



**EXTERNAL REVIEW OF THE QUEENSLAND OPERATIONS OF THE
STAR ENTERTAINMENT GROUP LIMITED**

BEFORE THE HONOURABLE ROBERT GOTTERSON AO QC

**PUBLIC HEARING
BRISBANE**

**MONDAY, 29 AUGUST 2022
AT 11:00 AM (AEST)**

DAY 4 - TRANSCRIPT

**MR J.M. HORTON QC appears with MS A.R. HELLEWELL
as counsel assisting the Review**

**MR G.D. BEACHAM QC appears with MR P. HOLMES and MR D. WONG
as counsel for Star Entertainment Group Limited, Star Entertainment
Queensland Pty Ltd and The Star Entertainment Custodian Pty Ltd**

<THE HEARING RESUMED AT 11:00 AM

MR GOTTERSON QC: Good morning. I have the benefit of the written submissions from each party, and I would invite now Mr Horton to speak to his
5 submissions - or his side's submissions.

MR HORTON QC: Thank you, Mr Gotterson. As you've indicated, Mr Gotterson, submissions were delivered to you by counsel assisting in writing on Saturday evening. And as I understand it, you have received this morning,
10 early, The Star's submissions, in effect, in response.

MR GOTTERSON QC: Yes, I have.

MR HORTON QC: Mr Gotterson, you will have noted that there were two very
15 useful documents which helped refine the issues but referred to in those submissions. The first was an interim investigation report by OLGR --

MR GOTTERSON QC: Yes.

MR HORTON QC: -- dated 21 April 2022, which is in volume 6 of exhibit 3
20 behind tab 6.1(a) and then a response to that report by The Star's solicitors, KWM, about the extent to which matters in it were contradicted or accepted.

MR GOTTERSON QC: Yes.

MR HORTON QC: And that letter provided, I must say, some great assistance in
25 understanding what was at issue and what wasn't.

MR GOTTERSON QC: Yes.

MR HORTON QC: And to some extent, I might take you to both those
30 documents from time to time --

MR GOTTERSON QC: Very well.

MR HORTON QC: -- as a way of indicating that the work that was done before
35 the commencement of public hearings to distil issues and, to some extent, to afford The Star natural justice about the submissions which might be made in respect of them.

MR GOTTERSON QC: Yes.

MR HORTON QC: We really make one overarching point at the
45 commencement, and that is that we don't yet have the benefit of Mr Bell's report. The terms of reference do direct that the inquiry to pay regard to that report. It's not due to be finished until 31 August and, of course, it is to be given to the regulator in that state. But it doesn't mean, of course, on its face, it would be made public. That's a matter for New South Wales.

MR GOTTERSON QC: Yes.

5 **MR HORTON QC:** We just point out that we have not, of course, had any regard
to any such report, but one needs to. And for that reason, what we have done is left
for the moment any overarching submissions we would seek to make about overall
import, overall significance or any of the larger findings that we invite you to
make because propriety indicates not only should we have the Bell report first, but
10 there might be adverse inferences that arise that should be put to The Star for
comment before that progresses very far down the track.

MR GOTTERSON QC: Yes. Yes, it does leave in limbo that issue, and we can
but hope that it's made publicly available.

15 **MR HORTON QC:** Yes, that's precisely right.

MR GOTTERSON QC: There's no other way --

20 **MR HORTON QC:** No.

MR GOTTERSON QC: -- that we may obtain it. Yes.

25 **MR HORTON QC:** No. And counsel for The Star correctly accept that the
submissions being made here are really stage 1 of the submissions. We have tried
to deal with as much as we can.

MR GOTTERSON QC: Yes.

30 **MR HORTON QC:** That has been possible because of the investigative work in
the report, it has been possible because of Star's response and it has been possible
because we have been able to distil, in the course of the public hearings and in
submissions, those issues where there's no serious contest in those issues. Where
there are, and if there is an issue, we know exactly what the issue is.

35 **MR GOTTERSON QC:** Yes.

40 **MR HORTON QC:** Can we start, please - we will try to address this issue by
issue. The first is China UnionPay. This is one specific direction in the terms of
reference, to examine the use of China UnionPay debit or credit card facilities.
Now, that was done. It was done orally, but we have also included in the tender
bundle for you, Mr Gotterson, from the outset, volume 5 of exhibit 3, the core
documents that bear upon this issue. And if I could just ask you be shown where
they are and one of those documents in particular. They are behind tab 5.2 of
volume 5 of exhibit 3.

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MR GOTTERSON QC: Yes.

MR HORTON QC: So those tabs really running from 5.2 through to tab 5.9 are what we, counsel assisting, say are the key exchanges that occurred about this issue. And we draw your attention in particular to an email of - I'll try to find it - November, 5.5 in the middle of the page, the paragraph beginning:

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"As previously mentioned."

MR GOTTERSON QC: Yes, I have it.

10 **MR HORTON QC:** That's the core of the issue.

MR GOTTERSON QC: Yes. The comprehensiveness of that.

15 **MR HORTON QC:** Yes, that's it. That's right. So, in effect, misleads by omission. That is, it seems to suggest it's about entertainment and accommodation when in reality, as Mr Hogg candidly accepted, the funds really were generally used for gambling. The central facts, it seems, are not seriously in contention. We have set them out in broad summary at paragraph 10 of our written submissions, and then the issue we framed in paragraph 13.

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MR GOTTERSON QC: Yes.

MR HORTON QC: And it comes down to this: there was an understanding by staff members that there was a prohibition on using these cards for --

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MR GOTTERSON QC: Well, by certain staff members --

MR HORTON QC: Certainly.

30 **MR GOTTERSON QC:** -- not all, obviously.

MR HORTON QC: Certainly. But not only junior ones is the point.

MR GOTTERSON QC: Yes.

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MR HORTON QC: But that's exactly right. We don't say it was uniform. Now, this issue and these facts were the subject of submissions by The Star in the Bell Inquiry. We asked whether Star made the same submissions here as they did in New South Wales about the core issue and the answer is yes. And could we hand up to you three documents which record what those submissions were. And just for reference, they are supplementary submissions made by Star, part O, submissions made by The Star, section D.7, and a transcript of day 41 in the Bell Inquiry, the publicly available transcript, pages 4194 to 4195.

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45 **MR GOTTERSON QC:** Yes. Very well. I will receive these.

MR HORTON QC: Thank you. And the relevant part on 4194 of the transcript there, Mr Gotterson, is at line 40 and following:

"Obscured the true nature of the transactions and masked the fact that funds were used for the purpose of gambling from UnionPay and Chinese financial institutions."

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MR GOTTERSON QC: Yes.

MR HORTON QC: And it runs over the page to line 34.

10 **MR GOTTERSON QC:** Yes.

MR HORTON QC: So they were acceptances by The Star, in our respectful submission, properly made; and in our respectful submission, properly applicable in Queensland, subject to some other relevant circumstances, which we'll come to.

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MR GOTTERSON QC: Yes.

MR HORTON QC: Now, one relevant circumstance is this: that in Queensland, the total value of CUP transactions at The Star's properties in this State was \$55,434,525 - sorry, \$55,435,000 --

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MR GOTTERSON QC: 425?

MR HORTON QC: Sorry. \$434,525 --

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MR GOTTERSON QC: Yes.

MR HORTON QC: -- which is not as big as was the case of the New South Wales total transactions of just over 449 million. That's a relevant factor. I don't need to take you to it, but for reference, The Star, through its solicitors, have proposed and accepted, I guess, these figures, at paragraph 1.3 of the response to the interim investigation report, which is at tab 6.1(e) volume 6 of exhibit 3. It said in that response also:

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35 "Given the passage of time, The Star is unable to confirm with precision when The Star and each casino operator became aware of the CUP scheme rules."

40 Which really accords with a point you made early, Mr Gotterson. I'd seek to tender that bundle of documents, those three documents really, as exhibit 5, Mr Gotterson.

MR GOTTERSON QC: Very well. These will be received, three documents, as exhibit 5.

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MR HORTON QC: Yes. Now, the essence of the problem, we say, is that the understanding of certain staff members that they held, the conduct they engaged in to be understood in light of that understanding. So it's not so much about whether

one can point to a Chinese law or a particular analysis of the agreements. It's based upon an understanding of people at the relevant time.

MR GOTTERSON QC: Yes.

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MR HORTON QC: We would submit the findings we would invite you to make are the same as those which are in exhibit 5, and particularly in the transcript of 4194 to 4195, bearing in mind the smaller - still large, smaller amount involved in the affected transactions than in New South Wales.

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MR GOTTERSON QC: Yes.

MR HORTON QC: The other issue that arises uniquely in Queensland with respect to China UnionPay is the dealings between Star and the regulator concerning amendments to the ICMs. You might recall in 2015 they were amended to refer to the possibility.

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MR GOTTERSON QC: Yes.

MR HORTON QC: The authorisation to use --

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MR GOTTERSON QC: China UnionPay.

MR HORTON QC: Yes.

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MR GOTTERSON QC: Yes.

MR HORTON QC: And then later in 2016, removed to simply refer to debit card usage. The 2015 approved version of the ICMs are in the volume concerning China UnionPay, exhibit 3, volume 5, behind tab 5.10. I don't need to take you there, but that's the reference.

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MR GOTTERSON QC: No.

MR HORTON QC: And then in volume 6 of exhibit 3 are the ICMs as they were finally approved to refer to debit card transactions. As you pointed out in the course of our opening, and in evidence, the Act relevantly permitted the use of debit cards from before any difficulty existed with respect to China UnionPay, that is, the Act was amended in 2016 expressly to refer to debit card usage. And on one view, the Act did not prohibit it before then in any event, but the amendment made it clear that debit card was able to be used for gambling in Queensland.

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Now, we don't suggest there's any deliberate conduct in the way in which The Star dealt with the regulator in terms of being less than complete. We say, though, and Mr Hogg accepted, it would have been preferable for The Star to have told the regulator more. And this goes, we say, to transparency, and insufficiency of transparency, with the regulator. It should have given fuller information to the

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OLGR about those arrangements which underpinned the changes and the reasons for them. That's really a point of candour.

5 **MR GOTTERSON QC:** Well, if you go to - we are dealing directly with the OLGR themselves didn't know. So it's more a systemic failure, would you say --

MR HORTON QC: Yes.

10 **MR GOTTERSON QC:** -- that they didn't know --

MR HORTON QC: Yes.

MR GOTTERSON QC: -- and didn't, therefore, inform?

15 **MR HORTON QC:** Yes. So the points that needed to be raised up to be fully considered with the OLGR didn't seem to make it that far. In effect, the context of the amendment. And The Star, for example, says at paragraph 15, subparagraph (b) of its written submissions on page 4:

20 "There's no suggestion that those within The Star who understood that CUP funds were not to be used for gambling communicated that understanding to those in Queensland who were responsible for communicating with OLGR about the ICM changes."

25 And that's correct. There is no suggestion of that. Might we turn next to exclusions. Again, this issue was the subject of the interim investigation report and a response from KWM on behalf The Star of 22 August 2022. The issues in respect of this topic are very clear and, as we understand it, there's no substantial disagreement about its fundamentals. In the KWM letter - tab 6.1(e), volume 6 of
30 exhibit 3 - from page 3, section 2 deals with the exclusion policy.

MR GOTTERSON QC: I've just got the letter now. It's to --

35 **MR HORTON QC:** Yes. Page 3, section 2, Exclusion Policy.

MR GOTTERSON QC: Yes. Yes.

40 **MR HORTON QC:** And there's an explanation here of what occurred on pages 4 and 5. None of that, in our respectful submission, takes away from the fundamental facts that the issue by an interstate Police Commissioner always justified the issue of a Withdrawal of Licence, unless there was overwhelming contrary reason not to mirror it with a WOL. Second, that in truth, the WOL was always something which could lawfully have been issued in response to such an interstate direction.

45 Third, that where the exclusion was by the New South Wales Police Commissioner in respect of The Star New South Wales, there can be no reason why the Queensland property could not have claimed to know about it. Fourth,

that it's not until 2019 that The Star's policies change to require a mirroring. Fifth, that even when that occurs, the mirroring wasn't dealt with retrospectively. And next, even when it was eventually applied retrospectively, that project wasn't completed until May 2002 [sic]. That, on any view, is a very, very long time for
5 exclusions which should have happened long before.

Might we deal with two points that The Star raises in response. The first is that the number of people who might have been caught by the need for exclusion was smaller than one might think. I'm just having trouble for the moment to find the
10 exact numbers. I've circled them somewhere. The point is that there were not many hundreds of people excluded by the Police Commissioner of New South Wales, so the people to whom that would apply anyway were relatively small.

The point we would make in response is, well, the people who have behaved in a way sufficient to attract the Commissioner's direction are ones which have warranted that and, second, they are ones who, because of that and because of the underlying facts, no doubt, point to directions made of people who definitely
15 should not be in a casino, there or here. And that the real problem with this problem is that it goes to the heart of what one would wish from and expect from casinos, that is, that they not act in a way, and positively act, to protect themselves
20 from infiltration from criminal elements or activity. And not excluding by WOL brought about that very risk.

MR GOTTERSON QC: The original version 2.1 didn't contemplate a WOL as a means of exclusion and was limited to exclusion orders --
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MR HORTON QC: Yes.

MR GOTTERSON QC: -- and under the Act.
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MR HORTON QC: Yes. And so what Mr Hogg said about advice he received internally seems to be right as a matter of fact that he received that advice.

MR GOTTERSON QC: Yes.
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MR HORTON QC: We just contend the advice was just clearly wrong.

MR GOTTERSON QC: And the 2.1 deficient in that regard.

MR HORTON QC: Yes. Yes, entirely, and not - I think its replacement was 6.1 of the 2019 policy, which then states the mirroring requirement. But even then, there seems to be a reluctance or a misunderstanding in the sense that anyone from that point on excluded by a Police Commissioner would be as much a person you didn't want as a person who - in respect of whom a direction still subsisted, albeit
40 from the past.
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Now, The Star resists some of the submissions we make about this. They, at paragraph 31 of counsel's written submissions, would say there shouldn't be a finding. You will see there in 31(a) --

5 **MR GOTTERSON QC:** Yes.

MR HORTON QC:

10 "There should not be a finding there was an active disregard for the law and for the underlying rationale of Police Commissioner exclusions."

And then they suggest a finding that's more appropriate, that being incorrect, you will see there in the third line of subparagraph (c).

15 **MR GOTTERSON QC:** Yes.

MR HORTON QC: We respectfully submit this: that incorrect is only a matter of fact. The significance of the incorrectness is what we submitted, that is, one thing to be incorrect, but incorrect in a matter which was of so much import and which, even once corrected with 6.1's replacement of clause 2.1 of the policies, remained unactioned for those who - for whom a direction subsisted and, hence, the active disregard.

25 The numbers concerned, The Star points out in its response to the interim investigation report at page 4, is that there were 768 persons the subject of a New South Wales police exclusion. But so far as Star's records are concerned, 36 persons only of those attended one or both of the Queensland casinos of Star in the past nine years, and 15 in the past five years. And of 36 persons, eight were excluded prior to or around the date of the New South Wales exclusion. All have now been excluded. So they would make the point, no doubt my learned friend will, that when one looks at this problem, one sees it in light of numbers as well.

MR GOTTERSON QC: Yes.

35 **MR HORTON QC:** The point is made at paragraph 32 of our learned friend's submissions about Victoria, that is, a Police Commissioner direction in Victoria might not come, as we understand it, is the submission, to the attention of The Star, as would one in New South Wales, that is, the one in New South Wales would be in respect of, in those days anyway, the New South Wales Star Casino. So one couldn't say that wasn't within the knowledge of the group. Whereas in Victoria, one should bear in mind the exclusion would be from a casino that was not a Star Casino --

45 **MR GOTTERSON QC:** Yes.

MR HORTON QC: -- and there's no automatic way in which that would come to knowledge. And you might recall that Persons 1 and Persons 5 of our case studies were excluded in New South Wales, and Person 2 was excluded in both New

South Wales and Victoria. They are our submissions on that topic. We say the errors placed in serious jeopardy the integrity of Queensland casino operations.

5 **MR GOTTERSON QC:** Do you have any submissions in regard to their paragraph 31(a)?

10 **MR HORTON QC:** Yes, the view, I think expressed by Mr Hogg - probably I won't put this as accurately, I'm sorry, as I should if I had the transcript in front of me. Whilst The Star's mind was turned to the issue, as he understood it, about what should be done, certainly his mind was, he says, and it was thought that the - in effect, the Police Commissioner direction was just that, without attentiveness, in our submission, to the fact that a senior public official making a serious order would necessarily be understood to have done so on (1) information that was sufficiently probative to make the serious order, but (b) that that person would likely have available to them intel, as I said, not just information that would be available from newspapers and publicly available. The nature of that officeholder is they would have access to the New South Wales police system and be advised by less senior officials. So it would reasonably assume from the outside that that person would have - had acted authoritatively and, second, on probative information not all publicly available. And just for reference, it's in the transcript at page 240 at about line 17 where he is asked that question.

MR GOTTERSON QC: Very well. Thank you.

25 **MR HORTON QC:** Next, can we turn to the question of, briefly, junkets. It's not in dispute that the junket business for the time being ceased in Queensland. That decision was made in October 2020, on Mr Hogg's evidence, as we say at paragraph 58 of our written submissions. The Group has no intention of junket groups returning to its casinos. That's a function, we suggest, from the outside at least, that properly recognises the particular inherent risks of junkets. The more remote dealings one has, the less visibility the casino has over the persons with whom it is dealing, and the destination and source of funds.

35 The Star has, I think it's fair to say, preserved its position in the future with respect to sole participant junkets on the basis that (1) in respect of such junkets, the risks that attend them are lower than for groups, as one deals directly with the person who is the gambler and, in any event, says it would only do so after satisfying the regulator that there's relevant sufficient internal controls.

40 That really leads to the next topic, which is The Star's commitment to its anti-money laundering responsibilities. The Star emphasises in its submission that the term of reference is directed to commitment. And correct linguistically and probably in substance to distinguish that from adequacy, although adequacy is, we say, in play with commitment because it's a demonstration of how committed it is to have brought its system to be up to an adequate standard.

45 First, this issue is a group one. So it would be very much affected and informed by Mr Bell's findings, if any, on the topic. And we understand it was the subject of

considerable evidence and submissions there. We invite a submission, which I understand is not resisted, subject to limitations on time, that at the time that KPMG does its review in May 2018, that The Star's AML processes were seriously deficient. The Star accepts that at page 37 of its written outline, but it says that that's as at the date of the KPMG reports. I'm sorry. I might have said page, but I mean paragraph 37.

Now, not only is there the KPMG report about that, which we say is critical of the program, but you have the benefit, Mr Gotterson, of case studies 1, 2, 3, 4, 5. 1, 2, 3, in particular, speak for themselves as clear, practical, concrete cases that The Star's AML program fell far short of what it ought to have been. Seriously deficient. We have set out in 71 the evidence of Mr Hogg and Mr Steiner, which, in effect - which accept that, including that these non-compliances would expose The Star to risks, including involvement in the criminality of others and money laundering.

It really comes to the question - and there's no doubt that - through Mr Steiner in particular, that The Star is seeking to, to use his word, uplift that program --

MR GOTTERSON QC: Yes.

MR HORTON QC: -- and has come some considerable way to whatever the relevant standard at the end should be.

MR GOTTERSON QC: Yes.

MR HORTON QC: And Mr Steiner's evidence, I think it's fair to say, is that he is satisfied at present it is compliant with legal obligations.

MR GOTTERSON QC: Yes. I think core --

MR HORTON QC: Yes.

MR GOTTERSON QC: Compliant in core respects.

MR HORTON QC: Yes. And since the Bell Inquiry and only in very recent times, we made reference to in our written submissions a report has been prepared by a company called RSM --

MR GOTTERSON QC: Yes.

MR HORTON QC: -- a maturity evaluation status report, which I would seek to tender for the record. I don't need to take you to it, Mr Gotterson, but it updates where things are presently at that we have referred to, including reports of McGrathNichol. I might tender that in due course. I might just give my learned friend a look at --

MR GOTTERSON QC: Very well. That's the RSM report?

MR HORTON QC: RSM report, McGrathNichol reports.

5 **MR GOTTERSON QC:** Yes. It has actually been finalised, the RSM report?

MR HORTON QC: It has. Yes, but only on - 29 July 2022 is the date. So, Mr Gotterson, we had asked you to summons the production of it late last week.

10 **MR GOTTERSON QC:** Yes, I remember that.

MR HORTON QC: And The Star, very properly, suggested to us late last week that it had been finalised.

15 **MR GOTTERSON QC:** Well, the picture, nevertheless, is one of, at least since 2018, attention to this issue, though the attainment of a satisfactory situation has taken some time.

20 **MR HORTON QC:** Yes. Taken some time, but certainly attainment of a situation which on its face - one is yet to see the culture lived out, which on its face seems satisfactory.

MR GOTTERSON QC: Yes.

25 **MR HORTON QC:** There's some respects in which we are going to express some reservations about that, but yes. And Mr Steiner, we said - we suggest respectfully, presented not only as a reliable witness but as someone with the necessary background and skills to do what he has been tasked to do. If that volume I've handed up might be made part of exhibit 3. It's volume 10.

30 **MR GOTTERSON QC:** Yes. Tender bundle 10 will become part of exhibit 3.

MR HORTON QC: Thank you.

35 **MR GOTTERSON QC:** Need I keep it in front of me or --

MR HORTON QC: No. No, it's really so your record is complete now.

MR GOTTERSON QC: I will hand it to my associate.

40 **MR HORTON QC:** There are two respects in which we express concerns. One is that point upon which Mr Steiner was examined, that is, the high risk in the casino translates, on the casino's view of the world, to a medium risk for AUSTRAC.

45 **MR GOTTERSON QC:** Yes.

MR HORTON QC: There's a bit said about this in the submissions, and our learned friend will take you to it. In the end, it is this: high just means high, like beyond reasonable doubt just means beyond reasonable doubt. And if one seeks to

perform tricks in respect of a label which is otherwise simple, then that is fraught with error. That is, despite the fact that you think the risk is high, don't worry because AUSTRAC - on our interpretation, not AUSTRAC's interpretation, would regard this as medium. And it's just not justified. And I think Mr Steiner properly
5 accepted that should be changed.

MR GOTTERSON QC: Yes, he speaks of a need to align the terminology --

10 **MR HORTON QC:** Yes.

MR GOTTERSON QC: -- in that regard, though I think he said as a matter of practice what is regarded as high under Star's would be regarded as high for --

15 **MR HORTON QC:** He did say that.

MR GOTTERSON QC: Yes, for AUSTRAC purposes.

MR HORTON QC: Yes, he did say that.

20 **MR GOTTERSON QC:** But, of course, your point is that not everyone has Mr Steiner's knowledge, and those who see the word "medium" might be deterred from referring to AUSTRAC.

25 **MR HORTON QC:** Yes. And, in fact, doing the other thing that is necessary, which is do the source of money inquiry.

MR GOTTERSON QC: Yes.

30 **MR HORTON QC:** So it's relevant to the AUSTRAC referral, section 41. But more importantly, perhaps, just for present purposes, focusing on The Star's own risk under 36, it's the trigger by reference to the standard in 15.91 of the rules in the AML. So the trigger is just when it's high, you've got to do these things. Whereas if I have assessed internally in The Star and I'm not Mr Steiner, a person
35 as high, I might look up this table and go, "That's okay because I don't have to do a source of money inquiry because, really, by virtue of the table," which frankly is just a table, "I can demote my assessment of high to medium and magically transfer it."

40 So that's the first problem. The second is a related one. It's yet to be seen whether this culture, and the way in which this works, is actually that proper source of money investigations are done not only when people are at high risk, properly high risk, substantively high risk, but when, as Mr Steiner said, there might be other occasions when it should be done, large amounts of money, suspicious
45 circumstances and so forth. But it does seem, and I think The Star candidly accepts, that the chronology at least exposes deficiencies in assessing the source of wealth or source of funds with respect to particular individuals. It says it's largely historical. They say that at paragraph 54 on page 13 of their submissions.

Now, then at paragraph 80 and following of our submissions, we take up the issue of Mr Peasley. As we understand it, on The Star's written submissions, paragraph 56 and following at page 14 - I will be corrected by our learned friend if I'm wrong - does seem to accept that what was done was pursuit.

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MR GOTTERSON QC: Yes. Well, it certainly was a substantial aspect of it.

MR HORTON QC: And, of course, if any more were needed, the activation and deactivation of the card to allow things to happen, in addition to the benefits, was - all barriers were cleared. And then at paragraph 60, it's accepted, frankly quite properly in our very respectful submission, that some of the language we saw used in the emails was unfortunate or distasteful. We put it slightly higher. We say it shows one-eyed focus on profits and money - we set that out at paragraph 84(b) - and The Star resists that.

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MR GOTTERSON QC: Yes.

MR HORTON QC: Might we move to gambling harm or safer gambling. The terms of reference direct attention to the approach to gambling harm minimisation, fitness for purpose, implementation and resourcing. But we know from other inquiries, and indeed from the nature of the topic which engages policy, that it feeds very much into what you also might consider, Mr Gotterson, as part of the part C.

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MR GOTTERSON QC: Part C, yes.

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MR HORTON QC: And for that reason, we said in our submissions we didn't expect, because we hadn't foreshadowed all of it, The Star would answer all of it or commit in any way, and there's no criticism made of that.

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MR GOTTERSON QC: Yes.

MR HORTON QC: But we would simply point out that. In very recent times - the first issue is carded play - carded versus uncarded play. Mr Hogg gave evidence about that. Paragraph 100, we have extracted what he said, in effect that one needs to be mindful of it being on a --

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MR GOTTERSON QC: Industry-wide, you might say, basis.

MR HORTON QC: Yes.

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MR GOTTERSON QC: Well, there's good sense in that, isn't there?

MR HORTON QC: There seems to be. And in New South Wales, in the Casino Legislation Amendment Bill passed by both houses - I'm not sure it has received royal assent yet, but certainly passed by both houses. Section 71A says:

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"It's a condition of a casino licence that all gambling conducted at the casino must be by use of a player card issued to each patron that complies with..."

5 Certain things. We just wanted to draw that to your attention. It's a recent initiative in New South Wales on this topic where carded play has been made mandatory. Now, again, it's across the board for casinos, it seems, but the detail is yet to come, obviously, in requirements prescribed by regulations and other requirements in the ICMs.

10 **MR GOTTERSON QC:** Well, it could be certainly player confusion, if they have gambled at casinos in New South Wales and come to Queensland and confronted with a situation where, whereas down there, they must use a card here. They are looking at how to use their card and then they are told, no, you don't have to.

15 **MR HORTON QC:** Yes. Yes. Mr Hogg's point is, well, if you want information about that, you need the full information. You might miss someone or you might wrongly think someone has got a problem from a carded play that is skewed by reference to its small scope.

20 **MR GOTTERSON QC:** Yes.

MR HORTON QC: There's the question of pre-set limits for electronic gaming machines. Mr Finkelstein gave consideration to this and related questions in his report in Victoria concerning Crown Casino. We have given you an extract from
25 that report, relevantly, chapter 8, and that's behind - I don't need to take you to it - exhibit 3, volume 2, tab 2.7.

MR GOTTERSON QC: As with carded play, these seem to be matters that are part C --

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MR HORTON QC: Yes, they do.

MR GOTTERSON QC: -- rather than --

35 **MR HORTON QC:** Yes. And for that reason, I won't take up too much time here.

MR GOTTERSON QC: Yes.

40 **MR HORTON QC:** We have referred to it in the evidence. The next is facial recognition technology, which we say - which we submitted, respectfully --

MR GOTTERSON QC: I think it's common ground that it's desirable, to a point, where it's almost there at the Gold Coast.

45 **MR HORTON QC:** Yes, that's right. And the question is - ultimate question in terms of item 5 in part A of the terms of reference, we would say, is The Star's approach to gambling harm minimisation adequate? Well, the program is in the course of improvement. Mr Toleafoa's evidence was to that effect. There were

many areas where he said things are being looked into and developed. He said it's sufficiently well resourced.

5 **MR GOTTERSON QC:** I think you had made a reference to there being four of the additional 25 in Queensland, and Mr Beacham's submissions says it's 10 or 25. Do you accept --

MR HORTON QC: Can I just --

10 **MR GOTTERSON QC:** Have I got that correct, Mr Beacham?

MR BEACHAM QC: I'm sorry. Could you repeat what you just mentioned, Mr Gotterson?

15 **MR GOTTERSON QC:** Yes. Now I've got to go and find it. Yes, your paragraph 80.

MR BEACHAM QC: Yes, we say there's 10 of the 25 in Queensland, but remembering that the 25 are dealing with the Time Play Management system.

20 **MR GOTTERSON QC:** I see. Yes.

MR BEACHAM QC: So there's 25 new people to deal with the Time Play Management, which is - as you might recall, that's the system that's largely associated with carded gambling.

MR GOTTERSON QC: Yes. Yes.

MR BEACHAM QC: And - yes. So 25 people on that, 10 in Queensland.

30 **MR GOTTERSON QC:** Very well. So there may be a little bit of cross-purposes.

MR HORTON QC: Yes, we don't disagree with what has just been said by Mr Beacham.

35 **MR GOTTERSON QC:** Right. Very well. Thank you. And so that would mean in your paragraph - where is it --

MR HORTON QC: 126.

40 **MR GOTTERSON QC:** 126.

MR HORTON QC: No, 127.

45 **MR GOTTERSON QC:** And should that be amended to 10?

MR HORTON QC: Yes. Whether they are located here might be the difference, but --

MR GOTTERSON QC: I see.

5 **MR HORTON QC:** We might - not that - location may not matter, but physical location.

MR GOTTERSON QC: Yes.

10 **MR HORTON QC:** We might seek to clarify that in due course.

MR GOTTERSON QC: If that could be clarified.

MR HORTON QC: Yes.

15 **MR GOTTERSON QC:** Yes.

20 **MR HORTON QC:** So really the point is this: that at the moment, the measure of the adequacy of the RSG program is in the context of what the regime is. And our submission is, well, there's justification for the regime to be different and enhanced, which might change, of course, the measure of the adequacy of the system itself, but that's a part C question.

MR GOTTERSON QC: Yes.

25 **MR HORTON QC:** That is, the benchmark against which it is to be measured might change in a regulatory sense in terms of what recommendations you might make under part C, Mr Gotterson. Mr Gotterson, they are the key matters which have arisen on stage 1. And unless there's any further questions, they are what we propose to submit to you about them.

30 **MR GOTTERSON QC:** Thank you. And I would invite Mr Beacham now to address.

35 **MR BEACHAM QC:** Thank you, Mr Gotterson. So in our submissions delivered to you this morning, we have tried to do --

MR GOTTERSON QC: May I ask you one thing - I should have - before you start. Some of it has blue type, which I'm told is confidential.

40 **MR BEACHAM QC:** Yes.

45 **MR GOTTERSON QC:** Other - I think there's at least one which is purple type, which is said to be privileged. Is that simply for my information but not a restraint upon embodying it in the report?

MR BEACHAM QC: The purple you don't need to worry about. We have now resolved that so that you can treat that as black, if I can put it that way.

MR GOTTERSON QC: Yes. Very well.

MR BEACHAM QC: The blue was really just - it was done during the course of preparing the submissions so that those parts were there for the purpose of
5 identifying matters that may raise an issue about being publicly available. But, of course, we are open to discussing those things with counsel assisting further if that creates a difficulty.

MR GOTTERSON QC: All right. Yes. There are a number of blue - there is - I
10 should clarify this. Page 12 best illustrates it. There is in light blue, paragraph 49, for example. You have immediately above, in paragraph 48, something in dark blue.

MR BEACHAM QC: I think they are all intended to be blue.
15

MR GOTTERSON QC: All intended to be blue. Very well.

MR BEACHAM QC: Perhaps that's some facet of the word processing.

MR GOTTERSON QC: Yes. Very well. I understand. Thanks.
20

MR BEACHAM QC: Thank you. So in delivering these submissions, we have tried to go through counsel assisting's submissions as responsively as we can, with a view to identifying, really, three things to try to assist you in your report: the first
25 is areas that are not in dispute that we accept, which would obviously allow the findings more easily to be made; the second is the opposite, areas of disagreement on which there will then need to be some determination as to what findings should be made; and thirdly, areas that we independently emphasise for the information under review, and there's a couple that I will emphasise in our oral submissions
30 today.

MR GOTTERSON QC: Very well.

MR BEACHAM QC: The first topic that my learned friend dealt with was China
35 UnionPay, and that topic we can deal with, we think, by saying these couple of things. The first is that, as I think Mr Horton pointed out, we don't resist the proposition that you could make findings here in accordance with the concessions that were made before Mr Bell in the New South Wales inquiry, and we point that out at paragraph 11.
40

We do point out that Mr Bell will eventually deliver a report which, presumably - we can say no more than that - will take those concessions into account. And so we point that out solely for the purpose of perhaps identifying
45 that there's potentially work there that might not need to be done by this review because it might come from Mr Bell and be done.

MR GOTTERSON QC: Yes. Yes.

MR BEACHAM QC: In terms of the Queensland specific issues, we, I think, are agreed with Mr Horton as to the figures - the amounts that were transacted in Queensland as compared with New South Wales, substantially less here in Queensland. And secondly - and this is paragraph 15 - we point out, and I think we
5 understood some level of acceptance here, that in terms of the issue - the Queensland-specific issue that was raised about the submission of the ICMs, the internal control manuals, to the Queensland regulator and the dealings with the Queensland regulator, that we accept, of course, what Mr Hogg said, that in the interests of greater candour, The Star should have given more fuller - more
10 complete information to the regulator about the arrangements underpinning the changes to the ICMs and the reasons for them. And, Mr Gotterson, you might recall that the change that occurs is that there's initially a reference to China UnionPay --

15 **MR GOTTERSON QC:** Yes.

MR BEACHAM QC: -- in the ICM.

20 **MR GOTTERSON QC:** 2015. Yes.

MR BEACHAM QC: Correct. And then it's removed, but it's removed partly - well, it's removed at a time when the change comes into effect --

25 **MR HORTON QC:** The legislative change, yes.

MR BEACHAM QC: -- about debit cards.

MR GOTTERSON QC: Yes.

30 **MR BEACHAM QC:** So suddenly --

MR GOTTERSON QC: I picked that up. Yes.

35 **MR BEACHAM QC:** Thank you. So we submit that it is to be - well, it may be inferred that the shortcomings in the level of information provided to the regulator that Mr Hogg referred to were a consequence of the fact that Queensland staff who were responsible for communicating with the regulator were unaware of any particular significance that that further information might have in terms --

40 **MR GOTTERSON QC:** Yes, I don't think the evidence really impugns or would permit findings impugning the conduct of the Queensland resident staff who communicated directly with the OLGR, but it rather would be a systemic failure of them not being informed --

45 **MR BEACHAM QC:** Thank you.

MR GOTTERSON QC: -- of the truth of it.

MR BEACHAM QC: Yes. That moves us on to the second topic, exclusions. Now, we have said in our submissions - and this is one of the areas where we do look to emphasise some things independently on this topic - that the failings in relation to exclusions going back, in Person 1's case, for example, to 2007, we, of course, accept - Mr Hogg accepted them in evidence, Mr Steiner accepted in evidence - that these people ought to have been excluded at a much earlier time. But we say it's important to understand why that happened because that allows a proper characterisation and also then a more confident conclusion, one which we would urge, that these things will not happen again under the current scheme or policy and the current leadership.

We take the review back to Mr Hogg's evidence where he described, having looked into it, his understanding of the past approach to exclusions. And he explained - and this is paragraph 17 of the submissions - in his statutory declaration, that prior to 2011, the issuing of WOLs, as we've affectionately referred to them, Withdrawals of Licence, was uncommon. It has become more common over time and certainly in the recent - in recent times has become the tool of choice, if I can put it that way.

So that was the first point. And the second was that the understanding within The Star at the time was that to exclude somebody - and really this, at the time, didn't distinguish between WOLs and exclusions - was that there needed to be a sufficient evidentiary basis for excluding a patron and that unproven or unsubstantiated allegations were not a sufficient basis for excluding a patron. So they needed something to rest their decision on.

Now, Mr Hogg, in dealing with Person 1, then sets out in his evidence - and this is summarised in paragraph 18 - what he did when he realised that Person 1 was gambling at the Gold Coast and was the subject of a New South Wales police exclusion. And I won't take your Honour through that, but it's fair to say that Mr Hogg was, in our respectful submission, proactive. He found out about it, he asked about what had been done, he received an explanation, he challenged it and he went further and looked for a way in which he could improve the situation in terms of Person 1's continued participation.

So we say there's three points. The first is that - and starting at paragraph 20 - the way in which a police exclusion from another state was dealt with in that historical time - and that's really 2007 to 2019 when the new exclusions policy came in - was influenced by two things. First, as I mentioned, the view that The Star needed to have a basis to exclude somebody and needed to justify it by some level of evidence, and the distinction between exclusions and WOLs just wasn't made at the time.

There was something in that. We put to one side the failure to separately consider a WOL for the moment because it wasn't being separately considered. Because, of course, statutory exclusions might well have been challengeable, and we point out some reasons for that conclusion in paragraph 22. But nevertheless, there was the WOL that might have been availed of.

MR GOTTERSON QC: Yes, I think your paragraph 23 concedes that.

MR BEACHAM QC: Quite.

5

MR GOTTERSON QC: Yes.

MR BEACHAM QC: Historically, that's what was understood. Now, we look at it and we accept that it was incorrect. The second point, 24, was an understanding, it seems, based on legal advice at the time, that one could not use - and we emphasise the word "use" - the New South Wales exclusion to justify Queensland exclusion. And that, in our submission, is the critical issue, that the failure to immediately exclude somebody in Queensland was not based on some perception that the New South Wales Police Commissioner - there might have been better information around, but on the fact that that piece - if we were lawyers, we would say that piece of evidence wasn't available or admissible, we would say in court, to use in Queensland to justify the exclusion. So we knew - The Star knew, but it had to go and try to find some other evidence to justify its exclusion because it couldn't use the New South Wales exclusion. Now, what's --

20

MR GOTTERSON QC: Well, that is all very difficult, I must say, to accept as an accurate legal summation of the situation. Legally, of course, it's not right.

MR BEACHAM QC: And, of course, now, in the 2019 policy, it is used.

25

MR GOTTERSON QC: Yes.

MR BEACHAM QC: So in terms of the correctness at the time, again, historically probably not correct; fixed up now in the sense that the 2019 policy mirrors, I think the word has been used, the exclusion --

30

MR GOTTERSON QC: Yes.

MR BEACHAM QC: -- and is universally acknowledged by The Star's witnesses as being a much better policy.

35

MR GOTTERSON QC: Yes.

MR BEACHAM QC: The point we simply make, Mr Gotterson, is that it goes then to some of the submissions that we urge you to reject - and my learned friend referred to some of them - about - and we will come to them in a moment, if I can.

40

MR GOTTERSON QC: Yes.

MR BEACHAM QC: That understanding the reasoning at the time in this way is not so much a matter of saying that it was correct or that it was justifiable because The Star has changed and has improved its approach, but is to say that it is simply that. And I think my learned friend Mr Horton referred to that, that The Star's

45

5 submission to you is that the correct characterisation of those decisions was that they were wrong, but no more. They reflected a logical but wrong way of approaching things - sorry, they reflected a wrong way of approaching things that can be understood to be wrong now. But that in terms of, for example, a finding that the approach was based on thinking - and this is paragraph 31 --

MR GOTTERSON QC: Of yours?

10 **MR BEACHAM QC:** Yes.

MR GOTTERSON QC: Yes.

15 **MR BEACHAM QC:** So this is where we deal with some of those findings and the thinking that more or better information would be publicly available than available to a Police Commissioner. We say, no, that wasn't what happened at the time and that doesn't accord with the evidence.

20 **MR GOTTERSON QC:** Well, I think that's probably taken from the drafting of 2.1, which I can't readily find. It's somewhere.

MR BEACHAM QC: It's 33 of counsel assisting's submissions.

MR GOTTERSON QC: What paragraph? Sorry, I missed it.

25 **MR BEACHAM QC:** 33.

MR GOTTERSON QC: 33.

30 **MR BEACHAM QC:** Three-three.

MR GOTTERSON QC: I knew it was here somewhere. Yes:

35 "Upon the issuance interstate, investigation will assess readily available public information."

MR BEACHAM QC: That's right. So when one thinks about that in the context of what I've just said --

40 **MR GOTTERSON QC:** Yes.

MR BEACHAM QC: -- it conforms with that in the sense that it's based on an understanding that the exclusion isn't available to be used - it can't be used, we emphasise - so it triggers the search for something else that can be held up and said that's the basis for excluding this person.

45 **MR GOTTERSON QC:** Well, that's the point. It confines the investigator to readily available public information. It doesn't impose any duty to go and search out that available - or search out relevant public information. It's almost as if to say

whatever flops on the desk as being readily available. No inquiry, as I say, needed. And an investigation to confine itself to that and not to have regard to the interstate exclusion itself. There seemed to me, in the 2.1, just glaring deficiencies, I have to say.

5

MR BEACHAM QC: Obviously not an acceptable policy because it has been changed now to a much more appropriate policy --

MR GOTTERSON QC: Yes.

10

MR BEACHAM QC: -- as Mr Hogg and Mr Steiner effectively accepted. But the point, I suppose, we would make is two things. The words "readily available" may not be the greatest way of expressing it, but we would --

15

MR GOTTERSON QC: No. Well, it means whatever just happens to come within eyesight.

20

MR BEACHAM QC: Well, we would suggest that, in fact, "readily available" simply acknowledges the fact that The Star doesn't have any compulsory way of obtaining the information.

MR GOTTERSON QC: Yes.

25

MR BEACHAM QC: It can't go out and issue subpoenas.

MR GOTTERSON QC: Of course not, no.

30

MR BEACHAM QC: I mean, another way of saying it - my words, not the policy's, obviously - might be whatever it can find to see if it can justify the exclusion. So --

MR GOTTERSON QC: Yes. That's certainly one way of looking at it.

35

MR BEACHAM QC: And the point we simply make is that it should not, in our respectful submission, be taken further and suggest that - and - well, the failure to exclude should not be taken any further and suggest, for example, some diminishing of the significance of the exclusion as opposed to an incorrect legal understanding that it could not be used and something else had to be found as well, nor a disregard for the law, an incorrect legal understanding that has been fixed up

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MR GOTTERSON QC: I suppose now, as a matter of history, that explains things. But it has been at least supplanted since 2019.

45

MR BEACHAM QC: That's so.

MR GOTTERSON QC: Yes.

MR BEACHAM QC: That takes us on to junkets, really, just to say that it seems that we are largely in agreement with what counsel assisting says in relation to junkets. And as Mr Horton identified, the junket play has been suspended and Star has made certain public pronouncements about what its intentions may or may not be going forward.

MR GOTTERSON QC: Even with the single person - the single person junkets.

MR BEACHAM QC: They are all suspended at the moment.

MR GOTTERSON QC: They are all suspended.

MR BEACHAM QC: Correct.

MR GOTTERSON QC: But insofar as there's a potentiality of reviving that, it's limited to single player junkets and not to happen until there's some tick from the OLGR, to put it colloquially.

MR BEACHAM QC: Yes. Quite so.

MR GOTTERSON QC: Yes. I understand.

MR BEACHAM QC: We then move on to the AML topic. We accept at paragraph 37, as Mr Horton quite rightly pointed out, finding that it's open to find that the AML was seriously deficient at the date of the KPMG reports. We do emphasise, though, what follows, in our submissions, 38 and onwards, that, firstly, The Star took KPMG's findings seriously. The board endorsed a plan. The board oversaw the program of work. There's a mountain of paper that shows the work that was done. And most importantly, that by May 2021, in paragraph 39, The Star had engaged BDO to conduct an independent review, and it had found that the program was effective. We have set out - summarised some of the things that BDO said and, in addition, in its phase 2 report, in paragraph 41.

MR GOTTERSON QC: Is there still caution in anything that is done by way of report concerning part A, that what is in blue not be repeated? I'm still just not sure what --

MR BEACHAM QC: The AML particularly does raise a concern. As I've said, we're certainly happy to engage with counsel assisting --

MR GOTTERSON QC: Right. Yes.

MR BEACHAM QC: -- if the blue parts create a problem for, for example, the reporting. I think specifically for AML, the concern is more about not making publicly available the content of the policies. Because, of course, if the content of the policies is made available, then it might give some assistance to people who are looking to avoid them.

MR GOTTERSON QC: I see.

MR BEACHAM QC: And so the AML policies particularly raise that issue. Responsible Gaming perhaps to some extent do, but it's the AML policies where
5 one is dealing with people who might well try to find a way to get around --

MR GOTTERSON QC: Yes. Very well. I understand.

MR BEACHAM QC: -- that specific issue, but --
10

MR GOTTERSON QC: Well, thanks for explaining that. I didn't quite get the drift of it.

MR BEACHAM QC: So to the extent that perhaps some things may be able to be
15 backed out of the blue, if I can put it that way --

MR GOTTERSON QC: Yes.

MR BEACHAM QC: -- then we are certainly happy to do that if it assists. So the
20 point we make in 42 is that BDO's conclusions particularly are significant because they show that The Star has taken significant steps to address the KPMG issues, if I can call them that, and found that it has implemented and complies with - a system that complies with the AML rules. Mr Steiner said that at paragraphs 80
25 and 81 of his statement, that he considered that the KPMG report issues had been addressed. And your Honour has the report of RSM, which is now - we would characterise that report as something that has been engaged in - an attempt to provide a pathway for growth from compliance to best practice, industry-leading practice.

MR GOTTERSON QC: I don't envisage necessarily quoting from it, but does the
30 same concern relate to its report?

MR BEACHAM QC: I doubt it.

MR GOTTERSON QC: Very well.
35

MR BEACHAM QC: I doubt it. As I've said, it's primarily the content of the policies and the way that they operate.

MR GOTTERSON QC: Yes.
40

MR BEACHAM QC: So to the extent the report narrates the policies, obviously that creates an issue.

MR GOTTERSON QC: Yes.
45

MR BEACHAM QC: But to the extent that the report narrates more consultant language about things. So that's why, in paragraph 43, we do take issue with the

5 submission about The Star's commitment to its AML responsibilities. We make that distinction simply - and it may not matter all that much, but the distinction between commitment, attitude, so to speak, and effectiveness, which is a different thing. We accept the effectiveness was no good in 2018. But in our respectful submission, the commitment --

10 **MR GOTTERSON QC:** Until very recent times, that is undefined. So I'm not sure whether that was meant until the RSM report was obtained or it may well be 2018 with KPMG. But in any event, I understand what you are submitting.

15 **MR BEACHAM QC:** In terms of the - what we might call the issue of taxonomy that was raised about the risk ratings in the policy and AUSTRAC, we don't want to - we submit it shouldn't be overstated, partly because Mr Steiner says that he's looking at doing whatever is necessary to ensure that that is no longer an issue. But we simply make this point: it's not a matter of tricks, as my learned friend said; it is really a matter of taxonomy in the policy, but more specifically that it is the policy, that is, The Star's policy, that is the thing that is effective to trigger the steps that need to be taken.

20 So to put it another way: if somebody is high in the policy, according to the policy, that is the thing that causes the steps like enhanced customer due diligence to be taken. There's no cause for a person in the AML department to go back to AUSTRAC and inquire as to what the AUSTRAC rules say about these things because the AUSTRAC rules exist to inform what should be in the policy, the policy conforms with the AUSTRAC rules, and the policy then dictates what The Star's people do.

25 So in that sense, that is why we make the submission, particularly at 53, that, if anything, it leads it to be more cautious in its assessment of individuals because they are rated high, and the rating as high triggers certain things to be done. As I've said, it's something that is under review, so there's reason to think that perhaps the debate is something that will no longer have any significance going forward.

30 **MR GOTTERSON QC:** Well, I think Mr Steiner said there would be --

35 **MR BEACHAM QC:** Yes, he did.

MR GOTTERSON QC: -- an alignment. In fact, it might have even been done by now.

40 **MR BEACHAM QC:** I wouldn't - perhaps not by now, but certainly he said - when he was in the witness box, I think he said it was underway or there was a process underway.

45 **MR GOTTERSON QC:** Yes.

MR BEACHAM QC: I think something to that effect. So that - and we would also emphasise that in terms of the present situation - putting to one side the

debate about taxonomy and language, that Mr Steiner, who is an expert, did emphasise that he did not think there was a conceptual difference between high and AUSTRAC's high, and effectively said that practically, it would not make a difference in terms of how the people were assessed.

5

MR GOTTERSON QC: Yes.

MR BEACHAM QC: So there's some comfort there.

10 **MR GOTTERSON QC:** Well, there would be a high degree of comfort if Mr Steiner himself was attending to all of these. But, of course, there are others who work for him - under him, who might not have quite the same degree of comprehension.

15 **MR BEACHAM QC:** Quite so. But on the other hand, Mr Steiner, in our submission, presented as a very professional, cautious man, somebody who would truck no --

MR GOTTERSON QC: I do agree with that.

20

MR BEACHAM QC: And therefore, to the extent that he says that, it might be based on an assurance that his policies are tight enough, and his team is well trained enough, to get that right.

25 **MR GOTTERSON QC:** All right.

MR BEACHAM QC: Could I move on, then, to Safer Gambling, please. This is another area where we do emphasise something independently because, in our submission, it's important in terms of understanding and assessing The Star's Responsible Gambling policy. So the policy that The Star has now involves a

30 number of layers, as we put it - this is paragraph 62 - each of which complements the others in that it will identify Responsible Gambling issues that the others may not. And could I please outline just briefly what each of those are.

35 **MR GOTTERSON QC:** Yes.

MR BEACHAM QC: The first is that the system involves a whole-of-company approach. Mr Toleafoa gave evidence that every employee - 100 per cent of the employees - are trained in Responsible Gambling, and they are required to fresh

40 their training every two years. In addition, there are staff from other teams, that is, not from the Responsible Gambling team, for example, the gaming team, who have specialised training - so training above and beyond what 100 per cent of the staff get - and they fill a role as guest support advocates, GSAs. It's substantial training. We saw in evidence the PowerPoint presentation that is used. I think Mr

45 Toleafoa said it goes for quite a number of hours. And so they then fill a role as an extra level of trained support for the Responsible Gambling policy.

Now, the rationale of this is that that the employees are able to understand and report on Responsible Gambling issues, that it's a shared responsibility, that it's on everybody's mind every time they are working in the casino and that it's second nature to them, part of what they do at the casino, not separate to what they do. Mr Hogg gave some evidence about that and about wanting everybody in The Star to be focused on providing or supplying gambling services safely.

In addition, we would emphasise this about the whole of company approach: that what it means is that the people who have the greatest contact and the greatest knowledge with the patrons, for example, the gaming staff who see them on a regular basis, are trained in Responsible Gambling and are expected to take responsibility for those areas. Therefore, they have some chance - we don't say it's perfect, but they have some chance of identifying somebody playing for an extended period of time without a break; they can pick up observable behaviours; and with the benefit of the rapport that they develop with patrons, they can help them via interactions early on in the process.

And Mr Toleafoa talked about the fact that doing that starts to build good habits. So hopefully that process can pick up some people early, help them to develop good habits, and it never gets to the point where those people ever have to have an interaction on the cusp of them experiencing significant gambling harm of the kind that we heard from Witnesses A and B and C at the beginning of this inquiry.

That's the first aspect. The second aspect is obviously the independent Responsible Gaming department headed by Mr Toleafoa. I'm at paragraph 70 now. We emphasise that they are independent of the operational side of the business. Mr Toleafoa and his team are - they - I think it was Mr Hogg who gave this evidence. If there is a - not a clash, but if there is a tension between their decisions and those of, for example, the gaming team, Mr Hogg said that the Responsible Gaming team overrules.

MR GOTTERSON QC: Yes.

MR BEACHAM QC: Thirdly, we have data. There's a manager of gambling risk identification who is responsible for this, responsible for developing other ways of using it. That includes, for example, the Time Play Management system which is based on carded data. The point is different layers that might catch different people in different ways. And that - we make that point or we emphasise that point to emphasise that to look at the adequacy of the - the effectiveness of the system, the adequacy of it, the resourcing issues - that whole system should be looked at, not specific parts.

Carded play. I think what Mr Horton said correctly states our position, with respect, that there is an acceptance that carded play - mandatory carded play is valuable and useful, but also a suggestion that it could, and should, be expanded gambling industry wide, if I can put it that way. And I think, Mr Gotterson, you made the point in response to Mr Horton that, yes, that's the - the reason for that is that one might have a situation where somebody who goes into a casino and has

some difficulty, for example, with their gambling which is based on carded play, might go somewhere else. They might go to the local RSL or the local pub.

5 So expanding carded play gambling industry wide obviously allows for the fact that data obtained - or something that occurs as a result of carded play in one area is mirrored across the industry. People can't avoid the restrictions based on carded play in one place by going somewhere else.

10 **MR GOTTERSON QC:** Yes, I must admit it wasn't clear whether the recent New South Wales proposed amendment is to be mirrored in legislation relating, for example, to clubs and like institutions. But --

MR BEACHAM QC: I don't believe --

15 **MR GOTTERSON QC:** -- I don't have knowledge of that.

MR BEACHAM QC: I'm sorry. I don't believe that we know that --

20 **MR GOTTERSON QC:** No.

MR BEACHAM QC: -- from our perspective. But it's certainly something that, from The Star's perspective, would be --

25 **MR GOTTERSON QC:** It would be the optimum, wouldn't it?

MR BEACHAM QC: Correct. Yes. Quite so. That's a good way to put it, with respect. It also means that if one goes further, the cards provide data. Data across all of the industries is more valuable. Data from the casino play is valuable. Data from somebody's play - a person's play across all - you know, the casino and the club and the RSL is more valuable in terms of developing patterns and being able to know - or, sorry, being able to usefully assess that person's gambling patterns.

35 Pre-set limits for EGMs, Mr Horton dealt with, and I think again, with respect, expressed our position well. Self-exclusion, the same thing. Your Honour - sorry, Mr Gotterson, you heard that there are ways in which a person can self-exclude from outside the casino at the moment --

MR GOTTERSON QC: Yes.

40 **MR BEACHAM QC:** -- through a third party such as Relationships Australia. An online exclusion process, we accept, would be another useful addition to that. Facial recognition is being developed at The Star, Mr Gotterson. You heard the evidence of Mr Hogg as to the reasons why there has been some time taken, solely relating to COVID, I think is the way he put it.

45 **MR GOTTERSON QC:** Yes.

MR BEACHAM QC: So that would be - at the Gold Coast - it's being developed at the Gold Coast, and it will be coming in at the Gold Coast, and it will be at the new Brisbane casino when that opens.

5 **MR GOTTERSON QC:** I think the Sydney experience was - was it eight to 10 times --

MR BEACHAM QC: Eight to 10 times.

10 **MR GOTTERSON QC:** -- increase in recognition efficiency.

MR BEACHAM QC: Yes. Yes. So no denying its effect. Mr Gotterson, those were the things we wanted to emphasise orally. We are grateful for the opportunity to do so.

15 **MR GOTTERSON QC:** Thank you, Mr Beacham. Mr Horton.

MR HORTON QC: Just one point. It's rightly mentioned that in our submissions we say:

20 "Until very recent times, the AML was seriously deficient."

The test of the timing, we say, is in the five case studies. So one can see what's actually happening in the AML program, not just what's formally happening. And for example, we say that on 25 March 2021 - so this is three years after the KPMG review - Person 1 presents with cash from a Chemist Warehouse plastic bag. They are examples, if you like, of how the AML system is being implemented.

30 And as at March 2021, an event happens, which, I think on any view, should have triggered, again, red flags, warning bells, and it seems not to have, of course, because it's not until later that the Withdrawal of Licence is issued. So they are a real test of when this thing becomes not seriously deficient. And by "recent times", we mean more recently than March 2021, if at all, because these problems persist, of course, on those concrete facts. That's the test.

35 **MR GOTTERSON QC:** Thank you.

MR HORTON QC: They are our submissions in reply.

40 **MR GOTTERSON QC:** Thank you. Well, I think that concludes the hearing in relation to the Part A matters, subject, I think, to reservations in written submissions as to certain areas where further submissions might wish to be made, and I expect that could comfortably be done in writing anyway.

45 **MR HORTON QC:** Yes.

MR GOTTERSON QC: So I don't imagine there will be a further public hearing. I take the opportunity to thank all, including counsel, instructing solicitors and

those who assisted them, in allowing the inquiry to deal efficiently and effectively with the matters that had been considered. And I think - well, I will adjourn generally the matter now.

5 **MR HORTON QC:** Thank you.

MR GOTTERSON QC: Adjourn the hearing.

<THE HEARING ADJOURNED AT 12:30 PM