Advising and promotion of gambling services in sport

WEDNESDAY, 27 MARCH 2013

SYDNEY

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JOINT SELECT COMMITTEE ON GAMBLING REFORM

Wednesday, 27 March 2013

Members in attendance: Senators Di Natale, Madigan, Xenophon and Ms Brodtmann, Mr Ciobo, Mr Stephen Jones, Mr Wilkie.

Terms of Reference for the Inquiry:
To inquire into and report on:

The advertising and promotion of gambling services in sport, including:

(a) in-ground and broadcast advertising;
(b) the role of sponsorship alongside traditional forms of advertising;
(c) in-game promotion and the integration of gambling into commentary and coverage;
(d) exposure to, and influence on, children;
(e) contribution to the prevalence of problem gambling, and mechanisms to reduce that prevalence;
(f) effect on the integrity of, and public attitudes to, sport;
(g) the importance of spot betting and its potential effect on the integrity of sporting codes;
(h) the effect of inducements to gamble as a form of promotion of gambling services, and their impact on problem gambling; and

(i) any related matters.
WITNESSES

BARRY, Mr Cormac Benedict, Chief Executive Officer, Sportsbet Pty Ltd; and Chairman, Australian Wagering Council

BRADY, Mr John, General Manager, Media and Communications, National Rugby League

BRIGGS, Mr Scott Anthony, Director of Commercial and Regulatory Affairs, Nine Entertainment Co.

CURTIS, Mr Simon, Policy and Regulatory Affairs Manager, Australian Subscription Television and Radio Association

DOWNY, Mr Chris, Chief Executive Officer, Australian Wagering Council

FAIR, Ms Bridget, Group Chief, Corporate and Regulatory Affairs, Seven West Media

HERD, Ms Annabelle, Head, Broadcast Policy, Network Ten

MAIDEN, Mr Andrew, Chief Executive Officer, Australian Subscription Television and Radio Association

MATTISKE, Mr Shane, General Manager, Strategic Projects, National Rugby League

McCARTHY, Ms Justine, Legal Counsel, Regulatory and Business Affairs, Seven Network Operations Limited

MEAGHER, Mr Bruce, Director, Corporate Affairs, Foxtel

THOMAS, Associate Professor Samantha Louise, Private capacity

THOMPSON, Mr Giles, Chief Executive Officer, Betfair; and Treasurer, Australian Wagering Council

WILSON, Mr Ian, Regulatory Manager, Network Ten
BRADY, Mr John, General Manager, Media and Communications, National Rugby League

MATTISKE, Mr Shane, General Manager, Strategic Projects, National Rugby League

Committee met at 10:05

CHAIR (Mr Wilkie): I declare open this public hearing of the Joint Select Committee on Gambling Reform. Today's public hearing will inform the committee’s current inquiry into the advertising and promotion of gambling services in sport. Before the committee starts taking evidence, I advise all witnesses that in giving evidence to the committee they are protected by parliamentary privilege. This gives them special rights and immunities because people must be able to give evidence to committees without prejudice to themselves. It is unlawful for anyone to threaten or disadvantage a witness on account of evidence given to a committee. Such action may be treated as a contempt. It is also a contempt to give false or misleading evidence to a committee. The committee prefers all evidence to be given in public, but the committee may agree to a request to hear evidence confidentially. The committee may still publish confidential evidence at a later date but would consult the witnesses concerned before doing this.

I now welcome representatives from the National Rugby League. I invite one or both of you to make a brief opening statement before the committee proceeds to questions.

Mr Mattiske: Thank you. We appreciate the opportunity to be here today to present. The Australian Rugby League is a not-for-profit entity with an independent board of commissioners that form a single controlling body for rugby league in Australia. It provides strategic direction and oversight through the National Rugby League for the Telstra premiership, the Holden State of Origin series and the Holden Kangaroos. The NRL also includes an extensive network that provides game development, high-performance, development of athletes and community engagement across the country. With over 1.4 million people participating in our programs, over 90,000 volunteers and nearly 1,500 people directly employed by the game of rugby league, we are an integral part of our communities in which we reach. Rugby league is the most watched sport on Australian television.

We have made a submission to the inquiry through our membership of the Coalition of Major Professional and Participation Sports, and we welcome the opportunity to appear here today. The NRL takes our social responsibility across a range of areas seriously, and gambling is one of those areas. As far as gambling related advertising is concerned, we currently have existing policies in place concerning standards and practices surrounding promotion of advertising of gaming and wagering associated with the game of rugby league. We also regularly engage with inquiries such as this and share information and benchmarking data amongst the other COMPPS participants.

Our view is that addressing integrity and social issues requires a multipronged approach by a range of stakeholders. We play our part by ensuring we have a wide array of strategies and actions in place, including: a strong code of conduct that applies to all players, employees and officials in the game; a strong and multilayered education program; documented advertising and promotion restrictions; commercial guidelines for any NRL clubs seeking to enter an agreement with a betting operator; proper protocols for our own product fee and integrity agreements with betting operators; and formal strategies and processes surrounding our monitoring, evaluation and investigation capacity. Whilst we have always invested in managing integrity issues across our game, earlier this year we established an integrity and compliance unit. This unit is currently being overseen by Judge Tony Whitlam QC as its development and implementation is being undertaken. Apart from its work in coordinating the NRL's response to the current ASADA investigations, the integrity and compliance unit is responsible for all integrity matters across the game. The integrity unit will ensure that rugby league is in a position to meet the emerging threats that all sports will face in the years ahead. Thank you, and we are happy to take your questions.

Senator XENOPHON: My question to the NRL relates to the commercial relationship they have with, for instance, Tom Waterhouse. As I understand it, it is a $50 million sponsorship agreement between Tom Waterhouse and the NRL over a period of five years. Is it the view of the NRL that that would in some way create a potential conflict of interest in respect of their ability to regulate gambling within their code?

Mr Mattiske: Firstly, to address the point around the arrangements between Tom Waterhouse and the NRL, whilst we have been in discussions with a number of operators—and we are certainly advancing those discussions with Tom Waterhouse—we have not yet concluded an arrangement with Tom Waterhouse. We acknowledge that in the past we have had commercial arrangements with sports betting operators, most recently with TAB Sportsbet, and that is an arrangement that has been in place in various forms for over 10 years. They are commercial arrangements that simply involve the passing of IP and other benefits, like ticketing or signage. But we certainly do not believe that those arrangements that have been in place in the past and any arrangements that we enter into in the future would have an influence in this space.
Senator XENOPHON: So, you are saying that the media reports of the $50 million sponsorship deal between Mr Waterhouse and the NRL is not right.

Mr Mattiske: What I am saying is that we have been in discussions. I certainly do not want to go into any detail around the level of the discussions we are having in terms of the magnitude of dollars. However, they have not been concluded, so that arrangement is not in place. Tom Waterhouse does have an arrangement, as I think everyone is aware, with Channel Nine that exists across their network and certainly includes promotion within rugby league, but that is a separate arrangement to the discussions that we were having with Tom Waterhouse.

Senator XENOPHON: So we do not know the amount that is involved, but you are saying that it does involve many millions of dollars. Is that correct?

Mr Mattiske: Well, there is not an agreement in place. We were in discussions about an arrangement. We are certainly in discussions with Tom Waterhouse about an arrangement. It would be an arrangement that would be of high value to the game, but we are not disclosing the magnitude of those, and the simple fact is that the agreement has not been concluded.

Senator XENOPHON: And you do not think you should disclose that in any event. Is that what you are saying?

Mr Mattiske: I do not think it is appropriate to disclose that, in that we have not actually reached an agreement, so the arrangement has not been concluded.

Senator XENOPHON: But once you have concluded that arrangement you will not have any issue with that amount being disclosed publicly?

Mr Mattiske: We would disclose it to the same degree publicly as we would disclose any other sponsorship arrangement. In relation to other sponsorship arrangements that we have, we talk broadly about the value of those, without going into the specific detail of exactly how much those arrangements are worth.

Senator XENOPHON: But you do not see a real conflict of interest that arises?

You are responsible, the code is responsible, for determining the rules for sports betting—whether microbets or in-play bets are allowed and the nature of the market regarding what events can be gambled on within the NRL. But if you also have a million-dollar sponsorship agreement with one of Australia's leading sports-betting online agencies, you do not see the potential for a conflict.

Mr Mattiske: We keep those arrangements very separate. At the end of the day, the integrity of our competition, the integrity of our game, is of upmost priority for the game. With regard to that, we have put a lot of energy into both internally focusing on our integrity measures—and I have outlined those in my opening address—and working with other professional sports, in terms of our approach to sports betting and the principles that need to be put in place. That is our primary focus. We have separated any discussion around sponsorship. In my address I touched earlier on the fact that sponsorship really revolves around the use of intellectual property and other benefits, like signage and ticketing et cetera. They have been kept very separate to our approach on integrity.

Senator XENOPHON: You are telling me that, notwithstanding any million-dollar deal with Tom Waterhouse or any sports-betting agency—and you are also responsible for policing the game, in terms of the rules for gambling—you see the two as totally separate.

Mr Mattiske: I am saying that the integrity of our competition is the upmost priority and that remains our focus. We would not allow any other arrangement to threaten that. Our focus has to be the integrity of our competition, and that is exactly what it is.

Senator XENOPHON: What I do not understand here is that if you are receiving tens of millions of dollars from a sports-betting agency you do not see that is, in any way, impacting on your ability to have rules in place with respect to gambling on your code that would not affect the integrity of the code.

Mr Mattiske: That is correct. As I said before, we believe that the integrity of our competition is the primary focus of our competition and that remains the most critical element for us. The fact that sponsorship arrangements are entered into is separate to those integrity measures and we will continue to keep those separate, to the extent that you are speculating around the size of—there are certainly significant deals but you are speculating as to the size of those deals, not me.

Senator XENOPHON: But you can understand that the size of the deal, the commercial reliance, the financial reliance of the code upon a gambling sponsor, may colour your views in the way that you regulate gambling within the code. Is that not pretty axiomatic?
Mr Mattiske: The size of the deals being talked about is not essential to our competition. Whilst certainly the numbers appear to be big numbers, they are not a critical revenue line for the game. They have been kept separate in terms of our focus on integrity and we are comfortable with that.

Senator XENOPHON: If they are not critical, you can do without them. Is that what you are saying, as well?

Mr Mattiske: I am saying that they are not so significant that they are essential to the ongoing management of our game and competition. I think you are trying to say that they are so critical to us that they would colour or sway our views on integrity and I am telling you that is not the case.

Senator XENOPHON: You can understand why some people listening to you would say that it does not seem credible that you could have a multimillion dollar deal with a sports-betting agency and not be swayed in the way that you deal with microbetting, with gambling policy within games, within the code.

Mr Mattiske: I am telling you that the integrity of our competition is of the utmost importance and our focus remains on that.

Senator XENOPHON: I am sure my colleagues have many questions for you on that. I want to go to an issue that I raised with the AFL and its integrity unit. The AFL has a policy that, if a player is caught with drugs or has a drug problem, there is a three-strikes policy that applies. The Australian Crime Commission, in its report, at page 33, says:

Illicit drug use by athletes leaves them particularly vulnerable to exploitation for other criminal purposes, including match fixing and fraud arising out of the provision of ‘inside information’.

The AFL’s integrity unit does not know what their drug unit is doing, even though the Australian Crime Commission says that if a player is taking illicit drugs—we are not necessarily talking about performance-enhancing drugs, but including those—it can compromise that player and make them vulnerable to match fixing, which of course becomes more of a problem if you are betting on particular micro-events within the game. How does the integrity unit of the NRL know about any issues a player may have in respect of illicit drug use?

Mr Brady: The way our system works is a little different to the AFL. We require clubs to conduct a minimum of 140 tests across two grades each year—in fact, some clubs go well beyond that. The policy works on the basis that for a first offence a player has a suspended fine of five per cent of his wage, has to undergo compulsory counselling, and has to receive a written employment warning. Now if at that point that player has already had two written employment warnings, that could clearly cost him his job. For a second instance, that player would be suspended for 12 weeks. So there is not a long process during which a problem stays hidden, and there is a specific, club based committee that actually oversees the player.

Senator XENOPHON: Sure. I am not so much concerned about the offences against the players; I am concerned about the issue of information being sent to your integrity unit, because the Australian Crime Commission has identified that illicit drug use can make players vulnerable to corrupt activities by organised criminal figures, particularly in respect of match fixing—which of course is much easier to do if it is about a particular micro-event within the game.

Mr Brady: Yes, I understand that. I might just add in relation to that that the suspension of a player for a second offence makes the problem public very quickly and makes everyone aware of it. In terms of advising the integrity unit, as a result of the Crime Commission report we are working in that area to see at what point the integrity unit should be involved and, in fact, there are discussions going on with clubs about that now. So in terms of the existing procedure, a club would be audited on a yearly basis, and we would see the number of first offences the club has had, and we would publicly see the identity of any players with second offences. We are in the process of designing the integrity unit structures going forward. It is a redistribution of the way we deal with integrity within our game, and that is one of the factors the integrity unit is taking into account.

Senator XENOPHON: But, given the Australian Crime Commission report, do you acknowledge that—just like in AFL—there is a real issue with that part of rugby league that deals with drug use by players that the integrity units currently do not know about and which could well be a factor in respect of match fixing or corrupt practices?

Mr Brady: Looking at the Crime Commission report—I have had some briefing beyond the public report and obviously I cannot discuss that—I think we are all taking it as something we should take note of going forward; indeed, that is how the Crime Commission talked about this. I do not think at this stage—

Senator XENOPHON: I am sorry, what does that mean? Does that mean that there will still be this wall in relation to information about a player’s drug use being shared with the integrity unit?
Mr Brady: No, I am saying that, on the basis of the Crime Commission report, that is exactly what we are looking at trying to restructure.

Senator XENOPHON: So we could see a change in policy fairly soon in respect of that?

Mr Brady: It is quite possible. We have already flagged that we will be looking at our illicit substances policy and we have already had some discussions on that with players associations and with clubs. That includes some centralised testing to reinforce the club testing, and also the look and the process of that testing, and the procedures and reporting. So that is already acknowledged.

Senator XENOPHON: Sure. And through you, Chair, my final question: let us just make it clear that there is on the one hand the issue of players being tested for substances that might enhance their performance, but here we are talking about, say, a player taking illicit substances on New Year's Eve—but the risk identified is that they may be subject to undue influence from organised criminal elements. Is that something that you test for? Or do you not test for out-of-competition drug use?

Mr Brady: There are periods when players are away on leave and we are not out there testing them at that time. I think we do need to be a little careful here—and I do not say this defensively because all the points you have raised do refer to the information from the Crime Commission, and they have been points that we are all taking seriously and trying to reassess our intelligence on the basis of, and I think we have been proactive in doing that from the outset—

Senator XENOPHON: So does that mean that as a result of the Australian Crime Commission report you may now be looking at testing players out of competition because of the risk identified by the ACC, which was in respect of drug use and match fixing?

Mr Brady: If I can just finish, if I may, because I was not quite going to get to that point in those terms; I think it is too early for me to make that decision. I think there is a need here to look at the issues of risks to players—and you quite rightly highlight some that have been mentioned by the Crime Commission—and that is exactly what we are doing. I cannot give you the remedies to those at the moment; I think that is premature. But I can assure you that it is a matter that we are looking at very closely.

Senator XENOPHON: It is a logical consequence of what the ACC has said that, in order to protect the integrity of the game from organised criminal elements, from match fixing the inside information, that would of necessity involve testing of players outside competition.

Mr Brady: I think the logical consequence of what the Crime Commission has put forward is that there are risks identified across a number of areas, and we need to understand those as best we can and come up with what we think are the correct protections in relation to that. The Crime Commission does not just talk about illicit drug use as being the issue that needs to be considered; it actually refers to a wider range of issues that need to be looked at in terms of that. I suppose at the moment I can only give you the assurance that we are looking at all aspects of that and developing policy with the assistance of Tony Whitlam QC, who is, we would think, a good benchmark for advice in this area in terms of the propriety of the procedures we put in place, and that is where we are.

Senator XENOPHON: Thank you, Chair.

Chair: To be clear, for the record, we did invite Mr Waterhouse to appear today, but he is unavailable.

Ms BRODTMANN: Thank you, Mr Brady, for presenting here today. I just go back to the point that was raised by Senator Xenophon. Has the Integrity and Compliance Unit highlighted any evidence of match fixing or people using inside information?

Mr Brady: Not at this stage, no.

Ms BRODTMANN: Are you aware of any?

Mr Brady: Not beyond matters that we have pursued ourselves with the New South Wales Police, which I think are well known.

Ms BRODTMANN: You said you were going to enhance the relationship or the liaison between the unit and the ACC. Why did you decide that you needed to do that? Was it to fill a particular gap? I would be interested in your thoughts on that.

Mr Brady: It has been on the basis that the ACC has issued a report, and clearly there is information they have over and above the report that has been stated. We are in an ongoing communication process to take what learnings they can give us on the way through. That is being managed, we think appropriately, through someone with Tony Whitlam’s record and ability for impartiality in doing that. So that is the purpose of it.

GAMBLING REFORM COMMITTEE
**Ms BRODTMANN:** You were saying you were restructuring the unit to allow that enhanced relationship. Can you explain what you are doing in terms of restructuring the unit?

**Mr Brady:** Certainly. At the moment we have Tony Whitlam and Michael Eyers preparing a report for us on the overall structure, ground rules, considerations that need to be taken, in formally establishing the unit. Michael Eyers, a person of legal reputation and some experience in the Olympic movement, is helping us also in negotiations with the clubs, the players associations, about reviewing testing procedures and working also with ASADA. We have announced already that we want to increase some of our testing procedures and we are going through that process. Both those people are also involved in working with ASADA at the moment through their investigation.

We have a team within the unit that is building a framework under which we can assist ASADA and under which we can get some of the practices in place for a centralised unit, albeit that we are still waiting on the Whitlam report, which we expect shortly. From there we will move to a further stage where there will be formal appointments on a full-time basis. The people we have at the moment are very highly qualified consultants and we will grow that into a full-time group of employees over the weeks and months ahead.

**Ms BRODTMANN:** In terms of the testing regime, what improvements are you looking to make?

**Mr Brady:** There are a number and I have to say at this stage they are not formalised, but we are in close consultation with ASADA. They include the introduction of a blood passport program, which is seen as an international standard. The blood passport program on its own is not the thing that will be the be-all and end-all. In relation to testing, we have a great lab in Australia—or a very good lab in Australia—in Sydney. But there are more advanced tests overseas. We are looking at utilising some of those on some of our samples. So they would be the basic principles that we are doing in the program at the moment. There are some more additions in terms of working with the players. It is important to note that players, in many ways, cannot be made to undergo drug testing, particularly when it comes to illicit substances. There is a level of cooperation that relates to this. So we need to work through this with the players association. We are in the process of that and they have been cooperative to date with those discussions. We are looking at strengthening things like illicit substances testing. We have a very good program, but we think we can strengthen it and that is what we are looking to do.

In essence—and ASADA have certainly given us this indication as we have looked at it—we have very strong programs in place. What we are looking at as a result of the ACC work is: what are the emerging threats that are being identified, which they talk about, and how can we respond to those? That is, not only the ones that are now identified but the ones that may emerge going forward. That is not a quick exercise. It will be within this season, almost certainly. It is a learning curve that we take on aggressively. We had processes in place for integrity and processes in place for doping, but what we have taken on under our new chief executive, David Smith, is a very proactive view. When the Crime Commission report was first briefed to us, we were told, 'That's fine, but what do we need to do going forward?' We are looking at significant restructuring on that basis.

**Ms BRODTMANN:** Going back to the blood work—the blood passport—you suggested that the work that is being done internationally is at a higher standard. Could you explain the difference between what happens here and what happens internationally, where the gaps are in improvements?

**Mr Brady:** Certainly. It is not with regard to the blood passport, but there are certain tests, one of which was developed during the London Olympics, around peptides. There is a laboratory in Lucerne that has a particularly good test in relation to peptides as well. Without trying to be an expert on it, labs have varying qualities around the world and there is some suggestion at times as to which one is better or worse. My layman's understanding is that, as tests are developed, the lab that has developed them is sometimes going to be a little ahead of the other labs catching up. That means that, for a brief period—you would hope that all labs catch up very quickly—there might be certain tests that are going to be better sent overseas. That does not normally happen, and that is something we are looking at. We are working closely with ASADA on that. It is not that the blood passport cannot be done here; it is done here. It is that there are certain tests from time to time—and this one was developed in London around the Olympics—that are still ahead of our lab in that area and we will take advantage of that.

**Ms BRODTMANN:** Specifically on peptides?

**Mr Brady:** Yes.

**Ms BRODTMANN:** You talked about the emerging trends that the ACC has flagged. Could you highlight those for us?

**Mr Brady:** The two that they are most focussed on are, I think, peptides and illicit substances, with links to organised crime. That was mentioned by Senator Xenophon. We take that seriously. We stress, as Shane has
done, that our focus is on two things. Drugs concern us in the integrity of our game, regardless of whether there is a danger of them being linked to organised crime and match-fixing. Any suggestion of match-fixing is a separate issue for us. They remain, regardless of this, areas on which we are very heavily concerned and work to do our best.

The potential for a link is something we have to be aware of, if it is raised, because clearly they have not raised it without some idea of it. In essence, our view is to take information on links, but you have to address both issues. If you address them both properly, you will, by nature, break the link. That is the first point and that is what we are trying to do. To some extent, all sports have some of the picture but not all of the picture, and that is fitting from a Crime Commission investigation. We are taking the view that we should keep an even closer eye on illicit substances. We already knew that was an issue. Alleged peptide use was also linked strongly to the danger of organised crime. It was not just illicit substances. We are certainly looking at everything we can. In the words of the Crime Commission at one point: crime works on profit, so, if you take away the ability to profit, you take away the incentive to be involved. If you take away the use of peptides, and they believe there is a link there, then you can take that away. If they believe there is a link to illicit drugs, if you take away the use of that, then you take away the link. So that is very much where our focus is.

Similarly in relation to gaming: if we have the right policies in place—to the point of Senator Xenophon again—it would not matter if there were a deal for $1 or $100 million out there in terms of gaming; our issue would be on the integrity of the game in any case. It was an issue for us before betting on sport was legalised. That happened not that long ago, when people go back, and it was not something that we actually lobbied for, but when it did happen it was no different for us. We needed to protect the integrity of the game. That is our primary consideration. It remains our primary consideration, no matter what.

Senator DI NATALE: Just a little bit of context for the inquiry: I am sure you are aware, but I think there are two main issues here. People are concerned about the impact of sports betting on the integrity of sport. I think that is one issue, and I want to deal with that separately. But there is also the impact of sports betting, in particular the promotion and advertising around sports betting, and the influence it is having, particularly on young kids. I think there is a concern within the community that it is having a potentially adverse impact on young kids. I just want to get a sense from you, given that the code is promoting itself as family friendly and is targeting families deliberately: do you have concerns that this increase in sports betting, the promotion of live odds and so on, could be having a potentially negative impact on young viewers?

Mr Mattiske: John touched on the fact that legislation has allowed sports betting. Legislation has also allowed the promotion of sports betting, and it does appear everywhere. We have worked closely with the Coalition of Major Professional and Participation Sports to look, from a sports point of view, at how the promotion of sports betting should appear, particularly within broadcast. One of the things that we agreed as a group is that that promotion should be separated from the actual commentary within the broadcast. That is something that I think you will see has now happened. We have certainly been in discussions with Channel 9, our partner in relation to the broadcast of our matches, on the way we saw integration of sports betting in the opening rounds of the competition. What you will see in the most recent round and moving forward is a very distinct separation between when someone is talking about sports odds and when the commentary team is talking about the match itself. That is something that is entirely consistent with the position that the COMPPS group has taken. I think you have seen the submission from COMPPS in relation to that. All sports supported that position. That is an important distinction for us. We do not want to see sports betting actually integrated or interwoven within the match itself. That is something you will have seen now has changed.

Senator DI NATALE: Is that an acknowledgement from the NRL that it was completely inappropriate, and essentially cuts across the code that has been developed, to have somebody who is essentially a bookie—while perhaps in the eyes of some people he is regarded as separate from the commentary team, you are having live crosses from the commentary team to the bookie, who is on the ground. Is that an acknowledgement that, if you were a young kid, there is no way you would be able to tell that this is a person that is somehow separate from the commentary team?

Mr Mattiske: The COMPPS submission very clearly put a position that integration should not occur into commentary. I think it is plain that, in the first round of the competition, the lines were a little blurred. It is clear, I think, now, when you watch the broadcast of last weekend and of the weekend moving forward, that there is a very clear distinction between the commentary team and the promotion of sports betting.

Senator DI NATALE: What is the change? Just explain to me how things have changed.

Mr Mattiske: I understand Channel 9 are appearing this afternoon. I am sure they will talk in more detail. However, when Tom Waterhouse, who is Channel Nine's sports betting partner, appears, he appears by himself.
He appears with a super graphic describing him as a sports betting operator rather than a Channel Nine personality. He appears with material either on his mic cube or behind him that describes the fact that he is representing Tom Waterhouse the sports betting operator as opposed to a member of the commentary team. He is not interviewed by or interacting directly with the Nine commentators when he is appearing. When he appears he is talking purely about sports betting odds rather than talking about the game itself and the nature of the game.

**Senator DI NATALE:** So he is still at the ground?

**Mr Mattiske:** As I understand it, he is still at the ground.

**Senator DI NATALE:** He will still be walking around with the mic at half-time?

**Mr Mattiske:** I believe so. As I said, Channel Nine will appear this afternoon, and they are probably better suited to talk directly to guidelines they are now placing on the promotion of their sports betting partner.

**Senator DI NATALE:** Is that an acknowledgement that you do believe there are significant concerns about the impact this is having on young kids who watch the game?

**Mr Mattiske:** As I said previously, it is an issue we considered in terms of how sports betting is promoted.

**Senator DI NATALE:** I am asking your view on this.

**Mr Mattiske:** We supported the COMPPS position. We acknowledge that sports betting is something that is legal. It is something that happens in society. It is something where, if you pick up the newspapers this morning, you will see sports betting advertising. It is everywhere, and that is not something that we control, but we have been able to step forward and put in place some guidelines around the level to which that sports betting advertising is integrated into our product.

**Senator DI NATALE:** Are you still comfortable with him being there at the ground and being crossed to by the commentary team?

**Mr Mattiske:** As I said, sports betting is something that is all around us. It is a function of legislation that exists at present. From our point of view, you look at that environment and it exists. It is in the newspapers, it is at venues—it is all around us.

**Senator DI NATALE:** Sure, but you have agreed, along with all the other major sporting codes, the broadcasters and the industry that the status quo is unacceptable. We are not having a debate about whether the status quo is there to stay; we are having a debate about what the new code should look like. So let's put that aside. The debate at the moment is what the right balance is. I am asking you whether the changes that are being proposed are, in the view of the NRL, acceptable in your view and still allow Tom Waterhouse to be at the ground and to be crossed to by the commentary team. I put to you that, if you are a 12-year-old kid sitting down with mum and dad it is very hard to tell, particularly with a small Tom Waterhouse logo on the mic, that this is somebody who somehow sits separately from the rest of the commentary team.

**Mr Mattiske:** That is the position that the NRL and the other major professional sports have taken. That is what we have described in our submission. We want to see a distinction between the commentary and the promotion of sports betting that our broadcasters have entered into. They are commercial arrangements that those broadcasters have entered into, but we have asked that they be separated so there is a clear distinction between the commentary team for the match itself and the promotion of sports betting odds. We also put the position that we did not want those odds being referred to during play. Again, that was an issue that had been considered in the past. We have all seen instances of odds being referred to in play, and we again took a strong position to say that we did not want that to be integrated into our product to the extent that the broadcasters entered into a separate agreement. That should be distinct from the match itself. It should be separated into either periods prior to the match starting or, in effect, when we break.

**Senator DI NATALE:** I will put a different view: having somebody walking on the ground at half-time is part of the game and, in fact, it is very hard to make that distinction. But I accept we possibly have a different view on that. I am interested in whether the NRL has done what the AFL has done and prevented the promotion of live odds in venues—at the ground. If you go to the MCG or Etihad Stadium and look at the electronic scoreboards, you will not see live odds being flashed across the scoreboards. Has the NRL done that as well?

**Mr Mattiske:** Yes. For some time now we have had restrictions placed on our clubs and on the matches we control to ensure that there is not the promotion of live odds in venue during the match.

**Senator DI NATALE:** I bring my bias as a former player of AFL code. I have not been to an NRL match recently. If I go to a venue, you do not see live odds on the electronic scoreboard at all?

**Mr Mattiske:** I encourage you to come along.
Senator DI NATALE: I look forward to that.

Mr Mattiske: You will not see live odds promoted in play. Our clubs will have partners, so those arrangements with sports betting partners generally provide for signage, ticketing benefits and use of IP of the club. You may see the promotion of odds prior to the match commencing.

Senator DI NATALE: On the scoreboard?

Mr Mattiske: On the scoreboard.

Senator DI NATALE: My understanding is that that is very different from the AFL code, but I will follow that up.

Mr Mattiske: But you certainly will not see any mention of live odds during play, and that is a very clear distinction that we have supported.

Mr STEPHEN JONES: Sorry to interrupt. What do you define as ‘during play’?

Mr Mattiske: When the match itself is in progress.

Mr STEPHEN JONES: Is that from whistle to whistle, or is that while people are running around?

Mr Mattiske: From whistle to whistle.

Mr STEPHEN JONES: So does that include quarter-time and half-time?

Mr Brady: I do not think it includes half-time. I think they can do it at half-time.

Mr STEPHEN JONES: So they can do it during the half-time and quarter-time breaks in Senator Di Natale's code.

Mr Brady: There is only a half-time break in our game.

Senator DI NATALE: I suppose the other thing is sponsorship and jumpers. If I got a Brisbane Broncos jumper for my young kid, would it have a—

Mr STEPHEN JONES: A reckless thing to do!

Senator DI NATALE: Yes, probably. I probably should have said 'a Melbourne Storm jumper'! If I were to get a jumper for my young kid, do any of the jumpers have the logos of sports betting companies on them?

Mr Mattiske: Again, I encourage you to do that as well. But no. You will find that none of the junior jerseys will carry sports betting promotion. That is another guideline that we have put in place. In addition to that, only our elite-level teams—our senior teams—are allowed to carry sports betting promotion on jerseys. We, of course, run a national youth competition for the under-20 age group, and all those players and the competition itself are prohibited from carrying sports betting advertising as well. So the jerseys, which again are popular at that level, also do not carry any promotion of sports betting.

Senator DI NATALE: What about casinos?

Mr Mattiske: There is certainly casino promotion on jerseys for the senior teams. I am not sure—I would have to take it on notice—whether or not there is a prohibition on that appearing on junior jerseys.

Mr Brady: I think you will find there is not, but we can take it on notice.

CHAIR: Just to follow up that question, why is it wrong to have gambling advertising on a junior jumper but okay to have it on a first-grade jumper, particularly on the chest or the back of a much-admired and arguably heroic sporting figure that has a following of thousands or tens of thousands of children who admire and look up to that person? Why is that okay?

Mr Mattiske: I think the principle that we have adopted is that we do not allow minors to be directly targeted. So if a product is targeting minors—a junior jersey that is on sale for a 12-year-old—we would not want to see any advertising there. It is very difficult. It comes back to the point I was making previously: I pick up the newspaper this morning and there is sports betting advertising, when you walk down the street you see it and when you go into venues you see it. It is very difficult, I think, to deal with advertising in that environment. But we certainly have a principle that, if someone is targeting a minor, there should be absolutely no promotion of sports betting in that instance.

CHAIR: But surely it is targeting a minor to put a betting company's logo across the chest of one of the top-grade, much-admired players. You might sell so many thousand jumpers to young footy players, but hundreds of thousands of young people are watching the game and following the—to use this term again—heroic figures that they follow with great interest and look up to as role models. Good on you for not selling the jumpers to some people, but surely there are many, many more people affected by it being on the chest of their much-admired players.
Mr Mattiske: I think that is an argument about the broader impacts of advertising generally and how, if advertising is allowed generally—

CHAIR: Can I ask just one more question before I go back to you, Senator Di Natale. Can I come to that. Do you agree with the general prohibition on gambling advertising during any time of day when children might watch television? Is that a good idea?

Mr Mattiske: Would you like to respond to that?

Mr Brady: I am happy to. I do not profess to have researched all of the elements of the legislation, the prohibition, that did that.

CHAIR: My understanding is that gambling firms are not allowed to advertise their wares on the TV at any time during the day when children would normally watch TV, with one obvious exception. We will come to that as the obvious follow-up question. Do you agree with that general prohibition?

Mr Brady: Again, I would like to know the details as to what led to it; that is the only thing. I am aware of the general proposition; I just do not know the exact details.

CHAIR: This is not rocket science.

Mr Brady: No, I understand.

CHAIR: Legislators at some stage have decided that advertising gambling is not a good idea when kids watch TV.

Mr Brady: I am not trying to be evasive. I just want to make the point that I am not aware of all the circumstances that led to—

CHAIR: But I do not think you need to be aware of all the circumstances—

Mr Brady: No, that is okay. I just make that premise.

CHAIR: It is a simple fact that gambling is not allowed to be advertised during times that kids watch TV.

Mr Brady: I understand.

CHAIR: I do not think we need any more detail to answer the question. Is that a good prohibition? Is it a good idea?

Mr Brady: The answer is that I can see the sense of the prohibition. Again, I am not trying to be at all difficult; I just did not understand all of the reasons that led to it. That is all I was going to say. I was not going to park the question there. We accept that having safeguards in relation to children is very important, and that is why we have prohibitions around how our clubs use sponsorship.

CHAIR: So, if it is, generally speaking, a good idea not to allow gambling advertising during the day when kids watch TV, why is it okay to have one exception, and that is during sporting games, when a very large number of children watch the telly? Personally, I cannot reconcile that general prohibition and that exception. Can you help explain it?

Mr Brady: I will try to, as I understand the question. One thing is that, in terms of a player carrying a jumper, as you quite rightly point out, that is a message that goes across a whole range of levels of society, not just to children. It goes across every level because there is a mass engagement in sport. It is not just children, but certainly children are part of that audience. One of the strengths of sporting sponsorship is that it does cut across a lot of areas, through news bulletins and everything else during the day, right into those timeslots. The difficulty in somehow isolating it and excising it would almost put that out of the market for any sports. The range of sponsors that you would have to take out of the market play, given the amount of coverage—you have 24-hour sports channels going on; you have news bulletins that cover sport right through every bulletin—and the extent of blackout that you would need would be enormous to get to that next step. I think that is the difficulty of it. When an international motor-racing driver, for instance, wins a race, it is going to pop up five, six or seven times a day in all timeslots. Trying to blanket that out and say that that cannot appear in a timeslot is a very difficult thing.

CHAIR: Wouldn't a simple solution be just to not allow gambling advertising during sporting matches—or, as a witness to this inquiry testified only recently, is it in fact the case that now sport and sporting clubs rely disproportionately on gambling related income?

Mr Brady: I do not think the latter is true. I think the fact of the matter is that it is an issue and it is an income stream. There is an ability to turn that the other way and say that any other venture that was using the intellectual property of sport and creating profit on the basis of sport would be expected to give some return to that sport, and that would be true of almost any venture of any type. Something that allows betting operators an exemption for
that is equally a paradox to put up—to say, 'Well, you guys can do that, but no-one can get any return out of the fact that you're going to use their intellectual property,' because that is the reality: they will use that.

We have tried to strike agreements with the support largely of the Victorian government and some in-principle support from the federal government that create a relationship there that allows the sports to have greater scrutiny over betting markets, over what can be offered and over information of any suspicious activity, and that includes a product fee. That is something that creates a relationship. The reality is that the betting will happen regardless of whether the sports are involved or not. In some ways, the current system gives greater transparency of what is going on than the previous systems.

In terms of the sponsorship generally, it is a legitimate question. I do not duck it for a second. But the problem is that sport is not just aimed at children; sport is aimed at a wide cross-section of society. There are a number of areas in society, not just sport, where you will see the sort of signage that can happen in sport, which will sometimes transcend where it is shown at various stages, not in the form of broadcast to children but in the form of the fact that it will be incidental to what is going on. That is a difficult thing to simply outlaw. You can start picking off individual areas, and you can find yourself at the point where you can outlaw pretty much everything to one degree or another.

Senator DI NATALE: We just need to make the distinction here. We are talking about advertising and promotion, not the activity itself. On the activity itself, I do not think anyone on this committee is suggesting that we ban sports betting. We are talking about advertising and promotion, so let us focus on that particular aspect. I want to get back to this issue of logos on jumpers. If an NRL club visit a school with their jumpers on, do they have the gambling logos on their jumpers?

Mr Mattiske: The guidelines that we have in place for the clubs would prohibit them doing that. Our guidelines would say that when the players are engaging directly with minors—so any activity that is targeting minors should not involve the promotion of sports-betting partners. I would understand that they would not be wearing apparel that would promote those sports-betting partners. The guidelines describe, for instance, that, if the children are being invited to some sort of activity, they would not reference the name of a sports-betting partner in that activity as well.

Senator DI NATALE: It has been put to me that clubs visit schools all the time and wear their jumpers. I do not think there are two sets of jumpers, one with the logo and one without the logo, as far as I understand. Is that something that, if you thought it was occurring, you would be disappointed with and find in breach of the code?

Mr Mattiske: Our guidelines would describe that that should not happen. It is something that, again, we might have to take on notice and check to ensure if it is happening.

Mr Brady: I would check that—a lot of clubs wear polos too and those sorts of things.

Senator DI NATALE: Yes.

Mr Brady: I am not saying you would not find an example of someone having done it, but I do not think it is an assumption that should be made.

Senator DI NATALE: I know time is getting away from us. I will ask a final question around the integrity issue. I think that is the separate element of all of this. I understand that the NRL has made some significant changes in terms of the new integrity unit. You have described some of those. Mr Brady, you are the communications officer; is that right? Is it true that previously the communications officer at the NRL was also the integrity officer?

Mr Brady: No. That is a misconception that has been put in the newspapers a few times. On integrity within our game, I have certainly assisted. I am the director of media and communications, the general manager of media and communications. I am also on the executive team that has been there for 17 years, so I have some experience, without trying to appear pretentious about it. In the course of that, I have assisted a lot of those investigations, simply because there is a lot of information in the network, and that is something in which I would suggest that I have some experience.

The way of dealing with integrity in the past has been to involve the chief executive, formerly David Gallop. We have taken the view each time that we have used independent investigators where necessary. We have also taken the view, particularly in relation to betting matters, that, rather than have us try and determine it with any internal unit—and I stress that this is a previous policy—we should get in the most expert people we could find that are familiar with that area. So, in relation to a fairly notable one, which is the Ryan Tandy issue, we engaged Ray Murrihy within a matter of days. First we contacted the bookmakers to get all the records. We got Ray Murrihy involved to assess whether there was an issue there that we thought needed further investigation. And, in a very short space of time, we were the ones that went to the police and said, 'We want you to be interested in
this.' So the previous model has been one of using the resources across the administration and the experts that we can get in at very short notice to assist us with their expertise. There have been some very generous people in that.

In the middle of that, some people have suggested that I am the person managing that. That is not quite correct. I have been involved in it; I cannot shy from that and do not for a second. But it has been under the direction of the chief executive, and it has been using independent experts much more qualified than I.

**Senator DI NATALE:** But do you acknowledge that there is a clear—whether it is real or at least perceived—conflict of interest there, having the communications officer being involved in an integrity investigation? It rings alarm bells for me that you have one of the biggest codes in the country having their PR person basically involved in some very, very serious matters around potentially illegal activity but at least activity that we know—and some of which has been proved—has brought the code into disrepute. Do you see that there is a conflict there?

**Mr Brady:** I think the fact that we are changing the system entirely suggests that there is a recognition that we need to change how we do things. So that goes without saying. I would again stress that I do not think that having the senior communications executive involved in some of that process is a conflict. Having them involved to the extent that some people have tried to portray it, I think, would be.

I suggest that the question comes down to the extent of that involvement and the processes around that involvement, in terms of the overseeing of that. So, our chief executive at the time was a lawyer—very focused on legal process. The people who were brought in were people who were unquestionably qualified within their area. And as a senior communications executive, yes, I was involved in communicating with those people and ensuring that messages were going backwards and forwards.

I would suggest that while I can appreciate the perspective that you are coming from, at no stage has that ever been even remotely linked to trying to get an outcome of a profile on the part of the sports being linked entirely to ensuring that the right people could be involved and the right outcomes could be attained. We are the only sport that has worked actively to get police involved in these issues. That is the only measure I can give you of the outcome.

**CHAIR:** I will allow this session to go overtime. Senator Madigan and Mr Ciobo, there will be time for your questions.

**Mr STEPHEN JONES:** Apologies for being a little late—the hazards of Sydney traffic. I missed the first parts of your contribution, so forgive me and say, 'I've already covered that,' if I am asking you questions that have already been dealt with. I received my Red V membership—I always back an underdog!—in the mail a few weeks ago. I bought the family package. So the NRL clearly markets itself as a family friendly sport. Indeed, my club markets itself that way and encourages people like me to take out a ticket not just for myself but for my whole family.

So, against that background, I am kind of interested in this issue of how you define 'directly marketing' versus 'indirectly marketing'. When people like me take our ticket out and we have our whole family at the game, short of providing earmuffs to the kids, how do you ensure that what you are not indirectly marketing towards kids does not reach their ears regarding promoting of gambling?

**Mr Mattiske:** I was making the point before that, firstly, sports betting is legal. And the promotion of sports betting exists—

**Mr STEPHEN JONES:** I do not cavil with that. I am not making any suggestion that what you are doing is somehow illegal.

**Mr Mattiske:** The point is that sports betting is legal. Promotion of sports betting, again, is legal, and it is something that exists all around us. It exists in newspapers on signage on the freeways and in venues. So it is very difficult to ensure, when that general notion exists in the landscape of our lives, that it is not reaching minors. The same applies when you are at an NRL match or another sporting event. There will be some promotion of sports betting, and we acknowledge the fact that the whole community that is involved in that event will see that. That is no different within the grounds of our stadium versus outside of our stadium.

**Mr STEPHEN JONES:** I listened very carefully to the evidence of Mr Brady, when he talked about the problems associated with broadcasting and signage and that, and I accept—I do not necessarily agree—the problems, when you have a 24-hour news cycle and a nation obsessed by sports and sports outcome, that shots of the best try, a miracle goal, a fantastic tackle, plus their associated paraphernalia is going to be broadcast throughout various time slots during the day. I accept that. I can understand how there are problems in that area, but surely what happens at the game is uniquely within your control. What you promote at the football ground is uniquely within your control, and you have some capacity to say, 'We will do this,' or 'We will not do this.'
Mr Mattiske: It is true to the extent that it involves elements that the team or the NRL controls. The venues, for instance, are not necessarily directly controlled by us. But your point is correct; there is an element of control that the game could exert. It is a difficult decision. We have thought a lot about the degree to which we allow sports betting to be promoted by our clubs. In forming the view that we currently hold we have certainly looked to what was happening in the market, we looked to the level of promotion that was happening throughout the market and we reached a point that we saw, on balance, could be held basically.

Mr STEPHEN JONES: Gentlemen, on Sunday I went to my local racetrack, Kembla Grange, and unlike the overwhelming majority of adults who walked through the gates, I placed a bet on a couple of races. I did not do very well. But I did not bet more than I could afford. I regularly go to the football. The difference between the behaviour of adults who go to the races and adults who go to the football is that it is not yet the normal thing when you go to the football to put a bet on the outcome, whereas it is the normal thing when you go to the races to have a bet on the various racing fixtures during the afternoon. Are you comfortable if the future of your code is where it is the norm for every adult who attends one of your fixtures to place a bet or many bets on the outcome of that game?

Mr Brady: That is not our ambition at all, so we are not working to achieve that outcome.

Mr STEPHEN JONES: But would you be comfortable with that as an outcome?

Mr Brady: No.

Mr Mattiske: It is an outcome that is outside our control. We never engaged in any lobbying—this is going back many years—to allow sports betting to be opened up. We certainly have not been engaged in lobbying to expand sports betting. It is simply a fact that it exists. As John said, it is not our ambition to be a sport that is driven by sports betting, but the fact is that sports betting exists and it is a legal avenue for people.

Mr STEPHEN JONES: The question was more direct than that: are you comfortable with the proposition where every adult who walks through the gates at an NRL fixture would have a bet on the outcome of a game? Would you be comfortable if that were the norm in the future?

Mr Brady: I think the answer to that is no. I do not think any Australian would be comfortable if everybody bet all of the time. It is a simple point.

CHAIR: I am not sure that was an entirely straight answer, because wouldn't it be the case that some of your clubs can only stay afloat in the form they do now because of the income stream from gambling activities, including poker machines?

Mr Brady: In terms of poker machines—

Mr STEPHEN JONES: Sports betting and betting at the games.

CHAIR: I am going beyond that to my question, which is: we are coming back to this increasing reliance of the NRL on gambling related income streams. I think I could say with some confidence that, at least, some of your clubs only survive in the form they do now because of their reliance on gambling related income streams.

Mr Brady: I get the question. There are a couple of points. You mentioned poker machines there as well. In reality, I think the cycle of rugby league clubs is now much less reliant on poker machines than they ever were and I think other sports in other states are probably having an inverse reaction to that.

The pressure on clubs now is to be very self-sufficient so that poker machines are still a factor. They can be wrong and there are clubs that are relying on grants but to a much lesser degree than ever before. In terms of sports betting, if you were to sit there now and say our club is reliant in a cycle as opposed to the balance sheet, as opposed to any other business, of course they will be because their budgets will be framed on income that they believe they are going to get in that period. Is it a major part of their income? No. But it is a fact that if you grab anyone's balance sheet over the next 12 months and so you have factored that in, if I took that away, would you be in trouble? Yes. It is a revenue stream that clubs feel that they should be able to access that everybody else is accessing, provided it is done so in a responsible manner.

There is a sort of notion here that everybody else—and I do not mean this to sound the wrong way—should be able to partake in the revenue generated by gambling on rugby league, except rugby league, is sort of a difficult proposition for the clubs. It has been a difficult proposition in the past for people criticising the game for not being more aggressive in this area. So the short answer is: if you were to pick a moment in time, yes, some clubs would be in trouble. If you were to pick a longer period, then it would be difficult but it is not the major thing they are relying on to survive.

CHAIR: You have said there is no deal yet with Mr Waterhouse and you are not able to put any figure on what any deal might look like, but how much money is $50 million for the NRL? What sort of income does the
NRL have in a year? Say, how much do you get from TV rights? I am trying to get a sense of the importance of one deal with one bookmaker if it were $50 million.

Mr Mattiske: The 2012 revenues for the National Rugby League were around $170 million. The number that you are suggesting—$50 million—is a number that I have seen reported in the papers. When it has been suggested, it is a number that relates to a period of five years. I understand it is a number that relates to contributions that were suggested being made to Channel 9 and the NRL. When you think about $170 million, what would be a very small proportion of that suggested—

CHAIR: Could I just jump in there? What is the $170 million? Is that your annual income?

Mr Mattiske: That is the NRL's annual revenue for 2012.

Senator DI NATALE: How much of that comes from the wagering industry?

Mr Mattiske: A rough number would be less than $4 million—probably closer to $3 million—from the sports betting industry.

CHAIR: The $50 million, regarding Mr Waterhouse, split 50-50 with Channel 9—so you get $25 million over how many years?

Mr Mattiske: Five.

CHAIR: That is still $5 million. So you looking to more than double your income in one deal with one bookmaker?

Mr Mattiske: I am saying that is the number that is speculated in the market. I am not saying that is the number that we are actually discussing with Mr Waterhouse or any other party.

CHAIR: But if it were that sort of figure, based on that very quick, back-of-the-envelope calculation, that is a very big contribution to your income.

Mr Mattiske: In 2013, of course, we move into a new broadcast arrangement. There will be a significant lift in revenue that year, so we have, in effect, doubled our broadcast revenue from $100 million to $200 million. I am suggesting to you that the numbers that are floating around the market are exaggerated, from our part at least. What I am telling you is that that will be a relatively small percentage of our revenue. Going to John's point, clubs are not absolutely reliant on sports betting revenues for their future. In fact, the reliance on leagues club revenues, and gaming revenues generally, is diminishing over time. That is a trend that has been in place for a while. Certainly, the numbers that are being speculated around sports betting, whilst they are a revenue line upon which we rely, are not so significant that they would affect our decision-making around the integrity of our competition.

CHAIR: Is the NRL a profit or not-for-profit corporation?

Mr Mattiske: It is not-for-profit.

CHAIR: I am just trying to get a sense of how important $5 million a year is for you. I do not imagine that you finish the trading year with a lot left over, do you?

Mr Mattiske: We operate on the basis that we support our stakeholders—our 16 NRL clubs; through the state leagues, the many competitions that exist around the country; and we also reserve money for our future. We are in the process of executing a five-year strategic plan at the moment. As I said, the numbers that are being talked about, while they are certainly significant numbers, are not relative to the overall revenues of the game. They are not significant.

CHAIR: I think we need to be careful how we tread, if it were an extra $5 million for the NRL. In a normal year, you pay all your bills and you come in at about even, and you suddenly get an extra $5 million a year. That is all cream on top; that is all nondiscretionary money for you to spend as you want. It is not that the $5 million is a small amount, like $1 million or $2 million a year. That $5 million is a very substantial bit of icing on the cake, if you were to get it.

Mr Mattiske: You are speculating on the number. I am indicating to you that the number is not correct and it is certainly not a new amount to us, in that it would be replacing revenue. We have sports betting arrangements in place at present and, if we were to renew an arrangement for the 2013 year, it would replace the revenues that existed in 2012.

CHAIR: So, if you do a deal with Mr Waterhouse, is that going to cleanly replace existing arrangements or do those existing arrangements continue and this is extra money?

Mr Mattiske: You are starting to get into commercial-in-confidence matters. I can answer those perhaps on notice, confidentially. The simple fact is, our exclusive sports betting partnership is an arrangement which provides for the use of IP, the provision of signage, ticketing and other benefits. The nature of that arrangement
will not change significantly from 2012 to 2013. Of course, in negotiating that arrangement we will seek to increase the value we will take from that partnership but certainly the numbers you were speculating about in terms of increases in revenue are factual.

**CHAIR:** Thank you.

**Mr CIOBO:** I have been here for only a little while, obviously, but you have been pretty well verballled for the entire time I have been here. I would like to ask some questions to get to the bottom of where we are actually at. Back of the envelope calculations: you are talking about revenue from gambling which accounts for two to $\frac{1}{2}$ per cent of your current revenue. Is that right?

**Mr Mattiske:** Yes.

**Mr CIOBO:** You must have forecasts on what your revenue will look like from when you go to the new broadcasting in 2013 and going forward. You said it was about double broadcast rights. I am not sure what percentage of broadcast makes up your revenue at the moment, but can you give me a ballpark figure?

**Mr Mattiske:** Roughly our revenues will increase by around $100 million for 2013.

**Mr CIOBO:** So you are going from roughly 170 to roughly 270. And even with the tremendous doubling, based on all the conjecture the chair has put to you, you are still effectively talking about maybe two or three per cent of your revenue coming from gambling?

**Mr Mattiske:** Within that what you need to understand is that when I provided that number it also relates to the fact that the legislation has been put in place to ensure that all sport gets a fair return on the turnover generated from our products. That is something that we have lobbied for and we have been supported by Victorian government legislating, but there is a percentage of the net revenues of the sports betting operators which is now delivered back to sport. That reflects the fact that they are generating revenues off the product we provide. Whether or not we had a commercial arrangement directly with a sports betting operator, now under this arrangement provided by the Victoria government we would still receive some revenues from sports betting operators. We argue that is entirely appropriate. In addition to those revenues we also receive the ability to enter into an arrangement with those operators to understand betting patterns, to be provided with information on what is taking place. That is an important part of our integrity framework.

**Mr CIOBO:** Given that you get some of that information now—based on what you just said I assume you are getting some or are you going to be getting some of that information?

**Mr Mattiske:** We do.

**Mr CIOBO:** You do currently. With respect to more exotic bets, as a percentage of bets laid what does that account for now?

**Mr Mattiske:** That is a question I have to take on notice. I could not answer that now.

**Mr CIOBO:** I will put it to the Wagering Council as well but I would be interested in knowing because that is obviously one of the issues I would be looking at as well as the committee. I would like to know what the split is based on the revenue stream coming through from the bets, even in terms of numbers. NRL is one of the leading sport franchises in the country. This is a largely qualitative question: are you concerned about the way in which this debate on sports betting is going? Are you concerned that potentially there will be some damage to the brand of NRL which largely in my view is completely unfounded, given the very small percentage or incidence of gambling revenue to your business and given it largely appears to me, at two or three per cent, to be a fairly small aspect of the NRL? Is that a concern to you?

**Mr Mattiske:** We are concerned about our brand generally, about any issues that affect our brand. We are certainly monitoring the environment and we are looking at a range of issues that have positive or negative effects on our brand. This debate is certainly one of the areas we are monitoring.

**Mr CIOBO:** There is a commercial basis upon which, as the NRL, you would look at potential negative impacts. Is that part of the reason why, for example, in a self-regulatory sense, you have your code of conduct which includes not having gambling logos and, I assume, alcohol companies and those kinds of things when dealing directly with minors? Is that because you do not need to be told by government to do it, that you recognise that there is a commercial imperative to do it yourselves?

**Mr Mattiske:** It is not a commercial imperative. If I understand the question correctly—

**Mr CIOBO:** I am asking whether you are big enough and ugly enough to take care of some of these issues without needing the government to intervene as a nanny state.
Mr Mattiske: Sure. My point is: it is not a commercial imperative; we think that it is the right thing to do. We do not think that sports betting, for instance, should be targeted at minors, and we have put in place guidelines to ensure that, when our clubs do engage in activities or provide products that are targeted at minors, they do not use sports betting advertising that activity.

Mr Brady: I think it shows that we certainly have a responsible attitude to the game in general or the way the game is perceived in the community. So we work very hard to put what we believe are the appropriate measures in place. We work with other sports to put agreed principles in place across sports. We are very happy to work with government as well, but we do so in a cooperative way and we bring a certain amount of expertise to the table. We want to take a proactive approach. We do not want to be sitting on the back of being dragged into a debate. We are actually active in the debate and very concerned to get a positive outcome.

The one concern in terms of image that you raise, and I think it is valid, is that there are wider debates here about betting that somehow centre specifically on a sport, and in some respects people need to be a little mindful of the separation between the sport and what is happening around it. Sports are doing, I would suggest, a very proactive job in trying to ensure that the right safeguards are in place. We are doing everything we can. There is a lot happening around us which we do not control. Some of that is going to happen.

My past as a journo has been brought up. Some of it goes back to when I was writing newspapers in the eighties and people were talking about betting when it was illegal. Sports had to worry about these same safeguards at that point. We still have to worry about them now. Some of those threats may or may not change. There is an assumption that everybody who bets is somehow carrying out an illegal activity. Those things will be a risk to us no matter what.

We are very, very mindful of and absolutely committed to the integrity of our game. We are very mindful of and very committed to the welfare of our community participants—the people who play the game at a junior level; the people who come to the game—and we try to have systems in place that communicate a responsible message to those people. To go to the point that was raised earlier in this hearing, some of those messages can be difficult because ours is a game that transcends every age group and a large part of society. We do work very hard to internally regulate, and we do very often work with government to try and make sure that we are heading in the right direction. Hopefully, that is the spirit in which we are here today.

Mr CIOBO: We are tremendously over time, so I will just put this question to you on notice, if I may. You made comments before about clubs being much less reliant on gambling revenue today than they have been historically. So, despite the hyperventilating, could you take on notice to give us some examples of what you are talking about so that we as a committee can look rationally at what is actually happening in terms of that, if it is not commercial-in-confidence.

Mr Brady: There is a very quick answer: as to Mr Jones's club, I could say that St George Leagues Club's grant has more than halved—in fact, I think it is much lower than that now—over the last four or five years, simply because of the ability of leagues to support football clubs. That is a reality of where the industry has gone. Clubs are having to learn to live without that income.

Senator MADIGAN: Thank you, gentlemen. Ultimately, does the NRL believe in self-regulation?

Mr Brady: I think it is anyone's preference to self-regulate on the basis that you are putting the right steps in place. Government clearly has a role at times to work with those who are seeking to self-regulate and say, 'This isn't working.' I would suggest that the extent of the work we have done with government and with other sports—and even the policies we were able to outline to you today—shows that we are sincere about self-regulating. So, as a first option, I think that is the best option. If that does not work then the second option is, as I have been through before, to actually sit down and talk actively about what steps could be in place to improve the self-regulation. The last option then is to go in and regulate.

Senator MADIGAN: As to the delineation you were speaking about earlier: at the game, with the commentators—say, Tom Waterhouse—do you believe that, with him having a marker on his microphone, 'the NRL', that is sufficient delineation to give people, children, the fact that you are not involved, so that there is a separation there, like the separation of church and state?

Mr Brady: I think it is a fair question to ask and I do not profess to be able to give an instant answer to it. We have seen some change over the last couple of weeks on the basis of discussion. So clearly there is some movement taking place. In relation to separating it by an ad in between half-time or to a studio off site, I would question whether you will make the differentiation any greater when it is all said and done. Having seen how the industry can work, you can still look like you are crossing to a place somewhere next door or crossing to a studio. So it comes down not so much to the location but to the manner in which it is done, and I think we need time to
assess that. I think there is a separation here between what the sport is putting in place and what the broadcaster is putting in place, and some of those questions may be better asked to the broadcasters, because that is their expertise of being able to say where that separation lives through their parties. Our separation is to make sure it is not part of the commentary during the game. We do not control every part of the broadcast before and after the game, and I think Nine are conscious of the separation. I think that is where we have made some moves. Without buck-passing it, I think it is a question to ask them.

Senator MADIGAN: Do you acknowledge why there is concern in some quarters in the community? You have said you have not concluded discussions with Tom Waterhouse. You have stressed the point that gambling is not illegal, but you are in the throes of negotiations, possibly, that may reach a conclusion with Tom Waterhouse. You have got a deal with channel 9. The public have concerns. On one hand you say it is legal; you are telling us you are concerned about its effect on sport, the integrity of sport, but you are quite happy to do a deal to get a cut of the cake.

Mr Brady: We are concerned about the integrity of sport regardless of the deal, and we have made that pretty clear. The public has some mixed views on this, and I do not profess to be the arbiter of that. Gambling, unfortunately or fortunately—depending on your standpoint—is something that happens in a lot of areas and not everyone is against it. I think we are all conscious of ensuring that it is done in a way that does not affect the integrity of our sport or the integrity of the broadcast, which is a question that is more to Channel 9’s point. So in principle we are mindful of that and we believe we are taking the steps to ensure that. There will no doubt be some debate as to whether that is succeeding or not. But we are certainly making that effort and we believe we are heading down the right track in doing so.

Senator MADIGAN: Lastly, does the NRL acknowledge that this is a very fine line?

Mr Brady: I think everything in life can be a fine line depending on where you look at it. I think it is an important line—that is probably where I would put it—and one that we are mindful of on that basis.

CHAIR: Thank you. Just to be sure about that question on notice, my understanding is the question is: what proportion of club income—we are not talking about the NRL corporation, if I can call it that—is derived from gambling related sources directly and indirectly? Are you happy to take that on notice?

Mr Mattiske: Are you talking about revenues from leagues clubs—poker machine revenue as well?

CHAIR: I am actually focusing specifically the clubs, so not you and your body but the clubs themselves.

Mr Mattiske: I understand that. But, in relation to the clubs, is the question: what proportion relates to sports betting and poker machine revenues?

CHAIR: Any gambling related income. I think that would be very helpful for the committee. We have conflicting answers to that question.

Mr Mattiske: Sure.

Mr CIOBO: Can you maybe split it, because this is about sports betting, so I am concerned about gambling in relation to sports betting, not gambling in relation to other forms.

CHAIR: Yes, those two questions. And in relation to the clubs themselves, also money that might flow initially to the NRL but then paid to the clubs.

We have gone way over time, but I have done that quite deliberately, because that was so helpful for all of us. Thank you very much.
The Australian Wagering Council, for your background, was formed six months ago and is the peak industry body for the online wagering and sports-betting industry in Australia. The AWC's members are Betfair; bet365; Betchoice—operating as Unibet—Alan Eskander's Betstar; Sportsbet, Sportingbet Group—which includes Sportingbet and Centrebet; and TomWaterhouse.com. Member companies provide a strongly regulated wagering environment for more than two million Australians who are our customers.

The AWC has provided the committee with a written submission addressing the issues raised in this inquiry. A number of our members have also provided separate submissions to this inquiry and to your previous inquiry into similar matters. The most important points to note are as follows. We support the development of national standards for harm minimisation measures that cover responsible gambling, advertising and licensing requirements. We support national consumer protection measures that cover probity standards and security of customer funds and personal information. We support the strengthening of these measures, provided that they are evidence based and not detrimental to the competitiveness of the industry and are achievable from an operational and technical point of view.

Online wagering is a global industry and Australia cannot act in isolation in a global market. Restricting the advertising and promotion of gambling services in sport will only have a negative impact on licensed and reputable Australian based companies, compared to illegal or unregulated overseas operators who are not subject to the same regulatory oversight. The online wagering and sports-betting industry recognises it has a responsibility to ensure that its advertising is undertaken in a socially responsible manner and we are doing so in accordance with the already extensive framework of federal and state legislation, regulations and codes, together with broadcast industry codes and our own industry initiated codes.

The most effective way of minimising the instance of problem gambling and keeping Australian sport free of corruption and match fixing is to have a highly regulated online wagering and sports betting market within Australia. Prohibition certainly will not work; in fact, it would create the single biggest threat to the integrity of sport in Australia, as recognised by Australia's major sporting bodies. Prohibiting online betting in Australia would merely have the effect of forcing Australian customers to bet through illegal or unregulated overseas websites. The AWC has a zero tolerance policy in relation to corruption in sport and we will continue to work collaboratively with sporting bodies and governments to demand the highest standards of probity and integrity across all sporting codes to stamp out any potential for corruption and manipulation. The future of the Australian wagering industry is fundamentally reliant on the integrity of Australian sport.

Community concerns in relation to the promotion of live odds are being addressed to provide a balance between the public interest and the right of licensed Australian online wagering and sports-betting companies to advertise their products in a socially responsible manner. Evidence of this is the AWC's statement of intent, which was introduced in January. This statement is based on the principles agreed by COAG and was developed in consultation with the three broadcast codes and the Coalition of Major Professional and Participation Sports.

We would also like to make the following observations. Despite a public perception that there has been an explosion in wagering turnover, which in part has been driven by the lifting of prohibition in 2008 on corporate bookmakers advertising, overall annual growth in wagering turnover has not significantly increased. Annual growth in wagering turnover in the past five years has been in line with the growth of the economy, at four to five per cent per annum. Within overall wagering there has been a shift in the channels through which consumers place bets from off-line—on racetracks, in retail TABs and via telephone operators—to online through intranets, smart phones and tablets. This trend is no different from the migration to online platforms which is being seen in many other industries such as media, books and recorded music, but there has also been a trend of sports wagering growing at the expense of wagering on racing.
It is important to put the volume of sports betting and total wagering in context. The Productivity Commission in 2010 identified that the sports-betting industry represented only 1.2 per cent of the $19 billion total gambling spend in Australia, with wagering in total accounting for 15 per cent of the spend. The committee may also be aware that gambling on poker machines increased between 1986-87 and 2008-09 from 29 per cent to 55 per cent of total spend. In the same period wagering on racing and sports betting reduced from 36 per cent to 15 per cent of total gambling expenditure. We would also like to address the widespread yet misguided belief that the growth of online gambling is increasing the prevalence of problem gambling. Evidence shows that this is simply not true. Leading academic Dr Sally Gainsbury states that, 'Despite widely cited concerns over the potential for internet gambling to dramatically increase the number of people experiencing gambling problems, there is little evidence to indicate that the prevalence of problem gambling has increased world wide or in countries that have liberalised access to online gaming.'

We would also like to place on the record our industry's position that online in-play betting in sports should be regulated for Australian based companies as a matter of urgency, in line with recommendations of the Interactive Gaming Act final review conducted by the government and in line with the position of Australia's major sporting bodies. The current prohibition is actively undermining the integrity of Australian sport. No further research is required to take this step. The fact that Australian consumers are forced to place online in-play bets with thousands of illegal or unregulated overseas operators is creating significant corruption risks for Australia's major sports. Further, the UK Gambling Commission's 2009 report found no evidence that online in-play sports betting poses a significant identifiable risk to problem gambling as opposed to other forms of betting or online gambling.

Finally, it is essential that all policy making be based on robust research and evidence. The committee's inquiry report of December 2011 called for the need for a national research, and we support this call. To this end, the AWC congratulates this committee's role in the establishment of the new Australian Gambling Research Centre within the Australian Institute of Family Studies, to be supported by an expert advisory group that starts work in July 2013. As your fourth inquiry report of 24 November 2012 stated: 'The centre will help address the lack of robust evidence and consistent data to inform policy development.' The AWC believes that this committee should not pre-empt any research findings until the research centre can do the independent and robust research that it has been set up to do.

**Mr Stephen Jones:** It is nice to hear from you again. I just want to ask you to expand on some of the matters in your written submission. I note that on page 5 of your written submission you make the observation that betting on sports is generally considered a secondary reason for most consumers to follow a sporting event. You then cite Productivity Commission evidence to that effect. Then, three pages later, you talk about what could only be described as a symbiotic relationship between the sporting codes and the gaming industry. You say: 'Sporting codes will increasingly benefit from wagering, as it increases viewing of sports and potentially the rates they can charge sponsors for their events.' I do not fully quote. The second point is: 'Wagering operators, in turn, benefit from the increased sports viewing because of its impact on demand for wagering and related events.'

Those two submissions seem to be at odds with each other. What is it? Is it that there is no relationship between wagering and the popularity of sports, or is your submission that wagering increases the popularity, viewing and attendance at sports?

**Mr Barry:** The causality of our relationship is the reverse. As the growth of Australian sports become more prominent and the broadcast of those sports has become more pervasive that has driven increased betting on sport, as distinct from the reverse.

**Mr Stephen Jone:** I think you were in the room when I put a question to representatives from the NRL—to be fair to my code, I also put it to the opposing code, the AFL, in Melbourne a few weeks ago. I spoke of the fact that when I go to the races just about everyone who walks through the gate places a bet. It is the normal thing you do. It is not the normal thing that you do, when you go to the footy, that every adult who walks through the gate places a bet before, during or after the game. Is your objective to ensure that this does become the norm?

**Mr Barry:** I do not think it very likely that this is an outcome that will occur. Sports betting, as detailed in the opening statement, is very much a niche pursuit and I think that no matter how much advertising the industry does that will remain the case. There is a natural cap on how many people will be interested in betting on sport. Primarily, what is going on today is a battle for market share within the wagering sector, as distinct from the total number of gamblers growing. So, as I said in the opening statement, the number of people betting and the volume of betting that is going on in Australia is not growing. So what we are seeing here is that the result of a monopoly situation ending, following the ending of advertising prohibition in 2008, is a battle for market share. But we are not seeing a process whereby the number of people gambling on sport is increasing.
Mr STEPHEN JONES: That submission warrants some further analysis. You said earlier that it was growing at four per cent per annum, which is slightly above—

Mr Barry: In real economic terms, per capita, wagering in total is actually flat or declining. Sports betting is growing quicker than racing but is growing from a very low base.

Mr STEPHEN JONES: So there is growth. There would not be many businesses in the Australian economy that would be whingeing at the moment about a four per cent growth in their revenue. So, I would ask you to accept the proposition that that was a pretty good growth rate, given what is going on in the economy at large.

Mr Barry: Yes. In real terms that is a zero growth rate, but I accept your point that sports betting is growing and is effectively cannibalising racing betting. So the total wagering going on in society is effectively flat.

Mr STEPHEN JONES: Yes; I understand the proposition. You did not actually answer the question I asked, so I will put it to you again: whether you think it is likely or not, is it your objective to see that everyone who turns up at a footy match places a bet on the outcome of that game?

Mr Barry: It is not our objective.

Mr STEPHEN JONES: How much money do your constituent members spend on advertising per annum?

Mr Barry: I do not have that data to hand. We could provide that on notice. But we are talking multiple millions of dollars.

Mr STEPHEN JONES: Presumably you do that for a reason.

Mr Barry: Advertise?

Mr STEPHEN JONES: Yes.

Mr Barry: Yes. As I said, we are attempting to gain market share. So while historically you were looking at a scenario where the wagering market was controlled by the state based licensed TAB operators, you now have a scenario whereby people are advertising to gain share.

Mr Thompson: I think it is important to recognise that when we advertise we are not targeting people who do not have the propensity to have a bet; we are targeting people who are currently betting—that is the primary aim of the advertising that we do. It is specifically targeting.

Mr STEPHEN JONES: How do you do that?

Mr Thompson: We do that in the same way that anyone who is advertising does that. If I am advertising insurance, I am actually targeting people who want to purchase insurance; I am not targeting people who do not have insurance.

Mr STEPHEN JONES: Sure; I understand that. But when I turn up to the footy game with my kids and my wife, I do not see a narrow casting of the promotions that go on. Where is it promoted to everyone who turns up to the game? How is that a narrow casting?

Mr Thompson: It is targeting those who actually are—

Mr STEPHEN JONES: Those who are interested in sport.

Mr Thompson: No, it is targeting those who are interested in betting.

Mr STEPHEN JONES: Okay, so, if you could provide that information on the amount of money that is spent on advertising and promotion, that would be very, very useful—whether that it described as your marketing budget or however it is described, the amount of money that is spent on advertising and promotion.

Mr Barry: Yes, we can provide that confidentially to the committee, as it is market sensitive.

Mr STEPHEN JONES: Yes, I understand that it would be market sensitive if Betfair or SportsBet or any of your constituent affiliates provided that information, but if you were to provide an aggregate of that figure—

Mr Barry: Yes, we can provide an aggregate; absolutely.

Mr STEPHEN JONES: I very much appreciate the importance of one competitor not giving the game away to the others about how much they are spending on marketing. I understand that and I respect that concern. The next thing that I want to go to in your submissions—and I thank you for them; they are quite detailed—is that while I am not interested in banning sports betting, although I cannot speak for other members of the committee, I am interested in getting rid of the incessant promotion of it when I turn up to the footy match with my family or when I turn on the television during the normal viewing hours to watch it in my living room. This proposition, as I understand it, offends you or your members, but I do not quite understand how, as you suggest, a proposition to ban the promotion during a broadcast or a game would put Australian operators at a disadvantage vis-a-vis
overseas operators. Surely the proposition, based on your earlier evidence, is that everyone would be on a level playing field?

**Mr Barry:** To be onshore means that we pay a considerable number of taxes, that we pay product fees to the sporting bodies and that we make a contribution to Australian society. The offshore operator does not have any those overheads in terms of taxes and contributions to society, whether they be GST, product fees, corporation tax, payroll et cetera.

**Mr STEPHEN JONES:** Or advertising.

**Mr Barry:** Or advertising, for that matter. And obviously there is an ability for people to advertise on the internet, which is not as easily controlled. But one of the primary benefits of being regulated is having the ability to advertise what is a legal product. It gives us the opportunity to battle for that share which may go overseas.

**Mr STEPHEN JONES:** I want to stress again, I am not interested in trying to ban your product—although I always find it uncomfortable describing gambling as a product.

**Mr Barry:** No, I understand that.

**Mr STEPHEN JONES:** I am not trying to ban what you do—and that is for a whole raft of reasons; I do not think it has ever worked anywhere. But what I cannot see is how limiting the promotion of it provides you with a disadvantage vis-a-vis your overseas competitors. At the very worst, I would have thought, it puts you on a level playing field. I propose that you would actually still have advantages.

**Mr Thompson:** I disagree with that. I think that between being an onshore operator and an offshore operator, there are costs and benefits of both. The offshore operator has no costs and has significant benefits. He can offer products that we cannot. We have chosen not to take that route. We have chosen not to operate illegally and outside the regulatory regimes that are—

**Mr STEPHEN JONES:** To be fair, I do not believe that all of them are operating illegally.

**Mr Thompson:** I think they are all operating illegally by offering it from offshore. And they certainly do not have integrity agreements with the sporting codes and they certainly are not regulated by any authority in Australia.

**Mr STEPHEN JONES:** That is a different question. Continue.

**Mr Thompson:** Yes. And so there are significant benefits to being offshore. But one of the primary benefits of being onshore is being able to compete onshore to attract Australian customers and bring those Australian customers into the onshore, regulated environment.

**Mr STEPHEN JONES:** Surely the other benefit, Mr Thompson, is that people have greater confidence in a known Australian brand that is operating within the jurisdiction, don't they? That has got to give you an advantage over overseas operators.

**Mr Barry:** But they would not know us if we were not able to advertise.

**Mr STEPHEN JONES:** Is that true? Does that stack up with what you have told the committee just moments ago, that you are basically competing for a pie of a fixed size? Your previous evidence was that the market is not growing in any way out of step with the rest of the economy, so what the operators are doing is competing amongst themselves for existing gamblers.

**Mr Barry:** As detailed in the submission, there has been a significant reduction in the amount of wagering going offshore since the corporate bookmakers have been able to advertise. So I think there is a clear causal link between our ability to advertise, and the desire and the effect of having as much betting as possible onshore and regulated, which I think is very beneficial.

**Mr STEPHEN JONES:** I am able to accept all of the propositions that you have put to the committee if I accept them as silos, but when I join them all up there is a massive inconsistency in what you are telling us. On the one hand, you are saying the advertising is basically about attracting the existing punters and it is not about dragging more people into the gambling field—

**Mr Barry:** Yes, it is about moving share from one operator to another. The people who are advertising do not have that share and they are advertising to get those existing betters to bet with them. And for legal and regulated products in Australia, I think that is a legitimate pursuit.

**Mr STEPHEN JONES:** Is it not—

**Mr Thompson:** I am sorry to interrupt. We are offering improved products and services that these existing operators may not be offering but that are being offered by the offshore operators.
Mr Barry: Ultimately, the winner here is the consumer because they get a better product, they get a better price and they get a better service.

Mr STEPHEN JONES: Sure. I will put a proposition to you, in part drawn from your own submissions, which, I say again, are quite detailed. The people that you are targeting, or the people that you are marketing to, already know who the bookmakers are. They are already in the field. They already know where to go if they want to have a bet. There is no shortage of avenues for people to have a bet if they want to—on any one of these devices here, and everywhere else; if somebody wants to make a bet, they know how to go about doing it.

Mr Barry: I fundamentally would not agree with that proposition. I think there are various levels of brand awareness of the competing operators within the market. If a brand wants to increase its brand awareness, the best way to do that is to advertise. As you said, we are not advertising for no reason; we are looking to raise brand awareness with the people who bet and give them the choice—that they could bet with an alternative provider. I think that is legitimate.

Mr STEPHEN JONES: I am not sure that we are getting far on this.

CHAIR: I have a quick follow-up question. For example, there is the big splash about betting on the next federal election by one company in particular, but I gather there are others. Are you seriously saying that part of the aim of that is not to cause a splash and introduce new people to gambling?

Mr Barry: The objective is to raise the profile of the betting company; it is not necessarily to create new betters.

CHAIR: So are you seriously saying it is not one of the aims of all of that splash to introduce people to gambling?

Mr Barry: Election betting has been in place for a number of years in Australia. It is not new. It is a piece of content that people are very interested in, and people are interested in understanding the odds around elections and election betting because it helps them to understand what is happening in the political landscape. It is no different to an opinion poll, to be honest.

CHAIR: That is a fantastic proposition that you are making: with all of the gambling advertising that goes on, none of it is intended to harvest new gamblers.

Mr CIOBO: That is not true, Mr Chairman. You have a flawed assumption in your question. I do not think it is fair to put that to the witnesses. The reality is that, as I understand it, they have a number of controls to prevent problem gambling, including blocking accounts, in which case the assumption of your question is not true.

CHAIR: I do not want to get bogged down on this issue and have a debate about it, but I think it is fair to say that not everyone gambles over their whole life. Many of them stop gambling at some point later in their life. Logically, you have to recruit new gamblers to fill the gap. Is that a fair statement?

Mr Thompson: You are trying to make it sound like a Ponzi scheme; it is not a Ponzi scheme. It is a legitimate leisure activity, where people are spending their leisure dollars as they see fit in a particular week. It is no different to any other leisure—

CHAIR: I am not trying; I am actually stating that it is. When it comes to problem gamblers, it is a Ponzi scheme, in my opinion.

Mr Thompson: I do not know about pokies, but there is a fundamental difference between wagering and pokies.

Mr Barry: As you are aware, 80 to 85 per cent of problem gamblers are users of pokies. The incidence of problem gambling and wagering is significantly lower than pokies as a form of gambling.

Mr STEPHEN JONES: Do either of you gentlemen propose any expertise or knowledge on the reception of gambling advertising on children? Is that an area of expertise for any of you?
Mr Barry: I could not say it is an area of expertise. The primary motivations which may legitimately be in place to reduce sports gambling advertising would be around the risk to the integrity of sport or it is causing harm to society. To my knowledge, there is no evidence to back it up that that is occurring. Whether people like Tom Waterhouse as the hot topic or whether they find it annoying is a personal judgment.

Mr Stephen Jones: There are plenty of things that I find annoying that I would not want to outlaw.

Mr Barry: Absolutely. It is very important that any changes in policy or legislation are based on actual evidence, and I am not aware of any evidence that has been presented to this committee or elsewhere that there is clear harm being created by this advertising or that there is a risk to the integrity of sport through the advertising of wagering.

Mr Stephen Jones: That goes directly to my next question: if your association, or indeed this inquiry, were presented with evidence that there was an impact on children, would you accept that it would be fair, and indeed necessary, for the sporting codes and/or the government to act to redress any harm that was occurring?

Mr Barry: I think it would depend on the quality of the evidence, and it would also depend on the findings of that evidence. I think it is the role of policymakers and regulators to strike a balance between the net benefit to society of the ability of wagerers and wagering operators to operate and some harm that may be caused.

Mr Stephen Jones: So is it your proposition that some collateral harm is just going to happen and that is just a fact that occurs when you have gaming and advertising of gaming in sport? I want to give you the opportunity to be very precise in your response. If we do have expert evidence—if we receive expert evidence that says harm is occurring—should government and/or the codes act?

Mr Thompson: Again, I think you are presenting a hypothetical here. I think the question is

Mr Stephen Jones: No, it is not a hypothetical. It goes directly to one of your submissions.

Mr Thompson: The answer is that we need to see what that evidence is and what is causing that harm. You are suggesting that if a particular situation happens then we should do X, but you have not described what that situation is in the detail that it needs to be described in for us to be able to give a relevant and serious answer to that.

Ms Brodtmann: Thank you, gentlemen, for presenting today. I just want to go back to this issue about growing the new markets. Mr Barry, you mentioned that you are only targeting people who already bet. Mr Thompson said that you were targeting those who are interested in betting, and there is a bit of distinction there. I just find it rather curious that, from what you are telling us, your business strategy is to increase the volume of those who already bet and not to develop any new markets. Is that your business strategy?

Mr Barry: To be clear, the strategy of all our members will be to increase their market share. We do not represent the entire industry, so there are people outside this forum. But any commercial operator will be looking to increase its share of the pie. So it is not necessarily that we are looking for individuals to bet more; we are looking for more of the individuals who bet to bet with an individual operator.

Ms Brodtmann: So the strategy is based on increasing the volume of those who already bet?

Mr Barry: No.

Ms Brodtmann: So what is the business strategy?

Mr Barry: Let us say there are 100 betters in Australia, and let us say 10 of them bet with Sportsbet and 50 of them bet with the TAB. The objective of Sportsbet will be to get 25 of them to bet with Sportsbet and 25 of them to bet with the TAB. So it is about switching; it is not about increase.

Ms Brodtmann: In terms of growth, then, how do you get the growth from that? Essentially you just have switching between operators, but surely there would be an element of growth that you want. Again, going back to a business strategy, everyone wants growth in their market and their business, so I am assuming that, once they have made the switch, you want them to increase the volume of their activity.

Mr Barry: It is almost self-evident that we want them to use the product and that we provide a depth and range of products so that we meet their gambling needs.

Chair: What about people who are turning 18? Every year lots of Australians turn 18. Don't you want to—

Mr Barry: I do accept there is a natural cycle within the population, but I think the relevant point is whether there is an increase in the prevalence of wagering within society or not.
Ms BRODTMANN: We are getting back to the advertising issue and the promotion issue. Just so I am clear, you are advertising and promoting to a very general market, firstly, to get existing betters to switch to a range of different mechanisms or forums in which they can bet and, secondly, to increase the volume of their trade.

Mr Barry: Yes. Our strategy is at multiple levels, but the primary objective is to gain share, and there would also be an objective to service those customers as much as possible so that, whatever bets they want to place, we are there for them.

Ms BRODTMANN: But gaining share is with existing betters, not new betters.

Mr Barry: That is the primary objective.

Ms BRODTMANN: That is the objective. Is there a secondary objective?

Mr Barry: There are multiple strategic objectives within any business.

Ms BRODTMANN: So you are not targeting new betters at all. You are not trying to get those who are potentially interested in betting.

Mr Barry: We are targeting those who are interested.

Ms BRODTMANN: Those who are interested but do not bet already?

Mr Barry: I think there is a fine line there.

Mr STEPHEN JONES: I think, Mr Barry, the problem we are all having is that it beggars belief that you have got a business out there that is not trying to increase its revenue and not trying to increase its market share.

Mr Barry: It is actually very hard—

Mr STEPHEN JONES: You must be the only business in the world that is in the game of not attempting to—

Mr Barry: It is very hard to alter structures in society. It is an incredibly expensive thing to do to change personal behaviour in any business. It is very hard to make people buy more fruit or to do whatever it is. Obviously as an industry, we are looking to grow our market share and we are looking for those people who bet to have the opportunity to do so. I think that is legitimate.

Ms BRODTMANN: The improvements and the accessibility of betting options are all designed just for those who already punt?

Mr Barry: Any time you get a change of distribution channels you have an opportunity to compete for a share, so it is actually particularly relevant around those channels. People are developing new habits and new behaviours and they will reassess once again what provider they use.

Ms BRODTMANN: Just turning to your submission, you mention in the introduction that you want some research. Lack of research is an issue that has come up in a number of our hearings. What do you think the research should cover?

Mr Barry: We need to establish the status quo in Australia in terms of the prevalence across all gambling forms. For a regulated market, Australia is unusual that it does not have an annual or a regular survey to track trends in that regard. The UK would have such a prevalent survey. It is run regularly and it gives people a benchmark to understand those trends. More specifically in response to the society concerns and some of the stuff that is being debated today, we need to look at the role of advertising, its impact on society, its impact on children. There are also concerns around the increase of pseudo type gambling products around social media platforms, and there are various other areas. There is a huge range of stuff that could be researched and targeted. Particularly as the growth of online is relatively immature, I think it is appropriate for research to take place.

Ms BRODTMANN: Thank you. I would be interested to know what drove the creation of your statement of intent and who you consulted in the development of it. Was there any community consultation?

Mr Barry: Obviously we get feedback from our customers. We are conscious of what has been going on in the media. We are conscious of feedback from politicians, who we also meet regularly, and we discuss feedback from their constituents. So I certainly think we are aware of community concerns in that regard. I think there was a general view from society that integrating odds promotion within commentary was overtly invasive and that it was distracting from people's ability to enjoy watching a game. I think the debate here today is about whether it is appropriate for such integration to occur pre match at half-time and post match. I think there is a question as to where you draw that line, particularly if you acknowledge that there is no research available that indicates this advertising is doing harm; very much it is a subjective and personal view as to how much advertising you like. And I think Australian media is very, very commercial, and I think that is a fact of life.

Ms BRODTMANN: So did the council initiate this statement?
Mr Barry: Yes.

Ms BRODTMANN: And then you went to others and got their feedback?

Mr Barry: Absolutely. We talked to the broadcast codes, we talked to the TV stations and we talked to the department of communications. Really we felt it was required to make that step because of the slow progress that was being made on the back of the announcement of Senator Conroy in 2011 and the slow movement of the advertising codes to develop those codes and put them out to consultation and get them codified. So, as you have seen—I think evidence has been given—the industry and the broadcasters have acted ahead of the implementation of those codes because they have taken so long.

Ms BRODTMANN: What specific concerns were you wanting to address in it? You initiated it yourselves. You saw that you needed to act in some way, that there was a perceived absence of action in this area. So you decided, 'We will go out and talk to these other agencies,' as well as your members. Was there a particular issue that was the catalyst for this?

Mr Barry: It was the volume of discussion in the media and feedback from politicians particularly around this issue. A number of times we met with politicians from across the political divide who said that action needed to be taken in this regard. We responded to those concerns and we tried to create a scenario where you could watch live play without odds being integrated so parents or others could watch sport and know there would be no advertising during play. It gives them the opportunity to update.

Mr CIOBO: Can I explore the issue of problem gambling first. You have spoken to us before about the fact that you have a number of processes in place to reduce and mitigate the impact of problem gambling. Can you outline those, please.

Mr Barry: Yes. One of the primary benefits of account based betting over traditional anonymous cash betting is that we know who our customers are. Each of our customers goes through a verification process similar to opening a bank account. They have to give 100 points of ID. Within the websites of our members we have a number of responsible gambling tools available. All of our member sites have the ability for customers to set deposit limits. They also have the ability to exclude. We also have phone numbers and reference numbers for problem gambling services. We have self-assessment tests available on the websites to help people assess whether they have an issue not. Generally speaking I think the use of technology means that we are much better placed to provide those tools to our customers than some of the more land based, older school—

Mr CIOBO: Are those safeguards in place for international gambling websites as well?

Mr Barry: The availability of those safeguards would be very much ad hoc. I think there is a material risk of Australian consumers betting offshore both in terms of the lack of provision of problem gambling mechanisms and the protection of credit card details and funds. We have seen a number of international gambling companies collapse and Australians lose their money.

Mr CIOBO: You were speaking before about the change in market share not in terms of just your sector but across gambling as a whole. If you look at those who are placing a bet or wagering through you guys versus those who are gambling offshore, how has that changed? Do you have rough numbers on that or percentages?

Mr Barry: In terms of racing and sports betting, that has gone from about fifty-fifty onshore-offshore to about 85 per cent onshore and 15 per cent offshore. The vast majority of the rare remaining offshore activity is around online and play betting. In terms of the broader gambling sector, the vast majority of gambling still takes place offshore. That would primarily be around casino poker, bingo and products like that. The Productivity Commission estimated that was around $800 million gross going offshore each year, and I think that is a conservative estimate.

Mr CIOBO: What sort of numbers of Australians have sports betting accounts with you guys?

Mr Barry: We collectively have about two million members.

Mr CIOBO: That has obviously grown significantly considering the internet and so on, so it is perhaps a bit hard to judge, but I am trying to get an idea about, since we regulated to make new systems more transparent for corporate bookmakers, the change in the number of Australians. You said it went from fifty-fifty to about 85 per cent?

Mr Barry: At this stage about 40 per cent of Australian wagering takes place online. About another 40 per cent to 45 per cent still takes place in your local TAB. There is now a very small proportion taking place on the telephone. So we have seen a significant shift in the channels through which people are betting. But the volume of betting is essentially the same.
Mr CIOBO: The public perception is that there has been explosive growth in sports betting, but you are putting to the committee that that is not the case, that that is a consequence of people transitioning from more traditional modes of gambling to now the ability to do so online. Is that correct?

Mr Barry: Yes. I think the primary confusion in that regard is driven by the fact that there has been a significant increase in the volume of advertising, but there has not been a significant increase in the volume of betting. I think that is the key distinction to make. There is an assumption on the part of the general public that because of the increase in the volume of advertising there must causally be a similar increase in the volume of betting.

Mr CIOBO: Do you think the fact that you can advertise is part of the reason why fewer Australians would now be placing their bets online with international bookmakers?

Mr Barry: There is absolutely no doubt in my mind that the ability to advertise, the increased competition in the sector and the improvement in the products that have been driven through competition and innovation has brought a significant volume of that spend onshore.

Mr CIOBO: How do you determine who is onshore and who is offshore in an online environment? For example, when this committee looked at online gambling sites for previous inquiries, we saw a lot of websites that look to be Australian. If you type in 'poker', for example, we saw poker.com, which looks like it is endorsed by certain celebrities and what-not but they are actually offshore based companies. Can you outline to the committee how a punter would actually know the difference in an environment where there is no, for example, TV advertising—how they would be able to discern the difference on the internet?

Mr Barry: I think it would be very difficult. As we discussed earlier, there is a key role in our ability to advertise so that the Australian punter is aware of who the Australian companies are, what the brands are and what they trust. We submitted in the previous inquiry that there should be some sort of official approval symbol set up so that customers are able to distinguish between what is a regulated onshore site and what is an illegal or unregulated offshore site.

Mr CIOBO: Is it possible to delineate between an Australian based regulated sports wagering company and one that is offshore on the internet, based on the domains?

Mr Barry: IP blocking has had very limited success when it has been tried globally. Payment blocking has similarly proven to fail when it has been implemented in various countries around the world. There is a global trend towards regulation and that regulation generally includes the ability for operators to advertise in order for them to be able to protect that share and ensure that the local population are betting with the regulated operator.

Mr CIOBO: How much tax does your industry pay in GST, company tax and so on?

Mr Barry: We pay GST on our revenue. We would also pay employment taxes and corporation tax. We are talking about hundreds of millions of dollars.

Mr CIOBO: What initiatives do you as an industry have in place to prevent marketing to children, or do you specifically target children?

Mr Barry: The point is very valid. We do not in any way target children. We have no interest in children gambling. We have quite sophisticated mechanisms to verify the age of people who bet with us. They all have to go through a registration process and have their identity verified. In any case where we suspect or find that an underage minor is betting with the company, their account will be suspended. There are occasions where children may steal their parent's credit card and try to get around the system, but we would be monitoring that very closely. We would not target any advertising to children. We do everything in our power in responsible gambling messages and the manner in which we promote the product.

Mr CIOBO: Other committee members have raised the issue about, for example, the presence of—to pick a topical name at the moment—Tom Waterhouse on Channel 9's team and how that is going to drive children to gamble or normalises gambling for children. As an industry, have you done anything in that respect? Do you have any initiatives in place around safeguards to prevent that from happening?

Mr Barry: I think Astra and Free TV have submitted evidence to the effect that there is a very low number of children watching live sport. In the vast majority of cases, they are watching sport when accompanied by an adult. I think there is a role here for parents to educate children about the risks associated with gambling, and that would be consistent with other products in society, such as alcohol or other adult related issues, like sex education and so on. I do not think it is possible in the modern age for us to create a bubble around our children, where they will not be exposed to adult products.
Mr CIOBO: There are restrictions in place on, for example, alcohol advertising. Do you think those sorts of restrictions would be appropriate for sports wagering?

Mr Barry: As I said earlier, I think policy needs to be based on evidence. There is frequently a comparison drawn with smoking, which I think is misguided. Every cigarette you smoke causes you harm. There is no evidence that every bet you take courses you harm. I think there is a weak intellectual tendency to group all these products together. It is very important that there is independent research around each of those individual areas, and the policy should be appropriately formed around that.

Mr CIOBO: You mentioned Dr Sally Gainsbury's finding that the incidence of problem gambling had declined.

Mr Barry: It has not increased due to the advent of online gambling.

Mr CIOBO: So it has not increased but has remained, presumably, constant?

Mr Barry: Yes.

Mr CIOBO: What percentage of your customer base would you identify as being problem gamblers and therefore exclude or refer to counselling and so on and so forth?

Mr Barry: As with best practice, the gambling help counselling services will say to you that the best approach is to provide tools to people so that they can control, but the first step is always for them to admit that they have an issue and then for them to progress from there. I can give you data on how many people at Sportsbet have set deposit limits and how many have self-excluded. That does not necessarily mean they are a problem gambler. We also train our staff to refer customers to gambling services if they say particular words and phrases and they exhibit certain behaviours.

Mr CIOBO: Obviously there are problem gamblers, so obviously you must refer some people to services.

Mr Barry: Absolutely.

Mr CIOBO: I am just trying to get an idea about the way in which that process works. Are you actively referring people and blocking people who you suspect might be problem gamblers?

Mr Barry: Generally it is initiated by the customer to use a tool either to limit their deposits or to self-exclude. If they phone up to close an account, we will ask them why they wish to, and if they phone up and indicate that they have an issue around payment or their volume of betting, and if those types of phrases are picked up by the customer service staff, they will refer people to gambling services and also suggest that they take the self-assessment test on the website.

Mr CIOBO: My final line of inquiry is just with respect to sports integrity. You made a statement in your opening comments about having grave concerns about the integrity of sport. Could you go into more detail on that, please.

Mr Barry: Yes. I think there is also some confusion within the broader public about the role that regulated online betting providers can play in improving the integrity of sport. The sporting bodies see having a strong, regulated industry as a key pillar in ensuring that integrity is preserved in sport, so we have integrity agreements with all the major sporting bodies. We monitor betting behaviour, and when we see suspicious patterns we instantly notify those sporting bodies. There is a very close relationship in that regard.

The greatest threat to the integrity of sport is either through anonymous cash betting or through illegal betting, whether it is onshore or offshore. If the committee were looking at and seriously concerned with the integrity of sport, a key measure could be to ban anonymous cash betting, because that is betting where we do not know who is betting, and it is very hard to track their behaviour.

As you may have seen in the Ryan Tandy case, it took a number of weeks for them to sift through the video footage to work out who had placed the bets and where they placed them. If those bets had been placed with an online bookmaker, it would have taken a second to provide that data. I think it is the case that the very last place you will place a bet if you are looking to fix a match is with a regulated online account based bookmaker, because we know where you live; we have verified your ID; we know your IP address; and we have integrity arrangements with the sporting bodies. So we believe we play a key role in protecting the integrity of sport.

Mr CIOBO: Would it be fair to say then—I do not want to verbal you, so correct me if I am wrong—that, if this committee were to recommend that advertising of sports betting be banned or prohibited, that in turn would diminish, for lack of a better term, the competitive advantage of regulated onshore bookmakers and effectively place at an advantage unregulated offshore bookmakers, which therefore would threaten the integrity of sport?
Mr Barry: Absolutely. The more betting that goes offshore, the more funds that are going to these operators, the less oversight there is and the greater the probability that you are going to have issues around corruption in sport.

Mr CIobo: Thanks.

CHAIR: Do you advocate then the lifting of the prohibition on gambling advertising during the day when children might be watching TV?

Mr Barry: My understanding is that what you are referring to is the G rating that is applied with the exemptions that are applied to news, current affairs and sport. My understanding is that those exemptions were created because there are very low numbers of children watching those programs, but I do not know the full historical background to those.

CHAIR: But in general terms there is a prohibition on gambling advertising during daytime TV, because children might be watching TV. In general, as a matter of principle, do you agree with that?

Mr Barry: In general terms, I think there should be a prohibition around advertising that is contained within children's programming.

CHAIR: Why would there be an exemption during that time of the day when children's viewing could peak, watching a footy game?

Mr Barry: I think the evidence from ASTRA and Free TV was that there was a very low volume of children watching live sport, a very low percentage, and that, I guess, the weight of the benefit of the ban was not required within current affairs, news and sports.

CHAIR: I do not understand the logic. You are saying that it is okay to have a ban at times when fewer children watch TV but that it is okay not to have a ban when more children watch TV. Can you explain the logic of that?

Mr Barry: I am not familiar with the data about what hours children are watching TV in Australia and nor are we involved in the formation of those codes.

CHAIR: Okay. Talking in general terms, coming back to the principle of not advertising gambling during times when children might be watching TV, are you happy with that?

Mr Barry: As I said earlier, policy should only be formed on the basis that it has been proven that there is harm being created by that advertising.

CHAIR: So are you saying that we should remove the prohibition on gambling advertising during the day?

Mr Thompson: The key thing here is that advertising should not be targeted at children. That is the key. That is the fundamental point. Banning it in G-rated program is a way of trying to achieve that. That does not necessarily mean that it is the best way to do it, but it is a way of trying to achieve that. What are we trying to achieve? We are trying to make sure that advertising does not target children.

CHAIR: What rating is a game of footy? Is that G? Are you saying that it should be PG?

Mr Thompson: What we are saying is that the exemption is there because it is recognised that there are some G-rated shows that are actually adult shows. A G-rated show is not necessarily a children's show.

Mr Stephen Jones: You made a fair bit, although not too much, in your earlier submissions about the absence of evidence. Yet we are now talking about the fact that gambling advertising is prohibited during G-rated slots. You are familiar with the precautionary principle in public policy, aren't you? You do not think that it should apply in sporting games.

Mr Downy: It is not quite going there. You are being hypothetical, Chair, because you are using the word 'might'. There are a couple of issues here. You said that children might be watching.

CHAIR: Children might—

Mr Downy: Wait a minute—let me finish. What I am saying is that there are times during the day—and they are governed by all the broadcasting codes, as I am sure that you are well aware—when certain forms of advertising are prohibited, usually advertising for adult products, such as gambling, alcohol or a range of other things. We all know that. We all accept that there are times during the day covered by the broadcasting codes when specific forms of advertising are prohibited. We are talking about sport. You said, Chair, that maybe it should be PG. But isn't the issue there that—

CHAIR: Hang on. I—

Mr Downy: I am not going to put words in your mouth—do not worry.
CHAIR: You just did; you just verballed me.

Mr Downy: You asked the question as to whether it should be—

CHAIR: I asked a question.

Mr Downy: PG.

CHAIR: No, let me do the talking.

Mr Downy: All I am saying is that there is a difference between programs that are specifically for children and that are aired at certain times of the day and sporting programs, which are watched by a mix of adults and children. As the Free TV Australia submission points out, 85 per cent of children are usually watching a sporting show or program with adults. That is a different story. We are not talking about—

CHAIR: Let us dwell on that very briefly. You are saying that because a child is likely to be watching sport with an adult present then that adult can mentor them or guide them. Is that true?

Mr Downy: I would have thought that to be a fair statement.

CHAIR: Okay. That is a fair thing—

Mr Downy: Isn't it about parental responsibility?

CHAIR: for you to assert. But hence my cynical comment that perhaps you think that sport should be rated PG, so that you could only watch sport with parental guidance. Is that what you are saying?

Mr Downy: No, I am not saying that at all, and you know that I am not saying that.

Mr STEPHEN JONES: I have another follow-up question—I will not go to that area—in relation to Mr Ciobo's questions regarding the onshore and offshore issue. Mr Ciobo was kind enough to say that he did not want to verbal you, and I think that he read pretty much word for word your written statement, so it was a pretty accurate statement about the issue. What I want to know is whether any of the Australian online betting operators either a subsidiary of offshore operators or have subsidiaries that also operate offshore?

Mr Barry: A number of the members of the AWC are subsidiaries of international companies.

Mr STEPHEN JONES: A number of them are already operating offshore?

Mr Ciobo: I was talking about unregulated offshore regulators.

Mr STEPHEN JONES: I understand that.

Mr Barry: All the members of the AWC are licensed and operated within Australia.

Mr STEPHEN JONES: Do all of them also operate offshore?

Mr Barry: The Australian entities do not.

Mr STEPHEN JONES: Yes, but they have an associated entity that does. Is that correct?

Mr Barry: Yes. For instance, Paddy Power owns SportsBet. Paddy Power only operates in regulated markets, so it only operates in four markets in the world. There is a consistent policy of only operating regulated markets.

Mr STEPHEN JONES: It sort of goes to that question about relative disadvantage. If they are not able to advertise and if I accept your proposition—which I do not, by the way, but if I were to accept it—that disadvantage is in relation to overseas online operators, isn't that answered by the fact that they have an overseas operating parent or subsidiary?

Mr Barry: They do not have an overseas parent or subsidiary that operates in Australia, so they are not competing with their local entities.

Mr STEPHEN JONES: They might be competing with another part of themselves.

Mr Barry: Absolutely. But I do not understand the point. Maybe I am being a bit slow—

Mr STEPHEN JONES: It is okay. I will leave it there.

Senator MADIGAN: Earlier you spoke about the offshore operators and about how the benefit to Australian customers is that 'the online wagering environment, which is highly regulated in Australia, affords enhanced protection to customers and provides responsible operators with vital insight into any potential problem gambling issues’—that is from your submission. I have had a constituent contact me on a number of occasions. He has got involved with some offshore entity and has had serious problems. Can you explain to me and the committee why he would be betting or wagering with you and not betting or wagering with them, taking apart the fact that you pay tax et cetera in the country? What safeguards are there specifically that are going to help him?

Mr Barry: The members of the AWC would be licensed to buy a regulator in Australia, and that regulator would have the power to sanction a member operator in the event that there was a concern around their conduct.
That is not something that can occur if the consumer is betting offshore. For example, all customer funds are backed up and segregated so there is protection of consumer funds, there are standards around probity, and there are standards around verification. We operate under quite detailed codes of conduct and licence requirements, so there is much greater oversight and there is much greater ability for the regulator to control the operations of the operator.

Senator MADIGAN: Earlier when we were speaking to the NRL they said that they believed ultimately in self-regulation, but I see here that you believe that the best effective way of minimising the incidence of problem gambling and keeping Australian sport free of high-level-corruption match fixing is to have an Australian highly regulated online wagering and sports betting market. So, here we have one section of the debate saying they believe in self-regulation, and here we have you—do you believe in self-regulation, or do you believe in government regulation of your industry?

Mr Barry: I think the NRL were talking about something slightly different. I think they were talking about regulation of their own activities. At the moment we are subject to a vast array of federal and state legislation, some of which at times can be contradictory. So I think it would be good to have national standards that would inform a minimum standard for the states to license within. And I think consistency of standards and clarity around those standards across the country will be very beneficial. Also, broadly speaking, I think it is important that there is a strong regulatory basis to any regulation around this area so that consumers can have confidence and so that broader society can have confidence in how the industry operates.

Senator MADIGAN: Lastly, are your members of the AWC aware of cases where people have been gambling offshore in Australia who have had major problems? And have you been proactive in bringing these to the attention of the authorities?

Mr Barry: One of the great failings of the Interactive Gambling Act is that there have been no prosecutions taken under that act and that the government and the Federal Police have given these issues very, very low priority. There are a series of recommendations in the recent report on the IGA around strengthening those provisions and making it easier for prosecutions to take place, so that it can be a civil offence, not just a criminal offence. I think there is considerable work that could be done around those areas to address that very issue you raise.

Senator MADIGAN: Specifically have the AWC advocated on behalf of any Australian consumers who have been done over by an unregulated foreign wagering, betting—

Mr Barry: I am not aware of any individual instances, but we have raised on numerous occasions, both to this committee and elsewhere, the risks that the Australian consumers face and detailed a number of situations where consumers have lost their funds. So, while I am not aware of any individual cases, we would be very conscious of highlighting that risk to policymakers.

Mr Downy: Just on that point, you might be interested in looking at the latest report from the department, its annual report, on the operation of the prohibition of advertisements under the IGA. They only reported 12 instances of a breach. Seven were referred to the Federal Police and, of those seven, five were referred to Interpol. So it is not very effective.

Senator DI NATALE: I do not want to spend any time on the integrity issue, because I happen to agree with you: I think it is preferable to have a regulated market where we can track activity going on and make sure that we can stamp out corruption. I want to focus on the issue of harm and the potential harms that might be contributed to by the promotion and advertising of things like live odds and so on. Let us go to this question of growth. We need to be clear here, because I think it has been a little bit confusing. The online area, which is the focus of this inquiry and of which sports betting is the major component, has gone from $2½ billion in 2007 to almost $10 billion in 2012. That is a significant increase.

Mr Barry: Absolutely.

Senator DI NATALE: Your argument is that, when you factor in offline wagering, it is reasonably flat. Do you include offshore betting in this?

Mr Barry: We are not able to, accurately.

Senator DI NATALE: Let us just stop there. So the answer is no.

Mr Barry: Right. They are not included in that data.

Senator DI NATALE: That is not included—

Mr Barry: But I could give you an estimate.
Senator DI NATALE: So you are saying that there is a four per cent growth rate in gambling overall when you factor in offline and online, but then I have your members come to me and tell me, 'There's an explosion in offshore betting; you need to regulate it.' The Productivity Commission say it is almost $1 billion. I have had some of your members say it is billions more. And yet you are not including it in the figures that represent the growth in online gambling.

Mr Barry: It would be very hard to track that growth.

Senator DI NATALE: I know, but isn't it misrepresenting the actual increase in growth in gambling if you are only including what you can measure and the industry themselves are saying, 'There is billions more happening but we are not going include it in these figures, because we want to give you the impression that this is not an issue we need to worry about?'

Mr Barry: I do not think it is possible for me to answer the question about the rate at which offshore is growing. There are estimates. We can refer to the Productivity Commission. KPMG also did some work for the department around the report for the IGA. So there are some estimates.

Senator DI NATALE: I am not asking you to provide me with a clear estimate; what I am saying to you is: let us not be tricky with the numbers. You cannot come in here and say, 'This is a small problem; there are a relatively steady number of people who bet,' which is what you are saying through this bit of information, and, when you argue for increased regulation of offshore betting, you argue that it is in the many billions of dollars—and in fact the Productivity Commission say it is close to $1 billion. All I am saying is: let us get an accurate picture of what is going on. What you have presented here is not an accurate picture. I contend, based on your own information, that there has been a significant increase in new people gambling, based on the number of people who are gambling both onshore and offshore.

Mr Barry: I would submit that I am providing the best data that we can provide accurately and there is no intent to mislead the committee in that regard. I would also speculate that the shift we have seen from land based betting to online based betting would also be happening in online gaming, the same as it is happening in online betting. So it is not necessarily the case that there is a massive increase in gambling in aggregate; it may just be the case that there is a similar channel switch going on. But I am speculating.

Mr CIOBO: While you are doing that, can you also revise the historical figures to account for illegal gambling that was taking place when you could not do it online? If you are going to estimate what Senator Di Natale is asking, then you should also incorporate those historical figures too.

Mr Barry: I am very happy to provide data. There are global research companies that do estimate the growth of gambling, both onshore and offshore. I am very happy to provide those to the committee.

Senator DI NATALE: Let us go on, because time is limited. Your argument is: there is not much harm going on here; there is no evidence of it. In fact, if we have a knee-jerk reaction we have the potential to drive business offshore to unregulated markets. That is the sort of contention. And yet you supported a code that reflected a change in the ability of some of your members to advertise. Why did you do that if you think that there is the potential to drive some of this stuff offshore?

Mr Barry: With all of these things there is a balance to be struck. We introduced that code in response to community concern but we did not introduce that code specifically around a belief that there was harm being caused by the advertising.

Senator DI NATALE: So, we have introduced it in response to community concerns. What if I put it to you that of all the inquiries I have been involved in, much to my surprise, this is the inquiry that has engendered the most support, that in fact there is a significant degree of community concern? People who are watching the footy with their young kids do not want to see Tom Waterhouse ads rammed down their throats. They do not want to listen to pseudo commentators call games and give the odds of those games. If your response to the new code is on the basis of community concern, you have done very little to assuage that concern.

Mr Barry: I think we have addressed the core concern, or my belief that the core concern was that the integration of odds within the commentary was overtly evasive and also it was blurring the boundaries between commentators and advertising.

Senator DI NATALE: The Tom Waterhouse experiment. Do you feel it makes that distinction very clear?

Mr Barry: I think Tom Waterhouse and Channel 9 have responded to concerns—

Senator DI NATALE: I am asking for your view.

Mr Barry: My view is that since the format has been changed there is a very clear distinction between Tom Waterhouse and the commentary team. I am not sure you saw the coverage on Thursday and Friday—
Senator DI NATALE: No, I have not seen it.

Mr Barry: but it was significantly different from the previous coverage. He now appears alone. There is a Tom Waterhouse microphone and big logo on the screen saying that he's an online bookmaker. He is not sitting with the panel. He is not talking to the host. There is a significant change in the format of that.

Senator DI NATALE: If it emerges that, in fact, the community is not satisfied that these changes go far enough—I contend that your support for these changes is precisely because of the point that they are relatively weak—and you can still get odds before the game, at quarter time, at half time, at three-quarter time and at the end of the game we still get crosses to bookmakers on the grounds, will you be prepared to go further than what has been proposed under the new code or, given that you have responded to community concerns, will you go further?

Mr Barry: It is worth recognising that there are a large number of people watching the sports who are interested in this content.

Senator DI NATALE: There is a much larger group of people who are fed up with it.

Mr Barry: That is conjecture.

Senator DI NATALE: I contend that it is a fact. If you look at every poll on this issue you will see that people are very angry at this sport being tainted by or being enmeshed with gambling.

Mr Barry: If you ask people if they like advertising they are going to say 'no'. I would be concerned about the questions and the format on which those polls are asked. I do not like Harvey Norman advertising, but it does not mean I think it should be banned. Coles going 'down, down, down' with Status Quo is annoying but it does not justify—

Senator DI NATALE: So why advocate for a change in the code?

Mr Barry: It was a legitimate concern that it was overly invasive.

Senator DI NATALE: It is a legitimate concern that it is overly invasive but, on the other hand, we should not be responding to community concerns over this, because advertising is advertising.

Mr Barry: We believe we have responded and we have responded in a responsible and balanced manner.

Senator DI NATALE: I am interested in this promotion to young kids. Do you allow people under the age of 18 to play the sort of footy competitions—SuperCoach; that sort of stuff—through your websites or through your members, I should say?

Mr Barry: No.

Senator DI NATALE: If you are a 17-year-old kid who wants to be involved in one of your competitions—we are not talking about gambling, just one of the competitions—you cannot do that through one of the online—

Mr Barry: No. To be a member of Sportsbet you have to be 18 and thus you cannot play those—

Senator DI NATALE: Even with parental consent?

Mr Barry: No, not with parental consent.

Senator DI NATALE: That is good news. The issue of pokies is something I want to bring up. Your harm-reduction code has an ability for customers to set financial limits—voluntary precommitment, essentially. You have self-exclusion facilities, you have intervention when gambling is detected, yes. We would agree that we have had numerous discussions with the pokeys industry on these harm reduction parameters. Referrals to gambling counselling services, yes. They all exist in the area of poker machines.

Mr Barry: The principle here would be that there are different levels of prevalence of gambling across different products.

Senator DI NATALE: Voluntary precommitment, yes; self-exclusion, yes; intervention when gambling is detected, yes. We would agree that we have had numerous discussions with the pokeys industry on these harm reduction parameters. Referrals to gambling counselling services, yes. They all exist in the area of poker machines.

Mr Barry: The principle here would be that there are different levels of prevalence of gambling across different products.

Mr Thompson: Also, the account based nature of it means that it is available to every customer and also there is historical information on activity on your account, but I do not think that is the case with cash based pokies.

Senator DI NATALE: That is fair enough. I am out of time.
CHAIR: Thank you very much. I think I can speak for the whole committee in saying that was a very helpful session.
CURTIS, Mr Simon, Policy and Regulatory Affairs Manager, Australian Subscription Television and Radio Association

MAIDEN, Mr Andrew, Chief Executive Officer, Australian Subscription Television and Radio Association

MEAGHER, Mr Bruce, Director, Corporate Affairs, Foxtel

[12:47]

CHAIR: Welcome. I invite you to make a brief opening statement before we proceed to questions.

Mr Maiden: Thank you for the opportunity to appear. The Australian subscription television sector appreciates the degree of concern in the community about the promotion of live odds in sport and we recognise that the issue needs to be handled sensitively and with regard to vulnerable members of the community especially. That is why we submit this sector has adopted a cautious and socially responsible approach for many years, an approach which we submit is more conservative than some free-to-air broadcasters. Our codes of practice require the intellectual and emotional maturity of audiences to be taken into account, respect to be shown for current community standards and placement of certain sensitive advertisements to be restricted. These codes are not a voluntary self-regulatory regime. They have a strong statutory basis under the Broadcasting Services Act under which the ACMA has to investigate, enforce and, if it determines the provisions are not working effectively, impose a program standard. Which is effectively a legislative instrument. Additionally, subscription television must comply with federal and state laws, regulations and codes relating to the advertising of gambling products. For instance, this includes the Interactive Gambling Act, which prohibits advertisements for interactive gambling services and, as our services are effectively provided on a national basis, the most stringent law in anyone's state is effectively a floor under what our channels can do.

As agreed recently with the government, we are currently updating our codes to further reduce and control the promotion of odds during a live sports broadcasts. These amendments would prevent the promotion of live odds by commentators and their guests during a live sports broadcast, including the 30-minute period on either side of play. These amendments will not just limit the broadcast of live odds but also will ensure that any permitted promotions are socially responsible and include a responsible gambling message. Subscription television licensees and their major sports channels are already adhering to those proposed amendments, even though they have not yet come into effect. In conclusion, Mr Chairman, while the promotion of live odds by commentators on subscription TV has not been prevalent compared with free-to-air television, we are committed to working with the government and this committee to thoroughly address community concerns. In contemplating your response, we submit that there should be an appropriate balance struck between the interests of wagering operators and the rights of customers to gamble responsibly on the one hand, with the responsibility to minimise harm, especially to vulnerable members of the community, like children and problem gamblers, on the other.

CHAIR: Thanks, Mr Maiden. Mr Ciobo, I invite you to start off.

Mr Ciobo: Thanks, Mr Chairman. Gentlemen, do you have at your fingertips much research with respect to the influence on children of advertising? Is that part of what helps to guide the formulation of the code et cetera?

Mr Maiden: What we have looked at in relation to the exposure of children to these broadcasts is data, which you will see in our submission, which confirms that on the whole relatively small numbers of children do watch our broadcasts—for instance, the top-50 most watched sports broadcasts shown on subscription TV last year had only an 11.3 per cent audience aged under 18. As you may have seen in our submission, more than two-thirds of those were watching with the supervision of an adult. To put that percentage in context, the average number of children under 18 watching any of those top-50 life sports broadcasts last year was something like 39,000. So, relative to our reach—which is 2.2 million homes, or seven million Australians—we submit that number is relatively small.

Mr Ciobo: So with the potential to reach seven million people, you have about 39,000 children watching?

Mr Curtis: That is from the average of the top-50 sporting events; so the numbers will move. I think the highest-rating sporting event for children, with 55,000 watching the Big Bash final, in January last year, and then going down from there.

Mr Ciobo: Sure. This provides a pretty good benchmark, I guess, and index across the sports. Does anyone know how many children there are in Australia?

Mr Maiden: I did some research and the incidence of children watching these broadcasts is about relative to their representation in the community—they are not over- or under-represented.


Mr CIOBO: Do you have any specific initiatives that go above and beyond what is required in terms of restrictions on advertising?

Mr Maiden: Our current codes, of which there are three, require at least four kinds of control. The first is that special care has to be shown in advertisements on children's channels—and I submit that we may get to talk about this, but subscription TV is a little unlike free-to-air, for many reasons, including the fact that children are specifically targeted by eight channels on our platform.

Mr CIOBO: Narrowcast versus broadcast, effectively.

Mr Maiden: That is right. Secondly, our code requires specifically the intellectual and emotional maturity of audiences must be taken into account; thirdly, that community standards, as interpreted by the ACMA, must also be taken into account, and there are certain sensitive advertisements that can be restricted in additional ways.

Mr CIOBO: So, is gambling one of those sensitive advertisements?

Mr Maiden: Gambling is subject to the first three that I mentioned, as far as I am aware. You will have to forgive me, I am a week into this job—Simon will correct me if I am wrong.

Mr CIOBO: You were wrong to disclose that so early on in your testimony!

Mr Meagher: As I understand it, while not specifically referred to, gambling is treated with great sensitivity and therefore would not appear on a children's channel. You would not have ads for gambling on a children's channel.

Mr CIOBO: Sure. And what are some of the other products and services that fall into that category?

Mr Meagher: Alcohol advertising obviously would not appear on children's channels, for example.

Mr CIOBO: Are they the only two?

Mr Meagher: I would have to have a look at that. Beyond that I think it would be more about the nature of the individual advertisement, where a judgment would be exercised as to whether it was appropriate—and then there are obviously other, commercial, considerations about—

Mr Maiden: As you would all appreciate, it is not only the operation of this code that restrains that advertiser. No advertiser is going to want to appeal to a market that is not in a position to buy their product.

Mr Meagher: The other thing that is important to bear in mind when you talk about the subscription broadcasting sector is that we have very effective parental locking devices. Parents are capable of excluding channels or ratings. We even have something called a mini-mote which you can have for kids. That remote control will only give you access to the eight children's channels and a parent can nominate two others that they will allow their child to have access to. You take the main remote control away and the child is effectively quarantined from the rest of the service.

Mr CIOBO: I do not want to speak on behalf of the committee, but it is probably fair to say—and other committee members will correct me if I am wrong—that we are probably focusing more on advertising during sports broadcasting than we are on specific advertising during Sky News, for example. With respect to the advertising that takes place during sport—and that where the 39,000 number is quite important—you do any research or do you have at your disposal information relating to advertising in terms of frequency and reach? Obviously, the reach is fairly small. In terms of frequency, do you have information as to whether it affects behaviour? I realise it is not your core business, but I am interested as to whether you have done anything?

Mr Curtis: As far as I am aware, we do not have any information on the effect on behaviour. My understanding is that the frequency of gambling advertising on the sports channels is no different to the frequency of other products being advertised. A sports broadcast may have five or six major sponsors and that might include a gambling company, a food company or a car company. There is not a propensity of gambling ads disproportionate to other ads that are being shown.

Mr Meagher: I would be happy to take on notice whether we know of—

Mr CIOBO: If you happen to be interested—

Mr Meagher: There is a company that manages most of the advertising on the platform, so it is possible that they have that, and I would be more than happy to ask them and to come back to the committee.

Mr CIOBO: Does the basic subscription package include access to the dedicated sports coverage channels?

Mr Meagher: No.

Mr CIOBO: You spoke about a potential reach of seven million. Is that based on your subscriber base or is that based on subscribers who have access to those channels?
Mr Curtis: It is the subscriber base overall, not those who subscribe to sports channels.

Mr CIOBO: So in reality there would be far fewer, I guess.

Mr Meagher: Sport is obviously very popular and the majority of our subscribers take the sports package, but not 100 per cent.

Mr CIOBO: So it is fewer, though.

Mr Meagher: That is right.

Mr CIOBO: I do not know whether this is commercial-in-confidence, but what percentage has your sports package?

Mr Meagher: That is not a figure that we would typically disclose.

Mr CIOBO: That is okay. The point is that it is less than 100 per cent. So you were actually being generous with that estimate. If you are talking about your entire subscription base, the reality is that less than 100 per cent has access to the channels we are talking about. Therefore, there are fewer people.

Mr Curtis: That is correct.

Ms BRODTMANN: Thank you for appearing today. I would like to go to your submission. You also mentioned this in your opening statement: the 30-minute rule around the edges of the game. As you know, sporting codes have adopted their own code of conduct, their own statement of intent, and they use that within the game. Why have you decided to go within the game and beyond the game as well? And why is it a 30-minute rule?

Mr Meagher: This was obviously subject to discussion with the minister following the COAG process. Typically a game will have a lead-in, where commentators and personalities will discuss what is about to happen, and that is typically about a 30-minute period. That seemed to be a fairly reasonable thing. The agreement we came to with the government was that, therefore, you would not have the risk of a blurring between what is obviously directly a pre-match discussion and that directly related to the game. There were going to be clear boundaries. On the other hand, we do not believe that there is any reason why—for example, if you have a Wednesday night magazine program, where commentators are discussing what is going on in the game—they would not be able to, at that point, discuss odds or what is going on in the betting market. It was merely about trying to quarantine that fixture and 30 minutes either side seemed like pretty much industry standards in the way those things are structured.

Ms BRODTMANN: This is in play now, isn't it?

Mr Meagher: Yes.

Ms BRODTMANN: Have you found that the industry has sort of accommodated that and is now clustering around the edges with the 30 minutes?

Mr Curtis: To be honest, I have not watched enough of the sports programs to tell. As I understand it, they are complying with that theme.

Mr Maiden: Based on the scheduling of programs, as Mr Meagher has pointed out, it is unlikely that in the 30 minutes or more before a match there will be focus on the event that is about to commence. Typically, another sporting event will be dealt with.

Ms BRODTMANN: In terms of your views on the running commentary, you said that you are still addressing this issue, you are still in discussions with people. You are conscious of getting the balance right. I am interested in getting your views on what you think the balance should be.

Mr Maiden: We have reached agreement with the minister's office in respect of nearly all matters that are disclosed in our submission. There is one small matter remaining and that is how you define a scheduled break during events like the Olympic Games or Commonwealth Games. But I believe that that matter is fairly close to resolution and, when it is, we plan to release our amended codes for public consultation and then submit them to ACMA.

Ms BRODTMANN: By the look of it, you did extensive consultation on your current codes, from 2011 to 2013. Is that right?

Mr Maiden: That is correct.

Ms BRODTMANN: So do you envisage having a similar extensive period for consultation on these revised codes?
Mr Maiden: We not only envisage it but we are required to conduct that consultation for ACMA, to be satisfied that the codes are registrable.

Mr Curtis: Any broadcasting codes, whether subscription, free to air or commercial radio, must have a substantial consultation period. We had one with our general codes review, which happened at the beginning of last year. We did not get any submissions regarding gambling advertising during that period. During the three weeks or four weeks, or however long we have for that consultation period, we will get submissions on that. In the end, it is up to ACMA. It reviews those submissions that we receive, it reviews our responses to those submissions and, in the end, ACMA is the one who determines whether the code provisions address community concerns.

Mr Maiden: It is of course in our interests to make that consultation period as extensive and as inclusive as possible. ACMA has discretion, as you know, to accept or reject the amendment based, amongst other things, on how effective that consultation has been.

Ms BRODTMANN: Can you just walk me through the consultation process. I imagine that you advertise extensively, the consultation is open, you take submissions, you do hearings?

Mr Curtis: We will probably advertise in major media. We will specifically target as many stakeholder groups as possible, so from gambling companies to other broadcasters, to the government, to ACMA and to experts in the field of gambling problems, children's advocates—any relevant stakeholder. We have been discussing with ACMA who would be appropriate people to contact, so we will make direct contact with all of those. Amendments to the codes will be available when released on our website for that period during the consultation. Hopefully, we will catch as many people as possible who are interested in making a submission.

Mr Meagher: Obviously, we receive submissions, we consider them and if we deem it appropriate we would make amendments or adjustments to the code. Then, typically, we submit it to ACMA. If they do not accept it, they will come back to us with questions, queries or further suggestions. Then, typically, there is a sort of iterative process. We work with them until we can reach an agreement as to what the right structure of the code is. If we fail to do that, then they have the ability at the end of the day to impose a standard on us. So they can actually impose a code if we cannot agree. That has never happened and we hope it won't.

Ms BRODTMANN: You said that the enhanced code is being finalised at the moment. When do you imagine it is going to be released?

Mr Curtis: We probably would not be able to give you a date on that. Hopefully, it will be sooner rather than later, but there are just some last little issues that we need to—

Mr Meagher: We are talking weeks, not months.

Ms BRODTMANN: So this financial year?

Mr Meagher: Yes. I hope so!

Mr STEPHEN JONES: I do not know whether you were in the room earlier, when the Wagering Council gave evidence. They made much of the point that you have referred to in your submissions regarding the percentage of children who are watching the broadcast when the gaming ads are going on. At the risk of misconstruing their submission it was something to the effect, 'Don't panic; there is only a small proportion of kids who are watching these broadcasts.' Your figures were about 11 per cent, is that right?

Mr Maiden: Yes. That was 11 per cent for the top 50 most watched sports broadcasts.

Mr STEPHEN JONES: Which would be the footie, wouldn't it? State of Origin, I think you have adverted to.

Mr Curtis: It would be live AFL and NRL matches and, I think, a few Big Bash cricket matches would be in that, as well.

Mr STEPHEN JONES: You have seen the submissions of free TV, I assume. In fact, I think you advert to them in your submission.

Mr Curtis: I was not sure if we referred to them but--

Mr STEPHEN JONES: You have seen them.

Mr Curtis: We have seen them. And they have, I think, similar figures in terms of—

Mr STEPHEN JONES: I think they use a figure of 13 per cent.

Mr Curtis: They are roughly equivalent.

Mr STEPHEN JONES: Let's just say they are outlines. If we put together the 11 per cent with, say, 12 per cent. That is 23 per cent. Are you aware of what proportion of the population is under 18?
Mr Maiden: I am not sure that you can add together those two population groups because there may be some overlap in them, but based on the research I did in preparing for this hearing I believe that the proportion of children who watch live sports programs is about equal to the proportion of the population—

Mr STEPHEN JONES: I think that submission has some force, which is to say that nobody could make a great force of the proposition that only a small proportion of young people are watching the football and the other sports broadcasts.

Mr Maiden: We would submit that a small proportion of the overall population are young people, but we would not submit that a small minority of—

Mr STEPHEN JONES: It is neither proportionate nor disproportionate; it is in step with the rest of the population.

Mr Maiden: That is right.

Mr STEPHEN JONES: Just as you would expect it to be in step with the population of people who attend a football match. You would not expect it to be over 50 per cent children. You would expect it to be somewhere between 11 and 18 per cent.

Mr Maiden: I think the figures bear out that there is a slightly smaller proportion on subscription TV platforms, for the reason that we have channels that cater specifically to that market.

Mr STEPHEN JONES: It is not a killer point, therefore, and not much could be made of it. Thank you for clarifying that.

Could you explain a little bit more—I thought it was quite useful—your submission about the impact of the South Australian regulation, which has effectively become a national code. I assume that is because you narrowcast but you do not do region-specific broadcasting?

Mr Maiden: That is right. We have a national signal, so to speak.

Mr STEPHEN JONES: Could you just explain that.

Mr Curtis: My understanding is that the South Australian code is a code on gambling advertisers—not on broadcasters—but in effect it means that gambling advertisers cannot advertise, I think, between 4 pm and 7 pm Monday to Friday. So for broadcasts during times which are the equivalent of between 4 pm and 7 pm in South Australia there would not be gambling advertising, nationally. So it would be later in New South Wales and earlier in WA.

Mr Maiden: For the committee's benefit: the law, I have discovered is actually until 7.30.

Mr STEPHEN JONES: And you accept that provision as an appropriate provision? You have never lobbied to have yourselves, as subscription based television, removed from the effect of the South Australian code?

Mr Curtis: Not that I am aware of, and I have been here two years.

Mr STEPHEN JONES: You accept that it is an appropriate form of regulation?

Mr Curtis: Yes.

Mr STEPHEN JONES: The next point I want to ask you about is essentially the revenue. Are you able to provide any assistance to the committee on the amount of revenue? I do not want you to disaggregate it. I understand some of this data might be commercial-in-confidence if it were to apply to any of your members. On an aggregate, what is the amount of revenue that is contributed to the subscription based television through gaming advertising?

Mr Maiden: I am aware of data in relation to Fox Sports. I believe it has been reasonably steady for the last four years. It is somewhere between 13 and 15 per cent.

Mr STEPHEN JONES: That is 13 to 15 per cent of the revenue for Fox Sports.

Mr Maiden: That is right: advertising revenue.

Mr STEPHEN JONES: Advertising revenue.

Mr Curtis: Yes, not revenue for the overall entity.

Mr STEPHEN JONES: Would you be in any position to extrapolate on what that would mean for other channels, for other broadcasters?

Mr Maiden: I could certainly take that on notice, but it stands to reason that the proportion on other channels would be a little lower. But I would prefer to take that on notice and come back to the committee.
Mr Meagher: We will be clear: that is general advertising. This is not gambling related advertising. I do not think we have those figures.

Mr Curtis: No. Our revenue from subscription is generally far greater than any revenue from advertising in the industry in general.

Mr STEPHEN JONES: I understood. That is the point of subscription based television: you do not have to listen to the ads.

Mr Maiden: Can I just clarify for the committee in case I have misled anyone: the figure of 13 to 15 per cent that I just gave is for a proportion of overall revenue that is obtained from advertising per se.

Mr STEPHEN JONES: Not from gaming advertising.

Mr Maiden: Correct. I will take on notice the question of what part of that percentage is to do with gambling, but for commercial reasons I may find that the organisation is unwilling to disclose it.

Mr STEPHEN JONES: Thank you. It would be useful. It is a specific request if you could provide the committee with a submission on the proportion of advertising which is provided by gaming based entities. In view of the time and the time that you were asked to wait earlier, I will leave my questions there. I might have a few follow-up ones down the track.

Senator DI NATALE: I am sorry that I missed the earlier part of your presentation. What was the feedback you got prior to the Tom Waterhouse issue on the growing promotion in advertising of live odds in particular but betting ads generally?

Mr Maiden: I can talk about 2012 as an example. We could count on one hand the number of formal written complaints Fox Sports received in relation to the promotion of online odds. Of course, there is also feedback, positive as well as negative, on social media platforms; but, overall, the number of complaints has been very small.

Senator DI NATALE: Have you got other examples of where there have been overwhelming numbers of written complaints about issues? I just want to put this in perspective. My sense is that not many people actually write letters anymore, so I do not know that that is a particularly good benchmark.

Mr Meagher: It has to be said that for us as an industry—if we look at the complaints through the code of practice process that actually get to the point where we have got a seriously escalated complaint—they are relatively small. We have a very different business to the commercial free-to-air broadcasters, for example, where we do have a very direct relationship with our subscribers, and they will pick up the phone and talk to us about things. I would say that it has not been an issue that has been raised. I think, though, it is fair to say, as Mr Maiden said at the outset, we have probably been consistently—and even before this became a public issue—more conservative in the way in which we presented certainly the integration, if you like, of betting information into sports commentary and the like, and we have taken a further step away from that to be very, very clear about the distance between the two. I suspect that that is part of the reason why we have not had that same level of agitation.

Senator DI NATALE: Just in terms of the new code, you say in your submission that you do not want measures where there is little evidence. Why would you support the new code of conduct if you do not think there is evidence of the harm of gambling promotion?

Mr Maiden: I agree that there is evidence of community concern about the prevalence of live odds, and out of respect for those community concerns we have agreed to the model proposed by the minister, which we think strikes the right compromise.

Senator DI NATALE: So you are essentially saying that community concern is the primary driver behind the changes to the code. What if I put to you that the code does not go far enough and that the community will continue to be concerned about the growing influence of live odds and gambling ads? Would you be prepared to endorse further restrictions or further tightening of the code?

Mr Maiden: Our members' businesses depend on their delivering a service that meets the expectations of their customers. Unlike free-to-air television, for instance, Foxtel would not have subscribers if its broadcasts were not reasonably consistent with what consumers demanded.

Senator DI NATALE: Yes, but isn't there a tension between what your customer base wants and what your advertisers want to do? I imagine that there is always a constant tension between those two competing principles.

Mr Maiden: Yes, certainly there is always a tension, a healthy tension. We think that the model that we are proposing just strikes the right balance.
Mr Meagher: You were not here before but, as we said before, we also have to go through, first of all, a consultative process—so we take these provisions out to consultation—and ultimately the ACMA has to be satisfied (a) that we have done the consultation effectively and (b) that community standards are appropriately reflected. So it is not purely our judgement. It is a judgement that has been part of a process through discussion with the minister, and then ultimately the ACMA has to satisfy itself—it has a duty to discharge. We hope that what we are proposing at the moment will meet that, but, if it does not, ultimately we will have to talk to the regulator.

Senator DI NATALE: I understand ACMA need to approve the code, but essentially the major players in all of this—the codes themselves, the industry, the broadcasters—all make a healthy quid out of it. Most of the incentives are in one direction. You have got community concern pulling in another direction. It is understandable that it would be baby steps at this stage, just testing the waters. What I am getting to is: is there capacity to move further?

Mr Maiden: There would be capacity to move further if, for instance, the ACMA judged that the codes we are proposing do not effectively reflect community standards. That, ultimately, is a stick that we can be hit with if we do not get the judgement right. We have so far avoided the need for the ACMA to do that in the past because, as Mr Meagher says, our operators pride themselves on being fairly closely in contact with the customers.

Senator DI NATALE: What is your view of the previous example, where Tom Waterhouse was at the ground and there was not clear separation between him as commentator and bookmaker? I asked this question of the department of communications and they could not tell me whether they thought this would be a breach of the code. In your view, as one of the key partners to the code, would that have been a breach of the code?

Mr Maiden: It would have been a breach of the code we are proposing.

Senator DI NATALE: The proposed code?

Mr Maiden: Yes. I will have to ask my colleagues to comment on that as well.

Mr Curtis: I have not seen Tom Waterhouse and how it actually operated, so I am just going on what reports I have read, but our codes would require a quite distinct differentiation between commentators and their guests—the expert commentators and a representative from a gambling organisation. We would not permit a blurring of the two.

Mr Maiden: It might help the committee if I described the practices of Fox Sports at the moment, which are consistent with the code as we plan to amend it. Our producers at Fox Sports have been instructed to, firstly, cross to a betting partner who is on-air talent without using the word 'odds' but with a simple factual reference to the person's name and the company he or she represents. The on-air betting partner presenter cannot use a microphone with the Fox Sports logo on a cube; instead, if they display any logo at all, it has to be one that refers to the company they represent. We ensure that no Fox Sports branding is visible during the sponsored segment too.

Senator DI NATALE: Will the bookmaker be at the ground?

Mr Curtis: That is possible. That can happen.

Senator DI NATALE: So we have the commentator crossing to—let us use the Tom Waterhouse example, although I understand it may be someone else—Tom Waterhouse, who will have something to say about X. What is the language that is used? Is it, 'We cross now to Tom Waterhouse of tomwaterhouse.com.au?'

Mr Maiden: Yes. It is a very flat, neutral throw.

Mr Meagher: There is no attempt to integrate that person into the commentary, and there has to be a clear delineation. It can only be in certain, limited breaks.

Senator DI NATALE: But at the ground they have a microphone, they are standing there and you have had some commentary from the commentary team pontificating about the half of football that has just gone. You cross to Tom Waterhouse, who is at the ground and who continues talking about the game, and then he talks about odds. If you were a 12-year-old, 10-year-old or eight-year-old kid, do you think you would be able to tell the difference between Tom Waterhouse the bookmaker and whoever it is—say, Brian Taylor—who is the commentator?

Mr Maiden: I think children are increasingly sophisticated now in their consumption of media. They probably consume more than most of us at the table here or among members of the committee.

Senator DI NATALE: But they interpret it very differently, don't they?
Mr Maiden: Certainly, it goes without saying that a child is going to be less sophisticated than you or I at differentiating types of content and the motives of presenters. That is true.

Senator DI NATALE: So there is still potential that a young child watching, under the revised code, would just assume that this was part of the commentary team?

Mr Maiden: Certainly. If you are asking, 'Is it possible that any child watching could make that mistake?' then of course the answer is yes. But we would go on to say that the possibility of that occurring—even the certainty of it occurring in very small numbers—is not enough to justify a more draconian approach.

Senator DI NATALE: I suppose it depends on how clear that distinction is and on what we will, hopefully, hear a little later from some of the other witnesses about whether that is a real problem.

Mr Maiden: That is right. It is for that reason that we have taken an approach that we think is more conservative and that we think makes the distinction more clear for our audience, including children and vulnerable citizens, too, who have gambling problems.

CHAIR: The Tom Waterhouse story has become a very interesting case study for all sorts of reasons, but why would a 12-year-old know that someone simply described as 'Tom Waterhouse from tomwaterhouse.com.au' is a gambling proprietor? And if all 12-year-olds do know about Tom Waterhouse and what tomwaterhouse.com.au is, what does that say about our society?

Mr Maiden: I might not answer the second question, but in relation to the first we would submit that the way the throw occurs on live TV, the content of Mr Waterhouse's commentary, the fact that there are no Fox Sports logos, and the fact that in most cases the children watching are in the company of an adult all tend to make the problem less serious than it would otherwise be.

Senator DI NATALE: I might be a bit simple, but I cannot see why we cannot have a betting ad being represented in the same way we represent every other ad. Say someone comes onto the ground and CUB is the major sponsor: someone says, 'Now we're going to have a word from Mr X', who cracks open a can of CUB, drinks it on the ground and says, 'Enjoy CUB; it's a great beer,' before we cross back to the commentary team. I do not see why we have to have a special place for a bookmaker in a game of football. We are giving this person a unique space to promote their product in a way that we do not do for any of the other advertisers. Why do we privilege Tom Waterhouse and other bookmakers in a way that we are not prepared to privilege other advertisers?

Mr Maiden: Without wanting to disagree too strongly with you, I can think of a lot of examples of presenters on TV programs representing commercial interests. I am thinking of Sky News, on which Grahame Morris and Bruce Hawker appear and also have commercial interests. I am thinking of representatives of banks—

Senator DI NATALE: Do they have $50 million deals with Sky News?

Mr Maiden: I do not know, in the case of Mr Hawker, but I can think of representatives of banks who cross to newsrooms to update viewers on market movements. So it is not true to say that betting representatives solely have this opportunity.

Senator DI NATALE: We are talking about something that is part of the Australian culture. It is something that we all—or many of us—have grown up with and love. We do not give the space that we give to Tom Waterhouse—we are talking here about before the game, quarter-time, half-time and the post-match commentary. We do not give that to any of our other advertisers.

Mr Maiden: You are asking me to comment upon a competitor's product.

Senator DI NATALE: Sure.

Mr Maiden: You will have an opportunity to speak to them later in the day, I believe. What I would say in relation to our own codes and our own practices is that we have agreed on amendments that are more responsible.

Senator DI NATALE: In the interests of time, thank you very much.

CHAIR: Gentleman, thank you very much. Like all the witnesses this morning, you have been very helpful and have certainly helped our inquiries.

Proceedings suspended from 13:26 to 13:55
THOMAS, Associate Professor Samantha Louise, Private capacity

CHAIR: Welcome. I invite you to make a brief opening statement before the committee proceeds to questions.

Prof. Thomas: First of all, I would like to thank the committee and the secretariat for the invitation to speak today. As you know, over the last two years we have explored the extent and scope of sports-betting marketing during sporting events in Australia. We have conducted research to explore how gamblers and members of the broader community view and respond to these marketing strategies. In particular, we are currently conducting research with a number of families, including parents and children aged 14 to 18, in the state of Victoria. This research is funded by the Victorian Responsible Gambling Foundation. While I cannot give you conclusive findings from this research today I am very happy to discuss with you some of the preliminary themes that have come out of the data and research.

As noted in my submission, we have seen a broad range of marketing strategies to promote sports betting within Australian sports, particularly in elite sports. We have documented that a diverse range of marketing activities are used to embed sports betting in the game, align sports betting with fans' overall match experience of the game and encourage individuals to bet live during the game. At the time of our first study into gambling marketing I predicted, possibly in consultation with this committee, that we would see the further embedding of marketing with sporting matches termed by some, including me, as the 'gamblification of sport'. Since that study we have noted certainly an increase in visual and commentary based cues to promote gambling and gambling products within matches and visible industry advertising on sporting team uniforms—sponsorship. As well as sports wagering we have observed the promotion of other forms of gambling, such as Keno and lotteries, in matches.

It is really important for us to note that this is an issue not just about the promotion of live odds but the relative tsunami of the promotion of gambling products through multiple marketing channels within our sporting matches. We are particularly concerned about marketing promotions that seek to create what we call 'brand awareness' or 'brand community'. That is where gambling is associated with the overall cultural experiences and rituals associated with being a sporting fan. Our research indicates that it is very difficult for individuals, both adults and children, to separate out what we call 'embedded' forms of marketing from the overall match itself. We know from other studies, predominantly in tobacco and alcohol, that regular bursts of marketing have been shown to increase brand awareness and recall. It is suggested that by the age of about five the majority of children are able to differentiate between programming content and television commercials, although they may not be able to understand the persuasive intent of advertisements until they are about seven or eight years of age. However, the commercial intention behind sponsorship is conceptually less well understood by the children. Only when they reach the age of about 12 do they understand the role of sponsorship in influencing consumption attitudes and behaviours. I would also like to note that, while the committee is focused on children, we know that young men are particularly vulnerable to this form of advertising. As I have discussed with you on this committee on previous occasions, our evidence, which is published, suggests that young men described feeling bombarded by sports bet advertising and that wagering is now starting to embed itself within peer group activities. We know from our experience with tobacco and alcohol that that is an incredible concern.

I would argue that we are now at the stage where we require a comprehensive approach to gambling marketing during Australian sports. This approach should aim to minimise and, more importantly, prevent harm. While industry claims that the point is that advertising should not target children, in my opinion the actual point is that children should not be exposed to advertising for this potentially harmful product—this includes in sporting matches, which are, as you know, marketed as being family friendly. The national preventative task force argued in relation to obesity, alcohol and tobacco that, where the market is failing, or governments need to act to protect our health, particularly the health of children and adolescents, standards need to be established, regulations imposed where necessary and consumer education provided. They go on to say that balanced, effective regulation and legislation, usually alongside effective and sustained public education, has been an essential element of most prevention programs to date and there is no reason this should not also apply to gambling.

Mr STEPHEN JONES: I put to earlier witnesses, in relation to the evidence base about the impact of advertising on minors, whether they would change their advertising behaviour if a body of evidence were available to them to suggest that there was an adverse impact of gambling related advertising on minors during sporting fixtures. Is it your submission that there is such a body of evidence that should be taken into account by policymakers?

Prof. Thomas: Yes. First of all, we all recognise that there needs to be more research conducted in this area. However, this should not prevent us from acting upon something that we know is potentially incredibly...
problematic for children and vulnerable members of our community. We have plenty of evidence from tobacco and alcohol about the impact of advertising, particularly during sporting matches, on the consumption of products. We know that the banning and regulation of advertising during those matches was really instrumental and was a watershed moment in tobacco, in particular, in starting to address the harms caused by those industries.

We have preliminary data which we think should be used to inform further research and it may be indicative of some of the harm that is starting to happen. For example, one of the things we know from our research with young people is that they have a very high awareness and recall of brands. This is unprompted. When we ask young people whether or not they know of any gambling-industry brands they are able to come up with at least two or three names of companies. That is concerning for us. Quite often, children also have a much higher recall of advertising and brand names than their parents and adults generally. So certainly we see that children are recognising and are aware of the products and companies, and this obviously is concerning for us—particularly when thinking about long-term behaviours and harm.

CHAIR: What sort of age are you talking about?

Prof. Thomas: These are adolescents aged between 14 and 18.

CHAIR: They can name three betting houses.

Prof. Thomas: Yes.

Mr STEPHEN JONES: Could you outline for the committee the nature of the research that you either have personally conducted or that you are aware of having being conducted in the area of advertising on minors?

Prof. Thomas: The research we are doing is family based research. We talk to parents and children about gambling advertising and we also show them clips of different types of ads and then use that to stimulate discussion around different forms of advertising. We separate parents and children so that we get independent data from both of those and then we bring them together to play the ads, to talk about what they are seeing within the ads.

Mr STEPHEN JONES: What is the size of the groups you are dealing with?

Prof. Thomas: This is only 60 families, but they are very detailed interviews. That is why we would argue that this and the findings from this research should be used to inform much broader research in this area and population based surveys in the area.

Ms BRODTMANN: Thank you again for appearing before the committee. You heard today from the Australian Wagering Council and Sportsbet people that they are not actually targeting new markets. It was not their business strategy. They were just targeting existing gamblers. I would just be grateful for your thoughts on that, given that the response you had to those over-18 young males and the feeling that they are being bombarded and, in a way, enticed.

Prof. Thomas: I am always really interested to hear industries talk about that. It does not seem intuitive to us that this would be the case in an area that you would be looking to grow your market. It is the same argument that was obviously used by the tobacco industry—that they were not trying to get more people to smoke, they were or are just trying to get people to switch brands. I think what we are seeing with young men is that there are certain forms of promotion—incentives—that do encourage them to open new accounts. I do not have any specific data about whether people are taking that up, but I do have data from young men who talk about not feeling part of their peer group if they do not gamble. That, again, is really concerning, because it is kind of like the days of alcohol—when you did not want to be the only guy in the group that did not drink.

So, young men are talking to us about not wanting to gamble, not really wanting to be involved but feeling that they would be isolated from their peer groups if they did not do this. What we are seeing, particularly in young men's behaviour, is that this is embedding itself within their experience or their match experience of sport. We have also heard young men describe to us that they now pick a sporting match to go to as a leisure activity, with teams that no-one barracks for. They have this gambling match-up between them and use that as a mechanism for socialising. Those social elements associated with this are, again, particularly problematic, certainly in the long term, because they are harder behaviours to shift; it is harder, once they are embedded in, to get those behaviours out of groups, as we have seen from other public health issues.

Ms BRODTMANN: What age groups are we talking about here? Is it 18 to 25?

Prof. Thomas: In our sample we are talking mainly about 18- to 35-year-olds. The other interesting thing, which I also think directly relates to marketing, is the way in which young men now describe sports betting as a skill based activity rather than a luck based activity—as something that can be done potentially as an investment rather than a luck based activity. That also is problematic in terms of their perceptions of control. Regarding that
control factor, looking at an activity that is thought to be skill based, one of the things we hear from young men is that they believe that if they just study sport more or become more knowledgeable about the game they will become better gamblers. Again, this is interesting, and there is certainly a lot more education that needs to happen around this, because, as we all know, this is still a luck based activity.

Ms BRODTMANN: What are the gambling activities that they are involved in that this peer pressure is coming from? Is it sport? What areas are we talking about?

Prof. Thomas: This is certainly sports based wagering. Obviously there are many forms of gambling products, of which sports wagering is one and pokies is another—and we have talked about that extensively in this country. But certainly we are seeing that for young men the appealing gambling product is sports wagering. From our analysis of the advertising strategies, we would argue that 18- to 35-year-old men are certainly the target market.

Ms BRODTMANN: And are they using it through smartphones?

Prof. Thomas: Yes. I think we have seen a shift. Initially this was online. Before that it was about going down to the TAB and having a bet, and then it moved to online. Now, with new mobile technologies, we see that young men can have a gambling company in their product 24 hours a day, seven days a week. We know that accessibility is a really important factor in potential risk and harm. We are certainly seeing a shift into those mobile phone technologies.

Ms BRODTMANN: Are they doing it in groups? Maybe they all have their smartphones, and they are all watching the game. Are they doing it together when they are watching the game? Or are they doing it at home on their own before the game?

Prof. Thomas: What we tend to hear from young men is that it initially starts off as a social activity—everyone punting with each other around a TV at someone's house or at the venue. Those who start to develop a problem with these products become more and more isolated. Again, that is what we see with many other different forms of products—pokies, for example. Initially it starts of as a social, fun thing. As people become more out of control or develop problems with that product it becomes a more isolated activity. With this product in particular—and particularly through mobile phones—it can become a very secretive activity very, very quickly. I think that isolation is really problematic in terms of long-term risk factors.

Mr STEPHEN JONES: Perhaps I could just follow up on that particular issue briefly. I have been a member of a number of footy tipping competitions over the years. What used to be a workplace type of activity has now turned into a business itself. I am aware of at least one organisation's top tipper competition, which is actually a promotion run by an online sports betting organisation, Top Better. I presume that there is a commercial reason an organisation like Top Better would run a tipping competition for data harvesting and the like. Are you aware of any links between engaging in footy tipping competitions as a channel or a funnel to engaging in online betting?

Prof. Thomas: Footy tipping is really interesting, isn't it? It is something that probably most Australian kids—not me, being from New Zealand—would have done with their families or would have grown up with. It is a very innocent, wonderful family based activity. What we have seen with the rise of betting is that we add a really different cultural overlay to that activity. We have heard certainly from young men who talk a lot about feeling like they are good or they will be good at gambling and betting because they were really good at footy tipping. For us, what we have seen and what we have described is that natural progression and natural extension from a very innocent based activity towards something which people perceive that they are good at because they have been good at a non-monetary form of practice type of gambling. So there is certainly a very different cultural overlay in terms of that footy tipping experience now and the progression.

Mr CIOBO: When I was a kid a competition was run where you could effectively take a $500 notional investment in the share market. I think the ASX still runs those competitions today. Senator Di Natalie and I were just having a chat about the difference between a horse race and investing in the share market. I am interested in your perspective on that in light of the comments you were just making about it being a pathway. I gleaned from your answer that you thought there was no skill involved. I want to clarify if that is in fact your view.

Prof. Thomas: No, what I am saying is that gambling, no matter what form it is, is a luck based activity.

Mr CIOBO: Why is that? Why do you say that?

Prof. Thomas: I think because you can never really predict what will happen in a football match.

Mr CIOBO: Is investing in the share market a luck based activity? Is it gambling?

Prof. Thomas: I am not an expert in share market activity, but some may also argue that stock speculation is also a luck based activity. There is, however, a key difference. Sports is quite a different type of activity. It is
consumed in different ways; it is viewed in different ways; it is embedded within our community in different ways. In terms of this inquiry what we are actually looking at is the promotion of this within something that is very culturally valued within our community. I am not sure that a huge number of kids would culturally value stock market—

Mr CIOBO: I think enterprise is pretty highly culturally valued in our economy—we are a capitalist society. I am trying to ascertain how you delineate between gambling being a luck based activity—which I think is true in some instances; don't get me wrong. There is no doubt that when it comes to, for example, roulette, it is completely a luck based activity. That is versus something like horseracing or, I would contend, sports wagering, where it is possible to study form and it is possible to work out in your own mind a probability based on teams that are fielded, based on those that are involved—who has a greater chance or a greater likelihood of winning. As I said, from your testimony it sounded as if you were quite dismissive of that. I am trying to ascertain how you delineate between those two.

Prof. Thomas: Is the point of your question that it is not as risky an activity because there is an element of skill attached to it?

Mr CIOBO: I am not here to hear my view; I know what my view is. I am interested in your view. But in my view there is a great degree of skill involved in certain forms of gambling, and I think wagering is one of those where there is skill involved. Your testimony was that it was luck based. I am trying to ascertain why you say it is luck based and, based on what you have said, why it is different to, for example, investing in the share market.

Prof. Thomas: I think with any form of gambling there is an element of chance and luck associated with it.

Mr CIOBO: An element is different to saying it is completely down to that. Are you saying it is completely down to luck or are you saying that there is an element of luck?

Prof. Thomas: No, I think there is an element of luck. I think what I was saying is that people perceive that it is a skill based activity and it is marketed as a skill based activity.

Mr CIOBO: Is it a skill based activity? This is what I am asking you.

Prof. Thomas: I don't know. I suppose you could argue that there is an element of skill associated with it, and that is something that certainly we hear from people that we study—that they believe that there is an element of skill. But the point I would make is that it does not make it a less risky activity. It does not make it a less harmful activity. And there is still an element of luck associated with it.

Mr CIOBO: Is it less risky or less harmful than investing in the share market?

Prof. Thomas: I do not have that data, and I work on the basis of evidence. I am an academic. So I would not—

Mr CIOBO: Yes, but you have also made statements today, and this is why your testimony is important. As an expert witness before the committee, you make statements, and I am trying to test the veracity of your statements. You made a comment that it is luck based. Now you have said that there is an element of luck and an element of skill. I am trying to work out the basis upon which you said that, because you made a very sweeping statement to begin with, so I am testing the veracity of your statement. I do not understand how you would delineate between investing in a share market where you can study the form of a company and investing in a race or a bet on a sport, based on the form of the team. How do you delineate between the two?

Prof. Thomas: As I said to you before, I am not an expert on share market or stock speculation, so I cannot compare the two.

Mr CIOBO: But there are skills involved.

Prof. Thomas: Yes, but my answer to you still remains the same. I am not an expert in that area.

Mr CIOBO: So, if I say to you that there is no difference, are you in a position to agree or disagree?

Prof. Thomas: No, I am not, because unless you can show me the evidence that there is no difference I am not in a position to agree or disagree.

Mr CIOBO: With respect to a lot of the qualitative evidence—and I am guessing that a lot of the evidence you have had is qualitative in nature, not quantitative—and the triggers that you speak of in terms of people progressing from being a recreational gambler to becoming a problem gambler, are there certain symptoms, signs or common pathways that would mean that someone is more likely to end up a problem gambler versus staying a recreational gambler?

Prof. Thomas: Certainly in terms of sports betting, in terms of wagering—is that what you are asking? In terms of wagering or all the way across?
Mr CIOBO: We are obviously focused on sports betting.

Prof. Thomas: Okay. I think there are some certain risk factors. I think that being a young man is one. Certainly, in terms of what we have seen, the perception of skill and the lack of appreciation of the risk elements that are involved in it are certainly the second. And that certainly feeds into an idea that we need to start to do more public campaigning and education strategies in this particular area.

The other thing that I think we would say in terms of moderate-risk gamblers is that they see themselves as being very different from what we call problem gamblers. Moderate-risk gamblers perceive that they are in control of their betting behaviour and that they gamble because they want to, not because they need to. Also, even though they describe at times their betting as frantic or out of control, they always perceive that they can pull that behaviour back in some way. What we know about men in the moderate-risk category is that they may bounce in and out of a problem-risk category or a problem-gambling category. This is why certainly we need more research in this area. I know that you have received testimony from the problem-gambling clinic at the University of Sydney, and they would be in a much better position than me to comment on why they are seeing an increase in the number of people presenting and what those people look like.

Mr CIOBO: The incidence of problem gambling is—I am trying to say this in an uncontroversial way—not that great as a percentage of the total population. I hope that is okay! You are saying that, if you are a young man, you are at a higher chance because—and I am not trying to verbal you, so correct me if I am wrong—they misunderstand or perhaps underestimate the percentage of risk involved. Is that what you are saying?

Prof. Thomas: No. Well, yes, they misunderstand the percentage of risk involved, but also certainly in terms of what they have—

Mr CIOBO: Underappreciate the level of risk—is that a better way to put it?

Prof. Thomas: Yes, they underappreciate the level of risk. And we would say that the marketing strategies are one of the factors that make them less aware of the risks involved.

Mr CIOBO: My very lay knowledge of human psychology is that part of the reason why people gamble—indeed, people do lots of crazy things; some indulge in sports; others want to take other extreme activities—is the release of dopamine and others associated with the risk. I am just interested as to whether or not there really is an underappreciation of risk, because isn't the risk itself part of what makes it fun, for lack of a better term? Isn't it the actual risk that drives the activity?

Prof. Thomas: Right, but that does not mean to say that people have an appreciation of the long-term risks associated with a certain product, whether junk food or alcohol or tobacco; it is the same principle that applies. It is very difficult for people to think long-term about their health and well-being, and that has been shown over many different public health issues.

Mr CIOBO: So, when you say 'long-term', are you saying that problem gambling is a function of the number of times that you gamble?

Prof. Thomas: No. I am saying that problem gambling is partly a function of psychological issues, as you have described; it is partly a function of marketing factors; it is partly a function of your environment; and it is partly a function of your sociocultural environment.

Mr CIOBO: I am just interested in exploring this time thing. Are you saying that problem gambling is a function of time? Is there an increased incidence of problem gambling the longer that you gamble?

Prof. Thomas: Over time.

Mr CIOBO: So that is actually a causal relationship?

Prof. Thomas: Well, no; what I am saying is that accessibility and length of time gambling are certainly two risk factors, amongst many others.

Mr CIOBO: Over years?

Prof. Thomas: Over a period of time. That may vary from individual to individual.

Mr CIOBO: Take someone who has recreationally gambled for 30 years and has not become a problem gambler. Are you saying that someone who has recreationally gambled for 30 years has a higher chance of becoming a problem gambler than someone who has gambled for their first time?

Prof. Thomas: No. I am saying that accessibility and time are two factors in many different factors that lead to problem gambling.

Mr CIOBO: All other things being equal, is someone who has been gambling for 30 years recreationally at a greater risk of becoming a problem gambler than someone who is doing it for the first time?
Prof. Thomas: No. I am saying that those two factors, combined with many other factors, will increase the risks associated with problem gambling.

Mr CIOBO: I think you have answered my question; thanks.

Senator DI NATALE: I am interested in whether you have noticed any change in the way that gambling is being promoted—namely, sports betting. Is there any change in the way it has happened?

Prof. Thomas: Yes. We have certainly seen a change in that promotion since we conducted our first study in 2011. What we predicted at the time—and I think I said it with this committee—is that we would see a shift away from commercial-break advertising towards more embedded advertising within the match. Certainly we have seen that. We have seen that there is, for example, commentary-based advertising; there are more verbal cues and more visual cues. There is certainly a lot more embedded commentary and embedded association with match play—things like gambling-sponsored match replays, commentary, and commentators giving informal comments about gambling. So in the State of Origin there was a line that came from the commentator about the player finding the ball, finding the line, and then asking people to find their bookie. There are things such as encouraging people to bet on their favourite player, which is different. So we have seen a transition away from commercial-break advertising towards a broader suite of marketing and promotions, and sponsorship related to sporting matches.

Senator DI NATALE: I am particularly interested in the impact that is having on young kids, and the Tom Waterhouse example is an obvious one. A question I put to an earlier witness was about the capacity for a young kid to make the distinction between Tom Waterhouse sitting at the ground with a microphone as the bookmaker versus Tom Waterhouse as part of the commentary team. Have you done any work that might unpack how kids interpret that sort of activity?

Prof. Thomas: I can give you some general impressions from our study in terms of a clip that we showed young people which included a commentator standing on the ground, on the field, talking about odds and doing a commentary—a wagering spiel. We found that people find that very difficult to distinguish as a piece of advertising or marketing—

Senator DI NATALE: Are we talking adults or kids here?

Prof. Thomas: Adults and children, and we found that they believe it is part of the match itself. So this is what we are talking about in terms of that blurring of the boundary between what is an ad and what is able to be recognised as an ad in a commercial break, and what is part of the game. So that is embedding, and we have seen it with other issues. This commentary embedding is certainly very difficult to pick up, for adults and children, as being an ad—as being a piece of marketing. I think that is really concerning in terms of people being able to see that as an explicit ad for a gambling product. The other thing that we have heard in our research is that people do not often believe that it is coming from a wagering company; they believe that it is coming from either the sporting team or the sporting code. If I were a member of that sporting code or team, I would be very concerned about the message that was giving.

Senator DI NATALE: Does age make a difference? It would be intuitive that the younger you are the less likely you are to make that distinction.

Prof. Thomas: Yes, absolutely. There is a lot of anecdotal evidence about that. For example, if you follow social media, we have seen a number of parents talk on social media about how their kids believe that Tom Waterhouse is the person who owns gambling for the AFL and the NRL. Little kids who may be watching these games—and I think the figure that was given by Astra was that 39,000 kids, and up to 55,000 kids, are watching games—are not able to clearly distinguish that as an ad. One of the interesting things when we talk to young people about advertising is that they do understand the intent of the advertising, but they also say that gambling is fine and that it is part of the match experience.

Senator DI NATALE: Regarding the new code that is being proposed, obviously the NRL has recognised that the behaviour of somebody who is supposedly going to be one of their chief sponsors was inappropriate; it entangled the two. They have made some changes. I think we heard that Tom Waterhouse will continue to be at the grounds and will still have a microphone. There will be what was described a ‘neutral cross’ from the commentary team. Is that going to make a significant difference to the way a young kid experiences the game?

Prof. Thomas: I would say no. It is very difficult for people to separate the commentary out, particularly if someone is standing on the ground in the middle of the field holding a microphone and appearing like he or she is a commentator. It is very difficult for people to understand that that is a formal piece of marketing. That is really concerning. The other thing is that we have to be very careful. This is why I argue for a comprehensive based approach and not to target just one form of marketing—for example, live odds announcements. We have to look at the whole suite of marketing activities and promotions that occur across the game, including shirt sponsorship,
holdings and pop-ups that we are seeing—marketing around the ball and around the goalpost padding. All of that sends a complete message. There has been an incredible focus on odds and live odds announcements, but we would argue that that is only a tiny percentage of the total marketing that happens within a sporting match around wagering.

Senator DI NATALE: Have you done any work on community sentiment around this issue?

Prof. Thomas: Yes, we have. My research team look very closely and we follow a lot of the commentary that is coming out on social media—for example, on Twitter. We followed the first two weeks of the NRL season. As we have heard today, that style of commentary is now shifting. What we have seen from an analysis of the tweets is that there are generally three key concerns that come from people. The first is that people are really fed up with it; it is ruining their enjoyment of the game. These are games that people love. They have followed a game for their whole lives and they are really cross that this is now embedding itself in the game. The second thing in the analysis is that we are seeing that people are incredibly concerned about the impact, over the short and long term, on children. The third thing we have seen is that in many ways they believe that broadcasters are in some way contributing to a promoting problem with gambling. That is really concerning. With Twitter, although it is a strange medium—and many of us here are on Twitter—it is really important to keep a focus on the pulse of the community and their anger. We can see that there is anger. There are very angry commentaries on what they are seeing. It is something that Australians love and value and it is part of their lives.

Senator DI NATALE: I take your point about the fact that the odds are only one part of this equation, but it is something that we have fleshed out a little bit. We now have a voluntary code which will mean a range of changes. In theory, we will separate commentary from advertising material and a range of other things. Firstly, do you think the code goes far enough in addressing your concerns?

Prof. Thomas: I think voluntary codes and self-regulation are problematic. It is like inviting a burglar to change the locks on your door: no matter how safe you think your house is, it is never really going to be safe and you might as well leave the door open. What we have seen with other public health issues is that self-regulation has very little impact in terms of overall change in marketing strategies. I think the voluntary codes or the code do not go far enough. I think that is specifically because we have those out clauses around sporting matches. We know that children watch these matches. We know that families watch them together. Certainly, we would like to see that there is a regulation, in all children's time slots, of gambling advertising, including marketing and promotion.

The other thing we would like to see is the removal of shirt sponsorship. Shirt sponsorship is an incredibly powerful medium, particularly when you have athletes on school visits, and they have those brand names on there. We know that children really pay attention to celebrity endorsement of products. That is certainly something that, we would advocate, needs to be removed.

Senator DI NATALE: I want to finish on the discussion you had with Mr Ciobo around skill versus the random nature of the activity. I probably take a very different view: mathematics are engineered, when it comes to gambling, to ensure that people do not win over the long term. That is the whole purpose of the activity. It would be a very unprofitably business if there was some way of engineering a different outcome apart from the outcome that the bookmaker always wins, over the long term. The difference with the share market is that we know, over the long term, that the share market will continue to increase in value and people will get a return from it. That is the significant difference here.

Given your comments about a skill based activity, and that this is being interpreted as something that people have some control over, I would have thought that is quite dangerous. At least with the pokies you know that there is really not much you can do, in terms of pressing the button, that is going to change the outcome, but if you perceive that you have some control over the outcome, doesn't that mean—my gut would say this—that people would get into more trouble because they think that if they get into a hole they can get themselves out of it, or that if they have a win, it is their skill that has resulted in that win. Doesn't that mean that we might end up with an even worse problem that we currently have with the pokies?

Prof. Thomas: I totally agree with you. Certainly in terms of our research we see that that is an incredible risk factor. There is a perception that this is an activity—I think I said this to you—that you can somehow get better at through practice. So we hear a lot from young men who go to what we call practice gambling websites, where they are doing non-monetary forms of gambling to try and increase their skill, and then transferring that through. That is the tipping-based activity.

There is a perception—interestingly, from people who used to be athletes themselves—that you know this game and you know this product and somehow, over time, either through educating yourself or knowing the ins
and outs of the game, knowing your team better or studying the form better, that you will come out positively from this in the end. Certainly, from what we know from speaking to people, that is not the case.

CHAIR: Professor, thank you very much. You have been particularly generous with your time over a number of inquiries for this committee, and the committee certainly appreciates it.
FAIR, Ms Bridget, Group Chief, Corporate and Regulatory Affairs, Seven West Media

HERD, Ms Annabelle, Head, Broadcast Policy, Network Ten

McCARTHY, Ms Justine, Legal Counsel, Regulatory and Business Affairs, Seven Network Operations Limited

WILSON, Mr Ian, Regulatory Manager, Network Ten

[14:33]

CHAIR: I now invite you to make a brief opening statement before the committee proceeds to questions. I am not sure how you want to do this. Will there be one statement from Network Ten and then Seven Network?

Ms Herd: I think we thought, since there are two of us and time is short, that we are happy to proceed to questions if that is preferable to the committee.

CHAIR: All right. Yes, please. I remind the committee that we have very little time for the next two witness groups, so we will need to keep it extra tight.

Mr STEPHEN JONES: The first question is whether the networks themselves conduct research into audience perceptions of advertising—and, if so, what is the nature of that research?

Ms Fair: I am not aware that we conduct any research of that nature.

Mr STEPHEN JONES: This is your major source of revenue, and you do not do any research into the impact that it has?

Ms Fair: I am not saying there is not research, but I am not aware of it. I do not think it is a major feature of our activities. Our advertisers certainly keep a close eye on the effectiveness of their advertising.

Mr STEPHEN JONES: One of the propositions that has been floated throughout the course of this inquiry is whether there should be some limitation on the promotion of gaming throughout sports broadcasts and, if so, when and how. It strikes me that it is always preferable, notwithstanding the evidence that was given immediately before yours, that there is some self-regulation in this area before a government would seek to ban or limit something. Would you be willing to do any research into audience perception of gaming advertising during sporting contests?

Ms Herd: What we can tell you is the level of complaint that we have received. That is one measure of how the audience is receiving what has been going on to date. Ten has had four complaints since 2006 related to gambling advertising. That compares to the 98 complaints that we have had in that period about there being too many ads during programs. In an incident that attracted a lot of outrage last year, we had somebody go on to one of our shows and say something derogatory about a prominent Australian. We received 3,000 complaints about that very quickly. I guess that gives us feedback about the level of concern from our viewers about what Ten has been doing in this area.

Mr STEPHEN JONES: It strikes me that that may be a little bit of ostrich with buckets of sand available.

Ms Herd: I am just talking about the complaints we have received that we have recorded, that is all.

Mr STEPHEN JONES: There would have been more complaints during one half-hour segment on The Project last week where you ran a segment on this particular issue complaining about it. So it strikes me as a little strange that you are unaware of the issue.

Ms Herd: I am not saying we are not aware of the issue. We are very much aware of the issue and we are taking it very seriously. We have engaged in a process with the government to put in place not a self-regulatory process but a co-regulatory amendment to the Commercial Television Code of Practice. You simply asked me about what our audience had told us, and one measure of what the audience tells us directly is the number of complaints we have received. I am certainly not saying we are not aware of this; we are very much aware of it.

Mr STEPHEN JONES: I will leave my question at this: would the networks be willing to do quantitative research on their viewer perception of gaming advertising during sporting fixtures? If the overwhelming response to that research were in the negative, would the networks be willing to respond to that by limiting the exposure of gaming advertising during sporting broadcasts?

Ms Fair: To answer the second half of your question, we have put in place limits on the amount of gambling advertising in sports broadcasts. Certainly in the case of Channel 7, as Annabelle alluded to, we have been in
discussions with government about a co-regulatory code that will form part of our industry code of practice and be administered by the ACMA. In advance of that process being concluded, Seven has adopted an internal policy that implements all of the requirements that we have discussed to date with the government. That includes no commentator promotion of live odds, no promotion of live odds during events, and requirements to ensure there are responsible gambling messages. Our code also provides for commentators not to include representatives from betting organisations. We are of course aware of the issue. We take it very seriously. Whilst we think that gambling advertising should be allowed, there clearly is some community concern around it and therefore it needs to be handled carefully and responsibly, and we think we have put in place steps to try and do that.

Ms Herd: We have taken the same approach at Network 10.

Mr STEPHEN JONES: I acknowledge that those steps have been put in place. I am not trying to brush those aside, but there is a live question on whether the community believes that those steps are adequate or not. I guess if it were not a live question this inquiry would not be occurring. Would you be able to help the committee with this question—I also asked it of the subscription television association—and that is the proportion of your advertising revenue that comes from gaming advertising?

Ms Fair: I do not have those figures, I am sorry. I would not imagine that it would be an extremely high proportion.

Mr STEPHEN JONES: Not a high proportion?

Ms Fair: Not a high proportion, no.

Mr STEPHEN JONES: So, if the government were to seek to limit the advertising of sport or if the codes themselves were willing to move in a voluntary way, you could not see this having a significant impact on the revenues for the free-to-air stations?

Ms Fair: All revenue is important—

Mr STEPHEN JONES: I understand this.

Ms Fair: particularly in a market where we are already struggling. We are not fans of overregulation in these areas.

Ms BRODTMANN: Just quickly: The NRL, the AFL—the major sporting codes—have already adopted their own codes on this issue. We have heard from subscription television today that they have adopted codes that are all very public, out there, open and transparent and that they have been developed in consultation with the community and in consultation with ACMA and the government. You have your internal policies. You are moving towards a code. It just seems like you are a bit behind the eight ball in terms of this. I know that these are all recent events in terms of the codes that the NRL, subscription television and others have developed but you are the last—

Ms Herd: I do not think we are. I do not think ASTRA has put out their code for public consultation yet, as far as I am aware. They are about to.

Ms BRODTMANN: They have got one already and they have got an enhanced one that they are putting out.

Ms Herd: That is what we will be doing at about the same time. I think we are running parallel, and I think what we are saying is that we have been acting as though the code were in force for many months now. So, practically speaking, we are behaving as though that code were in force.

Ms Fair: Can I also say that it is not for lack of trying. These discussions have been ongoing for some many months. It is not through any failure on our part to try and address these issues.

Ms BRODTMANN: Do your codes or your internal policies adopt that 30-minute either side rule?

Ms Fair: Yes.

Ms BRODTMANN: You refer in your submission to the overseas sports broadcasts. You make mention of the fact that, realising that this is a growing industry, ‘any proposals on restriction advertisement needs to be developed in consultation with a range of other players’. I want to get a sense from you of what those restrictions should cover for the overseas broadcasting as well as for sportscasts?

Ms Fair: The amount of gambling advertising that you are likely to see in an overseas broadcast would be fairly limited in any event. We certainly have not included in that restriction material that we added in separately ourselves. So we were not trying to look for a loophole where something came from overseas and we could just add things in. It is more the fact that, if somebody is delivering a sporting event to you live and you are trying to play it live, your ability to sit there and pixilate out various signage around the grounds or other elements is fairly low. That coverage does not usually include, and it would not be very helpful to include, somebody actually
having live-odd spots in there, because obviously they would be talking about somewhere that probably is not that relevant to Australia. It is really more a question of the fact that, with something that comes in live, there is limited ability to change the footage.

Ms BRODTMANN: And that needs to be acknowledged, if there is going to be any regulation developed on that front.

Ms Fair: Yes.

Ms Herd: This is something that the communications department's interactive gambling inquiry looked at, because we had had issues before with, as Bridget said, sport that has come in live that has been branded with different interactive gambling services. We had to either not show the event or try somehow to blur it, which is actually impossible to do if you are live, or even on a slight delay. That inquiry recommended that clarity be given to allow overseas broadcasts to have some gambling advertising, as long as we were not getting any direct financial benefit from that advertising, which we were not.

Mr CIOBO: You mentioned before, Ms Herd, that you had had four complaints since 2006. Is that right?

Ms Herd: Yes.

Mr CIOBO: How many complaints do you get about the content of news programs, with respect to children—in other words, complaints from parents who feel that what was broadcast in the news was not appropriate or suitable for their children?

Mr Wilson: I can certainly get back to you on the specifics, but in terms of the strength of footage in these programs, there would certainly be more than four. It is hard to say off the top of my head. We are talking perhaps in the tens on an annual basis.

Mr CIOBO: So, to borrow a phrase from the chairman, more than double? I guess you had to be here earlier—I am being a little bit mischievous! So, in terms of policies by the broadcasters with respect to advertising that irritates the public—and this must be something you have all discussed numerous times, because there are a hell of a lot of irritating advertisements—

Ms Herd: I think most of it irritates the public!

Mr Wilson: I think that is why Annabelle used the example of too many ads, because I think that falls into that 'irritating' bucket—'I am trying to watch my sport and there are too many stoppages for ads'.

Mr CIOBO: I am just trying to reconcile the view that is frequently put that this is a massive problem. That everyone is complaining about it and every poll that has been done has indicated that the public has had a gutful of it. With what you are getting at the coalface—which would appear to be not much—what about other irritating advertisements? I do not want to mention anyone in particular, but do you get four complaints over six years or whatever it has been? I am just trying to put some numbers around.

Ms Fair: The Advertising Standards Board usually deals with complaints about the content of commercials, so they might be able to tell you better than we can whether people like or dislike certain advertisements.

Mr CIOBO: When people have had enough of something they are probably more inclined to call you, if they are watching your channel, rather than call the standards board.

Ms Fair: We get very few complaints about the content of advertisements of any kind. The majority of our complaints deal with news and current affairs programming, classification matters for general programming, the amount of advertisements in some cases—you've shown too many ads altogether and we don't like that'. Those are probably the main categories.

Mr Wilson: If you wanted something more specific, so far this year we have had more, as in we have had some. Again, I am really only talking about a handful of people who have been unhappy about the number of funeral insurance advertisements that are appearing on TV, because unfortunately it perhaps provides negative connotations for them. They may well be elderly and not happy about having these reminders.

CHAIR: Do you have any concerns with the current prohibition on the advertising of gambling during that period of the day when children watch TV?

Ms Fair: Well, we comply with that requirement.

CHAIR: Do you think it is good policy? Do you have any concerns with it?

Ms Fair: It is good policy to advertise these services responsibly to the appropriate audience.

CHAIR: This is your chance to speak up if you want to change it. Do you think it is appropriate that we prohibit the advertising of gambling services during the time that children watch TV?
Ms Fair: We are not seeking any change in that area but, if I can just maybe predict where you might be going with your question, the number of child viewers in sporting telecasts is actually very low. Generally speaking, in the under-12 audience it is about five to seven per cent and under-18 is less than 10 per cent in our highest rating sporting broadcasts.

CHAIR: For Saturday afternoon footy—I had better be clear about my code—probably the AFL?

Ms Fair: We are AFL.

CHAIR: How many people under the age of 18 would be watching that Saturday afternoon game of AFL?

Ms Fair: I would have to take that on notice and get back to you with proper figures. The figures I have just given you are overall. If you wanted something specific about particular games we would have to come back to you.

CHAIR: Do you know what the audience is for an AFL game on a weekend afternoon?

Ms Fair: On a weekend afternoon? I have nights here; I haven't got afternoons. My apologies.

CHAIR: Would it be in the hundreds of thousands?

Ms Fair: For sure, yes.

CHAIR: Is it reasonable to assume that tens of thousands of children are watching those same games?

Ms Fair: If was around five to seven per cent there might be some thousands of children watching in the company of parents in general.

CHAIR: Do you find it contradictory that children are not allowed to see a gambling ad just after lunch but that it is okay for them to see a gambling ad an hour later during a sporting game accompanied perhaps by their heroic sporting figure wearing the name of a gambling company across his chest?

Ms Fair: I think it is a different experience to have child viewing hours where children are likely to be during television by themselves, unaccompanied and unsupervised, from watching a sporting event which we know generally occurs with children in the company of adults and where messages in advertising content can be discussed in a very different way.

CHAIR: Are you suggesting that Saturday afternoon footy should be rated PG? It is a serious question: are you suggesting that?

Ms Fair: It is not rated at the moment. Sports and news are not classified content. I am not suggesting any classification in areas where there is not already classification.

CHAIR: But are you saying it is okay for children to see gambling ads during daytime so long as they are in the company of adults and can be counselled by those adults?

Ms Herd: We agree, but we think that gets to the balance of weighing up, of getting the right point. PG means parental guidance. If you already have an audience that is being guided by parentals—75 per cent to 80 per cent of kids watching have got a parent there—we think that is the right balance.

Mr Wilson: I think it is partly about the likely audience. To use the news example: I think we all have news bulletins that appear in G-classification periods, but the material itself is not necessarily at a strictly G level. There is an expectation that the news sometimes contains stronger material and that is allowed for when there is an expectation that when you're watching over news you will perhaps see—

CHAIR: I'll be frank with you; I am a bit thrown. We have had a number of witnesses today justify the allowing of gambling advertising during daytime sports matches. We have had a number of witnesses say that they think it is okay because most children are accompanied by adults at that time. That seems to be a fairly loose safety net under those children.

Ms Herd: That is not the only safety net. You're looking at a code—the code we are talking about—which has other protections in addition to that simple raw data about what children are watching and who with, and there are other controls around gambling advertising, as well. For example, with the live odds stuff you cannot show a family happily betting together, you cannot be directing this stuff at children—

CHAIR: But your code will allow in a break an advertisement for gambling services.

Ms Fair: It is not allowed in any break; it is only allowed in scheduled breaks in play. In the case of most games that is half-time. In AFL that would also include quarter time, although we do not show ads at quarter time for gambling services currently.

CHAIR: Aren't we splitting hairs a little bit here? If children are watching their favourite team on a Saturday afternoon they are probably still going to be watching it during half-time or quarter time.
Ms Fair: We are not saying that there is a problem with them seeing some of these advertisements. What we are saying is that there ought to be responsible limits on the amount and how those advertisements are presented—both of which are issues we have addressed in our code.

CHAIR: Why shouldn't gambling advertising be allowed earlier in the afternoon during the matinee movie, or whatever it is called, when children might be watching that as well? What is the difference, apart from the fact that, as a number of witnesses in the industry have said today, there is a likelihood they will have adult supervision?

Ms Fair: I think there is a difference when there is adult supervision. I think it goes to the question of whether there is a need for further regulation in the area.

CHAIR: That is exactly our point.

Ms Fair: Exactly. I know that is your point.

Senator DI NATALE: I just want to be clear about this point. It seems we are confusing the promotion of live odds and ads. Ads can be shown at any time through the broadcast, can't they?

Ms Fair: If we break from the sport then we can show any kind of ad.

Senator DI NATALE: You have been saying 'advertising', but you are talking specifically about the promotion of live odds. We are not talking about advertising per se. So Sportsbet can run an ad at any time through the broadcast. It might be at quarter-time, half-time or after a goal has been kicked.

Ms Fair: The code that we have implemented deals with the promotion of live odds.

Senator DI NATALE: I just want to be clear. I think you were saying 'advertising'. We are not talking about advertising; we are just talking about the promotion of live odds as it applies to the code?

Ms Fair: Yes.

Senator DI NATALE: I want to get to this question of the total number of kids who watch sports. It keeps being presented as a percentage, but I want raw numbers. Let's take your top-rating sports broadcast. It is probably the AFL grand final, is it? That would be right up there.

Ms Fair: Yes.

Senator DI NATALE: Let's use that as an example. Give me the ballpark figures. How many millions of people watch the AFL grand final?

Ms Fair: Oh, gosh. It would be over three million sometimes. It depends on who is playing.

Senator DI NATALE: Let us say three million. So we are talking about 10 per cent of that audience—300,000 people—that are young kids being exposed to advertising through the medium. What is your top-rating kids' viewing program? Would it achieve even close to those numbers?

Ms Fair: No. Children's viewing does not achieve that, but almost all of the audience is children.

Senator DI NATALE: Sure. But, again, I take issue with the fact that you keep presenting this as a proportion—'It is only five per cent or 10 per cent of viewers.' If we are talking about a raw numbers, more kids are watching the footy than are watching Sesame Street, the Wiggles or—I am showing my age here—or something a young teenager may watch. Degrassi High was big when I was growing up! My point is that if you are a young person there is a far greater likelihood you are going to be watching sport than a program that is directed at you. Is that a fair comment?

Ms Fair: It is a very different viewing experience to be watching sport in a family environment—

Senator DI NATALE: The question is about the raw numbers. The raw numbers are simply that you are much more likely to be watching a game of footy, whether it is the NRL or AFL, than you are to be watching a program directed specifically at kids. That is just a simple yes-or-no answer.

Ms Fair: In raw numbers, there probably are more watching the AFL than watching our children's programming—that is right. But the viewing experience is very different, so I do not accept the premise of your question.

Senator DI NATALE: There is no premise. It is just a simple question of fact.

Mr CIOBO: I want to clarify that. You are talking about AFL grand final day. I want to know the average numbers based on all the rounds, which I am guessing is quite different to AFL grand final day. It may in fact not even be the same number. I think that is a very important difference.

Senator DI NATALE: My point is that, on average, there are more kids watching sport than programs directed at young kids. Please take that on notice, but I am more than happy to pre-empt the answer. You are right
that it is a very different viewing experience. I contend that it is, in fact, more dangerous because at least when watching a kids' program you do not have Big Bird talking about the odds of getting two plus two right.

**Ms Herd:** Our code will make sure that you do not have the commentators doing that either.

**Senator DI NATALE:** We do not have Bert and Ernie talking about the odds of whether the Cookie Monster is going to come and eat half a cookie or three-quarters of a cookie. During a game of football we have this privileged space being afforded to gambling advertisers that is reaching far more children and in a way that makes the advertising experience much more interactive with the viewing experience. So I contend it is actually far more dangerous and more significant an issue than the restrictions that we currently have pertaining to kids' shows.

**Ms Fair:** Obviously we do not agree. We have put in place some rules around what we can do in terms of advertising in sporting broadcasts that try to strike a balance between the fact that it is reasonable to advertise legal services and taking into account concerns that people have expressed about not wanting too much of that kind of advertising and the nature of that advertising.

**Senator DI NATALE:** 'Concerns'. We heard that you have not had many complaints, but you have clearly made some decisions to support the proposed code. In fact you are, I understand, enacting the code before it has even been endorsed by ACMA. Why have you done that?

**Ms Fair:** We are keen observers of the political process and keen observers of public comment, and we like to be responsible corporate citizens. Clearly, there has been some discussion around these issues for some time, and we like to try and do the right thing. I know that people might sometimes find that astounding, but that is what we do.

**Senator DI NATALE:** No, I do not find that astounding at all. I suspect that you have a viewing audience that expects that of you. But we heard evidence that you have not had many complaints. I think Mr Ciobo presented a case that actually this is not a big issue and it is a bit of a beat-up, and yet—

**Mr CIODO:** I never said that.

**Senator DI NATALE:** Well, I am paraphrasing.

**CHAIR:** We need to wind this up with the last question.

**Senator DI NATALE:** My issue is: why move on the code if it is really not that big an issue?

**Ms Fair:** I do not think we ever said it was not a big issue. The fact is that we have agreed to have an ACMA enforced amendment to our code which has serious consequences if we do not comply—it is not the burglar changing your locks, or whatever the last witness said. All of our regulatory requirements are pretty much as set out in our code of practice, and we are agreeing to amend our code of practice in a way that addresses your issue about knowing who is an advertiser and who is a commentator and making it very clear that there has to be a clear distinction between who is an advertiser and who is a commentator.

**Mr Wilson:** In terms of your broader question, it is always a challenge around what you screen in prime time per se. We have certainly heard arguments about the level of coarse language, sex and nudity—whatever—you should show at 7.30, 8.30 and so forth. In some people's opinion, you should not have anything really like that until 10.30, when kids go to bed, for instance. It is about a balance of protections and also providing a service and allowing adults the opportunity to watch.

**Senator DI NATALE:** And making a buck.

**CHAIR:** I will close it there.

**Mr STEPHEN JONES:** Can I put two questions on notice. One is in relation to the willingness of the free-to-airs—and to be fair and balanced we should put the same question to the subscription TV stations—to conduct some quantitative research of their audiences regarding the promotion of gaming during sports broadcasts. The second is on the aggregate numbers—I do not want the disaggregate numbers—of the proportion of revenue that the free-to-air industry as a whole gains from gaming advertising.

**CHAIR:** Network Ten and Seven Network, thank you very much. We are very grateful for your time. That was very helpful.
BRIGGS, Mr Scott Anthony, Director of Commercial and Regulatory Affairs, Nine Entertainment Co.

[15:04]

CHAIR: I now welcome Mr Scott Briggs from the Nine Network.

Mr Briggs: Thank you.

CHAIR: I invite you to make a brief opening statement before the committee proceeds to questions.

Mr Briggs: Thank you. I would just like to say at the outset that Nine has worked as part of a cooperative approach with my fellow free-to-air broadcasters and the government for some time on developing the code around live odds. We support the code and we support it being enforced by ACMA. We do note that, before it is adopted by ACMA, there would finally be public consultation and also an opportunity for the public to comment on its adequacy. I am happy to take questions.

CHAIR: We have a hard deadline.

Mr Briggs: I understand.

CHAIR: I am going to give each party five minutes.

Mr STEPHEN JONES: I will put the same questions to you that I have put to your colleagues earlier. Do you have any research on audience perception to gaming advertising? If not, are you willing to conduct research on the same?

Mr Briggs: We do research internally. My understanding is that free TV does research more generally about the effectiveness of advertising as well but nothing specific to categories. But we do do research on its effectiveness. Obviously, you would expect that we would do that as it is our main revenue.

Mr STEPHEN JONES: Are you willing to do research on audience perceptions of gaming advertising for sports?

Mr Briggs: I am happy to consult with my colleagues on that.

Mr STEPHEN JONES: If you could provide a response to the committee, that would be most useful.

Mr Briggs: Certainly.

Mr STEPHEN JONES: Secondly, are you able to help us on the proportion of overall advertising revenue?

Mr Briggs: I do not have specific numbers, either. It is an important but small part of our revenue pie. I would just echo the sentiments of my colleagues: in an advertising market, which is currently falling, every bit of revenue is important to us as broadcasters.

Mr STEPHEN JONES: I think you are a member of free TV, are you?

Mr Briggs: Correct.

Mr STEPHEN JONES: Would you be willing to provide that information so that they can provide disaggregated evidence to the committee? I can understand why you may not want to identify your own share of that market, but if you could provide free TV disaggregated information, that would be most helpful.

Mr Briggs: I am happy to.

CHAIR: I have only one question. There has been much discussion today about the proposed deal between Nine and Tom Waterhouse. Mr Waterhouse was invited to attend this hearing. Regrettably, he was not available, but I do intend to put it to the committee that we invite him again if only to respond to everything that has been said about him today. From your point of view, can you please explain where this deal is at?

Mr Briggs: Currently, there is no deal in place. He is a casual advertiser with us. We are negotiating an agreement with him. I think it is fair to say that the figures that have been put out there are not accurate and we are not sure at this stage whether we will have a one-year deal or a multiyear deal. It is tied into the broader NRL agreement where there are some protections for sponsors that would come on board as sponsors of the NRL. We would obviously need to allow for that to happen should the NRL adopt a different partner in that area.

CHAIR: But you are in negotiations with Mr Waterhouse for him to have an on-air quasi commentary role?

Mr Briggs: No. Anyone who observed last weekend's broadcast of NRL matches would have noticed that we moved to a discrete segment. It is not our intention to blend him as a commentator. He is there as a spokesperson for his company in an advertising sense. We have now got a discrete segment. It is not shared by Channel 9 commentators; it is branded with Tom Waterhouse graphics and a Tom Waterhouse microphone. There is no interaction between him and the commentators other than for the commentators to throw to him and announce that segment.
CHAIR: Senator Di Natale, I suspect you have some follow-up questions.

Senator DI NATALE: I do. With respect to the Tom Waterhouse deal, there has obviously been a change. Why was there a change?

Mr Briggs: A change to him as a partner or as—

Senator DI NATALE: What triggered the arrangements with him on the ground?

Mr Briggs: I think it is fair to say that we are still finalising them. It is our intention—

Senator DI NATALE: But there has been a change from what has happened previously. In the last match they are in different capacities.

Mr Briggs: In the last weekend, yes. We moved from a regional arrangement.

Senator DI NATALE: But what triggered it?

Mr Briggs: We got feedback from the public. We also wanted to comply with the code. You asked before why we decided to adopt that code. I think it is fair to point out that it was the government that announced the code process. They asked industry to formulate a code and we have been working with them since that announcement so that was the impetus for this discussion about the code. That goes back two years. We have been working the whole time on that. It is our intention to comply with that. It has not yet been adopted by ACMA, but we have now moved to comply with that code, even though it is not yet something that we have to do.

Senator DI NATALE: Would any deal with Mr Waterhouse require him to have space on the ground?

Mr Briggs: No, it does not get into that specific detail. It deals with times in which he gets segments. I would point out that, before the match coverage starts, the pre-broadcast in the show beforehand, pre-match, half time and on Friday nights it includes a post-match segment.

Senator DI NATALE: And that could equally just apply to regular advertising?

Mr Briggs: That is correct.

Senator DI NATALE: As opposed to a live cross to him on the ground?

Mr Briggs: That is correct.

Senator DI NATALE: I am interested as to why Channel 9 have presented separately. We had Seven and Ten present together. Is there a difference of view?

Mr Briggs: No, there is not. We all support the code and we have all worked together. I would have been happy to have appeared with my colleagues. We do not have any divergent—

Senator DI NATALE: So you do not have a different view about the timing of the adoption of the code—

Mr Briggs: No.

Senator DI NATALE: with pre-empting the outcome?

Mr Briggs: No, we have no concerns about that.

Senator DI NATALE: Thanks.

Senator MADIGAN: Earlier we heard there are no quantitative measurements of how many kids are watching the footy. I would have thought that when you have a potential advertising customer come to you that you charge accordingly for different times, different programs. You would be able to tell them what the market share is, what segment of the market you are going to be reaching. And you would charge according to what your research is, wouldn't you?

Mr Briggs: Yes. I think it is fair to say there is not a big appetite amongst advertisers to advertise to children. The demographics that advertisers are most interested in are the 25 to 54 group, and then different breakdowns. But children are not a desirable target group. I do have specific numbers, on average, for audiences for the NRL Friday night game. It is about 50,000 viewers out of 700,000 who are children, and that is 17 and below. Around big matches, that would grow. That is not any different to some of our children's programs. We run targeted programs in the afternoons on GO! and Kids' WB with cartoons, and that would typically get a higher child audience than the rugby league average for last year.

Senator DI NATALE: Just to follow up on the question of complaints, what form did the complaints take?

Mr Briggs: We would get written complaints as well as phone complaints, and we generally tried to respond to all of those. We did not get a significant number. I think it is fairer to say we get far more for not showing the Brisbane Broncos in Queensland than we do around these sorts of issues.
**Senator DI NATALE:** And rightly so!

**Mr Briggs:** Yes. But in this instance I think we received about 35 complaints. Given that we received only 16 the year before, we obviously took that to be a level of concern. But it is still not a large portion of the total complaints we receive.

**Senator DI NATALE:** But it is a pretty significant thing to do to change the arrangement you had with an advertiser. There must have been something else—

**Mr Briggs:** No. It was the view that we got the complaints; we want to comply with the code. We made the assessment that, in order to fully comply with the code before its adoption, we needed to clearly distinguish Tom Waterhouse from the commentary team, and that is what we believe we have now done.

**CHAIR:** Do you think a 12-year-old can differentiate it as effectively as you and I can?

**Mr Briggs:** I think with the way it is being done now, it is a clear distinction. We have graphic entries into his segment, we have a graphic display on air, he announces himself as Tom Waterhouse, it is branded tomwaterhouse.com. So I think people would know that the segments that are not advertising segments appear to be the same. So we think it clearly distinguishes it as an advertisement.

**CHAIR:** I have asked this question of numerous witnesses today, so my apologies to those in the audience who are witnesses. But what is your answer to this question: why is it okay to prohibit gambling advertising for the rest of the day because of the welfare of children but it is okay to advertise gambling during an afternoon footy match?

**Mr Briggs:** It depends. It is not clear-cut. Sometimes advertising for gambling products is permitted at other times during the day. But during a weekday it is not. I think that is a reflection that the likely child audience is going to be much, much younger than it would be—

**CHAIR:** But that actually reinforces my point: most kids are at school.

**Mr Briggs:** Yes. So it is going to be pre-school kids that are sitting down and watching, on those days.

**CHAIR:** But, again, it is reinforcing my point that, at times when most children are thought to be watching TV—Saturday, Sunday, during the day—gambling advertising is prohibited, except for sports games. Doesn't that seem illogical?

**Mr Briggs:** There are other times when most children are watching. Weekday afternoons when they are home from school is the traditional time. That is why we are regulated to show children's content in those sorts of bands.

**CHAIR:** Are you saying you can advertise gambling at four o'clock on a weekday?

**Mr Briggs:** No, you cannot, but those are the times that children also watch.

**CHAIR:** That is why it has been banned at four o'clock on a weekday.

**Mr Briggs:** Yes.

**CHAIR:** Which reinforces my point. Why does it seem appropriate to be banning it all these other times but not on Saturday and Sunday afternoons?

**Mr Briggs:** To echo the comments of my counterparts at Seven and Ten, we accept that there have to be some limits on certain types of advertising. That limit has been in place for some time and we think it is effective. It has led to a fairly low level of complaint generally around gambling. As I said, we have 16 in total out of more than 1,000 complaints received last year.

**CHAIR:** What about the witness in an early inquiry before this committee who encountered a 7½-year-old—I am not sure whether they knew, knew of or it was their own child—talking about their team's odds rather than their teams form? Is that okay?

**Mr Briggs:** I did not hear that but there has been exposure in other forms of media for gambling for a long while. I remember as a child seeing the form guide published in every daily paper. That has not led me to be fully for racing and gambling. There is exposure in all sorts of mediums.

**Senator DI NATALE:** How many kids were reading the form guide?

**Mr Briggs:** It was there and it has been there every day. My point is that it is available in other mediums.

**Mr CIOBO:** Senator Di Natale asked previous witnesses at length and made the assertion that more kids watch sport than watch the average TV program. I thought you said before that you had around 50,000 children on a Friday night—

**Mr Briggs:** For the Friday night game, yes.

**Mr CIOBO:** And what sort of audience numbers do you get on dedicated children's programs?
Mr Briggs: We get a similar number and sometimes higher. If we run a child-friendly movie, we would expect it to do significantly more by a factor of 10. It is not fair to say that more children watch sport. If we put on a children's film on a Saturday evening we would expect that to rate significantly higher among childhood audiences.

CHAIR: The point is that a lot of children are watching sport.

Mr Briggs: I just make the point again that as a proportion of the total audience it is small.

CHAIR: Mr Briggs, that was a short session but very helpful. We are grateful for your time, thank you. That concludes today's hearing. I thank all witnesses for their evidence and all observers for their interest in the committee's work.

Committee adjourned at 15:17