

Crown has lost the nation's trust - but maybe not its licence

Closing submissions at the Victorian royal commission exposed Crown as a company that has lost the trust of the community. But pragmatic politics means it's still some way from losing its licence.

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There were so many jaw-dropping moments in the closing submissions of counsel assisting Victoria's royal commission into Crown Resorts on Tuesday that it was hard not to emerge from the 2½-hours of hearings a little punch-drunk.

Within moments of getting to his feet, Adrian Finanzio, SC, had declared Crown unsuitable to hold its Melbourne licence due to “grave, systemic breaches of the law” and “sustained breaches of trust and confidence”.

He didn't let up from there.

Crown executive chairman Helen Coonan, who has sat on the Crown board since 2009, was next in the gun, with Finanzio declaring her “track record as a director of Crown Resorts, then as its chair, makes clear that her inaction in the past contributed to the current problems”.



Crown Resorts executive chairman Helen Coonan was slammed in closing submissions to the commission. **David Rowe**

He argued her actions since the damning findings handed down by the Bergin inquiry in NSW “give little confidence that she is the right person to shepherd in the change that is required”.

Finanzio painted Crown as a serial and deliberate law breaker, a tax dodger, and a company ready to fight its regulators at every turn.

It is a company, he said, with “a preparedness to conduct illegal, misleading and unethical transactions, a preparedness to breach both Victorian laws and those of other countries, a tendency to consider the lawfulness of conduct as a measure of risk rather than compliance, and a tendency, whether deliberate or otherwise, to find ways of circumventing AML (anti-money laundering) monitoring and scrutiny, and preparedness to keep things from the regulator”.

Perhaps most damningly, this is also a company with little hope of redemption in the eyes of counsel assisting.

Where Bergin’s inquiry highlighted clear problems with Crown’s governance, Finanzio declared the Victorian commission had shown “the problems of culture and risk run much deeper, and through more levels of the organisation”.

“Everywhere that it has looked, it has unearthed behaviour that is deeply troubling and obviously ingrained,” he said.

Fixing these cultural problems quickly would be hard to achieve. Fixing them when the very people responsible for many of the problems remain in the organisation – including Coonan, and also Crown Melbourne chief executive Xavier Walsh – might be nigh on impossible, Finanzio suggested.

The sheer level of reform required, the time that reform would take and the uncertainty that it would be successful meant Commissioner Ray Finkelstein would need to think carefully about whether Crown should be given another chance to become a suitable licence holder again.

“The decision to allow Crown to remain the licensee would be akin to placing in it trust and confidence of a kind that has already been comprehensively betrayed, and which only came to light under the eye of this commission and the Bergin inquiry,” Finanzio said in support of his argument that the commission would have to consider cancelling Crown’s licence completely.

Crown’s brutal bollocking by counsel assisting was not a surprise, but the presentation of its accumulated sins was still confronting.

There is no doubt Crown is a company that has completely lost the trust of not just Victoria but the nation due to a toxic combination of hubris and arrogance, a disdain for transparency and openness and a relentless focus on profit.

But for all the thunder and lightning of Tuesday’s hearings, we are a long way from the Victorian government taking the nuclear option of cancelling Crown’s licence and/or potentially handing it to another operator.

Indeed, what was notable on Tuesday was the lack of market reaction to the hearings. Crown shares dipped 2.5 per cent and are down 20 per cent since mid-May, but it's worth noting the stock is up 17 per cent over the past 12 months. The market is clearly not yet pricing in a scenario where Crown loses the Melbourne licence.

This is understandable. Crown's decision to send a letter to the Victorian government warning of "catastrophic consequences" if Crown's licence conditions were altered was incredibly idiotic, but its broad point was right.

Stripping Crown of the licence would be incredibly complex and incredibly disruptive given the Melbourne casino's position as one of the state's biggest taxpayers and employers.

To be clear, that's not to say that Crown doesn't deserve that fate. Finanzio is right: Crown isn't suitable to run a casino and won't be for a long time.

Coonan, who has already told staff she will depart later this year, will need to go as soon as is practical, and Crown's piecemeal promises of reform should not be trusted until real reform has been delivered.

But at this point it is not clear how the realpolitik will play out. Clearly, Victoria's Andrews government, which has rightly or wrongly been seen to have gone too easy on Crown, will need to come down like a tonne of bricks.

But Finkelstein may yet provide Andrews with a way to do that, and avoid a messy and protracted battle over the fate of Crown's licence.

Could, for example, the government suspend Crown's licence for a period – perhaps six months or even a year – such that the gaming floor of its casinos are shut while non-gaming areas (bars, restaurants and other entertainment facilities) are allowed to trade?

This would allow Crown and the regulator to work on and implement a meaningful reform program without the distraction of daily operations.

