



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON JUSTICE
AND COMMUNITY SAFETY**

(Reference: [Inquiry into liquor licence fees review
and subordinate legislation](#))

Members:

**MRS V DUNNE (The Chair)
MR J HARGREAVES (The Deputy Chair)
MS M HUNTER**

TRANSCRIPT OF EVIDENCE

CANBERRA

WEDNESDAY, 7 MARCH 2012

**Secretary to the committee:
Dr B Lloyd (Ph: 6205 0137)**

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 9 August 2011

The committee met at 9.30 am.

CORBELL, MR SIMON, Attorney-General, Minister for Police and Emergency Services and Minister for the Environment and Sustainable Development

PHILLIPS, MR BRETT, Executive Director and Commissioner for Fair Trading, Office of Regulatory Services

THE CHAIR: There being enough members present to begin, I welcome witnesses to the hearing of the justice and community safety committee inquiry into liquor licensing fees and subordinate legislation. I welcome the Attorney-General, Mr Corbell, and Mr Phillips. You are aware of the privilege provisions.

Thank you for attending this morning, minister. Would you like to make an opening comment about the government's submission on liquor licensing fees as they came into effect in November last year?

Mr Corbell: Yes, thank you, Madam Chair. Thank you for the opportunity to appear before you today. I would like to make a brief opening statement. Obviously the government has already made its submission to the committee. But it is opportune, I think, to emphasise the government's approach to liquor law reform. The introduction of new liquor fees was aimed squarely at tackling community concerns about alcohol-related crime and violence and antisocial behaviour, particularly during the night-time hours in our city.

From the outset, the government has sought to engender a partnership between the community, the liquor industry and the government to respond to these concerns. Through extensive consultation with all parties, including stakeholders in the liquor industry, both large and small, and ACT Policing, we are confident that we have implemented a fairer, more equitable liquor fee structure which finances additional police on the beat, new regulatory effort and a safer community for all.

The new fee structure places a regulatory onus on the industry through a risk-based fee strategy which is set out in the final report on the review of liquor licensing fees which I tabled in the Assembly last year. The government is satisfied that the fee structure is the fairest way to apportion risk and fees in the marketplace. It is based on the liquor information that has been collected since the reforms were first implemented in 2010.

We now have access to statistical information on the risk factors cited in the Liquor Act, which we have never had access to before—information like the actual trading hours of venues, the size of venues and police statistics on alcohol-related incidents at individual premises. This information has confirmed the appropriateness of the existing policy settings.

The fee structure is not designed to increase government revenue as some sort of profit. Instead, it is designed to recover the costs of the new regulatory efforts that are required of our police and the Office of Regulatory Services. The government's current direct annual expenditure for regulating the industry is \$2.9 million.

I think the appropriate question to ask during this inquiry is: are these reforms

working? The answer to that question unequivocally is yes. We have more police on the beat. Where police are patrolling, there has been a reduction in the number of incidents, and let me cite some of those to you. Last year ACT Policing reported a 17.16 per cent reduction in alcohol-related arrests in comparison to 2010. They reported a 6.02 per cent reduction in the number of alcohol-related incidents for assault and the number of people taken into protective custody for being intoxicated decreased by 9.67 per cent.

These are real and meaningful improvements on the ground that are reducing the level of alcohol-related crime and violence in our community. They indicate that the new regulatory regime and the fee structure that supports additional police effort are working.

These statistics are telling. From my perspective the statistics indicate cause and effect: more police on patrol, more inspections, more education by regulatory officers equals less violence. Take this effort away, reduce the amount of expenditure on this effort and we will be back to where we started. For that reason, the government remains committed to the existing effort in this regard.

I would like to acknowledge, in conclusion, that the setting of licence fees is a difficult area to reconcile, and I have to put on the record that there is simply no perfect formula that will make everyone happy. Decreases in fees for some inevitably lead to increased fees for others. But in the interests of industry fairness, the government has sought to use an evidence-based approach and has implemented new liquor fees which have favoured smaller licensees who choose to close earlier and who pose less risk to the community.

With that, Madam Chair, we will endeavour to answer any questions you may have.

THE CHAIR: Thank you, minister. You said earlier in your opening remarks that this was the fairest approach, and I just wanted to clarify that. Did you say that there are no ways of improving the regime or that this is the acme of liquor licensing regulation?

Mr Corbell: The government's position is that we believe this is the fairest approach. Obviously there is this inquiry process, and the government will have due regard to the issues that are raised in this inquiry process. But I think the point needs to be made that, as I said at the conclusion of my opening statement, there is no perfect formula when it comes to applying a quantum increase in liquor licensing fees. Unless the committee reaches the view that the total quantum should be reduced, there will be winners and losers in any distribution of a fee structure.

THE CHAIR: The government did make a decision at the outset that, in addition to covering the cost of liquor licensing and inspection, you would cover the cost of police on the beat, which was a new element to this costing in the ACT. Is the idea of building in some costing for police on the beat a normal part of liquor licensing in other jurisdictions or does liquor licensing normally cover the cost of administration of the scheme?

Mr Corbell: I am not familiar with how other governments attribute their finances in

that regard, so I am not really in a position to comment on that. But the point I would make is that the government has taken the decision that the additional police whose primary responsibility is to enforce the Liquor Act are resourced through this measure.

That commentary has to be viewed in the context that the taxpayer is already picking up the very significant majority of the cost for the general policing effort—that is, it is not just the 10 police in the alcohol crime targeting team who are enforcing the Liquor Act. There are the general duties teams that are policing Civic and other nightspot areas, for example, on Friday and Saturday nights. They are not financed by liquor licensing fees. The ambulance crews that are attending incidents that are alcohol related are not financed by liquor licensing fees. The emergency department specialists who are responding to people who have suffered injury as a result of alcohol-related crime are not funded through the liquor licensing fees, and then we have the flow-on costs through the criminal justice system as well, as a consequence of alcohol-related crime and violence. None of that is funded by the liquor licensing fees.

The point the government would make is that this is a relatively small contribution to the cost of managing and addressing alcohol-related crime and violence. We think it is a proportionate and reasonable expectation to ask of those to pay for the privilege of selling alcohol in our community.

THE CHAIR: The alcohol crime targeting team and the Office of Regulatory Services are both players in this new regime. What is the interaction? Who does, for instance, the inspections, who does the education and what is the delineation between the roles of ORS and the police team?

Mr Corbell: I will ask the commissioner to speak further about this shortly. But I preface the answer to the question by saying that the new regime was designed to shift much greater focus regarding the front-line regulatory effort in terms of compliance of premises whilst trading to the police. That was a change from the previous arrangements where civilian inspectors had a very much more significant role in enforcing premises' compliance during trading hours.

That presented a whole range of problems which were canvassed during the debate on the act, as I am sure you recall, such as civilian inspectors having to work for extended hours into the evening, on weekends and so on to do that enforcement, and also the practicalities of them being able to enter a licensed premises without police. In effect, they really did have to enter licensed premises during trading hours, particularly late at night, with police for their own safety, for their own capacity to enforce the law. As a result, the government took the decision that much more of that effort would be undertaken by police, and the civilian inspectorate would have much more of a focus on the administrative end of the activities, the assessment of risk assessment management plans and so on. Mr Phillips can give you some more detail.

Mr Phillips: Thank you, minister. At the present time there is—and there has been since the Liquor Act was amended—a very close working relationship between the ACT Policing alcohol team response and the Office of Regulatory Services. There is a relatively informal structure, but it deals with enforcement compliance issues. It comprises the relevant senior officers who are involved in the Liquor Act on our side

and from the police side. They meet fortnightly, talk about the policing roles, what police have done, talk about the ORS role and what ORS has done, discuss those matters where there are compliance issues, discuss matters that might be taken further by Policing or might be referred to the commissioner.

The minister is correct: the role of the police has moved to one of compliance with the patrons and with the inspectorial roles in the high volume trade on Friday and Saturday nights and whatever. The police also undertake, I think, quite a useful educative function. My understanding is that they go and assist people and licensees when they are required to. The Office of Regulatory Services still undertakes its inspectorial functions. It has allowed us to free up our staff from the night-time work, to actually go right across the gamut of licensed premises. So now everyone has had an inspection—all the off-licences, all the on-licences, the restaurants and whatever. We have moved our focus to actually ensuring that there is compliance with the licence conditions of licensees.

THE CHAIR: You do not really know whether there is complete compliance with the licence conditions until a premises is operating with customers. Are your officers, the civilian officers, still visiting during trading hours?

Mr Phillips: They still visit during trading hours. They still do after-hours inspections, and that is because those inspectors have a number of other functions. For example, they have the inspectorial regime over the security industry, so it is important for us to ensure that people who are being employed in security are properly licensed under that scheme as well. So they are still out and about at night. They still do work in close tandem with ACT Policing.

MR HARGREAVES: I want to explore something in order to get something straight in my head, because I am not exactly sure that I have got it right—the notion that premises will be charged a different rate if they have a different application in their place. For example, if a premises is predominantly a restaurant activity and it has a bar provision on the outside of that, as a periphery, it will be charged a figure. There might be a bar activity and it just happens to have an ancillary food service on the side. There are premises like that, for example, in West Row. In fact, with the first example I gave you, I would suggest that Sage restaurant in Gorman House would fit that category. But I am not sure how the charging regime and the fees actually apply to those two premises and what we actually regard as the criteria for determination of a particular level. Is it the higher of the fees or is it the predominant activity? Exactly what is it?

Mr Corbell: The legislation requires that the licence category be in accordance with the predominant activity. There are, as you say, a number of premises that morph from one type of activity to the other, depending on what time of the day or which day of the week it is. But that predominant activity identification has been undertaken by the licensee themselves, so they self-select. There were a small number of licensees that were identified in November last year—18—that appear, from ORS's view, to have self-classified into a cheaper licence category. For example, there were a number of licensees—and I will not name the premises—that most people here would regard as a pub that were self-classifying as a restaurant and paying a lower fee as a result, because they did, as you say, offer food. I think in one instance they even call

themselves a pub but they seek to apply to be licensed as a restaurant. In those circumstances there is a need to clarify the operation of that provision of the act.

Following the concerns raised by a number of licensees last year—and I have to acknowledge that I think there are many licensees who are genuinely confused and just honestly do not know which way they should go, so they are acting in good faith. I am not suggesting that all licensees in this circumstance are not acting in good faith. ORS chose to accept what the self-classification was for the purposes of this renewal period, this licence period, but that work would be done with those licensees and, indeed, with ORS’s own internal processes, to clarify that for future license periods.

THE CHAIR: What does “predominant use” mean?

Mr Phillips: We are in the position currently of preparing guidance material for industry that will run through the Liquor Advisory Board and also out to relevant stakeholders in relation to a consultation process that will actually set out guidelines for what we consider to be a predominant activity. There are a range of views and a range of possibilities. For example, if an activity is being run as a restaurant for seven days for lunch and dinner but predominantly makes its money or profits from a bar operation, there is an argument that it is a restaurant and there is an argument that its predominant activity is a bar. It is an issue that we will work through with industry to provide a series of guidelines to industry for their comment so that we can work further in relation to that.

MR HARGREAVES: What I am hearing is that you are still working on those guidelines?

Mr Phillips: Yes.

MR HARGREAVES: That is good. At the moment, though, in the absence of those things, people are, as I hear you, self-identifying, lots of them in good faith. Then you come along and you find that you have a different view from them. What sort of reception are you getting when you say, “Well, sorry about this, guys, we’ve got a different view to you; we’re going to have to apply a higher rate for you”? Are people saying, “Well, no, sorry you’re wrong.” Or are they saying, “Thank you for that clarification”? They do not like the fee but they are still going to comply?

Mr Phillips: I think it is mixed, Mr Hargreaves. I think both views have been expressed quite—

MR HARGREAVES: With some articulation.

Mr Phillips: Yes, with quite some articulation. Some people accept that there is a grey area. Some people have challenged the suggestion. Under the Liquor Act the commissioner has the power to amend a licence but must go through a process before that licence is amended, and that includes consultation with the affected licensee. Once we formulate the guidance material, once that is approved and signed off, we will then go to any licensees that we think raise issues about the classification they are under and we will work with them to appropriately classify.

MR HARGREAVES: I have two final questions on this one, and I am pretty sure they will be fairly quick. The first one is: if the consultation that the commissioner goes through is with the licensee, what other things are there, and is there an appeal mechanism against the decision of the commissioner?

Mr Phillips: There is an appeal mechanism. There is a right of appeal against a decision of the commissioner to ACAT. As I said before, we will go through a process where we consult with the Liquor Advisory Board, and that board comprises representatives from industry, but we will also consult with the relevant stakeholders in industry to formulate those.

MS HUNTER: In your consultations around putting together this guidance material, you have consulted with the Liquor Advisory Board. Who have you consulted with?

Mr Phillips: We are currently preparing a draft. Once the draft has been completed, that will be circulated to members of the Liquor Advisory Board and for consultation.

THE CHAIR: So what is the timetable—

MS HUNTER: Is that general consultation, public consultation? So others outside the membership of that board will be able to comment?

Mr Phillips: We will consult with the AHA and also with clubs to get their views about the guidance material.

THE CHAIR: Aren't they on the Liquor Advisory Board?

Mr Phillips: They are, but we would formally consult with them in any event.

THE CHAIR: What is the timetable? We are resetting fees in November.

Mr Phillips: A draft has been given to me now. With respect to the Liquor Advisory Board, I have asked for a meeting in March. I cannot tell you what the date is.

MS HUNTER: I want to go to the issue of compliance history of venues. This is a theme that has run through a number of submissions from the licensees. I want to know whether government is following through and having a look at this issue of compliance being one of the factors that is looked at in determining fees and whether that is going to be part of the two-year review process, or whether it is going to be earlier. I want to get a sense of whether it is on your radar at all.

Mr Corbell: My position on this has been consistent throughout, Ms Hunter—that is, I have indicated the government's willingness to consider compliance history as a factor in setting fees. It is, in fact, indicated as a factor I can have regard to in the act. The government's position to date, however, has been that, for the reasons I mentioned in my opening statement, we are only really now starting to get a much more detailed picture of the operations of licensees across the territory. Because of the new reporting requirements, because of the new regulatory regime, we get a much more accurate picture of incidents, compliance; we have got the resources on the ground to follow those things through.

The government has been reluctant, as I have stated on many occasions previously, to implement a completely compliance-based framework early on in the implementation of the new regime. The reason for that is about fairness. There will inevitably be instances in the first 12 to 18 months of the operation of the scheme where, particularly in the first year, licensees could have been found to have been in breach of their obligations simply because they are becoming familiar with their new additional obligations. We thought it would be unreasonable to impose compliance-based fee structures in that regard.

MS HUNTER: Which is why I bring it up in relation to the two-year review.

Mr Corbell: We are now getting more data, and the government remains committed to looking at how it may be possible to implement more of a compliance-based fee structure. I think, though, we do have to be cautious on this matter, and the reason for that is that we have a relatively small number of licensees in total. We have around 630 licensees, both on and off-licences, across the territory. In other jurisdictions that have a compliance-based fee structure, such as Victoria, which has quite a severe—or did until recently—compliance-based fee structure, first of all, they are dealing with a much larger total pool of revenue in that they have thousands and thousands of licensed premises. So when you see some licensed premises in Victoria reduce their fees because of a good compliance history and others dramatically increase their fees because of their poor compliance history, in Victoria we are talking about tens of thousands of dollars worth of increases in fees for poor compliance, particularly for larger venues. The market as a whole can cope with that, because there is just such a large number of licensees. But in the ACT we have quite a small market. If we were to impose disproportionate increases in fees for poor compliance history, we could actually more fundamentally disrupt the overall operation of the market—that is, some premises might just close. Fees would become too high.

That may be a reasonable policy outcome, but the alternative that has to be considered is that, if we have a compliance-based fee structure, the increases will be only modest, because there is still a total pool of licensees to manage and revenue to come in from the fees. And would that then act as a really significant deterrent? These are matters for judgement, matters for balance. I do not rule it out but I do not think it is as black and white as some have suggested.

MS HUNTER: You have also raised the issue of a perverse disincentive for an establishment to, for instance, call police for assistance in that it might end up in some sort of breach and therefore a financial penalty would follow. Have you got any more to say on that?

Mr Corbell: I have made that comment previously, and I think it is important that the committee has regard to that. If you see premises not willing to engage with police, not willing to report breaches or problems because they are concerned about their fees going up, that is obviously a problem. We want a cooperative regime; we do not want a regime where licensees feel they have to hide what is going on in their premises from the regulatory authorities, because the common outcome is about improving safety and making it more enjoyable for everyone when they go out.

THE CHAIR: I am conscious of the time and that we will have to move on. Could I touch on the issue of collecting data on incidents and the interaction that would have with a premises' record? This may be a question for the police, and it may be a question that needs to be taken on notice. When an incident is recorded, is it always associated with a licensed premises? If someone is arrested in a licensed premises, presumably there is a record of where they were arrested. But if someone is arrested on the street, is there any association between that arrest and where someone may have been patronising during the evening, and does that adversely affect the licensee of the place they may have been patronising?

Mr Corbell: I think it depends on the circumstances, Mrs Dunne. The police are probably better placed to answer your question, but I think I can safely assume that police would make an assessment of whether there was a direct correlation between a matter and someone's attendance at a licensed premises. For example, if someone was arrested outside a licensed premises, having just been required to leave those premises, which is, of course, a direction that can be given now under the act, there would be a correlation. Whether that would be a negative or a positive correlation is another matter. Nevertheless, in some circumstances police could correlate offences that occur on the street with licensed premises and with others they may not.

THE CHAIR: They might not?

Mr Corbell: It depends on the circumstances.

THE CHAIR: They are probably things we need to take up with the CPO.

Mr Corbell: I think you can take that up with the police. They would be able to answer that.

MR HARGREAVES: I am not sure whether you can answer this; maybe it is too difficult. Is anything taken into account regarding the fact that some people go to one licensed premises, either deliberately or inadvertently, fuel up, to use the words in one of the submissions, and then move on to another premises, an incident occurs, and the second premises is, in fact, penalised for that, and yet the time spent actually on those premises by the person is, in fact, quite small; in fact, their time at the first fuel station is quite long.

THE CHAIR: Or they might have front loaded somewhere else.

MR HARGREAVES: They may have front loaded at home; who knows? I do believe people could go to one set of premises, maybe in the middle of the afternoon, and then their bad behaviour occurs within half an hour to an hour after arriving at the second venue. Are we treating the second venue fairly in that case or is it just too hard to work that out?

Mr Corbell: The behaviour known as preloading is of concern. Certainly the police advise me that it is of concern to them. Preloading can occur in a range of ways. People can fuel up, as you say, at home. In those instances they are probably buying alcohol from off-licences, which is why we need a reasonable fee structure for both on and off-licences. Obviously the risks are different, but there are still risks, and the sale

of alcohol from off-licences can actually contribute to problems with behaviour around on-licences. So the fee structure has to recognise that.

In terms of attributing blame, I do not believe there is any policy or approach by police or our regulatory authorities that seeks to attribute blame where someone is arrested on the footpath, having been drinking all night in a number of licensed premises. But police will seek to identify a pattern, if they see a pattern of behaviour at particular licensed premises that may cause them concern. For example, if there are a large number of arrests outside a particular licensed premises, they will certainly seek to ascertain whether there is any issue with the conduct of trading at that particular licensed premises. But, as I say, it depends on the circumstances of the individual offence.

THE CHAIR: We will have to move on. Minister, could you take on notice and provide to the committee an outline of the amount of fees collected in each category by size of premises, on-licence and off-licence? We know what the fee structure is but we actually do not know how much the government collects in each of those categories.

Mr Corbell: Yes, we can provide that.

MS HUNTER: Could I also ask for something to be taken on notice? The findings of the liquor licensing fees review talk about the market being pretty stable, that we seem to have similar numbers of establishments and so forth. Could you take on notice whether that has changed in the last five months?

Mr Phillips: I can answer that now, if you like. Currently, as of today, there are 636 licences. There were 634 renewals. I think last year there were 636 renewals or thereabouts, and the year before there were about 530. In the year before that there were about 600. So the figures over the last four or five years have remained constant for the number of licensees in the ACT. It fluctuates; it can fluctuate by 100 or so each year, but constantly the figures seem to be okay.

MS HUNTER: Thank you.

THE CHAIR: Thank you very much for your time, minister.

Mr Corbell: Thank you.

REES, MR GWYN, General Manager, Australian Hotels Association.

THE CHAIR: Mr Rees, are you familiar with the contents of the blue laminated card that is in front of you?

Mr Rees: Yes.

THE CHAIR: That is the privilege statement. Would you like to make an opening statement?

Mr Rees: Yes. On behalf of the members of the AHA, I would like to thank the committee for providing the opportunity to address the liquor fee determination. The Australian Hotels Association is a federally registered organisation of employers in the liquor and hospitality industry. The ACT branch of the AHA has a strong membership, including accommodation hotels, pubs, bars, nightclubs and restaurants.

The AHA continues to play a leading role in representing the interests of its members in the licensed hospitality industry. The introduction of the act has seen significant change within the industry and has already yielded significant results. Licensees, however, should not be held entirely responsible for the poor behaviour of people who are drinking. People must always be responsible for their own actions.

The AHA has supported the move to a risk-based licensing regime. However, it believes that the present fee determination still lacks sophistication and that it has placed an unfair burden on venues, causing disparity between fees paid in the ACT and other states.

For the purpose of this inquiry, the AHA addresses the following concerns. The \$2.9 million quantum recovered by the ACT government is too high and, given recent reductions in alcohol-related incidents, crime and increases in compliance, this quantum must be reduced. The discount off-licence fee of \$500 seems at odds with the harm minimisation principles of the Liquor Act and should be removed. Section 4 of the fee determination should be removed. Compliance history as a rebate measure should be considered. Venue size and capacity should be addressed. An after-3 am full freight fee should be considered, and data collection improvements must be made. I would like to expand on a few of those points.

With regard to the \$500 licence, there should be an entry and base fee in both the off-licence and on-licence categories. I fail to see why the base should be different or why those not serious about the sale and supply of alcohol should be afforded concessions at the expense of legitimate and serious operators.

Density of venues is expressed as a concern when addressing alcohol-related crime and incidents, yet the present fee determination has allowed the introduction of a discount licence. Referred to as a boutique licence, this allows licensees in the off-licence sector who sell under \$5,000 worth of alcohol to have a licence.

In an assessment of the present density of licensed venues—more specifically, I am talking about the city precinct—one might observe approximately 25 licensed premises, excluding restaurants, over a six-block area. It seems evident in the current

economic and regulatory environment that most venues' viability, excluding clubs, is attached to the city. This is further evidenced by observations of Kingston and, to a lesser degree, Manuka, where it seems night-time venues are simply disappearing. It is difficult to describe these areas any longer as entertainment precincts. Rather, they should be described as dining precincts, as they are presently less and less relevant where entertainment is concerned. I make this point as it seems obvious that the regulatory environment is threatening the viability of late-night venues. Furthermore, giving away of licences can only serve to exacerbate the issue.

With regard to venue size and capacity, there is a lot of anecdotal talk of large venues and finger pointing with regard to who should bear the cost of the licensing regime. However, the fact remains that there are actually very few large venues. Eighty-two per cent of the market is small to medium, so any push to divide these venues means that there are a few that are unfairly penalised for that size relative to other venues. I would indicate that the vast majority of clubs would fall into this category, some 60 venues. We are talking about a small portion of hotels with large function space, the convention centre, casino and a smaller number of bars and nightclubs. With this last group, predominantly situated in the city, there is simply a handful.

Approximately six of these venues that I represent are now responsible for supplying, I would estimate, about \$130,000 to the licensing regime; another three venues that I represent supply an additional \$65,000. It seems completely unreasonable for nine venues to carry nearly \$200,000 of the \$2.9 million recovery cost required by the ACT government. It is on this point that I believe the government should decrease the recovery cost and help to ease the burden for all licensees.

I would also like to discuss the full freight fee that I talked about, and it recognises a number of factors. There is now data available that indicates that nearly 80 per cent of incidents occur at premises trading to 4 am or 5 am. The nature of the licensing regime should reflect this irrespective of licence type. The nature of a night economy should be balanced and encourage other licence types to stay open. However, nightclubs, for example, have and should continue to have surety in this space, and young people must be afforded the same rites of passage that many of us have enjoyed.

The nature of a nightclub business type also means they generally only have three nights of trade—Thursday, Friday and Saturday. This is a very short time frame to capture trade compared with other licensed businesses. It is important that licensing beyond 3 am be shared whilst protecting businesses competitively, because they choose to trade in this space.

Under Australian competition policy, governments are required to remove regulatory obstacles to competition, including for alcohol. Nightclubs, therefore, should be afforded some concession to allow them to remain viable and competitive. At a state level, for example, the Victorian licensing laws specifically include as one of their goals the building of a diverse alcohol industry.

Thanks for hearing me out on that, and I am happy to take any questions.

THE CHAIR: Thank you, Mr Rees. Could you elaborate more on the point that you made at the very end about creating a diverse alcohol industry and the issue that you

touched on about the licensees who are paying large amounts of fees but who really only have three nights to make their money, pay their staff and whatever?

Mr Rees: Sure. At the moment you are looking at a 350-capacity venue, and some of these nightclubs are paying \$23½ thousand. At the moment, a pub of the same size would pay, I think, \$16,000. So there is quite a competitive disadvantage in being determined as a nightclub in that instance.

Where I talk about density of venues, a venue like Academy, for instance, would clearly be determined to be a nightclub, and for some very clear reasons. The predominant trade is dance and entertainment, and that would be clear. They would open on Thursday, Friday and Saturday nights. That would be reasonably clear. They do not really do any other type of trade. They make their money from being a nightclub. However, there is really nothing stopping six bars opening around them and threatening that trade at a significantly reduced licensing price.

THE CHAIR: One of the other options would be that if you were paying that sort of elevated licensing price you might have some clear air to trade when others may not. If you are a nightclub, you might have extended hours of trading, whereas if you were a bar, whether proximate to a nightclub or just a bar generally, there may be restrictions on when you can trade. That has been put to me as an option—that you actually give the nightclubs a couple of hours of clear air. How does that sit with the anticompetitive inclinations of the ACCC, for instance?

Mr Rees: I am not sure how that falls. But looking at where people were taking their licences anyway, when we were in the process of addressing the liquor fees, you will find that predominantly bars will choose to close at 3 o'clock. Even though they were forced under the last licensing regime to take it at four, predominantly they were closing at three, and they were avoiding going into that additional trade. The full freight fee on that end is about protection of those businesses. It is fine for a bar to say, "Okay, we'll trade at that time." But then you even out the cost across the industry at that stage. Nightclubs are choosing to trade there, but also let them have that space, even out that fee structure and not allow someone to be \$7,000 or \$8,000 less than them in the same space for the same size business.

MR HARGREAVES: Thank you for your submission. I thought that was really comprehensive, and I like the tables on the back. It was very informative, so thanks very much. We have discussed the classification bit, and I think your submission is very clear on that.

Mr Rees: Okay.

THE CHAIR: Which is actually why I asked for the government to give a breakdown of where they actually collect the fees.

MR HARGREAVES: All credit to you, Madam Chair.

MS HUNTER: I want to go to the issue that you have just spoken about. It is on page 3 of your submission. You talk about a reduction in total fees from \$2.9 million down to \$2.6 million. "Let's reduce it," you are saying, "by \$300,000." How would you

suggest the government do that? Who will be the winners and who will be losers from your point of view?

Mr Rees: Out of the last fee determination, the vast majority of licensees were pushed downwards. I think it comes back to the perception about large venues. Inevitably, people start thinking that because it is a large venue, there is a large number, but there is not. With the way that the fee determination has panned out, some were inevitably caught by size, but the reality is that where those licence types were taken at the nightclub end, they are bearing the brunt of that, and that is where you are getting this massive quantum just in that sector, where these licensees are carrying a couple of hundred thousand dollars, as opposed to discounts being offered elsewhere.

I would also like to note that in the submission process for the liquor fees proposal that was originally put forward, there were not really any submissions that came from the restaurant industry. Certainly, there were not any restaurant representatives that turned up to some of the roundtable meetings. I think that is notable, because there were large discounts given in that sector. I am not saying that that is not a good thing, but in that sector alone, by giving large discounts across 287 licences, that equates to a lot of money, and that has been pushed on to this small number of licensees on the other end. They were the ones that were making submissions and asking for the discount. So I think that needs to be considered.

THE CHAIR: Because I do not go to large nightclub venues anymore—rites of passage have passed—with the large venues in the ACT, compared to, say, large venues in Sydney, Melbourne or Brisbane, are they large by comparison?

Mr Rees: I do not think the ACT market as a whole is very large. I guess that was the point that I was making. We are a small to medium market. These businesses are owned by small business operators. We do not have access to gaming machines, so we do not have the diversity in our venues that you might see in—

MR HARGREAVES: You have a couple, Mr Rees. Let us be truthful about it.

Mr Rees: We do. There are draw poker machines; that is breaking down. But we do not have the diversity of venues. We do not have large group owners. They just do not exist. I cannot draw a comparison there because I do not know.

THE CHAIR: What would be the largest venue in the ACT?

Mr Rees: I would say the largest venue would be Uni Pub.

THE CHAIR: And what is the occupancy?

Mr Rees: Close to a thousand, maybe 990.

THE CHAIR: That would start to come into the definition of “large” in other jurisdictions as well?

Mr Rees: Yes, it would.

MR HARGREAVES: It is over a number of floors, too, isn't it?

Mr Rees: Yes, that is correct.

MR HARGREAVES: I mean to say that the mind picture of one large room is an incorrect one?

Mr Rees: Yes.

THE CHAIR: Mr Rees, thank you for your submission and for your attendance today.

HOUSE, MR JEFF, Chief Executive, ClubsACT.

THE CHAIR: I welcome Mr House from ClubsACT. Thank you for your attendance this morning. Do you want to make an opening statement in relation to your submission?

Mr House: A brief one, thank you, Madam Chair, and thank you to the committee for holding this inquiry. I think it is a very valuable process for you to hear directly, as you will, from licensees and not just the industry association, so thank you for that.

It is important to say at the outset that the industry was always happy to contribute to the cost of policing the city, particularly at night. A safer city is better for our venues, so we were always supportive of that. But I would like to, I guess, challenge something that the minister said this morning. There was this view of cause and effect; that if for some reason there was not this \$2.9 million contribution the reductions in incidents that we have seen in the last X number of months and all that good work would somehow be reversed. I do not believe that is the case. Frankly, I believe that the work of the alcohol crime targeting team would go on and would have occurred whether or not industry contributes \$2.9 million to the cost of those services. The point there is that it is a policy decision of the government to charge licensees for the cost of services. Those services could have been applied with or without industry contributing. Out of an expense line of \$3.8 billion, \$2.9 million is not that significant.

I would also like to make some brief comments on the implementation of both sets of fees. There was a prolonged period of consultation with industry. I think I have previously been on the record as congratulating the government on that process. It was very thorough. But all of that good work was let down in the actual implementation of the fees themselves, which were very late in the day and gave industry very little time to plan, budget and absorb before renewal time.

Very quickly, I will just touch on some of the points in the submission. We agree with Mr Rees that the structure is not as sophisticated as it otherwise might be. We do very strongly believe that venue compliance history should be taken into account. I notice the minister was sort of referring to compliance history only in the context of—or largely in the context of—potential increases for poor compliance.

We approach it in a very different way. We believe there should be some incentive and reward for venues doing the right thing, and not just over the last two years. I think there is enough relevant information about the way venues have been complying with not just the current legislation but the previous act such that that could inform reasonable decision making in terms of coming up with a scheme that would provide some form of rebate to venues that have good compliance history. But I do note the minister's point about the data that we have received over the last little while.

In terms of the compliance history, if this is a user-pays system—the data suggest that they are calling on those resources far less or not at all compared to other venues—then under a user-pays scheme those venues should pay less, and not just in terms of the fee that they are charged both in terms of the base and the add-ons but in terms of rebates that they should receive because they have a good compliance history, whether they are in this particular category of licence fee or another.

In the same way we do support a gradual reduction in fees. The minister noted the reductions in incident rates. That is pleasing. But we would like to see, on the same principle in terms of user pays, that quantum reduced.

We do not support section 4 of the legislation which allows for dual classification of venues. We believe a venue is one or the other; you cannot be two. Whether you are a bar, nightclub, pub, licensed club, in the interests of certainty and the ability of venues to actually plan and budget we believe the option for venues to be classified into subclasses should be removed. So we recommend section 4 be removed from the legislation.

On the timing of fee determination I know that Mr Rattenbury has some legislation on that matter. We support any measure that requires the government to be timely in the introduction of fee structures such that industry can obviously plan for that, so we support that legislation. I am happy to take questions.

THE CHAIR: Thank you, Mr House. I want to touch on the possibility of having multiple classifications. There has been a complaint from ClubsACT and the AHA in relation to the sophistication of the hierarchy of licence fees—that we have a whole lot of classifications in the act which never see their way into the determination of fees. What is your view about the appropriateness of having a whole lot of potential fee classifications that never materialise in the fee schedule?

Mr House: The first fee schedule that was released under the new act included these new subclasses, but there was the flat fee. There was no distinguishing between each subclass. We do have some better definition between those subclasses. I am supportive of having those subclasses, so long as they have some relevance to the fees that are paid by each subclass and the restrictions on the licences. There is no point having subclasses if the fee structure is relatively flat and there is no further sophistication in what that subclass means. I certainly reject the notion that it is somehow complex or a complex process to determine a venue's subclass.

THE CHAIR: Victorians do it, don't they?

Mr House: Of course they do. It can be done, and it is not so much that a venue is wanting to be one subclass or the other. You should only be one subclass, and the process that is undertaken to determine that is, I guess, where we would probably have some input. But at the end of the day there should be a decision which says: you are a pub, you are a restaurant, you are a cafe or what have you. You should not be able to be classified as both.

MR HARGREAVES: On that point, Madam Chair, when I asked a question—you were here—of the ORS around predominance—it being my long-held view that any regime should centre on the principal activity of a given venue—

Mr House: Yes.

MR HARGREAVES: Noting the thread through a lot of the submissions is that the subclass issue is a really big one for folks, I notice in your submission and I think that

of Mr Rees also, that it is the highest common factor here, the highest fee. That is not what I heard from ORS this morning. What I heard from ORS this morning is that they are looking at it again; there is a consultation process on whether they are going to develop the predominance process.

Mr House: Yes.

MR HARGREAVES: I meant to ask this of Mr Rees, and I apologise; given that he is here, if he wants to drop us a line and tell us how he feels about that we will take that as a question on notice to Mr Rees. But my question is: are you encouraged by what you heard around that predominance, and have you been involved in any consultation process with ORS to achieve that?

Mr House: Both Mr Rees and I met with the Chief Minister and the Attorney-General and officials two weeks ago. We raised a number of issues relating to, amongst other things, liquor, and that was also mentioned in that meeting. We have not had any discussions with the government or officials on that yet but, as I say, the meeting was only two weeks ago. So we are encouraged by that. But there is, I guess, devil in the detail and we will reserve our judgement until that process reaches a conclusion.

MR HARGREAVES: It may very well be that the committee makes a statement about that.

Mr House: Indeed.

THE CHAIR: I want to touch, again, on the issue of notice. Last year licensees had the notice for the fee changes come out on 12 November for effect on 1 December, and it was a similar short time, or perhaps even a shorter time, the previous year. What sort of impact does that have on licensees?

Mr House: Significant impact, particularly for those licensees, which occurred last year, that were classified under a different subclass. It is generally known that there are a number of venues in the ACT that were informed, I think within 24 hours of the fee structure being released or publicly announced, that they were being classified under a different subclass, which meant an increase in their fees. Very quickly, once that became known, ORS back pedalled on that. So it has a huge impact. I am still yet to understand why it takes the time that it has taken for the government, for the minister, to sign off on that fee structure two years in a row. There has been consultation almost constantly for that period. To release the fees within weeks of the renewal period I think is appalling—and to do it twice. I still do not know why we had to go through that, so I am very supportive of the Speaker's legislation on that matter.

THE CHAIR: Ms Hunter.

MS HUNTER: Yes, and we hope that we do get the support in the Assembly to fix that matter. I want to go back to the issue around the compliance history approach. It was something that you probably heard me raise with the attorney earlier. There is an argument that people may be dissuaded from calling in the police or whatever if there is an incident, because of what impact that might have on their fee. Are you aware of how other jurisdictions, for instance, Victoria, deal with that issue? Has it been an

issue or not?

Mr House: Victoria have a compliance history factor to their fee structure, both up and down, I think, but I do not know how they deal with this sort of issue of venues not phoning the police. My view is that I do not think any of my members would wait for one second to phone the police. If they have got an incident in their venue which requires police attendance, if it is that serious, my venues would be more concerned about the safety of their patrons and any potential future impact on their business from having incidents that required police attendance but no police ever attended because the venue did not phone them. Some venues might think about doing that, but certainly no members that I have spoken to; if they have got an incident that requires police attendance, they will be phoning the police. The greater concern—and I am sure it is the same for Mr Rees’s members—is the safety of their patrons and getting the issue dealt with.

The other thing I would like to say on the issue of compliance history is in terms of the minister’s comments. We are not necessarily talking about if a venue has any kind of incident that that will impact on their compliance history. What I am proposing is that there would be an impact on compliance history only for incidents of a certain type. If an inspector has come along and said, “You’ve got an exit blocked,” or something like that, that is not what I would consider an issue of compliance that would be germane to the fee setting. For instance, most of my members have large venues with high occupancies. They are different inasmuch as those maximum occupancies are rarely reached; they rarely even get to two-thirds of it. They are big venues, so they pay because of that, but they are rarely jam-packed with people, and that obviously relates to the risk that they pose in terms of alcohol.

But I have a venue that pays a lot of money because they are a large venue and they open late. Most of my venues do. You could fire a gun and not hit anyone at that time of night, and they have not had an incident of any sort in the last eight years. So I believe there is a legitimate case that, regardless of the type of venue, if you have not had an incident in eight years I do not believe—

THE CHAIR: You might be entitled to a discount?

Mr House: Absolutely. On the basis that we have always been told this is a user-pays, risk-based system. If you can demonstrate that you pose little to no risk, if you have not called on the resources of the city in terms of police or other resources, I believe you should get a discount on your fees.

MR HARGREAVES: I am aware that in the club industry—Mr Rees might like to listen in on this, and if he feels so inclined to comment later I would love to see it—within some club systems, once you are excluded for behaviour of some type it is actually a mutual exclusion within that club group.

Mr House: Yes.

MR HARGREAVES: Is there an arrangement where that exclusion will apply to other clubs outside the group?

Mr House: No. Certainly, as you say, it applies to the group, but there is no scheme in place which says, for instance, that if there is an incident and someone is excluded from the Vikings group of venues they will inform the Southern Cross Club group or anything like that. But certainly they are excluded from the group.

MR HARGREAVES: I am aware—I think it is in the city of York in England—of a system within the pubs themselves where once a patron has been excluded, for whatever period, the details, descriptions et cetera are sent around to every pub in the town; there may be five or six in the particular town that I am thinking about. I was thinking about it in terms of a precinct. If, for example, a person was excluded from the Vikings club, they are likely to turn up at the Southern Cross Club in, say, the Tuggeranong area. I wonder whether you might like to consider the potential of such a system and I wonder whether or not it does or should exist within the other venues. I am aware of the types of venues—nightclubs are one thing, restaurants are completely another and all of that—but perhaps on a precinct basis, if that actually worked, it may have an impact that you are talking about which does not include the police.

Mr House: It is an interesting concept, Mr Hargreaves. If we are moving down the path of naming and shaming food licensees for bad behaviour, perhaps in the interests of personal responsibility we should be naming and shaming individuals for bad behaviour in venues. So I would happily look at that.

MR HARGREAVES: Okay. Thank you.

THE CHAIR: I am very conscious of the time, and as there are no other questions I thank you for your attendance this morning and for your submission.

McOMISH, MR LACHLAN, Proprietor, Wig & Pen Tavern and Brewery

THE CHAIR: I welcome Mr McOmish to the hearings of the inquiry into liquor licensing fees and subordinate legislation. Mr McOmish, you are aware of the contents of the blue privilege thing that says that you have to tell us the truth?

Mr McOmish: Yes, indeed.

THE CHAIR: Otherwise we will send the beak after you!

Mr McOmish: Good heavens.

THE CHAIR: Would you like to make an opening comment?

Mr McOmish: Certainly. I should say that the Wig & Pen is not represented by any industry group. We simply represent ourselves, so any comments that I make are peculiar to the Wig & Pen.

It is a great pleasure to be here today to have the opportunity of addressing the committee on a subject which is of some interest to me. A recent American president—I think it might have been Ronald Reagan—said, “It’s the economy, stupid.” I have been interested, sitting, listening to the submissions being made here and the discussions this morning, because no-one has asked whether it is the culture, stupid, and whether in fact perhaps what we should be concentrating on is not how to manage the existing culture of incompetence in the hospitality and liquor industry but how to change it so that we can have a vibrant and useful hospitality industry which does not cause the sorts of problems which require the policing which we presently have.

I have two daughters living overseas, one in Paris and one in New York, and in neither of those cities do they seem to have anything like the sorts of problems that we have here—in Paris because of the Parisian culture, which is dead set against people being intoxicated in public, and perhaps in New York because if you do get intoxicated in public the police are ever present and quite handy at putting you away.

I would like to make a few general comments about the act and then come to some specific concerns which arise from the implementation of this act, then, if time permits, give you an opportunity to hear my thoughts about where we are going to be with this and other legislation unless we seek to change the culture.

The first point I would make is that this act does not exist in isolation. It is part of a web of economic drivers, taxes, charges and regulations which combine to drive the hospitality industry in this country. I have got records, going back over many centuries in Britain, which shed light on the interplay between these factors and how they have led to the development of the alcohol culture here in Australia.

Interestingly, the earliest record I have of governments trying to regulate the industries comes from the 13th century. Edward I, who was known as the hammer of the Scots, was also the hammer of the pubs, since he was the first English monarch to introduce a curfew to try to deal with antisocial behaviour emanating from the pubs. It

did not work then. It has not worked since. Eight hundred years worth of trials with this—

MR HARGREAVES: We have come a long way, Mr McOmish, haven't we?

Mr McOmish: We have come a long way! We are still here discussing the same problems which bedevilled the people in the Middle Ages. It seems rather strange that we are having this discussion at all.

But I have to tell you that I, having studied these records in detail over many years, have reached the inescapable conclusion that our present alcohol problem has been caused by government regulation and taxation. In other words, our present problems have been caused by government policy, not mitigated by it. In my view, if we are going to have any solution to the present problems that we face, we need to address that. Governments, especially the federal government, need to address the impact that their taxes and charges have on this industry and work to try to achieve better outcomes for society. I know that is a big claim, and I will deal with it at some stage later.

I would also have to say that in my view alcohol abuse is nowhere near as prevalent in the Canberra of today as it has been in Australia in the past. One of my records deals with the royal commission in the mid-1850s in Sydney which showed that there had been 3,552 arrests for public drunkenness in the previous year, in about 1852, I think. At that level of arrest—and this is public drunkenness—that would equate to half a million arrests in the Sydney of today. It must have been a much bigger problem then than now.

I would also like to say that in my view the situation in Civic at any event is nowhere near as bad as it has been in the past. The Wig & Pen has been going for nearly 20 years, and I can remember 20 years ago staggering through Civic and seeing young girls—and I mean young girls—lying in the gutter, vomiting, covered with blood. We do not see anything quite as bad as that these days. However, I would have to say that the situation is not particularly good, and the problems seem to have changed. There does seem to be a bit of a focus on young girls behaving badly and also, and very disturbingly, a mixture of drugs and alcohol which does cause problems. We do see—and I see this right through until the Monday mornings when I go through Civic to do the banking—rather robust looking individuals staggering around under some form of intoxication, which is clearly not just alcohol.

Preloading is a particular problem; I think that is generally accepted by the police and by the regulatory authorities. If anything, these changes to the act have increased preloading. The act itself in my view has been a complete failure. There was no consultation really before it was passed, and its inflexibility has doomed it as a practical solution or a useful tool of public policy. I know that is a big claim, but I think that there are two areas where it has really fallen down: it placed far too much of the detail of running a licensed premises in legislation, either directly through the legislation itself, through regulations made under the act or through the requirement of a legally binding risk assessment management plan. I accept that this was done with good intention, but the unintended consequences have been quite profound.

The RAMP, in particular, is a very worrying document. Many licensees are not completely familiar with the finer nuances of government policy. They were confronted with a rather large document to fill out, and they filled it out and signed it off, I suspect in many cases, not realising that they are legally bound to follow it to the letter of the law.

A hypothetical example here would be if a RAMP was to say that, in the event of an intoxicated person being determined, two staff members would escort the intoxicated person to the door, and if only one was available, other staff being occupied with other duties, and if a violent incident occurred while that member was being expelled, the licensee would be strictly in breach of the law.

Liquor licensing is not going to take any notice of that whatsoever, and I doubt that the police would. But the insurers certainly would, because of course the second we step outside—I know my insurance parameters—and operate outside the law the insurance companies are given an excuse not to make any payouts.

This detail of the legislation has also given an opportunity for venues to step outside other useful existing areas of the Canberra legislative compliance scene. I have been the beneficiary of that. We have, as an example, an ACT Human Rights Act, which requires that individuals with disabilities be treated with dignity. The problem with human rights has always been that if we were to expel someone from the Wig & Pen on the basis that we believe them to be intoxicated, if their intoxication was as a result of treatment for a medical disability we would be in breach of the law. Happily, my RAMP allowed me to circumvent that by simply saying that intoxication of any form will be treated as intoxication due to alcohol. As a result we have stepped outside the ACT Human Rights Act. It was a necessary thing to do, or a useful thing to do, but it probably was not the best thing to do from the point of view of people with a disability.

In other words, this legislation has placed the industry at the mercy of big insurers, and in my view they simply will not pay out if a way exists not to pay out. They will probably pay out for smaller claims, but if a major claim comes up and someone has been in breach of the regulations or in breach of the RAMP they will not pay. I should also say that, with that, there have been a large number of schemes marketed in the ACT over the last few months where websites have been proposing that venues discount alcohol and sell it at particular times through the website. I believe this would probably be putting the venues at the wrong end of the regulations made under the act regarding responsible service. Once again, these promotion schemes could turn out to be quite illegal. So I do think that the detail of the legislation and regulatory requirement which is put into this act is way too high.

The second direction where the act falls down is the way in which charges were imposed, and lots of people have spoken about that this morning. In my view it is absolutely vital when governments impose a tax or charge that they be absolutely dead set clear as to exactly why that charge is being imposed. There are three obvious purposes as to where the charges could have come from here. One is just simply to raise revenue for the ordinary annual services, and if that was the case I guess we would just have to put up with it. But it would have been better than what we have had, because, if that had simply been the case, government would have gone out and

had a look at the venues to see how much they could afford to pay and then set the charges a little bit less than that so that venues would have been paying something but would not have been absolutely destroyed. As a general rule in farming you shear the sheep; you do not slaughter them. The problem in this particular case is that some of the sheep were slaughtered and some were given a very mild beard trim, in my view.

THE CHAIR: Could you give an example of where you think there have been beard trims and slaughtering?

Mr McOmish: I do not accept this, but if the big venues are the cause of the problem—I do not accept this at all; I think that is a complete simplification—then they are the ones who should be paying for the additional police. It is completely ridiculous to ask a small venue out in the Curtin shops to pay for policing in Civic on a Saturday night when they are not even open. As I understand it from the figures, the overwhelming majority of violence and police problems are occurring well after midnight, yet venues that are open only until midnight are actually paying substantially increased charges to pay for this police presence.

Quite obviously the response from government would be: “Well, you simply can’t load that on to those venues; they’ll go broke.” But, if it is those venues that are causing that problem, perhaps they had better go broke. As I said, I would not do it, because I do not believe that they are actually the cause of the problem.

THE CHAIR: So where do you believe the cause of the problem is?

Mr McOmish: The cause of the problem is the culture. Part of that culture is that individuals showing up in Civic on a Friday night, Saturday morning, can go and carouse and hooray around without any particular personal fear of any sanction themselves. If they are very unlucky they may get into a contretemps with the police. If they are even more unlucky they may get to spend the night in the cells. But they will come to no particular harm. They are not going to get a \$16,000 fine. They are not going to lose their job.

We could have much stricter enforcement of the existing laws, or perhaps even new laws dealing with public drunkenness, and this would particularly apply for public servants. Canberra is a very easy city to manage this, because many of the public servants have security clearances. If a young lad working in the Department of Defence was to be picked up, drunk and disorderly, on a couple of occasions in Civic and charged, I am sure that the security authorities within Defence would have a think as to whether he was a worthy person to hold a security clearance. Canberra of all the cities in Australia is probably the most capable of being enforced in this way, yet all of the regulatory effort is made against the venues, and I think that is, frankly, quite fraught. As I said, I do not believe that the big venues, without naming names, are causing any particular problems. They are, unfortunately, the destinations for individuals who in many cases are arriving in Civic not just liquored up from preloading but also as high as kites from other substances, shall we say.

I earlier claimed that government was the driver, the principal driver, for alcohol culture, and I would like to say a few words about that. Beer manufacturers traditionally in Britain—it was traditionally in Britain the monopoly of government in

Elizabethan times; beer was one of the five materials that were subject to export controlled by the government—had to get royal authority to export beer and they had to pay an export tariff. The brewers were all organised into guilds, and in the city of London, as an example, the City of London instructed the brewers guilds each year—a bit like the Office of Regulatory Services do—on how much beer they would make, what they would make it from and how much they would be allowed to charge. This began a process of manipulation between the regulators and the brewers to try to maximise the profitability of one and diminish the taxes paid to the other. That continues to this present day.

Yet it is rather sad, because beer was a staple in the diet of all persons. It was safe to drink, because the town water supplies were heavily contaminated, and it could be made twice a year to produce a stable and pleasant product. Even schoolchildren were given a few pints of beer a day. In fact, that is a process that continued in Belgium until I think possibly even the present day. My son-in-law, who is 35, as a young lad at school was given a pint of beer every lunchtime. I should have been as lucky. I was actually at a Presbyterian school, and even in communion they only gave you a little amount of grape juice, from memory.

MR HARGREAVES: I had to put up with milk.

Mr McOmish: You had to put up with milk, yes. The first taxes came in on beer in—

MR HARGREAVES: Let me get this right: 35 years ago, the kids at school were given a pint of beer—

Mr McOmish: At lunchtime.

MR HARGREAVES: in Belgium.

Mr McOmish: Yes.

THE CHAIR: We used to get a third of a pint of milk.

MR HARGREAVES: And in Australia you got a third of a pint of milk. Is that right?

Mr McOmish: That is exactly right. That is if the third of a pint was there, because the magpies may well have taken the top off the—

MR HARGREAVES: Are you suggesting that we have another regime here, Mr McOmish, to look after our children going forward?

Mr McOmish: Well, if it did not actually improve their general health it would probably quieten them down a bit.

MR HARGREAVES: Put them to sleep in the afternoon, I might suggest to you.

Mr McOmish: It probably would. Without going into details, it was the introduction of excises which drove the beer culture from 1643 when the excises were first produced. It began a process where beer was cheapened as a product and it ended up

with an absolutely ruinous shelf life. From a product prior to the 1640s which could be brewed twice a year quite happily and which would keep for six months, it was turned into a cheap and nasty product which would barely survive for weeks.

The coming of the industrial revolution saved that problem. The brewers gave up on making beer with hops, which are the most expensive single ingredient, and instead they made the beer and then double-distilled it to produce white spirit. White spirit is completely stable. It will stay in a bottle for as long as you like, as long as you do not drink it, of course. Of course, the white spirit could be flavoured with various herbs and spices. One particularly favoured herb flavouring was juniper berries, and that is where gin came from. And that is where the binge drinking and the gin palaces of the early 19th century arose from. It was as a direct result of government taxation.

That tipping point was reached then, and I believe that we are about to reach a similar tipping point. Beer excise has driven per capita consumption down to the immediate levels of the post-war era, 1947. That is, of course, a federal issue, but, in addition, venues such as the Wig & Pen have to compete against cross-subsidies from poker machines in the clubs and, I have to say, against sales of other substances in some of the other venues—not all of them.

We are highly successful and we do everything exactly by the book; that is to say, we sell a lot of product. We have a very low staffing level and we are on reasonable rent. The staff are all paid at slightly better than the award wages. However, we are just barely marginal, to the point that the current building which we are in is likely to be demolished and it is line-ball as to whether it is actually worth spending the money to even bother relocating.

Our books are completely transparent because of the Customs supervision—absolutely and totally transparent. It might be an interesting exercise for the government to go through them and have a look to see just how much money is being taken out and how much money some of these venues can afford to pay. If we can just manage to tick over with lowish rent, with a high volume of sales in a high-priced market, I do not for the life of me understand how some of the others can do it. But it is part and parcel of the culture driver inasmuch as one of the areas in which people cut their costs is by employing student labour and, in some cases, by not paying them properly.

If we are not careful, in my view, we will collapse most if not all of the small venues. The federal government and the Henry review reached the agreement that volumetric alcohol taxation should be put in place. Henry's recommendations were to be re-examined as part of the coalition agreement, as I understand it, between Labor and the Greens. If that were to take place then you will not have to be arguing the toss about whether we have compliance on these issues. You simply will not have issues. You will not have any venues left. The excise on beer would go from roughly \$26 per litre of pure spirit to around \$72. That would take the price of a pint of beer from probably about \$5 or \$6 in some of the venues up to about \$8. People will not pay that. They will go and take other substances or they will go to the bottle shops.

We would need to look to Britain to see what would happen here. In Britain, over many years, with this sort of culture that we are presently managing, 30 pubs per

week were shut down. I know, Mr Hargreaves, you have seen the result of that. The sale of alcohol was not diminished particularly; instead it was transferred to the bottle shops. As I understand it, the British government is presently in the process of looking at legislation to require the bottle shops to at least sell the beer for the excise. It is discounted to that extent. Alcohol is extraordinarily cheap in bottle shops, and yet the venues are shut. So people stay at home. They go to the parks. There is no social control. This is the future that we face here in Canberra and in Australia generally, in my view, unless we take some of the emphasis away from the present regulatory framework that we have been discussing here this morning and try to change the culture of alcohol in this country. Thank you.

THE CHAIR: Thank you, Mr McOmish. I think that the take-out message from you is that people who consume alcohol should exercise personal responsibility.

Mr McOmish: Absolutely.

THE CHAIR: That is the sort of pointy end for government. It is harder for the government to police. It is easier to have a proxy for that by policing outlets.

You talked about the inflexibility of the current system. You also talked about RAMPs. One of the things that has concerned me is that a lot of licensed premises are required to have a RAMP when they do not have particular risk—restaurants and the like. There was discussion before about compliance history and reductions in fees in relation to good compliance. Would you also see that perhaps there would be scope for reducing the rigour of the RAMP in proportion to good compliance or actual real risk?

Mr McOmish: Yes. As a matter of fact, with the RAMP for the Wig & Pen, I inserted a clause at the very end which said that if, in the opinion of any staff member, any matter could be dealt with more efficiently with a better outcome for compliance or with a better outcome for safety, the RAMP would be varied. Liquor licensing, with a bit of persuasion, agreed to sign off on it. I guess that is because of our good record on compliance. That basically means we have the flexibility that is necessary to deal with it.

My great concern is that, like many Canberrans, I very much enjoy the ethnic restaurants, and I am charmed to see that many of them are run by people who do not speak a lot of English. I frankly wonder how they manage to fill it out. Do they understand what they are writing? As a general principle, with government, unless there is an absolute requirement to put something into legislation, you are way better off leaving it out. I would have thought that for most of the restaurants a RAMP was something that you really do not need. It can only cause problems for them, not solutions.

THE CHAIR: In what way do you think a RAMP would cause a problem for a restaurant?

Mr McOmish: In the same way as for anyone else. If there were, for instance, an incident, a fire or some such thing which was covered under the terms of the RAMP, and if the licensee just handled it as they would, without actually understanding that

they must handle it exactly as they have specified in the RAMP, they will be in breach of the law.

For 99 per cent of the time, that is not going to matter. But if there was injury or property damage an insurance company might turn around and say, “No, you were acting outside the law.” I do not see why the insurance companies should be given a leg-up by government like this. I think it is highly undesirable.

THE CHAIR: You also touched on websites that offer discounted liquor. There are strict rules in the ACT about discounting liquor.

Mr McOmish: That is right.

THE CHAIR: So you cannot have specials on cheap jugs, cheap shots and things like this.

Mr McOmish: That is right.

THE CHAIR: Could you perhaps on notice provide to the committee secretary some examples of these websites?

Mr McOmish: They contact us by phone. I should say we must have had contact from about six by now. As soon as they explain what their purpose is, I have always been good enough, I think, to take the time to explain to them that what they are proposing is, in my view, illegal and that, as a result, they should be very careful, because the ACT as a jurisdiction is a little different from New South Wales, which they are probably more accustomed to dealing with, in that if they encourage a venue to commit an act which is illegal and a problem could have arisen from that, not just the venue but also the promoter could be held legally responsible.

THE CHAIR: Is it some sort of coupon system?

Mr McOmish: Yes. Most of them have a website that people subscribe to. On the website a special is occasionally offered, such as, “Go to the Wig & Pen and have”—it is usually 40 per cent of the normal market price of, say, a pint of beer between the hours of three and four on a Tuesday or something like that. The idea is that people will then flood in at a time when the venue is quiet.

All I can say is that if you could actually discount your product to 40 per cent of its normal price and actually cover your costs on sale, I would be most surprised. Apparently people take this up. I know some of the other venues that have taken this sort of scheme up. It is something that has emerged with the modern technological era, but, as a scheme, it is the type of scheme that was around with some of these coupon promoters going back 10 or 15 years.

THE CHAIR: Okay. Questions?

MR HARGREAVES: I think it has been very comprehensive.

MS HUNTER: No, I do not have any other questions at this time.

THE CHAIR: Thank you for your time, Mr McOmish.

MR HARGREAVES: It has been very good. Thank you very much.

RYAN, MR MARK, Proprietor, Krave Nightclub

THE CHAIR: Good morning, Mr Ryan. We have received your submission. Are you aware of the contents of the blue sheet, the privilege statement, which says that you have to tell us the truth?

Mr Ryan: Yes.

THE CHAIR: Would you like to make an opening statement?

Mr Ryan: I am the current licensee of Krave Nightclub. I have been the licensee of Krave Nightclub, Quatro, Clubhouse and so forth since 2004. I would like to start my little submission based on some scenarios or statistics from the final report on the review of liquor licensing fees released by Simon Corbell MLA. This is basically the nuts and bolts of it all:

The AIC's national statistics on alcohol and assault on Friday and Saturday nights reveal that of the 170 sample of assault offenders who had been drinking before they committed the assault, 30 per cent had been drinking at on-licensed premises and that half of the assault offenders surveyed had consumed their last drink at a residential location.

My brief submission is that the fee structure is based on two scenarios, as I see it. The first scenario—this is just looking at it very quickly—is that they want to recover their fee structure, for the cost of putting this on. The second way they are rationalising that is that they have based it on a fee-for-incident basis: “If there is a high risk of fights, incidents, we will charge those people more.” That is wrong. I must say I am also a member of the AHA, so I support generally what they are saying. However, as a general person in a club, having been there for nine years, and in looking at how this thing operates from a practical perspective, there are a couple of problems, as I see it.

Raising the revenue is like raising the revenue for any professional association body. They usually charge every person a fee. Everyone who has a fee to practise whatever they practise is charged a certain fee. The scenario in this case may be that each and every individual who has a licence gets charged a similar fee, whatever that is. It could be done based on a ratio of the number of people in their venues. So if you have a venue for a thousand people, you would charge that by the total amount that you want to raise for the licensed venue, as compared to how much the government should pay to be put into coffers. This recognises the fact that, based on the statistics here, 30 per cent of those who have been drinking have been on licensed premises. So that is only a third of the total—it is less than a third, actually—of the total incidents.

Therefore, what is said in Mr Corbell's document is that 50 per cent of the people have been preloading before they get involved with incidents on the street. From my perspective, I have owned a club for nine years and have been there every night it has been open—Thursdays, Fridays and Saturdays. Another issue relating to that is that not only do the licensees in Canberra have a problem with the three-night trading compared to other states, but also they have climatic ranges—changes in temperature and variables. Therefore, we have seasonal variations. Therefore, we are harder hit per capita with respect to incidents.

The model that I see, based on Mr Corbell's submission, is that 30 per cent of incidents are effectively because they are in the venues. Fifty per cent at least are preloading. Therefore, in this case, they would be venues with off-licences. Therefore, they are putting a cap on licensed venues, and all licensed venues in general—specifically, I say, on smaller venues, because per capita, for the licensed venues, the number of people that we can have on the floor is less than for larger venues, so we are paying higher fees per person—up to three times. Therefore, there are imbalances within the structure itself.

THE CHAIR: How big is your venue, Mr Ryan?

Mr Ryan: I will go through basically my submission.

THE CHAIR: 225.

Mr Ryan: The current fee structure for licences does not take into consideration the different loading capacities of venues and unfairly discriminate against smaller venues with penalties for late-hour trading. Krave Nightclub has a capacity of 225, for Shooters it is 287, for Cube it is 297. They pay approximately \$21,000 each. Uni Pub has a loading capacity of 980, Mooseheads, 799, Academy approximately 650, ICBM, Mesh and North Bar group, 990, King O'Malley's 724.

Most of these venues are approximately three times larger than the smaller venues and pay approximately \$3,000 more in their total fees. When you are talking about \$20-odd thousand, proportionally, that is maladjusted. The AHA submission is that in calculating those particular fee structures they should have two categories: one below 150 and one above 150. I think there should be another one in the middle, if you are going to keep the same model. But I think there is a problem with the basic model, based on Mr Corbell's submission and his fee structures, because 50 per cent of the incidents do not occur in venues.

He also gives the statistics that our incidents are decreasing. However, the number of people going to Civic is decreasing as well. Therefore, there are fewer patrons going into the community to create the incidents which they have to clean up, you might say. Therefore, there are a couple of variables which are actually causing the whole thing to really tumble over.

THE CHAIR: So you are saying that the number of people in Civic is decreasing?

Mr Ryan: It is.

THE CHAIR: Can you point to particular figures on that?

Mr Ryan: No, not statistics. Most venues in the last month, on a Thursday and a Friday night, have closed before 2 o'clock.

MS HUNTER: In your submission you say there has been a considerable downturn in trade since the public discussion of these and other issues in the last seven months or so. Are you attributing the downturn in the number of people using the venues in Civic to the discussions around the liquor licensing fees?

Mr Ryan: I do not think that has helped. I think it is antisocial behaviour in general. I think a lot of people are also over Civic, with respect. Some people I know, close friends, just go to Sydney now. But there are lots of variables. As I say, you have got nightclubs, you have got other events. Canberra is a cultural city. We have multicultural events. People can get a liquor licence to go to a multicultural event at 2 am. So after 2 am, they are over it; they are going home. They are not going to a nightclub. So a nightclub for that one night closes, and that slows it down considerably. You have got other events, many events, which attract large numbers of people. As I say, that detracts again from people coming into the city. We are talking about size of venues; some of these have been on the decline as well—one out at Canberra university and so forth. As I see it—I do not have the statistics, unfortunately—the whole cultural, social gathering, drinking, having party time, generally has decreased in the last number of months.

MS HUNTER: You have also seen in the last several months extra police officers on the streets. Have you noticed them? Have you noticed whether or not that has made a difference?

Mr Ryan: If there are fewer people, they usually travel in groups. There are extra police, if you can find them when you want them, which is another issue. But they are there, somewhere, sometimes.

MS HUNTER: What do you mean by “if you can find them”? Is it that you have rung and requested assistance and then had to wait?

Mr Ryan: Quite often there are things happening; there are incidents, quite often in the street and so forth. If you ring the police and ask them to come around, they do not turn up. That happens. From their perspective, they are probably looking at some other incident on the other side of the block. There is an L-shape effectively along London Circuit and down Northbourne Avenue, which is their prime focus. Therefore, on the other side, which is us and Shooters, I suppose, and Cube around the corner, you go into Garema Place, you have got Honkytonks and a couple of others on the other side of Academy. So it is a fairly reasonable sort of space and you cannot have police everywhere, I suppose. Sometimes they are not there; sometimes they are.

THE CHAIR: Mr Ryan, thank you for coming along today and for the submission that you have made and for the input you have given. You will receive a copy of the transcript of today’s hearing. If there is anything that you want to clarify, feel free to do so.

Mr Ryan: Most of the stuff is in the submission. It is all there.

THE CHAIR: Thank you.

MR HARGREAVES: And thank you for putting it in those eight points, too, because that is very helpful.

DI ZILLO, MR LUCA, Proprietor, Il Covo Cafe

THE CHAIR: I welcome to the Legislative Assembly Mr Di Zillo. There is a blue, laminated card in front of you, which is the privilege statement that says that you have to tell us the truth; otherwise we will come after you.

Mr Di Zillo: Of course.

THE CHAIR: Would you like to make a statement?

Mr Di Zillo: I am the owner of Il Covo Cafe in 40 Allara Street. We are a fully licensed restaurant. We deal with pizzas and pasta. Other than what Mark said, I am not very familiar with nightclubbing as such. We are a restaurant that people come to, sit down and have a glass of wine or beer. We do not really do many cocktails; it is basically around the restaurant side of things.

I have got only four points to make today—things which I have found in the past and which it would be helpful if you could clarify for me. Some wineglasses that you purchase these days for the usage of wine have got a little line. I do not know if you have noticed that line

THE CHAIR: Absolutely.

Mr Di Zillo: We call that the pouring line. I would like to see legislation come into effect where every restaurant would have to have those sort of glasses so that we all know and the staff know how much to pour. You can imagine someone having four glasses of wine and if those four glasses have been poured a little too long it would amount to excess alcohol intake, if that makes sense.

THE CHAIR: Yes.

Mr Di Zillo: So just to help with the pouring measure. Also, the RSA to me is a little bit confusing as an employer, because not all the states have all the same rules and regulations. For example, in Canberra, I believe in June, it will come into effect that employees and employers will have to have an RSA, by law. But that is not the case now. Why is it so different from state to state in Australia? That is a bit confusing for an employer, because I have got a guy from Tasmania and he has got one and a guy from Melbourne who has got one, then there is me and three others that have not got one. It would be nice to see clarity within the different laws from state to state so that we can all work together and have the same certificates—and knowledge, of course; that is important.

Mark was saying before about nightclubs. I do not really go out too much these days, but I would like to see proper training for bouncers. If they want to become a bouncer, they should have to know about how to deal with drunken people. I think it would help, because you find a little bit of variety from nightclub to nightclub. Some people will let you in without looking at your ID and some people will ask you for an ID. Also, policing the nightclub itself inside would be nice, to see how many people are actually in the club, because most of the times I can tell you they are overcrowded. Although bouncers have got a little clock, a numbering system, outside the nightclub,

it would be nice to see them inside as well—the police checking if the number of patrons exceeds the limitations. I think it would make everyone aware too that they are looking for excess patrons in a club; that they should not have too many.

THE CHAIR: Yes. So the issues for you are sort of consistency of rules across—

Mr Di Zillo: Yes.

THE CHAIR: Is it your experience with your staff who have been trained elsewhere that the RSA requirements, say, from Tasmania are different—

Mr Di Zillo: Yes.

THE CHAIR: and that the training here will be different from that which your other staff have received interstate?

Mr Di Zillo: Yes. If in Canberra you do not have to have an RSA and in Tasmania, for example, you do have to, you can imagine that the training will have been done differently from in Canberra because the laws are not the same.

THE CHAIR: So you as a restaurateur, coming up to June, will have to ensure that all your staff are RSA trained. Who bears the cost of that? Do you bear that, do your employers or is that sort of for individual licensees to determine—

Mr Di Zillo: Speaking on my own behalf, I do not mind paying for it, because it is not too expensive anyway and it is a guarantee for me to know, especially when I am not there, that my staff are doing the right thing. So it is a small cost to pay. Of course, if they have their own I believe they have to get readjusted to the ACT standards. Is that correct or not? I am not quite sure about that.

THE CHAIR: I am not sure about that.

Mr Di Zillo: I think they have got until December this year to come into—

THE CHAIR: We should check that.

Mr Di Zillo: I spoke to a lady yesterday. She said in December; someone from interstate has six more months than we do to get adjusted.

MR HARGREAVES: Yes, it is a refresher.

Mr Di Zillo: You can imagine for a young 18-year-old it is easy enough to open up a bottle of beer, but if they are pouring wine and they do not have that line sometimes they can exceed that limit. I am just worried as an employer that, if I am not there and someone has ordered three glasses of wine, maybe those three glasses could add up to 3½ glasses because the laws are not in to make sure that that little pouring line is not crossed and that everyone gets the same amount of wine.

And there is the expense side of it. It can get expensive, but that is very minor—

THE CHAIR: Also glasses are shaped differently and therefore it is hard to tell, comparing one to the other.

Mr Di Zillo: Yes, consistency—exactly right. That was my concern, but apart from that I think the laws in place are quite good.

MR HARGREAVES: How is that going to work in terms of your restaurant and table settings? Table settings are really high class, particularly in this town where patrons demand a high quality presentation at the table, and the glasses you have are beautiful crystal glasses. I can imagine nothing worse than seeing a white line sitting on my beautiful crystal glass.

Mr Di Zillo: You are absolutely right, but if everyone does it then you have got no choice.

MR HARGREAVES: Yes, and then it goes back to what you were talking about, a national regime. You can go to Queanbeyan and it will be different. From my memory of a wineglass with a marker on, if you filled it to the top of the glass, which some patrons like to see, over three glasses you would have actually had four, because that is about 25 per cent more, isn't it?

Mr Di Zillo: Yes. If I am behind the bar as an employer I will try and keep an eye on that. But, if I am not there, I like to know that my employees know what to look for. It is said that you can have one glass an hour, but if that glass has been overpoured you can get pulled over by the police and be over the limit. It is a minor chance but maybe it is something that we can—

MR HARGREAVES: I think that is a valid point, a very valid point.

Mr Di Zillo: Pouring a glass of beer is a different thing. That is already measured, whether you put it—

MR HARGREAVES: They have the line, don't they, for poured beer when it is drawn; they have got the line.

Mr Di Zillo: Yes, they have got the line there. But there are a lot of five-star restaurants in Canberra.

MR HARGREAVES: You have to worry about that crystal glass, though, Luca. I will get a bit of white-out and stick it on my glasses at home.

THE CHAIR: Is there anything else, members? No. I know that people have appointments. Thank you very much, Mr Di Zillo, for your time and for your submission.

Mr Di Zillo: Thank you for your time and all the best.

PARKINSON, MS SUZANNE, President, Canberra Wine and Food Club

THE CHAIR: Good morning, Ms Parkinson. Thank you for coming along to the inquiry into liquor licensing fees. There is a blue laminated card, the privilege statement, which in short says that you have to tell us the truth.

Ms Parkinson: Yes. I reread that before I came over, just as a reminder.

THE CHAIR: Okay. Would you like to make an opening statement as part of your submission?

Ms Parkinson: Yes. I am the President of the Canberra Wine and Food Club.

MR HARGREAVES: What a job you have got!

Ms Parkinson: I actually have a full-time job. This is just a volunteer position. I will give a bit of background on the club, because we are very different from anything else that operates in town. We were established in 1953 by a group of men who felt the need for good wine, good company and good food. We have continued to operate with that ethos over the last 60 years. We operate from premises in Fitzroy Street in Barton.

We are unique for a number of reasons. We have a very rigorous membership process. We require potential members to attend a number of functions. They have to be introduced by a member. They have to be nominated and seconded by members. We have an interview process. The application is considered by all—it is placed on a noticeboard so that all members can see who is applying, and they are then considered by the committee. Even that only gets you provisional status for 12 months, and then we reconsider you at the end of the 12 months. So there are quite a number of hoops to jump through. It is partly because the way we operate is that everything is done by the members. We do not employ staff. So we need people that are comfortable with that way of functioning, and who are willing to participate in that.

We are a very small club. We actually have an exemption under the current Liquor Act for a minimum of 150 members rather than 200, as everyone else does, because we do everything ourselves. We employ a cleaner and we employ a dishwasher for some functions.

We operate on a very limited basis. We run three functions a month. We run a dinner, we run a cooking class and we run wine tasting. We also run two bar sessions a week, from 5.30 to 7.30 on a Wednesday and from five to seven on a Saturday. And there are a couple of lunches. So we are not open for long, extraordinary hours.

The way we run at a bar session is that members buy a bottle of wine, they put it on the bar and we all share it. So it is a very convivial atmosphere and it is a very trusting atmosphere. I do not think, in the 60 years we have been operating, that there have been any incidents where the police have been called to the place. In fact, our average membership age is probably about 60. We are very small but we are into enjoying wine and not abusing it, if you understand my meaning.

We have a committee that runs the club and that does all the work involved with the club. As I said, we do not employ staff. And we do not serve the public. We are for members and invited guests only. In fact, if you walked past the premises, you would never know that we were a licensed premises. It looks a bit like an old toilet block on Fitzroy Street. So that is the background to it.

The issues that we have with the fees are that we are different from other clubs but we are treated the same, because there is no mechanism for differentiating. As an example, we have an occupancy rating of 100 that was recently agreed to, because we have a dining room and we have a bar area, but our dinners are normally restricted to 48. So we would never be over—in fact, I think I have been a member for seven years and I do not think that we have had more than 75 people there, and that would have been maybe one occasion that was a big lunch. We just do not have the capacity to have vast numbers of people there.

We have a high wine sale turnover, but it is because we on-sell to our members in cases and half-cases. From memory, we had something like \$110,000 in wine turnover last year, but we would only have actually put probably \$25,000 to \$30,000 of that over the bar. The rest of it would have been in cases of wine that were taken home by members to enjoy at home with their family and friends.

Our only real income is our subscriptions. We do not have poker machines. We do not have turnover. We are a very small club. Our subscriptions are \$240 a year, so our current liquor licence is \$3,000. That is 12½ subscriptions before we cover anything else in terms of rates, utilities, oncosts, insurances and things like that.

Now we additionally have the RSA costs that the club will have to bear, because all of the committee will have to do that. It will also impact on our ability to attract new people to the committee, because we get turnover every year, so we are going to have to rearrange RSA training for people as they arrive on the committee.

We wanted to put our situation on the record. We are basically volunteers that run this place. Of the committee, probably two-thirds of us have full-time jobs. And we do this part time because we love it. It is of concern to us that the increasing regulatory barriers and burdens that we are bearing are going to result ultimately in us having to close down at some stage, which would be a great loss. As I said, we have been around for 60 years.

THE CHAIR: Do you, Ms Parkinson, have to prepare and comply with a RAMP?

Ms Parkinson: Yes, we have had to this last year, and we have done that.

THE CHAIR: Are there things in the RAMP that you consider particularly onerous, or is it just the preparation of the RAMP?

Ms Parkinson: It is the preparation. The preparation has to be done by our secretary, who, again, works full time and does this in her spare time. So it is quite an onerous process to go through for us. As I said, we have not had an incident of any kind in 60 years.

THE CHAIR: You have never called out the police?

Ms Parkinson: No.

MR HARGREAVES: I accept the views that you put around that. I am interested, though, in this notion that you have had no incidents which would require significant intervention. Would you agree or disagree that the RAMP system is risk based? So if the premises have absolutely minimal risk, perhaps there should be some incentive built into the regulatory regime to make it stay that way?

Ms Parkinson: Yes, I agree. As I said, we have not had an incident, so it was a case of completing the RAMP, and we do not anticipate having to now make too many changes to it each time we have to update it, unless we do have a severe incident.

MR HARGREAVES: You were saying that you have a licence fee of \$3,000. That is a sort of baseline. If your risk is high, it is going to go up significantly. What we have heard from witnesses this morning is that that impost is too high for them to bear relative to the risk that they believe they are carrying. What I have just heard from you is that you have zero risk.

Ms Parkinson: Pretty much.

MR HARGREAVES: Do you think there should be room within the regulatory regime for you to receive some reward by a reduction in your \$3,000 figure, given that you have had zero risk for 60 years?

Ms Parkinson: I think so. We are not a problem in a way. As I said, we are open two nights a week. We are closed by 7.30 at night. If our members are wandering the streets with bottles of Clonakilla shiraz, swigging from them in Manuka, that would be highly unusual, and I would be very happy for people to call me and complain. But the fact that we do have that kind of record, yes, some kind of no-claim bonus in a way would be—

MR HARGREAVES: Your vetting system going through the people coming in as members is probably the most draconian I have seen since a person tried to get into the Southern Cross Club in 1972. But that is a lot different, isn't it, from up to a bouncer who says, "Give us a look at your ID. You look warm, so you can go in."

Ms Parkinson: Yes.

MR HARGREAVES: Do you put down the zero risk that you have achieved over these 60-odd years to that vetting process?

Ms Parkinson: In part, I think, because it is a case of we want people who want what we want. We want to attract members who are interested in enjoying good food, good wine and good company. It is mainly word of mouth. We do not advertise. We attract people who are known to members. So, yes, I think that incredibly reduces our risk of something serious happening.

MR HARGREAVES: Is it a fair thing for me to assume then also, from what you

said about the average age of your members being around the 60 mark, that they are past this 3 o'clock in the morning turnout? The risk factor is—

Ms Parkinson: In fact I suspect a number of them are probably tucked up in bed by about 10 o'clock at night—myself included, most nights.

MR HARGREAVES: Is it a fair assumption, when we talk about a risk-based assessment, to say that the exuberance and high risk taking propensity of young folks should be applied to this sort of prevention and therefore people such as your membership would not fall in that high risk taking thing anyway?

Ms Parkinson: I think so. But that is difficult to organise in a regulatory system. Certainly I think that and the membership process are a reason why we are such low risk.

MR HARGREAVES: Have you ever had any expulsions in that 60 years?

Ms Parkinson: No, not that I know of. We have had members resign because they have disagreed with some of our practices, but—

MR HARGREAVES: I get that.

MS HUNTER: Mr Hargreaves is just being nose-y.

MR HARGREAVES: No, I am trying to see the relativity between expulsions. I was trying to work it out. For example, in the club system a person can be suspended for bad behaviour but after a while they can actually get their membership restored and off they go again. Some people are banned for life and see you later. But those people also do not necessarily evoke a response from the police, not necessarily.

Ms Parkinson: No, and I do not think we have even had a suspension. There may have been one or two occasions where a committee member has had to take a member aside and say: “We think you have had enough. Can we call you a taxi?” But we have had nothing more dramatic than that.

THE CHAIR: Ms Hunter.

MS HUNTER: Part of the issue is the \$100,000 threshold that is in there. You have just said that your turnover of wine sales—I think you said—

Ms Parkinson: Pushes us over that limit.

MS HUNTER: pushes you over that limit. Has there been any discussion by your group or your committee to bring those sales back to be under the threshold, which would then drop you down to \$1,300?

Ms Parkinson: We have not. The numbers will be down this year through other circumstances, but we exist to support our members, and I do not think that it would be right to deny our members the opportunity to purchase wine through the club just to minimise our costs on that.

THE CHAIR: So could I just go back: before 2010 and the changed regime, what was your liquor licensing fee?

Ms Parkinson: I think it was the same. I think it was \$3,000; I am not sure. I tried to get the numbers off our treasurer, but he has been very busy.

THE CHAIR: Could you get back to us on that?

Ms Parkinson: I will, yes.

THE CHAIR: Thank you, because there was pre-2010 and then in 2010 the licence fee went up to \$3,000 and it stayed at \$3,000 in the 2011 determination.

Ms Parkinson: Yes, I think it was, but I will check that. It was just a case of when we saw that the whole process was being reviewed we thought that we might get some relief out of this. It is the case, as I said, that we do turn over more than the \$100,000, but the majority of that is people taking cases of wine home; it is not people drinking on the premises and then leaving.

THE CHAIR: Or brown paper bagging.

Ms Parkinson: Or brown paper bagging, yes.

THE CHAIR: Anything else, members?

MS HUNTER: No, thank you.

MR HARGREAVES: No, thank you.

THE CHAIR: Thank you very much. Thank you for bringing to our attention the Canberra Food and Wine Club. Do you cook?

Ms Parkinson: Yes.

THE CHAIR: So you have to cook and wash up?

Ms Parkinson: No. We do employ a washer-up for functions. If we have a dinner, we have members in the club all afternoon cooking, and then we serve and we clear and—

THE CHAIR: And then somebody else washes up?

Ms Parkinson: Yes.

THE CHAIR: Thank you very much.

The committee adjourned at 11.44 am.