

**JOINT STANDING COMMITTEE ON THE
REVIEW OF THE RACING AND WAGERING WESTERN
AUSTRALIA ACTS**

**INQUIRY INTO THE RACING AND WAGERING WESTERN AUSTRALIA
ACTS**

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
MONDAY, 8 MARCH 2010**

SESSION FOUR

Members

**Mr John McGrath (Chairman)
Hon Max Trenorden (Deputy Chairman)
Hon Matt Benson-Lidholm
Mr John Bowler
Hon Alyssa Hayden
Mr Peter Watson**

Hearing commenced at 2.30 pm

DI CIANNO, MR DINO
Director, Best Bookies Price Pty Ltd,
examined:

DI CIANNO, MR FABIO
Self-employed,
examined:

The CHAIRMAN: On behalf of the Joint Standing Committee on the Review of the Racing and Wagering WA Acts, I would like to thank you for appearance before us today. The purpose of this hearing is to assist the committee in its inquiry into the Racing and Wagering Western Australia acts. You would have seen a copy of the committee's specific terms of reference. For the benefit of Hansard and those observing, I would like to introduce myself and the other members of the committee present today. I am John McGrath, the chairman. Alongside me is John Bowler, MLA, and then Peter Watson, MLA, and Matt Benson-Lidholm, MLC. This committee is a joint standing committee of the Parliament of Western Australia. This hearing is a formal procedure of the Parliament and therefore commands the same respect given to proceedings in the house itself. Even though this committee is not asking witnesses to provide evidence on oath or affirmation, it is important that you understand that any deliberate misleading of the committee may be regarded as a contempt of Parliament. This is a public hearing and Hansard will be making a transcript of the proceedings for the public record. If you refer to any documents during your evidence, it would assist Hansard if you could provide the full title for the record.

Before we proceed, I also need to ask you a series of questions. Have you completed the "Details of Witness" form?

The Witnesses: Yes.

The CHAIRMAN: Do you understand the notes at the bottom of the form about giving evidence to a parliamentary committee?

The Witnesses: Yes.

The CHAIRMAN: Did you receive and read the information for witnesses briefing sheet provided with the "Details of Witness" form today?

The Witnesses: Yes.

The CHAIRMAN: Do you have any questions in relation to being a witness at today's hearing?

The Witnesses: No.

Mr D. Di Cianno: My name is Dino Di Cianno. I am director of Best Bookies Price Pty Ltd.

Mr F. Di Cianno: My name is Fabio Di Cianno, and I work for Best Bookies.

The CHAIRMAN: Thank you for your submission to this inquiry. Together with the information you provide today, your submission will form part of the evidence to this inquiry and may be made public. Are there any amendments that you would like to make to your submission?

Mr D. Di Cianno: No.

The CHAIRMAN: We have a series of questions to ask you today, but before we do that, do you wish to provide the committee with any additional information or make an opening statement to this hearing?

Mr D. Di Cianno: No; we will just proceed to the questions.

The CHAIRMAN: I will start by asking you if you would just please provide the committee with some background of Best Bookies Price Pty Ltd, such as when you were formed and what operation or role you play in the industry.

Mr D. Di Cianno: Best Bookies is a portal for people to bet online with bookmakers and totes. We have been established since 1999 and have been actually operating since 2002.

The CHAIRMAN: Is your client base Western Australian, or do you have interstate clients?

Mr D. Di Cianno: No, it is national.

The CHAIRMAN: Do you provide people who want to bet through Best Bookies with the options of the best price with bookmakers on course?

Mr D. Di Cianno: Our website actually provides the prices for all the bookmakers, and our clients can then select who they bet with.

The CHAIRMAN: So you do not do the actual transaction?

Mr D. Di Cianno: We provide the mechanism for the transaction to get through to the bookmaker.

The CHAIRMAN: If I wanted to have a bet with Bob Howat, for instance, if he is on your list, I would have given you the money for the bet, or had a credit facility with you —

Mr D. Di Cianno: There is no credit facility with us.

The CHAIRMAN: I would have made a deposit with Best Bookies, and then I would get on the internet and if I saw that Bob Howat had the best price and I wanted to take that, I could just do that straight on your website without having to contact Bob Howat or anything?

Mr D. Di Cianno: Yes.

The CHAIRMAN: So it is a facility to accommodate punters looking for the best price. What about the tote; do you only operate on the Western Australian tote?

Mr D. Di Cianno: No, we do not operate with the Western Australian tote at all, although we do provide a SuperTAB service, and we do provide New South Wales and UniTAB services on our website.

The CHAIRMAN: So your clients can bet on those; why can they not bet on the Western Australian tote?

Mr D. Di Cianno: Because they would not establish an account for us.

The CHAIRMAN: Did they give you any reason why they would not establish an account?

Mr D. Di Cianno: The policy at the time was for no corporate accounts.

Mr J.J.M. BOWLER: Or no credit betting?

Mr F. Di Cianno: No corporate accounts.

Mr D. Di Cianno: No, just no corporate accounts. Their policy was not to open accounts in corporate names; it had to be a personal account only.

The CHAIRMAN: With those other TABs, you obviously have an account and you asked the Western Australian TAB if you could do the same, which would mean that you would put funds into that account —

Mr D. Di Cianno: We asked them first, yes.

The CHAIRMAN: You were not asking for credit; you just wanted a facility?

Mr D. Di Cianno: Yes.

The CHAIRMAN: Do you believe that you might get that in the future, the way the trends are changing in terms of —

Mr D. Di Cianno: Oh yes, yes. We can open a corporate account now.

The CHAIRMAN: You can do that now?

Mr D. Di Cianno: We can do that now, but we have already established our programs to interface into the relevant TABs. That service is already running, so there is no incentive for us to change at this stage.

The CHAIRMAN: Do you think RWWA missed an opportunity there?

Mr D. Di Cianno: Oh, definitely. We are not a very big business and we turn over between \$100 000 and \$250 000 a month on SuperTAB.

The CHAIRMAN: Yes.

Mr D. Di Cianno: We are very small. If you look at other TABs, like the Tasmanian TAB, between the 2007–08 financial year and the 2008–09 financial year they increased their turnover by 49.8 per cent. The majority of that was because they licensed Betfair as an agency.

The CHAIRMAN: You made a point in your submission that funding of the racing industry has declined since RWWA was established. RWWA would probably argue the opposite.

Mr D. Di Cianno: No, I did not say it has declined; I am saying it is artificially propped up by tax cuts granted by the government.

The CHAIRMAN: Can you elaborate on that?

Mr D. Di Cianno: Yes. In the 1999–00 financial year, the TAB turned over \$817 million, of which they paid the government \$40 million in tax. In the last financial year, they have turned over \$1.588 billion, which is almost double, and during that time they have only paid \$32 million in tax to the government.

[2.40 pm]

The CHAIRMAN: That is because the tax rate has been reduced.

Mr D. Di Cianno: The tax regime has changed. Originally it was five per cent of turnover and then it dropped to three and a half per cent and then to 11.98 per cent of margin. Basically, that is where it has gone. That equates to \$47 million gifted by the government to RWWA in tax cuts in the last financial year alone. That represents over 75 per cent of the increase in the distribution for the industry for that year,

Mr J.J.M. BOWLER: That was to bring WA into line with most other regimes.

Mr F. Di Cianno: But we are comparing RWWA with its predecessor.

The CHAIRMAN: But betting turnover has gone up.

Mr D. Di Cianno: Betting turnover has gone up.

Mr F. Di Cianno: Profit has not gone up; it has gone down.

Mr D. Di Cianno: Profit from that turnover has almost remained stagnant.

The CHAIRMAN: Where do you think that money has gone?

Mr D. Di Cianno: Exactly. That is the question I was going to ask. You have to expect that some sort of economy of scale must begin so that turning over the first \$817 million should cost a lot more than turning over the next \$750 million. Surely, not only should it have increased but the

margin itself should have increased because the costs should not go up proportionally to the turnover.

The CHAIRMAN: Do you think that RWWA has been inefficient in its operating?

Mr D. Di Cianno: That is what I believe has happened. I believe that it has declined offers of revenue in order to protect the monopolistic position that it maintains in this state. It is not competing effectively in what is now a global marketplace. It is trying to remain a monopoly where geographical boundaries no longer mean anything.

The CHAIRMAN: What would you like to see them do if they are going to grow their market?

Mr D. Di Cianno: I do not know, but it has to be something different from what they are doing now. A lot of the other TABs are implementing loyalty schemes, where they are rewarding their members for placing bets. New South Wales has a rewards point system in place now, where people can redeem points for cash into their betting account and for other objects, prizes and what-not that they offer—you can redeem points for entry into racecourses. At the end of the day, the turnover becomes almost immaterial because the profit you make is based on the amount a punter can afford to lose, not the amount he turns over. When a punter is having a winning streak, he will just keep betting. At the end of the day, the punters can afford to lose X-amount of dollars, and you cannot win any more than that. Even if they reduce their margin, their turnover should go up proportionately because there is more churn created from bigger returns to the punter.

The CHAIRMAN: Has your business grown in the time that RWWA has been operating?

Mr D. Di Cianno: It had up to a point, but now it has stagnated because we are not including any additional services.

The CHAIRMAN: But you are now allowed to advertise?

Mr D. Di Cianno: We are now allowed to advertise—we have been since 2005. We are now allowed to advertise interstate. But we still suffer from a lack of services from bookmakers, and that is due basically to the restrictions placed on bookmakers operating in Western Australia where they have to be on a racecourse in order to operate. More often, and on interstate events, you need, first, the bookmaker prepared to do it and, second, the bookmaker prepared to saddle up the extra cost of doing that sort of service, which is hard to find in Western Australia.

The CHAIRMAN: I notice your submission raises the issue that RWWA sought—demanded, I believe—some sensitive commercial information.

Mr D. Di Cianno: Yes.

The CHAIRMAN: Can you elaborate on that please?

Mr D. Di Cianno: Mr Zucal, who is the chairman of stewards, requested that bookmakers provide information in relation to Best Bookies clients. That is information that Best Bookies was not divulging to bookmakers. Obviously, our client list is our greatest asset and we do not want to divulge that information to people such as bookmakers, who have their own clients. Even divulging that to the stewards under the regime in which they operate now is fraught with danger for us, because of the fact that they work for an entity that is a wagering operator.

The CHAIRMAN: You could see why they would want to have a trail of bets?

Mr D. Di Cianno: I can understand that. By the same token, we offered them that information on condition they signed an agreement with us to use it only under certain conditions —

Mr F. Di Cianno: We are not withholding a trail of bets; we are not withholding that information at all.

Mr D. Di Cianno: All the betting information is there and they have enough information to limit our individual clients, without knowing exactly who they are.

The CHAIRMAN: But if there was a stewards inquiry, they would probably need to know?

Mr D. Di Cianno: We have always said that for a stewards' inquiry into a specific event, we are quite prepared to make that information available. But they want carte blanche access to our entire client list, effectively, for no good reason other than that they can force the bookmakers to get it.

Mr J.J.M. BOWLER: They get it off bookmakers now. Bookmakers with any credit, who are not betting, have access to that.

Mr D. Di Cianno: Because we were coerced into providing that information.

Mr J.J.M. BOWLER: No, I am saying that oncourse bookmakers have to provide their sheets at the end of every race call to the stewards. They get that off the bookmakers, so why should you be treated any differently?

Mr F. Di Cianno: Yes, but under the current law there is nothing stopping RWWA getting that information and using that commercially against the bookmakers.

Mr J.J.M. BOWLER: Bookmakers accept that and have worked under that for 100 years.

Mr F. Di Cianno: Yes, but we do not have to accept that.

The CHAIRMAN: What you are saying is that RWWA is a competitor.

Mr F. Di Cianno: As a competitor, they can get our clients and directly market to them, which is what we are trying to stop. We have no problems with the integrity of racing, but there is nothing to stop the RWWA board obtaining information the stewards have obtained and abusing it.

Mr J.J.M. BOWLER: How do you get that access? You are saying you want that but you do not want RWWA to have that advantage as a competitor. Yet we need to maintain the integrity of RWWA and its independence, so how do you get the balance?

Mr D. Di Cianno: I will put it to you this way: RWWA signed an agreement with Betfair to get its client information.

The CHAIRMAN: Betfair is happy to give it.

Mr D. Di Cianno: Betfair is happy to give that, but the stipulation in that agreement would be that they cannot use it for commercial purposes. All we wanted was the same arrangement with RWWA, and they were not prepared to do that. Then the Gaming and Wagering Commission stepped up and said, "We are going to force you to do that." Effectively, at the end of the day, they have said to the bookmakers, either you get this information from them or you are not allowed to take their bets. They cannot threaten us because we are not a licensed entity, so they threaten our suppliers. That does not seem fair. And we offered them the same access under the same conditions, but they are not prepared to do that. They are not prepared to guarantee us that they will not use our information for purposes for which we do not agree.

The CHAIRMAN: You are saying that there is a conflict of interest in the way that RWWA operates?

Mr D. Di Cianno: There is definitely plenty of room for conflict of interest. I do not think that the act as it stands now addresses that sufficiently.

Mr F. Di Cianno: Would you let "Lucky" Caliph run RWWA, or the Bookmakers Association? Would you let them replace the board of RWWA? You would not even consider it, would you!

Mr D. Di Cianno: At the end of the day you have a wagering operator and a governing body as one entity. That should not be the case.

The CHAIRMAN: You are saying that the governing body, which would include the stewards, should be under a separate control?

Mr D. Di Cianno: Under a separate control.

The CHAIRMAN: And they could ask for —

Mr D. Di Cianno: They could ask for our information. Remember that we are happy for Racing Victoria—we are dealing with them at the moment in order to get Victorian bookies onto our system—to have access to our site because they are not part of TabCorp and the TAB betting and the bookmakers are separate so they have no tie and no reason to use our information for commercial purposes. It is different. We have less of an issue with that. When the stewards themselves work for a wagering operator and that wagering operator gets to set the conditions under which its competitors operate, that is a pretty big advantage in a small market such as Western Australia.

[2.50 pm]

Mr J.J.M. BOWLER: Could we overcome that by putting the stewards under the control of the Department of Racing, Gaming and Liquor?

Mr D. Di Cianno: I suppose so.

The CHAIRMAN: You are suggesting that RWWA run the TAB and a separate body would run the industry.

Mr D. Di Cianno: No. RWWA runs the industry and the TAB should be a separate entity like it used to be. Instead of Perth Racing being the peak governing body for racing and the Western Australian Trotting Association being the peak body for the trots, you should combine them into one governing body for the three.

The CHAIRMAN: Some people would argue that it would be more expensive and more costly to run.

Mr D. Di Cianno: It does not appear that way to me from the figures I have. It appears that this has been an expensive exercise in itself.

Mr J.J.M. BOWLER: How do you get the prices from country bookmakers?

Mr D. Di Cianno: They connect to us via the internet.

Mr J.J.M. BOWLER: Via their boards?

Mr D. Di Cianno: No, from a laptop. The laptop drives the electronic board. Their board prices are what is on the laptop.

Mr J.J.M. BOWLER: Some country bookies still operate with the old wooden board.

Mr D. Di Cianno: Yes. For them to get prices onto our system, they would need a laptop and would need to enter prices into their laptop. In those instances, the prices that are on the board can be different from what is on the computer.

Mr J.J.M. BOWLER: Can you only go on what is in the computer?

Mr D. Di Cianno: Yes.

Mr J.J.M. BOWLER: How does it work? If a client who has a line of credit or puts money into your account rings up and says —

Mr D. Di Cianno: No. He logs onto our website and basically it is the same as the TAB's website. You log on and pick the horse you want to back.

Mr J.J.M. BOWLER: If he wants to have a bet in Kalgoorlie, the best price is offered by, say, Neil Gill. Does he have the bet with Neil Gill or with you and then do you place a bet with Neil Gill?

Mr D. Di Cianno: We are not licensed so we cannot hold the bet. We act as an intermediary between the client and the bookmaker.

Mr J.J.M. BOWLER: How do you make a profit?

Mr D. Di Cianno: The bookmaker pays us a fee.

Mr J.J.M. BOWLER: Is it a percentage of the bet or a fee to be on your service?

Mr D. Di Cianno: It is a flat fee to be on the service.

The CHAIRMAN: How many bookmakers do you have on your books in Western Australia?

Mr D. Di Cianno: We have 22.

The CHAIRMAN: How many are thoroughbred bookmakers and how many are harness bookmakers?

Mr D. Di Cianno: Both the harness bookmakers are on, Lucky and Steve. The country harness guys are not on. I think the majority of the metropolitan bookmakers are on. There are two or three in the main ring who are not on. The two guys out in the silver ring are on. Quite a few country bookmakers are on now.

The CHAIRMAN: What do you think are the biggest challenges facing the wagering industry in Western Australia at the moment?

Mr D. Di Cianno: The biggest challenge at the moment is that the market is no longer state based. You have to view the market as global. As you have seen from Tasmania's figures, it has a licensed agency that has brought a lot of clients that they never had access to before.

Mr J.J.M. BOWLER: But only one state was ever going to do that. You cannot say that that can be replicated in WA.

Mr D. Di Cianno: It cannot be replicated in WA because that SuperTAB is now covered. To some degree, you can still get some business in that regard because Tasmania does not do all the racing that WA covers on its TAB. There is room to get a bit of business there. There is no reason why New South Wales could not come to the same sort of arrangement, and the same with UNiTAB. Betfair would do what we are doing and offer all three totes. We have pretty much missed the boat in Western Australia. That is the problem we have had for quite a while. We are not proactive enough.

Mr J.J.M. BOWLER: What about Hong Kong, Singapore and our links into Asia? Do you operate there? Would you like to operate there?

Mr D. Di Cianno: There are issues with that at this stage. As I said, we are a very small firm. We do not really want to take risks associated with currency exchange and stuff like that at this stage. It is a decision we have made on a commercial level. Basically, there is some hope for that sort of thing.

Mr F. Di Cianno: Not from Western Australia.

Mr D. Di Cianno: Not from a Western Australian point of view. Again, all you can do is probably come to some sort of pooling agreement with the international TABs. Most of that has been driven by Victoria in any case. Again, we have been too slow to get on the mark. Unfortunately, once you lose an opportunity to try to gain the benefits from that later on, it costs twice or three times as much to generate anything out of it, which is what we found. If we do not provide a level of service that keeps our clients happy, it costs a lot more money to get that client to come back to our site, if we can get them back at all. Unfortunately, a lot of WA punters are quite happy to bet with the Northern Territory bookmakers.

The CHAIRMAN: Do you think that will change?

Mr D. Di Cianno: Not in the foreseeable future. There is less pressure on the industry now to do something about it because you have introduced the product fee legislation to recoup some of that money.

The CHAIRMAN: You say in your submission that the racing industry in Western Australia would be better served if the legislation was amended from “endeavour to make a profit” to read “maximise the funding for the industry”. What is the difference? What are you getting at there?

Mr D. Di Cianno: “Endeavour to make a profit” means please do not lose. There is no incentive to maximise the possible returns. It just says “make a profit”. That is not very hard when you have a fixed margin of 16 per cent on a turnover of \$1.5 billion. Why can you not do something more? Why can you not give them an incentive? At the moment with the government’s tax regime being cut every year effectively, you are removing any incentive for them to get off their backsides and do something.

The CHAIRMAN: We have your submission here. Are there any other points you would like to stress before we conclude? Conflict of interest is something that you have raised continually. You are saying that there is a problem with RWWA running the TAB and setting the bar or the regulation for other betting competitors.

Mr F. Di Cianno: The quality of the administration of the current legislation should be looked at as well.

The CHAIRMAN: Can you elaborate on that?

Mr D. Di Cianno: I am talking about things like our proposal to RWWA a number of years ago to bet through the oncourse tote. The oncourse turnover generates far more revenue for the industry than offcourse turnover. We worked with the Gaming and Wagering Commission and the Department of Racing, Gaming and Liquor to ensure that there were no problems. An email from Ray Younger on 10 June 2005 states —

Dino,

There does not appear to be any legal impediment to the placement of bets by electronic means provided the punter placing the bet has an account with RWWA.

That was a point that we disputed. We went through the process and basically it had no objections so we put forward a proposal to RWWA. RWWA wrote back to us, stating —

In order to properly assess the proposal inquiries were made with the Department of Racing, Gaming and Liquor in order to fully explore the entire existing legislative framework governing aspects of wagering both general and specific.

A number of potential issues were identified, some of which went beyond the matters raised within your proposal under the sub-heading of “Legality of the Proposal” ...

[3.00 pm]

These indicated that there are significant legal considerations standing in the way of the proposal. This is contrary to what we received from the department ourselves. Then it goes on to say —

In consideration of existing legislation governing account betting, both general and specific, and mindful of advice from the Department of Racing, Gaming and Liquor, RWWA is unable to offer support for the proposal.

Should you wish to take the matter further, then it would be incumbent upon you to make DRGL fully aware of the nature of your proposal and seek their written approval that it is not in breach of any existing legislation ...

The CHAIRMAN: So what you wanted to do was put the money that your clients wanted to bet into the TAB.

Mr D. Di Cianno: Into the WA TAB.

The CHAIRMAN: You wanted to put it into the oncourse tote —

Mr D. Di Cianno: Put it through an oncourse tote.

The CHAIRMAN: — which would mean more money for the club but less money for RWWA probably.

Mr D. Di Cianno: Less money for RWWA, but more money for the industry as a whole. That was knocked on the head based on that. They put the ball in our court to get it approved through the department, yet the department, when we questioned what their advice was to RWWA over the proposal, said —

I concurred with the views of RWWA that:

- a person cannot use another persons RWWA account to fund bets on an on-course totalisator;
- there are no legislative provisions to permit betting via electronic means with on-course totalisators; and
- the only permitted method for betting via an account through a totalisator is with RWWA.

That was the advice they gave them, yet a few months down the track, a bloke I know called Frank Regan is running a punter's club out of Cannington, betting through the oncourse tote and betting on behalf of other people through one account. I had to ask: how is this possible?

The CHAIRMAN: And what was the reply?

Mr D. Di Cianno: It was —

The Department reviewed the “Punter's Club” proposal and was satisfied as to its lawfulness;

Regulation 59 of the RWWA Regulations 2003 provides the mechanism by which wagers may be made with RWWA electronically or by phone. Regulations 50–55 and 58 provide general conditions pertaining to wagering accounts. These sections do not specify that the wagers must be placed by the account holder;

We were all right. We put the proposal to RWWA. Then it was no longer all right.

The CHAIRMAN: You wanted to place the money into the oncourse tote on behalf of your clients, so they were coming through you.

Mr D. Di Cianno: On behalf of our clients, plus generate the maximum revenue for the industry.

The CHAIRMAN: And then you went to Supertab or Tabcorp and they allowed you to do it.

Mr D. Di Cianno: No. Then we asked RWWA, “Can we bet into your offcourse system?” and they said that we could not have a corporate account.

The CHAIRMAN: They would not give you a corporate account?

Mr J.J.M. BOWLER: Did they say that they were limited by the legislation?

Mr D. Di Cianno: No; it was a policy decision at that time.

The CHAIRMAN: So what you are saying is that they missed an opportunity for money to go into the pool?

Mr D. Di Cianno: Yes.

Mr F. Di Cianno: And used taxpayers' money to cover it.

Mr J.J.M. BOWLER: You are saying that you are generating about \$100 000 a month for Supertab?

Mr D. Di Cianno: Between \$100 000 and \$250 000 we turn over with the Supertab.

Mr J.J.M. BOWLER: That is a fair amount of money they have lost.

Mr D. Di Cianno: Since we started being on Supertab, it works out to about one and a half million in revenue.

The CHAIRMAN: And you are saying that —

Mr D. Di Cianno: And we are only a very small player. Who knows how many other opportunities they have missed out on that we do not know about.

The CHAIRMAN: We can certainly raise that with RWWA when we talk to them. We are aware of your situation.

Mr F. Di Cianno: The other issue is that the way they have obstructed the proposal should also be looked into. Here it appears that they have given deliberately false information. They have given us the okay. Then they said, “No, hang on; It’s illegal.” Then they have said that it is okay for somebody else to do exactly the same thing. That shows a clear knowledge. We have complained about that false information and we could not get it reasonably dealt with.

The CHAIRMAN: But you have also taken that to either SAT or —

Mr F. Di Cianno: Who have turned a blind eye. I have taken it to the Ombudsman. I have taken it to the Corruption and Crime Commission.

The CHAIRMAN: And what outcome did you get from that?

Mr F. Di Cianno: The Ombudsman turned a blind eye to it. Effectively, the department —

Mr D. Di Cianno: The Ombudsman dismissed the complaint and provided us with a copy of the response given by the commission, and the response itself is contradictory. There were two questions, and they gave one reason for doing one thing and a completely contrary reason for doing something else. When we asked the CCC, “Did you even read this?”, they went back and had a look at it and they reopened the investigation.

Mr F. Di Cianno: Not the CCC, the Ombudsman.

Mr D. Di Cianno: The Ombudsman.

The CHAIRMAN: Is it still going?

Mr D. Di Cianno: No.

Mr F. Di Cianno: Yes, it is. I wrote an email to everybody two to three weeks ago.

Mr D. Di Cianno: Even the issue with Racing Radio shows a clear conflict of interest.

The CHAIRMAN: You were stopped from advertising on Racing Radio?

Mr D. Di Cianno: Yes. We advertised originally on Racing Radio. We thought it was a great medium because it addressed our market exactly. Then we had a bit of a to-do with the department over a licensing issue, during which time they prevented us advertising. That was resolved in 2005. Then when we tried to advertise again on Racing Radio after that, it was refused.

The CHAIRMAN: Do you think RWWA saw you as a competitor?

Mr D. Di Cianno: This is the email. You have seen this before because you read this out in Parliament at one stage. Our CEO received this email from them saying —

Hi Kevin

Thanks for the call regarding advertising on Racing Radio.

I have discussed the matter with my manager Wade Annear and as I suspected the policy towards “competitor” advertising on Racing Radio has changed back and we are no longer running non-TAB betting agency ads.

The CHAIRMAN: I think you will find that that has all changed.

Mr D. Di Cianno: It says —

If it makes you feel any better, you're not the only one, we knocked back another bookie recently.

This is dated 9 June 2006, and we were cleared to advertise in May 2005. Then you quoted this in Parliament on 21 November 2006.

Mr J.J.M. BOWLER: In opposition, you can say anything.

The CHAIRMAN: One of my many speeches.

Mr D. Di Cianno: Mr Bennett was asked a question on that specific issue in front of the house estimates committee, was it?

The CHAIRMAN: Yes, the estimates committee.

Mr D. Di Cianno: And Mr Bennett said —

Given the sensitivities surrounding advertising on Racing Radio, RWWA has always exercised some discretion about who is able to advertise. Best Bookies is a bookie service, not a registered bookmaker. It is illegal for an organisation to advertise its services unless it is registered as a bookmaker.

That is just plainly false.

The CHAIRMAN: But that has all changed now, has it not?

Mr D. Di Cianno: But even then it was false; there was nothing to prevent us advertising even then.

The CHAIRMAN: So you are saying that that statement was misleading.

Mr D. Di Cianno: That excuse was never offered to any other person at any other time during that dispute. If he put this through as a reason for preventing us advertising, we could have given him the determination by the Department of Racing, Gaming and Liquor saying that we could.

The CHAIRMAN: I think there is no doubt that there has been in the past a bit of tunnel vision about RWWA and competitors in the wagering industry.

Mr F. Di Cianno: The way they have operated Racing Radio is in breach of the RWWA act.

The CHAIRMAN: Why is that?

Mr F. Di Cianno: Section 50 says that you cannot operate other businesses, such as Racing Radio, in a manner that gives them an unfair commercial advantage. Obviously, preventing competitors from advertising on the radio is an unfair commercial advantage.

The CHAIRMAN: But I think that has changed now. I think RWWA does allow advertising though.

Mr F. Di Cianno: They did not then and they broke the law.

The CHAIRMAN: They did not then, but a lot of things have changed since then and I think corporate bookmakers can now advertise on radio and in *The West Australian*. I think there was a time when *The West Australian* even prevented people advertising.

Mr F. Di Cianno: They prevented us.

Mr D. Di Cianno: They prevented us on the say-so of the Department of Racing, Gaming and Liquor when they falsely accused us of needing a bookmaker's licence in order to operate as we did.

The CHAIRMAN: And you felt that you were always —

Mr F. Di Cianno: We forced them to admit they were wrong.

Mr D. Di Cianno: They did not understand the legislation.

Mr F. Di Cianno: And they still do not.

[3.10 pm]

Mr D. Di Cianno: They made a decision based on legal advice, which did not actually say that we were breaking the law, but they made their own decision based on the legal advice they received, and got it wrong.

The CHAIRMAN: It appears that, looking back, there have been cases where maybe wrong decisions were made, but in this inquiry we are attempting to look forward. You would have to admit that the situation has changed a bit, and I think it will continue to change.

Mr F. Di Cianno: I do not know about that.

The CHAIRMAN: You do not think so?

Mr F. Di Cianno: Well, the regulation change—the one they have just made regarding the recording of names—is more of the same.

The CHAIRMAN: Can you elaborate on that?

Mr F. Di Cianno: Yes. What does regulation 37 of the Betting Control Act say regarding agents and principals?

Mr D. Di Cianno: The name to be recorded by the bookmaker is, again, a disincentive for Best Bookies to work in Western Australia.

Mr F. Di Cianno: The regulation does not seem to have a basis in law.

The CHAIRMAN: Everyone else has to name their clients. Betfair has made the names of their clients available to the stewards.

Mr F. Di Cianno: Any person acting as an agent on a racecourse now does not have to identify their clients. They should do, I admit that, but they are not required to. A lot of people on the racecourse are now betting for somebody else.

The CHAIRMAN: Yes, but they are not licensed agents.

Mr D. Di Cianno: There is no such thing as a licence for an agent.

The CHAIRMAN: So how is your business licensed?

Mr D. Di Cianno: We do not have any licence.

Mr F. Di Cianno: We are governed by the Trade Practices Act, the same as any other business.

The CHAIRMAN: So if you do not have a licence, RWWA has to deal with someone, so I guess the next port of call is the —

Mr D. Di Cianno: There is no reason why RWWA should not deal with non-licensed people if it is good for business. There should not be any such restriction, and I do not believe there is by law.

The CHAIRMAN: Well, I think you will find that in the wagering sector, everyone has to be licensed, and in the racing industry, everyone has to be licensed.

Mr D. Di Cianno: Punters do not have to be licensed.

The CHAIRMAN: Punters do not have to be licensed, but all other people in the industry have to be licensed.

Mr F. Di Cianno: But if we can conduct our business as a punter, what is the problem?

Mr D. Di Cianno: And that is the determination that the department made and has forced onto us—that we were acting as an agent—because they wanted us licensed as a bookmaker, which was ludicrous.

The CHAIRMAN: Why did you not consider being licensed as a bookmaker?

Mr F. Di Cianno: Because it is too restrictive.

The CHAIRMAN: Because then you could not —

Mr D. Di Cianno: We could not even have our equipment in a data centre and provide the level of service that we do now, because it would have to be located on a racecourse.

The CHAIRMAN: You would have to go onto a racecourse?

Mr F. Di Cianno: So we would have to pick it up and shift it and have multiple high-speed links.

Mr D. Di Cianno: It would be like asking RWWA to move their computer complex to a racecourse every day.

The CHAIRMAN: Given that your company has the ability to bring more gambling money into the industry, how would you like to see yourselves categorised by RWWA?

Mr D. Di Cianno: We are quite happy to be licensed as an online agency. I mean, we have been trying since 2002 to generate as much income as we can for the industry here in this state. I cannot believe how difficult it has been to get any sort of support from any quarter.

The CHAIRMAN: Are you the only type of online agency that operates in the way you do in Australia or overseas?

Mr D. Di Cianno: Well, to some degree, yes. There has been a pretender start up in the Northern Territory now. The Victorian bookmakers spent \$1.5 million developing their own system, which does not enable them to share clients. Every client has got to have an account with every bookmaker.

The CHAIRMAN: And they also cannot bet on the tote, I think.

Mr D. Di Cianno: They cannot bet tote odds. I do not think their system allows them to bet the tote. So the level of convenience is just non-existent.

The CHAIRMAN: But you would like to see that category of licence for a licensed agent who might be doing something like yourself which could pass all the protocols of wagering and give the stewards a —

Mr D. Di Cianno: As I said, we were quite willing, under the current conditions, to provide full access to all our client information to both the Department of Racing, Gaming and Liquor, and to the stewards and RWWA, on the basis that that information could only be used for certain purposes and could not be distributed or used for their own commercial benefit, and they are not prepared to enter into that sort of agreement, because they can force the bookmakers to provide them with that information, or stop providing a service through Best Bookies. So where are we going to go?

The CHAIRMAN: But the bookmaker does not know who has had the bet with him, does he? When the person has a bet through you —

Mr D. Di Cianno: It does not matter.

The CHAIRMAN: You handle all the transactions. If the bookmaker loses \$1 000, you take the \$1 000 and —

Mr D. Di Cianno: The bookmaker has got funds in an account with Best Bookies, which has to cover his liabilities.

The CHAIRMAN: So the bookmaker might not know who has had the bet with him?

Mr D. Di Cianno: He does not even need to know. Effectively, it is a cash bet that they are paid for. At the time the bet is placed, the punter pays for his bet, and it goes into the bookmaker's account and it is in the bookmaker's control. He can withdraw that money at that point if he wants to.

The CHAIRMAN: But you can understand that unless you are the TAB, the authorities need to know who is betting?

Mr D. Di Cianno: Yes, but not at the risk of losing our clients to somebody else. We have spent a lot of time, effort and trouble accumulating our clientele. We are not going to just give them away to a competitor for no reason at all, which is effectively what they are asking us to do.

Mr J.J.M. BOWLER: But you are prepared to go down the Betfair path where they sign that agreement on the confidentiality?

Mr F. Di Cianno: We had an agreement in principle.

Mr D. Di Cianno: We met with Richard Burt, and we came to that agreement, and it just never materialised. Twelve months down the track, we were still waiting, and then —

The CHAIRMAN: But now you have moved on?

Mr D. Di Cianno: Then the stewards started getting involved, and the Department of Racing, Gaming and Liquor started getting involved, and they effectively twisted our arm into providing the information.

The CHAIRMAN: So you handed over the names with no conditions on it?

Mr D. Di Cianno: No. We are handing over the names to the bookmakers if they are requested to provide that information to the stewards or to the department.

The CHAIRMAN: Okay.

Mr J.J.M. BOWLER: On a particular horse or a particular inquiry?

Mr D. Di Cianno: On to particular bet—one at a time.

The CHAIRMAN: Is there still a bit of a stand off?

Mr D. Di Cianno: Definitely, and, to be honest with you, if they continue to be stubborn about the issue, once we get into Victoria, we are likely to call their bluff and say okay, the bookmakers here are not getting any more business from us.

The CHAIRMAN: Because you can always transfer your business and go live in Victoria and still run the same business, can you not?

Mr D. Di Cianno: We do not have to live in Victoria.

The CHAIRMAN: You do not?

Mr D. Di Cianno: No.

The CHAIRMAN: That is right, because you are not licensed here. Your points have been taken, and we are well aware of them now. I think the committee will look at them closely and we will probably raise them with RWWA to get some answers, because you have posed some questions there. Is there anything final that you would like to submit to the committee?

Mr D. Di Cianno: At the end of the day, all I have done is we were invited to submit a proposal or a submission, so I had a look, and I have always thought it is very strange that the distribution is not going up enormously compared with the turnover, and added on top of that, the tax cuts, so I have always wondered what is happening. It is a question that needs to be asked of someone. I cannot answer it, because I do not know what is going on over there. But as far as I see, there is a huge shortfall in the amount distributed compared with the increasing level of turnover, and the reduction in turnover levy paid by the organisation.

The CHAIRMAN: Thank you very much for that. We want to thank you for appearing before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Any such corrections must be made and the transcript returned within 10 days from the date of the letter attached to the transcript. If the transcript is not returned within this period it will be deemed to be correct. New material cannot be added via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on

particular points, please include a supplementary submission for the committee's consideration when you return your collected transcript of evidence. Thank you very much for coming in.

Hearing concluded at 3.18 pm