

- 116 During 2016 and 2017, AUSTRAC undertook a Casino Junkets Campaign to develop a more detailed understanding of how Junkets operated in Australia the results of which were reported in an *Information Report – Casino Junkets Campaign* dated 14 July 2017 (the 2017 Report).
- 117 This is the subject of discussion in Part 5 of the Report. However it is appropriate in this analysis to mention that AUSTRAC's findings included that: (i) while there was a broad understanding and compliance with AML/CTF Act requirements in relation to Junkets, compliance by casinos appeared to be more with the letter than with the spirit of the law;²⁸ (ii) casinos treated the Junket operator as the customer and also assumed that the Junket operator was the beneficial owner of the funds and “combined these two technicalities to absolve themselves of conducting robust due diligence in relation to the source of the funds presented to them”;²⁹ (iii) casinos appeared to underestimate the money laundering risks involved in the provision of Junkets services;³⁰ and (iv) the key AML/CTF risk associated with Junkets was the obscurity of the beneficial ownership/source of funds.³¹
- 118 The 2017 Report identified opportunities for risk mitigation including exploring legislative changes for additional AML/CTF regulation of Junkets, improved information sharing between AUSTRAC and casino regulators and greater collaboration between AUSTRAC and casino operators.³²
- 119 Ironically, notwithstanding this last mentioned opportunity of greater collaboration with casino operators, the 2017 Report was not provided to them. Indeed, it was only after the Senate intervened that an un-redacted version of the 2017 Report was made public.
- 120 After the conclusion of the Public Hearings of the Inquiry and without sharing any of the information within it with this Inquiry prior to its publication AUSTRAC published a report entitled *Junket Tour Operations in Australia* (the 2020 Report) on 11 December 2020. This was far more comprehensive than the 2017 Report in which the risk associated with Junket operations was recorded as “high”. The 2020 Report recorded that “some junket tour operations have been exploited, and in some instances infiltrated, by serious and transnational criminal entities, including by individuals reported to be engaged in activities that could possibly be regarded as foreign interference.”³³
- 121 It should be said that the present CEO of AUSTRAC has distanced the organisation and herself from the 2017 Report suggesting inferentially and in some instances explicitly that its conclusions could not presently be relied upon as accurate.³⁴
- 122 These Reports are mentioned in this analysis to demonstrate that even the peak intelligence-gathering agency in the AML/CTF area in Australia has had difficulties in its analysis and understanding of the operation of Junkets.

problem of the difficulty of distinguishing illegal funds or proceeds of crime from legitimate investment in Australia.

- 6 It is clear from the consultations with law enforcement agencies that the development of sophisticated artificial intelligence and its possible use in national and international transactions will also present challenges to casino regulators. These developments with reliance upon complex algorithms have seen the burgeoning of advisory and investigative firms who specialise in cyberspace providing cybersecurity services. The casino regulator must have the capacity to analyse, understand and respond to these developments in circumstances where the rapidity of the changes in their usage may leave even the most experienced well behind the perpetrators.
- 7 Thirty years of recommendations and reports to the Authority about the advantages of inter-agency information sharing have not broken down the barriers or jettisoned the ever-present attribute of turf protection. Some of the secrecy provisions of the legislation in particular in the AML/CTF landscape have entrenched this attribute even more deeply. As discussed during the Public Hearings, there is no optimism that information sharing between government agencies will improve in the near future. An exquisite example of the problem was exposed in the recent New South Wales *Inquiry into the Ruby Princess* where Commonwealth agencies propounded the view that they were not amenable to compulsion by a State Inquiry and did not assist. This Inquiry was confronted with the same argument from AUSTRAC advising on more than one occasion that it was not amenable to any compulsory process. However it assisted the Inquiry with the provision of some material but resisted the production of the un-redacted 2017 Junket Report, which the Inquiry was only able to obtain after the Senate required production to it in late 2020.
- 8 There is a difference between the gratefully received assistance to an Inquiry with Royal Commission powers and information sharing in the workplace of each of the Commonwealth and State agencies on a daily basis. It is understood that some Memoranda of Understandings are deployed to assist in the process but it is obvious that the process lacks speed and efficacy. The purpose of the recitation of these facts is to highlight the reality which it is feared will not change easily or rapidly. Accordingly it is very important that a casino regulator has the resources and the power to garner its own intelligence and formulate its own relationships without dependency upon some government department or agency.
- 9 Other risks, some extant and some emerging, were highlighted in the AUSTRAC Report published on 11 December 2020 referred to in Chapter 4.5. That Report recorded that “some junket tour operations have been exploited, and in some instances infiltrated, by serious and transnational criminal entities, including by individuals reported to be engaged in activities that could possibly be regarded as foreign interference.”² The Report also noted that a number of Junket operators and

Junket representatives had been identified as having criminal or foreign political associations.³

- 10 The AUSTRAC Report identified the misuse of offsetting as a particular money laundering threat. Offsetting enables the movement of value internationally without use of the formal banking system and can be used to avoid AML/CTF reporting requirements.⁴ It also reported that there was a significant level of transactions on Junket accounts by persons identified by the casino as not related to the Junket and that Junket accounts had been used for purposes other than Junket activity.⁵
- 11 There are other emerging risks including the greater mobility of the organised criminal and money launderer across different jurisdictions in which there are different regulatory structures and settings. These individuals can move through these different jurisdictions adjusting their *modus operandi* to suit the different structures and settings and secreting themselves into the casino operations electronically, with traceability available only to the most vigilant and sophisticated casino operator and Regulator.
- 12 As can be seen from the regulatory structures outlined in the Appendices to this Report there is no unified model for casino regulation across the nation. Without wishing to invite debate or spark a constitutional crisis, it is appropriate to observe that whilst ever these differences exist with the consequence of fragmentation, the organised criminals and the money launderers have the advantage. It would be appropriate for the Authority to consult with its counterparts in each of the States and Territories to advocate either with them or alone if necessary, for a unified model of casino regulation throughout the nation to afford greater protection for casino operators to the disadvantage of the organised criminals and money launderers.
- 13 It is obvious that while there is a lack of capacity to identify the real source of large volumes of cash or track that cash through casinos, there is the ever present concern that the money comes from illegitimate sources and is being laundered. Professor Rose’s sad indictment of the casino industry in this regard may be justified until there is the community or political will to change it. The recent introduction of the Declaration of Source of Funds in British Columbia is demonstrative of such political will.
- 14 There is also a recent development in this regard in New South Wales with a proposal for the introduction of a “gambling card” that would enable the tracking of cash through a casino.⁶ The proposal has been the subject of some public debate and is not free from controversy. However, it appears that the very significant utility of the card to assist the problem gambler could not be in issue. It is also obvious that it would be a powerful mechanism to assist in combatting money-laundering. As discussed in the Public Hearings, this is a matter for Government.⁷ However should it be introduced there will be an impact on the Authority which will require the resources and powers

- 62 Obviously many other aspects of the detail of the structure that may be appropriate for the regulatory environment will need discussion and thought in an appropriate process if so endorsed by Government.

Other Matters

- 63 There are other matters that have been identified during the Inquiry that form part of the assessment referred to in paragraph 17(b) of the Amended Terms of Reference. They arise from the identification of possible gaps in the regulatory capability to deal with the extant and emerging threats in casino regulation.

Anti-money laundering

- 64 The very serious problems of the infiltration of Crown's subsidiaries' accounts by organised criminals should send a shiver down the spine not only of any casino regulator but also the community generally. The fact that it went on for so many years in the operations of an otherwise commercially respected publicly listed company whilst it was engaging with the peak body responsible for AML/CTF enforcement demonstrates beyond any doubt the need for the establishment of a well-resourced and very powerful casino regulator in New South Wales.

- 65 It is apparent that during the whole of the period while this money laundering activity was occurring, Crown was from time to time notifying AUSTRAC of some suspicious transactions. As discussed earlier in this Report the Inquiry has not had the benefit of the detail of those reports because AUSTRAC would not provide an exemption to Crown to provide them to the Inquiry. This refusal seems to have been motivated by the prohibitions in what is known as the "tipping off" offence provisions in section 123 of the AML/CTF Act. How anyone could be tipped off six years later, if a report of some group of transactions in the Riverbank account is notified to this Inquiry may present as quite far-fetched. It is all the more reason for the lack of optimism that effective and co-operative information sharing is imminent. In any event the pragmatic approach was adopted and it was presumed that Crown complied with all of its obligations to report to AUSTRAC over the period.

- 66 Notwithstanding that presumption the accounts were infiltrated and used for years by organised criminals. It appears that the casino regulator in Victoria would not have known of any of those communications with AUSTRAC.

- 67 This is a highly unsatisfactory situation. The suspicious money laundering activity that is occurring in the casino is not known to the casino Regulator but is known to the casino and AUSTRAC. AUSTRAC does not inform the casino Regulator and prohibits the casino operator from telling anyone. The casino regulator is thus kept in the dark. Any suggestion that the AUSTRAC database might be accessed from time to time pursuant to some Memorandum of Understanding is not to the point. The casino Regulator should be made aware immediately of the casino operators'

concerns that the achievement of one of the objects of the *Casino Control Act* may be at risk.

- 68 The change in structure of the casino regulator alone will not achieve the necessary efficacious casino regulation in this regard.
- 69 A significant problem identified during the Inquiry has been Crown’s practice to test the integrity of aspects of Crown’s casino operations against compliance with the AML/CTF Act. Time and again when questions were asked about possible money laundering activity in the Southbank and Riverbank accounts Crown resorted to a high level response that its AML/CTF policy had been judged effective by its retained expert. This high level response was not matched by appropriate and detailed investigation of the underlying operational activity.
- 70 This approach had very serious consequences for Crown because it prevented the underlying transactions that were causing the problems from being identified and remediated. It has been referred to during the Public Hearings as a failure to look inwards. Even so there has to be confidence that when an inward looking investigation takes place it is focusing appropriately on the purpose of the exercise.
- 71 Ensuring that a Regulator is impenetrable, specialist and powerful will not achieve efficacious regulation unless mechanisms are in place within the casino operations, the subject of regulation, to properly respond to the statutory objects, and importantly the object of ensuring that the casino is free from criminal exploitation.
- 72 Crown’s mindset in respect of compliance must change. Much more is needed than simply reporting transactions to AUSTRAC. The casino operators in New South Wales have an obligation to the community to ensure that their operations are free from criminal exploitation and money laundering. The one way street of reporting to the Commonwealth AML/CTF regulator will not achieve that. It is imperative that proper reporting of activity relevant to the casino operator’s responsibilities to the New South Wales casino Regulator and the community occurs within the operational jurisdiction of the State.
- 73 A proportionate response to the extant and emerging risks is the implementation of Compliance Audits by independent auditors approved by the ICC at the cost of the casino operator. It will be necessary for the Compliance Auditors to report annually to the ICC certifying compliance with the relevant statutory obligations of the casino operators. However it will also be imperative that Compliance Auditors have capacity to inspect the operations of the casino operator throughout the year for the purpose of reaching the relevant satisfaction of compliance. Should the Compliance Auditor become aware of activity within the casino operations that may put the achievement of the objects of the *Casino Control Act* at risk the notification must be given immediately to the casino operator concurrently with notification to the ICC. This will