IN-CAMERA REPORT OF PROCEEDINGS BEFORE

SELECT COMMITTEE ON GREYHOUND RACING IN NSW

INQUIRY INTO GREYHOUND RACING IN NSW

Evidence omitted by resolution of the Committee on 24 March 2014

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At Sydney

Thursday 6 February 2014

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The Committee met at 9.15 a.m.

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PRESENT

The Hon. Robert Borsak  (Chair)
The Hon. Dr John Kaye
The Hon. Marie Ficarra
The Hon. Trevor Khan
The Hon. Lynda Voltz
The Hon Steve Whan
Mr V’LANDYS: Thank you for the opportunity to speak today. I have not been following the inquiry, but I did note the difference between funding in the Victorian and New South Wales greyhound racing sectors, which has been blamed to some degree on the inter-code agreement. The three codes in Victoria receive $100 million more than the codes in New South Wales. Thoroughbreds conduct 200 more race meetings and have a much greater geographical area. The reason for that is that the Victorian State Government takes a much smaller share of each dollar invested on the TAB. The Victorians have their own TAB, as we do in New South Wales.

The handout I provided is from a report I have prepared which shows the recipients for every $100 bet. For every $100 bet, the three codes in New South Wales receive $4.70 and in Victoria they receive $7.90. From that $100, the New South Wales Government receives $3.22 and the Victorian Government receives $1.28. That is why the three codes in Victoria receive $100 million more than the three codes in New South Wales. It is because the government takes a much smaller share of each dollar invested in the TAB. If that were replicated in New South Wales, the greyhound industry here would receive an additional $15 million a year. The difference between Victorian greyhound racing—

Dr JOHN KAYE: You are presuming that if the percentage remains the same that the net pool is bigger by the order of 3.2 per cent.

Mr V’LANDYS: No, we have more turnover in New South Wales. If the same tax rate were applied in New South Wales—

Dr JOHN KAYE: It would be lower by 3.2 percentage points.

Mr V’LANDYS: No. It is $3.22 per $100 bet in New South Wales and $1.28 in Victoria.

Dr JOHN KAYE: I am sorry, I have the wrong one. So it would be a 1.98 per cent reduction.

Mr V’LANDYS: It depends on how you apply the percentage. At the moment for every $100 bet the New South Wales Government gets $3.22 and the Victorian Government gets $1.28. That is based on different turnover models. However, you can see that it is substantially lower in Victoria than it is in New South Wales. As I said, that equates to the three codes in Victoria getting $100 million more than we get. They get $103 million more than the three codes in New South Wales. It should not be called a tax rate because it is a share of gross wagering revenue. For every $100 invested, on average $17 is taken out. Of that $17, the New South Wales Government receives $3.22 compared to the $1.28 that the Victorian Government receives. That is the difference between the two State's funding models. If the same rate—the $1.28—were applied in New South Wales, on current percentages the greyhound industry would receive an additional $13 million to $15 million depending on how—

Dr JOHN KAYE: From where did the $100 million figure come?

Mr V’LANDYS: The $100 million is the difference for the three codes of racing.

Dr JOHN KAYE: And the $15 million?

Mr V’LANDYS: Is just for greyhound racing.

Dr JOHN KAYE: What is the size of the total pool in New South Wales as distributed by the Racing Distribution Agreement?

Mr V’LANDYS: The betting turnover in New South Wales for all codes of racing is $5 billion.

Dr JOHN KAYE: That is a 2 per cent change on $5 billion
Mr V'LANDYS: Basically, yes. It equates to just over $100 million. I have also heard many remarks about the inter-code agreement and that greyhound racing receives a much smaller share than it is entitled to because it is based on market share. That is very unfair because a very simplistic model has been applied to the inter-code agreement. I was involved as a harness racing representative during the inter-code negotiations.

The Hon. MARIE FICARRA: So we have heard.

Dr JOHN KAYE: You have just dumped yourself in it.

Mr V'LANDYS: My job was to protect harness racing. That has come back to bite me on the backside now that I am involved in thoroughbred racing. The negotiations occurred for more than 12 months. It is a very complicated issue and it could not be settled overnight. I think it actually took 18 months. At best, it was at least 12 months. Before the privatisation of the TAB, the race codes themselves—the race clubs—ran what they called the oncourse operation. Whatever was invested on the racecourse, the race club would get 17 per cent. Expenses would be subtracted from that and whatever was left over they would keep. For Harold Park—which is where I was—that equated to about $4 million. When it was privatised, we had to put that money into the total pie.

We did not get a good deal out of the privatisation when you think that the first $25 million that was distributed was profits that race clubs generated for themselves. We basically gave our oncourse business to the TAB for free. During the negotiations we naturally had to take that into account when there was a distribution. So in 1997 the first $25 million was for the oncourse operation. The thoroughbred racing industry generated 85 per cent of the oncourse operation then and it now probably generates 90 per cent. The smallest oncourse operation was greyhound racing, which was about 9 per cent, and harness racing was about 10 per cent. We needed to get that back to start with. That increases each year by CPI.

Dr JOHN KAYE: By CPI?

Mr V'LANDYS: The first $25 million given back to us did not belong to the TAB; it was our money. For example, if you had a corner shop that would be the profit and it would go to Woolworths. You want to get that profit back.

The Hon. LYNDA VOLTZ: That is the one you were getting 73 per cent for?

Mr V'LANDYS: No, that is the one they were generating 85 per cent for.

The Hon. LYNDA VOLTZ: They were generating that, but of the $25 million you took 73 per cent.

Mr V'LANDYS: That is correct.

The Hon. TREVOR KHAN: We should not use him as an example because he was the opposition.

Mr V'LANDYS: I was the opposition at that stage. The other thing that happened during privatisation was that we needed protection. The board of the TAB comprised representatives predominantly from the racing industry. There were four thoroughbred, two harness racing and two greyhound industry representatives. Each member was able to protect their interests on the board by being a member. When privatisation occurred all members were going to be independent. The concern for the two minor codes—harness and greyhound racing—was that the thoroughbred industry with its strength and financial resources would have a much greater presence on the TAB than before privatisation. That is why we fixed the percentages. We gave the TAB the freedom to do whatever it liked with its operation. As I said, at the time we were frightened that the thoroughbred industry would get a lot more coverage and that our market share would dwindle, if it was based on market share. The irony was that it was to protect the greyhound industry.

The Hon. TREVOR KHAN: What was your perception about what the TAB might do?

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1 In correspondence to the Committee (dated 26 March 2014) Mr V’landys corrected this sentence to read: The thoroughbred racing industry generated 81 per cent of the oncourse operation then and it now probably generates 90 per cent.
Mr V'LANDYS: We thought that the TAB was going to run it as a commercial operation and 74 per cent of it was thoroughbred racing. The customer wanted thoroughbred racing and it would promote a lot more thoroughbred racing and bring in international product and more product from interstate. That would eat away at the harness and greyhound industry turnover. That is what we thought at the time. What actually happened—

The Hon. TREVOR KHAN: I am sorry to interrupted, but when you say "we thought", was that your perception?

Mr V'LANDYS: That was the perception of both the harness and greyhound industries.

The Hon. TREVOR KHAN: Did you discuss that with the greyhound industry representatives?

Mr V'LANDYS: Absolutely.

The Hon. LYNDA VOLTZ: Who was the greyhound industry representative at the table in those discussions?

Mr V'LANDYS: You are testing my memory. I remember Phil Bell, Brenton Scott—

The Hon. MARIE FICARRA: Was a Mr Magin there?

Mr V'LANDYS: He was there as the chair\(^2\) at the time. I do not think he was very involved in the negotiations.

The Hon. STEVE WHAN: We got that impression yesterday.

The Hon. MARIE FICARRA: We figured that out.

Mr V'LANDYS: There was also a representative of the greyhound control board at the time, which I think was Mr Cartwright. The two who really did the play for the greyhound industry in my view were Brenton Scott and Phil Bell. Phil Bell has since left and I think he is operating a greyhound track in Vietnam. They are the two I can remember attending most of the meetings.

The Hon. LYNDA VOLTZ: Bob Cartwright would have been there.

Mr V'LANDYS: Yes.

The Hon. TREVOR KHAN: I am sorry to have interrupted.

Mr V'LANDYS: That is okay. The TAB was given commercial freedom. Thoroughbred racing contributes 70 per cent of the turnover. If there were no thoroughbred racing there would be no infrastructure for the greyhound industry to be able to generate the turnover it does.

The Hon. TREVOR KHAN: On that point, is the inference to be drawn that there needs to be a weighting in favour of the thoroughbred industry because it creates the mass?

Mr V'LANDYS: I will give you an example of that. Some years ago, back in 2004, there was a split vision between the Sky Channel product and the Thoroughbred NSW and Victorian product. You had two screens at the TAB. That split screen reduced turnover, believe it or not, by $160 million in six months because punters did not want to watch two channels. They wanted to watch the one channel and they wanted the one audio. That caused us the biggest decrease, which was in harness and greyhounds. What was happening was that those thoroughbred punters who were going into the TABs, while waiting for the next thoroughbred race, put money on the smaller codes. What happened during the split vision is that those thoroughbred punters stopped going. The first one affected was the harness and greyhounds. Their turnover went more down than ours because there was not that feed off the thoroughbreds. I am just trying to highlight my point about the infrastructure.

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\(^2\) On 27 February 2014 Mr V’Landys requested the insertion of the words “of Greyhound Racing Control Board”.
But the biggest thing that I need to highlight here today, which I think is the most relevant, is that when the TAB was privatised each code was required to conduct a minimum number of race meetings. That is all you had to do. You did not have to conduct any more than what your minimum was. The greyhound minimum was 593 race meetings per year. Unilaterally, by a decision taken wholly and solely by the greyhound industry, they have increased that to 864 race meetings. They have gone ahead and done these meetings without the funding also knowing the dynamics of the inter-code. They always knew that they were going to have to fund it themselves, but they increased by 46 per cent the number of race meetings they were going to conduct. Any other commercial entity or commercial organisation would have done a business plan to ensure that it could fund those race meetings.

Those race meetings make little difference to us because they would be replaced by other meetings interstate. It was a unilateral decision taken by the greyhound code to run those meetings. Their argument that they are unprofitable now is a little bit rich for us because they were the ones who made the decision. We did not ask them to conduct so many extra race meetings. They did it all on their own. The other matter I should raise is that Greyhound Racing NSW has been the benefactor of all the initiatives of Racing NSW, the thoroughbred code.

Dr JOHN KAYE: Beneficiary or benefactor?

Mr V'LANDYS: Beneficiary is probably the better word.

The Hon. TREVOR KHAN: It is completely the opposite.

Mr V'LANDYS: Greyhound Racing NSW has been the beneficiary of all the initiatives we have undertaken, which equates to approximately $16 million a year. In my time at Racing NSW, which will be 10 years next week, I have not seen one initiative of the greyhound industry that has increased their revenues—not one initiative. Let me read you initiatives from which greyhounds have benefited from Racing NSW. We lobbied for the protection of our intellectual property with the State Government and the State Government kindly introduced race fields legislation. We fought that in the courts. The greyhound industry did not assist us. They went out and left us on our own to defend the case. They now get $10 million a year out of race fields legislation, even though they did not defend it in the courts and left us on our own. If we had lost, they would have been the biggest losers because they were using all the race fields money for prize money.

Dr JOHN KAYE: This is the money that comes from the corporate bookies.

Mr V’LANDYS: Corporate bookmakers, but it is not only corporate bookmakers, doctor. It is also all other wagering operators. It includes the interstate tote, TABs.

Dr JOHN KAYE: Sure. That was the State Government's legislation 2010? 2012?

Mr V’LANDYS: No, it was 2008. That was the legislation that effectively gave a property right to the race fields.

Mr V’LANDYS: Let me just explain that because it was not really the Government. Let me just explain to the members, if I can. Bookmakers domiciled themselves in the Northern Territory to avoid paying fees to any State racing industry. What they did is they then tried to procure the customers of each State, including New South Wales. We are the biggest and most populous State so the first thing they did was advertise and try to attract as many customers to the Northern Territory corporate bookmaker operations from New South Wales. There was a massive leakage of money going from New South Wales residents to the Northern Territory rather than the TAB. That was $1 billion 10 years ago and now it is and now it is $6 billion or $7 billion. That is how much money has migrated. New South Wales makes up about 40 per cent of that.

Dr JOHN KAYE: Annually or total?

Mr V’LANDYS: That is annually. It is about $5 billion or $6 billion annually. I have got the figure here. I am sorry, I will get back to you. It is around that mark, anyway.

Dr JOHN KAYE: That is fine. Do not delay, Peter. Get back to us on notice.
Mr V’LANDYS: Sorry. Yes, I will. What Racing NSW did was get legal advice to protect its intellectual property by enforcing copyright. From all the legal advice we got, it would have been simpler to lobby the Government to introduce race fields legislation—an initiative of Racing NSW. Victoria, which moves a lot quicker than we do in New South Wales in Government circles, introduced our idea—race fields legislation—and then we followed 12 months later, for various reasons. The point I want to make is that out of race fields legislation, just race fields legislation, the greyhound code makes $10 million a year, which they would not have been making without the efforts of Racing NSW.

Also during the Pope’s visit, Racing NSW was able to negotiate with the Government for the lifting of the 16 per cent cap. The Treasurer at the time, Mr Costa, wanted to give the funds above the 16 per cent to sporting fields. As part of the negotiation of the Pope’s visit, we were able to get the whole lot of the increase in the cap. That equates, for greyhound racing alone, to $1 million per annum extra.

The Hon. STEVE WHAN: Are you sure? I cannot believe Michael Costa wanted the sports fields to get that.

The Hon. LYNDA VOLTZ: That was how it was originally sold to us.

Mr V’LANDYS: He was a tough cookie, I can tell you.

The Hon. TREVOR KHAN: He had to be careful.

Mr V’LANDYS: Also, the previous Government, through the initiative of Kevin Greene, who was one of the best Racing Ministers I have worked with, wished to amalgamate the Australian Jockey Club [AJC] and the Sydney Turf Club [STC]. At the time we introduced a game called Trackside, of which Racing NSW sold its 17 per cent share for $150 million, and that built the Randwick grandstand. Greyhounds stayed in—and it was their choice—with Trackside and they get about $600,000 a year extra out of the Trackside game.

Dr JOHN KAYE: Their percentage share of Trackside is?

Mr V’LANDYS: We are out of it, so basically it is whatever—

Dr JOHN KAYE: They had the rest, so all the rest was gratis.

Mr V’LANDYS: No, no. They got their share. It was a negotiation between—I did not negotiate.

CHAIR: It is shared between harness and greyhound.

Mr V’LANDYS: Whatever their share was. We also argued at the time to negotiate with the TAB to get what we called ape product fee on fixed odds because there was a massive migration of betting from the totalisator to the fixed odds. We do not receive a product fee for fixed odds from the TAB so we were able to negotiate at the time a product fee. Again a beneficiary was the greyhound industry to the tune of $1 million a year.

The Hon. LYNDA VOLTZ: But is it not easier for you to negotiate? At the end of the day, thoroughbred racing as for the TAB and it is where they get the people in.

Mr V’LANDYS: There is nothing stopping the greyhounds from negotiating.

The Hon. LYNDA VOLTZ: I know.

Mr V’LANDYS: These are initiatives of ours. These are the thoughts or—I am sure that a good organisation should have some of its own initiatives, with all due respect.

CHAIR: With all due respect, Mr V’landys, the biggest player in the game is always going to be listened to.

Mr V’LANDYS: Not necessarily. I got listened to when I was a small player in harness racing.

The Hon. LYNDA VOLTZ: But greyhounds—not so much so?
Mr V'LANDYS: It depends on the personnel you have there. As I said, in my personal view I have as much power now in thoroughbred racing as I had in harness racing. I was a very loud voice in harness racing.

The Hon. TREVOR KHAN: Persuasive, we understand.

Under the Premier Gateway International [PGI] pooling, which is a new initiative just in the last three or four months, under the Racing Distribution Agreement we were eligible for approximately $100,000 in revenue, which is close to about $13,000 for greyhound racing. We would not accept that and we negotiated with the TAB for them to be paying $7 million a year and the greyhound industry receives an additional $1 million. Overall, with all the initiatives we have done, it equates to about $16 million. I will not go any further because I think there are a few questions that you wish to ask, which I can answer from the notes that I have. Have I confused you enough for a little bit?

CHAIR: No, not at all.

The Hon. STEVE WHAN: No. I am intrigued by your suggestion regarding revenue, although I would note that $100 million is a couple of good country hospitals for the State Government.

Mr V'LANDYS: Yes, but you have got to remember that you have also got a racing industry that employs between 60,000 and 70,000 people in New South Wales.

The Hon. STEVE WHAN: And does at the moment under that tax regime.

Mr V'LANDYS: But what is happening in New South Wales is that our foal rate dropped last year by 12 per cent. There is a tipping point where people will invest.

The Hon. STEVE WHAN: This morning we heard evidence about the amount being spent with the TAB and that the amounts being spent at the moment are stagnant, if not declining, and that in amongst that we have seen the greyhound share rising fairly significantly. You have given us evidence just then which is consistent with harness racing. As I understand it—and you can confirm this—the strategy adopted by greyhounds to increase the number of TAB meets was the wrong strategy, you think, and that they should essentially have just stayed as they were, or what?

Mr V'LANDYS: I do not want to run the greyhound industry, but if I was to increase the level of race meetings in thoroughbred racing, I would be doing a pretty concise business plan to ensure that I can afford to conduct them. They have increased their race meetings by 46 per cent with no business plan.

The Hon. STEVE WHAN: Is it your view that had they not done that, the overall amount going into the pool for betting would have stayed about the same, or would there have been a decline?

Mr V'LANDYS: I think it would have stayed the same because punters will punt on anything, basically, to be quite honest. They will punt on the next race meeting and that was proven again by the split vision. They applied for the next race meeting. What the TAB strategy is at the moment is to bring a lot more meetings from international and that would have taken up the slack, in my view. But I should say though why the greyhounds were attracted by the TAB. It was because they gave them the position in the twilight, which is between four o'clock and seven o'clock. That is when most of those meetings were conducted.

The Hon. STEVE WHAN: We have had evidence from Mr Magin yesterday who was the signatory for greyhounds on the inter-code agreement. He told us that at the time they had advice from the totalisator board about the fair split of 70 per cent for horseracing, 16 per cent trotting and 14 per cent greyhounds. I note
Mr V’LANDYS: Components, yes.

The Hon. STEVE WHAN: And different percentages apply to those pools. His evidence was that in the negotiations you, as a representative of harness, said, "We are under no obligation to accept this", and you walked out of the room. He then went on to tell us that—

Mr V’LANDYS: That was only one meeting and there were about 100 of them.

The Hon. TREVOR KHAN: So it was correct?

Mr V’LANDYS: It is correct, but what actually happened was that they were meeting in my office. I walked out of the room and then realised I had just walked out of my office, so I went back and kicked them out. That is what actually happened.

The Hon. STEVE WHAN: He then went on to tell us that he was advised by his constituent bodies, essentially, or whatever you want to call them, that he should accept this agreement. He mentioned some names that you have also mentioned. Do you believe that those people understood fully what they are actually signing up to at the time?

Mr V’LANDYS: Absolutely. Yes, they knew. They had the same concern that I had and that was that once we had no representation on the TAB board, we were thrown to the lions. We wanted some protection. That is why they agreed to that format. You also have to remember that they generate no oncourse turnover and all of a sudden they were getting all this oncourse turnover from thoroughbred racing. They generated 5 per cent of the total and I think it is even less now whereas the other two codes, not so much harness but the thoroughbreds, generate the majority of that oncourse turnover.

The Hon. STEVE WHAN: Mr Magin went on to tell us that he held the view—I am not exactly sure until when—that the 15-year review of the agreement included a review of the entire share and that he did not realise at the time that it was only the increased funding. Do you believe that the industry understood that the review was based on a single year and an assessment of increases in revenue?

Mr V’LANDYS: I certainly did, yes. I cannot speak for the gentleman you referred to. But I certainly knew it was the growth moneys. It was going to be a base year at the end of 15 years and whatever the difference between the base year and the next year is what the growth moneys were. That was always well known.

The Hon. MARIE FICARRA: Was that discussed in your presence and the greyhound industry sector?

Mr V’LANDYS: Absolutely.

The Hon. MARIE FICARRA: You discussed that openly.

Mr V’LANDYS: Absolutely.

The Hon. STEVE WHAN: Is it your view that people like Brenton Scott and Phil Bell understood that?

Mr V’LANDYS: Yes.

The Hon. LYNDA VOLTZ: Did they see the agreement? Do you know if they saw the code agreement?

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3 In correspondence to the Committee (dated 26 March 2014) Mr V’landys corrected this sentence to read: They generated 9 per cent of the total and I think it is even less now whereas the other two codes, not so much harness but the thoroughbreds, generate the majority of that oncourse turnover.
Mr V'LANDYS: Everyone got copies of all agreements at all times. If you are negotiating an agreement, you want to have a copy of it. I can tell you that Phil Bell and Brenton Scott were at every meeting and saw every agreement, just like I did in harness racing.

CHAIR: Do you, in harness, have separate legal costs?

Mr V'LANDYS: No. I did it myself.

CHAIR: So, Clayton Utz acted for everybody?

Mr V'LANDYS: Clayton Utz acted predominantly for the thoroughbreds and the three codes. We did not use them, no. When I was at harness racing, we just did our own, we reviewed the documents ourselves.

CHAIR: So you had no external legal advice?

Mr V'LANDYS: Not that I can recall, no. I can remember doing it pretty well all myself. I represented harness racing, myself with a gentleman named Michael Cummings. Michael was a barrister, so we relied on his legal expertise as well.

CHAIR: He was on the board of harness?

Mr V'LANDYS: He was the chairman of harness racing in New South Wales, which was the controlling authority. Back in those days, I was actually the chief executive of the Metropolitan Race Club in harness racing. I was not in the position I am in now, with thoroughbreds. However, the controlling body delegated me to represent harness racing from my position as the chief executive of the major metropolitan club.

The Hon. TREVOR KHAN: I suppose this partly follows from the Chair's question: Do I take it that you understood that Clayton Utz was not representing harness racing when—

Mr V'LANDYS: I had more fights with Clayton Utz than anybody, any party, during the whole of the negotiations because I always thought—even though they were representing the three codes of racing at the time—that they were favouring the thoroughbreds. So I used to fight with them significantly, as I did with Macquarie Bank. Macquarie Bank was the organisation that was to assist the racing industry in the privatisation of the TAB and I always thought that they were biased towards the thoroughbred racing. So basically, we acted on our own, to make sure that we rectified that bias, both by Clayton Utz and by Macquarie Bank. They were both the same, in my view.

The Hon. STEVE WHAN: As opposed to the inter-code?

Mr V'LANDYS: The inter-code was drafted by Clayton Utz, however I included a number of clauses in that inter-code including one, as I have said, that really came back to hit me when I was in thoroughbred racing. I will tell you this: I included a clause in there that the thoroughbreds—again because of the commercial freedom that I had—could not conduct any race meeting after 7 o'clock on a Friday night. So, I added that clause.

The Hon. LYNDIA VOLTZ: Because that is when harnessing is on?

Mr V'LANDYS: That is when harness racing was on, so I did not want them encroaching onto our time and the one and only chance I had to put that clause in was during the privatisation. I went to the
Greyhound Code and I said to them, "You should do the same thing for Saturday night". They said, "Oh no, we don't need it".

The Hon. TREVOR KHAN: Can I just ask in that regard, who did you go and put that proposition to?

Mr V'LANDYS: Probably Phil Bell and Brenton Scott at the time. In saying that, right at the last minute—which proves they were reading the documents—they came back and said to me, "Look, we want to put that in about Saturday night" and in the end it was included. So, right to the last day before execution of the inter-code, they varied the inter-code to include the Saturday night. I had suggested that to them at the time in order to protect their domain, because once the TAB was a free body, it would probably make thoroughbred racing go twilight, or go night, as it has, because—

The Hon. LYNDA VOLTZ: As has Canterbury.

Mr V'LANDYS: Canterbury races, so Canterbury was forced to race on a Thursday night because they could not race on a Friday night. Since I have been to thoroughbred racing, I have been able to negotiate that and we can now race on a Friday night.

The Hon. TREVOR KHAN: I think I have two final questions: Firstly, can I say that your evidence is extraordinarily helpful.

Mr V'LANDYS: Thank you

The Hon. TREVOR KHAN: If it remains confidential, it is difficult to use. Is there a particular reason why your evidence should be confidential?

Mr V'LANDYS: Not really, it was just given to us as an option and I just took that option. But if I can help the Committee, I am prepared to give whatever information—it is all public information, especially this $100 million difference between the States. So, you let me know what you need. We have written a submission which says predominantly what I have said here today and I can provide that, if you wish.

Dr JOHN KAYE: And you are happy for the evidence you have given this afternoon to be aired in the public domain?

Mr V'LANDYS: I would prefer to read it first, to make sure.

Dr JOHN KAYE: And even to redact parts of it.

Mr V'LANDYS: As I said, I am giving the evidence to the best of my recollection.

The Hon. TREVOR KHAN: You are doing a lot better than some.

The Hon. MARIE FICARRA: It is amazing—you are the only one who remembers.

Mr V'LANDYS: I can't even remember what I did yesterday, but I can remember 15 years ago. I do remember Phil Bell and Brenton Scott were probably the two main negotiators for the greyhound industry.

The Hon. TREVOR KHAN: And you think they did a reasonable job?

Mr V'LANDYS: I did, I thought they prosecuted their case for greyhound racing relatively well, because everything changes, everything evolves. We had to make a decision, then and there, on the circumstances existing at that time.

The Hon. STEVE WHAN: What did you think about the term of 99 years?

Mr V'LANDYS: We were frightened about what would happen with thoroughbreds trying to get more and more. That is why we thought that after 15 years we would know but, at the same time, we did not want to lose any of the money we had, so we used the growth moneys.

Dr JOHN KAYE: You knew you were onto a good thing with your percentage.
Mr V'LANDYS: Yes.

Dr JOHN KAYE: So you thought carefully: Maybe this is as good as it can get, we are never going to get a percentage of the revenue that is greater than this.

Mr V'LANDYS: Yes, that is what we thought at the time.

Dr JOHN KAYE: Did you give any consideration to the idea of a floating percentage, or of a complete review of the percentages, or a percentage that was tied to the actual amount of revenue that was the product that you were—

Mr V'LANDYS: Let me explain why we wanted the fixed revenues. Back in those days, the TAB operated predominantly during the day and not at night. The last three races in the day time made up 85 per cent of turnover. Because, in racing, you have what they call reinvestment. If you win on the first race, you reinvest on the second, you reinvest on the third, and so by the last race, you have reinvested. The stark difference between us and the thoroughbreds at the time—harness and greyhounds—we raced at night and the TABs would shut. So our last races did not generate anything, compared to the thoroughbreds. That was the argument we always used—we were on an unfair playing field because during the day, they had all the TABs open and all the possibilities of generating. And 70 per cent or 68 per cent of the turnover still comes from what I call the retail network which is the TAB agencies and pubs and clubs. If they are not open, 68 per cent of your market has gone.

So greyhound and harness were always disadvantaged. The reason that the greyhounds have been able to do what they have done is because they have gone onto traditional thoroughbred time, which is at daytime. They only got that through the freedom of the TAB. That is what we were scared about. They were actually able to use that freedom to take a time which generates a lot more turnover. You have to appreciate that they did nothing oncourse, they had minimal people on course, so they could race any time of the day. Whereas thoroughbred racing really needs to conduct its meeting when it attracts people on course and that is the difference. That is why they have grown their turnover, because the TAB had the freedom to take some of those day time—

CHAIR: What business do you do with the corporate bookmakers?

Mr V'LANDYS: Turnover-wise?

CHAIR: Yes.

Mr V'LANDYS: We generate about $60 million a year in additional revenue from the corporate bookmakers—sorry, on all wagering operators, of which 50 per cent are the corporate bookmakers. The majority of our revenue still comes from the TAB Racing NSW had not lobbied the Government or lobbied to get race field legislation, we would all be finished, because there has been a massive leakage of money from New South Wales residents to these other wagering operators. It was not just the corporate bookmakers, the Tasmanian Totalizator Agency Board also was offering what they call "inducements" to attract New South Wales punters to bet through them. So we were getting attacked left, right and centre. Without race field legislation—and I have just said, $10 million extra to greyhounds—we would be in a much worse financial position than we are.

That is why the Government in Victoria has recognised this and that is why they have lowered their share, because they realised that there is now a complete change to the wagering landscape in Australia and they have reduced what they take out. It is a share of profit but at the moment in New South Wales for thoroughbred racing, just to train the horse, to have it agisted and compete, not including the capital cost of the horse, it costs $250 million. We only pay them $130 million back, so there is $120 million that the racing industry funds. The Government takes $160 million. So basically, the owners of thoroughbred horses are funding the Government's take or its share of the revenue. There is a tipping point and it has been reached. People now say: I have so much disposable income, I can either spend it on owning a race horse or I can spend it down at the Sydney Cricket Ground or to take my wife overseas. They do not invest in thoroughbreds any more. Our foal rate has dropped by 10 per cent each year for the last five years.
CHAIR: Is that not to do with the change in the Federal tax regime too, in relation to write-off for brood mares?

Mr V'LANDYS: The brood mare write-off has been around since the Hawke era. It was introduced by Bob Hawke through the lobbying of my current chairman, John Messara. So that has been around for a long time and is still a valid deduction that they take.

CHAIR: I thought a large part of that deductibility was varied not long after the Rudd Government took over.

Mr V'LANDYS: No, it has not; it is still the same.

CHAIR: Still the same?

Mr V'LANDYS: It is still the same. What has changed is that the Australian Taxation Office is more vigilant towards a professional operator than a hobbyist. What was happening was that a lot of operators were making substantial losses from racing, as I have just explained, and they were taking it as a taxation deduction from other forms of their business. To give an example: One was a member of a major law firm who owned a stud and all the losses he made in the stud he would take as tax deductions.

The Hon. TREVOR KHAN: Was it Baker and McKenzie?

Mr V'LANDYS: No, it was Atanaskovic Hartnell. But the brood mare, if you are a professional, you still have the same benefits.

CHAIR: So they quarantined it.

The Hon. TREVOR KHAN: One of the issues that has arisen out of this inquiry is the inter-code agreement and the confidentiality thereof. Are you able to point to any reason, beyond the clause that exists in the agreement, as to why it should remain confidential now?

Mr V'LANDYS: It is a clause in the agreement. Other than that, there is probably no reason for it to be confidential because, as I said, the Racing Distribution Agreement is an ambiguous, long document. The inter-code is a pretty simple document. Where the inter-code is complex is how one reaches the initial base figures. The initial base figures have all to do with the on-course operation. That is why, when one sees the first base, the thoroughbreds—and I agreed with them at the time—could not take any less than they were receiving at the time.

The Hon. TREVOR KHAN: If we were to take your evidence today, together with the inter-code agreement, we have an explanation for the background that led to the agreement itself?

Mr V'LANDYS: Correct. As I said, there was a lot more. It is a very simplistic approach and unfortunately it has been portrayed by people who do not understand what happened at the time and we have not involved ourselves in the debate because we did not think it was necessary.

The Hon. TREVOR KHAN: It is probably wise that you have.

Mr V'LANDYS: We have a commercial agreement. We know how it was formulated; we know the facts; we know that it was negotiated over a long period of time; we know that we have our on-course; we know that the freedom was given away; we know we have lost our representation on the TAB board. There is a multitude of reasons why the inter-code is where it is. One just cannot simplistically say: Oh, it should be distributed by market share because it is totally wrong.

The Hon. STEVE WHAN: In a nutshell, how was the revenue from TAB’s operations distributed before privatisation? It is well before my time in New South Wales’ politics.

Mr V’LANDYS: How was it? At the time I used to say that the thoroughbreds, I think they were getting up to 77 or 78 per cent and I thought they were getting too much because of the disadvantage we had by having the TAB shut and I was lobbying the then Government—
The Hon. STEVE WHAN: How was the distribution?

Dr JOHN KAYE: What was the formula?

Mr V’LANDYS: It was determined by the TAB board, in conjunction with the then Office of Gaming and Racing. Mr Lowenthal was there at the Office of Gaming and Racing, is that correct? It was determined by the TAB board and approved by the Minister. At one stage, the Minister capped the thoroughbred racing at 70 per cent, even though it was generating 78 per cent. So if you look at it over the history of the TAB, thoroughbred racing has had many occasions where it has generated substantially more than its market share and received less. That is why during these negotiations—at the time I think thoroughbreds were generating up to 78 per cent of the turnover. So that took a lesser share at the time on the fixed percentages.

Dr JOHN KAYE: Very briefly, the $100 million figure that you quoted before, you are saying that if New South Wales changed from $3.22 per bet to $1.28 per bet, so dropping the gross take for the New South Wales Government, the revenue going to Greyhound Racing NSW would go up by $100 million a year?

Mr V’LANDYS: No, $15 million.

The Hon. STEVE WHAN: $100 million overall.

Dr JOHN KAYE: $15 million.

Mr V’LANDYS: It is $100 million for the three codes.

Dr JOHN KAYE: I dispute that. I get $611,000 a year. I do not see where you get the $100 million from. The size of the current pool is somewhere around $250 million in the total distribution. I do not see how, by alleviating a tiny amount of it at 1.94 per cent—

Mr V’LANDYS: I will give you the figures quickly. I have got the figures here.

Dr JOHN KAYE: Maybe we can do this in writing. I am going to put a question.

Mr V’LANDYS: There is $5 billion worth of turnover in New South Wales.

Dr JOHN KAYE: Correct.

Mr V’LANDYS: If you apply on $5 billion worth of turnover 3.22 per cent as compared to 1.28 per cent, it is $100 million. The TAB distribution speaks for itself. In Victoria, they receive $326 million in TAB distribution and we receive $226 million in TAB distribution. They are publicised figures. They are not my figures. These are figures that are available in the public domain.

Dr JOHN KAYE: The total—

Mr V’LANDYS: So your calculation is incorrect.

The Hon. TREVOR KHAN: He is not being dogmatic.

The Hon. MARIE FICARRA: It has been a long day, Dr Kaye. It is quite possible.

Mr V’LANDYS: I can give you the figures, doctor. As I say, if you look at the TAB annual accounts, you will see the difference between New South Wales and Victoria.

Dr JOHN KAYE: The total TAB revenue increased by $100 million?

Mr V’LANDYS: No, the difference in the—

Dr JOHN KAYE: $5 billion goes to $5.1 billion.

The Hon. STEVE WHAN: No, it stays the same.
Mr V’LANDYS: No, no, you have got the wrong formula. Let me tell you. This is another thing I should point out. In New South Wales there is five billion—one of the questions that was asked that I would like to answer, if possible, is what would happen if there was no greyhound racing in New South Wales to the thoroughbreds. We would be financially much better off, because of the turnover. The New South Wales greyhound meetings just generate 6.4 per cent of the total.

Dr JOHN KAYE: That is the difference between meetings and punters gambling?

Mr V’LANDYS: No, the New South Wales greyhound meetings, of the $5 billion that is invested, only 6.4 per cent of it—

Dr JOHN KAYE: But you would be a lot worse off if the Victorian industry collapsed.

Mr V’LANDYS: Especially the Melbourne Cup, yes.

The Hon. STEVE WHAN: You do very well out of that.

Mr V’LANDYS: A lot of the money that is generated by the TAB is on interstate thoroughbred race meetings, yes. I acknowledge that. But to answer your question, the turnover in New South Wales for all three codes of racing is 5 billion, so the Government in New South Wales receives 3.22 per cent of 5 billion. That is just for their share. The Federal Government gets 1.52 for GST, because you have got to remember that—

Dr JOHN KAYE: I understand that.

Mr V’LANDYS: And that is the difference between us and Victoria. One gets 3.22 per cent and one gets 1.28 per cent.

Dr JOHN KAYE: I am going to send you a document by way of questions on notice where I dispute your figures.

Mr V’LANDYS: They are not my figures, they are the TAB figures.

Dr JOHN KAYE: No, the figures are right, but the calculation you have done, I cannot see how they get $15 million more.

Mr V’LANDYS: It is easy. If it is $100 million, they get between 13 to 15 per cent, depending on how—

Dr JOHN KAYE: There is only $4.7 million. The amount of distribution only goes up by $4.7 million.

Mr V’LANDYS: No, the distribution goes up by about 100 and—I will give you the figures.

Dr JOHN KAYE: It is not possible that by a tiny change in the tax rate the distribution goes up by 30 per cent.

Mr V’LANDYS: No, the difference between the three codes in New South Wales and Victoria by the publicised figures in the TAB account is $100 million-something. That is all to do with the difference in the tax, or the difference in the take out. If you gauge 13 per cent at the simplest formula, that is $13 million.

CHAIR: On budget forward estimates, leaving the GST aside, the New South Wales Government is going to get $150 million out of the racing industry this year.

Mr V’LANDYS: Correct.

CHAIR: You are suggesting to us to fix things, they have to give back to the industry two-thirds of their revenue?

Mr V’LANDYS: No, what I am saying is that they take an inequitable amount compared to every State—
Dr JOHN KAYE: You are saying drop the tax rate to $1.28 per hundred bet?

Mr V'LANDYS: Correct.

Dr JOHN KAYE: That will increase the amount of that is divided up—

Mr V'LANDYS: By 100 million, and the greyhounds get between 13 and 15 per cent—

Dr JOHN KAYE: Why does that whole 100 million go to the codes?

Mr V'LANDYS: Because the way—

Dr JOHN KAYE: You are presuming that the whole 100 million goes to the code and that the TAB takes none of that in profit?

Mr V'LANDYS: Correct.

Dr JOHN KAYE: And that is the difference between your calculation and mine.

Mr V'LANDYS: That is what happens in Victoria. The Government does not give the money back to a public company, it gives it back to the three codes of racing, so that the 100 million—

The Hon. TREVOR KHAN: That is why you look at the first column.

Mr V'LANDYS: It only goes to the racing industry.

Dr JOHN KAYE: I understand now that is where you get that figure from.

CHAIR: Thank you for joining us. You will receive requests for questions taken on notice. The Committee has resolved that answers to questions taken on notice be returned in 14 days. The secretariat will be in contact with you in relation to the questions you have taken on notice. Thank you very much.

Mr V'LANDYS: Thank you for your time.

(The witness withdrew)

(The Committee adjourned at 6.21 p.m.)