
TRANSCRIPT OF PROCEEDINGS

COMMISSIONER: HON. RAY FINKELSTEIN AO QC

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

MELBOURNE, VICTORIA

10.00 AM, WEDNESDAY, 2 JUNE 2021

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Counsel for the State of Victoria	MR PETER GRAY QC MR GLYN AYRES MS GEORGIE COLEMAN MS HELEN TIPLADY

09:09 1 COMMISSIONER: Good morning, everyone.

10:02 2

10:02 3 WITNESS: Good morning.

10:02 4

10:02 5 MR FINANZIO: Good morning.

10:02 6

10:02 7 COMMISSIONER: We'll try with a little bit more precision
10:02 8 today to sit from now until say 11.15, have a break, in other
10:02 9 words, according to the timetable that I suggested yesterday
10:03 10 which we didn't comply with. I will try and do a bit better today
10:03 11 to the extent that we need to be here all day, and if we do we'll
10:03 12 have a break in the morning and a break in the afternoon. All
10:03 13 right. Thank you. Mr Finanzio.

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16 **MS SONJA MARIA BAUER, ON PRIOR AFFIRMATION**

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19 **EXAMINATION-IN-CHIEF BY MR FINANZIO,**
20 **CONTINUED**

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22

10:03 23 MR FINANZIO: Thank you.

10:03 24

10:03 25 We might start this morning, Ms Bauer and, Commissioner, with
10:03 26 a copy of the Responsible Gambling Code of Conduct which is at
10:03 27 tab 211 of the tender bundle, and for the operator it is
10:03 28 COM.0005.0005.0001. I want to ask you a couple of questions
10:04 29 about the document generally. This is a document that is required
10:04 30 to be prepared and implemented under the licence; correct?

10:04 31

10:04 32 A. Yes, there are two other requirements, I believe: one is in
10:04 33 accordance with section 69 of the Casino Control Act and also
10:04 34 Ministerial Directions.

10:04 35

10:04 36 Q. Did you have anything to do with the drafting of the
10:04 37 document itself?

10:04 38

10:04 39 A. Yes, I did.

10:04 40

10:04 41 Q. Can you take me through the proceedings of that. Are you
10:04 42 principally the author of the document?

10:04 43

10:04 44 A. Certainly in more recent years any updates have been
10:04 45 effected by me. When the Code was initially effected there was,
10:04 46 in my recollection, more of a purview from the Victorian
10:05 47 Commission for Gambling and Liquor Regulation so I remember

- 10:05 1 that there was quite a lot of toing and froing between the VCGLR
10:05 2 and Crown as to ensuring that Crown included all the relevant
10:05 3 elements that were required within the Code, which was back in
10:05 4 2009.
- 10:05 5
- 10:05 6 Q. But in terms of the current drafting of it, that sits with you;
10:05 7 yes?
- 10:05 8
- 10:05 9 A. Yes, it does, and the update sits with me, yes.
- 10:05 10
- 10:05 11 Q. So to the extent that the current Code is approved, it is
10:05 12 approved with your endorsement as effectively your work; is that
10:05 13 right?
- 10:05 14
- 10:05 15 A. Yes, that is right, Mr Finanzio.
- 10:05 16
- 10:05 17 Q. I'm assuming, but you tell me if I'm wrong about this, that
10:05 18 you don't just sit in your office and write a code and not consult
10:05 19 with anybody else in the business about it. Is there a consultation
10:05 20 process that goes on in relation to the Code and changes to it?
- 10:05 21
- 10:05 22 A. Yes, absolutely, Mr Finanzio. So we, being Crown, review
10:06 23 the Responsible Gambling Code of Conduct annually and we
10:06 24 consult with various areas. We hold meetings with heads of
10:06 25 business from gaming, from the cage account team, from Legal,
10:06 26 by way of example, as well we also seek feedback from our
10:06 27 customers and employees and from the Responsible Gambling
10:06 28 team as well.
- 10:06 29
- 10:06 30 Q. Is that feedback documented?
- 10:06 31
- 10:06 32 A. Yes, it is. So, for clarity, Mr Finanzio, up until the last
10:06 33 couple of years the requirement was to produce the report to the
10:06 34 VCGLR annually in relation to the review, the Responsible
10:06 35 Gambling Code of Conduct.
- 10:06 36
- 10:06 37 Q. What I mean is, when you consult, for example, with the
10:07 38 Head of Gaming, does the Head of Gaming provide you with
10:07 39 written comments?
- 10:07 40
- 10:07 41 A. I would need to double-check to confirm but the comments
10:07 42 can come via writing or they can come via a meeting that is held
10:07 43 annually with those heads of business, and I would like to also
10:07 44 add, Mr Finanzio, that we can also consult with the Gambler's
10:07 45 Help services that we regularly deal with for their feedback.
- 10:07 46
- 10:07 47 Q. For clarity, from my point of view, what I'm interested in is

10:07 1 the consultation that occurs within the business, not externally. Is
10:07 2 one reason that you consult with the head of gaming to
10:07 3 understand what the business implications of changes to the Code
10:07 4 might be?

10:07 5

10:07 6 A. The purpose of the consultation is to ensure that the Code
10:07 7 reflects the current status of what the gaming product might be,
10:08 8 so if there has been any changes to the gaming product, to ensure
10:08 9 that that is effected, amongst other things that may have come
10:08 10 forth in terms of what might be useful changes to the Code.

10:08 11

10:08 12 Q. Thank you. It is clear from the answers that you've given
10:08 13 that you are very familiar with the drafting of the Code and its
10:08 14 content, obviously. I want to just ask you some questions about it
10:08 15 now. Yesterday we were talking about breaks in play as one
10:08 16 example of one of the preventative measures included in the Code
10:08 17 at page 21. And I think we discussed yesterday that that is where
10:08 18 the Code encourages players to take regular breaks in play.

10:08 19

10:09 20 A. Yes, from my recollection, yes. I don't have it in front of
10:09 21 me. I believe it might be coming available.

10:09 22

10:09 23 Q. Page 21. I'm sure you won't need it in front of you, but if
10:09 24 you do, tell me. That's the bit that talks about different
10:09 25 announcements and announcements on the machines and so on,
10:09 26 but also by staff.

10:09 27

10:09 28 A. Certainly, I'm now on the page which details some of the
10:09 29 various forms that it might take to announce an opportunity for
10:09 30 a break in play, yes.

10:09 31

10:09 32 Q. Various forms but also including staff giving a verbal
10:09 33 encouragement, see the third dot point?

10:09 34

10:09 35 A. Yes, I do.

10:09 36

10:09 37 Q. The Code itself doesn't say when or for how long such
10:10 38 a verbal encouragement might be for; does it?

10:10 39

10:10 40 A. From my recollection, no.

10:10 41

10:10 42 Q. Nor does it say which staff are responsible for it?

10:10 43

10:10 44 A. Not specifically. However, in the context of the Code and
10:10 45 when the Code is socialised and used for training purposes it does
10:10 46 imply that staff across the business are involved potentially in this
10:10 47 type of environment.

10:10 1
10:10 2 Q. All staff?
10:10 3
10:10 4 A. Yes.
10:10 5
10:10 6 Q. Now, the other one I just wanted to draw your attention to
10:10 7 at the moment is under the heading "Observable signs", which
10:10 8 commences at the bottom of page 15. But the list of observable
10:11 9 signs is on page 16.
10:11 10
10:11 11 A. Yes, I have that in front of me, Mr Finanzio.
10:11 12
10:11 13 Q. They are listed in dot points unhelpfully because you can't
10:11 14 tell the number of them, but the fifth dot point down is:
10:11 15
10:11 16 *Often gambles for long periods without a break.*
10:11 17
10:11 18 You see that?
10:11 19
10:11 20 A. Yes.
10:11 21
10:11 22 Q. Both the observable sign and breaks in play in the parts of
10:11 23 the Code are concerned with the period of play; aren't they?
10:11 24
10:11 25 A. Yes, they are.
10:11 26
10:11 27 Q. To administer and supervise those parts of the Code, the
10:11 28 staff need to know when and how to take appropriate steps; don't
10:11 29 they?
10:11 30
10:11 31 A. Yes, they do.
10:11 32
10:12 33 Q. For that purpose Crown has a Play Periods Policy; doesn't
10:12 34 it?
10:12 35
10:12 36 A. Yes, we do.
10:12 37
10:12 38 Q. That document sets out the steps for staff to take in
10:12 39 administering the Play Periods Policy; correct?
10:12 40
10:12 41 A. Yes, that's right.
10:12 42
10:12 43 Q. That Policy is approved by Crown personnel at a certain
10:12 44 level in the Responsible Gaming team; isn't it?
10:12 45
10:12 46 A. Yes, it is.
10:12 47

10:12 1 Q. It's not approved by the VCGLR, it is approved by --- in
10:12 2 fact, I think you've been the person who has approved most of
10:12 3 them over time; is that correct?

10:12 4
10:12 5 A. Yes, most times, yes.

10:12 6
10:12 7 Q. The most recent one is approved by Mr Overman, but
10:12 8 you've been the one who has approved them before that?

10:12 9
10:12 10 A. Yes, that's right.

10:12 11
10:12 12 Q. I just want to take you to the current one, the current Play
10:13 13 Periods Policy, which is behind, Commissioner, tender bundle
10:13 14 127, VCG.0001.0002.8046.

10:13 15
10:13 16 A. I have it in front of me, Mr Finanzio.

10:13 17
10:13 18 Q. Thank you. I want to step through the policy. It says:

10:13 19
10:13 20 *Crown Loyalty Program Members (Members) who have*
10:13 21 *confirmed continuous ratings for a 18-hour period*
10:13 22 *without appropriate breaks will not be permitted to*
10:13 23 *remain on the gaming floor and will be directed to take*
10:14 24 *a 24-hour break.*

10:14 25
10:14 26 A. That's right.

10:14 27
10:14 28 Q. The second one is that:

10:14 29
10:14 30 *Members with significant continuous ratings without*
10:14 31 *appropriate breaks under 18 hours will be reminded to*
10:14 32 *take regular breaks.*

10:14 33
10:14 34 A. Yes.

10:14 35
10:14 36 Q. And then the third part of the policy is that:

10:14 37
10:14 38 *Management may exercise its discretion in relation to*
10:14 39 *break times based on the unique circumstances of the*
10:14 40 *Member.*

10:14 41
10:14 42 A. Yes.

10:14 43
10:14 44 Q. I am right, aren't I, that if someone has confirmed,
10:14 45 continuous ratings for 18 hours --- can you hear me okay?

10:14 46
10:14 47 A. Yes, I can. I have a slight hearing loss so I can hear okay.

10:14 1 That's fine.
10:14 2
10:14 3 Q. When you put your hand up like that --
10:14 4
10:14 5 A. It is actually a rote movement, Mr Finanzio. Sorry.
10:14 6
10:15 7 Q. That's fine. It is right, isn't it that someone might get to 18
10:15 8 hours without an appropriate break, but management might
10:15 9 exercise the discretion not to direct a 24-hour break at that time?
10:15 10
10:15 11 A. The item, or, sorry, the sentence leaves that open.
10:15 12 However, in my experience, that is not necessarily the case, that
10:15 13 that is actually an outcome.
10:15 14
10:15 15 Q. Okay. The way the policy is written to guide the staff?
10:15 16 Correct?
10:15 17
10:15 18 A. Yes, the policy is written to guide the Responsible Gaming
10:15 19 staff, yes.
10:15 20
10:15 21 Q. The policy is written in a way which expressly says that
10:16 22 discretion can be exercised to vary the break times?
10:16 23
10:16 24 A. That's a possibility, and in my mind those break times could
10:16 25 be varied both in the lesser and the greater amount.
10:16 26
10:16 27 Q. So they can all varied?
10:16 28
10:16 29 A. They can be varied.
10:16 30
10:16 31 Q. And that would depend upon the unique circumstances of
10:16 32 the member?
10:16 33
10:16 34 A. That's right.
10:16 35
10:16 36 Q. I just want to go to the procedures. This tells the staff there
10:16 37 what steps to take. Step one:
10:16 38
10:16 39 *Reports are generated and reviewed by the Responsible*
10:16 40 *Gaming Advisor group.*
10:17 41
10:17 42 A. Yes.
10:17 43
10:17 44 Q. It says there:
10:17 45
10:17 46 *The RGA will check ratings of 12 hours or greater.*
10:17 47

- 10:17 1 A. Yes.
- 10:17 2
- 10:17 3 Q. Just to pause on that one for a minute, the earliest under the
- 10:17 4 policy that someone will have their rating checked is at 12 hours?
- 10:17 5
- 10:17 6 A. For a rating, yes. But it does not discount that a person may
- 10:17 7 or may not be displaying observable signs prior to that.
- 10:17 8
- 10:17 9 Q. An observable sign other than length of continuous play?
- 10:17 10
- 10:17 11 A. Potentially, yes. It is the totality of those observable signs.
- 10:17 12
- 10:17 13 Q. When you say "potentially", if the only observable sign is
- 10:17 14 length of play and no other ---
- 10:17 15
- 10:17 16 A. Yes.
- 10:17 17
- 10:17 18 Q. --- the first time that an RGA will check the length of play
- 10:17 19 is at 12 hours?
- 10:17 20
- 10:17 21 A. That's correct.
- 10:17 22
- 10:18 23 Q. And that's done by the RGA?
- 10:18 24
- 10:18 25 A. It is done by the RGA or we also work in concert with the
- 10:18 26 gaming team. So it might be an RGA or it might be a member of
- 10:18 27 the gaming team who are equally charged with monitoring play
- 10:18 28 periods.
- 10:18 29
- 10:18 30 Q. Yes, but --- all right, we'll come in a moment to deal with
- 10:18 31 the differences.
- 10:18 32
- 10:18 33 A. Sure.
- 10:18 34
- 10:18 35 Q. But when they do that, it is done for carded players at the
- 10:18 36 moment, an alert is given at the 12th hour?
- 10:18 37
- 10:18 38 A. Yes, it is.
- 10:18 39
- 10:18 40 Q. That alert goes to the RGA; doesn't it?
- 10:18 41
- 10:18 42 A. Yes, it does.
- 10:18 43
- 10:18 44 Q. For uncarded players, we are at the moment --- though you
- 10:19 45 said yesterday there is a plan to try and improve this a bit --- at the
- 10:19 46 moment and up until now, we are relying on observation for
- 10:19 47 periods of play; correct?

10:19 1
10:19 2 A. Yes, and I agree that we have implemented a new trial---
10:19 3
10:19 4 Q. I think "yes" was in the answer.
10:19 5
10:19 6 A. Yes.
10:19 7
10:19 8 Q. "Yes" was the answer?
10:19 9
10:19 10 A. Yes.
10:19 11
10:19 12 Q. So, in relation to uncarded play, isn't it right --- a minute
10:19 13 ago you said you rely on other staff, not necessarily the RGA. It
10:19 14 is the other staff that might be in the field observing uncarded
10:19 15 play; is that correct?
10:19 16
10:19 17 A. Yes. And that would be the gaming staff predominantly,
10:19 18 yes.
10:19 19
10:19 20 Q. So when you say "gaming staff", they are dealers and
10:19 21 managers and other people on the floor?
10:19 22
10:19 23 A. That's right.
10:19 24
10:19 25 Q. I take you to point 3 there ---
10:19 26
10:20 27 COMMISSIONER: Just before you go to that, can I ask
10:20 28 a question, Ms Bauer. If gaming staff usually work an 8-hour
10:20 29 shift, how would any of them know whether a player has been
10:20 30 playing for more than or up to 12 hours?
10:20 31
10:20 32 A. Thank you. I beg your pardon?
10:20 33
10:20 34 COMMISSIONER: That's it. That's the question.
10:20 35
10:20 36 A. Mr Commissioner, there is --- when gaming staff finish
10:20 37 their shift, there is what we call shift changeover. And any
10:20 38 relevant observations and activities throughout the shift would be
10:20 39 communicated between the person changing over their shift and
10:20 40 passed on to the incoming shift.
10:20 41
10:20 42 COMMISSIONER: So that means that there is an obligation on
10:20 43 gaming staff, for example, on changeover to say that "Patron
10:20 44 playing an EGM over in the left-hand corner has been there for
10:21 45 six hours, keep your eye on it"?
10:21 46
10:21 47 A. If that's an observation that is made, yes, Commissioner.

10:21 1
10:21 2 COMMISSIONER: The question is, is that an obligation on
10:21 3 gaming staff when there is a changeover between shifts? Does
10:21 4 a gaming staff member fall under an obligation to advise the
10:21 5 incoming staff member that, for example, a particular patron has
10:21 6 been playing a particular game, card game or EGM for six hours
10:21 7 or seven hours or eight hours or whatever it might be?
10:21 8
10:21 9 A. Yes.
10:21 10
10:21 11 COMMISSIONER: That is the obligation?
10:21 12
10:21 13 A. Yes.
10:21 14
10:21 15 COMMISSIONER: And that is an obligation that is put into
10:21 16 effect?
10:21 17
10:21 18 A. To my understanding, yes, Mr Commissioner.
10:21 19
10:21 20 COMMISSIONER: Okay.
10:21 21
10:21 22 MR FINANZIO: Thank you. Now ---
10:22 23
10:22 24 COMMISSIONER: Just to follow that up. Sorry. I will stay out
10:22 25 of it for a while.
10:22 26
10:22 27 MR FINANZIO: First of all, that obligation is not recorded in
10:22 28 the Play Policy that we are talking about, is it?
10:22 29
10:22 30 A. No, it's not.
10:22 31
10:22 32 Q. Is it written down anywhere?
10:22 33
10:22 34 A. I couldn't attest 100 per cent whether it is written down
10:22 35 anywhere, Mr Finanzio.
10:22 36
10:22 37 Q. All right. Do you test to see whether it does occur in
10:22 38 practice, as opposed to it just being your understanding?
10:22 39
10:22 40 A. I'm sorry, what was the question, Mr Finanzio?
10:22 41
10:22 42 Q. I said, do you test to see whether or not it is actually done in
10:22 43 the field as opposed to it being just your understanding that it is
10:23 44 done?
10:23 45
10:23 46 A. There is no test per se. However, the staff are obliged to
10:23 47 record any events that fall under what we might call a low-level

10:23 1 sign as well as any signs that are more in accordance with the
10:23 2 Responsible Gambling Code of Conduct and pass that
10:23 3 information on during or at the end of their shift as part of
10:23 4 recording what we call low-level observations, or if there is
10:23 5 a more likely to be potential problem gambling observation, that
10:23 6 is passed on either to a manager or to a Responsible Gaming
10:23 7 Advisor and that is the instruction to the staff.
10:23 8
10:23 9 Q. And you don't check to see whether it's done or not?
10:23 10
10:23 11 A. I don't know.
10:23 12
10:23 13 Q. All right. Can I take you now to just the --- while we are
10:24 14 doing this, can we pause for a minute. Can I ask the operator,
10:24 15 there is a lot of stuff happening on my screen which is not being
10:24 16 done by me. I'm just not sure what is going on there.
10:24 17
10:24 18 COMMISSIONER: This screen has gone off.
10:24 19
10:24 20 MR FINANZIO: Operator, I was pinning Ms Bauer so that she
10:24 21 was on my screen with the sub-screen over to the side, and now it
10:24 22 all seems to have switched around.
10:24 23
10:24 24 COMMISSIONER: Yes, I think something has gone awry for
10:24 25 the minute. Sorry about this. Give us a second and we'll see if
10:24 26 we can sort it out.
10:25 27
10:25 28 MR FINANZIO: For the operators, I have Ms Bauer pinned but
10:25 29 she is only appearing in the ticker tape across the top.
10:25 30
10:25 31 COMMISSIONER: The one screen is back on. Good, that is
10:25 32 working. And the document one?
10:25 33
10:25 34 MR FINANZIO: Okay, it seems to be working now. Bear with
10:25 35 us while we try and ---
10:25 36
10:25 37 A. I understand. I'm not having those difficulties, if that
10:25 38 assists the operator.
10:25 39
10:25 40 MR FINANZIO: Can I ask, Commissioner, are you in a position
10:25 41 to proceed?
10:25 42
10:25 43 COMMISSIONER: Yes, the document has come back on the
10:25 44 screen just now.
10:25 45
10:25 46 MR FINANZIO: Thank you.
10:25 47

- 10:25 1 I think I was up to number 3 in the list there:
10:25 2
10:26 3 *Gaming staff or a RGA will interact or observe as*
10:26 4 *appropriate with customers at the 12, 15 and 17-hour*
10:26 5 *mark to encourage Members to take a break from play.*
10:26 6
10:26 7 Now, just pausing there. The way the policy reads, the obligation
10:26 8 is for staff or an RGA to do that; is that correct?
10:26 9
10:26 10 A. Yes.
10:26 11
10:26 12 Q. It's not necessarily an RGA at 12, 15 or the 17-hour mark?
10:26 13
10:26 14 A. At this point, no.
10:26 15
10:26 16 Q. So this could happen, couldn't it: the RGA might receive
10:27 17 a Splunk alert for a carded player, that they have reached that
10:27 18 period of play; is that correct?
10:27 19
10:27 20 A. Yes.
10:27 21
10:27 22 Q. It is right, isn't it, that the way the Splunk alerts are set up is
10:27 23 to accord with the policy, so alerts will be sent at 12 hours, 15
10:27 24 hours and at 17 hours; correct?
10:27 25
10:27 26 A. Yes, that's right. That's right.
10:27 27
10:27 28 Q. So when the RGA gets the Splunk alert, what then happens
10:27 29 is the RGA will either themselves wander out to have a look,
10:27 30 observe, or interact; is that correct?
10:27 31
10:27 32 A. Yes.
10:27 33
10:27 34 Q. So they might just observe; correct?
10:27 35
10:27 36 A. They could, yes.
10:27 37
10:27 38 Q. But they might also interact, depending on the
10:27 39 circumstances?
10:27 40
10:27 41 A. That's right.
10:27 42
10:27 43 Q. But if the RGA is busy, the RGA might send a note via text
10:27 44 or make a call to the staff member in that area to check on the
10:27 45 player?
10:27 46
10:27 47 A. That's right.

10:27 1
10:27 2 Q. And the staff member might make an observation or they
10:28 3 might interact?
10:28 4
10:28 5 A. That's right.
10:28 6
10:28 7 COMMISSIONER: If a staff member interacts, is that an event
10:28 8 which is recorded in a register?
10:28 9
10:28 10 A. Yes, it is, Mr Commissioner.
10:28 11
10:28 12 COMMISSIONER: So the instruction to staff is every
10:28 13 interaction with a patron should be recorded?
10:28 14
10:28 15 A. Yes, it is.
10:28 16
10:28 17 MR FINANZIO: And can I just confirm something.
10:28 18
10:28 19 Let's say a Splunk alert goes to an RGA at 12 hours and the RGA
10:28 20 is in the middle of some other task. It is possible the Splunk alert
10:28 21 could go unanswered; isn't it?
10:28 22
10:28 23 A. No, the Splunk alert would go to --- so I provided in my
10:29 24 evidence yesterday that there is always a minimum of one RGA,
10:29 25 but usually two to three per shift. So the alert would come on to
10:29 26 what we call the second shift time, is my understanding.
10:29 27
10:29 28 Q. Sure. Let's assume the worst-case scenario and all the
10:29 29 RGAs are working with self-exclusion patrons. The Splunk alert
10:29 30 might not be on-sent?
10:29 31
10:29 32 A. The Splunk alert would be viewed on the completion of the
10:29 33 task that the RGA may have been attending to at the time when
10:29 34 they couldn't attend to the Splunk alert.
10:29 35
10:29 36 Q. Right, so if the Splunk alert came on this setting at 12
10:29 37 hours, but the RGA didn't get free until, say, 13.5 hours, the RGA
10:29 38 might action it then?
10:29 39
10:29 40 A. That's a possibility.
10:29 41
10:30 42 Q. It's like an electronic ticketing system, isn't it, that the alert
10:30 43 gets sent, and then when it gets actioned, it is the action that is
10:30 44 recorded in the register; isn't it?
10:30 45
10:30 46 A. That's right.
10:30 47

- 10:30 1 Q. So the Splunk alerts themselves don't get recorded in the
10:30 2 register; do they?
10:30 3
- 10:30 4 A. There is no link between the Splunk alerts and the register.
10:30 5 It is at the behest of the RGA to record that in the register, yes.
10:30 6
- 10:30 7 Q. The RGA only records things in the register that they've
10:30 8 actually done in relation to the Splunk alert; correct?
10:30 9
- 10:30 10 A. Yes.
10:30 11
- 10:30 12 Q. They don't record the fact of receiving the Splunk alert?
10:30 13
- 10:30 14 A. No, to my understanding.
10:30 15
- 10:30 16 Q. Okay. And then we go on to four:
10:30 17
- 10:30 18 *If a Member is displaying any observable signs during the*
10:31 19 *conversation or observation, staff will request the*
10:31 20 *Member to take a break and offer all Responsible Gaming*
10:31 21 *Centre (RGC) services.*
10:31 22
- 10:31 23 A. Yes, I see that.
10:31 24
- 10:31 25 Q. You see that? So, if they are displaying an observable sign
10:31 26 then they will request a break. That means, doesn't it, that --- take
10:31 27 this scenario: the policy says that the staff or the RGA can simply
10:31 28 observe at the 12-hour period, not necessarily interact; correct?
10:31 29
- 10:31 30 A. Yes.
10:31 31
- 10:31 32 Q. And unless the RGA or the staff member sees a visible,
10:31 33 observable --- detectible, visible, observable sign other than
10:32 34 simply gambling for 12 hours straight, it might just stop with the
10:32 35 observation, might it?
10:32 36
- 10:32 37 A. There is a possibility. However, if I may, Mr Finanzio, the
10:32 38 alert at 12 hours doesn't mean that a person has been playing for
10:32 39 12 hours straight. That person may have played for episodes in
10:32 40 that 12-hour period and that is something that the RGA would be
10:32 41 looking into.
10:32 42
- 10:32 43 Q. Yeah. But with an observation only the RGA or staff
10:32 44 member isn't informed by anything that the customer might say
10:32 45 about their experience; correct?
10:32 46
- 10:32 47 A. Yes.

10:32 1
10:32 2 Q. So the customer could have been playing for 12 hours
10:32 3 straight, but the RGA or staff member wouldn't know that?
10:33 4
10:33 5 A. There would be an investigation as to the times, and I'm
10:33 6 just going to use the language of time on property, so time from
10:33 7 the first card-in that is recorded versus 12-hour alert of how many
10:33 8 hours that person may have played in that time. So it may be that
10:33 9 the first card-in could have been for 10 minutes and the next
10:33 10 card-in could have been 8 hours later, for example, or 10 hours
10:33 11 later, and it would still provide an alert.
10:33 12
10:33 13 Q. Yes, but let's test this proposition out. If the person is being
10:33 14 observed at the 12-hour mark it is quite possible that
10:33 15 an observation, it's not only possible but likely, that
10:33 16 an observation of them simply playing will not provoke
10:34 17 an interaction; is that correct?
10:34 18
10:34 19 A. It's possible, yes.
10:34 20
10:34 21 Q. We'll leave it there for now. And that is true in terms of
10:34 22 interaction or observation. That is true for the 12, 15 and 17-hour
10:34 23 mark; isn't it?
10:34 24
10:34 25 A. Yes, it is.
10:34 26
10:34 27 Q. The most that might occur is an observation only from
10:34 28 a distance?
10:34 29
10:34 30 A. The least that would occur is an observation.
10:34 31
10:34 32 Q. Pardon me, the least that would occur, you say, is
10:34 33 an observation. You are quite right. And unless there was
10:34 34 another visible observable sign, it is unlikely there would be
10:34 35 an interaction?
10:34 36
10:34 37 A. That's a possibility, yes.
10:34 38
10:34 39 Q. You've doubled up our probabilities. My proposition to
10:34 40 you was: it was unlikely there would be an interaction if there
10:35 41 was not also another visible observable sign. It is unlikely that
10:35 42 would occur; isn't it?
10:35 43
10:35 44 A. Yes.
10:35 45
10:35 46 Q. Then I want to take you to paragraph 5 over the page.
10:35 47

10:35 1 COMMISSIONER: Sorry, can I interrupt again. Sorry about
10:35 2 that.
10:35 3
10:35 4 That position that you spoke about, that it is unlikely that there
10:35 5 would be any interaction between the RGA and the patron, that
10:35 6 was really the practice that you knew existed until toward the end
10:35 7 of last year; is that correct?
10:35 8
10:35 9 A. Mr Commissioner, I'm not sure what is meant by the
10:35 10 question. When I'm reading these elements around observation
10:35 11 versus intervention, there is sometimes a likelihood that there is
10:36 12 no intervention dependent on the observation, but there might be
10:36 13 an intervention dependent on the observation and the information
10:36 14 that may be recorded in terms of length of play. So I'm sorry, I'm
10:36 15 hoping I'm answering your question, Mr Commissioner.
10:36 16
10:36 17 COMMISSIONER: No. I was just trying to --- I had an RGA
10:36 18 give evidence the other day. And the RGA gave evidence that it
10:36 19 was her practice not to intervene at all --- and this is an RGA, one
10:36 20 of the people trained to do this ---
10:36 21
10:36 22 A. Yes.
10:36 23
10:36 24 COMMISSIONER: --- the RGA would not intervene at any
10:36 25 time, unless after getting an alert that a player had been playing
10:36 26 for 12 or 15 or 17 hours, would not intervene unless there was
10:36 27 some other observable sign. That was her practice and I
10:36 28 understood that was the practice on the gaming floor.
10:36 29
10:36 30 A. Right, and if that is the RGA's evidence, I can only point to
10:37 31 what is in the policy in that --- (overspeaking) --- yes, I
10:37 32 understand ---
10:37 33
10:37 34 COMMISSIONER: I'm talking about what actually happens on
10:37 35 the gaming floor, not what is written on a piece of paper.
10:37 36
10:37 37 A. Right. Okay, Mr Commissioner.
10:37 38
10:37 39 COMMISSIONER: And this RGA said that from on high the
10:37 40 instructions changed late last year.
10:37 41
10:37 42 A. Yes, that's right.
10:37 43
10:37 44 COMMISSIONER: Were you involved in changing the
10:37 45 instructions?
10:37 46
10:37 47 A. I was involved in the change of the policy in terms of the

10:37 1 length of hours. So dropping it from 24 hours to 18 hours, and
10:37 2 assisted in the development of the policy. So I was involved to
10:37 3 that extent, yes.

10:37 4

10:37 5 COMMISSIONER: Okay. I think Mr Borsky, you want to say
10:37 6 something?

10:37 7

10:37 8 MR BORSKY: Yes, Commissioner. We are concerned with
10:37 9 respect that there is potential for unfairness in these lines of
10:38 10 questioning. We have of course observed our obligations in
10:38 11 relation to the confidentiality of the evidence given by the RGAs
10:38 12 to which you have referred and the other Crown employees, and
10:38 13 selected paraphrases from parts of that evidence being put to this
10:38 14 witness in this way could be productive of unreliable evidence
10:38 15 and even unfairness in our respectful submission.

10:38 16

10:38 17 COMMISSIONER: I'm not sure what is unfair unless I've
10:38 18 misquoted or mis-summarised the basis of the evidence that I've
10:38 19 heard. If I've misstated it, then that should be corrected. If I've
10:38 20 summarised it correctly, there simply can't be any unfairness.

10:38 21

10:38 22 MR BORSKY: I accept that, with great respect. We are still not
10:38 23 graced with a transcript from those confidential sessions, and the
10:39 24 way in which the evidence has been stated and summarised
10:39 25 doesn't accord precisely with at least my note of the RGA's
10:39 26 evidence, but I don't want to take that further at the moment in the
10:39 27 presence of the witness.

10:39 28

10:39 29 COMMISSIONER: Okay. All right. Thank you, Mr Borsky.
10:39 30 As I said, if I've misquoted or incorrectly stated the evidence,
10:39 31 then that obviously should be corrected. But otherwise, the
10:39 32 questions --- well, I'm not going to disallow my own questions,
10:39 33 how about that. Sorry to interrupt, Mr Finanzio.

10:39 34

10:39 35 MR FINANZIO: That's, okay.

10:39 36

10:39 37 I was going to take you to paragraph 5 of the policy which says
10:39 38 that:

10:39 39

10:39 40 *If a Member has continuous ratings for 18 hours or more*
10:40 41 *without a substantial break, the RGA/Gaming Manager*
10:40 42 *will to attend where possible.*

10:40 43

10:40 44 It is right, isn't it, that it might not be possible for a variety of
10:40 45 reasons; correct?

10:40 46

10:40 47 A. Yes, it is.

- 10:40 1
10:40 2 Q. And the policy contemplates that attendance upon a person
10:40 3 who has been playing continuously, or has continuous ratings up
10:40 4 to the 18-hour mark, may not ever be interacted with; is that
10:40 5 correct; isn't it?
10:40 6
10:40 7 A. If I may elucidate somewhat Mr Finanzio, where it says
10:40 8 "where possible", it may also mean that the member has actually
10:40 9 left the location and is unable to be located, as an example, to be
10:41 10 contemplated.
10:41 11
10:41 12 Q. Sure. But it also means, doesn't it, that it might not be
10:41 13 possible for the RGA to attend because the RGA might be busy
10:41 14 doing something else?
10:41 15
10:41 16 A. In which case the policy refers to that the RGA ---
10:41 17
10:41 18 Q. Can you answer my question? Is the answer to my ---
10:41 19 (overspeaking) ---
10:41 20
10:41 21 A. --- attend. Yes, it's a possibility.
10:41 22
10:41 23 Q. This policy contemplates that no one might attend if they
10:41 24 were busy doing something else?
10:41 25
10:41 26 A. That's the conclusion that can be drawn, yes, Mr Finanzio.
10:41 27
10:41 28 Q. Is there any other conclusion?
10:41 29
10:41 30 A. I only hold that in my experience that I, and I would need to
10:41 31 reflect on my reading of reports, et cetera, that the main reason
10:41 32 that I observe that a person may not be attended to at 18 hours is
10:42 33 because they've already left.
10:42 34
10:42 35 Q. I'm asking you about the words of the policy, not about
10:42 36 your experience.
10:42 37
10:42 38 A. Yes. Right.
10:42 39
10:42 40 Q. And the words of the policy contemplate, don't they, that
10:42 41 a person may not be attended for any number of reasons,
10:42 42 including that the RGA or the staff member might be busy doing
10:42 43 something else; is that right?
10:42 44
10:42 45 A. Yes.
10:42 46
10:42 47 Q. In relation to carded players, we have the benefit of the play

10:42 1 periods technology, don't we, because once a play puts their card
10:42 2 in, the system is tracking them?
10:42 3
10:42 4 A. Yes, that's right.
10:42 5
10:42 6 Q. That provides --- when the relevant period is reached, there
10:42 7 is that Splunk message that we talked about. Just to be clear
10:43 8 about it, the message will denote the player, who the player is?
10:43 9
10:43 10 A. Yes.
10:43 11
10:43 12 Q. Where they are on the gaming floor?
10:43 13
10:43 14 A. Yes.
10:43 15
10:43 16 Q. How long they have been playing for when the Splunk alert
10:43 17 comes, so it might be 12, 15 or 17 hours?
10:43 18
10:43 19 A. Yes. It will be divided into time on site and time spent
10:43 20 playing.
10:43 21
10:43 22 Q. Right. It won't necessarily have a photo?
10:43 23
10:43 24 A. No.
10:43 25
10:43 26 Q. The Commissioner issued a Notice to Produce, which was
10:44 27 Notice to Produce 45, where the Commission asked for a copy of
10:44 28 the register, which in summary turned out to be a difficult request
10:44 29 to comply with because the register comprises a collection of
10:44 30 data; doesn't it?
10:44 31
10:44 32 A. Yes, it does.
10:44 33
10:44 34 Q. So it's not like the register is a book that can be handed over
10:44 35 to be looked at; correct?
10:44 36
10:44 37 A. Yes, correct. Sorry to interrupt. Yes, it is, Mr Finanzio.
10:44 38
10:44 39 Q. It generates reports, doesn't it?
10:44 40
10:44 41 A. Yes, it generates daily operational reports at the very
10:44 42 minimum.
10:44 43
10:44 44 Q. And so --- but it also generates reports across different
10:44 45 selected items; doesn't it? (Inaudible).
10:44 46
10:44 47 A. My understanding is that those reports need to be requested

10:45 1 as opposed to what is the daily operations report, which is
10:45 2 an automated report.

10:45 3

10:45 4 Q. Yes, and the Commission in response invited Crown to
10:45 5 produce reports from the database rather than for the whole
10:45 6 period, because there might be thousands of entries, for different
10:45 7 types of reports; were you aware of that?

10:45 8

10:45 9 A. I was aware of the notices to produce, I was aware that it
10:45 10 was a Notice to Produce the entire register, which to your point
10:45 11 may have caused some difficulty. And I was subsequently aware
10:45 12 that there was a request to produce certain time periods. If I
10:45 13 recollect correctly, that's my recollection.

10:45 14

10:46 15 Q. Okay. So one of the things that were asked for were reports
10:46 16 from the Responsible Gaming register that record all information
10:46 17 relevant to the provision ---

10:46 18

10:46 19 A. I'm sorry, I lost you there, Mr Finanzio.

10:46 20

10:46 21 Q. Yes, I'm getting a bit of feedback too. I'm not sure what
10:46 22 that is. It may be from the Commission.

10:46 23

10:46 24 COMMISSIONER: Hold on a second. I'm not sure what it may
10:46 25 be.

10:46 26

10:46 27 It is a distinct possibility, which might be a recurrent possibility,
10:46 28 is there was a car noise in the background which was causing the
10:46 29 problem. Being located in the city, I suppose with the lockdown
10:46 30 it won't matter that much, but it doesn't auger well! You will
10:47 31 have to ask the question again, Mr Finanzio, but before you do
10:47 32 that, I think I will force you to tender as an exhibit the document
10:47 33 we were looking at earlier.

10:47 34

10:47 35 MR FINANZIO: Sorry.

10:47 36

10:47 37 COMMISSIONER: The Responsible Gaming Department Policy
10:47 38 and Procedures for Play Periods, issued August 2015, is Exhibit
10:47 39 116.

10:47 40

41

42 **EXHIBIT #RC0116 - RESPONSIBLE GAMING**
43 **DEPARTMENT POLICY AND PROCEDURES FOR PLAY**
44 **PERIODS ISSUED AUGUST 2015**

45

46

10:47 47 MR FINANZIO: Thank you.

10:47 1
10:47 2 COMMISSIONER: While I'm interrupting everybody, this is for
10:47 3 Mr Borsky, I understand that at least those instructing you were
10:47 4 supplied with transcripts of the employees' evidence a couple of
10:47 5 days ago, that is on 31 May. There is probably so many
10:47 6 documents that they wouldn't have got to you yet.
10:47 7
10:47 8 MR BORSKY: Thank you.
10:47 9
10:47 10 COMMISSIONER: But if that is wrong and something has gone
10:48 11 wrong in the delivery process, if you could find that out and let
10:48 12 my solicitors know, we can fix it. They understand it has been
10:48 13 passed on.
10:48 14
10:48 15 MR BORSKY: I'm grateful for that and I will certainly check at
10:48 16 our end too, but I'm sure that is not correct, and we will come
10:48 17 back to you immediately if it is incorrect.
10:48 18
10:48 19 COMMISSIONER: Thank you. Sorry, Mr Finanzio.
10:48 20
10:48 21 MR FINANZIO: So, a number of reports that were requested,
10:48 22 but the reports I'm interested in is reports that were described this
10:48 23 way, reports from the Responsible Gambling register that record
10:48 24 all information relevant to the provision of the following services,
10:48 25 observable play, play periods, play period breaks, and welfare, so
10:48 26 they were the four categories. And it was across date ranges
10:49 27 April/May 2019, November/December 2019, April to May 2021
10:49 28 and February to March 2021. I think they were the date ranges
10:49 29 that were requested; were you aware?
10:49 30
10:49 31 A. I recall seeing some communication around the request. I
10:49 32 couldn't be certain as to the date ranges.
10:49 33
10:49 34 Q. Yes. The dates were selected --- I want to take you to some
10:49 35 extracts from the reports that we received. I wonder if you could
10:49 36 be shown what is headed Table B. COM.0014.001.0013. Now
10:49 37 this document should be redacted to remove persons' names and
10:50 38 identity details. So I'm asking the operator to make sure that that
10:50 39 is so. You don't happen to have a hard copy of that in front of
10:50 40 you; do you?
10:50 41
10:50 42 A. No, I don't, Mr Finanzio, no. I'm pleased that it is redacted.
10:50 43 Obviously it is highly confidential for our customers.
10:50 44
10:50 45 Q. Sure. Is that being shown yet?
10:50 46
10:50 47 A. Not yet.

10:50 1
10:50 2 MR FINANZIO: I'm not sure what number it is in a tender
10:50 3 bundle, Commissioner.
10:51 4
10:51 5 COMMISSIONER: I will check that from the index. It is 226 in
10:51 6 my bundle.
10:51 7
10:51 8 MR FINANZIO: Thank you.
10:51 9
10:51 10 MR BORSKY: Commissioner, while we wait for that to come
10:51 11 up, may I through you reiterate an offer made from those
10:51 12 instructing me to Solicitors Assisting, and that is we didn't want
10:51 13 to take the liberty of doing this without the blessing of the
10:51 14 Commission for obvious reasons, but we can make available
10:51 15 resources to have printed in hard copy certain documents for
10:51 16 Ms Bauer and brought to her. If that would assist, particularly
10:51 17 with confidential documents. We have the facility at Crown to
10:51 18 assist Ms Bauer with that, but for propriety reasons she's been
10:51 19 directed only to bring in a copy of her statement in clean form and
10:51 20 nothing else to this point.
10:51 21
10:51 22 MR FINANZIO: Can I indicate to Mr Borsky, thank you very
10:52 23 much for that indication, that is very helpful. It might be useful,
10:52 24 now that I see the redacted version up on the screen, that
10:52 25 Ms Bauer actually be provided with a hard copy of these printouts
10:52 26 before I commence this part of the cross-examination.
10:52 27
10:52 28 MR BORSKY: We're not far from a break. It is a matter for my
10:52 29 learned friend, of course, but if he or those instructing him send
10:52 30 to me or those instructing me the documents he wants in hard
10:52 31 copy for the next session, we'll ensure that they are printed for
10:52 32 Ms Bauer.
10:52 33
10:52 34 MR FINANZIO: I'm indebted to Mr Borsky. I can do a few
10:52 35 questions by way of preparation.
10:52 36
10:52 37 COMMISSIONER: Do that, and we'll break a bit earlier, and
10:52 38 then if there is some communication, and we can get hard copies.
10:52 39 I've got the blocked-out version on the screen, you can't see very
10:53 40 much because of all the redactions, which is fair enough for
10:53 41 privacy purposes, but it might make it difficult to ask questions
10:53 42 about it.
10:53 43
10:53 44 MR FINANZIO: The most important parts are the unredacted
10:53 45 bits, Commissioner, but it will make it easier for context for the
10:53 46 witness to have.
10:53 47

10:53 1 COMMISSIONER: Well, why don't you go as far as you can
10:53 2 before you have to go to the document with any precision, and
10:53 3 then we will have a break.
10:53 4

10:53 5 MR FINANZIO: So this document is broken into two date
10:53 6 ranges off the list of date ranges I gave you before. This is a set
10:53 7 of entries from 1 to 136 which cover 1 April to 1 May 2019. So
10:53 8 before ---
10:53 9

10:53 10 A. Sorry to interrupt, Mr Finanzio, I can see 6 April 2019 at
10:53 11 0603 hours.
10:53 12

10:53 13 Q. Can you see at the top of the page, top left corner, entry
10:54 14 number 1? Can you see that?
10:54 15

10:54 16 COMMISSIONER: This starts at entry number 24. Now we've
10:54 17 got it.
10:54 18

10:54 19 A. Now we've got it.
10:54 20

10:54 21 MR FINANZIO: Yes, that is the page. Thank you. Can you see
10:54 22 entry number 1?
10:54 23

10:54 24 A. Yes, I can.
10:54 25

10:54 26 Q. That is 1 April 2019?
10:54 27

10:54 28 A. Yes.
10:54 29

10:54 30 Q. Operator, you don't need to do this, but that runs through to
10:54 31 entry 136 for that month and then there is a second group that run
10:54 32 from 5 April 2021 to I think 1 May 2021. So they are in two
10:54 33 categories. I just want to ask you something about the way that
10:54 34 the document is laid out. Can you see there is the date across the
10:54 35 top? The time, the patron ID number, so that would be specific to
10:55 36 the patron; correct?
10:55 37

10:55 38 A. So the person ID number is the person ID number in the
10:55 39 register.
10:55 40

10:55 41 Q. Right. And who would that be?
10:55 42

10:55 43 A. That is the identification assigned to the person within the
10:55 44 register, so it is a universal register code, if you will.
10:55 45

10:55 46 Q. Yes, but who ---
10:55 47

- 10:55 1 A. For example, Mr Finanzio, if we had an interaction with
10:55 2 you and we were to put that interaction into our register, you
10:55 3 would be assigned a person ID so that for future ---
10:55 4
- 10:55 5 Q. For the register?
10:55 6
- 10:55 7 A. --- entries, we would then assign those entries to you.
10:55 8
- 10:55 9 Q. So you can track the person in the register by reference to
10:55 10 that number?
10:55 11
- 10:55 12 A. Yes, that's right.
10:55 13
- 10:55 14 Q. It's not necessarily their patron number or their loyalty
10:56 15 number?
10:56 16
- 10:56 17 A. So in the next column where it says "SYCO No.", that is
10:56 18 old terminology for the loyalty program number.
10:56 19
- 10:56 20 Q. Thank you. And then you will have the given name and
10:56 21 surname of the person, their gender and their date of birth and
10:56 22 then you will have the comments that the RGA puts up on to the
10:56 23 register when there is an interaction?
10:56 24
- 10:56 25 A. That's right.
10:56 26
- 10:56 27 Q. You can tell in the right-hand column, "Created By" and
10:56 28 that is the employee code of the relevant person?
10:56 29
- 10:56 30 A. Yes, that is the employee initial and their staff
10:56 31 identification. I want to make sure that that is not --- I don't think
10:56 32 it is breaching any kind of privacy elements. We all display our
10:57 33 licenses. I wanted to bring that fact to the attention. Then it says
10:57 34 "Referred By" and down the list, "Responsible Gaming".
10:57 35
- 10:57 36 A. Yes.
10:57 37
- 10:57 38 Q. It says "Responsible gaming" there, but then in the 2021 set
10:57 39 of data, it says "referred by Splunk". In 2019, was the play
10:57 40 system or software operational?
10:57 41
- 10:57 42 A. Yes, it was.
10:57 43
- 10:57 44 Q. So I shouldn't draw any inferences about the difference in
10:57 45 technology, just a change in the registration?
10:57 46
- 10:57 47 A. It is a change and I believe we have provided the

10:57 1 Commission with the updates to the changes of how things have
10:58 2 been imported into the register.
10:58 3
10:58 4 Q. Yes.
10:58 5
10:58 6 A. If I may draw your attention, I note in the registration
10:58 7 comments that there are actually details of other staff members
10:58 8 that are mentioned. I'm not sure if that is something that ought to
10:58 9 be redacted.
10:58 10
10:58 11 Q. Yes, I'm not sure --
10:58 12
10:58 13 COMMISSIONER: There are a few names there.
10:58 14
10:58 15 MR FINANZIO: Okay. It might be now is an appropriate time
10:58 16 to take a break.
10:58 17
10:58 18 COMMISSIONER: Yes, we'll take that down off the screen. It
10:58 19 may be we have to have a look to see whether further redactions
10:58 20 will need to be made to remove names and other personal
10:59 21 identification features. If that is going to prove a lengthy task, we
10:59 22 might have the questions continue but without publishing the
10:59 23 register, and we might have to publish it later on in fully redacted
10:59 24 form.
10:59 25
10:59 26 MR FINANZIO: Yes.
10:59 27
10:59 28 COMMISSIONER: Mr Borsky?
10:59 29
10:59 30 MR FINANZIO: That would be perfectly fine, Commissioner.
10:59 31
10:59 32 COMMISSIONER: Mr Borsky, you want to say something?
10:59 33
10:59 34 MR BORSKY: Just to suggest that to assist and make this line of
10:59 35 questioning able to proceed expeditiously today, it could perhaps
10:59 36 be done just with hard copies. So the witness having a hard copy,
10:59 37 you, Commissioner and Counsel Assisting have a hard copy and
10:59 38 with nothing displayed on the screen for now and the
10:59 39 confidentiality could be sorted out later just so as not to derail my
11:00 40 learned friend's examination and delay the witness.
11:00 41
11:00 42 COMMISSIONER: I agree that may be the best way to proceed.
11:00 43 Can I let the two of you or somebody on your respective behalves
11:00 44 communicate --
11:00 45
11:00 46 MR BORSKY: Yes, Mr Finanzio and I will have a conversation
11:00 47 immediately after you rise.

11:00 1
11:00 2 COMMISSIONER: --- about what needs to be copied and put
11:00 3 into hard form in front of Ms Bauer.
11:00 4
11:00 5 MR BORSKY: Ms Bauer does have, as she indicated yesterday
11:00 6 in another room, a full hard copy set of the exhibits to her
11:00 7 statement. So it may be a good idea for that to be brought in as
11:00 8 well.
11:00 9
11:00 10 COMMISSIONER: I think that is probably not a bad idea at all.
11:00 11
11:00 12 MR FINANZIO: (Nods head).
11:00 13
11:00 14 COMMISSIONER: I should indicate that the document which
11:00 15 has just been on, that part of the register which has been on the
11:00 16 screen has not been livestreamed. So at this point there is no
11:01 17 issue about keeping it confidential. I think that is because we
11:01 18 have a time gap or something like that. Whatever is the technical
11:01 19 reason, it's not made public. I don't care what the technical
11:01 20 reason is.
11:01 21
11:01 22 MR BORSKY: Thank you. I can confirm, as you indicated,
11:01 23 Commissioner, that those instructing me did receive the transcript
11:01 24 a couple of days ago and I have it now. So thank you and sorry
11:01 25 for that.
11:01 26
11:01 27 COMMISSIONER: That's okay. We'll adjourn ---
11:01 28
11:01 29 MR FINANZIO: Oh, no, no, no!
11:01 30
11:01 31 COMMISSIONER: All right, what do you want to do?
11:01 32
11:01 33 MR FINANZIO: I have a couple more questions and the
11:01 34 Commission said we might run to 11.15. I think I can do these
11:01 35 questions before we rise, Commissioner.
11:01 36
11:01 37 COMMISSIONER: All right.
11:01 38
11:01 39 MR FINANZIO: I just wanted to clarify a couple of things. The
11:01 40 Play Periods Policy that I took you to before was the Play Periods
11:01 41 Policy approved by Mr Overman, which is version 1.7?
11:02 42
11:02 43 A. I don't have it in front of me but I take your point.
11:02 44
11:02 45 Q. And that came into effect in December 2020?
11:02 46
11:02 47 A. That's right.

11:02 1
11:02 2 Q. There have been a few different versions of the Play
11:02 3 Periods Policy over the course of the last 1.5 years or so; haven't
11:02 4 there?
11:02 5
11:02 6 A. Yes, there have.
11:02 7
11:02 8 Q. Just to be clear about the table, as at 1 April 2019, the Play
11:02 9 Period Policy that was then enforced was version 1.3, which had
11:02 10 slightly different hours; didn't it?
11:02 11
11:02 12 A. I can't acknowledge which version it was, Mr Finanzio.
11:03 13 However, I do know that in April 2019 the hours were different,
11:03 14 yes.
11:03 15
11:03 16 Q. So it was version --- you might check this, I would be
11:03 17 happy for you to check it in the break, it was version 1.2 --- it was
11:03 18 version 1.3 and instead of the current hours of 12, 15 and 17, it
11:03 19 was 12, 16 and 20. Does that sound right to you?
11:03 20
11:03 21 A. Mr Finanzio, without having it in front of you, I don't
11:03 22 actually have a pen. I wasn't instructed to be able to bring in
11:03 23 a pen to note down your versions. If I may obtain a pen to write
11:03 24 that down and then seek the policy in the break, I would be happy
11:03 25 to.
11:03 26
11:03 27 MR FINANZIO: I give up, Commissioner, trying to do these
11:03 28 things before the break. We will deal with them comprehensively
11:03 29 after the break.
11:03 30
11:03 31 COMMISSIONER: All right. I will adjourn. Will one or both
11:04 32 of you, Mr Finanzio or Mr Borsky, let me know when the
11:04 33 photocopying is done? I assume there is no point in coming back
11:04 34 until that is done and Ms Bauer has the relevant parts of the
11:04 35 register in front of her and whatever other documents
11:04 36 Mr Finanzio suggests should be copied so that Ms Bauer can
11:04 37 have hard copies of them as well. I don't know whether there are
11:04 38 others, best to sort it out now.
11:04 39
11:04 40 MR FINANZIO: Thank you.
11:04 41
11:04 42 COMMISSIONER: Thanks very much. I will adjourn.
11:04 43
11:04 44
11:04 45 **ADJOURNED** **[11:04A.M.]**
11:04 46
11:04 47

11:34 1 **RESUMED** **[11:34A.M.]**
11:35 2
11:35 3
11:35 4 **COMMISSIONER:** Mr Borsky, we'll wait for Mr Bauer to come
11:35 5 on screen.
11:35 6
11:35 7 A. Sorry, I hadn't pushed the button.
11:35 8
11:35 9 **COMMISSIONER:** That's all right.
11:35 10
11:35 11 **MR BORSKY:** Commissioner, with your leave, may I enquire
11:35 12 with Ms Bauer as to the documents she has with you.
11:35 13
11:35 14 A. Thank you, Mr Borsky, I have CRW.510.052.5936, and
11:35 15 then I have documents COM.0014.0001.0001, and the same
11:35 16 advance with 11 and then the same advance with 26 at the end.
11:35 17
11:35 18 **MR BORSKY:** Do you also have a set of the exhibits to your
11:35 19 statement with you, Ms Bauer?
11:35 20
11:35 21 A. I do have it. It is just out of reach here, so if I need to refer
11:36 22 to those, I have them handy, thank you.
11:36 23
11:36 24 **COMMISSIONER:** Thanks very much. What we will do, it is
11:36 25 11.40. We will see if we can go through to about 12.45, 1.00-ish
11:36 26 and, Ms Bauer, if you are okay until 12.45, if I won't interfere so
11:36 27 much then we can do it quite smoothly, I hope.
11:36 28
11:36 29 A. Certainly, Mr Commissioner, thank you.
11:36 30
11:36 31 **COMMISSIONER:** Okay.
11:36 32
11:36 33 **MR FINANZIO:** Ms Bauer and Commissioner, operator, can
11:36 34 you bring up CRW.510.052.5936. I'm not sure if it is in the
11:37 35 tender bundle. It is sufficient to look at the screen. I will be brief
11:37 36 with it. Do you have that document in front of you?
11:37 37
11:37 38 A. Yes, I do.
11:37 39
11:37 40 **COMMISSIONER:** It's not on the screen yet.
11:37 41
11:37 42 **MR FINANZIO:** Okay. I will wait.
11:37 43
11:37 44 A. I apologise, I have it in front of me physically.
11:37 45
11:37 46 **COMMISSIONER:** It's just that I don't have it, Ms Bauer. I will
11:37 47 wait for it to come up. Do I need the documents to follow the

- 11:37 1 questions?
- 11:37 2
- 11:37 3 MR FINANZIO: I don't think so, Commissioner. Take a note of
- 11:37 4 things. That document is dated December 2018.
- 11:37 5
- 11:37 6 A. Yes, that's right.
- 11:37 7
- 11:37 8 Q. It was approved by you?
- 11:37 9
- 11:37 10 A. Yes, it was.
- 11:37 11
- 11:37 12 Q. It was the relevant Play Period Policy as at 1 April 2019?
- 11:38 13
- 11:38 14 A. I understand that the next revision may not have been after
- 11:38 15 that, yes.
- 11:38 16
- 11:38 17 Q. Not until after 1 April 2019?
- 11:38 18
- 11:38 19 A. I understand that to be the case, yes.
- 11:38 20
- 11:38 21 Q. There are two relevant differences. If you go to paragraph
- 11:38 22 3 of the procedures it sets out that the hours are different, 12, 16
- 11:38 23 and 20 as compared with 12, 15 and 17; correct?
- 11:38 24
- 11:38 25 A. Yes.
- 11:38 26
- 11:38 27 Q. The significance of that is that the Splunk reporting would
- 11:38 28 have been at that time, as at 1 April, in accordance with those
- 11:38 29 times, 12, 16 and 20 hours; correct?
- 11:38 30
- 11:38 31 A. That's right.
- 11:38 32
- 11:38 33 Q. The other difference is that at 3 it said at that time:
- 11:38 34
- 11:39 35 *The gaming staff, or the RGLO*
- 11:39 36
- 11:39 37 Which was the then equivalent of the RGA; correct?
- 11:39 38
- 11:39 39 A. That's right.
- 11:39 40
- 11:39 41 Q.
- 11:39 42
- 11:39 43 will interact with customers at those times.
- 11:39 44
- 11:39 45 A. That's what it says, yes.
- 11:39 46
- 11:39 47 Q. As opposed to "will interact or observe at those times";

11:39 1 correct?

11:39 2

11:39 3 A. That's right.

11:39 4

11:39 5 Q. The "or observe" came in later?

11:39 6

11:39 7 A. That's right.

11:39 8

11:39 9 Q. Then paragraph 4 says:

11:39 10

11:39 11 *If a customer is displaying any observable signs during*

11:39 12 *the conversation request the customer to take a break*

11:39 13 *and offer all RCSG services.*

11:39 14

11:40 15 That is consistent with the current policy, which is at the point of

11:40 16 interaction or observation under the current policy, you have to

11:40 17 see another detectible observable sign beyond just length of play?

11:40 18

11:40 19 A. Yes.

11:40 20

11:40 21 COMMISSIONER: I will mark that as Exhibit 117. That will be

11:40 22 the Responsible Gaming Department Play Periods Policy issued

11:40 23 August 2015 --

11:40 24

11:40 25 MR FINANZIO: Sorry ---

11:40 26

11:40 27 COMMISSIONER: --- and for completeness, version 1.3. I have

11:40 28 it as tab 234.

29

30

31 **EXHIBIT #RC0117 - RESPONSIBLE GAMING**

32 **DEPARTMENT PLAY PERIODS POLICY (VERSION 1.3)**

33 **ISSUED AUGUST 2015**

34

35

11:40 36 MR FINANZIO: Thank you. Could we go to one of the tables

11:40 37 that was prepared that ends in the numbers 0011.

11:40 38

11:40 39 A. Yes, I will go to that. Thank you.

11:41 40

11:41 41 Q. I want to go in that document so that we have the same

11:41 42 understanding about the codes and things in the document. We

11:41 43 walked through before the break the different columns. I now

11:41 44 want to go to the registration comments column.

11:41 45

11:41 46 A. Yes.

11:41 47

11:41 1 Q. Let's go to entry number 1, just for a little test. "PP"
11:41 2 indicates "play period"; doesn't it?
11:41 3
11:41 4 A. Yes, it does.
11:41 5
11:41 6 Q. And PP16 indicates the trigger point for what the play
11:41 7 period talks about as the interaction; correct? The 16 ---
11:41 8
11:41 9 A. 16 hours. I apologise, I talked over you, Mr Finanzio. Yes,
11:42 10 16 hours.
11:42 11
11:42 12 Q. I don't know why the document has come up in all its glory
11:42 13 on the screen.
11:42 14
11:42 15 COMMISSIONER: I think that is not public; is that right? It's
11:42 16 not public. It is not being live broadcast.
11:42 17
11:42 18 MR FINANZIO: Okay, I wanted to be doubly sure of that. The
11:42 19 letters "VIP" stand for themselves, that is a VIP area; isn't it?
11:42 20
11:42 21 A. Yes, it does.
11:42 22
11:42 23 Q. If I see other designations, casting my eye down the list,
11:42 24 "PRE" is premium rooms?
11:42 25
11:42 26 A. Yes, that's right.
11:42 27
11:42 28 Q. "MGF", main gaming floor?
11:42 29
11:42 30 A. Yes, that's right.
11:42 31
11:42 32 Q. That tells you, that tells the register the timing of the trigger
11:42 33 point and the location of it?
11:43 34
11:43 35 A. Yes, that's right.
11:43 36
11:43 37 Q. Then there is a description of the action registered in the
11:43 38 register for each of these; correct?
11:43 39
11:43 40 A. In the registration comments, yes.
11:43 41
11:43 42 Q. And they are the registration comments that would be put in
11:43 43 there by the RGA?
11:43 44
11:43 45 A. That's correct, yes.
11:43 46
11:43 47 Q. Let's just go to the first one. That is PP16VIP. What that

11:43 1 means is we've reached 16 hours in the VIP room at the tables,
11:43 2 and a staff member with the designation AM ---
11:43 3
11:43 4 A. Yes.
11:43 5
11:43 6 Q. What might that mean?
11:43 7
11:43 8 A. It stands for "area manager", Mr Finanzio.
11:43 9
11:43 10 Q. Area manager "informed", and then there are the initials of
11:43 11 the client, or the customer, can you see that?
11:43 12
11:44 13 A. Yes, I can.
11:44 14
11:44 15 Q. "Has played for 18hrs and requires reminder to take break";
11:44 16 you see that?
11:44 17
11:44 18 A. Yes, I do.
11:44 19
11:44 20 Q. To unpack that a little bit, the Splunk alert would have been
11:44 21 sent electronically to the RGA at the 16-hour mark; correct?
11:44 22
11:44 23 A. That's right.
11:44 24
11:44 25 Q. But when the RGA informs the area manager of the need
11:44 26 for a reminder, it is at 18 hours. There has been a delay, hasn't
11:44 27 there, between the Splunk alert and the giving of the reminder?
11:44 28
11:44 29 A. That appears to be so, yes.
11:44 30
11:44 31 Q. There would be no record in here of the area manager
11:45 32 actually delivering the reminder, correct?
11:45 33
11:45 34 A. As I see it in front of me, no, however I don't see any ---
11:45 35 I can see subsequent entries but I don't see any closure.
11:45 36 However, it is a statement that they have been informed to
11:45 37 conduct a reminder.
11:45 38
11:45 39 Q. What has happened is the RGA has said to the area
11:45 40 manager that "You have to go and remind player X that they have
11:45 41 been playing for longer than 16 hours"; correct?
11:45 42
11:45 43 A. Yes.
11:45 44
11:45 45 Q. At the time this one is given, they have been playing for 18
11:45 46 hours because two hours has elapsed since the PP alert has been
11:45 47 given; correct?

11:45 1
11:45 2 A. It appears to be so, yes.
11:45 3
11:45 4 Q. And there is no recording of the alert actually being given,
11:45 5 no confirmation from the area manager that the alert was given?
11:46 6
11:46 7 A. Not from what I can see in front of me, no.
11:46 8
11:46 9 Q. Would you expect to see that in the register?
11:46 10
11:46 11 A. Typically I would expect to see it in the register.
11:46 12
11:46 13 Q. Who would record that?
11:46 14
11:46 15 A. The RGA would record that.
11:46 16
11:46 17 Q. So how would the RGA know that the alert was given, that
11:46 18 the reminder to take a break was given?
11:46 19
11:46 20 A. The area manager in question would have confirmed with
11:46 21 the RGA that the reminder had been given by way of a number of
11:46 22 communication methods, including a telephone call or perhaps
11:46 23 a text message.
11:46 24
11:46 25 Q. Right, and if the RGA had received that, it would be for the
11:46 26 RGA to register in the register that the reminder had been given?
11:46 27
11:46 28 A. Yes, it should be, yes.
11:46 29
11:47 30 Q. These are --- let's go now to line number 8.
11:47 31
11:47 32 A. Yes, I have it.
11:47 33
11:47 34 Q. Line number 8 is a PP12MGF. That is play period 12 hours
11:47 35 in the main gaming floor; correct?
11:47 36
11:47 37 A. Yes, it is.
11:47 38
11:47 39 Q. It is for machines?
11:47 40
11:47 41 A. Yes, it does, the play machines.
11:47 42
11:47 43 Q. It says 18 hours?
11:47 44
11:47 45 A. Yes, it does.
11:47 46
11:47 47 Q. It says:

11:47 1
11:47 2 GM was advised and will remind patron to take breaks.
11:47 3
11:47 4 A. Yes, it does.
11:47 5
11:47 6 Q. Can I just ask you this: if I stay at 8, the PP12 entry, the
11:48 7 PP12 Splunk was reporting the player having played for 18 hours.
11:48 8 Can I suggest to you that that could indicate that the PP12 Splunk
11:48 9 was not addressed not only during the period between 12 and 16
11:48 10 hours' play but not at 16 hours' play either?
11:48 11
11:48 12 A. The register entry seems to indicate that, yes.
11:48 13
11:48 14 Q. Yes. So it does work like a complaints --- it does work like
11:48 15 a ticketing system, doesn't it; the PP12 Splunk goes up, and when
11:48 16 the action is taken, that action will stay up for the RGA until the
11:48 17 RGA actions it, won't it?
11:49 18
11:49 19 A. My understanding is so. However, from the time period
11:49 20 mentioned here I hesitate to be absolutely confirming of that. But
11:49 21 it appears to be the case.
11:49 22
11:49 23 Q. It appears to be the case that the person didn't get, here in
11:49 24 2019, operating under the policy 1.3, this says that the gaming
11:49 25 staff or the RGLO will interact at 12, 16 and 20 hours and what
11:49 26 this seems to reveal is that there was no interaction at 12 or 16
11:49 27 hours?
11:49 28
11:49 29 A. It appears to be the case without seeing any other entries,
11:49 30 yes.
11:49 31
11:50 32 Q. All right. Let me take you to line 11.
11:50 33
11:50 34 A. Yes, I have it.
11:50 35
11:50 36 Q. Line 11 has an entry "PP12MGF" played for 15 hrs, so that
11:50 37 is one hour before the PP16 would be delivered; right?
11:50 38
11:50 39 A. That's right.
11:50 40
11:50 41 Q. "TGACM [that's the position] was notified and will remind
11:50 42 patron to take break." That's right?
11:50 43
11:51 44 A. Yes.
11:51 45
11:51 46 Q. Then the call is the person has left the table.
11:51 47

11:51 1 A. Yes, that's right.
11:51 2
11:51 3 Q. But the position here is similar to the one that I described
11:51 4 before, that the PP Splunk alert gets made at 12 hours, but there
11:51 5 might be --- and take my word for it, we don't want to take days
11:51 6 and days of time taking it all through one --- indicates that the alert
11:51 7 for the reminder might not be delivered from the RGA to some
11:51 8 other staff member until some time after the PP alert has been
11:51 9 received by the RGA.
11:51 10
11:51 11 A. From what is before me, that appears to be the case, yes,
11:51 12 Mr Finanzio.
11:51 13
11:51 14 Q. You've no reason to think that that couldn't happen; that
11:52 15 could be possible, couldn't it? Based on your understanding of
11:52 16 the systems that operate at Crown?
11:52 17
11:52 18 A. It could be possible, and without appearing to be
11:52 19 contentious, I do think that in the periods that we were clarifying,
11:52 20 updating and solidifying the Splunk alert system, I can't be
11:52 21 100 per cent sure that there may not have been something in the
11:52 22 system. I don't want that to be the answer, but it could be
11:52 23 a possibility, but I agree with you that in this instance, according
11:52 24 to this record, there is a time period difference.
11:52 25
11:52 26 Q. Before we had the Splunk system we were just relying on
11:52 27 observation; weren't we?
11:52 28
11:52 29 A. Before we had the Splunk system we had another system
11:52 30 which relied on a different style of reporting.
11:52 31
11:52 32 Q. But it won't as precision-like as the 16-hour alerts and
11:53 33 12-hour alerts; was it?
11:53 34
11:53 35 A. In our minds, no.
11:53 36
11:53 37 Q. Let me take you --- is it right that we can make some short
11:53 38 points about the system. The first one is that the PP system that
11:53 39 was in place at that time gave a PP alert at 12, 16 and 20 hours?
11:53 40
11:53 41 A. Yes, that's right.
11:53 42
11:53 43 Q. That was consistent with the Play Policy that was in place
11:53 44 at that time?
11:53 45
11:53 46 A. Yes.
11:53 47

11:53 1 Q. The RGA would try to give a reminder or delegate the
11:53 2 giving of the reminder to a relevant staff member in the area as
11:54 3 quickly as they could after receiving it?
11:54 4
11:54 5 A. Yes.
11:54 6
11:54 7 Q. But sometimes it could take some hours before they did so?
11:54 8
11:54 9 A. According to the entries here, it appears to be the case, yes.
11:54 10
11:54 11 Q. And often they might get in just before the next alert
11:54 12 occurs. So we've seen some examples of that, an alert at 15 hours
11:54 13 just before the 16-hour alert?
11:54 14
11:54 15 A. I can't comment on whether they would try and get it in
11:54 16 before the next alert. I can only see what I have in front of me as
11:54 17 recorded.
11:54 18
11:54 19 Q. I don't mean to be contentious, what I'm suggesting is that
11:54 20 what I'm suggesting is the delay given to staff might be for a few
11:55 21 hours?
11:55 22
11:55 23 A. Yes, it appears to be the case.
11:55 24
11:55 25 Q. And when the alerts are finally given, sometimes those
11:55 26 alerts are given close to, as a matter of fact, close to the time for
11:55 27 the next alert?
11:55 28
11:55 29 A. Yes, that's correct.
11:55 30
11:55 31 Q. If the RGA got an alert but wasn't, for whatever reason,
11:55 32 able to action it at all, that wouldn't show up in this register;
11:55 33 would it?
11:55 34
11:55 35 A. Not in the register, no, because the register requires the
11:55 36 entry.
11:55 37
11:55 38 Q. Do you keep track of unactioned Splunk alerts?
11:55 39
11:55 40 A. We have been attempting to find a way to appropriately do
11:56 41 this. I understand that there may be some system features that
11:56 42 make it more difficult. So currently, we do not match, no.
11:56 43
11:56 44 Q. Okay. Let's go in that table to line 9. That's a person who
11:56 45 had a PP16 alert in the VIP area on machines; do you see that?
11:56 46 Line 9.
11:56 47

11:56 1 COMMISSIONER: I think the picture is frozen.
11:56 2
11:57 3 MR FINANZIO: Oh. We've lost you, Ms Bauer.
11:57 4
11:57 5 COMMISSIONER: Is there anything we can do at this end? If
11:57 6 I was being unkind, I'd blame Mr Borsky!
11:57 7
11:57 8 MR FINANZIO: I think you probably have to stand it down and
11:57 9 see if the witness can drop out and --- I don't mind if Mr Borsky
11:57 10 wants to make a contact. Is Mr Borsky there?
11:57 11
11:57 12 MR BORSKY: Yes, I am. Not to try to dissuade the
11:57 13 Commissioner from his instincts, but may I suggest that we just
11:57 14 give it a moment. No doubt Ms Bauer is trying to reconnect.
11:57 15
11:57 16 MR FINANZIO: I think the strategy of turn it off and on again
11:57 17 should be trialled before we do anything.
11:57 18
11:57 19 COMMISSIONER: It is working.
11:58 20
11:58 21 MR FINANZIO: I've lost everybody now.
11:58 22
11:58 23 COMMISSIONER: Ms Bauer, you are on mute. If you unmute
11:58 24 then we might be back on air again.
11:58 25
11:58 26 WITNESS: Can you hear me, Mr Commissioner? My apologies,
11:58 27 I'm not sure what happened there, it just went blank. I apologise.
11:58 28
11:58 29 MR FINANZIO: That's okay. I think I was asking you about
11:58 30 line entry number 9.
11:58 31
11:58 32 A. Yes.
11:58 33
11:58 34 Q. Line entry number 9 is a PP16 entry for machines. It says
11:58 35 that the staff member with the initials VO, I'm taking that to be
11:58 36 the title of a job ---
11:59 37
11:59 38 A. That's an contraction, yes.
11:59 39
11:59 40 Q. "Has been playing for over 19hrs with no break" and the
11:59 41 indication is given by the RGA to the staff member to remind the
11:59 42 player to take a substantial break; do you see that?
11:59 43
11:59 44 A. Yes, I do.
11:59 45
11:59 46 Q. Now, at the PP16 --- that is a PP16 warning or alert that has
11:59 47 delivered at the 19-hour mark.

11:59 1
11:59 2 A. Yes, it appears that the alert was at 16 hours and then the
11:59 3 advice was at 19 hours.
11:59 4
11:59 5 Q. Just as an example of the situation I described before, you
11:59 6 would expect to see, in the register, a PP12 warning for that same
12:00 7 patron in the period before it; wouldn't you?
12:00 8
12:00 9 A. I would, yes.
12:00 10
12:00 11 Q. If one isn't there, it is likely that the reminder --- if the PP12
12:00 12 alert isn't recorded in the register, it's likely that the reminder was
12:00 13 not --- the need for the reminder was not conveyed to the staff
12:00 14 member otherwise ---
12:00 15
12:00 16 A. It so appears, yes.
12:00 17
12:00 18 Q. Can I take you to the second part of the table, which starts
12:00 19 at page 23 of it.
12:00 20
12:00 21 A. Mr Finanzio, is that entry number 23?
12:01 22
12:01 23 Q. No, no, those entries for that month run through to entry
12:01 24 number 136.
12:01 25
12:01 26 A. I don't have any pagination, that's all, I'm sorry.
12:01 27
12:01 28 Q. Top right corner where the long number identifying the
12:01 29 document is ---
12:01 30
12:01 31 A. Yes.
12:01 32
12:01 33 Q. --- the last four digits should be 0023.
12:01 34
12:01 35 A. Right. I have it.
12:01 36
12:01 37 Q. You have it?
12:01 38
12:01 39 A. Yes.
12:01 40
12:01 41 Q. 0023 commences the period 5 April 2021.
12:01 42
12:01 43 A. April, are you talking about entry number 1?
12:01 44
12:01 45 Q. Yes.
12:01 46
12:01 47 A. Yes.

12:01 1
12:01 2 Q. 5 April 2021; you see that?
12:01 3
12:01 4 A. Yes.
12:01 5
12:01 6 Q. By April 2021 the PP codes will be different because the
12:02 7 December Play Periods Policy by that stage had come into effect?
12:02 8
12:02 9 A. That's right.
12:02 10
12:02 11 Q. So we'd be talking about 15 hours, 17 hours instead of the
12:02 12 other times.
12:02 13
12:02 14 A. Yes, that's right.
12:02 15
12:02 16 Q. But the same principles apply; correct?
12:02 17
12:02 18 A. Yes.
12:02 19
12:02 20 Q. I will take you to line two. PP12, tables, "Advised patron
12:02 21 has reached 14 hrs". That is another example in the more recent
12:02 22 period of the advice being given a few hours after the alert?
12:02 23
12:02 24 A. Yes, it does.
12:02 25
12:03 26 Q. I will ask you some questions about the number of PP12
12:03 27 alerts in the table --- can you hear me okay?
12:03 28
12:03 29 A. Yes, thank you.
12:03 30
12:03 31 Q. I've counted them up. In the first period April 2019 to May
12:03 32 2019, there are 136 entries.
12:03 33
12:03 34 A. Right.
12:03 35
12:03 36 Q. But the number of PP12 actions recorded is 9 out of 136.
12:03 37
12:04 38 A. Right.
12:04 39
12:04 40 Q. Could that be in part because the actioning of the PP12 alert
12:04 41 to give a reminder was not regarded as particularly significant?
12:04 42
12:04 43 A. I'm not sure, Mr Finanzio, and this is where I suppose my
12:04 44 more intimate coal-face experience leaves me wanting, I expect
12:04 45 that ---
12:04 46
12:04 47 Q. Sorry, can I just ask you a question about that. When you

12:04 1 say your "coal-face experience leaves you wanting", do you mean
12:04 2 to say by that that you don't have much coal-face experience?
12:05 3
12:05 4 A. I certainly have some coal-face experience, however, in
12:05 5 terms of what we are talking about in particular my mind goes to
12:05 6 that, for example, if there is no PP12 entry, perhaps the player
12:05 7 was unable to be located and the RGA at the time did not provide
12:05 8 a comment in the register. I'm surmising.
12:05 9
12:05 10 Q. I see.
12:05 11
12:05 12 A. I'm trying to assist the Commission but it could very well
12:05 13 be that that entry was not recorded.
12:05 14
12:05 15 Q. I just want to be fair to you. You are saying that what
12:05 16 happens on the ground on a day to day basis is what you were
12:05 17 referring to as your coal-face experience; correct?
12:05 18
12:05 19 A. (Nods head). Yes.
12:05 20
12:05 21 Q. You would defer to an RGA, for example, who actively
12:05 22 works on the floor ---
12:05 23
12:05 24 A. (Nods head).
12:05 25
12:05 26 Q. --- and what they might say about how all this works?
12:06 27
12:06 28 A. I would prefer to have their commentary as opposed to
12:06 29 what I might surmise, yes.
12:06 30
12:06 31 Q. Okay. I wanted to take you to one entry. Line number 48.
12:06 32
12:06 33 A. In the same 23 document?
12:06 34
12:06 35 Q. Yes.
12:06 36
12:06 37 A. Sorry, I need to shuffle a little bit.
12:06 38
12:06 39 Q. It's line number 48 for April 2019. It is the entry for 13
12:06 40 April 2019.
12:06 41
12:06 42 A. I will need to shuffle. It may be in a COM ending in
12:06 43 a different location.
12:06 44
12:06 45 Q. It might be that someone didn't stable it for you by the look
12:07 46 of it?
12:07 47

12:07 1 A. Well, in an attempt to make it easier. My apologies, if you
12:07 2 let me shuffle.
12:07 3
12:07 4 Q. It has the COM number 0014 at the end.
12:07 5
12:07 6 A. Yes, I have it in front of me.
12:07 7
12:07 8 Q. Line number 48 is at the bottom and it will go over the
12:07 9 page.
12:07 10
12:07 11 A. Yes, I have it.
12:07 12
12:07 13 Q. Line 48 has three entries for the same patron, can you see
12:07 14 that?
12:07 15
12:07 16 A. I see number 48 and ---
12:07 17
12:07 18 Q. There are three entries ---
12:07 19
12:07 20 A. Yes, I do see the three entries, Mr Finanzio.
12:07 21
12:07 22 Q. One at 3.30 in the afternoon, one at 9.09 and one again at
12:08 23 7.30 the following day; you see that?
12:08 24
12:08 25 A. Yes, I do.
12:08 26
12:08 27 Q. There are no other entries in the register for that person
12:08 28 beforehand, and it is an entry for PP24, VIP machines. Do you
12:08 29 see that?
12:08 30
12:08 31 A. Yes, I do, at 48, yes.
12:08 32
12:08 33 Q. So the first entry given at 3.30 is that the VOSM was
12:08 34 advised to remind the client to take a substantial break after 24
12:08 35 hours of play, and a 5-hour break. Patron not at EGM, placed on
12:08 36 pager. Do you see that?
12:08 37
12:08 38 A. Yes, I do.
12:08 39
12:08 40 Q. Then at 21:09, another PP24VIP pager alert was given.
12:09 41 "Patron returned to play after 4, 5 hrs break". And then the next
12:09 42 entry:
12:09 43
12:09 44 In response to the pager Patron playing at Ba2533
12:09 45
12:09 46 What does "Ba2533" mean?
12:09 47

12:09 1 A. That is a table.
12:09 2
12:09 3 Q. What type of game is it?
12:09 4
12:09 5 A. I understand "Ba", and I can't be 100 per cent, but "Ba"
12:09 6 looks to me to be baccarat.
12:09 7
12:09 8 Q. Right.
12:09 9
12:09 10 A. With which --- sorry, I beg your pardon.
12:09 11
12:09 12 Q.
12:09 13
12:09 14 had returned to the gaming floor earlier than was told.
12:09 15 *He has been continually playing for more than 34 hours.*
12:09 16 *WL was advised by staff twice for taking an adequate*
12:10 17 *break. Even over 24 hours playing period. The break*
12:10 18 *time was negotiated to 8 hours break. However, he still*
12:10 19 *returned too early. I attended Mahogany Room and*
12:10 20 *spoke to ACM who said the patron belonged to GM.*
12:10 21
12:10 22 I imagine that is the host?
12:10 23
12:10 24 A. GM would be gaming machines.
12:10 25
12:10 26 Q. Pardon me, belonged to gaming machines, thank you.
12:10 27
12:10 28 He calls from GM host who too scared to talk to the
12:10 29 *patron. Another person called another person, who was*
12:10 30 *the manager, and provided all relevant information and*
12:10 31 *advised patron to take 24 hours break.*
12:10 32
12:10 33 I mean, this record reflects, doesn't it that there are instances of
12:11 34 gaming occurring for extensive hours without intervention from
12:11 35 the staff?
12:11 36
12:11 37 A. From what I see in front of me, yes.
12:11 38
12:11 39 Q. And that is at a time when the Play Period Policy says that
12:11 40 staff will interact with customers; correct?
12:11 41
12:11 42 A. Yes, it does.
12:11 43
12:11 44 Q. I want to ask you some questions about uncarded play.
12:11 45 We've been talking about the system where people have a card,
12:11 46 Splunk alerts get given and so on. Even now, even though there
12:11 47 are attempts to improve the system, we are fundamentally relying

- 12:12 1 on observation alone for these play periods, aren't we?
12:12 2
12:12 3 A. Yes, we are.
12:12 4
12:12 5 Q. As the records in the register that I have taken you to
12:12 6 reflect, they can be complex situations; can't they?
12:12 7
12:12 8 A. Yes, they can.
12:12 9
12:12 10 Q. When the player plays for a long time?
12:12 11
12:12 12 A. Yes.
12:12 13
12:12 14 Q. That makes it very difficult, does it not, to keep account or
12:12 15 a record or even a mental observation or note of how long
12:12 16 somebody has been playing when you are not assisted by the kind
12:12 17 of technology that the Splunk system affords you?
12:12 18
12:12 19 A. Yes.
12:12 20
12:12 21 Q. I mean one answer would be, wouldn't it, for the casino to
12:12 22 have everybody play carded, that way you could keep track of
12:12 23 everyone?
12:12 24
12:12 25 A. That could be one answer, yes.
12:12 26
12:12 27 Q. That would be an answer that would be pretty consistent
12:12 28 with or facilitate more easily the Responsible Service of Gaming,
12:13 29 as well as other things?
12:13 30
12:13 31 A. Yes, it could.
12:13 32
12:13 33 Q. And the ability to track for a long time ---
12:13 34
12:13 35 A. Sorry, due to my coughing I missed your question, would
12:13 36 you mind repeating.
12:13 37
12:13 38 Q. No problem. The ability to track carded play has been
12:13 39 around for a while; hasn't it?
12:13 40
12:13 41 A. Yes, it has.
12:13 42
12:13 43 Q. It was obviously in place in 2019 in the dates that we were
12:13 44 just looking at. When was the play periods --- when was the first
12:13 45 software that Crown used to track carded play introduced?
12:13 46
12:13 47 A. My recollection I should say is around 2013.

- 12:13 1
12:13 2 Q. So the technology to track carded play has been in place for
12:13 3 at least that long?
12:14 4
12:14 5 A. Yes, it has.
12:14 6
12:14 7 Q. It's true, isn't it, that many problem gamblers prefer
12:14 8 anonymity, that they prefer to go under the radar; that's correct,
12:14 9 isn't it?
12:14 10
12:14 11 A. From my reading of literature that could be described as
12:14 12 an indicator, but honestly I can't be sure. I recall some reading of
12:14 13 that, yes.
12:14 14
12:15 15 Q. It is likely, if someone prefers anonymity, they are unlikely
12:15 16 to play carded?
12:15 17
12:15 18 A. Yes.
12:15 19
12:15 20 Q. Uncarded players are the least likely to be picked up for
12:15 21 reminders, aren't they, under any of the policies that we've been
12:15 22 talking about?
12:15 23
12:15 24 A. Yes.
12:15 25
12:15 26 Q. They are the ones most likely to be trying to avoid them?
12:15 27
12:15 28 A. Yes, for some uncarded players that could be the case, and
12:15 29 there may also be other reasons for remaining uncarded, which
12:15 30 could be episodic play, which could be, "Yes, I'm just a visitor"
12:15 31 or "I prefer not to be tracked."
12:15 32
12:16 33 Q. Can I suggest to you that we've heard evidence before the
12:16 34 Commission from a number of different people who say that they
12:16 35 have gambled at the casino for extensive periods without any
12:16 36 interaction with Crown staff seeking to remind them to take
12:16 37 a break or any such thing at all. Given the way the system works
12:16 38 that we've gone through, that is something that could easily
12:16 39 happen; isn't it?
12:16 40
12:16 41 A. In some circumstances, yes, I agree.
12:16 42
12:16 43 Q. Indeed, the system is set up to make it quite possible that
12:16 44 someone could gamble in the casino for hours on end and never
12:16 45 be approached by any staff.
12:16 46
12:16 47 A. When you say "system", I'm drawing a conclusion you are

12:17 1 referring to the loyalty program, so whether the person would
12:17 2 engage with the loyalty program or not so as to afford some way
12:17 3 of tracking --
12:17 4
12:17 5 Q. No, no, that's not what I mean.
12:17 6
12:17 7 A. Okay, sure.
12:17 8
12:17 9 Q. I mean by a combination of the staffing levels and by
12:17 10 combination of the way that the system, the technological system
12:17 11 operates and by combination of what the register tells us about
12:17 12 the way in which the alerts are given and by combination of the
12:17 13 size of the casino and the range of activities that are available, it
12:17 14 is quite possible that someone could gamble in the casino for
12:17 15 hours without ever being noticed?
12:17 16
12:17 17 A. It can be possible, yes.
12:17 18
12:17 19 Q. And one way to make it less likely or less possible is to
12:17 20 change the systems; isn't it?
12:17 21
12:18 22 A. Yes, it is.
12:18 23
12:18 24 Q. I do want to ask you some questions about a part of the
12:18 25 Code that we were talking about earlier. Could you go to the
12:18 26 Code and to page 15, I think it is. I just want to walk through the
12:18 27 code and make sure that my understanding of the way it applies is
12:18 28 the same as yours.
12:18 29
12:19 30 So one of the observable signs is often playing for long periods of
12:19 31 time in the list; isn't it?
12:19 32
12:19 33 A. Yes, it is. And I believe --- yes, I'm now on that page, yes.
12:19 34
12:19 35 Q. It is just one of the 13 listed observable signs; isn't it?
12:19 36
12:19 37 A. Yes, it is.
12:19 38
12:19 39 Q. I just want to take you to the language of the Code. At the
12:19 40 bottom of page 15, the paragraph that leads into the Code, that
12:19 41 leads into the list of observable signs says this:
12:19 42
12:19 43 *Observable Signs are seen or reported behaviours or*
12:19 44 *patterns of behaviours which are potential indicators that*
12:19 45 *a person may be experiencing problems with their gaming*
12:19 46 *behaviours.*
12:19 47

12:19 1 Do you see that?
12:19 2
12:19 3 A. Yes, I do.
12:19 4
12:19 5 Q. Then:
12:19 6
12:19 7 These are seen or reported in context and usually more
12:20 8 *than one is displayed to indicate potential problems with*
12:20 9 *gaming.*
12:20 10
12:20 11 A. Yes.
12:20 12
12:20 13 Q. I want to talk to you about that for a minute. "Usually more
12:20 14 than one is displayed" but we can have one sign alone, can't we?
12:20 15 One observable sign alone as a good indicator that there is
12:20 16 a problem?
12:20 17
12:20 18 A. Yes, we can. For example, our first observable sign.
12:20 19
12:20 20 Q. Yes, the first observable sign, straight off the bat, someone
12:20 21 says "I want self-exclusion", or someone strikes the machine and
12:20 22 so on; right?
12:20 23
12:20 24 A. Yes. With the first it is whether someone declares
12:20 25 a problem with their gaming behaviours, they say that they are
12:21 26 a problem gambler, or in ordinary circumstances people seeking
12:21 27 self-exclusion experience that problem gambling behaviour.
12:21 28
12:21 29 Q. Yes.
12:21 30
12:21 31 A. Yes.
12:21 32
12:21 33 Q. But with self-exclusion, for example, it is a pretty obvious
12:21 34 sign, it is an unequivocal sign of a potential problem; isn't it?
12:21 35
12:21 36 A. In my experience, absolutely. With most cases of
12:21 37 self-exclusion, however there are people who self-exclude to
12:21 38 support their partner, or who --- thinking they may be on
12:21 39 a trajectory as opposed to being at the end of that. So that is in
12:21 40 my experience.
12:21 41
12:21 42 Q. Yes. But what we are concerned with in that paragraph are
12:21 43 potential indicators of problem gambling, not that they would
12:21 44 actually be problem gamblers, we are looking for the potential
12:21 45 indicators that they might be problem gamblers; aren't we?
12:21 46
12:21 47 A. That's right.

12:21 1
12:22 2 Q. Do you agree that a person sitting quietly in the corner of
12:22 3 the casino, gambling alone for 12 hours on end but not showing
12:22 4 any other sign, is still a sign of a possible problem?
12:22 5
12:22 6 A. It can be, yes.
12:22 7
12:22 8 Q. In the context of this policy, no action is taken by an RGA
12:22 9 in relation to that person until 12 hours of continuous play has
12:22 10 passed?
12:22 11
12:22 12 A. In the context of the Play Periods Policy that speaks
12:23 13 predominantly to the element of carded play, that can be the case,
12:23 14 yes.
12:23 15
12:23 16 Q. You are not saying that action is taken for uncarded play
12:23 17 sooner than 12 hours; are you?
12:23 18
12:23 19 A. No, I'm suggesting that a system provides us with better
12:23 20 indicators to attend to that. However, that if a person is
12:23 21 displaying observable signs prior to a 12-hour mark, that that
12:23 22 could be to the point of the observable sign if they are playing for
12:23 23 extended periods, it is an observable sign, yes.
12:23 24
12:23 25 Q. I asked you whether playing continuously for 12 hours was
12:23 26 an observable sign in and of itself, and you said it was.
12:23 27
12:23 28 A. Yes, it can be, yes.
12:23 29
12:23 30 Q. And my next question to you was that neither an RGA nor
12:24 31 a staff member, nor anybody else that works for the casino, will
12:24 32 take any step to approach or interact with a player before 12 hours
12:24 33 has passed; that's correct, isn't it?
12:24 34
12:24 35 A. I don't think that's correct because in our signs, we talk
12:24 36 about extended play ---
12:24 37
12:24 38 COMMISSIONER: Just hold on one second, Ms Bauer.
12:24 39
12:24 40 Mr Borsky?
12:24 41
12:24 42 MR BORSKY: Thank you, Commissioner. There is, in our
12:24 43 submission, a difficulty with respect in our friend's questions
12:24 44 which alternate between the notion of continuous play on the one
12:24 45 hand, which we take him to mean continuously playing at
12:24 46 a machine or table without a break, and a play period on the other
12:24 47 hand which, as Ms Bauer has given evidence about, according to

12:24 1 Crown systems, is calculated on the basis of when a player or
12:25 2 patron first cards in, as compared to when the player is then
12:25 3 subsequently playing uncarded.
12:25 4

12:25 5 COMMISSIONER: I'm familiar with the evidence. I understand
12:25 6 the questions to be, and I think Ms Bauer understands the
12:25 7 questions to refer to a patron who continuously plays the period
12:25 8 the subject to the question, which in the last set of questions was
12:25 9 12 hours. I don't think the reference was certainly intended to be,
12:25 10 and I think Ms Bauer understood it to be, a person who might
12:25 11 play for an hour, go to a show, play for another hour, go and have
12:25 12 a meal, so it continuously shows on the system a 12-hour
12:25 13 presence or whatever it might be. I will just check with
12:25 14 Ms Bauer. Did you understand Mr Finanzio's questions to be
12:26 15 referable to people who continuously play for periods that he was
12:26 16 mentioning?
12:26 17

12:26 18 A. For clarity's sake, Mr Commissioner, I would appreciate if
12:26 19 Mr Finanzio would repeat his question, please.
12:26 20

12:26 21 COMMISSIONER: Right.
12:26 22

12:26 23 MR FINANZIO: Okay. No action is taken by an RGA in
12:26 24 relation to a person playing for less than 12 hours of continuous
12:26 25 play. Do you agree?
12:26 26

12:26 27 A. I don't agree.
12:26 28

12:26 29 Q. When you say that you "don't agree", explain why?
12:26 30

12:26 31 A. In relation to your proposition of if someone is sitting at
12:27 32 a machine for 12 hours playing continuously, with some evidence
12:27 33 that I've given earlier in relation to staffing levels and not just that
12:27 34 are working on the casino gaming floor, but also who work, for
12:27 35 example, in surveillance, it would not be, in my experience,
12:27 36 would be unnoticed that someone is in one place for 12 hours
12:27 37 without moving, and as such there would be an expected
12:27 38 interaction with that person or if that was observed by another
12:27 39 staff member and they may have been unsure as to length of time
12:27 40 and those sorts of things, so that is my answer to that query.
12:27 41

12:27 42 Q. If a carded player was sitting at the same machine for 12
12:27 43 hours, the first alert given to an RGA is at 12 hours; correct?
12:28 44

12:28 45 A. That would if I think about the way the system works, that
12:28 46 is correct, yes.
12:28 47

- 12:28 1 Q. And so the answer you just gave a minute ago depends
12:28 2 upon food and beverage staff and other staff and customer service
12:28 3 staff, walking up and tapping that player on the shoulder and
12:28 4 saying "hello"; is that correct?
12:28 5
12:28 6 A. Yes. Yes.
12:28 7
12:28 8 Q. Nothing in the Play Periods Policy that we've described
12:28 9 invites those staff to do that; does it?
12:28 10
12:28 11 A. No, it does not.
12:28 12
12:28 13 Q. The first time that an RGA gets involved is at the 12-hour
12:28 14 mark, correct?
12:28 15
12:28 16 A. For that particular policy, yes.
12:28 17
12:28 18 Q. But that --- okay, good. At the 12-hour mark, under the
12:29 19 current policy, that player might be just observed from
12:29 20 a distance?
12:29 21
12:29 22 A. That's a possibility, yes.
12:29 23
12:29 24 Q. With no conversation at all?
12:29 25
12:29 26 A. That could be the case, yes.
12:29 27
12:29 28 Q. If there are no other observable signs at the 12-hour mark,
12:29 29 the person will be left alone?
12:29 30
12:29 31 A. That could be the case, yes.
12:29 32
12:29 33 Q. The Commission heard evidence from an experienced RGA
12:29 34 that she wouldn't approach a patron at the 12-hour mark unless
12:29 35 there was another observable sign. You've got no reason to think
12:29 36 that's not how the job is done on the ground; have you?
12:30 37
12:30 38 A. I would rely on the judgment of the RGA, yes.
12:30 39
12:30 40 Q. She doesn't say it is a matter of judgment in each case, she
12:30 41 says she would not, as a matter of practice, approach unless there
12:30 42 was another observable sign.
12:30 43
12:30 44 MR BORSKY: I do object, Commissioner. Now having been
12:30 45 graced with the transcript, I have reviewed it, and with respect to
12:30 46 my learned friend, that is an unfair statement of the evidence.
12:30 47 The evidence from the RGA in question, as the Commissioner

12:30 1 will recall, was caveated or qualified much more than my friend's
12:30 2 paraphrase suggests. She referred to ordinary practice and
12:30 3 a number of qualifications of that kind. So my submission is that
12:30 4 the witness should be shown the relevant part of the transcript,
12:30 5 but at the very least it should be precisely stated.
12:30 6
12:30 7 MR FINANZIO: Just bear with me for one moment. I would
12:31 8 refer my learned friend to pages 1057 to 1058 and 1062 to 1063
12:31 9 of the transcript.
12:31 10
12:31 11 MR FINANZIO: Bear with me for a moment.
12:31 12
12:31 13 MR BORSKY: At the first reference the RGA said, "You usually
12:31 14 don't approach customers, you are usually observing customers",
12:31 15 she said "we do observe and approach customers". And then it
12:31 16 was put, "But usually what you are doing is observing them" and
12:32 17 she agreed.
12:32 18
12:32 19 And at 1062, in response to a question about what in the ordinary
12:32 20 course is done at the 12-hour mark, she said "In the ordinary
12:32 21 course, yes".
12:32 22
12:32 23 MR FINANZIO: Yes. So I have this, Mr Borsky:
12:32 24
12:32 25 *Ordinarily if I receive an alert that a carded player has*
12:32 26 *been playing for 12 hours, and on observing that*
12:32 27 *customer find that they are not displaying any other*
12:32 28 *observable signs, I will not approach and speak to them.*
12:32 29
12:32 30 Are you happy with that? That is the transcript reference,
12:32 31 one-zero ---
12:32 32
12:32 33 MR BORSKY: Yes, I am happy with that, and I would submit
12:32 34 the transcript ought to be put directly either by reading or ---
12:32 35
12:32 36 MR FINANZIO: I will put that.
12:32 37
12:32 38 COMMISSIONER: It's good we sorted that out.
12:33 39
12:33 40 MR FINANZIO: If Ms Bauer could speak again, her face will
12:33 41 come up on my screen.
12:33 42
12:33 43 A. I can speak. Can you see me?
12:33 44
12:33 45 MR FINANZIO: So the evidence was:
12:33 46
12:33 47 *Ordinarily, if I receive an alert that a carded player has*

12:33 1 *been playing for 12 hours, and on observing that*
12:33 2 *customer, find that they are not displaying any other*
12:33 3 *observable signs, I will not approach and speak to them.*

12:33 4
12:33 5 A. I accept that is the evidence, yes.

12:33 6
12:33 7 Q. Yes.

12:33 8
12:33 9 COMMISSIONER: Do you understand that to have been, before
12:33 10 the COVID shutdown, the normal practice of the RGAs?

12:33 11
12:34 12 A. I would say, and I'm thinking, yes, that could be the case,
12:34 13 yes.

12:34 14
12:34 15 Q. What I want to suggest to you is that both Crown's systems
12:34 16 and the way that they are deployed are set up, or at least were set
12:34 17 up to leave that person to themselves for at least 12 hours.
12:34 18 Maybe longer.

12:34 19
12:34 20 A. In relation to the passage we just spoke about, an RGA
12:34 21 would be in possession of how long a customer was playing as
12:34 22 opposed to how long they may have been on site, so they would
12:34 23 have that information to make those calls as well. So I just want
12:34 24 to be clear that at 12 hours, that doesn't mean someone has been
12:34 25 playing for 12 hours, it just means they've been --- carded in at 12
12:34 26 hours and then --- sorry, at zero hour, and then at 12 hours that
12:35 27 would have been an alert.

12:35 28
12:35 29 COMMISSIONER: You should assume, though, Ms Bauer, that
12:35 30 the RGA who was giving the evidence didn't draw that
12:35 31 distinction. She did not say that 12 hours might not be 12 hours
12:35 32 of continuous play. The questions that were put to her, and the
12:35 33 basis upon which she gave her answers was on the assumption
12:35 34 that 12 hours, or whatever the requisite period was, was 12 hours
12:35 35 of play.

12:35 36
12:35 37 A. I see.

12:35 38
12:35 39 COMMISSIONER: But let me ask you this question in any
12:35 40 event. In the Code of Conduct, the existing one, on page 15, in
12:35 41 the second last paragraph on the right-hand side, starting with the
12:36 42 second sentence it says:

12:36 43
12:36 44 *A customer displaying observable signs*

12:36 45
12:36 46 And we know from the list that includes extended playing:
12:36 47

12:36 1 will be approached by a staff member who will offer
12:36 2 *assistance*

12:36 3

12:36 4 Am I right to assume that the evidence you've just been read or
12:36 5 referred to from the RGA who gives evidence about what seems
12:36 6 to be common practice at the time is in breach of this particular
12:36 7 aspect of the Code? That is, "will be approached", who "will
12:36 8 offer assistance". I suggest that sheer observation is not covered
12:36 9 by "will be approached" and "will be offered assistance". This
12:36 10 looks like positive action is required rather than inaction, and I
12:37 11 include "inaction" as including observation.

12:37 12

12:37 13 A. Mr Commissioner, it does absolutely say that anyone
12:37 14 displaying those observable signs will be approached, and if there
12:37 15 has been a failure then I would agree with you, yes.

12:37 16

12:37 17 COMMISSIONER: Thank you.

12:37 18

12:37 19 MR FINANZIO: I want to come back to the current Code again.
12:37 20 You've said already that you are not an academic but you are
12:37 21 responsible for the preparation of codes and policies; correct?

12:37 22

12:37 23 A. Yes, I take part and in some cases write them, yes.

12:37 24

12:38 25 Q. So when you look at what the content of the policies and
12:38 26 the code should be, you do inform yourself, don't you, about the
12:38 27 code and --- pardon me, you do inform yourself about the
12:38 28 literature?

12:38 29

12:38 30 A. As best as possible, yes. There is some literature, yes.

12:38 31

12:38 32 Q. You take advice about it, don't you?

12:38 33

12:38 34 A. By "take advice", I'm sorry, what do you mean?

12:38 35

12:38 36 Q. I withdraw that. You inform yourself by understanding
12:38 37 what the literature means for the purposes of preparing the code?

12:38 38

12:38 39 A. As much as I can scan the literature appropriate to that, yes.

12:38 40

12:38 41 Q. Do you take any advice in relation to the literature in
12:38 42 preparing the Code?

12:38 43

12:38 44 A. I have not taken external advice on the Code of Conduct
12:38 45 writing, no. Aside from the references to the literature in relation
12:39 46 to the observable signs.

12:39 47

12:39 1 Q. So is this the way it happens: you've read the literature and
12:39 2 you have then drafted the Code?

12:39 3

12:39 4 A. So, if I may, the Code is predicated and has not changed
12:39 5 terribly much from the initial Code from 2009 in terms of the
12:39 6 setup of the Code, which for many years was a code that, and still
12:39 7 is, reliant on Ministerial Direction and for many years was
12:39 8 approved by the VCGLR. So in updating the Code in the last one
12:39 9 or two updates since the VCGLR approval ceased, there have
12:39 10 been updates in relation to things of product, gambling product
12:39 11 might change or YourPlay might have been introduced which
12:39 12 might have been in advance of that. So it is an amalgam of
12:40 13 information that goes into the Code.

12:40 14

12:40 15 Q. Let's work through that. You said the Responsible Service
12:40 16 of Gaming Code of Conduct is reviewed by Crown every year?

12:40 17

12:40 18 A. Yes, it is.

12:40 19

12:40 20 Q. When you said that, that review doesn't include a revision
12:40 21 in respect of the literature that underpins the Code?

12:40 22

12:40 23 A. Insofar as it pertains to observable signs, there has been no
12:40 24 more recent literature since the validation study in 2014, no.

12:40 25

12:40 26 Q. So you, in reviewing the Code, proceed on the basis that the
12:40 27 Code represents the literature that is --- I withdraw that and I will
12:40 28 deal with it in a different way.

12:40 29

12:41 30 Here the Code, on the way it is written, is informed by the
12:41 31 literature, isn't it? That's what the Code actually says. I take you
12:41 32 to the bottom of page 15. Can you see there, observable signs are
12:41 33 included in Crown's Responsible Service of Gaming training, and
12:41 34 may include but are not limited to the list of 13 that are there? So
12:41 35 there are 13 that are there, but there are other observable signs of
12:41 36 potential gambling harm; aren't there?

12:41 37

12:41 38 A. Yes, they are, and we've included additional signs that we
12:41 39 feel are important in that listing as well.

12:41 40

12:41 41 Q. But you just agreed with me before that gambling
12:41 42 continuously for 12 hours straight might be an observable sign in
12:42 43 its own right.

12:42 44

12:42 45 A. Yes, it could be, yes, I agree.

12:42 46

12:42 47 Q. And I won't find that in the list of 13, will I?

- 12:42 1
12:42 2 A. No, you will not.
12:42 3
12:42 4 Q. The closest I get to periods is dot point five which says:
12:42 5
12:42 6 *Often gambles for long periods without a break.*
12:42 7
12:42 8 A. From my recollection, yes, that is the sign. Yes, it is.
12:42 9
12:42 10 Q. And when I go to the next column, it says:
12:42 11
12:42 12 *These signs are adopted from the 'Validation study on*
12:42 13 *in-venue problem gambler indicators'*
12:42 14
12:42 15 By Thomas, Delfabrro and others, and there are a couple of other
12:42 16 studies that predate that study?
12:42 17
12:42 18 A. That's right.
12:42 19
12:42 20 Q. That 2014 study is an important piece of work; isn't it?
12:42 21
12:42 22 A. Yes, it is.
12:43 23
12:43 24 Q. It says, doesn't it, that an indicator of problem gambling
12:43 25 could be gambling for as little as three hours of continuous play
12:43 26 without a proper break?
12:43 27
12:43 28 A. Yes, it does.
12:43 29
12:43 30 Q. I won't find that in the list of observable signs there,
12:43 31 though, will I?
12:43 32
12:43 33 A. No, you will not.
12:43 34
12:43 35 Q. And I will not find it reflected in the Play Periods Policy
12:43 36 that you have approved; will I?
12:43 37
12:43 38 A. That's correct.
12:43 39
12:43 40 Q. And I will not find it reflected in the conduct of your staff
12:43 41 as they administer Responsible Service of Gaming either; will I?
12:43 42
12:43 43 A. No.
12:43 44
12:44 45 Q. I want to take you to another document. Crown has been
12:44 46 for a considerable period of time ---
12:44 47

12:44 1 COMMISSIONER: Before you do that, Mr Finanzio, I think we
12:44 2 should tender the reports ---
12:44 3
12:44 4 MR FINANZIO: I will.
12:44 5
12:44 6 COMMISSIONER: --- that have been referred to. Is there a
12:44 7 technical or proper name for the report? The pages that I have
12:44 8 got are extracts from the report. Does the report have
12:44 9 a description or perhaps Ms Bauer can help us?
12:44 10
12:44 11 MR FINANZIO: No, no. I can help. The reports that I referred
12:44 12 to are recited at page 17 of the code of practice. I intend to tender
12:45 13 all of them.
12:45 14
12:45 15 COMMISSIONER: No, no, sorry, I wasn't talking about the
12:45 16 expert reports. The documents that are partially redacted which
12:45 17 haven't found ---
12:45 18
12:45 19 MR FINANZIO: Sorry.
12:45 20
12:45 21 COMMISSIONER: --- they haven't found their way into the
12:45 22 evidence yet.
12:45 23
12:45 24 MR FINANZIO: They should be described as extracts from the
12:45 25 register for April/May 2019 and April/May 2021.
12:45 26
12:45 27 COMMISSIONER: That will be Exhibit 218 with that
12:45 28 description.
12:45 29
12:45 30
12:45 31 **EXHIBIT #RC0218 - EXTRACTS FROM THE REGISTER**
12:45 32 **FOR APRIL/MAY 2019 AND APRIL/MAY 2021**
12:45 33
12:45 34
12:45 35 MR FINANZIO: I do note the time, Commissioner. It is 12.45.
12:45 36
12:45 37 COMMISSIONER: Okay, I'm happy to have a break now.
12:45 38
12:46 39 Does 1.30 suit, Ms Bauer and Mr Finanzio?
12:46 40
12:46 41 MR FINANZIO: Yes, Commissioner.
12:46 42
12:46 43 Mr Borsky, okay for 1.30?
12:46 44
12:46 45 MR BORSKY: Yes, thank you, Commissioner.
12:46 46
12:46 47 A. Thank you, Mr Commissioner.

12:46 1
12:46 2 COMMISSIONER: I will adjourn until then.
12:46 3
12:46 4
12:46 5 **ADJOURNED** [12:46P.M.]
12:46 6
12:46 7
13:31 8 **RESUMED** [1:31P.M.]
13:31 9
13:31 10
13:31 11 COMMISSIONER: Okay, Mr Finanzio.
13:31 12
13:31 13 MR FINANZIO: Thank you, Commissioner. I want to start by
13:31 14 just looking at going to --- sorry, I've lost you, Ms Bauer. Are
13:31 15 you there?
13:31 16
13:32 17 A. Sorry, can you hear me?
13:32 18
13:32 19 MR FINANZIO: Yes, I can. I can see you too.
13:32 20
13:32 21 A. Right.
13:32 22
13:32 23 Q. Crown has, over the last few years, been attempting to
13:32 24 develop an analytical tool which would help it to predict problem
13:32 25 gambling; hasn't it?
13:32 26
13:32 27 A. Yes. That's right.
13:32 28
13:32 29 Q. And, if I'm not wrong, the process started as a result of
13:32 30 a recommendation made in the Fifth Review?
13:32 31
13:32 32 A. Yes.
13:32 33
13:32 34 Q. And it was Recommendation 5?
13:32 35
13:32 36 A. That's right.
13:32 37
13:32 38 Q. That model is still a work in progress?
13:33 39
13:33 40 A. It is. It has been implemented, however my understanding
13:33 41 of the nature of this type of model that time and data is in the best
13:33 42 interests of the development of the model, yes.
13:33 43
13:33 44 Q. When you say that it has been "implemented", it was
13:33 45 implemented as around the time of the Sixth Review as a trial?
13:33 46
13:33 47 A. That's right.

13:33 1
13:33 2 Q. And the trial was to validate the model?
13:33 3
13:33 4 A. Yes, the trial was to run the model and validate as best as
13:33 5 possible. Yes.
13:33 6
13:33 7 Q. So we are working towards refining the model at the
13:33 8 moment?
13:33 9
13:33 10 A. Continuing to, yes.
13:33 11
13:33 12 Q. So is it right that Crown regards the model as not yet fully
13:33 13 completed?
13:33 14
13:33 15 A. My understanding of these types of model is that the
13:33 16 continuous element of time and addition of data adds to the, I
13:34 17 suppose, more certainty of the model that it is. I believe it's not
13:34 18 unique in that kind of assessment.
13:34 19
13:34 20 Q. Okay. Can you just say something else there, I've lost you
13:34 21 again, Ms Bauer?
13:34 22
13:34 23 A. Sorry, can you hear me now, Mr Finanzio.
13:34 24
13:34 25 Q. I can.
13:34 26
13:34 27 A. Yes.
13:34 28
13:34 29 Q. I would like to take you to a document at tender bundle
13:34 30 126, Commissioner. For the benefit of the operator, it is
13:34 31 VCG.0001.002.7024. So that is a report from the VCGLR which
13:35 32 I don't particularly need to take you to directly.
13:35 33
13:35 34 A. Yes.
13:35 35
13:35 36 Q. It sets the context, if you go to page two of three, in relation
13:35 37 to Recommendation 5 commencing at paragraph 11. It sets the
13:35 38 context for the evolution of the model from about --- I'm trying to
13:35 39 work out the date of that document. I think it is some time in
13:35 40 2016. 2015. But the real document I want to take you to is the
13:36 41 attachment, which commences at _0005. That's a letter from
13:36 42 Crown to the VCGLR in relation to Recommendation 5
13:36 43 specifically, and it is Crown's submission to the VCGLR in
13:36 44 relation to that recommendation --- I'm not going to read it out. If
13:36 45 you read your eye over Recommendation 5 just to make sure it
13:36 46 accords with your recollection of what the recommendation was
13:36 47 about?

13:36 1
13:36 2 A. Yes. Thank you.
13:36 3
13:36 4 Q. It discusses on the next page the Crown trial. Perhaps it is
13:37 5 the next page after that, 0007. I think it was the early version of
13:37 6 this, this is the Crown Signature Club --- using data from Crown
13:37 7 Signature Club as a basis for commencing the trial; you see that?
13:37 8
13:37 9 A. Yes, so this wasn't the Crown model per se, this was more
13:37 10 a parameter-based model.
13:37 11
13:37 12 Q. Yes. It was a model attempting to look at ways to use the
13:37 13 data that Crown had stored, that Crown has available to it, to try
13:37 14 and analyse whether it might be possible to predict or identify
13:37 15 potential problem gamblers; wasn't it?
13:37 16
13:37 17 A. Yes, at this point, from memory, it was to identify. Yes.
13:37 18
13:37 19 Q. Yes, to identify them. If you go over the page to three, it
13:37 20 sets out the methodology. A bit like --- I don't know if you are
13:38 21 anything like me, or even the Commissioner, Ms Bauer, but I'm
13:38 22 no mathematician. These predictive models are models that are
13:38 23 generated by --- created in the context of a computer where
13:38 24 parameters are identified for the purposes of inputting data and
13:38 25 creating reports, aren't they? That's what this model is about?
13:38 26
13:38 27 A. For the sake of clarity, this was not a predictive model. It is
13:38 28 a parameter-based model. Yes.
13:38 29
13:38 30 Q. Parameter-based model. Okay. And the model, the
13:38 31 parameters are set out there, aren't they, in paragraphs --- on the
13:38 32 bottom of that page it starts at pages 1 to 3, and then 4, 5, 6, 7; do
13:38 33 you see that?
13:38 34
13:38 35 A. Yes, I can see that going over the page, yes.
13:38 36
13:39 37 Q. One of the parameters used to identify players for
13:39 38 interaction and review, that is for the purposes of identifying
13:39 39 potential problem gamblers, was someone who gambles for 5
13:39 40 hours or more without a break of 15 minutes or longer duration,
13:39 41 one month.
13:39 42
13:39 43 A. Yes. I beg your pardon.
13:39 44
13:39 45 Q. And then, 5, gambles every day of the week over a period
13:39 46 of time, with a frequency of one month.
13:39 47

13:39 1 A. Yes.
13:39 2
13:39 3 Q. The first thing to observe is that is considerably less than 12
13:39 4 hours; isn't it?
13:39 5
13:39 6 A. That's right.
13:39 7
13:39 8 Q. And if you just go back to the page before, do you see the
13:39 9 footnote at the bottom there?
13:39 10
13:39 11 A. Yes, I do.
13:39 12
13:39 13 Q. It says that parameters 4 and 5 are research-based?
13:40 14
13:40 15 A. Yes.
13:40 16
13:40 17 Q. I now just want to ask you some questions about one of the
13:40 18 studies that appears in the Code.
13:40 19
13:40 20 COMMISSIONER: Before you move away from the
13:40 21 document ---
13:40 22
13:40 23 MR FINANZIO: Can I tender that?
13:40 24
13:40 25 COMMISSIONER: Yes. I will describe it ---
13:40 26
13:40 27 MR FINANZIO: You can describe it, Commissioner, as letter to
13:40 28 the VCGLR 20 November 2015.
13:40 29
13:40 30 COMMISSIONER: That's tendering just the attachment?
13:40 31
13:40 32 MR FINANZIO: Yes, that's right.
13:40 33
13:40 34 COMMISSIONER: Okay. You made reference to the document
13:40 35 to which this is the attachment but I understand the key reference
13:41 36 is to the attachment itself. I think we are up to 119? Exhibit 120.
13:41 37 It will be as described, letter from Crown to VCGLR on 20
13:41 38 November 2015.
13:41 39
13:41 40
13:41 41 **EXHIBIT #RC0120 - LETTER FROM CROWN TO**
13:41 42 **VCGLR DATED 20 NOVEMBER 2015**
13:41 43
13:41 44
13:41 45 COMMISSIONER: Sorry to interrupt. We are going to another
13:41 46 document?
13:41 47

13:41 1 MR FINANZIO: Yes, we are. We're going to the validation
13:41 2 study of problem gambler indicators which is referred to in the
13:41 3 RSG Code of Conduct. It is tender bundle 17,
13:42 4 COM.0013.0001.0403.
13:42 5
13:42 6 Do you have that there, Ms Bauer?
13:42 7
13:42 8 A. Yes, it has. Thank you.
13:42 9
13:42 10 Q. This study is referred to in the Code; correct?
13:42 11
13:42 12 A. Yes, that's right.
13:42 13
13:42 14 Q. It is the most recent of the studies referred to in the Code?
13:42 15
13:42 16 A. That's right.
13:42 17
13:42 18 Q. It is regarded as an authoritative piece of work?
13:42 19
13:42 20 A. Yes, it is.
13:42 21
13:42 22 Q. The purpose of the study was to examine the utility and
13:42 23 appropriateness of different indicators to identify people with
13:43 24 problem gambling in venues; correct?
13:43 25
13:43 26 A. That's right.
13:43 27
13:43 28 Q. It looked at earlier studies, the 2007 study by some of the
13:43 29 same authors, and a 2002 study; didn't it?
13:43 30
13:43 31 A. 2007 --- and the 2002, I'm not sure if that is a different
13:43 32 study, I don't think it is a consequential study to this but I could
13:43 33 be very wrong.
13:43 34
13:43 35 Q. No, no, but what the 2014 study did was to survey all of the
13:43 36 work in this area, as well as do some of their own work to
13:43 37 validate the utility of these indicators?
13:43 38
13:43 39 A. That's right. Yes.
13:43 40
13:43 41 Q. I just want to draw your attention to the conclusion of the
13:43 42 study at 167. It is right, isn't it, that --- I will take you to the
13:44 43 passage and then I will ask you some questions.
13:44 44
13:44 45 The passage says at the bottom of that page, the last paragraph:
13:44 46
13:44 47 *In sum, we believe the evaluation has provided a valuable*

13:44 1 *evidence base to support the translation of problem*
 13:44 2 *gambling theory into staff practice under typical working*
 13:44 3 *conditions in EGM venues. Early identification of key*
 13:44 4 *problem gambling behaviours using the checklist can*
 13:44 5 *facilitate confident, proactive interaction with customers*
 13:44 6 *before they ask for help. Early intervention can reduce*
 13:44 7 *the severity of problem gambling behaviour and outcomes*
 13:44 8 *in both the short and long term. In some jurisdictions,*
 13:44 9 *this tool will assist the industry to comply with legislative*
 13:45 10 *requirements relating to identification of problem*
 13:45 11 *gamblers.*

13:45 12
 13:45 13 I'm right, aren't I, that that statement underpins the very rationale
 13:45 14 for the existence of the list of observable signs in the Responsible
 13:45 15 Service of Gaming Code of Conduct that Crown has; isn't it that
 13:45 16 right?

13:45 17
 13:45 18 A. I think Crown identifies that it sources its signs from three
 13:45 19 different studies and is also observant that there may be some
 13:45 20 signs that are more identifiable in a casino environment as
 13:45 21 opposed to in an EGM venue.

13:45 22
 13:45 23 Q. Yes, but to the extent that the casino environment has
 13:45 24 2,600-odd EGMs, it's not an EGM environment; is it?

13:46 25
 13:46 26 A. Sorry, was that a double negative. So it contains an EGM
 13:46 27 environment as well as containing other product.

13:46 28
 13:46 29 Q. A very significant EGM environment; correct?

13:46 30
 13:46 31 A. Yes, it does.

13:46 32
 13:46 33 Q. So to the extent that this study was largely concerned with
 13:46 34 EGM environments, the findings of the study, at least as they
 13:46 35 relate to EGM environments, are pretty compelling; aren't they?
 13:46 36 Pretty important for Crown, relevant to Crown?

13:46 37
 13:46 38 A. Yes, they are. And, I suppose, I don't wish to be anything
 13:46 39 other than clear, that this study affords a lot of information for
 13:46 40 EGM venues over perhaps a casino, and I think the studies
 13:46 41 identifies that some of the signs may be adapted for other types of
 13:46 42 environment. That is one of the elements of the study as well.

13:46 43
 13:47 44 Q. If we apply the study this way, insofar as Crown has a very
 13:47 45 extensive EGM environment, this study is highly relevant?

13:47 46
 13:47 47 A. Insofar as it does have EGMs, it is relevant, yes.

13:47 1

13:47 2 Q. Highly relevant?

13:47 3

13:47 4 A. I would just like to clarify that Crown is a distinct venue in
13:47 5 relation to what is the experience in Victoria of pubs and clubs.

13:47 6 So it obviously has different types of product and is a more
13:47 7 destination venue, and has a number of ancillary services you
13:47 8 would not find in a pub and club. So there distinctions.

13:47 9

13:47 10 Q. Sure, but insofar as there are 2,600 EGMs at Crown that
13:47 11 can be played by EGM players, and it's not --- the --- I withdraw
13:48 12 that. The fact that there are restaurants elsewhere in the complex
13:48 13 doesn't change the nature of problem gambling behaviour; does
13:48 14 it?

13:48 15

13:48 16 A. Oh, for people who are experiencing that, no.

13:48 17

13:48 18 Q. So, if this study --- go back to page 167:

13:48 19

13:48 20 *Early identification of key problem gambling behaviours*
13:48 21 *using the checklist can facilitate confident proactive*
13:48 22 *interaction with customers before they ask for help.*

13:48 23

13:48 24 That is true of an EGM player in a pub or a club as well as at
13:48 25 Crown, isn't it?

13:48 26

13:48 27 A. It certainly can be true for an EGM player, yes.

13:48 28

13:48 29 Q. At Crown or at a pub or club; same, correct?

13:48 30

13:48 31 A. Well, the environment is a little bit different to your point.
13:48 32 Crown has a lot more gaming machines and it has to my point
13:48 33 other product and other services that are not the same as a pub or
13:48 34 a club.

13:48 35

13:48 36 Q. But early intervention with a gambler sitting at a gaming
13:49 37 machine is just as desirable, according to this study, at the casino
13:49 38 as it would be at a pub or a club; isn't it?

13:49 39

13:49 40 A. Yes, I agree.

13:49 41

13:49 42 Q.

13:49 43

13:49 44 *Early intervention can reduce the severity of problem*
13:49 45 *gambling behaviour and outcomes in both the short and*
13:49 46 *long term.*

13:49 47

13:49 1 That is equally true of a gambler at the casino as at a pub or
13:49 2 a club?

13:49 3

13:49 4 A. Yes, that's right.

13:49 5

13:49 6 Q. All right.

13:49 7

13:49 8 Can we go to page 203 of the document. This is where the
13:49 9 experts who prepared this produced the --- actually, go to the
13:49 10 page before. This tells you the colour code of the table:

13:49 11

13:50 12 *RED = gambling problems probable. These behaviours*
13:50 13 *are more commonly observed than purple flagged*
13:50 14 *behaviours. They are much more likely to be shown by*
13:50 15 *people experiencing gambling problems and are good*
13:50 16 *predictors of problem gambling.*

13:50 17

13:50 18 *People displaying any red flag behaviours should be*
13:50 19 *observed over a period of time at a minimum. If you have*
13:50 20 *observed several red indicators or a mix of red and*
13:50 21 *orange indicators over a period of time, this person is*
13:50 22 *likely to be experiencing gambling problems and*
13:50 23 *an approach should be considered.*

13:50 24

13:50 25 A. Yes, I see that.

13:50 26

13:50 27 Q. What you have in the table is:

13:50 28

13:51 29 13. Often gambles for long periods (3+ hours) without
13:51 30 a proper break.

13:51 31

13:51 32 You see that?

13:51 33

13:51 34 A. Yes, I see that.

13:51 35

13:51 36 Q. And then 17:

13:51 37

13:51 38 *Gambles intensely without reacting to what's going on*
13:51 39 *around him/her.*

13:51 40

13:51 41 A. I see that, yes.

13:51 42

13:51 43 Q. In Crown's observable signs, it doesn't have --- it has
13:51 44 "Often gambles for long period of time", doesn't it?

13:51 45

13:51 46 A. That's right.

13:51 47

- 13:51 1 Q. But it doesn't have "3+ hours", does it?
13:51 2
- 13:51 3 A. No, it does not.
13:51 4
- 13:51 5 Q. Neither does the observable signs have:
13:51 6
13:51 7 *Gambles intensely without reacting to what's going on*
13:51 8 *around him/her.*
13:51 9
- 13:51 10 A. Mr Finanzio, that is not contained in the observable signs,
13:51 11 however, that is one of the elements of the Responsible Service of
13:52 12 Gaming training and there is actually a video that provides the
13:52 13 participants of an example of what that might look like.
13:52 14
- 13:52 15 Q. Yes. And the point is that systemically, allowing
13:52 16 a customer to play for at least 12 hours without any break or
13:52 17 interaction is not consistent with the literature that is referred to in
13:52 18 the Code; is it?
13:52 19
- 13:52 20 A. When one takes that in isolation, it's not.
13:52 21
- 13:52 22 Q. In fact, there is nothing in the Code that expressly says that
13:52 23 you have to wait 12 hours before it becomes an observable sign;
13:52 24 is there?
13:52 25
- 13:52 26 A. No, there's not.
13:52 27
- 13:52 28 Q. The purpose of the Code is to minimise gambling harm;
13:52 29 isn't it?
13:52 30
- 13:52 31 A. That's part of the purpose, yes.
13:52 32
- 13:52 33 Q. If the literature referred to in the Code suggests that
13:53 34 gambling harm might be present as early as the three-hour mark,
13:53 35 then the responsible approach to minimising that harm would be
13:53 36 to ensure some interaction or break after the three-hour mark?
13:53 37
- 13:53 38 A. And I absolutely note that this is a sign ---
13:53 39
- 13:53 40 Q. Hang on, answer my question, please.
13:53 41
- 13:53 42 A. Certainly. Could you repeat it, please.
13:53 43
- 13:53 44 Q. A responsible approach to minimising that harm would be
13:53 45 to ensure some interaction or break at the three-hour mark?
13:53 46
- 13:53 47 A. According to these signs, yes.

- 13:53 1
13:53 2 Q. And the current policy for play periods, given the way
13:53 3 we've explored how it operates, is that might not happen for four
13:53 4 times as long as that; isn't that so?
13:53 5
13:53 6 A. It's a possibility, yes.
13:53 7
13:53 8 Q. If that academic literature actually referred to in the Code
13:54 9 identifies a range, I've taken you a minute ago to your
13:54 10 submission --- to Crown's submission to the VCGLR in 2015, so
13:54 11 that was a year after this validation study was done; right?
13:54 12
13:54 13 A. Yes.
13:54 14
13:54 15 Q. And that made the observation that gamblers who gamble
13:54 16 for 5 or more hours without a break of 15 minutes or longer
13:54 17 might be showing signs of problem gambling; correct? If the
13:54 18 academic literature referred to, taken as a whole, suggests
13:54 19 a range, say three to five hours, the way the policy works at the
13:54 20 moment it is still more than double; isn't it?
13:54 21
13:54 22 A. Yes, that's right.
13:54 23
13:55 24 Q. There is, in fact, no research which supports waiting for 12
13:55 25 hours to pass before encouraging a break in play; there is?
13:55 26
13:55 27 A. Not that I'm aware of, no.
13:55 28
13:55 29 Q. Continuous play for 12 hours raises, at the very least, a risk
13:55 30 that the person gambling after three hours is in the grip of some
13:55 31 kind of gamble harm; doesn't it?
13:55 32
13:55 33 A. It's a possibility.
13:55 34
13:55 35 Q. And that is true even if there are no other observable signs?
13:55 36
13:55 37 A. As I understand it, looking at the red flags as in compared
13:55 38 to purple or orange, yes.
13:55 39
13:55 40 Q. There is no research to support a 24-hour play period before
13:55 41 a significant break in plays, is there?
13:55 42
13:56 43 A. No, there is not.
13:56 44
13:56 45 Q. The Play Period Policy implemented by Crown now for
13:56 46 years have been inconsistent with the best research; haven't they?
13:56 47

- 13:56 1 A. Yes.
13:56 2
13:56 3 Q. They are, I put to you, a show of the most irresponsible
13:56 4 approach to gambling.
13:56 5
13:56 6 A. I wouldn't accept that it is irresponsible when there are
13:56 7 measures in place to measure the time of play.
13:56 8
13:56 9 Q. Okay. I want to ask you a question now about the letter
13:56 10 that was received from Crown's solicitors on 26 May. Have you
13:57 11 been provided with a copy of that letter?
13:57 12
13:57 13 A. I'm not sure which letter that is, Mr Finanzio, I'm sorry.
13:57 14
13:57 15 COMMISSIONER: Before you move on, I will mark the studies
13:57 16 and the exhibit. It is a validation study of in-venue problem
13:57 17 gambling indicators by Thomas et al, February 2014. I will mark
13:57 18 it 121.
13:57 19
20
21 **EXHIBIT #RC0121 - VALIDATION STUDY OF IN-VENUE**
22 **PROBLEM GAMBLING INDICATORS BY THOMAS ET**
23 **AL DATED FEBRUARY 2014**
24
25
13:57 26 MR FINANZIO: Ms Bauer, could you speak? Every time you
13:57 27 speak your face comes up on the screen.
13:57 28
13:57 29 A. Okay, I will speak and I can murmur along the way if you
13:57 30 like if that helps.
13:57 31
13:57 32 Q. When the Commissioner speaks my screen goes blank, and
13:57 33 then ---
13:57 34
13:58 35 A. I'll keep interjecting then. To assist.
13:58 36
13:58 37 Q. Have you read the letter that has been provided to the
13:58 38 Commission in relation to Crown's Responsible Gaming
13:58 39 proposals?
13:58 40
13:58 41 A. I think I know which letter you are referring to,
13:58 42 Mr Finanzio, but if it's not confidential, if I could be afforded
13:58 43 visibility, that would be terrific. I can get a hard copy if that's ---
13:58 44
13:58 45 Q. What I will do is read to you the bits that are relevance. In
13:58 46 relation to time limits on play, Crown now proposes that it will
13:58 47 introduce the following time limits on playing at gaming

- 13:58 1 machines, table games and electronic table games. It says that
13:59 2 domestic players --- do you know what domestic players means?
13:59 3
- 13:59 4 A. Yes, I do. Those who are resident in Australia.
13:59 5
- 13:59 6 Q. So not just in Victoria, those who are resident in Australia?
13:59 7
- 13:59 8 A. That is my understanding, yes.
13:59 9
- 13:59 10 Q. Domestic players, 12 hours in any 24-hour period. So do I
13:59 11 understand that to mean that Crown now proposes to introduce
13:59 12 a cap on the number of hours that a player can play within any
13:59 13 24-hour period?
13:59 14
- 13:59 15 A. Yes, to 12 hours as opposed to 18 hours, yes.
13:59 16
- 13:59 17 Q. When you say in any 24-hour period, does that mean --- I'm
13:59 18 trying to understand what that might mean. If I play for four
14:00 19 hours before midnight, does that mean I get another 12 hours
14:00 20 after midnight or does my 24 hours start the moment I start
14:00 21 playing?
14:00 22
- 14:00 23 A. The 24 hours would start when you start playing, and there
14:00 24 is a difference between what is in casino land, I suppose, there is
14:00 25 a gaming day, which is not a calendar day, if you will.
14:00 26
- 14:00 27 Q. That's why I'm asking. So it's 12 hours in any 24 hours
14:00 28 commencing from the moment that the person starts to play?
14:00 29
- 14:00 30 A. That's my understanding, yes.
14:00 31
- 14:00 32 Q. With observation/intervention at 8 and 10 hours?
14:00 33
- 14:00 34 A. I don't see it in front of me, but I assume it will be scrolled
14:00 35 to. I don't recall ---
14:00 36
- 14:00 37 Q. That's the one. It is right there. All right. I just want to
14:01 38 draw out some distinctions. Now, the domestic players in 12
14:01 39 hours and 24 hours, the 12 hours there is the cap on the amount of
14:01 40 play possible as opposed to the current system, which is 12 hours
14:01 41 being the first time that someone will observe you?
14:01 42
- 14:01 43 A. That's right.
14:01 44
- 14:01 45 Q. That's a very significant difference; isn't it?
14:01 46
- 14:01 47 A. Yes, yes, it is a difference.

14:01 1
14:01 2 Q. How long has Crown known that that significant change
14:01 3 was necessary?
14:01 4
14:01 5 A. So in terms of changing from the 24-hour period that we
14:01 6 have discussed earlier to 18 hours, which took effect last year,
14:01 7 and then in terms of the 12 hours, certainly I've had some
14:01 8 discussions with my line manager and I think I may have
14:02 9 provided that in my evidence yesterday that there have been
14:02 10 discussions about what play periods might look like going
14:02 11 forward.
14:02 12
14:02 13 Q. Let's try and answer my question. How long has Crown
14:02 14 known that this kind of significant change was necessary?
14:02 15
14:02 16 A. I'm just reflecting, Mr Finanzio, as to what is necessary ---
14:02 17
14:02 18 Q. I'm assuming ---
14:02 19
14:02 20 A. I can't tell you --- I can only tell you that it has been
14:02 21 discussed ---
14:02 22
14:02 23 Q. I'm assuming ---
14:02 24
14:02 25 A. --- with my line manager. As a matter of course Crown
14:02 26 reviews a number of elements and --- I can't pinpoint the necessity
14:02 27 of that, I'm sorry, Mr Finanzio.
14:02 28
14:02 29 Q. Ms Bauer, let me ask you this: who is your line manager?
14:02 30
14:02 31 A. Mr Blackburn.
14:02 32
14:03 33 Q. When did he start work at Crown?
14:03 34
14:03 35 A. I believe a couple of months ago from memory.
14:03 36
14:03 37 Q. So not before then?
14:03 38
14:03 39 A. I don't recall specific conversations but, yeah, I don't recall.
14:03 40
14:03 41 Q. Let's go now to observation and intervention at 8 hours and
14:03 42 10 hours. How will I find those hours, 8 and 10, in the research?
14:03 43
14:03 44 A. You would not.
14:03 45
14:03 46 Q. They are still roughly double, if not more than double, what
14:03 47 the research talks about; aren't they?

14:03 1
14:03 2 A. Yes, they are.
14:03 3
14:04 4 Q. Bear with me for a moment.
14:04 5
14:04 6 COMMISSIONER: Are you leaving the letter?
14:04 7
14:04 8 MR FINANZIO: I will tender the letter. If the letter isn't
14:04 9 tender --- I think it is tender, Commissioner?
14:04 10
14:04 11 COMMISSIONER: No, it hasn't been yet as far as I know.
14:04 12
14:04 13 MR FINANZIO: We may as well do it.
14:04 14
14:04 15 COMMISSIONER: It will be letter dated 26 May 2021 from
14:04 16 Allens to Solicitors for the Commission, Exhibit 122.
14:04 17
18
19 **EXHIBIT #RC0122 - LETTER DATED 26 MAY 2021**
20 **FROM ALLENS TO SOLICITORS FOR THE**
21 **COMMISSION**
22
23
14:04 24 MR FINANZIO: I'm just going down my list of questions to
14:04 25 make sure I don't ask something I've already asked. Bear with me
14:05 26 for a moment.
14:05 27
14:05 28 If Crown did in fact set up its Splunk system to observe players
14:05 29 before 12 hours --- so the Splunk alerts were not sent at 12, but at
14:06 30 5, just for example --- it would throw up a lot more alerts;
14:06 31 wouldn't it?
14:06 32
14:06 33 A. Yes, it would.
14:06 34
14:06 35 Q. Probably thousands?
14:06 36
14:06 37 A. Depending on the time of day, yes.
14:06 38
14:06 39 Q. That would take more staff to deliver that service; wouldn't
14:06 40 it? To be able to answer the Splunk?
14:06 41
14:06 42 A. Yes, more staff would need to be observing or approaching
14:06 43 as required, yes.
14:06 44
14:06 45 Q. That would be an increased cost to Crown; wouldn't it?
14:06 46
14:06 47 A. There could be an increased cost, and I also refer to the

- 14:06 1 current model where both Responsible Gaming and Gaming is
14:06 2 involved in the observable signs and the following up on our
14:06 3 alerts.
14:06 4
- 14:06 5 Q. Yes, we've talked about that. The point I'm making to you
14:06 6 is, you would need more RGAs on the ground to be answer all the
14:06 7 Splunks that would be coming if the timing of the alert was
14:07 8 shorter than 12 hours?
14:07 9
- 14:07 10 A. Yes. Yes, we would.
14:07 11
- 14:07 12 Q. Are the cost considerations factors that have influenced
14:07 13 Crown in setting its Play Period Policy?
14:07 14
- 14:07 15 A. In setting some of the Play Period Policy Crown was
14:07 16 cognisant that it is something that Crown staff all work together
14:07 17 on and obviously responsible gaming taking the key role, but it is
14:07 18 part of the culture of Crown. So from that perspective, that is my
14:07 19 answer.
14:07 20
- 14:07 21 Q. All right. Well, thank you for that answer. Do you have
14:07 22 the tables that were given to you before?
14:07 23
- 14:07 24 A. The register, Mr Finanzio?
14:08 25
- 14:08 26 Q. That's right. I'm just looking for my copy of them. This
14:08 27 will be the last little bit on the Code. Of course play periods are
14:08 28 not, or gambling often without a break, is not the only observable
14:08 29 sign. But there is a table in your materials heading "Extract (table
14:08 30 A)". It has the number 0026 in the last four digits.
14:08 31
- 14:09 32 A. Bear with me, Mr Finanzio. Yes, I do. I have it in front of
14:09 33 me, yes.
14:09 34
- 14:09 35 Q. All right. Can I just ask you this: ATMs, that is automatic
14:09 36 teller machines, are not meant to be within a certain distance of
14:09 37 the gaming floor; that's correct?
14:09 38
- 14:09 39 A. Yes, that's right.
14:09 40
- 14:09 41 Q. Part of that is if someone wants to use an ATM to get more
14:09 42 money out for gambling they have to take a break and get out of
14:09 43 the casino, and that's right, isn't it?
14:09 44
- 14:09 45 A. Yes, that's right.
14:09 46
- 14:09 47 Q. The utility of that break might be that the person takes

14:09 1 a moment to reflect on whether or not they want to go through the
14:10 2 rigmarole of getting more money out and gambling some more?
14:10 3
14:10 4 A. Yes, that's right.
14:10 5
14:10 6 Q. It is a preventative measure; isn't it?
14:10 7
14:10 8 A. Yes, for some people it can be, yes.
14:10 9
14:10 10 Q. I want to take you to this extract over the page on
14:10 11 page 0027.
14:10 12
14:10 13 A. Yes.
14:10 14
14:10 15 Q. It is item 17 in the register.
14:10 16
14:10 17 A. Right.
14:10 18
14:10 19 Q.
14:10 20
14:10 21 *Someone from Comms advised that Velvet Bar manager*
14:10 22 *called regarding a male who present at velvet bar where*
14:10 23 *he has been withdraw cash several times where he has*
14:11 24 *reached max withdrawal for the day. He then got*
14:11 25 *agitated and stated that he has lost a lot of money. RGA*
14:11 26 *attended where patron was found playing at D3500.*
14:11 27
14:11 28 I'm assuming that's a machine or some such thing. Is it possible
14:11 29 to withdraw cash over the bar inside a casino?
14:11 30
14:11 31 A. My understanding is up to \$200 inclusive of the purchase.
14:11 32
14:11 33 Q. I see.
14:11 34
14:11 35 A. And then adds to your bank limit.
14:11 36
14:11 37 Q. Yes, so if I have a higher bank limit, it could be higher?
14:11 38
14:11 39 A. Yes. I'm not au fait with the limits, so could be.
14:11 40
14:11 41 COMMISSIONER: I'm a little bit confused, Ms Bauer. Is the
14:12 42 \$200 limit the house limit, or if I have a credit card that allows
14:12 43 me to take out \$500 then the limit for me cashing out is my \$500
14:12 44 limit?
14:12 45
14:12 46 A. Mr Commissioner, the limit would be \$200 per transaction
14:12 47 inclusive of any purchase, and my understanding is it does not

14:12 1 allow you to do credit purchase. It is EFTPOS only.
14:12 2
14:12 3 MR FINANZIO: Yes, but I think to the Commissioner's point, if
14:12 4 I have a daily transaction limit on my checking account for my
14:12 5 card, I could --- let's say I had a limit of \$1,000, if I bought five
14:12 6 beers, I could withdraw effectively \$1,000 cash over the counter
14:12 7 at Velvet Bar inside the casino; couldn't I?
14:12 8
14:13 9 COMMISSIONER: To be accurate, minus the cost of five beers.
14:13 10
14:13 11 MR FINANZIO: Pardon me. Minus the cost of five beers.
14:13 12
14:13 13 A. Yes, that's my understanding, and I hasten to add that I
14:13 14 haven't had more recent reconnaissance on this, but I do know
14:13 15 that there is a limit per purchase of an EFTPOS withdrawal of
14:13 16 \$200 per time, and my understanding is that it is the bank limit,
14:13 17 which could be to your point, \$1,000.
14:13 18
14:13 19 Q. Yes, and when you say "recent reconnaissance", just look at
14:13 20 the date of that entry.
14:13 21
14:13 22 A. Yes.
14:13 23
14:13 24 Q. 26 April this year. I'm assuming it is not illegal under the
14:13 25 relevant gambling codes and acts to have cash withdrawals over
14:13 26 the bar in the casino.
14:13 27
14:13 28 A. That's right.
14:13 29
14:13 30 Q. Do you agree with me that it is completely inconsistent with
14:13 31 the Responsible Service of Gaming to permit that to occur on the
14:13 32 casino floor when the ATMs aren't allowed to be within
14:14 33 50 metres of the edge of the casino?
14:14 34
14:14 35 A. I would suggest that there is a probability that a customer
14:14 36 might be using the cash for gaming, and equally it might be just
14:14 37 an easy way for someone to get cash. I don't have any other
14:14 38 opinion on that, other than that.
14:14 39
14:14 40 Q. How about we explore that. Do you think that the
14:14 41 customers with a gambling problem are most likely to use that
14:14 42 facility for the purpose of funding their gambling?
14:14 43
14:14 44 A. It is a possibility, but I also note that when we look at this
14:14 45 entry, that the observation made and the observations were passed
14:14 46 on as per the process, that there is something that is occurring
14:14 47 here that may be an issue for a person. So it was recommended to

- 14:15 1 be explored by the RGA.
14:15 2
- 14:15 3 Q. Yes, but it was recommended to be explored by the RGA in
14:15 4 circumstances where the person concerned had reached their
14:15 5 maximum withdrawal, where the person had become agitated and
14:15 6 where they complained that they had lost a lot of money.
14:15 7
- 14:15 8 A. At that point, yes. And I don't know the sequence of
14:15 9 events, on reading it, that that became apparent and then the
14:15 10 escalation was to the RGA.
14:15 11
- 14:15 12 Q. What if I quietly went along and withdrew my \$1,000 and
14:15 13 didn't say anything to anybody and didn't cause a stir, I might still
14:15 14 have a gambling problem, might I?
14:15 15
- 14:15 16 A. You could.
14:15 17
- 14:15 18 Q. And permitting cash withdrawals across the bar at the
14:15 19 casino is making it easier to get my hands on the cash when I buy
14:15 20 a beer than walking out of the casino down to the ATM 50 metres
14:15 21 away, isn't it?
14:15 22
- 14:15 23 A. It could be, yes.
14:15 24
- 14:15 25 Q. When you say "it could be", it really is; isn't it?
14:15 26
- 14:16 27 A. When I say "it could be", it depends on the customer's
14:16 28 propensity, whether they prefer to go to a bar or ATM.
14:16 29
- 14:16 30 Q. It is easier, isn't it?
14:16 31
- 14:16 32 A. It can be, however, it's also the fact that you must interact
14:16 33 with a person which my understanding is also, it is a preventative
14:16 34 measure for a number of people, which is why some of the
14:16 35 changes were made in the legislation so that if there were to be
14:16 36 any of this type of behaviour, you needed to interact with
14:16 37 a human who could make the necessary potential observable
14:16 38 signs.
14:16 39
- 14:16 40 Q. Isn't it better to say that in this respect, Crown is not
14:16 41 technically breaching the law, because there is no law against it?
14:16 42
- 14:16 43 A. That's true, yes.
14:16 44
- 14:16 45 Q. But it is not desirable, is it?
14:16 46
- 14:17 47 A. I contend that in terms of visibility, and in this instance, this

14:17 1 has been proven, that an observation was made and it was passed
14:17 2 on. So the fact that a person needs to interact with another person
14:17 3 has been drawn out in research that that can often be a factor in
14:17 4 thinking about the withdrawal when it involves a person.

14:17 5

14:17 6 Q. So you think it is a good thing?

14:17 7

14:17 8 A. I don't think it is a good thing, I just think it is a service that
14:17 9 can be provided.

14:17 10

14:17 11 Q. Is it a bad thing?

14:17 12

14:17 13 A. I have no opinion other than it is available and it has the
14:17 14 added protection of an interaction with a person that clearly in
14:17 15 this case observed that there may have been difficulties for the
14:17 16 customers.

14:17 17

14:17 18 Q. Let's move on. Are you familiar with the Bingo offering at
14:18 19 Crown?

14:18 20

14:18 21 A. I am familiar that we have previously offered Bingo prior to
14:18 22 lockdown, yes. But I don't have all the absolute detail on it but
14:18 23 I'm aware it has been offered to our loyalty program members,
14:18 24 yes.

14:18 25

14:18 26 Q. Okay, it's come to this. Who was responsible for putting
14:18 27 the program on? Not your line manager?

14:18 28

14:18 29 A. Sorry, not my?

14:18 30

14:18 31 Q. Line manager?

14:18 32

14:18 33 A. No, no. So the Bingo program, in terms of a member offer,
14:18 34 I believe, has been operating for many years. I don't recollect
14:18 35 exactly how many years but for some time.

14:18 36

14:18 37 Q. Who would the person putting the Bingo on report to?

14:19 38

14:19 39 A. So the Bingo program would be both a loyalty program and
14:19 40 a gaming initiative. Again I'm trying to recall, yes.

14:19 41

14:19 42 Q. Who is in charge --- who was in charge, or who is in charge
14:19 43 now of the loyalty and gaming programs?

14:19 44

14:19 45 A. So the loyalty program falls under the marketing program,
14:19 46 which is Mr Nicolas Emery, and the gaming programs fall under
14:19 47 --- at a more --- not at a C-suite level but to two executive general

14:19 1 managers, Mr Mark Carr(?) for gaming machines and Mr Tim
14:19 2 Barnett for table games.
14:19 3
14:19 4 Q. Back in 2019 Bingo was going on; wasn't it?
14:19 5
14:19 6 A. From my understanding it was, yes.
14:19 7
14:20 8 Q. All right. Was there any consultation with you or the RSG
14:20 9 staff before the program commenced?
14:20 10
14:20 11 A. I don't recall any, but then I don't recall whether it has been
14:20 12 in operation prior to my time in Responsible Gaming or not.
14:20 13
14:20 14 Q. Has it ever been reviewed by you in your capacity as the
14:20 15 Head of Responsible Service of Gaming?
14:20 16
14:20 17 A. No, it has not.
14:20 18
14:20 19 Q. To play, it is a thing that is offered to the loyalty program
14:20 20 members, isn't it?
14:20 21
14:20 22 A. That's right.
14:20 23
14:20 24 Q. To play, you have to be a member of the casino?
14:20 25
14:20 26 A. You have to be a member or a guest of a member.
14:20 27
14:20 28 Q. But a member of the general public can turn up on Bingo
14:20 29 day and get signed up on the spot; can't they?
14:20 30
14:20 31 A. If they would like to, yes.
14:20 32
14:21 33 Q. That's how Crown overcomes the prohibition in the
14:21 34 Gaming Regulation Act which prevents games like this being
14:21 35 open to the general public; you have to make them a member.
14:21 36
14:21 37 A. I'm not --- sorry, Mr Finanzio, I'm not familiar with the
14:21 38 legislation that applies to that.
14:21 39
14:21 40 Q. All right. Once you've joined up as a member of the casino
14:21 41 for the purposes of playing your Bingo game, you get all of the
14:21 42 casino promotional material; don't you?
14:21 43
14:21 44 A. If you've elected to receive that material, yes.
14:21 45
14:21 46 Q. You also receive when you arrive, having signed up, a \$5
14:21 47 token for the EGMs and a \$5 voucher for the gaming tables?

- 14:21 1
14:21 2 A. My understanding is there is an offer. I don't know the
14:21 3 exact, but I take your point that it could be a token or a voucher,
14:22 4 as we might more commonly refer to it.
14:22 5
14:22 6 Q. How much does it cost people to play Bingo?
14:22 7
14:22 8 A. My understanding is that it is free.
14:22 9
14:22 10 Q. The sessions that run, as I understand it, there are three
14:22 11 sessions in a day; is that what you understand?
14:22 12
14:22 13 A. I would have to be very vague on that, Mr Finanzio. It's
14:22 14 been quite some time since it was run and it's not something that
14:22 15 I can recall. I have to take your word for it.
14:22 16
14:22 17 Q. Do you know the length of the sessions?
14:22 18
14:22 19 A. No.
14:22 20
14:22 21 Q. If I said to you that the session lengths for Bingo at Crown
14:22 22 were less in period, less hours, less time, and a greater gap
14:22 23 between sessions, you'd have no way of saying that's not so?
14:23 24
14:23 25 A. I wouldn't, no.
14:23 26
14:23 27 Q. If that were so, that would provide plenty of time between
14:23 28 bingo sessions for the Bingo patrons to go around the casino and
14:23 29 spend their \$5 token or \$5 voucher; wouldn't it?
14:23 30
14:23 31 A. That's a summary that can be made, but I don't know what
14:23 32 the session lengths are, nor do I know what the breaks are. I do
14:23 33 know that the conduct of Bingo is an area where it would take
14:23 34 quite some time to be anywhere near the gaming casino floor.
14:23 35
14:23 36 Q. The Bingo is played in Palladium Room; isn't it?
14:23 37
14:23 38 A. Yes, to my understanding it has been played in the
14:23 39 Palladium Room, and from recollection it has been in other areas,
14:23 40 but I think lately in the Palladium, is that correct?
14:24 41
14:24 42 Q. I'm asking you. It seems you don't have ---
14:24 43
14:24 44 A. I don't know. Sorry, just you were putting those questions
14:24 45 and I thought you had that information. I'm sorry, Mr Finanzio.
14:24 46
14:24 47 Q. No, what I'm really trying to do is test your understanding

14:24 1 of it. We can cut through this.
14:24 2
14:24 3 Is it right to say that you really don't know that much about how
14:24 4 Bingo is delivered at the casino?
14:24 5
14:24 6 A. That's correct.
14:24 7
14:24 8 Q. It's right, isn't it, that loyalty card members receive all sorts
14:24 9 of enticements or invitations from the casino?
14:24 10
14:24 11 A. It would depend on if you have elected to receive
14:24 12 information, any mail or anything like that from Crown.
14:24 13
14:25 14 Q. For example, if I was getting that mail, there would be
14:25 15 things like "Come and gamble at the casino, you get free
14:25 16 parking." "Come and gamble at the casino, clock up points, you
14:25 17 get to have dinner", and things like that?
14:25 18
14:25 19 A. I don't have the more recent promotions, if you will, which
14:25 20 would be part of that, in front of me. They may contain
14:25 21 information about what's happening at the casino, and they may
14:25 22 contain information about what item is available or what is
14:25 23 happening, so, yes.
14:25 24
14:25 25 Q. Can I ask you this: it might be the same as Bingo, but your
14:25 26 knowledge of the loyalty card or the loyalty program is pretty
14:25 27 limited?
14:25 28
14:25 29 A. No, my knowledge is, having worked within the casino for
14:25 30 some time I have a reasonable knowledge of the loyalty program
14:26 31 and I have a knowledge of, for example, what promotions might
14:26 32 be offered because the promotions that might be offered have
14:26 33 a structured way of being approved, which is through the Legal
14:26 34 department and through the Responsible Gaming department.
14:26 35
14:26 36 Q. Okay, so you do have a look at the promotions from
14:26 37 an RSG point of view, do you?
14:26 38
14:26 39 A. Yes, we do.
14:26 40
14:26 41 Q. Do you think loyalty programs are consistent with
14:26 42 Responsible Service of Gaming?
14:26 43
14:26 44 A. In some ways the loyalty program, according to the fairly
14:26 45 limited research into loyalty programs and gambling, and in that
14:26 46 research it talks about it can have an effect which --- there still
14:26 47 needs to be established a causal relationship between a potential

14:27 1 issue with gambling and loyalty programs, but equally they can
14:27 2 also be utilised to assist in harm minimisation. So, for example,
14:27 3 using the data from the loyalty program to inform the workings of
14:27 4 the Crown model, for example, or the play periods, is very useful
14:27 5 in harm minimisation.

14:27 6

14:27 7 Q. Until recently, Crown has never undertaken any causal link
14:27 8 between loyalty programs and problem gambling, has it?

14:27 9

14:27 10 A. No, we have not.

14:27 11

14:27 12 Q. It's had the data to do it?

14:27 13

14:27 14 A. Yes.

14:27 15

14:27 16 Q. So why didn't it do it? Why did Crown just sit by, knowing
14:27 17 that there was an absence of evidence the causal link with the
14:27 18 data to conduct research and, not do any?

14:27 19

14:28 20 A. I don't know, it's not been something that I can answer.

14:28 21

14:28 22 Q. Do you know what loan sharking is?

14:28 23

14:28 24 A. Yes, I have an understanding of loan sharking.

14:28 25

14:28 26 Q. Let's make sure we are all on the same page. People
14:28 27 lending money to customers at high rates of interest to facilitate
14:28 28 their gambling?

14:28 29

14:28 30 A. And the instance of facilitating gambling, yes.

14:28 31

14:28 32 Q. And people who borrow the money in that kind of context
14:28 33 are clearly people in harm's way, aren't they?

14:28 34

14:28 35 A. Yes.

14:28 36

14:28 37 Q. They are clearly people with a gambling problem.

14:28 38

14:28 39 A. Mm-mm.

14:28 40

14:28 41 Q. And it is an identified observable sign, isn't it, asking
14:28 42 someone for money?

14:28 43

14:28 44 A. Yes, it is.

14:28 45

14:28 46 Q. You don't have to ask a loan shark, you can ask a friend and
14:29 47 it would still be an observable sign?

14:29 1
14:29 2 A. It can be, yes, it's noted.
14:29 3
14:29 4 Q. But asking a loan shark is a pretty strong sign; isn't it?
14:29 5
14:29 6 A. Yes.
14:29 7
14:29 8 Q. The presence of loan sharking in the casino means there is
14:29 9 --- or would be there is a market for them to ply their trade?
14:29 10
14:29 11 A. Yes, if it is a proven presence, yes.
14:29 12
14:29 13 Q. It means that there are people with gambling problems
14:29 14 sufficient to put themselves at the risk of borrowing from that
14:29 15 type of lender; correct?
14:29 16
14:29 17 A. It could be, yes.
14:29 18
14:29 19 Q. The Commission has heard evidence of how this
14:29 20 arrangement would work.
14:29 21
14:29 22 A. Right.
14:29 23
14:29 24 Q. This has been a problem --- loan sharking has been
14:30 25 a problem at Crown in the past?
14:30 26
14:30 27 A. My understanding is that there has been some evidence of
14:30 28 loan sharking.
14:30 29
14:30 30 Q. There have been articles and studies undertaken in relation
14:30 31 to it; are you familiar with that work?
14:30 32
14:30 33 A. I'm familiar with a study from a few years ago by the
14:30 34 Vietnamese Women's Association.
14:30 35
14:30 36 Q. I want to take you to a part of the Fifth Casino Review.
14:30 37 That is in the tender bundle at tab 40. CRW.510.025.5690. The
14:31 38 passage I want to go to is at page 120 of that document. I think
14:31 39 that is the native page. I think that is what it's called. So the Fifth
14:31 40 Casino Review was completed in June 2013; wasn't it?
14:31 41
14:31 42 A. My understanding is yes.
14:31 43
14:31 44 Q. I'm not trying to trick you.
14:31 45
14:31 46 A. Yeah, no, no, I'm trying to refer from the title.
14:31 47

14:32 1 Q. I'm reading it from the front page of the document. I can
14:32 2 flick here, you can't.

14:32 3

14:32 4 A. Thank you.

14:32 5

14:32 6 Q. It is right, isn't it, that the casino review process starts
14:32 7 many months before the report is finally published?

14:32 8

14:32 9 A. Yes, that's true.

14:32 10

14:32 11 Q. So the Fifth Casino Review was well under way at the tail
14:32 12 end of 2012 and all through the first part of 2013.

14:32 13

14:32 14 A. If it is published in 2015, it would have commenced later
14:32 15 than that.

14:32 16

14:32 17 Q. No, no, it's published in 2013.

14:32 18

14:32 19 A. I beg your pardon, yes, it would have commenced around
14:32 20 about that time I imagine, yes.

14:32 21

14:32 22 Q. I just want to read to you what they said in the Fifth Casino
14:32 23 Review.

14:32 24

14:32 25 In discussions with law enforcement agencies, community
14:32 26 groups and Crown Melbourne Limited staff, loan
14:32 27 sharking was identified as a concern at the Melbourne
14:32 28 Casino.

14:32 29

14:32 30 I want to skip over the next paragraph because that is just
14:33 31 a definition. I want to take you to the next paragraph after that
14:33 32 which reads:

14:33 33

14:33 34 *Loan sharks can be predatory as they may target problem*
14:33 35 *gamblers who borrow money to gamble. The targeting of*
14:33 36 *problem gamblers is a concern raised by community*
14:33 37 *groups who identified issues about loan sharking and the*
14:33 38 *fear of victims to report the matter to law enforcement*
14:33 39 *agencies due to threats. Law enforcement agencies*
14:33 40 *indicated to the VCGLR that indebtedness to loan sharks*
14:33 41 *can be a pathway to involvement in organised crime. For*
14:33 42 *example, people may be recruited to become involved in*
14:33 43 *drug smuggling or prostitution to pay off their debts to*
14:33 44 *loan sharks.*

14:33 45

14:33 46 I'm going to skip over the next couple of paragraphs not for any
14:33 47 sneaky purpose, if you want to read them you can. I want to read

14:33 1 the last paragraph before we get to "Money laundering and
14:33 2 proceeds of crime":

14:33 3

14:33 4 *The VCGLR considers loan sharking, and in particular its*
14:34 5 *impact on individuals, to be a risk to responsible*
14:34 6 *gambling and the integrity of gaming at the Melbourne*
14:34 7 *Casino. The VCGLR is encouraging that Crown*
14:34 8 *Melbourne has taken action in recent years against*
14:34 9 *suspected loan sharks. The VCGLR expects Crown*
14:34 10 *Melbourne Limited to monitor this type of activity closely*
14:34 11 *and take action as appropriate.*

14:34 12

14:34 13 You see that?

14:34 14

14:34 15 A. Yes, I do.

14:34 16

14:34 17 Q. It's an issue that has been on the radar probably for longer
14:34 18 than this, but since at least 2013, as an issue that the casino needs
14:34 19 to take particular care in relation to?

14:34 20

14:34 21 A. Yes.

14:34 22

14:34 23 Q. I want to take you to another document.

14:34 24

14:34 25 COMMISSIONER: Before you do that, I will mark --- sorry, it is
14:34 26 already an exhibit.

14:35 27

14:35 28 MR FINANZIO: I want to show you this document. Tab 47.

14:35 29

14:35 30 COMMISSIONER: You have to give us the document number.

14:35 31

14:35 32 MR FINANZIO: Sorry, VCG.0001.0001.1856.

14:35 33

14:36 34 This is a file note prepared in the context of the VCGLR's review,
14:36 35 being the Sixth Review, where members of the Vietnamese
14:36 36 community conducted an interview, or were part of an interview
14:36 37 with Mr Ferris, a policy officer on 19 September 2017. I will
14:37 38 draw your attention first of all to paragraph 7:

14:37 39

14:37 40 *The AVWA was established in 1983.*

14:37 41

14:37 42 To give some background to the Vietnamese women in prison
14:37 43 there, I will just ask you to read that. Then it says after the
14:37 44 temporary casino opened in 1994 that person suggested that the
14:37 45 rate of incarceration for men was two or three times the State rate,
14:37 46 and that women on average and that these women represented
14:37 47 approximately 15 per cent of all prisoners. The major reason the

14:37 1 women were there were because of casino gambling debts and
14:38 2 gambling debts. That is something you've been made in the
14:38 3 course of your work as the Responsible Service of Gaming GM,
14:38 4 haven't you?

14:38 5
14:38 6 A. Yes, I've been made aware of it in relation to the Sixth
14:38 7 Review from memory, also via meetings I've had with the CEO,
14:38 8 Cam Nguyen, and the ongoing interactions we have with the
14:38 9 Australian Vietnamese association.

14:38 10
14:38 11 Q. You have ongoing relations with those entities?

14:38 12
14:38 13 A. We do.

14:38 14
14:38 15 Q. Is it right that this loan sharking activity which has occurred
14:38 16 at the casino in the past is still ongoing?

14:38 17
14:38 18 A. I don't have visibility that the loan sharking --- the activity
14:38 19 is something that is referred to our Security Services department
14:39 20 in terms of the severity of the matter. I know we view it, of
14:39 21 course, in the context that it ought be viewed, which is
14:39 22 unacceptable and illegal and, therefore, we make every effort to
14:39 23 obtain information so that that can be provided to law
14:39 24 enforcement agencies as appropriate. So, absolutely, in my
14:39 25 experience, it is not tolerated.

14:39 26
14:39 27 Q. But you are unable to speak in more detail about that from
14:39 28 your perspective as the Responsible Service of Gaming person; is
14:39 29 that right?

14:39 30
14:39 31 A. The visibility I have is, for example, if it is something that
14:39 32 is raised in the context of an interaction that a Responsible
14:39 33 Gaming staff member might have, and there may be a narrative,
14:39 34 and as you've noted in the register, there is a narrative proportion
14:39 35 in which case I observe --- and I can't tell you the last time I
14:40 36 observed it, however, every attempt has been made to assist the
14:40 37 person with the information that is presented and then to pass it
14:40 38 on either to our security department or to the law enforcement
14:40 39 agencies as appropriate.

14:40 40
14:40 41 COMMISSIONER: That's not the only source of your
14:40 42 information, is it, though, Ms Bauer? You said you consult with
14:40 43 these community organisations, including the Vietnamese
14:40 44 community; correct?

14:40 45
14:40 46 A. Yes. So I will personally have a --- sorry,
14:40 47 Mr Commissioner.

14:40 1

14:40 2 COMMISSIONER: You are involved with those discussions
14:40 3 with the community groups?

14:40 4

14:40 5 A. So I have been involved in discussions some years ago and
14:40 6 we also have an ongoing dialogue with one of our Responsible
14:40 7 Gaming Advisors and our responsible gaming psychologists with
14:40 8 the Vietnamese Women's Association. I'm not aware, and I don't
14:40 9 have any minutes of meetings that were held and whether loan
14:41 10 sharking was raised in those meetings, but I do know we have
14:41 11 an ongoing dialogue.

14:41 12

14:41 13 COMMISSIONER: And if loan sharking was raised during the
14:41 14 course of the meetings between the Vietnamese Women's
14:41 15 Association and Crown representatives, isn't that something that
14:41 16 ordinarily should be passed on to you?

14:41 17

14:41 18 A. I would expect it to be in the first instance to be passed on
14:41 19 to the Security department, yes. And it might be raised with me.
14:41 20 Yes, it should be raised with me and it has been.

14:41 21

14:41 22 COMMISSIONER: Can I take it that in the past, in the
14:41 23 not-so-distant past, you have been told of the concerns of the
14:41 24 Vietnamese Women's Association, that they are worried about
14:41 25 members of their community being victims of loan sharking?

14:41 26

14:41 27 A. Yes, I have.

14:41 28

14:41 29 COMMISSIONER: Especially the women members of
14:41 30 Vietnamese community?

14:41 31

14:41 32 A. Yes, I have.

14:41 33

14:41 34 COMMISSIONER: I'm not 100 per cent sure about this, but
14:42 35 I think I've read that quite a large proportion of the people who
14:42 36 come and gamble at the casino are members of the Vietnamese
14:42 37 community?

14:42 38

14:42 39 A. Mr Commissioner, I don't have the statistics. I can only go
14:42 40 by what has been my experience, and my experience is that there
14:42 41 is certainly a good representation of the Vietnamese community
14:42 42 playing at the casino, yes. I don't have the details, so.

14:42 43

14:42 44 COMMISSIONER: No, I didn't ask for statistical information.
14:42 45 I was trying to work out these two positions: one, a large number
14:42 46 of the patrons are from the Vietnamese community, one, and,
14:42 47 secondly, umbrella organisations of the Vietnamese community

14:42 1 inform the casino representatives of their concern about loan
 14:42 2 sharking which can have adverse affects on members of the
 14:43 3 Vietnamese community.
 14:43 4
 14:43 5 A. Yes, Mr Commissioner.
 14:43 6
 14:43 7 COMMISSIONER: Okay, thanks. I was going to have a break
 14:43 8 about now.
 14:43 9
 14:43 10 MR FINANZIO: I'm about to move to another topic,
 14:43 11 Commissioner.
 14:43 12
 14:43 13 COMMISSIONER: All right, we will have a 10-minute break
 14:43 14 now, if that's okay for everyone.
 14:43 15
 14:43 16 MR FINANZIO: Thank you.
 14:43 17
 14:43 18 A. Thank you.
 14:43 19
 14:43 20
 14:43 21 **ADJOURNED** [2:43P.M.]
 15:02 22
 15:02 23
 15:02 24 **RESUMED** [3:02P.M.]
 15:02 25
 15:02 26
 15:02 27 COMMISSIONER: Everybody back online can hear me?
 15:02 28
 15:02 29 A. Yes, Mr Commissioner.
 15:02 30
 15:02 31 COMMISSIONER: I did have a look during the course of the
 15:02 32 break at the Casino Control Act. Section 81AA might make
 15:02 33 illegal cash to be taken out at the bar more than once if the same
 15:02 34 credit card is used. The way the statute works, badly drafted, as
 15:02 35 is now apparent, it assumes you can only take out \$200. It doesn't
 15:02 36 deal with multiple taking out of \$200 unless you use the same
 15:02 37 credit card. If you use the same credit card it is illegal. If you use
 15:02 38 different credit cards you can, with a bit of skill, avoid the
 15:03 39 operation of the section. Anyhow, that is a point for later. But
 15:03 40 it's just worth noting that it is attempted to be covered by the Act.
 15:03 41
 15:03 42 MR FINANZIO: Thank you.
 15:03 43
 15:03 44 Commissioner, is your camera on?
 15:03 45
 15:03 46 COMMISSIONER: Yes, it is. I can see both you and Ms Bauer.
 15:03 47 Yes.

15:03 1
15:03 2 MR FINANZIO: Okay.
15:03 3
15:03 4 COMMISSIONER: If Ms Bauer says something.
15:03 5
15:03 6 A. Yes, I can say something and yes, I can see you both.
15:03 7
15:03 8 A. Thank you.
15:03 9
15:03 10 COMMISSIONER: I just wanted to make sure I could hear.
15:03 11
15:03 12 MR FINANZIO: Ms Bauer, are you there?
15:03 13
15:03 14 A. Yes, I am.
15:03 15
15:03 16 Q. I've asked you some questions during the course of the day
15:03 17 about the question about Crown collecting data to assess the
15:04 18 effectiveness of its RSG program. Let me put it to you this way:
15:04 19 you don't presently collect data to monitor the effectiveness of
15:04 20 your RSG program; do you?
15:04 21
15:04 22 A. We collect data in a number of areas to assist us with this
15:04 23 and those areas include the self-exclusion program and the
15:04 24 time-out program and off the top of my head there are variations
15:04 25 of those programs. So, for example, the self-exclusion revocation
15:04 26 program we collect data on, to ascertain or evaluate as best as
15:04 27 possible, yes.
15:04 28
15:04 29 Q. But you don't collect data, for example, I think I asked you
15:04 30 about the number of Splunks that might go unanswered?
15:05 31
15:05 32 A. No, we don't.
15:05 33
15:05 34 Q. You don't produce metrics which talk about or assess the
15:05 35 timeliness of the delivery of the current Play Period Policy?
15:05 36
15:05 37 A. Sorry, I missed the middle section of that, Mr Finanzio.
15:05 38
15:05 39 Q. You don't assess the timeliness or critique the timeliness or
15:05 40 collect data about the timeliness of the delivery of reminders
15:05 41 under the Play Periods Policy?
15:05 42
15:05 43 A. No, we don't.
15:05 44
15:05 45 Q. You don't check to see whether your staff, six months on
15:05 46 from having taken the induction and introduction training
15:05 47 programs, actually remember what they've been taught in their

15:05 1 1.5-hour sessions?
15:05 2
15:05 3 A. No.
15:05 4
15:06 5 Q. I can take you to the transcript of this if you wish. Perhaps
15:06 6 I will do that. In the process of the Sixth Review, the VCGLR
15:06 7 interviewed Mr John Horvath; do you remember who he was?
15:06 8
15:06 9 A. Yes, I do.
15:06 10
15:06 11 Q. We have a transcript of his interview. I want to take you to
15:06 12 a passage of it. It is in tab 53, Commissioner. For the operator,
15:06 13 VCG.0001.0003.1632.
15:06 14
15:06 15 COMMISSIONER: Before I go to that tab, I will mark as
15:06 16 Exhibit 123 the file note of Garry Ferris, policy officer, 19
15:07 17 September 2017. Subject: meeting with the Australian
15:07 18 Vietnamese Women's Association.
19
20
21 **EXHIBIT #RC0123 - FILE NOTE OF MR GARRY FERRIS,**
22 **POLICY OFFICER, DATED 19 SEPTEMBER 2017 -**
23 **SUBJECT: MEETING WITH THE AUSTRALIAN**
24 **VIETNAMESE WOMEN'S ASSOCIATION**
25
26
15:07 27 COMMISSIONER: Now I go to tab 53; is that right?
15:07 28
15:07 29 MR FINANZIO: That's right, tab 53. In that, at pages 44 and 45
15:07 30 there is a discussion there --- it should be --- the page number
15:07 31 should be 0043 in the top right corner.
15:08 32
15:08 33 A. I have a little blockage at the top of the page but I notice the
15:08 34 second page ends in 44.
15:08 35
15:08 36 Q. Yes, that's right, so the page on the left, bottom of the
15:08 37 page is an excerpt from Mr Chappell who was the VCGLR's
15:08 38 director of this process. He asked a question and I will read it to
15:08 39 you. He says:
15:08 40
15:08 41 *MR CHAPPELL: Okay, well, just getting back to things*
15:08 42 *that would demonstrate the value of the process. We've*
15:08 43 *spoken to Sonja and she's also indicated the availability*
15:08 44 *performance indicator which is important, but in a way*
15:08 45 *that's like saying we've got a fully staffed hospital here but*
15:08 46 *not talking about how many patients you have or whether*
15:08 47 *the hospital makes them better or worse. So has there*

15:08 1 *been consideration given to looking at some measures*
 15:08 2 *that would be focused, not just on the offer that's made*
 15:08 3 *but on outcomes that come from it? I know that these*
 15:09 4 *things are certainly not capable of being precise but have*
 15:09 5 *you thought of any measures or any*

15:09 6
 15:09 7 Clearly the nature of the question is asking about the value of the
 15:09 8 VCGLR measures that have been discussed. Then Professor
 15:09 9 Horvath says:

15:09 10
 15:09 11 *Lots of discussion but we don't have a --- I don't have*
 15:09 12 *a robust answer for you because look it's a difficult area.*
 15:09 13 *If you look at the literature and we spend a lot of time*
 15:09 14 *seeing what's out there. So much of it is anecdotal, so*
 15:09 15 *much of it is not terribly good literature. I don't have*
 15:09 16 *a robust measure that you're looking for to say this*
 15:09 17 *program is delivering what we believe. What we do, the*
 15:09 18 *processes, let me come back another way. Currently,*
 15:10 19 *healthcare evaluation, you're absolutely right, is process*
 15:10 20 *reporting nationally; public and private.*

15:10 21
 15:10 22 And then he goes on to talk about healthcare. Then at the bottom
 15:10 23 he says:

15:10 24
 15:10 25 *At the moment at Crown, we have process measures, not*
 15:10 26 *outcome measures.*

15:10 27
 15:10 28 That is right, isn't it? You are able to explain to us all the process
 15:10 29 offerings that are available, but you haven't got in place any
 15:10 30 metric or system for analysing what the outcomes of the
 15:10 31 processes you offer are?

15:10 32
 15:10 33 A. Yes, we have only some outcome measures but the
 15:10 34 predominance to your point is process measures, yes.

15:10 35
 15:10 36 Q. Yes. So that is like saying "We've got a great hospital, but
 15:10 37 we don't know how many patients we are actually dealing with."
 15:10 38 Right?

15:10 39
 15:10 40 A. I don't know how to respond to the analogy, Mr Finanzio.

15:10 41
 15:10 42 Q. It is Mr Chappells' analogy so we've leave it to him. That
 15:11 43 was an observation made by Professor Horvath on 10 April 2016.

15:11 44
 15:11 45 A. Right.

15:11 46
 15:11 47 Q. In the Sixth Review, the VCGLR made this observation:

- 15:11 1
15:11 2 *There is no objective data reporting by Crown on the*
15:11 3 *performance of the business in respect of Responsible*
15:11 4 *Service of Gaming.*
15:11 5
15:11 6 That is true as it was in June 2018 as it is today; isn't it?
15:11 7
15:11 8 A. To some degree it is true, yes, it's true.
15:11 9
15:11 10 Q. What degree isn't it true?
15:11 11
15:11 12 A. So to the degree I mentioned earlier, where we have taken
15:11 13 steps to evaluate, for example, the self-exclusion program, and
15:11 14 I think I have mentioned in evidence before that we have taken
15:12 15 that information to the National Association for Gaming Studies
15:12 16 Conferences, and we have evaluation around the time-out
15:12 17 program agreements, and we're currently in the process of
15:12 18 completing a review of the self-exclusion revocation process.
15:12 19
15:12 20 Q. Yes. As a percentage of the activities conducted by RGAs
15:12 21 and all other staff in the delivery of the RSG service, what
15:12 22 percentage do you say you are presently evaluating or planning to
15:12 23 evaluate?
15:12 24
15:12 25 A. I would be hard-pressed to put a percentage, but when
15:12 26 I think about some of the evaluation is conversations with
15:12 27 customers, it might be 5 per cent. In relation to your query in
15:13 28 terms of evaluation for the future, we understand we have a gap,
15:13 29 and we are in the process of commencing recruitment for
15:13 30 an evaluation manager.
15:13 31
15:13 32 Q. That is very interesting to hear. You are in the process of
15:13 33 engaging or recruiting that person?
15:13 34
15:13 35 A. Mm-hmm.
15:13 36
15:13 37 Q. That hasn't happened yet?
15:13 38
15:13 39 A. No, that's right.
15:13 40
15:13 41 Q. Has the recruitment process started?
15:13 42
15:13 43 A. No, not yet.
15:13 44
15:13 45 Q. Has the job description been written?
15:13 46
15:13 47 A. Yes, it has.

15:13 1
15:13 2 Q. Has the consultant been engaged to recruit the person?
15:13 3
15:13 4 A. Not at this point, and the process is usually that it goes
15:13 5 through the recruitment within Crown.
15:13 6
15:13 7 Q. Right. What is the timeline for that to occur? When do we
15:14 8 expect that to happen?
15:14 9
15:14 10 A. In the next couple of months, dependent upon the
15:14 11 recruitment process.
15:14 12
15:14 13 Q. I see. Before I ask you to the next question, I take you to
15:14 14 another document.
15:14 15
15:14 16 This is a document at tab 67, Commissioner. Can I tender the
15:14 17 transcript, if I haven't already done that?
15:14 18
15:14 19 COMMISSIONER: You have not. That will be the transcript of
15:14 20 the evidence of Professor Horvath of his interview with the
15:14 21 regulator. That will be Exhibit 124.
15:14 22
15:14 23
15:14 24 **EXHIBIT #RCPH0124 - TRANSCRIPT OF INTERVIEW**
15:14 25 **WITH PROFESSOR JOHN STEPHEN HORVATH BY**
15:14 26 **THE REGULATOR**
15:14 27
15:14 28
15:14 29 MR FINANZIO: Thank you.
15:14 30
15:15 31 COMMISSIONER: Which is the next tab number?
15:15 32
15:15 33 MR FINANZIO: The tab number is 67 in the bundle.
15:15 34 CRW.510.029.6274. And if you go to the next page, 6275.
15:15 35
15:15 36 COMMISSIONER: 6275 is not in my bundle.
15:15 37
15:15 38 MR FINANZIO: At tab 67?
15:15 39
15:15 40 COMMISSIONER: At tab 67 I have 6274, just a single page.
15:15 41 Don't worry, I will sort it out.
15:16 42
15:16 43 MR FINANZIO: It should be in there, a letter of 29 June is the
15:16 44 next page, 6275.
15:16 45
15:16 46 COMMISSIONER: The letter of 29 June --- there is an email
15:16 47 from Michelle Fielding of 29 June to Katherine Myer. But it is

15:16 1 just a single page.
15:16 2
15:16 3 MR FINANZIO: No attachments?
15:16 4
15:16 5 COMMISSIONER: No attachments.
15:16 6
15:16 7 MR FINANZIO: Bear with me for one moment, Commissioner.
15:16 8
15:16 9 COMMISSIONER: If you bring it up on the screen, I will work
15:16 10 it out after the hearing.
15:16 11
15:16 12 MR FINANZIO: If the operator can move to the next page,
15:16 13 please, 6275. Operator?
15:17 14
15:17 15 COMMISSIONER: He might not have it either.
15:17 16
15:17 17 MR FINANZIO: Okay. What about 6278?
15:17 18
15:17 19 COMMISSIONER: 6278 is the strategic plan.
15:17 20
15:17 21 MR FINANZIO: Okay. I was going to that document in the
15:17 22 sequence. That is the destination. I will narrate on the pathway.
15:17 23
15:17 24 COMMISSIONER: Does that mean you don't want to mark as
15:17 25 an exhibit, page 6274, which is the Fielding email?
15:17 26
15:17 27 MR FINANZIO: I don't need to mark that as an exhibit. We will
15:17 28 tender tomorrow 6275 which is (inaudible) letter attached to this
15:17 29 document.
15:17 30
15:17 31 COMMISSIONER: I will let that go.
15:17 32
15:17 33 MR FINANZIO: I will talk Ms Bauer through the covering
15:17 34 letter, or the substance of the covering letter. It's pretty
15:18 35 straightforward.
15:18 36
15:18 37 Ms Bauer, are you there?
15:18 38
15:18 39 A. Yes, I am.
15:18 40
15:18 41 Q. Great. One of the recommendations of the Sixth Review
15:18 42 was Recommendation 14, and Recommendation 14 required or
15:18 43 recommended that by 1 July 2014, Crown would develop and
15:18 44 implement a Responsible Gaming strategy focusing on the
15:18 45 gambling-related harm to persons attending the casino, and then it
15:18 46 listed a number of things that should be included. You remember
15:18 47 that, you would have been involved in the preparation of the

15:18 1 strategy?
15:18 2
15:18 3 A. Yes, I was, yes.
15:18 4
15:18 5 MR FINANZIO: For your benefit, Commissioner, the letter
15:18 6 dated 29 June 2019 is merely the covering letter which attaches
15:18 7 the strategic plan which I'm now proposing to go to. So if I can
15:19 8 ask you to go paragraph 1.2 --- that's not correct.
15:19 9
15:19 10 COMMISSIONER: I don't think that will help.
15:19 11
15:19 12 MR FINANZIO: I think what has happened is it's not 1.2, it's
15:19 13 2.4.
15:19 14
15:19 15 COMMISSIONER: Very similar.
15:19 16
15:19 17 MR FINANZIO: I halved it!
15:19 18
15:20 19 2.4 is a SWOT analysis which was undertaken in the
15:20 20 recommendation of the Sixth Review. Can you see that?
15:20 21
15:20 22 A. Yes, I can see the SWOT.
15:20 23
15:20 24 Q. You are familiar with the document?
15:20 25
15:20 26 A. Yes, I am.
15:20 27
15:20 28 Q. You would have been involved in the preparation of it?
15:20 29
15:20 30 A. Yes, I was.
15:20 31
15:20 32 Q. Okay, the SWOT analysis, it says below:
15:20 33
15:20 34 *..... was developed by consolidating a wide range of*
15:20 35 *inputs, including:*
15:20 36
15:20 37 *- The findings and recommendations of the s25 review;*
15:20 38
15:20 39 *- Internal workshops and executive review; and*
15:20 40
15:20 41 *- Consultation with external advisors.*
15:20 42
15:20 43 I want to focus on the weaknesses. This is as at 1 July 2019.
15:20 44
15:21 45 A. Yes.
15:21 46
15:21 47 Q. Then:

15:21 1
 15:21 2 Weaknesses:
 15:21 3
 15:21 4 - *s25 Review noting an observation of operational*
 15:21 5 *shortfalls in areas including:*
 15:21 6
 15:21 7 - *Resourcing and data analysis.*
 15:21 8
 15:21 9 - *Not enough responsible gaming program and service*
 15:21 10 *evaluation*
 15:21 11
 15:21 12 - *Non-participation in research*
 15:21 13
 15:21 14 - *Lack of clearly articulated strategy*
 15:21 15
 15:21 16 - *Cross property policy weaknesses*
 15:21 17
 15:21 18 - *No external review of responsible gaming.*
 15:21 19
 15:21 20 - *Customer awareness of responsible gaming programs*
 15:21 21 *and services*
 15:21 22
 15:21 23 That is identified as a weakness and I think I'm right in saying
 15:21 24 that the Sixth Review identified that many customers didn't know
 15:21 25 what the responsible gaming program and services were?
 15:21 26
 15:21 27 A. I have to take your --- I don't recall the specifics of that point
 15:21 28 in the Sixth Review.
 15:21 29
 15:21 30 Q. And:
 15:21 31
 15:21 32 Perceived lack of recent proactivity in objectively
 15:21 33 *evaluating the responsible gaming framework --- there*
 15:22 34 *are strong elements, but there is also a range of*
 15:22 35 *enhancements that are yet to be engaged with*
 15:22 36
 15:22 37 Just pausing there for a moment.
 15:22 38
 15:22 39 A. Yes.
 15:22 40
 15:22 41 Q. It is right, isn't it, that in 2019 when you did the work in
 15:22 42 response to the Sixth Review, that you yourself recognised the
 15:22 43 ability to see whether the outcomes of your RSG program were
 15:22 44 actually effectively?
 15:22 45
 15:22 46 A. I think we stated there was not enough Responsible Gaming
 15:22 47 evaluation.

15:22 1
15:22 2 Q. That's it, isn't it?
15:22 3
15:22 4 A. Yes.
15:22 5
15:22 6 Q. And it is now May/June 2021 and we still haven't got the
15:22 7 evaluation person employed; correct?
15:22 8
15:23 9 A. That's right, taking into account last year, yes.
15:23 10
15:23 11 COMMISSIONER: I'm just dealing with that particular item and
15:23 12 the observations you make, at least at this point in time, there is
15:23 13 not enough evaluation on the program, and implicit in what you
15:23 14 were saying is, I take it was, there was some evaluation of the
15:23 15 program?
15:23 16
15:23 17 A. Yes, that's right.
15:23 18
15:23 19 COMMISSIONER: Could you just describe to me what those
15:23 20 methods of evaluation were that were in existence before 1 July
15:23 21 2019?
15:23 22
15:23 23 A. Certainly. So, as an example, a point I mentioned earlier
15:23 24 was the self-exclusion program and how it assists customers and
15:23 25 how our customers are participating in that, and --
15:24 26
15:24 27 COMMISSIONER: I think you said you interviewed some of the
15:24 28 people?
15:24 29
15:24 30 A. Yes, so the methodology was --- first and foremost it was in
15:24 31 order to provide support to our customers and, secondly, was in
15:24 32 the hope to derive some points to assist us in the evaluation. So
15:24 33 there was a series of questions asked of the customer and it was
15:24 34 recorded with their permission. So in terms of when a person
15:24 35 self-excluded, we asked if we could contact them in three months'
15:24 36 time and to see how they were going and whether there was any
15:24 37 assistance they might require. So all the feedback was qualitative
15:24 38 and from that we asked questions around whether they required
15:24 39 any further assistance, whether they had been to counselling and
15:24 40 those sorts of elements and whether they wanted any further
15:24 41 follow-up call, and their experience in going through the process.
15:24 42
15:24 43 COMMISSIONER: And was the conclusions of that evaluation
15:25 44 recorded anywhere?
15:25 45
15:25 46 A. Yes, it was. And it was both as a presentation at the
15:25 47 National Association for Gambling Studies and in one of the

15:25 1 years where we presented it, from memory we presented that for
15:25 2 three years, and we also presented that to the VCGLR as well as
15:25 3 the Board.

15:25 4

15:25 5 COMMISSIONER: Okay, so that is an evaluation of the
15:25 6 exclusion program. Was there any other aspect of the overall
15:25 7 program that was the subject of some evaluation?

15:25 8

15:25 9 A. Yes, so there was also an evaluation in relation to the
15:25 10 time-out agreement program, which is a service provided to
15:25 11 customers who come and request self-exclusion and who then, for
15:25 12 reasons, including, as it seems, it is too long for what I would like
15:25 13 to do or it is quite complicated because it is a legally binding
15:26 14 document in terms of being an order and those sorts of things. So
15:26 15 Crown propose to try what we call a time-out program, which is
15:26 16 that a customer can have an agreement with Crown for a three or
15:26 17 a six-month period, subsequently inclusive of the six-month
15:26 18 period, and that is also something that we provided to the
15:26 19 VCGLR in relation to some information for Recommendation 10
15:26 20 from memory.

15:26 21

15:26 22 COMMISSIONER: Okay. Are they the two or is there any
15:26 23 other?

15:26 24

15:26 25 A. They are the two and, Commissioner, I'm digging back.
15:26 26 The other elements that we would review, and perhaps this goes
15:26 27 more to the process point of Mr Finanzio, however, we do
15:26 28 provide what we call a harm minimisation overview and
15:26 29 exclusion-related events where we provide some statistics to the
15:26 30 Board and the VCGLR in relation to how many people are
15:27 31 engaging with services, how many we referred to, for example,
15:27 32 Gambler's Help. And we try and correlate --- with the Victorian
15:27 33 Responsible Gambling Foundation, we would try and find a way
15:27 34 of ascertaining whether those people that we provide the
15:27 35 Gambler's Help service number to or directly refer them to the
15:27 36 service, whether that is a point that is made so, that would assist
15:27 37 both the Victorian Responsible Gambling Foundation and Crown,
15:27 38 so we are still working on that. That would be another example.

15:27 39

15:27 40 MR FINANZIO: Thank you. The two examples you gave the
15:27 41 Commissioner, the self-exclusion and the time-out one, were they
15:27 42 evaluation processes that were conducted before June 2018?

15:27 43

15:28 44 A. Yes. Sorry, if I may correct. Certainly the self-exclusion,
15:28 45 the time-out by way of a trial we would have collected
15:28 46 information, I'm not sure whether it ended up being in
15:28 47 an evaluation proposal per se, but it contributes to us ascertaining

15:28 1 the efficacy of the program.
15:28 2
15:28 3 Q. Yes. So those two examples are examples that, well, the
15:28 4 first one, the self-exclusion one, that was evaluation work that
15:28 5 you were doing before the recommendations made in the Sixth
15:28 6 Review?
15:28 7
15:28 8 A. Yes, well before.
15:28 9
15:28 10 Q. So when the VCGLR said that you weren't doing enough to
15:28 11 self-assess, it was taking that one into account and still forming
15:28 12 the view that there was a lot of work for you to do?
15:28 13
15:28 14 A. I can't speak on behalf of the VCGLR.
15:28 15
15:28 16 Q. How about you speak on behalf of Crown? How about you
15:29 17 speak on behalf of Crown: the strategic study that you did, the
15:29 18 2018 to 2020, contemplated that there was a need to do more
15:29 19 self-evaluation work; didn't it?
15:29 20
15:29 21 A. Yes, it did, yes.
15:29 22
15:29 23 Q. When you formed that view, you were taking into account
15:29 24 the fact that you were already doing the evaluative study on the
15:29 25 self-exclusion policy?
15:29 26
15:29 27 A. Yes, that's right.
15:29 28
15:29 29 Q. So the only new one is the time-out policy?
15:29 30
15:29 31 A. Currently thinking, yes, it is.
15:29 32
15:29 33 Q. Okay.
15:29 34
15:29 35 A. I don't have, off the top of my head, others. I apologise.
15:29 36
15:29 37 Q. That's okay. It's the case, isn't it --- let me go back to the
15:29 38 paper that was prepared by the independent panel appointed by
15:29 39 Crown.
15:29 40
15:30 41 COMMISSIONER: Before you do that, I have to mark this
15:30 42 document as an exhibit. I think I'm up to 125.
15:30 43
15:30 44 MR FINANZIO: Yes.
15:30 45
15:30 46 COMMISSIONER: So the Crown Melbourne Responsible
15:30 47 Gaming Strategic Plan 2018-2020 will be Exhibit 125.

15:30 1
2
3 **EXHIBIT #RC0125 - CROWN MELBOURNE**
4 **RESPONSIBLE GAMING STRATEGIC PLAN 2018-2020**
5
6
15:30 7 MR FINANZIO: Thank you.
15:30 8
15:30 9 I think it is in tab 4 of your folder, Ms Bauer ---
15:30 10
15:30 11 A. Oh, my statement folder?
15:30 12
15:30 13 Q. Yes.
15:30 14
15:30 15 A. Sure. Sorry, I will get up and get that.
15:30 16
15:30 17 Q. It is one of your exhibits.
15:30 18
15:30 19 For the Commissioner, it is CRW.526.007.7005.
15:30 20
15:30 21 A. Sorry, my tabs, Mr Finanzio, are CRW.507.001 and then
15:31 22 a series of numbers.
15:31 23
15:31 24 Q. I see. Perhaps we put this page up. There is not a lot to it.
15:31 25 This was the report we talked about before which was prepared
15:31 26 by the consultants, or those listed on the page there that you can
15:31 27 see. If we can go, operator, to page 8. In the third dot point
15:31 28 down your team there is saying:
15:31 29
15:31 30 *There appears a need for greater focus on continuous*
15:31 31 *improvement where outcome data might be used to*
15:31 32 *enhance or modify existing parts of the system.*
15:31 33
15:31 34 A. That's right.
15:31 35
15:31 36 Q. So we've got an observation by Professor Horvath in April
15:32 37 2018 that I've taken you to; right?
15:32 38
15:32 39 A. Yes.
15:32 40
15:32 41 Q. We've got the recommendations of the Sixth Review in
15:32 42 June 2018; correct?
15:32 43
15:32 44 A. Yes.
15:32 45
15:32 46 Q. You've got your own work in July 2019 in the strategy
15:32 47 document that I've just taken you to?

15:32 1
15:32 2 A. Yes.
15:32 3
15:32 4 Q. You've got your own consultants in August last year
15:32 5 effectively saying the same thing; correct?
15:32 6
15:32 7 A. Yes. Yes.
15:32 8
15:32 9 Q. You still haven't got a person employed to do this job?
15:32 10
15:32 11 A. Not at this point, no.
15:32 12
15:32 13 Q. I would have thought that self-assessment of the outcomes
15:32 14 of this type of work is something that anyone focused on the
15:32 15 Responsible Service of Gaming would be very interested in.
15:32 16
15:32 17 A. Yes, I agree.
15:32 18
15:32 19 Q. Do you agree with me it is a major failing of Crown not to
15:33 20 have progressed this faster?
15:33 21
15:33 22 A. It certainly could have been progressed faster, I agree.
15:33 23
15:33 24 Q. Indeed, it's not like Crown doesn't have the data captured in
15:33 25 its own systems to be able to do this evaluative work?
15:33 26
15:33 27 A. Yes.
15:33 28
15:33 29 COMMISSIONER: Am I right to think, Ms Bauer, that various
15:33 30 academics and research groups have been trying to get from
15:33 31 Crown data that would enable them to evaluate the programs that
15:33 32 you've put in place?
15:33 33
15:33 34 A. Mr Commissioner, and I believe this is part of my statement
15:33 35 where I've listed the approaches that have been made to Crown in
15:34 36 relation to work and which by and large we've agreed to
15:34 37 participate. However, I have not been approached for particular
15:34 38 data programs that I recall. So nothing has been put in writing or
15:34 39 any kind of evaluation from that perspective. So --- which is, you
15:34 40 know, we do talk about it in the weaknesses that we would like to
15:34 41 engage with some research. So that is something we have
15:34 42 recognised as well.
15:34 43
15:34 44 COMMISSIONER: My point was just slightly different.
15:34 45 I thought, and I have to refresh my own memory, but I thought
15:34 46 people, researchers and academics, made complaint that they can't
15:34 47 get the data that is required from Crown in order to conduct

15:34 1 research, contrasting the position with the data they can get from
15:34 2 clubs and pubs. In other words, they make the data available and
15:35 3 you don't; is that right or wrong?

15:35 4

15:35 5 A. I have not received approaches from researchers or
15:35 6 academics. I don't know if anybody else has, Mr Commissioner.

15:35 7

15:35 8 COMMISSIONER: You don't know whether they have made
15:35 9 approaches to others inside your organisation?

15:35 10

15:35 11 A. I do not know.

15:35 12

15:35 13 COMMISSIONER: Yet you do know --- go ahead.

15:35 14

15:35 15 A. No, no. I've personally not. There has sometimes been
15:35 16 conversations, as one might have, at times when we could still
15:35 17 have conferences and the like. So where it might have been
15:35 18 useful, and one of those examples is the research we did with
15:35 19 Dr Simone Roder(?), for example, where it then translated into
15:35 20 "Okay, here is a formal approach to Crown, we would like to see
15:35 21 if we can do some research and whether Crown participates with
15:35 22 access to customers", et cetera, but in terms of the data, in my
15:36 23 experience and whether others have been approached in Crown,
15:36 24 but I've not had a formal approach around data.

15:36 25

15:36 26 COMMISSIONER: Okay. You know that Intralot collects data
15:36 27 on the operation of gaming equipment across the State --- it may
15:36 28 be broader than that, but at least from all gaming venues in the
15:36 29 State?

15:36 30

15:36 31 A. Yes, I understand it is for the YourPlay system. I think it is
15:36 32 also the monitoring system for venues.

15:36 33

15:36 34 COMMISSIONER: Correct. I will have to dig it out, but I think
15:36 35 one of the issues that's come up is all the gaming venues, other
15:36 36 than Crown, provide a great deal of data and Crown will not
15:36 37 provide the same data to Intralot, which can then be used for
15:37 38 research purposes, as does every other gaming venue in the State.
15:37 39 Do you know anything about that?

15:37 40

15:37 41 A. I do not. The only purview that Intralot has at Crown is in
15:37 42 relation to the YourPlay data and I'm not aware that there has
15:37 43 been a request from Intralot in relation to gaming machine data.
15:37 44 Sorry I can't be more helpful.

15:37 45

15:37 46 COMMISSIONER: And you are not aware of any refusal by
15:37 47 Crown to provide data?

15:37 1
15:37 2 A. I'm not aware. That's all I can say, Mr Commissioner, I'm
15:37 3 sorry. I'm not aware of that.
15:37 4
15:37 5 COMMISSIONER: That's okay, I will ask somebody else.
15:37 6
15:37 7 MR FINANZIO: Commissioner?
15:37 8
15:37 9 COMMISSIONER: I'm finished.
15:37 10
15:37 11 MR FINANZIO: I can't see you.
15:37 12
15:38 13 A. I can see you, Mr Finanzio.
15:38 14
15:38 15 Q. Okay.
15:38 16
15:38 17 COMMISSIONER: Something is happening to fix it up.
15:38 18
15:38 19 MR FINANZIO: Okay. I'm about to move to another topic,
15:38 20 Commissioner, so ---
15:38 21
15:38 22 COMMISSIONER: We're having some problems with the
15:38 23 equipment so I think we might break off for tonight. 3.40. So if
15:38 24 we break off a bit earlier, that might help. But before I go, and I
15:38 25 know that it might be that Mr Borsky wants to say something, but
15:38 26 I've got a hope to ask Ms Bauer to ask a question which will
15:39 27 involve her doing homework, which I hope is not too onerous --
15:39 28
15:39 29 A. Sure.
15:39 30
15:39 31 COMMISSIONER: It might just be a telephone call, or you can
15:39 32 get Mr Borsky to do it, I don't care who gives me the information,
15:39 33 but I'm interested in one piece of information in relation to four
15:39 34 areas.
15:39 35
15:39 36 The information that I'm after is in relation to the bar in the
15:39 37 Mahogany Room, the Velvet Bar, the Jackpot Bar and the Sports
15:39 38 Bar. I would like to know, in respect to each of those bars, the
15:39 39 distance from them to any entrance of the casino. In particular, I
15:39 40 would like to know whether it is more than or less than 50 metres.
15:40 41
15:40 42 MR BORSKY: I will do it. I will do the homework if the
15:40 43 Commissioner pleases. I think Ms Bauer should have the
15:40 44 evening off from the Royal Commission.
15:40 45
15:40 46 COMMISSIONER: That's fair enough.
15:40 47

15:40 1 MR BORSKY: I will do the homework.
15:40 2
15:40 3 COMMISSIONER: All right. And then I have to take your word
15:40 4 for it, right?
15:40 5
15:40 6 MR BORSKY: I won't be submitting myself to
15:40 7 cross-examination, if that is what you are suggesting! But I
15:40 8 shouldn't jest. I will answer the questions in the morning and if,
15:40 9 Commissioner, you would be assisted by evidence or a formal
15:40 10 response to a notice, we can attend to that in due course.
15:40 11
15:40 12 COMMISSIONER: Fine. I don't need the information
15:40 13 tomorrow, but at some stage soon.
15:40 14
15:40 15 MR BORSKY: I will answer the question first thing in the
15:40 16 morning.
15:40 17
15:40 18 COMMISSIONER: Thank you.
15:40 19
15:40 20
15:40 21 **HOUSEKEEPING**
15:40 22
15:40 23
15:40 24 MR BORSKY: And, if I may, just on the Intralot issue which
15:40 25 you've raised as well ---
15:41 26
15:41 27 COMMISSIONER: Yes.
15:41 28
15:41 29 MR BORSKY: --- we may, if it is convenient and sparing
15:41 30 Ms Bauer since it is not directly in her territory or knowledge, but
15:41 31 we may come back to you, not first thing in the morning but if it
15:41 32 would assist with a note or a response. Those issues are not
15:41 33 without their complexity. As you would appreciate, there is
15:41 34 Ministerial Directions and agreements and confidentiality
15:41 35 controls involving the State and Intralot, so we probably need to
15:41 36 address those matters other than in public broadcast session. But
15:41 37 certainly I can advise the Commission in open session that Crown
15:41 38 does not have access to the YourPlay data which Intralot collects.
15:41 39 So Crown itself, and this is not by Crown's design, this is the
15:41 40 regulatory regime's design, Crown itself cannot access a specific
15:41 41 gambling data of players through YourPlay, that is when the
15:41 42 players hit their limit time or dollars.
15:42 43
15:42 44 COMMISSIONER: All right.
15:42 45
15:42 46 MR BORSKY: Not first thing in the morning, but we can at
15:42 47 a convenient time do our best to inform the Commission more

15:42 1 fulsomely on those matters.
15:42 2
15:42 3 COMMISSIONER: Okay. Mr Finanzio, I have both
15:42 4 Mr Finanzio and Mr Rozen on the screen.
15:42 5
15:42 6 MR FINANZIO: I'm just going to take precedence for the minute
15:42 7 just to outline the way we anticipate progressing the witnesses
15:42 8 tomorrow. It is our expectation that Ms Bauer will be completed
15:42 9 by lunchtime.
15:42 10
15:42 11 COMMISSIONER: Does that include questions from Mr Borsky
15:42 12 or just you?
15:42 13
15:42 14 MR FINANZIO: I think --- yeah, probably, Ms Bauer might go
15:42 15 over lunch a little bit if Mr Borsky and Mr Rozen have questions
15:42 16 for her, but we'll definitely complete her evidence tomorrow.
15:42 17 And I just wanted to indicate the sequence of witnesses to follow.
15:43 18 It will be Associate Professor MacLean, and then we will go to
15:43 19 the VRGF witnesses, which will run the tail end of tomorrow and
15:43 20 into the next day.
15:43 21
15:43 22 COMMISSIONER: All right. I assume everybody knows, but
15:43 23 our lockdown has been extended for another seven days. So,
15:43 24 originally I thought we might finish this process close of business
15:43 25 tomorrow, that is not going to happen. I think we have at least
15:43 26 another week post-tomorrow so we'll just have to continue as best
15:43 27 we can using the video links.
15:43 28
15:43 29 MR BORSKY: That means, as we understand it, that one of
15:43 30 Mr Emery or perhaps Mr Mackay might be pushed into next
15:43 31 week.
15:43 32
15:44 33 MR FINANZIO: That's correct.
15:44 34
15:44 35 MR BORSKY: May we request, please, because of a medical
15:44 36 appointment Mr Emery has next week, that Mr Emery be heard,
15:44 37 his evidence be called and concluded on Friday, please.
15:44 38
15:44 39 MR FINANZIO: That was our current plan, Mr Borsky.
15:44 40
15:44 41 MR BORSKY: Thank you. He won't be available on Monday.
15:44 42 Thanks.
15:44 43
15:44 44 COMMISSIONER: It looks like the way the witnesses are going
15:44 45 to pan out, that should fit in comfortably. If the worse comes to
15:44 46 the worst we'll sit a bit longer, or have a shorter lunch on Friday,
15:44 47 just to make sure he finishes.

15:44 1
15:44 2 MR BORSKY: Thank you.
15:44 3
15:44 4 COMMISSIONER: Mr Rozen, you have been patient.
15:44 5
15:44 6 MR ROZEN: Not at all. Thank you, Commissioner.
15:44 7
15:44 8 Commissioner, can I raise a couple of brief matters, which are
15:44 9 really in the nature of housekeeping but may be significant. The
15:44 10 first is that, just so that everyone is aware, I probably have about
15:44 11 20 minutes for Ms Bauer. I've indicated that to Mr Finanzio
15:44 12 previously and I've given him an indication of what it is I want to
15:45 13 ask her about. I'm happy to do that, to explain that to you,
15:45 14 Commissioner, if need be, now or tomorrow, whatever is more
15:45 15 convenient.
15:45 16
15:45 17 COMMISSIONER: Can you just give me a clue now?
15:45 18
15:45 19 MR ROZEN: Of course. It is essentially to do with
15:45 20 inter-relationships between the Responsible Gambling section of
15:45 21 Crown and the VCGLR in relation to the Sixth Review. I won't
15:45 22 repeat anything that Mr Finanzio has said. I've also got a small
15:45 23 number of questions about the contents of the report of August
15:45 24 2020 produced for Crown by the three consultants. Once again, it
15:45 25 won't repeat anything that Mr Finanzio has covered.
15:45 26
15:45 27 COMMISSIONER: Okay. Is that the only issue, Mr Rozen?
15:45 28
15:45 29 MR ROZEN: No, there is one other matter. It relates to Exhibit
15:45 30 122, which is the letter from Allens dated 26 May 2021. I
15:46 31 thought it would be helpful for you to know, Commissioner, that
15:46 32 the VCGLR also received a letter on the same subject from
15:46 33 Crown, addressed to the Chief Executive Officer Ms Myers, also
15:46 34 on 26 May 2021. It is very similar, but not identical to Exhibit
15:46 35 122. It contained a little bit more information about the plan that
15:46 36 was submitted to the Board at its meeting on 24 May, and, in
15:46 37 particular, that it was a plan prepared by Mr Steve Blackburn. It
15:46 38 may be helpful for that letter to be tendered, perhaps as part of the
15:46 39 same exhibit or as a separate exhibit, I'm in your hands about that.
15:46 40
15:46 41 MR FINANZIO: I'm content for it to be tendered in that way.
15:46 42 We should observe that I think last night the board pack that had
15:47 43 been called for finally arrived. So we may well be looking to
15:47 44 tender parts of that too.
15:47 45
15:47 46 MR BORSKY: I'm sorry to interrupt, lest there be any
15:47 47 misunderstanding. I'm instructed that the board pack and the

15:47 1 others papers, which were produced yesterday, were produced in
15:47 2 response to a notice which called for production by yesterday. So
15:47 3 I don't want there to be any suggestion or misunderstanding that
15:47 4 the production is late. This is a public process and the words
15:47 5 Mr Finanzio chooses are pored over. I don't want there to be any
15:47 6 doubt that the production was on time because it was.

15:47 7
15:47 8 MR FINANZIO: Yes, we will address you on that tomorrow.
15:47 9 Thank you.

15:47 10
15:47 11 COMMISSIONER: All right. With all that done, I think we can
15:47 12 now adjourn to 10 o'clock tomorrow morning. Thank you,
15:48 13 everyone.

15:48 14

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**HEARING ADJOURNED AT 3.48 PM UNTIL THURSDAY,
3 JUNE 2021 AT 10.00 AM**

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18

19

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