable signs, and with particularity
16:04 44 to that, I think quite clear sign, it should be consistent with what
16:04 45 is in Thomas-Delfabbro. So I'm very happy to adjust my
16:04 46 statement, marginally, to ensure it is consistent with Thomas and
16:04 47 Delfabbro.

16:04 1
16:04 2 Q. Okay. I'm not meaning to imply any criticism of you for
16:04 3 needing to correct your statement, I just want to be clear, you
16:04 4 don't advocate for any hard and fast limit of three hours of play at
16:04 5 Crown; do you?
16:04 6
16:04 7 A. I think the research is really clear. A person who often
16:04 8 gambles for three-plus hours without taking a break is putting
16:04 9 themselves at risk of gambling harm, whether that is in a casino
16:04 10 setting or not in a casino setting, I think the research is quite clear
16:04 11 on that point. Where perhaps more research is required is to
16:04 12 understand the concept of "often".
16:04 13
16:04 14 Q. Okay. And it is right, isn't, the signs, or at least some of
16:05 15 them that you have referred to at 96.9, were signs that you, that is
16:05 16 the Foundation, recommended back in 2019 or perhaps early
16:05 17 2020 in the context of the VCGLR's review of Crown's RSG
16:05 18 training?
16:05 19
16:05 20 A. I believe we certainly asked the question via the regulator
16:05 21 of why Crown's RSG training was based on the short list, as
16:05 22 opposed to the long list where we thought there was more value
16:05 23 to the RSG training being based on the longer list.
16:05 24
16:05 25 Q. More specifically though, signs you referred to in 96.9.3
16:05 26 and 96.9.4 were specifically raised in feedback on that RSG
16:05 27 training review; correct?
16:05 28
16:05 29 A. I understand that to be the case, yes.
16:05 30
16:06 31 Q. You understand the VCGLR considered that feedback but
16:06 32 decided not to take it on board?
16:06 33
16:06 34 A. I can't speak for the level of consideration. It was given or
16:06 35 otherwise. I know we provided that feedback, and then I received
16:06 36 correspondence in April 2020 advising - thanking the
16:06 37 Foundation for their assistance and advising that the new training
16:06 38 suite had been approved, and also suggesting that some further
16:06 39 research would be potentially useful in this space.
16:06 40
16:06 41 Q. You know that that April approval which you were
16:06 42 informed of, April 2020 approval, approved the list of observable
16:06 43 signs as it currently appears, that is, without the suggestions you
16:06 44 make in 96.9?
16:06 45
16:06 46 A. Yes. I understand that.
16:06 47

- 16:06 1 Q. Did the Foundation understand that research that the
16:07 2 VCGLR suggested the Foundation undertake?
16:07 3
- 16:07 4 A. Yes, there is two points to make here; (a), we have not
16:07 5 undertaken that research at this time.
16:07 6
- 16:07 7 Q. Okay.
16:07 8
- 16:07 9 A. The important point is to also note, however, as I said
16:07 10 before, that the Thomas et al study was, to my understanding,
16:07 11 based on work including by Professor Delfabbro where those
16:07 12 indicators had also been developed on the basis of operations
16:07 13 within a casino setting. So I think to respond to the
16:07 14 Commission's letter, there is a need for further research. I don't
16:07 15 think, however, it is to suggest that the long list is without some
16:07 16 understanding of a casino setting. What the research would need
16:07 17 to do is see how that needs to be validated within a casino setting.
16:07 18
- 16:07 19 Q. All right. I will change topics now. At 96.3 you say,
16:07 20 Mr Lucas, that it should be incumbent on Crown, I'm
16:08 21 paraphrasing, not quoting you, but let me know if it is an unfair
16:08 22 paraphrase, please, it should be incumbent on Crown to
16:08 23 intervene when a person reaches a pre-commitment level,
16:08 24 a YourPlay or Play Safe limit, but then continues to gamble; is
16:08 25 that right?
16:08 26
- 16:08 27 A. Yes.
16:08 28
- 16:08 29 Q. You understand, don't you, that the YourPlay program is
16:08 30 a program of the Victorian State Government?
16:08 31
- 16:08 32 A. Yes, I do understand that.
16:08 33
- 16:08 34 Q. According to the rules of that program, which the State
16:08 35 determined, players may in fact continue to gamble even after
16:08 36 they've reached their monetary limit?
16:08 37
- 16:09 38 A. I understand that to be the case.
16:09 39
- 16:09 40 Q. So you don't suggest that - I withdraw that.
16:09 41
- 16:09 42 A. Can I clarify, my statement at 96.3 does not specifically call
16:09 43 out YourPlay or Play Safe.
16:09 44
- 16:09 45 Q. No, no, I accept that. But YourPlay and Play Safe are the
16:09 46 two programs in existence which are relevant to this issue?
16:09 47

- 16:09 1 A. They are the two programs in existence.
16:09 2
16:09 3 Q. You know, under the YourPlay program, the Victorian
16:09 4 Government requires the players set the limits of money or time
16:09 5 that they want to spend playing?
16:09 6
16:09 7 A. Yes.
16:09 8
16:09 9 Q. That is, it has to be the player according to the rules of
16:09 10 YourPlay, that makes those decisions?
16:09 11
16:09 12 A. I understand that.
16:09 13
16:09 14 Q. You are aware that the rules of the YourPlay prohibit the
16:10 15 venue staff, whether it be Crown or pubs or clubs, from even
16:10 16 suggesting specific limits; do you agree?
16:10 17
16:10 18 A. To my understanding that would be the case under the
16:10 19 current regulatory framework, yes.
16:10 20
16:10 21 Q. Yes. And under the current regulatory framework, you
16:10 22 agree with me that a player can also choose to set no limit at all
16:10 23 under YourPlay?
16:10 24
16:10 25 A. Yes.
16:10 26
16:10 27 Q. Again, it is just a product of the current regulatory
16:10 28 framework, isn't it, that players can keep playing even after they
16:10 29 reach the limits that they might have set?
16:10 30
16:10 31 A. I believe that to be the case.
16:10 32
16:10 33 Q. You know also, don't you, that Crown is not even able to
16:10 34 find out when an individual player might reach her or his limit?
16:10 35
16:10 36 A. Through the YourPlay system?
16:10 37
16:10 38 Q. Yes.
16:11 39
16:11 40 A. That's my understanding, yes.
16:11 41
16:11 42 Q. There are, and I won't go to the detail of it unless you want
16:11 43 me to because there are some confidentiality issues touching the
16:11 44 State and others, but you agree with me that as part of the
16:11 45 regulatory regime, Crown can't access that information, can't
16:11 46 lawfully access that information?
16:11 47

16:11 1 A. I don't know whether that's the case or not but I'm prepared
16:11 2 to accept your comment. I don't have an understanding of the
16:11 3 contractual relationships in question.

16:11 4

16:11 5 Q. I certainly won't quiz you on the details of any contractual
16:11 6 or statutory arrangements, but is it your evidence that you have
16:11 7 no idea about that? I'm not asking you to make an assumption. I
16:11 8 want in your position for you to give evidence as to whether you
16:12 9 agree, your understanding is that that is the position?

16:12 10

16:12 11 A. That is my understanding.

16:12 12

16:12 13 Q. Yes. So when you said earlier in answer to questions from
16:12 14 Counsel Assisting, that you, the Foundation has a great interest in
16:12 15 accessing YourPlay data, you recognise that the Foundation's
16:12 16 ability to access that YourPlay data is a matter for Government,
16:12 17 not for Crown?

16:12 18

16:12 19 A. I would accept that position, yes.

16:12 20

16:12 21 MR BORSKY: Thank you. I have no further questions for the
16:12 22 witness.

16:12 23

16:12 24 COMMISSIONER: Thank you, Mr Borsky.

16:12 25

16:12 26 Ms Findlay, did you want to ask your client some questions?

16:12 27

16:12 28 MS FINDLAY: Yes, please, Commissioner, I just have some
16:12 29 very limited questions in re-examination.

30

31

32 **RE-EXAMINATION BY MS FINDLAY**

33

34

16:13 35 MS FINDLAY: Mr Lucas, you were asked about a letter that was
16:13 36 sent to you in April 2020 by the VCGLR, which
16:13 37 recommended that, or stated that it would be beneficial for you to
16:13 38 consider undertaking or commissioning further research
16:13 39 regarding observable signs of gambling harm specific to the
16:13 40 casino context.

16:13 41

16:13 42 A. Yes, I did.

16:13 43

16:13 44 Q. And you gave evidence that that research has not been
16:13 45 done?

16:13 46

16:13 47 A. That's correct.

16:13 1

16:13 2 Q. Was consideration given to the request at that time in April
16:13 3 2020?

16:13 4

16:13 5 A. Yes, consideration was given at that time to the request and
16:13 6 some early conversations occurred with the regulator to try and
16:13 7 get a better understanding of what that research piece could
16:13 8 potentially look like and that consideration remains live. I would
16:14 9 note two things in that respect: one is our research grants
16:14 10 programs are normally set at least 12 months ahead of time, so to
16:14 11 speak, and also that letter arrived in April 2020 at which time
16:14 12 there were no venues, casinos included, open until later that year
16:14 13 in November.

16:14 14

16:14 15 Q. You were also asked questions and gave some evidence
16:14 16 about the fact that the Foundation has not made a request to
16:14 17 Crown for data. Do you have any research on the current agenda
16:14 18 that requires data from Crown?

16:14 19

16:14 20 A. Not at this time.

16:14 21

16:14 22 Q. No. Thank you. Can I take you to paragraph 96.8 of your
16:14 23 statement. You have Table B set out.

16:14 24

16:14 25 A. Yes.

16:14 26

16:14 27 Q. And this sets out, doesn't it, the long list and the short list,
16:14 28 as it were, that you were discussing with Mr Borsky.

16:14 29

16:15 30 Now, in relation to the factors that you've set out at 96.9, the
16:15 31 three-plus hours without a proper break to - can we just take
16:15 32 that as an example.

16:15 33

16:15 34 A. Yes.

16:15 35

16:15 36 Q. To which of the indicators on the long list that does relate
16:15 37 to?

16:15 38

16:15 39 A. That relates to the one under "Intensity and Duration"
16:15 40 where the indicators suggests:

16:15 41

16:15 42 *Often gambles for long periods (3+ hours) without*
16:15 43 *a proper break.*

16:15 44

16:15 45 Q. Do you see on the short list, if we continue to use that
16:15 46 terminology, a factor or an indicator that is similar to that one?

16:15 47

16:15 1 A. Indicator 3, I think is the closest, which is "Often gambles
16:15 2 for long periods without a break" but does not define what a long
16:15 3 period might be. Whereas the long list defines what that long
16:16 4 period could look like, three-plus hours.

16:16 5

16:16 6 Q. And so is it your evidence that that three-plus hours is what
16:16 7 should be utilised?

16:16 8

16:16 9 A. Yes, as discussed with Mr Borsky, I believe my statement
16:16 10 at 96.9.1 should reflect the precise wording of the long list.

16:16 11

16:16 12 Q. And in relation to 96.9.2 that says "2+ ATM/EFTPOS
16:16 13 withdrawals", which indicator on the long list does that relate to?

16:16 14

16:16 15 A. That is the first indicator under "Money Seeking" which is
16:16 16 "gets cash out on 2 or more occasions through EFTPOS".

16:16 17

16:16 18 Q. And then do you see one on the shorter list that correlates
16:16 19 to that?

16:16 20

16:16 21 A. Probably the closest would be the second last on the short
16:16 22 list, which is "Frequent visits to the ATM".

16:16 23

16:17 24 MS FINDLAY: Thank you.

16:17 25

16:17 26 I have no further questions, Commissioner.

16:17 27

16:17 28 COMMISSIONER: Thank you, Ms Findlay.

16:17 29

16:17 30 Mr Finanzio, anything or do we go home now?

16:17 31

16:17 32 MR FINANZIO: We go home. I just wanted to - we almost go
16:17 33 home.

34

35

36 **FURTHER EXAMINATION BY MR FINANZIO**

37

38

16:17 39 MR FINANZIO: At 96.9.1, 2, 3 and 4, I had taken you to be
16:17 40 paraphrasing observable signs in the long list. So you miss out
16:17 41 the verbs and so on. So, for example, 96.9.3 in the long list, "Bets
16:17 42 \$3 or more per spin most of the time"?

16:17 43

16:17 44 A. Look, I think you are correct, counsel.

16:17 45

16:17 46 Q. We should read that not as a qualification on the long list,
16:18 47 we should read paragraph 96.9 not as a qualification on the long

16:18 1 list, but as a paraphrase of the ones that are there?

16:18 2

16:18 3 A. I think that certainly has been the intention in developing

16:18 4 my statement. That was certainly what I intended to achieve.

16:18 5

16:18 6 MR FINANZIO: Yes.

16:18 7

16:18 8 Thank you, Commissioner.

16:18 9

16:18 10 COMMISSIONER: All right.

16:18 11

16:18 12 Thank you very much, Mr Lucas. We will call it a close today

16:18 13 and I will adjourn until 10 o'clock on Monday morning. Thank

16:18 14 you, everyone.

16:18 15

16:18 16 WITNESS: Thank you.

16:18 17

18

19 **HEARING ADJOURNED AT 4.18 PM UNTIL MONDAY, 7**

20 **JUNE 2021 AT 10.00 AM**

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